Minnesota Water Resources Board

500 Lafayette Road
First Floor
St. Paul, Minnesota
55146

STATE OF MINNESOTA)
)ss
COUNTY OF RAMSEY)

AFFIDAVIT

MEL SINN being first duly sworn on oath, deposes and says:

THAT HE IS the Executive Director for the Minnesota Water Resources Board; that HE has compared the attached copy of an Order relating to the Establishment of the Sauk River Watershed District in Douglas, Meeker, Pope, Stearns, and Todd Counties dated at Saint Paul, Minnesota, on the 22nd day of July 1986 with the original thereof on file in HIS official custody; and THAT SAID COPY is a true and correct copy of said original and the whole thereof.

Mel Sinn
Executive Director

STATE OF Minnesota
COUNTY OF Ramsey

Subscribed and sworn to before me this 22nd day of July 1986

ALBERT J. BRAMSTEDT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES JANUARY 9, 1989

My Commission Expires 1-9-89

Albert J. Bramstedt

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

JUL 23 1986

Joan Anderson Growe
Secretary of State

#36786

Minnesota Water Resources Board
500 Lafayette Road
Box 34
St. Paul, Mn. 55146

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUL 23 1986
Joan Anderson Growe
Secretary of State

In the Matter of the Petition for the Establishment of the Sauk River Watershed District filed on January 21, 1986 (Minn. Stat. Sections 112.37 and 112.38)

FINDINGS OF FACT, CONCLUSIONS OF LAW, ORDER

On January 17, 1986 a nominating petition for the establishment of the Sauk River Watershed District signed by over 400 landowners was filed with the Water Resources Board (Board) pursuant to Minn. Stat. ch. 112 (1984). Additional nominating petitions were filed on January 21, February 5, February 21, and February 26, 1986. The territory of the proposed District included the entire watershed of the Sauk River. A public hearing on the proposed Sauk River Watershed District was held on March 13, 1986 in Cold Spring, Minnesota, and continued on March 20, 1986 in Osakis, Minnesota. The report of the administrative law judge, Phyllis Reha, was received by the Board on May 19, 1986.

The Board provided the parties to the proceeding an opportunity to present oral argument on the administrative law judge's report at a regular Board meeting on June 13, 1986. No written exceptions to the report were filed with the Board.

Two Board members attended the entire hearing; two Board members attended the Cold Spring portion of the hearing only; and one Board member did not attend the hearing. Board members reviewed the hearing transcript for those portions of the hearing they did not attend.

Having considered the entire record of the proceeding, including the oral argument presented on the administrative law judge's report, the Board makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

I. Findings 1 through 66 of the attached report of Administrative Law Judge, Phyllis A. Reha, are adopted by the Board with the following exceptions:

A. Strike the last sentence of Finding 20, and insert the following: "The petition stated that the primary objection to the proposed watershed district is the creation of a governing body with taxing authority that is not directly accountable to the electorate."

B. Strike the last sentence of Finding 22, and insert the following: "About sixty comments from property owners around Big Fish Lake opposed the inclusion of Big Fish Lake or Collegeville Township within the boundary of the proposed watershed district."

C. Strike the last two sentences of Finding 43.

D. After the word "ordinances" in the first sentence of Finding 46 insert "approved by the Commissioner of the MDNR."

E. Strike the first sentence of Finding 47, and insert the following: "The Director of the DOW of the MDNR expects that Douglas, Meeker, Pope, and Todd Counties will adopt approved floodplain regulations for unincorporated areas within the next two years."

F. Strike the first sentence of Finding 48, and insert the following: "Watershed Districts can serve as an effective vehicle for comprehensive local water resources management."

G. Strike the words "Area Soil" in the fifth sentence of Finding 49, and insert "Agricultural Stabilization".

H. Strike all of the wording of Finding 58, and insert the following: "Both the Petitioners and the Department of Natural Resources used U.S. Geological Survey 7.5 Minute Series Quadrangle Topographic Maps to determine the watershed divide of the Sauk River basin. The total area was delineated on 35 individual topographic maps. When these 35 maps are put together, they include the entire watershed district boundary. The wide orange lines on these maps indicate the Sauk River watershed divide. The wide black lines on these maps delineate the existing legal boundaries of the North Fork Crow River and Clearwater River Watershed Districts where they adjoin the southern and southwestern parts of the proposed Sauk River Watershed District. The Director of the Division of Waters of the Department of Natural Resources recommends that coterminous boundaries be established for adjacent watershed districts to avoid gaps and overlaps in the boundaries of adjacent watershed districts."

I. Strike Finding 61.

J. Strike all of the wording of Finding 65, and insert the following: "Big Fish Lake is located in Collegeville Township in the southeast portion of the Sauk River watershed. Big

Fish Lake is spring fed. Water that outlets from Big Fish Lake flows southwesterly to Eagle Lake, and then southerly to Schneiders Lake and the lower portion of the Horseshoe Lake Chain of Lakes. Many Big Fish Lake area residents submitted letters into the record stating that they believed they would not benefit from a watershed district and would object to paying for the improvement of the Horseshoe Lake Chain of Lakes." (Petitioners' Exh. 2, "Avon" and "Cold Spring" topographic maps).

II. The Board makes the following additional findings:

67. The Big Fish Lake Sportsmen Club has funded studies and projects aimed at protecting and improving the water quality of the lake. In 1972 the Big Fish Lake Sportsmen Club hired George Anderson, Jr. of St. Cloud State University to conduct a water quality investigation of Big Fish Lake. Mr. Anderson's report cost the Club over $2,000. One of his recommendations for water quality protection was to lower the lake level by 1 to 1.5 feet to reduce shoreline erosion and nutrient enrichment. The MDNR did not endorse the concept of lowering the lake. In 1982 the Club spent $600 to hire Dr. Keith Knutson to investigate the condition of Big Fish Lake and update the 1973 Anderson report. Dr. Knutson found that: the lake contained dissolved oxygen to a depth of 45 feet in 1972, but only to 29 feet in 1982; algae concentration trippled from 1.3 ug of green pigment-chlorophyll per liter in 1972, to 3.9 ug per liter in 1982; average phosphate levels increased from .07 mg per liter in

1972, to .08 mg per liter in 1982; average nitrate nitrogen levels increased from .06 mg per liter in 1972, to .07 mg per liter in 1982; and average water transparency dropped from 13 feet in 1972, to 11.5 feet in 1982. These findings indicated a decline in water quality from 1972 to 1982. The Knudson report stated that deep lakes with sandy and rocky shorelines and small contributing watersheds, like Big Fish, should not deplete all deep water oxygen. He concluded that the dramatic change in dissolved oxygen was probably due to increased aquatic plant production in the lake; possibly the result of erosion of rich soils from lakeshore properties. Dr. Knudson's findings led the Sportsmen Club to initiate a project in 1983 to help stabilize the lake level by constructing a weir in the lake's outlet channel. Club members worked with the U.S. Army Corps of Engineers, the MDNR, local government, and local landowners during project planning and implementation. The weir and other outlet improvements were completed in November 1984. The Club raised $2,189 to fund the project. Club member Matthew Peters began taking summer secchi disc and ph readings in Big Fish Lake in 1985 as part of the MPCA's volunteer citizens lake monitoring program. (Ex. 387)

68. Arguments made by intervenors in opposition to the proposed Sauk River Watershed District included the following: property owners could not afford the costs associated with the operation of a watershed district because of poor economic conditions and the level of existing taxes; the

proposed district would be an unnecessary layer of government because it would duplicate and overlap existing water management programs of local units of government and state and federal agencies; the district would not be accountable to the electorate because the managers would be appointed; the district would impose an unfair burden on the agricultural community because the costs of administering the district would be derived from the property tax; much of the area of the proposed district does not contribute to the water problems in the Horseshoe Lake Chain of Lakes; it would be difficult to terminate the watershed district; watershed districts are ineffective at solving water quality problems; the Minnesota Watershed Act is not very democratic because it allows 50 people to initiate a watershed district establishment proceeding regardless of the population within the proposed district; and that the existing units of government in the area could work together to solve the area's water problems.

69. Todd County has a zoning ordinance that contains sections dealing with, among other things, Soil Erosion and Sediment Control, Sewage Treatment Standards, Livestock Feedlots, Shoreland Zoning, and Floodplain. Agricultural lands are exempted from the Erosion and Sediment Control provisions of the ordinance. The Sewage Treatment Standards do not appear to apply to individual septic systems located outside of designated shoreland and floodplain areas. The Livestock Feedlots section contains the following setback

requirements: no feedlot shall be located within one thousand (1,000) feet of the normal high water mark of any lake, pond, or flowage, or within three hundred (300) feet of a river or stream. The Shoreland Zoning section contains provisions regulating grading and filling in shoreland areas. Although the ordinance contains provisions on floodplain regulation, the Director of the Division of Waters of the MDNR reported that Todd County has no approved floodplain ordinance. (Intervenor's Ex. 8 and WRB Ex. 15)

70. The Douglas SWCD has three no-till drills available for rent, and the Todd SWCD has one no-till drill. It is estimated that at least 25% of Douglas County farmers and 30% of Todd County farmers participate in conservation programs. Doug Rutten, Douglas SWCD Supervisor, and Alfred Hoglund, Todd SWCD Supervisor, both testified that they believed Chapter 112 (Minnesota Watershed Act) was duplicative of Chapter 40 (Soil and Water Conservation Districts Law). Doug Rutten also testified that he didn't think the proposed watershed district was needed. SWCDs do not have the powers of taxation, regulation, or eminent domain. (Osakis Transcript pp. 94-125)

71. Jerry Callaghan, Douglas County Commissioner, testified that the Douglas County Board had not yet given any consideration to preparing a county water plan under the Comprehensive Local Water Management Act - Minn. Stat. chapter 110B. (Osakis Transcript p. 52)

CONCLUSIONS OF LAW

I. Conclusions 1 through 7 of the attached report of Administrative Law Judge, Phyllis A. Reha, are adopted by the Board with the following exceptions:

A. Strike the last two sentences of Conclusion 4.

B. Strike all of Conclusion 5.

II. The Board makes the following additional conclusions:

8. The water quality goals of property owners on Big Fish Lake are consistent with the purposes of a watershed district. Inclusion of Big Fish Lake in a Sauk River Watershed District could assist Big Fish Lake property owners in accomplishing future water quality investigations, planning, regulation, and lake improvement and protection projects.

9. The arguments made by intervenors in opposition to the proposed Sauk River Watershed District do not demonstrate that the proposed District would not be for the public welfare and public interest and subserve the purposes of the Minnesota Watershed Act.

10. The evidence shows a broad range of water-related problems throughout the watershed of the Sauk River and the need for coordinated water resources planning and management.

11. A watershed district can coordinate water management in the Sauk River watershed across the many local governmental units affected through planning, public education, regulation, and project implementation.

IT IS THEREFORE ORDERED THAT

I. The proposed Sauk River Watershed District is hereby established and given the corporate name of "Sauk River Watershed District". The District shall have all the powers, duties, and purposes provided by law.

II. The territory of the Sauk River Watershed District includes all of the tracts of land described below, including all bodies of water therein. The described lands may contain all or parts of quarter-quarter tracts, government lots, and lots within platted areas. The territory of the Sauk River Watershed District is described as follows:

A. Douglas County — 5th Principal Meridian

1. Township 129 North, Range 37 West (Carlos)

SE 1/4 of SE 1/4	Section	24
NE 1/4	"	25
SE 1/4 of NW 1/4	"	25
S 1/2	"	25
SE 1/4 of NE 1/4	"	26
E 1/2 of SE 1/4	"	26
NE 1/4	"	35
NE 1/4 of NW 1/4	"	35
N 1/2 of SE 1/4	"	35
All of Section	"	36.

