Senate Counsel, Research,
and Fiscal Analysis

G-17 State Capitol
75 Rev. Dr. Martin Luther King, Jr. Blvd.
St. Paul, MN 55155-1606
(651) 296-4791
FAX (651) 296-7747
Jo Anne Zoff Sellner
Director

Senate

State of Minnesota

S.F. No. 762 - The Clean Water Legacy Act

Author: Senator Dennis Frederickson

Prepared by: Greg Knopff, Legislative Analyst
phone: 651-296-9399 fax: 651-296-7747
e-mail: gregory.knopff@senate.mn

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Section 1 [Citation] cites the act as the "Clean Water Legacy Act."

Section 2 [Legislative Purpose and Findings] states the legislative purpose of and findings for the Clean Water Legacy Act.

Section 3 [Definitions] defines "citizen monitoring," "clean water council," "federal TMDL requirement," "impaired water," "public agencies," "restoration," "surface waters," "third-party TMDL," "total maximum daily load" or "TMDL," and "water quality standards" for the purposes of the Clean Water Legacy Act.

Section 4 [Implementation, Coordination, Goals, Policies, and Priorities]

Subdivision 1. [Coordination and Cooperation] directs the public agencies implementing this act to coordinate and cooperate with other agencies, individuals, and organizations in implementing the Clean Water Legacy Act.

Subdivision 2. [Goals for Implementation] states that the goals for implementation of the Clean Water Legacy Act are:

1. identify impaired waters within 10 years and ensure continuing evaluation of surface waters thereafter;

2. submit TMDL's to the U.S. Environmental Protection Agency (EPA) for all impaired waters in a timely manner;

3. set a reasonable time for restoring impaired waters;

4. provide assistance and incentives to improve the quality of waters; and

5. promptly seek delisting of waters from the impaired waters list.

Subdivision 3. [Implementation Policies] states that the policies to guide implementation of the Clean Water Legacy Act are:

1. develop regional and watershed TMDL's for multiple pollutants where reasonable and feasible;

2. maximize use of available organizational, technical, and financial resources;

3. maximize restoration opportunities by prioritizing and targeting available resources;

4. use existing regulatory authorities where applicable;

5. use demonstrated restoration methods;

6. identify any innovative approaches for the Legislature; and

7. identify and encourage prevention.

Subdivision 4. [Priorities for Identifying Impaired Waters] provides that priorities for identifying impaired waters are:

1. where the impairments pose the greatest risk to human and aquatic health; and

2. waters where public agency or citizen monitoring show impaired conditions.

Subdivision 5. [Priorities for Preparation of TMDL's] directs the Clean Water Council to recommend priorities for scheduling the preparation of TMDL's taking into account the severity of the impairment, the designated uses of the water, and applicable federal TMDL requirements. Additional considerations are listed.

Subdivision 6. [Priorities for Restoration of Impaired Waters] directs the Clean Water Council to give priority for recommending impaired waters restoration projects that are based on the priorities in subdivision 5, and:

1. use existing local authorities and infrastructure;

2. support existing restoration efforts;

3. leverage other sources of restoration funding;

4. have a high potential for early delisting.

Subdivision 7. [Priorities for Funding Prevention Actions] directs the Clean Water Council to use the priorities in Subdivision 6 for funding prevention actions.

Section 5 [Administration; Pollution Control Agency]

Subdivision 1. [General Duties and Authorities] directs the Pollution Control Agency (PCA) to identify impaired waters, develop and approve TMDL's, and propose waters to delist water from the impaired waters list.

Subdivision 2. [Administrative Procedures for TMDL Approval] provides that the approval of a TMDL is a final agency action and subject to the contested case procedures. This subdivision also clarifies that a TMDL is not subject to rulemaking requirements.

Subdivision 3. [Third-Party TMDL Development] allows the PCA to enter into agreements with qualified public or private entities to develop a third-party TMDL. A third-party TMDL must be approved by the PCA.

Section 6 [Clean Water Council]

Subdivision 1. [Creation; Duties] provides for the creation of the Clean Water Council to advise on the administration and implementation of the Clean Water Legacy Act. The PCA shall provide administrative support for the Council. The members will select a chair of the Council from the public members.

Subdivision 2. [Membership; Appointment] establishes membership for the Clean Water Council of 17 members. Four of the members shall represent state agencies and are appointed by the heads of the agencies. The agencies are: the Department of Natural Resources; Department of Agriculture; Pollution Control Agency; and Board of Water and Soil Resources. The four state agencies represented on the Council, acting

jointly, shall appoint 13 public members to the Council. The public members appointed shall represent:

- statewide farm organizations, two members;
- business organizations, two members;
- environmental organizations, two members;
- soil and water conservation districts, one member;
- watershed districts, one member;
- organizations focused on improving lakes and streams, one member;
- an organization of county governments, one member;
- organizations of city governments, two members; and
- the Metropolitan Council, one member.

Subdivision 3. [Terms, Compensation, and Removal] provides that the terms, compensation, removal, and filling of vacancies for Clean Water Council members is as provided under general law for advisory councils. This subdivision also provides that the initial terms of the state agency representatives expire on January 1, 2007.

Subdivision 4. [Implementation Plan] directs the Clean Water Council to develop an implementation plan for the Clean Water Legacy Act. The first implementation plan must be issued by December 1, 2005. After the first plan, the Council must issue biennial implementation plans by December 1 of each even-numbered year.

Subdivision 5. [Appropriation Recommendations] directs the Clean Water Council to recommend to the Governor appropriations from the Clean Water Legacy Account.

Subdivision 6. [Biennial Report] requires a biennial report, by December 1, of each even-numbered year, to the Legislature from the Clean Water Council on past expenditures and recommendations for future expenditures. The 2014 report must include an evaluation of the progress and need for future funding.

Section 7 [Public and Stakeholder Participation, Scientific Review, and Education]

Subdivision 1. [Public and Stakeholder Participation] directs public agencies involved in the implementation of the Clean Water Legacy Act to encourage participation by the public and stakeholders.

Subdivision 2. [Expert Scientific Advice] directs the Clean Water Council and public agencies to make use of expertise from educational, research, and technical organizations in implementing the Clean Water Legacy Act.

Subdivision 3. [Education] directs the Clean Water Council to develop strategies for informing, educating, and encouraging the participation of the public and stakeholders in the implementation of the Clean Water Legacy Act.

Section 8 [Clean Water Fees]

Subdivision 1. [Definitions] defines "average daily discharge or application limitation," "effluent flow," "fee collection authorities," "individual sewage treatment system," "nonresidential establishment," "publicly owned treatment works," and "residential dwelling" for the purposes of this section.

Subdivision 2. [Assessment of Clean Water Fees] provides that the fees imposed in subdivision 3 are on all discharges of domestic and industrial wastewater to sewage treatment systems.

Subdivision 3. [Fee Amounts] specifies the annual clean water fees, beginning on January 1, 2006, as follows:

Publicly Owned Treatment Works:

- residential dwellings with no more than two residential units, $36/year;
- structures with more than two residential dwelling units and combined bill:
  - residential dwelling units, $36/unit/year; and
  - nonresidential establishments, pay the fee based on the nonresidential establishment rates for their portion of the flow;
- nonresidential establishment with a separate bill (includes 2 or fewer residential dwellings):
  - average effluent flow of less than 10,000 gallons/day, $120/year;

- average effluent flow of 10,000 gallons/day or more but less than 100,000 gallons/day, $300/year; and

- average effluent flow of 100,000 gallons/day or more, $600/year.

Permitted Nonpublic Wastewater Treatment Facilities:

- average daily discharge of less than 10,000 gallons/day, $120/year;

- average daily discharge of 10,000 gallons/day or more but less than 100,000 gallons/day, $300/year; and

- average daily discharge of 100,000 gallons/day or more, $600/year.

Facilities with a General Permit from the PCA:

- no fee.

Domestic Wastewater Treatment Systems permitted by the PCA:

- residential dwelling, $36/year; and

- nonresidential establishments, $36/year.

Individual Sewage Treatment Systems:

- residential dwelling, $36/year; and

- nonresidential establishments, $36/year.

Any Other Wastewater Treatment System:

- residential dwelling, $36/year; and

- nonresidential establishments, $36/year.

Subdivision 4. [Collection and Enforcement] directs the public agency responsible for a sanitary sewer system to collect the fees imposed at the same time and frequency as charges for the service. The PCA will assess the fees on permitted facilities. Fees for individual sewage treatment systems and other systems will be collected by the county. This section also exempts a person from the payment of a fee if that person meets the criteria for telephone assistance or receives telephone assistance.

Subdivision 5. [Payment to the Commissioner of Revenue] requires all fees collected be remitted to the Commissioner of Revenue for deposit in the Clean Water Legacy Account in the Environmental Fund.

Subdivision 6. [Expiration] provides that this section expires on December 31, 2015.

Section 9 [Clean Water Legacy Account]

Subdivision 1. [Creation] creates the Clean Water Legacy account in the Environmental Fund and states that money in the Account must be made available for the Clean Water Phosphorus Reduction Grants in Section 10 of the bill and the Community Septic System Loan Program in Section 11 of the bill. This section also provides that the funding for Sections 9 and 10 of the bill must not supplant existing funding.

Subdivision 2. [Sources of Revenue] specifies that the sources of revenue for the Clean Water Legacy Account are the fees collected in Section 8 and interest on the account.

Subdivision 3. [Purposes] provides specific purposes that the Clean Water Legacy Account may be spent on, subject to appropriation by the Legislature.

Section 10 [Clean Water Legacy Phosphorus Reduction Grants]

Subdivision 1. [Creation of Fund, Appropriation] establishes the Clean Water Legacy Capital Improvement Fund to make grants for phosphorus reduction grants. The balance in the Fund is appropriated to the Public Facilities Authority (PFA) for the purposes of this section.

Subdivision 2. [Grants] directs the PFA to make grants from the Clean Water Legacy Capital Improvement Fund for wastewater treatment facility projects that will reduce the discharge of phosphorus to one milligram per liter.

Subdivision 3. [Eligible Capital Costs] provide that eligible capital cost for a loan under this section include as-bid construction costs and engineering planning and design costs.

Subdivision 4. [Grant Amounts and Priorities] specifies that grant amounts under this section are 75 percent of the costs for projects approved by July 1, 2009, and 50 percent for projects approved on or after July 1, 2009. Priority is given for projects that started construction after July 1, 2005. Application for a grant for any project that started before July 1, 2005, must be submitted by June 30, 2007.

Subdivision 5. [Fees] allows the PFA to charge an administrative fee of up to one-half of one percent of the grant amount.

Section 11 [Community Septic Loan Program]

Subdivision 1. [Creation of Fund] directs the PFA to establish a Community Septic System Replacement Fund to make loans for individual sewage treatment system (ISTS) replacement. Money in the fund is appropriated to the PFA for the loans. All repayments, investment income from the fund, and servicing fees charged must be deposited into the fund.

Subdivision 2. [Loans] directs the PFA to award loans to governmental units from the Community Septic System Replacement Fund to replace failing or inadequate systems. The governmental unit must own the replacement system and be responsible for inspection, maintenance, repair of the ISTS.

Subdivision 3. [Project Priority List] directs the PCA to rank loan applications based on the Water Pollution Control Revolving Fund priorities list.

Subdivision 4. [Loan Applications] specifies the information required on the application for a loan under this section.

Subdivision 5. [Loan Awards] specifies that the loans shall be awarded based on the priority list. The maximum loan to a government unit in any year is $500,000.

Subdivision 6. [Loan Terms and Conditions] specifies that the loans:

1. must provide that debt service payments begin no later than two years after the loan is issued;

2. be at a one percent interest and amortized within ten years;

3. be paid from a dedicated source or sources of revenue and be guaranteed by a general obligation note of the governmental unit; and

4. be made only where permanent easements to the governmental unit are obtained for access to the financed systems.

Subdivision 7. [Special Assessment Deferral] allows governmental units to defer special assessments for the ISTS loans, as provided under current law for special assessments. The governmental unit may request loan deferral for the portion of the loan related to the deferred special assessments.

Subdivision 8. [Eligible Costs] provides that the costs of planning, design, construction, legal fees, administration, and land acquisition are eligible costs for the loans.

Subdivision 9. [Disbursements] provides that the loan disbursement must be made for eligible project costs as they are incurred.

Subdivision 10. [Audits] requires governmental units that receive a loan to provide a copy of their annual audit or, if not required, their annual financial reporting form to the PFA.

Section 12 [Appropriations] (See attached spreadsheet from Dan Mueller)

GK:dv
Enclosure

SF762-Frederickson: Clean Water Legacy Act

Summary of Appropriations

	(in 000's) FY2006	FY2007	Biennium Total
Expenditures (Environment Fund)			
Department of Revenue			
Admin cost for collection of clean water fees	38	31	69
Total Approp.: Revenue:	38	31	69
Pollution Control Agency			
Developing list of exempt fee payers and ISTS's	1,000	-	1,000
Statewide assessment of surface water quality	386	869	1,255
- Grants or contracts for citizen monitoring	1,474	3,256	4,730
Develop TMDL's for impaired waters	1,515	2,171	3,686
- Grants or contracts for TMDL's	385	1,119	1,504
Total Approp.: PCA:	4,760	7,415	12,175
Agriculture Department			
Low-interest loans, best management	50	200	250
- Pass-through to local governments	200	2,100	2,300
Technical asst. for pasture management	300	590	890
- Grants to develop conservation information	50	210	260
Effectiveness in restoring impaired waters	100	200	300
- Grants for on-farm demonstrations	-	600	600
Total Approp.: Agriculture:	700	3,900	4,600
Brd. Of Water & Soil Resources			
Targeted restoration incentive payments	-	300	300
- Grants to soil and water conservation dist.	450	5,450	5,900
Targeted restoration technical assistance	-	200	200
- Grants to support implementation activities	412	3,250	3,662
Evaluation of soil & water conservation practices	-	200	200
Grants to counties for ISTS	-	2,400	2,400
Grants for lake and river protection	300	1,500	1,800
Streambank, lakeshore and roadside protection	-	2,400	2,400
Total Approp.: BWSR:	1,162	15,700	16,862
Department of Natural Resources			
Statewide assessment of surface water quality	280	430	710
Restoration and prevention of impaired waters	100	2,350	2,450
- Grants for forest stewardship	-	1,700	1,700
Total Approp.: DNR:	380	4,480	4,860
Public Facilities Authority (DEED)			
Wastewater treatment and stormwater projects	-	22,433	22,433
Grants for phosphorus treatment infrastructure	4,400	17,000	21,400
Loans for septic system replacement	-	4,582	4,582
Total Approp.: PFA/DEED:	4,400	44,015	48,415
Total Approp.: ALL AGENCIES:	**11,440**	**75,541**	**86,981**
Clean Water Revenues			
Collection of Clean Water Fees deposited into Clean Water Legacy Account	**11,440**	**75,541**	**86,981**
Other Revenues/Local Expenses			
Loan Repayment, Capital Fund	22	85	107
Local revenue for collection	[3,200]	[2,000]	[4,000]
Loss of revenue due to hardship exemption	[400]	[2,000]	[2,400]

Dan Mueller, Senate Fiscal Analyst

2/18/2005

Senators Frederickson; Johnson, D.E.; Hottinger; Higgins and Dille introduced--
S.F. No. 762: Referred to the Committee on Environment and Natural Resources.

A bill for an act

relating to the environment; creating the Clean Water Legacy Act; providing authority, direction, and funding to achieve and maintain water quality standards for Minnesota's surface waters in accordance with section 303(d) of the federal Clean Water Act; appropriating money; proposing coding for new law in Minnesota Statutes chapter 446A; proposing coding for new law as Minnesota Statutes, chapter 114D.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [114D.05] [CITATION.]

This chapter may be cited as the "Clean Water Legacy Act."

Sec. 2. [114D.10] [LEGISLATIVE PURPOSE AND FINDINGS.]

Subdivision 1. [PURPOSE.] The purpose of the Clean Water Legacy Act is to protect, restore, and preserve the quality of Minnesota's surface waters by providing authority, direction, and resources to achieve and maintain water quality standards for surface waters as required by section 303(d) of the federal Clean Water Act, United States Code, title 42, section 1313(d), and applicable federal regulations.

Subd. 2. [FINDINGS.] The legislature finds that:

(1) there is a close link between protecting, restoring, and preserving the quality of Minnesota's surface waters and the ability to develop the state's economy, enhance its quality of life, and protect its human and natural resources;

(2) achieving the state's water quality goals will require long-term commitment and cooperation by all state and local

agencies, and other public and private organizations and individuals, with responsibility and authority for water management, planning, and protection; and

(3) all persons and organizations whose activities affect the quality of waters, including point and nonpoint sources of pollution, have a responsibility to participate in and support efforts to achieve the state's water quality goals.

Sec. 3. [114D.15] [DEFINITIONS.]

Subdivision 1. [APPLICATION.] The definitions provided in this section apply to the terms used in this chapter.

Subd. 2. [CITIZEN MONITORING.] "Citizen monitoring" means monitoring of surface water quality by individuals and nongovernmental organizations that is consistent with Pollution Control Agency guidance on monitoring procedures, quality assurance protocols, and data management.

Subd. 3. [CLEAN WATER COUNCIL.] "Clean Water Council" or "council" means the Clean Water Council created pursuant to section 114D.30, subdivision 1.

Subd. 4. [FEDERAL TMDL REQUIREMENTS.] "Federal TMDL requirements" means the requirements of section 303(d) of the Clean Water Act, United States Code, title 42, section 1313(d), and associated regulations and guidance.

Subd. 5. [IMPAIRED WATER.] "Impaired water" means surface water that does not meet applicable water quality standards.

Subd. 6. [PUBLIC AGENCIES.] "Public agencies" means all state agencies, political subdivisions, and other public organizations, with authority, responsibility, or expertise in protecting, restoring, or preserving the quality of surface waters, managing or planning for surface waters and related lands, or financing waters-related projects. "Public agencies" includes counties, cities, towns, joint powers organizations and special purpose units of government, and the University of Minnesota and other public education institutions.

Subd. 7. [RESTORATION.] "Restoration" means actions, including effectiveness monitoring, that are taken to achieve and maintain water quality standards for impaired waters in

accordance with a TMDL that has been approved by the United States Environmental Protection Agency under federal TMDL requirements.

Subd. 8. [SURFACE WATERS.] "Surface waters" means waters of the state as defined in section 115.01, subdivision 22, excluding groundwater as defined in section 115.01, subdivision 6.

Subd. 9. [THIRD-PARTY TMDL.] "Third-party TMDL" means a TMDL that is developed in whole or in part by a qualified public or private entity other than the Pollution Control Agency consistent with the goals, policies, and priorities in section 114D.20.

