To: Senator Cohen, Chair

Committee on Finance

Senator Sams,

Chair of the Environment, Agriculture and Economic Development Budget Division, to which was referred

S.F. No. 762: 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; modifying soil and water conservation district supervisor election procedures; appropriating money; amending Minnesota Statutes 2004, section 103C.311, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 446A; proposing coding for new law as Minnesota Statutes, chapter 114D; repealing Minnesota Statutes 2004, section 103C.311, subdivisions 1, 2.

Reports the same back with the recommendation that the bill be amended as follows:

Pages 1 and 2, delete section 1

Page 10, line 12, delete everything after "Resources"

Page 10, line 13, delete everything before "shall"

Page 10, line 15, delete "Eighteen" and insert "Nineteen"

Page 11, line 8, delete "and"

Page 11, line 10, after "governor" insert "; and

(16) one member representing the interests of tribal governments, appointed by the governor"

Page 11, line 28, delete "prepare" and insert "recommend" and after "The" insert "recommended"

Page 11, line 34, delete "implementation" and insert "recommended"

Page 11, line 35, delete "work"

Pages 13 to 18, delete section 9

Page 19, line 4, delete the second "and" and insert a comma and before "without" insert "and 446A.075,"

Page 19, delete lines 11 and 12 and insert:

"(1) money transferred to the account; and"

Page 20, line 14, delete the second "or"

Page 20, line 16, after "grant" insert ", or the grantee made improvements to a wastewater treatment facility on or after March 28, 2000, that include infrastructure to reduce the discharge of total phosphorus to one milligram per liter or less"

Page 26, delete lines 6 to 10

Page 26, line 11, delete "3" and insert "2"

Page 26, delete lines 14 to 18

Page 26, line 19, delete "(2)" and insert "(1)" and delete "$1,860,000" and insert "$4,125,000" and delete "$4,125,000" and insert "$1,669,000"

Page 26, line 21, delete "$1,010,000" and insert "$1,960,000"

Page 26, line 22, delete "$1,960,000" and insert "$793,000"

Page 26, line 25, delete "(3)" and insert "(2)" and delete "$1,900,000" and insert "$3,290,000" and delete "$3,290,000" and insert "$1,331,000"

Page 26, line 28, delete "$384,950" and insert "$1,119,000"

Page 26, line 29, delete "$1,118,750" and insert "$453,000"

Page 26, line 31, delete "4" and insert "3"

Page 26, line 34, delete "$250,000" and insert "$2,300,000" and delete everything after "2006"

Page 26, line 35, delete "year 2007 are" and insert "is"

Page 26, line 36, delete "these"

Page 27, line 1, delete "amounts" and insert "this amount" and delete "$200,000 in fiscal year 2006 and"

Page 27, line 2, delete "2007 are" and insert "2006 is"

Page 27, line 4, delete "$350,000" and insert "$800,000" and delete everything after "2006"

Page 27, line 5, delete "year 2007 are" and insert "is"

Page 27, line 10, delete "these amounts" and insert "this amount" and delete "$50,000 in fiscal"

Page 27, line 11, delete "year 2006 and" and delete "2007 are" and insert "2006 is"

Page 27, line 14, delete "$100,000 in fiscal year 2006 and"

Page 27, line 15, delete "2007 are" and insert "2006 is"

Page 27, line 17, delete "these amounts" and insert "this amount" and delete "2007" and insert "2006"

Page 27, line 21, delete "5" and insert "4"

Page 27, line 26, delete "$450,000" and insert "$1,807,000" and delete everything after "2006"

Page 27, line 27, delete "year 2007 are" and insert "is"

Page 27, line 28, delete "these amounts" and insert "this amount" and delete "$450,000" and insert "$1,713,000"

Page 27, line 29, delete "and $5,450,000 in fiscal year 2007 are" and insert "is"

Page 27, line 33, delete "$412,000" and insert "$1,085,000" and delete everything after "2006"

Page 27, line 34, delete "year 2007 are" and insert "is"

Page 27, line 35, delete "these amounts" and insert "this amount"

Page 27, line 36, delete "$412,000" and insert "$1,022,000" and delete everything after "2006"

Page 28, line 1, delete "are" and insert "is"

Page 28, line 4, delete "$200,000" and insert "$63,000" and delete "2007" and insert "2006"

Page 28, line 6, delete "$2,400,000" and insert "$755,000" and delete "2007" and insert "2006"

Page 28, line 11, delete "$300,000" and insert "$471,000" and delete everything after "2006"

Page 28, line 12, delete "year 2007 are" and insert "is"

Page 28, line 17, delete "$2,400,000" and insert "$755,000" and delete "2007" and insert "2006"

Page 28, delete lines 22 to 33

Page 28, line 34, delete "7" and insert "5" and delete "$4,400,000" and insert "$15,249,000"

Page 28, line 35, delete everything after "2006" and insert "is"

Page 28, line 36, delete "these"

Page 29, line 1, delete "amounts" and insert "this amount" and delete "$4,400,000" and insert "$6,131,000" and delete everything after "2006"

Page 29, line 2, delete "fiscal year 2007 are" and insert "is"

Page 29, line 4, delete "$4,582,000" and insert "$1,441,000" and delete "2007" and insert "2006"

Page 29, line 6, delete everything after the semicolon

Page 29, delete line 7

Page 29, line 8, delete "446A.075;" and delete "$22,433,000" and insert "$7,677,000" and delete "2007" and insert "2006"

Page 29, delete section 15

Renumber the sections in sequence

Amend the title as follows:

Page 1, delete line 7

Page 1, line 8, delete everything before "appropriating"

Page 1, delete line 9

Page 1, line 10, delete everything before "proposing"

Page 1, line 12, delete "; repealing" and insert a period

Page 1, delete lines 13 and 14

And when so amended that the bill be recommended to pass and be referred to the full committee.

.....
(Division Chair)

May 10, 2005.....
(Date of Division action)

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; modifying soil and water conservation district supervisor election procedures; appropriating money; amending Minnesota Statutes 2004, section 103C.311, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 446A; proposing coding for new law as Minnesota Statutes, chapter 114D; repealing Minnesota Statutes 2004, section 103C.311, subdivisions 1, 2.

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

Section 1. Minnesota Statutes 2004, section 103C.311, is amended by adding a subdivision to read:

Subd. 3. [SUPERVISORS ELECTED BY DISTRICTS.] (a) The district board, with the approval of the state board, must by resolution provide that supervisors will be elected by supervisor districts as provided in this subdivision.

(b) The supervisor districts must be apportioned to be coterminous with county commissioner districts. The districts must be numbered in a regular series. The boundaries of the districts must be redrawn after each decennial federal census as provided in section 204B.135 and must reflect any changes in the county commissioner district's boundaries. A certified copy of the resolution establishing supervisor districts must be filed by the chair of the district board with the county auditor of the counties where the soil and water conservation district is

located, with the state board, and with the secretary of state at least 30 days before the first date candidates may file for the office of supervisor.

(c) Each supervisor district is entitled to elect one supervisor. A supervisor must be a resident of the district from which elected.

(d) The district board shall provide staggered terms for supervisors elected by district. After each redistricting, there shall be a new election of supervisors in all the districts at the next general election, except that if the change made in the boundaries of a district is less than five percent of the average population of all the districts, the supervisor in office at the time of the redistricting shall serve for the full term for which elected. The district board shall determine by lot the seats to be filled for a two-year term, a four-year term, and a six-year term.

Sec. 2. [114D.05] [CITATION.]

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

Sec. 3. [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. 4. [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, 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.

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 by a qualified public agency 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. 5. [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 and related conservation benefits 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 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.

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;

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

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

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

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. 6. [114D.25] [ADMINISTRATION; POLLUTION CONTROL AGENCY.]

Subdivision 1. [GENERAL DUTIES AND AUTHORITIES.] (a) 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 United States Environmental Protection Agency impaired waters list.

(b) A TMDL must include a statement of the facts and scientific data supporting the TMDL and a list of potential implementation options, including:

(1) a range of estimates of the cost of implementation of the TMDL; and

(2) for point sources, the individual wasteload data and the estimated cost of compliance addressed by the TMDL.

The implementation information does not need to be sent to the

United States Environmental Protection Agency for review.

Subd. 2. [ADMINISTRATIVE PROCEDURES FOR TMDL APPROVAL.] Before approving a TMDL, the agency shall give written notice to the public of the proposed TMDL and provide a 30-day opportunity for submission of written comments. The agency shall distribute the notice in the same manner as a notice of a proposed permit is distributed under agency rules. The approval of a TMDL by the Pollution Control Agency is a final decision of the agency under section 115.05, subdivision 11, clause (1), and is subject to the contested case procedures of sections 14.57 to 14.62 in accordance with agency procedural rules. The agency shall not submit an approved TMDL to the United States Environmental Protection Agency until the time for commencing judicial review has run or the judicial review process has been completed. 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 agency setting forth the terms and conditions under which that entity is authorized to develop a third-party TMDL. In determining whether the public agency is qualified to develop a third-party TMDL, the Pollution Control Agency shall consider the technical and administrative qualifications of the public agency and shall avoid any potential organizational conflict of interest, as defined in section 16C.02, subdivision 10a, of the public agency 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. 7. [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 or the authority's designee shall appoint one person from their respective agency to serve as a member of the council. Eighteen additional nonagency members of the council shall be appointed as follows:

(1) two members representing statewide farm organizations, appointed by the governor;

(2) one member representing business organizations, appointed by the governor;

(3) one member representing environmental organizations, appointed by the governor;

(4) one member representing soil and water conservation districts, appointed by the governor;

(5) one member representing watershed districts, appointed by the governor;

(6) one member representing organizations focused on improvement of Minnesota lakes or streams, appointed by the governor;

(7) two members representing an organization of county governments, appointed by the governor;

(8) two members representing organizations of city governments, appointed by the governor;

(9) one member representing the Metropolitan Council established under section 473.123, appointed by the governor;

(10) one township officer, appointed by the governor;

(11) one member of the house of representatives, appointed by the speaker;

(12) one member of the senate, appointed by the majority leader;

(13) one member representing the University of Minnesota or a Minnesota state university, appointed by the governor;

(14) one member representing the interests of rural counties, appointed by the governor; and

(15) one member representing the interests of counties in the seven-county metropolitan area, appointed by the governor.

The members of the council appointed by the governor are subject to the advice and consent of the senate. At least six of the members appointed by the governor must reside in the seven-county metropolitan area.

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 time frames 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.20, 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, the activities for which money from the account is recommended to be spent in the next biennium, and the impact on economic development of the implementation of the impaired waters program. 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. 8. [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, landowners 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. 9. [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 annual fee is as follows:

(i) if average effluent flow is less than 10,000 gallons per day, $..... in 2006, $..... in 2007, $..... in 2008, and $..... in 2009 and thereafter;

(ii) if average effluent flow is 10,000 gallons per day or greater, but less than 100,000 gallons per day, $..... in 2006, $..... in 2007, $..... in 2008, and $..... in 2009 and thereafter; and

(iii) if average effluent flow is 100,000 gallons per day

or greater, $..... in 2006, $..... in 2007, $..... in 2008, and $..... in 2009 and thereafter.

(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 annual 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, $..... in 2006, $..... in 2007, $..... in 2008, and $..... in 2009 and thereafter;

(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, $..... in 2006, $..... in 2007, $..... in 2008, and $..... in 2009 and thereafter; and

(3) for permits authorizing an average daily discharge or land application limitation of 100,000 gallons per day or greater, $..... in 2006, $..... in 2007, $..... in 2008, and $..... in 2009 and thereafter.

(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. 10. [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 storm water 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. 11. [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. 12. [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.

Sec. 13. [446A.075] [TOTAL MAXIMUM DAILY LOAD GRANTS.]

Subdivision 1. [PROGRAM ESTABLISHED.] From money appropriated for this program, the authority shall make grants to municipalities to cover up to one-half the cost of wastewater treatment or stormwater projects made necessary by wasteload reductions under total maximum daily load plans required by section 303(d) of the federal Clean Water Act, United States Code, title 33, section 1313(d).

Subd. 2. [GRANT APPLICATION.] Application for a grant shall be made to the authority on forms prescribed by the authority for the total maximum daily load grant program, with additional information as required by the authority. In accordance with section 116.182, the Pollution Control Agency shall:

(1) calculate the essential project component percentage, which shall be multiplied by the total project cost to determine the eligible project cost; and

(2) review and certify approved projects to the authority.

Subd. 3. [PROJECT PRIORITIES.] From money appropriated for this program, the authority shall reserve money for projects in the order that their total maximum daily load plan was approved by the United States Environmental Protection Agency and in an amount based on their most recent cost estimates submitted to the authority or the as-bid costs, whichever is less.

Subd. 4. [GRANT APPROVAL.] The authority shall make a grant to a municipality, as defined in section 116.182, subdivision 1, only after:

(1) the commissioner of the Minnesota Pollution Control Agency has certified to the United States Environmental Protection Agency a total maximum daily load plan for identified waters of this state that includes a point source wasteload allocation;

(2) the United States Environmental Protection Agency has approved the plan;

(3) a municipality affected by the plan has estimated the cost to it of wastewater treatment or stormwater projects necessary to comply with the point source wasteload allocation;

(4) the Pollution Control Agency has approved the cost estimate; and

(5) the authority has determined that the additional financing necessary to complete the project has been committed from other sources.

Subd. 5. [GRANT DISBURSEMENT.] Disbursement of a grant shall be made for eligible project costs as incurred by the municipality and in accordance with a project financing agreement and applicable state and federal laws and rules governing the payments.

Sec. 14. [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 $1,010,000 in fiscal year 2006 and $1,960,000 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 the agricultural best management practices loan program 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 small community wastewater treatment fund for loans under Minnesota Statutes, section 446A.074; $..... is for total maximum daily load grants under Minnesota Statutes, section 446A.075; 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 storm water projects. Money appropriated under this subdivision does not cancel and is available until expended.

Sec. 15. [REPEALER.]

Minnesota Statutes 2004, section 103C.311, subdivisions 1 and 2, are repealed.

APPENDIX
Repealed Minnesota Statutes for S0762-2

103C.311 FORMATION OF SUPERVISOR DISTRICTS.

Subdivision 1. **Supervisors elected at large.** (a) The district board shall, with the approval of the state board, divide a district into supervisor districts for purposes of nomination for election. At each election after the division, one or more supervisors shall be nominated from each supervisor district. A supervisor must be a resident of the supervisor district to be elected.

(b) If the boundary of a soil and water conservation district has been substantially changed by a division of the district, the district shall be divided into supervisor districts for nomination purposes.

(c) This subdivision does not disqualify a supervisor during the term for which the supervisor was elected or nominated for election. Supervisors nominated from the supervisor districts shall be included on the ballot for election from the entire area included in the soil and water conservation district.

(d) A certified copy of the minutes or the resolution of the supervisors establishing supervisor districts must be promptly filed by the chair of the district board with the county auditor of the counties where the district is located and with the state board.

Subd. 2. **Supervisors elected by districts.** (a) The district board, with the approval of the state board, may by resolution provide that supervisors will be elected by supervisor districts as provided in this subdivision.

(b) The supervisor districts must be composed of precincts established by county and municipal governing bodies under section 204B.14. The districts must be compact, include only contiguous territory, and be substantially equal in population. The districts must be numbered in a regular series. The districts must be drawn by the county board of the county containing the largest area of the soil and water conservation district, in consultation with the district board and with the approval of the state board. The boundaries of the districts must be redrawn after each decennial federal census as provided in section 204B.135. A certified copy of the resolution establishing supervisor districts must be filed by the chair of the district board with the county auditor of the counties where the soil and water conservation district is located, with the state board, and with the secretary of state at least 30 days before the first date candidates may file for the office of supervisor.

(c) Each supervisor district is entitled to elect one supervisor. A supervisor must be a resident of the district from which elected.

(d) The district board shall provide staggered terms for supervisors elected by district. After each redistricting, there shall be a new election of supervisors in all the districts at the next general election, except that if the change made in the boundaries of a district is less than five percent of the average population of all the districts, the supervisor in office at the time of the redistricting shall serve for the full term for which elected. The district board shall determine by lot the seats to be filled for a two-year term, a four-year term, and a six-year term.