2. Township 129 North, Range 36 West (Belle River)

SW 1/4	Section	19
W 1/2 of SE 1/4	"	19
SE 1/4 of SE 1/4	"	19
All of Section	"	25
E 1/2 of NE 1/4	"	26
SW 1/4 of NE 1/4	"	26
SE 1/4 of NW 1/4	"	26
E 1/2 of SW 1/4	"	26
SE 1/4	"	26

2. Township 129 North, Range 36 West (Belle River) (Cont.)

SE 1/4 of NE 1/4	Section	28
S 1/2	"	28
SE 1/4 of SE 1/4	"	29
All of Sections	Sections	30 and 31
E 1/2 of E 1/2	Section	32
S 1/2 of NW 1/4	"	32
SW 1/4 "	"	32
SW 1/4 of SE 1/4	"	32
All of Section	"	33
W 1/2 of NE 1/4	"	34
W 1/2	"	34
SE 1/4	"	34
NE 1/4	"	35
NE 1/4 of NW 1/4	"	35
S 1/2 of NW 1/4	"	35
S 1/2	"	35
All of Section	"	36.

3. Township 128 North, Range 37 West (Alexandria)

N 1/2	Section	1
E 1/2 of SW 1/4	"	1
NW 1/4 of SW 1/4	"	1
SE 1/4	"	1
E 1/2 of NE 1/4	"	2
NW 1/4 of NE 1/4	"	2
E 1/2	"	12
E 1/2 of NW 1/4	"	12
NE 1/4	"	13
E 1/2 of NW 1/4	"	13
S 1/2	"	13
SW 1/4 of NE 1/4	"	14
E 1/2 of SW 1/4	"	14
SW 1/4 of SW 1/4	"	14
SE 1/4	"	14
E 1/2	"	23
NE 1/4 of NW 1/4	"	23
E 1/2 of SW 1/4	"	23
All of Sections	Sections	24 and 25

3. Township 128 North, Range 37 West (Alexandria) (Cont.)

E 1/2	Section	26
NE 1/4 of NW 1/4	"	26
NE 1/4 of SW 1/4	"	26
E 1/2	"	35
SE 1/4 of SW 1/4	"	35
All of Section	"	36.

4. Township 128 North, Range 36 West (Osakis)

All of Sections	Sections	1 through 36, incl.

5. Township 127 North, Range 37 West (Hudson)

All of Section	Section	1
E 1/2	"	2
E 1/2	"	11
SE 1/4 of SW 1/4	"	11
All of Section	"	12
N 1/2	"	13
E 1/2 of SW 1/4	"	13
NW 1/4 of SW 1/4	"	13
SE 1/4	"	13
NE 1/4	"	14
NE 1/4 of NW 1/4	"	14
S 1/2 of NW 1/4	"	14
NE 1/4 of SW 1/4	"	14
N 1/2 of SE 1/4	"	14

6. Township 127 North, Range 36 West (Orange)

All of Sections	Sections	1 through 18, incl.
NE 1/4	Section	19
NE 1/4 of NW 1/4	"	19
N 1/2	"	20
SE 1/4	"	20
All of Sections	Sections	21 through 28, incl.
SE 1/4 of SE 1/4	Section	29

6. Township 127 North, Range 36 West (Orange) (Cont.)

E 1/2 of NE 1/4	Section	32
SW 1/4 of NE 1/4	"	32
E 1/2 of SW 1/4	"	32
SE 1/4	"	32
All of Sections	Sections	33 through 36, incl.

B. Todd County — 5th Principal Meridian

1. Township 129 North Range 35 West (Leslie)

SE 1/4 of SW 1/4	Section	12
All of Section	"	13
SE 1/4 of NE 1/4	"	14
E 1/2 of SE 1/4	"	14
S 1/2 of S 1/2	"	20
S 1/2 of S 1/2	"	21
SW 1/4 of SW 1/4	"	22
NE 1/4 of NE 1/4	"	23
S 1/2 of NE 1/4	"	23
SE 1/4 of SW 1/4	"	23
SE 1/4	"	23
All of Sections	Sections	24 through 26, incl.
NW 1/4 of NW 1/4	Section	27
S 1/2 of NW 1/4	"	27
S 1/2	"	27
All of Sections	Sections	28 through 36, incl.

2. Township 129 North, Range 34 West (Reynolds)

S 1/2 of SW 1/4	Section	17
SW 1/4 of SE 1/4	"	17
NW 1/4 of NW 1/4	"	18
S 1/2 of NW 1/4	"	18
S 1/2	"	18
All of Section	"	19
W 1/2 of NE 1/4	"	20
W 1/2	"	20
SE 1/4	"	20

2. Township 129 North, Range 34 West (Reynolds) (Cont.)

NW 1/4 of SW 1/4	Section	21
S 1/2 of SW 1/4	"	21
SW 1/4 of NW 1/4	"	27
NW 1/4 of SW 1/4	"	27
S 1/2 of SW 1/4	"	27
SW 1/4 of SE 1/4	"	27
All of Sections	Sections	28 through 33, incl.
NW 1/4 of NE 1/4	Section	34
S 1/2 of NE 1/4	"	34
W 1/2	"	34
SE 1/4	"	34
E 1/2	"	35
SE 1/4 of NW 1/4	"	35
SW 1/4	"	35
NW 1/4	"	36
NW 1/4 of SW 1/4	"	36.

3. Township 128 North, Range 35 West (Gordon)

All of Sections	Sections	1 through 36, incl.

4. Township 128 North, Range 34 West (Little Sauk)

W 1/2 of SW 1/4	Section	1
NW 1/4 of NE 1/4	"	2
S 1/2 of NE 1/4	"	2
W 1/2	"	2
SE 1/4	"	2
All of Sections	Sections	3 through 11, incl.
W 1/2 of NW 1/4	Section	12
SW 1/4	"	12
NW 1/4 of NE 1/4	"	13
W 1/2	"	13
W 1/2 of SE 1/4	"	13
All of Sections	Sections	14 through 23, incl.
NW 1/4 of NE 1/4	Section	24
E 1/2 of NW 1/4	"	24
W 1/2 of W 1/2	"	24
SE 1/4 of SW 1/4	"	24
SW 1/4 of SE 1/4	"	24

4. Township 128 North, Range 34 West (Little Sauk) (Cont.)

SW 1/4 of NE 1/4	Section	25
W 1/2	"	25
W 1/2 of SE 1/4	"	25
SE 1/4 of SE 1/4	"	25
All of Sections	Sections	26 through 36, incl.

5. Township 128 North, Range 33 West (Round Prairie)

SE 1/4 of SE 1/4	Section	4
E 1/2	"	9
SW 1/4	"	9
W 1/2 of NW 1/4	"	10
SW 1/4	"	10
SW 1/4 of SE 1/4	"	10
W 1/2 of E 1/2	"	15
W 1/2	"	15
SE 1/4 of SE 1/4	"	15
All of Section	"	16
E 1/2 of NE 1/4	"	17
NE 1/4 of SE 1/4	"	17
SE 1/4 of NE 1/4	"	19
SE 1/4	"	19
S 1/2 of NE 1/4	"	20
NW 1/4	"	20
S 1/2	"	20
All of Section	"	21
NW 1/4 of NE 1/4	"	22
W 1/2	"	22
W 1/2 of SE 1/4	"	22
SW 1/4 of SW 1/4	"	26
NW 1/4	"	27
S 1/2	"	27
All of Sections	Sections	28 and 29, incl.
E 1/2	Section	30
NE 1/4 of NW 1/4	"	30
S 1/2 of NW 1/4	"	30
SW 1/4	"	30
All of Sections	Sections	31 through 34, incl.

5. Township 128 North, Range 33 West (Round Prairie) (Cont.)

S 1/2 of NE 1/4	Section	35
NW 1/4	"	35
S 1/2	"	35
W 1/2 of SW 1/4	"	36.

6. Township 127 North, Range 35 West (West Union)

All of Sections	Sections	1 through 30, incl.

7. Township 127 North, Range 34 West (Kandota and west part of Birchdale)

All of Sections	Sections	1 through 30, incl.

8. Township 127 North, Range 33 West (Birchdale)

NW 1/4 of NE 1/4	Section	1
S 1/2 of NE 1/4	"	1
NW 1/4	"	1
S 1/2	"	1
All of Sections	Sections	2 through 30, incl.

9. Township 127 North, Range 32 West (Grey Eagle)

S 1/2 of S 1/2	Section	7
NE 1/4 of SE 1/4	"	7
SW 1/4 of NE 1/4	"	8
SE 1/4 of NW 1/4	"	8
S 1/2	"	8
SW 1/4	"	9
W 1/2 of SE 1/4	"	9
SE 1/4 of SE 1/4	"	9
E 1/2 of SW 1/4	"	10
SW 1/4 of SW 1/4	"	10
W 1/2 of SE 1/4	"	10
SW 1/4 of NW 1/4	"	14
SW 1/4	"	14
W 1/2 of SE 1/4	"	14
All of Sections	Sections	15 through 22, incl.
N 1/2 of NW 1/4	Section	23
SW 1/4 of NW 1/4	"	23
SW 1/4 of SW 1/4	"	23

9. Township 127 North, Range 32 West (Grey Eagle) (Cont.)

SE 1/4 of SW 1/4	"	25
S 1/2 of SE 1/4	"	25
NW 1/4 of NW 1/4	"	26
NE 1/4	"	27
W 1/2	"	27
W 1/2 of SE 1/4	"	27
SE 1/4 of SE 1/4	"	27
All of Sections	Sections	28 through 30, incl.

C. Pope County — 5th Principal Meridian

1. Township 126 North, Range 37 West (Leven)

SE 1/4 of NE 1/4	Section	24
N 1/2 of SE 1/4	"	24
SE 1/4 of SE 1/4	"	24
E 1/2 of NE 1/4	"	25.

2. Township 126 North, Range 36 West (Westport)

All of Sections	Sections	1 through 4, incl.
NE 1/4	Section	5
NE 1/4 of NW 1/4	"	5
N 1/2 of SE 1/4	"	5
W 1/2 of NE 1/4	"	7
SE 1/4 of NE 1/4	"	7
E 1/2 of NW 1/4	"	7
S 1/2	"	7
NE 1/4	"	8
S 1/2 of NW 1/4	"	8
S 1/2	"	8
All of Sections	Sections	9 through 17, incl.
E 1/2	Section	18
N 1/2 of NW 1/4	"	18
SE 1/4 of NW 1/4	"	18
NE 1/4 of SW 1/4	"	18
S 1/2 of SW 1/4	"	18
All of Sections	Sections	19 through 30, incl.
E 1/2	Section	31
E 1/2 of NW 1/4	"	31
SW 1/4	"	31
All of Sections	Sections	32 through 36, incl.

3. Township 125 North, Range 37 West (Glenwood)

E 1/2 of NE 1/4	Section	1
E 1/2 of SW 1/4	"	1
SE 1/4	"	1
E 1/2	"	12
E 1/2 of NW 1/4	"	12
E 1/2 of SW 1/4	"	12
SW 1/4 of SW 1/4	"	12
All of Section	"	13
SE 1/4 of NE 1/4	"	14
NE 1/4 of SE 1/4	"	14
N 1/2 of NE 1/4	"	24
NE 1/4 of NW 1/4	"	24

4. Township 125 North, Range 36 West (Grove Lake)

All of Sections	Sections	1 through 9, incl.
N 1/2	Section	10
SW 1/4	"	10
NW 1/4 of SE 1/4	"	10
N 1/2	"	11
N 1/2 of SE 1/4	"	11
SE 1/4 of SE 1/4	"	11
All of Section	"	12
NE 1/4 of NE 1/4	"	13
NW 1/4 of NW 1/4	"	15
N 1/2 of N 1/2	"	16
SW 1/4 of NW 1/4	"	16
N 1/2	"	17
N 1/2	"	18
SW 1/4	"	18
N 1/2 of SE 1/4	"	18.

D. Stearns County — 5th Principal Meridian

1. Township 127 North, Range 35 West (Ashley)

All of Sections	Sections	31 through 36, incl.

2. Township 127 North, Range 34 West (Sauk Centre)

All of Sections	Sections	31 through 36, incl.

3. Township 127 North, Range 33 West (Melrose)

All of Sections	Sections	31 through 36, incl.