Subd. 10. [TOTAL MAXIMUM DAILY LOAD OR TMDL.] "Total maximum daily load" or "TMDL" means a calculation of the maximum amount of a pollutant that may be introduced into a surface water and still ensure that applicable water quality standards for that water are achieved and maintained. A TMDL is the sum of the pollutant load allocations for all sources of the pollutant, including a wasteload allocation for point sources, a load allocation for nonpoint sources and natural background, an allocation for future growth of point and nonpoint sources, and a margin of safety to account for uncertainty about the relationship between pollutant loads and the quality of the receiving surface water. "Natural background" means characteristics of the water body resulting from the multiplicity of factors in nature, including climate and ecosystem dynamics, that affect the physical, chemical, or biological conditions in a water body, but does not include measurable and distinguishable pollution that is attributable to human activity or influence. A TMDL must take into account seasonal variations.

Subd. 11. [WATER QUALITY STANDARDS.] "Water quality standards" for Minnesota surface waters are found in Minnesota Rules, chapters 7050 and 7052.

Sec. 4. [114D.20] [IMPLEMENTATION; COORDINATION; GOALS; POLICIES; AND PRIORITIES.]

Subdivision 1. [COORDINATION AND COOPERATION.] In implementing this chapter, public agencies shall take into consideration the relevant provisions of local and other applicable water management, conservation, land use, land management, and development plans and programs. Public agencies with authority for local water management, conservation, land use, land management, and development plans shall take into consideration the manner in which their plans affect the implementation of this chapter. Public agencies shall identify opportunities to participate and assist in the successful implementation of this chapter, including the funding or technical assistance needs, if any, that may be necessary. In implementing this chapter, public agencies shall endeavor to engage the cooperation of organizations and individuals whose activities affect the quality of surface waters, including point and nonpoint sources of pollution, and who have authority and responsibility for water management, planning, and protection. To the extent practicable, public agencies shall endeavor to enter into formal and informal agreements and arrangements with federal agencies and departments to jointly utilize staff and resources to deliver programs or conduct activities to achieve the intent of this chapter, including efforts under the federal Clean Water Act and other federal farm and soil and water conservation programs.

Subd. 2. [GOALS FOR IMPLEMENTATION.] The following goals must guide the implementation of this chapter:

(1) to identify impaired waters in accordance with federal TMDL requirements within ten years after the effective date of this section and thereafter to ensure continuing evaluation of surface waters for impairments;

(2) to submit TMDL's to the United States Environmental Protection Agency for all impaired waters in a timely manner in accordance with federal TMDL requirements;

(3) to set a reasonable time for implementing restoration of each identified impaired water;

(4) to provide assistance and incentives to prevent waters

from becoming impaired and to improve the quality of waters which are listed as impaired but have no approved TMDL addressing the impairment; and

(5) to promptly seek the delisting of waters from the impaired waters list when those waters are shown to achieve the designated uses applicable to the waters.

Subd. 3. [IMPLEMENTATION POLICIES.] The following policies must guide the implementation of this chapter:

(1) develop regional and watershed TMDL's, and TMDL's for multiple pollutants, where reasonable and feasible;

(2) maximize use of available organizational, technical, and financial resources to perform sampling, monitoring, and other activities to identify impaired waters, including use of citizen monitoring;

(3) maximize opportunities for restoration of impaired waters, by prioritizing and targeting of available programmatic, financial, and technical resources and by providing additional state resources to complement and leverage available resources;

(4) use existing regulatory authorities to achieve restoration for point and nonpoint sources of pollution where applicable, and promote the development and use of effective nonregulatory measures to address pollution sources for which regulations are not applicable;

(5) use restoration methods that have a demonstrated effectiveness in reducing impairments and provide the greatest long-term positive impact on water quality protection and improvement while incorporating innovative approaches on a case-by-case basis;

(6) identify for the legislature any innovative approaches that may strengthen or complement existing programs; and

(7) identify and encourage implementation of measures to prevent waters from becoming impaired and to improve the quality of waters that are listed as impaired but have no approved TMDL addressing the impairment.

Subd. 4. [PRIORITIES FOR IDENTIFYING IMPAIRED WATERS.] The Pollution Control Agency, in accordance with federal TMDL

requirements, shall set priorities for identifying impaired waters, giving consideration to:

(1) waters where impairments would pose the greatest potential risk to human or aquatic health; and

(2) waters where data developed through public agency or citizen monitoring or other means, provides evidence that an impaired condition exists.

Subd. 5. [PRIORITIES FOR PREPARATION OF TMDL'S.] The Clean Water Council shall recommend priorities for scheduling and preparing TMDL's taking into account the severity of the impairment, the designated uses of those waters, and other applicable federal TMDL requirements. In recommending priorities, the council shall also give consideration to waters and watersheds:

(1) with impairments that pose the greatest potential risk to human health;

(2) with impairments that pose the greatest potential risk to aquatic health;

(3) where other public agencies and participating organizations and individuals, especially local, basinwide, or regional agencies or organizations, have demonstrated readiness to assist in carrying out the responsibilities, including availability and organization of human, technical, and financial resources necessary to undertake the work; and

(4) where there is demonstrated coordination and cooperation among cities, counties, watershed districts, and soil and water conservation districts in planning and implementation of activities that will assist in carrying out the responsibilities.

Subd. 6. [PRIORITIES FOR RESTORATION OF IMPAIRED WATERS.] In implementing restoration of impaired waters, in addition to the priority considerations in subdivision 5 the Clean Water Council shall give priority in its recommendations for restoration funding from the clean water legacy account to restoration projects that:

(1) coordinate with and utilize existing local authorities

and infrastructure for implementation;

(2) can be implemented in whole or in part by providing support for existing or ongoing restoration efforts; and

(3) most effectively leverage other sources of restoration funding, including federal, state, local, and private sources of funds; and

(4) show a high potential for early restoration and delisting based upon data developed through public agency or citizen monitoring or other means.

Subd. 7. [PRIORITIES FOR FUNDING PREVENTION ACTIONS.] The Clean Water Council shall apply the priorities applicable under subdivision 6, as far as practicable, when recommending priorities for funding actions to prevent waters from becoming impaired and to improve the quality of waters which are listed as impaired but have no approved TMDL.

Sec. 5. [114D.25] [ADMINISTRATION; POLLUTION CONTROL AGENCY.]

Subdivision 1. [GENERAL DUTIES AND AUTHORITIES.] The Pollution Control Agency, in accordance with federal TMDL requirements, shall: identify impaired waters and propose a list of the waters for review and approval by the United States Environmental Protection Agency; develop and approve TMDL's for listed impaired waters and submit the approved TMDL's to the United State Environmental Protection Agency for final approval; and propose to delist waters from the Environmental Protection Agency impaired waters list.

Subd. 2. [ADMINISTRATIVE PROCEDURES FOR TMDL APPROVAL.] The approval of a TMDL by the Pollution Control Agency must be considered a final decision of the agency, and is subject to the contested case procedures of sections 14.57 to 14.62, and to judicial review under sections 14.63 to 14.69. A TMDL is not subject to the rulemaking requirements of chapter 14, including section 14.386.

Subd. 3. [THIRD-PARTY TMDL DEVELOPMENT.] The Pollution Control Agency may enter agreements with any qualified public or private entity setting forth the terms and conditions under

which that entity is authorized to develop a third-party TMDL. In determining whether an entity is qualified to develop a third-party TMDL, the agency shall consider the technical and administrative qualifications of the entity and any potential conflict of interest of the entity with respect to the development of the third-party TMDL. A third-party TMDL is subject to modification and approval by the Pollution Control Agency, and must be approved by the Pollution Control Agency before it is submitted to the United States Environmental Protection Agency. The Pollution Control Agency shall consider authorizing the development of third-party TMDL's consistent with the goals, policies, and priorities determined under section 116.384.

Sec. 6. [114D.30] [CLEAN WATER COUNCIL.]

Subdivision 1. [CREATION; DUTIES.] A Clean Water Council is created to advise on the administration and implementation of this chapter, and foster coordination and cooperation as described in section 114D.20, subdivision 1. The council may also advise on the development of appropriate processes for expert scientific review as described in section 114D.35, subdivision 2. The Pollution Control Agency shall provide administrative support for the council with the support of other member agencies. The members of the council shall elect a chair from the nonagency members of the council.

Subd. 2. [MEMBERSHIP; APPOINTMENT.] The commissioners of natural resources, agriculture, and the Pollution Control Agency, and the executive director of the Board of Water and Soil Resources are the appointing authorities for the council. Each appointing authority shall appoint one person from their respective agency to serve as a member of the council. The appointing authorities, acting jointly, shall appoint 13 additional nonagency members of the council as follows:

(1) two members representing statewide farm organizations;

(2) two members representing business organizations;

(3) two members representing environmental organizations;

(4) one member representing soil and water conservation

districts;

(5) one member representing watershed districts;

(6) one member representing organizations focused on improvement of Minnesota lakes or streams;

(7) one member representing an organization of county governments;

(8) two members representing organizations of city governments; and

(9) one member representing the Metropolitan Council established under section 473.123.

Subd. 3. [TERMS; COMPENSATION; REMOVAL.] The initial terms of members representing state agencies and the Metropolitan Council expire on the first Monday in January, 2007. Thereafter, the terms of members representing the state agencies and the Metropolitan Council are four years and are coterminous with the governor. The terms of other members of the council shall be as provided in section 15.059, subdivision 2. Members may serve until their successors are appointed and qualify. Compensation and removal of council members is as provided in section 15.059, subdivisions 3 and 4. A vacancy on the council may be filled by the appointing authority provided in subdivision 1 for the remainder of the unexpired term.

Subd. 4. [IMPLEMENTATION PLAN.] The Clean Water Council shall prepare a plan for implementation of this chapter. The plan shall address general procedures and timeframes for implementing this chapter, and shall include a more specific implementation work plan for the next fiscal biennium and a framework for setting priorities to address impaired waters consistent with section 114D.45, subdivisions 2 to 7. The council shall issue the first implementation plan under this subdivision by December 1, 2005, and shall issue a revised work plan by December 1 of each even-numbered year thereafter.

Subd. 5. [RECOMMENDATIONS ON APPROPRIATION OF FUNDS.] The Clean Water Council shall recommend to the governor the manner in which money from the clean water legacy account should be appropriated for the purposes identified in section 114D.45,

subdivision 3. The council's recommendations must be consistent with the purposes, policies, goals, and priorities in sections 114D.05 to 114D.35, and shall allocate adequate support and resources to identify impaired waters, develop TMDL's, implement restoration of impaired waters, and provide assistance and incentives to prevent waters from becoming impaired and improve the quality of waters which are listed as impaired but have no approved TMDL.

Subd. 6. [BIENNIAL REPORT TO LEGISLATURE.] By December 1 of each even-numbered year, the council shall submit a report to the legislature on the activities for which money from the clean water legacy account has been or will be spent for the current biennium, and the activities for which money from the account is recommended to be spent in the next biennium. The report due on December 1, 2014, must include an evaluation of the progress made through June 30, 2014, in implementing this chapter, the need for funding of future implementation of those sections, and recommendations for the sources of such funding.

Sec. 7. [114D.35] [PUBLIC AND STAKEHOLDER PARTICIPATION; SCIENTIFIC REVIEW; EDUCATION.]

Subdivision 1. [PUBLIC AND STAKEHOLDER PARTICIPATION.] Public agencies involved in the implementation of this chapter shall encourage participation by the public and stakeholders, including local citizens, land owners and managers, and public and private organizations, in the identification of impaired waters, in developing TMDL's, and in planning and implementing restoration of impaired waters. In particular, the Pollution Control Agency shall make reasonable efforts to provide timely information to the public and to stakeholders about impaired waters that have been identified by the agency. The agency shall seek broad and early public and stakeholder participation in scoping the activities necessary to develop a TMDL, including the scientific models, methods, and approaches to be used in TMDL development, and to implement restoration pursuant to section 114D.15, subdivision 7.

Subd. 2. [EXPERT SCIENTIFIC ADVICE.] The Clean Water

Council and public agencies shall make use of available expertise from educational, research, and technical organizations, including the University of Minnesota and other higher education institutions, to provide appropriate independent expert advice on models, methods, and approaches used in identifying impaired waters, developing TMDL's, and implementing prevention and restoration.

Subd. 3. [EDUCATION.] The Clean Water Council shall develop strategies for informing, educating, and encouraging the participation of citizens, stakeholders, and others regarding the identification of impaired waters, development of TMDL's, and development and implementation of restoration for impaired waters. Public agencies shall be responsible for implementing the strategies.

Sec. 8. [114D.40] [CLEAN WATER FEES.]

Subdivision 1. [DEFINITIONS.] (a) The definitions in this subdivision apply to the terms used in this section.

(b) "Average daily discharge or application limitation" means the highest allowable average of daily discharge or land application during a calendar day or any 24-hour period that reasonably represents the discharge during the calendar day for the purposes of sampling, calculated as the sum of all daily discharges or land applications measured during a day, divided by the number of daily discharges or land applications during that day.

(c) "Effluent flow" means the flow of domestic wastewater from a residential dwelling or nonresidential establishment. The rate of water usage by a residential dwelling or nonresidential establishment must be substituted for the effluent flow if effluent flow from the residential dwelling or nonresidential establishment is not measured.

(d) "Fee collection authorities" means counties, the Pollution Control Agency, and public agencies with authority to collect fees and charges for sewer services provided by a publicly owned treatment works.

(e) "Individual sewage treatment system" means a sewage

treatment system, or part thereof, that is regulated by the state or its political subdivisions, and which serves a residential dwelling, or nonresidential establishment, or group thereof, using sewage tanks followed by soil treatment and disposal or using advanced treatment devices that discharge below final grade. "Individual sewage treatment system" also includes sewage holding tanks and privies.

(f) "Nonresidential establishment" means a structure or portion of a structure that is not a residential dwelling.

(g) "Publicly owned treatment works" means a device or system used in the treatment, recycling, or reclamation of municipal sewage or liquid industrial waste that is owned by the state, a political subdivision, sanitary district, or other public organization established under state law and which relies primarily on wastewater treatment systems other than individual sewage treatment systems.

(h) "Residential dwelling" means a room or group of rooms used by an individual, family, or other group as living quarters which includes facilities for sleeping, eating, cooking, and sanitation. "Residential dwelling" includes apartments, condominiums, cooperatives, attached and detached dwellings, mobile homes, seasonal or recreational dwellings, or a dwelling in which a resident of that dwelling engages in a business or employment. A farm that includes buildings is treated as a residential dwelling. "Residential dwelling" does not include:

(1) hotels, motels, resorts, boarding houses, clubs, hospitals, nursing homes, dormitories, schools, colleges, or similar institutional or transient facility; or

(2) any residential dwelling containing not more than two residential dwelling units which receive a single bill for sewer services with one or more nonresidential establishments.

Subd. 2. [ASSESSMENT OF CLEAN WATER FEES.] A clean water fee is imposed as provided in subdivision 3 on all discharges of domestic and industrial wastewater to sanitary sewer systems; wastewater treatment plants, facilities, or systems; individual sewage treatment systems; and other systems.

Subd. 3. [FEE AMOUNTS.] (a) The amounts of the clean water fees imposed under this section are as provided in this subdivision.

(b) For discharges to sanitary sewer systems served by a publicly owned treatment works, the clean water fees are as follows:

(1) for each residential dwelling that receives a separate bill for service and contains not more than two residential dwelling units, $36 per year;

(2) for a structure that contains more than two residential dwelling units that do not receive separate bills for service, clean water fees must be calculated as follows:

(i) $36 per year for each residential dwelling unit in the structure; and

(ii) any nonresidential establishment which is billed together with the residential dwelling units is subject to a clean water fee on that portion of the effluent flow for the structure that is attributable to that nonresidential establishment, and the fee must be calculated based on effluent flows as provided in clause (3); and

(3) for each nonresidential establishment that receives a separate bill for service, the fee is as follows:

(i) if average effluent flow is less than 10,000 gallons per day, $120 per year;

(ii) if average effluent flow is 10,000 gallons per day or greater, but less than 100,000 gallons per day, $300 per year; and

(iii) if average effluent flow is 100,000 gallons per day or greater, $600 per year.

(c) Except as provided in paragraph (d), for discharges from wastewater treatment facilities, other than publicly owned treatment works, which are required to obtain a national pollution discharge elimination system or state disposal system permit, the fee is as follows:

(1) for permits authorizing an average daily discharge or land application limitation of less than 10,000 gallons on an

annualized basis, $120 per year;

(2) for permits authorizing an average daily discharge or land application limitation of 10,000 gallons per day or greater, but less than 100,000 gallons per day, $300 per year; and

(3) for permits authorizing an average daily discharge or land application limitation of 100,000 gallons per day or greater, $600 per year.

(d) A clean water fee must not be imposed under paragraph (c), on discharges from a facility that operates under a general permit issued by the agency.

(e) For discharges to domestic wastewater treatment systems permitted by the Pollution Control Agency, excluding publicly owned treatment works, the fee is $36 per year for each residential dwelling and nonresidential establishment that discharges to the systems. No single residential unit or nonresidential establishment may be required to pay more than one clean water fee under this paragraph.

(f) For individual sewage treatment systems not permitted by the Pollution Control Agency, the fee is $36 per year for each residential dwelling and nonresidential establishment served by the system. No single residential unit or nonresidential establishment may be required to pay more than one clean water fee under this paragraph.

(g) For any wastewater system not described in paragraphs (b) to (f), that accepts and discharges untreated or partially treated wastewater, the fee is $36 per year for each residential dwelling and nonresidential establishment that discharges to the system.

(h) Any single residential unit or nonresidential establishment that would be subject to payment of a clean water fee under both paragraphs (f) and (g) may only be required to pay the clean water fee under paragraph (e).

Subd. 4. [COLLECTION AND ENFORCEMENT.] (a) Fees imposed on discharges to sanitary sewer systems served by publicly owned treatment works must be collected by the public agency that

collects fees or charges from the users of that service. The fees must be collected at the same time and with the same frequency as fees or charges for service are collected. The collecting entity may enforce payment of the fees using the same enforcement authority applicable to sewer service charges.

(b) Fees imposed under subdivision 3, paragraphs (c) and (e), must be collected by the Pollution Control Agency from the permittees for the facilities or systems. The Pollution Control Agency may enforce payment of the fees using the same enforcement authority applicable to permit fees.

(c) Fees imposed under subdivision 3, paragraphs (f) and (g), must be collected by each county, from the owners of the residential dwellings or nonresidential establishments subject to the fee that are located in the county. The counties shall collect the fees at least once per calendar year, but may collect the fees more frequently. If fees are collected annually, the counties shall require payment of the fees by not later than February 1 following the calendar year for which the fee is imposed. The counties shall determine that manner in which the fees are collected. Each county shall enact and enforce an appropriate ordinance to enforce payment of the fees.

(d) By August 15, 2005, the counties shall identify and develop a list of all persons subject to the fees under subdivision 3, paragraphs (f) and (g), located in that county. The counties shall annually update the list by August 15 of each year.

