



April 26, 2016

Legislative Reference Library
645 State Office Building
100 Constitution Avenue
St. Paul, Minnesota 55155

Re: In The Matter of the Proposed Rules of the Department of Natural Resources Governing Mississippi River Corridor Critical Area; Revisor's ID Number R-04240

Dear Librarian:

The Minnesota Department of Natural Resources intends to adopt rules governing the Mississippi River Corridor Critical Area (MRCCA). We published the Notice of Hearing in the April 11, 2016, State Register.

The Department has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Department is sending the Library an electronic copy of the Statement of Need and Reasonableness (SONAR). The SONAR includes the following elements:

- Statement of Need and Reasonableness
- SONAR Exhibit A Executive Order 130 and Amendments
- SONAR Exhibit B Executive Order 79-19
- SONAR Exhibit C Metropolitan Council Resolution 79-48
- SONAR Exhibit D Reorganization Order 170
- SONAR Exhibit E 2008 DNR Report to Legislature on MRCCA Program
- SONAR Exhibit F 2014 DNR Report to Legislature on Status of MRCCA Rulemaking
- SONAR Exhibit G Maps of Proposed MRCCA Districts

You can obtain copies of the SONAR exhibits from the DNR's rulemaking project webpage at <http://www.dnr.state.mn.us/input/rules/mrcca>

If you have questions, please contact me at 651-259-5697.

Yours truly,

Daniel Petrik
Land Use Specialist
Ecological and Water Resources Division

Enclosure: Statement of Need and Reasonableness





STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF ECOLOGICAL AND WATER RESOURCES

IN THE MATTER OF PROPOSED RULES
RELATING TO THE
MISSISSIPPI RIVER CORRIDOR CRITICAL AREA (MRCCA)

STATEMENT OF NEED AND REASONABLENESS (SONAR)

December 1, 2015

Page left blank intentionally.

TABLE OF CONTENTS

	Page
Introduction	1
Overview	1
History of MRCCA Designation & Rulemaking Efforts	2
Need for the Proposed Rules	6
Alternative Format	7
Statutory Authority	8
Regulatory Analysis	9
Performance-Based Rules	17
Additional Notice	17
Consultation With MMB on Local Government Impact	18
Determination About Rules Requiring Local Implementation	18
Cost of Complying for Small Business or City	19
List of Witnesses	21
Bluff Protection Standards	22
Rule by Rule Analysis	29
6106.0010 POLICY.....	29
6106.0020 PURPOSE.....	29
6106.0030 SCOPE.....	29
6106.0050 DEFINITIONS	29
6106.0060 ADMINISTRATION OF PROGRAM.....	35
6106.0070 PREPARATION, REVIEW AND APPROVAL OF PLANS AND ORDINANCES	37
6106.0080 ADMINISTRATIVE PROVISIONS FOR ORDINANCES	40
6106.0090 INCORPORATIONS BY REFERENCE	42
6106.0100 DISTRICTS.....	42
6106.0110 USES	44
6106.0120 DIMENSIONAL STANDARDS	45
6106.0130 GENERAL DEVELOPMENT STANDARDS FOR PUBLIC FACILITIES	51
6106.0140 GENERAL DEVELOPMENT STANDARDS FOR PRIVATE FACILITIES.....	52
6106.0150 VEGETATION MANAGEMENT STANDARDS.....	54
6106.0160 LAND ALTERATION AND STORMWATER MANAGEMENT STANDARDS	58
6106.0170 SUBDIVISION AND LAND DEVELOPMENT STANDARDS	62
6106.0180 EXEMPTIONS FROM SETBACKS, HEIGHT LIMITS, AND OTHER REQUIREMENTS	66
Conclusion	68
References	69

Exhibits.....	73
Exhibit A: Executive Order 130 and Amendments	
Exhibit B: Executive Order 79-19	
Exhibit C: Metropolitan Council Resolution 79-84	
Exhibit D: Reorganization Order 170	
Exhibit E: 2008 DNR Report to Legislature	
Exhibit F: 2014 DNR Report to Legislature	
Exhibit G: Proposed MRCCA District Maps	

List of Figures

Figure 1: MRCCA boundary and current districts.....	2
Figure 2: Photo of “weeping wall”/bluff seepage.....	22
Figure 3: Photo of bluff failure on Highway 13.....	23
Figure 4: Comparison of bluff definitions.....	24
Figure 5: Photo of property on 18% slope with 10 foot rise.....	25
Figure 6: Photo of property on 18% slope with 10 foot rise.....	25
Figure 7: Photo of existing structure near top of bluff (under proposed definition).....	26
Figure 8: Photo of existing structure near bottom of bluff (under proposed definition).....	26
Figure 9: Bluff and bluff impact zone diagram.....	28
Figure 10: Conventional subdivision compared to conservation subdivision design.....	31
Figure 11: Shore impact zone diagram.....	34
Figure 12: Photo of rip rap installation.....	59

List of Tables

Table 1: Cost estimates for local governments to amend MRCCA plans and ordinances.....	14
Table 2: Percentage of open space required by district.....	64

Introduction

Overview

This document explains the need and reasonableness of proposed rules governing the Mississippi River Corridor Critical Area (MRCCA), and summarizes the evidence and arguments that the Minnesota Department of Natural Resources (DNR) is relying upon to justify the proposed rules. It has been prepared to satisfy the requirements of Minn. Stat. § 14.131 (2015) and Minn. R. 1400.2070 (2015).

The purpose of the proposed rules is to establish districts and minimum standards and criteria to guide land use and development within the MRCCA, consistent with the purpose of Minn. Stat. § 116G.15 (2015). Upon adoption, the proposed rules will replace Executive Order 79-19, which has guided land use and development within the MRCCA for the past 35 years.

The proposed rules cover a variety of topics including:

- the administration of the MRCCA program
- the establishment of districts within the MRCCA, taking into account:
 - the appropriate number of districts within the MRCCA in each local government unit
 - existing local plans and policies
 - existing local ordinances and conditions
 - key identified resources and features to be protected or enhanced within the MRCCA
- the establishment of minimum development guidelines and standards, taking into account:
 - the intent of each district
 - existing local plans and policies
 - existing local ordinances and conditions
 - key identified resources and features to be protected or enhanced
 - select uses
 - structure height and setbacks
 - private and public infrastructure
 - protection of bluffs and very steep slopes
 - vegetation management
 - land alteration and stormwater management
 - lot size, subdivision, and design standards

Many of these topics are currently covered by Executive Order 79-19 and are included in existing local MRCCA plans and ordinances.

The DNR has made extensive efforts to obtain input and information to develop the districts, standards, and criteria in the proposed rules. Since 2009, the DNR has met numerous times with local governments in the MRCCA (both individually and in groups), convened geographically-based multi-interest work groups, held numerous public informational meetings, published two Requests for Comments with

extended comment periods beyond the minimum required, and met with other federal and state agencies and interest groups to gain feedback on early drafts of these rules. The DNR also engaged local governments and other agencies in conducting analysis necessary to develop the rules; for example, the DNR worked with the City of St. Paul and National Park Service to develop and test a bluff mapping tool to inform the definition of bluffs, as discussed later under “Bluff Protection Standards.”

History of the MRCCA Designation and Rulemaking Efforts

The MRCCA encompasses many of the Twin Cities metropolitan area’s most significant natural and cultural resources, including: water, navigational capabilities, scenic views, geology and soils, vegetation, minerals, flora and fauna, cultural and historic resources and land and water-based recreational resources. The MRCCA is home to a full range of residential neighborhoods, as well as river-related commerce, industry, and transportation. Though the river corridor has been extensively developed, many intact and remnant natural areas remain, including geomorphological features such as bluffs, islands, floodplains, wetlands, riparian zones, and native aquatic and terrestrial flora and fauna.¹

To manage and protect these vital resources, Governor Wendell Anderson designated the MRCCA in 1976 by Executive Order 130, attached hereto as Exhibit A, under authority of the Critical Areas Act of 1973.²

The designation was renewed by Governor Albert Quie in 1979 by Executive Order 79-19, and made permanent that same year by resolution of the Metropolitan Council.

The MRCCA covers a 72-mile stretch of the Mississippi River through the Twin Cities Metropolitan Area, extending from the townships of Dayton and Ramsey in Hennepin and Anoka counties to the north and extending downstream to Ravenna Township, just south of Hastings in Dakota County (Figure 1). The legal boundary of the MRCCA is established in Executive Order 79-19, attached hereto as Exhibit B. A copy is also on file at the Legislative Reference Library. The MRCCA varies in width and includes 54,000 acres of water and public and private lands. A total of 30 communities have land within the MRCCA, including 21 cities, five counties, and four townships.

Land use in the MRCCA is currently regulated by local governments through local MRCCA plans and ordinances as directed by Executive Order 79-19. Executive Order 79-19 established four land use districts within the MRCCA and set standards and guidelines to be used by local

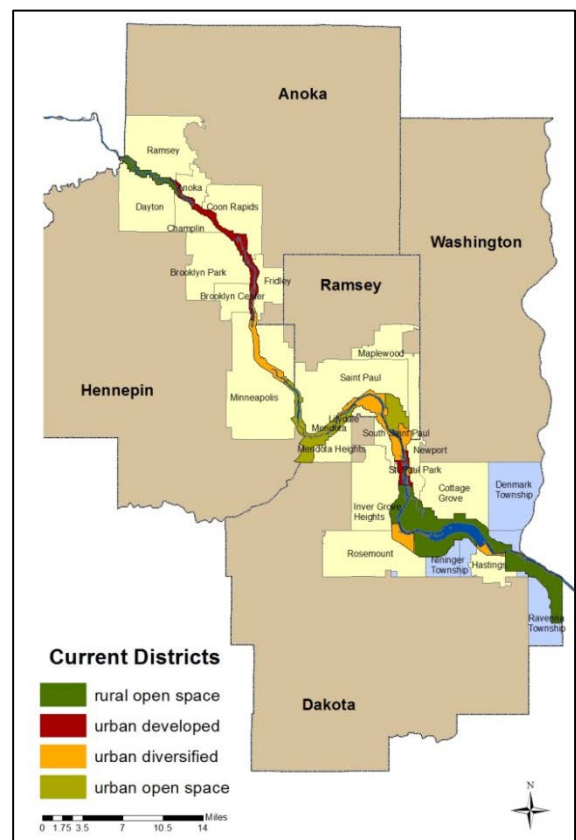


Figure 1. MRCCA boundary and current districts.

¹ Lafrancois, B. M., D. L. Vana-Miller, and S. P. Johnson. 2007; Anfinson, J. 2003a, 2003b.

² 1973, ch.752, 1973 Minn. Laws 2258-2265 (codified at §§ 116.01 – 116G.14).

governments when preparing plans and regulations to guide development within those districts. By the early 1980s, all local governments within the MRCCA had adopted MRCCA plans, and all but a few had adopted MRCCA ordinances. Cities and townships without adopted MRCCA ordinances are subject to the Interim Development Regulations contained in Executive Order 79-19.

In 1988, Congress established the Mississippi National River and Recreation Area (MNRRA), a unit of the National Park System. MNRRA shares the same boundaries as the MRCCA. In establishing MNRRA Congress found that *“the Mississippi River Corridor within the Saint Paul-Minneapolis Metropolitan Area represents a nationally significant historical, recreational, scenic, cultural, natural, economic, and scientific resource”* and that there was a national interest in the *“preservation, protection and enhancement of those resources for the benefit of the people of the United States.”* (16 U.S.C. §460 zz (a) (emphasis added)). The National Park Service, in its 1995 Comprehensive Management Plan for the MNRRA, determined it would not acquire significant land holdings or establish land use regulations for the MNRRA but would instead rely on state and local administration of Executive Order 79-19 to protect the resources.

In 1991, the Minnesota Legislature reaffirmed its commitment to a permanent MRCCA designation by recognizing the MNRRA as a state-designated critical area. Minn. Stat. § 116G.06 (1985) 1991, ch. 303, § 8, 1991 Minn. Laws (page 63) codified at Minn. Stat. § 116G.15 (1991).

In 1995, Governor Arne Carlson issued Reorganization Order 170 transferring administrative responsibility for the MRCCA from the Environmental Quality Board (EQB) to the DNR. This order transfers rulemaking authority for the management of the MRCCA to the DNR, and provides that all rules adopted by EQB remain in effect until they are amended or repealed by the DNR.

More recently, citizens and interest groups have raised concerns around the adequacy of the MRCCA program regulatory framework, perceptions of inconsistent regulation of development in the MRCCA, and the belief that key resources within the MRCCA are not always protected.

Report to Legislature, 2008

Based on the concerns noted above, in 2007 the Legislature directed the DNR to prepare a report on the status of the MRCCA. The report summarized the status of local governments' MRCCA plans and ordinances and their experiences with the program, and identified several approaches to accomplish the preservation and protection goals for the MRCCA as set forth by the Legislature in Minn. Stat. § 116G.15 (1995). The DNR delivered the report to the Legislature in 2008.

Rulemaking Project, 2009-2011

In 2009, the Legislature amended Minn. Stat. § 116G.15 and directed the DNR to establish rules for the MRCCA. 2009, ch. 172, art. 2, §27, subd. 4, 2009 Minn. Laws (pages 2484 - 2485). The DNR launched the rulemaking process by creating a project website and notifying local government within the MRCCA by letter of the rulemaking and requesting their assistance with outreach. In December 2009, the DNR published a Request for Comments on the scope of the proposed MRCCA rules. The DNR accepted public comments through March 22, 2010.

During the comment period, DNR staff met with local governments and other stakeholders within the MRCCA to learn how MRCCA plans and ordinances had been administered and to identify local stakeholders to participate in work groups.

In February 2010, the DNR formed four geographically-focused work groups consisting of stakeholders representing the diverse interests in the MRCCA, including:

- local governments
- builders and developers
- property owners
- economic development authorities
- commercial and industrial businesses
- recreational and environmental protection interests
- other local, regional, and national interests

Each committee met four times and was tasked with identifying issues and ideas, providing expert input, and providing feedback on draft districts and standards. In late 2010, the DNR held two public open houses to receive input on preliminary draft districts and standards.

Based on the input throughout the entire public involvement process, the DNR completed draft rules in 2011. However, the rulemaking process was put on hold that same year before a notice of intent to adopt rules was issued. The DNR was unable to publish a notice of intent to adopt rules or notice of hearing within 18 months of the date of the legislative directive authorizing DNR to adopt the MRCCA rules, and its authority to complete the rulemaking lapsed. Minn. Stat. § 14.125 (2015).

Rulemaking Project, 2013 – Present

In 2013, the Legislature again revised Minn. Stat. § 116G.15 and directed the DNR to resume rulemaking, with the following key changes to the rulemaking process:

- required DNR to consult with local governments before adopting rules;
- added “redevelopment” of a variety of urban and recreational uses to the existing list of multiple resources for which the corridor is to be managed;
- modified the considerations for creating new districts by removing the consideration of those river features in existence in 1979 and the intent of the districts in Executive Order 79-19 and adding consideration of both the natural character and the existing development of the river corridor, as well as the potential for new commercial, industrial, and residential development;
- added commercial, industrial, and residential resources to the existing list of resources that must be protected or enhanced through guidelines and standards;
- eliminated the 2009 requirement to establish regulatory bluff maps, while continuing to insure that bluff protection remains a priority; and
- required the DNR to submit a status report to the Legislature by January 2014.

The Legislature also waived the 18 month time constraint imposed by Minn. Stat § 14.125 to publish a notice of intent to adopt rules or a notice of hearing within 18 months after the effective date of the law authorizing the new rulemaking effort.

The DNR launched this new rulemaking effort in 2013 shortly after the close of the legislative session. The DNR again met with local governments (individually and in groups), other agencies, and interest groups to discuss the draft rules created in 2011 and to obtain input on the new draft rules. A status report on the rulemaking process was provided to the Legislature in January 2014.

After consultation with local government, other agencies, and interest groups, the DNR extensively revised the 2011 draft rules, creating “working draft rules.” In June 2014, the DNR published a second Request for Comments, asking for input on these working draft rules. During this comment period the DNR held three public information meetings and met with numerous local governments and interest groups to receive input on the working draft rules. The informal comment period closed in September 2014. Based on input received during this period, the DNR made additional revisions to the working draft rules and produced a final draft of the proposed MRCCA rules.

Summary of MRCCA Designation & Rulemaking

- 1973** Minnesota passes Critical Areas Act of 1973. Minn. Stat. §§ [116G.01 – 116G.14 \(1973\)](#)
EQB adopts rules to implement Act. Minn. R. [4410.8100 – 4410.9910](#).
- 1976** Governor Wendell Anderson designates 72-mile stretch of the Mississippi River through the metro area and its adjacent corridor a Critical Area. [Executive Order 130](#). (Exhibit A)
- 1979** Governor Albert Quie continues the designation. [Executive Order 79-19](#). (Exhibit B)
Metropolitan Council acts to make designation permanent. [Metropolitan Council Resolution 79-48](#). (Exhibit C)
- 1988** Congress establishes the Mississippi National River and Recreational Area (MNRRA) as unit of NPS (MNRRA shares same boundary as MRCCA). [16 U.S.C. §460 zz \(a\)](#).
- 1991** MNRRA designated a state critical area per Critical Areas Act. Minn. Stat. § [116G.15 \(1991\)](#).
- 1995** Governor Arne Carlson shifts administrative responsibility for the MRCCA from EQB to DNR. [Reorganization Order 170](#). (Exhibit D)
- 2007** Legislature directs DNR to prepare report on the MRCCA. [DNR Report to Legislature, January 2008](#). (Exhibit E)
- 2009** Legislature amends MN Statutes, § 116G.15 and directs DNR to conduct rulemaking for the MRCCA. [2009, ch. 172, art. 2, §27, subd. 4, 2009 Minn. Laws](#) (pages 2484 – 2485) codified at Minn. Stat. § 116G.15 (2009).
- 2011** DNR develops draft rule after participatory stakeholder process, but rulemaking authority lapses pursuant to [Minn. Stat. § 14.125](#).
- 2013** Legislature directs DNR to resume rulemaking process in consultation with local governments. [2013, ch. 137, art. 2, § 18-21, 2013 Minn. Laws](#) (pages 2327-2329), codified at Minn. Stat. § [116G. 15 \(2015\)](#).
- 2014** DNR prepares report to Legislature on goals and status of rulemaking. [DNR Report to Legislature, January 2014](#). (Exhibit F)

Need for the Proposed Rules

The MRCCA program has been administered under Executive Order 79-19 for over 35 years. The executive order brings with it a variety of issues that this rulemaking effort seeks to resolve:

- **Executive Order 79-19 cannot be readily changed or updated.** There is no mechanism for revising an executive order, short of issuing a new executive order. Executive orders are not a desirable method for regulating or managing state programs that affect local land use. State rulemaking offers a more transparent process for developing a state program that affects local land use because it includes opportunities for public participation and provides an appropriate foundation for local land use regulation.
- **Executive Order 79-19 provides insufficient guidance to local governmental units for developing local plans and ordinances, and to the DNR for reviewing and approving them.** The Standards and Guidelines in Executive Order 79-19 are written as “performance standards” that describe a goal or desired end state. Performance standards lack specificity and, therefore, provide insufficient guidance for local plans and ordinances. This has led to the application of a broad range of standards and approaches across the MRCCA, as well as uncertainty in the approval process over time. This rulemaking effort has provided an open and transparent process for developing more specific and consistent standards across the MRCCA, and more specific and consistent criteria for the review and approval of local plans and ordinances.
- **Executive Order 79-19 limits redevelopment and reinvestment.** Executive Order 79-19 categorizes all land in the corridor into four districts based on general land use characteristics. Land use regulations specific to each district are the primary means for achieving protection goals within the MRCCA. These districts were defined based on land uses in 1976 and are legally described in the State Register. Because executive orders are not regularly updated, the districts and associated land use restrictions put in place in 1976 still govern development activity today.

These 1976 land use districts have limited the ability of communities to redevelop and encourage reinvestment. For example, the City of Champlin plans to redevelop the area at the Highway 169 bridge crossing as a walkable mixed-use development with both housing and new commercial buildings. Some of these buildings will be up to five stories in height and have reduced river setbacks. This plan deviates considerably from the 35’ height limit that currently applies to the Urban Developed District, and from the current management purpose of the district as set forth in the Executive Order, which is “to maintain the largely residential character, and to limit expansion of commercial use” within the land use district.

It is difficult for local governments and the DNR to equitably evaluate development proposals like the Champlin proposal, which conflicts with the outdated management purposes and associated standards developed in 1976. This leaves local governments uncertain about what they can or cannot do within the MRCCA, and limits their ability to achieve more sustainable development patterns and a stronger tax base.

- **The MRCCA is costly and complex to administer.** Unlike the state’s other shoreland protection programs (Shoreland, Wild and Scenic River, and Lower St. Croix River), which are governed by Minn. Stat. Ch. 103F, the MRCCA program requires local governments to adopt a plan in addition to a zoning ordinance, and it requires the administration and oversight of two state agencies – the DNR and Metropolitan Council. The exact contents and submittal requirements for plans and ordinances are not clearly laid out, which has led to confusion by local governments. Furthermore, the Metropolitan Council has an established process and timeline for updating comprehensive land use plans, but it is unclear how local MRCCA plans relate to comprehensive land use plans or whether comprehensive land use plans need to be updated regularly to reflect identified land use changes within the MRCCA.
- **Poor resource protection due to vague and outdated language.** Many natural resources are not adequately protected by Executive Order 79-19 because the Standards and Guidelines are too vague to implement effectively. Examples of words or phrases that are not defined, too vague to interpret and implement, or outdated include the following italicized phrases:
 - Provision C. 2.a (1). “New development and expansion shall be permitted only after the approval of site plans which *adequately assess and minimize adverse effects and maximize beneficial effect*” (emphasis added).
 - Provision C.2.e (2). This standard dealing with existing development requires that “local plans and regulations shall include provisions to *amortize non-conforming use*” (emphasis added). Amortization of most nonconforming uses was prohibited by statute in 1999. See Minn. Stat. §§ 462.357, subd. 1c and 394.21, subd. 1a.
 - Provision C. 2.e (4). “Local plans and ordinances shall include provisions to provide for the screening of existing development which constitutes *visual intrusion*, wherever appropriate” (emphasis added).
 - Provision C.6.f. “In the development of residential, commercial, and industrial subdivisions, and planned development, a developer shall be required to dedicate to the public *reasonable portions of appropriate riverfront access land or other lands in interest therein*” (emphasis added).
- **No resource protection priority.** Neither Minn. Stat. § 116G.15 nor Executive Order 79-19 prioritizes resources for protection. Both call for the equal protection of a list of natural, cultural, historical, scenic, recreational, and economic resources in the corridor. Priorities are important for guiding rulemaking that achieves meaningful resource protection, and to help resolve conflicts in ongoing program administration.

Alternative Format

Upon request, this SONAR can be made available in an alternative format, such as large print, braille, or audio. To make such a request, contact Jennifer Shillcox at the Department of Natural Resources, 500 Lafayette Road, St. Paul, MN 55155-4025, phone 651-259-5727 and fax 651-296-0445, or mrcca.rulemaking@state.mn.us. TTY users may call the Department of Natural Resources at 651-296-5484 or 1-800-657-3929.

Statutory Authority

The statutory authority for all critical areas for the state of Minnesota is set out in Minn. Stat. Ch. 116G. Minn. Stat. §§ 116G.01 – 116G.14 comprise the “Critical Areas Act of 1973.” These sections establish the general procedures for designating and administering Critical Areas. Section 116G.15 was added to Ch. 116G in 1991 to designate the MNRRA as a Minnesota State Critical Area. 1991, Ch. 303, §8, Minn. Laws (page 210) codified at Minn. Stat. § 116G.15, and *supra* at page 2 (for a discussion of the history of the MRCCA).

Section 116G.15 sets out the parameters of the MRCCA program, including the scope and purpose of the MRCCA and the obligation of the commissioner to work cooperatively with the U.S. Army Corps of Engineers, the National Park Service, the Metropolitan Council, local governments and other agencies to assure that the MRCCA is managed as a multipurpose resource. Minn. Stat. § 116G.15, subd.3 (2015). The statute further provides for the establishment of districts within the MRCCA to protect natural, recreational and interpretive improvements; to protect the resources identified in the MNRRA Comprehensive Management Plan; to protect the use of the Mississippi River as a source of drinking water; to assure management of the river corridor consistent with its natural characteristics, its existing development and its consideration for new development; and to protect identified scenic, geologic, and ecological resources. Minn. Stat. § 116G.15, subd. 3 (2015). The statute directs the commissioner to adopt standards and guidelines for the management of each district that enhance and protect key enumerated statutorily identified resources and features. Minn. Stat. § 116G.15, subd. 4 (2015).

Section [116G.15, subd. 7](#) authorizes the DNR to adopt rules for the MRCCA and to commence the rulemaking process on or before January 15, 2010.³ Minn. Stat. § 116G.15, subd. 7 (2015). Specifically, the statute provides that:

- The DNR, after consultation with affected local governments within the MRCCA, may adopt rules under chapter 14 as necessary for the administration of the MRCCA program, any duties of the EQB referenced in the chapter, rules, and Executive Order 79-19 within the MRCCA are transferred to the commissioner. Minn. Stat. § 116G.15, subd.2;
- The DNR shall establish, by rule, districts within the MRCCA. Minn. Stat. § 116G.15, subd. 3; and
- The DNR shall establish, by rule, minimum guidelines and standards for the districts to protect key resources and features, including commercial, industrial, and residential resources within the MRCCA. Minn. Stat. § 116.15, subd. 4.

³ This rule making requirement is specifically exempted from the requirements of Minn. Stat. § 14.125 (2015).

Regulatory Analysis

Minn. Stat., § 14.131, sets out nine factors for a regulatory analysis that must be included in the SONAR. These factors are addressed as follows:

1. A description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

The rules will likely affect the following persons and organizations within the MRCCA: private and public property owners, developers, businesses, real estate interests, recreational users, environmental interests, navigation interests on the Mississippi River, utility providers, all local governmental units (cities, towns, and counties), and agencies and institutions with facilities or property interests (such as the Metropolitan Council, Minnesota Department of Natural Resources, Minnesota Department of Transportation, Metropolitan Airports Commission, University of Minnesota, Saint Paul Port Authority, Minnesota Historical Society, and federal agencies such as the National Park Service and U.S. Army Corps of Engineers).

The proposed rules will directly affect all local governments having jurisdiction over or owning and managing land within the MRCCA including:

- the counties of Anoka, Dakota, Hennepin, Ramsey, and Washington
- the townships of Grey Cloud, Denmark, Nininger, and Ravenna
- the cities of Dayton, Ramsey, Anoka, Champlin, Coon Rapids, Brooklyn Park, Brooklyn Center, Fridley, Minneapolis, St. Paul, Lilydale, Mendota, Mendota Heights, Maplewood, South St. Paul, Newport, St. Paul Park, Inver Grove Heights, Rosemount, Cottage Grove, and Hastings

Specifically, local governments within the MRCCA must update their local plans and ordinances to incorporate the new districts and standards in these rules. Local governments must establish a permit program for vegetation management and land alterations in specific environmentally sensitive areas. Local governments will bear these initial costs, particularly if they need to make substantial changes to their existing plans and ordinances. Local governments may benefit in the long run, however, from the establishment of districts that are more consistent with community character and planned future development, and the flexibility to meet multiple community objectives. The proposed rules will support local governments already working to address Mississippi River conservation issues and provide improved guidance to those local governments not yet addressing these issues.

The proposed rules establish standards to guide new development and redevelopment in the corridor, which may change how property is developed. Thus, all persons who own, manage, or develop lands within the MRCCA could experience potential costs and benefits associated with the proposed rules.

These persons, as well as members of the public, will benefit because the MRCCA rules will require management of the MRCCA as a multi-purpose resource, providing for:

- conservation of the scenic, environmental, recreational, mineral, economic, cultural, and historic resources and functions of the river corridor;
- maintenance of the river channel for transportation by providing and maintaining barging and fleeting areas in appropriate locations consistent with the character of the Mississippi River and riverfront;
- the continuation and development of a variety of urban areas, including industrial, commercial, and residential uses, where appropriate, within the MRCCA;
- use of certain reaches of the river for water supply and as a receiving water for properly treated sewage, stormwater, and industrial waste effluents; and
- protection and preservation of the biological and ecological functions of the MRCCA.

Additionally, the proposed rules clarify the standards imposed by Executive Order 79-19, which will benefit all persons with a property interest in the corridor as well as members of the public. Most aspects of the rules will not result in substantive changes and are not expected to have an effect on persons with property interests within the MRCCA. The rules are designed to ease implementation, increase efficiency, eliminate ambiguity, and simplify administrative procedures for local governments and agencies to administer. Substantive changes in the proposed rules compared to the standards in Executive Order 79-19 are identified in the rule-by-rule analysis.

2. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

Both the DNR and certain state and regional agencies will incur costs to implement and enforce the proposed rules.

DNR administrative costs for the MRCCA program currently include the cost of: providing technical assistance to local governments, reviewing discretionary actions, and reviewing and approving amendments to local plans and ordinances. These costs are presently incurred by the DNR as part of its operating budget and would continue after rule adoption. These costs vary depending on the number of local plan and ordinance amendments submitted to the DNR for review, the number of projects requiring discretionary actions by local governments and review by the DNR, and the number of DNR appeals of local decisions. This regular work undertaken by the DNR to administer the program is anticipated to be no greater under the proposed rules than under the Executive Order and, therefore, does not require an increase in DNR costs, except to the extent that local plans and ordinances will need to be brought into compliance with the proposed rules as described below.

The DNR will have additional costs as the 30 local governments in the MRCCA prepare or amend plans and ordinances to comply with the proposed rules. DNR review and approval of these plans and ordinances will require a substantial commitment of staff time. To moderate the impact of these costs, adoption will be spread out over a number of years. The DNR also intends to facilitate the transition to the new rules by:

- developing model plans and ordinances, model mitigation measures, maps, and other tools to aid local implementation;
- working with the Metropolitan Council and local government staff to develop a notification/adoption schedule;
- working with the Metropolitan Council to provide guidance, training and resources to local governments;
- developing a review and tracking system to monitor progress;
- assisting local governments with preparing and submitting updated plans and ordinances;
- coordinating with Metropolitan Council staff to review and approve local plans and ordinances; and
- assisting with local education and outreach efforts once ordinances are adopted.

There will be costs to develop these materials. These costs would be covered either with additional funding or by reassigning staff.

The Metropolitan Council is currently charged with reviewing plans and ordinances. The proposed rules would not change or add new responsibilities to the Metropolitan Council. As such, the costs for the Metropolitan Council are anticipated to continue at current levels and are a part of the agency's budget. Metropolitan Council costs largely depend on the number of local plan and ordinance amendments, which will increase when local plans and ordinances are brought into compliance with the proposed rules as described above.

Aside from the requirements noted above, the proposed rules should not result in significant additional costs to other state or regional agencies, since these agencies are not required to submit plans to the DNR for properties they own or manage within the MRCCA. However, state and regional agencies such as the Minnesota Department of Transportation and the Metropolitan Airports Commission may incur nominal costs to ensure that their site plans and projects comply with these rules.

The proposed rules would not be expected to have a positive or negative impact on state revenues.

3. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The Legislature, in 2009 and again in 2013, directed the DNR to develop rules to protect and preserve the MRCCA and adjacent lands that the legislature believed to be unique and a significant resource to the state while recognizing the historical, cultural, transportation, economic and resource values of the MRCCA to the state and the nation. Minn. Stat. § 116G. 15, subd. 1 (2015). Meeting the purpose and objectives of the statute requires a mechanism for assuring a certain degree of uniformity in land use across a 72- mile river corridor encompassing five counties and 25 cities and townships. Accomplishing the necessary uniformity across this landscape without engaging in rulemaking would be virtually impossible as demonstrated by the inability of Executive Order 79-19 to adequately address the objectives of the MRCCA.

The framework for rule development for the MRCCA is set forth in Minn. Stat. § 116G.15. In developing the rules, the DNR:

- looked at those provisions in the Executive Order 79-19 that have historically worked well in protecting the MRCCA;
- looked at other land use rules and regulations in other programs that have historically been successful at protecting similar resources as those sought to be protected in the MRCCA;
- identified those provisions in Executive Order 79-19 that have not historically worked well and modified them to make them functional; and
- identified key issues not addressed in Executive Order 79-19 but identified in Minn. Stat. § 116G.15 as requiring protection and developed rules to provide the required protection.

This approach enabled the DNR to determine less costly or less intrusive methods for achieving the purpose of the proposed rules as identified by the Legislature.

Using those provisions of Executive Order 79-19 that have historically worked well as a baseline for the rules will reduce the scope and cost of the changes imposed on communities within the MRCCA and is less intrusive than imposing completely new standards. Thus the proposed rules are based on the existing administrative framework established by Executive Order 79-19 that is already familiar to local governments.

Many of the proposed rules are clarifications or refinements of Executive Order 79-19 or are based on existing local, regional, and state regulations that also apply within the MRCCA. Those provisions of Executive Order 79-19 that were retained were reviewed to insure that they addressed current conditions within the MRCCA. The proposed rules include modernized standards, clearer provisions, and flexibility within districts that achieve the regulatory purpose of Minn. Stat. § 116G.15.

A primary goal of the rules is to reduce complexity and be less intrusive for property owners, developers, and local governments wherever possible by focusing on the specific development impacts on those key resources and features identified in Minn. Stat. § 116G.15. The proposed rules recognize the diversity of development across the MRCCA by establishing districts that better reflect existing and planned future development, while deferring to local governments' underlying zoning where local zoning meets the purposes of the rules, and by providing flexibility to local governments to address special circumstances where it is possible to do so and still meet the underlying the purpose of the MRCCA. This approach is a less intrusive method for achieving the purposes of the MRCCA.

For those issues not adequately addressed by Executive Order 79-19 or that were inadequately addressed by other existing regulations, new standards were developed. In these cases, it was necessary to establish new provisions to address these issues that meet the requirements in Minn. Stat. § 116G.15. DNR was mindful of costs and potential intrusion on local control and property rights when developing these necessary provisions.

Specific standards and evaluation of other methods considered are described in greater detail in the rule-by-rule analysis.

4. A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule.

The 2008 DNR report to the Legislature identified several non-rulemaking approaches to accomplish the preservation and protection goals for the MRCCA set forth by the Legislature in Minn. Stat. § 116G.15. Those approaches included:

- moving MRCCA administration to other DNR programs/units or to other state or local agencies;
- enhancing the existing program structure and authorities;
- modifying the current program or process;
- increasing oversight of local decisions;
- educating local governments about the importance of protecting properties within the MRCCA;
- providing financial incentives to encourage adoption of land use practices to protect critical areas within the MRCCA;
- acquiring easements and property of particularly critical natural, aesthetic, cultural, historic or other resources within the MRCCA; and/or
- providing voluntary standards for local governments to adopt.

The 2009 and 2013 Minnesota Legislatures determined that these mechanisms would not adequately protect the state's broad interests across the MRCCA and determined that the best and most equitable mechanism to protect the MRCCA was through a uniform rule applied across the MRCCA. The Legislatures, therefore, directed the DNR to develop rules establishing new districts within the MRCCA, standards and guidelines for development within each district, and rules for administration of the MRCCA program. Minn. Stat. § 116G.15, subds. 2-4 (2015).

5. The probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals.

The DNR has conducted an analysis to assess the potential cost of complying with the proposed rules. Local governmental units and other agencies already expend resources to comply with the requirements of Executive Order 79-19, therefore, it is anticipated that these governmental units will only incur modest changes in the direct or indirect costs of complying with the proposed rule. Changes that may require additional effort on the part of these governmental units include:

- new permit requirements proposed for management of vegetation and land alteration/ stormwater in specified areas, ADA-compliant facilities, aggregate mining and extraction, and wireless communication facilities;
- notification of the National Park Service and adjoining local governments of certain discretionary actions, such as variances and conditional uses; and
- likely updates to local government MRCCA plans and ordinances as a result of district and standard changes. However, DNR intends to assist local governments by developing model

ordinances, providing educational materials and training, and assisting local governments directly in development of plans and ordinances.

In October 2014, the DNR sent a cost survey to all local governments within the MRCCA asking them to estimate the cost to update their MRCCA plan and ordinance. With a few exceptions, total costs per local government were under \$20,000. (See Table 1.)

Table 1: Cost Estimates for Local Governments to Amend MRCCA Plans and Ordinances

Local Government	Critical Area Plan Amendment Cost	Critical Area Ordinance Amendment Cost	Total	Small City (<10 FTE)
City of Anoka	\$3,925	\$26,775	\$30,700	N
Anoka County	NA	NA	NA	N
Brooklyn Center	\$6,750	\$10,000	\$16,750	N
Brooklyn Park	\$50,000	\$50,000	\$100,000	N
Champlin	\$7,250	\$2,850	\$10,100	N
Coon Rapids	\$2,650	\$2,650	\$5,300	N
Cottage Grove	\$2,960	\$5,920	\$8,880	N
Dakota County	NA	NA	NA	N
Dayton	\$2,370	\$1,360	\$3,730	N
Denmark Township	\$5,440	\$8,100	\$13,540	Y
Fridley	\$3,750	\$4,500	\$8,250	N
Grey Cloud Island Township	\$30,000	\$25,000	\$55,000	Y
Hastings	\$1,060	\$1,860	\$2,920	N
Hennepin County	NA	NA	NA	N
Inver Grove Heights	\$4,375	\$5,515	\$9,890	N
Lilydale	\$5,000	\$15,000	\$20,000	Y
Maplewood	\$4,500	\$4,500	\$9,000	N
Mendota	\$6,850	\$3,500	\$10,350	Y
Mendota Heights	\$3,350	\$4,650	\$8,000	N
Minneapolis	\$190,896	\$19,184	\$210,080	N
Newport	\$7,190	\$9,990	\$14,990	N

Nininger Township	TBD	TBD	TBD	Y
City of Ramsey	TBD	TBD	TBD	N
Ramsey County	NA	NA	NA	N
Ravenna Township	TBD	TBD	TBD	Y
Rosemount	\$19,470	\$8,470	\$27,940	N
St. Paul	TBD	TBD	TBD	N
St. Paul Park	\$5,430	\$6,690	\$12,120	N
South St. Paul	\$10,450	\$8,600	\$19,050	N
Washington County	NA	NA	NA	

6. The probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals.

A body of literature entitled *Lakeshore Property Values and Water Quality: Evidence from Property Sales in the Mississippi Headwaters Region* establishes that there is a positive relationship between water quality and natural landscapes and property values.⁴ Thus it is anticipated that persons owning or developing property within the MRCCA (all affected parties identified in question #1) will benefit economically from the amenities that the proposed MRCCA rules are intended to preserve. The failure to adopt the proposed standards and the protections they afford to the resources within the MRCCA could result in damage to those resources and an associated economic loss in benefits presently existing within the MRCCA.

The public would also bear the consequences of insufficient protection of, and access to, the river and surrounding corridor should these rules not be adopted. These consequences may include poor water quality, erosion and sedimentation from improperly managed shorelines, less resilient fish and wildlife populations, alteration of scenic resources, limited recreational resources, and the loss of natural shorelines, bluffs, and native plant communities. These consequences, in many cases, translate to economic costs including increased costs of water purification for drinking water, invasive species control, and increased dredging costs to maintain transportation channels.

There may also be indirect costs to the public and property owners if the proposed rules are not adopted, including restoration and remediation expenses for degraded resources, fewer tourism and recreational dollars spent in local communities, and decreased economic development potential.

⁴ Krysel, C., E. Marsh Boyer, C. Parson, and P. Welle. 2003. *Trust for Public Land*, 2007.

Additional consequences of not adopting the proposed rule are:

- the DNR may need to assess the current oversight and/or enforcement of MRCCA plans and ordinances adopted under Executive Order 79-19, and take action to compel compliance with the MRCCA program;
- the application of outdated and ambiguous development standards in the MRCCA;
- the application of inconsistent local ordinances across communities in the MRCCA;
- inflexible and outdated districts in the MRCCA that do not reflect changing land uses;
- reduced water quality protection from nonpoint sources in the MRCCA;
- weakened protection of shorelines and bluffs;
- lack of open space protection during the subdivision process;
- uncertainty for businesses, developers, and stakeholders of rule standards; and
- an uneven playing field for regulators and regulated parties.

7. An assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference.

The proposed rules do not conflict with federal regulations. Other regulations that apply within the MRCCA that are subject to federal standards, such as floodplain regulations, would not be affected by the proposed rules. The proposed rules do not regulate facilities or properties owned or managed by the federal government.

8. An assessment of the cumulative effect of the rule with other state regulations related to the specific purpose of the rule.

A "cumulative effect" assessment requires the assessment of the incremental impact of the proposed rule in conjunction with other rules, regardless of the state or federal agency that adopted the other rules. Minn. R. 14.131. Cumulative effects can result from individually minor but collectively significant rules adopted over a period of time. Generally, the proposed rules refer to, rather than add to, other federal and state regulations (i.e. feedlots, stormwater, etc.) to minimize conflict and cumulative effects. In the event that there is a conflict, the proposed rules clarify that the more restrictive regulation applies. The sole exception is the state's shoreland management rules.

The MRCCA rules will overlap with the state shoreland management rules set forth in Minn. R. Ch. 6120, which are implemented by communities through local shoreland management ordinances. The boundary of the shoreland district in the shoreland rules is 300 feet from the ordinary high water level of rivers or the outer extent of any existing floodplain, whichever is greater. Minn. R. 6120.2500, subp. 15 (2015). The boundary of the MRCCA varies throughout the corridor but is almost always greater than the shoreland district established in the shoreland rules. On land covered by both the MRCCA and shoreland districts, both sets of standards will apply, with the more restrictive standards taking precedence.

For example, in some instances the proposed MRCCA rules have more restrictive standards for structure and bluff setbacks, subdivisions, vegetation removal, and land alteration than the shoreland management program. Thus in the MRCCA these standards would take precedence over

the shoreland requirements. On the other hand, both rules regulate stormwater management but do not have overlapping regulations. The shoreland rules limit impervious surface to 25% of a lot area, whereas the proposed MRCCA rules do not limit impervious surface coverage as a percentage of lot area. However, the proposed MRCCA rules prohibit impervious surfaces in certain areas and require stormwater treatment for new or fully reconstructed impervious surface of more than 10,000 square feet in near shore areas. Thus it is possible in this case to fully comply with both rules on a single property.

Finally, in a number of areas there is no overlap between the proposed MRCCA rules and the statewide shoreland rules. For example, the shoreland management program regulates lot area and width while, with one exception, the proposed MRCCA rules do not. Thus, there may be no issue in applying both sets of regulations to a single property.

Performance-Based Rules

To best achieve the goals of the MRCCA, the DNR incorporated numerous performance-based standards, including:

- standards designed to prevent negative impacts of development on MRCCA resources;
- a visual impact standard (“readily visible”) that is intended to assess the visibility of a proposed structure from the river from specified areas;
- requirements for on-site mitigation for variances and conditional use permits that are proportionate to the environmental impacts associated with the activities permitted by the variance or conditional use permit;
- regulations for nonconformities that are consistent with current land use statutes and provide additional flexibility for local governments and property owners;
- stormwater runoff reduction standards that are performance-based, providing flexibility in the means to achieve the standards; and
- incentives to create conservation subdivisions and developments that protect or enhance key features and resources.

Additional Notice Plan

Additional notice of the proposed rules will be provided to individuals or groups who could be affected by the rules, using the following methods:

- Emailing the Notice of Intent to the same individuals and groups who were sent the Request for Comments in June 2014, and to additional individuals and groups, including the following:
 - GovDelivery subscribers to the DNR MRCCA Rulemaking Project
 - property owners who signed up to receive notifications via U.S. mail
 - local governments within the MRCCA
 - agencies listed in Minn. Stat. § 103F.211
 - U.S. Army Corps of Engineers

- U.S. Department of Interior, National Park Service
- Metropolitan Council
- persons who submitted comments or participated in work groups, public open houses, or other meetings
- persons who have previously expressed an interest in or who are known to likely be interested in the rule amendments
- Distributing a news release to newspapers of major circulation within the MRCCA announcing the notice, hearing schedule, and proposed rules; and
- Using the DNR website to inform the public of the hearing schedule and provide access to related documents.

The Additional Notice Plan also includes giving the following statutory notices:

- Mailing the rules and Notice of Intent to all persons registered on DNR’s rulemaking mailing list established pursuant to Minn. Stat. § 14.14, subd. 1a.
- Mailing the draft rules to all persons who request a copy of the draft rules.
- Providing notice to the Legislature as required by Minn. Stat. § 14.116.
- The MRCCA has the potential to impact farming operations, thus a copy of the proposed rules will be provided to the Commissioner of Agriculture at least 30 days prior to publication of the rules in the State Register pursuant to Minn. Stat. § 14.111.

The Additional Notice Plan does not include notifying the state Council on Affairs of Chicano/Latino People because the MRCCA rules do not have a primary effect on Chicano/Latino persons (Minn. Stat. § 3.922).

Consultation With MMB on Impacts to Local Government

The department will consult with Minnesota Management and Budget (MMB) as required by Minn. Stat. § 14.131. Prior to publishing the Notice of Intent, the DNR submitted the MRCCA rule package to MMB simultaneously with submission of the MRCCA rule package to the Governor’s Office for review and approval. The documents included in the MRCCA rule package are: the Governor’s Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The final submission to the Office of Administrative Hearing (OAH) shall include the MRCCA rule package and all correspondence between DNR and Management and Budget pertaining to the proposed MRCCA rule.

Determination About Rules Requiring Local Implementation

The proposed rules require local governments to prepare or amend their MRCCA plans and ordinances, implement new districts, and meet or exceed the proposed MRCCA standards. The DNR, in consultation with the Metropolitan Council, will notify local governments to prepare or amend plans and ordinances, subject to the timeframes in the proposed rules.

Cost of Complying for Small Business or City

Minn. Stat. § 14.127, subd. 1, provides⁵ that:

An agency must determine if the cost of complying with a proposed rule in the first year after the rule takes effect will exceed \$25,000 for: (1) any one business that has less than 50 full-time employees; or (2) any one statutory or home rule charter city that has less than ten full-time employees. For purposes of this section, "business" means a business entity organized for profit or as a nonprofit, and includes an individual, partnership, corporation, joint venture, association, or cooperative.

The timing of a rule's effect is set forth in Minn. Stat. § 14.38, which provides that a rule is effective five working days after the publication of the notice of adoption in the State Register.⁶

Proposed rule 6106.0070 requires the commissioner, in consultation with the Metropolitan Council, to develop an adoption schedule to be used for amending local plans and ordinances consistent with these rules. The schedule will align as closely as possible to the local governments' comprehensive plan update schedule set forth in Min. Stat. § 473.858 (2015). The commissioner must then notify local governments across the MRCCA of the schedule for adopting the provisions required by these rules. Zoning changes are not required to be made prior to publication of the adoption schedule.

It will take the commissioner time to develop the adoption schedule, prepare model plan and ordinance language, and provide training and other resources to aid local governments in updating their plans and ordinances to comply with the rules. As such, local governments across the MRCCA will not be required to begin work to amend and adopt MRCCA plans and ordinances to meet or exceed the standards set forth in these proposed MRCCA rules until the second year after adoption of these rules, at the earliest. According to the proposed rules, each local unit of government will be given at least one year to adopt their amended plans and ordinances after being notified by the commissioner to do so.

To establish the cost to local governments to implement the proposed MRCCA rules, the DNR surveyed local governments across the MRCCA to estimate implementation costs. The results of that survey are set out in Table 1 and indicate that the costs incurred by the individual local governments to accomplish this work may exceed \$25,000 depending on the complexity of their existing ordinances and the scope of changes needed to establish the new districts and applicable standards within their jurisdiction. Of those communities surveyed, only five small cities in the MRCCA are statutory or home rule cities as defined by Minn. Stat. § 14.127. Of these cities, Lilydale and Mendota indicated that the

⁶ Generally rules like these proposed rules, which require adoption or amendment of an ordinance, do not take effect upon publication in the State Register but require the agency to comply with a statutory waiting period set forth in Minn. Stat. § 14.128, subd. 1 and 2. In this instance, however, the rules are exempted from the statutory waiting period because the DNR was directed by law to adopt the rule. Minn. Stat. § 14.128, subd. 3 and Minn. Stat. § 116.15, subd. 3 and 4 (directing the commissioner to establish, by rule, districts and standards for districts within the MRCCA).

estimated costs of complying with the proposed MRCCA rule do not exceed \$25,000. Grey Cloud Island Township estimates that its costs will exceed the \$25,000 limit. Neither Nininger nor Ravenna townships provided cost estimates; however, the DNR does not anticipate that the costs of these townships to implement the rules will exceed \$25,000. Based on a comparison of existing to proposed zoning provisions such as height and setbacks in both townships, it appears that although the proposed MRCCA rules will add one new district in Nininger Township and two new districts in Ravenna Township, the proposed standards in those districts will not result in much change from current standards since the new proposed districts match current standards or refer to underlying zoning.

Because local governments will not be revising their local plans and ordinances one year after adoption of these rules, the proposed rules will not impact businesses within the MRCCA until, at the earliest, the second year after adoption of these rules. Therefore, Minn. Stat. § 14.127, subd. 1 is not applicable to the MRCCA rules as it pertains to small businesses. Notwithstanding the fact that the proposed MRCCA rules will not impact small businesses in the first year after the rules become effective, the DNR considered ways to minimize impacts to small businesses. Small businesses in the MRCCA are currently subject to local MRCCA plans and ordinances under Executive Order 79-19. In undertaking this analysis, the DNR used as a baseline those local plans and ordinances currently in effect within the MRCCA. While there is some variability among MRCCA communities, most ordinances include setbacks from shoreline and blufflines, and restrictions on placement of structures on bluffs consistent with the guidelines in Executive Order 79-19. Small businesses are already subject to zoning restrictions within the MRCCA, thus the proposed rules will not significantly change the regulations faced by small businesses, in most instances.

The DNR considered the following factors to minimize the impacts of the proposed rules on small businesses and other landowners within the MRCCA:

- MRCCA districts are designed to recognize current and planned land uses. Districts such as the Urban Mixed (CA-UM), Urban Core (CA-UC), and the River Towns and Crossings (CA-RTC) districts are designed to provide flexibility in height and structure placement in highly developed, redeveloping, or transitional areas where most commercial and industrial uses are located. Proposed Minn. R. 6106.0100.
- The proposed rules include numerous exemptions from height and setback requirements for river-dependent uses, including businesses such as marinas and barge operations. Proposed Minn. R. 6106.0110, subp. 6 and 6106.0180.
- At the request of business interests, the proposed rules allow for the maintenance and repair of existing buildings in the bluff impact zone. Proposed Minn. R. 6106.0160, subp. 3.A.(3)
- Limitations on development and expansion in the bluff impact zone will provide increased protection for businesses with structures close to the bluffline against slope failure, a demonstrated hazard within the MRCCA, as discussed below under “Bluff Protection Standards.” Proposed Minn. R. 6106.0120, subp. 3. These protections will result in a decrease in property damage and may result in a decrease in insurance premiums.

Finally, small businesses already in existence would not be subject to additional restrictions, except in cases where these businesses choose to expand or redevelop. In cases where these businesses include

nonconforming structures, those structures are already protected under Minn. Stat. §§ 394.36 and 462.357, subd. 1e (2015). In addition, the proposed rules provide local governments with the option of allowing nonconforming principal structures to expand laterally into required setbacks, consistent with many local MRCCA ordinances. Proposed Minn. R. 6106.0080, subp. 3.C. Expansion of structures, driveways and parking areas would also be subject to the vegetation management standards in proposed Minn. R. 6106.0150, and to land alteration and storm water management standards in proposed Minn. R. 6106.0160. Costs associated with these activities are not expected to differ significantly from costs already incurred in applying for local permits.

Some impacts to businesses, including small development firms and builders, could occur in conjunction with subdivision of land for residential development. The requirements for open space set-asides in most MRCCA districts could result in additional costs for management of the open space and design and construction of trails or other common amenities. However, these additional costs are typically offset by lower costs for development of roads and installation of utilities, since more compact development patterns equate to shorter roads and utility runs. Under most conservation design ordinances, density is the same, or even higher, than under conventional development, so the development value of a parcel is not diminished. Moreover, the presence of common open space, trails and other amenities can result in increased property values over time.

List of Witnesses

If these rules go to a public hearing, as proposed, the department anticipates having the following personnel involved in representing the DNR at the administrative hearing on the need for and reasonableness of the rules:

Legal Counsel: Sherry A. Enzler
DNR General Counsel

Witnesses: Julie Ekman
Manager, Conservation
Assistance & Regulation Section

Jennifer Shillcox
Supervisor
Land Use Programs Unit

Dan Petrik
Land Use Specialist

Suzanne Rhees
Water Policy Consultant

Bluff Protection Standards

Purpose

Protection of bluffs in the MRCCA was a major focus of this rulemaking, and the subject of much debate, input, and analysis. Protection of bluffs is important to reduce erosion and slope failure within the MRCCA, as well as to maintain habitat and the MRCCA’s iconic scenic character. The proposed bluff protection standards in these rules prohibit structures, impervious surfaces, vegetation removal, and land alteration on bluffs and in the bluff impact zone, with some exceptions. The proposed standards also require structures to be set back from the top of bluffs. Standards implementing these protections are described in the rule-by-rule analysis. This section establishes the need for these standards and consolidates the key bluff-related definitions and the underlying technical parameters used to develop the standards.

Bluff Erosion and Failure Concerns

The geology across the MRCCA is variable, with both glacial sediments and bedrock at the surface. These geological features are prone to erosion and natural instability. The northern portion of the MRCCA has more glacial deposits, including outwash, alluvium, colluviums, and terraces. These unconsolidated materials are sensitive to disturbance and susceptible to erosion. Downstream in the gorge area between Minneapolis and St. Paul, bedrock deposits are more prevalent. In the southern portion of the MRCCA, limestone, shale and sandstones form cliffs and outcroppings. These rocks are susceptible to fracturing, sliding, and other stressors. These glacial and bedrock materials can be unstable and are subject to slumping, sliding, creep, and erosion when exposed to stresses such as construction activities, stormwater runoff, structure placement, vegetation removal, and land alteration. Springs and seeps are the natural outlets of ground water in bluff environments, and are common in these bedrock outcroppings and cliff areas, where they contribute to slope creep, erosion and failure. (Figure 2 illustrates a bluff face with seeps.)

Slope erosion is a concern throughout the MRCCA. In August 2008, the Mississippi Water Management Organization (MWMO) conducted an inventory of toe, bank, and upland erosion along the east and west banks of the Mississippi River from I-694 south to the Ford Dam. A number of the inventoried riverbank sub-reaches showed signs of erosion and were identified as highly susceptible to future erosion⁷.



Figure 2. These icicles form at “the weeping wall” and emerge from beds within the Platteville Limestone. This photo was taken just down-river from the 2014 Fairview Hospital landslide in Minneapolis. Photo by Carrie Jennings.

⁷ Mississippi Watershed Management Organization, 2010.

Actively eroding and/or failing bluffs have also been identified as problems by citizens and government officials in the Lilydale, Mendota, and Mendota Heights area. Heavy rains over the past decade - including those in June 2014 - led to significant erosion and the failure of some bluffs within the MRCCA, including failures off Highway 13 in Mendota Heights (see Figure 3) and below Fairview University Hospital in Minneapolis. With FEMA funding, the DNR conducted an investigation⁸ of these and other bluff failures associated with the June 2014 rain events in the Mississippi and Minnesota River valleys⁹. The structural geologist conducting this evaluation found that all failed bluffs within the MRCCA had slopes had been modified for building foundations, stormwater management facilities, or road construction, and that these modifications contributed to bluff failure. In these particular instances the bluff failures also resulted in significant damages to built infrastructure.



Figure 3. Highway 13, Great Rivers Trail failure in Mendota Heights. Photo from <http://www.myfoxtwincities.com/story/25740202/mudslide-closes-highway-13-in-mendota>.

Bluffs also need protection because they provide wildlife habitat and support native plant communities. As illustrated by Minnesota's Land Cover Classifications System (MLCCS), a GIS-based classification system, there is a greater occurrence of native flora and fauna along bluffs and steep slopes¹⁰.

Better corridor-wide management practices addressing structure placement and vegetation, land alteration, and stormwater management can reduce the risk of soil erosion and bluff failure as well as economic loss and human injury.

Current Regulatory Status

Executive Order 79-19 does provide special protection of "*bluffs with a slope greater than 18 percent*," but does not define the term "*bluff*." Executive Order 79-19 does, however, define a bluffline as "*a line delineating the top of a slope connecting the points at which the slope becomes less than 18 percent*" and establishes a 40 foot structure setback from the bluffline. Executive Order 79-19 also limits certain vegetation and land alteration activities within the bluffline setback and prohibits new structures on slopes 18 percent or greater.

An examination of local ordinances within the MRCCA indicates that currently bluff definitions and standards vary widely across communities, as does administration of those requirements in local zoning ordinances. Many communities simply define a bluff as any slope greater than 18 percent, while others define them as slopes ranging from 12 percent to 40 percent. Some communities have specified the spatial extent of bluffs through use of minimum horizontal and/or vertical distances over which the

⁸ Jennings, C. 2015.

⁹ <http://www.dnr.state.mn.us/mlccs/index.html>

¹⁰ <http://www.dnr.state.mn.us/mlccs/index.html>

defined slope percentage is measured. Many local government definitions do not address the difference between natural and man-made slopes. Because of vague definitions and variations in the administration of local ordinances, the placement of buildings along bluffs, land alterations on bluffs, and vegetation management practices on bluffs are all inconsistent across the MRCCA. These inconsistencies coupled with the potential catastrophic impacts of unsafe bluff development support the need to redefine and reestablish development guidelines for those areas of the MRCCA with bluffs.

Determining New Bluff Definitions

The development of the bluff definition in the proposed MRCCA rules was premised on the dual goal of protecting sensitive bluff features while minimizing the creation of new nonconforming structures within areas of significant existing development. In an effort to achieve the latter goal, the 18 percent slope parameter was retained from Executive Order 79-19 because it was a standard widely adopted by local governments and accepted by environmental organizations. The DNR in consultation with local governments and other stakeholders then used GIS imaging to evaluate six combinations of bluff height and width parameters within the MRCCA. The purpose of this analysis was to determine which height and width parameters would meet the dual goals of minimizing nonconformities while protecting bluff systems.

The analysis began with a preliminary bluff map that had been prepared by the DNR in 2009 in response to a legislative directive that defined bluffs as having a slope of 18 percent or greater with a vertical rise of at least 10 feet. Minn. Laws 2009, ch. 172, art. 2, § 27, subd. 4 (pages 2484 - 2485) codified at Minn. Stat. § 116G.15 (2010). During the 2009/2010 rulemaking process local governments pointed out that this definition would create many nonconforming structures. While the 2013 Legislature repealed this bluff definition, the 2009 map was used as baseline for comparing other alternatives. *Cf. Id.* and Minn. Stat. § 116G.15 (2015).

Figure 4 compares the 2009 baseline definition and the proposed bluff definition. It shows that many existing structures (building footprints outlined in red) are captured by the 2009 bluff definition (shown in purple) and would thus be nonconforming structures under that definition, creating problems for property owners and local governments.

Alternatively, significantly fewer structures were captured by the proposed bluff definition (shown in green), but the definition still

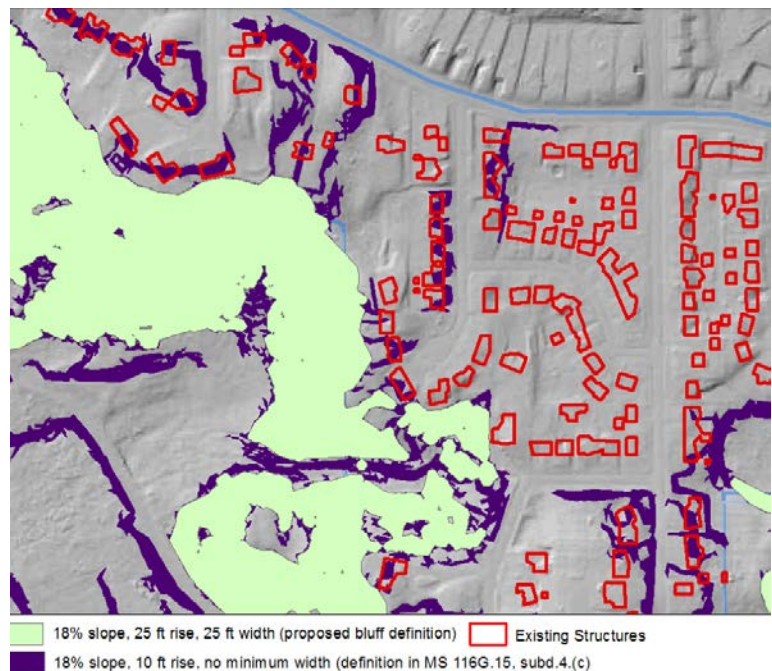


Figure 4: Comparison of bluff definitions. The areas shown in purple would be covered under the 2009 (baseline) definition; the areas in green are covered by the proposed definition.

protects the major bluff systems. Figure 4 shows the analysis for a portion of the Highwood neighborhood in St. Paul. Similar results were found when analyzing other sites in six other local governments across the MRCCA.

After many analytical iterations and field verification, it was determined that a bluff defined as a feature with an 18% slope rising 25 feet over a 25 foot width would provide the best balance between resource protection and minimizing the creation of new nonconforming structures. This definition (as shown in green in Figure 4) eliminated most minor topographic variations such as grading for driveways, yet encompassed the iconic bluffs that characterize the river corridor, as well as natural vegetation and habitat systems.

Before advancing this definition for inclusion in the MRCCA rules, DNR staff conducted field visits to understand how different bluff definitions might affect topographic, ecological, and scenic resources. Examples of structures located on 18% slopes with a vertical rise of at least 10 feet (indicated by the red outlined structures overlapping the purple shaded area in Figure 4) are shown below in Figures 5 and 6.



Figure 5: Example of property on 18% slope rising at least 10 feet.



Figure 6: Example of property on 18% slope rising at least 10 feet.

These properties are in established urban neighborhoods, on isolated 18% slopes with little natural vegetation. These properties have very similar topography and vegetation to other nearby properties that are not in the MRCCA. The DNR did not find any significant erosion risks in these areas or ecological or scenic resources to protect. Most of these properties are not visible from the river; however, some are located within 40 feet of bluffs as defined by the proposed definition, and would need to meet the bluff setback requirements set forth in proposed Minn. R. 6106.0120 or would be considered nonconforming.

Figures 7 and 8 show examples of properties that are in the bluff impact zone (BIZ) and would thus be regulated under the proposed rules. Figure 7 shows structures built on the top of the bluff overlooking the river corridor. Figure 8 shows structures built into the toe of the bluff. In these areas, bluffward expansion and future vegetation and land alteration activities would need to conform to the proposed rules.



Figure 7: Existing structures near top of bluff under proposed bluff definition.



Figure 8: Existing structures near bottom of bluff under proposed bluff definition.

Rule Proposal

The proposed rules provide a uniform set of specific bluff and bluff related definitions to insure consistent and equitable treatment of development across the MRCCA. The definitions also allow bluff features to be easily mapped by local governments using widely available mapping software. The DNR has developed a bluff mapping tool that can be used by local governments with ArcMap, a GIS mapping software, to map defined bluff features within their communities.

The proposed bluff definition retains the 18 percent slope criterion established in Executive Order 79-19, but adds additional parameters to ensure that bluff complexes, rather than isolated slopes, are protected:

Proposed Minn. R. 6106.0050, subp. 10 defines a *bluff* as a natural topographic feature having either of the following characteristics:

- A. a slope that rises at least 25 feet above the ordinary high water level or toe of the slope to the top of the slope; and the grade of the slope from the ordinary high water level or toe of the slope to the top of the slope averages 18 percent or greater, measured over a horizontal distance of 25 feet; or
- B. a natural escarpment or cliff with a slope that rises at least 10 feet above the ordinary high water level or toe of the slope to the top of the slope with an average slope of 100% or greater.

Subpart 10.B. was added to ensure that isolated cliffs and rock outcrops such as Robinson’s Rocks in Gray Cloud Island Township are protected. These features, which are often nearly vertical, would otherwise not be captured by the bluff definition.

The proposed definition also clarifies that a *bluff* is a “natural topographic feature” to differentiate natural features, which the rules seek to protect, from man-made features. The various bluff protection standards do not apply to man-made features such as highway and railroad embankments, road ditches, and reclaimed slopes.

A variety of bluff-related definitions are used to define the specific spatial extent of a *bluff*, the scope of required bluff protections, and to improve the ability of local governments to administer the rules. When determining the limits of a *bluff* it is important to clearly define where the *bluff* begins and ends. The following definitions were developed to aid in this determination. These definitions will be used to map bluff features when reviewing development proposals and for accurate delineation by surveyors “in the field”:

- A *bluffline*, which is a line delineating the top of the bluff. Proposed Minn. R. 6106.0050, subp. 10. More than one bluffline may be encountered proceeding landward from the river. *Id.*
- The *toe of the bluff* is a line along the bottom of a bluff, requiring field verification, such that the slope above the line exceeds 18 percent and the slope below the line is 18 percent or less, measured over a horizontal distance of 25 feet. Proposed Minn. R. 6105.0050, subp.77.
- The *top of the bluff* is a line along the top of a bluff, requiring field verification, such that the slope below the line exceeds 18 percent and the slope above the line is 18 percent or less, measured over a horizontal distance of 25 feet. Proposed Minn. R. 6105.0050, subp. 78.

While bluff mapping software can estimate the general location of *bluffs*, field verification by a land surveyor is needed to identify *blufflines*. The location of the *bluffline* is particularly important in determining the placement of a structure on a lot and determining the height of a structure. *See e.g.* Proposed Minn. R. 6106.0120, subps. 2 and 3B (regarding the height of structures in relation to the *bluffline* and *bluffline* setback requirements).

The *toe of bluff* and *top of bluff* definitions are derived from the state shoreland rules. Minn. R. 6120.2500, subps. 1b and 1c (2015). However, the proposed MRCCA rule uses a 25-foot horizontal segment instead of the 50-foot horizontal segment used in the statewide shoreland rules. *Cf.* Minn. R.6120.2500, subp. 1b (2015) and Proposed Minn. R. 6105.0050, subp. 11. The 25-foot horizontal segment was used to provide a finer resolution of these features systems within the MRCCA, which is more heavily developed than the typical shoreland district.

The concept of the *bluff impact zone* is the bluff and area around the bluff that will be protected by the proposed MRCCA rules. As illustrated in Figure 9, the *bluff impact zone* includes the bluff and land within 20 feet (from the top, sides, and toe) of the bluff. Proposed Minn. R. 6105.0050, subp. 9. The *bluff impact zone* is based on the definition used in the shoreland rules but includes the sides and toe of the bluff as protected areas. *Cf.* Minn. R. 6120.2500, subp. 1c (2015) and Proposed Minn. R. 6106.0050, subp.9.

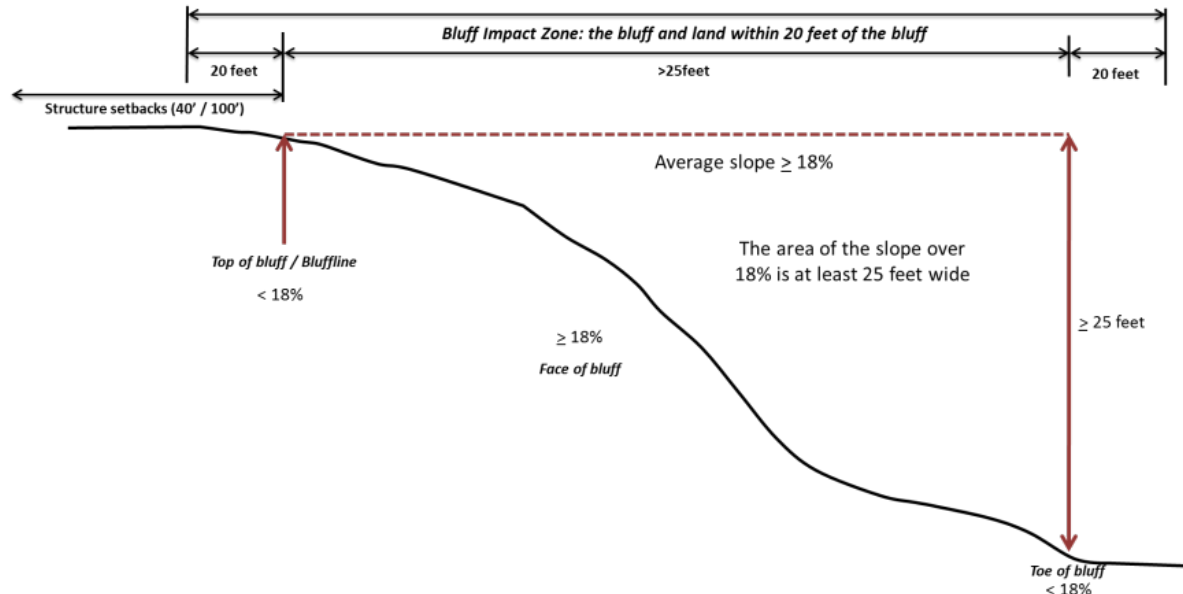


Figure 9. Bluff and bluff impact zone diagram.

The development and land use standards tied to the *bluff impact zone* in the proposed MRCCA rules are more restrictive than those in the shoreland rules. Minn. R. 6120.3300, subp. 4 (2015), Proposed Minn. R. 6106.0120, subp. 3 and 6106.0150. The proposed MRCCA rules prohibit the placement of structures, land alteration, vegetation clearing, stormwater management facilities, and most construction activities in the bluff impact zone. The proposed MRCCA rules do, however, allow some limited exceptions to these restrictions such as for public utilities and recreational access to the river. This greater degree of protection is necessitated by development pressures on bluffs throughout the river corridor, and the susceptibility of these features to erosion and slope failure.

Rule-By-Rule Analysis

6106.0010 Policy

The policy statement for the proposed MRCCA rules is derived from and consistent with Executive Order 79-19 and the original Executive Order 130 (1976), which established the MRCCA within the Twin Cities Metropolitan area. The MRCCA rules are intended to use coordinated planning to “achieve development [within the MRCCA] as a multipurpose resource, resolve the conflicts of use of land and water, preserve and enhance its natural, aesthetic, cultural, and historical value for the public use, and protect its environmentally sensitive areas.”

6106.0020 Purpose

The five statements of purpose for the MRCCA rules are drawn from Minn. Stat. § 116G.15, Subd. 1 (2015) and reflect the purposes of the MRCCA designation as set forth in Executive Order 79-19 (Section A, 3 S.R. 1692, Standards and Guidelines for Preparing Plans and Regulations).

6106.0030 Scope

This part lays out the jurisdiction and scope of the rules, the general roles and responsibilities of governmental entities with jurisdiction or property within the MRCCA in furthering the purposes of the rules, and the applicability of conflicting rules, ordinances and regulations to the MRCCA:

Subpart 1: Applicability. The proposed MRCCA rules are applicable to all lands and public waters within the jurisdictional boundaries of the MRCCA.

Subparts 2 and 3: Government actions and state land. These subparts specify the general responsibilities of all governmental units with jurisdiction or property within the MRCCA for furthering the purposes of the proposed MRCCA rules as provided by Minn. Stat. § 116G.15, subd. 5 (2015). These rules are applicable to state and local units of government.

Subpart 4: Conflicting standards. This subpart addresses the issue of conflicts between the proposed MRCCA rules and local ordinances, state rules, or any other regulation. Where such a conflict exists, the most protective provisions apply. This is consistent with similar provisions in many other state rules.

Subpart 5: Superseding standards. This subpart clarifies that the proposed MRCCA rules supersede the Environmental Quality Board (EQB) rules with respect to management of the MRCCA. The EQB rules, Minn. R. 4410.8100 to 4410.9910 (2015), will remain, however, as they are applicable to the designation and administration of other critical areas in general. The MRCCA is the only critical area in existence at the time that these rules are being proposed.

6106.0050 Definitions

In the course of developing the proposed MRCCA rules, 86 terms were identified as requiring definitions. It was important to define these particular terms because many will be incorporated into local zoning ordinances, and consistency in terminology across the MRCCA is essential. Many of the definitions borrowed heavily from definitions already used by local government in existing ordinances. Of these terms and definitions:

- Fifteen of the terms and their associated definitions refer to or are derived from Minn. Stat. § 116G.15 (2015) or Executive Order 79-19. These include the definitions for: *adjacent; barge fleeting; bluffline; developer; development; discretionary action; essential services; local government; off-premise advertising signs; parcel; public transportation facilities; setback; steep slope; transmission services; and treeline*. Because Minn. Stat. § 116G.15 (2015) and Executive Order 79-19 are the guiding documents for this rulemaking, using existing definitions from these documents provides consistency across rules and statutes and continuity over time.
- Twenty-one of the terms and their associated definitions were derived from existing terms and definitions in other state statutes or rules, including: *agricultural use; conditional use; dock; electric power facilities; feedlot; floodplain; interim use; lot; marina; mooring facility; nonconformity; ordinary high water level; plat; port; public waters; storm water; subdivision; subsurface sewage treatment system; variance; wetlands; and wharf*.
- The remaining terms and definitions are new. Many of these new terms and definitions are derived from current terms and definitions in other state statutes or rules and have been modified to achieve the purposes of the MRCCA rules.

Proposed definitions that are central to the proposed MRCCA rules and that differ from existing definitions in Minnesota Statutes, Minnesota Rules, or Executive Order 79-19 (beyond minor grammatical changes or technical updates) or that require an explanation are described in more detail below.

Bluffs and Related Terms

Bluff protection was one of the most closely analyzed issues in the rule development process. The proposed rules provide a uniform set of specific bluff and bluff related terms and definitions - including *bluff, bluff impact zone, bluffline, toe of bluff* and *top of bluff* - to ensure consistent and equitable treatment of development across the MRCCA. As defined, bluffs and bluff features can be easily mapped by local governments using widely available mapping software, including a bluff mapping tool the DNR has developed for use with ArcMap, a GIS mapping software.

The proposed terms, definitions, and associated protection standards for bluffs and bluff features are described in detail in the “Bluff Protection Standards” section of this SONAR. *See Supra* at 22-28 discussing the need for bluff protection, proposed terms and definitions, and the rationale for specific bluff standards within the MRCCA.

Buildable Area

This term identifies areas that are available for development on a lot or parcel within the MRCCA as provided in the proposed MRCCA rules. *Buildable area* does not include the resources and features identified for protection in Minn. Stat. § 116G.15, subd. 4 (2015), and does not include setback areas and other areas specified for protection by the MRCCA rules. This term is used in proposed dimensional standards in 6106.0120, subp. 4.B. to ensure that newly created lots have adequate room for development without needing a variance. Local governments requested that this definition be provided to minimize confusion and disputes over whether certain areas are suitable for development.

Conservation Design and Conventional Subdivision

Both *conservation design* and *conventional subdivisions* are allowed under the proposed rules. *Conservation design* is a pattern of subdivision that is characterized by grouping lots within a portion of the parcel to permit the remaining portions of the parcel to be protected as open space. Proposed Minn. R. 6106.0050, subp. 16. *Conventional subdivision* is a traditional lot and block type of development that was the primary method of development when the MRCCA was designated. *Conservation design* provides local government with the option of allowing smaller lot sizes within the MRCCA in exchange for increased protection of primary conservation areas within the MRCCA as open space, and replaces the outdated term “clustering” used in Executive Order 79-19 (see Figure 10). Proposed Minn. R. 6106.0050, subp. 17. This term is used the proposed subdivision and land development standards in proposed Minn. R. 6106.0170, subp. 4, which require local governments to provide incentives for alternative design standards such as *conservation design* in local ordinances.

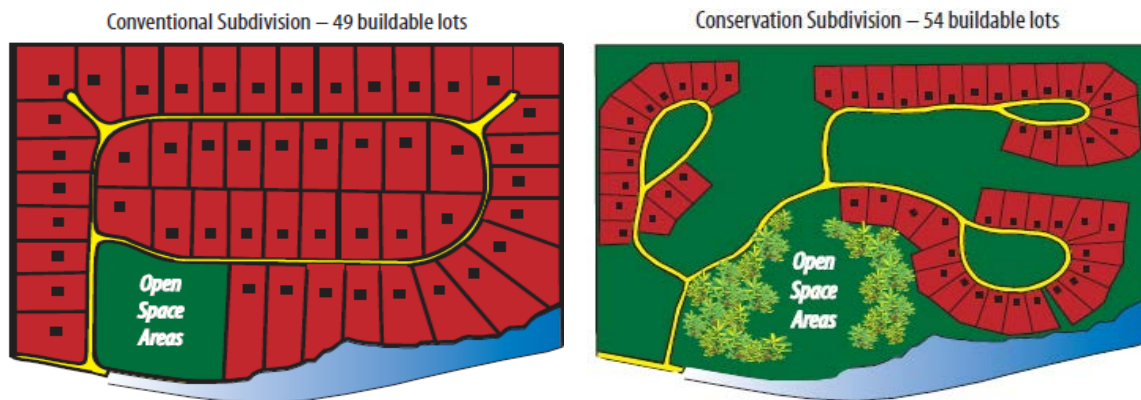


Figure 10. Conventional subdivision compared to conservation design subdivision.

Impervious Surface

The term *impervious surface* refers to constructed or hard surfaces that impede the infiltration of water into soils and increase runoff into surface waters. Proposed Minn. R. 6106.0050, subp. 29. This definition is consistent with that used in the Pollution Control Agency’s Application for General Stormwater Permit for Construction Activity, and is used in the proposed setback and storm water standards in proposed Minn. R. 6106.0120, subp. 3.B. and 6106.0160.

Intensive Vegetation Clearing

Intensive vegetation clearing replaces the term “clear cutting” as used in Executive Order 79-19. The term *clear cutting* is a forest management term. *Intensive vegetation clearing* expands on the concept of clear cutting to include the type of vegetative clearing that is typically conducted on developed lots including those in the MRCCA. The concept includes activities such as extending lawns, landscaping, or opening views. Proposed Minn. R. 6106.0050, subp. 30. This term is used in the proposed vegetation management standards in proposed Minn. R. 6106.0150.

Hard Surface Trail/Natural Surface Trail

The terms *hard surface trail* and *natural surface trail* are proposed to differentiate between trails that are suitable in sensitive bluff areas (natural surface) and trails that are not (hard surface). Cf. Proposed

Minn. R. 6106.0050, subp. 27 and subp. 40. These definitions were developed to address concerns raised about the negative impacts of intensive (hard surface) trail development due to extensive grading and clearing of vegetation in sensitive bluff areas. The definitions are derived from the DNR's Trail Planning, Design, and Development Guidelines referenced in proposed Minn. R. 6106.0090, D. These terms are used in the proposed design standards for public recreational facilities in proposed Minn. R. 6106.0130, subp. 8.

Land Alteration

Land alteration refers to changing the contours of or disturbing the earth surface. It includes earth-moving activities such as filling and grading that leave soil exposed and susceptible to erosion but excludes gardening and other minor disturbances. Proposed Minn. R. 6106.0050, subp. 32. The term is used in the proposed standards for land alterations in proposed Minn. R. 6106.0160, subps. 3 and 4.

Lot Width

The term *lot width* is provided to ensure sufficient river frontage to protect riparian areas for new lots that abut the Mississippi River in the proposed Rural and Open Space (CA-ROS) district, and to add clarity to the lot width measurement proposed in proposed Minn. R. 6106.0170, subp. 4. Proposed Minn. R. 6106.0050, subp. 36. The definition is derived from the state shoreland rules. Minn. R. 6120.2500, subp. 9 (2015).

Natural Vegetation

Natural vegetation refers to the types of plant growth within the MRCCA that stabilize soils, retain and filter run off, provide habitat and recharge ground water. Proposed Minn. R. 6106.0050, subp. 41. This term is intended to address the biological and ecological functions provided by natural vegetation, even though the vegetation may have been altered by human activity. The definition provides the basis for the proposed standards encouraging the retention and restoration of natural vegetation found throughout the proposed MRCCA rules.

Planned Unit Development

The proposed definition for *Planned Unit Development* is based on that found in the state shoreland rules. Minn. R. 6120.2500, subp. 11 (2015). However, the definition proposed for the MRCCA rules is broader and does not distinguish between residential and commercial planned unit developments or distinguish between the types of structures. Proposed Minn. R. 6106.0050, subp. 50. Given the frequent use of this type of development in the MRCCA, it is reasonable to have an inclusive and consistent definition of the term that is applicable across the MRCCA.

Primary Conservation Areas

The term *primary conservation areas* defines the key natural and cultural resources and features that are addressed by the MRCCA proposed rules. Proposed Minn. R. 6106.0050, subp. 53. The resources and features listed in the definition are derived from Minn. Stat. § 116.15, subd. 4(b)(2015). This definition consolidates natural and cultural resources and features listed in the statute into a single definition to shorten the rules. The term is used in several parts of the rules to ensure that key resources and features are given priority consideration for protection, including contents of local plans proposed in proposed Minn. R. 6106.0070, subp. 4, project submittal information proposed in proposed

Minn. R. 6106.0080, subp. 6, and the proposed subdivision and land development standards in proposed Minn. R. 6106.0170, subp. 4.

Public River Corridor Views

The term *public river corridor views* was developed to assist local governments and other stakeholders to identify and protect scenic resources through their planning processes. It recognizes that many of the most highly valued views within the river corridor are “views toward the river from public parkland, historic properties, and public overlooks,” as well as views towards bluffs from the opposite shore (a subset of the “readily visible” definition below). Proposed Minn. R. 6106.0050, subp. 56. The term is used throughout the proposed MRCCA rules. The definition is intended to provide local governments with an opportunity to identify specific views deemed important to that community, and to protect such views through the development review process.

Readily Visible

The term *readily visible* was developed to create a performance based standard to clarify visual standards and replace the outdated and vague term “*visual intrusion*” from Executive Order 79-19. This clarification was requested by local governments and other stakeholders. The term refers to development that is easily seen from the ordinary high water level at the opposite shore of the Mississippi River. Proposed Minn. R. 6106.0050, subp. 60. This term is used throughout the proposed MRCCA rules, and the definition describes an appropriate level of visibility for structures from a specified vantage point and during specified conditions. The definition is not used to prohibit development, but to ensure that visual resources are considered in development review by local governments.

River-dependent Uses

The term *river-dependent uses* clarifies those types of commercial, industrial and utility land uses that require a riverfront location and shoreline facilities in order to conduct business. Proposed Minn. R. 6106.0050, subp. 65. This term is consistent with the goal of preservation and enhancement of economic, recreational, cultural, and historical resources within the river corridor to meet the purposes set forth in Minn. Stat. § 116G.15, subd. 1 (2015). Specific standards apply to these uses as provided by proposed Minn. R. 6106.0110, subp. 6, and 6106.0180.

Selective Vegetation Removal

The proposed MRCCA rules specifically allow *selective vegetation removal* without a permit while requiring a permit for *intensive vegetation clearing*. See Proposed Minn. R. 6106.0150, subp. 3. *Selective vegetation removal* is vegetation removal that does not substantially reduce tree canopy or understory cover. Proposed Minn. R. 6106.0050, subp. 66. The definition is based on that found in Executive Order 79-19 and modified with input from local governments, most of whom already regulate removal of vegetation using similar definitions.

Shore Impact Zone

The land along the water's edge is environmentally sensitive and needs special protection from development and vegetation removal. The *shore impact zone* is a "buffer" area between the water's edge and the area where development is permitted (see Figure 11). Proposed Minn. R. 6106.0050, subp. 68. The *shore impact zone* is the focus of many of the MRCCA rule standards for land alteration and vegetation management. This definition establishes defined boundaries for the *shore impact zone*, which are derived from the state shoreland rules. Minn. R. 6120.2500, subp. 14.c. (2015). The term is used in the proposed structure location standards, vegetation management standards, and land alteration standards in proposed Minn. R. 6106.0120, subp. 3, 6106.0150, subp. 2, and 6106.0160, subp. 2.C., respectively.

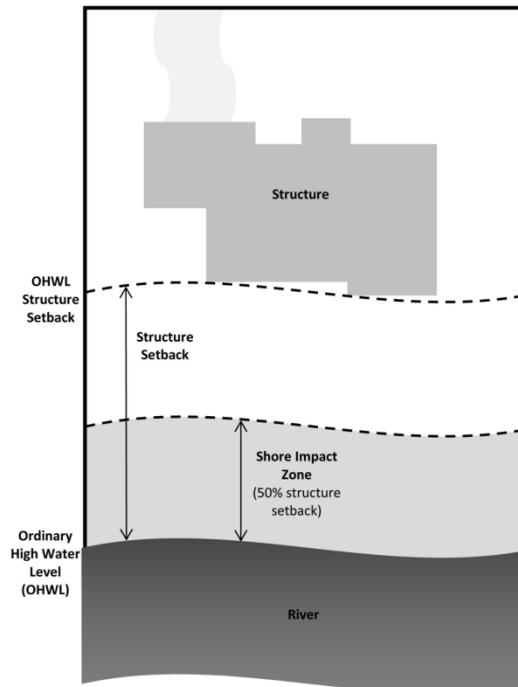


Figure 11. Shore impact zone diagram.

Shoreline Facilities

The term *shoreline facilities* is used to clarify what types of facilities are river-dependent and require a riverfront location, consistent with the economic purposes of the river corridor as described in Minnesota Statutes, § 116G.15 (2015). The term is used in several parts of the draft rules, including the proposed design standards for river-dependent uses in proposed Minn. R. 6106.0110, subp. 6, and the proposed list of exceptions to the ordinary high water level (OHWL) setbacks in proposed Minn. R. 6106.0180.

Steep Slope

A *steep slope* is a natural topographic feature with an average slope of 12 -18 percent measured over 50 feet or more. Proposed Minn. R. 6106.0050, subp. 72. This term has a specific definition because protections afforded steep slopes differ from those established for bluffs. Executive Order 79-19 includes performance standards that govern development on slopes between 12-18 percent, and similar standards are proposed in proposed Minn. R. 6106.0160, subp. 8. The 50-foot horizontal measurement is a commonly used standard and ensures that minor undulations in the landscape are not regulated as steep slopes. The use of the term "natural" also ensures man-made features such as road embankments are not treated as steep slopes for regulatory purposes under the proposed MRCCA rules.

Structure

The definition of *structure* is derived from the state wild and scenic river management rules. Minn. R. 6105.0040, subp. 23 (2015). A structure includes buildings, signs, and appurtenances with some limited exceptions. Proposed Minn. R. 6106.0050, subp. 74. This definition is used to define buildings, signs and appurtenances that will be subject to the proposed dimensional standards in proposed Minn. R. 6105.0120.

Water Oriented Accessory Structure

A *water oriented accessory structure* refers to recreational amenities that are commonly constructed closer to the shoreline than a typical structure. Proposed Minn. R. 6106.0050, subp. 84. Under the proposed rules, these structures are allowed on riparian lots within the required setback from the ordinary high water level subject to specific standards in proposed Minn. R. 6106.0140, subp. 5.D. It is reasonable to clarify the types of structures that are allowed closer to the water, and to place limits on the dimensions of these structures to minimize negative impacts to sensitive shoreline areas. The dimensions chosen are consistent with the sizes of many existing structures within the MRCCA.

6106.0060 Administration of Program

Part 6106.0060 of the proposed MRCCA rules lay out the specific roles, responsibilities, and authorities for administering the proposed rules. Many provisions are drawn directly from Minn. Stat. § 116.15, subd. 2 (2015), Executive Order 79-19, and/or the state environmental review rules set out in Minn. R. Ch. 4410. Below, by subpart, is a brief description of the pertinent requirements for the administration of the MRCCA program with special emphasis on new or revised provisions.

Subpart 1. Purpose, terms, and timeframes. This subpart clarifies that the “plan[s] and ordinance[s]” specified in the MRCCA rules only pertain to those plans and ordinances prepared by local governments to implement the rules in the MRCCA. It is not the intent of the MRCCA rules that the provisions in the rules should apply to any other local plans or ordinances. The subpart also clarifies that all time frames referenced in the MRCCA rules are measured in calendar days.

Subpart 2. Responsibilities and authorities. This subpart establishes the roles and responsibilities of the governmental authorities involved in implementing the MRCCA program, including the commissioner of natural resource; the Metropolitan Council; local governments; and state or regional agencies, local park agencies, and special purpose units of government. Proposed Minn. R. 6106.0060, subp. 2. Most local governments currently have MRCCA plans and ordinances in place. This is consistent with Executive Order 79-19 and the MRCCA program’s administration.

Subpart 3. Consistent plans and ordinances. Consistency is a fundamental element of the MRCCA program thus, under this subpart, local governments must adopt, administer, and enforce plans and ordinances within the MRCCA that are consistent with the MRCCA rules. For purposes of the MRCCA rules, “consistency,” means that local plans and ordinances must meet the purpose, scope, and the numeric thresholds set forth in the MRCCA rules, but may vary in structure or wording. To deviate from this consistency standard the local government must request flexibility, as provided in proposed Minn. R. 6106.0070, subp. 6.B. This provision is necessary in order to provide local governments with the explicit standards that DNR will use when it reviews local plans and ordinances. Local governments expressly requested this provision. The concept of consistency is a reasonable expectation for local plans and ordinances.

Subpart 4. Greater restrictions. Although the MRCCA rules require consistency with minimum standards, local governments are allowed to adopt and enforce plans and ordinances that are more restrictive than the standards in the MRCCA rules. The MRCCA rules are intended as minimum standards. It is reasonable to allow local governments to adopt and enforce more restrictive standards

to achieve a higher level of protection of the resources within the MRCCA consistent with other local goals. This clarification and permission was sought by local governments and other stakeholders during the rule development process.

Subpart 5. Duties of the commissioner. The duties of the commissioner (hereinafter referred to as the DNR) set forth in proposed Minn. R. 6106.0060, subp. 5 are largely unchanged from current statute, Minn. R. 4410.8100 – 4410.9910, and Executive Order 79-19. Those duties include:

- **Consultation.** Both this subpart and Minn. Stat. § 116G.15, subd. 2 (2015) require that the DNR consult with the named agencies and others that have a significant role in the MRCCA to ensure the corridor is managed in a manner consistent with the purposes of the statute. This subpart also requires that the DNR play a special consultative role with those units of government that manage land within the MRCCA to ensure that they administer public lands in a manner consistent with the MRCCA program.
- **Technical assistance and advice.** Local governments requested that the DNR provide them with technical assistance and advice in the development, administration, and enforcement of the plans and ordinances necessary to implement the MRCCA program. This subpart reflects DNR's commitment to provide that requested advice and assistance as an important mechanism to foster coordination and cooperation between the DNR and local governments.
- **Review and approval of local plans and ordinances.** Finally, this subpart specifies that the DNR will coordinate the preparation, submittal, review and approval of all local plans and ordinances submitted by local governments as specified in Minn. Stat. § 116G.15, subd. 5(30 and (4) (2015). This is an essential responsibility of the DNR under the current MRCCA program.

Subpart 6. Duties of Metropolitan Council. The duties of the Metropolitan Council remain largely unchanged from statute and Executive Order 79-19. In addition to its responsibilities in the MRCCA program administration, the Metropolitan Council is charged with the oversight of local government comprehensive plans in the Metropolitan area to assure consistency with metropolitan system plans. Minn. Stat. §473.175, subd. 1 (2015). The review process set out in proposed Minn. R. 6106.0060, subp. 6 is designed to ensure that the MRCCA review process outlined herein is incorporated into the Metropolitan Council's planning process for efficient planning. The process is also designed to integrate comments from the Metropolitan Council into the final plans and ordinances approved by the DNR.

Subpart 7. Duties of cities. The duties of cities too are substantially unchanged from statute and Executive Order 79-19. This subpart continues these duties for the 25 cities in the MRCCA, including:

- preparing, amending, and adopting plans and ordinances that meet or exceed the minimum standards of the MRCCA rules;
- submitting plans and ordinances to the Metropolitan Council for review and comment, and to the DNR for review and approval; and
- informing the DNR about discretionary actions taken under an approved plan or ordinance so that the DNR can provide technical assistance to the local government, comment on proposed actions, and monitor compliance with the MRCCA rules.

A new requirement provided in this subpart requires cities to notify the National Park Service and adjoining local governments, including those with overlapping jurisdiction and those across the river, of public hearings on discretionary actions and plan and ordinance amendments. The National Park Service must be notified of all discretionary actions taken by a city, while adjoining local governments only need be notified in cases where buildings are proposed to exceed the height limits established in the rules. The National Park Service and neighboring local governments have a vested interest in the MRCCA and the local decisions that can affect the MRCCA resources and features. The height and resulting visibility of buildings is of particular concern to many local governments. Unlike the prescribed format for notice to the DNR, the rule allows cities discretion regarding the method of notice given to the National Park Service and adjoining local governments.

Subpart 8. Duties of counties and townships. There are five counties and four townships in the MRCCA that have unique obligations under this subpart. Both counties and townships must prepare plans; however, whether a county adopts an ordinance is discretionary, while townships are required to adopt ordinances. All four townships in the MRCCA currently exercise zoning authority and it is appropriate that they adopt and enforce plans and ordinances in the same manner as cities. It is a requirement of Minn. Stat. § 394.33, subd. 1 (2015) that a township's plans and ordinances must be consistent with and at least as restrictive as those of the county in which it is located.

Subpart 9. Duties of state and regional agencies and other government entities. There are a number of state and regional agencies, local park agencies and special purpose units of government that own and manage land within the MRCCA. This subpart sets out their responsibilities under the MRCCA program. The obligations of these entities are relatively unchanged from Executive Order 79-19. To assure that the resources in the MRCCA are protected and to assure consistency across the MRCCA it is reasonable and necessary that state or regional agencies, local park and recreation agencies, and special purpose units of government such as watershed districts that own or manage lands within the MRCCA be required to manage their lands consistent with the MRCCA rules. In addition, agencies through their actions have the potential to influence other MRCCA stakeholders.

6106.0070 Preparation, Review, and Approval of Plans and Ordinances

Subpart 1. Purpose. Local governments with land in the MRCCA are required to adopt local plans and ordinances pursuant to Minn. Stat. § 116G.07 (2015), Minn. R. 4410.9000 (2015), and Executive Order 79-19. The purpose for this part is to clearly lay out the processes, responsibilities, and other requirements for the preparation, review, and approval of plans and ordinances to assure consistency with the proposed MRCCA rules. The MRCCA program has been in effect for over 35 years and the DNR has managed the MRCCA program since 1995. Historically, problems with administration of the MRCCA program largely stem from the vague or outdated language in Executive Order 79-19 or from a lack of program clarity or flexibility for local governments. Therefore, while many provisions in this part are identical to those set forth in statute, rule, and Executive Order 79-19, some procedures and criteria are clarified to better assist local governments to implement the MRCCA program.

Subpart 2. Adoption of plans and ordinances. The procedures for the adoption of local plans and ordinances required to implement the MRCCA rules are set forth in this subpart. Local governments' incorporation of the requirements of the MRCCA rules into local plans and ordinances will be

undertaken according to an implementation adoption schedule developed by the DNR in consultation with the Metropolitan Council. The provisions proposed under this subpart address the adoption schedule, program implementation prior to plan and ordinance adoption, and the impact of the adoption schedule on pending development projects:

- **Adoption schedule.** The DNR will, in consultation with the Metropolitan Council, develop an adoption schedule for the development and adoption of plans and ordinances under the MRCCA rules by local governments. The schedule shall align “as closely as possible,” with the local governments’ comprehensive plan update schedule set forth in Minn. Stat. § 473.858 (2015). The DNR will notify local governments of the schedule for updating their MRCCA plans and ordinances. Consultation with the Metropolitan Council is necessary to ensure that the schedule is workable for all parties and aligns with Metropolitan Council planning requirements. The flow of plans and ordinances needs to be staggered so that both the DNR and the Metropolitan Council are able to provide a timely and thorough review of local plans and ordinances.
- **Program implementation prior to plan and ordinance adoption.** To ensure seamless regulatory coverage prior to plan and ordinance adoption, existing plans and ordinances will remain in effect until new ones are adopted. Those local governments that have not previously adopted ordinances under Executive Order 79-19 must comply with the requirements of the newly adopted MRCCA rules until the local government adopts plans and ordinances consistent with the MRCCA rules and approved by the DNR. This latter requirement affects three communities within the MRCCA, all of which are currently subject to the Interim Development Regulations in Executive Order 79-19. Since these rules replace the Interim Development Regulations in Executive Order 79-19, it is reasonable to apply the standards in these rules rather than in Executive Order 79-19.
- **Impact of the adoption schedule on pending development.** It is not the intent of the MRCCA rules to halt development within the MRCCA pending the adoption of revised plans and ordinances. Development projects that conform to a local government’s existing plans and ordinances for the MRCCA and that were authorized under those plans and ordinances can continue, as provided in Minn. Stat. § 116G.13 (2015). This is a standard land use practice and is necessary to provide developers with certainty during the MRCCA program implementation phase, and also to limit exposure to takings claims.

Subpart 3. Plan and ordinance review. The procedures for the preparation, review, approval, and adoption of plans and ordinances are set out in this subpart. With the exception of minor modifications to address legislative changes made since establishment of the MRCCA, these procedures are largely unchanged from those in statute, EQB rules, and Executive Order 79-19.

- **Plan and ordinances adoption, review, and approval.** The requirements for plan and ordinance adoption, review, and approval align with the general critical area plan and ordinance review process in Minn. Stat. §§ 116G.04 – 116G.10 (2015) and adopted by the EQB in Minn. R. 4410.9000 through 4410.9400 (2015). As requested by local governments, this subpart does, however, provide greater detail and clarification of the process. Once notified by the DNR under

proposed Minn. R. 6106.0070, subp. 2, local governments will have one year to prepare or amend plans and ordinances for consistency with the MRCCA rules, and will be able to request extensions if needed. Local governments generally felt that this was a reasonable amount of time to complete their plans and ordinances.

- **Underlying ordinances.** Because both the MRCCA ordinance and the underlying standards upon which the ordinance relies must be consistent with each other and the requirements of the MRCCA rules, where a proposed plan or ordinance references underlying zoning standards, those underlying zoning documents must be submitted for review during the plan and ordinance review process.
- **Role of National Park Service in the review process.** The National Park Service was added to the review list for plans and ordinances. The MRCCA became a unit of the National Park System, known as the MNRRA, in 1988, 12 years after the original executive order. Thus, the perspectives of the National Park Service may be relevant to the review process.
- **Failure to adopt a plan and ordinance.** This subpart also establishes provisions for local governments that fail to adopt a plan and ordinance as required by the proposed MRCCA rules, consistent with Minn. Stat. § 116G.09 (2015), Minn. R. 4410.9300 (2015), and Executive Order 79-19. Specifically where a local government fails to adopt a plan and ordinance in conformance with the MRCCA rules, the DNR is authorized to use the procedures set forth in proposed Minn. R. 6106.0070, subp.3.J. to adopt rules on behalf of the local government. This authorization is intended to assure that all portions of the MRCCA are protected in accordance with the proposed MRCCA rules.

Subpart 4. Contents of plans. This subpart is intended to provide guidance to local governments in the preparation and revision of local plans necessary to implement the proposed MRCCA rules.

- **Component of local comprehensive plan.** This subpart requires that the MRCCA plan adopted by the local government be a component of the local government's comprehensive plan. This requirement is intended to ensure coordination between the MRCCA plan and other elements of the local comprehensive plan. Since plans guide local ordinance development and administration, this requirements is also intended to ensure consistency between the local MRCCA ordinance and other local ordinances.
- **Plan contents.** This subpart contains the required contents of local plans necessary to implement the proposed MRCCA rules. These include maps, policies, and implementation provisions to: identify and protect primary conservation areas and public river corridor views, restore sensitive natural areas, minimize conflicts in water surface use, provide for barge facilities and recreational marinas, provide for commercial and industrial water uses and access, provide for recreational facilities and open space, identify potential public access points and trails, and provide for transportation and utility development within the MRCCA.

Subpart 5. Contents of ordinances. The requirements of this subpart are intended to provide guidance to local governments in the preparation and revision of local ordinances necessary to implement the proposed MRCCA rules. As set forth in this subpart, local ordinances are required to be consistent with the requirements of the proposed MRCCA rules, including definitions, administrative provisions,

districts, and minimum standards and criteria. Because existing MRCCA ordinances, as well as shoreland and floodplain ordinances, are generally treated by local governments within the MRCCA as overlay districts, this subpart requires that updated MRCCA ordinances also be structured as overlay districts. The MRCCA ordinance adopted by the local units of government must reference any underlying zoning standards that govern development in a MRCCA district, such as building height.

Subpart 6. Flexibility requests for ordinances. A number of commenters and interest groups requested that the proposed rules include detailed criteria that would allow local governments, under special circumstances, to adopt standards that meet the intent or purpose of the proposed MRCCA rules but that are not necessarily “consistent” with the proposed MRCCA rules as defined in proposed Minn. R. 6106.0060, subp. 3. This so called flexibility provision is based on the flexibility process used effectively for many years in the state shoreland rules. This subpart sets out the special circumstances in which the flexibility provision may be used, lays out the process that a local government must follow to obtain flexibility, and establishes criteria that the DNR will use to evaluate the request.

Subpart 7. Plans and projects for parks and other public lands. While state and regional agencies and other governmental entities owning or managing property within the MRCCA are not required to adopt either plans or ordinances for these properties under the proposed MRCCA rules, they are required to manage their properties in accordance with the proposed rules. This subpart establishes the standards for plans and projects of state and regional agencies and other government entities.

6106.0080 Administrative Provisions for Ordinances

This part consolidates the administrative provisions for local zoning ordinances to ensure their consistency with these rules. As with proposed Minn. R. 6106.0070, many of these provisions are unchanged from Executive Order 79-19, but are spelled out in greater detail in the proposed MRCCA rules. The ordinance provisions were revised to be consistent with other applicable state and federal laws such as those governing local planning set forth in Minn. Stat. Chs. 394 and 462, the Americans with Disabilities Act 42 U.S.C. §§ 12111 *et seq.*, and the Fair Housing Act 42 U.S.C. §§ 3601 *et. seq.*

Subpart 1. Purpose. The purpose of this part is to clearly identify the administrative provisions required to be included in local ordinances adopted pursuant to the proposed MRCCA rules.

Subpart 2. Variances. While the proposed MRCCA rules are designed to assure that the plans and ordinances adopted by local governments are consistent with the requirements in the rules and protect the key resources and features within the MRCCA, requests for variances from local ordinance requirements are a common component of ordinance administration. They are particularly necessary in those instances where development activities cannot be conducted without varying from state and local standards. This subpart is designed to assure that variances addressing such instances are issued in conformance with the requirements of Minn. Stat. §§ 394.27, subd. 7 and 462.357, subd. 6(2) (2015) and address through mitigation the potential impacts of a proposed variance on MRCCA key resources and features. To insure consistent protection of resources and features across the MRCCA, it is reasonable to require mitigation of impacts to these resources in those situations where a variance is granted. Thus, this subpart requires that mitigation is proportional to and bears a relationship to the impact on the affected resource where a variance is granted that adversely impacts an MRCCA resource.

Many local governments currently use similar mitigation systems or place conditions on development to address the consequences of granting variances to developers.

Subpart 3. Nonconformities. This subpart addresses how local governments are to address nonconformities. Nonconformities were a significant concern to local governments, interest groups, and property owners during the rule development process, especially the concern that the proposed rules would create new nonconforming structures, uses, or lots. Throughout the district mapping process and analysis of bluff definition alternatives, the DNR worked closely with local governments to minimize the creation of nonconforming structures, and in some cases to reduce the number of existing nonconformities.

Although the proposed MRCCA rules were drafted to avoid creating legal nonconformities, it is inevitable that the adoption and implementation of these rules will create some legal nonconformities in the MRCCA, primarily nonconforming structures. Minn. Stat. § 116G.15, subd. 2(c) (2015) expressly permits the continuation of legally established nonconformities to the extent they are consistent with Minn. Stat. §§ 394.36 and 462.357, subd. 1e (2015). Where nonconforming principal structures do exist within the MRCCA, this subpart gives local governments the option of allowing limited lateral expansion of the nonconforming principal structure into required setbacks, consistent with defined criteria.

This subpart also clarifies that new structures built in accordance with the setback averaging provisions in proposed Minn. R. 6106.0120, subp. 3, or site alterations such as landscaping, erosion control, and stormwater control structures legally made prior to adoption of these rules, are considered conforming structures and site features.

Subpart 4. Conditional and interim use permits. A conditional use permit is a discretionary permit granted by a zoning authority that allows certain uses in a particular zoning district only after a public hearing and with specified conditions. An interim use permit is similar but zoning authorities can impose time limits on the use. This subpart allows local governments to issue conditional or interim use permits within the MRCCA provided the local government evaluates, assesses, and applies appropriate mitigation for potential impacts on key resources and features that may arise as a result of issuing the permit. Specific mitigation standards are set forth in subpart 5 of this part. This subpart pertains only to those conditional and interim uses specified in the proposed MRCCA rules.

Subpart 5. Mitigation. This subpart establishes mitigation measures intended to offset adverse impacts associated with the issuance of a variance under subpart 3 or an interim or conditional use permit under subpart 4 of this part. Local governments are responsible for determining mitigation measures that are related and proportional to the negative impact of the action allowed by the variance, conditional use, or interim use. Rather than mandating specific mitigation measures, this provision allows local governments to determine the appropriate measures that meet the intent of these rules, provided that the mitigation proportionally compensates for the adverse impact of the approved activity.

Subpart 6. Project information. This subpart contains a list of materials an applicant is expected to submit to apply for a discretionary action or permit required under the proposed MRCCA rules. A discretionary action, as defined in proposed Minn. R. 6106.0050, subp. 21, includes actions that require a hearing under local ordinance or statute.

The applicant must provide the local government with all relevant information that may be needed by the local government to evaluate compliance with the local MRCCA ordinance and the potential impact of the request to determine appropriate mitigation as provided in subpart 5 of this part. The list is not intended to be exhaustive; the designated local government official may determine which of the listed information is necessary for project review or if additional information is necessary to properly evaluate the impact of the requested action.

Subpart 7. Accommodating disabilities. Facilities to accommodate persons with disabilities consistent with state and federal law are permitted within the MRCCA even if inconsistent with the requirements of the proposed MRCCA rules. This subpart recognizes that development within the MRCCA must comply with the Americans with Disabilities Act 42 U.S.C. §§ 12111 *et seq.*, and the Fair Housing Act 42 U.S.C. §§ 3601 *et. seq.* This subpart allows local governments to regulate compliance with these federal requirements by administrative permit, thereby minimizing administrative burdens. This subpart also requires removal of accommodating facilities once the disabled person is no longer using the property.