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

Pages 13 to 18, delete section 9

Page 19, line 4, delete the second "and" and insert a comma and before "without" insert "and 446A.075,"

Page 19, delete lines 11 and 12 and insert:

"(1) money transferred to the account; and"

Page 26, delete lines 6 to 10

Page 26, line 11, delete "3" and insert "2"

Page 26, delete lines 14 to 18

Page 26, line 19, delete "(2)" and insert "(1)"

Page 26, line 25, delete "(3)" and insert "(2)"

Page 26, line 31, delete "4" and insert "3"

Page 27, line 21, delete "5" and insert "4"

Page 28, line 22, delete "6" and insert "5"

Page 28, line 34, delete "7" and insert "6"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

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

Page 10, line 12, delete everything after "Resources"

Page 10, line 13, delete everything before "shall"

Page 11, line 28, delete "prepare" and insert "recommend" and after "The" insert "recommended"

Page 11, line 34, delete "implementation" and insert "recommended"

Page 11, line 35, delete "work"

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

Page 10, line 15, delete "Eighteen" and insert "Nineteen"

Page 11, line 8, delete "and"

Page 11, line 10, after "governor" insert "; and

(16) one member representing the interests of tribal governments, appointed by the governor"

Consolidated Fiscal Note – 2005-06 Session

Bill #: S0762-2E **Complete Date:** 04/25/05

Chief Author: FREDERICKSON, DENNIS

Title: CLEAN WATER LEGACY ACT

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings	X	
Tax Revenue		X

Agencies: Pollution Control Agency (04/19/05)
Water & Soil Resources Board (04/22/05)
Agriculture Dept (04/19/05)
Natural Resources Dept (04/14/05)
Revenue Dept (04/25/05)
Employment & Economic Dev Dept (04/20/05)

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
New Fund		4,422	21,667	19,475	19,958
Employment & Economic Dev Dept		4,422	21,667	19,475	19,958
Public Facilities Authority Fund			44,866	42,926	42,296
Employment & Economic Dev Dept			44,866	42,926	42,296
Environmental Fund	0	7,054	31,540	35,733	37,089
Pollution Control Agency		4,774	7,429	10,432	11,788
Natural Resources Dept		380	4,480	5,020	5,020
Water & Soil Resources Board		1,162	15,700	15,850	15,850
Agriculture Dept		700	3,900	4,400	4,400
Revenue Dept	0	38	31	31	31
Revenues					
New Fund		22	85	75	558
Employment & Economic Dev Dept		22	85	75	558
Public Facilities Authority Fund			22,433	21,463	21,148
Employment & Economic Dev Dept			22,433	21,463	21,148
Environmental Fund	0	8,210	62,698	63,739	64,780
Pollution Control Agency		14	14	14	14
Revenue Dept	0	8,196	62,684	63,725	64,766
Net Cost <Savings>					
New Fund		4,400	21,582	19,400	19,400
Employment & Economic Dev Dept		4,400	21,582	19,400	19,400
Public Facilities Authority Fund			22,433	21,463	21,148
Employment & Economic Dev Dept			22,433	21,463	21,148
Environmental Fund	0	(1,156)	(31,158)	(28,006)	(27,691)
Pollution Control Agency		4,760	7,415	10,418	11,774
Natural Resources Dept		380	4,480	5,020	5,020
Water & Soil Resources Board		1,162	15,700	15,850	15,850
Agriculture Dept		700	3,900	4,400	4,400
Revenue Dept	0	(8,158)	(62,653)	(63,694)	(64,735)
Total Cost <Savings> to the State	0	3,244	12,857	12,857	12,857

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
New Fund		0.12	0.50	0.50	0.50
Employment & Economic Dev Dept		0.12	0.50	0.50	0.50
Public Facilities Authority Fund		0.13	0.50	0.50	0.50
Employment & Economic Dev Dept		0.13	0.50	0.50	0.50
Environmental Fund	0.00	19.15	38.40	46.50	46.50
Pollution Control Agency		8.90	13.90	21.00	21.00
Natural Resources Dept		1.00	12.00	13.00	13.00
Water & Soil Resources Board		7.00	7.00	7.00	7.00
Agriculture Dept		1.75	5.00	5.00	5.00
Revenue Dept	0.00	0.50	0.50	0.50	0.50
Total FTE	0.00	19.40	39.40	47.50	47.50

Consolidated EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: LEONIE HUANG
Date: 04/25/05 Phone: 296-5779

Fiscal Note – 2005-06 Session

Bill #: S0762-2E **Complete Date:** 04/19/05

Chief Author: FREDERICKSON, DENNIS

Title: CLEAN WATER LEGACY ACT

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings	X	
Tax Revenue		X

Agency Name: Pollution Control Agency

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
Environmental Fund		4,774	7,429	10,432	11,788
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
Environmental Fund		4,774	7,429	10,432	11,788
Revenues					
Environmental Fund		14	14	14	14
Net Cost <Savings>					
Environmental Fund		4,760	7,415	10,418	11,774
Total Cost <Savings> to the State		4,760	7,415	10,418	11,774

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
Environmental Fund		8.90	13.90	21.00	21.00
Total FTE		8.90	13.90	21.00	21.00

Bill Description

The bill will enable Minnesota to implement federal requirements to achieve and maintain water quality standards for surface waters. The following is a summary of key sections of the bill:

- Section 1 *(added in the 2nd engrossment):* Election of supervisors by supervisor districts
- Section 5: Includes goals and priorities for Identification of (i.e., water quality assessments) impaired surface waters, Development of Total Maximum Daily Loads (TMDL) for impaired waters, restoration of impaired waters, and activities to prevent waters from becoming impaired.
- Section 6: Describes administrative functions of the Minnesota Pollution Control Agency (MPCA), including those related to listing impaired waters, developing TMDLs and approving third-party TMDLs.
- Section 7: The Clean Water Council – explains the duties, membership and terms of this advisory group, including preparation of a biennial report for the Governor and the Legislature on impaired waters spending during the current biennium and budget recommendations for the next biennium.
- Section 8: Goals for public and stakeholder participation, expert scientific advice and public education.
- Section 9: New clean water fees, including fee payers and fee amounts, and the mechanisms for the collection and enforcement of the fees. *Note: The non-residential fee amount was deleted in the 2nd engrossment.*
- Sections 10-13 : Sets three new funds and one account in the Environmental Fund to spend fee revenue – the Clean Water Legacy Account (Sec. 10); Clean Water Legacy Phosphorus Reduction Grants (Sec. 11); a Community Septic System Loan Program (Sec. 12), and a Total Maximum Daily Load Grant program *(section 13 – added in 2nd engrossment)* .
- Section 14: Provides appropriations to the following agencies – Department of Revenue, MPCA, Agriculture Department, Board of Water and Soil Resources, Department of Natural Resources, and the Public Facilities Authority.

Assumptions

The expenditures noted for the Pollution Control Agency in the legislation is based on the following spending assumptions for the agency's impaired waters-related activities:

MPCA Expenditures (in thousands)	FY06	FY07	FY08	FY09
1. Water Quality Assessment:				
Monitoring at 32 of 80 Milestone sites per year and collecting chemistry at 86 flow sites	$195	$400	$520	$520
Biological, chemical and physical sampling at 600 sites per year by FY09	$330	$1,130	$2,150	$2,150
MPCA/Local Org Chem & Lab costs for Citizen Stream Monitoring Program and pass through money to ~81 local organizations.	$510	$1,160	$1,550	$1,812
Assessment of 100 lakes per year by FY09, starting with lakes over 500 acres	$100	$200	$290	$290
MPCA/Local Orgs Chemistry and lab costs for Citizen Lake Monitoring Program expansion and pass through money to lake organizations	$500	$800	$850	$950
Statewide remote sensing of lakes and streams once every 5 years	$75	$75	$75	$75
MPCA – Data management and system upgrades for increased data handling and analysis for ~9,000 new sites.	$150	$360	$450	$520
Subtotal for Water Quality Assessment	$1,860	$4,125	$5,885	$6,317

2. TMDL Development:				
Third Party TMDLs – Led by local government, contractors and others following MPCA protocols: Development of TMDLs, including monitoring, land use assessment, data analysis, modeling, load allocations, document preparation, public participation.	$390	$1,140	$1,553	$2,407
MPCA-led TMDLs – Development of TMDLs, including monitoring, land use assessment, data analysis, modeling, load allocations, document preparation, public participation	$450	$640	$890	$910
Other MPCA TMDL Activities – TMDL project oversight, contracting, technical assistance, training, scientific expertise, implementation planning, effectiveness monitoring, wastewater and stormwater permitting, compliance with federal requirements, rulemaking, guidance development, performance tracking, de-listing waters, Clean Waters Council staffing.	$1,060	$1,510	$2,090	$2,140
Subtotal for TMDLs	$1,900	$3,290	$4,533	$5,457
3. Other Activities:				
ISTS Census: Funds to conduct or contract for a comprehensive census to determine the owner and location of ISTS systems in each county.	$1,000			
MPCA Total	**$4,760**	**$7,415**	**$10,418**	**$11,774**

For planning purposes, FY08 and FY09 expenditures are estimated but are subject to change based on recommendations by the Clean Water Council.

Expenditure and/or Revenue Formula

FTE	FY06	FY07	FY08	FY09
New	8.9	13.9	21	21
Reallocated	10.8	17.6	21.9	22.6

Total cost of these FTE include salary and fringe ($71,400), indirect costs at FY05 rate of 28.35% ($20,300) and a program-wide expense factor ($4,800) for a total of $96,500 per FTE.

Clean Water Fee - background: Roughly 75 percent of the state's residential dwellings and non-residential establishments receive wastewater services from a publicly owned treatment works (POTW) and already have a pre-existing fiscal relationship that involves billing for services based on a billing cycle. The fee will simply be added to existing billing statements. The remaining residential dwellings and non-residential establishments are serviced by a Individual Septic Treatment System (licensed by the county unless over 10,000 gallons per day then a MPCA permit is required) or a permitted non-municipal industrial wastewater system and are expected to be collected through existing fiscal systems.

Clean Water Legacy Act - Revenue Estimate

PUBLICLY OWNED TREATMENT WORKS (POTW)

RESIDENTIAL DWELLINGS	Units or connections		Fee rate per year	Revenue in dollars	
Single family residential dwellings	944,941	(1)	$36	$34,017,876	
Multi-unit residential dwellings	397,537	(2)	$36	$14,311,332	
Total residential dwellings	1,342,478			$48,329,208	60.0%
NON-RESIDENTIAL ESTABLISHMENTS *(fee amounts deleted in 2nd engrossment)*					
Non-res. establishments - low (1 - 9,999 gpd)	105,114		$.....	$.....	
Non-res. establish. - medium (10,000 - 99,999 gpd)	205	(3)	$.....	$.....	
Non-res. establishments - high (100,000+ gpd)	47	(3)	$.....	$.....	
Total non-residential establishments	105,366			$.....	.....%

DATA SOURCE: (1) Wastewater Infrastructure Needs Survey (WINS), April, 2004;

(2) U.S. Bureau of the Census, 2000;

(3) Metropolitan Council Significant Industrial Users Reports for the MCES service area.

TOTAL FOR SEWERED AREA	**$48,329,208**	

SEPTICS - RESIDENTIAL & NON-RESIDENTIAL	Systems	Fee rate per year		
Individual Septic Treatment Systems (ISTS)	536,000	$36	$19,296,000	23.9%
DATA SOURCE: County ISTS reports, 2001.				
TOTAL FOR UNSEWERED AREA			**$19,296,000**	

SYSTEMS PERMITTED BY MPCA	Systems or discharges	Fee rate per year	Avg. res. dwelling per system		
Non-municipal domestic wastewater treatment systems	118	$36	35	$148,680	0.2%
Non-municipal industrial systems:					
Minor non-municpal - low (1 - 9,999 gpd)	112	$120	n/a	$13,440	
Minor non-municpal - medium (10,000 - 99,999 gpd)	58	$300	n/a	$17,400	
Minor non-municpal - high (100,000+ gpd)	141	$600	n/a	$84,600	
Major non-municipal - high (100,000+ gpd)	12	$600	n/a	$7,200	
DATA SOURCE: MPCA permit records.	323			$122,640	0.2%
Key: gpd = gallons per day of flow	**TOTAL FOR MPCA PERMITTED SYSTEMS**			**$271,320**	

	GRAND TOTAL	**$67,896,528**	**84.2%**
	Estimated administrative costs	$4,000,000	
	Est.residential hardship exemptions	$2,000,000	
	NET TOTAL OF FEES REMITTED	**$61,896,528***	

* Actual revenue collections vary based on remittance schedule, number of residential dwellings, and non-residential establishments charged.

Clean Water Fee - residential hardship exemption: This bill allows certain exemptions for residential dwellings that receive a separate wastewater bill provided they participate in the following public assistance programs or are below 135 percent of the poverty guidelines:

1) Medicaid/medical assistance
2) Food stamps
3) Minnesota Family Investment Program (MFIP)
4) Supplemental security income (SSI)
5) Federal housing assistance or section 8 assistance
6) Low income home energy assistance (LIHEAP)
7) National school lunch program's free lunch program
8) Minnesota telephone service discount program (Minn. Stat § 237.70)

Currently, the Minnesota telephone service discount program honors 55,000 telephone customer exemptions so it is thought that a similar number would seek a clean water fee exemption.

Long-Term Fiscal Considerations

- Section 8 of the bill sets a repealer date for the fees of December 31, 2015. However, the Clean Water Council is required (Section 6) to submit a report to the Legislature by December 1, 2014 on the need for future funding of the clean water legacy account and the sources of such funding. Over time, the revenue raised from the clean water fee is expected to increase slightly as the state gains more population and additional non-residential establishments begin operations.
- The MPCA will incur costs beyond FY09 to administer activities.
- Until an amount is set for non-residential fees, expenditures will exceed revenue.

Local Government Costs

- This legislation provides funding to locals for all impaired waters-related activities, including assessment, TMDLs, restoration, protection, and fee collection.
- This bill provides funding to offset the costs of implementing and administrating the clean water fee such as the ISTS census, billing or fee statement revisions. Up to 5 percent of the fees collected by the POTW's, counties and MPCA may be withheld from deposits to the Department of Revenue to satisfy the annual administrative costs related to the collection and remittance of the fee. Fee collecting authorities are allowed to withhold from remittances in Calendar Year 2006 the cost of implementing the fee.
- Local governments are subject to the Clean Water fee.

References/Sources

- "Minnesota's Impaired Waters", Report to the Legislature, March 2003. http://www.pca.state.mn.us/publications/reports/lrwq-s-lsy03.pdf
- "Impaired Waters Stakeholder Process: Policy Framework (July 2003-January 2005)"

Agency Contact Name: LISA THORVIG (651-296-8811)
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EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: LEONIE HUANG
Date: 04/19/05 Phone: 296-5779

Fiscal Note – 2005-06 Session

Bill #: S0762-2E **Complete Date:** 04/14/05

Chief Author: FREDERICKSON, DENNIS

Title: CLEAN WATER LEGACY ACT

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Natural Resources Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
Environmental Fund		380	4,480	5,020	5,020
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
Environmental Fund		380	4,480	5,020	5,020
Revenues					
-- No Impact --					
Net Cost <Savings>					
Environmental Fund		380	4,480	5,020	5,020
Total Cost <Savings> to the State		380	4,480	5,020	5,020

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
Environmental Fund		1.00	12.00	13.00	13.00
Total FTE		1.00	12.00	13.00	13.00

Bill Description

This bill implements federal requirements to achieve and maintain water quality standards for Minnesota's surface waters. The primary components of the bill include: 1) identifying impaired waters in accordance with federal requirements; 2) developing total maximum daily loads (TMDLs) for pollutants that are causing impairments; 3) developing and implementing plans to restore impaired waters and prevent waters from becoming impaired; and 4) raising water use fees to fund the required activities.

The DNR's role in this effort will center on assessment and habitat protection/restoration. Assessment activities will include: 1) flow monitoring; 2) lake biological monitoring; and 3) mercury in fish tissue monitoring. Protection activities will include: 1) developing forest stewardship plans on private, riparian forest lands to reduce water pollution; 2) fee title acquisition and easements of high priority riparian lands; 3) research and monitoring of protection/restoration efforts; and 4) technical assistance to local units of government.

Assumptions

Most activities will be accomplished through grants, contracts, and land acquisition. New positions will be needed only for flow monitoring, technical assistance to local units of government, and the additional workload associated with grant, contract, and land acquisition administration.

The new positions are anticipated to be in the MAPE bargaining unit at the Natural Resource Specialist Senior (11L) and Hydrologist 2 (12L) classification levels. The midpoint of the salary range was used for estimating the cost of the new positions.

One FTE will be added in FY06, for flow monitoring.

An additional 11 FTEs will be added in FY07, one for flow monitoring and 10 for technical assistance.

An additional FTE will be added in FY 08 for flow monitoring.