4. Township 127 North, Range 32 West (Millwood)

All of Sections	Sections	31 through 33, incl.
W 1/2 of E 1/2	Section	34
W 1/2	"	34
E 1/2 of SE 1/4	"	35
SW 1/4 of SE 1/4	"	35
NE 1/4	"	36
E 1/2 of NW 1/4	"	36
SW 1/4 of NW 1/4	"	36
S 1/2	"	36.

5. Township 127 North, Range 31 West (Krain)

Gov't. Lots 4, 5, 7, 8, 9, 10, 11 and 12	Section	31
W 1/2 of SE 1/4	"	31

6. Township 126 North, Range 35 West (Ashley)

All of Sections	Sections	1 through 36, incl.

7. Township 126 North, Range 34 West (Sauk Centre)

All of Sections	Sections	1 through 36, incl.

8. Township 126 North, Range 33 West (Melrose)

All of Sections	Sections	1 through 36, incl.

9. Township 126 North, Range 32 West (Millwood)

All of Sections	Sections	1 through 36, incl.

10. Township 126 North, Range 31 West (Krain)

W 1/2 of NW 1/4	Section	5
SW 1/4	"	5
S 1/2 of SE 1/4	"	5
All of Sections	Sections	6 and 7
W 1/2 of NE 1/4	Section	8
W 1/2	"	8
SW 1/4 of SE 1/4	"	8
NW 1/4 of NW 1/4	"	16

10. Township 126 North, Range 31 West (Krain) (Cont.)

N 1/2	Section	17
SW 1/4	"	17
N 1/2 of SE 1/4	"	17
SW 1/4 of SE 1/4	"	17
All of Sections	Sections	18 and 19
W 1/2 of NE 1/4	Section	20
SE 1/4 of NE 1/4	"	20
W 1/2	"	20
SE 1/4	"	20
N 1/2	"	29
SW 1/4	"	29
N 1/2 of SE 1/4	"	29
SW 1/4 of SE 1/4	"	29
All of Section	"	30
N 1/2 except for NE 1/4	"	31
S 1/2	"	31
NE 1/2 of NW 1/4	"	32
W 1/2 of SW 1/4	"	32.

11. Township 125 North, Range 35 West (Raymond)

All of Section	Section	1
NW 1/4 of NE 1/4	"	2
N 1/2 of NW 1/4	"	2
SW 1/4 of NW 1/4	"	2
E 1/2 of E 1/2	"	2
N 1/2	"	3
N 1/2 of S 1/2	"	3
SW 1/4 of SW 1/4	"	3
All of Sections	Sections	4 through 8, incl.
NW 1/4 of NE 1/4	Section	9
W 1/2	"	9
NW 1/4 of NW 1/4	"	10
NE 1/4	"	11
E 1/2 of SE 1/4	"	11
All of Section	"	12
NE 1/4	"	13
N 1/2 of NW 1/4	"	13
SW 1/4 of NW 1/4	"	13
NW 1/4 of SW 1/4	"	13

11. Township 125 North, Range 35 West (Raymond) (Cont.)

E 1/2 of NE 1/4	Section	14
NE 1/4 of SE 1/4	"	14
NW 1/4	"	16
N 1/2 of SW 1/4	"	16
SW 1/4 of SW 1/4	"	16
N 1/2	"	17
N 1/2 of S 1/2	"	17
NE 1/4	"	18
N 1/2 of NW 1/4	"	18.

12. Township 125 North, Range 34 West (Getty)

All of Sections	Sections	1 through 17, incl.
N 1/2	Section	18
SE 1/4	"	18
NE 1/4	"	19
NE 1/4 of SE 1/4	"	19
All of Sections	Sections	20 through 27, incl.
E 1/2	Section	28
NE 1/4 of NW 1/4	"	28
SE 1/4 of SW 1/4	"	28
NW 1/4	"	29
NW 1/4 of SW 1/4	"	29
E 1/2 of SE 1/4	"	30
E 1/2	"	33
E 1/2 of NW 1/4	"	33
SW 1/4	"	33
All of Sections	Sections	34 through 36, incl.

13. Township 125 North, Range 33 West (Grove)

All of Sections	Sections	1 through 36, incl.

14. Township 125 North, Range 32 West (Oak)

All of Sections	Sections	1 through 35, incl.
NE 1/4 of NE 1/4	Section	36
W 1/2 of NE 1/4	"	36
W 1/2	"	36
SW 1/4 of SE 1/4	"	36.

15. Township 125 North, Range 31 West (Albany)

NW 1/4 of NW 1/4	Section	4
S 1/2 of NW 1/4	"	4
SW 1/4	"	4
All of Sections	Sections	5 through 7, incl.
N 1/2 Section	Section	8
SW 1/4	"	8
N 1/2 of SE 1/4	"	8
W 1/2 of NW 1/4	"	9
SE 1/4 of NW 1/4	"	9
NW 1/4 of SW 1/4	"	9
W 1/2	"	17
All of Sections	Sections	18 and 19
NW 1/4 Section	Section	20
NW 1/4 of SW 1/4	"	20
W 1/2 of NE 1/4	"	30
Gov't. Lots 1-15, incl.	"	30
Gov't. Lots 2, 3 and 4	"	31.

16. Township 125 North, Range 29 West (St. Wendel)

E 1/2 of SE 1/4	Section	36.

17. Township 125 North, Range 28 West (LeSauk)

S 1/2 of SW 1/4	Section	31
SE 1/4	"	33
S 1/2	"	34
NW 1/4 of SW 1/4	"	35.

18. Township 124 North, Range 34 West (Lake George)

All of Sections	Sections	1 through 4, incl.
E 1/2 of NE 1/4	Section	5
N 1/2 of NE 1/4	"	9
SE 1/4 of NE 1/4	"	9
N 1/2 of NW 1/4	"	10

18. Township 124 North, Range 34 West (Lake George) (Cont.)

NE 1/4	Section	11
N 1/2 of NW 1/4	"	11
SE 1/4 of NW 1/4	"	11
N 1/2 of SE 1/4	"	11
SE 1/4 of SE 1/4	"	11
All of Section	"	12
E 1/2	"	13
E 1/2 of NW 1/4	"	13
NE 1/4 of SW 1/4	"	13
E 1/2 of E 1/2	"	24
E 1/2 of E 1/2	"	25
NW 1/4 of NE 1/4	"	25
NE 1/4	"	36
N 1/2 of SE 1/4	"	36.

19. Township 124 North, Range 33 West (Spring Hill)

All of Sections	Sections	1 through 30, incl.
N 1/2	Section	31
SE 1/4	"	31
All of Sections	Sections	32 through 36, incl.

20. Township 124 North, Range 32 West (St. Martin)

W 1/2 of NE 1/4	Section	1
NW 1/4	"	1
W 1/2 of SW 1/4	"	1
SE 1/4 of SW 1/4	"	1
All of Sections	Sections	2 through 36, incl.

21. Township 124 North, Range 31 West (Farming)

SE 1/4	Section	7
Gov't. Lots 5 through 16, incl.	"	7
W 1/2 of NE 1/4	"	8
SE 1/4 of NE 1/4	"	8
E 1/2 of NW 1/4	"	8
S 1/2	"	8
S 1/2 of N 1/2	"	9
S 1/2	"	9

21. Township 124 North, Range 31 West (Farming) (Cont.)

SW 1/4 of NW 1/4	Section	10
SW 1/4	"	10
W 1/2 of SE 1/4	"	10
W 1/2	"	15
All of Sections	Sections	16 through 21, incl.
W 1/2 of W 1/2	Section	22
NE 1/4 of NW 1/4	"	22
S 1/2 of SW 1/4	"	26
SW 1/4 of SE 1/4	"	26
W 1/2	"	27
W 1/2 of SE 1/4	"	27
SE 1/4 of SE 1/4	"	27
All of Sections	Sections	28 through 35, incl.
SE 1/4 of NE 1/4	Section	36
W 1/2 of NW 1/4	"	36
S 1/2	"	36.

22. Township 124 North, Range 30 West (Collegeville)

E 1/2	Section	19
NW 1/4 of NE 1/4	"	20
S 1/2 of NE 1/4	"	20
NW 1/4	"	20
S 1/2	"	20
S 1/2 of NW 1/4	"	21
SW 1/4	"	21
W 1/2	"	28
W 1/2 of SE 1/4	"	28
All of Section	"	29
E 1/2 of NE 1/4	"	30
SE 1/4	"	30
NE 1/4	"	31
SW 1/4 of NW 1/4	"	31
S 1/2	"	31
All of Section	"	32
NE 1/4 of NE 1/4	"	33
W 1/2 of E 1/2	"	33
W 1/2	"	33
SE 1/4 of SE 1/4	"	33

22. Township 124 North, Range 30 Wesst (Collegeville) (Cont.)

S 1/2	Section	34
W 1/2 of SW 1/4	"	35.

23. Township 124 North, Range 29 West (St. Joseph)

E 1/2	Section	1
SE 1/4 of NW 1/4	"	1
NE 1/4 of SW 1/4	"	1
S 1/2 of SW 1/4	"	1
S 1/2 of S 1/2	"	2
SE 1/4 of SE 1/4	"	9
NE 1/4 of NE 1/4	"	10
S 1/2 of NE 1/4	"	10
SE 1/4 of NW 1/4	"	10
E 1/2 of SW 1/4	"	10
SW 1/4 of SW 1/4	"	10
SE 1/4	"	10
All of Sections	Sections	11 through 15, incl.
E 1/2 of E 1/2	Section	16
E 1/2 of E 1/2	"	21
NW 1/4 of NE 1/4	"	21
SW 1/4 of SE 1/4	"	21
All of Sections	Sections	22 through 27, incl.
E 1/2	Section	28
SE 1/4 of NW 1/4	"	28
SW 1/4	"	28
E 1/2 of SE 1/4	"	29
SE 1/4 of NE 1/4	"	32
N 1/2 of SE 1/4	"	32
SE 1/4 of SE 1/4	"	32
All of Sections	Sections	33 through 36, incl.

24. Township 124 North, Range 28 West (St. Cloud)

That portion lying westerly of the following described line: Commencing on the west line of section 2; thence easterly on the centerline of 14th Street North to the centerline of 10th Avenue North; thence northerly on the centerline of 10th Avenue North to the centerline of 15th Street North; thence easterly on the centerline of 15th Street North to the centerline of Trunk Highway 15; thence northerly on the centerline of Trunk Highway 15 to the centerline of Stockinger Drive; thence westerlyon the centerline of Stockinger Drive to the west line of section 2. Section 2

All of Sections	Sections	3 and 4
E 1/2 of NE 1/4	Section	5
SW 1/4 of NE 1/4	"	5
S 1/2 of SW 1/4	"	5
SE 1/4	"	5
W 1/2	"	6
SE 1/4	"	6
SW 1/4 of NE 1/4	"	6
All of Sections	Sections	7 through 9, incl.

That portion lying westerly of the following described line: Commencing on the south line of section 10 (3rd Street North); thence northerly on the centerline of 22nd Avenue North and its northerly extension (crossing the Burlington Northern Railway right-of-way) to the centerline of 7th Street North; thence westerly on the centerline of 7th Street North to the centerline of 23rd Avenue North; thence northerly on the centerline of 23rd Avenue North to the centerline of 8th Street North; thence westerly on the centerline of 8th Street North to the centerline of 25th Avenue North; thence northerly on the centerline of 25th Avenue North to the centerline of 10th Street

24. Township 124 North, Range 28 West (St. Cloud) (Cont.)

North; thence easterly on the extension of the centerline of 10th Street North and the centerline of Centennial Drive to the centerline of 22nd Avenue North; thence northeasterly on the centerline of 22nd Avenue North to the centerline of 13th Avenue North; thence northerly on the centerline of 13th Avenue North to the north line of section 10 (12th Street North). Section 10

That portion lying westerly of the following described line: Commencing on the south line of section 15; thence northerly on the east line of the W 1/2 of the SE 1/4 of section 15 to the centerline of Roosevelt Road; thence westerly on the centerline of Roosevelt Road to the centerline of 25th Avenue South; thence northerly on the centerline of 25th Avenue South to the centerline of 1st Street South; thence westerly on the centerline of 1st Street South to the centerline of 27th Avenue South; thence northerly on the centerline of 27th Avenue South to the centerline of Division Street; thence easterly on the centerline of Division Street to the centerline of 23rd Avenue North; thence northerly on the centerline of 23rd Avenue North to the north line of section 15 (3rd Street North). Section 15

All of Sections	Sections	16 through 21, incl.
W 1/2 of NE 1/4	Section	22
NW 1/4	"	22
N 1/2 of SW 1/4	"	22
NW 1/4 of NW 1/4	"	28
N 1/2 of NE 1/4	"	29
SW 1/4 of NE 1/4	"	29
NW 1/4	"	29
NW 1/4 of SW 1/4	"	29

24. Township 124 North, Range 28 West (St. Cloud) (Cont.)

N 1/2	Section	30
SW 1/4	"	30
N 1/2 of SE 1/4	"	30
SW 1/4 of SE 1/4	"	30
NW 1/4	"	31
W 1/2 of SW 1/4	"	31.