6106.0090 Incorporations by Reference

The proposed MRCCA rules rely on standards set in a number of guidance documents developed by the DNR, the Minnesota Board of Water and Soil Resources (BWSR) and the Minnesota Pollution Control Agency (MPCA). This section adopts these guidance documents and the standards set in those documents. Rather than repeating the content of these guidance documents in the proposed MRCCA rules, they are included by reference. These documents are readily available through inter-library loan.

6106.0100 Districts

Subpart 1. Establishment of districts. Minn. Stat. § 116G.15, subd. 3, requires establishment of new land use districts within the MRCCA.

Subpart 2. Purpose. Executive Order 79-19 established four land use districts based on generalized land use patterns and natural resources within the corridor 35 years ago:

- Rural Open Space
- Urban Open Space
- Urban Developed
- Urban Diversified

Over time, these four districts have become less consistent with actual development within their boundaries as the region has evolved, and they no longer reflect the diversity of development patterns and resources within the MRCCA.

For example, the “Rural Open Space District” was intended to restrict density in rural areas. However, expansion of urban services such as the metropolitan wastewater system has occurred over the past 30 years in many of these areas, or is currently planned to occur under the Metropolitan Council’s metropolitan regional plan, Thrive MSP 2040 (2014). The “Urban Developed District” was designed for suburban densities, with a 35-foot height limit, which now conflicts with the goals of many suburban communities to create new, high-density town center development that takes advantage of river amenities.

The broad-brush nature of these districts and the inability to update them to reflect changing conditions identified in local land use plans has been challenging for local governments interested in redevelopment and enhancements to their riverfront districts.

As such, the 2009 and 2013 Legislatures directed the DNR to establish new districts within the MRCCA. Minn. Stat. § 116.15, subd. 3 (2015). The DNR is authorized to determine the appropriate number of districts within any one municipality, taking into account municipal plans and policies, existing ordinances, and existing conditions. In establishing the districts the DNR is required to consider: the protection of public recreational and interpretive resources; drinking water supply functions of the Mississippi River; the protection of resources identified in the MNRRRA plan and local comprehensive plans; management of the corridor consistent with natural characteristics, existing development and the potential for new development; and protection of scenic, geologic and ecological resources. Minn. Stat. § 116G.15, subd. 3 (2015).

Subparts 3-8. Proposed districts. An important focus of implementing this directive through the rule making process has been to design land use districts that are more responsive to unique resource conditions within the MRCCA and existing and proposed land uses identified in local plans. The DNR began the process of developing district types by examining the landscape character within the corridor including, but not limited to, an evaluation of topography, existing vegetation cover, and existing development patterns. This led to the identification of more than twenty different land types over the 72-mile corridor. Similar land types were then grouped together, reducing the number from twenty to ten. These ten land types formed the basis for the creation of ten draft districts which were developed further for public presentation at multiple venues. After receiving input from work groups, local governments, and other interests, the original ten districts were revised and ultimately consolidated into the six districts described in the proposed MRCCA rules. As outlined in subparts 3 - 8, these six districts include:

- Rural and Open Space (CA-ROS)
- River Neighborhood (CA-RN)
- River Towns and Crossings (CA-RTC)
- Separated from River (CA-SR)
- Urban Mixed (CA-UM)
- Urban Core (CA-UC)

The intent and level of protection for each of the six districts is based on the natural resource values within the district, with the greatest levels of protection in those areas that abut the river and still retain natural features. Greater flexibility is provided in those districts that contain areas with more limited resource values, areas that are separated from the river, and fully developed areas of the two major cities – downtown Minneapolis and downtown St. Paul. This array of districts more accurately reflects the different land uses existing within the MRCCA, current development patterns, and proposed future development. The diversity of the districts supports the different dimensional standards needed to enhance the corridor's character and to protect the resources and features identified for special protection in Minn. Stat. § 116G.15, subd. 1 (2015). For a more detailed description of the district, their boundaries, and their location within the MRCCA see [the proposed MRCCA district maps](#) (Exhibit G).

Subpart 9. District boundaries. One shortcoming of Executive Order 79-19 is the static nature of the original four districts. The districts established in Executive Order 79-19 cannot be modified to reflect changes in the MRCCA over the last 35 years. This subpart establishes a process to amend district boundaries. A request to amend the boundaries of a district must meet the amendment criteria to ensure local and state review and to assure that an amendment decision balances resource protection and local control. During rule development, local governments strongly supported the creation of an administrative process to amend district boundaries. Because the physical boundaries of the districts are part of this rule, amendments to district boundaries would need to be made through rulemaking. Since this can be a cumbersome process for boundary adjustments, particularly minor boundary adjustments, the DNR intends to seek statutory changes to Minn. Stat. § 116G.15, to give it the authority to change boundaries by written order of the commissioner, or for expedited rulemaking pursuant to Minn. Stat. § 14.389.

6106.0110 Uses

Subpart 1. Underlying zoning. This subpart provides that uses will generally be guided by a local government's underlying zoning, except for select land uses considered to have potential negative impacts on the MRCCA's resources. The Interim Development Regulations adopted under Executive Order 79-19, which were intended to guide local governments in creating their MRCCA ordinances, restricted a limited number of land uses considered to have potential negative resource impacts. For example, mining and extractive uses were allowed in most districts with screening, and commercial and industrial uses were allowed in all districts with some limitations (i.e., on the landward side of blufflines in urban open space districts).

This subpart updates this list of uses to include: agricultural use, feedlots, forestry, aggregate mining and extraction, river-dependent uses, and wireless communication facilities. For these uses the proposed MRCCA rules provide specific standards and requirements to mitigate negative impacts.

Subparts 2 and 3. Agricultural uses and feedlots. Agricultural uses have a significant potential to impact water quality. There are several areas of agricultural land use within the MRCCA, particularly in the northern and southern stretches of the corridor. Many studies have documented the value of perennial vegetation adjacent to water bodies in protecting water quality. It is also well documented that steeper slopes have a higher potential for erosion, and perennial vegetation can mitigate this erosion potential. (USDA Agricultural Handbook No. 703). To restrict agricultural runoff from moving into the river, this subpart requires perennial vegetation within the highly sensitive shore impact zone and bluff impact zone. The proposed rule is consistent with the state shoreland rules. Minn. R. 6120.3300, subp. 7 (2015). To protect water quality, the proposed rules prohibit new feedlots and manure storage areas within the MRCCA. Existing feedlots must conform to the permitting and design requirements of MPCA's feedlot program as set forth in Minn. R. Ch. 7020 (2015).

Subpart 4. Forestry. Forestry activities, where permitted by underlying zoning, must follow current best management practices set forth in the DNR publication *Conserving Wooded Areas in Developing Communities*, incorporated by reference in proposed Minn. R. 6106.0090. This manual was developed by DNR and other stakeholders to encourage best management practices to conserve the ecological integrity and function of wooded areas, including habitat preservation, within communities as they are

developed. Application of these best management practices for forestry activities is intended to insure protection of the floodplains, significant existing vegetative stands, tree canopies, native plant communities, and scenic views and vistas.

Subpart 5. Nonmetallic mining. This subpart prohibits new nonmetallic mining within the shore impact zone, bluff impact zone, and required setback areas. There are a number of aggregate mining and extraction operations in the southern portion of the MRCCA. Local units of government had requested the ability to continue to allow some nonmetallic mining through conditional or interim use permits. Consistent with these requests, the standards allow local regulation of nonmetallic mining while minimizing the impact of potential mining and extraction activities within the MRCCA. Both existing mines and any new nonmetallic mines must, however, meet established standards for location, site management, and reclamation. These restrictions are consistent with the Interim Development Regulations adopted under Executive Order 79-19 and existing local government requirements.

Subpart 6. River dependent uses. The MRCCA governing statute presumes that the MRCCA will continue to be used for multiple purposes, including use as a transportation corridor, an economic resource, for water supply, and for storm water and wastewater treatment facilities. Minn. Stat. § 116G.15, subd. 2 (2015). For this reason, river access within certain districts must be maintained and shoreline facilities, private roads, and conveyances serving these uses are exempt from structure setbacks, subject to the provisions of proposed Minn. R. 6106.0180. The standards set out in this subpart apply to these facilities as well as to other parking areas and structures, and the placement of dredged material within the MRCCA. The subpart also makes clear that dredging and placement of dredged material within the MRCCA requires a DNR permit for work in public waters. Additionally, activities in the immediate riverfront area are solely limited to those that must be placed near the river for operational reasons.

Subpart 7. Wireless communication facilities. Local governments currently regulate the placement of wireless communication facilities, including towers. This subpart ensures that these regulations minimize the visual impacts of towers and restricts their placement in sensitive natural areas. Additionally, new facilities must demonstrate that functional coverage cannot be provided through co-location, a lower tower, or a tower located outside the MRCCA.

6106.0120 Dimensional Standards

Subpart 1. Purpose. To protect primary conservation areas from development impacts, this part establishes dimensional standards for structures within the MRCCA.

Subpart 2. Structure height. The height restrictions set out in this subpart are designed to allow development within the MRCCA while protecting “views of and from the river” as directed in Executive Order 79-19 and as set forth in the National Park Service’s MNRRA Comprehensive Management Plan. Structure height is one of the factors that varies the most by district, and has been the subject of considerable discussion and public input. In establishing the proposed structure height limitations, the DNR considered a variety of factors, including existing regulations, natural and scenic resources, existing and planned land uses, and standards already in place in local government ordinances.

Heights by district. The proposed rules use a graduated scale for structure height that varies by district depending on the district’s character and values intended to be protected:

- **CA-ROS:** The “rural and open space” district has the lowest level of development of all of the proposed districts within the MRCCA. To preserve the rural and open space characteristics of this district and its unique recreational value, a structure height of 35’ is proposed for this district. This district includes agricultural and rural residential areas, parkland and natural areas adjacent to the river. This height is intended to keep structures at or below the level of the treeline and is consistent with height restrictions in most of the local zoning standards that apply in these areas.
- **CA-RN:** A 35-foot height limit is proposed for the predominantly residential “river neighborhood” district. The height limit is intended to allow a two-story single-family dwelling without breaking the top of the treeline. This height restriction is consistent with existing structure heights in residentially zoned neighborhoods and height restrictions in most of the local zoning standards that apply in these areas.
- **CA-RTC:** The “river towns and crossings” district includes existing historic commercial areas, commercial nodes at bridge crossings, and existing institutional campuses that predate the establishment of the MRCCA. In this district, a maximum 48-foot height limit is proposed, with tiering of structures away from the river and blufflines to protect public river corridor views. Taller buildings may be allowed by conditional use permit, using the criteria set out in this subpart. The use of conditional use permits to deviate from established height requirements in this district provides an additional level of flexibility for local governments as well as opportunities for public review.

The height limit was chosen for consistency with existing structures within the proposed districts in order to prevent or minimize nonconformities. This height would allow a three-to-four story commercial, mixed use or residential building. This standard is generally consistent with local plans and ordinances

- **CA-SR:** The “separated from river” district includes non-riparian land that is separated from the Mississippi River by distance, development, or transportation infrastructure. Because of this separation, underlying zoning standards govern height, with the stipulation that structure height must be compatible with the existing treeline, where present, and surrounding development.
- **CA-UM:** The “urban mixed” district includes many industrial, commercial, and mixed use areas, as well as areas in transition to a more urbanized and mixed use character. Structures of up to 65 feet in height are proposed in this district, compatible with existing and planned development. As with the “river towns and crossings” district, tiering of structures away from the river and blufflines is required to minimize interference with public river corridor views, and taller buildings may be allowed by conditional use permit provided they meet the criteria set out in this subpart.

- **CA-UC:** The urban cores of both Minneapolis and St. Paul are highly developed, with redevelopment planned in the future. In the “urban core” district that applies to these areas, height is governed by underlying zoning standards, with consideration given to building placement to minimize visual impacts of new development.

Measurement methods. To assure consistency across the MRCCA, this subpart establishes a protocol for measuring structure heights across the MRCCA. Height is measured relative to the Mississippi River. Since managing the impact of development on river views is a high priority for the MRCCA program, structure height is measured from the side of the structure facing the river.

Exempt structures. The DNR is allowed by statute to provide exceptions to guidelines and standards governing individual districts. Minn. Stat. § 116G.15, subd. 4 (2015). Subpart 2 recognizes the need to exempt certain properties from the height requirements for individual districts. Part 6106.0180 of the proposed MRCCA rules lists the types of structures that would be exempt from the height requirements of this subpart. These exemptions are based on exceptions that already exist in local MRCCA ordinances, and on stakeholder input during the rulemaking process.

Conditional use permit criteria. A conditional use permit is a discretionary permit granted by a zoning authority that allows certain uses in a particular zoning district only as permitted by the zoning authority and with specified conditions. In two of the districts (CA-RTC and CA-UM) structures with heights exceeding the building height requirements of the district may be allowed by conditional use permit. This subpart sets out the criteria that should be used by local governments when determining whether to grant a conditional use permit allowing deviation from these height requirements. The criteria are designed to assure that the visual impact of buildings that are proposed to exceed the height limits are minimized to the greatest extent possible, and provide examples of techniques that can be used to minimize the visual impacts of the proposed buildings. These provisions are designed to inform and guide local governments in their consideration of conditional use applications.

Subpart 3. Location of structures. Structure setbacks from the river and from bluffs are essential to protect the natural resource values of primary conservation areas and to protect public safety across the MRCCA. The proposed setback requirements will result in minimal changes to zoning requirements already in place in local MRCCA ordinances. Specific setback requirements imposed by the rule include:

OHWL setbacks and the shore impact zone. A near shore area is a sensitive and complex natural system that sustains fish and wildlife and protects the water body from erosion and non-point pollution. This subpart establishes setback requirements from the Ordinary High Water Level (OHWL) and prohibits structures and impervious surfaces in the particularly sensitive shore impact zone (the area located halfway between the OHWL and required OHWL setback as defined in proposed Minn. R. 6106.0050, subp. 68) to protect these vital resources.

Setbacks from the OHWL were originally set out in Executive Order 79-19. These setbacks were the subject of much discussion and concern during the rulemaking process. One of the primary concerns was the possible creation of nonconforming structures. The DNR evaluated a variety of potential setback standards, including the Interim Development Regulations in Executive Order 79-

19, standards currently contained in local ordinances, statewide shoreland rules, community plans, park plans, natural resource inventory data, and existing development patterns. The DNR also considered the existing character and development pattern within each proposed district.

OHWL setbacks by district. Setbacks from the OHWL vary by district:

- **CA-ROS:** The “rural and open space” district contains the greatest concentration of native plant communities and other riparian habitat to be protected, and is the least developed of all districts. The proposed setback is 200 feet from the OHWL. This setback is the same as river setbacks for the “rural open space” district in the Interim Development Regulations in Executive Order 79-19 and is consistent with many existing local ordinances. The shore impact zone for this district is 100 feet from the OHWL.
- **CA-RN:** The proposed setback for the “river neighborhood” district, which is primarily residential in character, is 100 feet from the OHWL, with a shore impact zone of 50 feet from the OHWL. This standard was based on river setbacks for the “urban developed” and “urban open space” districts in the Interim Development Regulations in Executive Order 79-19. This standard is also consistent with many existing local ordinances in these areas and the standards for urban rivers in the statewide shoreland rules.
- **CA-RTC:** The proposed setback for the “river towns and crossings” district is 75 feet from the OHWL, with a shore impact zone of 37.5 feet from the OHWL. This standard is consistent with existing development patterns and planned redevelopment within the district. The standard is also consistent with standards set in the state shoreland rules for unsewered general development and sewerred recreational development waters.
- **CA-SR:** There is no land in this district with riparian frontage on the Mississippi River and thus setbacks are governed by underlying zoning. A few properties in this district are located on a backwater of the Vermillion River, a key tributary of the Mississippi River, with a required setback of 75 feet and a shore impact zone of 37.5 feet. Setbacks from key tributaries are discussed below.
- **CA-UM:** In districts classified as “urban mixed,” which feature largely developed or redeveloping urban areas, the proposed setback is 50 feet from the OHWL, with a shore impact zone of 25 feet. This setback is consistent with the standards in the statewide shoreland rules for sewerred urban rivers.
- **CA-UC:** In the intensively-developed “urban core” district, setbacks are governed by underlying zoning. The intent is to allow these areas to develop and redevelop riverfront uses consistent with historical patterns of riverfront use. This standard was adopted to protect the character of these urban riverfronts and to respond to interest expressed by the cities of Minneapolis and Saint Paul to bring activity to the riverfront through recreational and river-oriented commercial development that improves public access to the river.

Setbacks for key tributaries: Areas of confluence between key tributaries and the Mississippi River are identified as key resources in the MRCCA enabling legislation. Minn. Stat. § 116G.15,

subd. 5 (2015). While the statute does not name specific tributaries, the DNR, with input from local governments and interest groups, identified the Crow, Minnesota, Rum and Vermillion rivers as the key tributaries with confluences with the Mississippi River within the MRCCA. These four watercourses are the only major rivers with a confluence with the Mississippi River within the MRCCA. Because not all communities have enacted shoreland protection as required by statute for those tributary rivers, it is important to provide comparable protection for those portions of these tributaries that lie within the boundaries of the MRCCA.

The proposed setbacks for these tributaries are consistent with the state shoreland and scenic river standards, and with setbacks currently in place in local zoning ordinances. The setbacks for these tributaries are controlled by the MRCCA district in which they lie. The 150-foot setback in the “rural and open space” district (CA-ROS) is consistent with the Wild and Scenic River setback for scenic rivers. See Minn. R. 6105.0110, subp. 3.B. (2015). The 75-foot setback in the “river neighborhood” (CA-RN), “river towns and crossings” (CA-RTC), and “separated from river” (CA-SR) districts is consistent with the state shoreland rules setbacks for unsewered general development and sewer development river segments. Minn. R. 6120.3300, subp. 3 (2015).

Bluff setbacks and the bluff impact zone. The MRCCA contains major geological bluff features that are prone to erosion and natural instability. Bluff failure and erosion are significant concerns in the MRCCA, as evidenced by slope failures in recent years in Mendota Heights, Mendota, Lilydale, and Minneapolis. Bluff setback requirements are necessary to protect steep, unstable slopes, to limit the visual impact of structures on scenic resources, to protect property investments, and for the health, safety and welfare of the public. Setbacks can prevent severe environmental consequences such as slope failures and ongoing problems such as erosion.

The prohibition of structures within a certain distance from the top edge of a bluff (the bluffline) promotes bluff stability by minimizing disturbance, maintaining natural vegetation, and preventing excessive runoff. Setbacks are commonly used to address runoff from the top of a bluff and land alteration that can exacerbate instability, while protecting structures from dangers of slope failure. This rule also assures uniform bluff setback requirements across the MRCCA corridor, a concern raised by local units of government. Subpart 3 establishes both a bluff impact zone and a bluff setback within the MRCCA corridor. The bluff impact zone includes the bluff and an area within 20 feet of all sides of the bluff as defined in proposed Minn. R. 6106.0050, subp. 9. The construction or expansion of structures within this highly sensitive area is prohibited. The bluff setback area extends back from the bluffline. Development between the bluff impact zone and the bluff setback line is restricted but is not necessarily prohibited (see Exemptions below).

Bluff setbacks by district. The width of the bluff setback varies across the districts:

- **CA-ROS:** The greatest bluff setback, 100 feet, is proposed in the “rural and open space” district, an area characterized by public parklands and rural residential development. This standard is derived from the standards for the rural open space district in the Interim Development Regulations in Executive Order 79-19, and is also consistent with setback standards in many local ordinances in these areas.

- **All Other Districts:** A 40-foot bluff setback is proposed for all other districts in the MRCCA. The 40-foot setback was designed to accommodate disturbances that commonly occur during construction while, at the same time, protecting an undisturbed area at the top of the bluff. This 40-foot setback requirement is derived from the standards for the “urban open space”, “urban developed”, and “urban diversified districts” in the Interim Development Regulations in Executive Order 79-19. This standard is also consistent with the bluffline setback in Minn. R. 6105.0110, subp. 3 (2015) for wild rivers and with standards set by many local ordinances.

Exemptions. The DNR is allowed by statute to establish exceptions to guidelines and standards governing individual districts. Minn. Stat. § 116G.15, subd. 4 (2015). Subpart 3 recognizes the need to exempt certain uses and activities from the bluff setback requirements for individual districts. These uses and activities are listed in proposed Minn. R. 6106.0180. These exceptions are designed to address uses, structures, and activities that cannot meet the river or bluff setback requirements and serve their intended purpose.

Setback averaging. In developed areas there are multiple structures in place that predate these proposed rules and that may be inconsistent with the proposed OHWL and bluff setback requirements. This subpart allows local governments to use setback averaging where principal structures exist on adjoining lots on both sides of a proposed building site. In these cases the minimum setback can be altered to equal the average of the setbacks of the adjoining lots provided no impervious surface or structure is allowed in the shore impact zone or bluff impact zone. This allows equitable treatment for the new development and helps maintain a consistent community character. This averaging mechanism was derived from a similar standard in the state shoreland rules and is needed to provide flexibility and to minimize concern over nonconformities.

Subsurface sewage treatment systems. A river setback standard for subsurface sewage treatment systems is necessary to protect water quality. Consistent with standards in the state shoreland rules, this section adopts a 75-foot setback standard for subsurface sewage treatment systems.

Subpart 4. Standards for new lots. With the exception of the “rural and open space” district (CA-ROS), new lots in conventional subdivisions are subject to underlying zoning requirements for both lot area and width. In the CA-ROS district, however, new lots abutting the Mississippi River must be at least 200 feet in width, unless alternative design methods are used (i.e., conservation subdivision or similar methods). The 200-foot width standard is similar to (and in some cases less than) the standards currently in place in townships in rural areas in the southern stretch of the MRCCA. Undeveloped land in this district, if developed at a large scale with small riparian lots, could threaten habitat, ecosystem functions, water quality, and the scenic and rural character that defines this district.

In all cases, new lots must have adequate buildable area to comply with the setback requirements in subpart 3 so as not to require a variance in the future. The term “buildable area” for any given lot does not include sensitive natural areas, lands below the OHWL, rights-of-way, and other areas typically restricted from development by local ordinance as defined in proposed Minn. R. 6106.0050, subp. 11. This is a common requirement in most local zoning ordinances.

6106.0130 General Development Standards for Public Facilities

There are a number of unique public facilities within the MRCCA corridor, many of which are owned or managed by state or regional agencies and are not subject to local zoning requirements. This part provides detailed standards for specific types of public development within the MRCCA.

Subparts 1-2. Purpose and scope and definition of “public facilities”. These subparts establish the purpose of providing differing standards for public facilities and clarify which public facilities are covered by the standards. Public facilities include public infrastructure, transportation, and recreational facilities. The rule is designed to provide some degree of flexibility for such facilities given the services, amenities, and community benefits they provide, but still require best management practices to protect the MRCCA’s key features and resources.

Subpart 3. General design standards. This subpart sets forth general design standards applicable to all public facilities. As a matter of equity, to preserve the character of the MRCCA, and to protect the identified resources, many of the standards that local governments are expected to incorporate in their local zoning ordinances are also expressly made applicable to these public facilities. Public facilities are also required to comply with Best Practices for Meeting DNR General Public Waters Work Permit GP-001. These entities are exempted from obtaining local permits but are required to comply with the standards that such permits would impose.

Subparts 4 - 7. Standards for select public utility and transportation facilities. Design and development standards for transportation facilities and utilities are set out in subparts 4 through 7. These standards apply to public road right-of-way maintenance standards, crossings of public water or public land, public utility placement, roads and railroads. These facilities are for the public benefit and are likely to receive high levels of use. Therefore, where these facilities abut more than one district, the rules apply the standards of the less restrictive district. These standards are largely consistent with those in the Interim Development Regulations in Executive Order 79-19.

Subpart 8. Standards for public recreational facilities. Public recreational facilities must also comply with the proposed development standards within the MRCCA in order to avoid or minimize negative impacts to the resources that the MRCCA designation is intended to protect. Negative impacts may include erosion, increased bluff instability, and damage to near shore habitat.

- **Buildings and parking lots.** Public recreational facilities, such as parks, within the MRCCA are uniquely positioned to serve a public benefit within the corridor by providing public access to MRCCA resources. Allowing the construction of buildings and parking lots in areas that have the potential to affect scenic and natural values runs counter to the public interest. There is no public need to allow public buildings and parking lots to be located closer to the river and bluffs than private facilities. Therefore, these buildings and parking facilities must meet the dimensional standards for private development in proposed Minn. R. 6106.0120 unless the facility has been granted an exception to those standards in proposed Minn. R. 6106.0180.
- **Roads and driveways.** While public access to the natural and undeveloped areas within the MRCCA provides an important public benefit, access points such as roads and driveways should be designed to minimize runoff and negative impacts to vegetation. Therefore, roads and

driveways providing access public recreational facilities are prohibited in the bluff impact zone and shore impact zone, except in cases where no alternative placement is available to provide access to the site.

- **Trails, access paths, and viewing areas.** Trails, access paths, and viewing areas are key features providing public access to and views of the river and bluffs. To permit public enjoyment of the MRCCA resource, these facilities must frequently be placed within the bluff impact or shore impact zones. The best management practices in *Trail Planning Design and Development Guidelines*, incorporated by reference under proposed Minn. R. 6106.0090, must be used when designing and constructing these facilities within the MRCCA. These guidelines are designed to mitigate adverse impacts from these types of facilities on natural and scenic resources. Because of the high potential for erosion and associated slope failures that can result from construction of hard surface trails, this subpart prohibits the placement of hard surface trails on bluff faces with a slope exceeding 30% -- the steepest slopes in the MRCCA.
- **Water access facilities.** Water access facilities, including boat ramps, carry-in sites, and fishing piers, are key features providing public access to the river. To allow public enjoyment of the MRCCA resource, these facilities must be placed within the shore impact zone. The best management practices in the *Design Handbook for Recreational Boating and Fishing Facilities*, incorporated by reference in proposed Minn. R. 6106.0090, must be used when designing and constructing these facilities. The guidelines in this handbook are designed to mitigate adverse impacts from these types of facilities on natural and scenic resources. Additionally, water access ramps must be constructed to comply with Minn. R. 6115.0210 and Minn. R. 6280.0250 (2015).
- **Public wayfinding and interpretation devices.** Public wayfinding and interpretive devices are designed to facilitate the public's use and enjoyment of recreational facilities within the MRCCA. The proposed MRCCA rules allow public interpretive or directional signs and kiosks in the bluff and shore impact zones to assist in wayfinding and interpretation, provided visual impacts and disturbances are minimized.

6106.0140 General Development Standards for Private Facilities

Subparts 1-3. Purpose, definition of "private facilities", and general design standards. "Private facilities," including private roads, driveways, parking areas, water access, viewing facilities, decks and patios, and signs, all have the potential to negatively impact the resources intended to be protected by the MRCCA designation. Many of these facilities are constructed with impervious materials that increase runoff and, therefore, have the potential to adversely impact water quality and decrease bluff stability. Additionally, constructing these facilities can adversely affect adjacent vegetation, which in turn can impact both bluff stability and scenic vistas within the corridor. Conversely, these types of facilities provide residents and businesses with needed access to the river and other amenities. This section sets out standards for the private development of roads, driveways, parking areas, water access and viewing facilities, decks and patios, and signs within the MRCCA. The standards proposed for these facilities are similar to those proposed for public facilities in proposed Minn. R. 6106.0130, but are adjusted to address the particular needs of residents and businesses. The proposed rule also attempts to

balance those needs with the need to protect the corridor's natural, scenic, and recreational values. These standards are intended to serve as minimum standards.

Subp. 4. Private roads, driveways, and parking areas. Private facilities are required to meet the land alteration, vegetation, and stormwater management requirements set forth in proposed Minn. R. 6106.0150 and 6106.0160. Additionally private roads, driveways, and parking are required to meet structure setback requirements set forth in proposed rule 6106.0120 and may not be placed in either the bluff impact zone or the shore impact zone, except where necessary for access to shoreline facilities, river-dependent uses, and subdivisions, as specified in proposed rule 6106.0180. These facilities are also required to use natural vegetation and topography to reduce their visibility.

Subpart 5. Private water access and viewing facilities. The proposed MRCCA rules recognize the need for riparian property owners to have facilities such as access paths, water access ramps, stairways, lifts and landings to access the river, and also recognize the need to regulate the construction and design of these facilities to reduce their negative impacts on the public resources the MRCCA designation is intended to protect. Additionally, many local governments, particularly in the northern part of the MRCCA, requested that DNR provide clear design standards for these facilities.

- **Access paths, staircases, lifts and landings.** This subpart establishes design criteria for access paths, staircases, lifts and landings to ensure that riparian property owners are able to access the river with minimal disruption to sensitive bluffs and shoreline areas. The standards for these facilities are consistent with those found in the state shoreland rules. See Minn. R. 6120.3300, subp. 4 (2015).
- **Water access ramps.** The standards proposed for private water access ramps are similar to those proposed for public access ramps. The best management practices in the *Design Handbook for Recreational Boating and Fishing Facilities*, incorporated by reference in proposed Minn. R. 6106.0090, must be used when designing and constructing these facilities. The guidelines in this handbook are designed to mitigate adverse impacts from these types of facilities on natural and scenic resources. Additionally, water access ramps must be constructed to comply with Minn. R. 6115.0210 and Minn. R. 6280.0250 (2015).
- **Water-oriented accessory structures.** The standards proposed for water-oriented accessory structures are similar to, but more restrictive than the standards in the state shoreland rules, since these standards are based on evaluation of typical lot and structure sizes in the river corridor which show a higher density or more intensive development pattern than that in most shoreland areas.

Subpart 6. Decks and patios in setback areas. Decks and patios were an important issue for many riparian property owners who have purchased property on the river with the intent to be able to view and enjoy the river from their deck and/or patio. These rules are intended to permit decks and patios to be placed to permit enjoyment of the MRCCA attributes while minimizing their impact on the MRCCA resources and the public's enjoyment of those public resources. The standards proposed in this subpart give local governments the flexibility to allow minimal encroachment into the required setbacks from the OHWL and from blufflines without a variance, provided the encroachment is limited to 15 percent of the required setback and is limited in size based on a formula that takes into account the lot width.

Because of safety concerns, encroachment is prohibited into the bluff impact zone. The proposed rule is a modification of Minn. R. 6120.3300, subp. 3.J (2015), adapted to recognize the more intensive development patterns and the typical placement and size of existing decks and patios on residential lots within the MRCCA.

Subpart 7. Private signs. There are a number of businesses that use off-premise advertising signs or directional signs for patrons accessing their business by watercraft. It is widely recognized that these types of signs, if unregulated, may adversely impact scenic views within the MRCCA. Throughout the rulemaking process, stakeholders expressed concerns about signs and billboards in the MRCCA. Stakeholders were particularly concerned that the proposed standards should not weaken existing protections.

- **Off-premise advertising signs.** The standards set forth in Executive Order 79-19 currently provide that signs “must not be visible” from the river. This subpart modifies the Executive Order 79-19 standard by requiring that off-premise signs must meet setback standards and height limits and must not be “readily visible” from the river as defined in proposed Minn. R. 6106.0050, subp. 60. This modification was made because many local governments have struggled with determining how the “must not be visible” standard can be met. Some stakeholders have contended “must not be visible” means that the sign should not be visible from anywhere in the corridor at any time of the year. This standard is impossible to meet and is not reasonable in those portions of the MRCCA where there is already intensive development. For this reason the standard was modified to prohibit signs that are “readily visible”. This standard ensures that signs are not so visible that they are dominant or readily noticed features of the river vista.
- **Directional signs for patrons arriving at a business by watercraft.** This subpart also recognizes that directional signs for watercraft, such as marina signs, are important for directing river traffic. These signs are, therefore, permitted within the MRCCA but limited in size and lighting to avoid dominating the river view. The standards for wayfinding signs was derived from the state shoreland rules, Minn. R. 6120.3300, subp. 10.C (2015), and are largely performance-based.

6106.0150 Vegetation Management

Vegetation in the MRCCA plays an important role in slowing storm water runoff, preventing erosion, filtering nonpoint source pollution, preventing establishment of invasive species, protecting habitat, maintaining stability of bluffs and steep slopes, and maintaining corridor character consistent with each management district.

Executive Order 79-19 relied on this principal to protect the important resource values of the MRCCA. Executive Order 79-19 prohibits clearcutting on the slope or face of bluffs and areas within 40 feet landward from blufflines, as well as on islands and public recreation areas. In other sensitive areas, Executive Order 79-19 regulates clearcutting through a variety of performance standards. Clear cutting is a forest management term and is adopted in Executive Order 79-19 to prohibit the removal of an entire stand of trees or shrubs. Under Executive Order 79-19 selective cutting of trees greater than 4 inches in diameter is permitted if continuous cover is maintained. Selective cutting, another forest

management term, is used in Executive Order 79-19 to establish the management practice of removing single scattered trees or shrubs throughout a stand of trees or vegetated area. Executive Order 79-19 has no provision for protecting riparian vegetation, an important element for both water quality and ecosystem health.

The use of these forest management concepts has not served the MRCCA particularly well, especially in developed areas, which are different from traditional forestry settings. Also, vegetation management standards across the MRCCA are inconsistent and do not adequately protect important MRCCA resources or public safety. Most local MRCCA ordinances currently include provisions prohibiting clearcutting as required by Executive Order 79-19; beyond this, they vary considerably. In many local MRCCA ordinances it is not clear what vegetation management activities are allowed where and what vegetation management practices are restricted. As a result, expectations for administration and enforcement of vegetation management across the MRCCA are unclear.

Additionally, the removal of riparian vegetation is not specifically addressed, either in the executive order or in most local MRCCA ordinances. These deficiencies become especially problematic when property owners clear vegetation on riverbanks or in areas that are highly visible from adjacent property or property across the river. Not only does this adversely impact views in the MRCCA, but removal of riparian vegetation adversely impacts water quality, increases the likelihood of shoreline erosion, decreases habitat, and adversely impacts aquatic ecosystems.

From an ecological perspective, maintaining shoreline vegetation is very important, as riparian zones are the interfaces between terrestrial and aquatic ecosystems and support many ecological processes and plant communities.¹¹ The nearshore areas adjacent to lakes and rivers are considered among the richest zones for aquatic organisms, mammals, and birds.¹² Maintaining riparian vegetative is also beneficial to water quality because it filters and reduces nutrient and sediment pollution and mitigates temperature increases.¹³ It is also well documented that steeper slopes have a higher potential for erosion, and perennial vegetation can mitigate this erosion potential by stabilizing soils.¹⁴

Local government staff regularly receive complaints about the removal of riparian vegetation but have a limited ability to address the problems because of vague ordinance language and the lack of enforcement mechanisms.

The proposed vegetation management standards were developed in close collaboration with local governments, resource professionals, and other interests, including private property owners. These standards seek to correct current regulatory deficiencies and improve vegetation protection by designating specific areas on the landscape for protection and adopting stronger performance

¹¹ Gregory et al. 1991

¹² Castelle et al. 1992

¹³ Castelle et al. 1994

¹⁴ U.S. Department of Agriculture. 1997

standards. The rules establish a vegetation permit system and restoration requirements for vegetation removed in violation of the permit. The rules also eliminate the concept of “clearcutting” by relying instead on the concept of “intensive vegetation clearing.” The concept of “selective vegetation removal” replaces the concept of “selective cutting.”

Subparts 1 and 2. Purpose and applicability. These subparts clarify the purpose of the proposed vegetation management standards and where they apply. Because of its forestry-based framework, Executive Order 79-19, and most local ordinances adopted in accordance with the executive order, do not adequately protect vegetation in riparian areas. While the proposed vegetation standards continue the practice established in Executive Order 79-10 of prohibiting intensive vegetation clearing in the bluff impact zone, the standards also prohibit intensive vegetation clearing in shore impact zones, land within 50 feet of a wetland or natural drainageway, areas of native plant communities, and other areas of significant vegetation identified by local governments in their MRCCA plans. Maintaining vegetation in these sensitive areas provides habitat for fish and wildlife and protects against erosion and subsequent runoff related water pollution, including sediment and nutrients, and maintains the scenic qualities of the corridor.

Subpart 3. General provisions. Specific standards and permitting requirements for vegetation clearing across the MRCCA are set forth in this subpart.

- **Limits on intensive vegetation clearing; activities that are prohibited and activities that require a permit.** Intensive clearing, regardless of the purpose, disrupts soil stability and increases the risk of soil erosion, sedimentation, and nutrient loading into drainage systems and surface waters. While activities such as removal of diseased, dying or hazardous vegetation, or restoration and erosion control projects are usually beneficial, the manner in which these activities are conducted may increase the risk of soil erosion and sedimentation. For this reason, intensive vegetation clearing is generally prohibited across the MRCCA, while some intensive vegetation clearing is allowed by local permit, to be issued by a local government or resource agency, such as a soil and water conservation district. Requiring a permit for these activities ensures guidance by qualified professionals and use of appropriate management practices to reduce the risk of erosion and water pollution.
- **Vegetation removal without a permit.** The proposed MRCCA rules do, however, allow some types of limited vegetation removal without a local permit. These limited exemptions were requested by local governments and property owners, and are intended to clarify the scope of the regulations and to reduce administrative burdens to local governments. Thus, activities that are considered a part of routine property management are permitted without a permit, including: selective removal of diseased, dying or hazardous vegetation, maintenance of existing yards, and gardening. Agricultural and forestry activities that meet the standards in proposed Minn. R. 6106.0110, subp. 2 through 4 are also allowed without a permit
- **Vegetation height.** Local governments are prohibited from restricting the height of groundcover vegetation in the shore impact zone, on land within 50 feet of a wetland or natural drainage way, in native plant communities, and in other areas of significant vegetation identified by local governments in their MRCCA plans. The intent of this provision is to prevent application

of local “weed” ordinances in areas where natural vegetation is desirable for achieving the purposes of these rules.

Subparts 4 and 5. Permit process and conditions. The vegetation management permit is a new concept in the MRCCA. The permit concept was adopted to more closely manage vegetation and vegetation removal across the MRCCA, to assure the process of removal does not further damage sensitive resources, and to provide flexibility to local governments to design and permit vegetation removal on a site specific basis. Local governments have the option of adopting and managing the permit program themselves or of delegating the management of the permit program to an existing process or to a resource agency or other qualified agent. To assure non-degradation across the MRCCA, intensive vegetation clearing is only allowed by permit and is only allowed under limited specified conditions. Performance standards or best management practices for vegetation management permits are set out in subpart 5. These standards include erosion and sediment control practices. These standards are required to be included as conditions in the permit. Other performance standards include measures to:

- Minimize disturbance to or removal of natural vegetation.
- Assure that an engineer or resource agency determines that site conditions are suitable for the proposed clearing activity. This is particularly important for work in bluff areas and areas near water or with a high water table.
- Minimize the visual impact of clearing by blending clearing with surrounding terrain.
- Given the limited number of remaining native plant communities in the corridor, assure that any native plant communities removed are replaced with vegetation of equivalent quality and establish priority locations for restoration of native plant communities.
- Require replacement of other removed vegetation with natural vegetation to the greatest extent practicable, particularly on bluffs, steep slopes, areas requiring soil stabilization, shorelines, and where natural vegetation provides some ecological services and enhances the scenic character of the corridor.

Subpart 6. Vegetation restoration plan requirements. Because of the importance of vegetation to the preservation of the MRCCA and its ecological and natural systems and to public health, vegetation restoration is required in all instances where vegetation has been removed without a permit where one is required, or upon failure to comply with an existing permit condition. Restoration is required to be conducted according to an approved restoration plan designed by a qualified individual. The plan must include vegetation that provides suitable habitat and effective soil stability, runoff retention and infiltration; and includes a maintenance plan. This provision, along with the permit program, provides local governments with a mechanism to require and enforce restoration activities.

6106.0160 Land Alteration and Storm Water Management Standards

Uncontrolled land disturbance near water increases the probability of sediment and phosphorus pollution to surface waters.¹⁵ Small construction sites are a large source of sediment erosion, yielding up to 10 times the typical loads from rural and urban land uses.¹⁶ Executive Order 79-19 requires that all land alteration activities be regulated by local governments according to best management practices that were typical in the 1970s. Executive Order 79-19 does not regulate storm water runoff, storm water management structures, or erosion control structures such as retaining walls and riprap. Regulations adopted pursuant to Executive Order 79-19 for land alterations are overly broad and apply the same management practices across the MRCCA, regardless of the proximity of the alteration to sensitive natural resources. The erosion control practices of the 1970s era do not provide adequate resource protection consistent with contemporary development and, in most cases, are less protective than current local government regulations.

Most local governments have adopted land alteration and storm water management regulations consistent with standards developed by the relevant watershed management authority and/or the National Pollution Discharge Elimination System (NPDES)/State Disposal System (SDS) permits for construction activities. The minimum land disturbance threshold triggering a local land alteration permit varies considerably across the MRCCA. The majority of communities in the MRCCA do not require a land alteration permit until at least 10,000 square feet of soil are disturbed. No community requires a permit for all land alteration activity, as required by Executive Order 79-19. The minimum impervious surface threshold triggering a local storm water permit also varies considerably. One acre is the most common threshold, as this is consistent with the NPDES/SDS permit for construction-related activities. Most communities do not vary their land alteration or storm water requirements based on proximity to sensitive natural resources.

While most local regulations include contemporary best management practices, they do not regulate small to medium size land disturbance activities (i.e. disturbing less than 10,000 square feet), which can occur in sensitive bluff and near shore areas. Thus, there is often no permitting oversight in the most sensitive areas in the MRCCA.

In response to identified erosion problems, especially in the northern reaches of the corridor, erosion control structures have been used to stabilize riverbanks and reduce erosion. The Anoka Conservation District, for example, found that most of the erosion problems along the Coon Rapids Dam Pool occur on public land containing few erosion control structures, while few erosion problems are found on private shores protected by manmade features such as rip rap and retaining walls.¹⁷ In the Coon Rapids Dam pool, riprap has been shown to be effective in controlling erosion at the toe of the slope. Riprap can also be effective in reducing sediment loading to the river. However, many of these features were

¹⁵ Walsh. 2005.

¹⁶ Owens. 2000.

¹⁷ Anoka Conservation District. 2012.

constructed without DNR approval or a work in public waters permit as required by Minn. Stat. § 103G.245, subd. 1 (2015). The work in public waters permit is intended to ensure that work or alterations to a public water below the OHWL do not obstruct navigation or water flow or negatively impact aquatic and near shore habitat. There are many instances where retaining walls and riprap have been installed at a scale significantly larger than that needed to correct erosion problems. The overuse of these mechanisms negatively impacts both riparian vegetation and habitat. (See Figure 12.)



Figure 12. Example of riprap installation extent greater than needed to control erosion, with significant impacts on riparian vegetation and habitat.

Management of activities located further from the shoreline can also significantly reduce storm water runoff. It is well documented that increases in impervious surfaces on the landscape affect both water quantity and quality. Negative impacts to the water quality of a river or stream typically occur when the impervious coverage of the watershed approaches 10 to 15%.¹⁸ Increased storm water runoff can affect the stability of slopes and bluffs and give rise to significant safety concerns.

The improper placement of storm water facilities can also increase the risk of slope failure. When placed on or near the tops of slopes, infiltration of storm water can saturate the soil around and below the facility, which can increase slope instability. High intensity rainfall events may load slopes, filling soil pores and reducing the capacity of soil to infiltrate water. Geologic factors are important factors in slope stability but the presence of saturated soils that receive additional, intense precipitation increases the risk of instability and failure.¹⁹

Subpart 1. Purpose. This part establishes standards to protect sensitive resource areas from disturbance and adopts a permitting process to regulate both land disturbance and storm water runoff in sensitive bluff and shore areas to prevent the negative impacts associated with these types of disturbances, including degradation of water quality and bluff instability.

Subpart 2. Definitions. This part rule relies on the following terms:

- “Water quality impact zone” is used to identify areas at risk of erosion and of transmitting sediment into a public water. It includes the shore impact zone.
- “Fully reconstructs” refers to the reconstruction of existing impervious surface. The definition is consistent with the definition used by MPCA’s Minimal Impact Development Standards (MIDS)

¹⁸ Schueler et al. 1994.

¹⁹ Jennings. 2015.

program, a voluntary program that encourages local governments to adopt higher development standards for storm water management.

- “Storm water management facility” is any facility that collects, conveys, treats or disposes of storm water. This definition is consistent with the Minnesota Stormwater Manual.

Subpart 3. Land alteration. Because of the importance and sensitivity of both the bluff impact zone and the water quality impact zone, this subpart establishes standards for their ongoing protection.

Bluff Impact Zones. Bluffs are especially susceptible to erosion and potential failure (see pages 22 to 28 on bluffs). Prohibiting land alteration activities that could destabilize bluffs reduces erosion risks and helps protect public bluffs from slumping or failure. Thus, Supb. 3.A. prohibits all land alteration activity in the bluff impact zone except as authorized by local permit. Permissible exceptions are limited to those activities, approved by local government or the appropriate resource agency, necessary for erosion control management or for the repair and maintenance of existing structures.

Water Quality Impact Zones. Land alterations, as defined, particularly within the water quality impact zone, have the potential to increase sedimentation and nutrient pollution in adjacent water bodies. This subpart is intended to prevent or decrease sediment and nutrient pollution within the MRCCA due to land alteration by using a permitting process and best management practices. Subpart 3.B. requires a local permit for activities in the water quality impact zone involving the alteration of more than 10 cubic yards of materials or an alteration of an area greater than 1,000 square feet. Activities in the water quality impact zone within the MRCCA are not currently regulated by most local governments. This permit requirement gives local government oversight over alteration activities, requires the use of best management practices, and thus reduces risks of erosion and water pollution. The 1,000 square foot threshold adopted in the rule is consistent with standards applied by the Capitol Region Watershed District.

Subpart 4. Rock riprap, retaining walls, and other erosion control structures. In-stream and streambank erosion control structures such as riprap and retaining walls can positively reduce the impacts of erosion, but these structures may also negatively impact stream and bank habitat in certain situations. Therefore, subpart 4 allows these structures in the bluff impact and water quality impact zones only with a permit issued by a local government and with DNR approval for work in public waters as set forth in Minn. R. 6115.0190 through 6115.0255 (2015). This subpart further specifies that these structures may only be used to correct an existing erosion problem and limits the size of the structures to the minimum needed to correct the problem. Structures larger than the specified dimensional limits are allowed only if an engineer determines that a larger structure is needed to correct the erosion problem. This issue drew extensive public comments, especially in the Coon Rapids Pool area. These standards acknowledge a need for riprap to address erosion in this area but places limits on the size of structures.

Subpart 5. Permit process. This subpart sets out procedures for obtaining a local permit for erosion control structures that local governments are required to adopt. The process parallels the process for obtaining a vegetation management permit set forth in proposed Minn. R. 6106.0150, subp. 4.

Subpart 6. Permit conditions. To assure the protection of those resources intended to be protected through the establishment of the MRCCA, land alteration permits are designed to meet minimum performance standards. These standards are best management practices, typical of contemporary erosion control practices, and include:

- temporary and permanent erosion and sediment control;
- maximizing natural site topography, soil and vegetation to minimize runoff and reduce erosion and sedimentation;
- phasing of construction; and
- placement of controls prior to land disturbance, and other BMPs identified in Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-001.

Subpart 7. Storm water management. Because of the adverse impact of runoff on bluff and slope stability, this subpart requires that, except as described below, storm water throughout the MRCCA must be directed away from bluff impact zones and other unstable areas.

- **Storm water management facilities in the bluff impact zone.** A contributing factor to slope failure and slumping and the associated economic, ecological and human costs is the poor construction and placement of storm water management facilities, such as pipes, outfalls, and treatment facilities. For this reason, the placement of storm water management facilities in the bluff impact zone is prohibited except in rare circumstances as permitted by local government, including where there are no alternatives, the facility is designed to reduce runoff in the bluff impact zone to the greatest extent practicable, the facility does not affect slope stability, and mitigation measures are incorporated into the permit to eliminate or minimize the risk of slope failure.
- **Impervious surfaces in the water quality impact zone.** Because of the potential adverse water quality impacts attributed to impervious surfaces, proposed Minn. R. 6106.0120, subp. 3 prohibits the placement of impervious coverage in the shore impact zone or bluff impact zone except as expressly provided in proposed Minn. R. 6106.0180, the exceptions. For these exceptions that create new impervious coverage, or for projects that fully reconstruct more than 10,000 square feet of existing impervious coverage, this subpart requires a local government to permit these projects according to the treatment standards in the local government's MPCA-approved Municipal Separate Storm Sewer System Permit (MS4) NPDES permit. If the local government does not have a MS4 NPDES permit, then the treatment standards in the applicable NPDES Construction Storm Water General permit apply. Alternatively, local governments may apply other MPCA-approved treatment standards such as those in the MPCA's voluntary Minimal Impacts Design Standards (MIDS)²⁰ program.

²⁰ <http://www.pca.state.mn.us/index.php/water/water-types-and-programs/stormwater/stormwater-minimal-impact-design-standards-mids.html>

These treatment standards ensure that runoff from impervious surfaces in the water quality impact zone will meet current standards. The 10,000 square foot threshold is consistent with standards used by the Capitol Region Watershed District. The area of this threshold is roughly equivalent to a 30-space parking lot.

Subpart 8. Development on steep slopes. To address the impact of land alterations on steep slopes (i.e. slopes between 12 and 18%) this subpart retains the best management practices for development set forth in Executive Order 79-19. Most local governments in the MRCCA have adopted ordinances that include these provisions.

Subpart 9. Compliance with other plans and programs. Many watershed management organizations and watershed districts exist within the MRCCA, and each prepares its own water plan to comprehensively address water quality within its watershed. Most local governments also participate in the National Flood Insurance Program (NFIP) and have local floodplain ordinances to reduce the risk of flood damage and loss. Finally, most local governments also have local wetland ordinances under the Wetland Conservation Act to protect wetlands within their jurisdiction. This subpart requires all development in the MRCCA to comply with these local water plans and floodplain and wetland standards, which focus on protecting these key features and resources in the MRCCA.

6106.0170 Subdivision and Land Development Standards

Conventional subdivisions, with their uniform lots and blocks, are inadequate to achieve the purposes of the MRCCA. The division of a tract of land into individual lots without regard to the corridor's natural or cultural resources often leads to fragmentation and degradation of natural vegetation and habitat.

Land development patterns within the MRCCA over the past 35 years have historically been guided by the general performance standards and guidelines set forth in Executive Order 79-19. These standards and guidelines encouraged "the clustering of structures and the use of designs which will reduce public facility costs and improve scenic quality." In addition, local governments and regional and state agencies were directed by Executive Order 79-19 to "develop plans and regulations to maximize the creation and maintenance of open space." Additionally, developers were required to dedicate a reasonable portion of "appropriate" riverfront access land or other lands for public use when developing residential, commercial or industrial subdivisions within the MRCCA. Executive Order 79-19 also permitted contribution of cash in lieu of land as an alternative to land dedication.

Executive Order 79-19's general performance standards and guidelines for subdivision and development within the MRCCA were advisory and have not consistently resulted in the intended preservation of open space. Proposed Minn. R. 6106.0170 seeks to correct this shortcoming by requiring either conservation design or other alternative design standards within the MRCCA.

The inclusion of alternative design standards such as conservation design in the MRCCA rules is intended to protect the multiple resource values of the MRCCA while providing a framework for future development of those large private landholdings that remain within the MRCCA.

Conservation design is a valuable tool for protecting water quality and wildlife habitat when appropriately applied, and also provide amenities to residents. An evaluation of 50 matched pairs of

conservation and conventional developments across the United States found that alternative development practices (e.g., conservation design and low impact development practices) were more likely to protect sensitive areas and restore degraded stream environments than the conventional developments. Conservation design can also protect important wildlife habitat in shoreland areas, if designed to minimize land disturbance in those sensitive areas.²¹ Finally, if planned in unison with neighboring developments or in the context of a comprehensive plan, conservation design helps preserve wildlife corridors between areas of high quality habitat.²²

There are additional benefits of conservation design, including creating a greater sense of community, increased connections to the natural environment, and more pleasing aesthetics²³. Conservation design has been shown to reduce both development costs and long-term maintenance costs of infrastructure, since the land area given over to infrastructure (such as shorter sewer and water connections and arterial roads) is reduced.

Subpart 1. Purpose. This rule establishes minimum standards for the subdivision and development of land to protect and enhance the natural and scenic values of the MRCCA, protect and restore biological and ecological functions of primary conservation areas within the MRCCA from the impact of development and redevelopment, and encourage restoration of natural vegetation particularly in those areas within the corridor yet to be developed or subject to redevelopment.

Subpart 2. Applicability. This subpart establishes thresholds above which the requirements of this rule apply. The development restrictions applied by this rule were of significant concern to local governments and other interests because of perceived challenges in managing protected open space on small parcels. After consultation with these interests, and after analyzing actual parcel sizes within each district to assess the potential impacts of the rule, the DNR proposes to limit the application of this rule to large scale developments. As such, the requirements for open space protection and restoration are limited to those developments of twenty or more acres, unless the proposed project abuts the Mississippi River, in which case a ten acre threshold applies. The decision to focus only on large parcels was made because most of the remaining developable parcels within the MRCCA are above these size thresholds, and because managing development on those parcels will yield the greatest benefits for the protection of resources within the MRCCA. This approach also limits the administrative burden of administering numerous small, unconnected parcels for both landowners and local governments.

The standards apply to subdivisions, planned unit development, and other large-scale master-planned developments. Developments involving three or fewer lots and minor adjustments are exempted from the requirements established by this rule. The three-lot threshold is consistent with the definition of “development” contained in Minn. Stat. § 116G.03, Subd. 7 (2015), which defines development as the

²¹ Milder. 2007.

²² Arendt. 1996.

²³ Nassauer et al. 2004

“dividing of land into three or more parcels.” This is also the typical threshold for a major subdivision in most local ordinances.

Likewise, developments or improvements involving river-dependent commercial and industrial uses are also exempt from the provisions of this rule, as these types of development typically take place on large sites that are unsuitable for open space preservation or public access.

Subpart 3. Project information. In order to assure an adequate evaluation of the impacts of proposed development or redevelopment within the MRCCA on the natural resource assets of the corridor, the local government will be required to obtain adequate data from the project developer. This subpart specifies that this information must be provided and reviewed by the local government prior to project authorization. The specifics of these requirements are provided in proposed Minn. R. 6106.0080, subpart 6.

Subpart 4. Design standards. Local ordinances are required to include design standards and other tools that are intended to achieve or heighten protection or restoration of primary conservation areas – those areas containing key resources and featuring important to the character of the MRCCA. These design standards and tools include incentives for alternative design standards such as conservation design. Incentives are intended to encourage developers to employ conservation design or other innovative development methods, such as transfer of development rights from sensitive to less sensitive lands, which will afford greater protection to the public assets within the MRCCA.

- Protection of primary conservation areas during development and redevelopment.** Because of the importance of the remaining primary conservation areas within the MRCCA, local governments are required to protect those areas as open space. The proposed rule recognizes, however, that in some circumstances protection of a primary conservation area may unduly burden a developer, particularly where the primary conservation area encompasses the majority of the parcel. This subpart, therefore, sets protection thresholds or a maximum percentage of land in a parcel that must be protected as open space to conserve primary conservation areas. The percentage of land that must be conserved as open space is tied to the conditions in and nature of each district. (See Table 2.)

Table 2: Percentage of Open Space by District

Corridor District	Maximum % of Open Space Required	Rationale for Maximum
Rural and Open Space (CA-ROS)	50%	District includes the majority of remaining primary conservation areas and potentially developable land.
River Neighborhood (CA-RN)	20%	District is largely developed; open space percentage is similar to existing open space patterns.
River Towns and Crossings (RTC)	10%	District is largely developed or already preserved as public parkland.
Separated from River (SR)	10%*	District is largely developed or already preserved as public parkland; fewer

Corridor District	Maximum % of Open Space Required	Rationale for Maximum
		opportunities for protection exist, and this district could be a “receiving area” for density transferred from other districts (see footnote).
Urban Mixed (CA-UM)	10%	District is largely developed or already preserved as public parkland; few primary conservation areas exist, but some potential for restoration.
Urban Core (CA-UC)	10%	District is largely developed or already preserved as public parkland.

* Only required if parcel includes native plant communities or provides feasible connections to a regional park or trail system.

If the primary conservation areas on any given parcel proposed for development or redevelopment exceed the maximum percentages established for the district, the local government has the flexibility to determine which resources on the parcel shall be protected. The proposed rules allow land used for storm water treatment, green infrastructure, land dedicated to public access, and public facilities to be included in any open space requirements imposed by this rule. Proposed Minn. R. 6106.0170, subp. 4.F. and G.

If a primary conservation area where development is proposed lacks natural vegetation, it must be evaluated for potential restoration of natural vegetation. If there are no primary conservation areas on a site proposed for development or redevelopment that meets the minimum size threshold in proposed Minn. R. 6106.0170, subp. 3, the local government must determine whether the site was identified for potential restoration in the local plan and, if so, apply the guidelines for restoration of vegetation set out in proposed Minn. R. 6106.0150, subp. 6.

- Protection mechanisms.** Primary conservation areas set aside under the proposed rules must be protected using a legal mechanism that assures their long term protection. Those mechanisms are: public acquisition, a conservation easement, a deed restriction, or other arrangements that achieve the same degree of protection as the three legal mechanisms. Proposed Minn. R. 6106.0170, subp. 4 H. This approach is consistent with many local ordinances that already employ conservation design, and gives local governments and developers the flexibility to determine which mechanism will best suit the needs of the local community. This approach was recommended by local governments and other stakeholders who opposed previous draft rule proposals that primary conservation areas be dedicated to the public by a fee simple conveyance or easement.

While local governments retain the ability to select the mechanism they will employ to protect primary conservation areas, the rules makes it clear that, regardless of the method selected, a long-term vegetation management must be provided to assure that the set-aside area continues to meet the biological and ecological functions that resulted in its designation as a primary conservation area. Proposed Minn. R. 6106.0170, subp. 4(I). This includes a preference for connecting open

space and natural areas to create interconnected patches of habitat and corridors for both wildlife movement and recreational use.

- **Connecting protected open space.** The rules identify a preference for a connecting open space and natural areas to create interconnected patches of habitat and corridors for both wildlife movement and recreational use. Contiguous open space and habitat has been demonstrated to result in improved native flora and fauna and associated habitat²⁴.

Subpart 5. Land dedication. Minnesota statute authorizes local governments to require developers to dedicate a “reasonable portion of buildable lands” as public amenities, including land for parks, recreational facilities, trails, wetlands and open space. Minn. Stat. § 462.358, subd. 2b(a) (2015) and Minn. Stat. § 394.25, subd. 7 (2015). The establishment of the MRCCA predates these statutory requirements; however, Executive Order 79-19 did include a requirement for dedication of riverfront access land, or cash in lieu of such land, to the public. This provision was included in proposed Minn. R 6106.0170 to be consistent with the current statutory requirements. This subpart only applies to those local governments that require land dedication under Minn. Stat. §§ 394.25, subd. 7 and 462.358, subd. 2b(a) (2015).

6106.0180 Exemptions from Setbacks, Height Limits, and Other Requirements

The MRCCA authorizing statute authorizes the DNR to “provide certain exceptions and criteria for standards, including, but not limited to, exceptions for river access facilities, water supply facilities, storm water facilities, and wastewater treatment facilities, and hydropower facilities.” Minn. Stat. § 116 G.15, subd. 4 (2015). This rule sets forth the exemptions from the proposed MRCCA rules, including the exemptions of certain structures and uses from the setback requirements, structure height standards, and restrictions imposed within the shore impact and bluff impact zones.

The Interim Development Regulations in Executive Order 79-19 include many similar exemptions, including: water-related commercial recreational uses, public facilities such as transmission services, transportation facilities, and water and wastewater facilities. These exemptions have been updated and carried forward to the proposed MRCCA rules. Other factors used in creating new exemptions included: consistency with exemptions in current local government ordinances, stakeholder comments, the potential impact of the activity proposed for exemption on MRCCA resources, the current character of land use within the various districts, the public purpose of the activity proposed for exemption, and the needs of property owners and river-dependent uses.

The exemptions are listed in table format in order to assist readers in locating specific structures and uses. The table also cross-references other parts of the proposed MRCCA rules that provide additional standards for these structures and uses.

Details of specific exemptions include:

²⁴ Milder, 2007.

- **Historic properties.** Historic properties and properties that contribute to historic districts may be located in areas where other structures would be restricted or prohibited. In most instances the presence of these properties predates the MRCCA and there is a significant public interest in maintain these properties particularly as they pertain to the development of the state and the history of development within the MRCCA.
- **Buildings and structures on the face of the St. Paul downtown bluff in the Urban Core district.** There is currently extensive development on the face of the St. Paul downtown bluff, and the City is planning to add a major public amenity, a “river balcony” along the bluffline. The bluff itself has been structurally reinforced to support development. For this reason these facilities have been exempted from certain standards imposed by these rules.
- **Public recreational facilities.** Some but not all improvements within public recreational facilities are exempted from certain standards imposed by these rules. In the case of public recreational facilities these exemptions were permitted either because their impact was negligible or the exemption was necessary to permit public access to the MRCCA.
 - **Monuments and flagpoles.** Accessory structures such as monuments, flagpoles and similar park features have a negligible impact on resources within the MRCCA. These accessory structures are permitted within the shore impact zone and bluff impact zone (restricted to slopes averaging less than 30% to minimize the threat of erosion). According to local and regional park managers, these accessories are typically placed in proximity to the river for interpretive or commemorative purposes.
 - **Picnic shelters and related visitor structures.** These structures are often sought after by public visitors to a park or recreational facility and are strategically placed to permit views of the river and other MRCCA protected resources. These structures are generally open-sided and do not present a barrier to floodwaters.
 - **Parking areas and roads.** Road access and parking are necessary amenities in public parks and at recreational facilities and water access sites. There are instances where it is necessary, because of site size or layout, that roads and parking areas be placed within the shore impact zone or close to the toe of the bluff.
 - **Trails and viewing areas.** Trails and viewing areas enhance the public enjoyment of the resources within the MRCCA. These typical park features that are often located close to the shoreline or on bluff faces to maximize public enjoyment and are exempted from a number of the provisions of the proposed MRCCA rules. Because of concerns about impacts of construction on vegetation and slope stability, hard surface trails are generally not permitted on the steepest slopes within the MRCCA.
- **River-dependent uses:** Where a business or property is connected to the river or dependent on the river, those shoreline facilities necessary for the operation of the businesses or use are exempt from shore and bluff impact zone restrictions. This exemption does not extend to buildings, structures, and parking that do not require a shoreline location for their operations. Private roads and conveyance structures serving these facilities may also be placed in the bluff impact zone or shore impact zone if there is no alternative location.

- **Private residential and commercial water access and use facilities:** There are limited exceptions for private residential and commercial activities.
 - **Private roads.** Private roads serving three or more lots may be constructed in the bluff impact zone if doing so is the only means of accessing level land on a terrace or at the foot of the bluff. This exemption, however, applies only to roads serving three or more lots – i.e., subdivisions – not individual parcels.
 - **Access paths.** Access paths, stairways, lifts, and landings are permitted within the shore impact zone and bluff impact zone as necessary to permit private land owners to enjoy the amenities of their property. This exemption is consistent with the access exemptions permitted by Minn. R. 6120.3300, subp. 3 I (2015), which permits shoreland property owners to construct access paths, stairs, lifts and landings within the shore impact zone.
 - **Water-oriented accessory structures.** Water oriented accessory structures such as gazebos, decks, patios, fish houses, screen houses and pump houses are often used by private land owners to enjoy the amenities of the MRCAA corridor and are exempted from certain requirements of the proposed MRCCA rules. These exemptions are consistent with the requirements in the state shoreland rules, chapter 6120.3300, subp.3.H. (2015).

Conclusion

Based on the foregoing, the proposed rules are both needed and reasonable.

Date: December 9, 2015

/s/Tom Landwehr
Commissioner

References

- Anfinson, J.O. 2003a. *The River We Have Wrought. A History of the Upper Mississippi*. University of Minnesota Press. Minneapolis, MN.
- Anfinson, J.O. 2003b. *River of History. A historic resources study of the Mississippi National River and Recreation Area*. U.S. Army Corp of Engineers St. Paul District.
- Anoka Conservation District. 2012. *Coon Rapids Dam Pool Shoreline Inventory*.
- Arendt, R.G. 1996. *Conservation design for subdivisions: a practical guide to creating open space networks*. Island Press, Washington, D.C.
- Castelle, A. J., C. Conolly, M. Emers, E.D. Metz, S. Meyer, M. Witter, S. Mauerman, T. Erickson, and S. Cooke. 1992. *Wetland buffers: use and effectiveness*. Washington State Department of Ecology, Olympia, Washington.
- Castelle, A. J., A.W. Johnson, and C. Conolly, 1994. *Wetland and stream buffer size requirements – a review*. *Journal of Environmental Quality* 23: 878-882.
- Gregory S. V., F. J. Swanson, W. A. McKee, K. W. Cummins 1991. *An ecosystem perspective of riparian zones*. *BioScience*, 41 (8): 540-551.
- Jennings, C. 2015. *A limited inventory of the location and style of June 2014 slope failures; towards better prediction and management*. Minnesota DNR, Division of Ecological and Water Resources.
- Krysel, C., E. Marsh Boyer, C. Parson, and P. Welle. 2003. *Lakeshore property values and water quality: evidence from property sales in the Mississippi Headwaters Region*. Mississippi Headwater Board and Bemidji State University.
- Lafrancois, B. M., D. L. Vana-Miller, and S. P. Johnson. 2007. *Water resources information and issues overview, Mississippi National River and Recreation Area*. Natural Resource Technical Report NPS/NRWRD/NRTR—2007/364. National Park Service, Water Resources Division, Fort Collins, Colorado.
- Milder, J.C. 2007. *A framework for understanding conservation development and its ecological implications*. *Bioscience* 57(9): 757-768.
- Mississippi Watershed Management Organization. 2010. *A Guide to Bank Restoration Options for Large River Systems: Part II Bioengineering Installation Manual* MWMO Watershed Bulletin 2010-3. 95 pp
- Nassauer, J.I., J.D. Allan, T. Johengen, S.E. Kosek, and D. Infante. 2004. *Exurban residential subdivision development: effects on water quality and public perception*. *Urban Ecosystems* 7: 267-281.
- Owens, D.W., P. Jopke, D.W. Hall, J. Balousek, and A. Roa. 2000. *Soil erosion from two small construction sites, Dane County, Wisconsin*. U.S. Geological Survey, Water-Resources FS-109-00.
- Schueler, T. 1994. *The importance of imperviousness*. *Watershed Protection Techniques* 1(3): 100-111. Center for Watershed Protection, Ellicott City, MD.
- Trust for Public Land. 2007. *The Economic Benefits of Land Conservation*. De Brun, C., ed.

U.S. Department of Agriculture. 1997. Agricultural Handbook No. 703. Predicting soil erosion by water: A guide to conservation planning with the Revised Universal Soil Loss Equation.

Walsh , C. J. A. H. Roy, J. W. Feminella, P. D. Cottingham, P. M. Groffman, & R. P. Morgan II. 2005. The urban stream syndrome: current knowledge and the search for a cure. *Journal of the North American Benthological Society*, 24(3):706-723.

MRCCA SONAR

Exhibits

MRCCA SONAR

Exhibit A – Executive Order 130 and Amendments

G-009

pg

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 18 1976

John Anderson
Secretary of State

STATE OF MINNESOTA



EXECUTIVE ORDER NO. 130

Designating the Mississippi River
Corridor as a Critical Area

I, Wendell R. Anderson, Governor of the State of Minnesota, by virtue of the authority vested in me by the Critical Area Act of 1973, Minnesota Statutes, Chapter 116G, hereby issue this Executive Order:

WHEREAS, the Mississippi River Corridor through the seven-county Twin Cities Metropolitan Area satisfies the following characteristics as outlined in MEQC 52(a) and pursuant to M.S., Chapter 116G:

- (1) It is an Area affected by existing or proposed major governmental development including: four major lock and dams across the River and a nine-foot navigational channel built and operated by the federal government; seven large industrial projects built with the help of public funds; six regional parks; a major regional sewage treatment plant and discharge points for six other existing or proposed waste treatment plants; one major

airport and the facilities of another major airport; at least 22 river crossings for major roadways; and other governmental facilities, all of which facilities serve persons outside of the proposed corridor; and all of which generate substantial development or urbanization.

(2) It is an area containing historic, natural, scientific, or cultural resources of regional or statewide importance.

- (a) The corridor contains historical resources of statewide or regional significance, including five areas listed on the National Register of Historic Places and twelve areas identified by the Minnesota Historical Society.
- (b) The corridor contains natural resources of statewide or regional significance, including the river itself used for transportation, waste assimilation, recreation, sand and gravel deposits, and habitat suitable for the maintenance of fish and wildlife.
- (c) The corridor contains cultural resources of statewide and regional significance, including Indian burial grounds, parks, water recreational facilities, and early settlements.
- (d) The corridor contains scientific resources of statewide and regional significance including opportunities for floodplain and hydrological investigation, geological investigation, and historic investigation.

WHEREAS, the Mississippi River Corridor meets all of the criteria outlined in MEQC 52(b) to be designated as a critical area as follows:

- (1) The area was recognized to be of significant regional or statewide public interest because it is a regional transportation corridor, a regional recreational area, and it has been or is being studied by a number of local, state and federal agencies and commissions;
- (2) Other legal powers are unavailable to provide coordinated regulation of the area to protect the public interest:
 - (a) Four townships, twenty cities, five counties, three regional agencies, five special purpose governmental districts, four state agencies, and four federal agencies have regulatory or planning authority in the corridor.
 - (b) No state agency, or local government has the legal authority to coordinate the regulatory and planning authority of the state and local agencies involved.
 - (c) The Metropolitan Council has no zoning authority in the area and can only suspend particular development for a limited period of time.
 - (d) The Floodplain Management Act regulated floodplain development, but is primarily aimed at reducing flood damage. The Act will not control development outside of the floodplain.
 - (e) The Shoreland Management Act only regulates development

within three hundred feet of the river or to the landward extent of the floodplain, whichever is greater. It does not assist in regulating development outside of this area which may have a major effect on the river.

- (f) The State Wild, Scenic, and Recreational Rivers Act is unavailable for most of the corridor. Nor does it provide for coordination of planning among state and local governments.
- (3) The area is one of a limited number within the state. No other area in Minnesota provides such important transportation, recreational, and water-related functions as the River does as it flows through the Metropolitan Area. Thus, it is a unique resource in Minnesota because of its importance and in its proximity to the large number of people in the Metropolitan Area.
- (4) The area has been specifically identified by legal description.

WHEREAS, unregulated development and uncoordinated planning threatens the public interest in the Mississippi River Corridor; many decisions affecting the use of the River Corridor are made by local governmental units without adequate regard for protecting the regional interest in the regional resource; and

WHEREAS, the advantages of coordinated planning for the area will achieve development of the River Corridor as a regional multi-purpose resource, resolve the conflicts of use of land and

water, preserve and enhance its natural, aesthetic, cultural, and historical value for the public use, and protect its environmentally sensitive areas;

NOW, THEREFORE, I order the Mississippi River Corridor located within the Twin Cities Metropolitan Area designated a critical area.

1. The boundaries of the Mississippi River Corridor Critical Area are delineated in the legal description which is attached and incorporated hereby into this Order.
2. The Standards and Guidelines to be followed by local units of government, regional agencies and state agencies in the preparation and adoption of plans and regulations for the Critical Area are attached and incorporated hereby into this Order.
3. The Interim Development Regulations to be followed in granting development permits during the Interim Period are attached and incorporated hereby into this Order.
4. The Department of Natural Resources shall prepare the Scenic and Recreational Plan for the eight mile stretch of the river corridor in the Cities of Dayton and Ramsey. The Cities of Dayton and Ramsey shall prepare regulations for the implementation of the plan and both the regulations and the plan shall conform to the critical area standards and guidelines.

The DNR plan and the local regulations shall be submitted to the EQC for approval, and once approval is granted, the

critical area designation order for the eight mile stretch of the river corridor shall lapse. At that time, the Department of Natural Resources shall assume management responsibilities under the authority of the State Wild and Scenic River Act.

5. The State Planning Agency shall determine and administer the amount of funds needed for the preparation and adoption of plans and regulations.
6. The designation order for the remainder of the critical area corridor shall be effective for no longer than three years pending final approval by the Legislature or the Metropolitan Council.

This Order shall be effective immediately and shall be in force until rescinded by the proper authority.

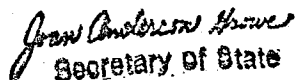
IN TESTIMONY WHEREOF, I hereunto set my hand on this 18th day of October, 1976.


Wendell R. Anderson

Filed according to law:


Joan Anderson Grove
Secretary of State

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 18 1976


Secretary of State

APPENDIX A

LEGAL DESCRIPTION OF THE RIVER CORRIDOR

Ramsey

Commencing at the point where the west boundary line of Anoka County intersects with the north boundary line of Hennepin County;

Thence north along said Anoka County west boundary line to the NW corner of the NW quarter of the SW quarter of Section 19 (T32N, R25W);

Thence east along the north side of the NW quarter of the SW quarter of Section 19 (T32N, R25W), to its intersection with the center line of U.S. Highway 10;

Thence along said center line in a southeasterly direction to the intersection with the north side of Section 30 (T32N, R25W);

Thence eastward along the north side of Section 30 to the NW corner of Section 29, (T32N, R25W);

Thence south along the west side of Section 29 to the SW corner of the NW quarter of said Section 29;

Thence east along the south side of the NW quarter of said Section 29 to the NW corner of the NE quarter of the SW quarter of said Section 29;

Thence south along the west side of the NE quarter of the SW quarter of said Section 29 to SW corner of the NE quarter of the SW quarter of said Section 29;

Thence east along the north line of the south quarter of said Section 29; to the west boundary line of Section 28; (T32N, R25W);

Thence east along the northern boundary of Government Lot 1, Section 28, (T32N, R25W) to the NE corner of said lot;

Thence south to the SE corner of said Government Lot 1, Section 28, (T32N, R25W);

Thence east along the north side of Section 33 (T32N, R25W) to the NE corner of Government Lot 2 in said Section;

Thence south along the east side of Government Lot 2, Section 33 (T32N, R25W) to the SW corner of the northern half of the NE quarter of the NE quarter of Section 33;

Thence east to the west side of Section 34 (T32N, R25W);

Thence south to the SW corner of the NW quarter of the SW quarter of the NW quarter of Section 34 (T32N, R25W);

Thence east to the west side of Section 35 (T32N, R25W);

Thence south along the west side of Section 35 (T32N, R25W) to the NW corner of Government Lot 1, Section 35 (T32N, R25W);

Thence east to the NW corner of the SW quarter of the NE quarter of the SW quarter of Section 35 (T32N, R25W);

Thence south to the SW corner of the SW quarter of the NE quarter of the SW quarter of Section 35 (T32N, R25W);

Thence east along the south side of the NE quarter of the SW quarter of Section 35 (T32N, R25W) to its intersection with the west boundary of Anoka;

Thence northeasterly along the west boundary of Anoka to the intersection with the center line of U.S. Highway 10.

Anoka

Thence southeasterly along said center line to the intersection with the center line of Park Street in the City of Anoka; south along the center line of Park Street to the intersection with the west side of Section 1 (T31N, R25W);

Thence south along said west side to the intersection with the center line of Benton Street;

Thence southeasterly along said center line to the intersection with the center line of State Avenue;

Thence south along the center line of State Avenue to the intersection with the center line of Rice Street;

Thence east along the center line of said street to the intersection with the center line of Ferry Street;

Thence easterly along a line from said intersection to the intersection of the center lines of Madison Street and River Avenue;

Thence east from said point along the center line of Madison Street to the intersection with the center line of 1st Avenue;

Thence south along 1st Avenue to the intersection with the center line of Jefferson Street;

Thence east along the center line of said street to the intersection with the center line of 2nd Avenue;

Thence south along said center line to the intersection with the center line of Adams Street;

Thence east along said center line to the intersection with the center line of 3rd Avenue;

Thence south along said center line to the intersection with the center line of Oakwood Drive;

Thence easterly along said center line to the intersection with the center line of Kings Lane;

Thence southwesterly along said center line to the intersection with the center line of Birch Street;

Thence southeasterly along said center line to the intersection with the center line of Queens Avenue;

Thence south along said center line to the intersection with the center line of Pine Street;

Thence southeasterly along said center line to the intersection with the center line of 9th Avenue;

Coon Rapids

Thence from this point, a straight line to the intersection of the center line of 115th Avenue with the west side of Section 17 (T31N, R24W);

From this point, east along a line to the intersection of the east side of the NW quarter of said Section 17 with the center line of Coon Rapids Boulevard;

From said point southeasterly along the center line of Coon Rapids Boulevard to the intersection with the center line of Mississippi Boulevard;

Thence southerly along said center line to the intersection with the center line of Hansen Boulevard;

Thence south along said center line to the intersection with the center line of 99th Avenue NW;

Thence east along said center line to the SW corner of the NW quarter of the NW quarter of Section 26 (T31N, R24W);

Thence east along the south side of the north half of the NW quarter of said Section 26;

Thence continuing east along the south side of the NW quarter of the NE quarter of said Section 26 to the intersection with the center line of East River Boulevard. (Anoka County Highway 1);

Thence south along said center line to the intersection with the west side of the east half of the SE quarter of said Section 26;

Thence south along said line to the SW corner of the SE quarter of the SE quarter of said Section 26;

Thence continuing south along the west side of the east half of the NE quarter of Section 35 (T31N, R24W);

Thence continuing south along the west side of the NE quarter of the SE quarter of said Section 35 to the SW corner of the NE quarter of the SE quarter of said Section 35;

From this point, southeasterly along a diagonal to the NW corner of Section 3 (T30N, R24W);

From said corner, east along the north side of said Section 3 to the intersection with the center line of Anoka County Trunk Highway 1;

Fridley
Minneapolis

Thence south along the center line of said highway to the Anoka-Hennepin County common boundary line;

Thence continuing south along the center line of now Hennepin County Trunk Highway 23 to the center line of 30th Avenue NE;

Thence east along said center line to the intersection with the center line of Randolph Street;

Thence south along said center line to the intersection with the center line of 26th Avenue NE;

Thence east along said center line to the intersection with the center line of Grand Street;

Thence south along said center line to the intersection with the center line of 13th Avenue NE;

Thence southwesterly along said center line to the intersection with the center line of Ramsey Street;

Thence southeasterly along said center line to the intersection with the center line of 7th Avenue NE;

Thence northeasterly along said center line to the intersection with the center line of Main Street;

Thence southeasterly along said center line to the intersection with the center line of 5th Avenue NE;

Thence northeasterly along said center line to the intersection with the center line of University Avenue;

Thence southeasterly along said center line to the intersection with the center line of Oak Street;

Thence south along said center line to the intersection with the center line of Fulton Street;

Thence east along said center line to the intersection with the center line of Huron Street;

Thence southerly along said center line to the intersection with the center line of Interstate 94;

Thence southeasterly along said center line to the intersection with the Minneapolis-St. Paul common boundary line;

St. Paul Thence south along said line to the intersection with the center line of Otis Avenue;

Thence southeasterly along Otis Avenue to the intersection with the center line of Exeter Place;

Thence south along said center line to the intersection with the center line of Mississippi River Boulevard;

Thence east along said center line to the intersection with the center line of Cretin Avenue;

Thence south along said center line to the intersection with the center line of Goodrich Avenue;

Thence west along said center line to the intersection with the center line of Woodlawn Avenue;

Thence south along said center line to the intersection with the center lines of Randolph Avenue, Woodlawn Avenue and Mount Curve Boulevard;

Thence south along the center line of Mount Curve Boulevard to the intersection with the center line of Ford Parkway;

From this point southeasterly along a diagonal to the intersection of the center lines of Hampshire Avenue and Finn Street;

Thence south along the center line of Finn Street to the intersection with the center line of Magoffin Avenue;

Thence east along said center line to the intersection with the center line of Cleveland Avenue;

Thence south along said center line to the intersection with the center line of Norfolk Avenue;

Thence southeasterly and easterly along said center line to the intersection of the center line of Stewart Avenue;

Thence northeasterly along said center line to the intersection with the center line of Alton Street;

Thence southeasterly along said center line to the intersection with the center line of Youngman Avenue;

Thence northeasterly along said center line to the intersection with the center line of Rankin Street;

Thence northwesterly along said center line to the intersection with the center line of Stewart Avenue;

Thence northeasterly along said center line to the intersection with the center line of Homer Avenue;

Thence northwesterly along said center line to the intersection with the south boundary line of the right-of-way of the Chicago, Milwaukee, St. Paul and Pacific Railroad;

Thence northeasterly along said boundary to the intersection with the center line of Watson Avenue;

Thence east along said center line to the intersection with the center line of Drake Street;

From this point, northeasterly along a diagonal to the intersection of the center lines of Randolph Avenue and Erie Street;

Thence north along the center line of Erie Street to the intersection with the center line of Jefferson Avenue;

Thence east along said center line to the intersection with the center line of Colburne Avenue;

From this point, northeasterly along a diagonal to the intersection of the center lines of St. Clair Avenue and Western Avenue;

Thence east along the center line of St. Clair Avenue to the intersection with the center line of Ann Street;

Thence north along said center line to the intersection with the center line of Superior Street;

Thence east along said center line to the intersection with center line of Dousman Street;

Thence north along said center line to the intersection with the center line of Banfil Avenue;

Thence east along said center line to the intersection with the center line of Smith Street;

Thence north along said center line to the intersection with the center line of Goodrich Avenue;

Thence east along said center line to the intersection with the center line of Leech Street;

Thence north along said center line to the intersection with the center line of McBoal Street;

Thence east along said center line to the intersection with the center line of Wilkin Street;

Thence north along said center line to the intersection with the center line of Exchange Street;

Thence northeasterly along said center line to the intersection with the center line of Kellogg Boulevard;

Thence easterly and northeasterly along said center line to the intersection with the center line of Interstate 94;

Thence southeasterly along said center line to the intersection with the center line of Maria Avenue;

Thence southeasterly along said center line to the intersection with the south side of Section 33 (T20N, R22W);

Thence east along said line to the intersection with the center line of Burns Avenue;

Thence east along said center line to the intersection with the center line of Upper Afton Road;

Thence southeasterly along said center line to the intersection with the center line of Hazel Avenue;

Thence south along said center line to the intersection with the north side of Section 11 (T28N, R22W);

Thence east along said side to the NE corner of the NW quarter of said Section 11;

Thence south along the east side of the NW quarter of said Section 11 to the SE corner of the NW quarter of said Section 11;

Thence east along the north side of the SE quarter of said Section 11 to the NW corner of the east half of the SE quarter of said Section 11;

Thence south along the west side of the east half of the SE quarter of said Section 11 to the south line of said Section 11;

Thence east along the south side of said Section 11 to the intersection with the center line of McKnight Road;

Thence south along said center line to the intersection with the center line of Carver Avenue;

Maplewood Thence east along said center line to the intersection with the west side of the east half of the NW quarter of Section 24, (T28N, R22W);

Thence south along said side continuing along the west side of the east half of the SW quarter of said Section 24, to the intersection with the center line of Interstate 494;

Thence southwesterly along said center line to the intersection with the centerline of 1st Avenue in Newport;

Newport Thence south along said center line to the intersection with the center line of 17th Street;

Thence east along said center line to the intersection with the center line of 3rd Avenue;

Thence south along said center line to the intersection with the center line of 12th Street West;

Thence east along said center line to the intersection with the center line of 4th Avenue;

Thence south along said center line to the intersection with the south side of the north half of Section 1 (T27N, R22W);

St. Paul Thence east along said side to the center line of Third Park Street, City of St. Paul Park;

Thence south along said center line to the intersection of 6th Avenue (commonly known as Broadway);

Thence west along said center line to the intersection of the center line of Main Street;

Thence south along said center line to the intersection of the center line of Pullman Avenue;

Thence east along said center line to the intersection with the center line of 3rd Street;

Thence south along said center line to the South city limits of St. Paul Park;

Grey Cloud Thence south along said center line to the intersection with the center line of Grey Cloud Trail;

Thence southeasterly along said center line to the intersection with the south side of Section 19 (T27N, R21W);

Cottage Grove Thence east along said side to the SE corner of said Section 19;

Thence south along the west side of Section 29 (T27N, R21W) to the intersection with the NW corner of the SW quarter of the NW quarter of said Section 29;

Thence east along the north side of the SW quarter of the NW quarter of said Section 29 to the NE corner of the SW quarter of the NW quarter of said Section 29;

Thence south along the east side of the SW quarter of the NW quarter and along the east side of the NW quarter of the SW quarter of said Section 29 to the NW corner of the SE quarter of the SW quarter of said Section 29;

Thence east along the north side of the SE quarter of the SW quarter of said Section 29 to the NE corner of the SE quarter of the SW quarter of said Section 29;

Thence south along the east side of the SW quarter of said Section 29 to the south side of said Section 29;

Thence east along the south side of Sections 29 and 28 to the southwestern corner of Section 27;

Thence north along the west side of said Section 27 to the NW corner of the SW quarter of said Section 27;

Thence east along the north side of the south half of said Section 27 to the east side of said Section 27;

Thence south along the east side of said Section 27 to the SE corner of said Section;

Thence east along the south side of Section 26 (T27N, R21W),
to the intersection with the center line of U.S. Highway 61;

Denmark Thence southeasterly along said center line to the intersection
with the center line of U.S. Highway 10;

Thence easterly along said center line to the intersection
with the south side of Section 6 (T26N, R20W);

Thence east to the SE corner of said Section 6;

Thence southeasterly along a diagonal to the SE corner of the
north half of the NW quarter of Section 8 (T26N, R20W);

Thence east along the south side of the north half of the NE
quarter of said Section 8 to the east side of said Section 8;

Thence south along the east side of Section 8 to the intersection
with the northeasterly boundary of Dakota County;

Ravenna Thence southeasterly along the Dakota County boundary to the
intersection with the Dakota County-Goodhue County common
boundary;

Thence south along said boundary to the intersection with
the south side of Section 21 (T114N, R16W);

Thence west along the south side of said Section to the SW
corner of said Section;

Thence north along the west side of said Section to the
NW corner of said Section;

Thence north along the west side of Section 16 (T114N,
R16W) to the intersection with the center line of Dakota
CSAH 54;

Thence northwesterly along said center line to the intersection
with the south side of Section 31 (T115N, R16W);

Thence west along said line to the SW corner of said Section 31;

Thence north along the east side of Section 36 (T115N, R17W)
to the NE corner of the SE quarter of the SE quarter of said
Section 36;

Thence west along the south side of the NE quarter of the SE
quarter of said Section 36 to the SW corner of the NE quarter
of the SE quarter of said Section 36;

Thence north along the west side of the east half of the SE
quarter of said Section 36 to the NW corner of the NE
quarter of the SE quarter of said Section 36;

Thence west along the north side of the south half of said Section 36 and Section 35 (T115N, R16W) to the west side of said Section 35;

Hastings Thence north along the west side of said Section 35 and Section 26 (T115N, R16W) to the intersection with the center line of 3rd Street;

Thence west along said center line to the intersection with the center line of Washington Street;

Thence north along said center line to the intersection with the center line of 2nd Street;

Thence west along said center line to the intersection with the center line of Dakota County Road 42;

Nininger Thence northwesterly along said center line to the intersection with the center line of Dakota County Highway 87;

Thence northwesterly along said center line to the intersection with the center line of 125th Street east;

Thence west along said center line to the intersection with the center line of Isadore Avenue;

Thence south along said center line to the intersection with the center line of 127th Street east;

Thence west along said center line to the intersection with the center line of Idell Avenue;

Thence south along said center line to the intersection with the center line of Dakota County Road 42;

Thence southwesterly along said center line to the intersection with the center line of Minnesota Highway 55;

Rosemount Heights Thence west and then north along said center line to the Inver Grove intersection with the center line of Dakota County Road 77;

Thence north along said center line to the intersection with the center line of Minnesota State Highway 56;

Thence north along said center line to the intersection with the center line of 70th Street east;

Thence west along said center line to the intersection with the centerline of Delany Avenue east;

Thence north along said center line to the intersection with the center line of 69th Street east;

Thence west along said center line to the east side of Section 3 (T27N, R18W);

Thence north along said side to the NE corner of said Section 3;

Thence west along the north side of said Section 3 to the intersection with the center line of Henry Avenue;

South St. Thence north along said center line to the intersection
Paul with the center line of Chestnut Street;

Thence east along said center line to a point directly in line with the southerly extension of Eldridge Avenue;

From this point, northwesterly along a diagonal to the intersection of the center lines of Spruce Street and Eldridge Avenue;

Thence north along the center line of Eldridge Avenue to the intersection with the center line of Dale Street;

Thence west along said center line to the intersection with the center line of Syndicate Avenue;

Thence north along said center line to the intersection with the center line of Warburton Street;

From this point, northwesterly, along a diagonal to the intersection of the center lines of 8th Street South and 1st Avenue South;

Thence north along the center line of 1st Avenue South to the intersection with the center line of Southview Boulevard;

Thence west along said center line to the intersection with the center line of 2nd Avenue South;

Thence north along said center line to the intersection with the center line of Marie Avenue;

Thence west along said center line to the intersection with the center line of 3rd Avenue North;

Thence north along said center line to the intersection with the center line of 2nd Street North;

Thence west along said center line to the intersection with the center line of 4th Avenue North;

Thence north along said center line to the intersection with the center line of 3rd Street North and Grand Avenue;

Thence north along the center line of Grand Avenue to the intersection with the center line of 5th Avenue North;

From this point northwesterly along a diagonal to the intersection of the center lines of Turin and Stewart Avenues;

Thence north along the center line of Stewart Avenue to the intersection of the center lines of 8th Avenue North and Thompson Avenue;

From this point northwesterly along a diagonal to the intersection of the center lines of Highland Avenue and 10th Avenue North;

From this point, northwesterly along a diagonal to the intersection of the center lines of Bryant and Summit Avenues;

Thence north along the center line of Summit Avenue to the intersection with the center line of Orme Avenue;

From this point northwesterly along a diagonal to the intersection of the center lines of Butler and Stickney Avenues;

From this point northwesterly along a diagonal to the intersection of the center lines of Stanley and Evans Avenues;

Thence north along the center line of Evans Avenue to the intersection of the center lines of Stickney Avenue and Lewis Street;

Thence north along the center line of Stickney Avenue to the intersection with the St. Paul-South St. Paul common boundary;

St. Paul Thence west along said boundary to the intersection with the center line of new State Highway 56;

Thence north along said center line to the intersection with the center line of East Page Street;

Thence west along said center line to the intersection with the center line of Woodbury Street;

Thence north along said center line to the intersection with the center line of Prescott Street;

Thence west along said center line to the intersection with the center line of Oakdale Avenue;

Thence north along said center line to the intersection with the center line of East King Street;

Thence west along said center line to the intersection with the center line of Robert Street;

Thence north along said center line to the intersection with the center line of George Street;

Thence west along said center line to the intersection with the center line of Humboldt Avenue;

Thence north along said center line to the intersection with the center line of Winifred Street;

Thence west along said center line to the intersection with the center line of Hall Street;

Thence north along said center line to the intersection with the center line of Delos Street;

Thence west along said center line to the intersection with the center line of Bidwell Street;

Thence south along said center line to the intersection with the center line of W. Congress Street;

Thence west along said center line to the intersection with the center line of Ohio Street;

Thence south along said center line to the intersection with the center line of Robie Street;

Thence west along said center line to the intersection with the center line of Manomin Avenue;

Thence south along said center line to the intersection with the center line of West George Street;

Thence west along said center line to the intersection with the center line of Smith Ave-ue;

Thence south along said center line to the intersection with the center line of West Stevens Street;

Thence west along said center line to the intersection with the center line of Ottawa Avenue;

Thence south along said center line to the intersection with the center line of Morton Street;

Thence west along said center line to the intersection with the center line of Delaware Avenue;

Thence south along said center line to the intersection with the center line of State Highway 13;

Mendota
Heights

Thence west and southwesterly along said center line to the intersection with the center line of Sylvandale Road;

Thence south along said center line to the intersection with the center line of Woodridge Drive;

Thence southwesterly along said center line to the intersection with the center line of Cascade Lane;

Thence south along said center line to the intersection with the center line of Arcadia Drive;

From this point southwesterly along a diagonal to the northwest corner of Section 24 (T28N, R22W);

Thence west along the north side of Section 23 (T28N, R22W), to the intersection with the center line of the Northern States Power Company utility easement;

Thence south along said center line to the intersection with the south side of the north half of the NE quarter of said Section 23;

From this point, southwesterly along a diagonal to the intersection of the center lines of Victoria Road and Caren Road;

Thence westerly along the center line of Caren Road to the intersection with the center line of James Road;

Thence southwesterly along said center line to the intersection with the center line of Douglas Road;

Thence westerly along said center line to the intersection with the center line of James Road;

Thence westerly along said center line to the intersection with the center line of Lexington Avenue;

Thence south along said center line to the intersection with the center line of Orchard Place;

Thence westerly along said center line to the intersection with the center line of Hunter Lane;

Thence south along said center line to the intersection with the center line of State Highway 110;

Thence west along said center line to the intersection with the center line of Minnesota Highway 13;

Thence southerly along said center line to the intersection with the center line of Interstate 494;

Thence westerly along said center line to the intersection with the center line of State Highway 5;

Thence northeasterly along said center line to the intersection with the boundary line of the Fort Snelling State Park;

Thence northerly along said boundary line to the intersection with the center line of State Highway 55;

Minneapolis

Thence northwesterly along said center line to the intersection with the center line of 47th Avenue South;

Thence north along said center line to the intersection with the center line of Minnehaha Avenue;

Thence northwesterly along said center line to the intersection with the center line of Nawadaha Boulevard;

Thence easterly along said center line to the intersection with the center line of 46th Avenue South;

Thence north along said center line to the intersection with the center line of E. 46th Street;

Thence east along said center line to the intersection with the center line of 47th Avenue South;

Thence north along the center line of 47th Avenue South to the intersection with the center line of East 44th Street;

From this point north along a straight line to the intersection of the center lines of Dowling Street and 47th Avenue South;

Thence north along the center line of 47th Avenue South to the intersection with the center line of East 32½ Street;

Thence west along said center line to the intersection with the center line of 46th Avenue South;

Thence north along said center line to the intersection with the center line of East 35th Street;

Thence east along said center line to the intersection with the center line of 47th Avenue South;

Thence north along said center line to the intersection with the center line of East Lake Street;

Thence west along said center line to the intersection with the center line of 46th Avenue South;

Thence north along said center line to the intersection with the center line of Dorman Avenue;

Thence northwesterly along said center line to the intersection with the center line of 40th Avenue South;

Thence in a straight line northwest to the intersection of the center lines of Minneapolis Avenue and 34th Avenue South;

Thence northwest along the center line of Minneapolis Avenue to the intersection with the center line of 31st Avenue South;

Thence north along said center line to the intersection with the center line of Franklin Avenue;

Thence west along said center line to the intersection with the center line of Riverside Avenue;

Thence northwest along said center line to the intersection with the center line of 19th Avenue South;

Thence north along said center line to the intersection with the center line of 2nd Street South;

Thence northwest along the center line of 2nd Street South to the intersection of the center lines of 2nd Street South and Hennepin Avenue;

Thence north-northwest along the center line of 2nd Street North to the intersection with the center line of Mississippi Drive;

Thence north-northeast along said center line to the intersection with the center line of Lyndale Avenue North;

Thence north along said center line to the intersection with the center line of Interstate 94;

Thence north along said center line to the intersection with the center line of 52nd Avenue North;

Thence west along said center line to the intersection with the center line of 4th Street North;

Thence northwesterly along said center line to the intersection with the center line of 55th Avenue North;

Brooklyn Center Thence westerly along said center line to the intersection with the center line of Camden Avenue North;

Thence north along said center line to the intersection with the center line of 62nd Avenue North;

Brooklyn
Park

Thence in a straight line northeasterly to the intersection of the center lines of State Highway 196 and Interstate 94;

Thence north along the center line of State Highway 196 to the intersection with the center line of 89th Avenue North;

Thence west along said center line to the west side of Section 13 (T₁N, R₂₄W);

Thence north along said side of said Section 13 to the NW corner of said Section 13;

From this point west along the south side of Section 11 (T₃₁N, R₂₄W) to the SW corner of the SE quarter of the SE quarter of said Section 11;

Thence north to the NW corner of the SE quarter of the SE quarter of said Section 11;

Thence in a straight line northwest to the intersection of the center lines of Logan Avenue North and 95th Avenue North;

Thence northeast along the center line of Logan Avenue North to the intersection with the center line of 96th Avenue North;

Thence northwest along said center line to the intersection with the center line of Newton Avenue North;

Thence north along said center line to the intersection with the center line of 97th Avenue North;

Thence west along said center line to the SE corner of the NW quarter of said Section 11;

Thence north along the east side of the NW quarter of said Section 11 to the intersection with the center line of State Highway 169;

Thence northwest along said center line to the north side of the south half of the SW quarter of Section 2 (T₃₁N, R₂₄W);

Thence west along the said side to the west side of said Section 3;

Thence north-northwest in a straight line to the intersection of the center lines of Riverside Place and Sunset Road;

Thence northwest along the center line of Riverside Place to the intersection with the center line of France Avenue North;

Champlin

intersection with the center line of U.S. Highway 169;

Thence northwest along said center line to the intersection with the center line of Hayden Lake Road;

Thence west along said center line to the intersection with the center line of U.S. Highway 52;

Thence north along said center line to the intersection with the center line of U.S. Highway 169;

Thence northwest along said center line to the intersection with the center line of Hennepin County Road 12;

Thence northwest along said center line to the intersection with the east side of Section 14 (T120N, R22W);

Dayton

Thence north along said side of Section 14 to the SE corner of the NE quarter of the NE quarter of Section 14 (T120N, R22W);

Thence west along the south side of the NE quarter of the NE quarter of Section 14 to the SW corner of the NE quarter of the NE quarter of Section 14 (T120N, R22W);

Thence north along the west side of the NE quarter of the NE quarter of Section 14 to the south side of Section 11 (T120N, R22W);

Thence west along the south side of Section 11 (T120N, R22W) to the SW corner of the SE quarter of said Section;

Thence north along the west side of the SE quarter of Section 11 to the NW corner of the SW quarter of the SE quarter of Section 11 (T120N, R22W);

Thence west along the north side of the south quarter of Section 11 to the intersection with the east side of Section 10 (T120, R22W);

Thence south along the west side of Section 11 to the SW corner of the N one-half of the NW quarter of the SW quarter of the SW quarter of Section 11 (T120N, R22W);

Thence west across Government Lot 6 to the east boundary of Government Lot 5, Section 10 (T120N, R22W);

Thence south along the east boundary of Government Lot 5 to the NE corner of the south 20 acres of Government Lot 5, (T120N, R22W);

Thence west to the SW corner of the NE quarter of the SE quarter of the SW quarter of Section 10 (T120N, R22W);

Thence north to the south side of Government Lot 4, Section 10 (T120N, R22W);

Thence west to the SW corner of Government Lot 4, Section 10 (T120N, R22W);

Thence north along the west side of Government Lot 4 to the NW corner of Government Lot 4, Section 10 (T120N, R22W);

Thence west to the east side of Section 9 (T120N, R22W);

Thence north along the east side of Section 9 to the SE corner of Government Lot 1, Section 9 (T120N, R22W);

Thence west along the south side of Government Lot 1 to the SW corner of Government Lot 1 within Section 9 (T120N, R22W);

Thence north along the west side of Government Lot 1 in Section 9 to the north side of Section 9 (T120N, R22W);

Thence west along the north side of Section 9 to the NE corner of the NE quarter of the NW quarter of Section 9. (T120N, R22W);

Thence south along the east side of the NE quarter of the NW quarter to the SE corner of the NE quarter of the NW quarter of Section 9 (T120N, R22W);

Thence west along the south side of the north quarter of Section 9 to the SW corner of the NW quarter of the NW quarter of Section 9 (T120N, R22W);

Thence north along the east side of Section 8 (T120N, R22W) to the SE corner of the northern half of the NE quarter of the NE quarter of Section 8 (T120N, R22W);

Thence west along the south side of the northern half of the NE quarter of the NE quarter in Section 8 to the SW corner of the northern half of the NE quarter of the NE quarter of Section 8 (T120N, R22W);

Thence north along the west side of the northern half of the NE quarter of the NE quarter of Section 8 (T120N, R22W) to the south side of Section 5 (T120N, R22W);

Thence west to the SW corner of Government Lot 4 in Section 5;

Thence north along the west side of Government Lot 4 to the SE corner of Government Lot 3, Section 5 (T120N, R22W);

Thence west along the north side of the south quarter of Section 5 to the SW corner of the NW quarter of the SW quarter of Section 5;

Thence north to the SW corner of Government Lot 2, Section 5;

Thence west to the SW corner of Government Lot 3, Section 6 (T120N, R22W);

Thence north along the western boundary of Government Lot 3 in Section 6 (T120N, R22W) to its intersection with the center line of Hennepin County Road 12;

Thence in a northwesterly direction along said center line traversing Government Lot 2 in Section 6 and continuing through Section 31 (T120N, R22W) to the intersection with the Hennepin-Wright County common boundary line at the mouth of the Crow River.

Thence northerly along said line to the Hennepin County-Sherburne County common boundary line;

Thence easterly along said line to the point where the west boundary line of Anoka County intersects with the north boundary line of Hennepin County.

APPENDIX B

Mississippi River Corridor Districts

1. Rural Open Space Districts

a. On the east side of the river:

- (1) From the Anoka County-Sherburne County common boundary to the west side of Section 35 (T32N, R25W) in Ramsey.
- (2) From the St. Paul Park-Grey Cloud Township common boundary to the east side of Section 8 (T26N, R20W) in Denmark Township.

b. On the west side of the river:

- (1) From the Dakota County-Goodhue County common boundary to the west sides of Sections 23, 26, and 35 (T115N, R17W) in Hastings.
- (2) From the Hastings-Nininger common boundary to the west side of Section 21 (T115N, R18W) in Rosemount.
- (3) From the south side of the north half of Section 34 (T27N, R22W) to the north side of Section 14 (T27N, R22N) in Inver Grove Heights.

2. Urban Developed Districts

a. On the east side of the river:

- (1) From the west side of Section 35 (T32N, R25W) in Ramsey to the center line of Interstate 694 in Fridley.
- (2) From the south side of Section 26 (T28N, R22W) in Newport to the south side of the north half of Section 1 (T27N, R22W) which is the Newport and St. Paul Park common boundary.
- (3) From the center line of Eight Avenue in St. Paul Park to the St. Paul Park-Grey Cloud Township common boundary.

b. On the west side of the river:

- (1) From the north side of Section 14 (T27N, R22W) in Inver Grove Heights to the South St. Paul-Inver Grove Heights common boundary.
- (2) From the eastern extension of the center line of 48th Avenue North in Minneapolis to the eastern extension of the center line of Hennepin County Highway 49.

3. Urban Open Space Districts

a. On the east side of the river:

- (1) From the center line of Franklin Avenue in Minneapolis to the north side of Section 14 (T28N, R23W) (Otto Avenue) in St. Paul.
- * (2) From the west sides of Sections 3 and 10 (T28N, R22W) and the east boundary of the Chicago and Northwestern Railroad right-of-way in St. Paul to the western and northern boundaries of the Red Rock Industrial District, the western boundary of the Chicago, Milwaukee, St. Paul and Pacific Railroad right-of-way, and the south side of Section 14 (T28N, R22W) in St. Paul.

b. On the west side of the river:

- (1) From the north side of Section 7 (T28N, R22W) and the center line of Ohio Street in St. Paul to the center line of Interstate 494 in Mendota Heights on the Minnesota River.
- (2) From the center line of Interstate 494 in Bloomington on the Minnesota River to the center line of Franklin Avenue in Minneapolis.

4. Urban Diversified Districts

a. On the east side of the river:

- (1) From the center line of Interstate 694 in Fridley to the center line of Franklin Avenue in Minneapolis.
- (2) From the north side of Section 14 (T28N, R23W) (Otto Avenue) in St. Paul to the west sides of Sections 3 and 10 (T28N, R22W) and the east boundary of the Chicago and Northwestern Railroad right-of-way in St. Paul and including Twin City Barge and Towing Co's. turning basin, about 11.5 acres at the Northwest corner of Red Rock Industrial Park.
- (3) From the western and northern boundaries of the Red Rock Industrial District, the western boundary of the Chicago, Milwaukee, St. Paul and Pacific Railroad right-of-way, and the south side of Section 14 (T28N, R22W) in St. Paul, to the south side of Section 26 (T28N, R22W) in Newport.
- (4) From the south side of the north half of Section 1 (T27N, R22W) which is the Newport and St. Paul Park common boundary, to the center line of Eight Avenue in St. Paul Park.

*With the exception of that area needed for the future approved expansion of the Metropolitan Waste Water Treatment Plant at Pig's Eye.

b. On the west side of the river:

- (1) From the west sides of Sections 23, 26, and 35 (T115N, R17W) in Hastings to the Hastings-Nininger common boundary.
- (2) From the west side of Section 21 (T115N, R18W) in Rosemount to the south side of the north half of Section 34 (T27N, R22W) in Inver Grove Heights.
- (3) From the South St. Paul-Inver Grove Heights common boundary to the north side of Section 7 (T28N, R22W) and the center line of Ohio Street in St. Paul.
- (4) From the center line of Franklin Avenue in Minneapolis to a line collinear with the center line of 48th Avenue North in Minneapolis.

APPENDIX C

DEFINITIONS

The following terms as used in these Regulations shall have the following meanings, unless otherwise defined:

1. "Act" means the Critical Areas Act of 1973, Minn. Stat. Sections 116G.01 to 116G.14 (Supp. 1974).
2. "Accessory Use" means a use or portion of a use or structure subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.
3. "Adjacent" means having a boundary which physically touches or adjoins.
4. "Agriculture" means the utilization of land and structures thereon for production of farm crops, including but not limited to vegetables, fruit trees, grain, poultry and domestic farm animals and uses necessary or customarily incidental thereto.
5. "Backwater" means a body of water connected with, but little affected by the main stream.
6. "Barge Fleeting Area" means an area on the river, on or off channel, where barges are temporarily parked and secured while tows are assembled or broken up.
7. "Barge Slip" means a basin, usually adjacent to a wharf, jetty, dock or other cargo handling facility, where barges are brought for the purpose of loading or unloading cargo.
8. "Bluffline" means a line delineating the top of a slope connecting the points at which the slope becomes less than 18 percent. More than one bluffline may be encountered proceeding landward from the water.
9. "Building Height" means the vertical distance to be measured from the grade of a building line to the top to the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the mean distance of the highest gable on a pitched or hip roof.
10. "Clear Cutting" means the removal of an entire stand of trees and shrubs.
11. "Cluster Development" means a pattern of subdivision which places housing units into compact groupings while providing a network of commonly owned or dedicated open space.
12. "Council" means the Minnesota Environmental Quality Council established pursuant to Minn. Stat. Sect. 116C.01 to 116C.08 (Supp. 1974).

