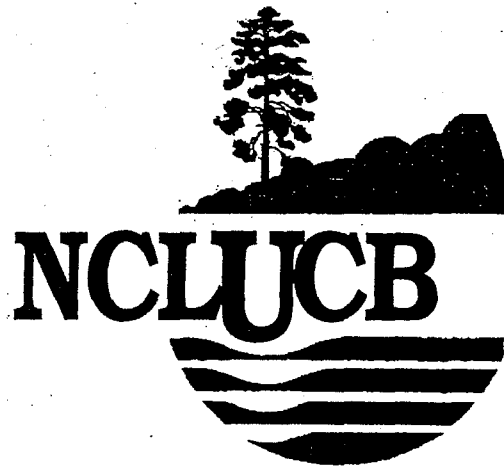


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Resolving Conflict Over Land Use and Property Rights

**A Progress Report to the
Minnesota Legislature**



**Northern Counties Land Use Coordinating Board
January 15, 2004**

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Resolving Conflict over Land Use and Property Rights

A Progress Report to the Minnesota Legislature

Introduction and Overview

The 2002 legislature approved a policy bill that authorized the Northern Counties Land Use Coordinating Board (NCLUCB) to conduct a pilot project for resolving conflicts over land use and property rights, and the 2003 legislature approved initial funding for the project (Appendix A). The objectives of the project are to:

- (a) Document instances when policies and regulations are incompatible with local land use authority
- (b) Document instances when regulations and policies interfere with private property rights
- (c) Identify and promote a means of resolving differences

This legislation is the latest attempt in a long series of attempts to help manage the divisive conflicts in northern Minnesota, to help resolve those conflicts that are the most pressing, and to establish a model that can be used statewide and perhaps nationally.

The history of events leading up to the legislation is briefly described in Appendix B (Chronology of Pilot Land Use Project). Earlier attempts to deal with specific federal land use issues in northern Minnesota date back to the mid-1970's.

This report describes the approach that the NCLUCB (the Board) is taking in the implementation of the legislation, the progress that has been made to date, and the next steps in the process.

In general, it is the intent of the Board to complete the necessary documentation by the end of the first year of the project, allowing implementation to occur during the second year.

Background

The Northern Counties Land Use Coordinating Board was established in September of 1993 pursuant to the Minnesota Joint Powers Act.

The purposes of the Board are: to gather and disseminate information; to consider matters of common concern; and to assist member counties and other units of government or regional organizations in the formulation of land use plans or general policies needed for the protection, sustainable use and development of lands and natural resources. The primary mission of the Board is to provide leadership in the development of comprehensive land use plans that meet the social, cultural, environmental and economic needs of the people of the region.

In 1995, the Minnesota Legislature approved an appropriation of funds for the Board for the "development of a coordinated planning process and comprehensive land use plans pursuant to policy goals in the National Environmental Policy Act."

The geographic region of the Board stretches from the Red River Valley on the North Dakota border to the North Shore of Lake Superior. Member counties are extremely diverse with various mixes of land ownership, ranging from almost all private lands to 90% public lands.

The region represents a diversity of high quality natural resources that include: Two national forests, a national park, a national monument, a national wildlife refuge, the headwaters of the Mississippi River, the North Shore of Lake Superior, the largest federally designated wilderness area east of the Mississippi, 45 lakes

and rivers that are shared with Canada, rich agricultural lands, extensive peatlands, several existing and proposed national natural landmarks, three dozen federal wild and scenic river candidates, two dozen state forests, several scientific and natural areas, extensive wetlands, and numerous state and local parks and wildlife areas. A large part of the region was even proposed as a U.N. International Biosphere Reserve, considered an elite environmental distinction.

The Need

Virtually every federal and state land use program that exists in the nation exists in the northern one-third of Minnesota. The vast majority of federal and state lands in Minnesota exist in this region. Northern Minnesota counties themselves manage approximately 2.8 million acres of land, more than any other state. In addition, the proximity of the region to Canada, and the existence of bi-national agreements has elevated many issues to an international level.

Federal Programs. With respect to federal issues, most land use programs are driven by statutes, including the Clean Water Act, Clean Air Act, Endangered Species Act, National Environmental Policy Act, Forest Management Act, National Park System Organic Act, National Wildlife Refuge System Act, National Historic Sites Act, Federal Wild and Scenic Rivers Act, National Trails System Act, Wilderness Act, Coastal Zone Management Act, Scenic Byways Act, and the Land and Water Conservation Fund. Other federal programs that are not specifically required by statute include wetland regulations, ecosystems management policy, research management areas, buffer zones, special management zones, biodiversity, greenways, sustainable development, smartgrowth, national natural landmarks, and basinwide (or watershed) management.