For planning purposes, FY08 and FY09 expenditures are estimated but are subject to change based on recommendations by the Clean Water Council.

Expenditure and/or Revenue Formula

Estimating Cost of New Positions

Job Classification	Wages		FTE		Amount	Supplies and Expense			FTE		Amount
NR Spec Sr	$ 45,518	x	10.0	=$	455,180	Rent	$ 1,000	x	12.0	=$	12,000
Hydrologist 2	$ 48,150	x	2.0	=$	96,300	Furniture	$ 1,000	x	12.0	=$	12,000
	$	x		=$		Telephone	$ 1,200	x	12.0	=$	14,400
Salary		subtotal		$	551,480	Travel	$ 1,200	x	12.0	=$	14,400
FICA 6.2% + Medicare 1.45% + Retire 4.0%				x	11.65%	Supplies	$ 2,000	x	12.0	=$	24,000
Fringe		subtotal		$	64,247	Equipment	$ 5,000	x	12.0	=$	60,000
Insurance: Family 1/1/05	$12,420	x	12.0	=$	149,040	Total Supplies & Expense				$	136,800
Total Salary and Fringe				$	764,767	**Total Cost of New Positions**				$	901,567

The above estimate for new positions is based on the projected need of 12 FTEs in FY07.

FY06 Cost Breakdown

Flow monitoring at 25 sites:	$150 ($75 for 1 FTE and $75 for contracts)
Lake biological monitoring:	$ 80 (contracts/grants)
Mercury in fish tissue monitoring:	$ 50 (contracts)
Forest stewardship plans:	$100 (grants)
	$380

FY07 Cost Breakdown

Flow monitoring at 50 sites:	$ 300 ($150 for 2 FTEs and $150 for contracts)
Lake biological monitoring:	$ 80 (contracts/grants)
Mercury in fish tissue monitoring:	$ 50 (contracts)
Forest stewardship plans:	$1,900 (grants)
Acquisition and easements:	$1,000
Research and monitoring	$ 400 (contracts)
Technical assistance:	$ 750 (10 FTEs)
	$4,480

The department will look for opportunities to reallocate existing positions to implement the above activities.

Long-Term Fiscal Considerations The department will incur costs beyond FY09 to run these programs.

Local Government Costs

References and Sources
Current MAPE agreement was used for position salary levels.

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FN Coord Signature: BRUCE NASLUND
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EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: MARSHA BATTLES-JENKS
Date: 04/14/05 Phone: 296-8510

Fiscal Note – 2005-06 Session

Bill #: S0762-2E **Complete Date:** 04/22/05

Chief Author: FREDERICKSON, DENNIS

Title: CLEAN WATER LEGACY ACT

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Water & Soil Resources Board

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
Environmental Fund		1,162	15,700	15,850	15,850
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
Environmental Fund		1,162	15,700	15,850	15,850
Revenues					
-- No Impact --					
Net Cost <Savings>					
Environmental Fund		1,162	15,700	15,850	15,850
Total Cost <Savings> to the State		1,162	15,700	15,850	15,850

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
Environmental Fund		7.00	7.00	7.00	7.00
Total FTE		7.00	7.00	7.00	7.00

Bill Description

Sets and collects fees from each municipal wastewater connection and septic system throughout the State. Funds are appropriated to various departments and agencies for FY 06 & 07. Future distribution will be determined during the budget process with the Clean Water Council making recommendations to the Governor. Fees collected will be deposited into a new account called the clean water legacy account in the environmental fund.

The bill appropriates $1.162 million in FY06 and $15.7 million in FY07 to the Board of Water and Soil Resources from the environmental fund to assist local governments with implementation activities relating to the non-point source pollution reductions necessary to restore water quality in impaired water bodies and protection strategies designed to prevent water bodies from becoming impaired.

The bill also changes the way that soil and water conservation district supervisors are elected. It changes the current method of being elected at-large to supervisors being elected from current and future county commissioner districts.

Assumptions

The implementation of the Act will occur primarily through existing agency programs and established local government delivery mechanisms involving soil and water conservation districts, watershed districts, counties, and cities. Board of Water and Soil Resources programs that will be utilized include: State Cost-Share Program; Non-point Engineering Assistance Program; SWCD Service Grants; Comprehensive Local Water Management Program; Natural Resources Block Grant, and eLINK (BWSR's electronic reporting system).

Agency expenditures are designed to support local restoration and protection activities by increasing the level of technical and/or financial assistance available to landowners implementing best management practices.

Agency expenditures will be targeted primarily to impaired waters and implemented in such a way as to fully leverage federal farm bill conservation programs in support of achieving the goals and priorities of the Act.

Agency operational costs will increase do to the increase in grants which will total approximately $15 million in FY07. Technical services will also increase to support the engineering and reporting requirements that will be generated by the increased implementation of on the ground soil and water conservation practices. Agency charges of $700,000 to support the increase in required technical and operational support for the programs will begin in FY07.

For planning purposes, FY08 and FY09 expenditures are estimated, but are subject to changes based on recommendations by the newly formed Clean Water Council.

The change in BWSR approved nomination districts to county commissioner districts and being elected at-large to being elected from current county commissioner districts does not add any significant new requirements on the part of the county running the elections other than changing the printed ballots.

Expenditure and/or Revenue Formula

It is assumed that the funds appropriated will be awarded in the fiscal year they are appropriated and for the purposes of this fiscal note will be considered expended. The actual expenditures will most likely be over an 18-month period. The expenditures noted for the Board of Water and Soil Resources in the legislation is based on the following spending assumptions:

BWSR Expenditures (in thousands)	FY06	FY07	FY08	FY09
1. Restoration Initiatives				
Targeted Financial Assistance ▪ Cost-Share & Incentive Payment Grants $3,750 cost-share $2,000 incentive payments	$450	$5,750	$5,750	$5,750
Targeted Technical Assistance to support practice implementation				

▪ Non-point Engineering Assistance Program grants for structural/engineered practices ▪ Technical assistance grants for non-structural BMP planning and implementation.	$412	$3,450	$3,600	$3,600
Reporting, Evaluation, and Monitoring ▪ Reporting, assessing, and evaluating the effectiveness of applied practices ▪ Establish out-come based performance measures that monitor implementation progress and evaluate watershed improvements	$0	$200	$200	$200
Septic Systems – ISTS ▪ County program support grants	$0	$2,400	$2,400	$2,400
SUBTOTAL FOR NON-POINT RESTORATION	**$862**	**$11,800**	**$11,950**	**$11,950**
2. Protection Initiatives				
Land and Water Protection Planning ▪ Comprehensive local water management program – Grants to counties, watershed districts and watershed management organizations. ($1 million will be added to base grant program) ▪ Challenge grants program: Development of lake management plans that integrate aquatic plant protection, shoreland management, water quality issues, stormwater protection, etc, ▪ Development of stream protection and restoration plans	$300	$1,500	$1,500	$1,500
Land and Water Protection Implementation ▪ Streambank, stream channel, lakeshore, and roadside protection and restoration focused on enhancing native vegetation and reducing erosion grants.	$0	$2,400	$2,400	$2,400
SUBTOTAL FOR PROTECTION STRATEGIES	**$300**	**$3,900**	**$3,900**	**$3,900**
BWSR TOTAL	**$1,162**	**$15,700**	**$15,850**	**$15,850**

FTE	FY06	FY07	FY08	FY09
New	0	7.00	7.00	7.00

Total cost for these 7 FTE's include salary & fringe ($80,000), average agency overhead cost of 25% ($20,000) for a total of $100,000 per FTE. The positions are expected to be Water and Soil Conservationists (Board Conservationists). A total of $700,000 is included in the fiscal note estimate for this technical and operational support expense.

Long-Term Fiscal Considerations

The legislation will have fiscal impacts to the agency beyond FY09. The Act envisions that the resources required to address the restoration of impaired waters and the protection of unimpaired waters in the State is a long-term effort and implementation strategies will take decades to accomplish.

Local Government Costs

For land based implementation activities that will be required to reduce pollution loadings local governments will have access to low cost financing (grants and low interest loans) to cover the costs necessary to meet the requirements under the federal Clean Water Act.

Cost to counties for the change in supervisor elections should be minimal since the only change that will be required on their part is changing the election ballot to have soil and water district supervisors be shown and voted on by commissioner district rather that at-large in the county.

References/Sources

"Impaired Waters Stakeholder process: Policy Framework (July 2003-January 2005)"

Agency Contact Name: Doug Thomas 651-297-5617
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EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: MARSHA BATTLES-JENKS
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Fiscal Note – 2005-06 Session

Bill #: S0762-2E **Complete Date:** 04/19/05

Chief Author: FREDERICKSON, DENNIS

Title: CLEAN WATER LEGACY ACT

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Agriculture Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
Environmental Fund		700	3,900	4,400	4,400
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
Environmental Fund		700	3,900	4,400	4,400
Revenues					
-- No Impact --					
Net Cost <Savings>					
Environmental Fund		700	3,900	4,400	4,400
Total Cost <Savings> to the State		700	3,900	4,400	4,400

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
Environmental Fund		1.75	5.00	5.00	5.00
Total FTE		1.75	5.00	5.00	5.00

Bill Description

- The Clean Water Legacy Act provides authority, direction, and funding to restore and maintain water quality standards for Minnesota's surface waters in accordance with the requirements of the federal Clean Water Act.
- The Legacy Act creates a policy framework to guide the activities of state and local agencies in restoring impaired waters as well as protecting waters that are not impaired.
- Section 4, subdivision 1, calls upon public agencies to identify opportunities for participating and assisting in the successful implementation of the bill, including funding or technical assistance needs.
- Section 6 creates a Clean Water Council and outlines the responsibilities of the Council, including the development of an Implementation Plan. The membership of the Council includes the department.
- Section 7 contains requirements to involve stakeholders both in identifying impaired waters and in planning and implementing restoration measures.
- Section 9 authorizes the uses of the revenues raised through the clean water fees, including funding to state agencies to carry out their responsibilities under the proposed bill.
- Section 12 provides appropriations to address the impaired waters listed on the EPA approved 303 (d) 2004 list.
- Section 12 Subd. 4 provides appropriations to expand current MDA programs or activities that support of the goals of the Act. The areas are: a) Agricultural BMP Loans; b) Technical assistance on nutrient and pasture management (fertilizer best management practices); and c) Research, evaluation and effectiveness monitoring of practices for restoring impaired waters (sustainable agricultural systems).
- Section 12 Subd. 4 provides the Department resources to enhance current activities regarding the targeting of practices to sources of impairments, assisting with coordination among federal and state conservation programs, and conservation planning assistance.

Assumptions

- The MDA, along with other agencies, participated in the Impaired Waters Stakeholders Process that identified programs and activities that would address the restoration of impaired waters on the 2004 list.
- MDA programs in Ag BMP Loans, fertilizer best management practices, and sustainable agricultural systems will enhance efforts to manage livestock manure and other nutrients, implement conservation tillage, utilize federal farm conservation programs, and evaluate the effectiveness of practices intended to restore specific impairments (and water bodies) on the 2004 list.
- Department expenditures will support local implementation by increasing the level of technical or financial assistance available to landowners through local agencies and service providers as well as providing "self-help" materials to producers to make management decisions.
- The Department's expenditures will be targeted to help leverage federal farm conservation programs in support of achieving the goals of the Act.
- Expenditures through the MDA and BWSR are expected to leverage 2 to 4 times as much federal farm conservation program money.
- Agency expenditures to fulfill responsibilities under this Act will continue at FY 2008 levels through FY 2015, the life of the legislation.

Expenditure and/or Revenue Formula

1) $250,000 in FY06 and $2,300,000 in FY07 to make Agricultural Best Management Practices (BMP) loans to producers and landowners.

   - Targeted financial assistance – MDA – AgBMP Loan Program: Provide low interest loans to farmers and others to implement improvements to feedlots and other agricultural waste management practices, install structural erosion control, expedite conservation tillage practices, upgrade or fix septic systems, and other practices that improve water quality.

	FY06	FY07	FY08	FY09
SubTotal	$ 250,000	$2,300,000	$2,200,000	$2,200,000

2) $350,000 in FY06 & $800,000 in FY07 to expand technical assistance to producers and conservation professionals on nutrient and pasture management, target practices to sources of water impairments, coordinate conservation programs, and expand conservation planning assistance for producers.

   - Technical assistance for nutrient and pasture management: Develop fertilizer best management practices; Assess agricultural practices; Provide technical assistance, education and coordination to producers and local conservation professionals on nutrient and pasture management.
     $ 150,000 $ 400,000 $ 400,000 $ 400,000

   - Promotion of priority practices in impaired watersheds: Identify and coordinate a long-term strategy with state and federal conservation agencies to promote practices most likely to address specific impairments in targeted areas in each agricultural resource region (i.e. differing soils, landscapes, and climatic condition); Support scientific technical review of practice effectiveness and development of recommendations.
     $ 100,000 $ 100,000 $ 100,000 $ 100,000

   - Conservation Planning Assistance: Conduct outreach to producers on TMDLs; Develop decision tools to help producers and conservation professionals compare and contrast state and federal conservation program options; Develop and conduct training for local professionals, technical service providers, and producers to accelerate conservation planning; Provide financial support for the development and implementation of producer environmental quality assessment tools. Facilitate the communication and coordination among state and federal conservation partners to leverage federal farm conservation funds for agricultural working lands.
     $ 100,000 $ 300,000 $ 500,000 $ 500,000

	FY06	FY07	FY08	FY09
SubTotal	$ 350,000	$ 800,000	$1,000,000	$1,000,000

3) $100,000 in FY06 & $800,000 in FY07 for research, evaluation, and effectiveness monitoring of agricultural practices in restoring impaired waters (also in FY07 for grants and contracts, including on-farm demonstrations).

   - Research, reporting, evaluation and monitoring: Evaluate existing or new technologies and farming systems on working farms for water quality benefits at both the field and small watershed level.

	FY06	FY07	FY08	FY09
SubTotal	$ 100,000	$ 800,000	$1,200,000	$1,200,000

Total	$ 700,000	$3,900,000	$4,400,000	$4,400,000

FTEs	FY06	FY07	FY08	FY09
New	1.75	5.0	5.0	5.0
Reallocated	4.0	6.0	7.0	7.0

Long-Term Fiscal Considerations

The implementation costs for the Department will continue through FY 2015 in order to restore impaired waters listed for 2004. The costs could increase if or when additional priority impairments are added.

For planning purposes, FY 2008 and FY 2009 expenditures are estimated as the amounts needed to meet the responsibilities of the MDA under the Act, but may be subject to changes based upon the recommendations of the Clean Water Council.

Local Government Costs

There will be costs to local governments to certify eligibility for the Ag BMP loans. These costs will be part of the increased financial support provided through the Board of Water and Soil Resources.

References/Sources

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EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: LEONIE HUANG
Date: 04/19/05 Phone: 296-5779

Fiscal Note – 2005-06 Session

Bill #: S0762-2E **Complete Date:** 04/20/05

Chief Author: FREDERICKSON, DENNIS

Title: CLEAN WATER LEGACY ACT

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings	X	
Tax Revenue		X

Agency Name: Employment & Economic Dev Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
New Fund		4,422	21,667	19,475	19,958
Public Facilities Authority Fund			44,866	42,926	42,296
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
New Fund		4,422	21,667	19,475	19,958
Public Facilities Authority Fund			44,866	42,926	42,296
Revenues					
New Fund		22	85	75	558
Public Facilities Authority Fund			22,433	21,463	21,148
Net Cost <Savings>					
New Fund		4,400	21,582	19,400	19,400
Public Facilities Authority Fund			22,433	21,463	21,148
Total Cost <Savings> to the State		4,400	44,015	40,863	40,548

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
New Fund		0.12	0.50	0.50	0.50
Public Facilities Authority Fund		0.13	0.50	0.50	0.50
Total FTE		0.25	1.00	1.00	1.00

Bill Description

As it relates to the Minnesota Pubic Facilities Authority ONLY.

This bill sets and collects fees from each municipal wastewater connection and septic system throughout the State. Funds are appropriated to various departments and agencies for FY's 06 and 07. Future distribution will be determined during the budget process with the Clean Water Council making recommendations to the Governor.

The bill requires the Minnesota Public Facilities Authority to create a Clean Water Legacy Capital Improvement Fund that will be used to make grants to local governments for a portion of the costs associated with the design and construction of wastewater treatment facility projects that will reduce the discharge of phosphorus to one milligram per liter. The bill also appropriates special revenue to the Fund and authorizes the Authority to collect fees to cover its administrative costs.