(e) The fee collection authorities shall exempt a person from payment of the clean water fee for a discharge of wastewater from a residential dwelling if the fee collection authority determines that the person meets any of the criteria for eligibility under the telephone assistance plan established under section 237.70, or that the person is receiving telephone assistance under that plan. The Pollution Control Agency shall create a form that fee collection authorities shall use to determine eligibility for exemption under this paragraph.

(f) Any statement, invoice, or other document used to

collect the fees under this subdivision must clearly identify the fee as the "Minnesota Clean Water Fee."

Subd. 5. [PAYMENT TO COMMISSIONER OF REVENUE; DEPOSIT.] (a) The fee collection authorities shall remit all fees collected under this section, less the costs to collect the fees, not to exceed five percent of the total collected, to the commissioner of revenue. The fees must be remitted in a manner prescribed by the commissioner. Amounts collected during the previous calendar quarter must be remitted to the commissioner on April 30, July 31, October 31, and January 31. In addition to the costs of collecting the fees, the fee collection authorities may retain from fees collected for calendar year 2006 the costs to develop methods and procedures for collecting the clean water fees.

(b) The commissioner of revenue shall deposit all clean water fees remitted by the fee collection authorities in the clean water legacy account.

(c) The assessment, audit, refund, penalty, interest, enforcement, collection remedies, appeal, and administrative provisions of chapters 270 and 289A that are applicable to fees imposed under chapter 297A apply to the fees imposed by this section.

Subd. 6. [EFFECTIVE DATE; REPEALER.] The fees imposed by this section are effective and collection must begin for the year beginning January 1, 2006. This section is repealed on December 31, 2015.

Sec. 9. [114D.45] [CLEAN WATER LEGACY ACCOUNT.]

Subdivision 1. [CREATION.] The clean water legacy account is created as an account in the environmental fund. Money in the account must be made available for the implementation of this chapter and sections 446A.073 and 446A.074, without supplanting or taking the place of any other funds which are currently available or may become available from any other source, whether federal, state, local, or private, for implementation of those sections.

Subd. 2. [SOURCES OF REVENUE.] The following revenues must

be deposited in the clean water legacy account:

(1) the revenue from the clean water fees collected under section 114D.40; and

(2) interest accrued on the account.

Subd. 3. [USES OF ACCOUNT.] Subject to appropriation by the legislature, the clean water legacy account may be used for the following purposes:

(1) to provide grants, loans, and technical assistance to public agencies and others who are participating in the process of identifying impaired waters, developing TMDL's, implementing restoration plans for impaired waters, and monitoring the effectiveness of restoration;

(2) to support measures to prevent waters from becoming impaired and to improve the quality of waters that are listed as impaired but have no approved TMDL addressing the impairment;

(3) to provide grants and loans for wastewater and stormwater treatment projects through the Public Facilities Authority;

(4) to support the efforts of public agencies associated with individual sewage treatment systems and financial assistance for upgrading and replacing the systems; and

(5) to provide funds to state agencies to carry out their responsibilities under this chapter.

Sec. 10. [446A.073] [CLEAN WATER LEGACY PHOSPHORUS REDUCTION GRANTS.]

Subdivision 1. [CREATION OF FUND.] The authority shall establish a clean water legacy capital improvement fund and shall make grants from the fund as provided in this section.

Subd. 2. [GRANTS.] The authority shall award grants from the clean water legacy capital improvement fund to governmental units for the capital costs of wastewater treatment facility projects or a portion thereof that will reduce the discharge of total phosphorus from the facility to one milligram per liter or less. A project is eligible for a grant if it meets the following requirements:

(1) the applicable phosphorus discharge limit is

incorporated in a permit issued by the agency for the wastewater treatment facility on or after March 28, 2000, or the grantee agrees to comply with the applicable limit as a condition of receiving the grant;

(2) the governmental unit has submitted a facilities plan for the project to the agency and a grant application to the authority on a form prescribed by the authority; and

(3) the agency has approved the application and facilities plan, and certified the eligible costs for the project to the authority.

Subd. 3. [ELIGIBLE CAPITAL COSTS.] Eligible capital costs for phosphorus reduction grants under subdivision 4, paragraph (a), include the as-bid construction costs and engineering planning and design costs. Eligible capital costs for phosphorus reduction grants under subdivision 4, paragraph (b), include the final, incurred construction, engineering, planning, and design costs.

Subd. 4. [GRANT AMOUNTS AND PRIORITIES.] (a) Priority must be given to projects that start construction on or after July 1, 2005. If a facility's plan for a project is approved by the agency before July 1, 2009, the amount of the grant is 75 percent of the eligible capital cost of the project. If a facility's plan for a project is approved by the agency on or after July 1, 2009, the amount of the grant is 50 percent of the eligible capital cost of the project. Priority in awarding grants under this paragraph must be based on the date of approval of the facility's plan for the project.

(b) Projects that meet the eligibility requirements in subdivision 2 and have started construction before July 1, 2005, are eligible for grants to reimburse up to 75 percent of the eligible capital cost of the project, less any amounts previously received in grants from other sources. Application for a grant under this paragraph must be submitted to the agency no later than June 30, 2007. Priority for award of grants under this paragraph must be based on the date of agency approval of the application for the grant.

(c) In each fiscal year that money is available for grants, the authority shall first award grants under paragraph (a) to projects that met the eligibility requirements of subdivision 2 by May 1 of that year. The authority shall use any remaining money available that year to award grants under paragraph (b). Grants that have been approved but not awarded in a previous fiscal year carry over and must be awarded in subsequent fiscal years in accordance with the priorities in this paragraph.

(d) Disbursements of grants under this section by the authority to recipients must be made for eligible project costs as incurred by the recipients, and must be made by the authority in accordance with the project financing agreement and applicable state law.

Subd. 5. [FEES.] The authority may charge the grant recipient a fee for its administrative costs not to exceed one-half of one percent of the grant amount, to be paid upon execution of the grant agreement.

Sec. 11. [446A.074] [COMMUNITY SEPTIC SYSTEM LOAN PROGRAM.]

Subdivision 1. [CREATION OF FUND.] The authority shall establish a community septic system replacement fund and shall make loans from the fund as provided in this section. Money in the fund is annually appropriated to the authority and does not lapse. The fund shall be credited with all loan repayments and investment income from the fund, and servicing fees assessed under section 446A.04, subdivision 5. The authority shall manage and administer the community septic system replacement fund and, for these purposes, may exercise all powers provided in this chapter.

Subd. 2. [LOANS.] The authority shall award loans to governmental units from the community septic system replacement fund for projects to replace failing or inadequate individual sewage treatment systems with new individual sewage treatment systems. A governmental unit receiving a loan from the fund shall own the individual sewage treatment systems built under the program and shall be responsible, either directly or through

a contract with a private vendor, for all inspections, maintenance, and repairs necessary to assure proper operation of the systems.

Subd. 3. [PROJECT PRIORITY LIST.] Governmental units seeking loans from the community septic system loan program shall first submit a project proposal to the agency. A project proposal must include an identification and description of the condition of all individual sewage treatment systems in the project area. The agency shall rank project proposals on its project priority list used for the water pollution control revolving fund under section 446A.07.

Subd. 4. [LOAN APPLICATIONS.] Governmental units with projects on the project priority list shall submit applications to the authority on forms prescribed by the authority. The application must include:

(1) a list of the individual sewage treatment systems proposed to be replaced over a period of up to three years;

(2) a project schedule and cost estimate for each year of the project;

(3) a financing plan for repayment of the loan; and

(4) a management plan providing for the inspection, maintenance, and repairs necessary to assure proper operation of the systems.

Subd. 5. [LOAN AWARDS.] The authority shall award loans to governmental units with approved loan applications based on their ranking on the agency's project priority list. The loan amount must be based on the estimated project costs for the portion of the project expected to be completed within one year, up to an annual maximum of $500,000. For projects expected to take more than one year to complete, the authority may make a multiyear commitment for a period not to exceed three years, contingent on the future availability of funds. Each year of a multiyear commitment must be funded by a separate loan agreement meeting the terms and conditions in subdivision 6. A governmental unit receiving a loan under a multiyear commitment has priority for additional loan funds in subsequent years.

Subd. 6. [LOAN TERMS AND CONDITIONS.] Loans from the community septic system replacement fund must comply with the following terms and conditions:

(1) principal and interest payments must begin no later than two years after the loan is awarded;

(2) loans must carry an interest rate of one percent and must be fully amortized within ten years of the first scheduled payment;

(3) a governmental unit receiving a loan must establish a dedicated source or sources of revenues for repayment of the loan and must issue a general obligation note to the authority for the full amount of the loan; and

(4) each property owner to be served by an individual sewage treatment system under this program must provide a permanent easement to the governmental unit to allow access to the system for inspections, maintenance, and repairs.

Subd. 7. [SPECIAL ASSESSMENT DEFERRAL.] (a) A governmental unit that receives a loan under this section, and levies special assessments to repay the loan, may defer payment of the assessments under sections 435.193 to 435.195.

(b) A governmental unit that defers payment of special assessments for one or more properties under paragraph (a) may request deferral of that portion of the debt service on its loan, and the authority shall accept appropriate amendments to the general obligation note of the governmental unit. If special assessment payments are later received from properties that received a deferral, the funds received must be paid to the authority with the next scheduled loan payment.

Subd. 8. [ELIGIBLE COSTS.] Eligible costs for community septic system loans include the costs of planning, design, construction, legal fees, administration, and land acquisition.

Subd. 9. [DISBURSEMENTS.] Loan disbursements by the authority under this section must be made for eligible project costs as incurred by the recipients, and must be made in accordance with the project loan agreement and applicable state law.

Subd. 10. [AUDITS.] A governmental unit receiving a loan under this section must annually provide to the authority for the term of the loan a copy of its annual independent audit or, if the governmental unit is not required to prepare an independent audit, a copy of the annual financial reporting form it provides to the state auditor.

Sec. 12. [APPROPRIATIONS.]

Subdivision 1. [GENERAL PROVISIONS.] The appropriations in this section are from the environmental fund and are available for the fiscal years ending June 30, 2006, and June 30, 2007. Unless otherwise specified in this section, these appropriations do not cancel and remain available until June 30, 2007. Appropriations in this section that are encumbered under contract, including grant contract, on or before June 30, 2007, are available until June 30, 2009.

Subd. 2. [DEPARTMENT OF REVENUE; FEE COLLECTION COSTS.] $38,000 in fiscal year 2006 and $31,000 in fiscal year 2007 are appropriated to the Department of Revenue to pay the costs of collection and administration of the clean water fees imposed in Minnesota Statutes, section 114D.40.

Subd. 3. [POLLUTION CONTROL AGENCY.] The following amounts are appropriated to the Pollution Control Agency for the purposes stated:

(1) $1,000,000 in fiscal year 2006 is to assist counties in developing the list required under Minnesota Statutes, section 114D.40, subdivision 4, paragraph (e), of persons subject to clean water fees under Minnesota Statutes, section 114D.40, subdivision 3, paragraphs (f) and (g);

(2) $1,860,000 in fiscal year 2006 and $4,125,000 in fiscal year 2007 are for statewide assessment of surface water quality and trends; of these amounts, up to $1,474,000 in fiscal year 2006 and $3,256,600 in fiscal year 2007 are available for grants or contracts to support citizen monitoring of surface waters; and

(3) $1,900,000 in fiscal year 2006 and $3,290,000 in fiscal year 2007 are to develop TMDL's for waters listed on the United

States Environmental Protection Agency approved 2004 impaired waters list; of this appropriation, up to $384,950 in fiscal year 2006 and $1,118,750 in fiscal year 2007 are available for grants or contracts to develop TMDL's.

Subd. 4. [AGRICULTURE DEPARTMENT.] The following amounts are appropriated to the Department of Agriculture for the purposes stated:

(1) $250,000 in fiscal year 2006 and $2,300,000 in fiscal year 2007 are for agricultural best management practices low-interest loans to producers and rural landowners; of these amounts, $200,000 in fiscal year 2006 and $2,100,000 in fiscal year 2007 are available for pass-through to local governments and lenders for low-interest loans;

(2) $350,000 in fiscal year 2006 and $800,000 in fiscal year 2007 are to expand technical assistance to producers and conservation professionals on nutrient and pasture management; target practices to sources of water impairments; coordinate federal and state farm conservation programs to fully utilize federal conservation funds; and expand conservation planning assistance for producers; of these amounts, $50,000 in fiscal year 2006 and $210,000 in fiscal year 2007 are available for grants or contracts to develop nutrient and conservation planning assistance information materials; and

(3) $100,000 in fiscal year 2006 and $800,000 in fiscal year 2007 are for research, evaluation, and effectiveness monitoring of agricultural practices in restoring impaired waters; of these amounts, $600,000 in fiscal year 2007 is available for grants or contracts for research, evaluations, and effectiveness monitoring of agricultural practices in restoring impaired waters, including on-farm demonstrations.

Subd. 5. [BOARD OF WATER AND SOIL RESOURCES.] The following amounts are appropriated to the Board of Water and Soil Resources for restoration and prevention actions as described in Minnesota Statutes, section 114D.20, subdivisions 6 and 7:

(1) $450,000 in fiscal year 2006 and $5,750,000 in fiscal

year 2007 are for targeted nonpoint restoration cost-share and incentive payments; of these amounts, up to $450,000 in fiscal year 2006 and $5,450,000 in fiscal year 2007 are available for grants to soil and water conservation districts through the state cost-share program authorized under Minnesota Statutes, section 103C.501;

(2) $412,000 in fiscal year 2006 and $3,450,000 in fiscal year 2007 are for targeted nonpoint restoration technical and engineering assistance activities; of these amounts, up to $412,000 in fiscal year 2006 and $3,250,000 in fiscal year 2007 are available for grants to soil and water conservation districts, watershed management organizations, or counties to support nonpoint restoration implementation activities;

(3) $200,000 in fiscal year 2007 is for reporting and evaluation of applied soil and water conservation practices;

(4) $2,400,000 in fiscal year 2007 is for grants to counties for implementation of county individual sewage treatment systems programs through the local water resources protection and management program under Minnesota Statutes, section 103B.3369;

(5) $300,000 in fiscal year 2006 and $1,500,000 in fiscal year 2007 are for base and challenge grants to support nonpoint source protection activities related to lake and river protection and management through the local water resources protection and management program under Minnesota Statutes, section 103B.3369; and

(6) $2,400,000 in fiscal year 2007 is for grants to soil and water conservation districts for streambank, stream channel, lakeshore, and roadside protection and restoration projects through the state-cost share program under Minnesota Statutes, section 103C.501.

Subd. 6. [DEPARTMENT OF NATURAL RESOURCES.] The following amounts are appropriated to the Department of Natural Resources for the purposes stated:

(1) $280,000 in fiscal year 2006 and $430,000 in fiscal year 2007 are for statewide assessment of surface water quality

and trends; and

(2) $100,000 in fiscal year 2006 and $4,050,000 in fiscal year 2007 are for restoration of impaired waters and actions to prevent waters from becoming impaired; of these amounts, up to $1,700,000 in fiscal year 2007 is available for grants and contracts for forest stewardship planning and implementation, and for research and monitoring.

Subd. 7. [PUBLIC FACILITIES AUTHORITY.] $4,400,000 in fiscal year 2006 and $44,015,000 in fiscal year 2007 are appropriated to the Public Facilities Authority; of these amounts, $4,400,000 in fiscal year 2006 and $17,000,000 in fiscal year 2007 are to the clean water legacy capital improvements fund for grants under Minnesota Statutes, section 446A.073; $4,582,000 in fiscal year 2007 is to the community septic system replacement fund for loans under Minnesota Statutes, section 446A.074; and $22,433,000 in fiscal year 2007 is to the water pollution control revolving fund under Minnesota Statutes, section 446.07, for wastewater treatment and stormwater projects. Funds appropriated under this subdivision do not cancel and are available until expended.

Sec. 13. [EFFECTIVE DATE.]

Sections 1 to 11 are effective the day following final enactment. Section 12 is effective July 1, 2005.

Senator ..... moves to amend S.F. No. 762 as follows:

Delete everything after the enacting clause and insert:

"Section 1. [114D.05] [CITATION.]

This chapter may be cited as the "Clean Water Legacy Act."

Sec. 2. [114D.10] [LEGISLATIVE PURPOSE AND FINDINGS.]

Subdivision 1. [PURPOSE.] The purpose of the Clean Water Legacy Act is to protect, restore, and preserve the quality of Minnesota's surface waters by providing authority, direction, and resources to achieve and maintain water quality standards for surface waters as required by section 303(d) of the federal Clean Water Act, United States Code, title 42, section 1313(d), and applicable federal regulations.

Subd. 2. [FINDINGS.] The legislature finds that:

(1) there is a close link between protecting, restoring, and preserving the quality of Minnesota's surface waters and the ability to develop the state's economy, enhance its quality of life, and protect its human and natural resources;

(2) achieving the state's water quality goals will require long-term commitment and cooperation by all state and local agencies, and other public and private organizations and individuals, with responsibility and authority for water management, planning, and protection; and

(3) all persons and organizations whose activities affect the quality of waters, including point and nonpoint sources of pollution, have a responsibility to participate in and support efforts to achieve the state's water quality goals.

Sec. 3. [114D.15] [DEFINITIONS.]

Subdivision 1. [APPLICATION.] The definitions provided in this section apply to the terms used in this chapter.

Subd. 2. [CITIZEN MONITORING.] "Citizen monitoring" means monitoring of surface water quality by individuals and nongovernmental organizations that is consistent with Pollution Control Agency guidance on monitoring procedures, quality assurance protocols, and data management.

Subd. 3. [CLEAN WATER COUNCIL.] "Clean Water Council" or "council" means the Clean Water Council created pursuant to

section 114D.30, subdivision 1.

Subd. 4. [FEDERAL TMDL REQUIREMENTS.] "Federal TMDL requirements" means the requirements of section 303(d) of the Clean Water Act, United States Code, title 42, section 1313(d), and associated regulations and guidance.

Subd. 5. [IMPAIRED WATER.] "Impaired water" means surface water that does not meet applicable water quality standards.

Subd. 6. [PUBLIC AGENCIES.] "Public agencies" means all state agencies, political subdivisions, and other public organizations, with authority, responsibility, or expertise in protecting, restoring, or preserving the quality of surface waters, managing or planning for surface waters and related lands, or financing waters-related projects. "Public agencies" includes counties, cities, towns, joint powers organizations and special purpose units of government, and the University of Minnesota and other public education institutions.

Subd. 7. [RESTORATION.] "Restoration" means actions, including effectiveness monitoring, that are taken to achieve and maintain water quality standards for impaired waters in accordance with a TMDL that has been approved by the United States Environmental Protection Agency under federal TMDL requirements.

Subd. 8. [SURFACE WATERS.] "Surface waters" means waters of the state as defined in section 115.01, subdivision 22, excluding groundwater as defined in section 115.01, subdivision 6.

Subd. 9. [THIRD-PARTY TMDL.] "Third-party TMDL" means a TMDL that is developed in whole or in part by a qualified public or private entity other than the Pollution Control Agency consistent with the goals, policies, and priorities in section 114D.20.