25. Township 123 North, Range 33 West (Lake Henry)

All of Sections	Sections	1 through 5, incl.
E 1/2	Section	6
E 1/2 of NE 1/4	"	8
SE 1/4	"	8
N 1/2	"	9
N 1/2 of S 1/2	"	9
All of Sections	Sections	10 through 12, incl.
N 1/2	Section	13
SW 1/4	"	13
NW 1/4 of SE 1/4	"	13
All of Section	"	14
E 1/2	"	15
E 1/2 of W 1/2	"	15
N 1/2 of NE 1/4	"	17
All of Sections	Sections	22 and 23
W 1/2 of NW 1/4	Section	24
NW 1/4 of SW 1/4	"	24
N 1/2 of N 1/2	"	26
W 1/2 of NE 1/4	"	27
NE 1/4 of NW 1/4	"	27.

26. Townshp 123 North, Range 32 West (Zion)

All of Sections	Sections	1 through 17, incl.
N 1/2	Section	18
NE 1/4 of SW 1/4	"	18
SE 1/4	"	18
N 1/2 of NE 1/4	"	19
SE 1/4 of NE 1/4	"	19
NE 1/4 of SE 1/4	"	19

26. Township 123 North, Range 32 West (Zion) (Cont.)

All of Sections	Sections	20 through 28, incl.
E 1/2	Section	29
NE 1/4 of NW 1/4	"	29
E 1/2 of SW 1/4	"	29
E 1/2	"	32
NE 1/4 of NW 1/4	"	32
All of Sections	Sections	33 through 35, incl.
N 1/2	Section	36
NE 1/4 of SW 1/4	"	36
SE 1/4	"	36.

27. Township 123 NOrth, Range 31 West (Munson)

All of Sections	Sections	1 through 36, incl.

28. Township 123 North, Range 30 West (Wakefield)

W 1/2	Section	1
S 1/2 of SE 1/4	"	1
N 1/2 of NW 1/4	"	2
S 1/2 of N 1/2	"	2
S 1/2	"	2
All of Sections	Sections	3 through 36, incl.

29. Township 123 North, Range 29 West (Rockville)

N 1/2	Section	1
N 1/2 of SW 1/4	"	1
All of Sections	Sections	2 through 4, incl.
E 1/2 of NE 1/4	Section	5
NE 1/4 of SW 1/4	"	5
S 1/2 of SW 1/4	"	5
SE 1/4	"	5
SE 1/4 of SE 1/4	"	6
All of Sections	Sections	7 through 10, incl.
W 1/2 of E 1/2	Section	11
W 1/2	"	11
W 1/2	"	14
SW 1/4 of SE 1/4	"	14
All of Sections	Sections	15 through 22, incl.

29. Township 123 North, Range 29 West (Rockville) (Cont.)

W 1/2	Section	23
SW 1/4 of NE 1/4	"	26
NW 1/4	"	26
S 1/2	"	26
All of Sections	Sections	27 through 34, incl.
NE 1/4 of NE 1/4	Section	35
W 1/2 of NE 1/4	"	35
W 1/2	"	35
SE 1/4	"	35.

30. Township 122 North, Range 32 West (Paynesville)

NE 1/4 of NE 1/4	Section	1
All of Section	"	2
N 1/2	"	3
N 1/2 of SW 1/4	"	3
SE 1/4	"	3
All of Section	"	4
E 1/2	"	5
E 1/2 of W 1/2	"	5
SW 1/4 of SW 1/4	"	5
NE 1/4	"	8
N 1/2 of NW 1/4	"	8
SE 1/4 of NW 1/4	"	8
NE 1/4 of NE 1/4	"	9
W 1/2 of NE 1/4	"	9
NW 1/4	"	9
NE 1/4	"	10
N 1/2 of SE 1/4	"	10
SE 1/4 of SE 1/4	"	10
N 1/2	"	11
SW 1/4	"	11
N 1/2 of SE 1/4	"	11

31. Township 122 North, Range 31 West (Eden Lake)

All of Sections	Sections	1 through 3, incl.
E 1/2	Section	4
NW 1/4	"	4
N 1/2 of SW 1/4	"	4
SE 1/4 of SW 1/4	"	4

31. Township 122 North, Range 31 West (Eden Lake) (Cont.)

N 1/2 of N 1/2	Section	5
N 1/2 of N 1/2	"	6
N 1/2 of NE 1/4	"	9
NE 1/4 of NW 1/4	"	9
All of Sections	Sections	10 through 15, incl.
SE 1/4 of SW 1/4	Section	16
SE 1/4	"	16
E 1/2	"	21
E 1/2 of NW 1/4	"	21
NE 1/4 of SW 1/4	"	21
All of Sections	Sections	22 through 27, incl.
E 1/2	Section	28
SE 1/4 of NW 1/4	"	28
SW 1/4	"	28
SE 1/4	"	29
E 1/2 of NE 1/4	"	32
All of Sections	Sections	33 through 36, incl.

32. Township 122 North, Range 30 West (Luxemburg)

All of Sections	Sections	1 through 21, incl.
N 1/2	Section	22
SW 1/4	"	22
N 1/2 of SE 1/4	"	22
NE 1/4	"	23
W 1/2	"	23
W 1/2 of SE 1/4	"	23
N 1/2	"	24
W 1/2	"	27
SW 1/4 of SE 1/4	"	27
All of Sections	Sections	28 through 32, incl.
NE 1/4	Section	33
W 1/2	"	33
NW 1/4	"	34
W 1/2 of NE 1/4	"	34
NW 1/4 of SW 1/4	"	34.

33. Township 122 North, Range 29 West (Maine Prairie)

N 1/2 of NE 1/4	Section	2
W 1/2	"	2
SW 1/4 of SE 1/4	"	2
All of Sections	Sections	3 through 11, incl.
S 1/2 of NW 1/4	Section	12
SW 1/4	"	12
SW 1/4 of SE 1/4	"	12
N 1/2 of N 1/2	"	14
SW 1/4 of NW 1/4	"	14
N 1/2	"	15
N 1/2 of S 1/2	"	15
SW 1/4 of SW 1/4	"	15
All of Sections	Sections	16 through 18, incl.
N 1/2 of NE 1/4	Section	19
NE 1/4 of NW 1/4		19
All of Section	"	20
NE 1/4 of NE 1/4	"	21
W 1/2 of NE 1/4	"	21
W 1/2	"	21
N 1/2 of NW 1/4	"	28
N 1/2 of NE 1/4	"	29
NE 1/4 of NW 1/4	"	29

E. Meeker County — 5th Principal Meridian

1. Township 121 North, Range 31 West (Manannah)

All of Sections	Sections	1 through 4, incl.
E 1/2 of NE 1/4	Section	5
N 1/2	"	9
NE 1/4 of SW 1/4	"	9
SE 1/4	"	9
All of Sections	Sections	10 through 12, incl.
N 1/2 of NE 1/4	Section	13
NW 1/4	"	13
N 1/2	"	14

1. Township 121 North, Range 31 West (Manannah) (Cont.)

NE 1/4	Section	15
NW 1/4 of NW 1/4	"	15.

2. Township 121 North, Range 30 West (Forest Prairie)

SW 1/4 of NE 1/4	Section	4
NW 1/4	"	4
N 1/2 of SW 1/4	"	4
NW 1/4 of SE 1/4	"	4
All of Sections	Sections	5 through 7, incl.
NW 1/4 of NE 1/4	Section	8
S 1/2 of NE 1/4	"	8
W 1/2	"	8
SE 1/4	"	8
N 1/2	"	17
N 1/2 of SW 1/4	"	17
NW 1/4 of SE 1/4	"	17
NE 1/4	"	18
N 1/2 of NW 1/4	"	18.

III. The legal boundary of the Sauk River Watershed District is defined as the perimeter of the whole land area described in the preceding paragraph and shown on the attached Legal Boundary Map. The District includes approximately 1,036 square miles.

IV. The board of managers of the Sauk River Watershed District shall consist of nine managers. Managers, when appointed, shall meet the qualifications established by the Minnesota Watershed Act.

V. The following persons are named as the initial managers of the Sauk River Watershed District; their terms of office shall be for one year, effective the date of this Order:

Name	Address	County
Gary Astleford	Route 2, Box 49 Osakis, Mn. 56368	Todd
Horace Cutten	Box 35 Eden Valley, Mn. 55329	Meeker
Linus Dingmann	Route 1 Cold Spring, Mn. 56320	Stearns
Bernard Herickhoff	West Port, Mn. 56385	Pope
Lester Kummer	926 Sinclair Lewis Ave. Sauk Centre, Mn. 56378	Stearns
Thomas Leko, Sr.	31 Leko Drive Sauk Centre, Mn. 56378	Todd
Robert Mostad	Route 2, Box 49 Osakis, Mn. 56360	Douglas
James Schaaf	Route 1, Box 150 Cold Spring, Mn. 56320	Stearns
Wilfred Sturm	Route 2 Richmond, Mn. 56368	Stearns

VI. The distribution of the power to appoint managers to the Sauk River Watershed District, upon the expiration of the one-year terms of the initial managers, shall be as follows:

Stearns County	- Four Managers
Todd County	- Two Managers
Douglas County	- One Manager
Pope County	- One Manager
Meeker County	- One Manager

VII . After the initial managers have served their one-year terms, the first county-appointed managers shall be appointed to staggered terms as follows:

Stearns County -	One manager for a one-year term; one manager for a two-year term; and two managers for three-year terms.
Todd County -	One manager for a one-year term; and one manager for a three-year term.
Douglas County -	One manager for a one-year term.
Pope County -	One manager for a two-year term.
Meeker County -	One manager for a two-year term.

VIII. Following the expiration of the managers' terms in the preceding paragraph, all succeeding appointments shall be for terms of three years.

IX. The principal place of business of the Sauk River Watershed District shall be located in the City of Freeport, Minnesota, 56331.

Dated at Saint Paul, Minnesota, 55101, this 22nd day of July 1986.

MINNESOTA WATER RESOURCES BOARD

Duane R. Ekman
Chairman

#36786

SEE

OVERSIZED

DOCUMENT!!

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
400 SUMMIT BANK BUILDING
310 FOURTH AVENUE SOUTH
MINNEAPOLIS, MINNESOTA 55415
(612) 341-7600

May 16, 1986

Melvin A. Sinn
Executive Director
Minnesota Water Resources Board
First Floor, 500 Lafayette Road
St. Paul, Minnesota 55146

Re: In the Matter of the Petition for the Establishment of the Sauk River Watershed District Filed on January 21, 1986 (Minn. Stat. §§ 112.37 and 112.38); OAH Docket Nos. WRB-86-002-PR and 9-3300-478-2.

Dear Mr. Sinn:

Enclosed and served upon you by mail, please find the Findings of Fact, Conclusions, Recommendation and Memorandum of the Administrative Law Judge in the above-entitled matter. I also enclose the official record, and I am closing our file in this matter.