The bill also creates a Total Maximum Daily Load (TMDL) Grant Program for the Authority to make grants to municipalities for up to one-half the cost of projects required by wasteload reductions under TMDL plans. There are currently no projects eligible for this program. As phosphorus reduction projects funded through the Clean Water Legacy Capital Improvement Fund are completed, those funds can be made available for these needs as TMDL plans are completed.

The bill requires the Authority to establish a Community Septic System Replacement Fund to finance public ownership of individual septic systems installed to replace failing or inadequate individual sewage treatment systems.

The Bill also appropriates funds to the Water Pollution Control Revolving Fund.

Assumptions:

Subdivision 7 of the bill appropriates funding for fiscal years 2006 and 2007 as shown on the following chart. For planning purposes, fiscal years 2008 and 2009 expenditures are estimated and are subject to change based on recommendations by the clean water council.

Appropriations (Dollars in thousands)	FY 06	FY 07	FY 08	FY 09
Clean Water Legacy Capital Fund	$4,400	17,000	$15,000	$15,000
Community Septic System Replacement	$0	$4,582	$4,400	$4,400
Water Pollution Control Revolving Fund	$0	$22,433	$21,463	$21,148

Staffing may or may not change due to these funds, but the individual funds must generate sufficient revenues to cover the Authority's cost of administering each. The Authority must generate fees to recover its costs since it receives no general fund support for administration.

Expenditure and Revenue Formula

It is assumed that the funds appropriated will be awarded in the fiscal year they are appropriated and for the purposes of this fiscal note will be considered expended. The actual expenditures will most likely be over an 18 to 36 month period.

Clean Water Legacy Capital Improvement Fund: Grants made from the Clean Water Legacy Capital Improvement Fund will generate fee revenue to cover the Authority's administrative costs at a rate of

one half of one percent (0.5% X $4,400,000 = $22,000 in FY 2006; 0.5% X $17,000,000 = $85,000 in FY 2007; 0.5% X 15,000,000 = $75,000 in FY 2008 and FY 2009.

The Minnesota Public Facility Authority will use the revenues primarily to reimburse staff costs incurred by the Department of Employment and Economic Development. The Public Facility Authority also funds administrative costs through interagency agreements with various agencies supporting its programs. Each program or fund must generate enough revenue to fund these services.

Community Septic System Replacement Fund: Grants made from the Community Septic System Replacement Fund will generate loan repayments, which will be recycled into additional loans. The Authority assumes the $4,582,000 appropriated in 2007 will have revenues available to lend out in FY 2009. $4,582,000 lent at 1% over 10 years with semi-annual payments the Authority will receive annual repayments of $482,634 beginning in FY 2009 which in turn be loaned and a portion to be used to cover administrative costs under MS 446A.04 Subd.05.

Water Pollution Control Revolving Fund: Water Pollution Control Revolving Fund expenditures are based upon the funds being leveraged with the Authority's AAA/AAA/Aaa rated revenue bonds at a ratio of at least 2 to 1 (e.g. 2 X $22,433,000 = $44,866,000). However, expenditures may be higher depending on the pool of borrowers and interest rate discounts offered on these loans.

Expenditures and Revenues: Due to system limitations of not enabling more than one new Fund in the spreadsheet on page 1, Clean Water Legacy Capital Fund and Community Septic System Replacement Funds expenditure figures have been consolidated. See below for an itemized detail of each Fund. Revenues from the repayment of loans are excluded from this worksheet because during the first couple years most of the loan repayments are used or pledged to bond holders for debt service on the bonds. Revenues to the Community Septic System Replacement Fund begin to accumulate in FY2009. The Authority does assume 100% of the equity will be retained in the Fund over the 20-year repayment period. It is the "equity maintenance" test that is important to the Authority's bond rating. Loan repayments in excess of debt service coverage and revenue requirements (assets pledged to bond holders) are not expected to be available until after FY 2010.

Expenditures (Dollars in thousands)	FY 06	FY 07	FY 08	FY 09
Fund Clean Water Legacy Capital Fund	$4,400	17,000	$15,000	$15,000
Fund Community Septic System Replacement	$0	$4,582	$4,400	$4,400
Fund Water Pollution Control Revolving Fund	$0	$44,866*	$42,926*	$42,296*

*Represents funds being leveraged at a ratio of 2 to1

Revenue (Dollars in thousands)	FY 06	FY 07	FY 08	FY 09
Fund Clean Water Legacy Capital Fund	$22	$85	$75	$75
Fund Community Septic System Replacement	$0	$0	$0	$483

Long term fiscal considerations

The Clean Water Legacy Capital Improvement Fund is designed to reduce the subsidy level from 75% grant to 50% grant on July 1, 2009. This will be an incentive for Cities to move quickly in an effort to reduce this pollutant from municipal wastewater discharges. Eventually, funding appropriated for these grants can be used in other high demand areas as TMDL studies are completed. The Community Septic System Replacement Fund should eventually be self-sufficient and revolve at adequate levels to meet the demand. The Water Pollution Control Revolving Fund is in need of additional equity to meet the

growing demand for wastewater treatment financing. The TMDL requirements will substantially increase the demand on this Fund.

Local Government Costs

Local governments will have access to low cost financing (grants and low interest loans) through the Clean Water Legacy Capital Fund, the Community Septic System Fund, and the Water Pollution Control Revolving Loan Fund to cover the costs necessary to meet the requirements under the federal Clean Water Act. Loan repayments will generally be backed by the general obligation pledge of a municipality, with user fees or special assessments used to actually generate debt service revenues.

FN Coord Signature: MIKE MEYER
Date: 04/20/05 Phone: 297-1978

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KEITH BOGUT
Date: 04/20/05 Phone: 296-7642

Fiscal Note – 2005-06 Session

Bill #: S0762-2E **Complete Date:** 04/25/05

Chief Author: FREDERICKSON, DENNIS

Title: CLEAN WATER LEGACY ACT

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings	X	
Tax Revenue		X

Agency Name: Revenue Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
Environmental Fund	0	38	31	31	31
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
Environmental Fund	0	38	31	31	31
Revenues					
Environmental Fund	0	8,196	62,684	63,725	64,766
Net Cost <Savings>					
Environmental Fund	0	(8,158)	(62,653)	(63,694)	(64,735)
Total Cost <Savings> to the State	0	(8,158)	(62,653)	(63,694)	(64,735)

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
Environmental Fund	0.00	0.50	0.50	0.50	0.50
Total FTE	0.00	0.50	0.50	0.50	0.50

Bill Description – The proposed bill creates goals to clean pollutants from Minnesota surface waters, establishes a Clean Water Council, creates numerous plans and procedures, sets priorities and other requirements, and creates a fee, administered by the Commissioner of Revenue, to fund the clean water program.

There will be a positive revenue impact to the state's environmental fund if the proposed bill passes. The revenue impact of the proposed bill is included in this fiscal note as the Department of Revenue will be collecting the water fee. However, the revenue assumptions and formula's that make up the revenue impact is contained in the Pollution Control Agencies' fiscal note portion.

There will be a negative fiscal impact to the environmental fund for operational costs to the Department of Revenue to administer the proposed bill if it passes.

Revenue Analysis Assumptions

- See the Pollution Control Agency fiscal note for details

Fiscal Impact Assumptions

- The fee would become effective January 1, 2006.
- There will be approximately 750 remitters.
- The Department of Revenue would hire a .50 FTE Revenue Tax Specialist beginning in FY06 to set-up and administer the collection of the fees.
- The department would develop a new form and instructions that remitters would use remit fees to DOR.
- The department would need to make computer system changes and enhancements to the e-file system and the taxpayer accounting system.
- The department would incur check processing charges from the departments current out-side vendor to handle remitted checks.
- The department will incur minor accounting and processing costs.
- The fiscal impacts of the FY08 & FY09 expenditures are estimated but are subject to the recommendations by the Clean Water Council.

Revenue Analysis Formula

1. See the Pollution Control Agency fiscal note for details

Fiscal Impact Formula

FY06 Detail = .50 RTS Senior = $28,000
Travel, Computer, Supplies = $ 2,500
Forms & Instructions = $ 1,000
Systems Development = $ 5,500
Processing & Accounting = $ 1,000

From FY07 Detail = .50 RTS Senior = $28,000
Travel, Supplies = $ 1,175
Forms & Instructions = $ 825
Processing & Accounting = $ 1,000

Long-Term Fiscal Considerations

The department will incur costs beyond FY09 to continue to collect these water fees.

Local Government Costs

None

References/Sources
The revenue impact was provided by the Pollution Control Agency.

FN Coord Signature: JOHN POWERS
Date: 04/25/05 Phone: 556-4054

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: NANCY HOMANS
Date: 04/25/05 Phone: 296-9370

fund to the commissioner of finance for transfer to the clean water legacy account in the environmental fund:

(1) $31,500,000 in fiscal year 2006;

(2) $3,000,000 in fiscal year 2007; and

(3) $40,000,000 in fiscal year 2008 and $80,000,000 in fiscal year 2009 and subsequent years, but only after at least 50 percent of the Minnesota Total Maximum Daily Loads (TMDLs) have been established and approved by the Environmental Protection Agency under the federal Clean Water Act.

Sec. 13. [APPROPRIATION; AID PAYMENT SHIFTS.]

In fiscal year 2008, $25,000,000 is appropriated from the general fund to the commissioner of finance to be used to buy back the aid payment shift provided in Minnesota Statutes, section 16A.152, subdivision 2, clause (3).

Sec. 14. [DEFERRED MAINTENANCE AID.]

For fiscal years 2006 and 2007 only, a district's deferred maintenance aid is equal to $13.25 multiplied times its adjusted average daily membership for that year. Aid received under this section must be used for deferred maintenance, to make accessibility improvements, or to make fire, safety, or health repairs.

Sec. 15. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. [DEFERRED MAINTENANCE AID.] For deferred maintenance revenue under section 14, $10,574,000 in fiscal year 2006 and $10,416,000 in fiscal year 2007.

Sec. 16. [APPROPRIATION.]

$2,000,000 is appropriated from the general fund on a onetime basis to the Higher Education Services Office. The appropriation must be deposited into the Rochester higher education development account. With the approval of the Higher Education Services Office, money in this account may be used to provide initial funding for academic program development for upperclass and graduate students. This appropriation is intended to be expended when matched by tax-deductible contributions from individuals and corporate taxpayers.

ARTICLE 7

TAX SHELTER AND VOLUNTARY COMPLIANCE INITIATIVES

Section 1. [289A.121] [REGISTRATION OF TAX SHELTERS.]

Subdivision 1. [DEFINITIONS.] For the purposes of this section, the following terms have the meanings given.

(a) "Abusive tax avoidance transaction" means a Minnesota tax shelter or a reportable transaction.

(b) "Material advisor" has the meaning given in section 111(b)(1) of the Internal Revenue Code, and must be interpreted in accordance with any regulations or rulings adopted or issued by the Internal Revenue Service that govern that section.

(c) "Minnesota tax shelter" means a transaction which is not a reportable transaction, which substantially reduces a tax imposed under chapter 290 and has one or more of the following characteristics:

(1) it is offered to the taxpayer under conditions of confidentiality, as that term is defined in Treas. Reg. section 1.6011-4(3)(ii), and for which the taxpayer has paid a fee;

(2) the terms of the transaction offer the taxpayer or a related party the right to a full or partial refund of fees if all or part of the intended tax consequences of the transaction are not realized, or if fees are contingent upon the taxpayer

(c) This subdivision is not intended to extend or limit the application of article 4, section 18, of the Constitution of Minnesota.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 8. Laws 2003, chapter 128, article 1, section 172, is amended to read:

Sec. 172. [TEMPORARY PETROFUND FEE EXEMPTION FOR MINNESOTA COMMERCIAL AIRLINES.]

(a) A commercial airline providing regularly scheduled jet service and with its corporate headquarters in Minnesota is exempt from the fee established in Minnesota Statutes, section 115C.08, subdivision 3, until July 1, ~~2005~~ 2007, provided the airline develops a plan approved by the commissioner of commerce demonstrating that the savings from this exemption will go towards minimizing job losses in Minnesota, and to support the airline's efforts to avoid filing for federal bankruptcy protections.

(b) A commercial airline exempted from the fee is ineligible to receive reimbursement under Minnesota Statutes, chapter 115C, until July 1, ~~2005~~ 2007. A commercial airline that has a release during the fee exemption period is ineligible to receive reimbursement under Minnesota Statutes, chapter 115C, for the costs incurred in response to that release.

Sec. 9. [CITY OF ROSEMOUNT; TAX INCREMENT FINANCING.]

The city of Rosemount or a development authority of the city may spend increment from its Downtown - Brockway Tax Increment Financing (TIF) District to acquire parcels of property that the Department of Transportation or Dakota County acquired in connection with the realignment of marked Trunk Highway 3, notwithstanding the limits under Minnesota Statutes, section 469.1763, on the amount of increments that may be spent outside of the district or Minnesota Statutes, section 469.176, subdivision 4j, on the purposes for which increments may be spent.

[EFFECTIVE DATE.] This section is effective upon local approval by the governing body of the city of Rosemount under Minnesota Statutes, section 645.021.

Sec. 10. [APPROPRIATION.]

(a) $125,000 in fiscal year 2006, $125,000 in fiscal year 2007, and $200,000 in each fiscal year thereafter, are appropriated from the general fund to the commissioner of revenue to make grants to one or more nonprofit organizations, qualifying under section 501(c)(3) of the Internal Revenue Code of 1986, to coordinate, facilitate, encourage, and aid in the provision of taxpayer assistance services.

(b) "Taxpayer assistance services" mean accounting and tax preparation services provided by volunteers to low-income and disadvantaged Minnesota residents to help them file federal and state income tax returns and Minnesota property tax refund claims and to provide personal representation before the Department of Revenue and Internal Revenue Service.

Sec. 11. [APPROPRIATION.]

$320,000 is appropriated from the general fund in fiscal year 2006 only to the commissioner of employment and economic development to be distributed to the city of Duluth to be used by the city for grants to enterprises related to environmental cleanup of Lake Superior and long-term community health care.

Sec. 12. [APPROPRIATION.]

The following amounts are appropriated from the general

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.

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

Create a Clean Water Legacy

PROTECT OUR WATER

The State of Our Water

Minnesota is the land of 12,000 lakes and 92,000 miles of rivers and streams. 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.

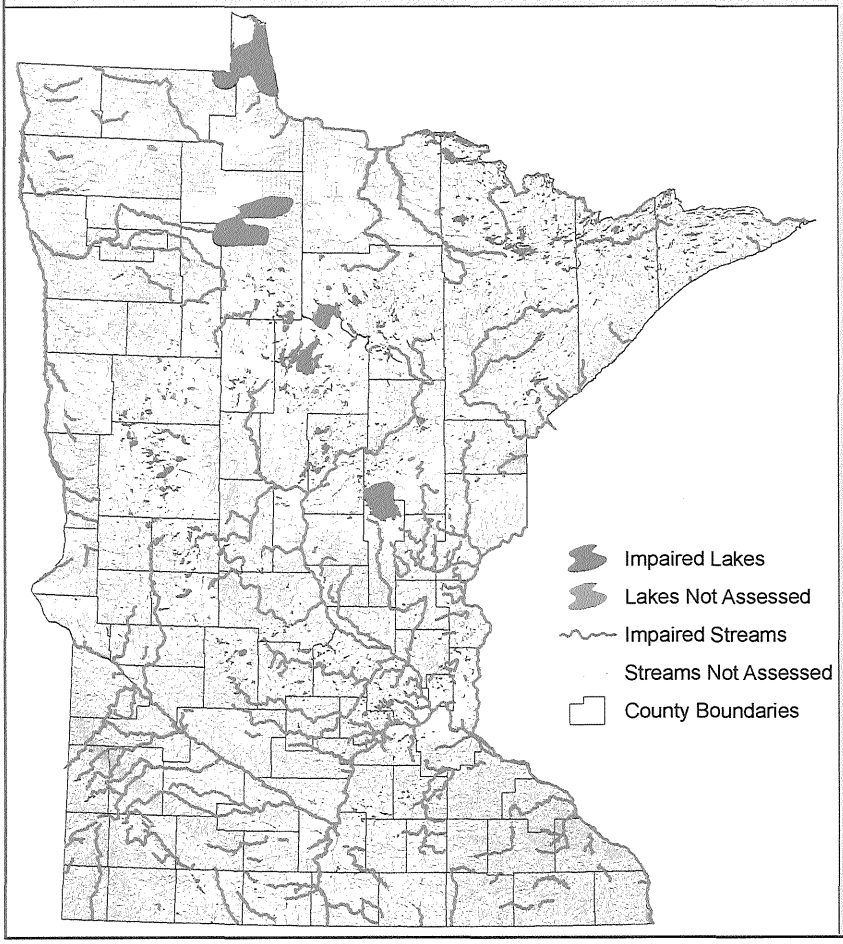
Drain pipe emptying into ditch

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 proposal addresses a portion of that need and will create $80 million in new state money and leverage local, private, and more than $40 million in federal dollars to begin to meet this need.