Subd. 10. [TOTAL MAXIMUM DAILY LOAD OR TMDL.] "Total maximum daily load" or "TMDL" means a calculation of the maximum amount of a pollutant that may be introduced into a surface water and still ensure that applicable water quality standards for that water are achieved and maintained. A TMDL is the sum

of the pollutant load allocations for all sources of the pollutant, including a load allocation for point sources, a load allocation for nonpoint sources and natural background, a load allocation for future growth of point and nonpoint sources, and a margin of safety to account for uncertainty about the relationship between pollutant loads and the quality of the receiving surface water. "Natural background" means characteristics of the water body resulting from the multiplicity of factors in nature, including climate and ecosystem dynamics, that affect the physical, chemical, or biological conditions in a water body, but does not include measurable and distinguishable pollution that is attributable to human activity or influence. A TMDL must take into account seasonal variations.

Subd. 11. [WATER QUALITY STANDARDS.] "Water quality standards" for Minnesota surface waters are found in Minnesota Rules, chapters 7050 and 7052.

Sec. 4. [114D.20] [IMPLEMENTATION; COORDINATION; GOALS; POLICIES; AND PRIORITIES.]

Subdivision 1. [COORDINATION AND COOPERATION.] In implementing this chapter, public agencies shall take into consideration the relevant provisions of local and other applicable water management, conservation, land use, land management, and development plans and programs. Public agencies with authority for local water management, conservation, land use, land management, and development plans shall take into consideration the manner in which their plans affect the implementation of this chapter. Public agencies shall identify opportunities to participate and assist in the successful implementation of this chapter, including the funding or technical assistance needs, if any, that may be necessary. In implementing this chapter, public agencies shall endeavor to engage the cooperation of organizations and individuals whose activities affect the quality of surface waters, including point and nonpoint sources of pollution, and who have authority and responsibility for water management, planning, and protection.

To the extent practicable, public agencies shall endeavor to enter into formal and informal agreements and arrangements with federal agencies and departments to jointly utilize staff and resources to deliver programs or conduct activities to achieve the intent of this chapter, including efforts under the federal Clean Water Act and other federal farm and soil and water conservation programs.

Subd. 2. [GOALS FOR IMPLEMENTATION.] The following goals must guide the implementation of this chapter:

(1) to identify impaired waters in accordance with federal TMDL requirements within ten years after the effective date of this section and thereafter to ensure continuing evaluation of surface waters for impairments;

(2) to submit TMDL's to the United States Environmental Protection Agency for all impaired waters in a timely manner in accordance with federal TMDL requirements;

(3) to set a reasonable time for implementing restoration of each identified impaired water;

(4) to provide assistance and incentives to prevent waters from becoming impaired and to improve the quality of waters that are listed as impaired but do not have an approved TMDL addressing the impairment; and

(5) to promptly seek the delisting of waters from the impaired waters list when those waters are shown to achieve the designated uses applicable to the waters.

Subd. 3. [IMPLEMENTATION POLICIES.] The following policies must guide the implementation of this chapter:

(1) develop regional and watershed TMDL's, and TMDL's for multiple pollutants, where reasonable and feasible;

(2) maximize use of available organizational, technical, and financial resources to perform sampling, monitoring, and other activities to identify impaired waters, including use of citizen monitoring;

(3) maximize opportunities for restoration of impaired waters, by prioritizing and targeting of available programmatic, financial, and technical resources and by providing additional

state resources to complement and leverage available resources;

(4) use existing regulatory authorities to achieve restoration for point and nonpoint sources of pollution where applicable, and promote the development and use of effective nonregulatory measures to address pollution sources for which regulations are not applicable;

(5) use restoration methods that have a demonstrated effectiveness in reducing impairments and provide the greatest long-term positive impact on water quality protection and improvement while incorporating innovative approaches on a case-by-case basis;

(6) identify for the legislature any innovative approaches that may strengthen or complement existing programs; and

(7) identify and encourage implementation of measures to prevent waters from becoming impaired and to improve the quality of waters that are listed as impaired but have no approved TMDL addressing the impairment.

Subd. 4. [PRIORITIES FOR IDENTIFYING IMPAIRED WATERS.] The Pollution Control Agency, in accordance with federal TMDL requirements, shall set priorities for identifying impaired waters, giving consideration to:

(1) waters where impairments would pose the greatest potential risk to human or aquatic health; and

(2) waters where data developed through public agency or citizen monitoring or other means, provides evidence that an impaired condition exists.

Subd. 5. [PRIORITIES FOR PREPARATION OF TMDL'S.] The Clean Water Council shall recommend priorities for scheduling and preparing TMDL's taking into account the severity of the impairment, the designated uses of those waters, and other applicable federal TMDL requirements. In recommending priorities, the council shall also give consideration to waters and watersheds:

(1) with impairments that pose the greatest potential risk to human health;

(2) with impairments that pose the greatest potential risk

to threatened or endangered species;

(3) with impairments that pose the greatest potential risk to aquatic health;

(4) where other public agencies and participating organizations and individuals, especially local, basinwide, or regional agencies or organizations, have demonstrated readiness to assist in carrying out the responsibilities, including availability and organization of human, technical, and financial resources necessary to undertake the work; and

(5) where there is demonstrated coordination and cooperation among cities, counties, watershed districts, and soil and water conservation districts in planning and implementation of activities that will assist in carrying out the responsibilities.

Subd. 6. [PRIORITIES FOR RESTORATION OF IMPAIRED WATERS.] In implementing restoration of impaired waters, in addition to the priority considerations in subdivision 5 the Clean Water Council shall give priority in its recommendations for restoration funding from the clean water legacy account to restoration projects that:

(1) coordinate with and utilize existing local authorities and infrastructure for implementation;

(2) can be implemented in whole or in part by providing support for existing or ongoing restoration efforts; and

(3) most effectively leverage other sources of restoration funding, including federal, state, local, and private sources of funds; and

(4) show a high potential for early restoration and delisting based upon data developed through public agency or citizen monitoring or other means.

Subd. 7. [PRIORITIES FOR FUNDING PREVENTION ACTIONS.] The Clean Water Council shall apply the priorities applicable under subdivision 6, as far as practicable, when recommending priorities for funding actions to prevent waters from becoming impaired and to improve the quality of waters that are listed as impaired but do not have an approved TMDL.

Sec. 5. [114D.25] [ADMINISTRATION; POLLUTION CONTROL AGENCY.]

Subdivision 1. [GENERAL DUTIES AND AUTHORITIES.] The Pollution Control Agency, in accordance with federal TMDL requirements, shall: identify impaired waters and propose a list of the waters for review and approval by the United States Environmental Protection Agency; develop and approve TMDL's for listed impaired waters and submit the approved TMDL's to the United States Environmental Protection Agency for final approval; and propose to delist waters from the Environmental Protection Agency impaired waters list.

Subd. 2. [ADMINISTRATIVE PROCEDURES FOR TMDL APPROVAL.] The approval of a TMDL by the Pollution Control Agency must be considered a final decision of the agency, and is subject to the contested case procedures of sections 14.57 to 14.62, and to judicial review under sections 14.63 to 14.69. A TMDL is not subject to the rulemaking requirements of chapter 14, including section 14.386.

Subd. 3. [THIRD-PARTY TMDL DEVELOPMENT.] The Pollution Control Agency may enter agreements with any qualified public or private entity setting forth the terms and conditions under which that entity is authorized to develop a third-party TMDL. In determining whether an entity is qualified to develop a third-party TMDL, the agency shall consider the technical and administrative qualifications of the entity and any potential conflict of interest of the entity with respect to the development of the third-party TMDL. A third-party TMDL is subject to modification and approval by the Pollution Control Agency, and must be approved by the Pollution Control Agency before it is submitted to the United States Environmental Protection Agency. The Pollution Control Agency shall consider authorizing the development of third-party TMDL's consistent with the goals, policies, and priorities determined under section 116.384.

Sec. 6. [114D.30] [CLEAN WATER COUNCIL.]

Subdivision 1. [CREATION; DUTIES.] A Clean Water Council

is created to advise on the administration and implementation of this chapter, and foster coordination and cooperation as described in section 114D.20, subdivision 1. The council may also advise on the development of appropriate processes for expert scientific review as described in section 114D.35, subdivision 2. The Pollution Control Agency shall provide administrative support for the council with the support of other member agencies. The members of the council shall elect a chair from the nonagency members of the council.

Subd. 2. [MEMBERSHIP; APPOINTMENT.] The commissioners of natural resources, agriculture, and the Pollution Control Agency, and the executive director of the Board of Water and Soil Resources are the appointing authorities for the council. Each appointing authority shall appoint one person from their respective agency to serve as a member of the council. The appointing authorities, acting jointly, shall appoint 13 additional nonagency members of the council as follows:

(1) two members representing statewide farm organizations;

(2) two members representing business organizations;

(3) two members representing environmental organizations;

(4) one member representing soil and water conservation districts;

(5) one member representing watershed districts;

(6) one member representing organizations focused on improvement of Minnesota lakes or streams;

(7) one member representing an organization of county governments;

(8) two members representing organizations of city governments; and

(9) one member representing the Metropolitan Council established under section 473.123.

Subd. 3. [TERMS; COMPENSATION; REMOVAL.] The initial terms of members representing state agencies and the Metropolitan Council expire on the first Monday in January, 2007. Thereafter, the terms of members representing the state agencies and the Metropolitan Council are four years and are coterminous

with the governor. The terms of other members of the council shall be as provided in section 15.059, subdivision 2. Members may serve until their successors are appointed and qualify. Compensation and removal of council members is as provided in section 15.059, subdivisions 3 and 4. A vacancy on the council may be filled by the appointing authorities, as provided in subdivision 1, for the remainder of the unexpired term.

Subd. 4. [IMPLEMENTATION PLAN.] The Clean Water Council shall prepare a plan for implementation of this chapter. The plan shall address general procedures and timeframes for implementing this chapter, and shall include a more specific implementation work plan for the next fiscal biennium and a framework for setting priorities to address impaired waters consistent with section 114D.45, subdivisions 2 to 7. The council shall issue the first implementation plan under this subdivision by December 1, 2005, and shall issue a revised work plan by December 1 of each even-numbered year thereafter.

Subd. 5. [RECOMMENDATIONS ON APPROPRIATION OF FUNDS.] The Clean Water Council shall recommend to the governor the manner in which money from the clean water legacy account should be appropriated for the purposes identified in section 114D.45, subdivision 3. The council's recommendations must be consistent with the purposes, policies, goals, and priorities in sections 114D.05 to 114D.35, and shall allocate adequate support and resources to identify impaired waters, develop TMDL's, implement restoration of impaired waters, and provide assistance and incentives to prevent waters from becoming impaired and improve the quality of waters which are listed as impaired but have no approved TMDL.

Subd. 6. [BIENNIAL REPORT TO LEGISLATURE.] By December 1 of each even-numbered year, the council shall submit a report to the legislature on the activities for which money from the clean water legacy account has been or will be spent for the current biennium, and the activities for which money from the account is recommended to be spent in the next biennium. The report due on December 1, 2014, must include an evaluation of the progress

made through June 30, 2014, in implementing this chapter, the need for funding of future implementation of those sections, and recommendations for the sources of funding.

Sec. 7. [114D.35] [PUBLIC AND STAKEHOLDER PARTICIPATION; SCIENTIFIC REVIEW; EDUCATION.]

Subdivision 1. [PUBLIC AND STAKEHOLDER PARTICIPATION.] Public agencies involved in the implementation of this chapter shall encourage participation by the public and stakeholders, including local citizens, land owners and managers, and public and private organizations, in the identification of impaired waters, in developing TMDL's, and in planning and implementing restoration of impaired waters. In particular, the Pollution Control Agency shall make reasonable efforts to provide timely information to the public and to stakeholders about impaired waters that have been identified by the agency. The agency shall seek broad and early public and stakeholder participation in scoping the activities necessary to develop a TMDL, including the scientific models, methods, and approaches to be used in TMDL development, and to implement restoration pursuant to section 114D.15, subdivision 7.

Subd. 2. [EXPERT SCIENTIFIC ADVICE.] The Clean Water Council and public agencies shall make use of available expertise from educational, research, and technical organizations, including the University of Minnesota and other higher education institutions, to provide appropriate independent expert advice on models, methods, and approaches used in identifying impaired waters, developing TMDL's, and implementing prevention and restoration.

Subd. 3. [EDUCATION.] The Clean Water Council shall develop strategies for informing, educating, and encouraging the participation of citizens, stakeholders, and others regarding the identification of impaired waters, development of TMDL's, and development and implementation of restoration for impaired waters. Public agencies shall be responsible for implementing the strategies.

Sec. 8. [114D.40] [CLEAN WATER FEES.]

Subdivision 1. [DEFINITIONS.] (a) The definitions in this subdivision apply to the terms used in this section.

(b) "Average daily discharge or application limitation" means the highest allowable average of daily discharge or land application during a calendar day or any 24-hour period that reasonably represents the discharge during the calendar day for the purposes of sampling, calculated as the sum of all daily discharges or land applications measured during a day, divided by the number of daily discharges or land applications during that day.

(c) "Effluent flow" means the flow of domestic wastewater from a residential dwelling or nonresidential establishment. The rate of water usage by a residential dwelling or nonresidential establishment must be substituted for the effluent flow if effluent flow from the residential dwelling or nonresidential establishment is not measured.

(d) "Fee collection authority" means a county, the Pollution Control Agency, or a public agency with authority to collect fees and charges for sewer services provided by a publicly owned treatment works.

(e) "Individual sewage treatment system" means a sewage treatment system, or part thereof, that is regulated by the state or its political subdivisions, and which serves a residential dwelling, or nonresidential establishment, or group thereof, using sewage tanks followed by soil treatment and disposal or using advanced treatment devices that discharge below final grade. "Individual sewage treatment system" also includes sewage holding tanks and privies.

(f) "Nonresidential establishment" means a structure or portion of a structure that is not a residential dwelling.

(g) "Publicly owned treatment works" means a device or system used in the treatment, recycling, or reclamation of municipal sewage or liquid industrial waste that is owned by the state, a political subdivision, sanitary district, or other public organization established under state law and which relies primarily on wastewater treatment systems other than individual

sewage treatment systems.

(h) "Residential dwelling" means a room or group of rooms used by an individual, family, or other group as living quarters which includes facilities for sleeping, eating, cooking, and sanitation. "Residential dwelling" includes apartments, condominiums, cooperatives, attached and detached dwellings, mobile homes, seasonal or recreational dwellings, or a dwelling in which a resident of that dwelling engages in a business or employment. A farm that includes buildings is treated as a residential dwelling. "Residential dwelling" does not include:

(1) hotels, motels, resorts, boarding houses, clubs, hospitals, nursing homes, dormitories, schools, colleges, or similar institutional or transient facilities; or

(2) any structure containing not more than two residential dwelling units that receives a single bill for sewer services that is combined with one or more nonresidential establishments.

Subd. 2. [ASSESSMENT OF CLEAN WATER FEES.] A clean water fee is imposed as provided in subdivision 3 on all discharges of domestic and industrial wastewater to sanitary sewer systems; wastewater treatment plants, facilities, or systems; individual sewage treatment systems; and other systems.

Subd. 3. [FEE AMOUNTS.] (a) Beginning January 1, 2006, the amounts of the clean water fees imposed under this section are as provided in this subdivision.

(b) For discharges to sanitary sewer systems served by a publicly owned treatment works, the clean water fees are as follows:

(1) for each residential dwelling that receives a separate bill for service and contains not more than two residential dwelling units, $36 per year;

(2) for a structure that contains more than two residential dwelling units that do not receive separate bills for service, clean water fees must be calculated as follows:

(i) $36 per year for each residential dwelling unit in the structure; and

(ii) any nonresidential establishment which is billed

together with the residential dwelling units is subject to a clean water fee on that portion of the effluent flow for the structure that is attributable to that nonresidential establishment, and the fee must be calculated based on effluent flows as provided in clause (3); and

(3) for each nonresidential establishment that receives a separate bill for service, the fee is as follows:

(i) if average effluent flow is less than 10,000 gallons per day, $120 per year;

(ii) if average effluent flow is 10,000 gallons per day or greater, but less than 100,000 gallons per day, $300 per year; and

(iii) if average effluent flow is 100,000 gallons per day or greater, $600 per year.

(c) Except as provided in paragraph (d), for discharges from wastewater treatment facilities, other than publicly owned treatment works, that are required to obtain a national pollution discharge elimination system or state disposal system permit, the fee is as follows:

(1) for permits authorizing an average daily discharge or land application limitation of less than 10,000 gallons on an annualized basis, $120 per year;

(2) for permits authorizing an average daily discharge or land application limitation of 10,000 gallons per day or greater, but less than 100,000 gallons per day, $300 per year; and

(3) for permits authorizing an average daily discharge or land application limitation of 100,000 gallons per day or greater, $600 per year.

(d) A clean water fee must not be imposed under paragraph (c), on discharges from a facility that operates under a general permit issued by the agency.

(e) For discharges to domestic wastewater treatment systems permitted by the Pollution Control Agency, excluding publicly owned treatment works, the fee is $36 per year for each residential dwelling and nonresidential establishment that

discharges to the systems. No single residential unit or nonresidential establishment may be required to pay more than one clean water fee under this paragraph.

(f) For individual sewage treatment systems not permitted by the Pollution Control Agency, the fee is $36 per year for each residential dwelling and nonresidential establishment served by the system. No single residential unit or nonresidential establishment may be required to pay more than one clean water fee under this paragraph.

(g) For any wastewater system not described in paragraphs (b) to (f), that accepts and discharges untreated or partially treated wastewater, the fee is $36 per year for each residential dwelling and nonresidential establishment that discharges to the system.

(h) Any single residential unit or nonresidential establishment that would be subject to payment of a clean water fee under both paragraphs (f) and (g) may only be required to pay the clean water fee under paragraph (e).

Subd. 4. [COLLECTION AND ENFORCEMENT.] (a) Fees imposed on discharges to sanitary sewer systems served by publicly owned treatment works must be collected by the public agency that collects fees or charges from the users of that service. The fees must be collected at the same time and with the same frequency as fees or charges for service are collected. The collecting entity may enforce payment of the fees using the same enforcement authority applicable to sewer service charges.

(b) Fees imposed under subdivision 3, paragraphs (c) and (e), must be collected by the Pollution Control Agency from the permittees for the facilities or systems. The Pollution Control Agency may enforce payment of the fees using the same enforcement authority applicable to permit fees.

(c) Fees imposed under subdivision 3, paragraphs (f) and (g), must be collected by each county, from the owners of the residential dwellings or nonresidential establishments subject to the fee that are located in the county. A county shall collect the fees at least once per calendar year, but may

collect the fees more frequently. If fees are collected annually, a county shall require payment of the fees by not later than February 1 following the calendar year for which the fee is imposed. The county shall determine that manner in which the fees are collected. Each county shall enact and enforce an appropriate ordinance to enforce payment of the fees.