Sincerely,

Phyllis A. Reha

PHYLLIS A. REHA
Administrative Law Judge

Telephone: 612/341-7611

PAR:vh
Enclosures
cc: Attached Service List

STATE OF MINNESOTA)
)ss.
COUNTY OF HENNEPIN)

AFFIDAVIT OF SERVICE BY U.S. MAIL

Virginia R. Halling, being first duly sworn, hereby deposes and says that on the 16th day of May, 1986, at the City of Minneapolis, county and state aforementioned, she served the attached FINDINGS OF FACT, CONCLUSIONS, RECOMMENDATION AND MEMORANDUM OF THE ADMINISTRATIVE LAW JUDGE;

OAH Docket Nos. WRB-86-002-PR and 9-3300-478-2.

by depositing in the United States mail at said City of Minneapolis, a true and correct copy thereof, properly enveloped, with first class postage prepaid, and addressed to:

ATTACHED SERVICE LIST

Virginia R. Halling
(Signature)

Subscribed and sworn to before me
this 16th day of May, 1986.

Joan H. Bailey
(Notary)

Joan H. Bailey
NOTARY PUBLIC – MINNESOTA
HENNEPIN COUNTY
My commission expires Jan. 19, 1989

HG-00059-35

Service List
WRB-86-002-PR
9-3300-478-2
May 16, 1986

Mel Sinn
Executive Director
Minnesota Water Resources Board
First Floor, 500 Lafayette Road
St. Paul, Minnesota 55146

Larry D. Starns
Special Assistant Attorney General
1935 West County Road B-2
Roseville, Minnesota 55113

Kurt Deter
Attorney at Law
Suite 700, Norwest Center
Box 1800
St. Cloud, Minnesota 56302

James Sorlie
Osakis, Minnesota 56360

Robert Mostad
Route 2, Box 49
Osakis, Minnesota 56360

Dennis Miller
Route 1, Box 87
Osakis, Minnesota 56360

William Buchholz
Route 1
Grey Eagle, Minnesota 56336

Harold Withers
Route 1
Osakis, Minnesota 56360

Darwin Anderson
Osakis, Minnesota 56368

WRB-86-002-PR
9-3300-478-2

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA WATER RESOURCES BOARD

In the Matter of the Petition
for the Establishment of the
Sauk River Watershed District
Filed on January 21, 1986,
(Minn. Stat. §§ 112.37 and 112.38).

FINDINGS OF FACT,
CONCLUSIONS,
RECOMMENDATION AND
MEMORANDUM

The above entitled matter was heard before Administrative Law Judge Phyllis A. Reha of the Minnesota Office of Administrative Hearings on March 13, 1986, commencing at 10:00 A.M. at the Rocori High School Auditorium, Cold Spring, Minnesota. The hearing continued on March 20, 1986 commencing at 1:30 P.M. at the Osakis Community Center, Osakis, Minnesota. Evening sessions were conducted on both hearing days for the primary purpose of taking testimony from interested members of the public.

Larry D. Starns, Special Assistant Attorney General, 1935 West County Road B-2, Roseville, Minnesota 55113, appeared on behalf of the Minnesota Water Resources Board (Board). Kurt A. Deter, Attorney at Law, of the firm of Rinke, Noonan, Grote & Smoley, Suite 700, Norwest Center, Box 1800, St. Cloud, Minnesota 56302, appeared representing the Petitioners for the Sauk River Watershed District (Petitioners). Thirteen separate Petitions to Intervene were filed and granted by the Administrative Law Judge. Appearing on behalf of the intervening objectors (Objectors) were James Sorlie, Osakis, Minnesota 56360; Robert Mostad, Route 2, Box 49, Osakis, Minnesota 56360; Dennis Miller, Route 1, Box 87, Osakis, Minnesota 56360; William Buchholz, Route 1, Grey Eagle, Minnesota 56336; Harold Withers, Route 1, Osakis, Minnesota 56360; and Darwin Anderson, Osakis, Minnesota 56368.

Members of the Minnesota Water Resources Board were present throughout this proceeding. Present and participating from the Board were Duane R. Eckman, Chairman, Peggy Lynch, Marlin Rieppel, and Georgia Holmes. Also present and participating in the hearing was Board Executive Director Melvin A. Sinn and Board Hydrologist Dan Stewart.

The hearing record was held open until April 1, 1986 for the receipt of written comments from the public. The official record closed after the receipt of the hearing transcripts, the last of which was received on April 17, 1986.

Notice is hereby given that, pursuant to Minn. Stat. § 14.61 the final decision of the Minnesota Water Resources Board shall not be made until this Report has been made available to the parties to the proceeding for at least ten days, and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to the Board. Exceptions to this Report, if any, shall be filed with Melvin A. Sinn, Executive Director, Minnesota Water Resources Board, 500 Lafayette Road, First Floor, St. Paul, Minnesota 55146.

STATEMENT OF ISSUES

Should a watershed district, proposed to be named the Sauk River Watershed District, be established? If so, what should its proper boundaries be?

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

Procedural Findings.

1. On January 17, 1986, a nominating petition for the establishment of the Sauk River Watershed District was filed with the Minnesota Water Resources Board. The nominating petition consisted of 18 separately executed petitions signed by over 400 landowners within the proposed boundaries of the watershed district.

2. On January 21, 1986, an additional nominating petition was filed with the Board. This additional petition consisted of 56 names of landowners within the boundaries of the proposed watershed district. Also filed at that time were copies of the 18 previously filed petitions with the names and addresses of each of those landowners provided in typed form.

3. On January 21, 1986, the nominating petition was served on the county auditors of Meeker, Stearns, Douglas, Pope, and Todd Counties and on the Commissioner of the Minnesota Department of Natural Resources (DNR), the Director of the Division of Waters of the DNR. (WRB Ex. 2).

4. On January 24, 1986, a letter from the Meeker County Auditor was filed with the Board certifying signatures of Meeker County freeholders. The Meeker County Auditor found that all Petitioners within Meeker County were freeholders with the exception of three signatures. (WRB Ex. 3).

5. On January 27, 1986, a letter from the Stearns County Auditor's office was filed certifying signatures of Stearns County freeholders. Of over 300 signatures submitted, approximately 20 were found not to be resident freeholders of Stearns County.

6. On January 28, 1986, a letter from the Pope County Auditor's office was filed certifying signatures of Pope County freeholders. Two of the Petitioners were found to own property in Pope County within the boundaries of the proposed watershed district. (WRB Ex. 5).

7. On February 5, 1986, an additional nominating petition was filed with the Board. This petition consisted of 52 additional signatures. An affidavit of service on the Auditor of Stearns County was also filed with this nominating petition. (WRB Ex. 6).

8. On February 7, 1986, a letter from the Stearns County Auditor's office certified additional signatures of Stearns County freeholders. Of the 52 signatures, 50 were found to be Stearns County freeholders within the proposed boundary of the watershed district. (WRB Ex. 8).

9. On February 7, 1986, a letter from the Douglas County Auditor was filed with the Board certifying that no Douglas County freeholders had signed the nominating petition.

10. On February 21, 1986, an additional nominating petition was filed with the Board consisting of 21 signatures from individuals from Douglas County. (WRB Ex. 9). On March 10, 1986, a letter from the Douglas County Auditor was filed with the Board certifying 20 of the 21 signatures to be Douglas County property owners. (WRB Ex. 13).

11. On February 26, 1986, an additional nominating petition was filed with the Board signed by individuals from Todd County, Minnesota. The petition consisted of 38 signatures. (WRB Ex. 10). On March 5, 1986, a letter from the Todd County Auditor was filed with the Board certifying the signatures of 32 Todd County freeholders. (WRB Ex. 11).

12. The petition, as originally filed with the Board, contains the signatures of at least 50 resident freeholders of the proposed watershed district. The original petition, even without the supplementally filed petitions meets the minimum requirements of a valid petition for the establishment of a watershed district pursuant to Minn. Stat. § 112.37, subd. 1 (1984).

13. On February 11, 1986, the Chairman of the Minnesota Water Resources Board issued a Notice of and Order for Hearing setting the hearing in this matter for March 13, 1986 in Cold Spring, Minnesota. A copy of this notice was mailed to a large number of persons on February 20, 1986, including the County Auditors for each of the five counties included within the proposed boundaries of the watershed district, the county commissioners of each of those counties, the county attorneys of each of those counties, various city mayors and town clerks, legislators and various state agencies, including the Department of Natural Resources, the Pollution Control Agency, the State Soil and Water Conservation Board and the Director of the Division of Waters. (WRB Ex. 14A).

14. On February 19 and February 26, 1986 the Notice of Hearing was published in the Long Prairie Leader, the Eden Valley Journal, the Osakis Review, and the Cold Spring Record. On February 20 and 27, 1986 the Notice of Hearing was published in the Pope County Tribune; affidavits of publication of the notice of the hearing in each of these newspapers was filed with the Board. (WRB Ex. 14).

15. On March 13, 1986 the Board received a response from the Director of the Division of Waters of the DNR on the nominating petition. (WRB Ex. 15).

16. Within the nominating petition, the petitioners proposed that there be nine managers for the Sauk River Watershed District if it is established and that they be selected from a list of nominees submitted with the petition. Prior to the close of the hearing record, that list was modified and enlarged by amendment. The complete list of manager nominees is contained in Appendix 1 of this Report.

17. The nominating petition and the certifications and affidavits of publication thereof, are in all respects proper with regard to form, content, execution and filing.

18. Thirteen persons seeking intervention as parties in this proceeding for the establishment of the proposed Sauk River Watershed District filed petitions with the Administrative Law Judge. They are: Darwin Anderson, George Bentfield, Paul Bentfield, Leland and Patricia Buchholz, Bernard Deters, James Kinney, Anthony Marthaler, Phillip Miller, Robert Mostad, C. David Nelson, James Sorlie and Jack Sundermann. The Petitions to Intervene were granted by the Administrative Law Judge in an Order dated March 11, 1986. Each Petitioner is a landowner within the boundary of the proposed Sauk River Watershed District. Each Petitioner was granted full party status with all the legal rights and duties attendant to such status.

19. The hearing in this matter commenced on March 13, 1986 at 10:00 A.M. in the auditorium of the Rocori Senior High School, Cold Spring, Minnesota. The hearing was continued on March 20, 1986 at the Community Center, Osakis, Minnesota. On the evenings of March 13 and March 20, special evening sessions were held for the purpose of taking oral testimony from interested citizens. Over 50 members of the public testified.

20. At the hearing a petition opposed to the formation of the proposed Sauk River Watershed District was submitted. The petition contained the names of over 500 individuals. The primary objection to the Watershed District is the creation of a governing body with taxing authority that is not directly accountable to the electorate.

21. The following city councils, township boards, and county boards, filed resolutions opposing the establishment of the Sauk River Watershed District: Todd County Board, Alexandria Township Board, Orange Township Board, Hudson Township Board, City Council of the City of Melrose, Melrose Township Board, St. Cloud Township Board, Osakis Township Board, City Council of the City of Osakis, West Union Township Board, Douglas County Board, Gordon Township Board, Belle River Township Board and the School Board of the Independent School District No. 214, Osakis, Minnesota. The City Councils of Cold Spring and Sauk Centre filed resolutions favoring the establishment of the Watershed District.

22. Following the close of the testimony in this proceeding, the hearing record was held open by order of the Administrative Law Judge until April 1, 1986, primarily for the purpose of allowing written comments from the public. Approximately 400 timely written comments were received from members of the public. Most of the comments were in favor of the establishment of the watershed district. Approximately 30 comments opposed the establishment of the watershed district. Sixty comments from property owners around Big Fish Lake opposed the inclusion of Collegeville Township within the boundaries of the proposed watershed district.

General Description of the Proposed Watershed District.

23. The proposed Sauk River Watershed District is located in central Minnesota approximately 60 miles northwest of the Twin Cities area. The proposed boundaries cover an area of approximately 1,000 square miles. It has an approximate length of 100 miles and an average width of about 10 miles. Its area includes parts of five counties: Stearns, Todd, Douglas, Pope and Meeker. The majority of the area lies within Stearns County, consisting of 640 square miles. Two hundred and eighteen square miles of the proposed area

lies within Todd County. Ninety square miles lies within Douglas County. Forty-four square miles lies within Pope County and only fifteen square miles lies within Meeker County.