13. "Development" means the making of any material change in the use or appearance of any structure or land including, but not limited to: a reconstruction, alteration of the size, or material change in the external appearance of a structure on the land; a change in the intensity of use of the land; alteration of a shore or bank of a river, stream, lake or pond; a commencement of drilling (except to obtain soil samples), mining or excavation; demolition of a structure; clearing of land as an adjunct to construction; deposit of refuse, solid or liquid waste, or fill on a parcel of land; the dividing of land into two or more parcels.
14. "Development Permit" means a building permit, zoning permit, water use permit, discharge permit, permit for dredging, filling, or altering any portion of a watercourse; plat approval, re-zoning, certification, variance or other action having the effect of permitting any development as defined in the Act or these Interim Development Regulations.
15. "Dimension Variance" means a modification or variation of the height or setback provisions of the Interim Development Regulations where it is determined that by reason of special and unusual circumstances relating to a specific lot, that strict application of the provisions would cause an undue or unnecessary hardship, or that strict conformity with the provisions would be unreasonable, impractical or unfeasible under the circumstances.
16. "Dwelling Unit" means a residential building or portion thereof intended for occupancy by a single family, but not including hotels, motels, boarding or rooming houses or tourist homes.
17. "Essential Services" means underground or overhead gas, electrical, steam or water distribution systems including poles, wires, mains, drains, sewers, pipes, conduits, cables, and other similar equipment and accessories in conjunction therewith, but not including buildings or transmission services.
18. "Feedlots" means a confined unenclosed area for the feeding, breeding, raising or holding of livestock, where livestock manure can accumulate, and where there is no vegetation.
19. "Floodway" means the river channel and the portions of the adjoining floodplain which are reasonably required to carry and discharge the regional flood.
20. "Floodplain" means the areas adjoining a watercourse which has been or hereafter may be covered by a regional flood.
21. "Regional Flood" means a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval.
22. "General Advertising Signs" means those signs which direct attention to a product, service, business or entertainment not exclusively related to the premises where such sign is located.
23. "Government Development" means any development financed in whole, or in more than 50 percent of its total financing, directly or indirectly, by the United States, the State of Minnesota, or any agency or political subdivision thereof.

24. "Historic Preservation" means the protection by various means of buildings or other structures, land areas, or districts which are identified by the Minnesota Historical Society or the National Register of Historic Places.
25. "Industrial Use" includes without limitation, factory, office building, warehouse, elevators, material transfer site, pipeline, refuse and material storage areas.
26. "Interim Development Regulations" means the regulations in the Order which indicate the development that shall be permitted pending the adoption of plans and regulations consistent with the policies of the Act and Minnesota Regulations MEQC 51 through MEQC 57.
27. "Landscaping" means plants such as trees, grass, and shrubs.
28. "Livestock" includes, but is not limited to horses, cattle, pigs and turkeys.
29. "Local Unit of Government" means any political subdivision of the State, including but not limited to counties, municipalities, townships, and all agencies and boards thereof.
30. "Lot" means a parcel, piece, or portion of land designated by metes and bounds, registered land survey, plat, or other means and separated from other parcels or portions by said description that is recorded or to be recorded in the Office of the Register of Deeds (or Registrar of Titles).
31. "Major Expansion" means an expansion involving a 20% or greater addition to the total land area presently covered or used by an industrial, commercial, recreational or public facility.
32. "Metropolitan Development Framework" means that chapter of the Metropolitan Development Guide which deals primarily with the physical development of the metropolitan area.
33. "Metropolitan Plans, Guides, and Standards" means and refers to all documents, reports, and materials which have been adopted by the Metropolitan Council and includes, but is not limited to Metropolitan Development Guide Sections, including the Development Framework Chapter and policy plans for Development Programs of all Metropolitan Commissions.
34. "Metropolitan Systems" means those facilities for which the Metropolitan Council has planning responsibility including, but not limited to interceptor sanitary sewers, sewage treatment plants, transit facilities, regional parks, and major highways.
35. "Metropolitan Urban Service Area (MUSA)" means the portion of the Metropolitan Area having metropolitan sewer service available, good highway access, transit service, and most municipal services as designated in the Development Framework chapter of the Metropolitan Development Guide.
36. "Mining" means the extraction of sand, gravel, rock, soil or other material from the land in the amount of one thousand cubic yards or more and the removing thereof from the site without processing with the exception of the removal of materials associated with construction of a building, which is approved in a building permit.

37. "Mississippi River Corridor" means that area within the boundaries of the Mississippi River Corridor Critical Area.
38. "Mobile Home Court" means any area on which spaces are rented for the placement of occupied mobile homes.
39. "Mobile Home" means a housing unit designed for transportation after fabrication on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connection to utilities and the like.
40. "Multi-family Development" means three or more dwelling units in one structure, including but not limited to an apartment building.
41. "Normal Highwater Mark" means a mark delineating the highest water level that has been maintained for a sufficient period of time to leave evidence of the level upon the landscape. It is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. When the normal highwater mark is not evident, setbacks shall be measured from the stream bank of the following water bodies that have permanent flow or open water: the main channel, adjoining side channels, backwaters, and sloughs. At the option of the local unit of government, the normal highwater mark may be delineated as the 100-year floodway line as defined by the Minnesota Department of Natural Resources.
42. "Non-conforming Use" means any use of land established before the effective date of the Interim Development Regulations, which does not conform to the use restrictions of a particular use district of the Interim Development Regulations. This should not be confused with substandard dimensions of a conforming use.
43. "Order" means the Governor's Executive Order that formally designates the Mississippi River Corridor as a Critical Area.
44. "Plan" means a compilation of policy statements, goals, standards, and maps for guiding the physical, social, and economic development, both private and public of the county, municipality, and township. It may include, but not be limited to the following: statement of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan and recommendations for plan implementation.
45. "Public Facility" means all public buildings, including schools, libraries, fire stations, administrative offices, roads, bridges.
46. "Public Safety Facilities" means hydrants, fire alarm boxes, street lights, railway crossing signals, and similar facilities and accessories, but not including buildings.
47. "Public Transportation" means all modes of transportation provided by or dedicated to public use including, but not limited to roadways, transit facilities, railroads, and bikeways.
48. "Regional Agencies" means the Metropolitan Council, Metropolitan Waste Control Commission, Metropolitan Airport Commission, Metropolitan Transit Commission, and Metropolitan Park Board.

49. "Recreation Open Space" means recreation uses particularly oriented to and utilizing the outdoor character of an area; including, but not limited to hiking, riding trails, primitive campsites, campgrounds, parks, and recreation areas.
50. "Rules and Regulations" means the instruments by which state and local units of government control the physical development of the Mississippi River Corridor or any part or detail thereof. Regulations include, but are not limited to, ordinances establishing zoning, subdivision control, platting, and the adoption of official maps.
51. "Re-zone" means a change of permitted uses within a local zoning district or of the boundaries of a local zoning district, adopted by ordinance by the local government unit.
52. "Selective Cutting" means the removal of single scattered trees or shrubs. Selective cutting shall not be construed to mean the removal of all trees or shrubs in a given area resulting in the clearing of the land.
53. "Compatible Use" means a use which may be compatible or desirable in a specified district, but requires special conditions for approval because if not carefully located or designed, it may create special problems such as excessive height or bulk or abnormal traffic congestion.
54. "Setback" means the minimum horizontal landward distance between any part of a structure and the normal highwater mark or the established bluffline.
55. "Sewage Disposal System" means any system for the collection, treatment, and dispersion of sewage including, but not limited to, septic tank soil absorption systems.
56. "Single Family Unit" means a detached building containing one (1) dwelling unit.
57. "Structure" means anything constructed or installed or portable, the use of which requires a location on a parcel of land. It includes a movable structure which can, while it is located on land, be used for housing, business, commercial, agricultural, or office purposes either temporarily or permanently. Structure also includes roads, billboards, swimming pools, poles, pipelines, transmission lines, tracks and advertising signs.
58. "Subdivision" means the division of any parcel of land into two or more lots, including re-subdivision.
59. "Transmissions Services" means electric power, telephone, and telegraph lines, cables, pipelines or conduits that are used to transport large blocks of power between two points. In the case of electrical power, this will generally mean 69 kilovolts or more. For mains or pipelines for gas, liquids, or solids in suspension, this means those that are used to transport large amounts of gas, liquids, or solids in suspension between two points.

60. "Treeline" means the more or less continuous line formed by the tops of trees in a wooded area when viewed from a particular point. Such line shall be determined during all seasons as if under full foilage.
61. "Wetlands" are low-lying areas which may be covered with shallow water. They are frequently associated with a highwater table. Swamps, bogs, marshes, potholes, wet meadows, and sloughs are wetlands. They may occur adjacent to or within natural drainageways or as free-standing low areas. Wetlands shall consist of Types 1 to 8 as defined in U.S.D.I. Fish and Wildlife Service Circular 39.

EXECUTIVE ORDERS

Executive Order No. 130 (As Amended)

Effective November 23, 1976

Designating the Mississippi River Corridor as a Critical Area

I, Wendell R. Anderson, Governor of the State of Minnesota, by virtue of the authority vested in me by the Critical Area Act of 1973, Minn. Stat. ch. 116G, hereby issue this Executive Order:

WHEREAS, the Mississippi River Corridor through the seven-county Twin Cities Metropolitan Area satisfies the following characteristics as outlined in MEQC 52(a) and pursuant to Minn. Stat. ch. 116G:

(1) It is an Area affected by existing or proposed major governmental development including: four major lock and dams across the River and a nine-foot navigational channel built and operated by the federal government; seven large industrial projects built with the help of public funds; six regional parks; a major regional sewage treatment plant and discharge points for six other existing or proposed waste treatment plants; one major airport and the facilities of another major airport; at least 22 river crossings for major roadways; and other governmental facilities, all of which facilities serve persons outside of the proposed corridor; and all of which generate substantial development or urbanization.

(2) It is an area containing historic, natural, scientific, or cultural resources of regional or statewide importance.

(a) The corridor contains historical resources of statewide or regional significance, including five areas listed on the National Register of Historic Places and twelve areas identified by the Minnesota Historical Society.

(b) The corridor contains natural resources of statewide or regional significance, including the river itself used for transportation, waste assimilation, recreation, sand and gravel deposits, and habitat suitable for the maintenance of fish and wildlife.

(c) The corridor contains cultural resources of statewide and regional significance, including Indian burial grounds, parks, water recreational facilities, and early settlements.

(d) The corridor contains scientific resources of statewide and regional significance including opportunities for floodplain and hydrological investigation, geological investigation, and historic investigation.

WHEREAS, the Mississippi River Corridor meets all of the criteria outlined in MEQC 52(b) to be designated as a critical area as follows:

(1) The area was recognized to be of significant regional or statewide public interest because it is a regional transportation corridor, a regional recreational area, and it has been or is being studied by a number of local, state and federal agencies and commissions;

(2) Other legal powers are unavailable to provide coordinated regulation of the area to protect the public interest:

(a) Four townships, twenty cities, five counties, three regional agencies, five special pur-

EXECUTIVE ORDERS

pose governmental districts, four state agencies, and four federal agencies have regulatory or planning authority in the corridor.

(b) No state agency, or local government has the legal authority to coordinate the regulatory and planning authority of the state and local agencies involved.

(c) The Metropolitan Council has no zoning authority in the area and can only suspend particular development for a limited period of time.

(d) The Floodplain Management Act regulated floodplain development, but is primarily aimed at reducing flood damage. The Act will not control development outside of the floodplain.

(e) The Shoreland Management Act only regulates development within three hundred feet of the river or to the landward extent of the floodplain, whichever is greater. It does not assist in regulating development outside of this area which may have a major effect on the river.

(f) The State Wild, Scenic, and Recreational Rivers Act is unavailable for most of the corridor. Nor does it provide for coordination of planning among state and local government.

(3) The area is one of a limited number within the state. No other area in Minnesota provides such important transportation, recreational, and water-related functions as the River does as it flows through the Metropolitan Area. Thus, it is a unique resource in Minnesota because of its importance and in its proximity to the large number of people in the Metropolitan Area.

(4) The area has been specifically identified by legal description.

WHEREAS, unregulated development and uncoordinated planning threatens the public interest in the Mississippi River Corridor; many decisions affecting the use of the River Corridor are made by local governmental units without adequate regard for protecting the regional interest in the regional resource; and

WHEREAS, the advantages of coordinated planning for the area will achieve development of the River Corridor as a regional multi-purpose resource, resolve the conflicts of use of land and water, preserve and enhance its natural, aesthetic, cultural, and historical value for the public use, and protect its environmentally sensitive areas;

NOW, THEREFORE, I order the Mississippi River Corridor located within the Twin Cities Metropolitan Area designated a critical area.

1. The boundaries of the Mississippi River Corridor Critical Area are delineated in the legal description which is attached and incorporated hereby into this Order.

2. The Standards and Guidelines to be followed by local units of government, regional agencies and state agencies in the preparation and adoption of plans and regulations for the Critical Area are attached and incorporated hereby into this Order.

3. The Interim Development Regulations to be followed in granting development permits during the Interim Period are attached and incorporated hereby into this Order.

EXECUTIVE ORDERS

4. The Department of Natural Resources shall prepare the Scenic and Recreational Plan for the eight mile stretch of the river corridor in the Cities of Dayton and Ramsey. The Cities of Dayton and Ramsey shall prepare regulations for the implementation of the plan and both the regulations and the plan shall conform to the critical area standards and guidelines.

The DNR plan and the local regulations shall be submitted to the EQC for approval, and once approval is granted, the critical area designation order for the eight mile stretch of the river corridor shall lapse. At that time, the Department of Natural Resources shall assume management responsibilities under the authority of the State Wild and Scenic River Act.

5. The State Planning Agency shall determine and administer the amount of funds needed for the preparation and adoption of plans and regulations.

6. The Designation Order for the remainder of the critical area corridor shall be effective for no longer than three years pending final approval by the Legislature or the Metropolitan Council.

This Order shall be effective immediately and shall be in force until rescinded by the proper authority.

IN TESTIMONY WHEREOF, I hereunto set my hand on this 18th day of October, 1976.

Wendell R. Anderson

Standards and Guidelines for Preparing Plans and Regulations

A. Purpose and responsibility.

1. Purposes. The purposes of the Critical Area designation and the following standards and guidelines are:

a. To protect and preserve a unique and valuable state and regional resource for the benefit of the health, safety and welfare of the citizens for the state, region, and nation;

b. To prevent and mitigate irreversible damage to this state, regional, and national resource;

c. To preserve and enhance its natural, aesthetic, cultural, and historical value for the public use;

d. To protect and preserve the river as an essential element in the national, state and regional transportation, sewer and water and recreational systems; and

e. To protect and preserve the biological and ecological functions of the corridor.

2. Responsibility. The standards and guidelines provided herein shall be:

a. Followed by the local units of government when preparing or updating plans, and/or modifying regulations;

b. Followed by state agencies, and regional agencies for permit regulation and in developing plans within their jurisdiction;

c. Followed by the Metropolitan Council for reviewing plans, regulations, and development permit applications;

d. Followed by the Council for approving plans, regulations, and development permit applications.

B. General guidelines for preparing plans and regulations.

1. The Mississippi River Corridor shall be managed as a multiple-purpose resource by:

a. Maintaining the river channel for transportation and providing and maintaining barging and fleeting areas in appropriate locations consistent with the character of the river and the riverfront.

b. Conserving the scenic, environmental, recreational, mineral, economic, cultural, and historic resources and functions of the river corridor.

EXECUTIVE ORDERS

c. Providing for the continuation and the development of a variety of urban uses, including industrial and commercial uses, and residential, where appropriate, within the river corridor.

d. Utilizing certain reaches of the river as a source of water supply and as a receiving stream for properly treated sewage and industrial waste effluents.

2. In order to manage the river corridor consistent with its natural characteristics and its existing development, the following guidelines are established for each corridor district:

a. Rural open space district. The lands and waters within this district shall be used and developed to preserve their open, scenic and natural characteristics and ecological and economic functions. Presently undeveloped islands shall be maintained in their existing natural state. The transportation function of the river shall be maintained and preserved.

b. Urban diversified district. The lands and waters within this district shall be used and developed to maintain the present diversity of commercial, industrial, residential, and public uses of the lands, including the existing transportation use of the river; to protect historical sites and areas, natural scenic and environmental resources; and to expand public access to and enjoyment of the river. New commercial, industrial, residential, and other uses may be permitted if they are compatible with these goals.

c. Urban developed district. The lands and waters within this district shall be maintained largely as residential areas. The expansion of existing and development of new industrial, commercial, and other non-residential or non-recreational uses shall be limited to preserve and enhance the residential character of this district.

d. Urban open space district. The lands and waters within this district shall be managed to conserve and protect the existing and potential recreational, scenic, natural, and historic resources and uses within this district for the use and enjoyment of the surrounding region. Open space shall be provided in the open river valley lands for public use and the protection of unique natural and scenic resources. The existing transportation role of the river in this district shall be protected.

3. The Mississippi River Corridor shall be managed in accordance with the Metropolitan Council's Development Guide Chapter, Critical Areas Act of 1973, and the Minnesota Environmental Policy Act of 1973, and other applicable state laws, and federal laws.

C. Specific standards and guidelines for preparing plans and regulations.

1. Each local unit of government within the river corridor shall prepare plans and regulations to protect environmentally sensitive areas in accordance with the following guidelines.

a. Each local unit of government shall, with the assistance of the Metropolitan Council and state agencies:

(1) Identify and prepare an inventory of:

(a) floodplains,

(b) wetlands,

(c) slopes from 12% to 18% and over 18%,

(d) soils not suitable for urban development on-site waste disposal

(e) significant vegetative stands, and

(f) natural drainage routes.

(2) Prepare a floodplain ordinance if it does not have a floodplain ordinance in effect;

(3) Prepare plans and regulations to protect wetlands;

(4) Prepare plans and regulations to protect bluffs greater than 18% and to provide conditions for the development of bluffs between 18% and 12% slopes;

(5) Prepare plans and regulations to minimize direct overland runoff and improve the quality of runoff onto adjoining streets and watercourses;

(6) Prepare plans and regulations to minimize site alteration and for beach and riverbank erosion control;

(7) Prepare regulations for management of vegetative cutting; and

(8) Prepare criteria for control of noise in open space and recreational areas with assistance of the PCA.

2. Each local unit of government and state agency shall prepare plans and regulations to protect and preserve the aesthetic qualities of the river corridor, which provide for the following considerations:

a. Site plans. Site plans shall be required to meet the following guidelines:

(1) New development and expansion shall be permitted only after the approval of site plans which

EXECUTIVE ORDERS

adequately assess and minimize adverse effects and maximize beneficial effects.

(2) Site plans shall be required for all developments for which a development permit is required, except for the modification of an existing single-family residential structure or the construction of one single-family residence.

(3) Site plans shall include, but not be limited to, the submission of an adequate and detailed description of the project, including activities undertaken to ensure consistency with the objectives of the Designation Order; maps which specify soil types, topography, and the expected physical changes in the site as a result of the development; the measures which address adverse environmental effects.

(4) Site plans shall include standards to ensure that structure, road, screening, landscaping, construction placement, maintenance, and storm water runoff are compatible with the character and use of the river corridor in that district.

(5) Site plans shall provide opportunities for open space establishment and for public viewing of the river corridor whenever applicable, and shall contain specific conditions with regard to buffering, landscaping, and re-vegetation.

b. Structures. Structure site and location shall be regulated to ensure that riverbanks, bluffs and scenic overlooks remain in their natural state, and to minimize interference with views of and from the river, except for specific uses requiring river access.

c. Clustering. The clustering of structures and the use of designs which will reduce public facility costs and improve scenic quality shall be encouraged. The location of clustered high-rise structures may be proposed where public services are available and adequate and compatible with adjacent land uses.

d. Access routes. Commercial and industrial developments adjacent to roadways shall be required to provide off-street parking, service roads and limited controlled access points to highways. (Except in cases of extreme hardship, highway access for any development within 250 feet of a bridge or bridge ramp shall be prohibited.)

e. Existing development. Local plans and regulations shall include provisions to:

- (1) Retain existing vegetation and landscaping;
- (2) Amortize non-conforming uses;

(3) Prohibit the reconstruction of non-conforming uses which are 50% market value destroyed;

(4) Provide for the screening of existing development which constitutes visual intrusion, wherever appropriate.

f. Signs. Local units of government shall adopt ordinances for the amortization and removal of non-conforming general advertising signs, and to prohibit the visibility of advertising signs from the river, except in urban diversified districts.

3. Local units of government shall develop plans and regulations to ensure that developments shall not be undertaken prior to the provision of Metropolitan public facilities in adopted Metropolitan plans, in accordance with the following guidelines:

a. Developments in areas not scheduled for the provision of municipal or metropolitan sanitary sewers shall comply with adequate on-site sewage disposal system regulations.

b. The density of development outside the metropolitan urban service area shall be limited to ensure that there is no need for the premature provision of local and metropolitan urban services and facilities.

4. Local units of government shall develop plans and provide guidance to ensure that the surface uses of the river is compatible with the characteristics and use of the districts in accordance with the following guidelines:

a. The present 9-foot navigation channel shall be maintained.

b. Provision shall be made for the use of the river for water transportation which is consistent with adopted state and regional policies and regulations and applicable federal laws and to minimize any adverse effects associated with such facilities.

c. Local plans shall identify areas physically suitable for barge slips and barge fleeting, based on such considerations as safety, maneuverability, operational convenience, amount of construction and/or excavation required, and environmental impacts; and

d. Local plans shall specify which of those areas found physically suitable may be used for barge slips and barge fleeting areas in the future. Preference should be given to those areas where new barge slips and associated facilities can be clustered, where required metropolitan services are already available, and where use of the river-front for barge slips and fleeting areas, and access to them, is compatible with adjacent land use and public facilities.

e. Local plans shall identify, whenever practicable, locations where river dredge spoil can be utilized consistent

EXECUTIVE ORDERS

with natural geological appearances or processes and adjacent land uses.

f. Where there is potential conflict of surface use, state and local governments shall enact appropriate water surface use regulation.

g. The Minnesota Energy Agency shall be responsible for recommending to the EQC a strategy for the development of a coal transportation plan for the metropolitan area.

5. Local units of government shall develop plans and regulations for industrial and commercial developments in the River Corridor in accordance with the following guidelines:

a. Areas for new or expanded industrial and commercial developments, where urban services are available, and the premature expansion or upgrading of the metropolitan systems will not be required, shall be identified.

b. The existing industrial waste discharge points, sanitary, and storm water discharge points shall be identified.

c. Local plans should give consideration to providing for future industrial and commercial uses that require water access including, but not limited to such uses as, transportation, water supply and waste discharge. This does not preclude the locating of non-water related uses within the Corridor.

d. The impact of potential mining and extraction sites or other incompatible uses shall be minimized.

e. Land reclamation and reforestation of the mining site shall be regulated.

6. Local units of government and regional and state agencies shall develop plans and regulations to maximize the creation and maintenance of open space and recreational potential of the Corridor in accordance with the following guidelines:

a. Existing and potential sites for the following uses shall be identified and inventoried.

(1) Neighborhood, municipal, county and regional parks;

(2) Scenic overlooks, scenic views, and public observation platforms;

(3) Protected open space areas, including islands, gorges, wildlife preservation areas, and natural areas;

(4) Beaches and undeveloped river frontage on backwaters, which are suitable for recreation purposes;

(5) Commercial marinas and boat launching facilities;

(6) Public access points to the river;

(7) Historic sites and districts.

b. The Metropolitan Council shall prepare a general trailway plan for the entire length of the River Corridor which links regional parks.

c. Local units of government shall identify the potential location of trails within their jurisdictions, including related problems and proposed solutions.

d. Plans and programs to acquire sites for public access to the river and to protect open space areas shall be developed.

e. Programs to acquire and manage undeveloped islands in their natural state and to encourage the restoration of other islands for recreation open space uses shall be adopted.

f. In the development of residential, commercial and industrial subdivisions, and planned development, a developer shall be required to dedicate to the public reasonable portions of appropriate riverfront access land or other lands in interest therein.

g. In the event of practical difficulties or physical impossibility, the developer shall be required to contribute an equivalent amount of cash to be used only for the acquisition of land for parks, open space, storm water drainage areas or other public services within the River Corridor.

7. Local units of government and state agencies shall develop plans and regulations for transportation and public utilities developments in accordance with the following guidelines:

a. Existing and potential utility and transportation facility crossings shall be identified and river crossings shall be minimized and concentrated at existing crossings where possible.

b. The Corridor shall not be used merely as a convenient right-of-way and new or modified transportation and utility facilities shall complement the planned land and water uses and shall not stimulate incompatible development.

c. In planning and designing the construction or reconstruction of all public transportation facilities which

EXECUTIVE ORDERS

occur within the river corridor, consideration shall be given to the provision of scenic overlooks for motorists, safe pedestrian crossings and facilities along the River Corridor, access to the riverfront in public ownership and reasonable use of the land between the river and the transportation facility.

8. Local units of government and regional and state agencies shall develop capital improvement programs which are consistent with the following guidelines:

a. A five year capital improvement program or public facilities program shall be developed which covers all public projects to be sited in the corridor.

b. The capital improvement program or public facilities program shall specify the sequence of actions to be undertaken by each public agency and shall be consistent with the Standards and Guidelines in sections B. and C.

9. Local units of government shall reassess all lands in the River Corridor in accordance with the following guidelines:

a. Local units of government shall send copies of adopted plans and regulations and amendments of plans and regulations to appropriate municipal and county assessors within 30 days after adoption.

b. Municipal and county tax assessors shall reassess all lands in the Mississippi River Corridor for consistency with adopted plans and regulations within one year of receipt of adopted plans from local units of government.

10. Local units of government and regional and state agencies shall prepare plans and regulations in accordance with the natural characteristics and the character of existing development in the River Corridor in accordance with the following guidelines:

a. Local units of government and regional and state agencies shall prepare plans and regulations using the district boundaries as described in the Interim Development Regulations as guidelines, in accordance with the purpose of each district as described in the General Guidelines section B.

b. The City of St. Paul shall prepare plans and regulations to balance open space use and industrial and commercial developments for the Pig's Eye Lake area.

c. Local units of government may prepare modifications of the use districts boundaries as described in the Interim Development Regulations if local units of government demonstrate to the EQC in plans and supporting documents the consistency of the proposed modification with the General Guidelines.

11. Local units of government, regional agencies and state agencies shall provide adequate opportunities for public participation in the preparation of plans and regulations.

D. Reviewing plans and regulations.

1. The Metropolitan Council shall be the lead agency to coordinate the preparation, submission, review and modification of land use plans, zoning ordinances, zoning amendments, capital improvement programs and other regulations, specified in section C, which are prepared by local units of government, regional and state agencies.

2. Local units of government and regional agencies shall submit existing, modified or prepared plans and regulations that comply with the Designation Order to the Metropolitan Council within six months of notice of the Order of Designation. The EQC shall review the state plans and regulations and forward the appropriate sections to the Metropolitan Council.

3. The Metropolitan Council shall review the plans, regulations, and capital improvement programs prepared by local units of governments, regional and state agencies for consistency with regional objectives and with the Order of Designation. Within 45 days of receiving the plans and regulations, the Metropolitan Council shall submit its written evaluation to the EQC. Upon a request from the Metropolitan Council, the EQC may grant 30 days time extensions when the EQC determines that the Metropolitan Council has satisfactorily demonstrated that it requires more time for review.

4. The EQC shall review all plans and regulations prepared for the Mississippi River Corridor, within 45 days of receiving the plans and regulations from the Metropolitan Council. The EQC shall determine whether they are consistent with the provisions of the Order of Designation. When the EQC has completed the review, it shall either:

a. Approve the plans and regulations by a written decision and notify the local units of government and regional and state agencies, and the Metropolitan Council; or

b. Return them to the local units of governments, regional and state agencies, and the Metropolitan Council for modification with a written explanation of the need for modification.

5. Within 45 days of EQC's approval of the plans and regulations, local units of government, regional and state agencies shall adopt the approved plans and regulations, and shall notify the EQC.

E. Updating and re-evaluation of plans and regulations.

1. Local units of government or regional and state

EXECUTIVE ORDERS

agencies may amend their plans and regulations that have been approved by the EQC by resubmitting the plans and regulations with any recommended changes thereto, to the EQC for consideration.

2. Two years after EQC's initial approval of the plans and regulations, local units of government and regional and state agencies shall resubmit their plans and regulations with any recommended changes thereto, for review and approval by the EQC.

3. Amendments to plans and regulations shall become effective only upon the approval thereof by the EQC in the same manner as for approval of the original plans and regulations as stated in section D.

F. Development permits.

1. If no plans and regulations have been adopted under the provisions of section D, local units of government and regional and state agencies shall grant a development permit only if:

a. The development is specifically permitted by the Interim Development Regulations;

b. The development is essential to protect the public health, safety, or welfare because of an existing emergency; or

c. The registration, recordation, permit, or authorization of the development was issued prior to the date of legal notice of the EQC public hearing provided in MEQC 53(3).

2. When plans and regulations have been adopted under the provisions of section D, local units of government, regional and state agencies shall permit development only in accordance with those plans and regulations.

G. Notification of the development permits to the EQC.

1. Local units of government, and regional and state agencies shall prepare administrative procedures for permit notification as a part of their plans and regulations. The local units of government, regional and state agencies shall notify the EQC of all the developments requiring discretionary actions under their rules and regulations at least 30 days before taking action on the application, unless the EQC informs the local unit of government and regional and state agencies in writing that the EQC need not be notified of certain types of applications.

2. Local units of government and regional and state agencies shall prepare procedures to notify the EQC of their final action on the development permits which require discretionary action.

H. Judicial proceedings.

If the EQC determines that the administration of the local plans and regulations is inadequate to protect the state or regional interest, the EQC may institute appropriate judicial proceedings to compel proper enforcement of the plans and regulations.

Interim Development Regulations for the Mississippi River Corridor Critical Area

A. General provisions.

1. Authority. These procedures are prescribed by the Minnesota Environmental Quality Council (Council) pursuant to authority granted to the Council in Minn. Stat. §§ 116G.01 to 116G.14 (1974).

2. Purpose. The purposes of these regulations are:

a. To protect the public health, safety, comfort, convenience and general welfare;

b. To promote orderly development of the residential, commercial, industrial, recreational and public areas within the corridor;

c. To conserve the natural and scenic beauty of the river corridor;

d. To conserve and develop the natural resources of the river corridor; and

e. To provide for the compatibility of different land uses and the most appropriate use of land throughout the river corridor.

3. Scope.

a. These Interim Development Regulations shall apply to public and private lands and waters within the Mississippi River Corridor, as set forth and legally described in Appendixes A and B of the recommendation for designation of the Mississippi River Corridor as a critical area.

b. The Interim Development Regulations shall govern; but wherever there is a conflict between the Interim Development Regulations and existing laws, regulations, ordinances, or other provisions of the Interim Development Regulations, the more restrictive provision shall apply.

c. The Interim Development Regulations should not be used as a complete model ordinance for adoption by

EXECUTIVE ORDERS

local units of government. At the options of local units of government, they may be used as guidance for the preparation of plans and regulations.

d. The Interim Development Regulations shall remain in effect from the date of issuance of the Governor's Designation Order for each local unit of government in the critical area until it adopts plans and regulations approved by the Council.

e. State and regional agencies and local units of government shall approve development only in conformance with these Interim Development Regulations until the adoption of plans and regulations approved by the Council.

f. Development which was approved by a state or regional agency or a local unit of government after April 25, 1975 shall be subject to these Interim Development Regulations and subsequently adopted plans and regulations only to the extent provided in MEQC 57.

g. State and regional agencies and local units of government shall be responsible for the administration and enforcement of the Interim Development Regulations as of the effective date of the Governor's Designation Order.

h. Any regulations or procedure not specified in these Interim Development Regulations shall follow the applicable local unit of government regulations or the appropriate state and regional agency's rules and regulations.

B. Use district designations.

1. Because the river should be managed as a multiple-purpose resource, and it possesses a variation in both natural characteristics and types of urban development, the Corridor has been segmented into the following four districts which shall be applied throughout the interim period as described in Appendixes A and B of the recommendation for designation of the Mississippi River Corridor as a critical area.

- a. Rural open space districts
- b. Urban diversified districts
- c. Urban developed districts
- d. Urban open space districts

2. During the interim period, no changes shall be made of the district boundaries set forth by these Interim Development Regulations.

C. Permitted uses.

1. Any land or water use development which is in

conformance with the standards and guidelines of the Interim Development Regulations shall be permitted.

2. During the interim period, no changes shall be made of the permitted uses allowed by these Interim Development Regulations.

3. Residential development. Residential development shall be permitted in all the districts. All structures and accessory uses or appurtenances of residential development shall be subject to the Dimensional Standards and Criteria in section F of these Interim Development Regulations.

4. Commercial and industrial uses.

a. In rural open space districts and urban developed districts, the development of new and expansion of existing industrial and commercial uses and development shall be permitted if:

(1) it does not require expansion or upgrading of metropolitan systems prior to the schedule set forth in adopted metropolitan plans;

(2) it meets the Dimensional Standards and Criteria in section F;

(3) it will not encroach upon future local or regional parks and recreation open space identified in the Metropolitan Council's Development Guide/Policy Plan for Recreation Open Space or in local plans and programs.

b. In urban open space districts, the development of new and expansion of existing commercial and industrial uses and development shall be permitted on lands which are on the landward side of all blufflines, if it meets the Dimensional Standards and Criteria in section F.

c. In urban diversified districts, new and expansion of existing industrial and commercial developments shall be allowed, if it meets the Dimensional Standards and Criteria in section F.

d. In Rosemount and Inver Grove Heights urban diversified district, new and expansion of existing industrial and commercial development shall be permitted, if it does not require premature expansion of metropolitan public services.

5. Agricultural uses. All agricultural uses except new feedlots may be permitted in all the districts.

6. Mining and extraction.

a. In rural open space, urban developed, and urban diversified districts,

EXECUTIVE ORDERS

(1) new mining and extraction may be permitted and shall be subject to the Dimensional Standards and Criteria in section F;

(2) new and, where practicable, existing extraction uses shall be appropriately screened from view of the river by establishing and maintaining natural screen devices;

(3) The unscreened boundaries of mining and extraction areas shall be limited to only the loading area;

(4) existing and future extractive uses shall be required to submit land reclamation and reforestation plans compatible with these Interim Development Regulations; and

(5) only one barge loading area which shall be limited to the minimum size practicable shall be permitted for each mining or extraction operation.

b. In urban open space districts, new mining and extraction operations shall not be permitted.

7. Recreational uses.

a. In all districts, recreational uses and structures and accessory uses or appurtenances shall be permitted and shall be subject to the Dimensional Standards and Criteria in section F. Water-related commercial recreation uses shall not be subject to the Dimensional Standards and Criteria in section F.

b. Within urban open space districts, recreation uses on islands and lands between the river and blufflines shall be only for public recreation uses, historic preservation, and wildlife preserves.

8. Signs.

a. In rural open space, urban developed, and urban open space districts:

(1) general advertising signs not visible from the river are permitted;

(2) all other general advertising signs shall be prohibited.

b. In urban diversified districts, general advertising signs are permitted.

D. Permitted public facilities.

1. Transmission services. In all the districts, the construction of new and reconstruction of existing transmission services shall meet the following standards.

a. The Department of Natural Resources (DNR) in reviewing permit applications for all transmission service crossings on the Mississippi River, Minnesota River, or of State lands requiring a permit from the DNR pursuant to Minn. Stat. §§ 84.415 or 105.42 shall give primary consideration to crossings that are proposed to be located within or adjacent to existing right-of-ways for public facilities, such as railroads, roadways, bridges, and existing transmission services.

b. Transmission services of under 200 kilovolts, which cross lands within the River Corridor shall require a special use permit from the local unit of government. Local units of government shall apply the standards set forth in sections D.1.c through h when processing applications for a special use permit.

c. When routing transmission services of under 200 kilovolts, the following shall be avoided where practicable:

(1) steep slopes;

(2) scenic intrusions into streams, valleys, and open exposures of water;

(3) scenic intrusions into areas such as ridge crests and high points;

(4) creating tunnel vistas by, for example, building deflections into the route;

(5) wetlands;

(6) forests by running along fringe rather than through them. If necessary to route through forests, utilize open areas in order to minimize cutting;

(7) soils susceptible to erosion, which would create sedimentation and pollution problems;

(8) areas of unstable soils which would be subject to extensive slippages;

(9) areas with highwater tables, especially if construction requires excavation;

(10) open space recreation areas.

d. Transmission services shall be subject to the Dimensional Standards and Criteria in section F, except at crossing points.

e. Structure design of transmission services. With regard to locating the utility, overhead or underground:

(1) primary considerations shall be given to underground placement in order to minimize visual impact.

EXECUTIVE ORDERS

When considering overhead placement, the proposers shall explain the economic, technological or land characteristic factors which make underground placement infeasible. Economic considerations alone shall not justify overhead placement.

(2) if overhead placement is necessary, the crossing should be hidden from view as much as practicable;

(3) with regard to the appearance of the structures, they shall be made as compatible as practicable with the natural area with regard to: height and width, materials used, and color;

(4) with regard to the width of the right-of-way, the cleared portion of the right-of-way should be kept to a minimum.

f. In the construction of transmission services, the following guidelines shall be applied whenever practicable:

(1) construction in wetlands shall minimize damage to vegetation, prevent erosion and sedimentation;

(2) construction shall be undertaken at times when local fish and wildlife are not spawning or nesting;

(3) effective erosion and sedimentation control programs shall be conducted during all clearing, construction, or reconstruction operations in order to prevent the degradation of the river and adjacent lands.

g. Safety considerations. Developers must adhere to applicable Federal and State safety regulations, both with regard to prevention (such as safety valves and circuit breakers) and with regard to emergency procedures in the event of failure (fire suppression, oil spill clean-up).

h. Right-of-way maintenance.

(1) If possible, natural vegetation of value to fish or wildlife, which does not pose a hazard to or restrict reasonable use of the utility, shall be allowed to grow in the right-of-way;

(2) Where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and low growing trees, shall be planted and maintained on the right-of-way;

(3) Chemical control of vegetation should be avoided when practicable, but where such methods are necessary, chemicals used and the manner of their use must be in accordance with rules, regulations, and other requirements of all state and federal agencies with authority over the use.

2. Sewage treatment plants — sewage outfalls, water intake facilities.

a. In rural open space, urban developed and urban diversified districts the provision of sewage treatment plants, sewage outfalls and water intake facilities:

(1) wherever practicable, shall conform with the Dimensional Standards and Criteria in section F;

(2) shall dedicate the unused river frontage after construction, for public access or recreation open space use;

(3) shall not include new combined storm and sanitary sewer outfalls.

b. In urban open space district:

(1) no new sewage treatment plants shall be permitted in this district. However, the Metropolitan Waste Control Commission may expand the Metropolitan Wastewater Treatment Plant at the Pig's Eye Lake area, if the expansion plans are approved by the Metropolitan Council and they are consistent with the City of St. Paul's riverfront plan approved by the Council under section D. of the Standards and Guidelines for Preparing Plans and Regulations;

(2) no new water intake facilities shall be permitted;

(3) no new combined storm water and sanitary sewer outfalls shall be permitted.

3. Essential services and public safety facilities. Essential services and public safety facilities are permitted in all the districts. They are subject to Regulation D(1).

4. Transportation facilities. The construction or reconstruction of all transportation facilities shall be permitted in all the districts, subject to the following standards and criteria:

a. The following guidelines shall be applied whenever practicable in selecting routes for transportation facilities.

(1) careful consideration should be given to the provision of scenic overlooks for motorists, safe pedestrian crossing and safe pedestrian pathways along the river;

(2) if possible, provide access to the riverfront in public ownership, and allow reasonable public use of the land between the river and the transportation facility;

(3) steep slopes shall be avoided;

EXECUTIVE ORDERS

(4) scenic intrusion into stream, valley and open exposures of water shall be avoided;

(5) scenic intrusion into areas such as ridge crests and high points shall be avoided

(6) wetlands shall be avoided;

(7) run along fringes of forests rather than through them. But if it is necessary to route through forests, then utilize open areas in order to minimize destruction of commercial forest;

(8) soils whose high susceptibility to erosion would create sedimentation and pollution problems during and after construction shall be avoided;

(9) areas of unstable soils which would be subject to extensive slippage shall be avoided;

(10) areas with highwater tables, especially if construction requires excavation, shall be avoided;

(11) locate new roads to avoid cuts and fills so as to blend into the natural terrain so that it appears to be a part of the natural landscape;

(12) open space recreation areas shall be avoided.

b. Transportation facilities shall be subject to the Dimensional Standards and Criteria in section F, except at crossing points.

c. The following guidelines shall be applied when practicable in constructing transportation facilities:

(1) reconstruction of an existing public road or railroad should be performed in a manner that would minimize any adverse effect on the natural beauty and environment of the river;

(2) effective erosion and sedimentation control programs shall be conducted during all clearing, construction or reconstruction operations in order to prevent the degradation of the river and its adjacent lands;

(3) construction across wetlands shall take place in a manner which minimizes damage to vegetation, and in a manner preventing erosion and sedimentation;

(4) construct at times when local fish and wildlife are not spawning or nesting.

d. Safety considerations. Developers must adhere to applicable Federal and State safety regulations with regard to new road construction or reconstruction of an existing road.

e. The following guidelines shall be applied when practicable for right-of-way maintenance:

(1) if possible, natural vegetation of value to fish or wildlife, and which does not pose a safety hazard, shall be allowed to grow in the roadside right-of-way;

(2) where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and trees shall be planted and maintained on the roadside right-of-way;

(3) chemical control of vegetation is discouraged. But where such methods are justified, chemicals used and the manner of their use must be in accordance with rules, regulations and other requirements of all State and Federal agencies with authority over their use.

5. Barge facilities.

a. In rural open space and urban developed districts, the following standards shall apply:

(1) the expansion of existing barge slips within these districts shall be permitted;

(2) no new barge slips shall be permitted until local riverfront plans and regulations have been reviewed by the Metropolitan Council and approved by the Council according to the procedures in MEQC 55(c).

b. In urban open space districts, the following standards shall apply:

(1) no new barge slips shall be permitted;

(2) no barge fleeting areas shall be permitted until local riverfront plans and regulations have been reviewed by the Metropolitan Council and approved by the Council according to the procedures in MEQC 55(c).

c. In urban diversified districts all barge facilities are permitted.

E. Earthwork and vegetation.

1. Grading and filling. In all districts, the following provisions shall apply to grading and filling:

a. Grading, filling, excavating, or otherwise changing the topography landward of the ordinary high water mark shall not be conducted without a permit from the local authority. A permit may be issued only if:

(1) earthmoving, erosion, vegetative cutting, and the destruction of natural amenities is minimized;

EXECUTIVE ORDERS

(2) the smallest amount of ground is exposed for as short a time as feasible;

(3) temporary ground cover, such as mulch, is used and permanent ground cover, such as sod is planted;

(4) methods to prevent erosion and trap sediment are employed; and

(5) fill is established to accepted engineering standards.

b. A separate grading and filling permit is not required for grading, filling, or excavating the minimum area necessary for a building site, essential services, sewage disposal systems, and private road and parking areas undertaken pursuant to a validly issued building permit.

2. Vegetation management.

a. In rural open space, urban developed and urban open space districts, the following standards shall apply:

(1) on developed islands, public recreation lands, the slope or face of bluffs, within 200 feet of the normal high water mark of the river, and within the area 40 feet landward from blufflines, clear cutting shall not be permitted;

(2) on all other lands within these districts, clear cutting shall be guided by the following provisions:

(a) clear cutting shall not be used where soil, slope, or other watershed conditions are fragile and subject to injury;

(b) clear cutting shall be conducted only where clear cut blocks, patches or strips are, in all cases, shaped and blended with the natural terrain;

(c) the size of clear cut blocks, patches, or strips shall be kept at the minimum necessary;

(d) where feasible all clear cuts shall be conducted between September 15 and May 15. If natural regeneration will not result in adequate vegetative cover, areas in which clear cutting is conducted shall be replanted to prevent erosion and to maintain the aesthetic quality of the area where feasible, replanting shall be performed in the same spring, or the following spring.

(3) the selective cutting of trees greater than 4" in diameter may be permitted by local units of government when the cutting is appropriately spaced and staged so that a continuous natural cover is maintained.

b. In urban diversified district:

(1) on the slope or face of bluffs and within areas 40 feet landward from established blufflines, clear cutting shall not be permitted;

(2) the selective cutting of trees greater than 4" in diameter may be permitted by local units of government when the cutting is appropriately spaced and staged so that a continuous natural cover is maintained.

c. These vegetative management standards shall not prevent the pruning and cutting of vegetation to the minimum amount necessary for the construction of bridges and roadways and for the safe installation, maintenance and operation of essential services and utility transmission services which are permitted uses.

F. Dimensional standards and criteria.

1. Objectives. The objectives of Dimensional Standards and Criteria are: to maintain the aesthetic integrity and natural environment of certain districts, to reduce the effects of poorly planned shoreline and bluffline development, to provide sufficient setback for sanitary facilities, to prevent pollution of surface and ground water, to minimize flood damage, to prevent soil erosion, and to implement Metropolitan Plans, Guides and Standards.

2. Substandard lot. The local unit of government may approve any proposed new structure or changes to existing structure when the following findings are made:

a. The lot was recorded in the Office of the County Register of Deeds (or Registrar of Titles) prior to the date of legal notice of the EQC public hearing, April 25, 1975.

b. The lot was in separate ownership from all abutting land on April 25, 1975.

c. The proposed use is consistent with the provisions of the Interim Development Regulations and local ordinance.

d. It can be demonstrated that a proper and adequate sewage disposal system can be installed according to interim regulations, Health Department's and PCA's regulations.

e. The lot size is within sixty (60) percent of the size required in the Interim Development Regulations.

3. Lot size.

a. In the rural open space and urban developed districts, the following minimum lot sizes shall be required:

(1) in unsewered areas, the minimum lot size shall be five acres per single family unit;

EXECUTIVE ORDERS

(2) in sewerred areas, the minimum lot size shall be consistent with the local zoning ordinance.

b. In the urban open space and urban diversified districts, the minimum lot size shall be consistent with the local zoning ordinance.

4. Structure setback.

a. All required setbacks shall be applicable to each bluffline proceeding landward from the river.

b. All new structures and roads shall meet the following minimum setbacks:

(1) in the rural open space district, no structure or road shall be placed less than 200 feet from the normal highwater mark, and no less than 100 feet from blufflines;

(2) in the urban developed district, and urban open space district, the structure or road shall be placed no less than 100 feet from the normal highwater mark of the river, and no less than 40 feet from blufflines;

(3) in the urban diversified district, the structure or road shall be placed no less than 40 feet from the bluffline.

c. Exceptions to setback provisions shall be:

(1) public safety facilities, public bridges and their roadway approaches, railroad sidings, minor public and private roadways serving water-related uses on the riverfront;

(2) public recreation facilities, scenic overlooks, public observation platforms, and the regional trail system, docks, boat launching facilities;

(3) approved river crossings of essential service, and essential services distribution systems which are primarily underground except for terminal and metering devices not exceeding six feet in height, and supporting structures for transmission crossing spans;

(4) the construction of above-ground pumping stations for sewer lines which shall be screened from view of the river;

(5) the reconstruction or restoration of historical structures or sites on the inventory of the State Historical Society or the National Register of Historic Places.

5. Height of structures.

a. In the rural open space, urban developed and urban open space districts:

(1) new structures and additions to existing structures shall be limited to a maximum of 35 feet;

(2) the following exceptions to height limits shall be permitted:

(a) expansion of existing industrial complexes, such as refineries and storage areas;

(b) barns, silos and similar farm structures;

(c) essential service distribution systems;

(d) bridges, bridge approach roadways, and transmission services;

(e) restoration or reconstruction of historical structures and sites on the inventory of the State Historical Society or the National Register of Historical Places.

b. In the urban diversified district, there are no restrictions on the height of structures.

6. Placement of structures.

a. The following standards shall apply in any district:

(1) no new structures shall be placed on slopes which are 18 percent or greater;

(2) structures may be permitted on slopes which are greater than 12 percent, but less than 18 percent, when the following conditions are met:

(a) the developer can prove that the development on the slope can be accomplished without increasing erosion;

(b) the soil types and the geology are suitable for slope development;

(c) there is proper management of vegetation to control runoff.

(3) when an approved floodplain ordinance exists, structure placement shall be governed by that ordinance. Where an approved floodplain ordinance does not exist, the elevation at which the lowest floor of a structure, including basement, may be placed shall be consistent with the Minnesota statewide standards and criteria for management of floodplain areas;

(4) in rural open space, urban developed and urban open space districts, no development shall be permitted on presently undeveloped islands, except those developments specifically related to wildlife preservation and

EXECUTIVE ORDERS

recreation open space uses, and bridge piers when other considerations dictate that bridge crossing alignment;

(5) in urban diversified districts, the development on islands related to recreation open space uses and historical preservation of sites and areas on the Inventory of the Minnesota State Historical Society and the National Register of Historic Places shall be permitted; new industry, commercial, residential and other uses shall be permitted on islands if they are consistent with local zoning ordinances and with the historical character.

7. Line of sight. In rural open space districts, urban developed districts, and urban open space districts, the development of new and expansion of existing industrial and commercial uses and development shall be permitted, if it cannot be seen from the normal highwater mark on the opposite side of the river. Water-related commercial and industrial uses shall not be subject to this requirement.

G. Sanitary standards and criteria.

1. The following standards shall apply to all districts:

a. All parts of on-site sewage disposal systems shall be located at least 75 feet from the normal highwater mark.

b. No on-site sewage disposal system shall be placed within designated floodplains.

H. Non-conforming uses and structures.

1. Any structure or use existing upon the effective date of these Interim Development Regulations which does not conform to the use restrictions of a particular use district of the Interim Development Regulations shall automatically continue as a non-conforming use or structure.

2. Whenever a non-conforming building or structure has been damaged by fire, flood, explosion, earthquake, war, riot, or other disaster, it may be reconstructed to its prior use when the damage to the building or structure is fifty percent (50%) or less of its fair market value. Where the damage is fifty percent (50%) or more, reconstruction shall not be permitted for any structure that does not meet the minimum required standards.

3. When any non-conforming use of a building or structure has been changed to a conforming use, it shall not be changed to a non-conforming use.

4. If a non-conforming use is discontinued for 6 consecutive months, any future use of the building or premises shall conform to the Interim Development Regulations.

I. Administration.

1. Local units of government and regional and state

agencies shall notify the Council of the following types of proposed development within the Mississippi River Corridor:

a. Development permit applications for the development of a new or major expansion of an industrial, commercial facility in the rural open space, urban developed and urban open space districts.

b. All government developments.

c. Inside the 1975 Metropolitan Urban Service Area (MUSA), development permit applications for the development of:

(1) 50 or more dwelling units in a multi-family project;

(2) 25 or more lots in a mobile home court;

(3) 25 or more lots in a residential project.

d. Outside the MUSA, development permit applications for the development of:

(1) 25 or more dwelling units in a multi-family project;

(2) 10 or more lots in a mobile home court;

(3) 10 or more lots in a residential project;

(4) any residential developments in rural open space districts.

e. Any development on or involving the alteration of:

(1) a wetland;

(2) a floodplain;

(3) an island;

(4) a slope of greater than 12 percent;

(5) the removal of 5 contiguous acres or more of vegetative cover;

(6) the grading or filling of 20 contiguous acres of land;

(7) the deposit of dredge spoil;

(8) more than 50 linear feet of a riverbank.

f. Any development involving the establishment of

EXECUTIVE ORDERS

a public or private structure, facility or other which crosses the river.

g. The development or expansion of any commercial harbor or barge loading or fleeting area.

h. Any development which would result in the discharge of water into or withdrawal of water from the Mississippi River which would require a state permit.

i. Any developments within the historical districts established by the State Legislature.

j. Development for which Metropolitan Council review is requested by:

(1) the local unit of government with jurisdiction;

(2) resolution from two or more local units of government adjacent to the local units of government within which the proposed development is sited.

k. Any development which requires a rezoning or compatible use permit.

2. Procedures for reviewing proposed development.

a. Local units of government and regional and state agencies shall notify the Council in writing of any proposed development listed in section I.1, at least 30 days before the local units of government and regional and state agencies take final action to approve or deny the development. In the event the Metropolitan Council elects to hold a hearing under section I.2.e., no final action to approve or deny the proposed development may be taken until 15 days after the Council receives the Metropolitan Council recommendation.

b. The Council shall send a copy of the proposed development to the Metropolitan Council for review no later than 2 days after the date of the Council's receipt of the application.

c. The Metropolitan Council shall review the proposed development and transmit a written recommendation with reasons for approving, modifying, or denying the proposed development to the Council no later than 18 days after the Metropolitan Council's receipt of the application, except when a public hearing is required by the Metropolitan Council, in which case, sections I.2.e(1) and (2) shall be followed.

d. Other local units of government and regional and state agencies may transmit to the Council their written comments on the proposed development published in the EQC Monitor within 15 days of date of the publication.

e. When the Metropolitan Council decides to hold a public hearing on a proposed development application, the public hearing shall be conducted in accordance with the Metropolitan Council's statutory requirements, and notice of the hearing shall be filed with the Council and affected municipalities, counties, and applicants.

f. The Metropolitan Council shall submit its final recommendation on the proposed development to the Council within 30 days of closing date of the hearing record. The Council shall accept or modify the Metropolitan Council's recommendations and shall consider the comments of the local units of government and regional and state agencies and transmit the recommendation to the local unit of government and regional and state agencies no later than 10 days after the date of receipt of the Metropolitan Council's recommendation.

g. The Council may extend the 30 days time for a particular proposed development if the Metropolitan Council, the developer, any local unit of government and regional and state agencies with jurisdiction agree to the extension.

h. Failure of the Council to act on the notice of a proposed development within the prescribed period of time shall constitute acceptance by the Council of the final action on the proposed development by the local unit of government, regional or state agency.

i. Within 30 days after the final action, local units of government and regional and state agencies shall notify the Council of the final action on all proposed development listed in section I.1, or of emergency actions approved under the provisions of section I.5.

j. When the Council has recommended to a local government unit, regional or state agency to modify or to deny a proposed development, and that recommendation is not followed, the proposed development shall not be approved for 30 days after the Council receives notice of final action. If the Council appeals the decision to district court, the appeal shall be made within 30 days of receipt notice of final action. When an appeal is made, the development shall not be approved until the appeal process is scheduled.

3. Dimension variance.

a. Local units of government may grant a dimension variance from strict compliance with the setback, or height restrictions, or lot size or line of sight requirement contained in the Interim Development Regulations after an administrative hearing that shall be conducted according to the regulations of the local unit of government.

b. A dimension variance may be granted only when the following findings are made:

EXECUTIVE ORDERS

(1) the strict enforcement of the setback or height restrictions, or lot size or line of sight will result in unnecessary hardship. "Hardship" as used in the consideration of a dimension variance means that the property in question cannot be put to a reasonable use under the dimension provisions of these Interim Development Regulations;

(2) there are exceptional circumstances unique to the property that were not created by a landowner after April 25, 1975;

(3) the dimension variance does not allow any use that is not a compatible use in the land use district in which the property is located;

(4) the dimension variance will not alter the essential character of the locality as established by these Interim Development Regulations;

(5) the dimension variance would not be contrary to the intent of the Order.

4. Compatible use permit.

a. Local units of government may grant a compatible use permit after an administrative hearing that shall be conducted according to the regulations of the local unit of government for conditional or special use permits.

b. A compatible use permit may be granted for a proposed development only when the following findings are made:

(1) it is consistent with the intent of the Order, and the adopted policies of the Metropolitan Council and the Environmental Policy Act; and

(2) it is compatible with uses in the immediate vicinity; and

(3) it is permitted by the ordinances of the local unit of government.

5. Emergency actions. In accordance with the Act, local units of government, regional and state agencies may grant a development permit when certified in writing by the local unit of government, regional and state agencies, or the County Zoning Administration with the existing authority that the development is essential to protect the public health, safety or welfare in an existing emergency and that a local ordinance or state regulation was in effect immediately prior to April 25, 1975 and a development permit would have been granted thereunder.

Appendix A

Legal Description of the River Corridor

Ramsey

Commencing at the point where the west boundary line of Anoka County intersects with the north boundary line of Hennepin County;

Thence north along said Anoka County west boundary line to the NW corner of the NW quarter of the SW quarter of Section 19 (T32N, R25W);

Thence east along the north side of the NW quarter of the SW quarter of Section 19 (T32N, R25W), to its intersection with the center line of U.S. Highway 10;

Thence along said center line in a southeasterly direction to the intersection with the north side of Section 30 (T32N, R25W);

Thence eastward along the north side of Section 30 to the NW corner of Section 29, (T32N, R25W);

Thence south along the west side of Section 29 to the SW corner of the NW quarter of said Section 29;

Thence east along the south side of the NW quarter of said Section 29 to the NW corner of the NE quarter of the SW quarter of said Section 29;

Thence south along the west side of the NE quarter of the SW quarter of said Section 29 to SW corner of the NE quarter of the SW quarter of said Section 29;

Thence east along the north line of the southeast quarter of the southwest quarter of said Section 29; to the west boundary line of Section 28; (T32N, R25W);

Thence east along the northern boundary of Government Lot 1, Section 28, (T32N, R25W) to the NE corner of said lot;

Thence south to the SE corner of said Government Lot 1, Section 28, (T32N, R25W);

Thence east along the north side of Section 33 (T32N, R25W) to the NE corner of Government Lot 2 in said Section;

Thence south along the east side of Government Lot 2, Section 33 (T32N, R25W) to the SW corner of the northern half of the NE quarter of the NE quarter of Section 33;

Thence east to the west side of Section 34 (T32N, R25W);

Thence south to the SW corner of the NW quarter of the SW quarter of the NW quarter of Section 34 (T32N, R25W);

Thence east to the west side of Section 35 (T32N, R25W);

Thence south along the west side of Section 35 (T32N, R25W) to the NW corner of Government Lot 1, Section 35 (T32N, R25W);

Thence east to the NW corner of the SW quarter of the NE quarter of the SW quarter of Section 35 (T32N, R25W);

Thence south to the SW corner of the SW quarter of the NE quarter of the SW quarter of Section 35 (T32N, R25W);

Thence east along the south side of the NE quarter of the SW quarter of Section 35 (T32N, R25W) to its intersection with the west boundary of Anoka;

EXECUTIVE ORDERS

Thence northeasterly along the west boundary of Anoka to the intersection with the center line of U.S. Highway 10.

Anoka

Thence southeasterly along said center line to the intersection with the center line of Park Street in the City of Anoka; south along the center line of Park Street to the intersection with the west side of Section 1 (T31N, R25W);

Thence south along said west side to the intersection with the center line of Benton Street;

Thence southeasterly along said center line to the intersection with the center line of State Avenue;

Thence south along the center line of State Avenue to the intersection with the center line of Ricc Street;

Thence east along the center line of said street to the intersection with the center line of Ferry Street;

Thence easterly along a line from said intersection to the intersection of the center lines of Madison Street and River Avenue;

Thence east from said point along the center line of Madison Street to the intersection with the center line of 1st Avenue;

Thence south along 1st Avenue to the intersection with the center line of Jefferson Street;

Thence east along the center line of said street to the intersection with the center line of 2nd Avenue;

Thence south along said center line to the intersection with the center line of Adams Street;

Thence east along said center line to the intersection with the center line of 3rd Avenue;

Thence south along said center line to the intersection with the center line of Oakwood Drive;

Thence easterly along said center line to the intersection with the center line of Kings Lane;

Thence southwesterly along said center line to the intersection with the center line of Birch Street;

Thence southeasterly along said center line to the intersection with the center line of Queens Avenue;

Thence south along said center line to the intersection with the center line of Pine Street;

Thence southeasterly along said center line to the intersection with the center line of 9th Avenue;

Coon Rapids

Thence from this point, a straight line to the intersection of the center line of 115th Avenue with the west side of Section 17 (T31N, R24W);

From this point, east along a line to the intersection of the east side of the NW quarter of said Section 17 with the center line of Coon Rapids Boulevard;

From said point southeasterly along the center line of Coon Rapids Boulevard to the intersection with the center line of Mississippi Boulevard;

Thence southerly along said center line to the intersection with the center line of Hansen Boulevard;

Thence south along said center line to the intersection with the center line of 99th Avenue NW;

Thence east along said center line to the SW corner of the NW quarter of the NW quarter of Section 26 (T31N, R24W);

Thence east along the south side of the north half of the NW quarter of said Section 26;

Thence continuing east along the south side of the NW quarter of the NE quarter of said Section 26 to the intersection with the center line of East River Boulevard. (Anoka County Highway 1);

Thence south along said center line to the intersection with the west side of the east half of the SE quarter of said Section 26;

Thence south along said line to the SW corner of the SE quarter of the SE quarter of said Section 26;

Thence continuing south along the west side of the east half of the NE quarter of Section 35 (T31N, R24W);

Thence continuing south along the west side of the NE quarter of the SE quarter of said Section 35 to the SW corner of the NE quarter of the SE quarter of said Section 35;

From this point, southeasterly along a diagonal to the NW corner of Section 3 (T30N, R24W);

From said corner, east along the north side of said Section 3 to the intersection with the center line of Anoka County Trunk Highway 1;

Fridley Minneapolis

Thence south along the center line of said highway to the Anoka-Hennepin County common boundary line;

Thence continuing south along the center line of now Hennepin County Trunk Highway 23 to the center line of 30th Avenue NE;

Thence east along said center line to the intersection with the center line of Randolph Street;

Thence south along said center line to the intersection with the center line of 26th Avenue NE;

Thence east along said center line to the intersection with the center line of Grand Street;

Thence south along said center line to the intersection with the center line of 13th Avenue NE;

Thence southwesterly along said center line to the intersection with the center line of Ramsey Street;

Thence southeasterly along said center line to the intersection with the center line of 7th Avenue NE;

Thence northeasterly along said center line to the intersection with the center line of Main Street;

Thence southeasterly along said center line to the intersection with the center line of 5th Avenue NE;

EXECUTIVE ORDERS

Thence northeasterly along said center line to the intersection with the center line of University Avenue;

Thence southeasterly along said center line to the intersection with the center line of Oak Street;

Thence south along said center line to the intersection with the center line of Fulton Street;

Thence east along said center line to the intersection with the center line of Huron Street;

Thence southerly along said center line to the intersection with the center line of Interstate 94;

Thence southeasterly along said center line to the intersection with the Minneapolis-St. Paul common boundary line;

St. Paul

Thence south along said line to the intersection with the center line of Otis Avenue;

Thence southeasterly along Otis Avenue to the intersection with the center line of Exeter Place;

Thence south along said center line to the intersection with the center line of Mississippi River Boulevard;

Thence east along said center line to the intersection with the center line of Cretin Avenue;

Thence south along said center line to the intersection with the center line of Goodrich Avenue;

Thence west along said center line to the intersection with the center line of Woodlawn Avenue;

Thence south along said center line to the intersection with the center lines of Randolph Avenue, Woodlawn Avenue and Mount Curve Boulevard;

Thence south along the center line of Mount Curve Boulevard to the intersection with the center line of Ford Parkway;

From this point southeasterly along a diagonal to the intersection of the center lines of Hampshire Avenue and Finn Street;

Thence south along the center line of Finn Street to the intersection with the center line of Magoffin Avenue;

Thence east along said center line to the intersection with the center line of Cleveland Avenue;

Thence south along said center line to the intersection with the center line of Norfolk Avenue;

Thence southeasterly and easterly along said center line to the intersection of the center line of Stewart Avenue;

Thence northeasterly along said center line to the intersection with the center line of Alton Street;

Thence southeasterly along said center line to the intersection with the center line of Youngman Avenue;

Thence northeasterly along said center line to the intersection with the center line of Rankin Street;

Thence northwesterly along said center line to the intersection with the center line of Stewart Avenue;

Thence northeasterly along said center line to the intersection with the center line of Homer Avenue;

Thence northwesterly along said center line to the intersection with the south boundary line of the right-of-way of the Chicago, Milwaukee, St. Paul and Pacific Railroad;

Thence northeasterly along said boundary to the intersection with the center line of Watson Avenue;

Thence east along said center line to the intersection with the center line of Drake Street;

From this point, northeasterly along a diagonal to the intersection of the center lines of Randolph Avenue and Eric Street;

Thence north along the center line of Eric Street to the intersection with the center line of Jefferson Avenue;

Thence east along said center line to the intersection with the center line of Colburne Avenue;

From this point, northeasterly along a diagonal to the intersection of the center lines of St. Clair Avenue and Western Avenues;

Thence east along the center line of St. Clair Avenue to the intersection with the center line of Ann Street;

Thence north along said center line to the intersection with the center line of Superior Street;

Thence east along said center line to the intersection with center line of Dousman Street;

Thence north along said center line to the intersection with the center line of Banfil Avenue;

Thence east along said center line to the intersection with the center line of Smith Street;

Thence north along said center line to the intersection with the center line of Goodrich Avenue;

Thence east along said center line to the intersection with the center line of Leech Street;

Thence north along said center line to the intersection with the center line of McBoal Street;

Thence east along said center line to the intersection with the center line of Wilkin Street;

Thence north along said center line to the intersection with the center line of Exchange Street;

Thence northeasterly along said center line to the intersection with the center line of Kellogg Boulevard;

Thence easterly and northeasterly along said center line to the intersection with the center line of Interstate 94;

Thence southeasterly along said center line to the intersection with the center line of Maria Avenue;

Thence southeasterly along said center line to the intersection with the south side of Section 33 (T20N, R22W);

EXECUTIVE ORDERS

Thence east along said line to the intersection with the center line of Burns Avenue;

Thence east along said center line to the intersection with the center line of Upper Afton Road;

Thence southeasterly along said center line to the intersection with the center line of Hazel Avenue;

Thence south along said center line to the intersection with the north side of Section 11 (T28N, R22W);

Thence east along said side to the NE corner of the NW quarter of said Section 11;

Thence south along the east side of the NW quarter of said Section 11 to the SE corner of the NW quarter of said Section 11;

Thence east along the north side of the SE quarter of said Section 11 to the NW corner of the east half of the SE quarter of said Section 11;

Thence south along the west side of the east half of the SE quarter of said Section 11 to the south line of said Section 11;

Thence east along the south side of said Section 11 to the intersection with the center line of McKnight Road;

Thence south along said center line to the intersection with the center line of Carver Avenue;

Maplewood

Thence east along said center line to the intersection with the west side of the east half of the NW quarter of Section 24, (T28N, R22W);

Thence south along said side continuing along the west side of the east half of the SW quarter of said Section 24, to the intersection with the center line of Interstate 494;

Thence southwesterly along said center line to the intersection with the centerline of 1st Avenue in Newport;

Newport

Thence south along said center line to the intersection with the center line of 17th Street;

Thence east along said center line to the intersection with the center line of 3rd Avenue;

Thence south along said center line to the intersection with the center line of 12th Street West;

Thence east along said center line to the intersection with the center line of 4th Avenue;

Thence south along said center line to the intersection with the south side of the north half of Section 1 (T27N, R22W);

St. Paul Park

Thence east along said side to the center line of Third Street, City of St. Paul Park;

Thence south along said center line to the intersection of 6th Avenue (commonly known as Broadway);

Thence west along said center line to the intersection of the center line of Main Street;

Thence south along said center line to the intersection of the center line of Pullman Avenue;

Thence east along said center line to the intersection with the center line of 3rd Street;

Thence south along said center line to the South city limits of St. Paul Park;

Grey Cloud

Thence south along said center line to the intersection with the center line of Grey Cloud Trail;

Thence southeasterly along said center line to the intersection with the south side of Section 19 (T27N, R21W);

Cottage Grove

Thence east along said side to the SE corner of said Section 19;

Thence south along the west side of Section 29 (T27N, R21W) to the intersection with the NW corner of the SW quarter of the NW quarter of said Section 29;

Thence east along the north side of the SW quarter of the NW quarter of said Section 29 to the NE corner of the SW quarter of the NW quarter of said Section 29;

Thence south along the east side of the SW quarter of the NW quarter and along the east side of the NW quarter of the SW quarter of said Section 29 to the NW corner of the SE quarter of the SW quarter of said Section 29;

Thence east along the north side of the SE quarter of the SW quarter of said Section 29 to the NE corner of the SE quarter of the SW quarter of said Section 29;

Thence south along the east side of the SW quarter of said Section 29 to the south side of said Section 29;

Thence east along the south side of Sections 29 and 28 to the southwestern corner of Section 27;

Thence north along the west side of said Section 27 to the NW corner of the SW quarter of said Section 27;

Thence east along the north side of the south half of said Section 27 to the east side of said Section 27;

Thence south along the east side of said Section 27 to the SE corner of said Section;

Thence east along the south side of Section 26 (T27N, R21W) to the intersection with the center line of U.S. Highway 61;

Denmark

Thence southeasterly along said center line to the intersection with the center line of U.S. Highway 10;

Thence easterly along said center line to the intersection with the south side of Section 6 (T26N, R20W);

Thence east to the SE corner of said Section 6;

EXECUTIVE ORDERS

Thence southeasterly along a diagonal to the SE corner of the north half of the NW quarter of Section 8 (T26N, R20W);

Thence east along the south side of the north half of the NE quarter of said Section 8 to the east side of said Section 8;

Thence south along the east side of Section 8 to the intersection with the northeasterly boundary of Dakota County;

Ravenna

Thence southeasterly along the Dakota County boundary to the intersection with the Dakota County-Goodhue County common boundary;

Thence south along said boundary to the intersection with the south side of Section 21 (T114N, R16W);

Thence west along the south side of said Section to the SW corner of said Section;

Thence north along the west side of said Section to the NW corner of said Section;

Thence north along the west side of Section 16 (T114N, R16W) to the intersection with the center line of Dakota CSAH 54;

Thence northwesterly along said center line to the intersection with the south side of Section 31 (T115N, R16W);

Thence west along said line to the SW corner of said Section 31;

Thence north along the east side of Section 36 (T115N, R17W) to the NE corner of the SE quarter of the SE quarter of said Section 36;

Thence west along the south side of the NE quarter of the SE quarter of said Section 36 to the SW corner of the NE quarter of the SE quarter of said Section 36;

Thence north along the west side of the east half of the SE quarter of said Section 36 to the NW corner of the NE quarter of the SE quarter of said Section 36;

Thence west along the north side of the south half of said Section 36 and Section 35 (T115N, R16W) to the west side of said Section 35;

Hastings

Thence north along the west side of said Section 35 and Section 26 (T115N, R16W) to the intersection with the center line of 3rd Street;

Thence west along said center line to the intersection with the center line of Washington Street;

Thence north along said center line to the intersection with the center line of 2nd Street;

Thence west along said center line to the intersection with the center line of Dakota County Road 42;

Nininger

Thence northwesterly along said center line to the intersection with the center line of Dakota County Highway 87;

Thence northwesterly along said center line to the intersection with the center line of 125th Street east;

Thence west along said center line to the intersection with the center line of Isadore Avenue;

Thence south along said center line to the intersection with the center line of 127th Street east;

Thence west along said center line to the intersection with the center line of Idell Avenue;

Thence south along said center line to the intersection with the center line of Dakota County Road 42;

Thence southwesterly along said center line to the intersection with the center line of Minnesota Highway 55;

Rosemount Inver Grove Heights

Thence west and then north along said center line to the intersection with the center line of Dakota County Road 77;

Thence north along said center line to the intersection with the center line of Minnesota State Highway 56;

Thence north along said center line to the intersection with the center line of 70th Street east;

Thence west along said center line to the intersection with the center line of Delany Avenue east;

Thence north along said center line to the intersection with the center line of 69th Street east;

Thence west along said center line to the east side of Section 3 (T27N, R18W);

Thence north along said side to the NE corner of said Section 3;

Thence west along the north side of said Section 3 to the intersection with the center line of Henry Avenue;

South St. Paul

Thence north along said center line to the intersection with the center line of Chestnut Street;

Thence east along said center line to a point directly in line with the southerly extension of Eldridge Avenue;

From this point, northwesterly along a diagonal to the intersection of the center lines of Spruce Street and Eldridge Avenue;

Thence north along the center line of Eldridge Avenue to the intersection with the center line of Dale Street;

Thence west along said center line to the intersection with the center line of Syndicate Avenue;

Thence north along said center line to the intersection with the center line of Warburton Street;

From this point, northwesterly, along a diagonal to the intersection of the center lines of 8th Street South and 1st Avenue South;

Thence north along the center line of 1st Avenue South to the intersection with the center line of Southview Boulevard;

Thence west along said center line to the intersection with the center line of 2nd Avenue South;

EXECUTIVE ORDERS

Thence north along said center line to the intersection with the center line of Marie Avenue;

Thence west along said center line to the intersection with the center line of 3rd Avenue North;

Thence north along said center line to the intersection with the center line of 2nd Street North;

Thence west along said center line to the intersection with the center line of 4th Avenue North;

Thence north along said center line to the intersection with the center line of 3rd Street North and Grand Avenue;

Thence north along the center line of Grand Avenue to the intersection with the center line of 5th Avenue North;

From this point northwesterly along a diagonal to the intersection of the center lines of Turin and Stewart Avenues;

Thence north along the center line of Stewart Avenue to the intersection of the center lines of 8th Avenue North and Thompson Avenue;

From this point northwesterly along a diagonal to the intersection of the center lines of Highland Avenue and 10th Avenue North;

From this point, northwesterly along a diagonal to the intersection of the center lines of Bryant and Summit Avenues;

Thence north along the center line of Summit Avenue to the intersection with the center line of Orme Avenue;

From this point northwesterly along a diagonal to the intersection of the center lines of Butler and Stickney Avenues;

From this point northwesterly along a diagonal to the intersection of the center lines of Stanley and Evans Avenues;

Thence north along the center line of Evans Avenue to the intersection of the center lines of Stickney Avenue and Lewis Street;

Thence north along the center line of Stickney Avenue to the intersection with the St. Paul-South St. Paul common boundary;

St. Paul

Thence west along said boundary to the intersection with the center line of new State Highway 56;

Thence north along said center line to the intersection with the center line of East Page Street;

Thence west along said center line to the intersection with the center line of Woodbury Street;

Thence north along said center line to the intersection with the center line of Prescott Street;

Thence west along said center line to the intersection with the center line of Oakdale Avenue;

Thence north along said center line to the intersection with the center line of East King Street;

Thence west along said center line to the intersection with the center line of Robert Street;

Thence north along said center line to the intersection with the center line of George Street;

Thence west along said center line to the intersection with the center line of Humboldt Avenue;

Thence north along said center line to the intersection with the center line of Winifred Street;

Thence west along said center line to the intersection with the center line of Hall Street;

Thence north along said center line to the intersection with the center line of Delos Street;

Thence west along said center line to the intersection with the center line of Bidwell Street;

Thence south along said center line to the intersection with the center line of W. Congress Street;

Thence west along said center line to the intersection with the center line of Ohio Street;

Thence south along said center line to the intersection with the center line of Robie Street;

Thence west along said center line to the intersection with the center line of Manomin Avenue;

Thence south along said center line to the intersection with the center line of West George Street;

Thence west along said center line to the intersection with the center line of Smith Avenue;

Thence south along said center line to the intersection with the center line of West Stevens Street;

Thence west along said center line to the intersection with the center line of Ottawa Avenue;

Thence south along said center line to the intersection with the center line of Morton Street;

Thence west along said center line to the intersection with the center line of Delaware Avenue;

Thence south along said center line to the intersection with the center line of State Highway 13;

Mendota Heights

Thence west and southwesterly along said center line to the intersection with the center line of Sylvandale Road;

Thence south along said center line to the intersection with the center line of Woodridge Drive;

Thence southwesterly along said center line to the intersection with the center line of Cascade Lane;

Thence south along said center line to the intersection with the center line of Arcadia Drive;

From this point southwesterly along a diagonal to the northwest corner of Section 24 (T28N, R22W);

Thence west along the north side of Section 23 (T28N, R22W), to the intersection with the center line of the Northern States Power Company utility easement;

EXECUTIVE ORDERS

Thence south along said center line to the intersection with the south side of the north half of the NE quarter of said Section 23;

From this point, southwesterly along a diagonal to the intersection of the center lines of Victoria Road and Caren Road;

Thence westerly along the center line of Caren Road to the intersection with the center line of James Road;

Thence southwesterly along said center line to the intersection with the center line of Douglas Road;

Thence westerly along said center line to the intersection with the center line of James Road;

Thence westerly along said center line to the intersection with the center line of Lexington Avenue;

Thence south along said center line to the intersection with the center line of Orchard Place;

Thence westerly along said center line to the intersection with the center line of Hunter Lane;

Thence south along said center line to the intersection with the center line of State Highway 110;

Thence west along said center line to the intersection with the center line of Minnesota Highway 13;

Thence southerly along said center line to the intersection with the center line of Interstate 494;

Thence westerly along said center line to the intersection with the center line of State Highway 5;

Thence northeasterly along said center line to the intersection with the boundary line of the Fort Snelling State Park;

Thence northerly along said boundary line to the intersection with the center line of State Highway 55;

Minneapolis

Thence northwesterly along said center line to the intersection with the center line of 47th Avenue South;

Thence north along said center line to the intersection with the center line of Minnehaha Avenue;

Thence northwesterly along said center line to the intersection with the center line of Nawadaha Boulevard;

Thence easterly along said center line to the intersection with the center line of 46th Avenue South;

Thence north along said center line to the intersection with the center line of E. 46th Street;

Thence east along said center line to the intersection with the center line of 47th Avenue South;

Thence north along the center line of 47th Avenue South to the intersection with the center line of East 44th Street;

From this point north along a straight line to the intersection of the center lines of Dowling Street and 47th Avenue South;

Thence north along the center line of 47th Avenue South to the intersection with the center line of East 32½ Street;

Thence west along said center line to the intersection with the center line of 46 Avenue South;

Thence north along said center line to the intersection with the center line of East 35th Street;

Thence east along said center line to the intersection with the center line of 47th Avenue South;

Thence north along said center line to the intersection with the center line of East Lake Street;

Thence west along said center line to the intersection with the center line of 46th Avenue South;

Thence north along said center line to the intersection with the center line of Dorman Avenue;

Thence northwesterly along said center line to the intersection with the center line of 40th Avenue South;

Thence in a straight line northwest to the intersection of the center lines of Minneapolis Avenue and 34th Avenue South;

Thence northwest along the center line of Minneapolis Avenue to the intersection with the center line of 31st Avenue South;

Thence north along said center line to the intersection with the center line of Franklin Avenue;

Thence west along said center line to the intersection with the center line of Riverside Avenue;

Thence northwest along said center line to the intersection with the center line of 19th Avenue South;

Thence north along said center line to the intersection with the center line of 2nd Street South;

Thence northwest along the center line of 2nd Street South to the intersection of the center lines of 2nd Street South and Hennepin Avenue;

Thence north-northwest along the center line of 2nd Street North to the intersection with the center line of Mississippi Drive;

Thence north-northeast along said center line to the intersection with the center line of Lyndale Avenue North;

Thence north along said center line to the intersection with the center line of Interstate 94;

Thence north along said center line to the intersection with the center line of 52nd Avenue North;

Thence west along said center line to the intersection with the center line of 4th Street North;

Thence northwesterly along said center line to the intersection with the center line of 55th Avenue North;

Brooklyn Center

Thence westerly along said center line to the intersection with the center line of Camden Avenue North;

Thence north along said center line to the intersection with the center line of 62nd Avenue North;

EXECUTIVE ORDERS

Thence in a straight line northeasterly to the intersection of the center lines of State Highway 196 and Interstate 94;

Brooklyn Park

Thence north along the center line of State Highway 196 to the intersection with the center line of 89th Avenue North;

Thence west along said center line to the west side of Section 13 (T31N, R24W);

Thence north along said side of said Section 13 to the NW corner of said Section 13;

From this point west along the south side of Section 11 (T31N, R24W) to the SW corner of the SE quarter of the SE quarter of said Section 11;

Thence north to the NW corner of the SE quarter of the SE quarter of said Section 11;

Thence in a straight line northwest to the intersection of the center lines of Logan Avenue North and 95th Avenue North;

Thence northeast along the center line of Logan Avenue North to the intersection with the center line of 96th Avenue North;

Thence northwest along said center line to the intersection with the center line of Newton Avenue North;

Thence north along said center line to the intersection with the center line of 97th Avenue North;

Thence west along said center line to the SE corner of the NW quarter of said Section 11;

Thence north along the east side of the NW quarter of said Section 11 to the intersection with the center line of State Highway 169;

Thence northwest along said center line to the north side of the south half of the SW quarter of Section 2 (T31N, R24W);

Thence west along the said side to the west side of said Section 3;

Thence north-northwest in a straight line to the intersection of the center lines of Riverside Place and Sunset Road;

Thence northwest along the center line of Riverside Place to the intersection with the center line of France Avenue North;

Thence north-northeast along said center line to the intersection with the center line of U.S. Highway 169;

Champlin

Thence northwest along said center line to the intersection with the center line of Hayden Lake Road;

Thence west along said center line to the intersection with the center line of U.S. Highway 52;

Thence north along said center line to the intersection with the center line of U.S. Highway 169;

Thence northwest along said center line to the intersection with the center line of Hennepin County Road 12;

Thence northwest along said center line to the intersection with the east side of Section 14 (T120N, R22W);

Dayton

Thence north along said side of Section 14 to the SE corner of the NE quarter of the NE quarter of Section 14 (T120N, R22W);

Thence west along the south side of the NE quarter of the NE quarter of Section 14 to the SW corner of the NE quarter of the NE quarter of Section 14 (T120N, R22W);

Thence north along the west side of the NE quarter of the NE quarter of Section 14 to the south side of Section 11 (T120N, R22W);

Thence west along the south side of Section 11 (T120N, R22W) to the SW corner of the SE quarter of said Section;

Thence north along the west side of the SE quarter of Section 11 to the NW corner of the SW quarter of the SE quarter of Section 11 (T120N, R22W);

Thence west along the north side of the south quarter of Section 11 to the intersection with the east side of Section 10 (T120N, R22W);

Thence south along the west side of Section 11 to the SW corner of the NW one-half of the NW quarter of the SW quarter of the SW quarter of Section 11 (T120N, R22W);

Thence west across Government Lot 6 to the east boundary of Government Lot 5, Section 10 (T120N, R22W);

Thence south along the east boundary of Government Lot 5 to the NE corner of the south 20 acres of Government Lot 5, (T120N, R22W);

Thence west to the SW corner of the NE quarter of the SE quarter of the SW quarter of Section 10 (T120N, R22W);

Thence north to the south side of Government Lot 4, Section 10 (T120N, R22W);

Thence west to the SW corner of Government Lot 4, Section 10 (T120N, R22W);

Thence north along the west side of Government Lot 4 to the NW corner of Government Lot 4, Section 10 (T120N, R22W);

Thence west to the east side of Section 9 (T120N, R22W);

Thence north along the east side of Section 9 to the SE corner of Government Lot 1, Section 9 (T120N, R22W);

Thence west along the south side of Government Lot 1 to the SW corner of Government Lot 1 within Section 9 (T120N, R22W);

Thence north along the west side of Government Lot 1 in Section 9 to the north side of Section 9 (T120N, R22W);

Thence west along the north side of Section 9 to the NE corner of the NE quarter of the NW quarter of Section 9 (T120N, R22W);

Thence south along the east side of the NE quarter of the NW quarter to the SE corner of the NE quarter of the NW quarter of Section 9 (T120N, R22W);

Thence west along the south side of the north quarter of Section 9 to the SW corner of the NW quarter of the NW quarter of Section 9 (T120N, R22W);

Thence north along the east side of Section 8 (T120N, R22W) to the SE corner of the northern half of the NE quarter of the NE quarter of Section 8 (T120N, R22W);

EXECUTIVE ORDERS

Thence west along the south side of the northern half of the NE quarter of the NE quarter in Section 8 to the SW corner of the northern half of the NE quarter of the NE quarter of Section 8 (T120N, R22W);

Thence north along the west side of the northern half of the NE quarter of the NE quarter of Section 8 (T120N, R22W) to the south side of Section 5 (T120N, R22W);

Thence west to the SW corner of Government Lot 4 in Section 5;

Thence north along the west side of Government Lot 4 to the SE corner of Government Lot 3, Section 5 (T120N, R22W);

Thence west along the north side of the south quarter of Section 5 to the SW corner of the NW quarter of the SW quarter of Section 5;

Thence north to the SW corner of Government Lot 2, Section 5;

Thence west to the SW corner of Government Lot 3, Section 6 (T120N, R22W);

Thence north along the western boundary of Government Lot 3 in Section 6 (T120N, R22W) to its intersection with the center line of Hennepin County Road 12;

Thence in a northwesterly direction along said center line traversing Government Lot 2 in Section 6 and continuing through Section 31 (T120N, R22W) to the intersection with the Hennepin-Wright County common boundary line at the mouth of the Crow River.

Thence northerly along said line to the Hennepin County-Sherburne County common boundary line;

Thence easterly along said line to the point where the west boundary line of Anoka County intersects with the north boundary line of Hennepin County.

Appendix B Mississippi River Corridor Districts

1. Rural open space districts.

a. On the east side of the river:

(1) From the Anoka County-Sherburne County common boundary to the west side of Section 35 (T32N, R25W) in Ramsey.

(2) From the St. Paul Park-Grey Cloud Township common boundary to the east side of Section 8 (T26N, R20W) in Denmark Township.

b. On the west side of the river:

(1) From the Dakota County-Goodhue County common boundary to the west sides of Sections 23, 26, and 35 (T115N, R17W) in Hastings.

(2) From the Hastings-Nininger common boundary to the west side of Section 21 (T115N, R18W) in Rosemount.

(3) From the south side of the north half of Section 34 (T27N, R22W) to the north side of Section 14 (T27N, R22N) in Inver Grove Heights.

2. Urban developed districts.

a. On the east side of the river:

(1) From the west side of Section 35 (T32N, R25W) in Ramsey to the center line of Interstate 694 in Fridley.

(2) From the south side of Section 26 (T28N, R22W) in Newport to the south side of the north half of Section 1 (T27N, R22W) which is the Newport and St. Paul Park common boundary.

(3) From the center line of Eight Avenue in St. Paul Park to the St. Paul Park-Grey Cloud Township common boundary.

b. On the west side of the river:

(1) From the north side of section 14 (T27N, R22W) in Inver Grove Heights to the South St. Paul-Inver Grove Heights common boundary.

(2) From the eastern extension of the center line of 48th Avenue North in Minneapolis to the eastern extension of the center line of Hennepin County Highway 49.

3. Urban open space districts.

a. On the east side of the river:

(1) From the center line of Franklin Avenue in Minneapolis to the north side of Section 14 (T28N, R23W) (Otto Avenue) in St. Paul.

* (2) From the west sides of Sections 3 and 10 (T28N, R22W) and the east boundary of the Chicago and Northwestern Railroad right-of-way in St. Paul to the western and northern boundaries of the Red Rock Industrial District, the western boundary of the Chicago, Milwaukee, St. Paul and Pacific Railroad right-of-way, and the south side of Section 14 (T28N, R22W) in St. Paul.

b. On the west side of the river:

(1) From the north side of Section 7 (T28N, R22W) and the center line of Ohio Street in St. Paul to the center line of Interstate 494 in Mendota Heights on the Minnesota River.

*With the exception of that area needed for the future approved expansion of the Metropolitan Waste Water Treatment Plant at Pig's Eye.

EXECUTIVE ORDERS

(2) From the center line of Interstate 494 in Bloomington on the Minnesota River to the center line of Franklin Avenue in Minneapolis.

4. Urban diversified districts.

a. On the east side of the river:

(1) From the center line of Interstate 694 in Fridley to the center line of Franklin Avenue in Minneapolis.

(2) From the north side of Section 14 (T28N, R23W) (Otto Avenue) in St. Paul to the west sides of Sections 3 and 10 (T28N, R22W) and the east boundary of the Chicago and Northwestern Railroad right-of-way in St. Paul and including Twin City Barge and Towing Co's. turning basin, about 11.5 acres at the Northwest corner of Red Rock Industrial Park.

(3) From the western and northern boundaries of the Red Rock Industrial District, the western boundary of the Chicago, Milwaukee, St. Paul and Pacific Railroad right-of-way, and the south side of Section 14 (T28N, R22W) in St. Paul, to the south side of Section 26 (T28N, R22W) in Newport.

(4) From the south side of the north half of Section 1 (T27N, R22W) which is the Newport and St. Paul Park common boundary, to the center line of Eight Avenue in St. Paul Park.

b. On the west side of the river:

(1) From the west sides of Sections 23, 26, and 35 (T115N, R17W) in Hastings to the Hastings-Nininger common boundary.

(2) From the west side of Section 21 (T115N, R18W) in Rosemount to the south side of the north half of Section 34 (T27N, R22W) in Inver Grove Heights.

(3) From the South St. Paul-Inver Grove Heights common boundary to the north side of Section 7 (T28N, R22W) and the center line of Ohio Street in St. Paul.

(4) From the center line of Franklin Avenue in Minneapolis to a line collinear with the center line of 48th Avenue North in Minneapolis.

Appendix C Definitions

The following terms as used in these Regulations shall have the following meanings, unless otherwise defined:

1. "Act" means the Critical Areas Act of 1973, Minn. Stat. §§ 116G.01 to 116G.14 (Supp. 1974).

2. "Accessory Use" means a use or portion of a use or structure subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

3. "Adjacent" means having a boundary which physically touches or adjoins.

4. "Agriculture" means the utilization of land and structures thereon for production of farm crops, including but not limited to vegetables, fruit trees, grain, poultry and domestic farm animals and uses necessary or customarily incidental thereto.

5. "Backwater" means a body of water connected with, but little affected by the main stream.

6. "Barge Fleeting Area" means an area on the river, on or off channel, where barges are temporarily parked and secured while tows are assembled or broken up.

7. "Barge Slip" means a basin, usually adjacent to a wharf, jetty, dock or other cargo handling facility, where barges are brought for the purpose of loading or unloading cargo.

8. "Bluffline" means a line delineating the top of a slope connecting the points at which the slope becomes less than 18 percent. More than one bluffline may be encountered proceeding landward from the water.

9. "Building Height" means the vertical distance to be measured from the grade of a building line to the top to the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the mean distance of the highest gable on a pitched or hip roof.

10. "Clear Cutting" means the removal of an entire stand of trees and shrubs.

11. "Cluster Development" means a pattern of subdivision which places housing units into compact groupings while providing a network of commonly owned or dedicated open space.

12. "Council" means the Minnesota Environmental Quality Council established pursuant to Minn. Stat. § 116C.01 to 116C.08 (Supp. 1974).

13. "Development" means the making of any material change in the use or appearance of any structure or land including, but not limited to: a reconstruction, alteration of the size, or material change in the external appearance of a

EXECUTIVE ORDERS

structure on the land; a change in the intensity of use of the land; alteration of a shore or bank of a river, stream, lake or pond; a commencement of drilling (except to obtain soil samples), mining or excavation; demolition of a structure; clearing of land as an adjunct to construction; deposit of refuse, solid or liquid waste, or fill on a parcel of land; the dividing of land into two or more parcels.

14. "Development Permit" means a building permit, zoning permit, water use permit, discharge permit, permit for dredging, filling, or altering any portion of a watercourse; plat approval, re-zoning, certification, variance or other action having the effect of permitting any development as defined in the Act or these Interim Development Regulations.

15. "Dimension Variance" means a modification or variation of the height or setback provisions of the Interim Development Regulations where it is determined that by reason of special and unusual circumstances relating to a specific lot, that strict application of the provisions would cause an undue or unnecessary hardship, or that strict conformity with the provisions would be unreasonable, impractical or unfeasible under the circumstances.

16. "Dwelling Unit" means a residential building or portion thereof intended for occupancy by a single family, but not including hotels, motels, boarding or rooming houses or tourist homes.

17. "Essential Services" means underground or overhead gas, electrical, steam or water distribution systems including poles, wires, mains, drains, sewers, pipes, conduits, cables, and other similar equipment and accessories in conjunction therewith, but not including buildings or transmission services.

18. "Feedlots" means a confined unenclosed area for the feeding, breeding, raising or holding of livestock, where livestock manure can accumulate, and where there is no vegetation.

19. "Floodway" means the river channel and the portions of the adjoining floodplain which are reasonably required to carry and discharge the regional flood.

20. "Floodplain" means the areas adjoining a watercourse which has been or hereafter may be covered by a regional flood.

21. "Regional Flood" means a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval.

22. "General Advertising Signs" means those signs

which direct attention to a product, service, business or entertainment not exclusively related to the premises where such sign is located.

23. "Government Development" means any development financed in whole, or in more than 50 percent of its total financing, directly or indirectly, by the United States, the State of Minnesota, or any agency or political subdivision thereof.

24. "Historic Preservation" means the protection by various means of buildings or other structures, land areas, or districts which are identified by the Minnesota Historical Society or the National Register of Historic Places.

25. "Industrial Use" includes without limitation, factory, office building, warehouse, elevators, material transfer site, pipeline, refuse and material storage areas.

26. "Interim Development Regulations" means the regulations in the Order which indicate the development that shall be permitted pending the adoption of plans and regulations consistent with the policies of the Act and Minnesota Regulations MEQC 51 through MEQC 57.

27. "Landscaping" means plants such as trees, grass, and shrubs.

28. "Livestock" includes, but is not limited to horses, cattle, pigs and turkeys.

29. "Local Unit of Government" means any political subdivision of the State, including but not limited to counties, municipalities, townships, and all agencies and boards thereof.

30. "Lot" means a parcel, piece, or portion of land designated by metes and bounds, registered land survey, plat, or other means and separated from other parcels or portions by said description that is recorded or to be recorded in the Office of the Register of Deeds (or Registrar of Titles):

31. "Major Expansion" means an expansion involving a 20% or greater addition to the total land area presently covered or used by an industrial, commercial, recreational or public facility.

32. "Metropolitan Development Framework" means that chapter of the Metropolitan Development Guide which deals primarily with the physical development of the metropolitan area.

33. "Metropolitan Plans, Guides, and Standards" means and refers to all documents, reports, and materials which have been adopted by the Metropolitan Council and includes, but is not limited to Metropolitan Development Guide Sections, including the Development Framework

EXECUTIVE ORDERS

Chapter and policy plans for Development Programs of all Metropolitan Commissions.

34. "Metropolitan Systems" means those facilities for which the Metropolitan Council has planning responsibility including, but not limited to interceptor sanitary sewers, sewage treatment plants, transit facilities, regional parks, and major highways.

35. "Metropolitan Urban Service Area (MUSA)" means the portion of the metropolitan area having metropolitan sewer service available, good highway access, transit service, and most municipal services as designated in the Development Framework chapter of the Metropolitan Development Guide.

36. "Mining" means the extraction of sand, gravel, rock, soil or other material from the land in the amount of one thousand cubic yards or more and the removing thereof from the site without processing with the exception of the removal of materials associated with construction of a building, which is approved in a building permit.

37. "Mississippi River Corridor" means that area within the boundaries of the Mississippi River Corridor Critical Area.

38. "Mobile Home Court" means any area on which spaces are rented for the placement of occupied mobile homes.

39. "Mobile Home" means a housing unit designed for transportation after fabrication on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connection to utilities and the like.

40. "Multi-family Development" means three or more dwelling units in one structure, including but not limited to an apartment building.

41. "Normal Highwater Mark" means a mark delineating the highest water level that has been maintained for a sufficient period of time to leave evidence of the level upon the landscape. It is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. When the normal highwater mark is not evident, setbacks shall be measured from the stream bank of the following water bodies that have permanent flow or open water: the main channel, adjoining side channels, backwaters, and sloughs. At the option of the local unit of government, the normal highwater mark may be delineated as the 100-year floodway line as defined by the Minnesota Department of Natural Resources.

42. "Non-conforming Use" means any use of land established before the effective date of the Interim Development Regulations, which does not conform to the use restrictions of a particular use district of the Interim Development Regulations. This should not be confused with substandard dimensions of a conforming use.

43. "Order" means the Governor's Executive Order that formally designates the Mississippi River Corridor as a Critical Area.

44. "Plan" means a compilation of policy statements, goals, standards, and maps for guiding the physical, social, and economic development, both private and public of the county, municipality, and township. It may include, but not be limited to the following: statement of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan and recommendations for plan implementation.

45. "Public Facility" means all public buildings, including schools, libraries, fire stations, administrative offices, roads, bridges.

46. "Public Safety Facilities" means hydrants, fire alarm boxes, street lights, railway crossing signals, and similar facilities and accessories, but not including buildings.

47. "Public Transportation" means all modes of transportation provided by or dedicated to public use including, but not limited to roadways, transit facilities, railroads, and bikeways.

48. "Regional Agencies" means the Metropolitan Council, Metropolitan Waste Control Commission, Metropolitan Airport Commission, Metropolitan Transit Commission, and Metropolitan Park Board.

49. "Recreation Open Space" means recreation uses particularly oriented to and utilizing the outdoor character of an area; including, but not limited to hiking, riding trails, primitive campsites, campgrounds, parks, and recreation areas.

50. "Rules and Regulations" means the instruments by which state and local units of government control the physical development of the Mississippi River Corridor or any part or detail thereof. Regulations include, but are not limited to, ordinances establishing zoning, subdivision control, platting, and the adoption of official maps.

51. "Re-zone" means a change of permitted uses within a local zoning district or of the boundaries of a local zoning district, adopted by ordinance by the local government unit.

52. "Selective Cutting" means the removal of single

EXECUTIVE ORDERS

scattered trees or shrubs. Selective cutting shall not be construed to mean the removal of all trees or shrubs in a given area resulting in the clearing of the land.

53. "Compatible Use" means a use which may be compatible or desirable in a specified district, but requires special conditions for approval because if not carefully located or designed, it may create special problems such as excessive height or bulk or abnormal traffic congestion.

54. "Setback" means the minimum horizontal landward distance between any part of a structure and the normal highwater mark or the established bluffline.

55. "Sewage Disposal System" means any system for the collection, treatment, and dispersion of sewage including, but not limited to, septic tank soil absorption systems.

56. "Single Family Unit" means a detached building containing one (1) dwelling unit.

57. "Structure" means anything constructed or installed or portable, the use of which requires a location on a parcel of land. It includes a movable structure which can, while it is located on land, be used for housing, business, commercial, agricultural, or office purposes either temporarily or permanently. Structure also includes roads, billboards,

swimming pools, poles, pipelines, transmission lines, tracks and advertising signs.

58. "Subdivision" means the division of any parcel of land into two or more lots, including re-subdivision.

59. "Transmissions Services" means electric power, telephone, and telegraph lines, cables, pipelines or conduits that are used to transport large blocks of power between two points. In the case of electrical power, this will generally mean 69 kilovolts or more. For mains or pipelines for gas, liquids, or solids in suspension, this means those that are used to transport large amounts of gas, liquids, or solids in suspension between two points.

60. "Treeline" means the more or less continuous line formed by the tops of trees in a wooded area when viewed from a particular point. Such line shall be determined during all seasons as if under full foliage.

61. "Wetlands" are low-lying areas which may be covered with shallow water. They are frequently associated with a highwater table. Swamps, bogs, marshes, potholes, wet meadows, and sloughs are wetlands. They may occur adjacent to or within natural drainageways or as free-standing low areas. Wetlands shall consist of Types 1 to 8 as defined in U.S.D.I. Fish and Wildlife Service Circular 39.

Executive Order No. 130A

Amending Executive Order 130 by Correcting the Legal Description of the River Corridor and Adding Two Sections.

I, Wendell R. Anderson, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order.

WHEREAS, a correction is necessary in the ninth paragraph of Appendix A, the Legal Description of the River Corridor; and,

WHEREAS, the Standards and Guidelines for Preparing Plans and Regulations, and the Interim Development Regulations were omitted from the original Executive Order:

NOW, THEREFORE, I order that:

1. Paragraph nine of Appendix A be amended to read:

Thence east along the north line of the southeast quarter of the southwest quarter of said Section 29; to the west boundary line of Section 28; (T32N, R25W);

2. The Standards and Guidelines for Preparing Plans and Regulations and the Interim Development Regulations attached are hereby incorporated into Executive Order No. 130.

EXECUTIVE ORDERS

This order shall be effective immediately upon publication in the State Register and shall remain in force until rescinded by the proper authority.

IN TESTIMONY WHEREOF, I hereunto set my hand on this 5th day of November, 1976.

Wendell R. Anderson

Standards and Guidelines for Preparing Plans and Regulations

A. Purpose and responsibility.

1. Purposes. The purposes of the Critical Area designation and the following standards and guidelines are:

a. To protect and preserve a unique and valuable state and regional resource for the benefit of the health, safety and welfare of the citizens for the state, region, and nation;

b. To prevent and mitigate irreversible damage to this state, regional, and national resource;

c. To preserve and enhance its natural, aesthetic, cultural, and historical value for the public use;

d. To protect and preserve the river as an essential element in the national, state and regional transportation, sewer and water and recreational systems; and

e. To protect and preserve the biological and ecological functions of the corridor.

2. Responsibility. The standards and guidelines provided herein shall be:

a. Followed by the local units of government when preparing or updating plans, and/or modifying regulations;

b. Followed by state agencies, and regional agencies for permit regulation and in developing plans within their jurisdiction;

c. Followed by the Metropolitan Council for reviewing plans, regulations, and development permit applications;

d. Followed by the Council for approving plans, regulations, and development permit applications.

B. General guidelines for preparing plans and regulations.

1. The Mississippi River Corridor shall be managed as a multiple-purpose resource by:

a. Maintaining the river channel for transportation and providing and maintaining barging and fleeting areas in appropriate locations consistent with the character of the river and the riverfront.

b. Conserving the scenic, environmental, recreational, mineral, economic, cultural, and historic resources and functions of the river corridor.

c. Providing for the continuation of the development of a variety of urban uses, including industrial and commercial uses, and residential, where appropriate, within the river corridor.

d. Utilizing certain reaches of the river as a source of water supply and as a receiving stream for properly treated sewage and industrial waste effluents.

2. In order to manage the river corridor consistent with its natural characteristics and its existing development, the following guidelines are established for each corridor district:

a. Rural open space district. The lands and waters within this district shall be used and developed to preserve their open, scenic and natural characteristics and ecological and economic functions. Presently undeveloped islands shall be maintained in their existing natural state. The transportation function of the river shall be maintained and preserved.

b. Urban diversified district. The lands and waters within this district shall be used and developed to maintain the present diversity of commercial, industrial, residential, and public uses of the lands, including the existing transportation use of the river; to protect historical sites and areas, natural scenic and environmental resources; and to expand public access to and enjoyment of the river. New commercial, industrial, residential, and other uses may be permitted if they are compatible with these goals.

c. Urban developed district. The lands and waters within this district shall be maintained largely as residential

EXECUTIVE ORDERS

areas. The expansion of existing and development of new industrial, commercial, and other non-residential or non-recreational uses shall be limited to preserve and enhance the residential character of this district.

d. Urban open space district. The lands and waters within this district shall be managed to conserve and protect the existing and potential recreational, scenic, natural, and historic resources and uses within this district for the use and enjoyment of the surrounding region. Open space shall be provided in the open river valley lands for public use and the protection of unique natural and scenic resources. The existing transportation role of the river in this district shall be protected.

3. The Mississippi River Corridor shall be managed in accordance with the Metropolitan Council's Development Guide Chapter, Critical Areas Act of 1973, and the Minnesota Environmental Policy Act of 1973, and other applicable state laws, and federal laws.

C. Specific standards and guidelines for preparing plans and regulations.

1. Each local unit of government within the river corridor shall prepare plans and regulations to protect environmentally sensitive areas in accordance with the following guidelines.

a. Each local unit of government shall, with the assistance of the Metropolitan Council and state agencies:

(1) Identify and prepare an inventory of:

(a) floodplains,

(b) wet lands,

(c) slopes from 12% to 18% and over 18%,

(d) soils not suitable for urban development on-site waste disposal

(e) significant vegetative stands, and

(f) natural drainage routes.

(2) Prepare a floodplain ordinance if it does not have a floodplain ordinance in effect;

(3) Prepare plans and regulations to protect wetlands;

(4) Prepare plans and regulations to protect bluffs greater than 18% and to provide conditions for the development of bluffs between 18% and 12% slopes;

(5) Prepare plans and regulations to minimize direct overland runoff and improve the quality of runoff onto adjoining streets and watercourses;

(6) Prepare plans and regulations to minimize site alteration and for beach and riverbank erosion control;

(7) Prepare regulations for management of vegetative cutting; and

(8) Prepare criteria for control of noise in open space and recreational areas with assistance of the PCA.

2. Each local unit of government and state agency shall prepare plans and regulations to protect and preserve the aesthetic qualities of the river corridor, which provide for the following considerations:

a. Site plans. Site plans shall be required to meet the following guidelines:

(1) New development and expansion shall be permitted only after the approval of site plans which adequately assess and minimize adverse effects and maximize beneficial effects.

(2) Site plans shall be required for all developments for which a development permit is required, except for the modification of an existing single-family residential structure or the construction of one single-family residence.

(3) Site plans shall include, but not be limited to, the submission of an adequate and detailed description of the project, including activities undertaken to ensure consistency with the objectives of the Designation Order; maps which specify soil types, topography, and the expected physical changes in the site as a result of the development; the measures which address adverse environmental effects.

(4) Site plans shall include standards to ensure that structure, road, screening, landscaping, construction placement, maintenance, and storm water runoff are compatible with the character and use of the river corridor in that district.

(5) Site plans shall provide opportunities for open space establishment and for public viewing of the river corridor whenever applicable, and shall contain specific conditions with regard to buffering, landscaping, and re-vegetation.

b. Structures. Structure site and location shall be regulated to ensure that riverbanks, bluffs and scenic overlooks remain in their natural state, and to minimize interference with views of and from the river, except for specific uses requiring river access.