(d) By August 15, 2005, a county shall identify and develop a list of all persons subject to the fees under subdivision 3, paragraphs (f) and (g), located in that county. A county shall annually update the list by August 15 of each year.

(e) A fee collection authority shall exempt a person from payment of the clean water fee for a discharge of wastewater from a residential dwelling if the fee collection authority determines that the person meets any of the criteria for eligibility under the telephone assistance plan established under section 237.70, or that the person is receiving telephone assistance under that plan. The Pollution Control Agency shall create a form that fee collection authorities shall use to determine eligibility for exemption under this paragraph.

(f) Any statement, invoice, or other document used to collect the fees under this subdivision must clearly identify the fee as the "Minnesota Clean Water Fee."

Subd. 5. [PAYMENT TO COMMISSIONER OF REVENUE; DEPOSIT.] (a) A fee collection authority shall remit all fees collected under this section, less the costs to collect the fees, not to exceed five percent of the total collected, to the commissioner of revenue. The fees must be remitted in a manner prescribed by the commissioner. Amounts collected during the previous calendar quarter must be remitted to the commissioner on April 30, July 31, October 31, and January 31. In addition to the costs of collecting the fees, a fee collection authority may retain from fees collected for calendar year 2006 the costs to develop methods and procedures for collecting the clean water fees.

(b) The commissioner of revenue shall deposit all clean water fees remitted by fee collection authorities in the clean

water legacy account.

(c) The assessment, audit, refund, penalty, interest, enforcement, collection remedies, appeal, and administrative provisions of chapters 270 and 289A that are applicable to fees imposed under chapter 297A apply to the fees imposed by this section.

Subd. 6. [EXPIRATION.] This section expires on December 31, 2015.

Sec. 9. [114D.45] [CLEAN WATER LEGACY ACCOUNT.]

Subdivision 1. [CREATION.] The clean water legacy account is created as an account in the environmental fund. Money in the account must be made available for the implementation of this chapter and sections 446A.073 and 446A.074, without supplanting or taking the place of any other funds which are currently available or may become available from any other source, whether federal, state, local, or private, for implementation of those sections.

Subd. 2. [SOURCES OF REVENUE.] The following revenues must be deposited in the clean water legacy account:

(1) the revenue from the clean water fees collected under section 114D.40; and

(2) interest accrued on the account.

Subd. 3. [PURPOSES.] Subject to appropriation by the legislature, the clean water legacy account may be spent for the following purposes:

(1) to provide grants, loans, and technical assistance to public agencies and others who are participating in the process of identifying impaired waters, developing TMDL's, implementing restoration plans for impaired waters, and monitoring the effectiveness of restoration;

(2) to support measures to prevent waters from becoming impaired and to improve the quality of waters that are listed as impaired but have no approved TMDL addressing the impairment;

(3) to provide grants and loans for wastewater and stormwater treatment projects through the Public Facilities Authority;

(4) to support the efforts of public agencies associated with individual sewage treatment systems and financial assistance for upgrading and replacing the systems; and

(5) to provide funds to state agencies to carry out their responsibilities under this chapter.

Sec. 10. [446A.073] [CLEAN WATER LEGACY PHOSPHORUS REDUCTION GRANTS.]

Subdivision 1. [CREATION OF FUND; APPROPRIATION.] The authority shall establish a clean water legacy capital improvement fund and shall make grants from the fund as provided in this section. Money in the clean water legacy capital improvement fund, including interest earned, is appropriated to the authority for the purposes of this section.

Subd. 2. [GRANTS.] The authority shall award grants from the clean water legacy capital improvement fund to governmental units for the capital costs of wastewater treatment facility projects or a portion thereof that will reduce the discharge of total phosphorus from the facility to one milligram per liter or less. A project is eligible for a grant if it meets the following requirements:

(1) the applicable phosphorus discharge limit is incorporated in a permit issued by the agency for the wastewater treatment facility on or after March 28, 2000, or the grantee agrees to comply with the applicable limit as a condition of receiving the grant;

(2) the governmental unit has submitted a facilities plan for the project to the agency and a grant application to the authority on a form prescribed by the authority; and

(3) the agency has approved the application and facilities plan, and certified the eligible costs for the project to the authority.

Subd. 3. [ELIGIBLE CAPITAL COSTS.] Eligible capital costs for phosphorus reduction grants under subdivision 4, paragraph (a), include the as-bid construction costs and engineering planning and design costs. Eligible capital costs for phosphorus reduction grants under subdivision 4, paragraph (b),

include the final, incurred construction, engineering, planning, and design costs.

Subd. 4. [GRANT AMOUNTS AND PRIORITIES.] (a) Priority must be given to projects that start construction on or after July 1, 2005. If a facility's plan for a project is approved by the agency before July 1, 2009, the amount of the grant is 75 percent of the eligible capital cost of the project. If a facility's plan for a project is approved by the agency on or after July 1, 2009, the amount of the grant is 50 percent of the eligible capital cost of the project. Priority in awarding grants under this paragraph must be based on the date of approval of the facility's plan for the project.

(b) Projects that meet the eligibility requirements in subdivision 2 and have started construction before July 1, 2005, are eligible for grants to reimburse 75 percent of the eligible capital cost of the project, less any amounts previously received in grants from other sources. Application for a grant under this paragraph must be submitted to the agency no later than June 30, 2007. Priority for award of grants under this paragraph must be based on the date of agency approval of the application for the grant.

(c) In each fiscal year that money is available for grants, the authority shall first award grants under paragraph (a) to projects that met the eligibility requirements of subdivision 2 by May 1 of that year. The authority shall use any remaining money available that year to award grants under paragraph (b). Grants that have been approved but not awarded in a previous fiscal year carry over and must be awarded in subsequent fiscal years in accordance with the priorities in this paragraph.

(d) Disbursements of grants under this section by the authority to recipients must be made for eligible project costs as incurred by the recipients, and must be made by the authority in accordance with the project financing agreement and applicable state law.

Subd. 5. [FEES.] The authority may charge the grant recipient a fee for its administrative costs not to exceed

one-half of one percent of the grant amount, to be paid upon execution of the grant agreement.

Sec. 11. [446A.074] [COMMUNITY SEPTIC SYSTEM LOAN PROGRAM.]

Subdivision 1. [CREATION OF FUND.] The authority shall establish a community septic system replacement fund and shall make loans from the fund as provided in this section. Money in the fund, including interest earned, is annually appropriated to the authority and does not lapse. The fund shall be credited with all loan repayments and investment income from the fund, and servicing fees assessed under section 446A.04, subdivision 5. The authority shall manage and administer the community septic system replacement fund and, for these purposes, may exercise all powers provided in this chapter.

Subd. 2. [LOANS.] The authority shall award loans to governmental units from the community septic system replacement fund for projects to replace failing or inadequate individual sewage treatment systems with new individual sewage treatment systems. A governmental unit receiving a loan from the fund shall own the individual sewage treatment systems built under the program and shall be responsible, either directly or through a contract with a private vendor, for all inspections, maintenance, and repairs necessary to assure proper operation of the systems.

Subd. 3. [PROJECT PRIORITY LIST.] Governmental units seeking loans from the community septic system loan program shall first submit a project proposal to the agency. A project proposal must include an identification and description of the condition of all individual sewage treatment systems in the project area. The agency shall rank project proposals on its project priority list used for the water pollution control revolving fund under section 446A.07.

Subd. 4. [LOAN APPLICATIONS.] Governmental units with projects on the project priority list shall submit applications to the authority on forms prescribed by the authority. The application must include:

(1) a list of the individual sewage treatment systems proposed to be replaced over a period of up to three years;

(2) a project schedule and cost estimate for each year of the project;

(3) a financing plan for repayment of the loan; and

(4) a management plan providing for the inspection, maintenance, and repairs necessary to assure proper operation of the systems.

Subd. 5. [LOAN AWARDS.] The authority shall award loans to governmental units with approved loan applications based on their ranking on the agency's project priority list. The loan amount must be based on the estimated project costs for the portion of the project expected to be completed within one year, up to an annual maximum of $500,000. For projects expected to take more than one year to complete, the authority may make a multiyear commitment for a period not to exceed three years, contingent on the future availability of funds. Each year of a multiyear commitment must be funded by a separate loan agreement meeting the terms and conditions in subdivision 6. A governmental unit receiving a loan under a multiyear commitment has priority for additional loan funds in subsequent years.

Subd. 6. [LOAN TERMS AND CONDITIONS.] Loans from the community septic system replacement fund must comply with the following terms and conditions:

(1) principal and interest payments must begin no later than two years after the loan is awarded;

(2) loans must carry an interest rate of one percent and must be fully amortized within ten years of the first scheduled payment;

(3) a governmental unit receiving a loan must establish a dedicated source or sources of revenues for repayment of the loan and must issue a general obligation note to the authority for the full amount of the loan; and

(4) each property owner to be served by an individual sewage treatment system under this program must provide a permanent easement to the governmental unit to allow access to

the system for inspections, maintenance, and repairs.

Subd. 7. [SPECIAL ASSESSMENT DEFERRAL.] (a) A governmental unit that receives a loan under this section, and levies special assessments to repay the loan, may defer payment of the assessments under sections 435.193 to 435.195.

(b) A governmental unit that defers payment of special assessments for one or more properties under paragraph (a) may request deferral of that portion of the debt service on its loan, and the authority shall accept appropriate amendments to the general obligation note of the governmental unit. If special assessment payments are later received from properties that received a deferral, the funds received must be paid to the authority with the next scheduled loan payment.

Subd. 8. [ELIGIBLE COSTS.] Eligible costs for community septic system loans include the costs of planning, design, construction, legal fees, administration, and land acquisition.

Subd. 9. [DISBURSEMENTS.] Loan disbursements by the authority under this section must be made for eligible project costs as incurred by the recipients, and must be made in accordance with the project loan agreement and applicable state law.

Subd. 10. [AUDITS.] A governmental unit receiving a loan under this section must annually provide to the authority for the term of the loan a copy of its annual independent audit or, if the governmental unit is not required to prepare an independent audit, a copy of the annual financial reporting form it provides to the state auditor.

Sec. 12. [APPROPRIATIONS.]

Subdivision 1. [GENERAL PROVISIONS.] The appropriations in this section are from the environmental fund and are available for the fiscal years ending June 30, 2006, and June 30, 2007. Any money remaining after the first year of the biennium is available for the second year. Appropriations in this section that are encumbered under contract, including grant contract, on or before June 30, 2007, are available until June 30, 2009.

Subd. 2. [DEPARTMENT OF REVENUE; FEE COLLECTION

COSTS.] $38,000 in fiscal year 2006 and $31,000 in fiscal year 2007 are appropriated to the Department of Revenue to pay the costs of collection and administration of the clean water fees imposed in Minnesota Statutes, section 114D.40.

Subd. 3. [POLLUTION CONTROL AGENCY.] The following amounts are appropriated to the Pollution Control Agency for the purposes stated:

(1) $1,000,000 in fiscal year 2006 is to assist counties in developing the list required under Minnesota Statutes, section 114D.40, subdivision 4, paragraph (e), of persons subject to clean water fees under Minnesota Statutes, section 114D.40, subdivision 3, paragraphs (f) and (g);

(2) $1,860,000 in fiscal year 2006 and $4,125,000 in fiscal year 2007 are for statewide assessment of surface water quality and trends; of these amounts, up to $1,474,000 in fiscal year 2006 and $3,256,600 in fiscal year 2007 are available for grants or contracts to support citizen monitoring of surface waters; and

(3) $1,900,000 in fiscal year 2006 and $3,290,000 in fiscal year 2007 are to develop TMDL's for waters listed on the United States Environmental Protection Agency approved 2004 impaired waters list; of this appropriation, up to $384,950 in fiscal year 2006 and $1,118,750 in fiscal year 2007 are available for grants or contracts to develop TMDL's.

Subd. 4. [AGRICULTURE DEPARTMENT.] The following amounts are appropriated to the Department of Agriculture for the purposes stated:

(1) $250,000 in fiscal year 2006 and $2,300,000 in fiscal year 2007 are for agricultural best management practices low-interest loans to producers and rural landowners under Minnesota Statutes, section 17.117; of these amounts, $200,000 in fiscal year 2006 and $2,100,000 in fiscal year 2007 are available for pass-through to local governments and lenders for low-interest loans;

(2) $350,000 in fiscal year 2006 and $800,000 in fiscal year 2007 are to expand technical assistance to producers and

conservation professionals on nutrient and pasture management; target practices to sources of water impairments; coordinate federal and state farm conservation programs to fully utilize federal conservation funds; and expand conservation planning assistance for producers; of these amounts, $50,000 in fiscal year 2006 and $210,000 in fiscal year 2007 are available for grants or contracts to develop nutrient and conservation planning assistance information materials; and

(3) $100,000 in fiscal year 2006 and $800,000 in fiscal year 2007 are for research, evaluation, and effectiveness monitoring of agricultural practices in restoring impaired waters; of these amounts, $600,000 in fiscal year 2007 is available for grants or contracts for research, evaluations, and effectiveness monitoring of agricultural practices in restoring impaired waters, including on-farm demonstrations.

Subd. 5. [BOARD OF WATER AND SOIL RESOURCES.] The following amounts are appropriated to the Board of Water and Soil Resources for restoration and prevention actions as described in Minnesota Statutes, section 114D.20, subdivisions 6 and 7:

(1) $450,000 in fiscal year 2006 and $5,750,000 in fiscal year 2007 are for targeted nonpoint restoration cost-share and incentive payments; of these amounts, up to $450,000 in fiscal year 2006 and $5,450,000 in fiscal year 2007 are available for grants to soil and water conservation districts through the state cost-share program authorized under Minnesota Statutes, section 103C.501;

(2) $412,000 in fiscal year 2006 and $3,450,000 in fiscal year 2007 are for targeted nonpoint technical and engineering assistance for restoration activities; of these amounts, up to $412,000 in fiscal year 2006 and $3,250,000 in fiscal year 2007 are available for grants to soil and water conservation districts, watershed management organizations, or counties to support implementation of nonpoint restoration activities;

(3) $200,000 in fiscal year 2007 is for reporting and evaluation of applied soil and water conservation practices;

(4) $2,400,000 in fiscal year 2007 is for grants to counties for implementation of county individual sewage treatment systems programs through the local water resources protection and management program under Minnesota Statutes, section 103B.3369;

(5) $300,000 in fiscal year 2006 and $1,500,000 in fiscal year 2007 are for base and challenge grants to support nonpoint source protection activities related to lake and river protection and management through the local water resources protection and management program under Minnesota Statutes, section 103B.3369; and

(6) $2,400,000 in fiscal year 2007 is for grants to soil and water conservation districts for streambank, stream channel, lakeshore, and roadside protection and restoration projects through the state-cost share program under Minnesota Statutes, section 103C.501.

Subd. 6. [DEPARTMENT OF NATURAL RESOURCES.] The following amounts are appropriated to the Department of Natural Resources for the purposes stated:

(1) $280,000 in fiscal year 2006 and $430,000 in fiscal year 2007 are for statewide assessment of surface water quality and trends; and

(2) $100,000 in fiscal year 2006 and $4,050,000 in fiscal year 2007 are for restoration of impaired waters and actions to prevent waters from becoming impaired; of these amounts, up to $1,700,000 in fiscal year 2007 is available for grants and contracts for forest stewardship planning and implementation, and for research and monitoring.

Subd. 7. [PUBLIC FACILITIES AUTHORITY.] $4,400,000 in fiscal year 2006 and $44,015,000 in fiscal year 2007 are appropriated to the Public Facilities Authority; of these amounts, $4,400,000 in fiscal year 2006 and $17,000,000 in fiscal year 2007 are for deposit in the clean water legacy capital improvements fund for grants under Minnesota Statutes, section 446A.073; $4,582,000 in fiscal year 2007 is for deposit in the community septic system replacement fund for loans under

Minnesota Statutes, section 446A.074; and $22,433,000 in fiscal year 2007 is for deposit in the water pollution control revolving fund under Minnesota Statutes, section 446A.07, for wastewater treatment and stormwater projects. Money appropriated under this subdivision does not cancel."

Senator ..... moves to amend S.F. No. 762 as follows:

Page 3, line 19, delete "wasteload" and insert "load"

Page 3, line 20, delete "an" and insert "a load"

Page 5, line 2, delete "which" and insert "that" and after "but" insert "do not" and delete "no" and insert "an"

Page 6, after line 16, insert:

"(2) with impairments that pose the greatest potential risk to threatened or endangered species;"

Page 6, line 17, delete "(2)" and insert "(3)"

Page 6, line 19, delete "(3)" and insert "(4)"

Page 6, line 25, delete "(4)" and insert "(5)"

Page 7, line 14, delete "which" and insert "that"

Page 7, line 15, after "but" insert "do not" and delete "no" and insert "an"

Page 7, line 24, delete "State" and insert "States"

Page 9, line 21, delete "authority" and insert "authorities, as"

Page 9, line 22, after "1" insert a comma

Page 10, line 18, delete "such"

Page 11, line 32, delete "authorities" and insert "authority" and delete "counties" and insert "a county"

Page 11, line 33, delete "and" and insert "or a" and delete "agencies" and insert "agency"

Page 12, line 28, delete "facility" and insert "facilities"

Page 12, line 29, delete "residential dwelling" and insert "structure"

Page 12, line 30, delete "which receive" and insert "that receives"

Page 12, line 31, after "services" insert "that is combined"

Page 13, line 1, after "(a)" insert "Beginning January 1, 2006,"

Page 13, line 32, delete "which" and insert "that"

Page 15, line 14, delete "The counties" and insert "A county"

Page 15, line 17, delete "the counties" and insert "a county"

Page 15, line 19, delete "counties" and insert "county"

Page 15, line 22, delete "the counties" and insert "a county"

Page 15, line 25, delete "The counties" and insert "A county"

Page 15, line 27, delete "The fee collection authorities" and insert "A fee collection authority"

Page 16, line 4, delete "The fee collection authorities" and insert "A fee collection authority"

Page 16, line 11, delete the second "the" and insert "a" and delete "authorities" and insert "authority"

Page 16, line 16, delete the first "the"

Page 16, line 23, delete everything after "6." and insert "[EXPIRATION.]"

Page 16, delete line 24

Page 16, line 25, delete everything before "This" and delete "repealed" and insert "expires"

Page 17, line 5, delete "USES OF ACCOUNT" and insert "PURPOSES"

Page 17, line 6, delete "used" and insert "spent"

Page 17, line 26, after "FUND" insert "; APPROPRIATION"

Page 17, line 28, after the period, insert "Money in the clean water legacy capital improvement fund, including interest earned, is appropriated to the authority for the purposes of this section."

Page 18, line 30, delete "up to"

Page 19, line 23, after "fund" insert ", including interest earned,"

Page 22, delete lines 11 and 12, and insert "Any money remaining after the first year of the biennium is available for the second year."