24. Water resources of the proposed watershed district include a total of over 60 square miles of surface water, approximately 857 miles of waterways which include 119 miles of Sauk River channel and 738 miles of perennial and intermittent streams. The Sauk River flows 119 miles from its source near Lake Osakis through the Horseshoe chain of lakes to the Mississippi River near St. Cloud. The river flows through the municipalities of Osakis, Sauk Center, Melrose, Richmond (the Horseshoe chain of lakes), Cold Spring, Rockville, Waite Park and St. Cloud where it reaches its confluence with the Mississippi River. Many lakes and streams drain directly into the Sauk River. Lake Osakis is located at the source of the Sauk River in Douglas and Todd Counties. The river flows through Little and Big Sauk Lakes near Sauk Center where Hoboken Creek drains into it. From there, just west of Melrose, Adley Creek drains Big and Little Birch Lake into it. Getchell Creek joins it just south of New Munich. It then enters a Horseshoe chain of lakes basin in Richmond which is comprised of 15 lakes. From here it turns northeastward towards St. Cloud where it drains into the Mississippi River.

25. The majority of the land use within the proposed boundaries is agricultural; however, it also includes municipalities such as portions of the St. Cloud Metro area, Sauk Center, Melrose, Cold Spring, St. Joseph, Osakis, Richmond, Eden Valley, Rockville and Freeport.

26. The effluent from the waste water treatment plants serving Sauk Center, Melrose and Richmond are disposed into the Sauk River over a distance of about 70 miles. The communities of New Munich, Meire Grove, Greenwald, Freeport, Lake Henry and Eden Valley also have waste water effluent which enter the Sauk River or its various tributaries and flow into the Horseshoe chain of lakes.

27. The lakes within the boundaries of the proposed watershed district are important sources of recreation, fish and wildlife habitat, and aesthetic beauty. Many of these lakes have seasonal homes or cabins, as well as year around residential units. There are an estimated 791 cabins/home units along the Horseshoe chain of lakes alone. There are over 45 resorts within the proposed boundaries.

28. A watershed district may include the whole or any part of any natural watershed or watersheds within the discretion of the Board. A natural watershed is different than a watershed district. In the narrow sense, a natural watershed may include the land which flows to a particular watercourse and include no land which does not actively contribute to the watercourse. In a broad sense, a natural watershed could include all land which would discharge runoff in the direction of a watercourse, if runoff occurred, no matter how improbable it would be that the runoff would occur. The proposed boundaries of the Sauk River Watershed District are, for the most part, consistent with the boundaries of the natural watershed for the Sauk River including the Horseshoe chain of lakes.

29. Drainage patterns within portions of the proposed Sauk River Watershed District are not well defined. The Petitioners' proposed watershed district map was prepared with the use of U.S. Geological Survey (USGS) 7.5

minute series Topographic Maps, with some consideration given to the boundaries of other watershed districts in the area including the Northfork Crow River and Clearwater River Watershed Districts which adjoin the southern and southwestern edge of the proposed Sauk River Watershed District. The Department of Natural Resources in its report strongly recommended that the boundaries of the proposed district be made the same as the boundaries of these existing district.

30. Due to the ill-defined drainage patterns in many areas, there are countless wetlands in the watershed. As a result numerous public and private drainage systems have been constructed during the past decade. Twenty-eight county and judicial ditches have been identified within the proposed boundaries.

31. Throughout the years, many governmental, public and private organizations have studied various elements and aspects of the water resources problems within the Horseshoe chain of lakes and the boundaries of the watershed. These studies were compiled by the Petitioners and included within the engineering report submitted by the Petitioners' engineering expert. The major studies recently completed are those conducted by the Minnesota Pollution Control Agency, the St. Cloud State University, the various lake associations in the area, and the Federal Emergency Management Agency. The most comprehensive of the reports assembled and introduced as evidence within this hearing was the MPCA's 1985 Limnological Investigation of the Sauk River and Horseshoe Chain of Lakes, Stearns County, Minnesota. Dr. Keith M. Knutson, Ph.D., Department of Biological Sciences, College of Science and Technology, St. Cloud State University, has also conducted extensive studies of the Horseshoe chain of lakes. His studies are also included within the hearing record. Dr. Knutson's studies address the issues of nutrient loading in the Horseshoe chain of lakes between 1983 and 1984.

32. There are numerous lakes and small ponds within the Sauk River Watershed. Significant recreational lakes include Westport Lake in Pope County, Lake Osakis in Douglas and Todd Counties, Sauk, Big Birch and Little Birch Lakes in Todd County and Horseshoe, Long and Cedar Island Lakes in Stearns County. These major lakes are concentrated in the upper and lower portions of the Watershed. In total, there are 238 lakes greater than ten acres in size within the Watershed boundaries. These lakes total 32,593 acres. About 51.2% of the total surface area of major lakes is located in Stearns County.

Water Resource Issues and Problems.

33. The Horseshoe chain of lakes are hypereutrophic lakes which have experienced symptoms of advanced eutrophication or nutrient over-enrichment. These symptoms include elevated total phosphorous concentrations, depletion of oxygen in the bottom waters, reduced water transparencies, generation of conditions favorable for rough fisheries, and blooms of blue-green algae.

34. Numerous complaints have been received by state agencies including the Department of Natural Resources and the Pollution Control Agency regarding poor water quality in the area lakes. The problems generally involve nutrient-rich waters and excessive aquatic vegetative growth. In particular, complaints to the DNR have come from residents around Osakis, Sauk and Grand

Lakes and the Horseshoe/Cedar Island chain of lakes.

35. The blue-green algae blooms in many of the lakes create nuisance conditions such as foul odors and surface scums which may be capable of producing temporarily toxic conditions for domestic animals and wildlife. Impacts to human health are also possible as blue-green algae blooms have been associated with human respiratory, gastro-intestinal and dermal disorders. The production of nuisance conditions such as those identified above degrades the water resource value of these lakes.

36. As a result of above-normal rainfall in the last several years, numerous flooding complaints have been received by the Department of Natural Resources. Problems include high ground water table, high water levels on lakes and wetlands, and crop land flooding. High water problems have caused basement and other structural damages, crop losses, increased shoreland erosion, roadway flooding and reduced water quality.

37. Erosion is another problem which has frequently been encountered in the watershed area. Osakis Lake, Sauk Lake and, to a lesser extent, Big and Little Birch Lakes, have experienced severe shoreline erosion problems. Severe stream bank erosion has also occurred on many streams and ditches, including select reaches of the Sauk River and around tributaries above Pearl and Long Lakes and Stone Creek.

38. Other water resource problems identified in the watershed during the past several years include floating bogs, lake and wetland outlet-related problems, tree snags in watercourses, ground water quality concerns and ground and surface water appropriation conflicts.

39. The degradation of the lakes within the watershed district may be caused by many factors but most often it is caused by the excessive export of nutrients and sediments from the land or watershed. The nutrient and sediment enrichment of water bodies is referred to as eutrophication. The rate of eutrophication is greatly accelerated if abundant nutrient and sediment sources are located in the watershed of the lake. Human activity such as waste water disposal, other waste disposal practices, urbanization and agricultural activities, can make even large lakes eutrophic or over-supplied with nutrients in only a few years.

40. The largest point source in the watershed area of phosphorus is the Melrose wastewater treatment plant. Waste waters from eight other communities are also discharged directly, or indirectly, into the Sauk River. Collectively, point sources have been estimated to contribute about 52% of the phosphorus budget in the Horseshoe chain of lakes in Stearns County. The balance of the phosphorus effluent or non-point source phosphorus loadings are associated with maximum water flow events such as snow melt and severe summer storms. These storms drain water from surrounding lands within the watershed boundaries to the lakes.

41. The majority of the land use within the proposed boundaries is agricultural. Farming is the leading enterprise. Stearns County, for example, leads the state in the number of cattle and calves, in milk production and in total farm cash income. Turkey, chicken and pig production are also important to the area's economy and it has been estimated that in its entirety, Stearns County has about 3,959 animal feed lots. Predominant crops

include corn, small grains and hay. The fact that livestock manure contains large quantities of phosphorus and other nutrients is well known. Thus, the livestock population is undoubtedly a factor to be dealt with when considering the generation of phosphorus from non-point sources of pollution. Other non-point sources of pollution include agricultural runoff, highway and urban runoff, and improper and unrepaired agricultural ditches.

42. Other point sources of pollution include improper septic systems. On the entire chain of lakes, there are over 790 cabin/home units. There is no sewer system, and some of these septic systems may be old and in disrepair. These septic systems may be contributing to the water quality problems in the area. There are over 40 resorts and campgrounds located on the shores and lakes and waterways in the watershed. All of these resorts and seasonal campgrounds are serviced by on-site sewage systems. The condition of the sewage systems is not known, however, it is possible that some of these on-site sewage systems are in disrepair and contributing to the water quality problems.

43. The majority of county and judicial ditches as well as other drainage facilities throughout the watershed were constructed many years ago. These drainage facilities have not been maintained on a regular basis. Accumulation of sediments and debris in these waterways has significantly reduced their capacity to drain flood waters. Various ditch repair and improvement petitions have been submitted from all five counties in the watershed area. Well-maintained drainage not only will reduce flooding and drainage problems, it will also reduce erosion and improve water quality.

44. Studies conducted in the western part of the watershed district have indicated that there is an adequate amount of water for irrigation uses. Other ground water studies indicate that there is adequate water supplies in the rest of the proposed watershed district area. However, test results of ground water in shallow wells indicate significant water quality degradation throughout the sandy region of the Sauk River Watershed.

45. The U.S. Army Corps of Engineers in their study as part of the national dam safety program, has determined the hazard classification and threat assessment of the Sauk Center and Melrose dams. The Sauk Center dam is classified as "significant hazard" notwithstanding the limited development in the flood plain downstream. This classification is based on the substantial temporary loss of recreational and aesthetic values that would occur along the 2,111-acre Sauk Lake in the event of failure of the dam. Also, a deficiency in the capacity of the dam has resulted in significant flood damage of a low residential overflow area. The Melrose dam is also classified as "significant hazard" because of the presence of habited industrial and municipal developments in the subplain downstream that would be adversely affected by failure of the dam. Loss of the impoundment through dam failure would also constitute a significant loss of aesthetic value and would be an inconvenience to a major local industry. The U.S. Army Corps of Engineers has recommended that a comprehensive study be undertaken to develop and implement a plan for full utilization of flood storage to eliminate hazards.

46. Within the proposed District, six communities have adopted flood plain ordinances, including Stearns County, Cold Spring, Melrose, Rockville, St. Cloud and Sauk Center. Flood insurance studies were completed for each of these communities. One-hundred year flood elevations and floodway

delineations are therefore available. However, flood profiles for the Sauk River in Stearns County are only available from the mouth of the Sauk River to Cold Spring. The remainder of the Sauk River and other streams and lakes in Stearns County do not have computed 100-year flood elevations.

47. Within the next two years, Douglas, Meeker, Pope and Todd Counties will also adopt flood plain regulations for the unincorporated areas of their counties. However, flood insurance studies will not be completed for these counties. Little detailed flood elevation data will be available to these counties for ordinance administration. The proposed Watershed District could provide significant assistance to local governments in the future by developing flood elevation data, analyzing proposed flood plain development activities and promoting and implementing various flood damage reduction strategies.

Need for Watershed District to Provide Solutions to Problems.

48. Watershed Districts can provide significant leadership in water resource management. Their primary advantage lies in their ability to transcend political boundaries. Counties and municipalities often have limited jurisdiction when resolving water problems. A watershed district can identify, evaluate and implement solutions regardless of political boundaries. In addition, when resolving water problems, it is very important that new problems are not created upstream or downstream. Despite the existence of many governmental bodies and agencies, there exists in the area of the proposed Watershed District no overall plan for the management of water. What planning and solutions that have been developed have been fragmented.