Broad Support

A broad coalition of 40 groups, including the Minnesota Chamber of Commerce, Minnesota Farm Bureau, Minnesota Farmers Union, League of Minnesota Cities, and member organizations of the Minnesota Environmental Partnership, known as the Impaired Waters Stakeholders Group, worked for 18 months 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.

The Clean Water Legacy Solution

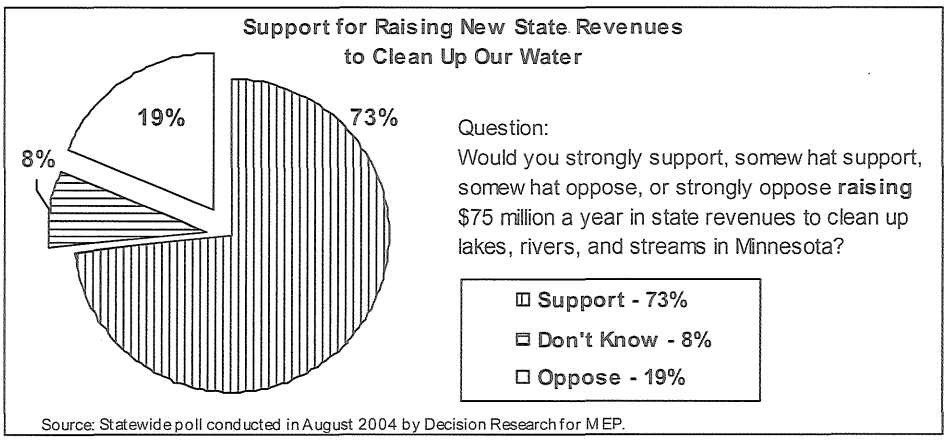
After reviewing nearly 50 funding options, the coalition recommended a stable, long-term funding mechanism. Under the Clean Water Legacy plan, $80 million to clean up and test Minnesota's waters would be generated through a user fee on municipal wastewater connections and septic systems. Key elements 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.

The Clean Water Legacy Act (SF 762 and HF 826) is authored by Senators Frederickson, D.E. Johnson, Dille, Higgins, and Hottinger, and by Representatives Ozment, Anderson Kelliher, Davids, Juhnke, and Sviggum.



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.

Clean water is not a Democrat or Republican issue – it's a Minnesota value.

For more information contact:

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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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Clean Water Legacy Act (HF 826 & SF 762)

	Wastewater Treatment Plant Name	Phosphorus Grants
1	Ada WWTP	New Grant
2	Adams WWTP	New Grant
3	Adrian WWTP	New Grant
4	Aitkin WWTP	New Grant
5	Albert Lea WWTP	New Grant
6	Altura WWTP	New Grant
7	Amboy WWTP	New Grant
8	Annandale/Maple Lake WWTP	Retroactive Grant
9	Appleton WWTP	New Grant
10	Arlington WWTP	New Grant
11	Aspen Hills WWTP	Retroactive Grant
12	Audubon WWTP	Retroactive Grant
13	Austin WWTP	New Grant
14	Avon WWTP	Retroactive Grant
15	Barnesville WWTP	New Grant
16	Baudette WWTP	New Grant
17	Belle Plaine WWTP	Retroactive Grant
18	Benson WWTP	Retroactive Grant
19	Bertha WWTP	New Grant
20	Big Lake WWTP	New Grant
21	Bigfork WWTP	Retroactive Grant
22	Blooming Prairie WWTP	New Grant
23	Braham WWTP	New Grant
24	Brainerd WWTP	New Grant
25	Breckenridge WWTP	New Grant
26	Brewster WWTP	Retroactive Grant
27	Browerville WWTP	New Grant
28	Browns Valley WWTP	New Grant
29	Buffalo WWTP	New Grant
30	Byron WWTP	Retroactive Grant
31	Caledonia WWTP	New Grant
32	Cambridge WWTP	New Grant
33	Canby WWTP	New Grant
34	Cannon Falls WWTP	Retroactive Grant
35	Carver WWTP	New Grant
36	Chatfield WWTP	New Grant
37	Chisago Lakes Joint STC	Retroactive Grant
38	Clara City WWTP	New Grant
39	Claremont WWTP	Retroactive Grant
40	Clarkfield WWTP	New Grant
41	Clear Lake/Clearwater WWTP	New Grant
42	Clements WWTP	New Grant
43	Clinton WWTP	Retroactive Grant
44	Cokato WWTP	New Grant
45	Cold Spring WWTP	Retroactive Grant
46	Coleraine-Bovey-Taconite Joint WWTP	New Grant
47	Cook WWTP	New Grant
48	Crane Lake WWTP	Retroactive Grant
49	Crookston WWTP	New Grant
50	Crosslake WWTP	Retroactive Grant
51	Dassel WWTP	Retroactive Grant
52	Dawson WWTP	New Grant
53	Delano WWTP	Retroactive Grant
54	Dodge Center WWTP	New Grant
55	East Grand Forks WWTP	New Grant
56	Elk River WWTP	New Grant
57	Fairfax WWTP	New Grant
58	Fairmont WWTP	Retroactive Grant
59	Faribault WWTP	New Grant
60	Finlayson WWTP	New Grant
61	Fosston WWTP	New Grant
62	Frazee WWTP	New Grant
63	Gaylord WWTP	New Grant
64	Glencoe WWTP	New Grant
65	Grand Rapids WWTP	New Grant
66	Granite Falls WWTP	New Grant
67	Grasston WWTP	New Grant
68	Green Lake SSWD WWTP	New Grant
69	Grove City WWTP	New Grant
70	Hawley WWTP	New Grant
71	Hayfield WWTP	New Grant
72	Hector WWTP	New Grant
73	Heron Lake WWTP	Retroactive Grant
74	Holdingford WWTP	New Grant
75	Houston WWTP	New Grant
76	Hutchinson WWTP	New Grant
77	Isanti WWTP	New Grant
78	Jackson WWTP	New Grant
79	Janesville WWTP	New Grant
80	Kasson WWTP	Retroactive Grant
81	Kenyon WWTP	New Grant
82	La Crescent WWTP	Retroactive Grant
83	Lake Crystal WWTP	Retroactive Grant
84	Lake Park WWTP	Retroactive Grant
85	Lakefield WWTP	New Grant
86	Le Center WWTP	Retroactive Grant
87	LeSueur WWTP	New Grant
88	Lewiston WWTP	Retroactive Grant
89	Litchfield WWTP	Retroactive Grant
90	Little Falls WWTP	New Grant
91	Long Prairie WWTP - Municipal	Retroactive Grant
92	Lonsdale WWTP	Retroactive Grant
93	Luverne WWTP	New Grant
94	Madelia WWTP	Retroactive Grant
95	Madison WWTP	New Grant
96	Mahnomen WWTP	New Grant
97	Mankato WWTP	New Grant
98	Mapleton WWTP	New Grant
99	Marshall WWTP	New Grant
100	Met Council - Blue Lake WWTP	Retroactive Grant
101	Met Council - Eagles Point WWT	Retroactive Grant
102	Met Council - Empire WWTP	Retroactive Grant
103	Met Council - Hastings WWTP	New Grant
104	Met Council - Metropolitan WWTI	New Grant
105	Met Council - Rosemount WWTF	Retroactive Grant
106	Met Council - Seneca WWTP	Retroactive Grant
107	Milaca WWTP	New Grant
108	Minneota WWTP	New Grant
109	Montevideo WWTP	New Grant
110	Montgomery WWTP	Retroactive Grant
111	Monticello WWTP	New Grant
112	Montrose WWTP	Retroactive Grant
113	Moorhead WWTP	New Grant
114	Moose Lake WWTP	New Grant
115	Moose Lake WWTP	New Grant
116	Mora WWTP	New Grant

117	Mora WWTP	New Grant	
118	Morgan WWTP	New Grant	
119	Morris WWTP	New Grant	
120	Motley WWTP	New Grant	
121	Mountain Lake WWTP	New Grant	
122	New Prague WWTP	Retroactive Grant	
123	New Richland WWTP	New Grant	
124	New Ulm WWTP	New Grant	
125	North Branch WWTP	Retroactive Grant	
126	North Koochiching WWTP	New Grant	
127	Norwood Young America WWTP	New Grant	
128	Olivia WWTP	New Grant	
129	Onamia WWTP	New Grant	
130	Ortonville WWTP	Retroactive Grant	
131	Otsego WWTP West	Retroactive Grant	
132	Owatonna WWTP	New Grant	
133	Park Rapids WWTP	New Grant	
134	Pelican Rapids WWTP	New Grant	
135	Pine City WWTP	New Grant	
136	Pipestone WWTP	New Grant	
137	Plainview-Elgin Sanitary District WWTP	New Grant	
138	Preston WWTP	New Grant	
139	Princeton WWTP	Retroactive Grant	
140	Red Wing WWTP	Retroactive Grant	
141	Redwood Falls WWTP	New Grant	
142	Rockford WWTP	New Grant	
143	Roseau WWTP	New Grant	
144	Rush City WWTP	New Grant	
145	Sandstone WWTP	New Grant	
146	Sherburn WWTP	New Grant	
147	Slayton WWTP	New Grant	
148	Sleepy Eye WWTP	New Grant	
149	Spring Grove WWTP	New Grant	
150	Spring Valley WWTP	New Grant	
151	Springfield WWTP	New Grant	
152	St Clair WWTP	New Grant	
153	St Cloud WWTP	New Grant	
154	St Francis WWTP	Retroactive Grant	
155	St James WWTP	New Grant	
156	St Michael WWTP	Retroactive Grant	
157	St Peter WWTP	Retroactive Grant	
158	Staples WWTP	New Grant	
159	Starbuck WWTP	New Grant	
160	Stewart WWTP	New Grant	
161	Stewartville WWTP	New Grant	
162	Thief River Falls WWTP	New Grant	
163	Tracy WWTP	New Grant	
164	Trimont WWTP	Retroactive Grant	
165	Truman WWTP	New Grant	
166	Wadena WWTP	New Grant	
167	Wahkon WWTP	Retroactive Grant	
168	Wanamingo WWTP	New Grant	
169	Warroad WWTP	New Grant	
170	Waseca WWTP	New Grant	
171	Watertown WWTP	New Grant	
172	Waterville WWTP	Retroactive Grant	
173	Welcome WWTP	New Grant	
174	Wells Easton Minnesota Lake W	New Grant	
175	West Concord WWTP	Retroactive Grant	
176	Wheaton WWTP	New Grant	
177	Whitewater River Pollution Contr	New Grant	
178	Williams WWTP	Retroactive Grant	
179	Willmar WWTP	New Grant	
180	Windom WWTP	New Grant	
181	Winnebago WWTP	New Grant	
182	Winona WWTP	New Grant	
183	Winsted WWTP	New Grant	
184	Winthrop WWTP	New Grant	
185	Zimmerman WWTP	Retroactive Grant	
186	Zumbrota WWTP	New Grant	

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Director

Senate

State of Minnesota

S.F. No. 762 - (Second Engrossment) - The Clean Water Legacy Act

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Date: May 6, 2005

Sections 1 and 15 [SWCD Supervisor Districts] replace existing provisions on the formation of supervisor districts with a new provision that requires supervisors to be elected by supervisor district if supervisor districts are formed. The supervisor districts must be apportioned coterminous with county commissioner districts.

Section 2 [Citation] cites the act as the "Clean Water Legacy Act."

Section 3 [Legislative Purpose and Findings] states the legislative purpose of and findings for the Clean Water Legacy Act.

Section 4 [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 5 [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; and

5. show a high potential for long-term water quality and related conservation benefits.

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

Section 6 [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. This subdivision also specifies that a TMDL must include a statement of facts and scientific data supporting the TMDL.

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 requires a 30-day public comment period for a TMDL and 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 agencies to develop a third-party TMDL. A third-party TMDL must be approved by the PCA.

Section 7 [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 22 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. Eighteen additional nonagency members to the Council shall be appointed representing specific interests as follows:

- statewide farm organizations, two members appointed by the Governor;

- business organizations, one member appointed by the Governor;
- environmental organizations, one member appointed by the Governor;
- soil and water conservation districts, one member appointed by the Governor;
- watershed districts, one member appointed by the Governor;
- organizations focused on improving lakes and streams, one member appointed by the Governor;
- organizations of county governments, two members appointed by the Governor;
- organizations of city governments, two members appointed by the Governor;
- the Metropolitan Council, one member appointed by the Governor;
- township officers, one member appointed by the Governor;
- the House of Representatives, one member appointed by the speaker;
- the Senate, one member appointed by the majority leader;
- the University of Minnesota or state university, one member appointed by the Governor;
- rural counties, one member appointed by the Governor; and
- metropolitan counties, one member appointed by the Governor.

Subdivision 3. [Terms, Compensation, and Removal] provides that the state agency and metropolitan council appointees are coterminous with the Governor. This subdivision also provides that the terms, compensation, removal, and filling of vacancies for the other 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 and metropolitan council appointees 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, recommendations for future expenditures, and the impact of the impaired waters program on economic development. The 2014 report must include an evaluation of the progress and need for future funding.

Section 8 [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 9 [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] provides for 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, an unspecified annual amount;
  - average effluent flow of 10,000 gallons/day or more but less than 100,000 gallons/day, an unspecified annual amount; and
  - average effluent flow of 100,000 gallons/day or more, an unspecified annual amount.

Permitted Nonpublic Wastewater Treatment Facilities:

- average daily discharge of less than 10,000 gallons/day, an unspecified annual amount;
- average daily discharge of 10,000 gallons/day or more but less than 100,000 gallons/day, an unspecified annual amount; and
- average daily discharge of 100,000 gallons/day or more, an unspecified amount.

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 10 [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 11 [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 12 [Small Community Wastewater Treatment Loan Program]

Subdivision 1. [Creation of Fund] directs the PFA to establish a small community wastewater treatment 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 small community wastewater treatment 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;

3. be amortized within ten years or, if the loan amount exceeds $10,000 per household, amortized within 20 years;

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

5. 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 13 [Total Maximum Daily Load Grants]

Subdivision 1. [Program Established] directs the Public Facilities Authority (PFA) to make grants for 50 percent of the cost of wastewater or stormwater projects that are necessary for wasteload reductions required under a TMDL.

Subdivision 2. [Grant Application] provides for the grant application to be reviewed by the PCA for certification.

Subdivision 3. [Project Priorities] provides that grant priorities are based on when the TMDL was approved by the EPA.

Subdivision 4. [Grant Approval] provides that a grant may be made only after all approvals have been completed and the additional financing has been committed.

Subdivision 5. [Grant Disbursement] provides for disbursement of the grant as eligible costs are incurred.