Page 23, line 10, after "landowners" insert "under Minnesota Statutes, section 17.117"

Page 24, line 8, delete "restoration"

Page 24, line 9, after "assistance" insert "for restoration"

Page 24, line 13, after "support" insert "implementation of"

and delete "implementation"

Page 25, line 12, delete "to" and insert "for deposit in"

Page 25, line 14, after "is" insert "for deposit in" and delete "to"

Page 25, line 17, delete "to" and insert "for deposit in"

Page 25, line 18, delete "446.07" and insert "446A.07"

Page 25, line 19, delete "Funds" and insert "Money"

Page 25, line 20, delete "do" and insert "does" and delete everything after "cancel" and insert a period

Page 25, delete lines 21 to 23

Senator ..... moves to amend S.F. No. 762 as follows:

Page 3, line 19, delete "wasteload" and insert "load"

Page 3, line 20, delete "an" and insert "a load"

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"(2) with impairments that pose the greatest potential risk to threatened or endangered species;"

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Page 6, line 19, delete "(3)" and insert "(4)"

Page 6, line 25, delete "(4)" and insert "(5)"

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Page 7, line 15, after "but" insert "do not" and delete "no" and insert "an"

Page 7, line 24, delete "State" and insert "States"

Page 9, line 21, delete "authority" and insert "authorities, as"

Page 9, line 22, after "1" insert a comma

Page 10, line 18, delete "such"

Page 11, line 32, delete "authorities" and insert "authority" and delete "counties" and insert "a county"

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Page 16, line 4, delete "The fee collection authorities" and insert "A fee collection authority"

Page 16, line 11, delete the second "the" and insert "a" and delete "authorities" and insert "authority"

Page 16, line 16, delete the first "the"

Page 16, line 23, delete everything after "6." and insert "[EXPIRATION.]"

Page 16, delete line 24

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Page 17, line 26, after "FUND" insert "; APPROPRIATION"

Page 17, line 28, after the period, insert "Money in the clean water legacy capital improvement fund, including interest earned, is appropriated to the authority for the purposes of this section."

Page 18, line 30, delete "up to"

Page 19, line 23, after "fund" insert ", including interest earned,"

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Page 25, line 17, delete "to" and insert "for deposit in"

Page 25, line 18, delete "446.07" and insert "446A.07"

Page 25, line 19, delete "Funds" and insert "Money"

Page 25, line 20, delete "do" and insert "does" and delete everything after "cancel" and insert a period

Page 25, delete lines 21 to 23

Senator ..... moves to amend the delete-everything amendment (SCS0762A-2) to S.F. No. 762 as follows:

Page 2, delete lines 8 to 16, and insert:

"Subd. 6. [PUBLIC AGENCIES.] "Public agencies" means all state agencies, political subdivisions, joint powers organizations, and special purpose units of government with authority, responsibility, or expertise in protecting, restoring, or preserving the quality of surface waters, managing or planning for surface waters and related lands, or financing waters-related projects. "Public agencies" also includes the University of Minnesota and other public education institutions."

Page 5, line 10, after "improvement" insert "and related conservation benefits"

Page 5, line 17, before the period, insert "using the best available data and technology, and establish and report outcome-based performance measures that monitor the progress and effectiveness of protection and restoration measures"

Page 6, line 24, delete "and"

Page 6, line 27, delete "and"

Page 6, line 30, before the period, insert "; and

(5) show a high potential for long-term water quality and related conservation benefits"

Page 7, line 25, after "and" insert "shall avoid" and after "potential" insert "organizational"

Page 7, line 26, after "interest" insert ", as defined in section 16C.02, subdivision 10a,"

Pages 19 to 21, delete section 11 and insert:

"Sec. 11. [446A.074] [SMALL COMMUNITY WASTEWATER TREATMENT LOAN PROGRAM.]

Subdivision 1. [CREATION OF FUND.] The authority shall establish a small community wastewater treatment fund and shall make loans from the fund as provided in this section. Money in the fund is annually appropriated to the authority and does not lapse. The fund shall be credited with all loan repayments and investment income from the fund, and servicing fees assessed under section 446A.04, subdivision 5. The authority shall

manage and administer the small community wastewater treatment fund, and for these purposes, may exercise all powers provided in this chapter.

Subd. 2. [LOANS.] The authority shall award loans to governmental units from the small community wastewater treatment fund for projects to replace noncomplying individual sewage treatment systems with a community wastewater treatment system or systems meeting the requirements of section 115.55. A governmental unit receiving a loan from the fund shall own the community wastewater treatment systems built under the program and shall be responsible, either directly or through a contract with a private vendor, for all inspections, maintenance, and repairs necessary to assure proper operation of the systems.

Subd. 3. [PROJECT PRIORITY LIST.] Governmental units seeking loans from the small community wastewater treatment loan program shall first submit a project proposal to the agency. A project proposal shall include a compliance determination for all individual sewage treatment systems in the project area. The agency shall rank project proposals on its project priority list used for the water pollution control revolving fund under section 446A.07.

Subd. 4. [LOAN APPLICATIONS.] Governmental units with projects on the project priority list shall submit applications to the authority on forms prescribed by the authority. The application shall include:

(1) a list of the individual sewage treatment systems proposed to be replaced over a period of up to three years;

(2) a project schedule and cost estimate for each year of the project;

(3) a financing plan for repayment of the loan; and

(4) a management plan providing for the inspection, maintenance, and repairs necessary to assure proper operation of the systems.

Subd. 5. [LOAN AWARDS.] The authority shall award loans to governmental units with approved loan applications based on their ranking on the agency's project priority list. The loan

amount shall be based on the estimated project costs for the portion of the project expected to be completed within one year, up to an annual maximum of $500,000. For projects expected to take more than one year to complete, the authority may make a multiyear commitment for a period not to exceed three years, contingent on the future availability of funds. Each year of a multiyear commitment must be funded by a separate loan agreement meeting the terms and conditions in subdivision 6. A governmental unit receiving a loan under a multiyear commitment shall have priority for additional loan funds in subsequent years.

Subd. 6. [LOAN TERMS AND CONDITIONS.] Loans from the small community wastewater treatment fund shall comply with the following terms and conditions:

(1) principal and interest payments must begin no later than two years after the loan is awarded;

(2) loans shall carry an interest rate of one percent;

(3) loans shall be fully amortized within ten years of the first scheduled payment or, if the loan amount exceeds $10,000 per household, shall be fully amortized within 20 years but not to exceed the expected design life of the system;

(4) a governmental unit receiving a loan must establish a dedicated source or sources of revenues for repayment of the loan and must issue a general obligation note to the authority for the full amount of the loan; and

(5) each property owner to be served by a community wastewater treatment system under this program must provide an easement to the governmental unit to allow access to the system for management and repairs.

Subd. 7. [SPECIAL ASSESSMENT DEFERRAL.] (a) A governmental unit receiving a loan under this section that levies special assessments to repay the loan may defer payment of the assessments under the provisions of sections 435.193 to 435.195.

(b) A governmental unit that defers payment of special assessments for one or more properties under paragraph (a) may request deferral of that portion of the debt service on its

loan, and the authority shall accept appropriate amendments to the general obligation note of the governmental unit. If special assessment payments are later received from properties that received a deferral, the funds received shall be paid to the authority with the next scheduled loan payment.

Subd. 8. [ELIGIBLE COSTS.] Eligible costs for small community wastewater treatment loans shall include the costs of planning, design, construction, legal fees, administration, and land acquisition.

Subd. 9. [DISBURSEMENTS.] Loan disbursements by the authority under this section must be made for eligible project costs as incurred by the recipients, and must be made in accordance with the project loan agreement and applicable state law.

Subd. 10. [AUDITS.] A governmental unit receiving a loan under this section must annually provide to the authority for the term of the loan a copy of its annual independent audit or, if the governmental unit is not required to prepare an independent audit, a copy of the annual financial reporting form it provides to the state auditor."

Page 22, line 15, delete "$1,474,000" and insert "$1,010,000"

Page 22, line 16, delete "$3,256,600" and insert "$1,960,000"

Page 22, line 29, after "for" insert "the" and after "practices" insert "loan program"

Page 22, line 30, delete everything before "under"

Page 24, line 36, before "community" insert "small" and delete "septic system replacement" and insert "wastewater treatment"

Frederickson

Editorials, labeled "Our perspective," represent the institutional voice of the Star Tribune. They are prepared by the Editorial Department, which is independent of the newsroom.

Star Tribur

www.startribune.

OUR PERSPECTIVE

Clean water

Alas, a 'user fee' is necessary

Minnesota appears poised to create an $80 million-a-year program to inspect and restore the state's polluted waters. This is an important, overdue step forward in caring for the state's trademark resource. Its "user fee" funding method is unfortunate, in our view, but manifestly an idea whose time has come.

Under federal law, states must inventory their lakes and rivers for a wide range of pollutants: mercury, phosphorus, coliform bacteria and so on. Where contamination exceeds U.S. standards, plans must be developed for reducing it and holding the "total maximum daily load" (TMDL) of pollutants to acceptable levels; otherwise, further development in the watershed may be banned. This is hardly an abstract possibility: Among the small fraction of Minnesota waters tested so far, 40 percent exceeded the limit for one or more pollutants and were officially classed as "impaired."

The threat to economic growth is one of two big reasons for the unusual unity behind the Clean Water Legacy legislation: 88 environmental, business, local government and agriculture groups support it; the co-authors include House Speaker Steve Sviggum on the Republican side and Senate Majority Leader Dean Johnson of the DFL; Gov. Tim Pawlenty has praised the consensus approach. Apart from some quibbles over implementation details, there appears to be no substantial dissent — unusual, these days, for such a large and ambitious environmental initiative.

The other reason is that this program will be funded not from tax revenue but with a $36 annual fee on every household that discharges wastewater into a sewer or septic system — essentially every residence. Apartment houses will be charged $36 per unit; commercial properties will pay $120, $300 or $600 per year, depending on discharge volume.

There is much to be said for fee-based financing of public services that are used only by some citizens, or used much more heavily by some citizens than others, or used chiefly as a matter of choice. Hunting and fishing licenses come to mind, along with recreational vehicle registrations and campground charges.

But wastewater disposal? It's hard to think of a more universally necessary public function; even people who prefer to haul their own trash can't do the same with wastewater. And though every home and business in the state requires clean drinking water, they certainly do not share equally in creating the pollution problems that the TMDL program is meant to address.

The aims of Clean Water Legacy make it a perfect example of a public function that should be financed from a progressive tax system, perhaps supplemented with additional fees from the largest polluters. To call this universal, compulsory charge a "user fee" is a fanciful, if not cynical, relabeling of what is clearly a tax in both form and function — and a regressive one at that, despite the plan's higher business rates and unspecified exemptions for some low-income households.

Regrettably, such artifice seems necessary to accomplish objectives that Minnesota has been neglecting. Only 8 percent of rivers and 14 percent of lakes have been tested under the TMDL standards. Yet year after year, clean water programs suffer in the competition for state revenue. There's a paradox here — clean water has a universal constituency, and for that very reason lacks the narrower, focused backing of other causes. Dramatic funding cuts have been the upshot.

Steve Morse, the former state senator and deputy commissioner of natural resources who played a key role in shaping the Legacy approach, notes that environmental spending across the board has been reduced by about one-third in the last four years of Ventura and Pawlenty budgets; even some specially designated funds have been raided for other purposes.

In a better world, the notion of user fees for clean water would be laughable. In this world, it's lamentable that such an important job won't get done without them.

Frederickson

Developers find dirty water limiting growth

ANNANDALE, Minn. (AP) — Old west storefronts still line the main street here, but farm fields are making way for subdivisions in this town in one of the United States' fastest-growing counties.

Developers are eager to build more houses in a part of the state where communities settled and thrived around the many lakes and rivers. But water, a resource that once fostered growth, now threatens to halt it.

Environmentalists are suing to block a planned water treatment plant here because they say rivers and lakes are already too polluted to take more discharge. They say they're supported by the federal Clean Water Act. The lawsuit has drawn the attention of business leaders statewide, who fear that the state's water quality problems could stymie development in growing areas.

Annandale and neighboring Maple Lake sought the plant because their aging sewer systems can't take any more strain.

"We basically tell them, 'Get in line,'" Annandale Mayor Marian Harmoning said of the developers who come to city hall, seeking annexation of farmland for new city neighborhoods.

It's put developers in the unexpected position of pushing for legislation to improve enforcement of environmental regulations and clean up Minnesota's dirty water.

"It's a dual message you get," said developer Brad Paumen, owner of Maple Lake-based Paumen Properties. "One message is we need more jobs in town, we need more businesses in town, so we need more houses in town. For the developer, what's frustrating is you buy property, invest some engineering and incur expenses, and then it gets put on hold for two years."

Local politicians say they want to see their cities grow, but are forced to put a hold on it until they're able to expand sewer capacity.

"We're caught between a rock and a hard spot," said Maple Lake Mayor Mike Messina. "We're trying to be environmentally responsible — but at what cost?"

The lawsuit, filed by the St. Paul-based Minnesota Center for Environmental Advocacy, is awaiting arguments in the Minnesota Court of Appeals. It contends that the Minnesota Pollution Control Agency violated the federal Clean Water Act when it granted a permit to the Annandale-Maple Lake plant.

The $11 million plant in rural Albion Township would discharge treated wastewater, including phosphorous, into the north fork of the Crow River, which flows into the Mississippi River. Eventually the discharge makes its way to southeastern Minnesota's Lake Pepin, which is fed by the Mississippi.

The MPCA has declared the lake "impaired." That prompts a federal requirement that Lake Pepin have a state cleanup plan before more pollutants are permitted. But the MPCA hasn't done that for Lake Pepin or the Crow River.

"The new plant is adding pollutants to an already-polluted situation contrary to the clear recommendations of MPCA's own scientists," the lawsuit states.

MPCA officials say they don't have the money to prepare the cleanup plans.

A bipartisan group of state lawmakers, with support from both the environmental community and business groups, are getting behind a bill at the Capitol to raise $80 million a year for water testing and cleanup. The money would come from sewer fees of $36 a year for homeowners and business fees ranging from $120 to $600 a year, depending on their size.

THE LEAGUE
OF WOMEN VOTERS
MINNESOTA
550 RICE STREET ST. PAUL, MN 55103 PHONE (651) 224-5445 FAX (651) 290-2145

February 21, 2005

Senator John Marty, Chair
Senate Environment and Natural Resources Committee
323 Capitol
75 Rev. Dr. Martin Luther King , Jr., Blvd.
St. Paul, MN 55155

Dear Senator Marty,

The League of Women Voters Minnesota (LWVMN) urges your support for SF762, the Clean Water Legacy Act. This is a much-needed initiative to address the deteriorating condition of Minnesota's rivers, streams and lakes. LWVMN recognizes that Minnesota's natural resources are the foundation of the state's economy and quality of life. We also recognize that all citizens contribute directly or indirectly to the pollutants in our waters and that we should all share the costs of water-quality testing, preparation of clean-up plans for polluted waters, implementation of those plans, and protection of waters that are not polluted.

The MPCA and limited citizen water-monitoring programs have assessed only a small percent of our rivers and lakes. Of the waters tested, many are in violation of Clean Water Act standards - they are not fishable, swimmable or drinkable because of excessive phosphorus, mercury and/or fecal coliform bacteria. These polluted waters threaten human health as well as the recreational activities for which Minnesota is famous.

The wanton discharges of our early industries have been halted and state and federal law mostly control the direct discharge of many pollutants. However, it is only through careful evaluation that the more complex "non-point" sources can be identified and controlled or stopped.

In addition to expanding river and lake monitoring to identify polluted waters, the Clean Water Legacy Act will assure the development and implementation of plans to clean up polluted waters. It will also identify our highest quality rivers and lakes and assure their protection.

(OVER)

Minnesota's water resources are under increasing pressure as our population expands. We cannot afford to let deterioration continue; our health and economy depend upon sparkling clear, unpolluted lakes and rivers. The League of Women Voters of Minnesota is proud to support SF762 - it will benefit ALL Minnesotans. We thank Senators Frederickson, D.E. Johnson, Hottinger, Higgens and Dille for authoring this important bill and ask that the Senate Environment and Natural Resources Committee approve it so that our children and grandchildren will experience Minnesota truly as the "Land of Sky Blue Waters."

Sincerely,

Allene Moesler, Volunteer Lobbyist
League of Women Voters of Minnesota

Cc: Senator Tom Saxhaug, Committee Vice Chair
Senator Pat Pariseau,
Senator Thomas Bakk
Senator Satveer Chaudhary
Senator Dennis Fredrickson
Senator John Hottinger
Senator Michael Jungbauer
Senator Sean Nienow
Senator Gen Olson
Senator LeRoy Stumpf

Organizations Supporting Clean Water Legacy

American Public Information on the Environment
Audubon Chapter of Minneapolis
Audubon Minnesota
Blue Earth River Basin Initiative
Cannon River Watershed Partnership
Carpenter Saint Croix Valley Nature Center
Cenex Harvest States
Clean Water Action Alliance Minnesota
Clean Up the River Environment
Dakota Soil and Water Conservation District
Environmental Justice Advocates of Minnesota
Friends of the Boundary Waters Wilderness
Friends of the Mississippi River
Goodhue County
Land Stewardship Project
LaSeuer Soil and Water Conservation District
League of Minnesota Cities
Minnesota Agri-Growth Council
Minnesota Association of Small Cities
Minnesota Association of Soil and Water Conservation Districts
Minnesota Center for Environmental Advocacy
Minnesota Chamber of Commerce
Minnesota Conservation Federation
Minnesota Environmental Partnership
Minnesota Farm Bureau
Minnesota Farmers Union
Minnesota Lakes Association
Minnesota Milk Producers Association
Minnesota Pork Producers Association
Minnesota Power
Minnesota Project
Minnesota Rivers Council
Minnesota Soybean Growers Association
The Nature Conservancy
Rice Soil and Water Conservation District
Rural Advantage
Steele Soil and Water Conservation District
Waseca Soil and Water Conservation District
Trust for Public Land, Minnesota Office

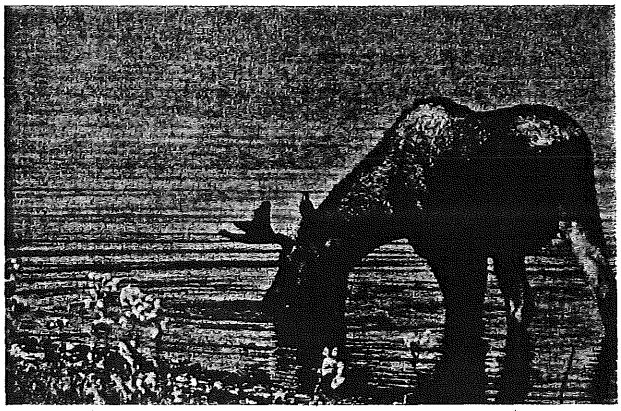
The Clean Water Legacy Solution

After reviewing nearly 60 funding options, the coalition recommended a stable, long-term funding mechanism. Under the Clean Water Legacy plan, $80 million to test and clean up Minnesota's waters would be generated through a user fee on municipal wastewater connections and septic systems. Key elements of the funding plan include:

- "Hardship exemptions" for those who can't afford to pay the additional charges
- Increased fees for heavy water users, such as apartment complexes and larger businesses.
- Leveraging dollars from federal, local and private resources, including more than $40 million per year from the federal farm bill for conservation and restoration practices."