49. Citizens opposed to the establishment of a wateshed district were, by and large, opposed to any additional layer of government which could assess them for the water problems in the watershed. Residents of the proposed Watershed District, whether they favor the District or oppose it, were all concerned about the pollution of the lakes from point and non-point sources. Municipalities such as the City of Melrose have been involved in substantial municipal improvement projects including improvements to their waste water treatment plant. Similarly, farmers are concerned with soil loss and erosion and pollution by livestock. Many farmers have participated with agencies such as the Area Soil and Conservation Service (ASCS) and the County Soil and Water Conservation Districts to modify farming practices to reduce water pollution and soil loss. Conservation tillage is widely practiced within the farm communities within the Watershed District.

50. A watershed district can provide for consistent management of public drainage systems as well as mediate disputes which cross county borders. A watershed district can assess the impacts of drainage activities on a total watershed basis. The current practice is to evaluate the impact of each drainage project on a separate basis. A more appropriate analysis would be to look at the cumulative impact of the proposed project and existing and probable future drainage activities on downstream flooding.

51. No one existing agency or government unit has demonstrated the capability to coordinate the management of the proposed Watershed District's problems. Throughout the years many governmental, public and private

organizations have studied various elements and aspects of the water resources problems in the proposed Watershed area. However, coordinated public water management is totally absent at the federal, state and local level in this area. Coordinated management of the area would be possible with a watershed district.

52. Several studies have recently been completed by the Minnesota Pollution Control Agency and Dr. Keith Knutson of St. Cloud State University to assess the water quality conditions in Sauk River and the Horseshoe chain of lakes. These studies indicate a need for a comprehensive plan to improve water quality.

53. A watershed district could conduct a comprehensive survey of necessary hydrologic and hydraulic environmental elements, utilizing all other reliable surveys and past studies and reports. A watershed district could conduct a comprehensive and overall hydrologic and hydraulic environmental and economic study of all waterways, streams, lakes and water bodies, as well as land and other natural resources in the watershed. An overall watershed plan could be developed in cooperation with the existing local, regional, state and federal agencies.

54. Utilizing a comprehensive and overall study, a watershed district could identify the most cost-effective alternative for: (a) controlling and/or minimizing expected flood damages; (b) controlling or significantly improving the water quality of streams and lakes, especially the recreational and aestetically valuable lakes; (c) controlling or minimizing the pollution of waterways and water bodies caused by feedlots, animal wastes, treatment plants, sewage lagoons, soil erosion, and agricultural and urban runoff; (d) cleaning, maintaining, repairing and reclaiming public ditches, drainage facilities, watercourses, and lakes within the watershed; (e) preparing flood plain maps of lakes and watercourses to be made available to the counties and municipalities for inclusion in flood plain ordinances; (f) preparing open space and green belt maps to be made available to the counties and municpalities for inclusion in flood plain and shoreland ordinances.

55. A comprehensive plan and a watershed district could provide assistance to farming and agricultural interests as well as to lakeshore property owners by repairs and improvements beneficial to such farming and lakeshore owners within the district.

56. A comprehensive plan and a watershed district could provide professional assistance and guidelines to industries and municipalities with significant pollution problems and work with them to find the most cost effective and environmentally sound solutions to the disposal of wastes.

57. A watershed district could coordinate the search and applications for public monies which may be available to the District to help pay the costs of improvements within the District.

Boundaries of the Proposed Watershed District.

58. Both the Petitioners and the Department of Natural Resources used U.S. Geological Survey 7.5 Minute Series Quadrangle Topographic Maps to determine the natural watershed divide of the Sauk River Watershed. The total

area was delineated on 35 individual maps. When the 35 maps are put together, they include the entire watershed district boundaries. The red solid lines on these maps indicate the natural watershed divide. The black lines on these maps delineate the political boundaries of the Sauk River Watershed District. The political boundaries of the proposed District are, for the most part, consistent with the natural watershed divide except where the Northfork Crow River and Clearwater River Watershed Districts adjoin the southern and southwestern edge of the proposed Sauk River Watershed District. The Department of Natural Resources recommended that coincidental boundaries be designated for adjacent watershed districts. It has been the consistent policy of the DNR to recommend to the Board that "islands" of areas between two watershed districts be avoided. Consequently, the areas between two watersheds have been designated to one of the two watershed districts. (See, WRB Ex. 15 and Petitioners' Ex. 2 consisting of 35 maps).

59. The Petitioners' delineated boundaries differ in a few respects with the DNR's watershed map. However, by the end of the hearing, both the DNR and the Petitioners boundaries were for the most part, consistent. This section of the Report will only address those areas of the proposed Watershed boundaries wherein there was some disagreement or question about the appropriate boundaries.

60. Drainage patterns within portions of the Sauk River Watershed District are not well defined. The U.S. Topographic Map's 10-foot contour interval does not always provide enough detail to accurately determine minor drainage patterns. Certain small basins are clearly landlocked; others may have two or more outlets. Orthophoto maps were occasionally used by the DNR to identify drainage patterns not clearly shown on the topographic mapping. Also, the Petitioners' engineer and the DNR used judgment to determine whether water would eventually flow into the Sauk River Watershed Basin. (Tr. p. 98-99).

61. Belle River Township is on the northwest corner of the proposed Watershed District boundary. The Long Prairie River flows through Belle River Township. Most of the water in the Long River Township flows north and away from the Sauk River Watershed. A small portion of the Long Prairie River flows to the south and into the Sauk River Watershed basin. The Belle River Township Board passed a resolution opposing the inclusion of any part of the Belle River Township in the proposed Watershed District. (Public Ex. No. 2; Tr. pp. 45-46).

62. The proposed boundaries of the Sauk River Watershed District excludes most of the Belle River Township. Only that portion of Belle River Township that includes Calamus Creek, a tributary of the Long Prairie River which flows south into the Sauk River Watershed basin has been included within the boundaries of the proposed Watershed District. The portion included within the proposed boundaries is approximately 10% of the Belle River Township. Since watershed district boundaries are not drawn based upon political boundaries, but are drawn based upon hydrologic boundaries which transcend political boundaries, it is appropriate to include that small portion of Belle River Township within the boundaries of the proposed Sauk River Watershed District.

63. The Petitioners also adjusted a boundary line after verification that County Ditch No. 6 in Stearns County does not flow into the Sauk River

Watershed. This area was taken out of the proposed boundaries. The new boundary lines were indicated on Petitioners' map. This boundary is now consistent with DNR's boundary recommendations in this area. (See, Petitioners Ex. 25, 26; Tr. p. 332).

64. In the original boundary map, Alice Lake in Pope County was excluded from the proposed Watershed District boundaries because it was believed to be a part of the Northfork Crow River Watershed District. However, at the time when the Northfork Crow River Watershed District was established, several local farmers provided testimony and information that Alice Lake does not flow into Northfork Crow River, but that it flows into Sauk River. After a field investigation that showed no culvert under the road, it was determined that Alice Lake did not flow into Northfork Crow River but does flow into the Sauk River Watershed. On the basis of this field investigation it is found Alice Lake flows into the Sauk River Watershed and, therefore, should be included within the proposed Watershed District boundaries. (Petitioners' Ex. 15, 16; Tr. p. 34).

65. Big Fish Lake is located in Collegeville Township in the southeast portion of the proposed Watershed District. Big Fish Lake is spring fed and is not a part of the Sauk River chain of lakes. However, some water may enter the Sauk River chain from an outlet on Big Fish Lake. Most of the property owners on Big Fish Lake belong to the Big Fish Lake property Owners Association. This association has worked with the Department of Natural Resources, the U.S. Army Corps of Engineers, and local government to maintain high quality water. The association has funded major water studies prepared by St. Cloud State University and has implemented most of those recommendations. A major project was recently completed to control lake levels. Consequently, Big Fish Lake and adjacent land around Big Fish Lake do not contribute any significant portion of waters which cause occasional flooding problems in the watershed area. Big Fish Lake and the adjacent land around the lake also do not contribute significant nutrients which cause water quality problems in the Sauk River chain of lakes. The Big Fish Lake owners believe that they do not need nor would they benefit from a watershed district. The Big Fish Lake owners in the area have been active in coordinating comprehensive solutions to any water quality problems affecting their lake. They have a good working relationship with existing governmental agencies and believe that a watershed district would only diminish their ability to deal with water quality problems.

66. On March 10, 1986, Leland and Patricia Buchholz filed a petition with the Board stating that they are owners of the southeast quarter of the southeast quarter of Section 23, Township 128 North, Range 32 West, Round Prairie Township, which is included within the boundary of the proposed watershed district but that the property drains to the north and away from the proposed watershed and therefore should not be included in the proposed district. The petition includes a map showing the location of the proposed district boundary and the location of the actual watershed divide in the vicinity of their property. Since this property does not contribute any waters to the Sauk River Watershed, it should be excluded from the designated boundaries. (WRB Ex. 17).

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Administrative Law Judge and the Minnesota Water Resources Board have jurisdiction in the matter of the establishment of the proposed Sauk River Watershed District. The Petition, as originally filed with the Board and as later supplemented with additional signatures, is proper with regard to form, content, execution and filing as it was signed by at least 50 resident freeholders of the proposed District in accordance with Minn. Stat. 1985 Supplement § 112.37, subd. 1(4). It is not necessary for the Petition to contain both the requisite number of freeholders signatures and the signatures of a majority of the cities within the proposed District in order to be valid. Either one is sufficient.

2. Due, timely and proper Notice of the Hearing was given. All other relevant substantive and procedural requirements of law and rule have been fulfilled.

3. The establishment of the Sauk River Watershed District would be for the public welfare and public interest within the meaning of Minn. Stat. § 112.39, subd. 3 (1984).

4. The establishment of the Sauk River Watershed District would subserve the purposes of the Minnesota Watershed Act at Minn. Stat. § 112.34, subd. 1 (1984). A watershed district would meet the tests of Minn. Stat. § 112.36, subd. 2(1), (8), (9), (10), (11) and (13). It has the potential of meeting the tests of subd. 2(2), (3), (4), (6), (7) and (14).

5. The subwatershed of Big Fish Lake and adjacent lands located in Collegeville Township do not contribute to the problems identified within the boundaries of the Sauk River Watershed District. Nor would this area benefit from the establishment of the Watershed District. The exclusion of Big Fish Lake and adjacent lands in Collegeville Township from the proposed Watershed District will have no deleterious effects on the remaining District's performance of the functions for which it is established.

6. The Board has the power and authority, upon filing of a nominating petition, to fix the boundaries of a watershed district. Such boundaries may include the whole or any part of any watershed or watersheds within the discretion of the Board. The appropriate boundaries of the Sauk River Watershed District should be consistent with the nominating petition as later amended and the District boundary as indentified by the Director of the Division of Waters of the DNR, and consistent with the Findings of this Report.

7. Any of the foregoing Findings which should be more properly termed Conclusions are hereby adopted as such and incorporated by reference herein.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

That the Sauk River Watershed District be established and be given all authority, powers and duties as provided by the Minnesota Watershed Act.

That the Board appoint nine (9) managers as the first Board of Managers for the Sauk River Watershed District from the list of nominees contained in the nominating petition, as amended and in accordance with Minn. Stat. 1985 Supplement, § 112.37, subd. 1a and designate the place within the District where the principal place of business of the District shall be located.

Dated: May 16th, 1986.

Phyllis A. Reha
PHYLLIS A. REHA
Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

Reported: St. Cloud Area Court Reporters
830 Pioneer Lane
St. Cloud, Minnesota 56301
Transcript Prepared: Two (2) Volumes.

MEMORANDUM

The Board has the Statutory Authority to Create the Sauk River Watershed District for the Purposes Contained in the Nominating Petition and Established by the Petitioners at the Hearing.