EXECUTIVE ORDERS

c. Clustering. The clustering of structures and the use of designs which will reduce public facility costs and improve scenic quality shall be encouraged. The location of clustered high-rise structures may be proposed where public services are available and adequate and compatible with adjacent land uses.

d. Access routes. Commercial and industrial developments adjacent to roadways shall be required to provide off-street parking, service roads and limited controlled access points to highways. (Except in cases of extreme hardship, highway access for any development within 250 feet of a bridge or bridge ramp shall be prohibited.)

e. Existing development. Local plans and regulations shall include provisions to:

(1) Retain existing vegetation and landscaping;

(2) Amortize non-conforming uses;

(3) Prohibit the reconstruction of non-conforming uses which are 50% market value destroyed;

(4) Provide for the screening of existing development which constitutes visual intrusion, wherever appropriate.

f. Signs. Local units of government shall adopt ordinances for the amortization and removal of non-conforming general advertising signs, and to prohibit the visibility of advertising signs from the river, except in urban diversified districts.

3. Local units of government shall develop plans and regulations to ensure that developments shall not be undertaken prior to the provision of metropolitan public facilities in adopted metropolitan plans, in accordance with the following guidelines:

a. Developments in areas not scheduled for the provision of municipal or metropolitan sanitary sewers shall comply with adequate onsite sewage disposal system regulations.

b. The density of development outside the metropolitan urban service area shall be limited to ensure that there is no need for the premature provision of local and metropolitan urban services and facilities.

4. Local units of government shall develop plans and provide guidance to ensure that the surface uses of the river is compatible with the characteristics and use of the districts in accordance with the following guidelines:

a. The present 9-foot navigation channel shall be maintained.

b. Provision shall be made for the use of the river for water transportation which is consistent with adopted state and regional policies and regulations and applicable federal laws and to minimize any adverse effects associated with such facilities.

c. Local plans shall identify areas physically suitable for barge slips and barge fleeting, based on such considerations as safety, maneuverability, operational convenience, amount of construction and/or excavation required, and environmental impacts; and

d. Local plans shall specify which of those areas found physically suitable may be used for barge slips and barge fleeting areas in the future. Preference should be given to those areas where new barge slips and associated facilities can be clustered, where required metropolitan services are already available, and where use of the river-front for barge slips and fleeting areas, and access to them, is compatible with adjacent land use and public facilities.

e. Local plans shall identify, whenever practicable, locations where river dredge spoil can be utilized consistent with natural geological appearances or processes and adjacent land uses.

f. Where there is potential conflict of surface use, state and local governments shall enact appropriate water surface use regulation.

g. The Minnesota Energy Agency shall be responsible for recommending to the EQC a strategy for the development of a coal transportation plan for the metropolitan area.

5. Local units of government shall develop plans and regulations for industrial and commercial developments in the River Corridor in accordance with the following guidelines:

a. Areas for new or expanded industrial and commercial developments, where urban services are available, and the premature expansion or upgrading of the metropolitan systems will not be required, shall be identified.

b. The existing industrial waste discharge points, sanitary, and storm water discharge points shall be identified.

c. Local plans should give consideration to providing for future industrial and commercial uses that require water access including, but not limited to such uses as, transportation, water supply and waste discharge. This does not preclude the locating of non-water related uses within the Corridor.

d. The impact of potential mining and extraction sites or other incompatible uses shall be minimized.

EXECUTIVE ORDERS

e. Land reclamation and reforestation of the mining site shall be regulated.

6. Local units of government and regional and state agencies shall develop plans and regulations to maximize the creation and maintenance of open space and recreational potential of the Corridor in accordance with the following guidelines:

a. Existing and potential sites for the following uses shall be identified and inventoried.

(1) Neighborhood, municipal, county and regional parks;

(2) Scenic overlooks, scenic views, and public observation platforms;

(3) Protected open space areas, including islands, gorges, wildlife preservation areas, and natural areas;

(4) Beaches and undeveloped river frontage on backwaters, which are suitable for recreation purposes;

(5) Commercial marinas and boat launching facilities;

(6) Public access points to the river;

(7) Historic sites and districts.

b. The Metropolitan Council shall prepare a general trailway plan for the entire length of the River Corridor which links regional parks.

c. Local units of government shall identify the potential location of trails within their jurisdictions, including related problems and proposed solutions.

d. Plans and programs to acquire sites for public access to the river and to protect open space areas shall be developed.

e. Programs to acquire and manage undeveloped islands in their natural state and to encourage the restoration of other islands for recreation open space uses shall be adopted.

f. In the development of residential, commercial and industrial subdivisions, and planned development, a developer shall be required to dedicate to the public reasonable portions of appropriate riverfront access land or other lands in interest therein.

g. In the event of practical difficulties or physical impossibility, the developer shall be required to contribute an equivalent amount of cash to be used only for the acquisi-

tion of land for parks, open space, storm water drainage areas or other public services within the River Corridor.

7. Local units of government and state agencies shall develop plans and regulations for transportation and public utilities developments in accordance with the following guidelines:

a. Existing and potential utility and transportation facility crossings shall be identified and river crossings shall be minimized and concentrated at existing crossings where possible.

b. The Corridor shall not be used merely as a convenient right-of-way and new or modified transportation and utility facilities shall complement the planned land and water uses and shall not stimulate incompatible development.

c. In planning and designing the construction or reconstruction of all public transportation facilities which occur within the river corridor, consideration shall be given to the provision of scenic overlooks for motorists, safe pedestrian crossings and facilities along the River Corridor, access to the riverfront in public ownership and reasonable use of the land between the river and the transportation facility.

8. Local units of government and regional and state agencies shall develop capital improvement programs which are consistent with the following guidelines:

a. A five year capital improvement program or public facilities program shall be developed which covers all public projects to be sited in the corridor.

b. The capital improvement program or public facilities program shall specify the sequence of actions to be undertaken by each public agency and shall be consistent with the Standards and Guidelines in sections B and C.

9. Local units of government shall reassess all lands in the River Corridor in accordance with the following guidelines:

a. Local units of government shall send copies of adopted plans and regulations and amendments of plans and regulations to appropriate municipal and county assessors within 30 days after adoption.

b. Municipal and county tax assessors shall reassess all lands in the Mississippi River Corridor for consistency with adopted plans and regulations within one year of receipt of adopted plans from local units of government.

10. Local units of government and regional and state agencies shall prepare plans and regulations in accordance

EXECUTIVE ORDERS

with the natural characteristics and the character of existing development in the River Corridor in accordance with the following guidelines:

a. Local units of government and regional and state agencies shall prepare plans and regulations using the district boundaries as described in the Interim Development Regulations as guidelines, in accordance with the purpose of each district as described in the General Guidelines section B.

b. The City of St. Paul shall prepare plans and regulations to balance open space use and industrial and commercial developments for the Pig's Eye Lake area.

c. Local units of government may prepare modifications of the use districts boundaries as described in the Interim Development Regulations if local units of government demonstrate to the EQC in plans and supporting documents the consistency of the proposed modification with the General Guidelines.

11. Local units of government, regional agencies and state agencies shall provide adequate opportunities for public participation in the preparation of plans and regulations.

D. Reviewing plans and regulations.

1. The Metropolitan Council shall be the lead agency to coordinate the preparation, submission, review and modification of land use plans, zoning ordinances, zoning amendments, capital improvement programs and other regulations, specified in section C, which are prepared by local units of government, regional and state agencies.

2. Local units of government and regional agencies shall submit existing, modified or prepared plans and regulations that comply with the Designation Order to the Metropolitan Council within six months of notice of the Order of Designation. The EQC shall review the state plans and regulations and forward the appropriate sections to the Metropolitan Council.

3. The Metropolitan Council shall review the plans, regulations, and capital improvement programs prepared by local units of governments, regional and state agencies for consistency with regional objectives and with the Order of Designation. Within 45 days of receiving the plans and regulations, the Metropolitan Council shall submit its written evaluation to the EQC. Upon a request from the Metropolitan Council, the EQC may grant 30 days time extensions when the EQC determines that the Metropolitan Council has satisfactorily demonstrated that it requires more time for review.

4. The EQC shall review all plans and regulations prepared for the Mississippi River Corridor, within 45 days of

receiving the plans and regulations from the Metropolitan Council. The EQC shall determine whether they are consistent with the provisions of the Order of Designation. When the EQC has completed the review, it shall either:

a. Approve the plans and regulations by a written decision and notify the local units of government and regional and state agencies, and the Metropolitan Council; or

b. Return them to the local units of governments, regional and state agencies, and the Metropolitan Council for modification with a written explanation of the need for modification.

5. Within 45 days of EQC's approval of the plans and regulations, local units of government, regional and state agencies shall adopt the approved plans and regulations, and shall notify the EQC.

E. Updating and re-evaluation of plans and regulations.

1. Local units of government or regional and state agencies may amend their plans and regulations that have been approved by the EQC by resubmitting the plans and regulations with any recommended changes thereto, to the EQC for consideration.

2. Two years after EQC's initial approval of the plans and regulations, local units of government and regional and state agencies shall resubmit their plans and regulations with any recommended changes thereto, for review and approval by the EQC.

3. Amendments to plans and regulations shall become effective only upon the approval thereof by the EQC in the same manner as for approval of the original plans and regulations as stated in section D.

F. Development permits.

1. If no plans and regulations have been adopted under the provisions of section D, local units of government and regional and state agencies shall grant a development permit only if:

a. The development is specifically permitted by the Interim Development Regulations;

b. The development is essential to protect the public health, safety, or welfare because of an existing emergency; or

c. The registration, recordation, permit, or authorization of the development was issued prior to the date of legal notice of the EQC public hearing provided in MEQC 53(3).

EXECUTIVE ORDERS

2. When plans and regulations have been adopted under the provisions of section D, local units of government, regional and state agencies shall permit development only in accordance with those plans and regulations.

G. Notification of the development permits to the EQC.

1. Local units of government, and regional and state agencies shall prepare administrative procedures for permit notification as a part of their plans and regulations. The local units of government, regional and state agencies shall notify the EQC of all the developments requiring discretionary actions under their rules and regulations at least 30 days before taking action on the application, unless the EQC informs the local unit of government and regional and state agencies in writing that the EQC need not be notified of certain types of applications.

2. Local units of government and regional and state agencies shall prepare procedures to notify the EQC of their final action on the development permits which require discretionary action.

H. Judicial proceedings. If the EQC determines that the administration of the local plans and regulations is inadequate to protect the state or regional interest, the EQC may institute appropriate judicial proceedings to compel proper enforcement of the plans and regulations.

Interim Development Regulations for the Mississippi River Corridor Critical Area

A. General provisions.

1. Authority. These procedures are prescribed by the Minnesota Environmental Quality Council (Council) pursuant to authority granted to the Council in Minn. Stat. §§ 116G.01 to 116G.14 (1974).

2. Purpose. The purposes of these regulations are:

a. To protect the public health, safety, comfort, convenience and general welfare;

b. To promote orderly development of the residential, commercial, industrial, recreational and public areas within the corridor;

c. To conserve the natural and scenic beauty of the river corridor;

d. To conserve and develop the natural resources of the river corridor; and

e. To provide for the compatibility of different land uses and the most appropriate use of land throughout the river corridor.

3. Scope.

a. These Interim Development Regulations shall apply to public and private lands and waters within the Mississippi River Corridor, as set forth and legally described in Appendixes A and B of the recommendation for designation of the Mississippi River Corridor as a critical area.

b. The Interim Development Regulations shall govern; but wherever there is a conflict between the Interim Development Regulations and existing laws, regulations, ordinances, or other provisions of the Interim Development Regulations, the more restrictive provision shall apply.

c. The Interim Development Regulations should not be used as a complete model ordinance for adoption by local units of government. At the options of local units of government, they may be used as guidance for the preparation of plans and regulations.

d. The Interim Development Regulations shall remain in effect from the date of issuance of the Governor's designation order for each local unit of government in the critical area until it adopts plans and regulations approved by the Council.

e. State and regional agencies and local units of government shall approve development only in conformance with these Interim Development Regulations until the adoption of plans and regulations approved by the Council.

f. Development which was approved by a state or regional agency or a local unit of government, after April 25, 1975 shall be subject to these Interim Development Regulations and subsequently adopted plans and regulations only to the extent provided in MEQC 57.

g. State and regional agencies and local units of government shall be responsible for the administration and enforcement of the Interim Development Regulations as of the effective date of the Governor's Designation Order.

h. Any regulations or procedure not specified in these Interim Development Regulations shall follow the applicable local unit of government regulations or the appropriate state and regional agency's rules and regulations.

B. Use district designations.

1. Because the river should be managed as a multiple-purpose resource, and it possesses a variation in

EXECUTIVE ORDERS

both natural characteristics and types of urban development, the Corridor has been segmented into the following four districts which shall be applied throughout the Interim Period as described in Appendixes A and B of the recommendation for designation of the Mississippi River Corridor as a critical area.

- a. Rural open space districts
- b. Urban diversified districts
- c. Urban developed districts
- d. Urban open space districts

2. During the interim period, no changes shall be made of the district boundaries set forth by these Interim Development Regulations.

C. Permitted uses.

1. Any land or water use development which is in conformance with the standards and guidelines of the Interim Development Regulations shall be permitted.

2. During the interim period, no changes shall be made of the permitted uses allowed by these Interim Development Regulations.

3. Residential development. Residential development shall be permitted in all the districts. All structures and accessory uses or appurtenances of residential development shall be subject to the Dimensional Standards and Criteria in section F of these Interim Development Regulations.

4. Commercial and industrial uses.

a. In rural open space districts and urban developed districts, the development of new and expansion of existing industrial and commercial uses and development shall be permitted if:

(1) it does not require expansion or upgrading of metropolitan systems prior to the schedule set forth in adopted metropolitan plans;

(2) it meets the Dimensional Standards and Criteria in section F;

(3) it will not encroach upon future local or regional parks and recreation open space identified in the Metropolitan Council's Development Guide/Policy Plan for Recreation Open Space or in local plans and programs.

b. In urban open space districts, the development of new and expansion of existing commercial and industrial uses and development shall be permitted on lands which are

on the landward side of all blufflines, if it meets the Dimensional Standards and Criteria in Section F.

c. In urban diversified districts, new and expansion of existing industrial and commercial developments shall be allowed, if it meets the Dimensional Standards and Criteria in Section F.

d. Rosemount and Inver Grove Heights urban diversified district, new and expansion of existing industrial and commercial development shall be permitted, if it does not require premature expansion of metropolitan public services.

5. Agricultural uses. All agricultural uses except new feedlots may be permitted in all the districts.

6. Mining and extraction.

a. In rural and open space, urban developed, and urban diversified districts,

(1) new mining and extraction may be permitted and shall be subject to the Dimensional Standards and Criteria in section F;

(2) new and, where practicable, existing extraction uses shall be appropriately screened from view of the river by establishing and maintaining natural screen devices;

(3) The unscreened boundaries of mining and extraction areas shall be limited to only the loading area;

(4) existing and future extractive uses shall be required to submit land reclamation and reforestation plans compatible with these Interim Development Regulations; and

(5) only one barge loading area which shall be limited to the minimum size practicable shall be permitted for each mining or extraction operation.

b. In urban open space districts, new mining and extraction operations shall not be permitted.

7. Recreational uses.

a. In all districts, recreational uses and structures and accessory uses or appurtenances shall be permitted and shall be subject to the Dimensional Standards and Criteria in section F. Water-related commercial recreation uses shall not be subject to the Dimensional Standards and Criteria in section F.

b. Within urban open space districts, recreation uses on islands and lands between the river and blufflines

EXECUTIVE ORDERS

shall be only for public recreation uses, historic preservation, and wildlife preserves.

8. Signs.

a. In rural open space, urban developed, and urban open space districts:

(1) general advertising signs not visible from the river are permitted;

(2) all other general advertising signs shall be prohibited.

b. In urban diversified districts, general advertising signs are permitted.

D. Permitted public facilities.

1. Transmission services. In all the districts, the construction of new and reconstruction of existing transmission services shall meet the following standards.

a. The Department of Natural Resources (DNR) in reviewing permit applications for all transmission service crossings on the Mississippi River, Minnesota River, or of State lands requiring a permit from the DNR pursuant to Minn. Stat. §§ 84.415 or 105.42 shall give primary consideration to crossings that are proposed to be located within or adjacent to existing right-of-ways for public facilities, such as railroads, roadways, bridges, and existing transmission services.

b. Transmission services of under 200 kilovolts, which cross lands within the River Corridor shall require a special use permit from the local unit of government. Local units of government shall apply the standards set forth in sections D.1.c. through h. when processing applications for a special use permit.

c. When routing transmission services of under 200 kilovolts, the following shall be avoided where practicable:

(1) steep slopes;

(2) scenic intrusions into streams, valleys, and open exposures of water;

(3) scenic intrusions into areas such as ridge crests and high points;

(4) creating tunnel vistas by, for example, building deflections into the route;

(5) wetlands;

(6) forests by running along fringe rather than

through them. If necessary to route through forests, utilize open areas in order to minimize cutting;

(7) soils susceptible to erosion, which would create sedimentation and pollution problems;

(8) areas of unstable soils which would be subject to extensive slippages;

(9) areas with highwater tables, especially if construction requires excavation;

(10) open space recreation areas.

d. Transmission services shall be subject to the Dimensional Standards and Criteria in section F, except at crossing points.

e. Structure design of transmission services. With regard to locating the utility, overhead or underground:

(1) primary considerations shall be given to underground placement in order to minimize visual impact. When considering overhead placement, the proposers shall explain the economic, technological or land characteristic factors which make underground placement infeasible. Economic considerations alone shall not justify overhead placement.

(2) if overhead placement is necessary, the crossing should be hidden from view as much as practicable;

(3) with regard to the appearance of the structures, they shall be made as compatible as practicable with the natural area with regard to: height and width, materials used, and color;

(4) with regard to the width of the right-of-way, the cleared portion of the right-of-way should be kept to a minimum.

f. In the construction of transmission services, the following guidelines shall be applied whenever practicable:

(1) construction in wetlands shall minimize damage to vegetation, prevent erosion and sedimentation;

(2) construction shall be undertaken at times when local fish and wildlife are not spawning or nesting;

(3) effective erosion and sedimentation control programs shall be conducted during all clearing, construction, or reconstruction operations in order to prevent the degradation of the river and adjacent lands.

g. Safety considerations. Developers must adhere to applicable Federal and State safety regulations, both with

EXECUTIVE ORDERS

regard to prevention (such as safety valves and circuit breakers) and with regard to emergency procedures in the event of failure (fire suppression, oil spill clean-up).

h. Right-of-way maintenance.

(1) If possible, natural vegetation of value to fish or wildlife, which does not pose a hazard to or restrict reasonable use of the utility, shall be allowed to grow in the right-of-way;

(2) Where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and low growing trees, shall be planted and maintained on the right-of-way;

(3) Chemical control of vegetation should be avoided when practicable, but where such methods are necessary, chemicals used and the manner of their use must be in accordance with rules, regulations, and other requirements of all state and federal agencies with authority over the use.

2. Sewage treatment plants — sewage outfalls, water intake facilities.

a. In rural open space, urban developed and urban diversified districts the provision of sewage treatment plants, sewage outfalls and water intake facilities:

(1) wherever practicable, shall conform with the Dimensional Standards and Criteria in section F;

(2) shall dedicate the unused river frontage after construction, for public access or recreation open space use;

(3) shall not include new combined storm and sanitary sewer outfalls.

b. In urban open space district:

(1) no new sewage treatment plants shall be permitted in this district. However, the Metropolitan Waste Control Commission may expand the Metropolitan Wastewater Treatment Plant at the Pig's Eye Lake area, if the expansion plans are approved by the Metropolitan Council and they are consistent with the City of St. Paul's riverfront plan approved by the Council under section D of the Standards and Guidelines for Preparing Plans and Regulations;

(2) no new water intake facilities shall be permitted;

(3) no new combined storm water and sanitary sewer outfalls shall be permitted.

3. Essential services and public safety facilities. Essential services and public safety facilities are permitted in all the districts, subject to Regulation D(1).

4. Transportation facilities. The construction or reconstruction of all transportation facilities shall be permitted in all the districts, subject to the following standards and criteria:

a. The following guidelines shall be applied whenever practicable in selecting routes for transportation facilities:

(1) careful consideration should be given to the provision of scenic overlooks for motorists, safe pedestrian crossing and safe pedestrian pathways along the river;

(2) if possible, provide access to the riverfront in public ownership, and allow reasonable public use of the land between the river and the transportation facility;

(3) steep slopes shall be avoided;

(4) scenic intrusion into stream, valley and open exposures of water shall be avoided;

(5) scenic intrusion into areas such as ridge crests and high points shall be avoided

(6) wetlands shall be avoided;

(7) run along fringes of forests rather than through them. But if it is necessary to route through forests, then utilize open areas in order to minimize destruction of commercial forest;

(8) soils whose high susceptibility to erosion would create sedimentation and pollution problems during and after construction shall be avoided;

(9) areas of unstable soils which would be subject to extensive slippage shall be avoided;

(10) areas with highwater tables, especially if construction requires excavation, shall be avoided;

(11) locate new roads to avoid cuts and fills so as to blend into the natural terrain so that it appears to be a part of the natural landscape;

(12) open space recreation areas shall be avoided.

b. Transportation facilities shall be subject to the Dimensional Standards and Criteria in section F, except at crossing points.

c. The following guidelines shall be applied when practicable in constructing transportation facilities:

EXECUTIVE ORDERS

(1) reconstruction of an existing public road or railroad should be performed in a manner that would minimize any adverse effect on the natural beauty and environment of the river;

(2) effective erosion and sedimentation control programs shall be conducted during all clearing, construction or reconstruction operations in order to prevent the degradation of the river and its adjacent lands;

(3) construction across wetlands shall take place in a manner which minimizes damage to vegetation, and in a manner preventing erosion and sedimentation;

(4) construct at times when local fish and wildlife are not spawning or nesting.

d. Safety considerations. Developers must adhere to applicable Federal and State safety regulations with regard to new road construction or reconstruction of an existing road.

e. The following guidelines shall be applied when practicable for right-of-way maintenance:

(1) if possible, natural vegetation of value to fish or wildlife, and which does not pose a safety hazard, shall be allowed to grow in the roadside right-of-way;

(2) where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and trees shall be planted and maintained on the roadside right-of-way;

(3) chemical control of vegetation is discouraged. But where such methods are justified, chemicals used and the manner of their use must be in accordance with rules, regulations and other requirements of all State and Federal agencies with authority over their use.

5. Barge facilities.

a. In rural open space and urban developed districts, the following standards shall apply:

(1) the expansion of existing barge slips within these districts shall be permitted;

(2) no new barge slips shall be permitted until local riverfront plans and regulations have been reviewed by the Metropolitan Council and approved by the Council according to the procedures in MEQC 55(c).

b. In urban open space districts, the following standards shall apply:

(1) no new barge slips shall be permitted;

(2) no barge fleeting areas shall be permitted until local riverfront plans and regulations have been reviewed by the Metropolitan Council and approved by the Council according to the procedures in MEQC 55(c).

c. In urban diversified districts all barge facilities are permitted.

E. Earthwork and vegetation.

1. Grading and filling. In all districts, the following provisions shall apply to grading and filling:

a. Grading, filling, excavating, or otherwise changing the topography landward of the ordinary high water mark shall not be conducted without a permit from the local authority. A permit may be issued only if:

(1) earthmoving, erosion, vegetative cutting, and the destruction of natural amenities is minimized;

(2) the smallest amount of ground is exposed for as short a time as feasible;

(3) temporary ground cover, such as mulch, is used and permanent ground cover, such as sod is planted;

(4) methods to prevent erosion and trap sediment are employed; and

(5) fill is established to accepted engineering standards.

b. A separate grading and filling permit is not required for grading, filling, or excavating the minimum area necessary for a building site, essential services, sewage disposal systems, and private road and parking areas undertaken pursuant to a validly issued building permit.

2. Vegetation management.

a. In rural open space, urban developed and urban open space districts, the following standards shall apply:

(1) on developed islands, public recreation lands, the slope or face of bluffs within 200 feet of the normal high water mark of the river, and within the area 40 feet landward from blufflines, clear cutting shall not be permitted;

(2) on all other lands within these districts, clear cutting shall be guided by the following provisions:

(a) clear cutting shall not be used where soil, slope, or other watershed conditions are fragile and subject to injury;

(b) clear cutting shall be conducted only where clear

EXECUTIVE ORDERS

cut blocks, patches or strips are, in all cases, shaped and blended with the natural terrain;

(c) the size of clear cut blocks, patches, or strips shall be kept at the minimum necessary;

(d) where feasible all clear cuts shall be conducted between September 15 and May 15. If natural regeneration will not result in adequate vegetative cover, areas in which clear cutting is conducted shall be replanted to prevent erosion and to maintain the aesthetic quality of the area where feasible, replanting shall be performed in the same spring, or the following spring.

(3) the selective cutting of trees greater than 4" in diameter may be permitted by local units of government when the cutting is appropriately spaced and staged so that a continuous natural cover is maintained.

b. In urban diversified district:

(1) on the slope or face of bluffs and within areas 40 feet landward from established blufflines, clear cutting shall not be permitted;

(2) the selective cutting of trees greater than 4" in diameter may be permitted by local units of government when the cutting is appropriately spaced and staged so that a continuous natural cover is maintained.

c. These vegetative management standards shall not prevent the pruning and cutting of vegetation to the minimum amount necessary for the construction of bridges and roadways and for the safe installation, maintenance and operation of essential services and utility transmission services which are permitted uses.

F. Dimensional standards and criteria.

1. Objectives. The objectives of Dimensional Standards and Criteria are: to maintain the aesthetic integrity and natural environment of certain districts, to reduce the effects of poorly planned shoreline and bluffline development, to provide sufficient setback or sanitary facilities, to prevent pollution of surface and ground water, to minimize flood damage, to prevent soil erosion, and to implement Metropolitan Plans, Guides and Standards.

2. Substandard lot. The local unit of government may approve any proposed new structure or changes to existing structure when the following findings are made:

a. The lot was recorded in the Office of the County Register of Deeds (or Registrar of Titles) prior to the date of legal notice of the EQC public hearing, April 25, 1975.

b. The lot was in separate ownership from all abutting land on April 25, 1975.

c. The proposed use is consistent with the provisions of the Interim Development Regulations and local ordinance.

d. It can be demonstrated that a proper and adequate sewage disposal system can be installed according to interim regulations, Health Department's and PCA's regulations.

e. The lot size is within sixty (60) percent of the size required in the Interim Development Regulations.

3. Lot size.

a. In the rural open space and urban developed districts, the following minimum lot sizes shall be required:

(1) in unsewered areas, the minimum lot size shall be five acres per single family unit;

(2) in sewerred areas, the minimum lot size shall be consistent with the local zoning ordinance.

b. In the urban open space and urban diversified districts, the minimum lot size shall be consistent with the local zoning ordinance.

4. Structure setback.

a. All required setbacks shall be applicable to each bluffline proceeding landward from the river.

b. All new structures and roads shall meet the following minimum setbacks:

(1) in the rural open space district, no structure or road shall be placed less than 200 feet from the normal highwater mark, and no less than 100 feet from blufflines;

(2) in the urban developed district, and urban open space district, the structure or road shall be placed no less than 100 feet from the normal highwater mark of the river, and no less than 40 feet from blufflines;

(3) in the urban diversified district, the structure or road shall be placed no less than 40 feet from the bluffline.

c. Exceptions to setback provisions shall be:

(1) public safety facilities, public bridges and their roadway approaches, railroad sidings, minor public and private roadways serving water-related uses on the riverfront;

EXECUTIVE ORDERS

(2) public recreation facilities, scenic overlooks, public observation platforms, and the regional trail system, docks, boat launching facilities;

(3) approved river crossings of essential service, and essential services distribution systems which are primarily underground except for terminal and metering devices not exceeding six feet in height, and supporting structures for transmission crossing spans;

(4) the construction of above-ground pumping stations for sewer lines which shall be screened from view of the river;

(5) the reconstruction or restoration of historical structures or sites on the inventory of the State Historical Society or the National Register of Historic Places.

5. Height of structures.

a. In the rural open space, urban developed and urban open space districts:

(1) new structures and additions to existing structures shall be limited to a maximum of 35 feet;

(2) the following exceptions to height limits shall be permitted:

(a) expansion of existing industrial complexes, such as refineries and storage areas;

(b) barns, silos and similar farm structures;

(c) essential service distribution systems;

(d) bridges, bridge approach roadways, and transmission services;

(e) restoration or reconstruction of historical structures and sites on the inventory of the State Historical Society or the National Register of Historic Places.

b. In the urban diversified district, there are no restrictions on the height of structures.

6. Placement of structures.

a. The following standards shall apply in any district:

(1) no new structures shall be placed on slopes which are 18 percent or greater;

(2) structures may be permitted on slopes which are greater than 12 percent, but less than 18 percent, when the following conditions are met:

(a) the developer can prove that the development on the slope can be accomplished without increasing erosion;

(b) the soil types and the geology are suitable for slope development;

(c) there is proper management of vegetation to control runoff.

(3) when an approved floodplain ordinance exists, structure placement shall be governed by that ordinance. Where an approved floodplain ordinance does not exist, the elevation at which the lowest floor of a structure, including basement, may be placed shall be consistent with the Minnesota statewide standards and criteria for management of floodplain areas;

(4) in rural open space, urban developed and urban open space districts no development shall be permitted on presently undeveloped islands, except those developments specifically related to wildlife preservation and recreation open space uses, and bridge piers when other considerations dictate that bridge crossing alignment;

(5) in urban diversified districts, the development on islands related to recreation open space uses and historical preservation of sites and areas on the Inventory of the Minnesota State Historical Society and the National Register of Historic Places shall be permitted. New industry, commercial, residential and other uses shall be permitted on islands if they are consistent with local zoning ordinances and with the historical character.

7. Line of sight. In rural open space districts, urban developed districts, and urban open space districts, the development of new and expansion of existing industrial and commercial uses and development shall be permitted, if it cannot be seen from the normal highwater mark on the opposite side of the river. Water-related commercial and industrial uses shall not be subject to this requirement.

G. Sanitary standards and criteria.

1. The following standards shall apply to all districts:

a. All parts of on-site sewage disposal systems shall be located at least 75 feet from the normal highwater mark.

b. No on-site sewage disposal system shall be placed within designated floodplains.

H. Non-conforming uses and structures.

1. Any structure or use existing upon the effective date of these Interim Development Regulations which does not conform to the use restrictions of a particular use district of

EXECUTIVE ORDERS

the Interim Development Regulations shall automatically continue as a non-conforming use or structure.

2. Whenever a non-conforming building or structure has been damaged by fire, flood, explosion, earthquake, war, riot, or other disaster, it may be reconstructed to its prior use when the damage to the building or structure is fifty percent (50%) or less of its fair market value. Where the damage is fifty percent (50%) or more, reconstruction shall not be permitted for any structure that does not meet the minimum required standards.

3. When any non-conforming use of a building or structure has been changed to a conforming use, it shall not be changed to a non-conforming use.

4. If a non-conforming use is discontinued for 6 consecutive months, any future use of the building or premises shall conform to the Interim Development Regulations.

I. Administration.

1. Local units of government and regional and state agencies shall notify the Council of the following types of proposed development within the Mississippi River Corridor:

a. Development permit applications for the development of a new or major expansion of an industrial, commercial facility in the rural open space, urban developed and urban open space districts.

b. All government developments.

c. Inside the 1975 Metropolitan Urban Service Area (MUSA), development permit applications for the development of:

(1) 50 or more dwelling units in a multi-family project;

(2) 25 or more lots in a mobile home court;

(3) 25 or more lots in a residential project.

d. Outside the MUSA, development permit applications for the development of:

(1) 25 or more dwelling units in a multi-family project;

(2) 10 or more lots in a mobile home court;

(3) 10 or more lots in a residential project;

(4) any residential developments in Rural Open Space Districts.

e. Any development on or involving the alteration of:

(1) a wetland;

(2) a floodplain;

(3) an island;

(4) a slope of greater than 12 percent;

(5) the removal of 5 contiguous acres or more of vegetative cover;

(6) the grading or filling of 20 contiguous acres of land;

(7) the deposit of dredge spoil;

(8) more than 50 linear feet of a riverbank.

f. Any development involving the establishment of a public or private structure, facility or other which crosses the river.

g. The development or expansion of any commercial harbor or barge loading or fleeting area.

h. Any development which would result in the discharge of water into or withdrawal of water from the Mississippi River which would require a state permit.

i. Any developments within the historical districts established by the State Legislature.

j. Development for which Metropolitan Council review is requested by:

(1) the local unit of government with jurisdiction;

(2) resolution from two or more local units of government adjacent to the local units of government within which the proposed development is sited.

k. Any development which requires a rezoning or compatible use permit.

2. Procedures for reviewing proposed development.

a. Local units of government and regional and state agencies shall notify the Council in writing of any proposed development listed in section I.1, at least 30 days before the local units of government and regional and state agencies take final action to approve or deny the development. In the event the Metropolitan Council elects to hold a hearing under section I.2.e., no final action to approve or deny the proposed development may be taken until 15 days after the

EXECUTIVE ORDERS

Council receives the Metropolitan Council recommendation.

b. The Council shall send a copy of the proposed development to the Metropolitan Council for review no later than 2 days after the date of the Council's receipt of the application.

c. The Metropolitan Council shall review the proposed development and transmit a written recommendation with reasons for approving, modifying, or denying the proposed development to the Council no later than 18 days after the Metropolitan Council's receipt of the application, except when a public hearing is required by the Metropolitan Council, in which case, sections I.2.e(1) and (2) shall be followed.

d. Other local units of government and regional and state agencies may transmit to the Council their written comments on the proposed development published in the EQC Monitor, within 15 days of date of the publication.

e. When the Metropolitan Council decides to hold a public hearing on a proposed development application, the public hearing shall be conducted in accordance with the Metropolitan Council's statutory requirements, and notice of the hearing shall be filed with the Council and affected municipalities, counties, and applicants.

f. The Metropolitan Council shall submit its final recommendation on the proposed development to the Council within 30 days of closing date of the hearing record. The Council shall accept or modify the Metropolitan Council's recommendations and shall consider the comments of the local units of government and regional and state agencies and transmit the recommendation to the local unit of government and regional and state agencies no later than 10 days after the date of receipt of the Metropolitan Council's recommendation.

g. The Council may extend the 30 days time for a particular proposed development if the Metropolitan Council, the developer, any local unit of government and regional and state agencies with jurisdiction agree to the extension.

h. Failure of the Council to act on the notice of a proposed development within the prescribed period of time shall constitute acceptance by the Council of the final action on the proposed development by the local unit of government, regional or state agency.

i. Within 30 days after the final action, local units of government and regional and state agencies shall notify the Council of the final action on all proposed development listed in section I.1, or of emergency actions approved under the provisions of section I.5.

j. When the Council has recommended to a local government unit, regional or state agency to modify or to deny a proposed development, and that recommendation is not followed, the proposed development shall not be approved for 30 days after the Council receives notice of final action. If the Council appeals the decision to district court, the appeal shall be made within 30 days of receipt notice of final action. When an appeal is made, the development shall not be approved until the appeal process is scheduled.

3. Dimension variance.

a. Local units of government may grant a dimension variance from strict compliance with the setback, or height restrictions, or lot size or line of sight requirement contained in the Interim Development Regulations after an administrative hearing that shall be conducted according to the regulations of the local unit of government.

b. A dimension variance may be granted only when the following findings are made:

(1) the strict enforcement of the setback or height restrictions, or lot size or line of sight will result in unnecessary hardship. "Hardship" as used in the consideration of a dimension variance means that the property in question cannot be put to a reasonable use under the dimension provisions of these Interim Development Regulations;

(2) there are exceptional circumstances unique to the property that were not created by a landowner after April 25, 1975;

(3) the dimension variance does not allow any use that is not a compatible use in the land use district in which the property is located;

(4) the dimension variance will not alter the essential character of the locality as established by these Interim Development Regulations;

(5) the dimension variance would not be contrary to the intent of the Order.

4. Compatible use permit.

a. Local units of government may grant a compatible use permit after an administrative hearing that shall be conducted according to the regulations of the local unit of government for conditional or special use permits.

b. A compatible use permit may be granted for a proposed development only when the following findings are made:

(1) it is consistent with the intent of the Order,

EXECUTIVE ORDERS

and the adopted policies of the Metropolitan Council and the Environmental Policy Act; and

(2) it is compatible with uses in the immediate vicinity; and

(3) it is permitted by the ordinances of the local unit of government.

5. Emergency actions. In accordance with the Act, local units of government, regional and state agencies may grant a development permit when certified in writing by the local unit of government, regional and state agencies, or the County Zoning Administration with the existing authority that the development is essential to protect the public health, safety or welfare in an existing emergency and that a local ordinance or state regulation was in effect immediately prior to April 25, 1975 and a development permit would have been granted thereunder.



EXECUTIVE ORDER NO. 130B

Amending Executive Order 130 by
 correcting the legal description
 of the river corridor and adding
 one paragraph to the legal descrip-
 tion of the Mississippi River
 Corridor Districts

I, Wendell R. Anderson, Governor of the State of
 Minnesota, by virtue of the authority vested in me by the
 Constitution and applicable statutes, hereby issue this
 Executive Order:

WHEREAS, certain corrections have been found neces-
 sary in the legal description of Executive Order No. 130:

NOW, THEREFORE, I order that:

1. Appendix A, the third paragraph of the Brooklyn
 Center portion of the Legal Description of the
 River Corridor be amended to read:

Thence in a straight line northeasterly to
 the intersection of the center lines of State
 Highway 169 and Interstate 94;

2. Appendix A, the first paragraph of the Brooklyn Park portion of the Legal Description of the River Corridor be amended to read:

Thence north along the center line of State Highway 169 to the intersection with the center line of 89th Avenue North;

3. Appendix A, the thirteenth paragraph of the Brooklyn Park portion of the Legal Description be amended to read:

Thence west along the said side to the west side of Section 2;

4. The following paragraph be added to Appendix B, Section 1.b. "On the west side of the river":

(4) From the eastern extension of the center line of Hennepin County Highway 49 to the Hennepin County - Wright County common boundary.

This order shall be effective immediately upon publication in the State Register and shall remain in force until rescinded by the proper authority.

IN TESTIMONY WHEREOF, I hereunto set my hand on this 1st day of December, 1976.


Wendell R. Anderson, Governor

Filed according to law:


Joan Anderson Grove
Secretary of State

A. PURPOSE AND RESPONSIBILITY

1. Purposes. The purposes of the Critical Area designation and the following standards and guidelines are:
 - a. To protect and preserve a unique and valuable state and regional resource for the benefit of the health, safety and welfare of the citizens for the state, region, and nation;
 - b. To prevent and mitigate irreversible damage to this state, regional, and national resource;
 - c. To preserve and enhance its natural, aesthetic, cultural, and historical value for the public use;
 - d. To protect and preserve the river as an essential element in the national, state and regional transportation, sewer and water and recreational systems; and
 - e. To protect and preserve the biological and ecological functions of the corridor.
2. Responsibility. The standards and guidelines provided herein shall be:
 - a. Followed by the local units of government when preparing or updating plans, and/or modifying regulations;
 - b. Followed by state agencies, and regional agencies for permit regulation and in developing plans within their jurisdiction;
 - c. Followed by the Metropolitan Council for reviewing plans, regulations, and development permit applications;
 - d. Followed by the Council for approving plans, regulations, and development permit applications.

B. GENERAL GUIDELINES FOR PREPARING PLANS AND REGULATIONS

1. The Mississippi River Corridor shall be managed as a multiple-purpose resource by:
 - a. Maintaining the river channel for transportation and providing and maintaining barging and fleeting areas in appropriate locations consistent with the character of the river and the riverfront.
 - b. Conserving the scenic, environmental, recreational, mineral, economic, cultural, and historic resources and functions of the river corridor.

- c. Providing for the continuation and the development of a variety of urban uses, including industrial and commercial uses, and residential, where appropriate, within the river corridor.
 - d. Utilizing certain reaches of the river as a source of water supply and as a receiving stream for properly treated sewage and industrial waste effluents.
2. In order to manage the river corridor consistent with its natural characteristics and its existing development, the following guidelines are established for each corridor district:
- a. Rural Open Space District. The lands and waters within this district shall be used and developed to preserve their open, scenic and natural characteristics and ecological and economic functions. Presently undeveloped islands shall be maintained in their existing natural state. The transportation function of the river shall be maintained and preserved.
 - b. Urban Diversified District. The lands and waters within this district shall be used and developed to maintain the present diversity of commercial, industrial, residential, and public uses of the lands, including the existing transportation use of the river; to protect historical sites and areas, natural scenic and environmental resources; and to expand public access to and enjoyment of the river. New commercial, industrial, residential, and other uses may be permitted if they are compatible with these goals.
 - c. Urban Developed District. The lands and waters within this district shall be maintained largely as residential areas. The expansion of existing and development of new industrial, commercial, and other non-residential or non-recreational uses shall be limited to preserve and enhance the residential character of this district.
 - d. Urban Open Space District. The lands and waters within this district shall be managed to conserve and protect the existing and potential recreational, scenic, natural, and historic resources and uses within this district for the use and enjoyment of the surrounding region. Open space shall be provided in the open river valley lands for public use and the protection of unique natural and scenic resources. The existing transportation role of the river in this district shall be protected.
3. The Mississippi River Corridor shall be managed in accordance with the Metropolitan Council's Development Guide Chapter, Critical Areas Act of 1973, and the Minnesota Environmental Policy Act of 1973, and other applicable state laws, and federal laws.

C. SPECIFIC STANDARDS AND GUIDELINES FOR PREPARING PLANS AND REGULATIONS

1. Each local unit of government within the river corridor shall prepare plans and regulations to protect environmentally sensitive areas in accordance with the following guidelines.

a. Each local unit of government shall, with the assistance of the Metropolitan Council and state agencies:

(1) Identify and prepare an inventory of:

- (a) floodplains,
- (b) wetlands,
- (c) slopes from 12% to 18% and over 18%,
- (d) soils not suitable for urban development on-site waste disposal,
- (e) significant vegetative stands, and
- (f) natural drainage routes.

(2) Prepare a floodplain ordinance if it does not have a floodplain ordinance in effect;

(3) Prepare plans and regulations to protect wetlands;

(4) Prepare plans and regulations to protect bluffs greater than 18% and to provide conditions for the development of bluffs between 18% and 12% slopes;

(5) Prepare plans and regulations to minimize direct overland runoff and improve the quality of runoff onto adjoining streets and watercourses;

(6) Prepare plans and regulations to minimize site alteration and for beach and riverbank erosion control;

(7) Prepare regulations for management of vegetative cutting; and

(8) Prepare criteria for control of noise in open space and recreational areas with assistance of the PCA.

2. Each local unit of government and state agency shall prepare plans and regulations to protect and preserve the aesthetic qualities of the river corridor, which provide for the following considerations:

a. Site Plans. Site plans shall be required to meet the following guidelines:

(1) New development and expansion shall be permitted only after the approval of site plans which adequately assess and minimize adverse effects and maximize beneficial effects.

(2) Site plans shall be required for all developments for which a development permit is required, except for the modification of an existing single-family residential structure or the construction of one single-family residence.

- (3) Site plans shall include, but not be limited to, the submission of an adequate and detailed description of the project, including activities undertaken to ensure consistency with the objectives of the Designation Order; maps which specify soil types, topography, and the expected physical changes in the site as a result of the development; the measures which address adverse environmental effects.
 - (4) Site plans shall include standards to ensure that structure, road, screening, landscaping, construction placement, maintenance and storm water runoff are compatible with the character and use of the river corridor in that district.
 - (5) Site plans shall provide opportunities for open space establishment and for public viewing of the river corridor whenever applicable, and shall contain specific conditions with regard to buffering, landscaping, and re-vegetation.
- b. Structures. Structure site and location shall be regulated to ensure that riverbanks, bluffs and scenic overlooks remain in their natural state, and to minimize interference with views of and from the river, except for specific uses requiring river access.
 - c. Clustering. The clustering of structures and the use of designs which will reduce public facility costs and improve scenic quality shall be encouraged. The location of clustered high-rise structures may be proposed where public services are available and adequate and compatible with adjacent land uses.
 - d. Access Routes. Commercial and industrial developments adjacent to roadways shall be required to provide off-street parking, service roads and limited controlled access points to highways. (Except in cases of extreme hardship, highway access for any development within 250 feet of a bridge or bridge ramp shall be prohibited.)
 - e. Existing Development. Local plans and regulations shall include provisions to:
 - (1) Retain existing vegetation and landscaping;
 - (2) Amortize non-conforming uses;
 - (3) Prohibit the reconstruction of non-conforming uses which are 50% market value destroyed;
 - (4) Provide for the screening of existing development which constitutes visual intrusion, wherever appropriate.
 - f. Signs. Local units of government shall adopt ordinances for the amortization and removal of non-conforming general advertising signs, and to prohibit the visibility of advertising signs from the river, except in Urban Diversified Districts.
3. Local units of government shall develop plans and regulations to ensure that developments shall not be undertaken prior to the provision of Metropolitan public facilities in adopted Metropolitan plans, in accordance with the following guidelines:

or metropolitan sanitary sewers shall comply with adequate on-site sewage disposal system regulations.

- b. The density of development outside the Metropolitan Urban Service Area shall be limited to ensure that there is no need for the premature provision of local and metropolitan urban services and facilities.
4. Local units of government shall develop plans and provide guidance to ensure that the surface uses of the river is compatible with the characteristics and use of the districts in accordance with the following guidelines:
 - a. The present 9-foot navigation channel shall be maintained.
 - b. Provision shall be made for the use of the river for water transportation which is consistent with adopted state and regional policies and regulations and applicable federal laws and to minimize any adverse effects associated with such facilities.
 - c. Local plans shall identify areas physically suitable for barge slips and barge fleeting, based on such considerations as safety, maneuverability, operational convenience, amount of construction and/or excavation required, and environmental impacts; and
 - d. Local plans shall specify which of those areas found physically suitable may be used for barge slips and barge fleeting areas in the future. Preference should be given to those areas where new barge slips and associated facilities can be clustered, where required metropolitan services are already available, and where use of the riverfront for barge slips and fleeting areas, and access to them, is compatible with adjacent land use and public facilities.
 - e. Local plans shall identify, whenever practicable, locations where river dredge spoil can be utilized consistent with natural geological appearances or processes and adjacent land uses.
 - f. Where there is potential conflict of surface use, state and local governments shall enact appropriate water surface use regulation.
 - g. The Minnesota Energy Agency shall be responsible for recommending to the EQC a strategy for the development of a coal transportation plan for the metropolitan area.
 5. Local units of government shall develop plans and regulations for industrial and commercial developments in the River Corridor in accordance with the following guidelines:
 - a. Areas for new or expanded industrial and commercial developments, where urban services are available, and the premature expansion or upgrading of the Metropolitan systems will not be required, shall be identified.
 - b. The existing industrial waste discharge points, sanitary, and storm water discharge points shall be identified.

- c. Local plans should give consideration to providing for future industrial and commercial uses that require water access including, but not limited to such uses as, transportation, water supply & waste discharge. This does not preclude the locating of non-water related uses within the Corridor.
 - d. The impact of potential mining and extraction sites or other incompatible uses shall be minimized.
 - e. Land reclamation and reforestation of the mining site shall be regulated.
6. Local units of government and regional and state agencies shall develop plans and regulations to maximize the creation and maintenance of open space and recreational potential of the Corridor in accordance with the following guidelines:
- a. Existing and potential sites for the following uses shall be identified and inventoried.
 - (1) Neighborhood, municipal, county and regional parks;
 - (2) Scenic overlooks, scenic views, and public observation platforms;
 - (3) Protected open space areas, including islands, gorges, wildlife preservation areas, and natural areas;
 - (4) Beaches and undeveloped river frontage on backwaters, which are suitable for recreation purposes;
 - (5) Commercial marinas and boat launching facilities;
 - (6) Public access points to the river;
 - (7) Historic sites and districts.
 - b. The Metropolitan Council shall prepare a general trailway plan for the entire length of the River Corridor which links regional parks.
 - c. Local units of government shall identify the potential location of trails within their jurisdictions, including related problems and proposed solutions.
 - d. Plans and programs to acquire sites for public access to the river and to protect open space areas shall be developed.
 - e. Programs to acquire and manage undeveloped islands in their natural state and to encourage the restoration of other islands for recreation open space uses shall be adopted.

- f. In the development of residential, commercial and industrial subdivisions, and planned development, a developer shall be required to dedicate to the public reasonable portions of appropriate riverfront access land or other lands in interest therein.

In the event of practical difficulties or physical impossibility, the developer shall be required to contribute an equivalent amount of cash to be used only for the acquisition of land for parks, open space, storm water drainage areas or other public services within the River Corridor.

7. Local units of government and state agencies shall develop plans and regulations for transportation and public utilities developments in accordance with the following guidelines:
 - a. Existing and potential utility and transportation facility crossings shall be identified and river crossings shall be minimized and concentrated at existing crossings where possible.
 - b. The Corridor shall not be used merely as a convenient right-of-way and new or modified transportation and utility facilities shall complement the planned land and water uses and shall not stimulate incompatible development.
 - c. In planning and designing the construction or reconstruction of all public transportation facilities which occur within the river corridor, consideration shall be given to the provision of scenic overlooks for motorists, safe pedestrian crossings and facilities along the River Corridor, access to the riverfront in public ownership and reasonable use of the land between the river and the transportation facility.
8. Local units of government and regional and state agencies shall develop capital improvement programs which are consistent with the following guidelines:
 - a. A five year capital improvement program or public facilities program shall be developed which covers all public projects to be sited in the corridor.
 - b. The capital improvement program or public facilities program shall specify the sequence of actions to be undertaken by each public agency and shall be consistent with the Standards and Guidelines in Section B and C.
9. Local units of government shall reassess all lands in the River Corridor in accordance with the following guidelines:
 - a. Local units of government shall send copies of adopted plans and regulations and amendments of plans and regulations to appropriate municipal and county assessors within 30 days after adoption.
 - b. Municipal and county tax assessors shall reassess all lands in the Mississippi River Corridor for consistency with adopted plans and regulations within one year of receipt of adopted plans from local units of government.

10. Local units of government and regional and state agencies shall prepare plans and regulations in accordance with the natural characteristics and the character of existing development in the River Corridor in accordance with the following guidelines:
 - a. Local units of government and regional and state agencies shall prepare plans and regulations using the district boundaries as described in the Interim Development Regulations as guidelines, in accordance with the purpose of each district as described in the General Guidelines Section B.
 - b. The City of St. Paul shall prepare plans and regulations to balance open space use and industrial and commercial developments for the Pig's Eye Lake area.
 - c. Local units of government may prepare modifications of the use districts boundaries as described in the Interim Development Regulations if local units of government demonstrate to the EQC in plans and supporting documents the consistency of the proposed modification with the General Guidelines.
11. Local units of government, regional agencies and state agencies shall provide adequate opportunities for public participation in the preparation of plans and regulations.

D. REVIEWING PLANS AND REGULATIONS

1. The Metropolitan Council shall be the lead agency to coordinate the preparation, submission, review and modification of land use plans, zoning ordinances, zoning amendments, capital improvement programs and other regulations, specified in Section C, which are prepared by local units of government, regional and state agencies.
2. Local units of government and regional agencies shall submit existing, modified or prepared plans and regulations that comply with the Designation Order to the Metropolitan Council within six months of notice of the Order of Designation. The EQC shall review the state plans and regulations and forward the appropriate sections to the Metropolitan Council.
3. The Metropolitan Council shall review the plans, regulations, and capital improvement programs prepared by local units of governments, regional and state agencies for consistency with regional objectives and with the Order of Designation. Within 45 days of receiving the plans and regulations, the Metropolitan Council shall submit its written evaluation to the EQC. Upon a request from the Metropolitan Council, the EQC may grant 30 days time extensions when the EQC determines that the Metropolitan Council has satisfactorily demonstrated that it requires more time for review.
4. The EQC shall review all plans and regulations prepared for the Mississippi River Corridor, within 45 days of receiving the plans and regulations from the Metropolitan Council. The EQC shall determine whether they are consistent with the provisions of the Order of Designation. When the EQC has completed the review, it shall either:
 - a. Approve the plans and regulations by a written decision and notify the local units of government and regional and state agencies, and the Metropolitan Council; or

- b. Return them to the local units of governments, regional and state agencies, and the Metropolitan Council for modification with a written explanation of the need for modification.
5. Within 45 days of EQC's approval of the plans and regulations, local units of government, regional and state agencies shall adopt the approved plans and regulations, and shall notify the EQC.

E. UPDATING AND RE-EVALUATION OF PLANS AND REGULATIONS

1. Local units of government or regional and state agencies may amend their plans and regulations that have been approved by the EQC by resubmitting the plans and regulations with any recommended changes thereto, to the EQC for consideration.
2. Two years after EQC's initial approval of the plans and regulations, local units of government and regional and state agencies shall resubmit their plans and regulations with any recommended changes thereto, for review and approval by the EQC.
3. Amendments to plans and regulations shall become effective only upon the approval thereof by the EQC in the same manner as for approval of the original plans and regulations as stated in Section D.

F. DEVELOPMENT PERMITS

1. If no plans and regulations have been adopted under the provisions of Section D, local units of government and regional and state agencies shall grant a development permit only if:
 - a. The development is specifically permitted by the Interim Development Regulations;
 - b. The development is essential to protect the public health, safety, or welfare because of an existing emergency; or
 - c. The registration, recordation, permit, or authorization of the development was issued prior to the date of legal notice of the EQC public hearing provided in Minn. Reg. EQC 53(3).
2. When plans and regulations have been adopted under the provisions of Section D, local units of government, regional and state agencies shall permit development only in accordance with those plans and regulations.

G. NOTIFICATION OF THE DEVELOPMENT PERMITS TO THE EQC

1. Local units of government, and regional and state agencies shall prepare administrative procedures for permit notification as a part of their plans and regulations. The local units of government, regional and state agencies shall notify the EQC of all the developments requiring discretionary actions under their rules and regulations at least 30 days before taking action on the application, unless the EQC informs the local unit of government and regional and state agencies in writing that the EQC need not be notified of certain types of applications.

2. Local units of government and regional and state agencies shall prepare procedures to notify the EQC of their final action on the development permits which require discretionary action.

H. JUDICIAL PROCEEDINGS

If the EQC determines that the administration of the local plans and regulations is inadequate to protect the state or regional interest, the EQC may institute appropriate judicial proceedings to compel proper enforcement of the plans and regulations.

INTERIM DEVELOPMENT REGULATIONS
FOR THE MISSISSIPPI RIVER CORRIDOR CRITICAL AREA

A. GENERAL PROVISIONS

1. Authority. These procedures are prescribed by the Minnesota Environmental Quality Council (Council) pursuant to authority granted to the Council in Minn. Stat. Sections 116G.01 to 116G.14 (1974).

2. Purpose

The purposes of these regulations are:

- a. To protect the public health, safety, comfort, convenience and general welfare;
- b. To promote orderly development of the residential, commercial, industrial, recreational and public areas within the corridor;
- c. To conserve the natural and scenic beauty of the river corridor;
- d. To conserve and develop the natural resources of the river corridor; and
- e. To provide for the compatibility of different land uses and the most appropriate use of land throughout the river corridor.

3. Scope.

- a. These Interim Development Regulations shall apply to public and private lands and waters within the Mississippi River Corridor, as set forth and legally described in Appendix A & B of the recommendation for designation of the Mississippi River Corridor as a critical area.
- b. The Interim Development Regulations shall govern; but wherever there is a conflict between the Interim Development Regulations and existing laws, regulations, ordinances, or other provisions of the Interim Development Regulations, the more restrictive provision shall apply.
- c. The Interim Development Regulations should not be used as a complete model ordinance for adoption by local units of government. At the options of local units of government, they may be used as guidance for the preparation of plans and regulations.
- d. The Interim Development Regulations shall remain in effect from the date of issuance of the Governor's designation order for each local unit of government in the critical area until it adopts plans and regulations approved by the Council.

- e. State and regional agencies and local units of government shall approve development only in conformance with these Interim Development Regulations until the adoption of plans and regulations approved by the Council.
- f. Development which was approved by a state or regional agency or a local unit of government after April 25, 1975 shall be subject to these Interim Development Regulations and subsequently adopted plans and regulations only to the extent provided in Minn. Reg. MEQC 57.
- g. State and regional agencies and local units of government shall be responsible for the administration and enforcement of the Interim Development Regulations as of the effective date of the Governor's Designation Order.
- h. Any regulations or procedure not specified in these Interim Development Regulations shall follow the applicable local unit of government regulations or the appropriate state and regional agency's rules and regulations.

USE DISTRICT DESIGNATIONS

- 1. Because the river should be managed as a multiple-purpose resource, and it possesses a variation in both natural characteristics and types of urban development, the Corridor has been segmented into the following four districts which shall be applied throughout the Interim Period as described in Appendix A & B of the recommendation for designation of the Mississippi River Corridor as a critical area.
 - a. Rural Open Space Districts
 - b. Urban Diversified Districts
 - c. Urban Developed Districts
 - d. Urban Open Space Districts
- 2. During the Interim Period, no changes shall be made of the district boundaries set forth by these Interim Development Regulations.

PERMITTED USES

- 1. Any land or water use development which is in conformance with the standards and guidelines of the Interim Development Regulations shall be permitted.
- 2. During the Interim Period, no changes shall be made of the permitted uses allowed by these Interim Development Regulations.

3. Residential Development

Residential development shall be permitted in all the districts. All structures and accessory uses or appurtenances of residential development shall be subject to the Dimensional Standards and Criteria in Section F of these Interim Development Regulations.

4. Commercial and Industrial Uses

- a. In Rural Open Space Districts and Urban Developed Districts, the development of new and expansion of existing industrial and commercial uses and development shall be permitted if:
 - (1) it does not require expansion or upgrading of Metropolitan Systems prior to the schedule set forth in adopted Metropolitan Plans;
 - (2) it meets the Dimensional Standards and Criteria in Section F;
 - (3) it will not encroach upon future local or regional parks and recreation open space identified in the Metropolitan Council's Development Guide/Policy Plan for Recreation Open Space or in local plans and programs.
- b. In Urban Open Space Districts, the development of new and expansion of existing commercial and industrial uses and development shall be permitted on lands which are on the landward side of all blufflines, if it meets the Dimensional Standards and Criteria in Section F.
- c. In Urban Diversified Districts, new and expansion of existing industrial and commercial developments shall be allowed, if it meets the Dimensional Standards and Criteria in Section F.
- d. In Rosemount and Inver Grove Heights Urban Diversified District, new and expansion of existing industrial and commercial development shall be permitted, if it does not require premature expansion of Metropolitan public services.

5. Agricultural Uses

All agricultural uses except new feedlots may be permitted in all the districts.

6. Mining and Extraction

- a. In Rural Open Space, Urban Developed, and Urban Diversified Districts,
 - (1) new mining and extraction may be permitted and shall be subject to the Dimensional Standards and Criteria in Section F;
 - (2) new and, where practicable, existing extraction uses shall be appropriately screened from view of the river by establishing and maintaining natural screen devices;
 - (3) The unscreened boundaries of mining and extraction areas shall be limited to only the loading area;

(4) existing and future extractive uses shall be required to submit land reclamation and reforestation plans compatible with these Interim Development Regulations; and

(5) only one barge loading area which shall be limited to the minimum size practicable shall be permitted for each mining or extraction operation.

b. In Urban Open Space Districts, new mining and extraction operations shall not be permitted.

7. Recreational Uses

a. In all districts, recreational uses and structures and accessory uses or appurtenances shall be permitted and shall be subject to the Dimensional Standards and Criteria in Section F. Water-related commercial recreation uses shall not be subject to the Dimensional Standards and Criteria in Section F.

b. Within Urban Open Space Districts, recreation uses on islands and lands between the river and blufflines shall be only for public recreation uses, historic preservation, and wildlife preserves.

8. Signs

a. In Rural Open Space, Urban Developed, and Urban Open Space Districts:

(1) general advertising signs not visible from the river are permitted;

(2) all other general advertising signs shall be prohibited.

b. In Urban Diversified Districts, general advertising signs are permitted.

D. PERMITTED PUBLIC FACILITIES

1. Transmission Services

In all the districts, the construction of new and reconstruction of existing transmission services shall meet the following standards.

a. The Department of Natural Resources (DNR) in reviewing permit applications for all transmission service crossings on the Mississippi River, Minnesota River, or of State lands requiring a permit from the DNR pursuant to Minnesota Statutes 84.415 or 105.42 shall give primary consideration to crossings that are proposed to be located within or adjacent to existing right-of-ways for public facilities, such as railroads, roadways, bridges, and existing transmission services.

b. Transmission services of under 200 kilovolts, which cross lands within the River Corridor shall require a special use permit from the local unit of government. Local units of government shall apply the standards set forth in Sections D.1.c through h when processing applications for a special use permit.

c. When routing transmission services of under 200 kilovolts, the following shall be avoided where practicable:

- (2) scenic intrusions into streams, valleys, and open exposures of water;
- (3) scenic intrusions into areas such as ridge crests and high points;
- (4) creating tunnel vistas by, for example, building deflections into the route;
- (5) wetlands;
- (6) forests by running along fringe rather than through them. If necessary to route through forests, utilize open areas in order to minimize cutting;
- (7) soils susceptible to erosion, which would create sedimentation and pollution problems;
- (8) areas of unstable soils which would be subject to extensive slippages;
- (9) areas with highwater tables, especially if construction requires excavation;
- (10) open space recreation areas.

- d. Transmission services shall be subject to the Dimensional Standards and Criteria in Section F, except at crossing points.
- e. Structure design of transmission services.

With regard to locating the utility, overhead or underground:

- (1) primary considerations shall be given to underground placement in order to minimize visual impact. When considering overhead placement, the proposers shall explain the economic, technological or land characteristic factors which make underground placement infeasible. Economic considerations alone shall not justify overhead placement.
 - (2) if overhead placement is necessary, the crossing should be hidden from view as much as practicable;
 - (3) with regard to the appearance of the structures, they shall be made as compatible as practicable with the natural area with regard to: height and width, materials used, and color;
 - (4) with regard to the width of the right-of-way, the cleared portion of the right-of-way should be kept to a minimum.
- f. In the construction of transmission services, the following guidelines shall be applied whenever practicable:
 - (1) construction in wetlands shall minimize damage to vegetation, prevent erosion and sedimentation;

- (2) construction shall be undertaken at times when local fish and wildlife are not spawning or nesting;
- (3) effective erosion and sedimentation control programs shall be conducted during all clearing, construction, or reconstruction operations in order to prevent the degradation of the river and adjacent lands.

g. Safety Considerations

Developers must adhere to applicable Federal and State safety regulations, both with regard to prevention (such as safety valves and circuit breakers) and with regard to emergency procedures in the event of failure (fire suppression, oil spill clean-up).

h. Right-of-way Maintenance

- (1) If possible, natural vegetation of value to fish or wildlife, which does not pose a hazard to or restrict reasonable use of the utility, shall be allowed to grow in the right-of-way;
- (2) Where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and low growing trees, shall be planted and maintained on the right-of-way;
- (3) Chemical control of vegetation should be avoided when practicable, but where such methods are necessary, chemicals used and the manner of their use must be in accordance with rules, regulations, and other requirements of all state and federal agencies with authority over the use.

2. Sewage Treatment Plants - sewage outfalls, water intake facilities

a. In Rural Open Space, Urban Developed and Urban Diversified Districts the provision of sewage treatment plants, sewage outfalls and water intake facilities:

- (1) wherever practicable, shall conform with the Dimensional Standards and Criteria in Section F;
- (2) shall dedicate the unused river frontage after construction, for public access or recreation open space use;
- (3) shall not include new combined storm and sanitary sewer outfalls.

b. In Urban Open Space District:

- (1) no new sewage treatment plants shall be permitted in this district. However, the Metropolitan Waste Control Commission may expand the Metropolitan Wastewater Treatment Plant at the Pig's Eye Lake area, if the expansion plans are approved by the Metropolitan Council and they are consistent with the City of St. Paul's riverfront plan approved by the Council under Section D of the Standards and Guidelines for Preparing Plans and Regulations;

- (2) no new water intake facilities shall be permitted;
- (3) no new combined storm water and sanitary sewer outfalls shall be permitted.

3. Essential Services and Public Safety Facilities

Essential services and public safety facilities are permitted in all the districts. They are subject to D(1) Regulation.

4. Transportation Facilities

The construction or reconstruction of all transportation facilities shall be permitted in all the districts, subject to the following standards and criteria:

- a. The following guidelines shall be applied whenever practicable in selecting routes for transportation facilities:
 - (1) careful consideration should be given to the provision of scenic overlooks for motorists, safe pedestrian crossing and safe pedestrian pathways along the river;
 - (2) if possible, provide access to the riverfront in public ownership, and allow reasonable public use of the land between the river and the transportation facility;
 - (3) steep slopes shall be avoided;
 - (4) scenic intrusion into stream, valley and open exposures of water shall be avoided;
 - (5) scenic intrusion into areas such as ridge crests and high points shall be avoided
 - (6) wetlands shall be avoided;
 - (7) run along fringes of forests rather than through them. But if it is necessary to route through forests, then utilize open areas in order to minimize destruction of commercial forest;
 - (8) soils whose high susceptibility to erosion would create sedimentation and pollution problems during and after construction shall be avoided;
 - (9) areas of unstable soils which would be subject to extensive slippage shall be avoided;
 - (10) areas with highwater tables, especially if construction requires excavation, shall be avoided;
 - (11) locate new roads to avoid cuts and fills so as to blend into the natural terrain so that it appears to be a part of the natural landscape;
 - (12) open space recreation areas shall be avoided.

- b. Transportation facilities shall be subject to the Dimensional Standards and Criteria in Section F, except at crossing points.
- c. The following guidelines shall be applied when practicable in constructing transportation facilities:
 - (1) reconstruction of an existing public road or railroad should be performed in a manner that would minimize any adverse effect on the natural beauty and environment of the river;
 - (2) effective erosion and sedimentation control programs shall be conducted during all clearing, construction or reconstruction operations in order to prevent the degradation of the river and its adjacent lands;
 - (3) construction across wetlands shall take place in a manner which minimizes damage to vegetation, and in a manner preventing erosion and sedimentation;
 - (4) construct at times when local fish and wildlife are not spawning or nesting.

d. Safety Considerations

Developers must adhere to applicable Federal and State safety regulations with regard to new road construction or reconstruction of an existing road.

- e. The following guidelines shall be applied when practicable for right-of-way maintenance:
 - (1) if possible, natural vegetation of value to fish or wildlife, and which does not pose a safety hazard, shall be allowed to grow in the roadside right-of-way;
 - (2) where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and trees shall be planted and maintained on the roadside right-of-way;
 - (3) chemical control of vegetation is discouraged. But where such methods are justified, chemicals used and the manner of their use must be in accordance with rules, regulations and other requirements of all State and Federal agencies with authority over their use.

5. Barge Facilities

- a. In Rural Open Space and Urban Developed Districts, the following standards shall apply:
 - (1) the expansion of existing barge slips within these districts shall be permitted;

(2) no new barge slips shall be permitted until local riverfront plan and regulations have been reviewed by the Metropolitan Council and approved by the Council according to the procedures in Minn. Regs. MEQC 55(c).

b. In Urban Open Space Districts, the following standards shall apply:

(1) no new barge slips shall be permitted;

(2) no barge fleeting areas shall be permitted until local riverfront plans and regulations have been reviewed by the Metropolitan Council and approved by the Council according to the procedures in Minn. Regs. MEQC 55(c).

c. In Urban Diversified Districts all barge facilities are permitted.

E. EARTHWORK AND VEGETATION

1. Grading and Filling

In all districts, the following provisions shall apply to grading and filling:

a. Grading, filling, excavating, or otherwise changing the topography landward of the ordinary high water mark shall not be conducted without a permit from the local authority. A permit may be issued only if:

(1) earthmoving, erosion, vegetative cutting, and the destruction of natural amenities is minimized;

(2) the smallest amount of ground is exposed for as short a time as feasible;

(3) temporary ground cover, such as mulch, is used and permanent ground cover, such as sod is planted;

(4) methods to prevent erosion and trap sediment are employed; and

(5) fill is established to accepted engineering standards.

b. A separate grading and filling permit is not required for grading, filling, or excavating the minimum area necessary for a building site, essential services, sewage disposal systems, and private road and parking areas undertaken pursuant to a validly issued building permit.

2. Vegetation Management

a. In Rural Open Space, Urban Developed and Urban Open Space Districts, the following standards shall apply:

(1) on developed islands, public recreation lands, the slope or face of bluffs within 200 feet of the normal high water mark of the river, and within the area 40 feet landward from blufflines, clear cutting shall not be permitted;

- (2) on all other lands within these districts, clear cutting shall be guided by the following provisions:
 - (a) clear cutting shall not be used where soil, slope, or other watershed conditions are fragile and subject to injury;
 - (b) clear cutting shall be conducted only where clear cut blocks, patches or strips are, in all cases, shaped and blended with the natural terrain;
 - (c) the size of clear cut blocks, patches, or strips shall be kept at the minimum necessary;
 - (d) where feasible all clear cuts shall be conducted between September 15 and May 15. If natural regeneration will not result in adequate vegetative cover, areas in which clear cutting is conducted shall be replanted to prevent erosion and to maintain the aesthetic quality of the area where feasible, replanting shall be performed in the same spring, or the following spring.
- (3) the selective cutting of trees greater than 4" in diameter may be permitted by local units of government when the cutting is appropriately spaced and staged so that a continuous natural cover is maintained.

b. In Urban Diversified District:

- (1) on the slope or face of bluffs and within areas 40 feet landward from established blufflines, clear cutting shall not be permitted;
- (2) the selective cutting of trees greater than 4" in diameter may be permitted by local units of government when the cutting is appropriately spaced and staged so that a continuous natural cover is maintained.

- c. These vegetative management standards shall not prevent the pruning and cutting of vegetation to the minimum amount necessary for the construction of bridges and roadways and for the safe installation, maintenance and operation of essential services and utility transmission services which are permitted uses.

F. DIMENSIONAL STANDARDS AND CRITERIA

1. Objectives

The objectives of Dimensional Standards and Criteria are: to maintain the aesthetic integrity and natural environment of certain districts, to reduce the effects of poorly planned shoreline and bluffline development, to provide sufficient setback for sanitary facilities, to prevent pollution of surface and ground water, to minimize flood damage, to prevent soil erosion, and to implement Metropolitan Plans, Guides and Standards.

2. Substandard Lot.

The local unit of government may approve any proposed new structure or changes to existing structure when the following findings are made:

- a. The lot was recorded in the Office of the County Register of Deeds (or Registrar of Titles) prior to the date of legal notice of the EQC public hearing, April 25, 1975.
- b. The lot was in separate ownership from all abutting land on April 25,
- c. The proposed use is consistent with the provisions of the Interim Development Regulations and local ordinance.
- d. It can be demonstrated that a proper and adequate sewage disposal system can be installed according to interim regulations, Health Department's and PCA's regulations.
- e. The lot size is within sixty (60) percent of the size required in the Interim Development Regulations.

3. Lot Size.

- a. In the Rural Open Space and Urban Developed Districts, the following minimum lot sizes shall be required:
 - (1) in unsewered areas, the minimum lot size shall be five acres per single family unit;
 - (2) in sewerred areas, the minimum lot size shall be consistent with the local zoning ordinance.
- b. In the Urban Open Space and Urban Diversified Districts, the minimum lot size shall be consistent with the local zoning ordinance.

4. Structure Setback.

- a. All required setbacks shall be applicable to each bluffline proceeding landward from the river.
- b. All new structures and roads shall meet the following minimum setbacks:
 - (1) in the Rural Open Space District, no structure or road shall be placed less than 200 feet from the normal highwater mark, and no less than 100 feet from blufflines;
 - (2) in the Urban Developed District, and Urban Open Space District, the structure or road shall be placed no less than 100 feet from the normal highwater mark of the river, and no less than 40 feet from blufflines;
 - (3) in the Urban Diversified District, the structure or road shall be placed no less than 40 feet from the bluffline.

c. Exceptions to setback provisions shall be:

- (1) public safety facilities, public bridges and their roadway approaches, railroad sidings, minor public and private roadways serving water-related uses on the riverfront;
- (2) public recreation facilities, scenic overlooks, public observation platforms, and the regional trail system, docks, boat launching facilities;
- (3) approved river crossings of essential service, and essential services distribution systems which are primarily underground except for terminal and metering devices not exceeding six feet in height, and supporting structures for transmission crossing spans;
- (4) the construction of above-ground pumping stations for sewer lines which shall be screened from view of the river;
- (5) the reconstruction or restoration of historical structures or sites on the inventory of the State Historical Society or the National Register of Historic Places.

5. Height of Structures.

a. In the Rural Open Space, Urban Developed and Urban Open Space Districts:

- (1) new structures and additions to existing structures shall be limited to a maximum of 35 feet;
- (2) the following exceptions to height limits shall be permitted:
 - (a) expansion of existing industrial complexes, such as refineries and storage areas;
 - (b) barns, silos and similar farm structures;
 - (c) essential service distribution systems;
 - (d) bridges, bridge approach roadways, and transmission services;
 - (e) restoration or reconstruction of historical structures and sites on the inventory of the State Historical Society or the National Register of Historical Places.

b. In the Urban Diversified District, there are no restrictions on the height of structures.

6. Placement of Structures.

a. The following standards shall apply in any district:

- (1) no new structures shall be placed on slopes which are 18 percent or greater;
- (2) structures may be permitted on slopes which are greater than 12 percent, but less than 18 percent, when the following conditions are met:

- (a) the developer can prove that the development on the slope can be accomplished without increasing erosion;
 - (b) the soil types and the geology are suitable for slope development;
 - (c) there is proper management of vegetation to control runoff.
- (3) when an approved floodplain ordinance exists, structure placement shall be governed by that ordinance. Where an approved floodplain ordinance does not exist, the elevation at which the lowest floor of a structure, including basement, may be placed shall be consistent with the Minnesota statewide standards and criteria for management of floodplain areas;
- (4) in Rural Open Space, Urban Developed and Urban Open Space Districts, no development shall be permitted on presently undeveloped islands except those developments specifically related to wildlife preservation and recreation open space uses, and bridge piers when other considerations dictate that bridge crossing alignment;
- (5) in Urban Diversified Districts, the development on islands related to recreation open space uses and historical preservation of sites and areas on the Inventory of the Minnesota State Historical Society and the National Register of Historic Places shall be permitted. New industry, commercial, residential and other uses shall be permitted on islands if they are consistent with local zoning ordinances and with the historical character.

7. Line of Sight

In Rural Open Space Districts, Urban Developed Districts, and Urban Open Space Districts, the development of new and expansion of existing industrial and commercial uses and development shall be permitted, if it cannot be seen from the normal highwater mark on the opposite side of the river. Water-related commercial and industrial uses shall not be subject to this requirement.

G. SANITARY STANDARDS AND CRITERIA

1. The following standards shall apply to all districts:

- a. All parts of on-site sewage disposal systems shall be located at least 75 feet from the normal highwater mark.
- b. No on-site sewage disposal system shall be placed within designated floodplains.

H. NON-CONFORMING USES AND STRUCTURES

- 1. Any structure or use existing upon the effective date of these Interim Development Regulations which does not conform to the use restrictions of a particular use district of the Interim Development Regulations shall automatically continue as a non-conforming use or structure.
- 2. Whenever a non-conforming building or structure has been damaged by fire, flood, explosion, earthquake, war, riot, or other disaster, it may be reconstructed to its prior use when the damage to the building or

structure is fifty percent (50%) or less of its fair market value. Where the damage is fifty percent (50%) or more, reconstruction shall not be permitted for any structure that does not meet the minimum required standards.

3. When any non-conforming use of a building or structure has been changed to a conforming use, it shall not be changed to a non-conforming use.
4. If a non-conforming use is discontinued for 6 consecutive months, any future use of the building or premises shall conform to the Interim Development Regulations.

I. ADMINISTRATION

1. Local units of government and regional and state agencies shall notify the Council of the following types of proposed development within the Mississippi River Corridor:
 - a. Development permit applications for the development of a new or major expansion of an industrial, commercial facility in the Rural Open Space, Urban Developed and Urban Open Space Districts.
 - b. All government developments.
 - c. Inside the 1975 Metropolitan Urban Service Area (MUSA), development permit applications for the development of:
 - (1) 50 or more dwelling units in a multi-family project;
 - (2) 25 or more lots in a mobile home court;
 - (3) 25 or more lots in a residential project.
 - d. Outside the MUSA, development permit applications for the development of:
 - (1) 25 or more dwelling units in a multi-family project;
 - (2) 10 or more lots in a mobile home court;
 - (3) 10 or more lots in a residential project;
 - (4) any residential developments in Rural Open Space Districts.
 - e. Any development on or involving the alteration of:
 - (1) a wetland;
 - (2) a floodplain;
 - (3) an island;
 - (4) a slope of greater than 12 percent;
 - (5) the removal of 5 contiguous acres or more of vegetative cover;
 - (6) the grading or filling of 20 contiguous acres of land;
 - (7) the deposit of dredge spoil;
 - (8) more than 50 linear feet of a riverbank.
 - f. Any development involving the establishment of a public or private structure, facility or other which crosses the river.
 - g. The development or expansion of any commercial harbor or barge loading or fleeting area.

- h. Any development which would result in the discharge of water into or withdrawal of water from the Mississippi River which would require a state permit.
- i. Any developments within the historical districts established by the State Legislature.
- j. Development for which Metropolitan Council review is requested by:
 - (1) the local unit of government with jurisdiction;
 - (2) resolution from two or more local units of government adjacent to the local units of government within which the proposed development is sited.
- k. Any development which requires a rezoning or compatible use permit.

2. Procedures for Reviewing Proposed Development

- a. Local units of government and regional and state agencies shall notify the Council in writing of any proposed development listed in Section I.1, at least 30 days before the local units of government and regional and state agencies take final action to approve or deny the development. In the event the Metropolitan Council elects to hold a hearing under Section I.2.e., no final action to approve or deny the proposed development may be taken until 15 days after the Council receives the Metropolitan Council recommendation.
- b. The Council shall send a copy of the proposed development to the Metropolitan Council for review no later than 2 days after the date of the Council's receipt of the application.
- c. The Metropolitan Council shall review the proposed development and transmit written recommendation with reasons for approving, modifying, or denying the proposed development to the Council no later than 18 days after the Metropolitan Council's receipt of the application, except when a public hearing is required by the Metropolitan Council, in which case, Section I.2.e(1) and (2) shall be followed.
- d. Other local units of government and regional and state agencies may transmit to the Council their written comments on the proposed development published in the EQC Monitor ~~within 15 days of date of the publication.~~ within 15 days of date of the publication.
- e. (1) When the Metropolitan Council decides to hold a public hearing on a proposed development application, the public hearing shall be conducted in accordance with the Metropolitan Council's statutory requirements, and notice of the hearing shall be filed with the Council and affected municipalities, counties, and applicants.
- (2) The Metropolitan Council shall submit its final recommendation on the proposed development to the Council within 30 days of closing date of the hearing record.

- f. The Council shall accept or modify the Metropolitan Council's recommendations and shall consider the comments of the local units of government and regional and state agencies and transmit the recommendation to the local unit of government and regional and state agencies no later than 10 days after the date of receipt of the Metropolitan Council's recommendation.
- g. The Council may extend the 30 days time for a particular proposed development if the Metropolitan Council, the developer, any local unit of government and regional and state agencies with jurisdiction agree to the extension.
- h. Failure of the Council to act on the notice of a proposed development within the prescribed period of time shall constitute acceptance by the Council of the final action on the proposed development by the local unit of government, regional or state agency.
- i. Within 30 days after the final action, local units of government and regional and state agencies shall notify the Council of the final action on all proposed development listed in Section II, or of emergency actions approved under the provisions of Section 15.
- j. When the Council has recommended to a local government unit, regional or state agency to modify or to deny a proposed development, and that recommendation is not followed, the proposed development shall not be approved for 30 days after the Council receives notice of final action. If the Council appeals the decision to district court, the appeal shall be made within 30 days of receipt notice of final action. When an appeal is made, the development shall not be approved until the appeal process is scheduled.

3. Dimension Variance

- a. Local units of government may grant a dimension variance from strict compliance with the setback, or height restrictions, or lot size or line of sight requirement contained in the Interim Development Regulations after an administrative hearing that shall be conducted according to the regulations of the local unit of government.
- b. A dimension variance may be granted only when the following findings are made:
 - (1) the strict enforcement of the setback or height restrictions, or lot size or line of sight will result in unnecessary hardship. "Hardship" as used in the consideration of a dimension variance means that the property in question cannot be put to a reasonable use under the dimension provisions of these Interim Development Regulations;
 - (2) there are exceptional circumstances unique to the property that were not created by a landowner after April 25, 1975;
 - (3) the dimension variance does not allow any use that is not a compatible use in the land use district in which the property is located;
 - (4) the dimension variance will not alter the essential character of the locality as established by these Interim Development Regulations;

- (5) the dimension variance would not be contrary to the intent of the Order.

4. Compatible Use Permit

a. Local units of government may grant a compatible use permit after an administrative hearing that shall be conducted according to the regulations of the local unit of government for conditional or special use permits.

b. A compatible use permit may be granted for a proposed development only when the following findings are made:

(1) it is consistent with the intent of the Order, and the adopted policies of the Metropolitan Council and the Environmental Policy Act; and

(2) it is compatible with uses in the immediate vicinity; and

(3) it is permitted by the ordinances of the local unit of government.

5. Emergency Actions.

In accordance with the Act, local units of government, regional and state agencies may grant a development permit when certified in writing by the local unit of government, regional and state agencies, or the County Zoning Administration with the existing authority that the development is essential to protect the public health, safety or welfare in an existing emergency and that a local ordinance or state regulation was in effect immediately prior to April 25, 1975 and a development permit would have been granted thereunder.

MRCCA SONAR

Exhibit B – Executive Order 79-19

EXECUTIVE ORDERS

Executive Order No. 79-19

Continuing the Designation of the Mississippi River Corridor as a Critical Area; Repealing Executive Orders No. 130, 130A, and 130B

I, Albert H. Quie, Governor of the State of Minnesota, by virtue of the authority vested in me by the Critical Area Act of 1973, Minn. Stat. ch. 116G, hereby issue this Executive Order:

Whereas, by Executive Order No. 130, dated October 18, 1976, Wendell R. Anderson, Governor of the State of Minnesota, pursuant to law designated the Mississippi River Corridor within the Twin Cities Metropolitan Area a critical area for a period no longer than three years; and,

Whereas, in Executive Order No. 130 it was established that the Mississippi River Corridor within the Twin Cities Metropolitan Area:

1. Met all the criteria outlined in MEQC 52(b) to be designated a critical area.
2. Satisfied certain characteristics outlined in MEQC 52(a) and Minnesota Statutes, Chapter 116G.
3. With unregulated development and uncoordinated planning would threaten the public interest.
4. With coordinated planning would achieve development as a multipurpose resource, resolve the conflicts of use of land and water, preserve and enhance its natural, aesthetic, cultural, and historical value for the public use, and protect its environmentally sensitive areas; and,

Whereas, by the enactment of Minn. Stat. § 4.035, Executive Order No. 130 expires on March 31, 1979; and,

Whereas, there is a need to continue the designation of the Mississippi River Corridor within the Twin Cities Metropolitan Area, a critical area under the terms and conditions of Executive Order No. 130;

Now, therefore, I order that:

1. The Mississippi River Corridor located within the Twin Cities Metropolitan Area continue to be designated a critical area.
2. The boundaries of the Mississippi River Corridor Critical Area are delineated in the legal description in the attached Appendices A and B that are incorporated into this Order.
3. The Standards and Guidelines to be followed by local units of government, regional agencies and state agencies in the preparation and adoption of plans and regulations for the Critical Area are attached and incorporated hereby into this Order.
4. The Interim Development Regulations to be followed in granting development permits during the Interim Period are attached and incorporated hereby into this Order.
5. The Department of Natural Resources shall prepare the Scenic and Recreational Plan for the

EXECUTIVE ORDERS

eight mile stretch of the river corridor in the Cities of Dayton and Ramsey. The Cities of Dayton and Ramsey shall prepare regulations for the implementation of the plan and both the regulations and the plan shall conform to the critical area standards and guidelines.

The DNR plan and the local regulations shall be submitted to the EQB for approval, and once approval is granted, the critical area designation order for the eight mile stretch of the river corridor shall lapse. At that time, the Department of Natural Resources shall assume management responsibilities under the authority of the State Wild and Scenic River Act.

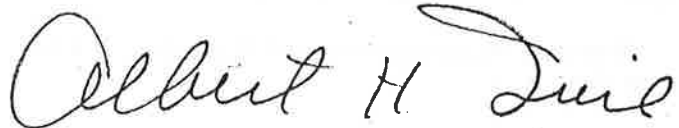
6. The State Planning Agency shall continue to determine and administer the amount of funds needed for the preparation and adoption of plans and regulations.

7. The designation order for the remainder of the critical area corridor shall be effective for no longer than three years from the date of the original order, pending final approval by the Legislature or the Metropolitan Council.

This Order repeals Executive Orders No. 130, 130A, and 130B.

Pursuant to Minn. Stat. § 4.035 (1978), this order shall be effective 15 days after its publication in the *State Register* and filing with the Secretary of State and shall remain in effect until it is rescinded by proper authority or it expires in accordance with Minn. Stat. § 4.035 (1978), or until October 18, 1979, whichever is earliest.

In testimony whereof, I hereunder set my hand this 26th day of February, 1979.



Appendix A

Legal Description of the River Corridor

Ramsey

Commencing at the point where the west boundary line of Anoka County intersects with the north boundary line of Hennepin County;

Thence north along said Anoka County west boundary line to the NW corner of the NW quarter of the SW quarter of Section 19 (T32N, R25W);

Thence east along the north side of the NW quarter of the SW quarter of Section 19 (T32N, R25W), to its intersection with the center line of U.S. Highway 10;

Thence along said center line in a southeasterly direction to the intersection with the north side of Section 30 (T32N, R25W);

Thence eastward along the north side of Section 30 to the NW corner of Section 29, (T32N, R25W);

Thence south along the west side of Section 29 to the SW corner of the NW quarter of said Section 29;

EXECUTIVE ORDERS

Thence east along the south side of the NW quarter of said Section 29 to the NW corner of the NE quarter of the SW quarter of said Section 29;

Thence south along the west side of the NE quarter of the SW quarter of said Section 29 to SW corner of the NE quarter of the SW quarter of said Section 29;

Thence east along the north line of the southeast quarter of the southwest quarter said Section 29; to the west boundary line of Section 28; (T32N, R25W);

Thence east along the northern boundary of Government Lot 1, Section 28, (T32N, R25W) to the NE corner of said lot;

Thence south to the SE corner of said Government Lot 1, Section 28, (T32N, R25W);

Thence east along the north side of Section 33 (T32N, R25W) to the NE corner of Government Lot 2 in said Section;

Thence south along the east side of Government Lot 2, Section 33 (T32N, R25W) to the SW corner of the northern half of the NE quarter of the NE quarter of Section 33;

Thence east to the west side of Section 34 (T32N, R25W);

Thence south to the SW corner of the NW quarter of the SW quarter of the NW quarter of Section 34 (T32N, R25W);

Thence east to the west side of Section 35 (T32N, R25W);

Thence south along the west side of Section 35 (T32N, R25W) to the NW corner of Government Lot 1, Section 35 (T32N, R25W);

Thence east to the NW corner of the SW quarter of the NE quarter of the SW quarter of Section 35 (T32N, R25W);

Thence south to the SW corner of the SW quarter of the NE quarter of the SW quarter of Section 35 (T32N, R25W);

Thence east along the south side of the NE quarter of the SW quarter of Section 35 (T32N, R25W) to its intersection with the west boundary of Anoka;

Thence northeasterly along the west boundary of Anoka to the intersection with the center line of U.S. Highway 10.

Anoka

Thence southeasterly along said center line to the intersection with the center line of Park Street in the City of

Anoka; south along the center line of Park Street to the intersection with the west side of Section 1 (T31N, R25W);

Thence south along said west side to the intersection with the center line of Benton Street;

Thence southeasterly along said center line to the intersection with the center line of State Avenue;

Thence south along the center line of State Avenue to the intersection with the center line of Rice Street;

Thence east along the center line of said street to the intersection with the center line of Ferry Street;

Thence easterly along a line from said intersection to the intersection of the center lines of Madison Street and River Avenue;

Thence east from said point along the center line of Madison Street to the intersection with the center line of 1st Avenue;

Thence south along 1st Avenue to the intersection with the center line of Jefferson Street;

Thence east along the center line of said street to the intersection with the center line of 2nd Avenue;

Thence south along said center line to the intersection with the center line of Adams Street;

Thence east along said center line to the intersection with the center line of 3rd Avenue;

Thence south along said center line to the intersection with the center line of Oakwood Drive;

Thence easterly along said center line to the intersection with the center line of Kings Lane;

Thence southwesterly along said center line to the intersection with the center line of Birch Street;

Thence southeasterly along said center line to the intersection with the center line of Queens Avenue;

Thence south along said center line to the intersection with the center line of Pine Street;

Thence southeasterly along said center line to the intersection with the center line of 9th Avenue;

Coon Rapids

Thence from this point, a straight line to the intersection of the center line of 115th Avenue with the west side of Section 17 (T31N, R24W);

EXECUTIVE ORDERS

From this point, east along a line to the intersection of the east side of the NW quarter of said Section 17 with the center line of Coon Rapids Boulevard;

From said point southeasterly along the center line of Coon Rapids Boulevard to the intersection with the center line of Mississippi Boulevard;

Thence southerly along said center line to the intersection with the center line of Hansen Boulevard;

Thence south along said center line to the intersection with the center line of 99th Avenue NW;

Thence east along said center line to the SW corner of the NW quarter of the NW quarter of Section 26 (T31N, R24W);

Thence east along the south side of the north half of the NW quarter of said Section 26;

Thence continuing east along the south side of the NW quarter of the NE quarter of said Section 26 to the intersection with the center line of East River Boulevard. (Anoka County Highway 1);

Thence south along said center line to the intersection with the west side of the east half of the SE quarter of said Section 26;

Thence south along said line to the SW corner of the SE quarter of the SE quarter of said Section 26;

Thence continuing south along the west side of the east half of the NE quarter of Section 35 (T31N, R24W);

Thence continuing south along the west side of the NE quarter of the SE quarter of said Section 35 to the SW corner of the NE quarter of the SE quarter of said Section 35;

From this point, southeasterly along a diagonal to the NW corner of Section 3 (T30N, R24W);

From said corner, east along the north side of said Section 3 to the intersection with the center line of Anoka County Trunk Highway 1;

Fridley Minneapolis

Thence south along the center line of said highway to the Anoka-Hennepin County common boundary line;

Thence continuing south along the center line of now Hennepin County Trunk Highway 23 to the center line of 30th Avenue NE;

Thence east along said center line to the intersection with the center line of Randolph Street;

Thence south along said center line to the intersection with the center line of 26th Avenue NE;

Thence east along said center line to the intersection with the center line of Grand Street;

Thence south along said center line to the intersection with the center line of 13th Avenue NE;

Thence southwesterly along said center line to the intersection with the center line of Ramsey Street;

Thence southeasterly along said center line to the intersection with the center line of 7th Avenue NE;

Thence northeasterly along said center line to the intersection with the center line of Main Street;

Thence southeasterly along said center line to the intersection with the center line of 5th Avenue NE;

Thence northeasterly along said center line to the intersection with the center line of University Avenue;

Thence southeasterly along said center line to the intersection with the center line of Oak Street;

Thence south along said center line to the intersection with the center line of Fulton Street;

Thence east along said center line to the intersection with the center line of Huron Street;

Thence southerly along said center line to the intersection with the center line of Interstate 94;

Thence southeasterly along said center line to the intersection with the Minneapolis-St. Paul common boundary line;

St. Paul

Thence south along said line to the intersection with the center line of Otis Avenue;

Thence southeasterly along Otis Avenue to the intersection with the center line of Exeter Place;

Thence south along said center line to the intersection with the center line of Mississippi River Boulevard;

Thence east along said center line to the intersection with the center line of Cretin Avenue;

EXECUTIVE ORDERS

Thence south along said center line to the intersection with the center line of Goodrich Avenue;

Thence west along said center line to the intersection with the center line of Woodlawn Avenue;

Thence south along said center line to the intersection with the center lines of Randolph Avenue, Woodlawn Avenue and Mount Curve Boulevard;

Thence south along the center line of Mount Curve Boulevard to the intersection with the center line of Ford Parkway;

From this point southeasterly along a diagonal to the intersection of the center lines of Hampshire Avenue and Finn Street;

Thence south along the center line of Finn Street to the intersection with the center line of Magoffin Avenue;

Thence east along said center line to the intersection with the center line of Cleveland Avenue;

Thence south along said center line to the intersection with the center line of Norfolk Avenue;

Thence southeasterly and easterly along said center line to the intersection of the center line of Stewart Avenue;

Thence northeasterly along said center line to the intersection with the center line of Alton Street;

Thence southeasterly along said center line to the intersection with the center line of Youngman Avenue;

Thence northeasterly along said center line to the intersection with the center line of Rankin Street;

Thence northwesterly along said center line to the intersection with the center line of Stewart Avenue;

Thence northeasterly along said center line to the intersection with the center line of Homer Avenue;

Thence northwesterly along said center line to the intersection with the south boundary line of the right-of-way of the Chicago, Milwaukee, St. Paul and Pacific Railroad;

Thence northeasterly along said boundary to the intersection with the center line of Watson Avenue;

Thence east along said center line to the intersection with the center line of Drake Street;

From this point, northeasterly along a diagonal to the intersection of the center lines of Randolph Avenue and Erie Street;

Thence north along the center line of Erie Street to the intersection with the center line of Jefferson Avenue;

Thence east along said center line to the intersection with the center line of Colburne Avenue;

From this point, northeasterly along a diagonal to the intersection of the center lines of St. Clair Avenue and Western Avenue;

Thence east along the center line of St. Clair Avenue to the intersection with the center line of Ann Street;

Thence north along said center line to the intersection with the center line of Superior Street;

Thence east along said center line to the intersection with center line of Dousman Street;

Thence north along said center line to the intersection with the center line of Banfil Avenue;

Thence east along said center line to the intersection with the center line of Smith Street;

Thence north along said center line to the intersection with the center line of Goodrich Avenue;

Thence east along said center line to the intersection with the center line of Leech Street;

Thence north along said center line to the intersection with the center line of McBoal Street;

Thence east along said center line to the intersection with the center line of Wilkin Street;

Thence north along said center line to the intersection with the center line of Exchange Street;

Thence northeasterly along said center line to the intersection with the center line of Kellogg Boulevard;

Thence easterly and northeasterly along said center line to the intersection with the center line of Interstate 94;

Thence southeasterly along said center line to the intersection with the center line of Maria Avenue;

Thence southeasterly along said center line to the intersection with the south side of Section 33 (T20N, R22W);

Thence east along said line to the intersection with the center line of Burns Avenue;

Thence east along said center line to the intersection with the center line of Upper Afton Road;

EXECUTIVE ORDERS

Thence southeasterly along said center line to the intersection with the center line of Hazel Avenue;

Thence south along said center line to the intersection with the north side of Section 11 (T28N, R22W);

Thence east along said side to the NE corner of the NW quarter of said Section 11;

Thence south along the east side of the NW quarter of said Section 11 to the SE corner of the NW quarter of said Section 11;

Thence east along the north side of the SE quarter of said Section 11 to the NW corner of the east half of the SE quarter of said Section 11;

Thence south along the west side of the east half of the SE quarter of said Section 11 to the south line of said Section 11;

Thence east along the south side of said Section 11 to the intersection with the center line of McKnight Road;

Thence south along said center line to the intersection with the center line of Carver Avenue;

Maplewood

Thence east along said center line to the intersection with the west side of the east half of the NW quarter of Section 24, (T28N, R22W);

Thence south along said side continuing along the west side of the east half of the SW quarter of said Section 24, to the intersection with the center line of Interstate 494;

Thence southwesterly along said center line to the intersection with the center line of 1st Avenue in Newport;

Newport

Thence south along said center line to the intersection with the center line of 17th Street;

Thence east along said center line to the intersection with the center line of 3rd Avenue;

Thence south along said center line to the intersection with the center line of 12th Street West;

Thence east along said center line to the intersection with the center line of 4th Avenue;

Thence south along said center line to the intersection with the south side of the north half of Section 1 (T27N, R22W);

St. Paul Park

Thence east along said side to the center line of Third Street, City of St. Paul Park;

Thence south along said center line to the intersection of 6th Avenue (commonly known as Broadway);

Thence west along said center line to the intersection of the center line of Main Street;

Thence south along said center line to the intersection of the center line of Pullman Avenue;

Thence east along said center line to the intersection with the center line of 3rd Street;

Thence south along said center line to the South city limits of St. Paul Park;

Grey Cloud

Thence south along said center line to the intersection with the center line of Grey Cloud Trail;

Thence southeasterly along said center line to the intersection with the south side of Section 19 (T27N, R21W);

Cottage Grove

Thence east along said side to the SE corner of said Section 19;

Thence south along the west side of Section 29 (T27N, R21W) to the intersection with the NW corner of the SW quarter of the NW quarter of said Section 29;

Thence east along the north side of the SW quarter of the NW quarter of said Section 29 to the NE corner of the SW quarter of the NW quarter of said Section 29;

Thence south along the east side of the SW quarter of the NW quarter and along the east side of the NW quarter of the SW quarter of said Section 29 to the NW corner of the SE quarter of the SW quarter of said Section 29;

Thence east along the north side of the SE quarter of the SW quarter of said Section 29 to the NE corner of the SE quarter of the SW quarter of said Section 29;

Thence south along the east side of the SW quarter of said Section 29 to the south side of said Section 29;

Thence east along the south side of Sections 29 and 28 to the southwestern corner of Section 27;

EXECUTIVE ORDERS

Thence north along the west side of said Section 27 to the NW corner of the SW quarter of said Section 27;

Thence east along the north side of the south half of said Section 27 to the east side of said Section 27;

Thence south along the east side of said Section 27 to the SE corner of said Section;

Thence east along the south side of Section 26 (T27N, R21W), to the intersection with the center line of U.S. Highway 61;

Denmark

Thence southeasterly along said center line to the intersection with the center line of U.S. Highway 10;

Thence easterly along said center line to the intersection with the south side of Section 6 (T26N, R20W);

Thence east to the SE corner of said Section 6;

Thence southeasterly along a diagonal to the SE corner of the north half of the NW quarter of Section 8 (T26N, R20W);

Thence east along the south side of the north half of the NE quarter of said Section 8 to the east side of said Section 8;

Thence south along the east side of Section 8 to the intersection with the northeasterly boundary of Dakota county;

Ravenna

Thence southeasterly along the Dakota County boundary to the intersection with the Dakota County-Goodhue County common boundary;

Thence south along said boundary to the intersection with the south side of Section 21 (T114N, R16W);

Thence west along the south side of said Section to the SW corner of said Section;

Thence north along the west side of said Section to the NW corner of said Section;

Thence north along the west side of Section 16 (T114N, R16W) to the intersection with the center line of Dakota CSAH 54;

Thence northwesterly along said center line to the intersection with the south side of Section 31 (T115N, R16W);

Thence west along said line to the SW corner of said Section 31;

Thence north along the east side of Section 36 (T115N, R17W) to the NE corner of the SE quarter of the SE quarter of said Section 36;

Thence west along the south side of the NE quarter of the SE quarter of said Section 36 to the SW corner of the NE quarter of the SE quarter of said Section 36;

Thence north along the west side of the east half of the SE quarter of said Section 36 to the NW corner of the NE quarter of the SE quarter of said Section 36;

Thence west along the north side of the south half of said Section 36 and Section 35 (T115N, R16W) to the west side of said Section 35;

Hastings

Thence north along the west side of said Section 35 and Section 26 (T115N, R16W) to the intersection with the center line of 3rd Street;

Thence west along said center line to the intersection with the center line of Washington Street;

Thence west along said center line to the intersection with the center line of Dakota County Road 42;

Nininger

Thence northwesterly along said center line to the intersection with the center line of Dakota County Highway 87;

Thence northwesterly along said center line to the intersection with the center line of 125th Street east;

Thence west along said center line to the intersection with the center line of Isadore Avenue;

Thence south along said center line to the intersection with the center line of 127th Street east;

Thence west along said center line to the intersection with the center line of Idell Avenue;

Thence south along said center line to the intersection with the center line of Dakota County Road 42;

Thence southwesterly along said center line to the intersection with the center line of Minnesota Highway 55;

Rosemount

Inver Grove Heights

Thence west and then north along said center line to the intersection with the center line of Dakota County Road 77;

EXECUTIVE ORDERS

Thence north along said center line to the intersection with the center line of Minnesota State Highway 56;

Thence north along said center line to the intersection with the center line of 70th Street east;

Thence west along said center line to the intersection with the center line of Delany Avenue east;

Thence north along said center line to the intersection with the center line of 69th Street east;

Thence west along said center line to the east side of Section 3 (T27N, R18W);

Thence north along said side to the NE corner of said Section 3;

Thence west along the north side of said Section 3 to the intersection with the center line of Henry Avenue;

South St. Paul

Thence north along said center line to the intersection with the center line of Chestnut Street;

Thence east along said center line to a point directly in line with the southerly extension of Eldridge Avenue;

From this point, northwesterly along a diagonal to the intersection of the center lines of Spruce Street and Eldridge Avenue;

Thence north along the center line of Eldridge Avenue to the intersection with the center line of Dale Street;

Thence west along said center line to the intersection with the center line of Syndicate Avenue;

Thence north along said center line to the intersection with the center line of Warburton Street;

From this point, northwesterly, along a diagonal to the intersection of the center lines of 8th Street South and 1st Avenue South;

Thence north along the center line of 1st Avenue South to the intersection with the center line of Southview Boulevard;

Thence west along said center line to the intersection with the center line of 2nd Avenue South;

Thence north along said center line to the intersection with the center line of Marie Avenue;

Thence west along said center line to the intersection with the center line of 3rd Avenue North;

Thence north along said center line to the intersection with the center line of 2nd Street North;

Thence west along said center line to the intersection with the center line of 4th Avenue North;

Thence north along said center line to the intersection with the center line of 3rd Street North and Grand Avenue;

Thence north along the center line of Grand Avenue to the intersection with the center line of 5th Avenue North;

From this point northwesterly along a diagonal to the intersection of the center lines of Turin and Stewart Avenues;

Thence north along the center line of Stewart Avenue to the intersection of the center lines of 8th Avenue North and Thompson Avenue;

From this point northwesterly along a diagonal to the intersection of the center lines of Highland Avenue and 10th Avenue North;

From this point, northwesterly along a diagonal to the intersection of the center lines of Bryant and Summit Avenues;

Thence north along the center line of Summit Avenue to the intersection with the center line of Orme Avenue;

From this point northwesterly along a diagonal to the intersection of the center lines of Butler and Stickney Avenues;

From this point northwesterly along a diagonal to the intersection of the center lines of Stanley and Evans Avenues;

Thence north along the center line of Evans Avenue to the intersection of the center lines of Stickney Avenue and Lewis Street;

Thence north along the center line of Stickney Avenue to the intersection with the St. Paul-South St. Paul common boundary;

St. Paul

Thence west along said boundary to the intersection with the center line of new State Highway 56;

Thence north along said center line to the intersection with the center line of East Page Street;

EXECUTIVE ORDERS

Thence west along said center line to the intersection with the center line of Woodbury Street;

Thence north along said center line to the intersection with the center line of Prescott Street;

Thence west along said center line to the intersection with the center line of Oakdale Avenue;

Thence north along said center line to the intersection with the center line of East King Street;

Thence west along said center line to the intersection with the center line of Robert Street;

Thence north along said center line to the intersection with the center line of George Street;

Thence west along said center line to the intersection with the center line of Humboldt Avenue;

Thence north along said center line to the intersection with the center line of Winifred Street;

Thence west along said center line to the intersection with the center line of Hall Street;

Thence north along said center line to the intersection with the center line of Delos Street;

Thence west along said center line to the intersection with the center line of Bidwell Street;

Thence south along said center line to the intersection with the center line of W. Congress Street;

Thence west along said center line to the intersection with the center line of Ohio Street;

Thence south along said center line to the intersection with the center line of Robie Street;

Thence west along said center line to the intersection with the center line of Manomin Avenue;

Thence south along said center line to the intersection with the center line of West George Street;

Thence west along said center line to the intersection with the center line of Smith Avenue;

Thence south along said center line to the intersection with the center line of West Stevens Street;

Thence west along said center line to the intersection with the center line of Ottawa Avenue;

Thence south along said center line to the intersection with the center line of Morton Street;

Thence west along said center line to the intersection with the center line of Delaware Avenue;

Thence south along said center line to the intersection with the center line of State Highway 13;

Mendota Heights

Thence west and southwesterly along said center line to the intersection with the center line of Sylvandale Road;

Thence south along said center line to the intersection with the center line of Woodridge Drive;

Thence southwesterly along said center line to the intersection with the center line of Cascade Lane;

Thence south along said center line to the intersection with the center line of Arcadia Drive;

From this point southwesterly along a diagonal to the northwest corner of Section 24 (T28N, R22W);

Thence west along the north side of Section 23 (T28N, R22W), to the intersection with the center line of the Northern States Power Company utility easement;

Thence south along said center line to the intersection with the south side of the north half of the NE quarter of said Section 23;

From this point, southwesterly along a diagonal to the intersection of the center lines of Victoria Road and Caren Road;

Thence westerly along the center line of Caren Road to the intersection with the center line of James Road;

Thence southwesterly along said center line to the intersection with the center line of Douglas Road;

Thence westerly along said center line to the intersection with the center line of James Road;

Thence westerly along said center line to the intersection with the center line of Lexington Avenue;

Thence south along said center line to the intersection with the center line of Orchard Place;

Thence westerly along said center line to the intersection with the center line of Hunter Lane;

EXECUTIVE ORDERS

Thence south along said center line to the intersection with the center line of State Highway 110;

Thence west along said center line to the intersection with the center line of Minnesota Highway 13;

Thence southerly along said center line to the intersection with the center line of Interstate 494;

Thence westerly along said center line to the intersection with the center line of State Highway 5;

Thence northeasterly along said center line to the intersection with the boundary line of the Fort Snelling State Park;

Thence northerly along said boundary line to the intersection with the center line of State Highway 55;

Minneapolis

Thence northwesterly along said center line to the intersection with the center line of 47th Avenue South;

Thence north along said center line to the intersection with the center line of Minnehaha Avenue;

Thence northwesterly along said center line to the intersection with the center line of Nawadaha Boulevard;

Thence easterly along said center line to the intersection with the center line of 46th Avenue South;

Thence north along said center line to the intersection with the center line of E. 46th Street;

Thence east along said center line to the intersection with the center line of 47th Avenue South;

Thence north along the center line of 47th Avenue South to the intersection with the center line of East 44th Street;

From this point north along a straight line to the intersection of the center lines of Dowling Street and 47th Avenue South;

Thence north along the center line of 47th Avenue South to the intersection with the center line of East 32½ Street;

Thence west along said center line to the intersection with the center line of 46th Avenue South;

Thence north along said center line to the intersection with the center line of East 35th Street;

Thence east along said center line to the intersection with the center line of 47th Avenue South;

Thence north along said center line to the intersection with the center line of East Lake Street;

Thence west along said center line to the intersection with the center line of 46th Avenue South;

Thence north along said center line to the intersection with the center line of Dorman Avenue;

Thence northwesterly along said center line to the intersection with the center line of 40th Avenue South;

Thence in a straight line northwest to the intersection of the center lines of Minneapolis Avenue and 34th Avenue South;

Thence northwest along the center line of Minneapolis Avenue to the intersection with the center line of 31st Avenue South;

Thence north along said center line to the intersection with the center line of Franklin Avenue;

Thence west along said center line to the intersection with the center line of Riverside Avenue;

Thence northwest along said center line to the intersection with the center line of 19th Avenue South;

Thence north along said center line to the intersection with the center line of 2nd Street South;

Thence northwest along the center line of 2nd Street South to the intersection of the center lines of 2nd Street South and Hennepin Avenue;

Thence north-northwest along the center line of 2nd Street North to the intersection with the center line of Mississippi Drive;

Thence north-northeast along said center line to the intersection with the center line of Lyndale Avenue North;

Thence north along said center line to the intersection with the center line of Interstate 94;

Thence north along said center line to the intersection with the center line of 52nd Avenue North;

Thence west along said center line to the intersection with the center line of 4th Street North;

Thence northwesterly along said center line to the intersection with the center line of 55th Avenue North;

Brooklyn Center

Thence westerly along said center line to the intersection with the center line of Camden Avenue North;

EXECUTIVE ORDERS

Thence north along said center line to the intersection with the center line of 62nd Avenue North;

Thence in a straight line northeasterly to the intersection of the center lines of State Highway 169 and Interstate 94;

Brooklyn Park

Thence north along the center line of State Highway 169 to the intersection with the center line of 89th Avenue North;

Thence west along said center line to the west side of Section 13 (T_e1N, R24W);

Thence north along said side of said Section 13 to the NW corner of said Section 13;

From this point west along the south side of Section 11 (T31N, R24W) to the SW corner of the SE quarter of the SE quarter of said Section 11;

Thence north to the NW corner of the SE quarter of the SE quarter of said Section 11;

Thence in a straight line northwest to the intersection of the center lines of Logan Avenue North and 95th Avenue North;

Thence northeast along the center line of Logan Avenue North to the intersection with the center line of 96th Avenue North;

Thence northwest along said center line to the intersection with the center line of Newton Avenue North;

Thence north along said center line to the intersection with the center line of 97th Avenue North;

Thence west along said center line to the SE corner of the NW quarter of said Section 11;

Thence north along the east side of the NW quarter of said Section 11 to the intersection with the center line of State Highway 169;

Thence northwest along said center line to the north side of the south half of the SW quarter of Section 2 (T31N, R24W);

Thence west along the said side to the west side of said Section 2;

Thence north-northwest in a straight line to the intersection of the center lines of Riverside Place and Sunset Road;

Thence northwest along the center line of Riverside Place

to the intersection with the center line of France Avenue North;

Thence north-northeast along said center line to the intersection with the center line of U.S. Highway 169;

Champlin

Thence northwest along said center line to the intersection with the center line of Hayden Lake Road;

Thence west along said center line to the intersection with the center line of U.S. Highway 52;

Thence north along said center line to the intersection with the center line of U.S. Highway 169;

Thence northwest along said center line to the intersection with the center line of Hennepin County Road 12;

Thence northwest along said center line to the intersection with the east side of Section 14 (T120N, R22W);

Dayton

Thence north along said side of Section 14 to the SE corner of the NE quarter of the NE quarter of Section 14 (T120N, R22W);

Thence west along the south side of the NE quarter of the NE quarter of Section 14 to the SW corner of the NE quarter of the NE quarter of Section 14 (T120N, R22W);

Thence north along the west side of the NE quarter of the NE quarter of Section 14 to the south side of Section 11 (T120N, R22W);

Thence west along the south side of Section 11 (T120N, R22W) to the SW corner of the SE quarter of said Section;

Thence north along the west side of the SE quarter of Section 11 to the NW corner of the SW quarter of the SE quarter of Section 11 (T120N, R22W);

Thence west along the north side of the south quarter of Section 11 to the intersection with the east side of Section 10 (T120, R22W);

Thence south along the west side of Section 11 to the SW corner of the N one-half of the NW quarter of the SW quarter of the SW quarter of Section 11 (T120N, R22W);

Thence west across Government Lot 6 to the east boundary of Government Lot 5, Section 10 (T120N, R22W);

Thence south along the east boundary of Government Lot

EXECUTIVE ORDERS

5 to the NE corner of the south 20 acres of Government Lot 5, (T120N, R22W);

Thence west to the SW corner of the NE quarter of the SE quarter of the SW quarter of Section 10 (T120N, R22W);

Thence north to the south side of Government Lot 4, Section 10 (T120N, R22W);

Thence west to the SW corner of Government Lot 4, Section 10 (T120N, R22W);

Thence north along the west side of Government Lot 4 to the NW corner of Government Lot 4, Section 10 (T120N, R22W);

Thence west to the east side of Section 9 (T120N, R22W);

Thence north along the east side of Section 9 to the SE corner of Government Lot 1, Section 9 (T120N, R22W);

Thence west along the south side of Government Lot 1 to the SW corner of Government Lot 1 within Section 9 (T120N, R22W);

Thence north along the west side of Government Lot 1 in Section 9 to the north side of Section 9 (T120N, R22W);

Thence west along the north side of Section 9 to the NE corner of the NE quarter of the NW quarter of Section 9 (T120N, R22W);

Thence south along the east side of the NE quarter of the NW quarter to the SE corner of the NE quarter of the NW quarter of Section 9 (T120N, R22W);

Thence west along the south side of the north quarter of Section 9 to the SW corner of the NW quarter of the NW quarter of Section 9 (T120N, R22W);

Thence north along the east side of Section 8 (T120N, R22W) to the SE corner of the northern half of the NE quarter of the NE quarter of Section 8 (T120N, R22W);

Thence west along the south side of the northern half of the NE quarter of the NE quarter in Section 8 to the SW corner of the northern half of the NE quarter of the NE quarter of Section 8 (T120N, R22W);

Thence north along the west side of the northern half of the NE quarter of the NE quarter of Section 8 (T120N, R22W) to the south side of Section 5 (T120N, R22W);

Thence west to the SW corner of Government Lot 4 in Section 5;

Thence north along the west side of Government Lot 4 to the SE corner of Government Lot 3, Section 5 (T120N, R22W);

Thence west along the north side of the south quarter of Section 5 to the SW corner of the NW quarter of the SW quarter of Section 5;

Thence north to the SW corner of Government Lot 2, Section 5;

Thence west to the SW corner of Government Lot 3, Section 6 (T120N, R22W);

Thence north along the western boundary of Government Lot 3 in Section 6 (T120N, R22W) to its intersection with the center line of Hennepin County Road 12;

Thence in a northwesterly direction along said center line traversing Government Lot 2 in Section 6 and continuing through Section 31 (T120N, R22W) to the intersection with the Hennepin-Wright County common boundary line at the mouth of the Crow River.