Our Position:

The Minnesota Environmental Partnership (MEP) supports generating $75-$100 million in new state dollars annually to test Minnesota's waters, develop clean-up plans and implement restoration activities to clean up contaminated waters and keep clean waters clean. MEP endorses the coalition's proposed user fees on municipal wastewater connections and septic systems to protect our water and pay for needed testing and cleanup.



Minnesotans Want Clean Water

Minnesotans want to clean up our waters: In a recent poll by MEP, 77 percent of those polled favored raising $75 million a year to clean up Minnesota's contaminated lakes, rivers and streams.

Fact

Cleaning up our waters is critical to business and economic development. Any new or expanded economic development along Minnesota polluted waterways must comply with the clean-up plans.

Protect Our Water is not a Democratic or Republican issue – it's a Minnesota issue.

For more information contact:

John Curry
Minnesota Center for Environmental Advocacy
651.223.5969

Anne Hunt
Minnesota Environmental Partnership
651.290.0154 MEP
651.276.0380 mobile

John Tuma
Minnesota Environmental Partnership
612.991.1093 mobile

www.ProtectOurWater.info

MINNESOTA ENVIRONMENTAL PARTNERSHIP

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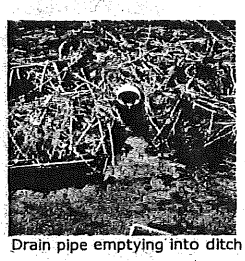
CREATE A CLEAN WATER LEGACY

PROTECT OUR WATER

The State of Our Water

Minnesota – The Land of 12,000 Lakes. Our lakes, rivers and streams make Minnesota a great place to live. Minnesotans enjoy them for fishing, boating and swimming and rely on them as sources of our drinking water.

Unfortunately, Minnesota's water is not as clean as it should be. Of the lakes and rivers tested in Minnesota, 40% are polluted (or "impaired") with contaminants such as human and animal waste, algae from phosphorus, fertilizers, and mercury.



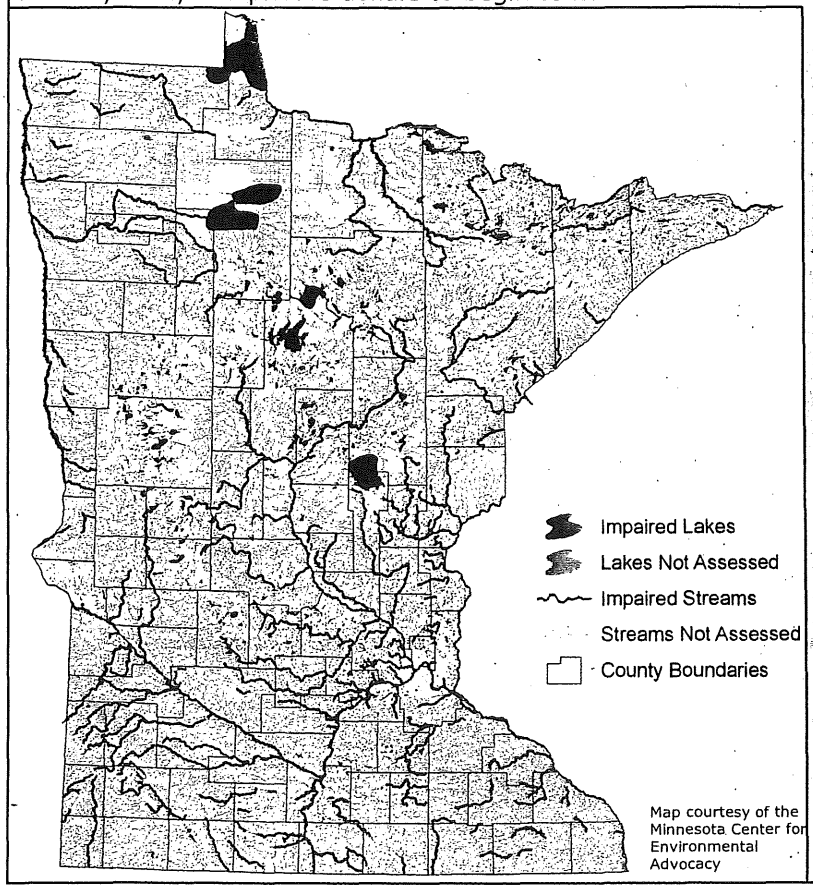
Drain pipe emptying into ditch

We must act now to clean up our polluted waters to avoid additional beach closings, more stringent fish consumption advisories, and serious economic restrictions on cities and businesses in all regions of the state.

Minnesotans have a right to know if our waters are contaminated or safe. For our economy, environment and health, we must create a clean water legacy for Minnesota.

The Need

To test all of our lakes and rivers and implement clean up plans it will cost approximately $270 million per year. The Clean Water Legacy will create new state money and leverage federal, local, and private dollars to begin to meet this need.



Map courtesy of the Minnesota Center for Environmental Advocacy

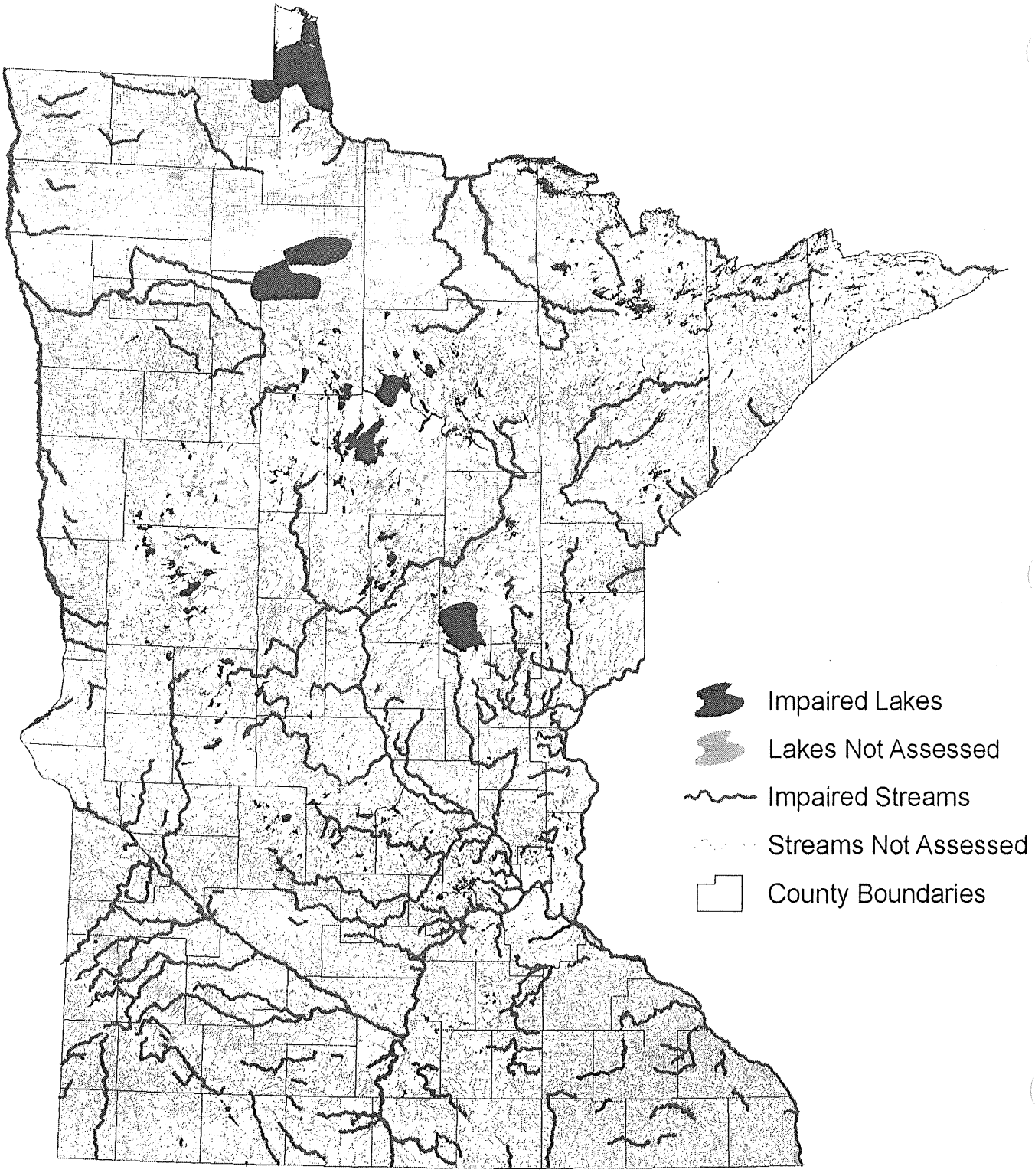
Broad Support

A broad coalition of 40 groups, including The Minnesota Chamber of Commerce, Minnesota Farm Bureau, League of Minnesota Cities and member organizations of the Minnesota Environmental Partnership, known as the Impaired Waters Stakeholders Group, worked for two years to find a solution that will begin to pay for testing and clean up of Minnesota's waters.

Facts

- Minnesota has the most surface waters of all 48 contiguous states.
- Yet, only 8% of our river miles and 14% of our lakes have been tested for pollution problems; 40 percent of those are contaminated.

Minnesota 2004 Impaired Waters



Projects with Entities Assisting in the Completion of TMDLs:

TMDL Project	Entity
Chippewa River - Ammonia	Chippewa River Watershed Project
Lower Mississippi River Basin - Fecal Coliform	Cannon River Partnership, Dakota County Soil and Water Conservation District, BALMM
Long Prairie River - Dissolved Oxygen	Todd County
Lower Ottertail River - Turbidity	Wilkin County, Wilkin County Soil and Water Conservation District
Upper Mississippi River Headwaters - Dissolved Oxygen	Bemidji State University
Baudette River - Dissolved Oxygen	Lake of the Woods Soil and Water Conservation District
Martin and Typo Lakes, St. Croix River Basin	Anoka Conservation District
West Fork Des Moines River Watershed - Turbidity, Fecal Coliform, & Others	Cottonwood County, Heron Lake Watershed District
Williams Creek - Dissolved Oxygen	Lake of the Woods Soil and Water Conservation District
Groundhouse River - Fecal Coliform & Impaired Biota	Snake River Watershed Management Board
Chippewa River - Fecal Coliform	Chippewa River Watershed Project
Pipestone Creek - Fecal Coliform & Turbidity	Pipestone County
Lac Qui Parle River - Dissolved Oxygen	Lac qui Parle-Yellow Bank Watershed District
Crow River Watershed TMDLs - Multiple Reaches & Pollutants	Crow River Organization of Waters

Projects with Little to No Assistance from Other Entities (i.e. led by MPCA):

TMDL Project
Lower Minnesota River - Dissolved Oxygen
Vermillion River, Lower Mississpi River Basin - Turbidity
Lake Pepin Area - Turbidity & Excessive Nutrients
Minnesota River Basin, Mainstem and Mouth of Major Watersheds - Turbidity
Red River Headwaters - Dissolved Oxygen
Lower Mississippi Regional Turbidity

Organizations (Entities) Participating in the Completion of TMDLs

2/24/05

Projects with Entities Leading the Completion of TMDLs:

TMDL Project	Entity
Red River - Moorhead - Ammonia	Red River Basin Commission
South Branch Yellow Medicine River - Fecal Coliform	Yellow Medicine Watershed District
Shingle Creek, Upper Mississippi River Basin - Chloride	Shingle Creek Watershed Management Organization
North Branch, Sunrise River - Fecal Coliform	Chisago County
Red River - Moorhead - Fecal Coliform & Turbidity	Red River Basin Commission
Clearwater River, Red River Basin- Fecal Coliform & Dissolved Oxygen	Red Lake Watershed District
Minnehaha Creek Watershed Lakes, Metro Mississippi River Basin	Minnehaha Creek Watershed District
Shingle Lakes Group, Metro Mississippi River Basin	Shingle Creek Watershed Management Commission
Knife River, Lake Superior Basin	South St. Louis Soil and Water Conservation District
Hardwood Creek, Upper Mississippi River Basin - Impaired Biota & Dissolved Oxygen	Rice Creek Watershed District
Carver and Bevens Creek - Multiple Pollutants	Carver County
Cannon River, Lower Mississippi Regional Turbidity	Cannon River Partnership
Clearwater River Watershed, Upper Miss. Basin	Clearwater River Watershed District
Riley, Purgatory, Bluff, and Nine Mile Creeks - Turbidity & Impaired Biota	Riley, Purgatory, and Bluff Creek Watershed District; Nine Mile Creek Watershed District
Lake Byllesby, Lower Mississippi River Basin	Cannon River Partnership
Blue Earth River Basin - Fecal Coliform	Mankato State Water Resources Center, Blue Earth River Basin Initiative, Martin County
Red River Basin Turbidity TMDL	Red River Watershed Management Board
Golden Lake, Metro Mississippi River Basin	Rice Creek Watershed District

Issue Spotlight

Supporting Groups

Clean Water Legacy: HF 826 (Ozment), SF 762 (Frederickson)

MN Environmental Partnership Groups

1000 Friends of Minnesota
Alliance for Sustainability
American Lands Alliance - Upper Midwest
American Public Information on the Environment
Audubon Chapter of Minneapolis
Audubon Minnesota
Blue Earth River Basin Initiative
Cannon River Watershed Partnership
Carpenter Saint Croix Valley Nature Center
Center for Energy and the Environment
Clean Up the River Environment (CURE)
Clean Water Action Alliance of Minnesota
Duluth Audubon Society
Environmental Association for Great Lakes Education (EAGLE)
Environmental Justice Advocates of Minnesota
Friends of the Boundary Waters Wilderness
Friends of the Mississippi River
Institute for Agriculture & Trade Policy
Institute for Local Self-Reliance
Izaak Walton League of America - Midwest Office
Izaak Walton League of America - Minnesota Division
Kids for Saving Earth
Land Stewardship Project
Mankato Area Environmentalists
Minnesota Center for Environmental Advocacy
Minnesota Children's Health Environmental Coalition
Minnesota Citizens Organized Acting Together
Minnesota Conservation Federation
Minnesota Environmental Partnership
Minnesota Lakes Associaton
Minnesota League of Conservation Voters Education Fund
Minnesota Ornithologists' Union
Minnesota Project
Minnesota Rivers Council
Minnesotans for an Energy-Efficient Economy
Neighborhood Energy Consortium
Norhteastern Minnesotans for WildernessRivers Council of Minnesota
Rural Advantage
Save Lake Superior Association
Scenic Minnesota
St. Paul Audubon Society
Sustainable Resources Center
The Nature Conservancy
Transit for Livable Communities
Tree Trust
Trust for Public Land, Minnesota Office
Women's Cancer Resource Center
Women's Environmental Institute

Farming, Business, Citizen and Local Interest Groups

Cenex Harvest States
Conservation League of Edina
Dakota Soil and Water Conservation District
Goodhue County
LaSeuer Soil and Water Conservation District
League of Minnesota Cities
League of Women Voters - Minnesota
Lutheran Coalition for Public Policy in Minnesota
Minnesota Agri-Growth Council
Minnesota Association of Small Cities
Minnesota Association of Soil and Water Conservation Districts
Minnesota Bass Federation
Minnesota Catholic Conference
Minnesota Chamber of Commerce
Minnesota Farm Bureau
Minnesota Farmers Union
Minnesota Milk Producers Association
Minnesota Pork Producers Association
Minnesota Power
Minnesota Soybean Growers Association
Rice Soil and Water Conservation District
Steele Soil and Water Conservation District
Waseca Soil and Water Conservation District

Environment Contact	Business Contact	Local Govt. Contact	Farming Contact
John Curry	Mike Robertson	Craig Johnson	Chris Radatz
651-223-5969	651-731-9121	651-281-1259	651-905-2104
jcurry@mncenter.org	mrobert388@aol.com	cjohnson@lmnc.org	cradatz@fbfs.com

Expenditure Questions and Concerns:

1. Will the collected dollars be used as a way to supplement programs that received budget cuts either this year or in previous years?
2. Will the entire amount of money collected from this tax go for its intended purposes?
3. Is there a breakdown available from agencies detailing what measurable results they wish to achieve from this program?
4. Many water impairments are created by land use practices within local watersheds, how will this program be structured to reflect and assure local responsibility and accountability?
5. Is there a final breakdown of the amount of dollars that will come back to each county through grants and loans, water restoration projects or other types of assistance?
6. The groundwork for the distribution of the funds has not specifically been laid out. How will local units of government, watershed districts or other groups take advantage of incentives or disincentives to participate in clean water programs or opportunities.
7. What criteria will be used to determine when a third party TMDL is considered? Will the local governments, affected landowners and business owners be consulted before the decision is made? Will the affected entities have input in the selection of the third parties?

Other Questions and Concerns:

1. What is the role of the Clean Water Council? The bill lays out the Council's advisory role but what plans are in place to ensure that the Governor or the agencies follow recommendations made by the council?
2. If enacted, what role will the legislature (or its commissions) have in determining the distribution of tax revenue?
3. What legal provisions will be created to assure that the dedicated clean water funding cannot be redirected by future governors or legislatures for use of other purposes?
4. Will the tax revenues be redistributed through existing multi-agency water management grant programs, or will a new granting process be created? This question may be important to consider in relation to the proposed Department of Environmental Protection.
5. Will there be a greater emphasis on a watershed approach to water management if this new tax revenue is realized?
6. There is a concern about the Community Septic System Loan Program. Clarification regarding septic system ownership and maintenance is necessary.

ASSOCIATION OF AMC MINNESOTA COUNTIES

Clean Water Legacy Act

The Association of Minnesota Counties (AMC) supports the objectives of the Clean Water Legacy Act and recognizes that initiatives must to be taken in order to identify impaired waters and restore and protect our state's water resources. County officials understand that the State of Minnesota must develop a plan to address the Federal Clean Water Act mandate. County officials are well aware of the negative impacts on economic development that could occur in cities and counties throughout the state if proper plans are not in place.

AMC encourages the Legislature to review other methods for collecting and distributing the funds to support the objectives of the Clean Water Act.