Minn. Stat. 1985 Supplement, § 112.36, subd. 2 provides, as follows:

> A watershed district may be established for any or all of the following conservation purposes:
>
> (1) Control or alleviation of damage by floodwaters;
>
> (2) Improvement of stream channels for drainage, navigation and any other public purpose;
>
> (3) Reclaiming or filling wet and overflowed lands;

(4) Providing water supply for irrigation;

(5) Regulating the flow of streams and conserving the waters thereof;

(6) Diverting or changing watercourses in whole or in part;

(7) Providing and conserving water supply for domestic, industrial, recreational, agricultural, or other public use;

(8) Providing for sanitation and public health and regulating the use of streams, ditches, or watercourses for the purpose of disposing of waste;

(9) Repair, improve, relocate, modify, consolidate, and abandon, in whole or in part, drainage systems within a watershed district;

(10) Imposition of preventive or remedial measures for the control or alleviation of land and soil erosion and siltation of watercourses or bodies of water affected thereby;

(11) Regulating improvements by riparian landowners of the beds, banks, and shores of lakes, streams, and marshes by permit or otherwise in order to preserve the same for beneficial use;

(12) Providing for the generation of hydro-electric power;

(13) Protecting or enhancing the quality of water in watercourses or bodies of water; and

(14) Providing for the protection of groundwater and regulating groundwater use to preserve groundwater for beneficial use.

The statute explicity states that a watershed district may be established for any of the ennumerated purposes. If any one of the purposes ennumerated in § 112.36, subd. 2 will support the creation of this watershed district, the Board will not exceed its statutory authority. Markwardt v. State Water Resources Board, 254 N.W.2d 371 (Minn. 1977).

Substantial evidence introduced at the hearing indicated that the lakes along the Sauk River and the Horseshoe chain of lakes have extremely poor water quality. The problems generally involve nutrient-rich waters and excessive aquatic vegetative growth. The record reflects that numerous complaints have been received by state agencies concerning these water quality problems. Complaints include substantial productions of blue-green algae blooms creating foul odors, surface scums and toxic conditions for domestic animals and wildlife. Evidence also established problems with flooding, including high ground water table, high water levels on lakes and wetland and crop land flooding. High water has caused problems in basements and other

structural damages. There is significant shore land erosion, roadway flooding and reduced water quality. Other water resource problems identified in the hearing record include point source water pollution from waste water treatment facilities along the Sauk River. Although it is estimated that 52% of the phosphorus budget in the Horseshoe chain of lakes is from these point sources, other sources of pollution include agricultural runoff and improper septic systems around the lakes.

Other evidence established county and judicial ditches in serious disrepair. Two dams within the watershed boundaries have also been identified as significantly hazardous.

Evidence further showed that current water problems in the area could cause a loss of recreational uses, erosion, sedimentation, poor water quality, and attendant health problems.

Evidence adduced at the hearing indicated that coordinated public water management was lacking at the federal, state and local levels. The existing governmental units have been dealing with the problems on a fragmented basis. What is needed is comprehensive plan to address these serious problems.

The standard for the establishment of a watershed district has been interpreted by the Minnesota Supreme Court several times. See, City of North St. Paul v. Minnesota Water Resources Board, 260 N.W.2d 584 (Minn. 1977); Markwardt v. State Water Resources Board, 254 N.W.2d 371 (Minn. 1977); Halversten v. Minnesota Water Resources Board, 188 N.W.2d 923 (Minn. 1971). In Halversten, the Court stated that a district could be established if to do so would promote the Minnesota Watershed Act, conservation purposes as described in Minn. Stat. § 112.36. Id. at 924. In Markwardt, the Court stated that the Water Resources Board must find that coordinated management of water has not taken place before ordering the formation of a watershed district. Id. at 375. In City of North St. Paul, the Court again stated that the Water Resources Board could create a district if it found the conservation purposes of the Act were furthered and that the Court need not rely solely on scientific data in making its determination. Id. at 586-87.

Opponents of the watershed district introduced testimony to the effect that existing governmental agencies and local governments could cure many of the identified problems including the sewage treatment problem, soil erosion problems and many of the water quality problems. There is evidence in the record that the City of Melrose has begun to address its waste water treatment problems. There is also evidence in the record that many farmers have participated with agencies such as the Area Soil and Conservation Service and the County Soil and Water Conservation District to modify farming practices to reduce water pollution and soil loss. However, while these efforts are commendable, they are not sufficient to address all of the watershed's water quality problems on a coordinated and comprehensive basis.

There are considerable surveys and studies that have been completed in the Sauk River Watershed. These studies include studies by the Minnesota Pollution Control Agency, Dr. Keith Knutson from St. Cloud State University, studies completed by the U.S. Army Corps of Engineers, the Department of Natural Resources, and various other groups. What is needed here is a local organization such as a watershed district, to be responsible for a comprehensive plan utilizing all these reliable surveys and past studies and

reports to address the overall hydrologic and hydraulic environmental issues within the watershed. The substantial evidence in the record supports the formation of the Sauk River Watershed District.

The Boundaries of the Watershed District may Encompass Lands That Contribute to the Water Quality Problem as well as Those That Would Benefit From the Establishment of the Watershed District.

Minn. Stat. § 112.36, subd. 1 (1984) provides as follows:

> The board is hereby vested with jurisdiction, power, and authority upon filing of a nominating petition, to establish a watershed district and define and fix the boundaries thereof, all areas of which shall be contiguous and which may be entirely within or partly within and partly without any county, and may include the whole or any part of any watershed or watersheds within the discretion of the board and may include the whole or any part of one or more counties, and to appoint the first board of managers thereof, as herein provided.

As can be seen from the section quoted above, the only limitation on the Water Resources Board's authority when drawing a watershed district boundary is geographical contiguousness. There is nothing else in the statute nor are there any administrative rules which guide the Water Resources Board in defining the boundaries of the watershed district. The district may include the whole or any part of any watershed or watersheds within the discretion of the Board.

In absence of rules which develop criteria for the limits of the Board's discretion in setting boundaries, it must be presumed that the Legislature did not intend a result that is absurd or unreasonable. When one interprets the Watershed Act, one must ascertain and give effect to the intention of the Legislature.

The purpose behind the enactment of Minn. Stat. Ch. 112 is stated in § 112.34, which provides, as follows:

> In order to carry out conservation of the natural resources of the state through land utilization, flood control and other needs upon sound scientific principles for the protection of the public health and welfare and the provident use of the natural resources, the establishment of a public corporation, as an agency of the state for the aforesaid purposes, is provided in this chapter of Minnesota statutes. This chapter shall be construed and administered so as to make effective these purposes.

Given this purpose, the Administrative Law Judge is persuaded that the Legislature intended to create a system wherein a watershed district's boundaries could be resolved upon broad and practical considerations favoring the public interest and not resolved only upon scientific or technical grounds. See, City of North St. Paul, supra and Lenz v. Coon Creek Watershed District, 153 N.W.2d 209 (Minn. 1967).

The boundaries of the proposed watershed district do not precisely follow any one watershed. For example, the boundaries in the southern and southwestern edge of the proposed watershed district adjoin the Northfork Crow River and Clearwater River Watershed Districts. This is perfectly proper within the statutory authority granted to the Water Resources Board. It also makes sense that lands adjacent to these watersheds must contribute water to one watershed area or the other. It is the consistent policy of the Board and the Department of Natural Resources to establish coincidental boundaries for adjacent watershed districts to avoid "islands" of areas between two watershed districts.

Similarly, the Administrative Law Judge has recommended that Big Fish Lake and the adjacent areas to it in the southeastern portion of the proposed district be excluded. Although the Board has jurisdiction to include this area within the boundaries, the Administrative Law Judge does not believe it is appropriate to do so. Substantial evidence was introduced by Big Fish Lake property owners that it does not significantly contribute to any of the water quality problems in the Sauk River chain of lakes. Big Fish Lake is spring fed. Some water may enter the Sauk River chain from an outlet on the lake. However, the Big Fish Lake Property Owners Association has spent a great deal of money to maintain high water quality. The Association has funded major water studies and has implemented most of those recommendations. Big Fish Lake is an example of an area where the existing local governmental agencies and government have been able to work together to solve water quality problems. It cannot be found that the property owners around Big Fish Lake and the adjacent areas in Collegeville Township would derive benefits from a comprehensive water management plan developed by a watershed district.

The boundaries proposed by the Petitioners and the Director of the Division of Waters of the DNR, for the most part, follow the natural watershed divide of the Sauk River. The areas included within the proposed watershed district boundaries are all contiguous and either contribute to the water problems of the area or would derive benefit from a comprehensive water management plan of the area with the exception of Big Fish Lake and the other small areas identified within the Findings of this Report.

P.A.R.

APPENDIX I

NOMINEES FOR PROPOSED SAUK RIVER WATERSHED DISTRICT BOARD OF MANAGERS

1. Darwin Anderson, Osakis, Minnesota 56368
2. Gary Lee Astleford, Osakis, Minnesota 56368
3. Louis Lester Calkins, Route 1, Box 152, Sauk Center, Minnesota 56378
4. Horace W. Cutten, Box 35, Eden Valley, Minnesota 56329
5. *Thomas W. Clapp, Route 1, Cold Spring, Minnesota 56320
6. Bernard A. Deters, Route 2, Osakis, Minnesota 56360
7. Marshall Eugene Dodge, Munson Township, Minnesota
8. Bernard Herickhoff, Westport Township, Minnesota
9. Patricia T. Kasch, 51 Leko Drive, Sauk Center, Minnesota 56378
10. *Lester Kummer, 926 Sinclair Lewis Avenue, Sauk Center, Minnesota 56378
11. *Sandra Dean, 440 Riverside Avenue South, Sartell, Minnesota 56377
12. *Guy Duchne, Sauk Center, Minnesota 56378
13. *Erick Eisenschenk, Route 2, Richmond, Minnesota 56368
14. *Gene Fiedler, Route 4, Box 91, Sauk Center, Minnesota 56378
15. *Merle W. Judes, Sauk Center, Minnesota 56378
16. *Thomas J. Leko, Sr., 31 Leko Drive, Sauk Center, Minnesota 56378
17. *Allan Kulzer, Route 4, Box 212, Sauk Center, Minnesota 56378
18. *Joseph P. Lehan, Route 1, Richmond, Minnesota 56368
19. *Alex Marthaler, Route 1, Box 189, Sauk Center, Minnesota 56378
20. *Jim Miller, Route 1, West Union, Minnesota 56389
21. *Robert Mostad, Osakis, Minnesota 56360
22. *John Hubert Peck, Route 4, St. Cloud, Minnesota 56301
23. Eldred N. Ruegemer, Collegeville Township, Minnesota
24. *George Ruhland, Box 11, Eden Valley, Minnesota 56329
25. Jesse E. Phillips, 824 First Street South, Cold Spring, Minnesota 56320

26. *R. James Ryan, Route 1, Richmond, Minnesota 56368

27. James U. Schaaf, Route 1, Box 150, Cold Spring, Minnesota 56320

28. *Esther Schwidel, Route 1, Cold Spring, Minnesota 56320

29. *Warren J. Schwidel, Route 1, Cold Spring, Minnesota 56320

30. *Ken Spohn, Route 1, Richmond, Minnesota 56368

31. *Wilfred N. Sturm, Route 2, Richmond, Minnesota 56368

32. *Thomas Uphus, Sauk Center, Minnesota 56378

33. Margaret M. Wallraff, Route 2, Box 141, Cold Spring, Minnesota 56320

34. Raymond B. Wenker, Ashley Township, Minnesota

35. Kathleen J. Withers, Osakis Township, Minnesota

36. *Mary Celestine Zormeier, Route 1, Box 64, Cold Spring, Minnesota 56320

37. M. Eugene Dodge, Rural Route 2, Box 326, Richmond, Minnesota 56368 (Submitted nomination by letter March 21, 1986).

38. Linus Dingman, Route 1, Cold Spring, Minnesota 56320

39. Eldred May, Luxemberg Township, Minneosta

40. Norb Kalthoff, 319 South 9th Avenue, Cold Spring, Minnesota 56320

The following individuals were nominated for manager of the proposed Sauk River Watershed District but have withdrawn their names from consideration:

1. *David Bailey, Route 2, Sauk Center, Minnesota 56378

2. *Donald J. Christen, Sauk Center, Minnesota 56378

3. *Ronald Engelmeyer, Melrose, Minnesota 56352

4. *James Miller, Sauk Center, Minnesota 56378

5. *Tim Ruegemer, Villard, Minnesota 56385

*Nominees filed with original petition.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUL 23 1986
Joan Anderson Growe
Secretary of State