Thence northerly along said line to the Hennepin County-Sherburne County common boundary line;

Thence easterly along said line to the point where the west boundary line of Anoka County intersects with the north boundary line of Hennepin County.

Appendix B

Mississippi River Corridor Districts

1. Rural open space districts

a. On the east side of the river:

(1) From the Anoka County-Sherburne County common boundary to the west side of Section 35 (T32N, R25W) in Ramsey.

(2) From the St. Paul Park-Grey Cloud Township common boundary to the east side of Section 8 (T26N, R20W) in Denmark Township.

b. On the west side of the river:

(1) From the Dakota County-Goodhue County common boundary to the west sides of Sections 23, 26, and 35 (T115N, R17W) in Hastings.

(2) From the Hastings-Nininger common boundary to the west side of Section 21 (T115N, R18W) in Rosemount.

EXECUTIVE ORDERS

(3) From the south side of the north half of Section 34 (T27N, R22W) to the north side of Section 14 (T27N, R22N) in Inver Grove Heights.

2. Urban developed districts

a. On the east side of the river:

(1) From the west side of Section 35 (T32N, R25W) in Ramsey to the center line of Interstate 694 in Fridley.

(2) From the south side of Section 26 (T28N, R22W) in Newport to the south side of the north half of Section 1 (T27N, R22W) which is the Newport and St. Paul Park common boundary.

(3) From the center line of Eight Avenue in St. Paul Park to the St. Paul Park-Grey Cloud Township common boundary.

b. On the west side of the river:

(1) From the north side of Section 14 (T27N, R22W) in Inver Grove Heights to the South St. Paul-Inver Grove Heights common boundary.

(2) From the eastern extension of the center line of 48th Avenue North in Minneapolis to the eastern extension of the center line of Hennepin County Highway 49.

3. Urban open space districts

a. On the east side of the river:

(1) From the center line of Franklin Avenue in Minneapolis to the north side of Section 14 (T28N, R23W) (Otto Avenue) in St. Paul.

*(2) From the west sides of Sections 3 and 10 (T28N, R22W) and the east boundary of the Chicago and Northwestern Railroad right-of-way in St. Paul to the western and northern boundaries of the Red Rock Industrial District, the western boundary of the Chicago, Milwaukee, St. Paul and Pacific Railroad right-of-way, and the south side of Section 14 (T28N, R22W) in St. Paul.

b. On the west side of the river:

(1) From the north side of Section 7 (T28N, R22W) and the center line of Ohio Street in St. Paul to the center line of Interstate 494 in Mendota Heights on the Minnesota River.

*With the exception of that area needed for the future approved expansion of the Metropolitan Waste Water Treatment Plant at Pig's Eye.

(2) From the center line of Interstate 494 in Bloomington on the Minnesota River to the center line of Franklin Avenue in Minneapolis.

4. Urban Diversified districts

a. On the east side of the river:

(1) From the center line of Interstate 694 in Fridley to the center line of Franklin Avenue in Minneapolis.

(2) From the north side of Section 14 (T28N, R23W) (Otto Avenue) in St. Paul to the west sides of Sections 3 and 10 (T28N, R22W) and the east boundary of the Chicago and Northwestern Railroad right-of-way in St. Paul and including Twin City Barge and Towing Co's. turning basin, about 11.5 acres at the Northwest corner of Red Rock Industrial Park.

(3) From the western and northern boundaries of the Red Rock Industrial District, the western boundary of the Chicago, Milwaukee, St. Paul and Pacific Railroad right-of-way, and the south side of Section 14 (T28N, R22W) in St. Paul, to the south side of Section 26 (T28N, R22W) in Newport.

(4) From the south side of the north half of Section 1 (T27N, R22W) which is the Newport and St. Paul Park common boundary, to the center line of Eight Avenue in St. Paul Park.

b. On the west side of the river:

(1) From the west sides of Sections 23, 26, and 35 (T115N, R17W) in Hastings to the Hastings-Nininger common boundary.

(2) From the west side of Section 21 (T115N, R18W) in Rosemount to the south side of the north half of Section 34 (T27N, R22W) in Inver Grove Heights.

(3) From the South St. Paul-Inver Grove Heights common boundary to the north side of Section 7 (T28N, R22W) and the center line of Ohio Street in St. Paul.

(4) From the center line of Franklin Avenue in Minneapolis to a line collinear with the center line of 48th Avenue North in Minneapolis.

Standards and Guidelines for Preparing Plans and Regulations

A. Purpose and responsibility

1. Purposes. The purposes of the critical area designation and the following standards and guidelines are:

EXECUTIVE ORDERS

a. To protect and preserve a unique and valuable state and regional resource for the benefit of the health, safety and welfare of the citizens for the state, region, and nation;

b. To prevent and mitigate irreversible damage to this state, regional, and national resource;

c. To preserve and enhance its natural, aesthetic, cultural, and historical value for the public use;

d. To protect and preserve the river as an essential element in the national, state and regional transportation, sewer and water and recreational systems; and

e. To protect and preserve the biological and ecological functions of the corridor.

2. Responsibility. The standards and guidelines provided herein shall be:

a. Followed by the local units of government when preparing or updating plans, and/or modifying regulations;

b. Followed by state agencies, and regional agencies for permit regulation and in developing plans within their jurisdiction;

c. Followed by the Metropolitan Council for reviewing plans, regulations, and development permit applications;

d. Followed by the Council for approving plans, regulations, and development permit applications.

B. General guidelines for preparing plans and regulations

1. The Mississippi River Corridor shall be managed as a multiple-purpose resource by:

a. Maintaining the river channel for transportation and providing and maintaining barging and fleeting areas in appropriate locations consistent with the character of the river and the riverfront.

b. Conserving the scenic, environmental, recreational, mineral, economic, cultural, and historic resources and functions of the river corridor.

c. Providing for the continuation and the development of a variety of urban uses, including industrial and commercial uses, and residential, where appropriate, within the river corridor.

d. Utilizing certain reaches of the river as a source of water supply and as a receiving stream for properly treated sewage and industrial waste effluents.

2. In order to manage the river corridor consistent with its natural characteristics and its existing development, the following guidelines are established for each corridor district:

a. Rural open space district. The lands and waters within this district shall be used and developed to preserve their open, scenic and natural characteristics and ecological and economic functions. Presently undeveloped islands shall be maintained in their existing natural state. The transportation function of the river shall be maintained and preserved.

b. Urban diversified district. The lands and waters within this district shall be used and developed to maintain the present diversity of commercial, industrial, residential, and public uses of the lands, including the existing transportation use of the river; to protect historical sites and areas, natural scenic and environmental resources; and to expand public access to and enjoyment of the river. New commercial, industrial, residential, and other uses may be permitted if they are compatible with these goals.

c. Urban developed district. The lands and waters within this district shall be maintained largely as residential areas. The expansion of existing and development of new industrial, commercial, and other non-residential or non-recreational uses shall be limited to preserve and enhance the residential character of this district.

d. Urban open space district. The lands and waters within this district shall be managed to conserve and protect the existing and potential recreational, scenic, natural, and historic resources and uses within this district for the use and enjoyment of the surrounding region. Open space shall be provided in the open river valley lands for public use and the protection of unique natural and scenic resources. The existing transportation role of the river in this district shall be protected.

3. The Mississippi River Corridor shall be managed in accordance with the Metropolitan Council's development guide chapter, Critical Areas Act of 1973, and the Minnesota Environmental Policy Act of 1973, and other applicable state laws, and federal laws.

C. Specific standards and guidelines for preparing plans and regulations

1. Each local unit of government within the river corridor shall prepare plans and regulations to protect environmentally sensitive areas in accordance with the following guidelines.

a. Each local unit of government shall, with the assistance of the Metropolitan Council and state agencies:

(1) Identify and prepare an inventory of:

(a) floodplains,

EXECUTIVE ORDERS

- (b) wetlands,
 - (c) slopes from 12% to 18% and over 18%,
 - (d) soils not suitable for urban development on-site waste disposal,
 - (e) significant vegetative stands, and
 - (f) natural drainage routes.
- (2) Prepare a floodplain ordinance if it does not have a floodplain ordinance in effect;
- (3) Prepare plans and regulations to protect wetlands;
- (4) Prepare plans and regulations to protect bluffs greater than 18% and to provide conditions for the development of bluffs between 18% and 12% slopes;
- (5) Prepare plans and regulations to minimize direct overland runoff and improve the quality of runoff onto adjoining streets and watercourses;
- (6) Prepare plans and regulations to minimize site alteration and for beach and riverbank erosion control;
- (7) Prepare regulations for management of vegetative cutting; and
- (8) Prepare criteria for control of noise in open space and recreational areas with assistance of the PCA.

2. Each local unit of government and state agency shall prepare plans and regulations to protect and preserve the aesthetic qualities of the river corridor, which provide for the following considerations:

a. Site Plans. Site plans shall be required to meet the following guidelines:

- (1) New development and expansion shall be permitted only after the approval of site plans which adequately assess and minimize adverse effects and maximize beneficial effects.
- (2) Site plans shall be required for all developments for which a development permit is required, except for the modification of an existing single-family residential structure or the construction of one single-family residence.
- (3) Site plans shall include, but not be limited to, the submission of an adequate and detailed description of the project, including activities undertaken to ensure consistency with the objectives of the Designation Order; maps which specify soil types, topography, and the expected physical

changes in the site as the result of the development; the measures which address adverse environmental effects.

(4) Site plans shall include standards to ensure that structure, road, screening, landscaping, construction placement, maintenance, and storm water runoff are compatible with the character and use of the river corridor in that district.

(5) Site plans shall provide opportunities for open space establishment and for public viewing of the river corridor whenever applicable, and shall contain specific conditions with regard to buffering, landscaping, and re-vegetation.

b. Structures. Structure site and location shall be regulated to ensure that riverbanks, bluffs and scenic overlooks remain in their natural state, and to minimize interference with views of and from the river, except for specific uses requiring river access.

c. Clustering. The clustering of structures and the use of designs which will reduce public facility costs and improve scenic quality shall be encouraged. The location of clustered high-rise structures may be proposed where public services are available and adequate and compatible with adjacent land uses.

d. Access Routes. Commercial and industrial developments adjacent to roadways shall be required to provide off-street parking, service roads and limited controlled access points to highways. (Except in cases of extreme hardship, highway access for any development within 250 feet of a bridge or bridge ramp shall be prohibited.)

e. Existing Development. Local plans and regulations shall include provisions to:

- (1) Retain existing vegetation and landscaping;
- (2) Amortize non-conforming uses;
- (3) Prohibit the reconstruction of non-conforming uses which are 50% market value destroyed;
- (4) Provide for the screening of existing development which constitutes visual intrusion, wherever appropriate.

f. Signs. Local units of government shall adopt ordinances for the amortization and removal of non-conforming general advertising signs, and to prohibit the visibility of advertising signs from the river, except in Urban Diversified Districts.

3. Local units of government shall develop plans and regulations to ensure that developments shall not be undertaken prior to the provision of Metropolitan public facilities

EXECUTIVE ORDERS

in adopted Metropolitan plans, in accordance with the following guidelines:

a. Developments in areas not scheduled for the provision of municipal or metropolitan sanitary sewers shall comply with adequate on-site sewage disposal system regulations.

b. The density of development outside the Metropolitan Urban Service Area shall be limited to ensure that there is no need for the premature provision of local and metropolitan urban services and facilities.

4. Local units of government shall develop plans and provide guidance to ensure that the surface uses of the river is compatible with the characteristics and use of the districts in accordance with the following guidelines:

a. The present 9-foot navigation channel shall be maintained.

b. Provision shall be made for the use of the river for water transportation which is consistent with adopted state and regional policies and regulations and applicable federal laws and to minimize any adverse effects associated with such facilities.

c. Local plans shall identify areas physically suitable for barge slips and barge fleeting, based on such considerations as safety, maneuverability, operational convenience, amount of construction and/or excavation required, and environmental impacts; and

d. Local plans shall specify which of those areas found physically suitable may be used for barge slips and barge fleeting areas in the future. Preference should be given to those areas where new barge slips and associated facilities can be clustered, where required metropolitan services are already available, and where use of the riverfront for barge slips and fleeting areas, and access to them, is compatible with adjacent land use and public facilities.

e. Local plans shall identify, whenever practicable, locations where river dredge spoil can be utilized consistent with natural geological appearances or processes and adjacent land uses.

f. Where there is potential conflict of surface use, state and local governments shall enact appropriate water surface use regulation.

g. The Minnesota Energy Agency shall be responsible for recommending to the EQC a strategy for the development of a coal transportation plan for the metropolitan area.

5. Local units of government shall develop plans and regulations for industrial and commercial developments in the River Corridor in accordance with the following guidelines:

a. Areas for new or expanded industrial and commercial developments, where urban services are available, and the premature expansion or upgrading of the Metropolitan systems will not be required, shall be identified.

b. The existing industrial waste discharge points, sanitary, and storm water discharge points shall be identified.

c. Local plans should give consideration to providing for future industrial and commercial uses that require water access including, but not limited to such uses as, transportation, water supply & waste discharge. This does not preclude the locating of non-water related uses within the Corridor.

d. The impact of potential mining and extraction sites or other incompatible uses shall be minimized.

e. Land reclamation and reforestation of the mining site shall be regulated.

6. Local units of government and regional and state agencies shall develop plans and regulations to maximize the creation and maintenance of open space and recreational potential of the Corridor in accordance with the following guidelines:

a. Existing and potential sites for the following uses shall be identified and inventoried.

(1) Neighborhood, municipal, county and regional parks;

(2) Scenic overlooks, scenic views, and public observation platforms;

(3) Protected open space areas, including islands, gorges, wildlife preservation areas, and natural areas;

(4) Beaches and undeveloped river frontage on backwaters, which are suitable for recreation purposes;

(5) Commercial marinas and boat launching facilities;

(6) Public access points to the river;

(7) Historic sites and districts.

b. The Metropolitan Council shall prepare a general trailway plan for the entire length of the River Corridor which links regional parks.

c. Local units of government shall identify the potential location of trails within their jurisdictions, including related problems and proposed solutions.

d. Plans and programs to acquire sites for public

EXECUTIVE ORDERS

access to the river and to protect open space areas shall be developed.

e. Programs to acquire and manage undeveloped islands in their natural state and to encourage the restoration of other islands for recreation open space uses shall be adopted.

f. In the development of residential, commercial and industrial subdivisions, and planned development, a developer shall be required to dedicate to the public reasonable portions of appropriate riverfront access land or other lands in interest therein.

In the event of practical difficulties or physical impossibility, the developer shall be required to contribute an equivalent amount of cash to be used only for the acquisition of land for parks, open space, storm water drainage areas or other public services within the River Corridor.

7. Local units of government and state agencies shall develop plans and regulations for transportation and public utilities developments in accordance with the following guidelines:

a. Existing and potential utility and transportation facility crossings shall be identified and river crossings shall be minimized and concentrated at existing crossings where possible.

b. The Corridor shall not be used merely as a convenient right-of-way and new or modified transportation and utility facilities shall complement the planned land and water uses and shall not stimulate incompatible development.

c. In planning and designing the construction or reconstruction of all public transportation facilities which occur within the river corridor, consideration shall be given to the provision of scenic overlooks for motorists, safe pedestrian crossings and facilities along the River Corridor, access to the riverfront in public ownership and reasonable use of the land between the river and the transportation facility.

8. Local units of government and regional and state agencies shall develop capital improvement programs which are consistent with the following guidelines:

a. A five year capital improvement program or public facilities program shall be developed which covers all public projects to be sited in the corridor.

b. The capital improvement program or public facilities program shall specify the sequence of actions to be undertaken by each public agency and shall be consistent with the standards and guidelines in Section B and C.

9. Local units of government shall reassess all lands in the River Corridor in accordance with the following guidelines:

a. Local units of government shall send copies of adopted plans and regulations and amendments of plans and regulations to appropriate municipal and county assessors within 30 days after adoption.

b. Municipal and county tax assessors shall reassess all lands in the Mississippi River Corridor for consistency with adopted plans and regulations within one year of receipt of adopted plans from local units of government.

10. Local units of government and regional and state agencies shall prepare plans and regulations in accordance with the natural characteristics and the character of existing development in the River Corridor in accordance with the following guidelines:

a. Local units of government and regional and state agencies shall prepare plans and regulations using the district boundaries as described in the Interim Development Regulations as guidelines, in accordance with the purpose of each district as described in the general guidelines Section B.

b. The City of St. Paul shall prepare plans and regulations to balance open space use and industrial and commercial developments for the Pig's Eye Lake area.

c. Local units of government may prepare modifications of the use districts boundaries as described in the interim development regulations if local units of government demonstrate to the EQC in plans and supporting documents the consistency of the proposed modification with the general guidelines.

11. Local units of government, regional agencies and state agencies shall provide adequate opportunities for public participation in the preparation of plans and regulations.

D. Reviewing plans and regulations

1. The Metropolitan Council shall be the lead agency to coordinate the preparation, submission, review and modification of land use plans, zoning ordinances, zoning amendments, capital improvement programs and other regulations, specified in section C, which are prepared by local units of government, regional and state agencies.

2. Local units of government and regional agencies shall submit existing, modified or prepared plans and regulations that comply with the designation order to the Metropolitan Council within six months of notice of the order of designation. The EQC shall review the state plans and regu-

EXECUTIVE ORDERS

lations and forward the appropriate sections to the Metropolitan Council.

3. The Metropolitan Council shall review the plans, regulations, and capital improvement programs prepared by local units of governments, regional and state agencies for consistency with regional objectives and with the order of designation. Within 45 days of receiving the plans and regulations, the Metropolitan Council shall submit its written evaluation to the EQC. Upon a request from the Metropolitan Council, the EQC may grant 30 days time extensions when the EQC determines that the Metropolitan Council has satisfactorily demonstrated that it requires more time for review.

4. The EQC shall review all plans and regulations prepared for the Mississippi River Corridor, within 45 days of receiving the plans and regulations from the Metropolitan Council. The EQC shall determine whether they are consistent with the provisions of the order of designation. When the EQC has completed the review, it shall either:

a. Approve the plans and regulations by a written decision and notify the local units of government and regional and state agencies, and the Metropolitan Council; or

b. Return them to the local units of governments, regional and state agencies, and the Metropolitan Council for modification with a written explanation of the need for modification.

5. Within 45 days of EQC's approval of the plans and regulations, local units of government, regional and state agencies shall adopt the approved plans and regulations, and shall notify the EQC.

E. Updating and re-evaluation of plans and regulations

1. Local units of government or regional and state agencies may amend their plans and regulations that have been approved by the EQC by resubmitting the plans and regulations with any recommended changes thereto, to the EQC for consideration.

2. Two years after EQC's initial approval of the plans and regulations, local units of government and regional and state agencies shall resubmit their plans and regulations with any recommended changes thereto, for review and approval by the EQC.

3. Amendments to plans and regulations shall become effective only upon the approval thereof by the EQC in the same manner as for approval of the original plans and regulations as stated in section D.

F. Development permits

1. If no plans and regulations have been adopted under the provisions of Section D, local units of government and regional and state agencies shall grant a development permit only if:

a. The development is specifically permitted by the Interim Development Regulations;

b. The development is essential to protect the public health, safety, or welfare because of an existing emergency; or

c. The registration, recordation, permit, or authorization of the development was issued prior to the date of legal notice of the EQC public hearing provided in Minn. Reg. MEQC 53(3).

2. When plans and regulations have been adopted under the provisions of section D, local units of government, regional and state agencies shall permit development only in accordance with those plans and regulations.

G. Notification of the development permits to the EQC

1. Local units of government, and regional and state agencies shall prepare administrative procedures for permit notification as a part of their plans and regulations. The local units of government, regional and state agencies shall notify the EQC of all the developments requiring discretionary actions under their rules and regulations at least 30 days before taking action on the application, unless the EQC informs the local unit of government and regional and state agencies in writing that the EQC need not be notified of certain types of applications.

2. Local units of government and regional and state agencies shall prepare procedures to notify the EQC of their final action on the development permits which require discretionary action.

H. Judicial Proceedings

If the EQC determines that the administration of the local plans and regulations is inadequate to protect the state or regional interest, the EQC may institute appropriate judicial proceedings to compel proper enforcement of the plans and regulations.

Interim Development Regulations for the Mississippi River Corridor Critical Area

A. General Provisions

EXECUTIVE ORDERS

1. Authority. These procedures are prescribed by the Minnesota Environmental Quality Council (Council) pursuant to authority granted to the Council in Minn. Stat. §§ 116G.01 to 116G.14, (1974).

2. Purpose

The purposes of these regulations are:

a. To protect the public health, safety, comfort, convenience and general welfare;

b. To promote orderly development of the residential, commercial, industrial, recreational and public areas within the corridor;

c. To conserve the natural and scenic beauty of the river corridor;

d. To conserve and develop the natural resources of the river corridor; and

e. To provide for the compatibility of different land uses and the most appropriate use of land throughout the river corridor.

3. Scope.

a. These Interim Development Regulations shall apply to public and private lands and waters within the Mississippi River Corridor, as set forth and legally described in Appendix A & B of the recommendation for designation of the Mississippi River Corridor as a critical area.

b. The Interim Development Regulations shall govern; but wherever there is a conflict between the Interim Development Regulations and existing laws, regulations, ordinances, or other provisions of the Interim Development Regulations, the more restrictive provision shall apply.

c. The Interim Development Regulations should not be used as a complete model ordinance for adoption by local units of government. At the options of local units of government, they may be used as guidance for the preparation of plans and regulations.

d. The Interim Development Regulations shall remain in effect from the date of issuance of the Governor's designation order for each local unit of government in the critical area until it adopts plans and regulations approved by the Council.

e. State and regional agencies and local units of government shall approve development only in conformance with these Interim Development Regulations until

the adoption of plans and regulations approved by the Council.

f. Development which was approved by a state or regional agency or a local unit of government after April 25, 1975 shall be subject to these Interim Development Regulations and subsequently adopted plans and regulations only to the extent provided in Minn. Reg. MEQC 57.

g. State and regional agencies and local units of government shall be responsible for the administration and enforcement of the Interim Development Regulations as of the effective date of the Governor's Designation Order.

h. Any regulations or procedure not specified in these Interim Development Regulations shall follow the applicable local unit of government regulations or the appropriate state and regional agency's rules and regulations.

B. Use district designations

1. Because the river should be managed as a multiple-purpose resource, and it possesses a variation in both natural characteristics and types of urban development, the Corridor has been segmented into the following four districts which shall be applied throughout the Interim Period as described in Appendix A & B of the recommendation for designation of the Mississippi River Corridor as a critical area.

a. Rural Open Space Districts

b. Urban Diversified Districts

c. Urban Developed Districts

d. Urban Open Space Districts

2. During the interim period, no changes shall be made of the district boundaries set forth by these Interim Development Regulations.

C. Permitted uses

1. Any land or water use development which is in conformance with the standards and guidelines of the Interim Development Regulations shall be permitted.

2. During the interim period, no changes shall be made of the permitted uses allowed by these Interim Development Regulations.

3. Residential Development

Residential development shall be permitted in all the districts. All structures and accessory uses or appurtenances of residential development shall be subject to the dimen-

EXECUTIVE ORDERS

sional standards and criteria in section F of these Interim Development Regulations.

4. Commercial and Industrial Uses

a. In rural open space districts and urban developed districts, the development of new and expansion of existing industrial and commercial uses and development shall be permitted if:

(1) it does not require expansion or upgrading of Metropolitan Systems prior to the schedule set forth in adopted Metropolitan Plans;

(2) it meets the dimensional standards and criteria in section F;

(3) it will not encroach upon future local or regional parks and recreation open space identified in the Metropolitan Council's development guide/policy plan for recreation open space or in local plans and programs.

b. In urban open space districts, the development of new and expansion of existing commercial and industrial uses and development shall be permitted on lands which are on the landward side of all blufflines, if it meets the dimensional standards and criteria in section F.

c. In urban diversified districts, new and expansion of existing industrial and commercial developments shall be allowed, if it meets the dimensional standards and criteria in section F.

d. In Rosemount and Inver Grove Heights urban diversified district, new and expansion of existing industrial and commercial development shall be permitted, if it does not require premature expansion of Metropolitan public services.

5. Agricultural uses

All agricultural uses except new feedlots may be permitted in all the districts.

6. Mining and extraction

a. In rural open space, urban developed, and urban diversified districts,

(1) new mining and extraction may be permitted and shall be subject to the dimensional standards and criteria in section F;

(2) new and, where practicable, existing extraction uses shall be appropriately screened from view of the river by establishing and maintaining natural screen devices;

(3) The unscreened boundaries of mining and extraction areas shall be limited to only the loading area;

(4) existing and future extractive uses shall be required to submit land reclamation and reforestation plans compatible with these Interim Development Regulations; and

(5) only one barge loading area which shall be limited to the minimum size practicable shall be permitted for each mining or extraction operation.

b. In urban open space districts, new mining and extraction operations shall not be permitted.

7. Recreational uses

a. In all districts, recreational uses and structures and accessory uses or appurtenances shall be permitted and shall be subject to the Dimensional standards and criteria in section F. Water-related commercial recreation uses shall not be subject to the dimensional standards and criteria in section F.

b. Within Urban Open Space Districts, recreation uses on islands and lands between the river and blufflines shall be only for public recreation uses, historic preservation, and wildlife preserves.

8. Signs

a. In rural open space, urban developed, and urban open space districts:

(1) general advertising signs not visible from the river are permitted;

(2) all other general advertising signs shall be prohibited.

b. In urban diversified districts, general advertising signs are permitted.

D. Permitted public facilities

1. Transmission Services

In all the districts, the construction of new and reconstruction of existing transmission services shall meet the following standards.

a. The Department of Natural Resources (DNR) in reviewing permit applications for all transmission service crossings on the Mississippi River, Minnesota River, or of State lands requiring a permit from the DNR pursuant to Minn. Stat. §§ 84.415 or 105.42 shall give primary consideration to crossings that are proposed to be located within or

EXECUTIVE ORDERS

adjacent to existing right-of-ways for public facilities, such as railroads, roadways, bridges, and existing transmission services.

b. Transmission services of under 200 kilovolts, which cross lands within the River corridor shall require a special use permit from the local unit of government. Local units of government shall apply the standards set forth in sections D.1.c. through h when processing applications for a special use permit.

c. When routing transmission services of under 200 kilovolts, the following shall be avoided where practicable:

- (1) steep slopes;
- (2) scenic intrusions into streams, valleys, and open exposures of water;
- (3) scenic intrusions into areas such as ridge crests and high points;
- (4) creating tunnel vistas by, for example, building deflections into the route;
- (5) wetlands;
- (6) forests by running along fringe rather than through them. If necessary to route through forests, utilize open areas in order to minimize cutting;
- (7) soils susceptible to erosion, which would create sedimentation and pollution problems;
- (8) areas of unstable soils which would be subject to extensive slippages;
- (9) areas with highwater tables, especially if construction requires excavation;
- (10) open space recreation areas.

d. Transmission services shall be subject to the dimensional standards and criteria in section F, except at crossing points.

e. Structure design of transmission services.

With regard to locating the utility, overhead or underground:

(1) primary considerations shall be given to underground placement in order to minimize visual impact. When considering overhead placement, the proposers shall explain the economic, technological or land characteristic factors which make underground placement infeasible. Economic considerations alone shall not justify overhead placement.

(2) if overhead placement is necessary, the crossing should be hidden from view as much as practicable;

(3) with regard to the appearance of the structures, they shall be made as compatible as practicable with the natural area with regard to: height and width, materials used, and color;

(4) with regard to the width of the right-of-way, the cleared portion of the right-of-way should be kept to a minimum.

f. In the construction of transmission services, the following guidelines shall be applied whenever practicable:

(1) construction in wetlands shall minimize damage to vegetation, prevent erosion and sedimentation;

(2) construction shall be undertaken at times when local fish and wildlife are not spawning or nesting;

(3) effective erosion and sedimentation control programs shall be conducted during all clearing, construction, or reconstruction operations in order to prevent the degradation of the river and adjacent lands.

g. Safety considerations

Developers must adhere to applicable Federal and State safety regulations, both with regard to prevention (such as safety valves and circuit breakers) and with regard to emergency procedures in the event of failure (fire suppression, oil spill clean-up).

h. Right-of-way maintenance

(1) If possible, natural vegetation of value to fish or wildlife, which does not pose a hazard to or restrict reasonable use of the utility, shall be allowed to grow in the right-of-way;

(2) Where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and low growing trees, shall be planted and maintained on the right-of-way;

(3) Chemical control of vegetation should be avoided when practicable, but where such methods are necessary, chemicals used and the manner of their use must be in accordance with rules, regulations, and other requirements of all state and federal agencies with authority over the use.

2. Sewage treatment plants — sewage outfalls, water intake facilities

a. In rural open space, urban developed and urban

EXECUTIVE ORDERS

diversified districts the provision of sewage treatment plants, sewage outfalls and water intake facilities:

(1) wherever practicable, shall conform with the dimensional standards and criteria in section F;

(2) shall dedicate the unused river frontage after construction, for public access or recreation open space use;

(3) shall not include new combined storm and sanitary sewer outfalls.

b. In urban open space district:

(1) no new sewage treatment plants shall be permitted in this district. However, the Metropolitan Waste Control Commission may expand the Metropolitan Wastewater Treatment Plant at the Pig's Eye Lake area, if the expansion plans are approved by the Metropolitan Council and they are consistent with the City of St. Paul's riverfront plan approved by the Council under section D of the standards and guidelines for preparing plans and regulations;

(2) no new water intake facilities shall be permitted;

(3) no new combined storm water and sanitary sewer outfalls shall be permitted.

3. Essential services and public safety facilities

Essential services and public safety facilities are permitted in all the districts. They are subject to D(1) Regulation.

4. Transportation facilities

The construction or reconstruction of all transportation facilities shall be permitted in all the districts, subject to the following standards and criteria:

a. The following guidelines shall be applied whenever practicable in selecting routes for transportation facilities:

(1) careful consideration should be given to the provision of scenic overlooks for motorists, safe pedestrian crossing and safe pedestrian pathways along the river;

(2) if possible, provide access to the riverfront in public ownership, and allow reasonable public use of the land between the river and the transportation facility;

(3) steep slopes shall be avoided;

(4) scenic intrusion into stream, valley and open exposures of water shall be avoided;

(5) scenic intrusion into areas such as ridge crests and high points shall be avoided

(6) wetlands shall be avoided;

(7) run along fringes of forests rather than through them. But if it is necessary to route through forests, then utilize open areas in order to minimize destruction of commercial forest;

(8) soils whose high susceptibility to erosion would create sedimentation and pollution problems during and after construction shall be avoided;

(9) areas of unstable soils which would be subject to extensive slippage shall be avoided;

(10) areas with highwater tables, especially if construction requires excavation, shall be avoided;

(11) locate new roads to avoid cuts and fills so as to blend into the natural terrain so that it appears to be a part of the natural landscape;

(12) open space recreation areas shall be avoided.

b. Transportation facilities shall be subject to the dimensional standards and criteria in section F, except at crossing points:

c. The following guidelines shall be applied when practicable in constructing transportation facilities:

(1) reconstruction of an existing public road or railroad should be performed in a manner that would minimize any adverse effect on the natural beauty and environment of the river;

(2) effective erosion and sedimentation control programs shall be conducted during all clearing, construction or reconstruction operations in order to prevent the degradation of the river and its adjacent lands;

(3) construction across wetlands shall take place in a manner which minimizes damage to vegetation, and in a manner preventing erosion and sedimentation;

(4) construct at times when local fish and wildlife are not spawning or nesting.

d. Safety considerations

Developers must adhere to applicable Federal and

EXECUTIVE ORDERS

State safety regulations with regard to new road construction or reconstruction of an existing road.

3. The following guidelines shall be applied when practicable for right-of-way maintenance:

(1) if possible, natural vegetation of value to fish or wildlife, and which does not pose a safety hazard, shall be allowed to grow in the roadside right-of-way;

(2) where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and trees shall be planted and maintained on the roadside right-of-way;

(3) chemical control of vegetation is discouraged. But where such methods are justified, chemicals used and the manner of their use must be in accordance with rules, regulations and other requirements of all State and Federal agencies with authority over their use.

5. Barge facilities

a. In rural open space and urban developed districts, the following standards shall apply:

(1) the expansion of existing barge slips within these districts shall be permitted;

(2) no new barge slips shall be permitted until local riverfront plans and regulations have been reviewed by the Metropolitan Council and approved by the Council according to the procedures in Minn. Regs. MEQC 55(c).

b. In urban open space districts, the following standards shall apply:

(1) no new barge slips shall be permitted;

(2) no barge fleeting areas shall be permitted until local riverfront plans and regulations have been reviewed by the Metropolitan Council and approved by the Council according to the procedures in Minn. Regs. MEQC 55(c).

c. In urban diversified districts all barge facilities are permitted.

E. Earthwork and vegetation

1. Grading and Filling

In all districts, the following provisions shall apply to grading and filling:

a. Grading, filling, excavating, or otherwise changing the topography landward of the ordinary high water

mark shall not be conducted without a permit from the local authority. A permit may be issued only if:

(1) earthmoving, erosion, vegetative cutting, and the destruction of natural amenities is minimized;

(2) the smallest amount of ground is exposed for as short a time as feasible;

(3) temporary ground cover, such as mulch, is used and permanent ground cover, such as sod is planted;

(4) methods to prevent erosion and trap sediment are employed; and

(5) fill is established to accepted engineering standards.

b. A separate grading and filling permit is not required for grading, filling, or excavating the minimum area necessary for a building site, essential services, sewage disposal systems, and private road and parking areas undertaken pursuant to a validly issued building permit.

2. Vegetation management

a. In rural open space, urban developed and urban open space districts, the following standards shall apply:

(1) on developed islands, public recreation lands, the slope or face of bluffs within 200 feet of the normal high water mark of the river, and within the area 40 feet landward from blufflines, clear cutting shall not be permitted;

(2) on all other lands within these districts, clear cutting shall be guided by the following provisions:

(a) clear cutting shall not be used where soil, slope, or other watershed conditions are fragile and subject to injury;

(b) clear cutting shall be conducted only where clear cut blocks, patches or strips are, in all cases, shaped and blended with the natural terrain;

(c) the size of clear cut blocks, patches, or strips shall be kept at the minimum necessary;

(d) where feasible all clear cuts shall be conducted between September 15 and May 15. If natural regeneration will not result in adequate vegetative cover, areas in which clear cutting is conducted shall be replanted to prevent erosion and to maintain the aesthetic quality of the area where feasible, replanting shall be performed in the same spring, or the following spring.

(3) the selective cutting of trees greater than 4" in

EXECUTIVE ORDERS

diameter may be permitted by local units of government when the cutting is appropriately spaced and staged so that a continuous natural cover is maintained.

b. In Urban diversified district:

(1) on the slope or face of bluffs and within areas 40 feet landward from established blufflines, clear cutting shall not be permitted;

(2) the selective cutting of trees greater than 4" in diameter may be permitted by local units of government when the cutting is appropriately spaced and staged so that a continuous natural cover is maintained.

c. These vegetative management standards shall not prevent the pruning and cutting of vegetation to the minimum amount necessary for the construction of bridges and roadways and for the safe installation, maintenance and operation of essential services and utility transmission services which are permitted uses.

F. Dimensional standards and criteria

1. Objectives

The objectives of dimensional standards and criteria are: to maintain the aesthetic integrity and natural environment of certain districts, to reduce the effects of poorly planned shoreline and bluffline development, to provide sufficient setback for sanitary facilities, to prevent pollution of surface and groundwater, to minimize flood damage, to prevent soil erosion, and to implement metropolitan plans, guides and standards.

2. Substandard lot.

The local unit of government may approve any proposed new structure or changes to existing structure when the following findings are made:

a. The lot was recorded in the Office of the County Register of Deeds (or Registrar of Titles) prior to the date of legal notice of the EQC public hearing, April 25, 1975.

b. The lot was in separate ownership from all abutting land on April 25, 1975.

c. The proposed use is consistent with the provisions of the interim Development Regulations and local ordinance.

d. It can be demonstrated that a proper and adequate sewage disposal system can be installed according to interim regulations, Health Department's and PCA's regulations.

e. The lot size is within sixty (60) percent of the size required in the interim development regulations.

3. Lot size.

a. In the rural open space and urban developed districts, the following minimum lot sizes shall be required:

(1) in unsewered areas, the minimum lot size shall be five acres per single family unit;

(2) in sewerred areas, the minimum lot size shall be consistent with the local zoning ordinance.

b. In the urban open space and urban diversified districts, the minimum lot size shall be consistent with the local zoning ordinance.

4. Structure setback.

a. All required setbacks shall be applicable to each bluffline proceeding landward from the river.

b. All new structures and roads shall meet the following minimum setbacks:

(1) in the rural open space district, no structure or road shall be placed less than 200 feet from the normal highwater mark, and no less than 100 feet from blufflines;

(2) in the urban developed district, and urban open space district, the structure or road shall be placed no less than 100 feet from the normal highwater mark of the river, and no less than 40 feet from blufflines;

(3) in the urban diversified district, the structure or road shall be placed no less than 40 feet from the bluffline.

c. Exceptions to setback provisions shall be:

(1) public safety facilities, public bridges and their roadway approaches, railroad sidings, minor public and private roadways serving water-related uses on the riverfront;

(2) public recreation facilities, scenic overlooks, public observation platforms, and the regional trail system, docks, boat launching facilities;

(3) approved river crossings of essential service, and essential services distribution systems which are primarily underground except for terminal and metering devices not exceeding six feet in height, and supporting structures for transmission crossing spans;

(4) the construction of above-ground pumping

EXECUTIVE ORDERS

stations for sewer lines which shall be screened from view of the river;

(5) the reconstruction or restoration of historical structures or sites on the inventory of the State Historical Society or the National Register of Historic Places.

5. Height of structures.

a. In the rural open space, urban developed and urban open space districts:

(1) new structures and additions to existing structures shall be limited to a maximum of 35 feet;

(2) the following exceptions to height limits shall be permitted:

(a) expansion of existing industrial complexes, such as refineries and storage areas;

(b) barns, silos and similar farm structures;

(c) essential service distribution systems;

(d) bridges, bridge approach roadways, and transmission services;

(e) restoration or reconstruction of historical structures and sites on the inventory of the State Historical Society or the National Register of Historical Places.

b. In the urban diversified district, there are no restrictions on the height of structures.

6. Placement of structures.

a. The following standards shall apply in any district:

(1) no new structures shall be placed on slopes which are 18 percent or greater;

(2) structures may be permitted on slopes which are greater than 12 percent, but less than 18 percent, when the following conditions are met:

(a) the developer can prove that the development on the slope can be accomplished without increasing erosion;

(b) the soil types and the geology are suitable for slope development;

(c) there is proper management of vegetation to control runoff.

(3) when an approved floodplain ordinance exists, structure placement shall be governed by that ordinance. Where an approved floodplain ordinance does not exist, the elevation at which the lowest floor of a structure, including basement, may be placed shall be consistent with the Minnesota statewide standards and criteria for management of floodplain areas;

(4) in rural open space, urban developed and urban open space districts, no development shall be permitted on presently undeveloped islands, except those developments specifically related to wildlife preservation and recreation open space uses, and bridge piers when other considerations dictate that bridge crossing alignment;

(5) in urban diversified districts, the development on islands related to recreation open space uses and historical preservation of sites and areas on the Inventory of the Minnesota State Historical Society and the National Register of Historic Places shall be permitted. New industry, commercial, residential and other uses shall be permitted on islands if they are consistent with local zoning ordinances and with the historical character.

7. Line of sight

In rural open space districts, urban developed districts, and urban open space districts, the development of new and expansion of existing industrial and commercial uses and development shall be permitted, if it cannot be seen from the normal highwater mark on the opposite side of the river. Water-related commercial and industrial uses shall not be subject to this requirement.

G. Sanitary standards and criteria

1. The following standards shall apply to all districts:

a. All parts of on-site sewage disposal systems shall be located at least 75 feet from the normal highwater mark.

b. No on-site sewage disposal system shall be placed within designated floodplains.

H. Non-conforming uses and structures

1. Any structure or use existing upon the effective date of these interim development regulations which does not conform to the use restrictions of a particular use district of the interim development regulations shall automatically continue as a non-conforming use or structure.

2. Whenever a non-conforming building or structure has been damaged by fire, flood, explosion, earthquake, war, riot, or other disaster, it may be reconstructed to its prior use when the damage to the building or structure is fifty percent (50%) or less of its fair market value. Where

EXECUTIVE ORDERS

the damage is fifty percent (50%) or more, reconstruction shall not be permitted for any structure that does not meet the minimum required standards.

3. When any non-conforming use of a building or structure has been changed to a conforming use, it shall not be changed to a non-conforming use.

4. If a non-conforming use is discontinued for 6 consecutive months, any future use of the building or premises shall conform to the interim development regulations.

I. Administration

1. Local units of government and regional and state agencies shall notify the Council of the following types of proposed development within the Mississippi River Corridor:

a. Development permit applications for the development of a new or major expansion of an industrial, commercial facility in the rural open space, urban developed and urban open space districts.

b. All government developments,

c. Inside the 1975 Metropolitan urban service area (MUSA), development permit applications for the development of:

- (1) 50 or more dwelling units in a multi-family project;
- (2) 25 or more lots in a mobile home court;
- (3) 25 or more lots in a residential project.

d. Outside the MUSA, development permit applications for the development of:

- (1) 25 or more dwelling units in a multi-family project;
- (2) 10 or more lots in a mobile home court;
- (3) 10 or more lots in a residential project;
- (4) any residential developments in rural open space districts.

e. Any development on or involving the alteration of:

- (1) a wetland;
- (2) a floodplain;

(3) an island;

(4) a slope of greater than 12 percent;

(5) the removal of 5 contiguous acres or more of vegetative cover;

(6) the grading or filling of 20 contiguous acres of land;

(7) the deposit of dredge spoil;

(8) more than 50 linear feet of a riverbank.

f. Any development involving the establishment of a public or private structure, facility or other which crosses the river.

g. The development or expansion of any commercial harbor or barge loading or fleeting area.

h. Any development which would result in the discharge of water into or withdrawal of water from the Mississippi River which would require a state permit.

i. Any developments within the historical districts established by the State Legislature.

j. Development for which Metropolitan Council review is requested by:

- (1) the local unit of government with jurisdiction;
- (2) resolution from two or more local units of government adjacent to the local units of government within which the proposed development is sited.

k. Any development which requires a rezoning or compatible use permit.

2. Procedures for Reviewing proposed development

a. Local units of government and regional and state agencies shall notify the Council in writing of any proposed development listed in Section I.1, at least 30 days before the local units of government and regional and state agencies take final action to approve or deny the development. In the event the Metropolitan Council elects to hold a hearing under Section I.2.e., no final action to approve or deny the proposed development may be taken until 15 days after the Council receives the Metropolitan Council recommendation.

b. The Council shall send a copy of the proposed development to the Metropolitan Council for review no later than 2 days after the date of the Council's receipt of the application.

EXECUTIVE ORDERS

c. The Metropolitan Council shall review the proposed development and transmit a written recommendation with reasons for approving, modifying, or denying the proposed development to the Council no later than 18 days after the Metropolitan Council's receipt of the application, except when a public hearing is required by the Metropolitan Council, in which case, Section I.2.e(1) and (2) shall be followed.

d. Other local units of government and regional and state agencies may transmit to the Council their written comments on the proposed development published in the EQC Monitor within 15 days of date of the publication.

e. (1) When the Metropolitan Council decides to hold a public hearing on a proposed development application, the public hearing shall be conducted in accordance with the Metropolitan Council's statutory requirements, and notice of the hearing shall be filed with the Council and affected municipalities, counties, and applicants.

(2) The Metropolitan Council shall submit its final recommendation on the proposed development to the Council within 30 days of closing date of the hearing record.

f. The Council shall accept or modify the Metropolitan Council's recommendations and shall consider the comments of the local units of government and regional and state agencies and transmit the recommendation to the local unit of government and regional and state agencies no later than 10 days after the date of receipt of the Metropolitan Council's recommendation.

g. The Council may extend the 30 days time for a particular proposed development if the Metropolitan Council, the developer, any local unit of government and regional and state agencies with jurisdiction agree to the extension.

h. Failure of the Council to act on the notice of a proposed development within the prescribed period of time shall constitute acceptance by the Council of the final action on the proposed development by the local unit of government, regional or state agency.

i. Within 30 days after the final action, local units of government and regional and state agencies shall notify the Council of the final action on all proposed development listed in section 11, or of emergency actions approved under the provisions of Section 15.

j. When the Council has recommended to a local government unit, regional or state agency to modify or to deny a proposed development, and that recommendation is not followed, the proposed development shall not be approved for 30 days after the Council receives notice of final

action. If the Council appeals the decision to district court, the appeal shall be made within 30 days of receipt notice of final action. When an appeal is made, the development shall not be approved until the appeal process is scheduled.

3. Dimension variance

a. Local units of government may grant a dimension variance from strict compliance with the setback, or height restrictions, or lot size or line of sight requirement contained in the Interim Development Regulations after an administrative hearing that shall be conducted according to the regulations of the local unit of government.

b. A dimension variance may be granted only when the following findings are made:

(1) the strict enforcement of the setback or height restrictions, or lot size or line of sight will result in unnecessary hardship. "Hardship" as used in the consideration of a dimension variance means that the property in question cannot be put to a reasonable use under the dimension provisions of these interim development regulations;

(2) there are exceptional circumstances unique to the property that were not created by a landowner after April 25, 1975;

(3) the dimension variance does not allow any use that is not a compatible use in the land use district in which the property is located;

(4) the dimension variance will not alter the essential character of the locality as established by these interim development regulations;

(5) the dimension variance would not be contrary to the intent of the order.

4. Compatible use permit

a. Local units of government may grant a compatible use permit after an administrative hearing that shall be conducted according to the regulations of the local unit of government for conditional or special use permits.

b. A compatible use permit may be granted for a proposed development only when the following findings are made:

(1) it is consistent with the intent of the order, and the adopted policies of the Metropolitan Council and the Environmental Policy Act; and

(2) it is compatible with uses in the immediate vicinity; and

EXECUTIVE ORDERS

(3) it is permitted by the ordinances of the local unit of government.

5. Emergency actions.

In accordance with the Act, local units of government, regional and state agencies may grant a development permit when certified in writing by the local unit of government, regional and state agencies, or the county zoning administration with the existing authority that the development is essential to protect the public health, safety or welfare in an existing emergency and that a local ordinance or state regulation was in effect immediately prior to April 25, 1975 and a development permit would have been granted thereunder.

Appendix C

Definitions

The following terms as used in these Regulations shall have the following meanings, unless otherwise defined:

1. "Act" means the Critical Areas Act of 1973, Minn. Stat. §§ 116G.01 to 116G.14 (Supp. 1974).

2. "Accessory Use" means a use or portion of a use or structure subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

3. "Adjacent" means having a boundary which physically touches or adjoins.

4. "Agriculture" means the utilization of land and structures thereon for production of farm crops, including but not limited to vegetables, fruit trees, grain, poultry and domestic farm animals and uses necessary or customarily incidental thereto.

5. "Backwater" means a body of water connected with, but little affected by the main stream.

6. "Barge Fleeting Area" means an area on the river, on or off channel, where barges are temporarily parked and secured while tows are assembled or broken up.

7. "Barge Slip" means a basin, usually adjacent to a wharf, jetty, dock or other cargo handling facility, where barges are brought for the purpose of loading or unloading cargo.

8. "Bluffline" means a line delineating the top of a slope connecting the points at which the slope becomes less than 18 percent. More than one bluffline may be encountered proceeding landward from the water.

9. "Building Height" means the vertical distance to be measured from the grade of a building line to the top to the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the mean distance of the highest gable on a pitched or hip roof.

10. "Clear Cutting" means the removal of an entire stand of trees and shrubs.

11. "Cluster Development" means a pattern of subdivision which places housing units into compact groupings while providing a network of commonly owned or dedicated open space.

12. "Council" means the Minnesota Environmental Quality Council established pursuant to Minn. Stat. § 116C.01 to 116C.08 (Supp. 1974).

13. "Development" means the making of any material change in the use or appearance of any structure or land including, but not limited to: a reconstruction, alteration of the size, or material change in the external appearance of a structure on the land; a change in the intensity of use of the land; alteration of a shore or bank of a river, stream, lake or pond; a commencement of drilling (except to obtain soil samples), mining or excavation; demolition of a structure; clearing of land as an adjunct to construction; deposit of refuse, solid or liquid waste, or fill on a parcel of land; the dividing of land into two or more parcels.

14. "Development Permit" means a building permit, zoning permit, water use permit, discharge permit, permit for dredging, filling, or altering any portion of a watercourse; plat approval, re-zoning, certification, variance or other action having the effect of permitting any development as defined in the Act or these Interim Development Regulations.

15. "Dimension Variance" means a modification or variation of the height or setback provisions of the Interim Development Regulations where it is determined that by reason of special and unusual circumstances relating to a specific lot, that strict application of the provisions would cause an undue or unnecessary hardship, or that strict conformity with the provisions would be unreasonable, impractical or unfeasible under the circumstances.

16. "Dwelling Unit" means a residential building or portion thereof intended for occupancy by a single family, but not including hotels, motels, boarding or rooming houses or tourist homes.

17. "Essential Services" means underground or overhead gas, electrical, steam or water distribution systems including poles, wires, mains, drains, sewers, pipes, con-

EXECUTIVE ORDERS

duits, cables, and other similar equipment and accessories in conjunction therewith, but not including buildings or transmission services.

18. "Feedlots" means a confined unenclosed area for the feeding, breeding, raising or holding of livestock, where livestock manure can accumulate, and where there is no vegetation.

19. "Floodway" means the river channel and the portions of the adjoining floodplain which are reasonably required to carry and discharge the regional flood.

20. "Floodplain" means the areas adjoining a watercourse which has been or hereafter may be covered by a regional flood.

21. "Regional Flood" means a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval.

22. "General Advertising Signs" means those signs which direct attention to a product, service, business or entertainment not exclusively related to the premises where such sign is located.

23. "Government Development" means any development financed in whole, or in more than 50 percent of its total financing, directly or indirectly, by the United States, the State of Minnesota, or any agency or political subdivision thereof.

24. "Historic Preservation" means the protection by various means of buildings or other structures, land areas, or districts which are identified by the Minnesota Historical Society or the National Register of Historic Places.

25. "Industrial Use" includes without limitation, factory, office building, warehouse, elevators, material transfer site, pipeline, refuse and material storage areas.

26. "Interim Development Regulations" means the regulations in the Order which indicate the development that shall be permitted pending the adoption of plans and regulations consistent with the policies of the Act and Minnesota Regulations MEQC 51 through MEQC 57.

27. "Landscaping" means plants such as trees, grass, and shrubs.

28. "Livestock" includes, but is not limited to horses, cattle, pigs and turkeys.

29. "Local Unit of Government" means any political subdivision of the State, including but not limited to coun-

ties, municipalities, townships, and all agencies and boards thereof.

30. "Lot" means a parcel, piece, or portion of land designated by metes and bounds, registered land survey, plat, or other means and separated from other parcels or portions by said description that is recorded or to be recorded in the Office of the Register of Deeds (or Registrar of Titles).

31. "Major Expansion" means an expansion involving a 20% or greater addition to the total land area presently covered or used by an industrial, commercial, recreational or public facility.

32. "Metropolitan Development Framework" means that chapter of the Metropolitan Development Guide which deals primarily with the physical development of the metropolitan area.

33. "Metropolitan Plans, Guides, and Standards" means and refers to all documents, reports, and materials which have been adopted by the Metropolitan Council and includes, but is not limited to Metropolitan Development Guide Sections, including the Development Framework Chapter and policy plans for Development Programs of all Metropolitan Commissions.

34. "Metropolitan Systems" means those facilities for which the Metropolitan Council has planning responsibility including, but not limited to interceptor sanitary sewers, sewage treatment plants, transit facilities, regional parks, and major highways.

35. "Metropolitan Urban Service Area (MUSA)" means the portion of the Metropolitan Area having metropolitan sewer service available, good highway access, transit service, and most municipal services as designated in the Development Framework chapter of the Metropolitan Development Guide.

36. "Mining" means the extraction of sand, gravel, rock, soil or other material from the land in the amount of one thousand cubic yards or more and the removing thereof from the site without processing with the exception of the removal of materials associated with construction of a building, which is approved in a building permit.

37. "Mississippi River Corridor" means that area within the boundaries of the Mississippi River Corridor Critical Area.

38. "Mobile Home Court" means any area on which spaces are rented for the placement of occupied mobile homes.

39. "Mobile Home" means a housing unit designed

EXECUTIVE ORDERS

for transportation after fabrication on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connection to utilities and the like.

40. "Multi-family Development" means three or more dwelling units in one structure, including but not limited to an apartment building.

41. "Normal Highwater Mark" means a mark delineating the highest water level that has been maintained for a sufficient period of time to leave evidence of the level upon the landscape. It is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. When the normal highwater mark is not evident, setbacks shall be measured from the stream bank of the following water bodies that have permanent flow or open water: the main channel, adjoining side channels, backwaters, and sloughs. At the option of the local unit of government, the normal highwater mark may be delineated as the 100-year floodway line as defined by the Minnesota Department of Natural Resources.

42. "Non-conforming Use" means any use of land established before the effective date of the Interim Development Regulations, which does not conform to the use restrictions of a particular use district of the Interim Development Regulations. This should not be confused with substandard dimensions of a conforming use.

43. "Order" means the Governor's Executive Order that formally designates the Mississippi River Corridor as a Critical Area.

44. "Plan" means a compilation of policy statements, goals, standards, and maps for guiding the physical, social, and economic development, both private and public of the county, municipality, and township. It may include, but not be limited to the following: statement of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan and recommendations for plan implementation.

45. "Public Facility" means all public buildings, including schools, libraries, fire stations, administrative offices, roads, bridges.

46. "Public Safety Facilities" means hydrants, fire alarm boxes, street lights, railway crossing signals, and similar facilities and accessories, but not including buildings.

47. "Public Transportation" means all modes of transportation provided by or dedicated to public use includ-

ing, but not limited to roadways, transit facilities, railroads, and bikeways.

48. "Regional Agencies" means the Metropolitan Council, Metropolitan Waste Control Commission, Metropolitan Airport Commission, Metropolitan Transit Commission, and Metropolitan Park Board.

49. "Recreation Open Space" means recreation uses particularly oriented to and utilizing the outdoor character of an area; including, but not limited to hiking, riding trails, primitive campsites, campgrounds, parks, and recreation areas.

50. "Rules and Regulations" means the instruments by which state and local units of government control the physical development of the Mississippi River Corridor or any part or detail thereof. Regulations include, but are not limited to, ordinances establishing zoning, subdivision control, platting, and the adoption of official maps.

51. "Re-zone" means a change of permitted uses within a local zoning district or of the boundaries of a local zoning district, adopted by ordinance by the local government unit.

52. "Selective Cutting" means the removal of single scattered trees or shrubs. Selective cutting shall not be construed to mean the removal of all trees or shrubs in a given area resulting in the clearing of the land.

53. "Compatible Use" means a use which may be compatible or desirable in a specified district, but requires special conditions for approval because if not carefully located or designed, it may create special problems such as excessive height or bulk or abnormal traffic congestion.

54. "Setback" means the minimum horizontal landward distance between any part of a structure and the normal highwater mark or the established bluffline.

55. "Sewage Disposal System" means any system for the collection, treatment, and dispersion of sewage including, but not limited to, septic tank soil absorption systems.

56. "Single Family Unit" means a detached building containing one (1) dwelling unit.

57. "Structure" means anything constructed or installed or portable, the use of which requires a location on a parcel of land. It includes a movable structure which can, while it is located on land, be used for housing, business, commercial, agricultural, or office purposes either temporarily or permanently. Structure also includes roads, billboards, swimming pools, poles, pipelines, transmission lines, tracks and advertising signs.

EXECUTIVE ORDERS

58. "Subdivision" means the division of any parcel of land into two or more lots, including re-subdivision.

59. "Transmissions Services" means electric power, telephone, and telegraph lines, cables, pipelines or conduits that are used to transport large blocks of power between two points. In the case of electrical power, this will generally mean 69 kilovolts or more. For mains or pipelines for gas, liquids, or solids in suspension, this means those that are used to transport large amounts of gas, liquids, or solids in suspension between two points.

60. "Treeline" means the more or less continuous

line formed by the tops of trees in a wooded area when viewed from a particular point. Such line shall be determined during all seasons as if under full foliage.

61. "Wetlands" are low-lying areas which may be covered with shallow water. They are frequently associated with a highwater table. Swamps, bogs, marshes, potholes, wet meadows, and sloughs are wetlands. They may occur adjacent to or within natural drainageways or as free-standing low areas. Wetlands shall consist of Types 1 to 8 as defined in U.S.D.I. Fish and Wildlife Service Circular 39.

MRCCA SONAR

Exhibit C – Metropolitan Council Resolution 79-48

RESOLUTION NO. 79-48

RESOLUTION APPROVING THE DESIGNATION
OF THE MISSISSIPPI RIVER CORRIDOR
AS A CRITICAL AREA

WHEREAS, Minnesota Statutes Section 116G.06, subd. 2(c), sets forth the procedure for the designation of Critical Areas within the State of Minnesota, and

WHEREAS, in 1976, the Metropolitan Council recommended to the State Environmental Quality Board and Governor that the Mississippi River Corridor Critical Area be established and,

WHEREAS, by Executive Order No. 130, adopted November 23, 1976, the Governor designated the Mississippi River Corridor as a critical area and,

WHEREAS, by Executive Order 79-19, adopted March 27, 1979, the Mississippi River Corridor critical area designation was continued, and

WHEREAS, Section 116G.06, subd. 2(c) provides that a critical area designation shall be effective for an indefinite period if within three years of its designation, the designation is approved by the legislature or by the Regional Development Commission, and

WHEREAS, the Metropolitan Council is the Regional Development Commission for the seven county metropolitan area,

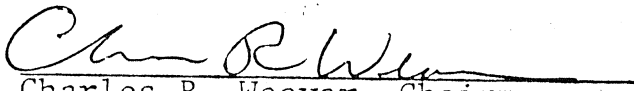
NOW, THEREFORE, BE IT RESOLVED:


1. THAT the Metropolitan Council approve the designation of the Mississippi River Corridor as that Corridor is delineated in the Governor's Executive Order No. 79-19 adopted March 27, 1979.
2. THAT the Metropolitan Council adopt and approve the boundaries of the area of critical concern, the reasons that the particular area is of critical concern, the standards and guidelines to be followed in preparing, adopting, and reviewing plans and regulations in accordance with Section 116G.07 and the development recommendations set forth in the aforementioned Executive Order.

3. THAT a copy of this resolution shall be submitted to the Minnesota Environmental Quality Board.

Adopted this 12th day of July, 1979.

METROPOLITAN COUNCIL

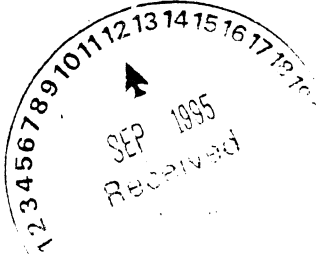

Charles R. Weaver, Chairman


Eugene Franchett, Exec. Director

/cy
7.11.79

MRCCA SONAR

Exhibit D – Reorganization Order 170



STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION
REORGANIZATION ORDER NO. 170

RECEIVED
SEP - 5 1995
COMMISSIONER

Pursuant to Minnesota Statutes 1994, Section 16B.37, the following administrative reorganization is made with the prior approval of the Governor.

In order to improve efficiency and avoid duplication in the operation of state government, the Environmental Quality Board's duties for management of the Mississippi River Corridor Critical Area as established in Executive Orders 130 and 79-19, as amended by Executive Orders 130A and 130B, and as modified by Minnesota Statutes 1994, Section 116G.15, are transferred to the Department of Natural Resources.

No personnel or staff positions are transferred.

The Environmental Quality Board shall give to the Department of Natural Resources all contracts, books, maps, plans, papers, records, supplies, and equipment relating to the transferred duties.

Rulemaking authority for the management of the Mississippi River Corridor Critical Area is transferred to the Department of Natural Resources. All rules adopted by the Environmental Quality Board pursuant to these duties remain in effect and shall be enforced until amended or repealed in accordance with law by the Department of Natural Resources.

The Department of Natural Resources is the legal successor in all respects of the Environmental Quality Board in regard to the transferred duties. The bonds, resolutions, contracts, and liabilities of the Environmental Quality Board become the bonds, resolutions, contracts, and liabilities of the Department of Natural Resources.

Any proceeding, court action, prosecution, or other business or matter pending on the effective date of the transfer may be conducted and completed by the Department of Natural Resources in the same manner under the same terms and conditions, and with the same effect, as though it involved or were commenced and conducted or completed prior to the transfer by the Environmental Quality Board.

The Commissioner of Finance shall make the necessary financial determinations in accordance with Minnesota Statutes 1994, Section 16B.37, subdivision 3.

In accordance with Minnesota Statutes 1994, Section 16B.37, subdivision 2, this order is effective upon filing with the Secretary of State and shall remain in effect until amended or repealed.

9/11 - copies to: *Kent Lohdesmo*
Steve Johnson

APPROVED:

Arne H. Carlson
ARNE H. CARLSON, GOVERNOR

July 28, 1995
DATE

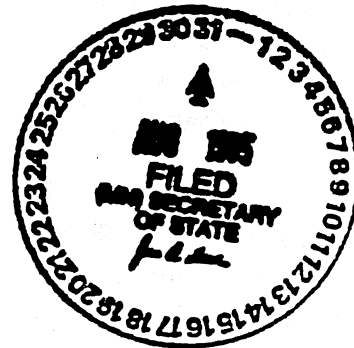
Elaine S. Hansen
ELAINE S. HANSEN, COMMISSIONER
DEPARTMENT OF ADMINISTRATION

July 31, 1995
DATE

FILED ACCORDING TO LAW:

Joan A. Grove
JOAN ANDERSON GROVE
SECRETARY OF STATE

August 31, 1995
DATE



MRCCA SONAR

Exhibit E – 2008 DNR Report to Legislature on MRCCA Program

MISSISSIPPI RIVER CORRIDOR CRITICAL AREA

REPORT TO THE MINNESOTA LEGISLATURE



MINNESOTA DEPARTMENT OF NATURAL RESOURCES

JANUARY 2008



Minnesota DNR
500 Lafayette Road
St. Paul, MN 55155
www.dnr.state.mn.us

DNR Mission Statement: *Our mission is to work with citizens to conserve and manage the state's natural resources, to provide outdoor recreation opportunities, and to provide for commercial uses of natural resources in a way that creates a sustainable quality of life.*

The DNR is an Equal Opportunity Employer.

Statutory Authority

This document was prepared at the direction of the Minnesota Legislature in Laws of Minnesota 2007, Chapter 57, Article 1, Section 4, Subd. 8.

The cost to prepare this report was \$56,000.

Acknowledgements

This document was prepared by the Minnesota Department of Natural Resources in consultation with the Environmental Quality Board, the National Park Service MNRRA, and the Metropolitan Council, with contributions from the Friends of the Mississippi River, local governments, citizens, and the private and not-for-profit sectors, and with funding by the Minnesota Legislature.

Alternative format available upon request.

All photographs by the National Park Service.

For further information, contact:

Rebecca Wooden, Land Use Supervisor, at 651-259-5717, or
rebecca.wooden@dnr.state.mn.us

Laws of Minnesota 2007, Chapter 57, Article 1, Section 4, Subd. 8.

\$50,000 in the first year is for the commissioner, in consultation with the Environmental Quality Board, to report to the house and senate committees having jurisdiction over environmental policy and finance by February 1, 2008, on the Mississippi River critical area program. The report shall include the status of critical area plans, zoning ordinances, the number and types of revisions anticipated, and the nature and number of variances sought. The report shall include recommendations that adequately protect and manage the aesthetic integrity and natural environment of the river corridor.

TABLE OF CONTENTS

SECTION	PAGE
Summary	
Section 1: Introduction and Background	1
Introduction	1
Background of the Mississippi River Corridor Critical Area	1
Roles	8
Responsibilities and Requirements	9
Current DNR Program Management	11
Additional Studies	12
Section 2: Communities: Plans, Ordinances, and Variances	14
Introduction	14
Land Use Planning and Regulation	14
MNRRA Tier II	14
DNR Survey of Critical Area Communities	15
Survey Results:	
Community Plans and Regulations	16
Variances	17
Individual Community Responses	18
Summary of Survey Results	47
Section 3: Stakeholder Participation	48
Stakeholder Issues	48
Stakeholder Options	49
Section 4: Options and Recommendations	54
Need for Changes	54
Options	55
Discussion of Options	61
Group 1- Options that move MRCCA administration	61
Group 2- Options that enhance the existing program	62
Group 3- Options that modify the existing program	65
Group 4- Options that increase oversight of local decisions	68
Recommendations	69
Section 5: Conclusions	71
Figures	
Figure 1: MRCCA with Governmental Units and Districts	5
Figure 2: Distribution of Variance Application Decisions	18
Appendices	

- Appendix A: Friends of the Mississippi River Stakeholder Report
- Appendix B: Selected Policies and Guidelines
- Appendix C: FMR Letter to the DNR Division of Waters

SUMMARY

The Mississippi River Corridor Critical Area was designated over 30 years ago, extending approximately 72 miles and encompassing portions of some 30 governmental subdivisions. Executive Order 79-19 provides the standards and guidelines for Corridor planning and management. Protection and regulation of the Corridor is accomplished largely at the local level, with oversight and assistance provided by various regional, state, and federal agencies. The Critical Area Corridor is also federally-designated as the Mississippi National River and Recreation Area (MNRRA), a unit of the National Park Service.

While the Minnesota Environmental Quality Board (EQB) is home to Minnesota's Critical Area Program (MS § 116G), administration of the Mississippi River Corridor Critical Area was transferred to the Department of Natural Resources (DNR) in 1995.

In 2007, the Minnesota State Legislature directed the DNR to prepare a report to the Legislature on the state of the Mississippi River Corridor Critical Area:

Laws of Minnesota 2007, Chapter 57, Article 1, Section 4, Subdivision 8 -- \$50,000 in the first year is for the commissioner, in consultation with the Environmental Quality Board, to report to the house and senate committees having jurisdiction over environmental policy and finance by February 1, 2008, on the Mississippi River critical area program. The report shall include the status of critical area plans, zoning ordinances, the number and types of revisions anticipated, and the nature and number of variances sought. The report shall include recommendations that adequately protect and manage the aesthetic integrity and natural environment of the river corridor.

The DNR has completed an evaluation accordingly and produced the following report. The report addresses the status of plans and ordinances, community plans for revisions to their plans and ordinances, the types of variances sought and issued, and perceptions of the state of the Corridor. It also includes options and recommendations for changing how the Mississippi River Corridor Critical Area is managed. Information was developed through DNR file review, a survey of Critical Area Corridor communities, a series of stakeholder meetings, consultation with the Environmental Quality Board (EQB) and coordination with the Metropolitan Council and the National Park Service.

The DNR conducted a survey of the Corridor communities to gather information on their management plans and ordinances; their histories of updating and amending plans and ordinances; records of variance applications and approvals; and plans for future revisions. The survey also asked their opinions on the strengths and weaknesses of the critical area program and suggestions for improvement.

Twenty-two of the 30 Corridor communities responded, with 17 providing information on variances. They reported a total of 230 applications over the 30 years of the program, of which 200 were approved and 30 denied. The majority of variance applications concerned setbacks, with bluffline setbacks, accessory structure/rear yard/side yard setbacks, and Ordinary High Water Level setbacks together accounting for 51% of all variance applications. The

communities that provided opinions on the program generally concurred that it provides protection for the river, and gives them a tool for managing development. Several expressed negative views about the additional layer of state control over local decision-making.

Under contract with the DNR, the Friends of the Mississippi River (FMR) convened a series of stakeholder group meetings. The purpose of these meetings was to elicit opinions and perceptions of the Mississippi River Corridor Critical Area program and obtain input on management issues, suggestions for alternative or improved management strategies, and help identify programmatic, funding, statutory, or rulemaking requirements to implement the options. FMR first held three meetings targeted at specific groups interested in management of the Mississippi River Corridor Critical Area, then followed with a fourth meeting for all stakeholder groups. The three targeted groups were: the business and development community; government entities, and environmental and civic groups and interested private citizens.

The stakeholders identified strengths and weaknesses of the current program and discussed a variety of options for program change. They unanimously opposed removing the Critical Area designation, and generally wanted to see the program strengthened with more staff and funding, and more specific management goals. Very few stakeholders advocated moving Corridor management from the DNR to another agency. They had mixed views on whether management standards should be established through rulemaking and what types of increased program oversight should be implemented.

The report includes over thirty options for changing Mississippi River Corridor Critical Area management. The options evolved from the stakeholder meetings, from input received from other partner agencies (EQB, Metropolitan Council, National Park Service), the Friends of the Mississippi, and internal DNR discussions. Requirements for implementing each option (including statutory, rule or funding changes) are included, along with an indication of stakeholder support. The options are grouped into the following categories:

- Options that move Corridor administration (to other DNR land use programs, to other DNR units, or to other state or local agencies);
- Options for enhancements within the existing program structure and authorities;
- Options that modify the current program or process, and
- Options that increase oversight of local decisions

Stakeholders nearly unanimously supported options for enhancing the existing program, and provided mixed support for options involving substantial changes to the program and DNR authorities.

Some options (primarily program enhancements) could be implemented with relatively minor funding and staffing changes. Others, especially involving rulemaking would take several years to implement, and significant increases of staff and funding. Moving Corridor administration would necessitate increased staffing at the new home agency. If greater state-level oversight and enforcement is desired, effectiveness will rely on clear statutory authority and sufficient funding and staffing increases.

The DNR primarily recommends options that enhance the skill and resources of local units of government. The DNR also recommends legislative clarification of its authority, and recommends the Legislature establish administrative mechanisms for modifying Executive Order 79-19 and the designated Corridor boundaries.

Stakeholders generally called for greater oversight of local land use decisions in the Corridor. While several oversight options were identified, the DNR supports only the option establishing local hearing boards to review variance decisions.

The following report presents the results of the study, along with appendices containing FMR's complete report, and assorted supplementary and background materials.

SECTION 1 – Introduction and Background

Introduction

The Mississippi River Corridor Critical Area (MRCCA) was established over 30 years ago to protect and preserve the unique natural, recreational, transportation, and cultural features of the section of the Mississippi River flowing through the Minneapolis-St. Paul Metropolitan Area. It comprises 72 miles of river and 54,000 acres of surrounding land in some 30 governmental subdivisions. Regulation of activities in this area of the Mississippi River is accomplished largely at the local level, with planning coordination, oversight and assistance provided by various regional, state, and federal agencies.

In 2007, the Minnesota State Legislature directed the Department of Natural Resources (DNR) to prepare a report on the status of the Mississippi River Corridor Critical Area:

Laws of Minnesota 2007, Chapter 57, Article 1, Section 4, Subdivision 8 -- \$50,000 in the first year is for the commissioner, in consultation with the Environmental Quality Board, to report to the house and senate committees having jurisdiction over environmental policy and finance by February 1, 2008, on the Mississippi River critical area program. The report shall include the status of critical area plans, zoning ordinances, the number and types of revisions anticipated, and the nature and number of variances sought. The report shall include recommendations that adequately protect and manage the aesthetic integrity and natural environment of the river corridor.

The DNR has completed an evaluation accordingly and produced the following report. The report addresses the status of plans and ordinances, community plans for revisions to their plans and ordinances, the types of variances sought and issued, stakeholder perspectives on the Corridor, and includes options and recommendations for changing corridor management. Information was developed through DNR file review, a survey of MRCCA communities, a series of stakeholder meetings, consultation with the Environmental Quality Board (EQB) and coordination with the Metropolitan Council and the National Park Service.

Background of the Mississippi River Corridor Critical Area

Critical Areas Act

In 1973, the Minnesota State Legislature passed the Critical Areas Act (MN Statutes, Chapter 116G) because it found

“the development of certain areas possessing important historic, cultural, or aesthetic values, or natural systems which perform functions of greater than local significance, could result in irreversible damage to these resources, decrease their value and utility for public purposes, or unreasonably endanger life and property.” (MN Stat. § 116G.02)

The Act directed the Environmental Quality Council (now the Environmental Quality Board, or EQB) and regional development commissions to identify these areas and to assist and cooperate with local government units (LGUs) in preparing plans and regulations (ordinances) for the wise use of these areas. The EQB adopted procedural rules to implement the Act (MN Rules, parts 4410.8100 - 4410.9910).

Designation of the Mississippi River Critical Area

The EQB and the Metropolitan Council, working with the Citizens League, devoted two years to extensive study, review, drafting, and hearings before an Administrative Law Judge to develop recommendations to the Governor concerning Critical Area designation for the metropolitan Mississippi River corridor. In 1975, the Metropolitan Council recommended that the Governor designate the Mississippi River Corridor as a state Critical Area.

In 1976, Governor Wendell Anderson designated 72 miles of the Mississippi River and adjacent 54,000-acre corridor from Anoka to the confluence with the St. Croix River a State Critical Area through Executive Order No. 130 (1 State Register 656 - 683; 768 - 811). The findings in the executive order included:

- It is an area affected by existing or proposed major governmental development.
- It is an area containing historic, natural, scientific, or cultural resources of regional or statewide importance.
- The area was recognized to be of significant regional or statewide public interest because it is a regional transportation corridor, a regional recreational area, and it has been or is being studied by a number of local, state and federal agencies and commissions.
- Other legal powers are unavailable to provide coordinated regulation of the area to protect the public interest.
- The area is one of a limited number within the state. No other area in Minnesota provides such important transportation, recreational, and water-related functions as the river does as it flows through the Metropolitan Area. Thus, it is a unique resource in Minnesota because of its importance and in its proximity to the large number of people in the Metropolitan Area.
- Unregulated development and uncoordinated planning threatens the public interest in the Mississippi River Corridor; many decisions affecting the use of the River Corridor are made by local governmental units without adequate regard for protecting the regional interest in the regional resource.
- The advantages of coordinated planning for the area will achieve development of the River Corridor as a regional multi-purpose resource, resolve the conflicts of use of land and water, preserve and enhance its natural, aesthetic, cultural, and historical value for the public use, and protect its environmentally sensitive areas.

The executive order also specified responsibilities and responsible parties for managing the Critical Area; established the requirement that LGUs prepare plans and regulations to guide development in accordance with the goals of the executive order, and provided guidelines and standards for preparing and reviewing such plans and regulations. These responsibilities are

detailed in Executive Order 79-19, Appendix B, “Standards and Guidelines for Preparing Plans and Regulations”, and are included in Appendix B of this report.

Governor Albert Quie continued the Critical Area designation through Executive Order 79-19 (3 State Register 1680 – 1710); the Metropolitan Council made the designation permanent by resolution dated July 12, 1979. In 1991, the Legislature designated the federal Mississippi National River and Recreation Area (MNRRA) an area of critical concern in accordance with the Critical Areas Act.

Designation Purposes

Executive Order 79-19 Standards and Guidelines for Preparing Plans and Regulations for the Mississippi River Corridor Critical Area states that the purposes of designating the Mississippi River as a Critical Area are:

- a. *To protect and preserve a unique and valuable state and regional resource for the benefit of the health, safety and welfare of the citizens for the state, region, and nation;*
- b. *To prevent and mitigate irreversible damage to this state, regional, and national resource;*
- c. *To preserve and enhance its natural, aesthetic, cultural, and historical value for the public use;*
- d. *To protect and preserve the river as an essential element in the national, state and regional transportation, sewer and water and recreational systems; and*
- e. *To protect and preserve the biological and ecological functions of the corridor.*

Corridor Boundary and District Designations

The designated Mississippi River Corridor Critical Area (MRCCA) extends from the northern borders of the cities of Dayton and Ramsey to the southern boundary of Dakota County on the west/south side of the river and the boundary with the Lower St. Croix National Scenic Riverway on the east/north side of the river.

The executive order calls for managing the Corridor as a multi-purpose resource by:

- a. *Maintaining the river channel for transportation and providing and maintaining barging and fleeting areas in appropriate locations consistent with the character of the river and the riverfront.*
- b. *Conserving the scenic, environmental, recreational, mineral, economic, cultural, and historic resources and functions of the river corridor.*
- c. *Providing for the continuation and the development of a variety of urban uses, including industrial and commercial uses, and residential, where appropriate, within the river corridor.*
- d. *Utilizing certain reaches of the river as a source of water supply and as a receiving stream for properly treated sewage and industrial waste effluents.*

Four corridor districts and guidelines for the districts were established for the state Corridor in order to manage the river corridor consistent with its natural characteristics and its existing development [Ex. Ord. 79-19 B. 2.]. These are:

- *Rural Open Space district. The lands and waters within this district shall be used and developed to preserve their open, scenic and natural characteristics and ecological and economic functions. Presently undeveloped islands shall be maintained in their existing natural state. The transportation function of the river shall be maintained and preserved.*
- *Urban Diversified district. The lands and waters within this district shall be used and developed to maintain the present diversity of commercial, industrial, residential, and public uses of the lands, including the existing transportation use of the river; to protect historical sites and areas, natural scenic and environmental resources; and to expand public access to and enjoyment of the river. New commercial, industrial, residential, and other uses may be permitted if they are compatible with these goals.*
- *Urban Developed district. The lands and waters within this district shall be maintained largely as residential areas. The expansion of existing and development of new industrial, commercial, and other non-residential or non-recreational uses shall be limited to preserve and enhance the residential character of this district.*
- *Urban Open Space district. The lands and waters within this district shall be managed to conserve and protect the existing and potential recreational, scenic, natural, and historic resources and uses within this district for the use and enjoyment of the surrounding region. Open space shall be provided in the open river valley lands for public use and the protection of unique natural and scenic resources. The existing transportation role of the river in this district shall be protected.*

The extent of the corridor, the districts, and the local and regional governmental units that lie wholly or partially within the corridor are shown in figure 1.

(Page held for figure)

Designation of the Mississippi National River and Recreation Area

In 1988, Congress passed Public Law 100-696 [16 U.S.C. § 460zz et seq.] establishing the Mississippi National River and Recreation Area as a unit of the National Park Service (NPS).

The Congress found that:

- (1) *The Mississippi River Corridor within the Saint Paul-Minneapolis Metropolitan Area represents a nationally significant historical, recreational, scenic, cultural, natural, economic, and scientific resource.*
- (2) *There is a national interest in the preservation, protection and enhancement of these resources for the benefit of the people of the United States.*
- (3) *State and local planning efforts along the River Corridor provide a unique foundation for coordinating Federal, State, and local planning and management processes.*
- (4) *Existing Federal agency programs lack sufficient coordination and financial participation with State and local planning and regulatory authorities to provide for adequate and comprehensive resource management and economic development consistent with the protection of the Mississippi River Corridor's nationally significant resources, and the public use and enjoyment of the area.*
- (5) *The preservation, enhancement, enjoyment, and utilization of the nationally significant resources of the Mississippi River Corridor can be accomplished by a cooperative Federal, State, and local comprehensive planning and management effort.*

The purposes are:

- (1) *To protect, preserve and enhance the significant values of the waters and land of the Mississippi River Corridor within the Saint Paul-Minneapolis Metropolitan Area.*
- (2) *To encourage adequate coordination of all governmental programs affecting the land and water resources of the Mississippi River Corridor.*
- (3) *To provide a management framework to assist the State of Minnesota and its units of local government in the development and implementation of integrated resource management programs for the Mississippi River Corridor in order to assure orderly public and private development in the area consistent with findings of this subtitle.*

As indicated earlier, the Minnesota Legislature designated the Mississippi National River and Recreation Area (MNRRA) as a state Critical Area in 1991. The federal MNRRA boundary is the same as the State-designated Critical Area boundary. In 1995, the NPS prepared the MNRRA Comprehensive Management Plan. The plan adopts and incorporates by reference the state critical area and shoreland management programs, and other applicable state and regional land use management programs to implement the plan's vision.

The plan includes guidelines to coordinate protection of natural, cultural, historic, and economic resources, visitor use, and development activities in the Critical Area and to promote a greater degree of protection consistency among the corridor communities. These guidelines are collectively known as MNRRA Tier II standards (see Appendix B). They are more protective than the Critical Area executive order standards, and community adoption is voluntary.

MNRRRA staff work with DNR staff to encourage adoption of MNRRRA Tier II Standards into plans and ordinances by local units of government. Nearly all communities have updated their plans to incorporate Tier II standards, but very few have Tier II consistent ordinances.

Roles

Several federal, state, regional, and local entities have or had roles and responsibilities designated by statute to promote the goals of the Mississippi River Critical Area. Currently the DNR, Metropolitan Council, and the NPS work in partnership to assist communities in managing and protecting the Corridor.

The Department of Natural Resources (DNR)

The original statute and subsequent executive orders charged the EQB with administering the Mississippi River Corridor Critical Area. In 1995, the MNRRRA plan recommended transfer of these responsibilities to the DNR, which was accomplished through Department of Administration Reorganization Order 170, approved by Governor Arne Carlson. References in MN Statutes, MN Rules, and Executive Order 79-19 to the MRCCA related duties of the Environmental Quality Council or the EQB became the DNR's responsibility following this transfer.

The DNR's primary MRCCA roles include: review and approval of plans, ordinances, and amendments to plans and ordinances affecting lands within the Corridor to achieve consistency with Executive Order 79-19 standards, and review of development proposals that require a hearing (see MR part 4410.9800) to achieve consistency with Executive Order 79-19.

Reorganization Order No. 170 transferred rulemaking authority from EQB to DNR. The Order states:

Rulemaking authority for the management of the Mississippi River Corridor Critical Area is transferred to the Department of Natural Resources. All rules adopted by the Environmental Quality Board pursuant to these duties remain in effect and shall be enforced until amended or repealed in accordance with law by the Department of Natural Resources.

The Metropolitan Council

The Metropolitan Council reviews plans that affect lands within the MRCCA; provides technical assistance to communities in adopting or amending plans that are consistent with regional policies, Executive Order 79-19 standards and guidelines, and any voluntary MNRRRA policies, and submits its recommendations to the DNR to assist in approval decisions. At one time, the Council also administered funding from the NPS to assist communities revising their plans and ordinances, but these funds are no longer available.

The National Park Service (NPS)

The NPS coordinates with the DNR, Metropolitan Council, and LGUs regarding land use in the river corridor; has provided funding to local, regional, and state agencies to assist with the Critical Area program; and encourages LGUs to meet state Critical Area standards and incorporate additional MNRRA policies into their Critical Area plans. The NPS also pursues stewardship education, interpretation, and historical and cultural resource protection.

Responsibilities and Requirements

Regional agencies, state agencies, and local units of government with jurisdiction in the corridor are required to adopt approved plans for the Corridor that comply with Executive Order 79-19, and permit development only in accordance with those regulations approved by DNR or EQB. In addition, Executive Order 79-19 directed state agencies, regional agencies, and local units of government to develop capital improvement programs or public facilities programs that describe actions to be undertaken within the Corridor.

Capital improvement or public facilities actions must be consistent with the standards and guidelines in Executive Order 79-19, sections B. and C. The DNR expects that capital improvement or public facilities programs of government entities within the MRCCA are not routinely reviewed for consistency with the executive order guidelines. In addition, while state agencies with lands or facilities in the Corridor may have developed plans to meet the executive order guidelines, there is no systematic review or updating.

LGUs are required to adopt regulations or ordinances that regulate development in accordance with the guidelines of the executive order. These plans and regulations must address land use and development, resource protection (especially riverbanks, bluffs, runoff, site alteration, vegetation, water quality, wetlands and floodplains), aesthetic quality protection, surface water uses, open space and recreation, view preservation, and erosion.

Until plans and regulations were adopted and approved, the LGUs were required to regulate activities in accordance with the Interim Development Regulations included in Executive Order 79-19. Nearly all communities have since had plans and regulations approved, and no longer rely on the IDR for regulating development in the MRCCA. The exceptions are Hastings, and unincorporated areas of Hennepin County.

Critical Area Plan and Ordinance Review and Approval

MN Rules, part 4410.9400, requires local units of government to enact only the plans and regulations for a Critical Area that have the written approval of the EQB (or DNR in the case of the MRCCA). Amendments also become effective only upon the approval of the DNR. Communities must comply with the standards and guidelines in Executive Order 79-19, and the procedures in Minnesota Statutes and Rules when preparing, updating, or modifying plans and regulations that affect lands within the Corridor.

Review and approval of plans and regulations requires coordinated effort between DNR and the Metropolitan Council. Executive Order 79-19 designates the Metropolitan Council as the lead agency to coordinate the preparation, submission, review, and modification of land use plans, zoning ordinances, zoning amendments, and other plans and regulations affecting the MRCCA. As a practical matter, the Council generally takes the lead on plan reviews, consistent with its responsibility for overseeing comprehensive planning in the Metropolitan Area, and the DNR serves a lead role in reviewing ordinances.

Both plans and regulations must be submitted to the Metropolitan Council, which reviews them for consistency with Executive Order 79-19 and regional objectives. The Metropolitan Council then forwards the plans or regulations to the DNR, along with its evaluation and recommendations. The DNR reviews the plans and regulations to determine their consistency with the provisions of the executive order, and may request comments from other state agencies as well. Considering the Metropolitan Council recommendation, its own evaluation, and the comments from other agencies, the DNR must either approve the plans and ordinances, or return them to the LGU for modification.

Minnesota Statutes § 116G.10, subdivision 2 requires a resubmission (and state review and approval) of plans and regulations two years after initial adoption. Afterwards, local units of government may amend their plans and regulations if they find it necessary or desirable (“permissive resubmission” provided by MS § 116G.10, subd. 1). Amendments to plans and regulations are reviewed and approved in the same manner as the original plans and regulations.

Development Activities

Local units of government, regional and state agencies shall allow development in the Corridor only in accordance with the DNR- or EQB-approved plans and regulations or amendments that affect lands within the Corridor. The executive order requires LGUs to include administrative procedures for permit notification in their plans and regulations, and to notify the DNR at least 30 days before action is taken for all development applications requiring a public hearing (MR part 4410.9800). Communities without approved plans and ordinances (currently the City of Hastings and an unincorporated portion of Hennepin County near the MSP airport) must also notify the DNR about any additional types of projects listed in the Interim Development Regulations. The executive order also requires that the LGU prepare procedures to notify the DNR of their final actions on such applications.

Enforcement

The executive order also provides for judicial proceedings to compel proper enforcement if the DNR determines that the administration of plans and regulations is inadequate. The ability of the DNR to appeal local decisions is the same as in other land use programs, and is shared by any citizen or organizations with standing.

Relationship to Other State and Federal Laws

Under the executive order, the Corridor shall be managed in accordance with applicable federal and state laws, including state laws pertaining to variances, environmental review, wetlands, public waters permits, shoreland management, and floodplain management, and federal laws and permits from the U.S. Army Corps of Engineers.

The following table summarizes the roles and responsibilities of the DNR and the Metropolitan Council with respect to these activities.

Activity	Metropolitan Council	DNR
Plans and Regulations Review, Approval, and Amendment	Met Council provides technical assistance and guidance for preparing plans and plan amendments.	DNR provides technical assistance and guidance for preparing ordinances and amendments.
	Review for consistency with Executive Order 79-19 and regional objectives (E.O. 79-19 D)	
	Transmit evaluation/recommendation on above criteria and a copy of the plan to DNR (E.O. 79-19 D.3)	
		Review and make approval decision (MS § 116G.07; MR Part 4410.9100, 4410.9400; E.O. 79-19 D)
		Receive amendments and initiate review process. Review and approval of amendments is in the same manner as for original plans and regulations. (MS § 116G.10; MR Part 4410.9500; E.O. 79-19 E)
Development Activities in communities with approved plans and regulations	No role	LGU must notify DNR at least 30 days prior to taking action on development requiring a public hearing (MR Part 4410.9800). DNR provides review and comment at its discretion.
		LGUs required to have procedures for notifying DNR of final action (E.O. 79-19 G).
Development Activities in communities without adopted and approved plans and regulations (Note: this is rare)	Notify DNR of certain types of development listed in Interim Development Regulations (IDR) proposed by regional agencies at least 30 days before final action	LGU, regional, and state agencies shall notify DNR of the certain types of proposed development listed in IDR at least 30 days before final action (MR Part 4410.9800)
		Notify Metropolitan Council of the proposed development no later than 2 days after receipt of notice. (E.O. 79-19 IDR I.2.)
	Review the proposed development, decide whether to hold a public hearing, and transmit to DNR no later than 18 days after receipt of notice (or 30 days after a hearing) a written recommendation with reasons for approving, modifying, or denying the proposed development	
		Review, consider, and transmit recommendation to LGU no later than 10 days after receipt of Metropolitan Council's recommendation.
Judicial Enforcement under IDRs		If DNR recommendation is not followed, may appeal LGU's decision to District Court within 30 days of receipt of notice of final action from LGU
Judicial Enforcement, generally		If DNR determines that administration of plans and regulations is inadequate to protect the state or regional interests, may institute appropriate judicial proceedings to compel proper enforcement (MR Part 4410.9600, E.O.79-19, H.)
Agency Plans and Permits	E.O.79-19 Standards and Guidelines shall be followed by regional agencies for permit regulation and in developing plans within their jurisdictions.	E.O.79-19 Standards and Guidelines shall be followed by state agencies for permit regulation and in developing plans within their jurisdictions (E.O. C.6, C.8, C.10).
Other		Reorganization Order No. 170 transferred authorities to DNR relating to management of MRCCA

Current DNR Program Management

The DNR uses area, regional, and central office staff to oversee the program. Central Office staff provide primary coordination with the Metropolitan Council and the NPS, and review and approve Critical Area plans and amendments. Regional and area staff review proposed

development projects within the MRCCA, and provide technical assistance and review of Critical Area ordinances and amendments.

As indicated above, DNR assumed responsibility for MRCCA administration in 1995. Over the ensuing five or six years, the NPS provided approximately \$625,000 to the DNR to fund staff positions for program administration. The primary staff focus was to assist communities with bringing their plans and ordinances into compliance with MNRRRA Tier II standards (“Tier I” standards were the Executive Order 79-19 standards). Funding for these positions expired and Critical Area staff have assumed other positions and responsibilities in the DNR. Currently the DNR administers the MRCCA program with staff primarily dedicated to a variety of other responsibilities, including the critical area.

Impetus for the legislative requirement to prepare this study came from citizens concerned that the DNR is not adequately protecting the Corridor; among the concerns are perceptions of too many variances and inadequate plans and regulations. The legislature has directed the DNR to evaluate and report on the status of the Corridor plans and regulations, the numbers and types of variances and to provide recommendations for changing MRCCA management to “adequately protect and manage the aesthetic integrity and natural environment of the river corridor.”

Additional Studies

At the direction of the Legislature (Laws 2001, Spec. Sess., Ch 10, Art. 1, Sect. 11) the Office of Strategic and Long-Range Planning (MN Planning) prepared the report, “*Connecting with Minnesota’s Urban Rivers*”, which includes draft guidelines for sustainable development along the central business districts of rivers in urban areas of the state. The report was prepared in cooperation with the DNR and, while its general focus was on central business districts on rivers statewide, the report highlights management of the Mississippi River Corridor Critical Area in the Metropolitan area. The report developed principles and guidelines to increase the connection between communities and their rivers, and to preserve ecological features while using the river as a community asset.

The DNR has consulted with EQB staff throughout preparation of this report, and concurs with their recommendation that the principles and guidelines in the ‘Urban Rivers’ report should be considered in evaluating options for future MRCCA management. The following is an excerpt from “*Connecting with Minnesota’s Urban Rivers*”, Minnesota Planning, March 2002. The complete report is available at www.eqb.state.mn.us/pdf/2002/UrbanRivers.pdf.

Principles

The principles describe a path for people and communities to connect with urban rivers in a way that creates social and economic opportunities while protecting natural resources.

- ***Enlightened community interest.*** *Engaging people and communities with their rivers is essential to sustaining urban riverfronts.*
- ***Asset management.*** *Development should maintain and restore riverfronts as environmental, economic and social assets.*

- **Endowment protection.** River management plans and decisions should identify, safeguard and restore the most fundamental and intrinsic qualities of each river reach.
- **Implications analysis.** Each development should be evaluated for its cumulative effects on the river and its consistency with a vision and plan for the river.
- **Results management.** Regulations should emphasize sustainable outcomes rather than prescribing how to reach those outcomes.

Guidelines

The design guidelines give specific examples of what a community might look for or how it might approach development as it begins to make sustainable river connections. The goals are to preserve features of a river important to its ecological health while taking advantage of those that might serve as a positive community asset. This also means ensuring that private development makes the riverfront community a better place.

Five design elements to note:

- *Create networks of green spaces that function as an ecological whole.*
- *Seek out and give priority to river-related and river-enhancing development opportunities. If there is no connection to the river, there is no need for a riverfront location.*
- *Establish public gathering places that capitalize on river views and access.*
- *Design the community around a river's unique natural and cultural features.*
- *Ensure that all groups have access to the river's amenities through river-connected open space, overlooks and viewpoints.*

SECTION 2 – Communities: Plans, Ordinances & Variances

Introduction

The 72 miles and 54,000 acres that comprise the MRCCA are distributed in five counties, 21 cities, and four townships. These are:

- Anoka, Hennepin, Ramsey, Washington, and Dakota counties;
- The cities of Anoka, Brooklyn Center, Brooklyn Park, Champlin, Coon Rapids, Cottage Grove, Dayton, Fridley, Hastings, Inver Grove Heights, Lilydale, Maplewood, Mendota, Mendota Heights, Minneapolis, Newport, Ramsey, Rosemount, St. Paul, South St. Paul, and St. Paul Park; and
- Nininger, Grey Cloud Island, Denmark, and Ravenna townships.

In addition, quasi-governmental entities with lands in the MRCCA include the Metropolitan Airports Commission (MAC), and the University of Minnesota.

The upstream-to-downstream distribution of communities on the east side of the river is:

Ramsey, Anoka, Coon Rapids, Fridley, Minneapolis, St. Paul, Maplewood, Newport, St. Paul Park, Grey Cloud Island Township, Cottage Grove, and Denmark Township.

On the west side of the river, the upstream-downstream distribution of communities is:

Dayton, Champlin, Brooklyn Park, Brooklyn Center, Minneapolis, Mendota Heights, Mendota, Lilydale, St. Paul, South St. Paul, Inver Grove Heights, Rosemount, Nininger Township, Hastings, and Ravenna Township.

Minneapolis, St. Paul, and Hastings lie on both sides of the river.

Land Use Planning and Regulation

Every community in the MRCCA that has land use responsibilities is required to adopt a management plan and regulations (usually an ordinance) addressing land use and development activities on corridor lands. These plans and regulations were reviewed and approved by the Metropolitan Council and EQB before 1995, and by the Metropolitan Council and the DNR since then. The majority of communities have updated their plans at least once, primarily in response to a major effort by the NPS, the Metropolitan Council, and the DNR to encourage corridor communities to adopt more protective (MNRRA Tier II) standards.

MNRRA Tier II

In 1995, the NPS produced a comprehensive management plan to guide management in the MNRRA corridor for the ensuing 10-15 years. The plan provides a policy framework for coordinated efforts to protect the natural resources and unique features of the corridor, but does not address site-specific issues (except for NPS development). Comprehensive management

plans are required for all units of the NPS. The MNRRA Comprehensive Management Plan was required after its 1988 designation. The plan addresses the following needs for coordinated corridor management:

- Fill a need for a corridor-wide vision for the river;
- Provide a consistent and comprehensive management strategy for the corridor;
- Address and mitigate the potential for conflicts between different river uses;
- Manage barge transportation and fleeting, including maintenance of a nine-foot navigation channel;
- Protect scenic and aesthetic vistas;
- Regulate and restrict bluff and steep slope development;
- Regulate shoreline development;
- Preserve and promote native vegetation;
- Preserve cultural and historic resources;
- Improve water quality;
- Prevent habitat loss, including wetland and aquatic habitat;
- Increase the amount of open space and manage it in a coordinated and effective manner;
- Preserve economic resources and achieve balance and sustainability among natural, cultural, and economic resource preservation, visitor use needs, and new development;
- Address community and citizen concerns about the impact of land and water use policies and open space acquisition on economic activities; and
- Determine the most appropriate level of interpretive program activities and visitor services.

The plan adopted and incorporated by reference the state critical area program, shoreland program, and other applicable state and regional land use management programs. Consistency with the MNRRA plan is to be achieved on a voluntary basis through local government planning and management.

The NPS goal was to have all communities achieve Tier II status. Congress established a matching grant program to encourage Tier II planning and regulations. Nearly all communities adopted Tier II plans, but very few adopted Tier II ordinances. A summary of MNRRA Tier II policies is in Appendix B.

Administration of the MRCCA Corridor was transferred to the DNR in 1995. During the next five years, with staff funding and community assistance grants from the NPS, the DNR worked with corridor communities to update their plans and ordinances to incorporate goals from the MNRRA Comprehensive Plan. Twenty-seven communities have revised their Critical Area plans since 1995, including twenty-one of the communities responding to the survey. Six communities have updated their Critical Area ordinances since they were originally approved by the EQB, including five of the communities responding to the survey.

DNR Survey of Critical Area Communities

The DNR conducted a survey of local government units within the MRCCA to obtain information on the status of Critical Area plans and ordinances, community perspectives on the

program, and to ascertain the number and types of variances sought and issued in each community. The survey was conducted in August and September of 2007. The survey consisted of an explanatory cover letter, a questionnaire addressing the status of Critical Area plans and ordinances and soliciting community perspectives on the program, and a data table for communities to record the number and types of variance applications denied or granted in each community by year since ordinance adoption.

Communities were also asked to indicate whether they would be interested in participating in a stakeholder group to develop ideas and recommendations for changing the program.

The DNR contacted each community to determine the appropriate contact person for survey completion. After the survey was mailed, the DNR re-contacted each community at least once by phone or e-mail to insure the survey was received, and to encourage the community to complete and return the questionnaire.

The DNR received responses from twenty-two communities. Responses for each community are discussed in the corresponding community section below. The discussion of variance activity consists of each community's reporting of numbers, types, and disposition of variances by year. The DNR does not track Critical Area variance applications or disposition. All communities except Hennepin County have a Critical Area Management Plan. Most communities that have land use controls have specific Critical Area regulations or ordinances.

A separate report on the survey, including copies of original questionnaires and data tables returned by the communities may be obtained by contacting the DNR (see inside front cover for contact information).

Survey Results: Community Plans and Regulations

Eleven communities indicated they intend to update their Critical Area plans in 2008, primarily as part of the 2008 Comprehensive Management Plan update required by statute and reviewed by the Metropolitan Council. Only ten communities plan to update their ordinances after the 2008 plan update, even though ordinances are often less current than the plans, with some ordinances not updated since original adoption in the late 1970s or early 1980s.