Revenue Questions and Concerns:

1. The record keeping for this tax could place an administrative burden on counties. Cities and counties will retain five percent of the amount collected or about four million dollars. This is not likely to cover the full cost of the collection process.
2. Who is responsible for paying the tax? Is the property owner responsible for payment or rather, is it the person living on and using the property?
3. Who is responsible for tax collection enforcement? If residents do not pay the tax, what collection tools are counties granted? Would counties be responsible for remitting uncollected taxes to the state?
4. Water usage information is not currently available as part of normal county land records data. This information will need to be collected from businesses to determine what they pay on the tiered payment scale. Additionally, the number of businesses located in a building will need to be determined.
5. Some counties do not have records of the number of units within each multi-family residence. In a multi-tenant facility with a single hook-up, the questions are: who pays what, and how much will they pay?
6. The bill makes provisions for low-income residents. Counties do not maintain information regarding income status to determine exemption that can easily be tied to the property tax system. AMC suggests that if counties are to collect this tax under the mechanisms provided in the bill, the state should develop a refund program for qualified low-income residents.
7. What method is recommended for the collection of from tax-exempt properties (e.g., churches, schools, parks) if they are not connected to an organized wastewater treatment system? Are these entities intended to be taxed?

Senator ..... moves to amend the SCS0762A-2 amendment to S.F. No. 762 as follows:

Page 14, line 5, after "Agency" insert "that were installed before April 1, 1996, or that do not have a valid compliance certificate"

Page 14, line 10, after "system" insert ", other than an individual sewage treatment system, and"

Senator ..... moves to amend the SCS0762A-2 amendment to S.F. No. 762 as follows:

Page 2, delete lines 27 to 31

Page 2, line 32, delete "10" and insert "9"

Page 3, line 15, delete "11" and insert "10"

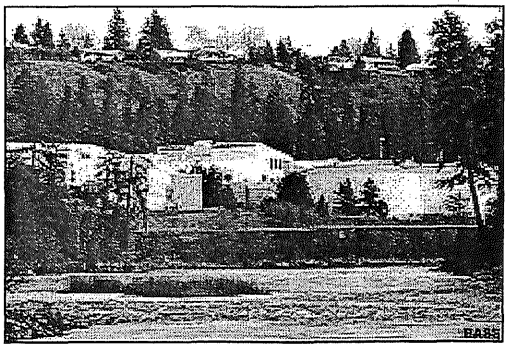
Page 7, delete lines 19 to 34

Pollution News

'Girly' bass in West Virginia fisheries alarm some scientists

By John Hay Rabb
BASS Times, Dec. 2004

WASHINGTON, D.C. — The recent discovery of male bass with female reproductive organs in two West Virginia rivers west of Washington, D.C., has once again focused public attention on the negative effects of so-called endocrine disruptors on certain fish species.



Researchers are studying the level of chemical contamination below sewage treatment facilities to determine whether the byproducts of human birth control are giving male bass "female" characteristics and what this means for the humans who consume them.

Public health and environmental officials across the country have yet to agree on a viable approach to remove endocrine disruptors from waters that support black bass and other freshwater fish species.

The U.S. Environmental Protection Agency (EPA) defines an endocrine disruptor as "an external agent that interferes in some way with the role of natural hormones in the body." The endocrine system in humans and animals circulates hormones that are produced by the endocrine glands. These glands include the adrenal, pituitary and thyroid glands, the pancreas, the testes and the ovaries. Hormones produced by these glands regulate the function of major organs and other physiological systems.

The discovery of endocrine disruptors in West Virginia waters was an unexpected and unwelcome development for federal and state agencies that had recently studied Cacapon Creek and the South Branch of the Potomac River. In 2003, researchers were trying to determine the cause of high smallmouth bass mortality rates in the South Branch. They dissected over 100 bass and found that 42 percent of the male fish contained eggs. During a follow-up survey in spring 2004, fisheries biologists examined 66 male smallmouth bass from the South Branch, and almost 80 percent of the fish had either eggs or other female reproductive characteristics.

There was much initial speculation about the source of the reproductive anomalies found in the male bass. Chicken manure, human hormones and even caffeine were

found in the male bass. Chicken manure, human hormones and even caffeine were suggested as possible causes. Investigators refused to speculate and cautioned that more research was needed in order to identify the exact substances that had affected the male bass.

"Thousands of chemicals have been identified as endocrine disruptors," cautioned Bret Preston of the West Virginia Division of Natural Resources. West Virginia officials have no plans to issue a fish consumption advisory based solely upon the discovery of intersex condition in bass.

Male bass with female reproductive characteristics have led some researchers to investigate the female hormone estrogen as a possible cause of the anomalies.

While there are a variety of ways that bass might come into contact with estrogen, one of the most likely explanations is exposure to sewage plant effluent. Urine and feces from women on oral contraceptives or hormone replacement treatment typically contain abnormally high levels of estrogen. Modern sewage treatment plants do not remove or even test for estrogen, so the hormone is released into waterways along with sewage plant effluent.

England is the only country in the world that measures and limits estrogen levels in sewage plant effluent.

There's growing evidence to suggest that estrogen is linked to the "feminization" of male bass. A number of studies in this area have been conducted or are in progress. One recent study was conducted by the Canadian government agency, Environment Canada. This research showed that male fish living close to sewage plant effluent outfalls had a measurably higher incidence of "feminization" than fish living in other locations.

Perhaps the most comprehensive research on the relationship between estrogen and reproductive endocrine disruptors in fish was conducted by two British academics, Alan Pickering and John Sumpter. Pickering is a retired professor. Sumpter is the director of fish physiology studies at Brunel University near London. Their joint study, "Comprehending Endocrine Disruptors in Aquatic Environments," was published in the American Chemical Society journal, Environmental Science and Technology.

Pickering and Sumpter studied 24 wastewater effluent sites in eight European countries. At a number of the sites they detected high levels of estrogen. The researchers focused on ethinyl estradiol (EE2), a synthetic form of estrogen which is the active ingredient in most birth control pills. Pickering and Sumpter placed special emphasis on EE2 because it's potent even in low concentrations and does not readily biodegrade.

One of the study's most dramatic findings concerned the effect of EE2 on gender balance in some fish populations. Near wastewater effluent outfalls, some of the fish populations contained abnormally high percentages of females. Pickering and Sumpter hypothesized that estrogen from sewage effluent caused such acute reproductive endocrine disruptions in male fish that they were unable to reproduce and probably died sooner than the females.

As a result of their research, Pickering and Sumpter concluded that "deleterious impacts of estrogenic effluents on fish populations is one of the most important

(questions) that still needs to be answered."

In a recent interview, Sumpter was more definitive about the relationship between estrogen and reproductive endocrine disruptors. "There are some locations in the UK," he said, "where effluent does appear to be causing significant (and probably adverse) effects on the reproductive systems of wild fish."

Because much of the research involved English freshwater fish ("coarse fish"), Sumpter was asked if his conclusions might also be applicable to black bass. He replied: "My guess is that if black bass lived in UK rivers, in some locations concentrations of estrogen would be high enough to cause (negative) effects."

Britain's Environment Agency, the rough equivalent of our EPA, is sufficiently concerned about estrogen in sewage effluent that it plans to request approximately $80 million to build two state-of-the-art demonstration sewage treatment plants designed to filter estrogen out of wastewater. The plants would employ activated charcoal filtration technology. In addition, the effluent from 17 existing sewage treatment plants would be monitored to determine how much estrogen is being released into waterways.

Britain's independent water industry authority must decide if it will include the two pilot plants in its 2005-2010 work plan. If the pilot plants are approved, the cost of construction and operation would be covered by higher water and sewer rates for consumers.

According to Dr. Sumpter, "the superclean effluent (from the pilot plants) will be monitored chemically and biologically" to determine its impact on controlled fish populations. However, Dr. Sumpter expressed concern about the use of activated charcoal to filter sewage effluent. "Treatment with charcoal will remove many chemicals on top of the estrogens," he said. "If the cleanup process proves advantageous to fish living downstream (from the pilot plants), how will one know if the reduced effects are a consequence of estrogen removal?"

Another unanswered question is the extent to which estrogen from sewage effluent might affect humans who ingest the endocrine disruptive hormone.

Dr Louis Guillette Jr., a zoology professor at the University of Florida, said that "eating contaminated fish could work through a (human) endocrine system" and possibly cause neurological and thyroid system problems. Dr. Sumpter said a recent study demonstrated that "rats fed fish contaminated with estrogen chemicals (exhibited) adverse reproductive effects."

Due to medical ethics concerns, the direct effects of endocrine disruptors on humans have not been studied. Until rigorous medical research shows a direct connection between elevated estrogen levels and negative health effects in humans, public health and environmental officials are unlikely to devote significant time and money to reducing estrogen levels in fish populations.

Organizations (Entities) Participating in the Completion of TMDLs

2/24/05

Projects with Entities Leading the Completion of TMDLs:

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Red River - Moorhead - Ammonia	Red River Basin Commission
South Branch Yellow Medicine River - Fecal Coliform	Yellow Medicine Watershed District
Shingle Creek, Upper Mississippi River Basin - Chloride	Shingle Creek Watershed Management Organization
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Riley, Purgatory, Bluff, and Nine Mile Creeks - Turbidity & Impaired Biota	Riley, Purgatory, and Bluff Creek Watershed District; Nine Mile Creek Watershed District
Lake Byllesby, Lower Mississippi River Basin	Cannon River Partnership
Blue Earth River Basin - Fecal Coliform	Mankato State Water Resources Center, Blue Earth River Basin Initiative, Martin County
Red River Basin Turbidity TMDL	Red River Watershed Management Board
Golden Lake, Metro Mississippi River Basin	Rice Creek Watershed District

Projects with Entities Assisting in the Completion of TMDLs:

TMDL Project	Entity
Chippewa River - Ammonia	Chippewa River Watershed Project
Lower Mississippi River Basin - Fecal Coliform	Cannon River Partnership, Dakota County Soil and Water Conservation District, BALMM
Long Prairie River - Dissolved Oxygen	Todd County
Lower Ottertail River - Turbidity	Wilkin County, Wilkin County Soil and Water Conservation District
Upper Mississippi River Headwaters - Dissolved Oxygen	Bemidji State University
Baudette River - Dissolved Oxygen	Lake of the Woods Soil and Water Conservation District
Martin and Typo Lakes, St. Croix River Basin	Anoka Conservation District
West Fork Des Moines River Watershed - Turbidity, Fecal Coliform, & Others	Cottonwood County, Heron Lake Watershed District
Williams Creek - Dissolved Oxygen	Lake of the Woods Soil and Water Conservation District
Groundhouse River - Fecal Coliform & Impaired Biota	Snake River Watershed Management Board
Chippewa River - Fecal Coliform	Chippewa River Watershed Project
Pipestone Creek - Fecal Coliform & Turbidity	Pipestone County
Lac Qui Parle River - Dissolved Oxygen	Lac qui Parle-Yellow Bank Watershed District
Crow River Watershed TMDLs - Multiple Reaches & Pollutants	Crow River Organization of Waters

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Lower Mississippi Regional Turbidity

REDUCING SUSPENDED SOLIDS AND BIOCHEMICAL OXYGEN DEMAND FROM COMMERCIAL SEWERAGE

THE COUNTY of San Diego (California) Department of Public Works (DPW) manages and maintains four county sanitation districts that discharge wastewater to the San Diego Metropolitan Sewerage System (Metro) for treatment and biosolids disposal. Because Metro receives funding from the Federal Clean Water Program, all participating agencies must meet requirements for sewer service charges based on wastewater strength. To help customers with high strength wastewater, the county and the California Restaurant Association developed on educational program to help reduce flows, strengths and costs. The county and the association wanted to prove that source separation and a separate collection program for food discards may be effective means of reducing wastewater strength and treatment, bakeries and other food handling businesses.

In June, 1997, a countywide pilot program was started to reduce strength and lower costs associated with waste water treatment. The program required routine maintenance of interceptors (large multistage grease traps) and source separating food discards from restaurants. In cooperation with the San Diego Chapter of the California Restaurant Association, the San Diego County Sanitation District conducted the pilot program through September, 1997. The Department of Public Works (DPW) staff sampled and analyzed effluents from restaurants and other high strength user groups. DPW staff tested the wastewater during three intervals: Before the program began; After education and grease trap/interceptor maintenance was performed; and two weeks after the second sampling to obtain consistent values. Wastewater strengths were measured in terms of Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS) levels in milligrams per liter of wastewater. District restaurants that participated in a preprocessed food separation and collection program reduced levels of BOD and TSS when proper waste management practices in the kitchen were implemented.

The test data provides exciting environmental and economic incentives with the application of a widespread food residuals diversion program from the waste water stream to composting . Sewer service charges for user groups listed by the state as high strength generators could then be reduced by removing the cause of strength and documenting the new levels of TSS and BOD. The federal and state requirements for a strength-based sewer service revenue program would be met and the new classifications would ensure fairness and equity.

-Richard Anthony
Richard Anthony Associates
raa@richardanthonyassociates.com

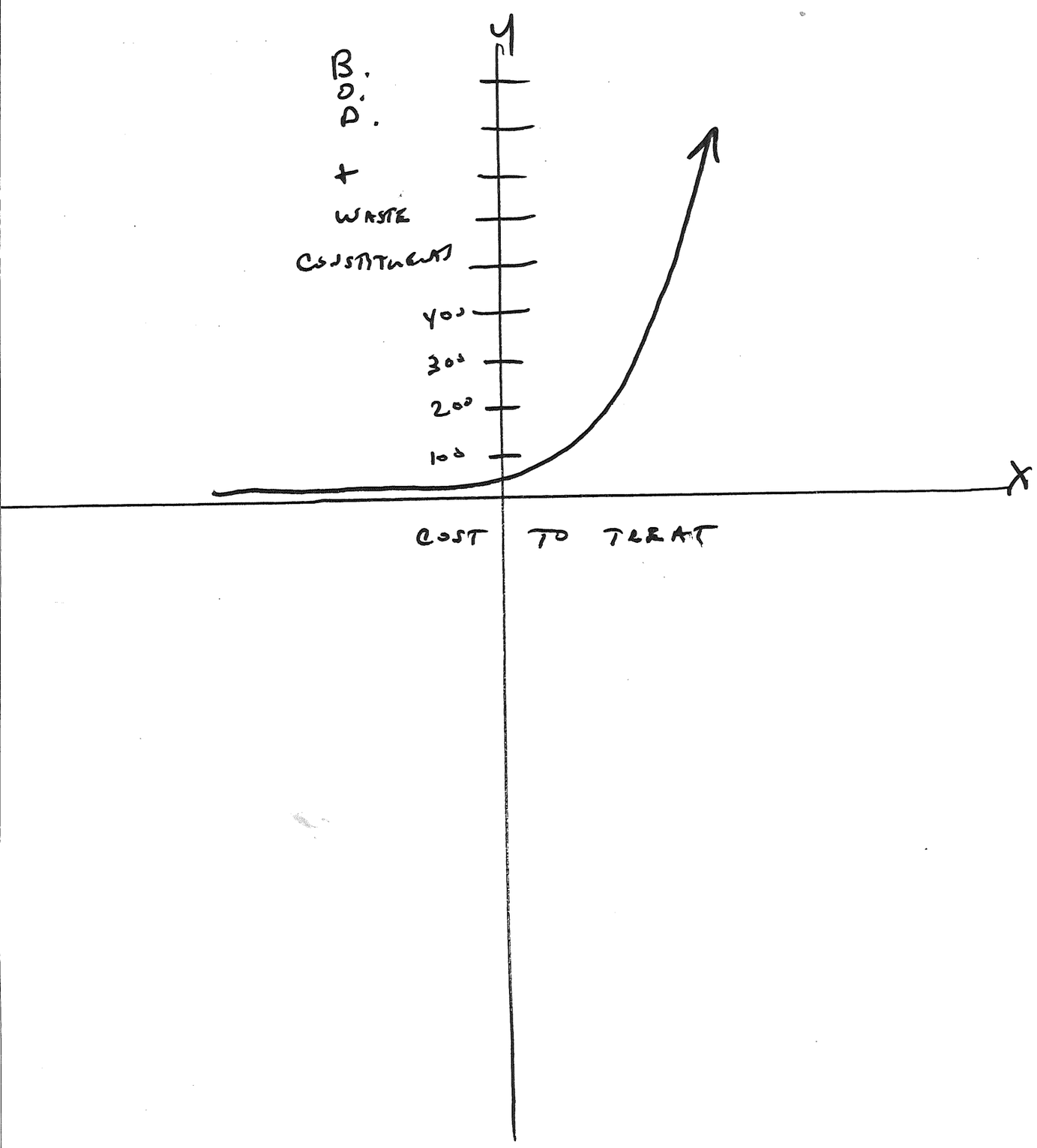
Sampling results for restaurant wastewater BOD and TSS.

	State Standards		*Sample 1*		*Sample 2*		*Sample 3*	
Restaurant	BOD	TSS	BOD	TSS	BOD	TSS	BOD	TSS
Applebees	1,000	600	1,380	302	200	148	508	148
Boston Market	1,000	600	280	52	200	152	29	177
Bonita Golf Club	1,000	600	820	195	200	215	570	299
KFC	1,000	600	1,820	248	600	248	580	150
Murietta's	1,000	600	1,540	520	590	160	600	411
	Average:		1,168	236	358	185	457	237
	Std:		616	171	216	45	242	115
	Median:		1,380	248	200	160	570	177
	Min:		280	52	200	148	29	148
	Max:		1,820	520	600	248	600	411

Table compares the results of three sampling analysis for two fast food and three dine-in restaurants.

Residence Park AT 175 BOD

Cost to treat wastewater



Leslie Davis
Earth Protector®
612/522-9433
www.EarthProtector.org

Jobs and Energy for Minnesota

A New Vision

"Water Plan"

The Minnesota Department of Natural Resources (DNR) manages public under-ground water (wells) and surface water (rivers, lakes and streams).

Each year, the DNR allows more than 100 billion gallons of publicly owned under-ground water to be taken by private companies, for practically nothing. The companies use our under-ground water as a cleaning solvent, watering golf courses, manufacturing gasoline, paper, chemicals, and more.

The "Davis Water Plan" requires under-ground water users to pay two pennies per gallon for the 100-billion gallons they take. That would raise $2 billion, every year, to balance the budget and implement the "Davis Energy Conservation Program" described below.

A few companies who use under-ground water are:

Company	Gallons used in 2000
3M	3,425,512,000
Koch Refining	2,607,300,000
Camas	1,689,100,000
Cenex	1,404,700,000
Hormel Foods	1,117,000,000
Rahr Malting	804,903,000
Coca Cola	235,000,000

"Energy Conservation Plan"

By installing, presently available, conservation and efficiency technologies (lights, motors, insulation, appliances), at all industrial, commercial and residential facilities in Minnesota, we could; lower our electricity use by 30%, reduce yearly imports of coal, oil, gas and uranium by 30% (from $7 billion to $4.9 billion). The $2.1 billion saving, each year, could be used to convert our energy sector to hydrogen. NOT ethanol.

Emissions from cars, buses, and trucks, are causing serious damage to people's health and our climate. The solution lies in hydrogen fuel and lighter more efficient vehicles.

The "Davis Energy Conservation Plan" would provide cleaner air, improve public health, require thousands of well-paying jobs, and create new wealth.