Section 14 [Appropriations] (See attached spreadsheet from Dan Mueller)

GK:dv
Enclosure

SF762, 2nd Engrossment - Sen. 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	850	2,165	3,015
- Grants or contracts for citizen monitoring	1,010	1,960	2,970
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
Total Max Daily Loan Grants	(blank)	(blank)	(blank)
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**

Dan Mueller, Senate Fiscal Analyst

5/4/2005

SF762, 3rd Engrossment - Sen. Frederickson:
Clean Water Legacy Acct; General Fund Appropriations

Proposed Appropriations

Expenditures (Legacy Account; General Fund)	(in 000's) FY2006	FY2007	Biennium Total	Old Biennium Total	Diff
Department of Revenue					
Admin cost for collection of clean water fees	-	-	-	69	(69)
Total Approp.: Revenue:	-	-	-	69	(69)
Pollution Control Agency					
Developing list of exempt fee payers and ISTS's	-	-	-	1,000	(1,000)
Statewide assessment of surface water quality	2,165	876	3,041	3,015	26
- Grants or contracts for citizen monitoring	1,960	793	2,753	2,970	(217)
Develop TMDL's for impaired waters	2,171	878	3,049	3,686	(637)
- Grants or contracts for TMDL's	1,119	453	1,572	1,504	68
Total Approp.: PCA:	7,415	3,000	10,415	12,175	(1,760)
Agriculture Department					
Low-interest loans, best management	200	-	200	250	(50)
- Pass-through to local governments	2,100	-	2,100	2,300	(200)
Technical asst. for pasture management	590	-	590	890	(300)
- Grants to develop conservation information	210	-	210	260	(50)
Effectiveness in restoring impaired waters	200	-	200	300	(100)
- Grants for on-farm demonstrations	600	-	600	600	-
Total Approp.: Agriculture:	3,900	-	3,900	4,600	(700)
Brd. Of Water & Soil Resources					
Targeted restoration incentive payments	94	-	94	300	(206)
- Grants to soil and water conservation dist.	1,713	-	1,713	5,900	(4,187)
Targeted restoration technical assistance	63	-	63	200	(137)
- Grants to support implementation activities	1,022	-	1,022	3,662	(2,640)
Evaluation of soil & water conservation practices	63	-	63	200	(137)
Grants to counties for ISTS	755	-	755	2,400	(1,645)
Grants for lake and river protection	472	-	472	1,800	(1,328)
Streambank, lakeshore and roadside protection	755	-	755	2,400	(1,645)
Total Approp.: BWSR:	4,936	-	4,936	16,862	(11,926)
Department of Natural Resources					
Statewide assessment of surface water quality	-	-	-	710	(710)
Restoration and prevention of impaired waters	-	-	-	2,450	(2,450)
- Grants for forest stewardship	-	-	-	1,700	(1,700)
Total Approp.: DNR:	-	-	-	4,860	(4,860)
Public Facilities Authority (DEED)					
Wastewater treatment and stormwater projects	6,892	-	6,892	22,433	(15,541)
Grants for phosphorus treatment infrastructure	5,345	-	5,345	21,400	(16,055)
Total Max Daily Loan Grants	1,572	-	1,572	-	1,572
Loans for septic system replacement	1,441	-	1,441	4,582	(3,141)
Total Approp.: PFA/DEED:	15,249	-	15,249	48,415	(33,166)
Total Approp.: ALL AGENCIES:	**31,500**	**3,000**	**34,500**	**86,981**	**(52,481)**

Dan Mueller; Senate Fiscal Analyst

5/10/2005

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.

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 Tribune

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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.

MINNESOTA ENVIRONMENTAL PARTNERSHIP

Recent Press Coverage on the Need to Create a Clean Water Legacy

Pioneer Press Editorial: Water cleanup plan deserves legislators' support – 12/22/04

> "We like the plan that targets $80 million in new money for lake and river testing and cleanup. The state's waters are one of its finest assets and worthy of constant rather than occasional stewardship."

Star Tribune Editorial: Clean water; alas, a 'user fee' is necessary – 2/20/05

> "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."

Hutchinson Leader Editorial: Clean water – 2/15/05

> "Clean lakes and rivers seem to be as unifying this year as a pan of fresh sunnies frying in cracker crumbs."

West Central Tribune Editorial: Time for Legislature to OK bill on clean water – 3/2/05

> "This water act is the right thing to do for the future of Minnesota – the land of 10,000 lakes – and its people."

Pioneer Press Article: Clean water bill gains wide legislative support – 2/9/05

Star Tribune Article: User fee for water aims to clean up lakes, rivers – 2/10/05

Outdoor News Article: Impaired waters bills hit St. Paul this week – 2/11/05

Associated Press Article: Developers find dirty water limits growth – 2/20/05

Outdoor News Commentary: The Crow shows us the future – 12/24/04

> "Already officially "impaired" according to the MPCA, the Crow River will become a much less desirable river, more able to support bullheads and carp than walleyes and bass."

St. Cloud Times Article: Bill aims to clean state's waters – 2/22/05

AgriNews: Protect Our Water rally draws big crowd – 3/3/05

MINNESOTA

Water cleanup plan deserves legislators' support

A coalition of 60 environmental, farming and business organizations throughout Minnesota agree that Minnesota lakes need to be cleaned up and they've come up with a plan to do it. When groups with such divergent interests form a united front on an issue, the governor and state Legislature ought to pay attention.

We like the plan that targets $80 million in new money for lake and river testing and cleanup. The state's waters are one of its finest assets and worthy of constant rather than occasional stewardship.

If this cost-sharing proposal receives approval, the thousands of Minnesotans for whom lakes and rivers are a drinking water source will share its benefits. A cleanup will benefit all who swim and fish in our lakes. Wildlife will reap the benefits, too.

We like the plan that targets $80 million in new money for lake and river testing and cleanup.

These improvements are overdue and important. As the Legislature convenes in January, we hope partisanship is set aside on this issue and others that define the good life here and in this case, help restore it.

The proposal shares the cost by requiring a monthly $3-per-household fee on municipal wastewater connections and septic systems, but exempts the lowest income Minnesotans. Those using more water, such as businesses, will pay a higher fee. We would caution lawmakers to ensure that any money raised from such a fee be used for water-quality improvements, not just throw it into the state's general fund where it might be diverted to other purposes.

For those unconvinced of any water-quality problem, remember that earlier this year the state Health Department issued a fish consumption advisory for every Minnesota lake due to mercury contamination. The state Pollution Control Agency has tested 8 percent of the state's rivers and 14 percent of its lakes for pollution. Of that total, 40 percent are contaminated with animal and human waste, algae from phosphorus, mercury and fertilizers.

A refusal to address these matters has other ramifications — a federal Clean Water Act prohibits communities and businesses from expansion if they're located near a contaminated lake, river or stream. To proceed with development, a cleanup plan must be in place.

We're happy to see a coalition of partners who are eager to tackle the state's water pollution challenges. Members of the League of Minnesota Cities, the state Chamber of Commerce, the Minnesota Environmental Initiative and the state Farm Bureau Federation joined with others to resolve a complex matter.

All Minnesota waters need to be clean. It's time to transform the land of murky blue contaminated waters back into the land of sky blue waters.

OPINION

Star Tribune Editorial

www.startribune.com/opinion e-mail: opinion@startribune.com

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.

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JUDGED THE NATION'S BEST NON-DAILY NEWSPAPER BY THE INLAND PRESS ASSOC., 2004
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EDITORIAL: Clean water

Tuesday, February 15, 2005

Leader editorials are written by Publisher Matt McMillan and Editor Doug Hanneman

Lake Minnie Belle is clean. On a summer day, you can wade in up to your neck, look down and see your toes.

Politicians who normally fight each other are rallying to keep lakes like Minnie Belle clear while cleaning up impaired or polluted lakes and rivers. We admire their bipartisanship and the noble goal of the proposed Clean Water Legacy Act.

Steve Dille, R-Dassel, is co-author of the clean water bill in the Minnesota Senate. In the House, there are 32 authors, 15 Republican and 17 Democrat. It is heartening to see such cooperation. Clean lakes and rivers seem to be as unifying this year as a pan of fresh sunnies frying in cracker crumbs.

There is reason to rally support, too. New limits on growth around impaired waters such as the Crow River are looming. Without plans in place to clean such rivers and lakes, the federal government can halt growth. That sends a chill into diverse groups of Minnesotans.

Sen. Dille told the Leader that the Minnesota Chamber of Commerce, Minnesota Farm Bureau and the Minnesota Center for Environmental Advocacy all recently spoke in favor of the bill. Gov. Pawlenty is in favor, too. It would place a $3 per month fee on each rural septic system and city home. Commercial properties would pay by water volume consumed. If implemented, the fee will raise about $80 million to $85 million in Minnesota annually.

Since the federal government is applying the pressure, it is also chipping in money. Farmers would get more money for buffer strips, septic conservation compliance and record keeping for livestock operations. Only watersheds that are listed in the federal farm bill are eligible for the extra federal money.

The Crow River watershed is not currently listed, but five watersheds are added each year. The five watersheds added this year are Red Lake, Red Eye, Redwood, Root and Sauk rivers. Getting the impaired Crow River on the list is important for payments to area farmers and for people who care about the water quality of the river.

If the Clean Water Legacy Act is passed in Minnesota, all the money would go into existing programs such as the Public Facility Authority that helps build city wastewater treatment plants, Department of Natural Resources and the Board of Water and Soil that pays farmers to build buffer strips of grass near streams and rivers. These strips of vegetation help prevent soil and chemicals from farm fields from running directly into a river during rainstorms.

We applaud Sen. Dille and all of the folks involved in trying to help clean up Minnesota's lakes and rivers. Water is Minnesota's claim to fame. It is great to be able to stand in Lake Minnie Belle, or any lake or river, and see that sunny coming before it nibbles your leg.

Readers leaving their full name and e-mail address in the article comment area will have their comment considered for online publication.

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Time for Legislature to OK bill on clean water

Wednesday, March 02, 2005
Tribune Editorial

A major effort to clean Minnesota waters is running into shortsighted opposition in the Legislature. The time for Minnesota to move forward in a unified approach of the Clean Water Legacy bill is here.

This water act is the right thing to do for the future of Minnesota -the land of 10,000 lakes -and its people.

Minnesota's water quality levels are not good. A state survey of 14 percent of state lakes and 8 percent of its rivers found that nearly 40 percent are considered polluted. The Minnesota Pollution Control Agency estimates that within 10 years, 10,000 water bodies will be declared polluted.

The facts are simple. The sooner the state begins addressing the work needed on water quality, the better off all Minnesotans will be.

The proposed act will be debated in the coming weeks at the Legislature. Under the act, homeowners would pay $36 per year and businesses would pay from $120 to $600 per year to fund the water cleanup work.

Opposition is coming from county and city officials worrying about being blamed by citizens for the water tax. Small businesses are complaining they would have to pay too much. Other businesses say that they end up paying for the businesses that are the greatest polluters.

The question for the bill's critics is this: How much will it cost each person and business in Minnesota if the state does nothing?

Water resources in Minnesota contribute an estimated $9 billion per year to the state economy, according to experts. That is an industry worth protecting and investing in.

Let's find a fee structure that will work for everyone involved and pass Minnesota's Clean Water Legacy bill.

Then let's get started on solving Minnesota's water-quality problem and improving the lakes and rivers that are our state's legacy.

Posted on Wed, Feb. 09, 2005

Clean water bill gains wide legislative support

BY DENNIS LIEN
Pioneer Press

Two key Minnesota lawmakers are championing a bill aimed at cleaning up polluted state lakes and rivers, a move that appears to improve the chances the "Clean Water Legacy" package will pass the Legislature this session.

The support Wednesday from the leaders of the Senate and House, Majority Leader Dean Johnson, DFL-Willmar, and House Speaker Steve Sviggum, R-Kenyon, follows recent public statements from Gov. Tim Pawlenty that he would sign such a bill if it reaches his desk.

Johnson and Sviggum agreed recently to co-sponsor the bills, which were introduced this week and would raise $80 million a year from new fees on state residences and businesses. The effort, required under the federal Clean Water Act, is expected to take decades and cost billions of dollars.

"It's very important that Sen. Johnson and his caucus are behind this effort," said the bill's chief Senate sponsor, Sen. Dennis Frederickson, R-New Ulm. "It's pivotal."

Urging the state to act soon or to face lawsuits and federal sanctions later, a broad coalition of supporters, representing businesses, cities, agriculture and the environment, have spent two years crafting the package. But with Pawlenty's "no new taxes" pledge, the sticking point has been how to pay for it.

At a press conference Wednesday, supporters did their best to avoid saying the proposed fees could be interpreted as taxes. Johnson even joked that fees and taxes would see expanded definitions as the legislative debate unfolds.

Pawlenty spokesman Brian McClung said the governor considers the new money a fee, not a tax.

"This type of arrangement is a user fee for a user purpose that is specifically directed," McClung said. "There are numerous other examples in the state and they are considered fees."

McClung said Pawlenty considers the effort extremely important.

"The governor has said Minnesota cannot become the land of 10,000 impaired waters," McClung said. "Clean water is really something that everyone in Minnesota has a stake in and a desire that we pass on.

"From the governor's perspective, he has been very consistent that this is a problem that needs to be dealt with this year," McClung added. "He is hopeful the Legislature takes action."

Under the plan, $80 million a year would be raised by charging a $36 fee on residential sewer connections and septic systems and a $120 to $600 annual fee for businesses, depending on how much water they use. Exemptions would be allowed for low-income residents.

The money would be put into an account that would pay for a federally required evaluation of Minnesota waters and a clean-up of those found to be polluted.

Unless action is taken, cities and businesses hoping to expand will run afoul of the Clean Water Act and will face serious restrictions on the types of development they can pursue. The act says no new or increased wastewater discharges to water bodies on the state's "impaired" waters list can be allowed without a cleanup plan in place first.

So far, the state has only been able to test 8 percent of its rivers and 14 percent of its 10,000-plus lakes. About 40 percent of the river or water bodies that have been tested have been found to be contaminated by pollutants such as human or animal waste, algae from phosphorus, mercury and fertilizers.

When the coalition looked for ways to pay for the cleanup plan, it ran into a problem. Most of the pollution now funneling into lakes and streams is urban and rural runoff, meaning there's often no identifiable source.

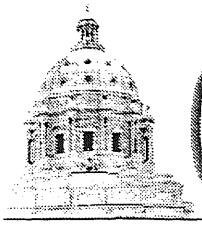
As a result, the coalition decided to spread the payments broadly. Under its proposal, residential sewer users would pay $34 million a year; septic users, $19 million; apartment dwellers, $14 million; and businesses, $13 million. It said that money would attract tens of millions of dollars a year from other federal, local and private sources.

The highest priority, it said, should go to projects that directly restore water quality. Accordingly, it recommended $38 million a year go to cities to upgrade wastewater treatment plants, $21 million to reduce pollution runoff, $8.5 million for strategies that keep existing lakes and rivers clean, and the rest for continued testing and administration.

A bipartisan group of 30 lawmakers signed on as co-sponsors on the House bill and the maximum of five legislators put their names on the Senate bill.

"Clean water is not a Democratic or Republican issue," said Rep. Dennis Ozment, R-Rosemount, and chairman of the House Agriculture and Natural Resources Finance Committee. "It's a Minnesota value."

Dennis Lien can be reached at dlien@pioneerpress.com or 651-228-5588.



CAPITOL REPORT

A daily review of action in the Minnesota Legislature

CLEAN WATER LEGACY BILL

User fee for water aims to clean up lakes, rivers

By Mark Brunswick
Star Tribune Staff Writer

Each home in Minnesota would be charged an additional $36 a year for the water it uses and businesses would be charged an additional $120 to $600 a year under a proposal to generate $80 million a year to clean up the state's polluted lakes and rivers.

A coalition of business, agriculture, local government, and environmental groups on Wednesday proposed the Clean Water Legacy Bill, which will use the money generated by user fees to accelerate testing of Minnesota waters and to clean up the state's most contaminated rivers and lakes.

Only 8 percent of river miles and 14 percent of the state's lakes have been tested for pollution, and 40 percent of those are contaminated. About 85 percent of the money generated will go to clean up the state's most polluted waters. The bill, recently introduced into the Legislature, also would provide money for pollution prevention programs.

"Clean water is not a Democrat or Republican issue. It's a Minnesota value," said Rep. Dennis Ozment, R-Rosemount, the chief author of the bill in the House.

Under provisions of the bill, the fees eventually will generate about $85 million a year when fully implemented in fiscal year 2009. The money will be used to monitor and assess the state's waterways and to initiate land and water treatment programs, often through leveraging other state, federal, local and private funds.

The coalition came together under the threat that cities, manufacturing plants, small businesses and food processing facilities would not be allowed to expand unless contaminated waters near them are cleaned up.

The federal Clean Water Act requires states to assess their lakes and streams, and to list as "impaired" those that contain too much mercury, fertilizers, phosphorus, human and animal waste, or other contaminants. Once a body of water is listed as impaired, development that would increase its pollution, including larger discharges from wastewater treatment plants, would not be allowed.

Under the proposal:

➢ Each residential dwelling that receives a bill for discharging into a sanitary sewer system or with a septic system will be charged an additional $36 per year. "Hardship exemptions" will be made for those who can't afford to pay the additional expenses.

➢ Businesses will be charged from $120 per year to $600 a year, depending on how much water a day the business uses. Businesses will pay about 15 percent of the total revenue, based on state estimates that 15 percent of the pollution problem comes operations that have permits to discharge wastewater.

The bill has bipartisan support in both the House and Senate and has been endorsed by the administration of Gov. Tim Pawlenty, whose Pollution Control Agency will administer much of the funding. Pawlenty has said that if the bill gets through the Legislature, he would sign it.

While Pawlenty has said he is opposed to any new tax increases, Pollution Control Agency Commissioner Sheryl Corrigan argued that the water charges reflect a philosophy of the user fee rather than that of a tax.

Mark Brunswick is at mbrunswick@startribune.com.