While the effort to bring MRCCA plans into compliance with MNRRA Tier II standards was clearly successful, ordinance updating has been substantially less so. The DNR developed a detailed checklist of standards to be incorporated into the ordinances, and met with most of the MRCCA communities during the late 1990s and early 2000s to discuss the checklist and possible updates. Only five communities, Dayton, Grey Cloud Island Township, Lilydale, Nininger Township, and Ravenna Township, updated their ordinances as a result of this effort. Mendota Heights independently updated its ordinance in 2006.

The following table summarizes survey response results, including numbers of variance applications reported by the community and the dates of each community's current plan and regulations:

Community Name	Responded to Survey?	# Variance Applications reported	Date of Approved Critical Area Plan*	Date of Approved Critical Area Regulations*
Anoka	Y	19	2005	1980
Anoka County	Y	NA	2002	NA
Brooklyn Center	Y	1	2003	1980
Brooklyn Park	Y	26	2001	1980
Champlin	Y	26	2003	1980
Coon Rapids	Y	1	2001	1979
Cottage Grove	Y	24	1982	1980
Dakota County	N	NA	1999	NA
Dayton	Y	0	2001	2003
Denmark Township	N	Unknown	1999	1982
Fridley	N	Unknown	2001	1980
Grey Cloud Isl. Twp.	Y	6	1999	2001
Hastings	Y	12	2001	None ¹
Hennepin County	N	NA	None	NA
Inver Grove Heights	Y	2	1999	1992
Lilydale	Y	Not reported	1997	1998
Maplewood	Y	0	1992	1983
Mendota	Y	Not reported	2000	1980
Mendota Heights	Y	14	2002	2006
Minneapolis	N	Unknown	2006	None ²
Newport	Y	Not reported	2000	1980
Nininger Township	Y	2	2000	2000
Ramsey	Y	28	2001	1985
Ramsey County	N	NA	2001	NA
Ravenna Township	N	Unknown	1998	1999
Rosemount	Y	4	1998	1991
St. Paul	Y	26	2001	1982
St. Paul Park	Y	39	1999	1982
South St. Paul	N	Unknown	2000	1982
Washington County	Y	NA	2001	NA

Notes:

*Dates provided by communities returning questionnaires, but verified or corrected with DNR file information; for communities not returning questionnaires, dates are from DNR files.

1: Although the EQB approved an ordinance, the community did not adopt it and is operating under the Interim Development Regulations.

2: In 1989, EQB approved Minneapolis' existing land use framework for regulating activity in the Critical Area; neither EQB nor DNR have approved a specific Critical Area ordinance for the City

Survey Results: Variances

Of the 20 communities with land use authority that responded to the survey, 15 reported some variance activity; two reported that no variances had been applied for, and three returned blank variance data tables. Communities responding to the survey reported a total of 230 variance applications since adopting their respective ordinances. Variance applications were granted for 200 (87%) of that total. Variance applications were denied for 30 (13%) of the total.

The types and numbers of variances granted were: bluffline setbacks (41, or 20.5%); ordinary high water level (OHWL) setbacks (30, or 15%); setbacks for accessory structures and rear or

side yard setbacks (31, or 15.5%); structure height and dimensional standards (21, or 10.5%); lot size or building density (18, or 9%); steep slopes (9, or 4.5%); grading and filling (5, or 2.5%); and other (44, or 22%). Setbacks constituted the majority of variances granted; bluffline, OHWL, and accessory structures/rear/side yard setbacks comprised 51% of all variances granted, and represent the three most common categories of variances granted (excluding the miscellaneous category of “other”).

The following figure depicts the variance applications received for each year of the MRCCA designation for all communities. The total number of variance applications shows a generally increasing trend from the beginning of the program until the present; this trend is also displayed by both total numbers of variances granted and total numbers denied.

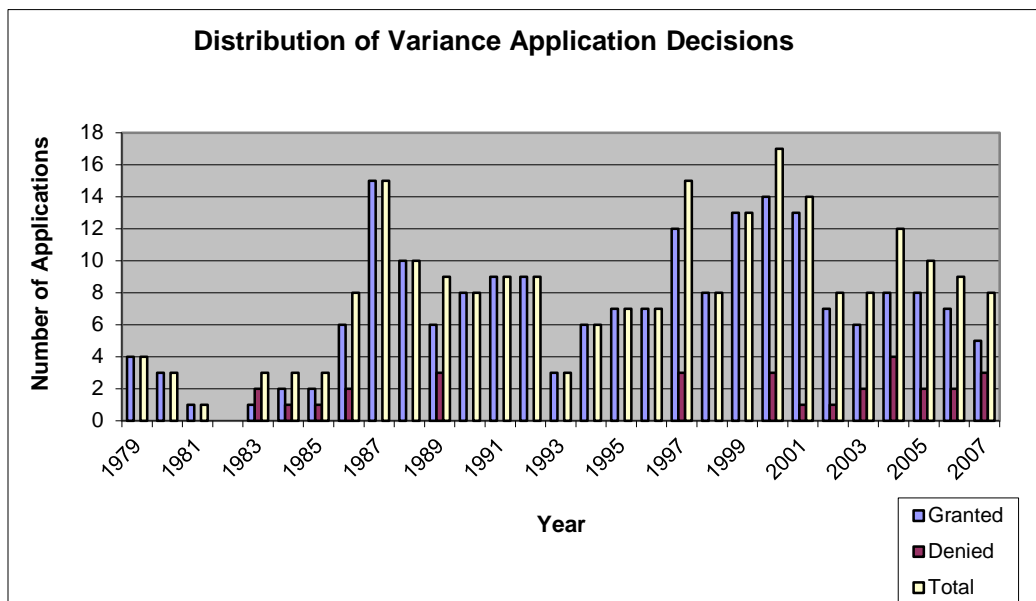


Figure 2. Distribution of Variance Application Decisions

Survey Results: Individual Community Responses

The following information was generally provided by the communities in returned questionnaires. The DNR has added supplementary information where information was missing or inaccurate. Community background information was taken from community plans, Metropolitan Council documents and staff knowledge.

COUNTIES

Anoka

All county-owned property in the corridor is within a municipal jurisdiction. The County works with its cities on land use and zoning issues

Anoka County reports first adopting a MRCCA plan in 2001. This plan was approved by DNR and final adoption occurred in 2002. The plan has not been revised since, nor does the County

currently have any plans to revise it. The County anticipates that its 2015 Transportation Plan will affect management of the Corridor.

Because the County is not responsible for land use regulation, it does not have a Critical Area management ordinance, nor does it issue variances. The County's primary involvement with Critical Area management is focused on highway projects, which it manages in compliance with MNRRA and local ordinances.

Community Perspectives

The County responded that the strength of the Mississippi River Critical Area program was that it provides for management and protection of a natural resource. It also stated that the weakness of the Mississippi River Critical Area program is that it makes unreasonable, unrealistic demands of organizations like itself that have no land use controls. When asked what suggestions the County would have for improving the program, the County's response was that the program was administered to communities in the Critical Area in a manner that created resentment against the DNR and that that was not fair to the DNR or to the communities. The County stated that there were not enough reasonable compromises made. The County also stated that the program would be more valuable if it focused on the benefits of implementation and if more effort was made to make it a program people want to implement instead of dread hearing about.

Hennepin

The County did not return the survey; information was obtained via DNR file review.

Hennepin County has no zoning authority and has no Critical Area regulations. Most of the lands in this County are incorporated and fall under the jurisdiction of municipal governments. The remaining lands are controlled by federal or state government or the Minnesota Historical Society, and include Fort Snelling State Park, U.S. Bureau of Mines property, and the MSP airport. Development on these lands is subject to the Interim Development Regulations contained in Executive Order 79-19.

Unincorporated County lands, including Fort Snelling State Park and the MSP airport, are in the Urban Open Space district. Incorporated portions of the County that lie within the Corridor include land in all four districts.

Dakota

The County did not return the survey; information was obtained via DNR file review.

Dakota County has no zoning authority within the Corridor and therefore has no Critical Area regulations. The County owns and manages property in the corridor and has adopted a Critical Area plan. The County did not respond to the survey, but DNR records show that the County adopted its management plan in 1999.

Dakota County lands are classified into all four corridor districts.

Ramsey

The County did not return the survey; information was obtained via DNR file review.

Ramsey County has no zoning authority and did not adopt a Critical Area ordinance. The County does own property and provides transportation, parks, recreation, and open space

services in the corridor, and it has adopted a Critical Area Management Plan to address development, use, and operation of these properties. The County updated its management plan, and DNR approved it, in 2001.

County lands in the corridor are in Urban Diversified and Urban Open Space districts. County-owned features in the Urban Open Space district include Battle Creek Regional Park- Battle Creek and Pig's Eye segments.

Washington

DNR approved a MRCCA plan for Washington County in 2001; the County intends to revise it as part of its 2008 Comprehensive Plan Update.

All of Washington County within the MRCCA is within the jurisdictional boundaries of townships and cities. The County has joint land use authority with Grey Cloud Island and Denmark townships, and it has the authority to override township decisions. Washington County has a review committee and appeals group for these cases.

Community Perspectives

The strength of the Mississippi River Critical Area program is that it highlights the importance of the River area. The weakness of the Mississippi River Critical Area program is inconsistent enforcement due to many different communities implementing ordinances. The program could be improved by the oversight of individual community decisions by either the DNR or the County.

CITIES AND TOWNSHIPS

Data on the cities and townships are provided below. In some cases, information came from the LGU responses to the survey; where they did not respond or provided incorrect or incomplete information, the DNR obtained additional information from its files. The cities and townships are arranged in order of their upstream-downstream distribution.

City of Ramsey

Background

The City of Ramsey is at the northern end of the Critical Area, with about 5% of the City within the MRCCA. About 96% of the Corridor here is designated as Rural Open Space, with 4% in the southern part of the City classified as Urban Developed. Land use in the Corridor is mostly residential with approximately 120 private well/septic systems remaining in active use. A minor amount of farming still occurs within the corridor. Future land use is planned to be low-density residential.

Cultural and natural features include the sites of Itasca Village and Northern Pacific Railroad's Dayton Station, and three parks. Several small islands provide recreation and camping. The river in this reach is often quite shallow, with small riffles and submerged gravel bars common. Except during high water events, boating use of this reach is limited to canoes and small fishing boats.

History of Plan and Ordinance

The City of Ramsey first adopted a MRCCA plan in 1980. The plan was revised in 1990 and 2001 as part of the City's Comprehensive Plan updates; these updates chiefly concerned changes to the Metropolitan Urban Service Area (MUSA) boundary. The community also intends to update the plan in 2008, as part of its Comprehensive Plan Update.

The City first adopted a Critical Area ordinance in 1985, and it has not undergone any major revision. Ramsey intends to update its ordinance sometime after the 2008 Comprehensive Plan update.

The City reports granting 27 and denying one variance in the Critical Area since 1985. Variance data are summarized in the following table:

Type of Variance	# applications	# granted	# denied
Bluff setback	0	0	0
OHWL setback	6	6	0
Lot setbacks	10	10	0
Slopes	0	0	0
Bldg Dimensions	2	2	0
ISTS	1	1	0
Grading and filling	0	0	0
Lot Density/Size	3	3	0
Other	6	5	1
Totals (1985-2007)	28	27	1

Community Perspectives

The City stated that one of the strengths of the Mississippi River Critical Area program was the vegetative management requirements. The City stated that the weaknesses of the Mississippi River Critical Area program were that boundaries were designated by legal description/section line rather than river buffer or some other method more directly tied to the river; there was difficulty in applying standards to existing development, redevelopment, and new development; there was difficulty in applying standards to urban and rural development; there is overlap, inconsistency, conflict, and confusion with other river regulations (Scenic River, Shoreland, etc); there is a lack of cohesive plan/implementation/zoning requirements throughout the Critical Area; and there was difficulty in applying standards that were established in the 1970s to an urbanizing area.

Some suggestions the City had for improving the program were: eliminating sub-districts; revising boundaries to a buffer rather than following section lines; accounting for major roads (e.g., Highway 10); pursuing a plan for the entire Critical Area and coordinating with other river planning/zoning requirements; and working with other cities to develop standards that protect the resource yet are flexible enough to accommodate existing and new development. The program is valuable to the City for vegetative management requirements, and the ability to collaborate with DNR staff on reviewing development proposals within the corridor.

City of Dayton

Dayton is a community of approximately 5000 at the northern end of the corridor, at the confluence of the Crow and Mississippi rivers. The Mississippi forms the northern boundary of the City.

The MRCCA here encompasses approximately 765 acres, or about 8% of the City. It is all in the Rural Open Space district. About 41% of the area is within the 100-year floodplain of either the Mississippi or Crow river. The area also includes some bluffs, ravines and steep slopes. These areas are generally heavily vegetated, and the community reports few erosion problems.

The river in this reach is often quite shallow, with small riffles and submerged gravel bars common. Except during high water events, boating use of this reach is limited to canoes and small fishing boats.

The following table summarizes the City's recent land use in the Critical Area:

Land Use	MRCCA Acreage	% of MRCCA Area
Agricultural	260	34
Residential	285	37
Commercial	2	<1
Public Roadways	45	6
Park/Public Facility	173	23

(source: City of Dayton Mississippi River Corridor Plan, 2000)

History of Plan and Ordinance

Although the City of Dayton reports first adopting a MRCCA plan in 2003, records indicate that the City has had a plan since 1980. The plan was revised in 2001. Dayton intends to update the plan in 2008 as part of its 2008 Comprehensive Plan Update.

Although Dayton reports that it first adopted an ordinance in 2003, DNR records indicate that the City first adopted a Critical Area ordinance in 1980, and amended it in 2003. The community intends to update the ordinance sometime after 2008.

The City reports that no variances have been applied for.

Community Perspectives

The City responded that the strength of the Mississippi River Critical Area program was the protection of shoreline/viewsheds from pending development. The City stated that the weakness of the Mississippi River Critical Area program was that it was very difficult to make existing homes that want to "slightly" expand conform to the ordinance. The program is valuable to the City to protect a valuable resource.

City of Anoka

Background

About 13% of the City is in the MRCCA, all of which is designated as Urban Developed. The City is fully developed except for Kings Island, which is undevelopable because it is entirely within the Mississippi's 100-year floodplain. The predominant land use pattern in the MRCCA

is low density residential, with some medium-high density residential and commercial. Several parks, overlooks, and trails are located in the Corridor.

There is significant mature urban forest in the corridor, with many trees of historic value. Erosion of the riverbank slopes is a serious problem in a few areas. Shoreline erosion is a greater problem, especially from boat wakes.

Upstream of the mouth of the Rum River, the Mississippi is often quite shallow and boating use is primarily canoes and small motorized craft. At about the mouth of the Rum River, the Mississippi's water level begins to be influenced by the pool behind the Coon Rapids Dam, leaving adequate water depth for most types of power boat recreation.

History of Plan and Ordinance

The City of Anoka first adopted a MRCCA plan in 1979; the plan was revised in 2005. Anoka currently has no further plans for revision.

The City reports that it does not currently have a Critical Area ordinance. However, DNR file review indicates that EQB approved an ordinance for Anoka in 1980, and the City formally adopted it in 1981. Anoka stated that it intends to update its ordinance in 2008.

The City reports granting 13 and denying 6 variances in the MRCCA since ordinance adoption. The following table summarizes variance application and disposition information provided by the City of Anoka.

Type of Variance	# applications	# granted	# denied
Bluff setback	0	0	0
OHWL setback	4	3	1
Lot setbacks	5	4	1
Slopes	0	0	0
Bldg Dimensions	2	1	1
ISTS	0	0	0
Grading and filling	0	0	0
Lot Density/Size	6	3	3
Other	2	2	0
Totals (1981-2007)	19	13	6

Community Perspectives

When asked about the strengths of the Mississippi River Critical Area program are, the City responded that the additional regulations help the City enforce river projects. The City stated that a weakness of the Mississippi River Critical Area program was that boundaries are a great distance from the River in some places. The City stated that it would be helpful to have seminars that are City-specific. The City also commented that the program was valuable to the community in protecting an area that people take pride in recreating and living in.

City of Champlin

Background

Champlin is one of the northernmost communities in the MRCCA, and has a population of approximately 22,000. The MRCCA comprises about 16% of the community along the City's eastern-northern boundary.

The riverfront is almost entirely developed. Approximately 95% has been designated as Urban Developed, with 5% Rural Open Space in the northern section. The area is mostly single family residences with some multi-family residences. Almost all shoreline is privately owned, with exceptions at Oxbow Park, Galloway Park, Mississippi Shores Park, Mississippi Point Park and some undeveloped areas of public right of way on the river. The area in the Rural Open Space district has a number of islands.

The following table summarizes the City's recent land use in the Critical Area:

Land Use	MRCCA Acreage	% of Critical Area
Single Family Residential	625	83
Public Land and Open Space	93	12
Multi-Family Residential	20	3
Commercial	15	2

(source: City of Champlin Mississippi River Corridor Plan, 2002)

The river's edge is characterized by steep slopes, with most of the river lined by banks 20 to 30 feet high. Erosion is a problem and some areas have been fortified with riprap in an effort to prevent further erosion. The erosion is aggravated by boat wakes. The Mississippi's water level here is influenced by the pool behind the Coon Rapids Dam, leaving adequate water depth for most types of power boat recreation.

History of Plan and Ordinance

The City of Champlin reported first adopting a MRCCA plan in 1980. The plan was revised in 2003, to address the 1988 MNRRA Comprehensive Management Plan. Champlin intends to update its Critical Area Plan as part of the 2008 Comprehensive Plan update.

The City reports that it first adopted a Critical Area ordinance in 1980, and EQB approved the ordinance in 1982. The City revised its ordinance in 2003 to address MNRRA policies. The DNR reviewed the amendment but the City has not made recommended changes and resubmitted it for approval. Champlin currently has no plans to further update its ordinance or seek DNR approval.

The City reports granting 18 and denying 8 variances in the MRCCA since the start of its participation in the Critical Area Program. The following table summarizes variance application and disposition information provided by the City of Champlin.

Type of Variance	# applications	# granted	# denied
Bluff setback	0	0	0
OHWL setback	17	15	2
Lot setbacks	9	3	6
Slopes	0	0	0
Bldg Dimensions	0	0	0

ISTS	0	0	0
Grading and filling	0	0	0
Lot Density/Size	0	0	0
Other	0	0	0
Totals (1980-2007)	26	18	8

City of Coon Rapids

Background

The Critical Area comprises about 10% of the City’s area, on the west-southwest margin. The Corridor in this city is fully developed; primary uses are low density residential and conservancy. The corridor here is entirely within the Urban Developed district.

Open space includes Coon Rapids Dam Regional Park, which comprises 470 acres or 40% of the Critical Area within the City, two city parks, and preservation areas on the Anoka-Ramsey Community College campus. High banks along the river constitute the most significant topographic feature.

The portion of the river upstream of the Coon Rapids Dam contains adequate water depth for most types of power boat recreation. Downstream of the dam, the river is rocky and fast-moving and is primarily suitable for canoes and small powerboats.

History of Plan and Ordinance

The City of Coon Rapids reports that it first adopted a MRCCA plan in 1979. The City indicated that it amended its Comprehensive Plan in 2001 and that there was no impact to the Critical Area Plan; however, DNR records indicate that the plan was updated in 2001 to achieve MNRRA Tier II standards. Coon Rapids intends to update its Critical Area plan as part of its 2008 Comprehensive Plan update.

The City did not report when it first adopted a Critical Area ordinance, but DNR records indicate that an ordinance was adopted and approved by EQB in 1979. The ordinance has not been revised since adoption, nor does the community report any plans to update it.

The City reports granting one variance in 2003, concerning setbacks from the top of the Mississippi River bluffline.

City of Brooklyn Park

Background

Brooklyn Park has a population of approximately 68,000. The Critical Area constitutes about 6.4% of the City, in a narrow strip along the eastern border. All of the Critical Area here has been designated Urban Developed.

The following table summarizes the City’s recent land use in the Critical Area:

Land Use	MRCCA Acreage	% of Critical Area
----------	---------------	--------------------

Single Family Residential	499	73
Public Land and Open Space	164	24
Multi-Family Residential	13	2
Commercial	6	1

(source: City of Brooklyn Park Mississippi River Stewardship Plan, 2000)

There are several parks and recreational areas in the City's portion of the Critical Area. These include Coon Rapids Dam, Coon Rapids Dam Regional Park, and Brooklyn Park River Park.

Natural features include several islands, floodplains along the river north and south of the dam; and two major wetland areas, both within Coon Rapids Dam Regional Park and Banfill Island. The island has remained in a natural state and provides wildlife habitat.

Steep slopes are a significant challenge throughout this zone: about a third of the river frontage has slopes exceeding 12%.

The portion of the river upstream of Coon Rapids Dam contains adequate water depth for most types of power boat recreation. Downstream of the dam, the river is rocky and fast moving and is primarily suitable for canoes and small powerboats.

History of Plan and Ordinance

The City of Brooklyn Park reported that it first adopted a MRCCA plan in 1979. The plan was revised in 2001 to adopt a Mississippi River Stewardship Plan as part of the City's 2000 Comprehensive Plan Update. Brooklyn Park currently has no further update plans.

The City first adopted an EQB-approved Critical Area ordinance in 1980. The ordinance was slightly amended in 2001 to allow reconstruction and replacement of structures within existing footprints. The community intends to update its ordinance sometime after the 2008 Comprehensive Plan update.

The City reports granting 25 and denying one variance in the Critical Area since 1980. The following table summarizes variance application and disposition information provided by the City of Brooklyn Park.

Type of Variance	# applications	# granted	# denied
Bluff setback	10	10	0
OHWL setback	1	0	1
Lot setbacks	6	6	0
Slopes	0	0	0
Bldg Dimensions	0	0	0
ISTS	0	0	0
Grading and filling	0	0	0
Lot Density/Size	4	4	0
Other	5	5	0
Totals (1980-2007)	26	25	1

Community Perspectives

The City stated the strength of the Mississippi River Critical Area program is as a tool to help in the preservation of the corridor. The weakness of the Mississippi River Critical Area program

lies in multiple jurisdictions and inconsistent rules with inconsistent enforcement. The program could be improved through clearer expectations and reasonable application of the rules. The program is valuable since the River is considered an important asset to the City and the program can help in protecting it. The City would like to see more education materials on protecting the River to provide for all owners. Some owners are very good stewards, others are not.

City of Fridley

The City did not respond to the community survey. Information is from DNR files.

Background

The Critical Area is on the western border of this community and encompasses about 17% of the City's area. The northern two thirds is classified as Urban Developed and the southern third as Urban Diversified.

The Urban Developed district is mostly residential. The most notable natural features include native vegetation, tributary streams, and wooded islands. Many of the residents have preserved the native vegetation. The area has some steep slopes that present challenges.

The Urban Diversified district consists mostly of open parkland and some public uses. No change is expected in the foreseeable future. Natural, open space and outdoor recreation areas in the Critical Area include seven parks, several trails, three scenic overlooks, and four major islands.

Surface water use primarily consists of recreational boating and canoeing. The river here is shallow with occasional riffles, and is primarily suitable for canoes and small powerboats except during periods of high water.

History of Plan and Ordinance

DNR records indicate that Fridley adopted a MRCCA plan in 1980. The plan was revised and approved by DNR in 2001. The City adopted and EQB approved an ordinance in 1980. Although the DNR met with the City to discuss updating its ordinance in the late 1990s, the City has not submitted an update for Metropolitan Council and DNR review.

City of Brooklyn Center

Background

Brooklyn Center has a population of approximately 30,000. The Critical Area comprises about 6% of the City, in a narrow strip along the City's eastern border. Although all of the Critical Area here is classified as Urban Developed, land use is composed of slightly over half (51%) public/open space with the remainder in single-family residential. Two parks (North Mississippi Regional Park and Riverdale Park) occupy the public land in the corridor. A bicycle path also runs along the waterfront.

The river here is shallow with occasional riffles, and is primarily suitable for canoes and small powerboats except during periods of high water.

History of Plan and Ordinance

The City of Brooklyn Center reports that it first adopted a MRCCA plan in 1980, revised it in 2002, and formally adopted its current plan in 2003 to fulfill MNRRRA Tier II requirements. DNR records show that the Metropolitan Council approved the plan in 1999. Available records indicate that the DNR provided comments on the plan to Brooklyn Center in 2002, and a 2003 Brooklyn Center resolution states that the City incorporated these comments into the plan; however, there is no record of DNR formally approving the plan. Brooklyn Center intends to update its plan as part of the 2008 Comprehensive Plan Update, if required to do so.

DNR records indicate that the City first adopted a Critical Area ordinance, and EQB approved it, in 1980. On the survey, the City stated that it has not yet adopted an ordinance.

The City reports granting one variance for a setback from the OHWL, in 1999.

Community Perspectives

The City responded that the strength of the Mississippi River Critical Area program was that it was designed to protect and preserve a valuable resource for the benefit of citizens of the state, region and nation and prevent irreversible damage to it.

City of Minneapolis

The City did not respond to the community survey. Information is from the City's plan and DNR files.

Minneapolis is a city of approximately 382,000 people. The City occupies both banks of the river in the approximate middle of the corridor in Hennepin County. The Critical Area constitutes about 9.3% of the City's total area, and is divided into three districts: 3% in the northern portion of the Critical Area is classed as Urban Developed; the central 67% is Urban Diversified; and the lower 29% is Urban Open Space.

The middle section of the Corridor contains numerous natural and manmade features of interest. These include several National Historic landmarks, local landmarks, historic districts, properties on the National Register of Historic Places, North Mississippi Regional Park, Central Riverfront, St. Anthony Falls, Upper and Lower St. Anthony locks, Lock and Dam No. 1, the Stone Arch Bridge, Father Hennepin Bluffs, and Nicollet Island.

St. Anthony Falls is a significant natural feature on the river, and serves as a convenient point of division between two topographically distinct sections of the river. Few bluffs exist above the falls, while below the falls a steep bluff line begins to rise and becomes the lower Mississippi gorge area that dominates the lower third of Minneapolis' Corridor, as well as downstream cities. The lower Mississippi gorge area is characterized by steep bluffs and dense vegetation.

In the northern-most portion of Minneapolis, the river is fairly shallow and suitable for small recreational motorboats. At River Mile 857.6 (near the mouth of Shingle Creek) is the beginning of the nine-foot channel navigation system maintained by the U.S. Army Corps of Engineers. Commercial river transportation has been very important in this section of the corridor, and there are several terminals in north Minneapolis. The Corps of Engineers operates the Upper St.

Anthony Falls Lock and Dam, the Lower St. Anthony Falls Lock and Dam, and Lock and Dam 1 (often called the Ford Dam). Commercial barge traffic on this reach of river has been declining and Minneapolis is planning to phase out barge terminal operations in the City. The navigation channel provides adequate depth for excursion boats and all type of recreational traffic.

Numerous parks and trails run along the river throughout the City. The City is attempting to expand its green space.

History of Plan and Ordinance

DNR records indicate that EQB approved the City's Critical Area plan in 1989. The plan was revised and approved by DNR in 2006.

Minneapolis' original Critical Area plan relied on existing municipal regulations for implementation and the City therefore did not originally develop a Critical Area ordinance at that time. EQB approved existing city ordinances as regulations for implementing the plan. The City now has an ordinance section with specific Critical Area language, and indicated in its updated plan that it would review its ordinances and update them as necessary to implement the plan. The City has not submitted Critical Area ordinance language to the DNR for review and approval.

City of St. Paul

Background

St. Paul has 29 miles of river shoreline, the most of any municipality in the metro area. About 27% of the City is in the Critical Area. Of this, about 61.5% is in Urban Open Space, and 38.5% is in Urban Diversified.

Parkland and open space are the predominant uses of riverfront land. The Mississippi River gorge area abuts the western edge of St. Paul. Bluff preservation is a significant concern of the City. Several large regional and city parks, including Harriet Island, Indian Mounds, Battle Creek, Hidden Falls, and Crosby Farm, are in the corridor. There are also several archaeological sites in the corridor.

Commercial and recreational river traffic is pronounced in St. Paul. There is extensive barge fleeting on this section of river, with practical capacity for 393 barges and design capacity of 574 barges at 21 fleeting locations. Two marinas are currently in operation to serve recreational boat uses and dock tourist boats and commercial cruise vessels.

History of Plan and Ordinance

The City originally adopted its Critical Area Plan in 1981. The City amended the plan in 1987 to incorporate the "Riverfront Pre-development Plan". In 1997, the City developed the "St. Paul on the Mississippi Development Framework" which was an important plan relating to the river, although it is not a chapter in the Comprehensive Plan. DNR records indicate the City adopted the Mississippi River Corridor Plan, a chapter of the Comprehensive Plan, in 2001. In 2007 the City developed a draft National Great River Park chapter for the 1997 framework, and it plans to

develop a “National Great River Park Plan in 2008 or 2009. The City will not update its Critical Area Corridor Plan as part of the 2008 Comprehensive Plan Update.

The City originally adopted a Critical Area ordinance in 1982. City staff indicate a revised ordinance has been developed through a lengthy task force process. The task force issued its report in July 2006; the matter is before the City Planning Commission. The City has adopted two zoning changes with potential implications in the Critical Area: preliminary zoning for urban villages in 2001, and a general update of the zoning code adding Traditional Neighborhood (TN) zones in 2004.

The City reports granting 22 and denying four variances in the Critical Area since ordinance adoption. The following table summarizes variance application and disposition information provided by the City of St. Paul.

Type of Variance	# applications	# granted	# denied
Bluff setback	14	12	2
OHWL setback	1	1	0
Lot setbacks	0	0	0
Slopes	9	8	1
Bldg Dimensions	2	1	1
ISTS	0	0	0
Grading and filling	0	0	0
Lot Density/Size	0	0	0
Other	0	0	0
Totals (1982-2007)	26	22	4

The DNR notes that for some years the City issued “Special Conditional Use Permits” instead of variances in a number of cases. Special Conditional Use Permits (SCUPs) are not reflected in this table.

Community Perspectives

City staff state that the strength of the Mississippi River Critical Area program is that it provides environmental and scenic standards for the River Corridor in the entire Metro area. They also state that the weakness of the Mississippi River Critical Area program is that DNR staff have had an “anti-urban bias” and have been “unwilling to acknowledge the environmental benefits of urban living.” Staff suggest that the program could be improved by ensuring a metropolitan perspective and specific expertise on ecological and hydrological questions.

City of Mendota Heights

Background

Mendota Heights has approximately 11,500 people and comprises more than nine square miles of land near the confluence of the Mississippi and Minnesota rivers. Nearly 20% of the City’s area is within the Critical Area corridor, all of it in the Urban Open Space district. Approximately 99% of the corridor is either developed or designated parkland, with the predominant land use being low density residential.

The following table summarizes the City’s land use in the corridor:

Land Use	MRCCA Acreage	% of Critical Area
Single Family Residential	550	43
Limited Business	41	3
Public (Fort Snelling)	611	48
Semi-Public	31	3
Railroad	25	2
Vacant (zoned residential)	12	1

(source: City of Mendota Heights Comprehensive Plan Update, Technical Plan A, 2002)

Approximately 48% of the Corridor area within the City, and all of the City's river shoreland, is within Fort Snelling State Park.

Mendota Heights is in the Mississippi River gorge area. Although most of the City is relatively flat, at an elevation of approximately 200 feet above the river, within the Corridor the predominant natural features include steep slopes and bluffs.

Stormwater drainage, erosion, and destabilization due to vegetation damage are significant challenges in this area.

History of Plan and Ordinance

The City of Mendota Heights reported that it first adopted a MRCCA plan in 1980 and that the plan has not been revised; however, DNR records indicate that the plan was updated in 2002. The City intends to review its Critical Area plan as part of its 2008 Comprehensive Plan Update but does not anticipate any changes.

The City reported that it first adopted a Critical Area ordinance in 1980 and has not updated it. However, DNR approved an updated ordinance in October 2006.

The City reports granting 12 and denying two variances in the Critical Area since ordinance adoption. The following table summarizes variance application and disposition information provided by the City of Mendota Heights.

Type of Variance	# applications	# granted	# denied
Bluff setback	0	0	0
OHWL setback	0	0	0
Lot setbacks	6	4	2
Slopes	0	0	0
Bldg Dimensions	1	1	0
ISTS	0	0	0
Grading and filling	0	0	0
Lot Density/Size	0	0	0
Other	7	7	0
Totals (1980-2007)	14	12	2

Community Perspectives

The City states the strength of the Mississippi River Critical Area program is that it serves as a useful tool for controlling development on the river bluff. The weakness of the Mississippi River Critical Area program lies in the fact that a majority of Critical Area properties are far from the

bluff and that the vast majority of Critical Area permits are not variances but simple plan reviews. The program could be improved if boundaries were revisited. The program is valuable as a control for development along the river.

City of Mendota

Background

The City of Mendota has a population of approximately 200 people and is about 145 acres in size. Approximately 95% of the City lies within the MRCCA, in the Urban Open Space District. The City is at the confluence of the Mississippi and Minnesota rivers, and consequently sees a large volume of barge and recreational boat traffic. However, no boats moor along the riverfront in Mendota, and none of the existing commercial or industrial uses require access to the river.

The following table summarizes the City’s 1998 land use in the Critical Area:

Land Use	City Acreage	% of Critical Area
Residential	44	30
Commercial/Industrial	12	8
Public and institutional	15	10
Highways	3	2
Wetlands	6	4
Lakes and Streams	4	3
Vacant	61	42

(source: City of Mendota Comprehensive Plan, 2000)

The bluffs lining the Mississippi are the most prominent natural feature in Mendota. Mendota is on the edge of the Mississippi River gorge, and steep bluffs bound the City on three sides. Development in the City occurs on the flat terrain bounded by bluffs, called Lowertown. Some development also exists along roads cut into the bluffs surrounding the City. The bluffs are heavily vegetated. Mendota prohibits development on slopes greater than 18% and limits development on slopes greater than 12%. Much of the City’s area consists of slopes exceeding 18%; these areas present erosion and runoff challenges. The bluff topography has significantly shaped development patterns in the community’s past, and will continue to exert a dominant influence.

Historic and natural areas include a portion of Fort Snelling State Park, Veterans Park, and the Big Rivers Regional Trail. Most of the river valley lands within Mendota’s boundaries are located within Fort Snelling State Park. The area also includes historical Dakota settlements, the first Euro-American settlement in the Minnesota Territory, the oldest church in the state and the historic home of Henry Sibley, the first state governor.

History of Plan and Ordinance

The City of Mendota reports that it first adopted a MRCCA plan in 1990; however, a file review indicates that EQB approved a plan in 1980 and the City adopted it in 1982. DNR approved a major revision in 2000. Mendota intends to update its plan as part of its 2008 Comprehensive Plan Update.

EQB approved a Critical Area ordinance for Mendota in 1980, although the City reports that it first adopted an ordinance in 1990. Mendota intends to update its ordinance as part of its 2008 Comprehensive Plan update.

The City of Mendota did not report any variance information.

Community Perspectives

The City reports that one strength of the program is that it helps with development and that the program is very valuable to the community.

City of Lilydale

Background

Lilydale is a community of approximately 550 people, mostly on a strip of land between the Mississippi River and Highway 13 in Dakota County. All of the community is within the MRCCA, and entirely within the Urban Open Space district. Lilydale’s total land area is approximately 575 acres. There are two distinct areas to the City: lower Lilydale, located on the Mississippi River floodplain east of Interstate 35E and north of Highway 13, and upper Lilydale, consisting of those lands not within the floodplain. There were once more than 100 mobile homes and commercial establishments, with individual septic systems and wells, in lower Lilydale. In the mid-1970s, Ramsey County purchased these areas and removed the development to make a regional park. Today, most of lower Lilydale is undeveloped and is owned by the St. Paul Parks department as part of the Harriet Island-Lilydale Regional Park.

The following table summarizes the City’s 1996 land use (all within the MRCCA):

Land Use	MRCCA Acreage	% of Critical Area
Single Family Residential	4.4	1
Multi-Family Residential	43	7
Commercial	26	5
Industrial	27	5
Park/Open Space	325	56
County Trail	35	6
Right-of-Way	41	7
Water	74	13
Vacant	1	<1

(source: Lilydale Comprehensive Plan, 1997)

Most of the land designated as Park/Open Space is part of the Harriet Island-Lilydale Regional Park.

Lilydale contains many natural and scenic features and environmentally sensitive areas. Most prominent among these are the bluffs lining the Mississippi. The City is within the Mississippi River gorge area, and the bluffs are Lilydale’s most environmentally sensitive features. Upper Lilydale consists of two blufflines, with the urbanized area located on the terrace between them. The bluffs are heavily vegetated. Lilydale limits development on slopes greater than 12% and prohibits development on slopes greater than 18%. The City has also collaborated with

neighboring Mendota Heights to restrict bluff development in that city that might cause erosion problems in Lilydale.

The former Twin City Brick Yard is in the northeastern part of the City and is considered a site of both historic and environmental significance. A large part of the region's sedimentary geology is exposed here. The area is very popular among amateur geologists and fossil hunters and is protected as part of the Harriet Island-Lilydale Regional Park.

The Big Rivers Regional Trail has its start in Lilydale.

History of Plan and Ordinance

The City of Lilydale first adopted a MRCCA plan in 1979 and revised it in 1997 to meet MNRRA standards. An amendment to re-zone some land in the Critical Area from industrial to multi-family was passed in 2000, and DNR records indicate that a similar amendment was passed in 2006. Lilydale intends to update its plan as part of its 2008 Comprehensive Plan Update. The City has recently submitted a Comprehensive Plan amendment and zoning change to the Metropolitan Council for review and eventual DNR review. The proposal would change a 0.85-acre property from Open Space to Multi-family Residential.

The City first adopted a Critical Area ordinance in 1979. The ordinance was updated, and approved by DNR, in 1998. Lilydale intends to update its ordinance in 2008.

The City did not report any variance applications.

Community Perspectives

The City states that the strength of the Mississippi River Critical Area program is that it protects riverfront properties from improper development. The City stated that the program was valuable as another tool for river preservation.

City of South St. Paul

The City did not respond to the community survey. Information is from the City's website and DNR files.

Background

The City of South St. Paul has a population of approximately 20,000 and is in northeast Dakota County. The Mississippi River forms the City's eastern border. All of the Critical Area here is classified as Urban Diversified. It is highly urbanized and has very few natural features; what remains are mainly bluffs and associated ravines, and wetlands on the floodplain.

The Corridor encompasses about 40% of the City in area. Simon's Ravine is an important recreational area. Ravines are also used to convey stormwater and consequently have erosion problems. There are also several scenic overlooks along the bluff.

The following table summarizes the City's land use in the corridor:

Land Use	MRCCA Acreage	% of Critical Area
----------	---------------	--------------------

Residential	93	9
Commercial	202	19
Industrial	364	34
Public	200	19
Vacant	54	5
Preservation	67	6
Mixed Use	82	8

(source: City of South St. Paul Comprehensive Plan, May 1999)

The river is used for barge fleeting and recreational purposes. Current ordinances limit barge fleeting to two locations.

Changes in the corridor since completion of the original Critical Area plan include the removal of several blighted buildings and unsuitable businesses (mainly stockyards) by the Housing and Redevelopment Authority, and their replacement with businesses with higher aesthetic qualities. The City plans to continue beautification in the corridor.

Public access to the water is limited by flood control structures, although there is a DNR public access just south of the I-494 bridge.

History of Plan and Ordinance

DNR records indicate that EQB approved the City's MRCCA plan in 1982, and a plan update in 2000.

The City adopted and EQB approved a Critical Area ordinance in 1982. The DNR held meetings with the City and developed comments about the ordinance revisions, but a revision has not been completed.

City of Maplewood

Background

While only a very small area of the City is in the corridor, the area is wooded and steep and contains environmentally sensitive lands. It is designated as Urban Diversified.

History of Plan and Ordinance

The City of Maplewood reports that it first adopted a MRCCA plan in 1988 and that the plan has not been revised. However, a DNR file review indicates that Maplewood first adopted a plan in 1980 and in 2002 the DNR approved an amendment to the MRCCA component of the City's Comprehensive Plan. The City is not certain whether it will update its Critical Area plan as part of the 2008 Comprehensive Plan update.

EQB approved a Critical Area ordinance for the City in 1980 and an update in 1983; however, the City reports that it first adopted a Critical Area ordinance in 1988. DNR held a meeting with the City and generated comments on ordinance revision in 1999, but there is no record of revisions being adopted.

The City reports that it has not received any variance applications.

City of Newport

Background

Newport is a city of approximately 4000 people in Washington County. Approximately 26% of the City is in the Critical Area. The northern half is in the Urban Diversified district and the southern half is in the Urban Developed district. Over half the corridor is residential. There are four large industries, with three located on the waterfront. One of these has a docking structure and generates barge traffic.

The Corridor here is almost built out, primarily with residential and industrial uses. The development has existed for decades, and little of the Corridor is in its natural state. The southern two thirds is residential. Most of the corridor land is fairly flat, with some bluffs in the northeastern corner. There are two parks in the corridor; however, most of the riverfront is privately owned so there is little opportunity for expansion of parks and open space. Some opportunity exists for the addition of scenic overlooks at the ends of streets that terminate overlooking the river. The City is considering turning the old sewage treatment plant into a park.

History of Plan and Ordinance

The City of Newport reported that it first adopted a MRCCA plan in 2002. DNR records indicate that EQB approved a plan in 1980 and the plan was revised in 2000. Newport has no current intentions to update its plan.

The City reported that it first adopted a Critical Area ordinance in 2002; however, DNR records indicate that the City first adopted, and EQB approved, a Critical Area ordinance in 1980. DNR records also indicate that the City discussed ordinance revisions with DNR in 1997 but that a revised ordinance was not submitted for DNR approval. Newport has no current plans to update it.

Newport did not report any variance applications.

Community Perspectives

The City stated the strength of the Mississippi River Critical Area program is that it protects riverfront properties from improper development. The program is valuable as another tool for river preservation.

City of Inver Grove Heights

Background

Inver Grove Heights is in the southeastern portion of Dakota County. The river forms the eastern border of the City, and the Critical Area comprises the eastern 1000 feet of the community for six miles along the river. The Critical Area encompasses approximately 3000 acres (<16% of city). The corridor here transitions from urban to rural, and three districts are present: Urban Developed, Rural Open Space, and Urban Diversified.

The northern third has been designated Urban Developed. This is the oldest area of city as it was the original village of Inver Grove Heights. It is the most urbanized portion and contains the

most varied land uses; these uses are primarily small lot residential, commercial, and industrial. The City's primary issue in this district is to steer redevelopment in a river-friendly direction. The City is redeveloping a portion of the floodplain here into Heritage Park. This section of the river contains several small marinas.

The southern two-thirds of the corridor is in the Rural Open Space district. It has been developed as rural estate lots. There are no municipal sanitary, sewer or stormwater services here and no plans to extend these services. Public access to the river in this area is limited because frontage is in private ownership. Approximately 185 acres of public access to the river bluff and shoreline is provided by the Pine Bend Bluffs Scientific and Natural Area. The southern portion of this district is planned for expansion of existing and new industry. Slopes are steep here, limiting development. The City's primary issue in this area is to protect slopes and existing vegetation.

A very small part of the northern end of the corridor is designated as Urban Diversified. This area includes large commercial and industrial operations, and open space along river bluffs. Future land use plans propose orderly expansion of existing industry. Topography is a constraint in this area.

History of Plan and Ordinance

Inver Grove Heights reports that it originally adopted a MRCCA Plan in 1988. The plan was updated in 1998, and DNR approved the update the following year. The City does not intend to update its plan during its 2008 Comprehensive Plan update.

Inver Grove Heights reported that it first adopted an ordinance in 1992. DNR records indicate that the City's original Critical Area ordinance was approved by EQB in 1989. The ordinance was updated and adopted in 1992.

The following table summarizes variance application and disposition information provided by the City of Inver Grove Heights.

Type of Variance	# applications	# granted	# denied
Bluff setback	0	0	0
OHWL setback	0	0	0
Lot setbacks	0	0	0
Slopes	0	0	0
Bldg Dimensions	2	2	0
ISTS	0	0	0
Grading and filling	0	0	0
Lot Density/Size	0	0	0
Other	0	0	0
Totals (1989-2007)	2	2	0

Community Perspectives

The City states that the strength of the Mississippi River Critical Area program is that it provides increased protection of natural resources.

City of St. Paul Park

Background

St. Paul Park is on a north-south section of the river in Washington County between Newport and Cottage Grove. The Mississippi River defines the City's western border and the MRCCA includes about 26% of the western part of the City. The northern half is in the Urban Diversified district, while the southern half is in the Urban Developed district.

Existing land uses in the Urban Diversified district include an oil refinery and refinery barge dock, Lions' Levee Park, and some single family residences. The Urban Developed district includes a marina, two auto salvage yards and an auto repair shop, single-family residences and Riverside Park. Much of the land in the Critical Area is vacant but privately owned; development is hindered by shallow depth to bedrock. Numerous river islands are part of the floodplain and are undeveloped. There is significant barge traffic and recreational boating on this stretch.

History of Plan and Ordinance

The City of St. Paul Park adopted a Critical Area plan in 1981, and EQB approved the plan in 1982. The City revised the plan in 1999, as a chapter of its Comprehensive Plan, and it intends to update its plan in 2008; this update may include a portion of Grey Cloud Island Township, which may be annexed by the City.

The City first adopted, and EQB approved, a Critical Area ordinance in 1982. From 2000 to 2002, the City worked on draft revisions to make the zoning consistent with the plan. St. Paul Park intends to submit a final draft ordinance to the Planning Commission and City Council in early 2008.

The City reports granting 39 variances in the Critical Area since ordinance adoption. The following table summarizes variance application and disposition information provided by the City of St. Paul Park.

Type of Variance	# applications	# granted	# denied
Bluff setback	0	0	0
OHWL setback	0	0	0
Lot setbacks	0	0	0
Slopes	0	0	0
Bldg Dimensions	14	14	0
ISTS	0	0	0
Grading and filling	1	1	0
Lot Density/Size	0	0	0
Other	24	24	0
Totals (1982-2007)	39	39	0

* No variances or conditional use permits were granted for residential property. All were variances or conditional use permits granted to Marathon Ashland Petroleum.

Community Perspectives

The strength of the Mississippi River Critical Area program is that it provides guidance across municipal boundaries for river corridor management. It is a tool that communities can utilize when discussing appropriate development and conservation activities next to the River. The

weakness of the Mississippi River Critical Area program is that the inflexible administration of the program does not reflect current land use patterns, and this inflexibility may or may not ultimately protect the River and its amenities. The arduous plan, ordinance and development review process takes too much time. Because of the two concerns listed above, it seems other municipalities are inclined to grant variances rather than engage in discussions. The program could be improved by either revision of the boundaries and guidelines, or more appropriate interpretation of the intent of Executive Order 79-19. The river and its amenities should not be compromised for the sake of development activities, but the guidelines inhibit what could be better development scenarios that could be more protective of the natural, cultural and social aspects of the river. This program is valuable because it provides communities with guidelines that are expected to be adhered to by many municipalities and gives communities further support in implementing River protection strategies.

Grey Cloud Island Township

Background

This township of approximately 300 people consists of unincorporated lands in the southwestern corner of Washington County along the Mississippi River, which runs north south along the western edge of the township. Most of the township is in the corridor with over 95% in the Rural Open Space district. A very small portion in the northern part of the township, adjacent St. Paul Park, was designated as Urban Developed.

The Critical Area contains all of the public lands located in the township; most of the residential areas; and the township's current limestone quarry operation (on Upper Grey Cloud Island). There is very little agricultural activity in this portion of the corridor; only 80 acres of it is farmed. There are no sewer or public water services in this portion of the corridor, so the residences and businesses have individual septic and water systems. Much of the land is vacant, open space, typically wooded or grassland. The Nature Conservancy owns 80 acres.

Most of the land in the township, including and especially along the river, is in private ownership. The township is opposed to the expansion of public lands for regional parks or preserves, with the possible exception of the addition of a scenic overlook at Robinson's Rocks.

The township is planning for permanent rural land use with a gross density of one dwelling/10 acres. The mining reserve could be mined in the future, but the township has no additional plans for commercial or industrial activities in the corridor. The township also has no plans to extend sewer and water service here.

Significant natural and archaeological features include Robinson's Rocks and several burial mounds. Robinson's Rocks is a fossil-bearing limestone cliff along the river. The bluff areas are not as extensive here as in other parts of the corridor; most of the upland areas are characterized as a gentle plateau.

History of Plan and Ordinance

Grey Cloud Island Township first adopted a MRCCA plan in 1980; the plan was revised in 1999 to meet MNRRA standards. Comprehensive Plan amendments and zoning revisions affecting the

Critical Area occurred: in 1983, when an area of the township was annexed by Cottage Grove; in 1989, when Lower Grey Cloud Island was annexed by Cottage Grove, and in 2007, when 300 acres were annexed by St. Paul Park. The township intends to update its MRCCA plan as part of its 2008 Comprehensive Plan Update.

The township first adopted a Critical Area ordinance in 1980. In 1985 the township adopted and EQB approved an amendment to the ordinance. DNR approved an ordinance update in 2001. The township intends to update its ordinance in 2008.

The township reports granting four and denying two variance applications in the Critical Area since ordinance adoption. The following table summarizes variance application and disposition information provided by the Township.

Type of Variance	# applications	# granted	# denied
Bluff setback	0	0	0
OHWL setback	0	0	0
Lot setbacks	1	1	0
Slopes	0	0	0
Bldg Dimensions	0	0	0
ISTS	0	0	0
Grading and filling	3	3	0
Lot Density/Size	0	0	0
Other	2	0	2
Totals (1980-2007)	6	4	2

Community Perspectives

The strength of the Mississippi River Critical Area program is that it reflects the desire of citizens to preserve pristine river frontage. The weakness of the Mississippi River Critical Area program is that it demonstrates loss of control by Minnesota townships because of annexation favoring cities.

City of Cottage Grove

Background

Cottage Grove has a population of approximately 32,000. The river defines the community's southern boundary, and the Critical Area consists of about 25% of the City's area. All of the Critical Area here is designated as Rural Open Space. Most of the riverfront has been designated as a green belt and the backwater areas are used for recreation. Grey Cloud Dunes SNA is located along the river in the southwestern portion of the City.

The City recently annexed Lower Grey Cloud Island. The newly annexed area is currently used for aggregate mining, and its post-mining future is still being debated.

History of Plan and Ordinance

The City of Cottage Grove first adopted a MRCCA plan in 1978, which EQB approved in 1982. This plan has not been updated. The City reviewed its plan in 2000 and determined that it was still in compliance with Executive Order 79-19 and therefore needed no updating. Although the

City reports updating its Comprehensive Plan in 1999, this update did not affect the Critical Area. Cottage Grove has no current plans to update its Critical Area plan.

Although the City reports adopting an ordinance in 1978, DNR records indicate it was not approved until 1980. The ordinance has not been revised, and Cottage Grove has no current plans to update it.

The City reports granting 21 and denying three variance applications in the Critical Area since ordinance adoption. The following table summarizes variance application and disposition information provided by the City of Cottage Grove.

Type of Variance	# applications	# granted	# denied
Bluff setback	15	15	0
OHWL setback	0	0	0
Lot setbacks	3	3	0
Slopes	0	0	0
Bldg Dimensions	2	0	2
ISTS	0	0	0
Grading and filling	0	0	0
Lot Density/Size	4	3	1
Other	0	0	0
Totals (1980-2007)	24	21	3

Community Perspectives

The City indicates the weakness of the Mississippi River Critical Area program lies in the fact that Cottage Grove is classified as rural and that rural standards applied to urban development require numerous variances. The City suggested that urban standards should be applied in its case.

City of Rosemount

Background

Rosemount is a city of approximately 14,500 in the southern section of the Corridor. The Mississippi River forms the City's northern boundary. Approximately 13% of the City, or 3000 acres, are in the Corridor, including 920 acres of water surface. The western two thirds of the corridor is Urban Diversified and the eastern third is Rural Open Space.

Predominant uses in the corridor include wooded open space and river dependent industry. Both residential use and agricultural use are limited. The largest single type of landowner in the western portion of the Corridor is industry: Flint Hills Resources and CF Industries together control about 75% of the riverfront land and operate three barge terminals on the river. Most of the land controlled by industry remains wooded. East of the Urban Diversified district, land use in the Corridor is primarily agricultural and recreational/public open space. Approximately 270 acres on the eastern edge of the district are included in Spring Lake Regional Park.

There are two well-defined bluff lines in the Corridor here. Pine Bend Trail passes through Rosemount and follows one of the blufflines.

History of Plan and Ordinance

The City of Rosemount first adopted a MRCCA plan in 1979; the plan was revised in 1998. Adoptions of Comprehensive Plan updates affecting the Critical Area took place in 1979 (the 1990 Comprehensive Plan), 1993 (the 2010 Comprehensive Plan), and 1998 (the 2020 Comprehensive Plan). The community intends to evaluate its upcoming Comprehensive Plan update to determine whether it will also be necessary to update the Critical Area plan.

Rosemount reports that its first ordinance was adopted in 1991. However, DNR files indicate that EQB approved the City's Critical Area ordinance in 1979, and Rosemount adopted it in 1980. In 1997, the DNR met with City officials and reviewed the City's ordinance; however, records do not indicate that this resulted in any final actions or recommendations. The City intends to update the ordinance after the 2008 Comprehensive Plan update.

The City reports granting four variance applications in the Critical Area since ordinance adoption. The following table summarizes variance application and disposition information provided by the City of Rosemount.

Type of Variance	# applications	# granted	# denied
Bluff setback	2	2	0
OHWL setback	0	0	0
Lot setbacks	0	0	0
Slopes	1	1	0
Bldg Dimensions	0	0	0
ISTS	0	0	0
Grading and filling	1	1	0
Lot Density/Size	0	0	0
Other	0	0	0
Totals (1980-2007)	4	4	0

Community Perspectives

The City indicates the strength and value of the Mississippi River Critical Area program is protection of Mississippi River bluff areas that are difficult to develop. A weakness is that it requires state oversight of development, which otherwise is a local issue.

Nininger Township

Background

Nininger Township is located in the northeastern section of Dakota County, and is bounded by the Mississippi River on the north, the City of Hastings on the east, and the City of Rosemount on the west. Population is approximately 250, and the primary land use is agricultural. Approximately 25% of Nininger Township is within the MRCCA. This area is entirely within the Rural Open Space district. A substantial part of the Township's area in the corridor is contained within the Spring Lake Regional Park Reserve. This park provides numerous aquatic recreational opportunities and includes a DNR public access with access to the lake and river.

The bluffs lining the Mississippi are significant natural features in Nininger Township. Erosion and runoff concerns associated with the steep slopes of bluff areas pose significant challenges for the township.

History of Plan and Ordinance

Nininger Township reported that it adopted its MRCCA plan in 2000. DNR records indicate that the township first adopted a Management Plan in 1980. The township amended its plan in 1982, 1995, and 1997, with a major update in 2000 to meet MNRRA standards. Nininger Township does not intend to update its Critical Area plan as part of its 2008 Comprehensive Plan Update.

The township adopted, and EQB approved, an ordinance in 1980. In 2000, the ordinance was updated. The township indicated that it currently has no plans to update its ordinance.

The township reports granting no variances and denying two variances since adoption of its ordinance. Both of the denials occurred in 2000; one was for a setback from the bluff, and the other was for a setback from the OHWL. The following table summarizes variance application and disposition information provided by Nininger Township.

Type of Variance	# applications	# granted	# denied
Bluff setback	1	0	1
OHWL setback	1	0	1
Lot setbacks	0	0	0
Slopes	0	0	0
Bldg Dimensions	0	0	0
ISTS	0	0	0
Grading and filling	0	0	0
Lot Density/Size	0	0	0
Other	0	0	0
Totals (1980-2007)	2	0	2

Denmark Township

The City did not respond to the community survey. Information is from DNR files.

Background

The Critical Area constitutes approximately 1250 acres in Denmark Township, Washington County, at the southeastern end of the corridor. The river flows along the southern and southwestern boundaries of the township, and includes the confluence of the Mississippi and St. Croix rivers. The entire Critical Area here is in the Rural Open Space district. Recreational boating and barge traffic use the river through the township, but the river is too narrow to support barge fleeting.

Nearly half of the Critical Area consists of significant natural features, such as bluffs and floodplains; development on these lands is prohibited or severely restricted due to these features.

The following table summarizes the township's recent land use in the Critical Area:

Land Use	MRCCA Acreage	% of Critical Area
Commercial	20	2
Developed Residential	152	12
Water/Slopes/Floodplain	524	42
Vacant Agricultural	105	8
Vacant Single-Family Estate	449	36

(source: Denmark Township Mississippi River Critical Area Plan, 1999).

History of Plan and Ordinance

DNR records indicate that the EQB may not have approved the township's original management plan adopted in 1982. The township's current plan was approved by DNR in 1999.

Available records indicate that the township has a Critical Area ordinance, which was approved in 1982. DNR worked with the township to update this ordinance in 1999; however, the updates were not finalized or approved.

City of Hastings

Background

The Critical Area occupies approximately 2.5 square miles in Hastings. The Corridor is divided into two districts here: the Urban Diversified portion of the corridor contains 564 acres and the remaining area is designated as Rural Open Space. The Rural Open Space is comprised of undeveloped floodplain, parkland and designated open space, and adjoins the Hastings SNA.

The Urban Diversified district contains a mix of commercial, industrial, public and residential uses. The majority of residential is single family. Two marinas are located in Hastings; one is north of the river in Washington County and the other lies near the east edge of the developed portion of the City. Lock and Dam No. 2 is also in this district.

The following table summarizes the land use in Hastings' Urban Diversified district:

Land Use Category	MRCCA Acreage	% of District
Agriculture	89	16
Residential	57	10
Commercial	2	<1
Mixed Use	2	<1
Industrial	7	1
Public/Quasi-Public	37	7
Rural	234	42
Right of Way	39	7
Water	97	17

(source: City of Hastings Mississippi River Corridor Area Plan, 2001)

Parks and public spaces include Lake Rebecca Park, the Jaycees Park, a public access to the Mississippi River, Veterans Memorial Levee Park, Riverfront Trail, and Lake Isabel Park. There are also several scenic overlooks. Urbanization has completely altered the native vegetation here.

The Rural Open Space district includes the Vermillion River and extensive wetlands and floodplain. Much is undevelopable, but agriculture and mining occurs in the southern portion of the district. Existing land uses are primarily rural activities and scattered homes. There are some industrial and commercial uses, including a sand mining pit, a marina and a small bait/rental boat facility.

The following table summarizes the land use in Hastings' Rural Open Space district:

Land Use Category	MRCCA Acreage	% of District
Agriculture	162	13
Residential	102	8
Industrial	8	1
Mining	23	2
Rural	837	66
Public/Quasi-Public	2	<1
Right of Way	44	3
Water	93	7

(source: City of Hastings Mississippi River Corridor Area Plan, 2001)

There are two areas of steep slopes in the Critical Area: one bluffline is along the south side of Lake Rebecca and extends along the river to the northwest, where slopes exceed 18%. The second is in the southeastern section of the City.

There are three lakes in the corridor: Lake Isabel (spring-fed and river backwater), Lake Rebecca (spring-fed and river backwater), and Conley Lake (river backwater).

History of Plan and Ordinance

The City of Hastings reported that it had originally adopted its Critical Area plan in 2000. The Plan was subject to DNR approval and final adoption was completed in 2001. There were amendments to the Comprehensive Plan and zoning affecting the Critical Area Corridor in 2005 involving a rezoning from C3 Community Regional Commerce to DC Downtown Core contained in a two block area directly south of the Mississippi River between Ramsey Street to Baily Street. The City plans to update its Critical Area Plan as part of the 2008 Comprehensive Plan Update. The City reported that it had never adopted a Critical Area ordinance. DNR files show that Interim Development Regulations are still in effect for the City. (Note: Executive Order 79-19 includes Interim Development Regulations intended to control development after Critical Area designation but before communities adopt approved plans and ordinances. In communities that never adopted approved ordinances, the Interim Development Regulations are still in effect).

The City reports granting 11 and denying one variance application in the Critical Area since program inception. The following table summarizes variance application and disposition information provided by the City of Hastings.

Type of Variance	# applications	# granted	# denied
Bluff setback	1	1	0
OHWL setback	4	4	0
Lot setbacks	0	0	0
Slopes	0	0	0
Bldg Dimensions	0	0	0
ISTS	0	0	0
Grading and filling	0	0	0
Lot Density/Size	6	5	1
Other	1	1	0
Totals (1979-2007)	12	11	1

Community Perspectives

The City states that the strength of the Mississippi River Critical Area program is that it protects vegetation and intensive development. The City stated that a weakness of the Mississippi River Critical Area program was that it does not allow established cities the ability to develop or redevelop and creates many nonconformities leading to numerous variances. The City also stated that it would be helpful to allow established urban development to continue in certain areas. The City has attempted to establish a separate district on several occasions but has been turned down by the DNR. The City states that the program was valuable to the community in "Green Areas" but was a terrible burden in developed areas.

Ravenna Township

The City did not respond to the community survey. Information is from DNR files.

Background

Ravenna Township is at the southeastern end of the Corridor in unincorporated Dakota County. The Mississippi River forms the township's northern border. The township's population is approximately 2100. Approximately 40% of the township, or 5664 acres, is within the Corridor. All of this is in the Rural Open Space district.

The following table summarizes the township's recent land use:

Land Use	Township Acreage	% of Critical Area
Residential	1412	10
Residential Estate (>5 acre lots)	948	7
Commercial, Industrial	4	<1
Agriculture Preserve	1205	8
Other Undeveloped Land	5754	40
Wetland, Water, Floodplain	4837	35

(source: Metropolitan Council Report of the Community Development Committee, 1998)

The township projects its future land use as follows:

Land Use	Projected Township Acreage	Projected % of Critical Area
Rural residential	8517	60
Conservation	4438	32
Agriculture	1205	8

(source: Metropolitan Council Report of the Community Development Committee, 1998)

The Corridor lands are largely undeveloped and consist primarily of a floodplain forest, some of which is within the DNR's Gores Pool Wildlife Management Area. The area also has some bluffs, with the land above the bluffs developed as agriculture or single-family residential areas. Development is prohibited on slopes exceeding 12%.

History of Plan and Ordinance

DNR records indicate that Ravenna Township originally adopted a Critical Area plan in 1979. The plan was updated in 1998.

DNR records do not indicate when an ordinance was first approved by EQB; however, the township's current ordinance was adopted in 1999 and approved by DNR.

Summary of Survey Results

Twenty-two of 30 communities responded to the survey. All municipalities and townships except Cottage Grove have updated their Critical Area plans to include MNRRRA Tier II standards, but only six communities have updated ordinances to implement the goals established in their plans (Dayton, Grey Cloud Island Township, Lilydale, Mendota Heights, Nininger Township, Ravenna Township).

Eleven communities indicated they would update their Critical Area plans during the 2008 Comprehensive Plan update. Ten communities indicated they would update their Critical Area ordinances. However, three of the communities planning to update their ordinances (Lilydale, Dayton, Grey Cloud Island Township) already have ordinances meeting Tier II standards. If the remaining seven (Ramsey, Anoka, Coon Rapids, St. Paul, Mendota, St. Paul Park, Rosemount) update their ordinances as planned, the total would reach thirteen. The DNR is aware of active efforts to update ordinances in Ramsey, St. Paul, and St. Paul Park.

Twenty-five communities in the MRCCA have zoning authority. Of these, twenty communities responded to the survey, and fifteen reported some variance activity. The communities reported 230 variance applications with 87% granted. Bluffline setbacks were the most often sought type of variance. If further information regarding variances is desired, a substantially greater effort would be needed. Communities not reporting voluntarily would require further impetus to respond, such as a legislative directive or a Data Practices Act request. It would also require a considerable DNR staff time investment to search through community files. In addition, a substantial investment of staff resources would be required to obtain more detailed information about the specific circumstances of each variance such as, areas of controversy, public input during variance hearings, or what mitigation might have been required as conditions of variances granted.

In general, communities responding to the survey reported positive attitudes toward the Critical Area designation and additional protections it provides. The negative responses included: not enough compromises during designation; lingering resentments about the designation; difficulty applying the standards in developing areas; confusion and overlap with other regulatory programs; minor variances are difficult to accommodate; the boundaries do not make sense in some cases; a perceived anti-urban, anti-high density bias at the DNR; inflexible guidelines that don't allow for possible better development scenarios; usurpation of local control; districts don't allow for urbanization, and the program is a burden when trying to redevelop urban areas.

SECTION 3 – Stakeholder Participation

The DNR determined stakeholders should be involved to assist in identifying issues and developing options for enhancing management of the Mississippi River Corridor Critical Area (MRCCA). The DNR entered into contracts with the non-profit Friends of the Mississippi River (FMR) and a consultant, Mr. Dave Dempsey, to develop a stakeholder input process, frame issues and options for the process, facilitate stakeholder meetings and develop a report on the process and outcomes.

FMR identified and invited 315 potential stakeholder participants to a series of meetings to discuss MRCCA issues and options. The stakeholders were grouped as River Corridor businesses and developers (39), environmental/civic groups and citizens (133), local, state and federal government (81). In addition, FMR invited 37 state legislators that represent corridor districts and the 25 members of FMR's board and council of advisors.

FMR held a meeting for each stakeholder group, then a final meeting of all stakeholders. A total of 60 individuals attended the first 3 meetings (12 business/developers; 24 environmental/civic groups; 24 government) and 24 attended the all-stakeholders meeting (2 business/developers; 13 environmental/civic groups; 9 government). Staff from the DNR, the National Park Service MNRRA, and FMR also attended all meetings.

The purpose of the first three meetings was to provide an overview of the process for the study, solicit views and comments from stakeholders on strengths and weaknesses of the Mississippi River Critical Area program, and develop a list of potential solutions and management options to address the identified weaknesses. At the final meeting, FMR presented a summary and analysis of common themes, areas of potential agreement, and areas where stakeholders had significant differences of opinion. FMR facilitated discussion of the differences and conducted an exercise to measure stakeholder preferences and priorities. FMR's complete report is attached as Appendix A.

FMR is an important MRCCA stakeholder. In serving as the facilitator for stakeholder meetings, FMR was not able to play an advocacy role. To insure its priorities, issues, and options receive due consideration, FMR submitted a letter under separate cover, addressed to the DNR. The letter is included as Appendix C of this report. FMR's concerns and recommendations are generally represented by those raised in the stakeholders meetings. FMR's additional recommendations are included at the end of this section.

Stakeholder Issues

Part of each of the first three meetings was devoted to identifying strengths and weaknesses of the existing MRCCA program, and identifying issues. Program components analyzed included:

- the Mississippi River as a resource
- Executive Order 79-19
- local government implementation
- DNR program administration, and
- DNR as the "home" for the MRCCA program.

FMR's summary of the strengths and weaknesses can be found in their final report. The key issues are excerpted below:

Mississippi River resource - Increased development along the river puts pressure on natural and historic resources. Places with high scenic, ecological, historic and cultural values (such as bluffs, floodplain areas, historic downtowns) are threatened by the attractiveness and market value they create, and in need of special attention and protection. Storm- and ground water pollution and polluted sites threaten the river's improved water quality.

Executive Order 79-19 vagueness - The goals and guidelines in Executive Order 79-19 are vague, general, and lack specificity; numerous and sometimes conflicting goals make implementation difficult. Stakeholders indicated the executive order is outdated regarding current technology and practices; that resource values and key terms are not well defined, and the district boundary change process/criteria is unclear.

Difficulty for Local Units to implement Regional Goals - Implementing the performance goals of Executive Order 79-19 through ordinance is complex, and not well understood, and it puts the burden of realizing regional, state and national goals on local units of government. The result is that many ordinances have not been updated to be consistent with critical area plans, causing confusion, heightened political lobbying activity, and inconsistency within and among city decisions.

Administrative challenges for DNR - Executive Order 79-19 lacks specific minimum standards, especially regarding building heights, which DNR could require local units to include in plans and ordinances. Stakeholders also cited limited DNR staffing and resources to implement the program, their perception that the program has low priority within the DNR, and indicated the absence of DNR authority regarding projects within the corridor and variances leads to inadequate corridor protection.

Weaknesses of DNR as "home" for MRCCA – DNR has limited expertise in historic resources, cultural landscapes and economic development issues, and more collaboration with other agencies is needed.

Stakeholder Options

In conjunction with the DNR, FMR developed a preliminary range of options for future MRCCA management, including:

- eliminating the program
- maintaining the existing program
- moving the program to a different program, DNR division, agency, or oversight body, and
- modifying the existing program

This range of options was used as a general framework for stakeholder discussion. Stakeholders were encouraged to suggest additional options, or enhancements to the preliminary list.

Program Elimination: Stakeholders overwhelmingly rejected the option of eliminating the Critical Area designation for the Mississippi River Corridor. They strongly stated the corridor should continue to be designated and protected as a unique resource.

Program Maintenance: Stakeholders also rejected the option of maintaining the existing program “as is”. Although differing on what changes should be made, most agreed the program could be improved.

Moving Critical Area Administration: In general, stakeholders did not favor the option of moving the MRCCA program to another DNR program, agency, or oversight body. The potential moves are described in Section 4 of this report.

Program Modifications or Enhancements:

Stakeholders were most interested in modifying the existing program. Some program modifications or enhancements could be accomplished under existing authorities and some would require statutory or rule amendments. Either category would likely require staffing or funding adjustments as well.

Enhancements with Broad Stakeholder Support - Broad stakeholder support was expressed for enhancements that could be accomplished on a voluntary basis without statutory or rule changes. These included:

DNR to regularly consult with other agencies: DNR has limited expertise in historic and cultural resources and economic development, and the agency would benefit from consultation with agencies that have broader responsibilities, such as MNRRA, the Metropolitan Council, the Environmental Quality Board (EQB) and the State Historic Preservation Office (SHPO).

Strengthen partnership with MNRRA: MNRRA brings staff resources and expertise as well as National status, and the potential for Congressional appropriations.

Increase funding for state and local implementation: Additional funding is needed to assure the program works well for the interests of both development and conservation.

Provide outreach, education, technical assistance: Additional outreach, education and technical assistance to developers, local government and citizens in critical area corridor communities are needed to ensure they have the tools and understanding to implement the law.

Survey and document scenic and cultural resources: A clearer definition and understanding of, and agreement on the scenic and cultural resources to be protected and state-of-the art methods for doing so is needed. The National Park Service has a process for surveying and evaluating views that could be implemented for the MNRRA corridor.

Hold annual stakeholders meeting, issue annual report: An annual report on the implementation of the program (including the number of land use changes and variances), state of the resources,

key issues, and/or an annual meeting of corridor communities and stakeholders could improve program understanding and accountability and connectivity up and down the river.

Increased visibility, federal oversight, and authority for MNRRA – Stakeholders generally supported a stronger federal regulatory role in protecting the MRCCA/MNRRA. Stakeholders especially agreed the MRCCA should have higher visibility through public education and awareness programs, including signing.

There also was broad stakeholder support for four options requiring statutory or rule changes:

Set priorities among Mississippi River Critical Area goals: The executive order establishing the Mississippi River Corridor Critical Area calls for protection of natural, cultural, historical, scenic, recreational and economic resources of the corridor – goals that can conflict with each other. Stakeholders believed that a fixed set of priorities should be established indicating which resources should take precedence when there are conflicts. This would require a change to the standards and guidelines in the executive order, which do not give priority to one use over another.

Establish process for early input on development proposals: Local governments should involve DNR and other agencies with relevant expertise in early project planning and design discussions to help forestall some conflicts and lead to better understanding of MRCCA goals.

Boundary changes – The corridor boundaries were fixed by executive order. Stakeholders concurred there are some areas (Pilot Knob, specifically) which should be included in the corridor, and other areas that perhaps should not be included. There are currently no mechanisms for changing the corridor boundaries.

District changes - There are four districts within the MRCCA: Urban Diversified, Urban Developed, Urban Open Space, and Rural Open Space. Executive Order 79-19 currently allows for district changes within the critical area corridor provided the modifications are consistent with the executive order's general guidelines. Stakeholders generally agreed that only changes to more restrictive districts should be allowed.

Program Enhancements with Mixed Stakeholder Support - Stakeholder support was mixed among most options involving changes in standards, responsibilities, authorities, and program oversight, all of which would require statutory or rule amendments.

Changing the Regulatory Framework

State Rules: Minimum standards, definitions and authorities of local and state government would be established through rulemaking.

New Legislation: New legislation could include definitions and set a direction for minimum standards. It is likely that rules would follow.

Updated Local Ordinances: Under the current model, local units should update their ordinances to be consistent with their critical area plans. Most corridor communities have updated their plans in the past 10 years, incorporating MNRRA goals into their revisions, but only a few communities (6) have followed up with an updated critical area ordinance to ensure protections and standards are implemented. MNRRA staff have drafted a model ordinance that communities could use, and they plan additional outreach in 2008. In general, stakeholders supported increased efforts to update local ordinances to implement MNRRA goals.

Performance versus numerical standards

There was considerable stakeholder discussion regarding the merits of performance-based versus numerical, dimensional standards. Executive Order 79-19 generally prescribes performance-based standards (e.g., “protect views of and from the river”) without providing specific height limits or setbacks. Some stakeholders continue to support the original design of the executive order, which allows flexibility among communities regarding how to achieve the standards and guidelines. Others stated that greater consistency among communities was desirable and that specific dimensional standards were needed to achieve it. FMR’s report contains more detailed discussion of this issue.

Land Use Decision Oversight

Again, stakeholders expressed mixed views on whether greater oversight of variances granted by MRCCA communities was desirable. Currently, local units of government must notify the DNR of pending variance applications. The DNR has the opportunity to review the applications and provide comment to the LGU. If the DNR (or any other individual, organization, or agency) believes a variance should not have been granted, it can appeal in district court.

Stakeholders discussed two oversight/appeal options: an administrative appeal board or panel, and a requirement that DNR certify all variances issued. Any options involving oversight or reversal of local unit decisions would require statutory authorization and rulemaking.

Technical Review Panel/Appeal Board: Some stakeholders believe that an appeal board could help resolve and depoliticize contentious variance disputes and provide a technical perspective for the entire corridor. If modeled after the Technical Evaluation Panels (TEPs) authorized by the Wetland Conservation Act, the panel would comprise experts in relevant fields. It could also include membership from the regional/state agencies, MNRRA and other stakeholders.

Variance Certification: Variance certification would require the DNR to review and approve or deny project variances granted at the local level. The DNR currently has this authority under the Wild and Scenic River program, but not in the Shoreland or Floodplain management programs.

FMR Perspectives

As indicated above, FMR submitted an advisory letter to the DNR (included as Appendix C of this report).

FMR provides the following recommendations in concurrence with other stakeholders: maintain a unique management framework for the MRCCA; retain program and authorities within DNR; provide greater outreach and technical assistance to local communities; greater DNR

consultation with other agencies and stakeholders, and identify, document, rank and map priority natural, cultural, recreational, and historical resources.

FMR also provides a number of recommendations similar to those discussed by stakeholders for which there was mixed support. FMR advocates state-level legislation and rulemaking to establish consistent dimensional and procedural standards for the entire corridor, and clarify definitions. FMR recommends the legislature establish decision-making oversight requirements (appeals board, early coordination, variance certification, etc.), and provide a boundary amendment process for “extreme cases only”. They recommend MRCCA statutes and rules analogous to those for state shoreland and/or wild and scenic rivers. FMR strongly recommends against district boundary changes simply to accommodate urban growth.

Finally, FMR recommends that DNR consider shifting MRCCA administration from the Division of Waters to the DNR Central Region, with oversight by the Regional Director rather than the Waters Division Director.

SECTION 4 – Options and Recommendations

The Legislature required the DNR to include in this report: “recommendations that adequately protect and manage the aesthetic integrity and natural environment of the river corridor” (Laws of Minnesota 2007, Chapter 57, Article 1, Section 4, Subdivision 8). The DNR has developed a number of options and recommendations for changing the management of the Mississippi River Corridor Critical Area. The DNR anticipates that in combination, or separately, all could provide for adequate management and protection.

Need for changes

Local governments responding to the survey did not suggest many changes to the existing program (see Section 2). In general, they reported the program provides a useful tool for protecting resources. In contrast, stakeholders who attended the meetings said the current program needs improvement. They expressed concern about degradation of resources, especially scenic and cultural resources.

Stakeholders named several example projects they believe are inappropriate for the MRCCA, including the floodwall at Holman Field, the townhomes proposed to replace the Lilydale racquet club, the Upper Landing townhome development in St. Paul, the Bridges of St. Paul, and the Rivers Edge proposal in St. Paul Park.

The proposals have all been controversial, but some are consistent with local MRCCA plans and regulations, while others are not. Where projects of concern are consistent with local regulations, stakeholders would generally assert that the governing regulations are inadequate to protect the MRCCA (floodwall, Upper Landing, townhomes in Lilydale). Where projects are not consistent with extant plans and regulations, many stakeholders expect local governments and the DNR to deny plan amendments, rezoning, variances or other required approvals (Bridges, Rivers Edge), and they blame systemic or enforcement flaws if they are approved. Stakeholders wanted oversight of local decisions so there is an administrative (rather than judicial) avenue for appealing decisions.

‘Civic/environmental’ stakeholders at the meetings seemed to be most concerned about individual projects: that LGUs allow the projects; that DNR rarely submits comments on projects, and that DNR does not sue to stop projects they believe violate MRCCA standards. They also were concerned there is ‘inconsistency’ among the standards in the various MRCCA communities, and inconsistent community enforcement.

The stakeholders seemed generally less concerned about plans and ordinances, although there is agreement on the significant gap between what is envisioned in the community plans and the outdated ordinance standards. Only six communities have ordinances adopted in the last ten years; the others have ordinances originally approved by EQB or no approved ordinances at all. If the ordinances were updated, perhaps some projects of concern would not be permissible.

The DNR’s administration of the MRCCA meets the minimum requirements of statute, rule, and executive order. The DNR reviews plans and ordinances for consistency with the standards in Executive Order 79-19 and either approves them or remands them to the local unit of

government for revision. A number of stakeholders indicated their view that DNR's administration, while meeting the minimum requirements, is inadequate. Regarding local implementation, the DNR does not routinely monitor implementation and enforcement of MRCCA plans and regulations, and cannot offer an opinion on its adequacy.

The majority of stakeholders who attended the meetings would like to see more required of the DNR as well as more staff and resources devoted to the program, so staff can take on discretionary activities like community outreach and training. The DNR agrees that program administration could be enhanced, but shifting existing staff to this program will mean redirecting them from other efforts.

Stakeholders direct blame for perceived MRCCA program inadequacy at: DNR administration and oversight; LGU implementation and enforcement, and vagueness in the executive order. While the DNR finds some administrative difficulties with the current program, it does not believe substantial changes are mandatory for adequate resource protection. The problems relate primarily to vagueness about what the DNR can require in local ordinances, the subjective standards and guidelines in the executive order, limited LGU resources and support for the program, and limited staff availability for assisting LGUs.

Options

DNR staff, partner agencies and stakeholders identified over thirty potential options for changing the program. The DNR expects that all of the options, some alone and some in combination, could adequately protect and manage the aesthetic and natural resources in the MRCCA.

They range from very specific, such as including clearer definitions and precise standards in statute or rule, to broad changes in program management. The options are included in the following table, with an indication of whether statutory or rule changes would be required, whether the option would necessitate a change in staffing or funding and whether there was support from stakeholders who attended the meetings. Although brief notes are included in the table, further discussion of the recommendations follows in the text.

The options for program change are grouped by:

- options that move MRCCA administration (to other DNR land use programs, to other units of the DNR, or to other state or local agencies);
- enhancements within the existing program structure and authorities;
- modifications to the current program or process, and
- options that would increase oversight of local decisions

Options for changing administration and management of the Mississippi River Corridor Critical Area

	Option	Statute Change	Rule Change	Staff or Funding Needed	Supported by Stakeholders	Notes (Additional discussion of each option follows this table)
	No changes to existing program	No	No	No	No	Program implementation and oversight would not change. Current staffing is .10 FTE central office and .10 FTE field (spread among 4 area hydrologists and regional hydrologist).
Group 1 - Options that move the administration of the MRCCA						
1A	Move MRCCA to another DNR land-use program (e.g., shoreland, wild & scenic)	Yes	Yes	Yes – for rulemaking	Mixed	If moved to shoreland, the shoreland zone would need to be extended from current 300'; if to wild & scenic, a new category might be needed. Rulemaking would require funding.
1B	Move MRCCA to another division of the DNR	No	No	No	Mixed	Could be accomplished administratively within DNR. Program, limitations and strengths would remain the same; and DNR policy and priorities would not change.
1C	Move MRCCA to DNR Central Region	No	No	No	Not discussed	More emphasis on regional goals; possible better integration across disciplines; consistent with existing community assistance focus.
1D	Move MRCCA administration to another agency (EQB, Met Council)	No	No	Yes	No	Program could be moved to another state agency through administrative/reorganization order. EQB has multi-agency representation. Other agencies not staffed to accommodate the program.
1E	Create a new administrative body, such as a Joint Powers Organization	Yes	Yes	Yes	No	Communities would jointly and cooperatively manage MRCCA. Stakeholders believed it would be unworkable. A functional JPO could provide more consistency.
Group 2 - Options for enhancements within existing program structure and authorities						
2A	Increased consultation among DNR and other agencies in reviewing plans, ordinances and projects	No	No	Maybe	Yes	DNR currently consults with NPS-MNRRRA and the Metropolitan Council; this could be broadened to include EQB, Minnesota Historical Society/SHPO, or other entities with relevant expertise.
2B	LGUs increase consultation with state and regional agencies.	No	No	Yes	Not discussed	LGUs are required to notify DNR 30 days before a variance hearing; and to send plans and ordinances to Met Council and DNR for approval. LGUs could voluntarily increase the involvement of state and regional agencies in critical area planning, project planning, and site plan review.
2C	Strengthen DNR/MNRRRA partnership for work with communities	No	No	Yes	Yes	DNR would collaborate with MNRRRA for outreach to communities. Some additional DNR staff time required; MNRRRA would need to reassign resources.

	Option	Statute Change	Rule Change	Staff or Funding Needed	Supported by Stakeholders	Notes
2D	Provide outreach, education, and technical assistance to communities.	No	No	Yes	Yes	Greater DNR staff emphasis on working with MRCCA communities; could include partnerships with MNRRA, or NGOs such as FMR, Great River Greening, etc.
2E	Annual meeting of MRCCA LGUs; could include training and reporting	No	No	Yes	Yes	Part of outreach; meeting would be voluntary, opportunity for discussion among LGUs, training.
2F	Increased funding to LGUs for improved planning, zoning, implementation, and enforcement.	No	No	Yes	Not discussed	Small cities and townships often have minimal or no planning and zoning staff. The state would provide financial resources to support LGU planning activities, to complete resource inventories, provide staff for technical consultation, and to develop, implement and enforce ordinances.
2G	Inventory and document scenic and cultural resources	No	No	Yes	Yes	A significant undertaking; partnership with MNRRA which is considering this effort; goals could be to establish baseline, or to identify resources requiring additional protection.
2H	Greater protection for significant resources (easements and acquisition)	Yes	No	Yes	Not discussed	Easements or acquisition of private property with highly significant or unique resources. Mandatory protection of existing public open space.
2I	Increase public awareness of MRCCA and MNRRA	No	No	Yes	Yes	Awareness campaign, including signing.
2J	Annual stakeholders meeting	No	No	Yes	Yes	Could include NGOs, agencies, citizens and LGUs; some costs associated with logistics and staff time.
2K	Increase MRCCA priority within DNR	No	No	Yes	Yes	Stakeholders repeatedly called for more vigorous oversight by DNR; and more resources directed to MRCCA administration.
2L	Systematic inclusion of MRCCA guidelines in the Metropolitan Council's <i>2030 Regional Development Framework</i> document and policies.	No	No	No	Yes	Executive Order 79-19 requires the Met Council to follow the standards and guidelines in reviewing or approving plans, regulations, or permit applications. The Council's current plan, <i>2030 Regional Development Framework</i> does include MRCCA consideration. Council staff have asked communities to review MRCCA plans as part of their 2008 Comprehensive Plan updates.
2M	Systematic variance tracking	No	No	Yes	Not discussed	EO 79-19 requires LGUs to notify DNR of pending variance applications; and requires them to have a procedure to notify DNR on variance disposition. DNR does not systematically track variance applications or outcomes.
Group 3 - Options that modify the current program or process						

	Option	Statute Change	Rule Change	Staff or Funding Needed	Supported by Stakeholders	Notes
3A	Set priorities among critical area goals and uses	Yes	Yes	Yes	Yes	EO 79-19 currently protects many uses, without assigning priority. Public process would determine which uses or goals would prevail when they compete. Particularly focused on preservation vs. development; or cultural resources vs. scenic and natural resources values.
3B	Establish process for early input on proposals (by DNR or other agencies)	Maybe	Maybe	Yes	Yes	DNR involvement in reviewing development plans already occurs in some cases where DNR permits are required or where environmental review is conducted. This would increase DNR involvement when there is not an EAW or DNR permit. LGUs could voluntarily involve DNR; or there could be mandatory early involvement. Increased DNR staff time required; also may exceed DNR's scope of expertise.
3C	Provide for Boundary Changes	Yes	Yes	Yes	Yes	Currently no mechanism for changing Critical Area boundaries; concern some areas should be included and others removed. Staff resources need to evaluate potential changes and complete rulemaking.
3D	Restrict District Changes	Yes	Yes	No	Yes	EO 79-19 provides for changing district boundaries within the MRCCA; stakeholders generally wanted district changes limited to changing from less restrictive to more restrictive districts; not for accommodating additional development.
3E	Provide mechanism to change executive order	Yes	Maybe	Yes	Not discussed	There is not a clear mechanism for amending the executive order governing the MRCCA, for instance if DNR wanted to add a definition.
3F	Clarify DNR authority to require ordinance updates or more restrictive ordinances.	Yes	No	Maybe	Not discussed	MS § 116G.10 and EO 79-19 require a review of ordinances and plans 2 years after initial adoption, but does not provide for mandatory review and updating afterward. Discretionary updating is provided for by MS § 116G.10, subd. 1. Mandatory updating and type and extent of updates required could be specified by statute.
3G	Clarify DNR authority to review plans and ordinances that affect land in the MRCCA.	Yes	No	No	Not discussed	Currently disputed whether all plans and ordinances potentially affecting land within the MRCCA are subject to Met Council and DNR review and approval.
3H	Rulemaking (or legislation) to establish minimum development standards within the MRCCA. Rules also would provide additional definitions.	Yes	Yes	Yes	Mixed	Eliminates variation among communities. Establishes consistent standards and definitions. Could be accomplished through legislation. Rulemaking would require staff and funding. Definition of "bluff" explicitly identified by stakeholders as needed.

	Option	Statute Change	Rule Change	Staff or Funding Needed	Supported by Stakeholders	Notes
3I	Evaluate, consolidate and integrate all state land use requirements for the MRCCA	Yes	Yes	Yes	Not discussed	Develop comprehensive stand-alone rules for MRCCA that integrate relevant aspects of all state land use programs (shoreland, floodplain, critical area, wild & scenic).
3J	Comprehensive MRCCA Planning	Yes	Maybe	Yes	Not discussed	Initiate a cooperative planning effort among EQB, Met Council, DNR, NPS, and LGUs with stakeholder involvement; include resource inventory, priority setting, and districting.
3K	Remove Critical Area Designation from Mississippi River Corridor Critical Area	Yes	No	No	No	Management would default to Shoreland Management (much smaller land area protected); implications for MNRRA, which has same boundaries as MRCCA and relies on state controls.
Group 4 - Options to increase oversight of local decisions						
4A	Variance certification required.	Yes	Yes	Yes	Mixed	Variance certification currently exists in WSR program; not in shoreland or floodplain programs. Shifts final decision making to DNR. Challenges to variance non-certification would require additional funding for staff time and legal fees.
4B	Establish administrative appeal mechanism such as Technical Review Board	Yes	Yes	Yes	Yes	Would provide a mechanism for citizens or others to appeal variance decisions. Similar to TEP panel. Review Board make-up to be determined.
4C	Require annual reporting	Yes	Yes	Yes	Yes	MRCCA communities would be required to report annually to DNR or the current oversight body. Reports would include permits, variances, status of plans and ordinances, resources developed or protected, etc. Increased costs of reporting and compliance borne by both DNR and LGUs.

Discussion of Options

Group 1 – Options that move MRCCA Administration

Option 1A – Move the MRCCA to another land use program. Stakeholders were concerned that the Mississippi River Critical Area would lose its unique identity and would receive lower priority if it were moved into another DNR managed land use program such as Shoreland or Wild and Scenic Rivers.

The DNR expects this option could be workable, and that the Critical Area would be easier to manage if it had statutes and rules analogous to those in existing programs. In either Wild and Scenic or Shoreland, statutory and rule changes would be needed to maintain the MRCCA's identity. An expanded shoreland district would be required to include the entire Critical Area corridor. In the Wild and Scenic program, a new river classification might be required, and a separate section of rules would be needed to accommodate the existing urban uses of the river.

Under Shoreland or Wild and Scenic, the program would likely lose its connection with regional planning, currently overseen by the Metropolitan Council which reviews Critical Plans for consistency with the executive order and regional plans.

Option 1B – Move MRCCA administration to another division of the DNR. This option primarily responds to stakeholder concern that the DNR Division of Waters places lower priority on environmental protection than other DNR divisions such as Ecological Resources. The view among some stakeholders was that another division would be more rigorous in reviewing ordinances and variances, and would better evaluate potential impacts to bluff stability, visual quality, and habitat along the corridor. The DNR does not concur moving MRCCA administration to another division would increase protection. The DNR maintains consistent policies and priorities across disciplines. The tradeoff would be greater expertise in biological and ecological resources, but less staff experience in ordinance administration or local government operations. The DNR could increase multidisciplinary review of plans, ordinances and projects by increasing internal coordination, and increasing staff time allocated to this review.

Option 1C – Move MRCCA administration to the DNR Central Region – The stakeholders did not discuss this option. It was raised in the FMR letter to DNR and in internal DNR discussions. The MRCCA is entirely within the DNR's Central Region. The Region has Community Assistance expertise and experience working with local units of government on protecting and enhancing natural resources. The region would need an additional staff person to enhance the program through greater community assistance and technical support.

Option 1D – Move MRCCA administration to another agency – This option did not receive much support among stakeholders. It is generally believed that moving it to another agency would not solve problems inherent in the program. An advantage to moving the program back to the EQB is the EQB's multi-agency membership, and state environmental policy and planning focus. It would reintegrate the MRCCA with the "mother" Critical Area program, which still resides with the EQB. The EQB currently does not have staff to manage the MRCCA,

particularly if program enhancements such as additional outreach and education were required. Staffing limitations was a primary reason the MRCCA was moved to the DNR in 1995.

Option 1E – Create a new administrative body – This option would be similar to the Mississippi Headwaters Board or Project Riverbend along the Minnesota River, which have been successful to varying degrees. There is some stakeholder concern about the effectiveness of either of these management approaches. A possible advantage of a joint powers organization would be control assumed by communities with a common interest in the river, and a broader, more regional, perspective than the current collection of local ordinances. The administrative body would need funding to provide for staffing, planning, and administrative activities. Stakeholders, who thought it would be unworkable, and too difficult for the nearly 30 communities to coordinate and cooperate, did not support this option. Stakeholders indicated that a state-level resource like the MRCCA warrants investment by the state with state-level oversight.

Group 2 – Options that enhance the existing program

Generally, the DNR finds all options in this group have merit. The ability to implement them is limited by staff resources, competing management responsibilities, and the amenability and priorities of MRCCA units of government.

Option 2A – Increase interagency consultation – Stakeholders correctly identify that DNR has limited expertise in some MRCCA issues and resources, including scenic evaluation, cultural and historic resource preservation, navigation, transportation, and municipal and regional economic development considerations. When the DNR reviews plans and ordinances it could be helpful to obtain greater input from agencies or entities with professional expertise in these areas. Collecting this input is primarily a matter of sufficient advance notice and staff time to coordinate with other agencies (both DNR staff time and the resources of the consulted agencies). DNR currently consults with the Metropolitan Council and the National Park Service. This coordination could be enhanced with a relatively minor staff addition.

Option 2B – Increase LGU consultation with state and regional agencies – Local units of government could seek involvement, advice and input from regional or state agencies, as well as planning assistance from non-profit entities. Generally, very few communities seek DNR or NPS input while community plans or projects are being developed. They could also seek assistance with stormwater management and cultural resources identification and protection from the MPCA, SHPO, or other agencies.

Option 2C – Strengthen MNRRA partnership – This option relies on cooperation between DNR and MNRRA staff, and other partners to work with local units of government, encouraging them and training them to develop more protective plans and ordinances and to more rigorously enforce their ordinances. Similar to other options in this section, success would rely on additional staffing at both the NPS and the DNR.

Options 2D & 2E – Outreach to MRCCA communities - In DNR's experience, the effectiveness of land use programs depends directly on the commitment of the local units of government. Additional oversight or more specific state-level regulations generally do not increase the rigor with which local units of government enforce their ordinances. The DNR would need additional

staff resources to monitor and review all projects or local land use decisions, or to regularly appeal them.

The most effective approach to encouraging communities to adopt and enforce more protective ordinances is by working with them directly and providing information and technical assistance. Providing a model ordinance (MNRRA has prepared a draft) would help ensure that standards, guidelines, and MNRRA Tier II standards are included in ordinances.

Annual meetings of MRCCA communities could help them work together and foster a sense of common stewardship towards the resource. They could share how they have handled development proposals that are not consistent with MRCCA goals; and jointly advocate for more technical and financial support, recognition of good work, and program changes that would improve MRCCA management.

Option 2F – Increased funding to LGUs – Small cities and townships have very limited resources and need additional state funding to pay for planning, zoning, resource inventory, implementation and enforcement. Alternatively, the state could fund a community assistance program to support these activities. While a regional and national resource, MRCCA management takes place at the local level. The state should focus resources there.

Option 2G – Inventory and document cultural and scenic resources – Stakeholders recommended an inventory of cultural and scenic resources in the corridor, including photo-documentation of the current state of the river. This would establish a baseline for future evaluation of program effectiveness, and also help identify resources that may need additional protection. It also would identify candidate resources for easement or acquisition. An inventory would require a contract with a qualified agency or entity, as the DNR does not have this expertise. MNRRA reports it has started an initiative to adapt a scenic assessment tool for use in the MRCCA, which could eventually be useful in this effort.

Option 2H – Greater protection for significant resources – This is a recommendation to fund acquisition or easements to protect significant resources on private land, and to require preservation of resources on public lands within the MRCCA. Resources could be natural, esthetic, cultural or historic. While not discussed with stakeholders, the DNR expects this option would find broad support.

Option 2I – Increase public awareness – Stakeholders raised the issue that many citizens living within or near the MRCCA are not aware of its state or national significance. The NPS indicates MNRRA has equivalent standing to other National Parks. The NPS should be encouraged and supported in efforts to publicize the existence and significance of MNRRA, including signing and ongoing interpretive programs.

Option 2J – Annual stakeholders meeting – Stakeholders recommended an annual meeting of MRCCA stakeholders, with an invitation list similar to that used by FMR for the stakeholders meetings.

Option 2K – Increase MRCCA priority within the DNR – A number of stakeholders expressed their view that the DNR does not place high enough priority on protecting the MRCCA. This could translate to either staffing levels or perceived commitment to protection. There were several calls for a greater commitment of resources and “fire in the belly” on the part of DNR staff and management, particularly in reviewing and commenting on projects requiring variances.

DNR staff time dedicated to the MRCCA Area has been reduced or shifted over the last 12 years. In 1995, Governor Arne Carlson reassigned MRCCA administration from the EQB to the DNR. Concurrently, the NPS provided funding to the DNR for two full-time staff to work solely on the Critical Area, with a primary goal of encouraging and assisting Critical Area communities to bring their plans and ordinances into compliance with the goals in the new MNRRRA Comprehensive Plan. These goals are referred to as “Tier II” standards; while the original guidelines and standards in Executive Order 79-19 are referred to as “Tier 1”. Over the next five or so years the NPS provided approximately \$625,000 to the DNR for this work, as well as grant funds for the participating communities. Nearly all Critical Area communities brought their plans into “Tier II” compliance; only six updated their ordinances.

For an additional five years after the federal funding expired, DNR maintained one full-time staff position dedicated to the Critical Area. Because most plans had been updated, and few communities were actively revising their ordinances, the position focused on reviewing project-related zoning changes, annexations, development plans, environmental reviews and variance applications. During this time, the DNR developed detailed comments on a number of environmental review documents and variance applications, which were helpful to citizens concerned about the projects. Citizens and communities also found it convenient to have one DNR point-of-contact for Critical Area issues. The position was vacated in 2005 and the DNR did not fill it due to funding limitations. A number of citizens expressed concern about the loss of the dedicated staff person for reviewing projects and developing comment letters, and felt they had lost an advocate for the program.

The DNR has since shifted staffing for the Critical Area program primarily to regional staff. While Critical Area plan amendments are reviewed by Central Office staff (approximately .10 FTE), ordinance amendments, environmental review documents, and variance applications are reviewed primarily by Waters Division staff in DNR’s Central Region (another .10 FTE), a practice consistent with administration of DNR’s other water-related land use management programs such as shoreland and wild and scenic rivers. Regional Waters staff time is allocated among many responsibilities, including floodplain management, critical area, wild and scenic rivers, shoreland management, wetlands, public waters work permits, and water supply issues.

Option 2L – Metropolitan Council – Executive Order 79-19 requires the Metropolitan Council to follow the standards and guidelines contained in the Order when reviewing and approving plans, regulations, and development permit applications. MRCCA guidelines should be included in the Metropolitan Council’s regional systems plans and policies for transportation (including aviation), parks and wastewater.

The Council's 2030 *Regional Development Framework* policies for the region's geographic planning areas (urban, rural) guide the metropolitan area's growth and support the regional systems plans. Urban infrastructure expansion directly influences development density, and may not necessarily be desirable in parts of the Critical Area corridor, particularly in the Rural Open Space District.

Option 2M – Systematic variance tracking – DNR is not required to track variance applications or disposition after notification by the MRCCA communities. In addition, the DNR may not be notified of all variances as currently required by EO 79-19. To implement this option, DNR would need additional staff resources. Staff would develop and maintain a system for tracking variances and their disposition, monitor LGU meeting agendas and actions to determine whether proper notification was occurring, contact LGUs to obtain copies of variance applications, and record DNR comments, if any, on consistency of the applications with Executive Order 79-19 standards and guidelines.

Group 3 – Options that modify the current program or process

Option 3A – Prioritize goals and uses in the MRCCA – The general guidelines in Executive Order 79-19 call for multiple resource management, providing for development of a variety of urban, industrial, commercial and residential uses where appropriate, as well as conserving scenic, environmental, recreational, mineral, economic, cultural and historic resources and functions of the river corridor. Some stakeholders expressed their view that local governments give higher priority to economic development (especially high-density residential) than to preserving scenery or open space, or that cultural resources protection must compete with scenic or natural resources restoration or protection. Stakeholders recommended the legislature require a public process to establish a hierarchy of uses for the MRCCA. One set of priorities could be established for the entire corridor, or for each district within the corridor, or each community could establish its own priorities.

Option 3B – Establish process for early input on proposals – Local units of government are required to notify DNR of developments requiring discretionary actions at least 30 days prior to taking action. Based on Minnesota Rules part 4410.9800, “discretionary action” means permits for which a local unit of government is required to hold a hearing, generally variances. Advance notice to DNR is not required for development proposals that do not require a hearing, nor is there a requirement for local units of government to solicit DNR input during the preliminary stages of project planning even when a variance application is anticipated. While LGUs do occasionally consult with the DNR about projects in-design, they are not required to. A statutory change would be necessary to make early coordination mandatory.

Option 3C – Provide for boundary changes. The Critical Area boundary was described in the executive order and made permanent by the Metropolitan Council. It has since been codified as having the same boundary as the MNRRA (MS § 116G.15). There is no administrative mechanism for changing the corridor boundary. There is interest in including additional land (specifically Pilot Knob) in the MRCCA boundary. Some communities have indicated they have lands that should not have been included, for example if they are some distance from the river

and not visible from either the river or the opposite shore. Boundary changes could be made directly by the legislature or through statutorily authorized rulemaking. There is general unease on the part of stakeholders regarding opening the boundary to change.

Option 3D – Limitations on District Changes. There are four land use districts designated by Executive Order 79-19: Urban Diversified, Urban Developed, Urban Open Space and Rural Open Space (in order from more developed to less developed). The boundaries of each district are established by the executive order. Section C.10.c. of the executive order Standards and Guidelines allows local units of government to modify the district boundaries if they can demonstrate the consistency of the modifications with the general guidelines. A number of stakeholders indicated that district modifications should only be allowed if the change were to a less developed designation, providing more protection from development.

Option 3E - Changing the Executive Order 79-19. Unlike statutes and rules, there is not a clear mechanism for amending the executive order, which designated the MRCCA and which still guides planning and development in the Corridor. It is clear that stakeholders and LGUs alike desire a definition of “bluff”, but there is no administrative process for adding it to the executive order. While the Critical Area statutes authorize rulemaking to implement the Critical Area program (MS§116G.04), it is not clear whether the DNR could alter provisions in the executive order through rulemaking without specific statutory authorization.

Option 3F – DNR authority to require ordinance updates or amendments. Executive Order 79-19 and Minnesota Statutes § 116G.10, subdivision 2 require a resubmission (and state review and approval) of plans and regulations two years after initial adoption. Afterwards, local units of government may amend their plans and regulations if they find it necessary or desirable (“permissive resubmission” provided by MS § 116G.10, subd. 1). Neither statute nor executive order provides for mandatory periodic review after the initial 2 years have passed. The legislation should also specify that plans and ordinances must meet or exceed the standards in Executive Order 79-19 or state rule if the standards are promulgated in rule per Option 3H.

Option 3G – Scope of DNR authority over plans and ordinances. There are ongoing disagreements regarding whether plans and ordinances that may affect land in the Critical Area but that are not specifically Critical Area plans and ordinances (such as a city-wide ordinance) are subject to DNR review and approval. Legislation or precedential legal decisions would clarify DNR’s review and approval authority.

Option 3H – Minimum standards (and definitions) through rulemaking or legislation. The current standards and guidelines for plans and developments are often performance-based. For example, local units of government must prepare plans and regulations to protect and preserve the aesthetic qualities of the river corridor. In these plans and regulations, structure size and location shall be regulated to minimize interference with views “of and from the river”. However, minimization of interference with views is subjective. A minimum standard would be less open to interpretation, for instance a building height restriction of 30 feet in Urban Open Space districts.

Currently, local units of government are authorized to develop their own plans and regulations, which may differ from community to community, as long as they are consistent with regional plans and with the executive order. A number of stakeholders have suggested that establishing minimum standards (either through rulemaking or legislation) would provide consistent protection for resources throughout the length of the MRCCA. Standards would include additional definitions, plus slope protections, setbacks, building heights, vegetative clearing standards, etc., that use specific numbers as standards.

The DNR notes that performance-based standards were popular as a planning tool when the MRCCA was established. They intentionally give local units of government flexibility. The Critical Area program was designed to be locally implemented through plans and ordinances, so long as the plans and ordinances are consistent with the performance standards in the executive order. Each community must develop its own standards. Consequently, the program has “built-in” variation among communities.

The DNR notes that the uniqueness of each community’s plans and standards makes administration more complicated, since a DNR staff reviewer must be familiar with the standards in each ordinance, rather than a statewide standard such as in the shoreland program. Also, since the standards and guidelines in Executive Order 79-19 are performance based rather than numerical, whether plans and ordinances (and by extension projects) are consistent with the executive order is often a subjective judgment. In general, stakeholders do not believe the performance-based standards of the executive order provide sufficient protection for the corridor.

Option 3I – Evaluate, consolidate and integrate all state land use requirements for the MRCCA. This option would develop a MRCCA rule incorporating standards from all applicable state land use programs: shoreland, floodplain, wild and scenic, and critical area. Municipal regulations could include a stand-alone river corridor section rather than overlays for each set of standards. Currently, LGUs are not prohibited from adopting comprehensive ordinances, but this change would make comprehensive river ordinances mandatory. (By comparison, the rule package listed as 3H would be primarily limited to setting minimum standards and clarifying definitions.) This option was described in the Minnesota Planning 2002 report to the legislature “Connecting with Minnesota’s Urban Rivers”.

Option 3J – Comprehensive MRCCA planning. This option was raised at a meeting including representatives from the DNR, the EQB, House Research and FMR, shortly after the legislative directive to prepare the report was enacted. The legislature could authorize and fund a collaborative MRCCA planning process among the DNR, the EQB, the Metropolitan Council, the NPS, LGUs and stakeholders. The plan would include an inventory of MRCCA resources, priority setting, and possibly redistricting. The plan could include objectives, guidelines and minimum standards for each distinct segment of the river.

Option 3K – Remove Critical Area designation. This option was discussed and roundly dismissed by the stakeholders who want the MRCCA to maintain its unique identity. The DNR notes that if the corridor were no longer designated a critical area, it would be protected under the State’s shoreland program (MS§103F.201). However, the shoreland district along rivers is only 300 feet deep on each side, so the entire critical area corridor as currently designated would

not be included. A number of communities within the MRCCA do not have shoreland ordinances protecting the Mississippi River, so would need to develop and adopt them. The federally designated Mississippi National River and Recreation Area (MNRRA) has the identical boundary to the Mississippi River Corridor Critical Area. MNRRA also was designated with reliance on the state protections. Removing the state designation and protections would leave MNRRA without protective regulations in areas outside the 300-foot shoreland zone.

Group 4 – Options that increase oversight of local decisions.

Option 4A – Require variance certification. A number of stakeholders suggested that all variances issued by local units of government in the MRCCA should be certified (or approved) by the DNR. This is an authority the DNR has in the wild and scenic river program, but not the shoreland or floodplain management programs.

Stakeholder support for variance certification was mixed. Those supporting certification believe it will result in better local decisions, since there is DNR oversight; and if incorrect decisions are made, the DNR can serve as the “safety net” to overturn them. Many stakeholders believe that a resource of statewide significance, such as the MRCCA warrants state-level oversight.

DNR concerns regarding certification generally stem from experiences in the wild and scenic river program, where the tendency of local governments is to make “popular decisions” (i.e., granting variances to their citizens), knowing that the DNR can overturn poor, unsupported decisions. This relieves the local unit of government of making unpopular or controversial decisions to deny variances and requires the state to bear the legal cost of defending the variance denial.

Option 4B – Technical Review Board. Stakeholders suggested an alternative or additional appeal mechanism such as a Technical Review Board that could be assembled to hear administrative appeals of local decisions on variance applications. The TEP panels convened for Wetland Conservation Act oversight could serve as a model. The review boards could be standing or *ad hoc*, and could comprise agency, citizen, or other members. They could have the authority to overturn decisions or to remand them to the LGU for reconsideration. Administrative appeals are time-consuming, but are substantially less expensive than judicial appeals, and provide greater access to citizens. The legislature would need to authorize appeal boards, and explicitly describe their role; funding to support the boards would be required.

Option 4C – Mandatory annual reporting. The current MRCCA program does not require systematic reporting by local units of government on the status of plans or ordinances, permits issued, resources protected, or any other aspect of program implementation. In addition, there is no mandatory reporting required of the Metropolitan Council or the DNR. The communities are required to notify DNR about upcoming variances and their disposition, but reporting is inconsistent. Mandatory annual reporting, by any of the involved parties or stakeholders, would require legislative action.

Recommendations

As indicated earlier, the DNR expects that all of the options, some alone, and some in combination could adequately protect the aesthetic and natural resources in the MRCCA. The DNR's experience in land use programs is that the enthusiasm and commitment of local units of government, provided they have sufficient staff and technical resources, is the most important contributor to successful implementation. Consequently, *the DNR is supportive of options that enhance the skill and resources of local governments.*

Group 1 – Options that move administration of the MRCCA. Moving the MRCCA “home” does not improve the perceived weaknesses inherent in the executive order or the implementation by local governments. With reservations, the DNR recommends:

Option 1C – Moving MRCCA administration to DNR's Central Region, reporting to the Community Assistance Program.

Group 2 – Options that enhance the existing program. The DNR believes the greatest benefit for the lowest cost can be accomplished through options that help local units to manage the MRCCA or help increase public awareness and support for the program. Group 2 contains a number of these options.

As low cost options, the DNR recommends:

- Option 2B – increased consultation by LGUs
- Option 2C – increased partnership with MNRRA
- Option 2E – annual LGU meeting/training
- Option 2I – increase public awareness that the MRCCA is a unit of the National Park Service
- Option 2L – Metropolitan Council inclusion of MRCCA guidelines in the 2030 Regional Development Framework document and policies

At higher cost (at least one additional DNR staff position, plus funding for activities), the DNR recommends:

- Option 2D – additional outreach to communities (likely coupled with Option 1C, moving the program to the Central Region's community assistance program)

With substantial additional funding for LGU assistance and protection of significant resources, the DNR recommends:

- Option 2F – increased state funding to small LGUs for MRCCA implementation and enforcement
- Option 2G – Systematic inventory and documentation of scenic and cultural resources
- Option 2H – Greater protection for significant resources (through easement and acquisition)

Group 3 – Options that modify the current program or process. The DNR recommends the following options that provide mechanisms for amending boundaries and the executive order, and provide clarification of DNR authorities:

- Option 3C – provide an administrative mechanism for boundary changes; alternatively, the legislature could make boundary changes in statute.
- Option 3E – provide an administrative mechanism to amend the executive order
- Option 3F& 3G – legislative clarification of DNR authorities regarding ordinance approval

Group 4 – Options to increase oversight of local decisions. In this group, the DNR recommends:

- Option 4B - Locally-established, independent administrative appeal boards (perhaps one per county) to hear variance appeals.

The following table summarizes the DNR’s recommendations:

Cost to State	Option	Description
Low	1C	Move MRCCA to DNR Central region (no new staff)
Low	2B	Increased consultation by LGUs
Low	2C	Increased partnership with MNRRA
Low	2E	Annual LGU meeting/training
Low	2I	Increase visibility (costs borne by MNRRA)
Low	2L	Metropolitan Council inclusion of MRCCA
Medium	2D	Additional outreach; (likely combined with Option 1C)
High	2F	Increase funding to small LGUs
High	2G	Inventory scenic and cultural resources
High	2H	Protection through easement and acquisition
High	3C	Boundary changes; high cost if rulemaking required; low if accomplished by statute
High	3E	Administrative mechanism for amending E.O.79-19; high cost if through rulemaking
Low	3F & 3G	Clarify DNR authorities through statute
High	4B	Appeals boards to oversee LGU decisions

SECTION 5 – Conclusions

Pursuant to the legislative charge, the DNR has assessed and reported on the status of Critical Area plans and zoning ordinances; community plans for revising these plans and ordinances; the nature and number of variances sought, and developed a number of options and recommendations for managing the Mississippi River Corridor Critical Area (MRCCA).

Most communities have Critical Area plans that not only meet the minimum standards and guidelines in Executive Order 79-19, but have updated their plans to include the more protective MNRRA Tier II standards developed by the National Park Service.

Communities have been less consistent in updating their MRCCA ordinances to incorporate more protective standards. Only six of the 25 communities with zoning authority have updated ordinances.

Fewer than half the communities plan to update their Critical Area plans and regulations in the near future.

Communities report 230 variance applications since establishment of the MRCCA. Unfortunately, not all communities responded to the survey, so variances issued by larger cities like Minneapolis, South St. Paul, and Fridley are unreported. As noted earlier in Section 2, the City of St. Paul at one time issued “Special Conditional Use permits” instead of variances; these permits are not reflected in the variance information.

Without knowing more about the circumstances necessitating the variances, the degree of non-conformity approved, the public hearing record, or the mitigation required as conditions of variance approval, little understanding of whether variances are a problem in the MRCCA was gained through this simple tally.

The DNR also found that most communities responding to the survey believe there is value in the MRCCA designation, primarily that it gives them another tool for protecting the river corridor.

With substantial community and stakeholder input, the DNR identified over thirty options for changing Critical Area administration and implementation. The DNR expects that all options, some in conjunction with the existing program, some in combination with others, could be employed to “adequately protect and manage the aesthetic integrity and natural environment of the river corridor”.

The DNR recommends a number of the options, including options that move the location of MRCCA administration, enhance the existing program, modify the existing program, and that provide for greater oversight of local decisions.

Appendix A

Friends of the Mississippi River

Stakeholder Report

Mississippi River Corridor Critical Area Program:

**SUMMARY OF STAKEHOLDER ENGAGEMENT AND
POTENTIAL MANAGEMENT OPTIONS**

Report Prepared by Friends of the Mississippi River

For the Minnesota Department of Natural Resources

November 27, 2007

ACKNOWLEDGEMENTS

Friends of the Mississippi River (FMR) would like to thank the individuals who participated in the stakeholder meetings described in this report. This process would not have been successful without the time and thoughtful input provided by stakeholders from a variety of backgrounds and vocations.

FMR also acknowledges the following organizations for their advice and assistance in the design and conduct of the Mississippi River Corridor Critical Area program stakeholder engagement process:

**Minnesota Department of Natural Resources
Minnesota Environmental Quality Board
Metropolitan Council
National Park Service, Mississippi National River and Recreation Area**

The above agencies and individuals in no way bear responsibility for this report. Findings and conclusions are the responsibility of Friends of the Mississippi River, and questions about the report should be directed to FMR as provided below:

**Irene Jones, Outreach Director
Friends of the Mississippi River
360 North Robert Street
Suite 400
Saint Paul, MN 55101
651-222-2193 ext. 11
651-222-6005
E-mail: ijones@fmr.org**

Dave Dempsey assisted in the preparation and drafting of this report.

INTRODUCTION

In October and November 2007, Friends of the Mississippi River (FMR) organized and facilitated a series of stakeholder meetings designed to assist the Minnesota Department of Natural Resources (DNR) in responding to a mandate from the Legislature to report on the status of the state critical area program for the Mississippi River corridor in the Twin Cities region.

The Legislature appropriated funds for and directed the DNR to conduct a study of and report on the program in Minnesota Session Laws 2007 as follows:

SF 2096 – Article 1, Section 4 – Line 28.3 -- *\$50,000 in the first year is for the commissioner, in consultation with the Environmental Quality Board, to report to the house and senate committees having jurisdiction over environmental policy and finance by February 1, 2008, on the Mississippi River critical area program. The report shall include the status of critical area plans, zoning ordinances, the number and types of revisions anticipated, and the nature and number of variances sought. The report shall include recommendations that adequately protect and manage the aesthetic integrity and natural environment of the river corridor.*

DNR contracted with FMR to assist in the study by facilitating a stakeholder engagement process. The purpose of the stakeholder process was to gather and document input from corridor cities, river businesses and developers, and environmental, civic and neighborhood groups about the strengths and weaknesses of the Mississippi River Critical Area program and possible solutions to ensure protection of this local, state and national resource.

DNR also contracted with Dave Dempsey to research potential management options and to assist with writing this report on the stakeholder process, a description of management options generated through the process, and the identification of needs and potential obstacles to implementation of each option, such as dollars, staff, statutory authority, rulemaking, change of approach, change in attitudes, education, and incentives.

This report documents the stakeholder engagement process facilitated by FMR, catalogues the opinions and observations of meeting participants, summarizes the identified strengths and weaknesses, and analyzes management options developed in the stakeholder engagement process. It also contains as appendices a comprehensive set of materials associated with the process, including meeting attendees, meeting summaries, and other items.

STAKEHOLDER ENGAGEMENT PROCESS AND PARTICIPATION

FMR conducted outreach to 315 stakeholders through letters, email reminders and phone calls. The stakeholder list, which was reviewed by DNR and MNRRA, included stakeholders in the following quantities: River Corridor Businesses and Developers – 39, Environment/Civic Groups and Citizens – 133, Local, State and Federal Government – 81. In addition, 37 state legislators that represent corridor districts were mailed an invitation letter and the 25 members of FMR's board and council of advisors were invited. A complete list of stakeholders notified is included in Appendix IV.b.

FMR organized and facilitated four meetings to solicit stakeholder input. The first three meetings were organized by stakeholder group:

- River Corridor Businesses and Developers (October 25, Minneapolis)
- Environment/Civic Groups and Citizens (October 30, St. Paul)
- Local, State and Federal Government (October 31, St. Paul)

FMR summarized themes and management options discussed at the three meetings and organized a meeting for all stakeholders to review, refine and further discuss the collated stakeholder input. This meeting took place on November 7, 2007 in St. Paul.

A total of 60 individuals attended the first three meetings. Twelve stakeholders attended the meeting for river corridor businesses and developers and 24 stakeholders attended each of the meetings of environment/civic groups and citizens, and local, state and federal government officials. Twenty-four individuals attended the all-stakeholders meeting on November 7, including six people that did not participate in the first round of meetings. Environment/civic groups and citizens stakeholders numbered the most at the Nov 7 meeting with 13 stakeholders. Two members of the developer/business stakeholder group attended; one was an architect and the other was from St. Paul Riverfront Corporation. Government representation at the Nov. 7 meeting included 9 stakeholders, seven from local units (St. Paul, Minneapolis, Rosemount, Lilydale, Grey Cloud Island Township and the University of MN). Representatives Rick Hansen, Erin Murphy and Sheldon Johnson attended the October 30 meeting and Representatives Murphy and Johnson also attended the all-stakeholder meeting. Five FMR board members participated in the meetings and were counted among the stakeholder participant totals. Two to five DNR staff attended each meeting and Steve Johnson of MNRRA attended all four meetings. Project staff from DNR, MNRRA and FMR were not counted in the participation totals.

A list of all individuals attending the meetings and their affiliations is included in Appendix IV.c.

In addition to the meetings, FMR created a page on its website to provide stakeholders with background information about Mississippi River Critical Area and the DNR study. The website also served to inform the public about the meetings and the stakeholder process.

SUMMARY OF STAKEHOLDER MEETINGS

The purpose of the first three meetings was to provide an overview of the process for the study, solicit views and comments from stakeholders on strengths and weaknesses of the Mississippi River Critical Area program, and develop a list of potential solutions and management options to address the identified weaknesses. At the final meeting, FMR presented a summary and analysis of common themes, areas of potential agreement, and areas where stakeholders had significant differences of opinion. FMR then facilitated discussion of the differences and conducted an exercise to measure stakeholder preferences and priorities. Agendas and handouts from the stakeholder meetings can be found in the appendices of this report.

Stakeholder Group Meetings: October 25, 30, 31, 2007

Each meeting began with a brief overview and history of the Mississippi River Critical Area program, the purpose of the stakeholder meetings and FMR's role as process convener.

Steve Johnson of the Mississippi National River Recreation Area (MNRRA) discussed the relationship between the state critical area and the corridor's designation as a National Park. He pointed out that MNRRA's comprehensive management plan "adopts and incorporates by reference the state critical area program, shoreland program, and other applicable state and regional land use management programs" that implement the plan's vision. The plan adds, "This plan does not create another layer of government but rather stresses the use of existing authorities and agencies to accomplish the policies and actions developed for the corridor."

DNR staff described the origin and purpose of the critical area study, the direction they were given by the state legislature and how the stakeholder engagement process fits into the overall study.

FMR then facilitated the group discussion by asking stakeholders to comment on strengths and weaknesses of the Mississippi River Critical Area program in each of the following areas:

- Executive Order 79-19: critical area law, language, intent, authorities
- Condition and significance of corridor resources
- Local government planning and enforcement
- DNR oversight and enforcement
- MNRRA role
- Standards and guidelines
- Boundaries

The remainder of the meeting was devoted to reviewing a range of potential management options, and discussing which solutions addressed weaknesses identified by stakeholders. The following broad options and the advantages and/or disadvantages of each were discussed:

Eliminate the Mississippi River Critical Area designation

This option would leave protection of critical area lands and associated cultural, natural, historical and other resources within the purview of local government planning and zoning options. Critical area lands within 300 feet of the river would have protections under the existing state shoreland program.

Maintain the existing Mississippi River Critical Area program

This option would preserve the existing DNR program at the current level of funding, staffing and priority.

Enhance the Mississippi River Critical Area program

This option would include one or more enhancements to the program, including additional funding for staff and/or technical assistance, training and outreach; rulemaking that would define terms (such as bluff line and bluff toe) and establish minimum land use standards; use of state-of-the-art tools such as the National Park Service viewshed analysis methods to help identify scenic resources to be protected; and other measures.

Change and/or move metro river corridor protection

This option would shift protection of the critical area corridor to another program and/or home either within DNR or another state or a regional agency. Alternatives discussed were:

- House the Mississippi River Critical Area program elsewhere (EQB and Met Council were mentioned as possible agencies to house critical area).
- Change metro river corridor protection to a different DNR program (specific mention was made of the DNR shoreland protection program and the wild and scenic rivers program).
- Change corridor protection program and house program in a different agency
- Create new program or agency (specific mention was made of a new joint powers organization consisting of all municipalities within the corridor, or an agency modeled after the Mississippi River Headwaters Board).

Synthesis/Discussion of Input from Stakeholder Group Meetings

FMR staff recorded all views expressed during the three stakeholder group meetings and compiled a complete set of notes for each meeting. That information was collated into a table that compared and contrasted issues and views expressed by the different stakeholder groups, and a synthesis of identified problems and proposed solutions was prepared. FMR also prepared a list and brief description of the proposed management options for the final discussion. All of these materials were given to stakeholders at the all-stakeholder meeting and can be found in the appendices of this report.

There was a surprising amount of agreement or overlap among stakeholder groups with regard to the strengths and weaknesses of the program, but there was less agreement about how and what potential solutions would best address protecting corridor resources. In spite of some differences, several options proposed had general agreement from all groups, including maintaining a unique state management framework for a significant resource, strengthening the partnership with MNRRA, increasing interagency coordination, establishing a process for early input by DNR and other stakeholders, and providing outreach and technical assistance to corridor communities. There was also general agreement on the need for a particular approach regarding some of the options, but it appeared there would be considerable conflict among stakeholder interests about the details of implementation. These options include the establishment and ranking of priorities among resource values, clear definitions of key terms and features, the implementation of consistent standards with some local flexibility, and a process for amending boundaries.

In preparing the proposed management options to be discussed at the all-stakeholder meeting, FMR analyzed the stakeholder input on strengths and weaknesses of the program, and tied concerns and issues to identified solutions with the potential to address those issues. A synthesis of this information was summarized in a handout for stakeholders that can be found in Appendix II.c.

In addition to the notes and summaries provided in the appendices of this report, the following is a discussion of the strengths and weaknesses identified by at least two of the three stakeholder groups.

Mississippi River Resource

Strengths

Water quality has improved, mostly from the clean up of point source pollution; parks, trails and access to the river have expanded significantly; and industrial uses are being converted to residential and commercial development; all of these things bring more people to the river.

Weaknesses

Increased development along the river puts pressure on natural and historic resources. Places with high scenic, ecological, historic and cultural values (such as bluffs, floodplain areas, historic downtowns) are threatened by the attractiveness and market value they create, and in need of special attention and protection. Storm- and ground-water pollution and polluted sites threaten the river's improved water quality.

Other Realities

The metro region is growing, triggering the urbanization of rural/exurban corridor lands and greater stormwater impacts to the river from well beyond the corridor.

Executive Order 79-19

Strengths

The values expressed in the purpose and intent remain important today, and the unique identity and conformance with the MNRRA boundary are key strengths.

Weaknesses

The goals are vague, general, and lack specificity; numerous and sometimes conflicting goals make implementation difficult. The E.O. is outdated regarding current technology and practices, resource values and key terms are not well defined, and the district boundary change process/criteria is unclear.

Local Government Role

Strengths

Local values and landscapes are reflected in plans and ordinances customized to each community.

Weaknesses

Implementing the performance goals of Executive Order 79-19 through ordinance is complex, and not well understood, and it puts the burden of realizing regional and national goals on local units. The result is that many ordinances have not been updated to meet local critical area plans, causing confusion, heightened political lobbying activity, and inconsistency within and among city decisions.

DNR Role/Program Enforcement

Strengths

DNR has authority over plans, plan amendments and ordinances, important decision-making tools for corridor protection.

Weaknesses

Executive Order 79-19 lacks specific minimum standards, especially regarding building height, that DNR can apply in reviewing local government plans and ordinances. Limited DNR staffing and resources to implement the program, low priority for the critical area program within the department, and the absence of state oversight on corridor projects and local variances leads to inadequate corridor protection.

Program Home

Strengths

Key DNR strengths include experience overseeing other water-related land use programs that are implemented by local units of government through ordinance, and field staff who work directly with the local units within their region.

Weaknesses

DNR has limited expertise in historic resources, cultural landscapes and economic development issues, and more collaboration with other agencies is needed. Some stakeholders questioned what priority the DNR places on the critical area program and raised concerns that staffing levels and resources are insufficient to protect the corridor.

All Stakeholder Meeting - November 7, 2007

At the all-stakeholder meeting, FMR staff gave an overview of the stakeholder participation, meeting notes and other materials, and initial findings and themes from the first three meetings. After a brief review of the identified strengths and weaknesses, FMR presented a summary of the proposed management options with potential agreement, and areas where stakeholders had significant differences of opinion. A summary of the options presented with potential agreement and stakeholder discussion is included below, in this section. The final hour of the all-stakeholder meeting was devoted to discussion of the management options with opinion differences and an exercise to measure stakeholder preferences and priorities. A summary of those options, and the results of the exercise are also included in this section, and in the report appendices.

Potential Solutions with General Agreement

Maintain the critical area framework: The intent of the original corridor designation, to conserve the corridor's natural, historical, cultural, economic and other resources – remains valid. The corridor framework is unique and well suited to a corridor of local, regional, statewide and national significance.

Continue to house program at DNR: DNR has staff, expertise and systems in place for management of rivers and natural and scenic resources. The program should stand on its own merits and work wherever it is housed.

DNR to regularly consult with other agencies: DNR has limited expertise in historic and cultural resources and economic development, and the agency would benefit from consultation with agencies that have such expertise, such as MNRRA, Met Council, Environmental Quality Board (EQB) and the State Historic Preservation Office (SHPO).

Strengthen partnership with MNRRA: MNRRA brings staff resources and expertise as well as National status, and the potential for Congressional appropriation of funds.

Increase funding for state and local implementation: Additional funding is needed to assure the program works well for the interests of both development and conservation.

Provide outreach, education, technical assistance: Additional outreach, education and technical assistance to developers, local government and citizens in critical area corridor communities are needed to ensure they have the tools and understanding to implement the law.

Survey and document scenic and cultural resources: A clearer definition and understanding of, and agreement on the scenic and cultural values to be protected and state-of-the art methods for doing so is needed. The National Park Service has a process for surveying and evaluating views that could be implemented for the MNRRA corridor.

Set priorities among Mississippi River Critical Area goals: The Mississippi River critical area program calls for protection of natural, cultural, historical, scenic, recreational and economic resources of the corridor – goals that can be in conflict with each other.

Establish process for early input on development proposals: Early involvement of DNR and other agencies with relevant expertise in discussions with local governments and developers about project planning and design would help forestall some conflicts and lead to better understanding.

Hold annual stakeholders meeting, issue annual report: An annual report on the implementation of the program (including the number of land use changes and variances), state of the resources, key issues, and/or an annual meeting of corridor communities and stakeholders could improve program understanding and accountability and connectivity up and down the river.

Stakeholder Discussion

Although there was no significant objection to the identified areas of general agreement, several meeting participants provided additional views:

- Representatives of some municipalities indicated an interest in using the DNR shoreland program framework and standards to protect the critical area corridor.
- Some citizens expressed concern about the program being administered by DNR, and the need for coordination with EQB, Met Council and other agencies was reiterated. In general, stakeholders held the belief that where the program is housed – DNR or another agency – is less important than the presence of adequate management priority, funding and commitment to Mississippi River Critical Area protection in that agency. The need for DNR to be better positioned to play an advocacy role was expressed by several stakeholders, including one legislator; and one stakeholder pointed out that the lack of adequate funding and priority comes from the governor and the legislature.

Potential Solutions with Opinion Differences

The final discussion at the all-stakeholder meeting probed participants' views on potential solutions with opinion differences identified at the first three stakeholder meetings. The purpose of the discussion was not to build consensus, but to further illuminate the solutions and differences of opinion. Solutions covered:

Regulatory Framework

- *State Rules:* Minimum standards, definitions and authorities of local and state government would be established through critical area rulemaking.
- *New Legislation:* New legislation could include definitions and set a direction for minimum standards. It is likely that rules would follow.
- *Update Local Ordinances:* Under the current model, local units could update their ordinances to be consistent with their critical area plans. Most corridor communities have updated their plans in the past 10 years, incorporating MNRRA goals into their revisions, but only a few communities have followed up with an updated critical area ordinance to ensure protections and standards are implemented. A model critical area ordinance has already been developed by MNRRA, and there is some outreach planned to local communities in 2008.

Regulation Standards

- *Dimensional Standards:* Provides consistency through standards for heights, setbacks, slopes, etc., that are numerical and are straightforward to measure/understand/enforce, but does not well accommodate differences in local conditions. Rulemaking would be required.
- *Performance-based Standards:* Provides flexibility through standards that require specific goals are met, such as preservation of scenic views, maintaining a natural shoreline/buffer or preventing erosion. These standards can be subject to debate and difficult to enforce. The existing Executive Order 79-19 standards and guidelines are generally of this type.
- *Combination:* Combines dimensional and performance standards to allow flexibility where it is most needed or logical. For example, standards for slopes and setbacks could be dimensional, and standards for heights and viewshed protection could be performance-based. Stakeholders expressed the need to have clear and specific resource values, priorities and definitions in order for performance standards to be effective.

Land Use Decision Oversight

Some mechanism for oversight of variances granted by local corridor communities could increase resource protection.

- *Technical Review Panel/Appeal Board:* An appeal board could help resolve and depoliticize some contentious variance disputes and provide a technical perspective for the entire corridor. If modeled after boards authorized by the state Wetland Conservation Act, the panel would comprise experts in relevant fields. It could also include membership from the regional/state agencies, MNRRA and other stakeholders.
- *Variance Certification:* Variance certification gives the DNR the authority to deny project variances granted at the local level. The Wild and Scenic Rivers program has variance certification. Shoreland rules do not. The legislature would need to authorize variance

certification for the Mississippi River Critical Area, and the process for implementation would be spelled out in rule.

- *Local Control/Authority:* Under the current model, local units have authority over variances, but are required to notify/consult with DNR. If DNR disapproves, the agency has the option to take a local unit to court.

Boundary Amendment Process

Some stakeholders believe methods of altering the boundaries of the four land use districts within the corridor should be explored to take into account rural-to-urban transformation, contiguous natural resources, streams and watersheds, and other factors, while other stakeholders believe the intent of the program was to preserve the character of the resources as they existed at the time of the program's inception, and thus changes in land use districts may not be desirable.

- *Corridor Boundary:* linear boundary that runs parallel to the river.
- *Corridor Districts:* boundaries between the four Mississippi River Critical Area districts: urban diversified, urban developed, urban open space and rural open space.

Stakeholder Priorities and Preferences (Dot Democracy)

During an exercise at the conclusion of the all-stakeholder meeting, participants were asked to state priorities among the potential solutions and management options. Each participant was given five adhesive dots or "votes" to state their priorities. Participants could place up to two dots on one preference. The options selected in order of priority were:

- Set priorities among Mississippi River Critical Area goals (22);
- Update regulatory framework (15)
- Establish land use decision oversight (14)
- Establish process for early input on development proposals (12);
- Provide outreach, education, technical assistance (10);
- Survey and document scenic and natural resources (10);
- Hold annual stakeholders meeting, issue annual report (9).
- Update regulation standards (5)
- Corridor boundary amendment process (3)
- District boundary amendment process (1)

The above results should not be taken as representative of stakeholders, only as a general statement of priorities among participants able to attend the meeting.

Each participant was also asked to express preferences among proposed solutions with opinion differences in the same manner as they were asked to rank proposed solutions with general agreement. Each participant had one dot for each category, and the results of the exercise were:

Regulatory Framework

- State Rules (3.5)
- New Legislation (14)

- Ordinance Updates (4.5)

Regulation Standards

- Dimensional (8)
- Performance
- Combination (13)

Land Use Decision Oversight

- Technical Review Panel/Appeal Board (16.5)
- Variance Certification (4.5)
- Local Control/Authority (3)

Corridor Boundary Amendment Process

- Yes, but boundary changes must be written into legislation or executive order (8)
- Yes, but the legislature should authorize a process whereby DNR has authority to approve corridor boundary amendments. (11)
- No, never

District Boundary Amendment Process

- No, districts meant to be permanent
- Yes, but only to a more protective district (16)
- Yes, districts meant to change with urban growth (3)

Again, these results should not be taken as representative of all stakeholders who attended the four meetings. The developer/business and local government interests were not well represented at the all-stakeholder meeting, so the dot democracy exercise was primarily reflective of citizen and civic/environmental group stakeholder interests.

DISCUSSION AND ANALYSIS OF POTENTIAL MANAGEMENT OPTIONS

The final section of this report is intended to synthesize stakeholder views and policy research into an analysis of the overall process. Each management option identified through the process is described along with a synopsis of the obstacles to and needs for implementation of each option, such as dollars, staff, statutory authority, rulemaking, change of approach, change in attitudes, education, and incentives. Advantages and disadvantages are also noted, especially where stakeholders discussed them. Matrix 1 and Matrix 2 in Appendix III.c. provide an overview of the obstacles and needs for each option

At all of the stakeholder meetings, there was little support for eliminating the Mississippi River Critical Area designation. Stakeholders generally agreed that the resources that the designation was created to protect are at least as significant on a regional and statewide basis as they were at its inception in the 1970s.

It was also generally agreed that the current approach to maintaining the existing program is not satisfactory to stakeholders from the perspectives of both economic development and resource protection.

Further, there was little support for moving the state Mississippi River Critical Area program from its current location within DNR or creating a new program within a different agency. Most stakeholders feared a move of the program elsewhere within DNR or to another agency would cost significant program institutional memory and could result in a weakening of corridor conservation. Some stakeholders expressed concern that elimination of the critical area designation with regulatory authority assumed by another DNR program (such as shoreland protection) would sacrifice the uniqueness of the corridor area approach. At the final meeting, several stakeholders, pointing out that DNR has lacked sufficient resources and/or institutional interest in the program, said they support its continuation in the agency provided that DNR renews its commitment to the critical area program and seeks additional resources for its implementation.

Given the above, stakeholders devoted most of their suggestions to enhancements of the existing DNR program. There was substantial support for several reforms that could resolve uncertainties and controversies associated with the program. These included:

Developing a process and/or methodology by which to rank resources to be protected within the Mississippi River Critical Area corridor, potentially with different rankings in different reaches of the river. However, there was not enough time during the stakeholder engagement process to explore how this could be done in a way that would promote general agreement and the resources required to do so. Some stakeholders suggested that communities should have the opportunity to individually establish priorities for the corridor resource values within their jurisdiction, and to create a vision that defines what they are protecting. Other stakeholders suggested that resource values should be identified, evaluated for their regional and local significance, and prioritized on a corridor-wide basis.

Stakeholders identified a number of different values that Mississippi River Critical Area decision-making should take into account, including economic development and attention to water quality, as well as protecting natural, scenic and cultural resources. To address and resolve this issue, DNR would need additional resources to facilitate further stakeholder discussions and/or conduct a rulemaking process. The legislature could also be asked to develop statutory language specific to the Mississippi River Critical Area Corridor clarifying the priority of resources to be protected and/or a process for applying different priorities within different reaches of the corridor.

Establishing a process by which DNR and other state and federal agencies can be consulted in corridor development proposals before a final local decision is made in order to improve both the proposals and decision-making. Stakeholders generally agreed that limiting DNR's role to reviewing project designs and variance requests for consistency with local critical area plans and ordinances after a local issue has passed through most of the process does not promote optimal project design or corridor conservation, and does not necessarily lead to public acceptance of the decision. The 60-day rule for proposals to local units sometimes puts a complex process on a timeline too tight to allow for adequate DNR and stakeholder review.

This program enhancement could be implemented with new formal or informal administrative procedures and/or rulemaking. The technical review panel, suggested for an appeal board below, is one possible strategy for implementing early input on proposals. Projects would need to go before

the panel prior to formally submitting their applications to local units, in order to prevent a conflict with the quasi-judicial role required should a variance for the same project be later appealed to the board. This could be a barrier to early consultation by developers, but it would solve some of the tight timeline issues mentioned above.

This approach would likely require additional DNR staff resources, and potentially additional local resources, to foster increased early consultation.

Increasing outreach, technical assistance and education to developers, local governments in the corridor, corridor landowners and citizens in general to improve understanding and implementation of the law. Stakeholders generally agreed that these services would increase awareness of the requirements of the law, improve project design, enhance corridor conservation, and resolve some disputes. For example, local units need assistance with updating their ordinances to meet the goals of critical area plans and state law. A model critical area ordinance is one potential tool for this outreach. Also needed is ongoing education to elected and appointed officials, many of whom are new to their positions. Small cities and townships in particular need technical assistance to implement critical area goals for the corridor.

Because the Mississippi River Critical Area designation is 30 years old, stakeholders raised the importance of renewing commitment to the corridor through broad outreach to the public about Mississippi River Critical Area and the corridor's status as a National Park. Strategies to increase awareness of the river's unique values and national significance include more signage to let people know they are entering a National Park, more emphasis and frequent mention of the MNRRA during the many education and stewardship activities that take place in the corridor, and increased outreach to corridor communities through printed and electronic means, slide presentations and workshops focused on the river and MNRRA.

Substantial additional resources (federal and/or state appropriations and staff or consulting services) would be required to implement this recommendation, although asking local park implementing agencies and others who offer public programs in the corridor to give more emphasis to MNRRA could be accomplished through better understanding, partner communication and commitment to the goals and purposes of the National designation.

Defining, surveying, and documenting scenic and cultural resources in the corridor. Several stakeholders believe the technology and available models for identifying these resources, including viewsheds, has improved dramatically since the corridor was designated. Stakeholders in the business/developer group expressed the need to have science and specificity behind the identification of resources and potential threats to their integrity. This is particularly difficult with scenic resources because of unavoidable subjectivity. However, the National Park Service developed a multi-state process for evaluating viewsheds and implementing protection along the Blue Ridge Parkway, and MNRRA is considering its potential applications here.

Coordination with the National Park Service, extensive participation by stakeholders and additional resources for DNR and local units would be needed to accomplish this goal. Once agreed upon, resource value definitions might need to be formally set through legislation or rules.

Adopting specific standards and definitions through legislation and/or rule. There was considerable discussion about the need to establish minimum standards and clear definitions to guide land-use decisions throughout the corridor. Several citizens at the all-stakeholder meeting indicated a preference for putting definitions and standards directly into legislation, while other stakeholders were concerned about the uncertainties of the timing and outcome of the legislative process. Some stakeholders favored the agency rulemaking process, while potentially more time-consuming, because the process is more predictable. There is some debate about whether new legislation would be needed to authorize rulemaking for the Mississippi River Critical Area. If legislators wanted specific rules with specific content, and a specific timeline they would need to pass legislation with those specifications, and the process would require dedicated staff resources and funding. Although the importance of local control was raised, stakeholders seemed to be in general agreement that clear, consistent standards and definitions would benefit all three stakeholder groups. It was also noted that local ordinances would also need to be updated if rules were implemented.

There was also debate around the use of dimensional versus performance standards. Some stakeholders like the flexibility to be creative through performance standards, but noted that the standards and protection values need to be well defined. Other stakeholders suggested the variance process allows for some flexibility if it is warranted, but the norm should be specific minimum standards applied consistently throughout the corridor.

Creating a process by which the linear boundary of the corridor, generally running parallel to the river, can be adjusted. Some specific locations were identified where boundaries could or should be adjusted to exclude existing land from the corridor or to include new land within the boundary that is adjacent the corridor. Parts of Cottage Grove and Ramsey were mentioned as possible candidates for exclusion because they lack an obvious relationship to the river. Pilot Knob and some of the tributary valleys were suggested as possible additions to the corridor because of their natural resource values and relationship to the river corridor.

Implementing this recommendation would require legislation and/or an executive order to adjust the legal boundary or define an administrative process by which they can be adjusted. There is some concern among stakeholders that opening up boundary definitions could result in less protection overall for the corridor.

Implementing a process by which the district boundaries can be adjusted. Some discussion took place at the stakeholder meeting about allowing modifications of the use district boundaries. The main theme of this discussion centered on whether the Mississippi River Critical Area was intended to remain static or to change as urbanization extends to the ends of the corridor. Cities that include the rural open space district face a variety of obstacles to implementing the goal of this very protective district, including Metropolitan Council policies that require urbanization, the need to eliminate septic pollution, and concerns about meeting economic development interests and needs.

At the final stakeholder meeting, it was noted that Executive Order 79-19 allows for local governments to propose “modifications of the use district boundaries as described in the interim guidelines if local units of government can demonstrate...the consistency of the modification with the general guidelines.” However, in the stakeholder exercise that took place at the conclusion of the all-

stakeholder meeting, strong majority sentiment was to allow such modifications only if they were in the direction of greater resource protection.

Providing a process through which local government decisions on Mississippi River Critical Area land use variances can be appealed to and/or reviewed by the DNR or another body.

Stakeholders at both developer and citizen meetings expressed concern that local government decisions to approve or deny projects and variances within the critical area corridor are too often political. Both groups want to see decisions based on standards that have clear information and solid rationale behind them, but there is likely disagreement about what that means. Both groups also lamented situations in which the other group got the upper hand with elected officials through political connections. Although there was not enough time in the stakeholder engagement process to identify any area of general agreement on a remedy, substantial interest was expressed in two options, either independently or in tandem:

- **A technical review panel or appeal board** consisting of members representing appropriate expertise, a regional point of view, and perhaps specified constituencies. This suggestion was originally identified as following the Wetland Conservation Act technical review panel as a model. Any aggrieved party (developer or citizen) could appeal a local Mississippi River Critical Area variance decision to the board and, provided the appeal had merit, could receive a timely and independent review. Action by the Legislature would be required to establish such an appeal board, and rules to guide its implementation would need to follow.
- **Variance certification by DNR.** DNR would review and approve or deny all local variances. The only way for DNR to disapprove a local variance at present is by suing the local unit of government. This has not happened in the history of the program. The legislature would need to authorize variance certification for the Mississippi River Critical Area by statute, and rules would spell out implementation. Some discussion occurred about moving the program to the Wild and Scenic Rivers program because variance certification is already authorized in those rules. Some stakeholders expressed concern that these cases can end up in court anyway and can be costly for local and state government.

ADDITIONAL MANAGEMENT OPTIONS

Although they were not as extensively discussed at the stakeholder meetings, FMR presented several additional management options that involve managing the river corridor through a new or different state program, and received limited comment on them. All of these additional options involve programs and concepts with which many stakeholders were unfamiliar. There was not enough time to properly orient meeting participants to these options, and stakeholders generally did not seem strongly inclined to support any of these management options without additional information. Stakeholders raised some concerns about options that would move authority to a different or new program or agency, because of the potential time involved and fear of losing the uniqueness of the Mississippi River Critical Area if it were incorporated into an existing statewide program. Below is a summary of these options.

Manage the Mississippi River Critical Area through the state shoreland program: Management of the Mississippi River Critical Area corridor could be administered by DNR under the state shoreland program, but distinguish the program from other shorelands by identifying a special district for the corridor. The shoreland program provides statewide standards that local governmental units must adopt into their own land use controls to provide for the “orderly development and protection of Minnesota's shorelands (both rivers and lakes).” DNR provides technical assistance to local governments in the adoption and administration of their shoreland controls. A possible advantage with this option is that the shoreland program has parallels and some overlap with the critical area program. Much of the corridor, especially blufflands, would not be covered under the shoreland program’s current definition of within 300 feet of the river, so statutory changes to incorporate the critical area boundaries and protections into a special district would need to be authorized by the legislature, and rule changes would follow. Staffing resources may need to be shifted and/or increased to implement this option.

Move management of the Mississippi River Critical Area to the State Wild and Scenic Rivers program: This alternative would shift management of the Mississippi River Critical Area corridor to the Wild and Scenic Rivers program, created in 1973 to protect rivers that have outstanding natural, scenic, geographic, historic, cultural, and recreational values. Under a Wild and Scenic designation, DNR develops management plans to protect the scenic, recreational, natural, historical, and cultural values upon which state rules and subsequent local ordinances are based. By rule, DNR could designate the Mississippi corridor as a Recreational River, one of three allowable categories for wild and scenic rivers. Recreational Rivers may have undergone some impoundment or diversion in the past and may have adjacent lands that are considerably developed, but are still capable of being managed so as to further the purposes of this act. Staffing resources may need to be shifted and/or increased to implement this option.

Create a new Joint Powers Board made up of local government units within the corridor: Existing state law allows two or more governmental units, by agreement through action of their governing bodies, jointly or cooperatively to exercise any power common to the units. All 25 municipalities or the five counties within the critical area corridor could initiate such a board and organization. The number of local governments whose participation would be needed to cover the entire corridor is further complicated by the diversity of jurisdiction types, including cities, townships, counties, and the University of Minnesota. Additionally, stakeholders expressed concerns that this model would not give the needed emphasis to protecting state and national resources. New

local and/or state funding, and potentially new legislation, would be required to implement this option.

Establish new authority for federal oversight by MNRRA: By an act of Congress, the National Park Service / MNRRA could assume authority for protecting nationally significant resources and values in the Mississippi River corridor and implementing the MNRRA Comprehensive Management Plan. The NPS has land use regulatory powers in some parks.

The process facilitated by FMR demonstrated that there is considerable interest among diverse constituencies in elevating the priority of the program at both the state and local level, assigning additional resources to it, clarifying definitions and terms to prevent and resolve disputes, and enhancing local decision-making oversight and accountability. The Mississippi River Critical Area program, after more than 30 years, remains an important tool for protection of the unique natural, historic, cultural, recreational, aesthetic and economic resources of the corridor.

Appendices

- I. Agendas**
 - a. Stakeholder groups meetings – Oct 25, 30, 31
 - b. All Stakeholder meeting – Nov 7
- II. Meeting Notes/Summaries**
 - a. Flipchart Notes from three stakeholder group meetings
 - b. Collated Notes (comparison of themes by stakeholder group)
 - c. Synthesis of Issues (strengths, weaknesses, and solutions)
 - d. Flipchart notes from all stakeholder meeting
- III. Summary of Options**
 - a. Overview of options for three stakeholder group meetings
 - b. Summary of potential options for all stakeholder meeting
 - c. Management Options Obstacles and Needs Matrix
- IV. Stakeholder Outreach and Participation**
 - a. Copy of stakeholder invitation letter to each group
 - b. Names and contact info for of all stakeholders that were contacted (note: address, phone and email should be kept confidential for citizen contacts)
 - c. Names and affiliations of all stakeholders who attended
 - d. Copy of website content
- V. Additional Comments from Stakeholders**
 - a. Hard copies of stakeholder feedback forms

Mississippi River Corridor Critical Area Study

Matrix of Needs/Obstacles for Stakeholder Identified Management Options

Key: 1 = Required; 2 = May Be Required or Helpful

OPTIONS	Funding Issues	Staffing Issues	Statutory Authority	Rule-making	Change of Approach	Change in Attitudes	Education Required	Incentives
OPTIONS WITH GENERAL AGREEMENT								
Keep regulatory framework								
Continue to house program at DNR						2		
DNR to regularly consult with other agencies	2	2			1	2		
Strengthen MNRRA partnership		2			1	2		
Increase funding for state and local implementation	1	1			1	2	2	2
Provide outreach, education, technical assistance	1	2			1	1	1	2
Survey and document scenic and cultural resources	1	1		2	2	2	1	2
Set priorities among critical area goals	2	2	2	2	1	1	2	
Establish process for early input on proposals	2	2	2	2	1	1	1	2
Annual stakeholders meeting and report	1	2			1	2	2	2
OPTIONS WITH OPINION DIFFERENCES								
<i>Change regulatory framework</i>								
• State rules	1	1	2	1	1	2	1	
• New legislation	2	2	1	2	2	2	2	
• Update local ordinances	2	2				1	1	1
<i>Regulation standards</i>								
• Dimensional	2	2	2	1	1	2	2	
• Performance	2	2		2			1	2
• Combination	2	2	2	1	1	2	2	
<i>Land use decision oversight</i>								
• Technical review panel/appeal board	1	2	1	1		2	1	
• Variance certification	1	2	1	1		1	1	
• Local control authority	2	2			2	2	2	2
<i>Boundary amendment process</i>								
• Corridor boundary			1	2	2	1	2	2
• Corridor districts			2	2	2		1	2

FMR Stakeholder Meetings

Webpage Content

Mississippi River Critical Area Study Stakeholder Engagement

Friends of the Mississippi River (FMR) is coordinating the stakeholder input process for a study and report on the Mississippi River Critical Area Program being conducted by the Minnesota Department of Natural Resources (DNR). The goal of the stakeholder meetings is to engage local and state government officials, local businesses and developers, environmental and civic organizations, and interested citizens in a discussion about the critical area program and managing the river corridor.

The Legislation

Laws of Minnesota 2007, Chapter 57, Art. 1, Sec. 4, Subd. 8 directs the DNR, in consultation with the Environmental Quality Board, to report by February 1, 2008, on the Mississippi River critical area program. The report must include the status of critical area plans, zoning ordinances, the number and types of revisions anticipated, the nature and number of variances sought, and recommendations to adequately protect and manage the “aesthetic integrity and natural environment” of the river corridor.

DNR Critical Area Study and Report

The Mississippi River Critical Area corridor was designated over 30 years ago, extending approximately 72 miles and encompassing portions of some 30 governmental subdivisions. This report will address the status of plans and ordinances, discuss variances to the ordinances, and include options and recommendations for improving critical area management, especially for protecting the river corridor’s visual and natural amenities. DNR will complete the report, primarily using existing staff and resources. Staff will conduct a survey of local government units within the Critical Area corridor to obtain first-hand information on the status of critical area plans and ordinances, community perspectives on the program, and ascertain the number and types of variances sought and issued in each community. The DNR, with the assistance of Friends of the Mississippi River and research consultant Dave Dempsey, will convene a stakeholder group to provide input on management issues, to help develop alternative or improved management strategies, and to identify programmatic, statutory or rulemaking requirements or obstacles to improvement.

DNR Report

The report will provide background and discuss roles of the Environmental Quality Board, the Met Council, DNR, and the National Park Service/MNRRRA. It will discuss the status of critical area plans and ordinances in each of the communities, and it will include information received from the survey of local units of government. There will be a discussion of issues with the current management scheme, and a discussion of potential management options and the statutory, funding or other changes necessary to implement each.

DNR Study/Report Timeline:

Aug-Sep	Local Government Unit Survey
Oct-Nov	Stakeholder Engagement Process
Dec	Draft Report
Jan	Final Report

Critical Area Stakeholder Engagement Process

FMR is convening a series of stakeholder meetings this Fall to evaluate and generate options for management of the Mississippi River Corridor Critical Area. The input and ideas gathered through this process will be compiled into a written summary for the DNR and incorporated into their report and recommendation to the Legislature.

Stakeholder Group Meetings

The first three meetings, organized by stakeholder group, are being held in late October:

- Local, State and Federal Government
- River Corridor Businesses and Developers
- Environment/Civic Groups and Citizens

During these initial meetings, stakeholders will have the opportunity to share their opinions about the strengths and weaknesses of the Critical Area Program as it is currently administered, as well as possible solutions and alternative management options for protection of the river corridor. Input gathered through group discussion and written feedback forms will be collated for the All Stakeholder Meeting.

All Stakeholder Meeting

A follow-up meeting will be held for all stakeholders groups in early November. The input from the Stakeholder Group Meetings will be collated and presented in draft format for stakeholders to review, discuss and provide additional comments.

Critical Area Stakeholder Meeting Schedule

River Businesses/Developers: Thursday, October 25, 9:00-11:30 a.m.

McKnight Foundation - 710 South Second Street, Suite 400, Minneapolis 55401
Metered street parking or the ramp on 2nd Street is available for \$3-5

Environmental/Civic Organizations & Citizens: Tuesday, October 30, 6:30-9:00 p.m.

Neighborhood House - 179 Robie St East – Room 272, St. Paul 55107
Free parking available

Local, State & Federal Government: Wednesday, October 31, 9:00-11:30 a.m.

Neighborhood House – Room 212

All Stakeholders: Wednesday, November 7, 6:30-8:00 p.m.

Neighborhood House – Room 212

For Additional Information:

Visit http://www.fmr.org/projects/critical_area_study or contact Irene Jones at 651/222-2193 ext. 11 or ijones@fmr.org

The FMR-led Stakeholder Engagement Meetings are being funded by the DNR with additional support from the Mississippi River Fund.

FMR Stakeholder Meetings
Attendees and Lists of Contacts

**Mississippi River Critical Area Study
Stakeholder Engagement Meeting Participation**

GROUP	First Name	Last Name	Organization/Affiliation	Group mtgs	All SH mtg
BOARD	Michelle	Beeman	Dakota County		Nov. 7
BOARD	Peter	Gove	FMR Board	Oct. 31	
BOARD	Hokan	Miller	Upper River Services		Nov. 7
BOARD	Edward	Oliver	FMR Board	Oct. 31	
BUS/DEV	Matt	Anfang	Centex	Oct. 25	
BUS/DEV	Tim	Baylor	JADT Group, LLC	Oct. 25	
BUS/DEV	Bob	Bieraugel	Aggregate Industries	Oct. 25	
BUS/DEV	Chuck	Derscheid	St. Paul Port Authority	Oct. 25	
BUS/DEV	Linda	Donaldson	Brighton Development Corp.	Oct. 25	
BUS/DEV	Chip	Lindeke	Rafferty, Rafferty, Tollefson	Oct. 25	Nov. 7
BUS/DEV	John	Mannillo	Capitol River District Council	Oct. 30	
BUS/DEV	Laurie	Miller	DR Horton Custom Homes	Oct. 25	
BUS/DEV	Gregory	Page	Saint Paul Riverfront Corporation	Oct. 25	Nov. 7
BUS/DEV	Kit	Richardson	Schafer Richardson	Oct. 25	
BUS/DEV	Chris	Romano	Riverview Economic Development Assoc	Oct. 25	
BUS/DEV	George	Sherman	Sherman Associates	Oct. 25	
ENV/CIV	Tom	Bell	Grey Cloud Island Township Planning Commission		Nov. 7
ENV/CIV	Sharell	Benson	Sierra Club - North Star Chapter	Oct. 30	Nov. 7
ENV/CIV	Gjerry	Berquist	West Side Citizens Organization Env Committee	Oct. 30	Nov. 7
ENV/CIV	Edna	Brazaitis	Friends of the Riverfront	Oct. 30	Nov. 7
ENV/CIV	Carol	Carey	Historic Saint Paul	Oct. 30	
ENV/CIV	Tom	Dimond		Oct. 30	Nov. 7
ENV/CIV	Jim	Erkel	Minnesota Center for Environmental Advocacy		Nov. 7
ENV/CIV	Joe	Ferrer		Oct. 30	
ENV/CIV	John	Grzybek	Climb the Wind Institute	Oct. 30	
ENV/CIV	Laurie	Hawkins	Hastings Environmental Protectors	Oct. 30	

ENV/CIV	Lisa	Hondros	Nicollet Island - East Bank Neighborhood Assoc.	Oct. 30	Nov. 7
ENV/CIV	Christina	Hong	District 1 Community Council	Oct. 30	Nov. 7
ENV/CIV	Jerry	Kahlert	Sierra Club - North Star Chapter	Oct. 30	Nov. 7
ENV/CIV	Carol	Keyes-Ferrer		Oct. 30	
ENV/CIV	Pat	Kvidera	Marshall Terrace Neighborhood	Oct. 30	
ENV/CIV	Peggy	Lynch	Friends of the Parks and Trails of St. Paul/Ramsey County	Oct. 30	Nov. 7
ENV/CIV	Ciara	Schlichting	Bonestroo	Oct. 31	
ENV/CIV	Shelley	Shreffler		Oct. 30	
ENV/CIV	Laura	Silver	West Bank Community Coalition	Oct. 30	Nov. 7
ENV/CIV	Chuck	Sullivan	Above the Falls Citizen Advisory Committee	Oct. 31	
ENV/CIV	Lyndon	Torstenson	Longfellow Community Council	Oct. 30	
ENV/CIV	Jennifer	Winkelman		Oct. 30	
ENV/CIV	Georgianna	Yantos	Hawthorne	Oct. 30	
ENV/CIV	Grit	Youngquist	Friends of Lilydale	Oct. 30	
GOV	Cliff	Aichinger	Ramsey-Washington Watershed District	Oct. 31	
GOV	John	Burbanks	City of Cottage Grove	Oct. 31	
GOV	Ann	Calvert	City of Minneapolis CPED	Oct. 31	Nov. 7
GOV	Tori	Dupre	Met Council Environmental Services	Oct. 31	
GOV	Chris	Essor	City of South St. Paul Parks and Recreation	Oct. 31	
GOV	Laura	Fernandez	Representing Rep. Rick Hansen	Oct. 25	
GOV	Amy	Geisler	City of Ramsey	Oct. 31	
GOV	Rick	Hansen	MN House of Representatives	Oct. 30	
GOV	John	Hinzman	City of Hastings	Oct. 31	
GOV	Anne	Hunt	City of St. Paul - Office of the Mayor	Oct. 31	Nov. 7
GOV	Mary	Jackson	Dakota County	Oct. 31	
GOV	Craig	Johnson	League of Minnesota Cities	Oct. 31	
GOV	Sheldon	Johnson	Minnesota Legislature	Oct. 31	Nov. 7
GOV	Jason	Lindahl	City of Rosemount	Oct. 31	Nov. 7
GOV	Marilyn	Lundberg	Lilydale City Council	Oct. 31	Nov. 7
GOV	Sue	McDermott	City of Mendota Heights	Oct. 31	

GOV	Michael	McDonough	Leg. Comm. on Minnesota Resources	Oct. 31	
GOV	Erin	Murphy	MN House of Representatives	Oct. 30	Nov. 7
GOV	Lonnie	Nichols	Minneapolis Park & Recreation Board	Oct. 31	
GOV	Patrick	Nunnally	University of Minnesota		Nov. 7
GOV	Molly	Shodeen	MN DNR - Waters		Nov. 7
GOV	Larry	Soderholm	City of Saint Paul - PED	Oct. 31	
GOV	Allan	Torstenson	City of Saint Paul - PED	Oct. 31	Nov. 7
GOV	Rita	Trapp	Hoisington Koegler Group	Oct. 31	
GOV	Harvey	Turner	University of Minnesota	Oct. 31	
GOV	Carol	Zoff	MN DOT Office of Technical Support	Oct. 31	
STAFF-FMR	Whitney	Clark	Friends of the Mississippi River	Oct. 25, 30, 31	Nov. 7
STAFF-FMR	Irene	Jones	Friends of the Mississippi River	Oct. 25, 30, 31	Nov. 7
STAFF-FMR	Ryan	Kane	Friends of the Mississippi River	Oct. 25, 30, 31	Nov. 7
STAFF-FMR	Bob	Spaulding	Friends of the Mississippi River	Oct. 25, 30, 31	Nov. 7
STAFF-GOV	Michele	Hanson	MN DNR - Waters	Oct. 30, 31	Nov. 7
STAFF-GOV	Dale	Homuth	MN DNR - Division of Waters	Oct. 25, 30, 31	Nov. 7
STAFF-GOV	Steve	Johnson	National Park Service/MNRRRA	Oct. 25, 30, 31	Nov. 7
STAFF-GOV	Kathy	Metzker	MN DNR - Waters	Oct. 25	Nov. 7
STAFF-GOV	John	Wells	Environmental Quality Board	Oct. 25, 30, 31	Nov. 7
STAFF-GOV	Rebecca	Wooden	MN DNR - Waters	Oct. 30, 31	Nov. 7

Stakeholder Contacts

Business/Development

First_Name	Last_Name	Organization
Russ	Adams	Alliance for Metropolitan Stability
Nina	Archabal	MN Historical Society
Tom	Balcom	
Joyce	Barta	Prospect Park East River Rd Imp Assn
Shawn	Bartsh	
Brian	Bates	
Tom	Bell	
Sharell	Benson	Sierra Club - North Star Chapter
Gjerry	Berquist	
Gayle	Bonneville	St. Anthony West Neighborhood
Tim	Boyle & Sharon Wheeler	
Edna	Brazaitis	Friends of the Riverfront
Carol	Carey	Historic Saint Paul
Carolyn	Carr	LCC River Gorge Committee
Valeng	Cha	Hawthorne Area Community Council
Elissa	Cottle	Marcy Holmes Neighborhood Assn.
Rebecca & Scott	Cramer	
Dave	Dempsey	
Elizabeth	Dickinson & Christopher Childs	
Georgia	Dietz	Highland District Council
Tom	Dimond	
Karin	DuPaul	Daytons Bluff Community Council
Larry	Englund	Capitol River Coun./Dist. #17
Roberta	Englund	Webber-Camden Neighborhood Org
Jim	Erkel	MCEA
Jim	Fitzpatrick	Carpenter Nature Center
Meg	Forney & Jon Fagerson	
Katie and Rick	Fournier	
David	Frank	Warehouse Dist./North Loop Neighborhood
Carlos	Garcia Velasco	West Side Citizens Organization
Diane	Gerth	W. 7th / Fort Rd. Federation
Rhoda R.	Gilman	
Dennis	Gimmestad	State Historical Preservation Office
Carol & Rick	Greenwood	Seward Neighborhood Group
John	Grzybek	
Michael	Guest	
Rick & Suzanne	Hansen	
Karen and Scott	Harder	

Stakeholder Contacts

Business/Development

First_Name	Last_Name	Organization
Laurie	Hawkins	Hastings Environmental Protectors
Theresa	Heiland	Merriam Park Community Council
Phil	Heywood & Paula Vollmar	
Harland	Hiemstra	
Jill	Hirons Maraist	Capital River Council/Dist. #17
Michelle	Hoffman	
Tony & Diane	Hofstede	
Lisa	Hondros	Nicollet Island - East Bank Neighborhood Assoc.
Christina	Hong	District 1 Community Council
Louise	Hotka and Jill Meyer	
Joshua	Houdek	Sierra Club - North Star Chapter
Amy L.	Hubbard	Irwin Andrew Porter Foundation
Steve	Hunstad	St Paul Park City Council
Ed	Johnson	West Seventh - Fort Road Federation
Frank	Jossi	Sierra Club - North Star Chapter
Jerry	Kahlert	
Donald and Phyllis	Kahn	
Deborah	Karasov	Great River Greening
Tecla	Karpen	
John	Kerwin	
T.K. & Jan	Kilton	PPERRIA
Rosemary	Knutson	
Ron	Kroese	McKnight Foundation
Pat	Kvidera	Marshall Terrace Neighborhood
Craig	Larson and Beverly Gerdes	
Kurt	Leuthold	Steven Leuthold Family Foundation
Amy	Luesebrink	Lind-Bohanon Neighborhood Assoc.
Don	Luna	WSCO
Margaret	Lund and Chris Steller	
Peggy	Lynch	Friends of the Parks St. Paul and Ramsey County
Mary Jamin	Maguire	Marshall Terrace Neighborhood
Sheldon	Mains	
Jack	Maloney	
Jill	Maraist	
Judith	Martin	

Stakeholder Contacts

Business/Development

First_Name	Last_Name	Organization
Judith	Martin	University of Minnesota - Urban Studies
Melissa	Martinez-Sones	Macalester Groveland Community Council
Matt	Massman	
Bonnie	McDonald	Preservation Alliance of Minnesota
Kevin	McDonald	
Dan	McGuiness	National Audubon Society
Diana	McKeown	
Debbie	Meister & Gene Christenson	
Chris	Morris	McKinley Neighborhood
Steve	Morse	
Erin	Murphy	MN House of Representatives
Laura	Musacchio	
Paulette	Myers-Rich	W. 7th / Fort Rd. Federation
Julia and Brian	Nerbonne	
Tim & Lara	Norkus-Crampton	
Katie	Nyberg	Mississippi River Fund
Hillary	Oppmann & Andy Holdsworth	
Sage	Passi	
Cordelia	Pierson	The Trust for Public Land
Fred	Poehler	
Dave	Polaschek	
Michael	Prichard	
Jane	Prince	
Sherrie	Pugh Sullivan	NRRC
Jack	Ray	
Jack	Ray	Urban Boatbuilders
Dean	Rebuffoni	
Judy	Richardson	
Christie	Rock-Hantge	Downtown Minneapolis Neighborhood Assn
Mike	Romens	
Robert and Sally	Roscoe	
Shelley	Shreffler	
Laura	Silver	West Bank Community Coalition
KT	Simon-Dastych & Gerald Dastych	
Jack	Skrypek	
Bob	Spaulding	Capitol River Coun./Dist. #17
Siah	St. Clair	Springbrook Nature Center
Kathy	Stack	
Chris	Steller	
John	Stiles & Javier Morillo-Alicea	
Erin	Stojan	
Chuck	Sullivan	

Stakeholder Contacts

Business/Development

First_Name	Last_Name	Organization
Carol	Swenson	
Peck	Tierney	
William L.	Tilton	Miss. Whitewater Park Dev. Corp.
Lyndon	Torstenson	
Ted	Tucker	
Christine	Viken	
Joyce	Vincent	
Scott	Vreeland & Lorie Bergstrom	
Peter	Wagenius	
Bernie	Waibel	Seward Neighborhood Group
Bernie	Waibel	Seward Neighborhood Group
Walter and Sue	Waranka	Dayton's Bluff Community Council
Terrence	Williams & Patricia Hampl	
Jennifer	Winkelman	
Georgianna	Yantos	Hawthorne Area Community Council
Grit	Youngquist	
Dave	Zumeta	
		Nicollet Island - East Bank Neighborhood Assoc.
		Sheridan Neighborhood Organization

Stakeholder Contacts

Environment/Civic

First_Name	Last_Name	Organization
Russ	Adams	Alliance for Metropolitan Stability
Nina	Archabal	MN Historical Society
Tom	Balcom	
Joyce	Barta	Prospect Park East River Rd Imp Assn
Shawn	Bartsh	
Brian	Bates	
Tom	Bell	
Sharell	Benson	Sierra Club - North Star Chapter
Gjerry	Berquist	
Gayle	Bonneville	St. Anthony West Neighborhood
Tim	Boyle & Sharon Wheeler	
Edna	Brazaitis	Friends of the Riverfront
Carol	Carey	Historic Saint Paul
Carolyn	Carr	LCC River Gorge Committee
Valeng	Cha	Hawthorne Area Community Council
Elissa	Cottle	Marcy Holmes Neighborhood Assn.
Rebecca & Scott	Cramer	
Dave	Dempsey	
Elizabeth	Dickinson & Christopher Childs	
Georgia	Dietz	Highland District Council
Tom	Dimond	
Karin	DuPaul	Daytons Bluff Community Council
Larry	Englund	Capitol River Coun./Dist. #17
Roberta	Englund	Webber-Camden Neighborhood Org
Jim	Erkel	MCEA
Jim	Fitzpatrick	Carpenter Nature Center
Meg	Forney & Jon Fageron	
Katie and Rick	Fournier	
David	Frank	Warehouse Dist./North Loop Neighborhood
Carlos	Garcia Velasco	West Side Citizens Organization
Diane	Gerth	W. 7th / Fort Rd. Federation
Rhoda R.	Gilman	
Dennis	Gimmestad	State Historical Preservation Office
Carol & Rick	Greenwood	Seward Neighborhood Group
John	Grzybek	
Michael	Guest	
Rick & Suzanne	Hansen	
Karen and Scott	Harder	

Stakeholder Contacts

Environment/Civic

First_Name	Last_Name	Organization
Laurie	Hawkins	Hastings Environmental Protectors
Theresa	Heiland	Merriam Park Community Council
Phil	Heywood & Paula Vollmar	
Harland	Hiemstra	
Jill	Hirons Maraist	Capital River Council/Dist. #17
Michelle	Hoffman	
Tony & Diane	Hofstede	
Lisa	Hondros	Nicollet Island - East Bank Neighborhood Assoc.
Christina	Hong	District 1 Community Council
Louise	Hotka and Jill Meyer	
Joshua	Houdek	Sierra Club - North Star Chapter
Amy L.	Hubbard	Irwin Andrew Porter Foundation
Steve	Hunstad	St Paul Park City Council
Ed	Johnson	West Seventh - Fort Road Federation
Frank	Jossi	Sierra Club - North Star Chapter
Jerry	Kahlert	
Donald and Phyllis	Kahn	
Deborah	Karasov	Great River Greening
Tecla	Karpen	
John	Kerwin	
T.K. & Jan	Kilton	PPERRIA
Rosemary	Knutson	
Ron	Kroese	McKnight Foundation
Pat	Kvidera	Marshall Terrace Neighborhood
Craig	Larson and Beverly Gerdes	
Kurt	Leuthold	Steven Leuthold Family Foundation
Amy	Luesebrink	Lind-Bohanon Neighborhood Assoc.
Don	Luna	WSCO
Margaret	Lund and Chris Steller	
Peggy	Lynch	Friends of the Parks St. Paul and Ramsey County
Mary Jamin	Maguire	Marshall Terrace Neighborhood
Sheldon	Mains	
Jack	Maloney	
Jill	Maraist	
Judith	Martin	

Stakeholder Contacts

Environment/Civic

First_Name	Last_Name	Organization
Judith	Martin	University of Minnesota - Urban Studies
Melissa	Martinez-Sones	Macalester Groveland Community Council
Matt	Massman	
Bonnie	McDonald	Preservation Alliance of Minnesota
Kevin	McDonald	
Dan	McGuiness	National Audubon Society
Diana	McKeown	
Debbie	Meister & Gene Christenson	
Chris	Morris	McKinley Neighborhood
Steve	Morse	
Erin	Murphy	MN House of Representatives
Laura	Musacchio	
Paulette	Myers-Rich	W. 7th / Fort Rd. Federation
Julia and Brian	Nerbonne	
Tim & Lara	Norkus-Crampton	
Katie	Nyberg	Mississippi River Fund
Hillary	Oppmann & Andy Holdsworth	
Sage	Passi	
Cordelia	Pierson	The Trust for Public Land
Fred	Poehler	
Dave	Polaschek	
Michael	Prichard	
Jane	Prince	
Sherrie	Pugh Sullivan	NRRC
Jack	Ray	
Jack	Ray	Urban Boatbuilders
Dean	Rebuffoni	
Judy	Richardson	
Christie	Rock-Hantge	Downtown Minneapolis Neighborhood Assn
Mike	Romens	
Robert and Sally	Roscoe	
Shelley	Shreffler	
Laura	Silver	West Bank Community Coalition
KT	Simon-Dastyck & Gerald Dastyck	
Jack	Skrypek	
Bob	Spaulding	Capitol River Coun./Dist. #17
Siah	St. Clair	Springbrook Nature Center
Kathy	Stack	
Chris	Steller	
John	Stiles & Javier Morillo-Alicea	
Erin	Stojan	
Chuck	Sullivan	

Stakeholder Contacts

Environment/Civic

First_Name	Last_Name	Organization
Carol	Swenson	
Peck	Tierney	
William L.	Tilton	Miss. Whitewater Park Dev. Corp.
Lyndon	Torstenson	
Ted	Tucker	
Christine	Viken	
Joyce	Vincent	
Scott	Vreeland & Lorie Bergstrom	
Peter	Wagenius	
Bernie	Waibel	Seward Neighborhood Group
Bernie	Waibel	Seward Neighborhood Group
Walter and Sue	Waranka	Dayton's Bluff Community Council
Terrence	Williams & Patricia Hampl	
Jennifer	Winkelman	
Georgianna	Yantos	Hawthorne Area Community Council
Grit	Youngquist	
Dave	Zumeta	
		Nicollet Island - East Bank Neighborhood Assoc.
		Sheridan Neighborhood Organization

Stakeholder Contacts

Government

First_Name	Last_Name	Organization	
Jim	Abeler	MN House of Representatives	
Cliff	Aichinger	Ramsey-Washington Watershed District	
Joe	Atkins	MN House of Representatives	
Karla	Bigham	MN House of Representatives	
Larry	Bodahl	City of Newport	
John	Burbanks	City of Cottage Grove	
Ann	Calvert	City of Minneapolis CPED	
Satveer	Chaudhary	MN Senate	
Richard	Cohen	MN Senate	
Sandra	Colvin Roy	Minneapolis City Council	
Greg	Copeland	City of Maplewood	
John	Cox	City of Champlin	
Jim	Danielson	City of Mendota Hts.	
Mike	Davis	MN DNR	
Jim	Davnie	MN House of Representatives	
Denise	Dittrich	MN House of Representatives	
Augustine "Willie"	Dominguez	MN House of Representatives	
Mark	Doneux	Capitol Region Watershed District	
Tori	Dupre	Met Council Environmental Services	
Sandy	Fecht	MN DNR - Waters	
Leo	Foley	MN Senate	
Matt	Fulton	City of Coon Rapids	
Pat	Garofalo	MN House of Representatives	
Kate	Garwood	County of Anoka	
Amy	Geisler	City of Ramsey	
Chris	Gerlach	MN Senate	
Lisa	Goodman	Minneapolis City Council	
Cam	Gordon	Minneapolis City Council	
Steve	Gordon	St. Paul PlannignCommission	
Rick	Hansen	MN House of Representatives	
Michele	Hanson	Department of Natural Resources	
Scott	Harlicker	City of Coon Rapids	
Pat	Harris	Saint Paul City Council	
Becky	Herman	Denmark Township	
Scott	Hickok	City of Fridley	
Linda	Higgins	MN Senate	
John	Hinzman	City of Hastings	
Brad	Hoffman	City of Brooklyn Center	
Diane	Hofstede	Minneapolis City Council	
Dale	Homuth	MN DNR - Division of Waters	
Melissa	Hortman	MN House of Representatives	
Steve	Hunstad	Saint Paul Park City Council	
Anne	Hunt	City of St. Paul - Office of the Mayor	
Craig	Johnson	League of Minnesota Cities	
Sheldon	Johnson	Minnesota Legislature	
Steve	Johnson	MNRRRA	
Barbara	Johnson	Minneapolis City Council	
Sheldon	Johnson	MN House of Representatives	

Stakeholder Contacts

Government

First Name	Last Name	Organization	
Michael	Jungbauer	MN Senate	
Phyllis	Kahn	MN House of Representatives	
Barbara	Kienberger	Ravenna Township	
Steven	King	City of South St. Paul	
Robert	Kirchner	City of Anoka	
Judith	Krupich	Nininnger Twp	
Carolyn	Laine	MN House of Representatives	
Dick	Lambert	MNDOT	
Kathy	Lantry	Saint Paul City Council	
Dan	Larson	MN Senate	
Cara	Letofsky	City of Minneapolis - Office of the Mayor	
Warren	Limmer	MN Senate	
Kim	Lindquist	City of Rosemount	
Thomas	Link	City of INver Grove Heights	
Diane	Loeffler	MN House of Representatives	
Marilyn	Lundberg	Lilydale City Council	
Greg	Mack	Ramsey County Parks and Rec.	
Carlos	Mariani	MN House of Representatives	
Sue	McDermott	City of Mendota Heights	
Michael	McDonough	Leg. Comm. on Minnesota Resources	
Tom	McDowell	Hennepin Parks-Natural Resources Mgmt.	
Denny	McNamara	MN House of Representatives	
James	Metzen	MN Senate	
Matt	Moore	S. Washington Watershed District	
Jan	Morlock	Office of University Relations	
Pat	Mosites	Metropolitan Airports Commission	
Mee	Moua	MN Senate	
Joe	Mullery	MN House of Representatives	
Erin	Murphy	MN House of Representatives	
Lonnie	Nichols	Minneapolis Park Board	
Patrick	Nunnally	U of M Mississippi River Initiative	
Dennis	O'Donnell	Washington County Planning and Zoning	
Joan	Olin	City of Mendota	
Dennis	Ozment	MN House of Representatives	
Sandra	Pappas	MN Senate	
Pat	Pariseau	MN Senate	
Michael	Paymar	MN House of Representatives	
Joyce	Peppin	MN House of Representatives	
Jeff	Perry	Anoka County Parks	
Lawrence	Pogemiller	MN Senate	
Jennifer	Ringold	Minneapolis Park Board	
Don	Samuels	Minneapolis City Council	
Ciara	Schlichting	Bonestroo	
Paul	Schoenecker	Grey Cloud Island Township Board	
Scott	Schulte	City of Champlin	

Stakeholder Contacts

Government

First Name	Last Name	Organization	
Cindy	Sherman	City of Brooklyn Park	
Katie	Sieben	MN Senate	
Barry	Sittlow	City of St. Paul Park	
Linda	Slocum	MN House of Representatives	
Kristina	Smitten	MFRA	
Douglas	Snyder	Mississippi WMO	
Larry	Soderholm	City of Saint Paul - PED	
Barbara	Sporlein	City of Minneapolis Planning Dept	
Sarah	Strommen	Ramsey City Council	
Erin	Stwora	City of Dayton	
Steve	Sullivan	Dakota County Parks and Rec	
Lucy	Thompson	City of Saint Paul - PED	
Erik	Thorvig	City of Anoka	
Dave	Thune	Saint Paul City Council	
Patricia	Torres Ray	MN Senate	
Allan	Torstenson	City of Saint Paul - PED	
Patrick	Trudgeon	City of Ramsey	
Libby	Ungar	Fresh Energy	
Ron	Warren	City of Brooklyn Center	
Bernard	Weitzman	City of Lilydale	
Rebecca	Wooden	MN DNR - Waters	
Carol	Zoff	MN DOT Office of Technical Support	
Brian	Zweber	City of Rosemount	

FMR Stakeholder Meetings

Cover Letters

October 8, 2007

First Name Last Name
Organization
Address
City State Zip

Dear (First Name):

Last Spring the State Legislature directed the Department of Natural Resources (DNR) to evaluate the effectiveness of the Mississippi River's 30-year old designation as a state critical area, and make recommendations about how to protect the natural and scenic qualities of the river corridor by February 1, 2008.

Friends of the Mississippi River (FMR), a citizen-based organization that works to protect and enhance the Mississippi River in the Twin Cities, is coordinating the stakeholder input process for the DNR study, with the goal of engaging local and state government officials, local businesses and developers, environmental and civic organizations, and interested citizens in a discussion about the Mississippi River Critical Area Program.

You are invited to participate in any or all of the community stakeholder engagement meetings coming up in the next few weeks.

DNR Critical Area Study Stakeholder Meetings

River Businesses/Developers: Thursday, October 25, 9:00-11:30 a.m.

McKnight Foundation - 710 South Second Street, Suite 400, Minneapolis 55401
Metered street parking or the ramp on 2nd Street is available for \$3-5

Environmental/Civic Organizations & Citizens: Tuesday, October 30, 6:30-9:00 p.m.

Neighborhood House - 79 Robie St East – Room 272, St. Paul 55107
Free parking available

Local, State & Federal Government: Wednesday, October 31, 9:00-11:30 a.m.

Neighborhood House – Room 212

All Stakeholders: Wednesday, November 7, 6:30-8:00 p.m.

Neighborhood House – Room 212

Stakeholders will have the opportunity to share their opinions about the strengths and weaknesses of the Critical Area Program as it is currently administered, as well as possible solutions and alternative management options for protection of the river corridor.

The format of the stakeholder engagement process is to hold three meetings in late October organized by stakeholder categories (see above). The input from these three meetings will be collated and presented in draft format at a meeting for all stakeholders in early November.

All the comments and responses from stakeholders will be compiled for the DNR by the end of November, and summarized in their final report to the Legislature.

For additional information about the study and the Mississippi River Critical Area Program, the study or the stakeholder engagement process, including directions to the meetings, please visit FMR's website at www.fmr.org on or after October 15. Questions may be directed to FMR outreach director, Irene Jones at 651/222-2193 ext. 11 or ijones@fmr.org.

Please RSVP for one or both of the meetings by contacting Ryan Kane at FMR: 651/222-2193 ext. 10 or rkane@fmr.org.

We look forward to your involvement!

Sincerely,

Whitney L. Clark
Executive Director

October 8, 2007

First Name Last Name
Organization
Address
City State Zip

Dear (First Name):

Friends of the Mississippi River (FMR) invites you to participate in a community stakeholder engagement process focused on the State Mississippi River Critical Area Program. Because of your involvement and leadership within the river corridor, you would bring a valuable perspective to the process and we hope you will consider joining us.

DNR Critical Area Study Stakeholder Meeting: River Businesses/Developers
Thursday, October 25, 9:00-11:30 a.m.
McKnight Foundation - 710 South Second Street, Suite 400
Minneapolis, MN 55401

Metered street parking or the ramp on 2nd Street is available for \$3-5

Last Spring, the State Legislature directed the Minnesota Department of Natural Resources (DNR) to evaluate the effectiveness of the Mississippi River's 30-year old designation as a state critical area, and make recommendations about how to protect the natural and scenic qualities of the river corridor.

FMR is coordinating the stakeholder input process for the DNR study, with the goal of engaging local and state government officials, local businesses and developers, environmental and civic organizations, and interested citizens in a discussion about the Mississippi River Critical Area Program.

Stakeholders will have the opportunity to share their opinions about the strengths and weaknesses of the Critical Area Program as it is currently administered, as well as possible solutions and alternative management options for protection of the river corridor.

The format of the stakeholder engagement process is to hold three meetings in late October organized by stakeholder categories (find your meeting date and location above): 1) state and local government, 2) corridor businesses and developers, 3) environment/civic groups and citizens.

The input from these three meetings will be collated and presented in draft format at a meeting for all stakeholders:

DNR Critical Area Study All Stakeholder Meeting
Wednesday, November 7, 6:30-8:00 p.m.
Neighborhood House - 179 Robie St East - 2nd Floor
St. Paul, MN 55107

All the comments and responses from stakeholders will be compiled for the DNR by the end of November, and summarized in their final report to the Legislature on February 1, 2008.

For additional information about the study and the Mississippi River Critical Area Program, the study or the stakeholder engagement process, including directions to the meetings, please visit FMR's website at www.fmr.org on or after October 15. Questions may be directed to FMR outreach director, Irene Jones at 651/222-2193 ext. 11 or ijones@fmr.org.

Please RSVP for one or both of the meetings by contacting Ryan Kane at FMR: 651/222-2193 ext. 10 or rkane@fmr.org.

We look forward to your involvement!

Sincerely,

Whitney L. Clark
Executive Director

October 12, 2007

First Name Last Name
Organization
Address
City State Zip

Dear (First Name):

Friends of the Mississippi River (FMR) invites you to participate in a community stakeholder engagement process focused on the State Mississippi River Critical Area Program. Because of your involvement and leadership within the river corridor, you would bring a valuable perspective to the process and we hope you will consider joining us.

DNR Critical Area Study Stakeholder Meeting: Env/Civic Organizations & Citizens
Tuesday, October 30, 6:30-9:00 p.m.
Neighborhood House
179 Robie St East – Room 272
St. Paul, MN 55107
Free parking available

Last Spring, the State Legislature directed the Minnesota Department of Natural Resources (DNR) to evaluate the effectiveness of the Mississippi River's 30-year old designation as a state critical area, and make recommendations about how to protect the natural and scenic qualities of the metropolitan river corridor.

FMR is coordinating the stakeholder input process for the DNR study, with the goal of engaging local and state government officials, local businesses and developers, environmental and civic organizations, and interested citizens in a discussion about the Mississippi River Critical Area Program.

Stakeholders will have the opportunity to share their opinions about the strengths and weaknesses of the Critical Area Program as it is currently administered, as well as possible solutions and alternative management options for protection of the river corridor.

The format of the stakeholder engagement process is to hold three meetings in late October organized by stakeholder categories (find your meeting date and location above): 1) state and local government, 2) corridor businesses and developers, 3) environment/civic groups and citizens.

The input from these three meetings will be collated and presented in draft format at a meeting for all stakeholders on **Wednesday, November 7, 6:30-8:00 p.m. at Neighborhood House, Room 212.**

All the comments and responses from stakeholders will be compiled for the DNR by the end of November, and summarized in their final report to the Legislature on February 1, 2008.

For additional information about the study and the Mississippi River Critical Area Program, the study or the stakeholder engagement process, including directions to the meetings, please visit FMR's website at www.fmr.org on or after October 15. Questions may be directed to FMR outreach director, Irene Jones at 651/222-2193 ext. 11 or ijones@fmr.org.

Please RSVP for one or both of the meetings by contacting Ryan Kane at FMR: 651/222-2193 ext. 10 or rkane@fmr.org.

We look forward to your involvement!

Sincerely,

Whitney L. Clark
Executive Director

October 12, 2007

First Name Last Name
Organization
Address
City State Zip

Dear (First Name):

Friends of the Mississippi River (FMR) invites you to participate in a community stakeholder engagement process focused on the State Mississippi River Critical Area Program. Because of your involvement and leadership within the river corridor, you would bring a valuable perspective to the process and we hope you will consider joining us.

DNR Critical Area Study Stakeholder Meeting: Local, State & Federal Government
Wednesday, October 31, 9:00-11:30 a.m.
Neighborhood House
179 Robie St East – Room 212
St. Paul, MN 55107
Free parking available

Last Spring, the State Legislature directed the Minnesota Department of Natural Resources (DNR) to evaluate the effectiveness of the Mississippi River's 30-year old designation as a state critical area, and make recommendations about how to protect the natural and scenic qualities of the river corridor.

FMR is coordinating the stakeholder input process for the DNR study, with the goal of engaging local and state government officials, local businesses and developers, environmental and civic organizations, and interested citizens in a discussion about the Mississippi River Critical Area Program.

Stakeholders will have the opportunity to share their opinions about the strengths and weaknesses of the Critical Area Program as it is currently administered, as well as possible solutions and alternative management options for protection of the river corridor.

The format of the stakeholder engagement process is to hold three meetings in late October organized by stakeholder categories (find your meeting date and location above): 1) state and local government, 2) corridor businesses and developers, 3) environment/civic groups and citizens.

The input from these three meetings will be collated and presented in draft format at a meeting for all stakeholders on **Wednesday, November 7, 6:30-8:00 p.m. at Neighborhood House, Room 212.**

All the comments and responses from stakeholders will be compiled for the DNR by the end of November, and summarized in their final report to the Legislature on February 1, 2008.

For additional information about the study and the Mississippi River Critical Area Program, the study or the stakeholder engagement process, including directions to the meetings, please visit FMR's website at www.fmr.org on or after October 15. Questions may be directed to FMR outreach director, Irene Jones at 651/222-2193 ext. 11 or ijones@fmr.org.

Please RSVP for one or both of the meetings by contacting Ryan Kane at FMR: 651/222-2193 ext. 10 or rkane@fmr.org.

We look forward to your involvement!

Sincerely,

Whitney L. Clark
Executive Director

FMR Stakeholder Meetings

Agendas and Notes

Mississippi River Critical Area Study Stakeholder Meetings

SYNTHESIS: strengths and weaknesses with general agreement and potential solutions for resolving issues and weaknesses

Mississippi River Resource

Strengths

- Improved water quality
- More parks and public access
- Industrial land uses are declining

Weaknesses

- Increased development pressure
- Scenic values, especially bluffs are threatened
- Polluted sites need attention
- Historic/cultural resources need more attention
- Habitat improvement, native plants and vegetation management need funding and technical support

Other Realities

- Metro area is growing, urbanizing
- Stormwater impacts are from well beyond corridor

Potential Strategies/Solutions

- Coordinate survey of corridor resources, especially visual/scenic resources
- Provide funding for LGUs for corridor enhancements and open space acquisition
- Ask Congress to fully fund MNRRA grant program
- Develop long-term vision for corridor, especially dealing with urbanization and how this stretch of the river relates to tributaries, watersheds, river segments and development patterns north and south of the corridor

Executive Order 79-19

Strengths

- Purpose, intent, unique identity
- Designation boundary (mostly)
- MNRRA designation/partnership

Weaknesses

- Vague, general, resource and key terms not well defined
- Static, outdated, numerous and sometimes conflicting goals
- District boundary change process is unclear

Potential Strategies/Solutions

- Keep critical area framework, intent
- Write new legislation for critical area that includes definitions and minimum standards
- Write critical area rules to create more specificity, improve definitions
- Establish or rank priority resource values
- Examine designation boundary and district boundaries and propose process for making changes

Local Government Role

Strengths

- Local values and landscapes are reflected in plans and ordinances customized to each community

Weaknesses

- Complex process, not well understood,
- Inconsistencies between and within cities, process is too often political
- Outdated ordinances and lack of clear, consistent dimensional standards
- Local units bear responsibility to implement regional and national goals

Potential Strategies/Solutions

- Outreach, education and technical assistance for LGU staff/public officials and citizens
- More early input from DNR and other stakeholders on development projects
- Coordinate survey of corridor resources, especially visual/scenic resources
- Local units update ordinances with DNR and NPS assistance
- Write critical area rules to ensure consistency between cities

DNR Role/Program Enforcement

Strengths

- DNR has authority over plans, plan amendments and ordinances

Weaknesses

- Lack of authority and oversight of projects and variances
- Lack of enforceable minimum standards
- Limited staffing, money and low priority within department
- No alternative to court action if city permits projects that violate law

Potential Strategies/Solutions

- Write rules for critical area
- Give DNR authority to certify variances (through rule)
- Establish technical panel to act as an appeal board (like WCA)
- Combine with shoreland or wild/scenic to streamline staffing, rule making, enforcement
- Establish joint powers board to oversee project review

Program Home

Strengths

- DNR has staff, expertise and systems in place for river and resource management

Weaknesses

- Limited expertise in historic resources, cultural landscapes
- Limited staff/funds available to do outreach and/or enforcement

Potential Strategies/Solutions

- Keep program home at DNR
- Consult with other agencies, especially MNRRA, Met Council and SHPO
- Fund additional staff, outreach, etc.

Mississippi River Critical Area Study Stakeholder Group Meetings

Preliminary Potential Management Options

A. Eliminate Mississippi River Critical Area designation

If the Mississippi River critical area designation were eliminated through legislative repeal, the corridor would still be subject to state shoreland rules, administered by DNR. Shoreland covers 300 to 1,000 feet from the river, so some blufflands might not be protected.

B. Maintain existing Mississippi River Critical Area program

The program would not change and it would continue to be administered with current levels of staffing and funding.

C. Enhance Mississippi River Critical Area program

Enhancing the critical area program could include increased DNR staffing, outreach and education, technical support and/or other resources for local communities. It could also include rulemaking for critical area, which might require legislative action. Any enhancements, including rulemaking, would require additional appropriation of funds.

D. Change and /or move metro river corridor protection

Changing river protection to a new or existing program and/or moving it to a different state agency would require action of the Governor or Legislature. Possible options:

- *Move to a different existing management framework within DNR*

Management of the metropolitan Mississippi River corridor could move to a different program within DNR, such as Shoreland or Wild and Scenic Rivers. New legislation might be required if a new class of river were to be included in an existing program.

- *House the Critical Area program elsewhere*

The Mississippi River critical area program could move to a different state agency, such as the Environmental Quality Board (EQB). Each of these options would require legislative action.

- *Change corridor protection program AND house program in a different agency*

- *Create new program or agency*

A new river corridor program or agency could be established through legislation to manage the metro reach of the Mississippi. Another example would be to establish a new joint powers organization to provide some level of oversight.

E. Other ideas from stakeholders...

Mississippi River Critical Area Study Stakeholder Engagement

Summary of Key Options for All-Stakeholder Meeting

Potential Solutions with General Agreement

Keep critical area framework

The intent of the original corridor designation – to conserve the corridor’s natural, historical, cultural, economic and other resources – remains valid. The framework is unique and well suited to a corridor of local, regional, statewide and national significance.

Continue to house program at DNR

DNR has staff, expertise and systems in place for management of rivers and natural and scenic resource. The program should stand on its own merits and work wherever it is housed.

DNR to regularly consult with other agencies

DNR has limited expertise in historic and cultural resources that is needed to protect all of the values of the program and the agency would benefit from consultation with agencies that have such expertise.

Strengthen partnership with MNRRA

The Mississippi National River and Recreation Area brings staff resources and expertise as well as status and notoriety, and potentially congressional appropriation of funds.

Increase funding for state and local implementation

Additional funding is needed to assure the program works well for the interests of both development and conservation.

Provide outreach, education, technical assistance

Additional outreach, education and technical assistance to developers, local governments and citizens in critical area corridor communities are needed to ensure they have the tools and understanding to implement the law.

Survey and document scenic and cultural resources

A clearer definition, understanding, and if possible, agreement of the scenic and cultural resource values to be protected and state-of-the-art methods for doing so is needed. The National Park Service has a process for surveying and evaluating views that could be implemented for the MNRRA corridor.

Set priorities among critical area goals

The Mississippi River critical area program calls for protection of natural, cultural, historical, scenic, recreational and economic resources of the corridor—goals which can be in conflict with each other. Should values protected by the critical area designation be ranked within different river reaches and if so, how and by whom?

Establish process for early input on development proposals

Early involvement of DNR in discussion with local governments and developers of the design of corridor projects would help forestall some conflicts and lead to better decisionmaking.

Hold annual stakeholders meeting; annual report

An annual report on the implementation of the program (# of land use changes and variances), state of the resource, key issues, and/or an annual meeting of corridor communities and stakeholders could improve program understanding and accountability.

Potential Solutions with Opinion Differences

Regulatory Framework

State Rules: Minimum standards, definitions and authorities of local and state government would be established through critical area rulemaking.

New Legislation: New legislation could include definitions, and set a direction for minimum standards. It is likely that rules would follow.

Update Local Ordinances: Under the current model, local units could update their ordinances so that regulations are updated and consistent with critical area goals. A model critical area ordinance has already been developed by MNRRA.

Regulation Standards

Dimensional: Provides consistency through standards for heights, setbacks, slopes etc. that are numerical and are straightforward to measure/understand/enforce, but does not well accommodate differences in local conditions.

Performance: Provides flexibility through standards that require specific goals are met, such as preservation of scenic views, maintaining a natural shoreline/buffer or preventing erosion. These standards can be subject to debate and difficult to enforce.

Combination: Combines dimensional and performance standards to allow flexibility where it is most needed or logical.

Land Use Decision Oversight

Some mechanism for oversight of variances granted by local corridor communities would increase resource protection.

Technical Review Panel/Appeal Board: An appeal board could help resolve and de-politicize some contentious variance disputes and provide corridor-wide and technical perspective. If modeled after the wetland conservation act, the panel would be made up of experts in relevant fields. It could also include seats for the regional/state agencies, MNRRA and other stakeholders.

Variance Certification: Generally authorized through rule, variance certification gives the DNR the authority to deny project variances granted at the local level. The Wild & Scenic Rivers program has variance certification, Shoreland rules do not.

Local Control/Authority: Under the current model, local units have authority over variances, but are required to notify/consult with DNR. If DNR disapproves, they could take a local unit to court.

Boundary Amendment Process

Some stakeholders believe methods of altering the boundaries of the four land use districts within the corridor should be explored to take into account rural-to-urban transformation, contiguous natural resources, streams and watersheds, and other factors, while other stakeholders believe the intent of the program was to preserve the character of the resources as they existed at the time of the program's inception, and thus changes in land use districts may not be desirable.

Corridor Boundary: linear boundary that runs parallel to the river

Corridor Districts: boundaries between the four critical area districts: urban diversified, urban developed, urban open space and rural open space

**Mississippi River Critical Area Study Stakeholder Engagement
Overview and Stakeholder Input: River Businesses and Developers
October 25, 2007 • 9:00-11:30 a.m.**

Agenda

Welcome and Introductions – Whitney Clark, FMR executive director (5)

MNRRRA Connection – Mississippi National River and Recreation Area staff (5)

Overview of Critical Area Study – Dale Homuth, Department of Natural Resources (5)

Overview of Stakeholder Engagement Process – Irene Jones, FMR outreach director (5)

Critical Area Program Strengths and Weaknesses – Irene (55)

- Executive Order 79-19: critical area law, language, intent, authorities
- Condition and significance of corridor resources today
- Local government planning and enforcement
- DNR oversight and enforcement
- MNRRRA role
- Standards and guidelines
- Boundaries
- Other ideas from stakeholders

BREAK (10)

Potential Solutions and Management Options - Whitney (60)

- A. Eliminate Mississippi River Critical Area designation
- B. Maintain existing Mississippi River Critical Area program
- C. Enhance Mississippi River Critical Area program
- D. Move Mississippi River Critical Area Program to different agency
- E. Change metro river corridor protection to a different DNR program
- F. Change corridor protection program AND move to different agency
- G. Create new program or agency
- H. Other ideas from stakeholders

Wrap-up and Next Steps – Whitney (5)

Special Thanks to the McKnight Foundation for providing meeting space and beverages.

**Mississippi River Critical Area Study Stakeholder Engagement
Overview and Stakeholder Input: Environmental/Civic Groups & Citizens
October 30, 2007 • 6:30-9:00 p.m.**

Agenda

Welcome and Introductions – Whitney Clark, FMR executive director (5)

MNRRRA Connection – Mississippi National River and Recreation Area (5)

Overview of Critical Area Study – Rebecca Wooden, Department of Natural Resources (5)

Overview of Stakeholder Engagement Process – Irene Jones, FMR outreach director (5)

Critical Area Program Strengths and Weaknesses – Irene (55)

1. Executive Order 79-19: critical area law, language, intent, authorities
2. Condition and significance of corridor resources today
3. Government roles, oversight and enforcement: Local, DNR, MNRRRA
4. Standards, guidelines, districts and boundaries
5. Other ideas from stakeholders

BREAK (10)

Potential Solutions and Management Options - Whitney (60)

- A. Eliminate Mississippi River Critical Area designation
- B. Maintain existing Mississippi River Critical Area program
- C. Enhance Mississippi River Critical Area program
- D. Change and /or move metro river corridor protection
 - House the Critical Area program elsewhere
 - Change metro river corridor protection to a different DNR program
 - Change corridor protection program AND house program in a different agency
 - Create new program or agency
- E. Other ideas from stakeholders

Wrap-up and Next Steps – Whitney (5)

**Mississippi River Critical Area Study Stakeholder Engagement
Overview and Stakeholder Input: Local and State Government
October 31, 2007 • 9:00-11:30 a.m.**

Agenda

Welcome and Introductions – Whitney Clark, FMR executive director (5)

MNRRRA Connection – Mississippi National River and Recreation Area (5)

Overview of Critical Area Study – Rebecca Wooden, Department of Natural Resources (5)

Overview of Stakeholder Engagement Process – Irene Jones, FMR outreach director (5)

Critical Area Program Strengths and Weaknesses – Irene (55)

1. Executive Order 79-19: critical area law, language, intent, authorities
2. Condition and significance of corridor resources today
3. Government roles, oversight and enforcement: Local, DNR, MNRRRA
4. Standards, guidelines, districts and boundaries
5. Other ideas from stakeholders

BREAK (10)

Potential Solutions and Management Options - Whitney (60)

- A. Eliminate Mississippi River Critical Area designation
- B. Maintain existing Mississippi River Critical Area program
- C. Enhance Mississippi River Critical Area program
- D. Change and /or move metro river corridor protection
 - House the Critical Area program elsewhere
 - Change metro river corridor protection to a different DNR program
 - Change corridor protection program AND house program in a different agency
 - Create new program or agency
- E. Other ideas from stakeholders

Wrap-up and Next Steps – Whitney (5)

**Mississippi River Critical Area Study Stakeholder Engagement
All Stakeholder Review Meeting
November 7, 2007 • 6:30-8:30 p.m.**

Agenda

Welcome and Introductions – Whitney Clark, FMR executive director (10)

**Summary of Stakeholder Group Meetings, Participants and Documentation
- Irene Jones, FMR outreach director (10)**

Potential Solutions with General Agreement - Irene (10)

Potential Solutions with Opinion Differences – Whitney (15)

BREAK (10)

Regulations - Whitney (10)

- State Rules
- New Legislation
- Ordinance Updates (current system)

Standards - Whitney (10)

- Dimensional
- Performance
- Combination

Oversight - Whitney (10)

- Technical Review Panel/Appeal Board
- Variance Certification
- Local Control/Authority

Corridor Boundary Amendment Process – Irene (10)

- Yes, through legislation or executive order
- Yes through rules administered by DNR
- Yes, by critical area plan amendment with DNR approval
- No, never

District Boundary Amendment Process – Irene (10)

- No, districts meant to be permanent
- Yes, but only to a more protective district
- Yes, districts meant to change with urban growth

Preference Setting – Dot Democracy – Irene (10)

Closing Comments – Whitney (5)

Mississippi River Critical Area Study Stakeholder Meeting Notes

River Businesses and Developers • October 25, 2007

STRENGTHS AND WEAKNESSES

Executive Order 79-19

- There could be more about economic development
- There should be more clarity about the overarching purpose of 79-19

Condition of River Resource

- Some areas are becoming more natural
- Other areas are being developed
- We are evolving our pollution standards to keep up with the challenges of a new era
- Condition of river is improved. Leaders are more aware of the river, but we must continue to be diligent
- There are more stewards. The resource is more valuable today. It has attracted more development as a result.
- More public use of river, more recreational use, more attention on the river.
- Improved water quality
- Today's fears about river more diffuse.
- Different issues in the downtowns.
- Cleaner river has made river more attractive
- More culturally diverse river users
- River is multi-modal – mixed use. Should continue to move toward mixed uses – passive and active, industry and recreation.
- There are more government programs, but less government resources to aid development.

Government Oversight

- We need clear and defined expectations about what cities should permit, and reduce the dissonance between communities.
- Leave local flexibility at same time – acknowledge differences between communities.
- Critical Area only as good as weakest link. Yet local management and enforcement is desirable – we need more clarity in the rules in standards.
- Local units lack the resources to adequately enforce and manage the Critical Area.
- Local control is preferred for permitting.
- Local planning and enforcement is good
- Minneapolis Critical Area Plan / Zoning is clear. It is important to have local control. Conditional Use Permitting Process allows for flexibility.
- Local values should be reflected. Local control provides for this
- Developers like consistency. Without it decisions are subject only to politics. There should be an overarching rule.
- St. Paul chose to utilize all four districts to provide flexibility. Tried to be as specific & finite as possible
- Lack of definition of view protection.

- Critical Area zoning can be constraint or enhancement. Can create value – affects value of property. That’s why developers like clarity and consistency.
- Lots of complexity makes it hard to understand.
- St. Paul Park – DNR appearing to be on both sides of AUAR
- How does state’s Environmental Review relate to the Critical Area?
- Historic and cultural resources don’t always get adequate protection
- Some historic and cultural regulations need revision
- There is challenge of inconsistency on standards within a city.
- Want to know expectations and goals up-front.

POTENTIAL SOLUTIONS AND MANAGEMENT OPTIONS

Eliminate MR Critical Area designation/(revert to current shoreland law)

- Possible overlap with MNRRA might provide justification for that
- Not elimination but redefinition, change in implementation

Maintain Existing Critical Area Program

- Better than elimination
- Program has need for refinement, reevaluation
- Leave specifics of zoning regulations to cities, but definition of geography (bluff, river’s edge) could be standardized.

Enhance Critical Area Program

- Funding for key initiatives needed:
 - Communication/Education
 - Cleanup/assistance to developers, others
 - Protection of natural spaces, trails, etc.
- More technical and scientific support needed across system for definition of key Critical Area features
- Critical Area should define geographic features (bluff and setback, for example), while local municipalities define zoning and dimensional standards to their needs
- Add some definitional clarity to the more “amorphous” environmental assets
- Process: one approach is to define a process to help provide predictable path toward resolution on the amorphous issues

Change and/or Move Critical Area

- Ensure consistency among regulatory frameworks as much as possible
- Move to Wild & Scenic Rivers?
- More important to give DNR needed resources than to move or combine with others.
- Needs updating but not fundamentally broken, so maintain and enhance but do not change this radically
- Streamline and consolidate
- There may be other programs that need retooling to work better alongside Critical Area
- We’ve got a resource, don’t ruin it!
- Without key protections, we’re at risk of losing resource to death.

Citizens and Environmental/Civic Organizations • October 30, 2007

STRENGTHS AND WEAKNESSES

Executive Order 79-19

- Language is too general
- Many ecological functions not addressed – should be more specific
- Purpose is to protect for the future
- Interim guidelines add valuable specificity – goals are overbroad. The principles are good. It is meant to be a first step.
- Purposes are not prioritized. How do conflicts between them get resolved?
- Aesthetic values should apply both to and from River

Condition of River Resource

- Water quality is improved
- Protection of land (bluffs) sufficient to safeguard resource
- Water quality is still an issue
- Mississippi River is our commons. There is still lots of tension over public versus private values
- How do we gauge the impact on River as decisions present themselves, for example the Ford Dam?
- Toxics impacts are still emerging: PFOS, mercury, PCBs
- Wildlife is coming back – eagles, otters, mussels
- Cultural resources still very threatened particularly because River has become popular.
- Many landowners don't appreciate the regional significance of their property. More education is needed.
- Non-point runoff impacts on river originate far beyond corridor. Need to have flexible protections.
- Need more emphasis on opportunities for enhancement

Government Oversight

- Local decisions have regional or statewide impact, and are not protective enough of the resource.
- LGUs help landowners get around provisions; there is insufficient attention to the standards
- Consistency: from LGU to LGU and over time within cities. Could we set standards that hold their direction?
- Railroads play by different rules
- Developers can overwhelm the process
- In Minneapolis, the staff get it but the elected officials don't. There is not a real commitment to the Critical Area. The way CA plays out is too political
- There is an insufficient stick (lack of authority) to enforce CA guidelines, for example the new development in Minneapolis at Lake and W. River Pkwy.
- Too many variances, not enough enforcement

- No citizen suit provisions. If state/AG won't enforce, we're out of luck.
- Some projects are built without consulting LGU
- Suggestion: Annual performance evaluation of success
- Citizen activism and advocacy is needed to uphold standards. CA isn't enough by itself.
- Corridor land-use approach is insufficient to address water quality problems
- Need to address inconsistency.
- Aesthetics/scenic values are most endangered
- Need more work to define and protect historic resources.
- Are we trying to do too much in urban diversified districts?
- Must be some kind of state or federal oversight
- Natural areas and habitat not well-addressed by Critical Area
- Could WDs or WMOs be given more authority over corridor resources?
- Not enough funding for the Critical Area. Need stable funding source
- When redevelopment occurs, need process to re-publicize land
- Need to make critical area landowners aware of critical area and benefits they enjoy
- Counties – property tax statement should state that property is within critical area with link to the website.
- Economics too often overpowers decisions

POTENTIAL SOLUTIONS AND MANAGEMENT OPTIONS

Eliminate MR Critical Area designation/(revert to current shoreland law)

- Bad idea

Maintain Existing Critical Area Program

- Need more resources, not less
- Bad idea

Enhance Critical Area Program

- Need common definitions across Critical Area
- Need specific requirements, clear goals, support mechanisms, advocacy organization/coordination
- Citizen advisory role

Change and/or Move Critical Area

- Critical Area stamp holds possibility as funding, educational tool
- Educational outreach to city staff, councils, commissions
- Link Critical Area plan to other regional and area plans more deeply
- Tie incentives to good behavior
- Utilize exiting networks to reach municipal officials
- Boundaries reviewed, adjusted Pilot Knob example.
- Reach out to architects and developers
- How do we prioritize the goals of Critical Area when applied to specific cases? A process, or will goals be prioritized in document?

- Don't want program abolished. Where it is housed is not the issue. The program must stand alone.
- The program needs more money, and stronger enforcement
- Investigate the use of a levy authority to raise the money for the program
- Look at extending the Critical Area boundaries up contributing creeks and watersheds.
- Look at developing possible LEED-style standards for river projects
- We need more of a carrot in terms of funding, not just a regulatory stick
- We need a lead group across the river
- We need more structure for whole corridor to talk about issues
- There is risk in legislative reorganization ending up with a result that weakens, not strengthens program
- Could take some regulatory authority from wilde and scenic rivers, and existing shoreland program
- Solution might be to take the best pieces of authority from other similar programs and give it to the Critical Area Program in the DNR
- Add authority within the DNR
- Change scope to increase communications among jurisdictions
- Give the Mississippi River the stature it deserved
- DNR's field staff has been advantage over housing in the EQB.
- The diversity of staff expertise is an advantage of DNR
- Cultural and historic knowledge is one missing area of expertise within DNR, but the NPS does have that.
- Performance incentives should be tied to some standards for development, such as the river-focused LEED suggestion.
- Definitions across the Critical Area should be in statute/rules – bluff features and wetland, for example.
- We need someone who assesses each project's compliance with Critical Area in the organization where Critical Area is housed.
- Watershed Districts and WMOs need to have more stake in the CA Program
- In terms of changing the four district types defined within the Critical Area, cities want some autonomy, but across-the-board regulations would be beneficial
- The idea of a joint powers board not ideal, given the way it has functioned in the headwaters area.
- A private right to legal action would strengthen program, as would possible waiver of the 60-day rule for specific projects.
- There needs to be more clarity/rules on under what circumstances a non-conforming use can be re-established.
- Should the DNR be given variance certification authority for the Critical Area? It would build a record to help guide future development decisions.
- Cities could better define viewsheds in their planning documents (though the challenge of multiple municipalities having a stake in a view complicates matters).

Local and State Government • October 31, 2007

STRENGTHS AND WEAKNESSES

Executive Order 79-19

- Executive Order 79-19 has a lot of strengths
- Critical area very important tool to protect and enhance resources
- Executive order is static – doesn't evolve well
- Need clarity on if critical area districts intended to remain static
- 30 years later amazing we're still debating this – do we need another approach?
- Many assets or resource values are subject to protection, but often unclear how to resolve conflicting rules; awkward blending of many goals – do they all fit?
- Need to be clearer about priorities to help resolve conflicting goals

Condition of River Resource

- Increasing pressure on resource – bluffs are threatened
- We've done well protecting historic structures, not as clear how to protect cultural landscapes
- Much land has been converted to parks
- Not enough emphasis on native plants and habitat protection
- Working river – commercial use is changing; especially upstream of the Minnesota River
- Less industrial land use in corridor; still lots of polluted land
- Water quality is improving, but stormwater still a big issue – erosion, floatables
- Water quality issues very different than 30 years ago

Government Oversight

- Need to get critical area on a firm legal footing
- Need a clear definition of what we are trying to protect
- DNR has not made critical area a priority; leadership lacking
- Need consistency, funding, leadership; elected officials need to understand the resource and be brought in long term
- Education not enough; need state enforcement
- Specific developments come with political pressure – DNR doesn't have authority or tools to address projects
- Met Council 2030 policy document doesn't include critical area, but local planning handbook does; role is planning and plan review, not zoning ordinance review
- LGUs need better process for getting early input to shape early decisions related to proposals
- Lack of consistency/uniformity from city to city
- Critical area very hard to administer; lack of clarity, specificity
- Big difference between plans and ordinances – difficult to balance different interests and address new development patterns in the rural open space district (Ramsey)
- Critical area issues can take up a lot of LGU time
- Stronger state regulations would relieve LGU pressure, but fear that regs will make riverfront unbuildable

- Lots of discretion at LGU level results in some tension
- Small cities lack staff/expertise – rely on state to enforce; need leadership and guidance;
- Vegetation management is very difficult for LGUs to regulate and enforce
- 60-day rule creates liability for needed turnaround time

Standards, Guidelines, Boundaries

- Need consistent definitions (bluff, setback)
- How to balance regional goals vis-à-vis urbanization with river resource protection
- Rural open space district in conflict with MUSA line
- Cottage Grove – some parts of almost a mile from river
- St. Paul – some places corridor is too narrow, especially the upper gorge

Outreach/Education/Technical Assistance

- Lots of outreach/education did occur during 1998 comp plan updates
- Public and local officials aren't familiar with critical area today
- Most staff don't understand critical area; need regular updates and briefings to staff/electeds
- New technologies should be used to protect visual quality
- More tools needed for property owners within critical area
- Landowners don't understand how they benefit from critical area

Questions/Other

- What is regional context of critical area?
- Could critical area be combined with or rolled into shoreland program?
- Critical area should not interfere with redevelopment of historic and cultural areas (Hastings)
- Developers want certainty

POTENTIAL SOLUTIONS AND MANAGEMENT OPTIONS

Eliminate MR Critical Area designation/(revert to current shoreland law)

- Presence of MNRRA is powerful argument for keeping critical area
- Executive order is not up to date and elimination might be a good idea
- Some communities are not in shoreland
- Difference between shoreland and critical area: boundaries differ, blufflands in critical area, shoreland is 300 ft from river; shoreland has dimensional standards in rule, critical area has performance standards
- Add a chapter to shoreland rules about critical area
- If eliminated, LGUs could still implement protection
- Eliminating or re-naming critical area could influence trust issues with folks who use/rely on it

Enhance Critical Area Program

State rules/ authorities

- Give DNR comparable authority to St Croix Wild & Scenic and the resources to implement it
- Critical Area – put into statute and/or write rules – DNR has oversight and LGU knows minimum standards
- Need established rule on state level with minimum standards under one agency

Enforcement

- Enforcement needed, especially regarding variances; combination of rules, performance and dimensional standards
- Give funds to LGUs to implement, not money for state enforcement

Standards and Definitions

- Performance based standards are ok, but tell us how
- Performance standards better suit the diverse topography
- Clear definitions will give cities tools to make decisions; better than state override

Appeal Process

- Establish appeal process other than court
- Appeals often go back to LGU, could go to a different body
- Wetland Conservation Act has appeal process with local/technical panel to which citizens or agencies can appeal

Other

- Need to identify where land should be protected by purchase/easement

Change and/or Move Critical Area

- DNR has resources and expertise – should stay there; needs oversight on variances; rules need clarity/certainty
- Legislators want to hear about where to house critical area enforcement (Sheldon Johnson)

Move to EQB or Met Council?