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Feb. 11, 2005 THE MIDWEST'S LEADING OUTDOOR WEEKLY NEWSPAPER

Impaired waters bills hit St. Paul this week

By Joe Albert
Staff Writer

St. Paul — Senate and House bills addressing impaired waters track closely with the recommendations of a group of environmental, business, and farm interests, which last year outlined a strategy to clean up Minnesota's waters.

The proposal, known as "The Clean Water Legacy," would raise about $80 million per year through new user fees on septic systems and sewer connections. Bills have been introduced in the Senate and House, and proponents are optimistic the proposal will become law this session.

"It does seem to be something that's politically viable," said Anne Hunt of the Minnesota Environmental Partnership.

The group proposed a similar fee in 2004, but tweaked it this session to include exemptions for those who couldn't afford to pay the fee — $36 per year for residential sewer and septic system hookups; between $120 and $600 per year for businesses, based on their water usage.

(See **Impaired Waters** Page 29)

FEBRUARY 11, 2005

Impaired Waters

(From Page 1)

Gov. Tim Pawlenty indicated he would sign this version of the bill, Hunt said. Sen. Dennis Frederickson, R-New Ulm, carried the bill in the Senate. Rep. Dennis Ozment, R-Rosemount, carried it in the House. Other authors include Speaker of the House Steve Sviggum, R-Kenyon, and Sen. Majority Leader Dean Johnson, DFL-Willmar.

The money raised would be spent on three areas: monitoring and assessment of lakes, rivers, and streams; funding the work required by the federal Clean Water Act for waters listed as impaired, called total maximum daily load, or TMDL; and protection and restoration of the state's waters.

More than $11 million would be collected and spent during fiscal year 2006, which begins July 1, 2005. The full $80 million would be collected and spent beginning in fiscal year 2007.

A "Clean Water Council" made up of many of the stakeholders who drafted the proposal would oversee distribution of the money.

The majority of money raised would protect and restore impaired waters. In 2006, more than $7.3 million of the $11 million, or about 66 percent, would go for protection and restoration. When the act is fully implemented, more than $72 million, or about 90 percent, will be used to protect and restore point and non-point pollution sources.

"These resources would all go to needs that are well identified and well articulated," said Nelson French, the Minnesota Pollution Control Agency's legislative liaison.

The group of supporters included agencies such as the Minnesota Chamber of Commerce, Minnesota Farm Bureau, and the League of Minnesota Cities. They proposed more than $2 million for the assessment of streams, lakes, and rivers in 2006. That number would reach more than $7 million by 2009.

So far, 14 percent of the state's lakes, and 8 percent of river miles, have been tested. Forty percent of the waters tested were found to be contaminated with things like mercury, phosphorous, and human and animal waste.

The Clean Water Act mandates that states test their waters; identify any pollutants and where they originated; figure out how much contamination the water can absorb while still maintaining quality standards; and develop a cleanup plan. Noncompliance can expose the state to lawsuits, and can limit development on impaired waters.

"We've always considered it an environmental imperative to clean these up, but the way the Clean Water Act works, it's also becoming an economic development imperative," said John Curry, legislative director for the Minnesota Center for Environmental Advocacy.

Economic benefits aside, anglers will benefit from cleaning up waters, Curry said.

"This is the act that will turn our bullhead and carp fisheries into much better game-species types of waters," he said.

Posted on Sun, Feb. 20, 2005

DuluthNewsTribune.com

Developers find dirty water limits growth

BY PATRICK CONDON
ASSOCIATED PRESS

ANNANDALE, Minn. - 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 in Annandale because they say rivers and lakes are 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 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.

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 the Minnesota Pollution Control Agency violated the 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.

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.

Annandale, with 2,800 residents, and Maple Lake, with 1,600, are on the west end of Wright County, the third-fastest growing county in Minnesota in the 2000 census, and among the top 100 in growth nationwide. The area -- about 60 miles west of the Twin Cities and 30 miles south of St. Cloud -- is drawing residents from both metropolitan areas willing to trade a longer commute for rural amenities.

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Dec. 24, 2004 THE MIDWEST'S LEADING OUTDOOR WEEKLY NEWSPAPER™

COMMENTARY

The Crow shows us the future

By Martha Brand
Executive Director
Minnesota Center for Environmental Advocacy

A day fishing on the North Fork of the Crow River in Stearns, Meeker and Wright counties should yield plenty of catch: mostly catfish, shiners, and carp, but also a chance of catching northern pike, smallmouth bass or walleyes. Casting and drifting south and east toward its confluence with the Mississippi, we see the influence of growth as the landscape changes from farmland to residential land between Annandale and Maple Lake. Drifting farther, we encounter a wetland north of the Crow, stretching a mile long to where it meets an unnamed creek. Less than a mile up the unnamed creek a wastewater treatment facility has been approved so that Annandale and Maple Lake can continue to grow. To accomplish this feat the residents of Annandale/Maple Lake will be charged $25.20 on their sewer bills. They will see additional residential and commercial growth to the possible benefit of the tax base, but to the detriment of the Crow and its fish.

The Crow River anglers of tomorrow, boating at the same site just south of the wetland, will be floating in one million gallons per day of treated human waste. In fact, the Minnesota Pollution Control Agency (MPCA) estimates that during the dry seasons of the year, most of the water flowing in the Crow River will be treated wastewater. Treated, but still containing contaminants that will further deteriorate the river, especially reducing the dissolved oxygen upon which the fishery depends. Already officially "impaired" according to the MPCA, the Crow River will become a much less desirable river, more able to support bullheads and carp than walleyes and bass.

This story is so commonplace and routine in Minnesota that it's not even a story anymore. The Crow River story can be told about thousands of lakes and rivers in Minnesota. The river and these cities represent Minnesota's future everywhere. Currently, Minnesota has 2,000 lakes and rivers that are contaminated, and like the Crow River, they require a cleanup plan before additional sources of pollution (aka "development") can occur. Even more vexing, Minnesota hasn't even tested most of our waters to find out if they are contaminated. The best estimates available show that 40 percent of our lakes and rivers are contaminated, which will require more than 10,000 mandatory cleanup plans.

The recent story of adding pollutants to an already polluted Crow River seems counterproductive and working against the interests of the river and Minnesota's citizens. What most people don't know is the federal Clean Water Act actually requires Minnesota to address its pollutant problems with a cleanup plan before new sources of that pollution can be added. To comply with federal law, in November 2004, the Minnesota Center for

(See **Commentary** Page 34)

Commentary

(From Page 3)
Environmental Advocacy (MCEA) brought the first lawsuit in state history preventing a new source of pollution until a watershed-wide cleanup plan is in place.

MCEA's suit demands that the Crow River be protected by a science-based comprehensive plan that will require coordination of all the watershed's pollution sources and will contemplate all of the expected future growth. This is the first time Minnesotans have asserted the federal Clean Water Act in this way, but MCEA has already raised the issue in additional cases such as the proposed large wastewater expansion by Elko/New Market to the Vermillion River.

This lawsuit isn't meant to stop development. It simply calls for development to occur in a common sense and carefully thought-out way that protects the lakes and rivers for fishing, swimming and drinking. Lawsuits are not the first choice to make conservation policy changes. Instead, our state's political leaders need to establish the framework and the funding so that local communities can proactively put together cleanup plans that coordinate growth and the protection of our waters and wildlife.

Fortunately, proposals to address this challenge are ready to go before the Legislature and governor in 2005. With coordination from farm organizations, local governments, environmental groups and the Chamber of Commerce, Minnesotans recognize the urgency and need fo a long-term plan that protects our waters and allows for thoughtful growth.

Somewhere on the rocky bottom beneath our boat on the Crow River, a smallmouth bass spawns. If all goes well, the bass and its offspring will be protected and so will the economic activity in Annandale and Maple Lake. This first lawsuit is an important signal to the governor and the Legislature — stop ignoring our troubled lakes and rivers. Pass the cleanup legislation brought to you by business, environmental, farming and city leaders across the state. Our economic prosperity, our wildlife and our natural heritage depend on it.

St. Cloud Times 2/22/05

Bill aims to clean state's waters

By Lawrence Schumacher
lschumacher@stcloudtimes.com

More than 92,000 miles of rivers and streams carve their way through Minnesota, connecting more than 1[illegible] lakes and giving [illegible]a more shore land tha[illegible]any other state in the continental United States.

But Minnesotans know little about the quality of the state's surface water.

More than 30 years after a landmark federal law aimed at monitoring and cleaning up water pollution, only 14 percent of Minnesota's lakes and only 8 percent of its rivers have been tested.

"Minnesota needs to get serious about cleaning up its water," said Ann Hunt of the Minnesota Environmental Partnership. "We haven't been doing a great job of living up to federal law, and it will take decades more unless we come up with another solution."

The other solution [illegible]d a partnership [illegible]onmental, business, municipal and farm groups have proposed is the Clean Water Legacy bill, which would raise $80 million a year for increased surface water testing and cleanup by charging everyone in the state a sewer or septic system fee.

Known as SF762/HF826, the bill will receive its first committee hearings in the Legislature this week. Supporters plan a rally Wednesday at the Capitol to shine a spotlight on the issue, and leaders from both sides of the aisle have pledged their support and promised quick action.

What's next

On Wednesday, a look at the future of Central Minnesota lakes, rivers and streams that have been designated as "impaired" for having higher-than-acceptable levels of contaminants such as mercury, phosphorus and fecal coliform.

Who pays?

- Homeowners: $36 a year.
- Apartment owners: $36 a unit per year.
- Commercial/industrial owners: $120-$600 a year per sewer hookup, depending on waste generated.

How much total?

- Single-family municipal homes: $34 million a year.
- Rural septic system users: $19 million a year.
- Apartment complexes: $14 million a year.
- Industrial/commercial: $13 million a year.

Source: Minnesota Pollution Control Agency.

See BILL, 5A ▸

From Page 1A

Bill

"Who's going to be against cleaning up the state's waters? I don't think there will be many hands raised," said Senate Majority Leader Dean Johnson, DFL-Willmar.

One reason for the bill's strong early support is that, should Minnesota fail to speed up its efforts, the federal government stands ready to punish it. The state could lose federal grants, cities could be denied permits to expand sewer systems and businesses could find it more difficult to grow as a result.

That realization has prompted grudging support even from conservative watchdog groups such as the Taxpayers League of Minnesota.

"It's not an ideal solution, but there is a public good being served," league President David Strom said. "The problem definitely exists and can only be solved by government in some form."

Slow going

About 40 percent of the water that has been tested shows signs of pollution from mercury, sediment, algae from phosphorus contamination and human or animal waste, said Sheryl Corrigan, commissioner of the Minnesota Pollution Control Agency.

Such "impaired" waters must be cleaned up, according to a timetable set by the Federal Clean Water Act. It requires states to create and implement a plan to reduce pollution on impaired waters within 13 years of identifying them, or be penalized.

Corrigan cites ongoing collaboration with the University of Minnesota to identify the most polluted waters and with local soil and water conservation districts and watershed districts to clean them up.

But from more than 1,900 violations found so far, Minnesota has completed only five cleanup plans, with 20 to 30 more being written.

"Despite these efforts, we still need extra resources to devote to the rest of the waters in the state," she said.

DAILY 7 POLL

How should Minnesota pay to clean up its impaired lakes, rivers and streams?

Vote at www.sctimes.com. Results will be on tomorrow's Opinion Page.

Dime a day?

Written by Rep. Dennis Ozment, R-Rosemount, and Sen. Dennis Frederickson, R-New Ulm, the Clean Water Legacy bill would charge homeowners $36 a year on either their city utility bills or annual property tax statements.

Businesses would pay $120 to $600 a year for every sewer hookup they have.

The fees would go to a dedicated environmental fund that would pay for testing lakes and rivers, help cities upgrade their sewage treatment systems or provide grants to local soil and water, watershed, river and lake associations for cleanup projects, Ozment said.

The state would create a Clean Water Council to oversee those activities and the almost $365 million a year already being spent on water quality issues statewide, Fredrickson said.

With the added money, the state could test up to 40 percent of its surface waters within the next 10 years to provide a more complete picture of water quality, Corrigan said.

Coalition building

An unusual coalition has gathered around this issue in the past two or three years, prodded by the realization that the state is not doing enough to meet the Clean Water Act requirements, said Craig Johnson of the League of Minnesota Cities.

The league, the Minnesota Chamber of Commerce and Minnesota Farm Bureau have joined the environmental coalition represented by the Minnesota Environmental Partnership.

For cities, it's the realization many can't afford the sewage treatment improvements that might be needed, Johnson said.

If cities can't fix the problem, industries and businesses within them can't grow, said Mike Robertson of the Minnesota Chamber of Commerce.

"This is important from a business standpoint as well as an environmental standpoint," he said. "It affects our competitiveness."

Farmers hope the fund will allow the state to leverage more federal conservation dollars to reduce runoff and erosion problems, said Chris Radatz of the Minnesota Farm Bureau Federation.

Fee or tax?

Despite the extra money Minnesotans would have to pay, the bill enjoys Republican support in the Legislature, including that of House Speaker Steve Sviggum, R-Kenyon, who is a co-author.

Gov. Tim Pawlenty would sign the bill if it reached his desk, though he also is open to alternatives, press secretary Brian McClung said.

Pawlenty, Corrigan, Strom and others call the plan a fee increase, not a tax increase, because "it is something users pay to improve a service they receive," McClung said.

For Dean Johnson, the argument is more semantic.

"A fee is a fee and a tax is a tax, but it's still money taken from a constituent, from a taxpayer," he said. "But if somebody feels a 10-cent-a-day tax is not good, but a 10-cent-a-day fee is okay, we'll take the fee."

Fair share

About 85 percent of the $80 million would come from residential property owners in cities and rural areas, including farms. Commercial and industrial properties would pay about 15 percent.

While the state estimates that commercial and industrial property accounts for 25 percent of the state's total sewage, such sources only account for about 15 percent of the pollutants in the state's water, Robertson said.

"We feel it's an appropriate amount for businesses to contribute," he said.

Part of the bill would allow local governments to exempt low-income homeowners from paying the fee, he said.

On the Net

Follow SF762/HF826 on the Web throughout the session at www.leg.state.mn.us/leg/legis.asp.

Agri News

Protect Our Water rally draws big crowd

'We want to see blue waters, not green waters'

By Janet Kubat Willette

jkubat@agrinews.com

ST. PAUL — It was a sea of blue as supporters of clean water rallied Feb. 23 in the Capitol rotunda.

Blue T-shirts reading "Protect Our Water" were everywhere and paper cutouts of fish dangled from above as speakers stepped to the podium to energize the crowd.

"Protecting our water is the right thing to do," said Gary Botzek of the Minnesota Environmental Partnership, encouraging supporters of Protect Our Water legislation to wear their blue T-shirts as they met with their legislators.

"We want to see blue waters, not green waters," he said.

The six parts of Protect Our Water are the Clean Water Legacy Act, keeping mercury out of water and fish, making long-term investments in conservation, supporting responsible off-highway riding, giving two cents to the outdoors and protecting the rights of local communities.

By the numbers

- 40 percent of the lakes and rivers tested for pollution in Minnesota are polluted.
- 8 percent of the state's river miles have been tested.
- 14 percent of the state's lakes have been tested.
- The Minnesota Environmental Partnership estimates it will cost $270 million per year to test all the the state's lakes and rivers and begin clean up.

Johnson

An unlikely coalition has joined to support the cornerstone of the Protect Our Water agenda: The Clean Water Legacy Act, said Marie Zeller, Clean Water Action regional director.

The act is supported by Minnesota Farm Bureau, Minnesota Farmers Union, Minnesota Chamber of Commerce, League of Minnesota Cities and members of the Minnesota Environmental Partnership.

It will generate almost $80 million annually to protect and clean up the state's waters through a $3 per month assessment on septic systems and wastewater connections. Farms fall in this category. Businesses will pay $120 to $600 per water outlet.

Senate Majority Leader Dean Johnson said he supports the legislation because the waters of the state need help.

Johnson, a Willmar DFLer, said he learned environmentalism on a southeastern Minnesota farm just outside the little town of Lanesboro. His father, who passed away in December, taught him that unless he cares for the water and the soil he'll have nothing.

He still remembers the day the man with a suit and tie came to their farm and sat at their kitchen table to present his father with a conservation award.

It was the only award his eighth-grade educated father ever received and he kept it in his bedroom and his nursing home room until the day he died.

"If you take care of the land and the water, the resources will take care of us as well," Johnson said, pledging to reach across the aisle to pass the Clean Water Legacy.

"Clean Water is not a Republican or Democratic issue, it's a Minnesota value," said Rep. Dennis Ozment, R-Rosemount, the lead author of the House bill. "The Clean Water Legacy is the right thing to do."

Ozment

The act won't create more government or more programs, Ozment said. Instead, it will provide resources and coordination to efforts already unde rway across the state.

Everyone needs to keep clean water a priority as they go about their daily lives, Ozment said, making best management practices a way of life.

"You have your rally here today, but your assignment is just beginning," Johnson said.

The bill had its first committee hearings last week in the House and Senate Environment and Natural Resources Committees.

"The reception, I think, has been very positive," Botzek said.

The act provides the mechanism and funding to clean up impaired waters, Botzek said. Impaired waters don't meet federal water quality standards and failure to clean them up could result in economic loss.

A lawsuit has been filed to stop residential development in the Annandale, Maple Lake area because of impaired waters. Ethanol plants or other value-added agriculture plants could meet the same fate.

The funding mechanism, which amounts to 10 cents a day per household, has been criticized, Botzek said, but money is needed to finance efforts already unde rway to clean up and protect the state's waters.

Minnesota Pollution Control Agency

Regional Environmental Management TMDL Program

South Branch Yellow Medicine Fecal Coliform TMDL Project

Water Quality/Basins #3.08, June 2004

The South Branch of the Yellow Medicine River, located in Lincoln and Lyon Counties in southwestern Minnesota, has been placed on Minnesota's 2004 list of impaired waters for fecal coliform bacteria. Fecal coliform bacteria entering the South Branch must be reduced by 82 percent in order to meet the water quality standards set to protect swimming and other recreational uses, according to a draft report by the Minnesota Pollution Control Agency.

The report describes the fecal coliform bacteria impairment and proposes strategies to achieve the water quality standard. Fecal coliform bacteria come from the intestines of warm-blooded animals. If fecal coliform bacteria are present, disease causing organisms may be in the water also.

Clean Water Act TMDL program

The report is part of a nationwide effort under the federal Clean Water Act to identify and clean up pollution in streams, rivers and lakes. Every two years states are required to submit a list of impaired waters to the U.S. Environmental Protection Agency (EPA). States and local organizations must determine the total maximum daily load of pollutants that a water body can carry and still meet water quality standards. Citizen participation is an important component of the Total Maximum Daily Load (TMDL) process.

The South Branch of the Yellow Medicine River flows about 38 miles on a southwest to northeast course through a subwatershed of 79,731 acres. Nearly 99 percent of the area is in cropland. The population totals about 1,730, with the majority residing in the city of Minneota, population 1,550. Extensive ditching has improved agricultural production, but it also has increased stormwater runoff, carrying nutrients and sediment into the river.

The focus of the South Branch Yellow Medicine River TMDL project is to understand the cause-effect relationships between land use practices and water quality in terms of fecal coliform bacteria. Sampling at 11 sites in 1999, and 25 sites in 2001 showed impairment by fecal coliform bacteria during at least one summer month. Six of the sites were used in both sampling years.

The water quality standard for fecal coliform bacteria is an average of 200 colony forming units (CFU) per 100 milliliters (mL) of water. Above this level there is greater risk of disease caused by bacteria. This causes the water to be less suitable for swimming or recreation. The average count in the South Branch during the summer was 970 organisms per 100 mL.

After determining the need for an 82 percent reduction in fecal coliform loading, the report calls for a focus on high priority subwatersheds for implementation activities, and continued intensive monitoring to measure the success of the plan and performance of specific implementation activities.

Sources of fecal coliform bacteria

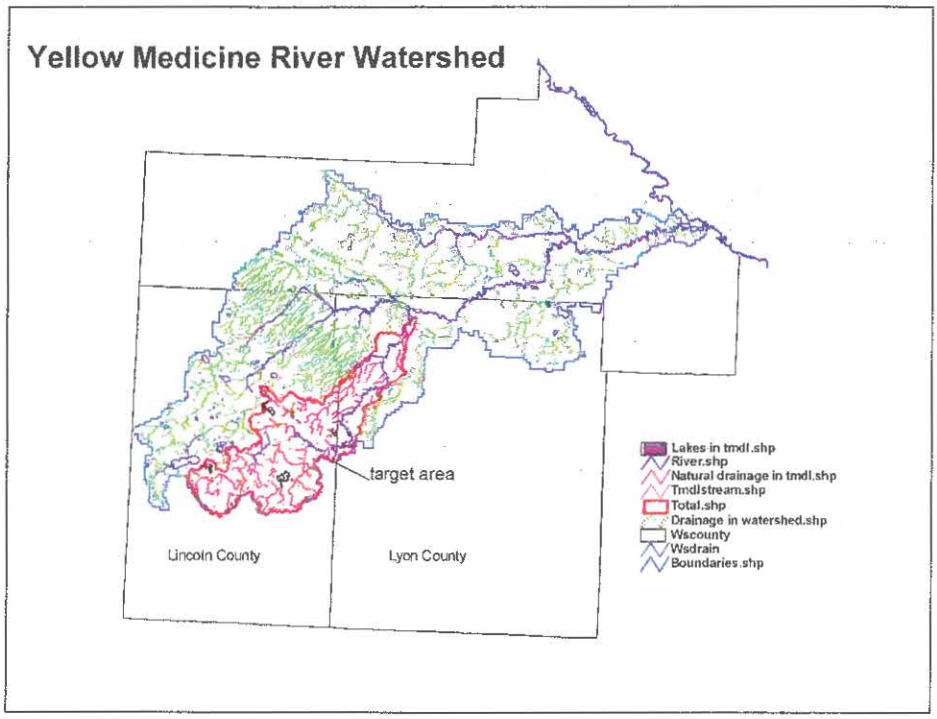
There were two primary sources of fecal coliform bacteria. The major source was associated with the land application of stored manure, dominant during wet periods. Non-compliant septic systems (direct discharges of sewage) also were

MPCA Area Offices:

Rochester area:
507/285-7343
Mankato area:
507/389-5977
Marshall area:
507/537-7146
Willmar area:
320/214-3786
Detroit Lakes area:
218/847-1519
Brainerd area:
218/828-2492
Duluth area:
218/723-4660
Metro area:
651/296-6300
Toll-Free Number:
800/657-3864

Minnesota Pollution Control Agency, 520 Lafayette Rd. N., St. Paul, MN 55155-4194
(651) 296-6300, toll-free (800) 657-3864, TTY (651) 282-5332 or (800) 657-3864
This material can be made available in alternative formats for people with disabilities.

sources of bacteria, tending to be more significant during dry periods. Runoff from overgrazed pasture was a minor source of bacteria. Drain tiles with surface intakes are considered a significant fecal coliform delivery mechanism.



82 percent reduction needed

The Yellow Medicine River Watershed District has embraced a watershed-wide goal of achieving water quality standards for fecal coliform bacteria within 10 years, the same time frame as the TMDL. To achieve the water quality goal of 180 organisms/100ml, an 82 percent reduction in fecal coliform loading is required. The TMDL results suggest that it is crucial to get this level of reduction in the areas of animal production and manure handling, including the animal confinement, manure containment, and manure soil application aspects. The Minneota wastewater treatment plant is optimized and is a very small loading source.

A spread sheet matrix approach was used to evaluate the data. The matrix indicates that the TMDL water quality goal of 180 organisms/100ml is satisfied in the spring and fall, but fails to meet the standard during the summer season. The matrix shows that the vast majority of the bacterial loading to the stream is from manure application; urban, point, and wildlife bacterial loads are insignificant in comparison.

Public involvement necessary

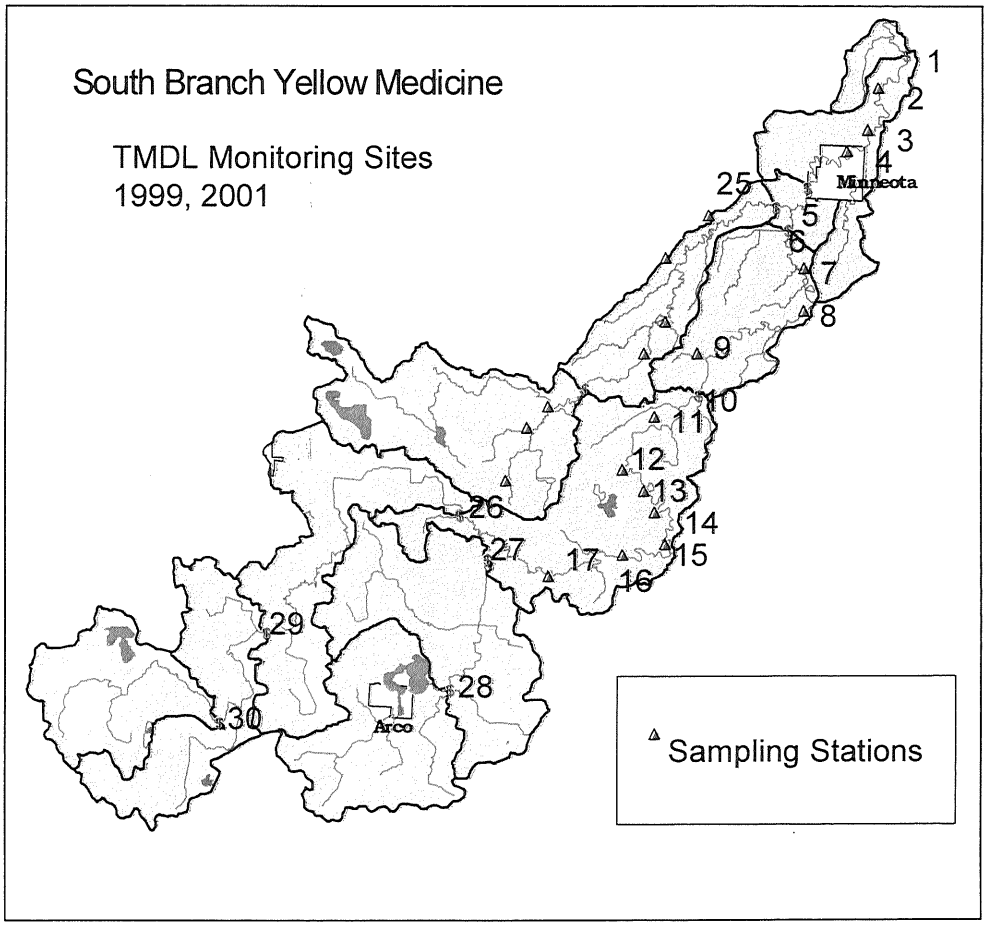
Public participation has been the hallmark of the South Branch TMDL from the beginning. Two public meetings have been conducted following the diagnostic phase of the TMDL. A feedlot survey was conducted using the Lincoln and Lyon SWCD staff. To complete the survey, several landowners were approached on a one-to-one basis to obtain the feedlot data. Throughout the current Phase II CWP implementation plan, landowners have been involved in planning and implementing nutrient control strategies.

An agricultural watershed will never be as pristine as its former pre-settled state. Realistic goals should reflect the constraints of the local economy and subsequent land use practices. The implementation controls must be contiguous with the local culture, in that a great degree of local "buy in" is necessary for the general success of the project. The project staff, partners, and technical committee feel the goals are realistic and obtainable, and that the initial success of the implementation plan is crucial to the long term management of the watershed water quality. Following EPA approval of the TMDL report, several meetings with the watershed "stakeholders" will be conducted presenting the draft implementation plan for public comment and input. The final implementation plan will be modified by the input and approval of the stakeholders.

Implementation strategies

Implementation strategies are directed at manure management since it is considered to be the vast majority

of the loading to the river. Strategies under consideration include terraces, grass waterways, sediment control watersheds, CREP/CRP, sewer systems, tillage practices, buffer strips, filter strips, replacement of open tile intakes with blind intakes, nutrient and pest management, the EQIP program, French intakes, crop residue, riverbank restoration, wetland restoration, and feedlot control methods. Manure is considered to be the vast majority of the loading to the river and will subsequently require the most attention. New feedlot rules require that manure management plans be developed for any feedlots that need a permit. Buffer strips, immediate incorporation, and maintenance of surface residue have been demonstrated to reduce manure and pathogen runoff. For feedlots of 300 animal units or less the rule consists mainly of maximizing participation in the new Open Lot Agreement.



Stream buffers are considered to be the best alternative for controlling the bacterial runoff to the streams. The diagnostic study has shown that rainfall events drive stream fecal coliform levels to exceedence levels at 24 of 25 monitoring sites. Other implementation tools are: rotational grazing, conservation tillage, and residential wastewater treatment. The leadership of the implementation will be sponsored by the Yellow Medicine River Watershed District Managers.

For more information

For more information on the Yellow Medicine River fecal coliform bacteria TMDL project, contact Muriel Runholt, MPCA-Marshall, 507-537-7137; or Terry Renken, Yellow Medicine River Watershed District, 507-872-6720.

General information on TMDLs can be found on the Web at the following sites:

Minnesota Pollution Control Agency
www.pca.state.mn.us/water/tmdl/
www.pca.state.mn.us/water/basins/mnriver/index/

U.S. Environmental Protection Agency
www.epa.gov/owow/tmdl/

TMDLs.net - America's Clean Water Foundation and the Association of State and Interstate Water Pollution Control Administrators
www.tmdls.org/

Frederickson

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

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

MASWCD

Minnesota Association of Soil and Water Conservation Districts
790 Cleveland Avenue South, Suite 201, St. Paul, MN 55116 651-690-9028 www.maswcd.org

Minnesota Association of Soil & Water Conservation Districts
Election of Soil & Water Conservation District (SWCD) Supervisors

Whereas; Minnesota's Soil & Water Conservation District (SWCD) Supervisors are elected on the general ballot; and

Whereas; SWCDs work with private landowners to implement conservation projects throughout their local district. SWCDs benefit by having local elected supervisors familiar with the landscape, landuse, soil type and other natural resources issues throughout their district; and

Whereas; SWCDs have five supervisor districts for purposes of nomination of election; and

Whereas; SWCD statute provides for supervisors to be elected on a county-wide basis; and

Whereas; In 2003, the MASWCD updated the SWCD statute to also allow SWCDs the option to be elected by nomination districts. The SWCD statute allows discretionary authority for SWCDs, with the approval of the Board of Water and Soil Resources, to change from the current county wide election of supervisors to election by a nominating district. If a SWCD chooses to move to election by a district it requires that the supervisor districts must align with county commissioner districts. It also allows the number of supervisors to be greater than 5 in counties with more than 5 county commissioner districts such as Dakota, Ramsey, Hennepin, and St. Louis.

Therefore be it resolved; The Minnesota Association of Soil and Water Conservation Districts (MASWCD) supports current SWCD statute which provides for local SWCD determinations of supervisor nominating districts for elections of SWCD Supervisors.

Therefore be it further resolved; The MASWCD would oppose legislation to make it mandatory to change the current 2005 SWCD statute regarding elections.

MASWCD Board of Directors
Adopted: February 22, 2005

DAKOTA COUNTY SOIL & WATER CONSERVATION DISTRICT

Dakota County Extension and Conservation Center
4100 220th Street West, Suite 102
Farmington, MN 55024
Phone: (651) 480-7777 Fax: (651) 480-7775
www.dakotacountyswcd.org

SWCD SUPERVISOR NOMINATION DISTRICT BOUNDARIES

WHEREAS, Soil and Water Conservation Districts (SWCDs) are political subdivisions of the State established under Minnesota Statute 103C;

WHEREAS, SWCDs are local units of government that assist land occupiers to protect soil and water resources;

WHEREAS, SWCDs are governed by a board of elected Supervisors accountable to the voting public;

WHEREAS, SWCDs do not possess land use authority or local levy authority under existing statute.

WHEREAS, Minnesota Statute 103C was revised in 2003 to allow each local SWCD the option of evaluating how Supervisor Nomination District Boundaries are best established;

WHEREAS, the Dakota SWCD facilitated a public participation process in April of 2004 to gather citizen input and determine appropriate Supervisor Nomination District Boundaries to deliver non-point source pollution abatement programs;

WHEREAS, the results of the Dakota SWCD public input process indicated that the delivery of local soil and water conservation programs are best achieved with Supervisor Nomination Districts that are based on land area not population;

THEREFORE BE IT RESOLVED, that the Dakota Soil and Water Conservation District supports current language under Minnesota Statute 103C which allows SWCD Supervisor Nomination District Boundaries be determined locally;

THEREFORE BE IT FURTHER RESOLVED, that the Dakota Soil and Water Conservation District supports Supervisor Nomination District Boundaries based on land area for effective delivery of voluntary non-point source pollution abatement under the Clean Water Legacy Bill.