- Is DNR best for diverse goals of critical area? EQB or Met Council has a broader perspective
- Could go back to EQB by administrative order of the Governor, but current staff inadequate, would need legislative appropriation
- Was moved to DNR because they have field staff
- Citizens League called for met council to integrate three rivers plan with regional parks and other council policy
- Caution about body of gubernatorial appointees – changes with governor, some don't like rules and regulations

Joint Powers Organization

- Some caution regarding joint powers organizations, especially with 32 local units
- Joint Powers – equity of representation is a problem

Wild & Scenic/Variance Certification

- Wild & Scenic – don't go too wild; it's an urban river
- W&S is also vulnerable
- Variance certification would be litigious

Mississippi River Critical Area Study Stakeholder Engagement

COLLATED NOTES: Stakeholder Group Meetings October 25, 30 and 31, 2007

Strengths and Weaknesses	GOV	DEV	CIT
EO 79-19			
Purpose/intent/principles good, needed to protect unique resource	X	X	X
Language should be more specific; interim guidelines provide value			X
E.O. static, outdated – doesn't evolve well	X	X	
Not clear on district boundary change process	X	X	
Conflicting goals need priority	X		X
Many ecological functions need to be better addressed			X
More clarity about economic resources/development		X	
River Resource			
Water quality is improved making river more attractive	X	X	X
Increased value of resource and development pressure	X	X	X
More public use/awareness and attention on the river		X	X
River is mixed use and has more culturally diverse users		X	
Much land has been converted to parks/natural areas	X	X	X
Wildlife is coming back – eagles, otters, mussels			X
Working river/commercial use is changing/declining	X	X	X
Less industrial land use in corridor	X		X
Riverfront uses and issues in downtowns have changed dramatically		X	
Bluffs and scenic views are threatened	X		X
Need to protect cultural landscapes	X		X
Protection of historic and cultural resources often inadequate		X	X
More emphasis needed on native plants and habitat protection	X		X
Many polluted sites	X		X
Stormwater issues threaten water quality; also emerging toxins	X		X
Pollution standards and stormwater management have evolved		X	X
Concerns today are more diffuse than 30 years ago		X	
River is our commons; tension around public vs. private values			X
Corridor impacts extend up tributaries and into watersheds			X
Government Oversight			
State/Regional Govt			
Critical area needs legal footing	X		X
Clear, more specific definition of what we are trying to protect needed	X	X	X
DNR low priority for leadership, enforcement, education, outreach, funding	X		X
DNR lacks authority/tools/resources to address projects and impacts	X		X
Met Council 2030 policy document inconsistent with critical area	X		

There is no citizen suit provision or advocate if AG won't enforce			X
Needs stable funding source			X
Local Govt			
Local decisions impact regional and statewide resources			X
Need more early input on proposals	X	X	
Lack of consistency/uniformity from city to city and within cities	X	X	X
LGU enforcement inadequate; too many variances			X
LGUs lack resources to adequately manage/enforce critical area law	X	X	X
LGUs help landowners/developers get around standards			X
Small cities lack staff/expertise	X		
Cities rely on state for leadership, guidance, enforcement	X		
Big difference between plans and ordinances within most cities	X		X
Difficult to administer; lack of clarity, specificity	X	X	X
Difficult to address changing development patterns, balance different interests	X		
Need to better define significant views and watershed protection requirements	X	X	X
Vegetation management difficult for LGUs	X		
Corridor land-use approach insufficient to address water quality problems			X
Aesthetics and cultural resources are most disregarded/endangered			X
Critical area issues are time consuming	X	X	X
Developers and/or economics can overwhelm process			X
60-day rule creates liability	X		X
Concern that state regs could make riverfront unbuildable	X		
Local control, planning, enforcement preferred – reflects local values		X	
Flexibility needed in process; acknowledges differences between/within cities		X	
LGU discretion results in some tension	X		
Local decisions are too political; not based on resource, science		X	X
Citizen activism and advocacy is needed to uphold standards			X
Critical area zoning affects property values – can be constraint or enhancement		X	
Need process to reclaim land for public domain, not just redevelop			X
Standards, Guidelines, Boundaries			
Need clear and consistent definitions (bluff, setback) and expectations	X	X	X
Developers want certainty, more clarity in local rules and standards	X	X	
Balancing regional urbanization goals with resource protection	X		
Process for moving district boundaries should be defined and allowed		X	
Rural open space district in conflict with MUSA line	X		
Critical area too wide (Cottage Grove)	X		
Critical area too narrow (St Paul Gorge)	X		
Need to be able to add contiguous resources – Pilot Knob, some stream valleys			X
Performance standards (at state level) better suit the diverse topography	X	X	
Standards need to be consistent, reliable, effective and enforced			X
Outreach/Education/Technical Assistance			
Public, city staff/officials aren't familiar enough with critical area today	X		X
Landowners need tools and education about benefits of critical area	X	X	X

Mississippi River Critical Area Stakeholder Input
Collated summary of results

New technologies needed to assess/protect visual quality	X	X	X
Potential Solutions and Management Options	GOV	DEV	CIT
Eliminate MR Critical Area designation/(revert to current shoreland law)			
Bad idea to eliminate critical area designation			X
Keep, but reevaluate, redefine, enhance and change implementation		X	
Keep critical area because of MNRRA	X		
Eliminate and use current shoreland law	X		
Keep critical area and add a chapter to shoreland rules for it	X		
Maintain Existing Program			
Resources are insufficient to meet critical area goals			X
Enhance Critical Area Program			
<i>State rules/ authorities</i>			
Put critical area into statute; write rules; establish definitions, min. standards	X		X
Modernize program so it is up to date, consistent with other regulations	X	X	
Model critical area authority on Wild & Scenic (take best pieces/align better)	X	X	X
Better link critical area planning to other municipal and regional plans	X		X
Clarify intent around district boundaries, definitions and process to amend		X	
Investigate use of levy authority for corridor lands			X
<i>Enforcement</i>			
Enforcement/oversight needed, especially regarding variances	X		X
Leave specifics of zoning regulations to cities	X	X	
Give funds to LGUs to implement, not money for state enforcement	X		
Increase DNR staffing to manage/enforce program	X		X
<i>Standards and Definitions</i>			
Establish priorities among goals for both regional and local resources	X		X
Provide guidance on implementation of performance based standards	X	X	
Establish clear, standardized definitions of geography (bluffline, etc)	X	X	X
Combination of performance and dimensional standards	X	X	X
<i>Appeal Process</i>			
Avoid costly variance certification litigation	X		
Establish appeal process other than court	X		
Technical review panel (like WACA)	X		
<i>Outreach/ Education/Technical Support</i>			
More outreach/education with electeds, staff, landowners, citizens	X	X	X
Funding for key initiatives – env. clean-up, open space protection, trails, etc.		X	X
Technical and scientific support to define/document key critical area features		X	X
Better coordination with MNRRA to implement and fund program	X		X
Identify land for protection by purchase/easement	X		X
Tie incentives for LGUs to good behavior (e.g. number variances)			X
LEED-style standards for river projects			X
Need advocacy approach/coordination			X
Annual performance evaluation/stakeholder meeting			X

Mississippi River Critical Area Stakeholder Input
Collated summary of results

Citizen advisory role			X
Critical Area stamp possible funding/educational tool			X
Change and/or Move Critical Area			
Keep with DNR; they have resources, expertise, field staff	X	X	X
Where it is housed is not the issue; program should stand on own merits		X	X
Move to EQB with legislative appropriation	X		
Move to Met Council and/or better integrate with Regional Parks	X		
Met Council incorporate critical area into a plan/policy for three metro rivers	X		
Move to Wild & Scenic Program not appropriate/ corridor is unique	X	X	X
Update wild & scenic, shoreland at same time to work better with critical area		X	
Join Powers Organization not recommended	X		X
Give WMOs some authority over corridor resources			X
Add MNNRA/federal oversight			X

Mississippi River Critical Area Study Stakeholder Meeting Notes

All Stakeholder Meeting • November 7, 2007

AREAS OF GENERAL AGREEMENT

Comments, suggested changes

- DNR consultation with other agencies should include those with development expertise
- DNR needs more fiscal resources to be effective at managing critical area
- Government group had some interest in creating a special district within the shoreland program to manage critical area
- Mississippi River is special and keeping in critical area would retain unique protections
- Fear that critical area will be lost
- House program at DNR only if it has top priority and adequate funding
- Would like the DNR to be a stronger, more vocal advocate for the resource
- More funding important – from the top!

AREAS WITH OPINION DIFFERENCES

Regulatory Framework: legislation, rules or ordinances (i.e. locally set standards)?

- Concern that rule-making is very time consuming – need new legislation
- Point of information – legislation and rules would still require updated ordinances
- Local ordinance updates with technical support/help will best address local circumstances
- Needs stronger oversight, but use other option
- Legislation to ensure protections, consistent definitions and the right authority
- Use standards from 79-19 interim guidelines.
- Legislation – current local authority goes contrary to goals/needs for protecting a state and national resource; need minimum standards and consistent definitions.
- Rules, but do it right; it's complicated and could be more so at the corridor-wide level
- Definitions need to have science behind them
- Legislation – better tool to prevent avoiding or circumventing regulation
- Legislation with technical assistance and variance certification
- Prioritization between critical area goals should be in legislation

Regulation Standards: dimensional, performance or both?

- Performance – needed for local differences
Need to better define performance standards
- Some performance – encourages creative solutions, better chance of win-win
- Dimensional standards; use variances to allow flexibility, but define a rational way to allow variances.
- Performance standards easily become politicized
Performance standards at state level and dimensional standards at local level
- Need standards/guidance for unstable bedrock, especially St. Peter's Sandstone; technical information helpful/needed
- Parks and public land need to be held to same standards as property owners; use of native vegetation, clear-cutting, pruning are examples of double standard

Land Use Oversight: variance certification, technical panel/appeal board or local control?

- Variance certification needed to prevent inappropriate variances
- Variance certification and appeal board
- Appeal board good if multiple viewpoints are represented
- Variance certification or higher level of oversight needed to stop politicization of variances
- Legislation could be made compatible with 60/120 rule exceptions (for example, requiring environmental review)
- Conditional use permits (CUP) used in Mpls and St Paul allow exceptions to critical area goals and are not recorded as variances

Boundaries: What process is needed for corridor and/or district boundaries?

- Corridor boundary could be updated. Boundary established in 79-19 followed roads, not river/natural/cultural features, and some politically-based decisions excluded some areas.
- Changes should not degrade resource
- District boundaries should not reduce protections

STAKEHOLDER PRIORITIES AND PREFERENCES (DOT DEMOCRACY)

Priorities among potential management options (5 dots for each participant)

- Set priorities among Mississippi River critical area goals (22);
- Update regulatory Framework (15)
- Establish land Use Decision Oversight (14)
- Establish process for early input on development proposals (12);
- Provide outreach, education, technical assistance (10);
- Survey and document scenic and natural resources (10);
- Hold annual stakeholders meeting, issue annual report (9).
- Regulation Standards (5)
- Corridor Boundary Amendment Process (3)
- District Boundary Amendment Process (1)

Preferences among proposed solutions with opinion differences (5 dots each)

Regulatory Framework

- State Rules (3.5)
- New Legislation (14)
- Ordinance Updates (4.5)

Regulation Standards

- Dimensional (8)
- Performance
- Combination (13)

Land Use Decision Oversight

- Technical Review Panel/Appeal Board (16.5)
- Variance Certification (4.5)
- Local Control/Authority (3)

Corridor Boundary Amendment Process

- Yes, but boundary changes must be written into legislation or executive order (8)
- Yes, but the legislature should authorize a process whereby DNR has authority to approve corridor boundary amendments. (11)
- No, never

District Boundary Amendment Process

- No, districts meant to be permanent
- Yes, but only to a more protective district (16)
- Yes, districts meant to change with urban growth (3)

Appendix B

Selected Policies And Guidelines

MNRRA Tier II Guidelines

MNRRA Tier II Guidelines

Riverfront Location Policies (MNRRA CMP p. 16-18)
New development in the first 300 feet back from the river's ordinary high water level or the floodplain, whichever is capability to enhance the river environment, reflecting the standards in the CMP on pp. 16 - 18.
Incentives to encourage polluting industries to relocate out of the riverfront area.
Convert inconsistent land uses causing adverse effects to consistent uses if inconsistent uses are discontinued. Encourage landowners to leave vacated land within 300 ft. as open space, if meets criteria for open space; otherwise appropriate redevelopment should occur.
Corridor-wide location policies (MNRRA CMP, p. 18)
Encourage high quality and sustainable open space, public plazas, historic landscapes, interpretive facilities, and development in the corridor subject to location policies.
Discourage development in areas containing significant wildlife habitat.
Site development policies (MNRRA CMP, p. 18-20)
Provide uninterrupted vegetated shorelines where practical along the Mississippi and its tributary streams and ravines to preserve a natural look from the river and opposite shore and to provide connections to adjacent natural areas. Exceptions are downtown areas and existing commercial and industrial areas, but new developments in these areas should appear as natural as possible when viewed from the river using setbacks, landscape treatments, and vegetative screening. Shoreline restoration is encouraged in existing commercial and industrial areas.
Protect natural resources by preservation areas: <ul style="list-style-type: none"> (1) Preserve a narrow zone along shoreline w/ undisturbed area 40 ft from OHW or restore natural vegetation where practical. Locate expansions as far back from shoreline as possible. (2) Allow minimal grading & tree removal in an additional 60 ft to equal 100 ft preserved (3) Prohibit land disturbance along bluff face of >12%. (4) Preserve 40 ft from bluffline in natural state or restore natural vegetation in order to screen development. (5) Provide additional setbacks in additional 60 ft bluff preservation area for >30 ft tall structures outside of downtown to equal 100 ft from bluff line (6) Maximum structure heights: <ul style="list-style-type: none"> w/in 100 ft. of bluffline = 30 ft w/in 200 ft. of river = 30 ft w/in 300 ft of river = 45 ft <p style="margin-left: 40px;">Certain structures could exceed for safety reasons or if architecturally significant.</p>
Encourage shoreline area preservation and restoration.
Provide pedestrian/bicycle paths to connect the river to downtowns, neighborhoods, parks and open space.
Protect views/offer significant views.
Remove vacant non-historic structures that are not needed for consistent uses.
Rehabilitate and adaptively use historic structures.
Protect existing wetlands, restore degraded ones.
Increase and restore wildlife habitat and biological diversity in development projects. Protect bottomland forests, bluff prairies, woodlands, and riverine habitats.
Apply setback and height restrictions and encourage careful site design to maintain the ability to view the river from open space and developed areas. Avoid significantly obstructing river views with development.
Screen development to minimize its visibility from the river or opposite shore. Screening development in this context is done with vegetation.
Maintain public access to the river. Increase access in redevelopment and new development projects if practical. Implementation is tied to implementation of open space and trails policies in the CMP on pp. 21 - 25, to riverfront location policies in the CMP on pp. 16 - 18, and to CMP policy 5 on p. 25.
Scenic road design concepts and architectural treatments into road construction, reconstruction, or capital improvement projects
Protect endangered, threatened, and rare species and their habitats in site development projects.

Encourage consultation w/ Native American groups during site development.
Where practical, encourage placement of utilities underground.
Encourage adoption of sustainable building practices.
Open Space and Trails (MNRRA CMP, p. 24 – 25)
Provide easements for future trail corridors in new developments.
Preserve natural areas in a natural state when designing parks and open space. Large tracts of open space that are currently undeveloped should stress passive recreation, fish and wildlife resources, plant communities, and biological diversity.
New private developments and public facilities provide public trails and river access.
Provide bicycle and pedestrian paths to the greatest extent practical. Ensure access across all new and rebuilt public bridges.
Use abandoned RR ROW's
Locate trails as close to river and provide strategic connections to other trails in area.
Commercial Navigation
To the extent possible, locate barge fleeting areas at least 200 feet from any marina and next to commercial or industrial areas. Fleeting area locations will be based on physical needs for effective operations subject to local, state, and federal environmental and safety regulations.
Evaluate noise and visual impacts before locating or expanding barge operations.
Prohibit casual mooring except in emergencies..
Natural resource management
Encourage pollution prevention and control to protect sensitive resources in corridor.
Reduce use of chemical fertilizers and pest control.
Encourage ongoing efforts to clean-up corridor lands.
Reduce use of salt on roads.
Increase use of skimmers on tributary creeks.
Encourage alternatives to lawns in shoreline area.
Support regional pollution prevention.
Protect streambanks and water quality from negative impacts of recreation activities.
Enforcement of federal, state and local floodplain and wetland protection policies. Restore degraded wetlands.
Support programs to decrease toxic waste in river corridor.
Native Flora and Fauna (MNRRA CMP, page 33)
Protect wildlife habitat and biological diversity.
Work to increase and restore wildlife habitat and biodiversity in development projects. Protect bottomland forests and riverine habitats.
Encourage uninterrupted vegetated shorelines.
Coordinate land development policies to protect natural resources using a system of preservation areas, as described in Site Development Policies, page 19, number 2..
Preserve native vegetation or encourage revegetation; use native and other compatible floodplain vegetation in redevelopment projects; develop a cooperative program for revegetating existing denuded areas along the shoreline; use extensive native vegetation, including native trees and shrubs, in more formal landscape treatments appropriate for downtowns.
Threatened and Endangered Species (MNRRA CMP, p. 33)
Encourage preservation of habitat that is of special value to threatened & endangered species.
Floodplains and Wetlands
Protect existing wetlands and where practical, restore degraded wetlands Protect and restore existing and degraded wetlands.
Cultural Resource Management (MNRRA CMP, p. 34)
Continue historic use of properties in preference to changing the use. New use of historic properties should be consistent with other policies in the MNRRA plan.
Encourage open space land use in order to protect archaeological resources. Provide adequate identification, evaluation, and site planning to preserve these resources.
Preserve historic structures and cultural landscapes in present condition.
Rehabilitate historic structures.
Restore historic structures and landscapes.

Encourage economic activities that preserve and rehabilitate historic structures.
Encourage cities to participate in the certified local government program (MHS)
Develop incentives to retain historic uses and preserve cultural resources.
Economic Resource Management (MNRRA CMP, p. 36-38)
Recognize the importance of economic activities and provide for commercial use.
Encourage businesses to invest in the river corridor consistent with the values identified in the MNRRA legislation.
Preserve riverfront land for economic uses that rely on the river.
Protect historic buildings for adaptive reuse.
Encourage economic investment that preserves and rehabilitates historic structures.
Increase visitor access and recreational use.
Preserve riverfront investment and encourage riverfront improvement.
Encourage local land use control and economic development activities that promote sustainable development.
Visitor Activities and Recreational Resources (MNRRA CMP, p. 39)
Use potential impacts and area characteristics to evaluate the types of visitor activities and levels of access appropriate for specific areas.
Visitor Use Management (MNRRA CMP, p. 39-40)
Provide additional pedestrian and bicycle paths in the corridor consistent with resource protection.
Acquire abandoned RR ROW's for trail development or other open space needs consistent with National Rails to Trails Act.
Access adequacy of visitor safety and enforcement. Increased user safety is a high priority for plan implementation.

Standards And Guidelines for Preparing Plans and Regulations

From

**Executive Order 79-19, Appendix B
(3 S.R. 1692-1697)**

EXECUTIVE ORDERS

(3) From the south side of the north half of Section 34 (T27N, R22W) to the north side of Section 14 (T27N, R22N) in Inver Grove Heights.

2. Urban developed districts

a. On the east side of the river:

(1) From the west side of Section 35 (T32N, R25W) in Ramsey to the center line of Interstate 694 in Fridley.

(2) From the south side of Section 26 (T28N, R22W) in Newport to the south side of the north half of Section 1 (T27N, R22W) which is the Newport and St. Paul Park common boundary.

(3) From the center line of Eight Avenue in St. Paul Park to the St. Paul Park-Grey Cloud Township common boundary.

b. On the west side of the river:

(1) From the north side of Section 14 (T27N, R22W) in Inver Grove Heights to the South St. Paul-Inver Grove Heights common boundary.

(2) From the eastern extension of the center line of 48th Avenue North in Minneapolis to the eastern extension of the center line of Hennepin County Highway 49.

3. Urban open space districts

a. On the east side of the river:

(1) From the center line of Franklin Avenue in Minneapolis to the north side of Section 14 (T28N, R23W) (Otto Avenue) in St. Paul.

(2) From the west sides of Sections 3 and 10 (T28N, R22W) and the east boundary of the Chicago and Northwestern Railroad right-of-way in St. Paul to the western and northern boundaries of the Red Rock Industrial District, the western boundary of the Chicago, Milwaukee, St. Paul and Pacific Railroad right-of-way, and the south side of Section 14 (T28N, R22W) in St. Paul.

b. On the west side of the river:

(1) From the north side of Section 7 (T28N, R22W) and the center line of Ohio Street in St. Paul to the center line of Interstate 494 in Mendota Heights on the Minnesota River.

(2) From the center line of Interstate 494 in Bloomington on the Minnesota River to the center line of Franklin Avenue in Minneapolis.

4. Urban Diversified districts

a. On the east side of the river:

(1) From the center line of Interstate 694 in Fridley to the center line of Franklin Avenue in Minneapolis.

(2) From the north side of Section 14 (T28N, R23W) (Otto Avenue) in St. Paul to the west sides of Sections 3 and 10 (T28N, R22W) and the east boundary of the Chicago and Northwestern Railroad right-of-way in St. Paul and including Twin City Barge and Towing Co's. turning basin, about 11.5 acres at the Northwest corner of Red Rock Industrial Park.

(3) From the western and northern boundaries of the Red Rock Industrial District, the western boundary of the Chicago, Milwaukee, St. Paul and Pacific Railroad right-of-way, and the south side of Section 14 (T28N, R22W) in St. Paul, to the south side of Section 26 (T28N, R22W) in Newport.

(4) From the south side of the north half of Section 1 (T27N, R22W) which is the Newport and St. Paul Park common boundary, to the center line of Eight Avenue in St. Paul Park.

b. On the west side of the river:

(1) From the west sides of Sections 23, 26, and 35 (T115N, R17W) in Hastings to the Hastings-Nininger common boundary.

(2) From the west side of Section 21 (T115N, R18W) in Rosemount to the south side of the north half of Section 34 (T27N, R22W) in Inver Grove Heights.

(3) From the South St. Paul-Inver Grove Heights common boundary to the north side of Section 7 (T28N, R22W) and the center line of Ohio Street in St. Paul.

(4) From the center line of Franklin Avenue in Minneapolis to a line collinear with the center line of 48th Avenue North in Minneapolis.

Standards and Guidelines for Preparing Plans and Regulations

A. Purpose and responsibility

1. Purposes. The purposes of the critical area designation and the following standards and guidelines are:

*With the exception of that area needed for the future approved expansion of the Metropolitan Waste Water Treatment Plant at Pig's Eye.

EXECUTIVE ORDERS

a. To protect and preserve a unique and valuable state and regional resource for the benefit of the health, safety and welfare of the citizens for the state, region, and nation;

b. To prevent and mitigate irreversible damage to this state, regional, and national resource;

c. To preserve and enhance its natural, aesthetic, cultural, and historical value for the public use;

d. To protect and preserve the river as an essential element in the national, state and regional transportation, sewer and water and recreational systems; and

e. To protect and preserve the biological and ecological functions of the corridor.

2. Responsibility. The standards and guidelines provided herein shall be:

a. Followed by the local units of government when preparing or updating plans, and/or modifying regulations;

b. Followed by state agencies, and regional agencies for permit regulation and in developing plans within their jurisdiction;

c. Followed by the Metropolitan Council for reviewing plans, regulations, and development permit applications;

d. Followed by the Council for approving plans, regulations, and development permit applications.

B. General guidelines for preparing plans and regulations

1. The Mississippi River Corridor shall be managed as a multiple-purpose resource by:

a. Maintaining the river channel for transportation and providing and maintaining barging and fleeting areas in appropriate locations consistent with the character of the river and the riverfront.

b. Conserving the scenic, environmental, recreational, mineral, economic, cultural, and historic resources and functions of the river corridor.

c. Providing for the continuation and the development of a variety of urban uses, including industrial and commercial uses, and residential, where appropriate, within the river corridor.

d. Utilizing certain reaches of the river as a source of water supply and as a receiving stream for properly treated sewage and industrial waste effluents.

2. In order to manage the river corridor consistent with its natural characteristics and its existing development, the following guidelines are established for each corridor district:

a. Rural open space district. The lands and waters within this district shall be used and developed to preserve their open, scenic and natural characteristics and ecological and economic functions. Presently undeveloped islands shall be maintained in their existing natural state. The transportation function of the river shall be maintained and preserved.

b. Urban diversified district. The lands and waters within this district shall be used and developed to maintain the present diversity of commercial, industrial, residential, and public uses of the lands, including the existing transportation use of the river; to protect historical sites and areas, natural scenic and environmental resources; and to expand public access to and enjoyment of the river. New commercial, industrial, residential, and other uses may be permitted if they are compatible with these goals.

c. Urban developed district. The lands and waters within this district shall be maintained largely as residential areas. The expansion of existing and development of new industrial, commercial, and other non-residential or non-recreational uses shall be limited to preserve and enhance the residential character of this district.

d. Urban open space district. The lands and waters within this district shall be managed to conserve and protect the existing and potential recreational, scenic, natural, and historic resources and uses within this district for the use and enjoyment of the surrounding region. Open space shall be provided in the open river valley lands for public use and the protection of unique natural and scenic resources. The existing transportation role of the river in this district shall be protected.

3. The Mississippi River Corridor shall be managed in accordance with the Metropolitan Council's development guide chapter, Critical Areas Act of 1973, and the Minnesota Environmental Policy Act of 1973, and other applicable state laws, and federal laws.

C. Specific standards and guidelines for preparing plans and regulations

1. Each local unit of government within the river corridor shall prepare plans and regulations to protect environmentally sensitive areas in accordance with the following guidelines.

a. Each local unit of government shall, with the assistance of the Metropolitan Council and state agencies:

(1) Identify and prepare an inventory of:

(a) floodplains,

EXECUTIVE ORDERS

- (b) wetlands,
 - (c) slopes from 12% to 18% and over 18%,
 - (d) soils not suitable for urban development on-site waste disposal,
 - (e) significant vegetative stands, and
 - (f) natural drainage routes.
- (2) Prepare a floodplain ordinance if it does not have a floodplain ordinance in effect;
 - (3) Prepare plans and regulations to protect wetlands;
 - (4) Prepare plans and regulations to protect bluffs greater than 18% and to provide conditions for the development of bluffs between 18% and 12% slopes;
 - (5) Prepare plans and regulations to minimize direct overland runoff and improve the quality of runoff onto adjoining streets and watercourses;
 - (6) Prepare plans and regulations to minimize site alteration and for beach and riverbank erosion control;
 - (7) Prepare regulations for management of vegetative cutting; and
 - (8) Prepare criteria for control of noise in open space and recreational areas with assistance of the PCA.

2. Each local unit of government and state agency shall prepare plans and regulations to protect and preserve the aesthetic qualities of the river corridor, which provide for the following considerations:

a. Site Plans. Site plans shall be required to meet the following guidelines:

- (1) New development and expansion shall be permitted only after the approval of site plans which adequately assess and minimize adverse effects and maximize beneficial effects.
- (2) Site plans shall be required for all developments for which a development permit is required, except for the modification of an existing single-family residential structure or the construction of one single-family residence.
- (3) Site plans shall include, but not be limited to, the submission of an adequate and detailed description of the project, including activities undertaken to ensure consistency with the objectives of the Designation Order; maps which specify soil types, topography, and the expected physical

changes in the site as the result of the development; the measures which address adverse environmental effects.

(4) Site plans shall include standards to ensure that structure, road, screening, landscaping, construction placement, maintenance, and storm water runoff are compatible with the character and use of the river corridor in that district.

(5) Site plans shall provide opportunities for open space establishment and for public viewing of the river corridor whenever applicable, and shall contain specific conditions with regard to buffering, landscaping, and re-vegetation.

b. Structures. Structure site and location shall be regulated to ensure that riverbanks, bluffs and scenic overlooks remain in their natural state, and to minimize interference with views of and from the river, except for specific uses requiring river access.

c. Clustering. The clustering of structures and the use of designs which will reduce public facility costs and improve scenic quality shall be encouraged. The location of clustered high-rise structures may be proposed where public services are available and adequate and compatible with adjacent land uses.

d. Access Routes. Commercial and industrial developments adjacent to roadways shall be required to provide off-street parking, service roads and limited controlled access points to highways. (Except in cases of extreme hardship, highway access for any development within 250 feet of a bridge or bridge ramp shall be prohibited.)

e. Existing Development. Local plans and regulations shall include provisions to:

- (1) Retain existing vegetation and landscaping;
- (2) Amortize non-conforming uses;
- (3) Prohibit the reconstruction of non-conforming uses which are 50% market value destroyed;
- (4) Provide for the screening of existing development which constitutes visual intrusion, wherever appropriate.

f. Signs. Local units of government shall adopt ordinances for the amortization and removal of non-conforming general advertising signs, and to prohibit the visibility of advertising signs from the river, except in Urban Diversified Districts.

3. Local units of government shall develop plans and regulations to ensure that developments shall not be undertaken prior to the provision of Metropolitan public facilities

EXECUTIVE ORDERS

in adopted Metropolitan plans, in accordance with the following guidelines:

a. Developments in areas not scheduled for the provision of municipal or metropolitan sanitary sewers shall comply with adequate on-site sewage disposal system regulations.

b. The density of development outside the Metropolitan Urban Service Area shall be limited to ensure that there is no need for the premature provision of local and metropolitan urban services and facilities.

4. Local units of government shall develop plans and provide guidance to ensure that the surface uses of the river is compatible with the characteristics and use of the districts in accordance with the following guidelines:

a. The present 9-foot navigation channel shall be maintained.

b. Provision shall be made for the use of the river for water transportation which is consistent with adopted state and regional policies and regulations and applicable federal laws and to minimize any adverse effects associated with such facilities.

c. Local plans shall identify areas physically suitable for barge slips and barge fleeting, based on such considerations as safety, maneuverability, operational convenience, amount of construction and/or excavation required, and environmental impacts; and

d. Local plans shall specify which of those areas found physically suitable may be used for barge slips and barge fleeting areas in the future. Preference should be given to those areas where new barge slips and associated facilities can be clustered, where required metropolitan services are already available, and where use of the riverfront for barge slips and fleeting areas, and access to them, is compatible with adjacent land use and public facilities.

e. Local plans shall identify, whenever practicable, locations where river dredge spoil can be utilized consistent with natural geological appearances or processes and adjacent land uses.

f. Where there is potential conflict of surface use, state and local governments shall enact appropriate water surface use regulation.

g. The Minnesota Energy Agency shall be responsible for recommending to the EQC a strategy for the development of a coal transportation plan for the metropolitan area.

5. Local units of government shall develop plans and regulations for industrial and commercial developments in the River Corridor in accordance with the following guidelines:

a. Areas for new or expanded industrial and commercial developments, where urban services are available, and the premature expansion or upgrading of the Metropolitan systems will not be required, shall be identified.

b. The existing industrial waste discharge points, sanitary, and storm water discharge points shall be identified.

c. Local plans should give consideration to providing for future industrial and commercial uses that require water access including, but not limited to such uses as, transportation, water supply & waste discharge. This does not preclude the locating of non-water related uses within the Corridor.

d. The impact of potential mining and extraction sites or other incompatible uses shall be minimized.

e. Land reclamation and reforestation of the mining site shall be regulated.

6. Local units of government and regional and state agencies shall develop plans and regulations to maximize the creation and maintenance of open space and recreational potential of the Corridor in accordance with the following guidelines:

a. Existing and potential sites for the following uses shall be identified and inventoried.

(1) Neighborhood, municipal, county and regional parks;

(2) Scenic overlooks, scenic views, and public observation platforms;

(3) Protected open space areas, including islands, gorges, wildlife preservation areas, and natural areas;

(4) Beaches and undeveloped river frontage on backwaters, which are suitable for recreation purposes;

(5) Commercial marinas and boat launching facilities;

(6) Public access points to the river;

(7) Historic sites and districts.

b. The Metropolitan Council shall prepare a general trailway plan for the entire length of the River Corridor which links regional parks.

c. Local units of government shall identify the potential location of trails within their jurisdictions, including related problems and proposed solutions.

d. Plans and programs to acquire sites for public

EXECUTIVE ORDERS

access to the river and to protect open space areas shall be developed.

e. Programs to acquire and manage undeveloped islands in their natural state and to encourage the restoration of other islands for recreation open space uses shall be adopted.

f. In the development of residential, commercial and industrial subdivisions, and planned development, a developer shall be required to dedicate to the public reasonable portions of appropriate riverfront access land or other lands in interest therein.

In the event of practical difficulties or physical impossibility, the developer shall be required to contribute an equivalent amount of cash to be used only for the acquisition of land for parks, open space, storm water drainage areas or other public services within the River Corridor.

7. Local units of government and state agencies shall develop plans and regulations for transportation and public utilities developments in accordance with the following guidelines:

a. Existing and potential utility and transportation facility crossings shall be identified and river crossings shall be minimized and concentrated at existing crossings where possible.

b. The Corridor shall not be used merely as a convenient right-of-way and new or modified transportation and utility facilities shall complement the planned land and water uses and shall not stimulate incompatible development.

c. In planning and designing the construction or reconstruction of all public transportation facilities which occur within the river corridor, consideration shall be given to the provision of scenic overlooks for motorists, safe pedestrian crossings and facilities along the River Corridor, access to the riverfront in public ownership and reasonable use of the land between the river and the transportation facility.

8. Local units of government and regional and state agencies shall develop capital improvement programs which are consistent with the following guidelines:

a. A five year capital improvement program or public facilities program shall be developed which covers all public projects to be sited in the corridor.

b. The capital improvement program or public facilities program shall specify the sequence of actions to be undertaken by each public agency and shall be consistent with the standards and guidelines in Section B and C.

9. Local units of government shall reassess all lands in the River Corridor in accordance with the following guidelines:

a. Local units of government shall send copies of adopted plans and regulations and amendments of plans and regulations to appropriate municipal and county assessors within 30 days after adoption.

b. Municipal and county tax assessors shall reassess all lands in the Mississippi River Corridor for consistency with adopted plans and regulations within one year of receipt of adopted plans from local units of government.

10. Local units of government and regional and state agencies shall prepare plans and regulations in accordance with the natural characteristics and the character of existing development in the River Corridor in accordance with the following guidelines:

a. Local units of government and regional and state agencies shall prepare plans and regulations using the district boundaries as described in the Interim Development Regulations as guidelines, in accordance with the purpose of each district as described in the general guidelines Section B.

b. The City of St. Paul shall prepare plans and regulations to balance open space use and industrial and commercial developments for the Pig's Eye Lake area.

c. Local units of government may prepare modifications of the use districts boundaries as described in the interim development regulations if local units of government demonstrate to the EQC in plans and supporting documents the consistency of the proposed modification with the general guidelines.

11. Local units of government, regional agencies and state agencies shall provide adequate opportunities for public participation in the preparation of plans and regulations.

D. Reviewing plans and regulations

1. The Metropolitan Council shall be the lead agency to coordinate the preparation, submission, review and modification of land use plans, zoning ordinances, zoning amendments, capital improvement programs and other regulations, specified in section C, which are prepared by local units of government, regional and state agencies.

2. Local units of government and regional agencies shall submit existing, modified or prepared plans and regulations that comply with the designation order to the Metropolitan Council within six months of notice of the order of designation. The EQC shall review the state plans and regu-

EXECUTIVE ORDERS

lations and forward the appropriate sections to the Metropolitan Council.

3. The Metropolitan Council shall review the plans, regulations, and capital improvement programs prepared by local units of governments, regional and state agencies for consistency with regional objectives and with the order of designation. Within 45 days of receiving the plans and regulations, the Metropolitan Council shall submit its written evaluation to the EQC. Upon a request from the Metropolitan Council, the EQC may grant 30 days time extensions when the EQC determines that the Metropolitan Council has satisfactorily demonstrated that it requires more time for review.

4. The EQC shall review all plans and regulations prepared for the Mississippi River Corridor, within 45 days of receiving the plans and regulations from the Metropolitan Council. The EQC shall determine whether they are consistent with the provisions of the order of designation. When the EQC has completed the review, it shall either:

a. Approve the plans and regulations by a written decision and notify the local units of government and regional and state agencies, and the Metropolitan Council; or

b. Return them to the local units of governments, regional and state agencies, and the Metropolitan Council for modification with a written explanation of the need for modification.

5. Within 45 days of EQC's approval of the plans and regulations, local units of government, regional and state agencies shall adopt the approved plans and regulations, and shall notify the EQC.

E. Updating and re-evaluation of plans and regulations

1. Local units of government or regional and state agencies may amend their plans and regulations that have been approved by the EQC by resubmitting the plans and regulations with any recommended changes thereto, to the EQC for consideration.

2. Two years after EQC's initial approval of the plans and regulations, local units of government and regional and state agencies shall resubmit their plans and regulations with any recommended changes thereto, for review and approval by the EQC.

3. Amendments to plans and regulations shall become effective only upon the approval thereof by the EQC in the same manner as for approval of the original plans and regulations as stated in section D.

F. Development permits

1. If no plans and regulations have been adopted under the provisions of Section D, local units of government and regional and state agencies shall grant a development permit only if:

a. The development is specifically permitted by the Interim Development Regulations;

b. The development is essential to protect the public health, safety, or welfare because of an existing emergency; or

c. The registration, recordation, permit, or authorization of the development was issued prior to the date of legal notice of the EQC public hearing provided in Minn. Reg. MEQC 53(3).

2. When plans and regulations have been adopted under the provisions of section D, local units of government, regional and state agencies shall permit development only in accordance with those plans and regulations.

G. Notification of the development permits to the EQC

1. Local units of government, and regional and state agencies shall prepare administrative procedures for permit notification as a part of their plans and regulations. The local units of government, regional and state agencies shall notify the EQC of all the developments requiring discretionary actions under their rules and regulations at least 30 days before taking action on the application, unless the EQC informs the local unit of government and regional and state agencies in writing that the EQC need not be notified of certain types of applications.

2. Local units of government and regional and state agencies shall prepare procedures to notify the EQC of their final action on the development permits which require discretionary action.

H. Judicial Proceedings

If the EQC determines that the administration of the local plans and regulations is inadequate to protect the state or regional interest, the EQC may institute appropriate judicial proceedings to compel proper enforcement of the plans and regulations.

Interim Development Regulations for the Mississippi River Corridor Critical Area

A. General Provisions

Appendix C

FMR Letter to the DNR Division of Waters



Friends of the Mississippi River

360 North Robert Street • Saint Paul, MN 55101 • 651/222-2193 • fax 651/222-6005 • www.fmr.org

Working to protect the Mississippi River and its watershed in the Twin Cities area

December 13, 2007

Kent Lokkesmoe, Division Director
DNR Division of Waters
500 Lafayette Rd.
St. Paul, MN 55155



Dear Mr. Lokkesmoe,

Friends of the Mississippi River would like to thank the DNR for the opportunity to facilitate the stakeholder engagement process for the Mississippi River Critical Area study. During this process we engaged 66 stakeholders in reviewing, discussing and providing thoughtful input on the program's strengths and weaknesses and potential solutions or management options to address identified weaknesses and concerns. The stakeholder process generated many viable ideas and approaches for enhancing management of the Mississippi River Critical Area, and we believe that the information gathered in our report offers a real opportunity to move forward on several fronts to ensure protection of one of our state's most significant resources.

The purpose of this letter is to provide FMR's input as a stakeholder on the Critical Area study. During the stakeholder meetings and the subsequent writing of the report, FMR acted as an impartial mediator of the process and did not provide formal input. Five of our board members participated, but primarily acted as observers in the process. As an organization with 1,400 members and 3,000 volunteers annually who support our mission to protect and enhance the Mississippi River Corridor, FMR has an enormous stake in the Critical Area program. We offer the following suggested course of action as a reflection of our many years of working with stakeholders on corridor protection, and the valuable insights we gained by facilitating the stakeholder meetings this fall. We look forward to continuing to work with DNR, MNRRA and other key stakeholders to implement a successful strategy going forward.

Maintain a state management framework that is unique to the Mississippi River corridor

FMR supports keeping the Mississippi River critical area program, but the program needs to be strengthened in order to be successful. We are also open to the idea of creating a special category under either the state Shoreland or Wild and Scenic Rivers programs, but only if it is unique to the MNRRA corridor and if current Critical Area values, goals and boundaries for the corridor are maintained or enhanced. If the DNR decides to recommend moving corridor protection into an existing state program, we recommend an additional stakeholder meeting be held to present and discuss these options in more depth.

Keep program and authorities within DNR

We agree with the overwhelming sentiment from the stakeholders' meetings that DNR is the most appropriate agency to oversee management of the river corridor. To be successful going forward, we strongly believe the State of Minnesota and the DNR must raise the profile of the Mississippi River

as a nationally significant resource and give higher priority to managing the Critical Area corridor. Additional resources are needed for the DNR to successfully implement its activities, and it will be necessary to identify strategies to increase financial resources. FMR is interested in working collaboratively with DNR, MNRRA and other stakeholders to identify and advocate for these additional resources for program enhancements.

In implementing the program, DNR should regularly consult with other agencies and possibly establish a formal process for key agencies and/or stakeholders to meet regularly. In particular, the partnership and coordination efforts with MNRRA should be strengthened. We also recommend considering increased internal coordination with the DNR Central Region, possibly elevating reportability of the program activities to the regional director's office. Under the integrating responsibilities of the regional director, the corridor's issues may be afforded higher regional visibility, and it could well facilitate inter-divisional coordination, as well as inter-agency and stakeholder involvement.

Integrate proactive approaches and program enhancements

A number of potential strategies to enhance and clarify goals for the program had broad support from stakeholders. FMR would like to see these proactive approaches utilized alongside efforts to update rules, regulations and authorities for the program.

Outreach and technical assistance to local communities about the significance of the corridor and tools for implementing the program are needed to ensure that communities understand how and why the corridor is protected. FMR and MNRRA are currently conducting outreach about the MNRRA, the Mississippi River critical area program and the model ordinance, and we will be providing workshops for elected and appointed officials in four corridor cities in 2008. Increasing this effort to include most or all of the corridor communities would serve the river and program well, although it is expensive to carry out this work effectively. Outreach will also be most effectual if ongoing communication and technical support is provided to public officials and other key community stakeholders.

Protecting scenic and cultural resources is a common source of conflict within the critical area, and there is an urgent need to ensure these important resources are not further degraded by local decisions that do not give scenic and cultural assets sufficient priority. Developing and implementing a process to document and possibly rank scenic and cultural resources would provide a number of benefits, including establishing a baseline for corridor resources and a rationale for how they might be effectively protected through standards or rules.

Establishing and mapping priority resources for different reaches of the corridor ranked high as a preferred option among stakeholders. Although there is some danger in pitting these resources against each other, establishing which resources are high priority for protection could be an excellent outreach strategy that would serve to engage community members and officials in learning about the significance of the corridor and the resources in their reach of the river.

One area of caution regarding prioritization is revisiting the economic values of the corridor. When the program was established, navigation and industrial stakeholders were a strong lobby for ensuring that the corridor could continue to function as a navigation channel, yet there was less participation from these interests than we had hoped for during our recent stakeholder process (representatives of the Saint Paul Port Authority and Aggregate Industries came to the Developer/River Business stakeholder meeting and an FMR board member who works for Upper River Services attended the

all-stakeholder meeting). The steady migration of industrial uses, including commercial navigation, away from the river should be further evaluated during a prioritization process. Economic values were included in E.O. 79-19 specifically to support continuation of commercial navigation, but it is our view that is not the intent of the designation to consider corridor development and market land values as economic assets worthy of protection. The intention of the executive order as we view it is to allow development, provided the natural, scenic, historical, cultural, recreational (and navigation) values are not negatively impacted. Granting development (other than parks, public access, etc) a priority value would defeat the purpose of having a protective designation, and make prioritization even more ambiguous.

All of these enhancement options have significant costs and it may not be realistic for DNR to bear the cost, especially if additional resources are needed for rulemaking. FMR is eager to work with MNRRA to secure federal resources and seek new private funding that can support implementation of some of these strategies.

Establish or affirm clear and consistent goals and regulations for the corridor

During the stakeholder process, all three groups — river businesses and developers, environmental/civic groups and citizens, and local and state government, expressed the need for clear, consistent standards and definitions for the Mississippi River critical area. Local units of government want clear rules that don't require them to make subjective decisions; citizens want minimum standards that they can count on government to enforce; and developers want to know what the rules are before they invest in property in the corridor. Stakeholders in all the groups expressed the sentiment that the current framework for implementing goals for the critical area is cumbersome, time consuming and often becomes protracted in the political process. There was general agreement that more of the standards should be expressed in dimensional terms at the state level, and that performance standards need to be better defined to be attainable.

FMR believes state-level protection of the Mississippi River Critical Area needs to be reinforced and strengthened through new legislation and state rules for the corridor. Our recommendation is for legislation to provide an umbrella framework for the program that recognizes the corridor's local, state and national significance and commits the state to protection of the MNRRA corridor. Legislation should also authorize state rulemaking, decision-making oversight (project design review/technical assistance, variance certification or appeal board), and include clear direction and/or a process for Critical Area boundary amendments. A limited number of key definitions relevant to the definition of the Mississippi River Critical Area could be included in legislation to set clear parameters for the rulemaking process. Aligning the purpose, language and definitions of the legislation with shoreland and/or wild and scenic rivers statutes could be helpful for implementation at both the local and state level.

Implement oversight process for variances

FMR believes that decision-making oversight at the state level is an essential tool for corridor protection. Citizens and local units look to the state to set clear limits and developers will be more likely to settle for a compromise if there is clear oversight. FMR would support variance certification for the critical area, but we are very intrigued by the concept of a technical review panel, modeled after the wetland conservation act, that could act as an appeal board for variances.

Such an appeal board has a number of advantages from our perspective. We believe it would bring added technical expertise into the discussion of projects and affords a step back from the challenging and sometimes charged atmosphere of such decisions: We also believe it would provide a venue for

projects to be reviewed for their consistency with state and regional goals. The appeal board could also offer a natural opportunity to provide early input on projects before they are formally proposed, as well as providing the needed oversight when stakeholders charge that a poor decision has been made.

We would like to see an appeal board include members from both the private and public sectors. Members of the private sector should represent multiple viewpoints and bring a variety of technical expertise such as landscape architecture, municipal planning, land protection, ecology/restoration, water quality and economic development. Public representatives could include staff from DNR, MNRRRA, EQB, SHPO and Met Council.

We have some concerns that such a board could become a liability if its decision-making or appointment process became too political. We are interested in continuing the conceptual discussion of this idea with DNR staff and other interested parties.

Establish protective guidelines for boundary amendments

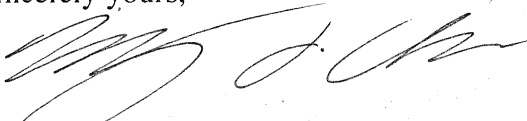
The issue of Critical Area boundary changes came up a few times during the stakeholder meetings. At the final all-stakeholder meeting, there was a strong preference for allowing boundary changes, but only if the changes maintain or increase protection of river corridor resources. FMR shares this view and suggests that setting standards for amending boundaries should be approached with caution to ensure that community development interests do not abuse such a process to increase or intensify land uses that are inconsistent with the original intent of the Critical Area designation.

We assert that Critical Area corridor boundary changes should be allowed for extreme cases only. A very strong or very weak connection to the river and its resources must be clearly demonstrated, and any change should have broad stakeholder support.

FMR is strongly opposed to changing district boundaries to accommodate urban growth. To do so makes critical area nothing more than an exercise in staging development. We believe the purpose of the Mississippi River critical area designation is to protect the resource within the context of growth, and the framers of the designation were well aware that urbanization was inevitable for many corridor communities. The process for amending boundaries should be clarified through legislation and rules to ensure corridor resources will be protected or enhanced if a district boundary change occurs.

Thank you again for the opportunity to assist the DNR in preparing the Critical Area study. We appreciate your careful consideration of our comments on moving forward with a stronger river corridor protection program that has the potential to improve outcomes for stakeholders in all categories. We look forward to continuing to work in partnership with the DNR as we move forward into the 2008 legislative session. Please feel free to contact us if you have questions about these comments or the study report.

Sincerely yours,



Whitney L. Clark
Executive Director

Mississippi River Corridor Critical Area Report to the Minnesota Legislature

Minnesota Department of Natural Resources

January 2008

Errata

March 18, 2009

An error was discovered in one of the lists of contacts for the series of stakeholder meetings arranged and held by Friends of the Mississippi River (FMR). The list of contacts labeled 'business/development' was a duplicate of the list of contacts labeled 'environmental/civic', and the business/development list of contacts was inadvertently omitted.

The correct list of business/development contacts is on the reverse side. A corrected copy of the report section on Stakeholder Meetings Attendees and Lists of Contacts, found in Appendix A of the Mississippi River Corridor Critical Area Report to the Legislature, is also attached.

First Name	Last Name	Organization
Anne	Anderson	Westwood Professional Services
Matt	Anfang	Centex Homes
Tim	Baylor	JADT Group, LLC
Bob	Bieraugel	Aggregate Industries
Bruce	Chamberlain	Hoisington Koepler Group, Inc.
Bob	Close	Close Landscape Architecture
Jean	Coleman	CR Planning
Linda	Donaldson	Brighton Development Corp.
Laura	Fernandez	For State Representative Rick Hansen
David	Frauenshuh	Frauenshugh Companies
Theresa	Greenfield	Rottlund Homes, Inc.
David	Hartwell	
Winston	Hewett	Opus
Mindy	Isaacs	American Iron
Don	Kern	Flint Hills Resources
Karolyn	Kirchgesler	Saint Paul RCVA
Nick	Koch	HGA
Michael	Lander	Lander Group
Chip	Lindeke	Rafferty, Rafferty, Tollefson
Lorrie	Louder	St. Paul Port Authority
Sherm	Malkerson	C. Chase Company
John	Mannillo	Capitol River District Council
Laurie	Miller	DR Horton Custom Homes
Laura	Mylan	Saint Paul Riverfront Corporation
Lee	Nelson	Upper River Services, Inc.
Gregory	Page	Saint Paul Riverfront Corporation
Dan	Pfeiffer	
Michael	Rainville	Twin Cities Official Visitors Guide
Karen	Reid	Neighborhood Development Alliance
Kit	Richardson	Schafer Richardson
Chris	Romano	Riverview Economic Developmen Assoc
Rusty	Schmidt	URS Corporation
David	Sellergren	Fredrikson & Byron, P.A.
John	Shardlow	Bonestroo/DSU
George	Sherman	Sherman Associates
Mark	Stutrud	Summit Brewing Company
Chuck	Sullivan	Sullivan Group Architects
Michael	Welch	Smith Partners
Steve	Wellington	Wellington Management
John	Wells	Environmental Quality Board

DNR Note: List of contacts provided and categorized by FMR as 'business/development'.

Stakeholder Meetings
Attendees and Lists of Contacts
Provided by FMR

**Mississippi River Critical Area Study
Stakeholder Engagement Meeting Participation**

GROUP	First Name	Last Name	Organization/Affiliation	Group mtgs	All SH mtg
BOARD	Michelle	Beeman	Dakota County		Nov. 7
BOARD	Peter	Gove	FMR Board	Oct. 31	
BOARD	Hokan	Miller	Upper River Services		Nov. 7
BOARD	Edward	Oliver	FMR Board	Oct. 31	
BUS/DEV	Matt	Anfang	Centex	Oct. 25	
BUS/DEV	Tim	Baylor	JADT Group, LLC	Oct. 25	
BUS/DEV	Bob	Bieraugel	Aggregate Industries	Oct. 25	
BUS/DEV	Chuck	Derscheid	St. Paul Port Authority	Oct. 25	
BUS/DEV	Linda	Donaldson	Brighton Development Corp.	Oct. 25	
BUS/DEV	Chip	Lindeke	Rafferty, Rafferty, Tollefson	Oct. 25	Nov. 7
BUS/DEV	John	Mannillo	Capitol River District Council	Oct. 30	
BUS/DEV	Laurie	Miller	DR Horton Custom Homes	Oct. 25	
BUS/DEV	Gregory	Page	Saint Paul Riverfront Corporation	Oct. 25	Nov. 7
BUS/DEV	Kit	Richardson	Schafer Richardson	Oct. 25	
BUS/DEV	Chris	Romano	Riverview Economic Development Assoc	Oct. 25	
BUS/DEV	George	Sherman	Sherman Associates	Oct. 25	
ENV/CIV	Tom	Bell	Grey Cloud Island Township Planning Commission		Nov. 7
ENV/CIV	Sharell	Benson	Sierra Club - North Star Chapter	Oct. 30	Nov. 7
ENV/CIV	Gjerry	Berquist	West Side Citizens Organization Env Committee	Oct. 30	Nov. 7
ENV/CIV	Edna	Brazaitis	Friends of the Riverfront	Oct. 30	Nov. 7
ENV/CIV	Carol	Carey	Historic Saint Paul	Oct. 30	
ENV/CIV	Tom	Dimond		Oct. 30	Nov. 7
ENV/CIV	Jim	Erkel	Minnesota Center for Environmental Advocacy		Nov. 7
ENV/CIV	Joe	Ferrer		Oct. 30	
ENV/CIV	John	Grzybek	Climb the Wind Institute	Oct. 30	
ENV/CIV	Laurie	Hawkins	Hastings Environmental Protectors	Oct. 30	

ENV/CIV	Lisa	Hondros	Nicollet Island - East Bank Neighborhood Assoc.	Oct. 30	Nov. 7
ENV/CIV	Christina	Hong	District 1 Community Council	Oct. 30	Nov. 7
ENV/CIV	Jerry	Kahlert	Sierra Club - North Star Chapter	Oct. 30	Nov. 7
ENV/CIV	Carol	Keyes-Ferrer		Oct. 30	
ENV/CIV	Pat	Kvidera	Marshall Terrace Neighborhood	Oct. 30	
ENV/CIV	Peggy	Lynch	Friends of the Parks and Trails of St. Paul/Ramsey County	Oct. 30	Nov. 7
ENV/CIV	Ciara	Schlichting	Bonestroo	Oct. 31	
ENV/CIV	Shelley	Shreffler		Oct. 30	
ENV/CIV	Laura	Silver	West Bank Community Coalition	Oct. 30	Nov. 7
ENV/CIV	Chuck	Sullivan	Above the Falls Citizen Advisory Committee	Oct. 31	
ENV/CIV	Lyndon	Torstenson	Longfellow Community Council	Oct. 30	
ENV/CIV	Jennifer	Winkelman		Oct. 30	
ENV/CIV	Georgianna	Yantos	Hawthorne	Oct. 30	
ENV/CIV	Grit	Youngquist	Friends of Lilydale	Oct. 30	
GOV	Cliff	Aichinger	Ramsey-Washington Watershed District	Oct. 31	
GOV	John	Burbanks	City of Cottage Grove	Oct. 31	
GOV	Ann	Calvert	City of Minneapolis CPED	Oct. 31	Nov. 7
GOV	Tori	Dupre	Met Council Environmental Services	Oct. 31	
GOV	Chris	Essor	City of South St. Paul Parks and Recreation	Oct. 31	
GOV	Laura	Fernandez	Representing Rep. Rick Hansen	Oct. 25	
GOV	Amy	Geisler	City of Ramsey	Oct. 31	
GOV	Rick	Hansen	MN House of Representatives	Oct. 30	
GOV	John	Hinzman	City of Hastings	Oct. 31	
GOV	Anne	Hunt	City of St. Paul - Office of the Mayor	Oct. 31	Nov. 7
GOV	Mary	Jackson	Dakota County	Oct. 31	
GOV	Craig	Johnson	League of Minnesota Cities	Oct. 31	
GOV	Sheldon	Johnson	Minnesota Legislature	Oct. 31	Nov. 7
GOV	Jason	Lindahl	City of Rosemount	Oct. 31	Nov. 7
GOV	Marilyn	Lundberg	Lilydale City Council	Oct. 31	Nov. 7
GOV	Sue	McDermott	City of Mendota Heights	Oct. 31	

GOV	Michael	McDonough	Leg. Comm. on Minnesota Resources	Oct. 31	
GOV	Erin	Murphy	MN House of Representatives	Oct. 30	Nov. 7
GOV	Lonnie	Nichols	Minneapolis Park & Recreation Board	Oct. 31	
GOV	Patrick	Nunnally	University of Minnesota		Nov. 7
GOV	Molly	Shodeen	MN DNR - Waters		Nov. 7
GOV	Larry	Soderholm	City of Saint Paul - PED	Oct. 31	
GOV	Allan	Torstenson	City of Saint Paul - PED	Oct. 31	Nov. 7
GOV	Rita	Trapp	Hoisington Koegler Group	Oct. 31	
GOV	Harvey	Turner	University of Minnesota	Oct. 31	
GOV	Carol	Zoff	MN DOT Office of Technical Support	Oct. 31	
STAFF-FMR	Whitney	Clark	Friends of the Mississippi River	Oct. 25, 30, 31	Nov. 7
STAFF-FMR	Irene	Jones	Friends of the Mississippi River	Oct. 25, 30, 31	Nov. 7
STAFF-FMR	Ryan	Kane	Friends of the Mississippi River	Oct. 25, 30, 31	Nov. 7
STAFF-FMR	Bob	Spaulding	Friends of the Mississippi River	Oct. 25, 30, 31	Nov. 7
STAFF-GOV	Michele	Hanson	MN DNR - Waters	Oct. 30, 31	Nov. 7
STAFF-GOV	Dale	Homuth	MN DNR - Division of Waters	Oct. 25, 30, 31	Nov. 7
STAFF-GOV	Steve	Johnson	National Park Service/MNRRRA	Oct. 25, 30, 31	Nov. 7
STAFF-GOV	Kathy	Metzker	MN DNR - Waters	Oct. 25	Nov. 7
STAFF-GOV	John	Wells	Environmental Quality Board	Oct. 25, 30, 31	Nov. 7
STAFF-GOV	Rebecca	Wooden	MN DNR - Waters	Oct. 30, 31	Nov. 7

First_Name	Last_Name	Organization
Anne	Anderson	Westwood Professional Services
Matt	Anfang	Centex Homes
Tim	Baylor	JADT Group, LLC
Bob	Bieraugel	Aggregate Industries
Bruce	Chamberlain	Hoisington Koegler Group, Inc.
Bob	Close	Close Landscape Architecture
Jean	Coleman	CR Planning
Linda	Donaldson	Brighton Development Corp.
Laura	Fernandez	For State Representative Rick Hansen
David	Frauenshuh	Frauenshugh Companies
Theresa	Greenfield	Rottlund Homes, Inc.
David	Hartwell	
Winston	Hewett	Opus
Mindy	Isaacs	American Iron
Don	Kern	Flint Hills Resources
Karolyn	Kirchgesler	Saint Paul RCVA
Nick	Koch	HGA
Michael	Lander	Lander Group
Chip	Lindeke	Rafferty, Rafferty, Tollefson
Lorrie	Louder	St. Paul Port Authority
Sherm	Malkerson	C. Chase Company
John	Mannillo	Capitol River District Council
Laurie	Miller	DR Horton Custom Homes
Laura	Mylan	Saint Paul Riverfront Corporation
Lee	Nelson	Upper River Services, Inc.
Gregory	Page	Saint Paul Riverfront Corporation
Dan	Pfeiffer	
Michael	Rainville	Twin Cities Official Visitors Guide
Karen	Reid	Neighborhood Development Alliance
Kit	Richardson	Schafer Richardson
Chris	Romano	Riverview Economic Developmen Assoc
Rusty	Schmidt	URS Corporation
David	Sellergren	Fredrikson & Byron, P.A.
John	Shardlow	Bonestroo/DSU
George	Sherman	Sherman Associates
Mark	Stutrud	Summit Brewing Company
Chuck	Sullivan	Sullivan Group Architects
Michael	Welch	Smith Partners
Steve	Wellington	Wellington Management
John	Wells	Environmental Quality Board

DNR Note: List of contacts provided and categorized by FMR as 'business/development'.

First_Name	Last_Name	Organization
Russ	Adams	Alliance for Metropolitan Stability
Nina	Archabal	MN Historical Society
Tom	Balcom	
Joyce	Barta	Prospect Park East River Rd Imp Assn
Shawn	Bartsh	
Brian	Bates	
Tom	Bell	
Sharell	Benson	Sierra Club - North Star Chapter
Gjerry	Berquist	
Gayle	Bonneville	St. Anthony West Neighborhood
Tim	Boyle & Sharon Wheeler	
Edna	Brazaitis	Friends of the Riverfront
Carol	Carey	Historic Saint Paul
Carolyn	Carr	LCC River Gorge Committee
Valeng	Cha	Hawthorne Area Community Council
Elissa	Cottle	Marcy Holmes Neighborhood Assn.
Rebecca & Scott	Cramer	
Dave	Dempsey	
Elizabeth	Dickinson & Christopher Childs	
Georgia	Dietz	Highland District Council
Tom	Dimond	
Karin	DuPaul	Daytons Bluff Community Council
Larry	Englund	Capitol River Coun./Dist. #17
Roberta	Englund	Webber-Camden Neighborhood Org
Jim	Erkel	MCEA
Jim	Fitzpatrick	Carpenter Nature Center
Meg	Forney & Jon Fagerson	
Katie and Rick	Fournier	
David	Frank	Warehouse Dist./North Loop Neighborhood
Carlos	Garcia Velasco	West Side Citizens Organization
Diane	Gerth	W. 7th / Fort Rd. Federation
Rhoda R.	Gilman	
Dennis	Gimmestad	State Historical Preservation Office
Carol & Rick	Greenwood	Seward Neighborhood Group
John	Grzybek	
Michael	Guest	
Rick & Suzanne	Hansen	
Karen and Scott	Harder	
Laurie	Hawkins	Hastings Environmental Protectors
Theresa	Heiland	Merriam Park Community Council
Phil	Heywood & Paula Vollmar	
Harland	Hiemstra	
Jill	Hirons Maraist	Capital River Council/Dist. #17
Michelle	Hoffman	
Tony & Diane	Hofstede	
Lisa	Hondros	Nicollet Island - East Bank Neighborhood Assoc.
Christina	Hong	District 1 Community Council
Louise	Hotka and Jill Meyer	

DNR Note: List of contacts provided and categorized by FMR as 'environmental/civic'.

First_Name	Last_Name	Organization
Joshua	Houdek	Sierra Club - North Star Chapter
Amy L.	Hubbard	Irwin Andrew Porter Foundation
Steve	Hunstad	St Paul Park City Council
Ed	Johnson	West Seventh - Fort Road Federation
Frank	Jossi	Sierra Club - North Star Chapter
Jerry	Kahlert	
Donald and Phyllis	Kahn	
Deborah	Karasov	Great River Greening
Tecla	Karpen	
John	Kerwin	
T.K. & Jan	Kilton	PPERRIA
Rosemary	Knutson	
Ron	Kroese	McKnight Foundation
Pat	Kvidera	Marshall Terrace Neighborhood
Craig	Larson and Beverly Gerdes	
Kurt	Leuthold	Steven Leuthold Family Foundation
Amy	Luesebrink	Lind-Bohanon Neighborhood Assoc.
Don	Luna	WSCO
Margaret	Lund and Chris Steller	
Peggy	Lynch	Friends of the Parks St. Paul and Ramsey County
Mary Jamin	Maguire	Marshall Terrace Neighborhood
Sheldon	Mains	
Jack	Maloney	
Jill	Maraist	
Judith	Martin	
Judith	Martin	University of Minnesota - Urban Studies
Melissa	Martinez-Sones	Macalester Groveland Community Council
Matt	Massman	
Bonnie	McDonald	Preservation Alliance of Minnesota
Kevin	McDonald	
Dan	McGuinness	National Audubon Society
Diana	McKeown	
Debbie	Meister & Gene Christenson	
Chris	Morris	McKinley Neighborhood
Steve	Morse	
Erin	Murphy	MN House of Representatives
Laura	Musacchio	
Paulette	Myers-Rich	W. 7th / Fort Rd. Federation
Julia and Brian	Nerbonne	
Tim & Lara	Norkus-Crampton	
Katie	Nyberg	Mississippi River Fund
Hillary	Oppmann & Andy Holdsworth	
Sage	Passi	
Cordelia	Pierson	The Trust for Public Land
Fred	Poehler	
Dave	Polaschek	
Michael	Prichard	
Jane	Prince	

DNR Note: List of contacts provided and categorized by FMR as 'environmental/civic' (cont.).

First_Name	Last_Name	Organization
Sherrie	Pugh Sullivan	NRRC
Jack	Ray	
Jack	Ray	Urban Boatbuilders
Dean	Rebuffoni	
Judy	Richardson	
Christie	Rock-Hantge	Downtown Minneapolis Neighborhood Assn
Mike	Romens	
Robert and Sally	Roscoe	
Shelley	Shreffler	
Laura	Silver	West Bank Community Coalition
KT	Simon-Dastych & Gerald Dastych	
Jack	Skrypek	
Bob	Spaulding	Capitol River Coun./Dist. #17
Siah	St. Clair	Springbrook Nature Center
Kathy	Stack	
Chris	Steller	
John	Stiles & Javier Morillo-Alicea	
Erin	Stojan	
Chuck	Sullivan	
Carol	Swenson	
Peck	Tierney	
William L.	Tilton	Miss. Whitewater Park Dev. Corp.
Lyndon	Torstenson	
Ted	Tucker	
Christine	Viken	
Joyce	Vincent	
Scott	Vreeland & Lorie Bergstrom	
Peter	Wagenius	
Bernie	Waibel	Seward Neighborhood Group
Bernie	Waibel	Seward Neighborhood Group
Walter and Sue	Waranka	Dayton's Bluff Community Council
Terrence	Williams & Patricia Hampl	
Jennifer	Winkelman	
Georgianna	Yantos	Hawthorne Area Community Council
Grit	Youngquist	
Dave	Zumeta	
		Nicollet Island - East Bank Neighborhood Assoc.
		Sheridan Neighborhood Organization

DNR Note: List of contacts provided and categorized by FMR as 'environmental/civic' (cont.).

First_Name	Last_Name	Organization
Jim	Abeler	MN House of Representatives
Cliff	Aichinger	Ramsey-Washington Watershed District
Joe	Atkins	MN House of Representatives
Karla	Bigham	MN House of Representatives
Larry	Bodahl	City of Newport
John	Burbanks	City of Cottage Grove
Ann	Calvert	City of Minneapolis CPED
Satveer	Chaudhary	MN Senate
Richard	Cohen	MN Senate
Sandra	Colvin Roy	Minneapolis City Council
Greg	Copeland	City of Maplewood
John	Cox	City of Champlin
Jim	Danielson	City of Mendota Hts.
Mike	Davis	MN DNR
Jim	Davnie	MN House of Representatives
Denise	Dittrich	MN House of Representatives
Augustine "Willie"	Dominguez	MN House of Representatives
Mark	Doneux	Capitol Region Watershed District
Tori	Dupre	Met Council Environmental Services
Sandy	Fecht	MN DNR - Waters
Leo	Foley	MN Senate
Matt	Fulton	City of Coon Rapids
Pat	Garofalo	MN House of Representatives
Kate	Garwood	County of Anoka
Amy	Geisler	City of Ramsey
Chris	Gerlach	MN Senate
Lisa	Goodman	Minneapolis City Council
Cam	Gordon	Minneapolis City Council
Steve	Gordon	St. Paul PlannignCommission
Rick	Hansen	MN House of Representatives
Michele	Hanson	Department of Natural Resources
Scott	Harlicker	City of Coon Rapids
Pat	Harris	Saint Paul City Council
Becky	Herman	Denmark Township
Scott	Hickok	City of Fridley
Linda	Higgins	MN Senate
John	Hinzman	City of Hastings
Brad	Hoffman	City of Brooklyn Center
Diane	Hofstede	Minneapolis City Council
Dale	Homuth	MN DNR - Division of Waters
Melissa	Hortman	MN House of Representatives
Steve	Hunstad	Saint Paul Park City Council
Anne	Hunt	City of St. Paul - Office of the Mayor
Craig	Johnson	League of Minnesota Cities
Sheldon	Johnson	Minnesota Legislature
Steve	Johnson	MNRRRA
Barbara	Johnson	Minneapolis City Council
Sheldon	Johnson	MN House of Representatives

DNR Note: List of contacts provided and categorized by FMR as 'governmental'.

First_Name	Last_Name	Organization
Michael	Jungbauer	MN Senate
Phyllis	Kahn	MN House of Representatives
Barbara	Kienberger	Ravenna Township
Steven	King	City of South St. Paul
Robert	Kirchner	City of Anoka
Judith	Krupich	Nininnger Twp
Carolyn	Laine	MN House of Representatives
Dick	Lambert	MNDOT
Kathy	Lantry	Saint Paul City Council
Dan	Larson	MN Senate
Cara	Letofsky	City of Minneapolis - Office of the Mayor
Warren	Limmer	MN Senate
Kim	Lindquist	City of Rosemount
Thomas	Link	City of INver Grove Heights
Diane	Loeffler	MN House of Representatives
Marilyn	Lundberg	Lilydale City Council
Greg	Mack	Ramsey County Parks and Rec.
Carlos	Mariani	MN House of Representatives
Sue	McDermott	City of Mendota Heights
Michael	McDonough	Leg. Comm. on Minnesota Resources
Tom	McDowell	Hennepin Parks-Natural Resources Mgmt.
Denny	McNamara	MN House of Representatives
James	Metzen	MN Senate
Matt	Moore	S. Washington Watershed District
Jan	Morlock	Office of University Relations
Pat	Mosites	Metropolitan Airports Commission
Mee	Moua	MN Senate
Joe	Mullery	MN House of Representatives
Erin	Murphy	MN House of Representatives
Lonnie	Nichols	Minneapolis Park Board
Patrick	Nunnally	U of M Mississippi River Initiative
Dennis	O'Donnell	Washington County Planning and Zoning
Joan	Olin	City of Mendota
Dennis	Ozment	MN House of Representatives
Sandra	Pappas	MN Senate
Pat	Pariseau	MN Senate
Michael	Paymar	MN House of Representatives
Joyce	Peppin	MN House of Representatives
Jeff	Perry	Anoka County Parks
Lawrence	Pogemiller	MN Senate
Jennifer	Ringold	Minneapolis Park Board
Don	Samuels	Minneapolis City Council
Ciara	Schlichting	Bonestroo
Paul	Schoenecker	Grey Cloud Island Township Board
Scott	Schulte	City of Champlin
Cindy	Sherman	City of Brooklyn Park
Katie	Sieben	MN Senate
Barry	Sittlow	City of St. Paul Park

DNR Note: List of contacts provided and categorized by FMR as 'governmental' (cont.).

First_Name	Last_Name	Organization	
Linda	Slocum	MN House of Representatives	
Kristina	Smitten	MFRA	
Douglas	Snyder	Mississippi WMO	
Larry	Soderholm	City of Saint Paul - PED	
Barbara	Sporlein	City of Minneapolis Planning Dept	
Sarah	Strommen	Ramsey City Council	
Erin	Stwora	City of Dayton	
Steve	Sullivan	Dakota County Parks and Rec	
Lucy	Thompson	City of Saint Paul - PED	
Erik	Thorvig	City of Anoka	
Dave	Thune	Saint Paul City Council	
Patricia	Torres Ray	MN Senate	
Allan	Torstenson	City of Saint Paul - PED	
Patrick	Trudgeon	City of Ramsey	
Libby	Ungar	Fresh Energy	
Ron	Warren	City of Brooklyn Center	
Bernard	Weitzman	City of Lilydale	
Rebecca	Wooden	MN DNR - Waters	
Carol	Zoff	MN DOT Office of Technical Support	
Brian	Zweber	City of Rosemount	

DNR Note: List of contacts provided and categorized by FMR as 'governmental' (cont.).



MRCCA SONAR

Exhibit F – 2014 DNR Report to Legislature on Status of MRCCA Rulemaking

MISSISSIPPI RIVER CORRIDOR CRITICAL AREA

Report to the Minnesota Legislature on Rulemaking Initiative



Minnesota Department of Natural Resources

January 2014



Statutory Authority

This document was prepared at the direction of the Minnesota Legislature in Laws of Minnesota 2013, Chapter 137, Article 2, Sec. 22.

The cost to prepare this report was \$2,360

Cover photograph by the National Park Service

For further information, contact:

Bob Meier, Assistant Commissioner

651-259-5024

Bob.Meier@state.mn.us

Laws of Minnesota 2013, Chapter 137, Article 2, Section 22.

MISSISSIPPI RIVER CORRIDOR CRITICAL AREA REPORT.

By January 15, 2014, the commissioner of natural resources shall submit a report to the chairs and ranking minority members of the senate and house of representatives committees and divisions with jurisdiction over natural resources finance and policy and the clean water fund on the status of the rulemaking authorized under Minnesota Statutes, section 116G.15

Mississippi River Corridor Critical Area (MRCCA) Rulemaking Legislative Report

Table of Contents

I. Introduction and Background	
A. Purpose	1
B. History of the MRCCA	1
C. Overview & Regulatory Framework	2
D. Recent Legislative Direction/Rulemaking	2
II. Current Rulemaking Process	
A. Schedule & Overview	3
B. Project Status and Next Steps	4
III. Issues & Future Direction of Rules	
A. Overview	5
B. Rulemaking Goals	5
C. Problems with Executive Order 79-19	6
D. Feedback from LGUs on 2011 Draft Rules	9
IV. DNR Identified Issues & Needs	
A. Streamline Administration	11
B. Strengthen & Integrate MRCCA Plans	11
C. Consider Potential to Consolidate Shoreland Programs	11
D. Develop Native Plant Communities Restoration Tool	12
V. Anticipated Costs of Rulemaking and Program Administration	
A. Short-Term Costs to Complete Rulemaking (FY14-15)	12
B. Mid-Term Costs to Develop Model Ordinances & Schedule (FY15-16)	12
C. Long-Term Costs for Local Implementation (FY16-18)	12

I. Introduction and Background

A. Purpose

This report has been prepared for the chairs and ranking minority members of the senate and house of representatives committees and divisions with jurisdiction over natural resources finance and policy and the clean water fund pursuant to Laws of Minnesota 2013, Chapter 137, Article 2, Sec. 22. The purpose of this report is to provide a status update on the rulemaking for the Mississippi River Corridor Critical Area (MRCCA) authorized under Minnesota Statutes, section 116G.15.

B. History of the MRCCA

The Mississippi River Corridor Critical Area (MRCCA) was established over 35 years ago to protect and preserve the unique natural, recreational, transportation, and cultural features of the section of the Mississippi River flowing through the Minneapolis-St. Paul Metropolitan Area. It comprises 72 miles of river and 54,000 acres of surrounding land in some 30 LGUs.

The MRCCA was designated in 1976 by Executive Order following passage of the Minnesota Critical Areas Act of 1973. The Critical Areas Act (Minn. Stat., sec. 116G) provides a general regulatory framework for protecting specific areas of the state that possess important historic, cultural, or aesthetic values or natural systems through a defined local-regional planning and regulation process. The MRCCA was the first and remains the only critical area in the state. Following is a brief history of the MRCCA.

- 1973** Minnesota passes Critical Areas Act of 1973 (Minn. Stat., sec. 116G). EQB adopts rules to implement Act (MN Rules, parts 4410.8100 – 4410.9910).
- 1976** Mississippi River and adjacent corridor designated a state critical area by Governor Wendell Anderson (Executive Order No. 130).
- 1979** Designation continued by Governor Albert Quie (Executive Order 79-19). Metropolitan Council acts to make designation permanent (Resolution 79-48).
- 1988** Mississippi National River and Recreational Area (MNRRA) established by Congress as unit of National Park Service (MNRRA shares same boundary as the MRCCA).
- 1991** MNRRA designated a state critical area per Critical Areas Act (Minn. Stat., sec. 116G.15).
- 1995** Responsibility shifts from EQB to DNR by Governor Arne Carlson (Reorganization Order 170).
- 2007** Legislature directs DNR to prepare report on the MRCCA, completed January 2008).
- 2009** Legislature amends Minn. Stat., sec. 116G.15 and directs DNR to conduct rulemaking for the Mississippi River Corridor Critical Area (MN Laws 2009, Chapter 172, Article 2, Section 5.e.).
- 2011** DNR develops draft rule after participatory stakeholder process, but rulemaking authority lapses.
- 2013** Legislature directs DNR to resume rulemaking process in consultation with local governments (Laws of Minnesota 2013, Chapter 137, Article 2, Sec. 22).

C. Overview & Regulatory Framework

The MRCCA includes 30 communities (21 cities, 5 counties, 4 townships) and several quasi-governmental entities. Most have adopted critical area plans and ordinances.

Executive Order (EO) 79-19 establishes four land use districts and establishes performance standards and guidelines for each (Figure 1):

- Rural Open Space
- Urban Open Space
- Urban Developed
- Urban Diversified

Local government units (LGUs) administer and enforce a variety of regulations to meet the performance standards, which has led to concern regarding consistency and adequacy of these regulations to protect key resources and features.

The critical area is cooperatively managed:

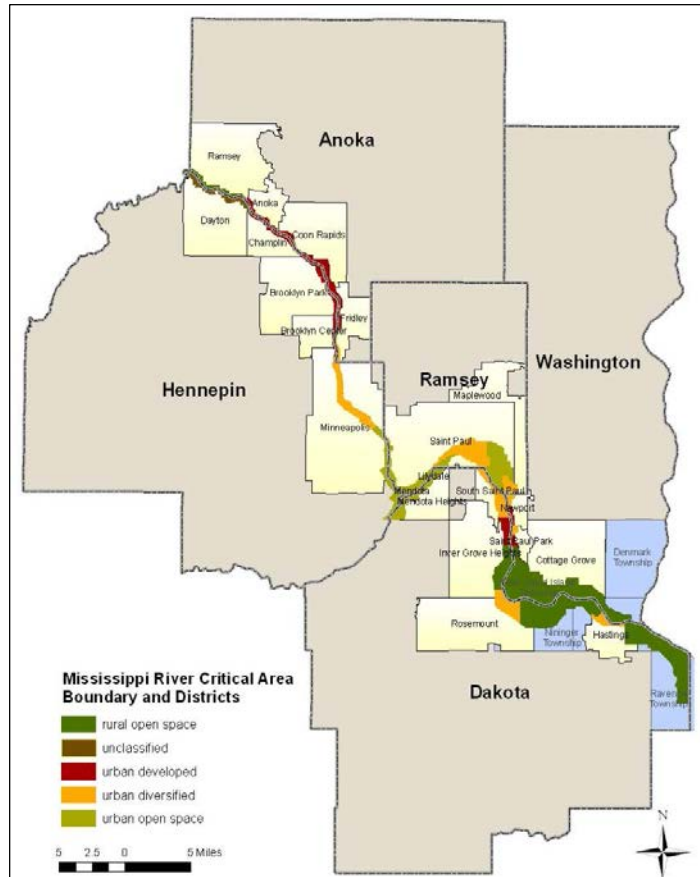
DNR Role: Reviews/approves plans and ordinances, and may review actions requiring a public hearing.

Metropolitan Council Role: Reviews plans for consistency with regional policies, EO 79-19, and MNRRA policies and submits recommendation to DNR; and provides planning assistance to local governments.

National Park Service (NPS) Role: Has provided funding to local, regional, and state agencies; encourages local governments to incorporate voluntary MNRRA policies into plans; and provides stewardship, education, and historical/cultural resource protection.

LGU Roles: Adopt DNR-approved plans and ordinances, and administer and enforce them.

Figure 1: EO 79-19 Districts



D. Recent Legislative Direction/Rulemaking

In 2009, the Legislature revised Minn. Stat., sec. 116G.15 and directed the DNR to develop MRCCA rules consistent with the revisions, and specifically with three key additions to the statute to establish: 1) new districts with consideration of the intent of the original districts included in EO 79-19; 2) minimum standards and criteria to guide development in the districts; and 3) a map to define bluffs and bluff-related features.

In response to this direction, the DNR undertook an extensive civic engagement process from 2009-2010. As part of this process, the DNR:

- established a project website and mailing list;
- notified all 30 LGUs in the MRCCA of the rulemaking and requested their assistance in notifying residents and identifying stakeholders;
- published the Request for Comments;
- met with staff and officials from each LGU to learn from their experience in administering the MRCCA program;
- convened four geographically defined advisory groups comprised of LGU, property owner, business and environmental groups to provide input during rule development; and
- held two public open houses and worked with other agencies to get feedback on draft districts and standards.

The DNR’s rulemaking authority lapsed in 2011 before the rulemaking process was completed; however, the DNR did complete a draft rules package in 2011 based on feedback received during the civic engagement process.

In 2013, the Legislature revised Minn. Stat., sec. 116G.15 and directed the DNR to resume rulemaking. Key changes to Minn. Stat., sec. 116G.15 included the following:

- directed the DNR to consult with LGUs before adopting rules;
- added the “redevelopment” of a variety of urban uses and “recreational” uses to the existing list of multiple resources for which the corridor is to be managed;
- modified the considerations for creating new districts, de-emphasizing those river features in existence in 1979 and the intent of the districts in EO 79-19 and emphasizing both the natural character and existing development of the river corridor, as well as potential for new commercial, industrial, and residential development;
- added commercial, industrial, and residential resources to the existing list of resources that must be protected or enhanced through guidelines and standards; and
- eliminated the 2009 requirement to establish regulatory bluff maps, although bluff protection continues to be a priority.

II. Current Rulemaking Process

A. Schedule and Overview

The DNR resumed rulemaking in 2013, building on the 2009-2010 civic engagement process and the 2011 draft rules package (Fig. 2). Between August and September 2013, the DNR met with LGUs and other groups in the MRCCA to review and get feedback on the 2011 draft rules. The result of these meetings is described in detail in Section III. Specifically, the DNR:

- established a new project website;
- developed a mailing list (~1,400 subscribers) and sent an email describing project status;
- met with staff and officials from each LGU to get feedback on the 2011 draft rules;
- convened two meetings hosted by Metro Cities and the League of Minnesota Cities to discuss the rulemaking effort; and

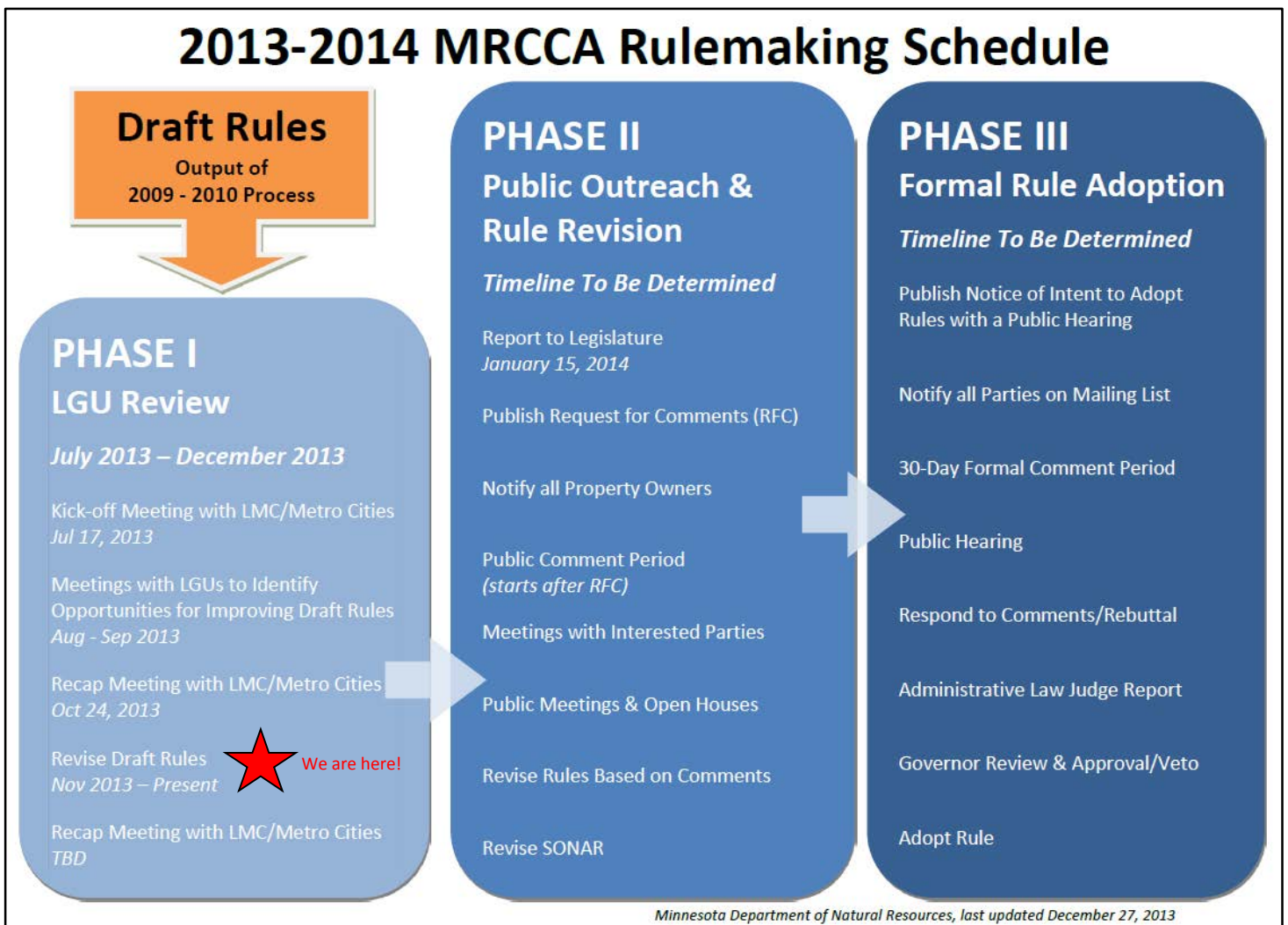
- met with the NPS and environmental groups for feedback on the 2011 draft rules.

There will be numerous other opportunities to engage the public as provided in the next section.

B. Project Status and Next Steps

The DNR is continuing to follow the rulemaking project schedule shown in Figure 2. We are currently revising the 2011 draft rules to reflect feedback received from LGUs (Phase I). Once the draft revisions are complete, the DNR will share them with Metro Cities. With feedback from these meetings, a final revised draft of the rules will be prepared to move on to Phase II.

Figure 2: Rulemaking Project Schedule



Phase II is the informal public outreach and rule revisions phase. It will begin with publishing the Request for Comments (RFC) which will include the final revised draft of the rules. These rules will be the basis of discussion and comment at public and other interested stakeholder meetings in Phase II. The DNR will notify all property owners of the RFC and inform them how they can participate in the process. Based on comments received in Phase II, the rules and SONAR (started in 2010) will be revised in preparation for Phase III.

Phase III is the formal rule adoption phase. This phase begins with publication of the Notice of Intent to Adopt Rules with a Public Hearing. The DNR will again notify all parties on the mailing list and encourage interested parties to comment during the 30-day comment period. After this period, an administrative law judge (ALJ) will preside over a public hearing to consider the rules. After the hearing, the DNR will respond to comments and the ALJ will issue a report with recommendations. The Commissioner and Governor will review the recommendations and make a decision. The decision options include approving the rules, approving the rules with modifications, or vetoing the rules.

III. Issues and Future Direction of Rules

A. Overview

The DNR resumed rulemaking in 2013 guided by the 2013 statutory changes. These changes (described in Section I.D of this report) are affecting rule development in the following ways:

- Changes to the districts and district boundaries developed in the 2009-2010 civic engagement process are needed to consider “existing development and the potential for new commercial, industrial, and residential development.” The district boundaries developed in 2009-10 were created to consider the intent of the EO 79-19 districts, a provision that was removed in 2013.
- Changes in standards and guidelines are needed to recognize, afford protection to or enhance commercial, industrial, and residential resources.
- Greater consultation with LGUs is needed to ensure that adopted rules can be administered.

B. Rulemaking Goals

The DNR is pursuing rulemaking guided by the following goals or principles:

Maintain and improve water quality and habitat

This goal is aligned with the DNR’s core mission of protecting the state’s natural resources. Towards this goal, we seek to develop regulations and policies that advance the use of best management practices and technology to protect water quality and aquatic and terrestrial habitat. Protection of these resources is considered a high priority in developing the rules and administering the program.

Better recognize existing and planned development

The 2013 changes to Minn. Stat., sec. 116G.15 emphasized the recognition of existing commercial, industrial, and residential development and the importance of redevelopment and reinvestment in land

within the corridor. Consideration of communities' underlying zoning will be an important strategy for recognizing these resources and opportunities.

Increase flexibility for LGUs

Designing rules that can adapt to evolving physical and economic conditions is important to balance the broad range of uses and stakeholder needs in the corridor. Thus, transparent and well defined processes will be built into the rules to allow administrative changes to district boundaries and to allow local governments to propose alternate standards that provide an equal level of resource protection.

Limit rules to those that can better achieve resource protection

This goal recognizes that there are limits to what state land use regulations can practically achieve within the statutory framework for local planning and zoning and the policy guidance of Minn. Stat., sec. 116G.15. The rules will focus more on measures to protect shore and bluff impact zones and other primary conservation areas within the MRCCA, because these measures best protect and enhance water quality and aquatic and terrestrial habitat and can be administered cost-effectively. The rules will focus less on land use, building height, lot size, and visibility of structures; while these measures are still important, they are not as important from a resource protection standpoint and are better left to the expertise in each local government, particularly in areas that are already intensively developed.

Simplify administration and clarify DNR evaluation criteria

This goal is aligned with the Governor's goal to reform state government to make it better, faster, simpler, and more efficient for people. Toward this goal, the DNR seeks to reduce the complexity and cost of administering the MRCCA by revising administrative procedures and standards to reduce DNR discretion. Too much discretion results in a lack of consistency and predictability over time, and can lead to distrust between the DNR and LGUs. Ultimately, this negatively affects implementation and resource protection.

C. Problems with Executive Order 79-19

EO 79-10 contains a variety of inherent problems that rulemaking seeks to resolve.

EO 79-19 Can't be Changed or Updated

There is no mechanism for revising an executive order, short of issuing a new executive order. Executive orders are not desirable methods for developing regulations that affect local land use. State rulemaking offers a transparent process that includes opportunities for public participation and provides an appropriate foundation for local land use regulation.

EO 79-19 Gives the DNR too much Discretion in Approving LGU Plans and Ordinances

The Standards and Guidelines in EO 79-19 are written as "performance standards," which describe a goal or desired end state. Performance standards lack specificity and therefore require significant discretion to administer.

This type of broad, performance-based language gives the DNR insufficient guidance and criteria for approving plans and ordinances. This creates opportunities for uncertainty, inequity, and inconsistency

in the approval process over time, and the potential for distrust between LGUs and DNR. Examples in EO 79-19 include:

Provision C.1.a. (7). This provision dealing with vegetation management states that “each local unit of government shall, with the assistance of the Metropolitan Council and state agencies prepare *regulations* for management of vegetative cutting.”

Provision C.2.b. This provision states that “structure site and location shall be *regulated* to ensure that riverbanks, bluffs and scenic overlooks remain in their natural state, and to minimize interference with views of and from the river, except for specific uses requiring river access.”

In both of these examples, the performance standards simply state that “regulations” must be prepared or something must be “regulated.” To be accepted as legitimate, regulations need to be developed in an open and transparent process that considers the impacts on a variety of stakeholders. Absent that process, the DNR must rely on its discretion to approve or deny a LGU’s plans and regulations that address these standards.

EO 79-19 Limits Redevelopment and Reinvestment

EO 79-19 applies one of four districts to all land in the corridor. The main purpose of the districts was to regulate land use as a major means for achieving the EO’s protection goals. These districts were defined based on land use in 1976. Because executive orders cannot be updated, the land use restrictions put in place in 1976 still govern development activity. This has limited the ability of communities to redevelop and encourage reinvestment.

A good example is in the City of Champlin. Champlin is interested in redeveloping the area at the Hwy 169 bridge crossing, known as the Gateway, as well as a parcel to the west. This land is all currently in the Urban Developed District. Champlin is pursuing redevelopment of these areas as walkable mixed-use neighborhoods with high density housing and new commercial buildings up to 5 stories in height with reduced setbacks from the river. This plan deviates considerably from the 35’ height limit that currently applies to the Urban Developed District, and from the management purpose of the Urban Developed District, which is “to maintain the largely residential character, and to limit expansion of commercial use.” Prohibiting this development because it conflicts with a management purpose and height restrictions developed in 1976 limits the city’s ability to achieve more sustainable development patterns and a stronger tax base.

MRCCA is Costly and Complex to Administer

The MRCCA regulatory program is costly and complex to administer for a number of reasons. Unlike all other shoreland protection programs¹ which are governed by Minn. Stat. sec. 103F, the MRCCA program requires LGUs to adopt a plan in addition to a zoning ordinance, and it requires the administration and oversight of two state agencies – the DNR and Metropolitan Council – instead of just one. Much of the program’s administrative cost is due to inefficiencies experienced by both agencies in performing tasks outside their core functions. Plan review and approval is a core function of the Metropolitan Council.

¹ Shoreland, Wild and Scenic River, and Lower St. Croix River.

Other than MRCCA ordinances, the Council does not typically review local government ordinances. Ordinance review and approval is a core function of the DNR in administering all other shoreland protection programs. Other than MRCCA plans, the DNR does not typically review local land use plans.

The procedures laid out in Minn. Stat., secs. 116G.07 -.10, and subsequently Minn. Rules 4410 and EO 79-19, also contribute to administrative costs and complexity. This statute and these rules lay out the process by which local plans and ordinances are reviewed and approved: the Metropolitan Council is responsible for reviewing plans and ordinances and making recommendations to the DNR, and the DNR is then responsible for reviewing and approving plans and ordinances based on the Council's recommendations. Written in 1973, these procedures were intended to apply to any designated critical area in the state and thus apply generically to any "regional development commission." There is no flexibility to adapt the administrative procedures to specific regional development commissions like the Metropolitan Council. Until Minn. Stat., sec. 116G is changed to recognize the Metropolitan Council and its unique planning authority and administrative procedures, and to allow for a more coordinated review process, the MRCCA will continue to be administered per a lengthy, sequential review and approval process between the Metropolitan Council and DNR. The prescribed process is inefficient and makes it difficult to align MRCCA plan review and approval with the Council's current process for regular comprehensive plan updates every 10 years, and amendments made thereto.

A byproduct of the complexity, cost, and inefficiencies of the review process is poor service to LGUs. Review and approval times for local plans and ordinances can be significant. There are instances where communication between the DNR, a LGU, and the Metropolitan Council is inconsistent, creating confusion and frustration among all parties.

Poor Resource Protection due to Vague and Outdated Language

Many resources are not adequately protected by EO 79-19 because the Standards and Guidelines are too vague to effectively implement. Examples of words or phrases that are too vague to interpret and implement or outdated are italicized below.

Provision C. 2.a (1). This provision dealing with site plans states that "new development and expansion shall be permitted only after the approval of site plans which *adequately assess and minimize adverse effects and maximize beneficial effects.*"

Provision C.2.e (2). This standard dealing with existing development requires that "local plans and regulations shall include provisions to *amortize* non-conforming uses." (Amortization of most nonconforming uses is no longer allowed under state statute.)

Provision C. 2.e (4). This provision dealing with existing development states that "local plans and ordinances shall include provisions to provide for the screening of existing development which constitutes *visual intrusion*, wherever appropriate."

Provision C.6.f. This standard dealing with maximizing the creation of open space and recreation areas, states that "In the development of residential, commercial, and industrial subdivisions,

and planned development, a developer shall be required to dedicate to the public *reasonable portions of appropriate riverfront access land or other lands in interest therein.*"

No Resource Protection Priority

Neither Minn. Stat., sec. 116G.15 nor EO 79-19 prioritizes resources for protection. Both call for the protection of a list of natural, cultural, historical, scenic, recreational, and economic resources in the corridor, all of which are presented as equal in terms of protection. Priorities are important for guiding rulemaking that achieves meaningful resource protection, and to help resolve conflicts during rulemaking and in ongoing program administration.

D. Feedback from LGUs on the 2011 Draft Rules

The DNR met with each LGU in the MRCCA between July and October 2013 to review and gather feedback on the 2011 draft rules and proposed new districts. Following is a summary of the top concerns raised by local governments.

Districts

The 2011 rules proposed seven districts, as opposed to the current four districts. The purpose of the new districts is to recognize existing development patterns and manage development activity that maintains the river corridor's character. This is primarily accomplished by regulating the distance by which structures are set back from the water and bluffs, and structure height. Minimum lot size and width standards are also used to manage development in the proposed rural and undeveloped land district (CA-2). The minimum lot size and width for all other districts are governed by underlying zoning.

Overall, LGUs believed that the proposed districts better reflect existing and proposed development than the districts required by EO 79-19. LGUs also liked the proposed provision to allow districts and district boundaries to be changed administratively instead of through rulemaking. LGUs also supported the creation of a new district (CA-5) with more flexible standards for non-riparian land that is visually and physically separated from the river by distance, topography, or major road corridors.

Some LGUs are concerned that the structure setbacks from the river and bluffs as well as the height, and minimum lots sizes in rural districts will create nonconformities. The DNR is re-evaluating these standards in each district, and in some cases re-aligning district boundaries or changing district assignments to address concerns.

Nonconformities

In addition to changing district boundaries or districts to limit the creation of new nonconforming structures, the DNR is also proposing language to explicitly allow LGUs to permit the expansion of nonconforming structures without a variance, if the expansion does not encroach further into the setback. A number of communities already successfully deal with nonconforming structures in this manner. In addition, the DNR is proposing reduced setbacks for existing development.

Subdivisions & Land Dedication

Regulating land at the time of subdivision is one of the most effective methods for protecting natural resources. The 2011 draft rules included a number of requirements for subdivisions of three or more

lots. The most significant of these was a requirement to designate a specified amount of open space and to protect primary conservation areas. The open space and primary conservation areas were to be protected through conservation easements. An additional standard required the dedication of land during the subdivision process to improve river access.

LGUs found many of the subdivision provisions to be problematic. The three lot subdivision was considered too small to compensate for the cost of reviewing and approving small developments or managing easements. Additionally, the open space standards were complex and confusing to many and unrealistic in the amount of land required. The dedication requirement was seen as duplicating similar requirements found in local ordinances. Another problem identified by LGUs is that the proposed standards focused only on new subdivisions and did not consider opportunities for resource protection and restoration through redevelopment.

In response to these issues, the DNR is proposing to apply protection standards to both subdivisions and redevelopment sites, but only to those larger than 20 acres. The standards would require the protection of a specified amount of primary conservation areas on each development site. If there are no resources or areas in need of conservation, then restoration of a specified amount of land to defined standards would be required. The land dedication requirement is being revised to encourage the dedication of river access through existing LGU dedication requirements.

Vegetation

Protecting vegetation is important for sustaining bird and other animal habitat and for stabilizing soils in order to prevent erosion and subsequent sediment and nutrient pollution in the river. LGU staff and officials understand this and generally support vegetation management provisions that protect habitat and water quality. LGUs expressed concerns with vegetation management language that was vague, unenforceable, or seemed to impose an aesthetic standard at odds with their vision of the corridor. In recognition of these concerns, the DNR is revising or eliminating vague language and focusing vegetation management standards on protecting habitat and water quality.

In addition, many LGUs have requested specific information on vegetation native to or appropriate for the MRCCA. This information is desired to help guide restoration activities for individual homeowners as well as for large developments and redevelopments. The MRCCA provides important bird habitat. Parts of the corridor are suffering from erosion problems and are in need of re-vegetation. The DNR would like to develop a software tool for the restoration of native plant communities specifically designed to guide the restoration of appropriate bird habitat and native plants that stabilize eroding shores and bluffs. The tool would show for each parcel in the MRCCA existing native plant communities, or if no communities are present, the native plant community that would be appropriate. The tool would take into account soil, slope and other site conditions to recommend plant material appropriate for ground, shrub and tree layers. The tool would build on the DNR's Native Plant Community Inventory currently available as a GIS layer.

DNR Discretion

The amount of discretion afforded to the DNR in applying the rules and in allowing divergence from the rules (“flexibility”) was of concern to a number of LGUs. Participants recommended new standards that are more specific, including criteria by which the DNR evaluates and approves local ordinances, flexibility requests, and district boundary changes. Having clear evaluation standards will benefit both the DNR and LGUs by providing better guidance for DNR staff administering the program, and increased consistency and predictability for LGUs.

IV. DNR Identified Issues and Needs

A. Streamline MRCCA Administration

Administration of the MRCCA is currently governed by Minn. Stat., secs. 116G.07-.10. These provisions were written to govern initial plan and ordinance development after a critical area was designated, and were written for a generic “regional development commission.” Today, all MRCCA communities have plans and all but two have approved ordinances. The statutory provisions do not recognize the 35-year duration of the MRCCA program or the existence of the Metropolitan Council with its own statutory authority for planning and procedures for plan review and approval. The DNR recommends changes to Minn. Stat., sec. 116G.15 in 2014 to exempt the MRCCA from the procedures in Minn. Stat., secs. 116G.07 -.10. This would allow the DNR to develop specific administrative procedures for the MRCCA through the current rulemaking process.

B. Strengthen and Integrate MRCCA Plans

MRCCA plans that local governments are required to prepare under Minn. Stat., sec. 116G.07 are reviewed by the Metropolitan Council similar to other elements of comprehensive plans, but are not treated as a required component of local comprehensive plans under Minn. Stat., sec. 473.859. As a result, MRCCA plans are often considered in isolation from other comprehensive plan elements. Amending Minn. Stat., sec. 473 to incorporate the MRCCA plans as a required comprehensive plan component for corridor communities would give the MRCCA plans more weight and ensure a higher level of integration. It would also help ensure that MRCCA plans are updated on the same cycle as other plan components. DNR staff is discussing this issue with the Metropolitan Council, League of Minnesota Cities, and Metro Cities.

C. Consider Potential to Consolidate Shoreland Programs

The MRCCA is similar in purpose to other DNR-administered shoreland protection programs (Shoreland, Wild and Scenic River, Lower St. Croix Riverway) in preserving and protecting surface water quality and in conserving the economic and environmental values of shoreland areas. All programs regulate land development activity in near shore areas through local zoning ordinances that are approved by the DNR for consistency with state regulations. While all the programs share similar purposes, each has its own specific standards and administrative procedures, making them complex and costly to administer, especially for communities covered by more than one program. The specific standards and

administrative procedures of each program do not provide better resource protection for the state's shoreland areas, only additional complexity and cost. There are significant opportunities to reduce costs to state and local government, while maintaining resource protection, by consolidating the state's shoreland protection programs. Achieving these opportunities will require revisions to Minn. Stat., sec. 103F and Minn. Stat., sec. 103G to renew rulemaking authority.

D. Develop Native Plant Communities Restoration Tool

Many communities have requested specific tools and resources to restore native plant communities in the MRCCA. The DNR is exploring options to address these needs and opportunities with the NPS.

V. Anticipated Costs of Rule-Making

A. Short-Term Costs to Complete Rulemaking (FY14 –15)

In 2013, the Legislature appropriated \$100K in Clean Water funds to the DNR to complete the MRCCA rulemaking; however, due to increased involvement by local governments and other stakeholders, it is anticipated that the total costs will be closer to \$175K.

As of the date of this report, the DNR is still in Phase I of the rulemaking project and has spent over \$50K. Costs incurred so far include salary and expenses for 0.8 FTE (portions of three existing staff) serving on the project team. It does not include the time of DNR area hydrologists and other staff attending meetings with LGUs and providing input on the draft rules. DNR estimates it will cost an additional \$125K to complete Phases I, II, and III. The scope of work in Phase I has grown to include revisions to the draft rules prior to publishing the Request for Comments in Phase II. This was not initially planned for, but is necessary given concerns expressed by LGUs. In the second half of FY14, the DNR intends to add 0.6 FTE of staff to help the existing project team coordinate public outreach and make final revisions to the draft rules and SONAR in Phase II, and coordinate the formal comment period and hearing process in Phase III. In Phase III there will be additional costs associated with publishing the Notice of Intent, holding public hearings, and ALJ review.

It should be noted that LGUs and the Metropolitan Council are also incurring costs through their staff participation in the rulemaking project.

B. Mid-term Costs to Develop Model Ordinances & Schedule (FY15-16)

Once the rules are promulgated, DNR estimates it will cost approximately \$75- \$100K over a 1 year timeframe for DNR staff time to develop model ordinance modules and other tools to aid local implementation, and to work with Metropolitan Council staff to develop and implement a notification schedule, internal procedures and tools, and a tracking system for local plan and ordinance updates.

C. Long-term Costs for Local Implementation (FY16 – 18)

DNR anticipates that local notification and adoption will be phased over a minimum 3 year timeframe, and that there will be costs to LGUs, DNR, and Metropolitan Council. Based on survey feedback in 2010,

LGUs estimated that updates to local plans and ordinances to comply with the rules would average \$5K per community. DNR anticipates that these costs will be higher in the future, likely closer to \$7-10K per community. For 30 communities, this is a total cost of approximately \$200-\$300K.

In addition, DNR will have estimated costs of approximately \$75K - \$100K/year for staff time working with Metropolitan Council staff to review and approve local plans and ordinances, monitor and track progress, and provide additional support as needed. These are rough estimates; however, it is clear that there will be costs beyond those incurred for the rulemaking to effectively implement the new rules.

Table 1: Summary of Costs	DNR	LGUs
Rulemaking Phases I - III (FY14-15)	\$175K	TBD
Model Ordinances & Notification Schedule (FY15-16)	\$75-\$100K	
Local Implementation (FY16-18)	\$225-\$300K	\$200-\$300K
Total	\$475-\$575K	\$200-\$300K