State Programs. At the state level, many of the land use programs are driven by statutes and policies similar to those mentioned above, in addition to the Wetlands Conservation Act, Scientific and Natural Areas, and Wildlife Management Areas. Moreover, many of the state

forests and state parks are located in the north. Finally, an aggressive basinwide planning effort lead by the Minnesota Pollution Control Agency includes the three international basins (Red, Rainy, and Lake Superior) that comprise almost all of the land and water resources of northern Minnesota.

Bi-national Programs. Several bi-national agreements exist that affect land and water resource management in northern Minnesota, including the Webster-Ashburton Treaty, the Root-Bryce (Boundary Waters) Treaty, North American Free Trade Agreement, and the Rainy and Lake of the Woods Conventions. More recently, the International Joint Commission (IJC), created by the 1909 Root-Bryce Treaty, is proceeding to expand its role beyond water level regulation, by establishing international watershed boards for the Red and Rainy-Lake of the Woods basins.

The result of all this is a confusing array of policies and regulations applied on the ground that very few people can even begin to understand and sort out. Local elected officials and citizens have had to react to the "issue of the day" without the time or resources to fully analyze the social, environmental, and economic effects of a particular policy or regulation.

The Approach

The Board and the Department of Administration signed an agreement on September 18, 2003, that lays out an approach and a schedule for carrying out various components of the legislation. Recommended timelines associated with the work plan are attached as Appendix C.

Intergovernmental Cooperation. A successful project will require substantial improvement in cooperation among all levels of government and government agencies. The Board, therefore, intends to work closely with appropriate federal and state agencies, other local units of government and Canadian officials.

Private Sector Cooperation. In addition to various interests representing recreation, agriculture, mining, forestry, and tourism, the Board intends to reach out to other organizations and citizens that have social and/or economic interests in the region. Initial public meetings and public input were designed to help facilitate such cooperation.

Congressional Hearing(s). As a means of gaining federal support for the project, the Board will encourage the planning and conduct of a Congressional hearing or hearings in Minnesota. Since most of the difficult issues have their origin in federal statute or policy, the Board believes federal support and cooperation is essential to the success of the project.

Documentation of Conflicts. In achieving two of the main objectives of the project, the Board will gather and report on specific conflicts that will focus on policies and regulations that are incompatible with local government land use authority or that interfere with private property rights.

Resolving Differences. The third objective, to identify and promote a means of resolving differences, will be achieved after gathering and reporting on conflict resolution models that have been used throughout Minnesota and elsewhere around the country. The second year of the project will focus on the implementation of a model or models that the Board deems most appropriate and necessary to achieve successful results.

Activities to Date

The Board has undertaken a number of activities since the signing of an agreement with the state on September 18, 2003.

Public Forums and Input. The Board planned for and conducted a series of meetings in northern Minnesota in late October. In addition, the Board solicited initial input from the public and from interested

and affected organizations and citizens throughout November and the first half of December. People were notified of the meetings and input period through press releases, e-mail, faxes, telephone calls, and distribution of literature at conferences.

Agency and Association Contacts. The project has been discussed with agency and association representatives through meetings, e-mails and telephone conversations. Meetings with federal agency representatives and members of the congressional delegation are being planned for late February in Washington, DC.

Documentation of Conflicts. Preliminary research has been conducted and information gathered on conflicts arising from federal and state statutes, bi-national agreements, and policies and regulations not required or authorized by statute.

Conflict Resolution Models. Preliminary research has been conducted and information gathered on models designed to resolve conflicts.

Preliminary Findings

The limited attendance at initial meetings and responses received further demonstrate the need for the project. It appears that many interest groups are well entrenched and not particularly interested in pursuing new approaches to problem solving. In addition, many private citizens and representatives of organizations have become so cynical about government, that they have concluded that their voice doesn't matter and their opinion doesn't count. It will take a great deal of effort to overcome these obstacles, and focus meetings for targeted interest groups may be necessary and appropriate.

Public Meetings and Responses. Although limited in number, the quality of comments and responses is encouraging and helpful. Concerns expressed include: federal and state wetland regulations; access to private and public lands; endangered and exotic species;

annexations; septic system standards; MNDOT land acquisition practices; nonpayment of ditch taxes; WMA restrictions; reduction of land values; regulations on recreational uses; takings without compensation; water jurisdiction; unreasonable EIS timelines and delays; lack of public participation in planning processes; too much planning by outsiders; shoreland management regulations; loss of tax base with expansion of public lands; permanent easements; lack of intergovernmental cooperation; inconsistent interpretation of legislation; eminent domain; forest management practices; inconsistent property tax assessments; utility corridors; rights of way; lack of recognition of local plans in federal and state planning; negative economic impacts of regulation; and loss of quality of life.

Some suggestions included: creation of new partnerships; establishment of a statewide board with balanced representation; decentralization of state government; returning wetland regulations to local control with state oversight; modification of rule-making processes; development of new forums for cooperation; broader public participation in planning and decision-making; and modification of the legislative process in regard to conference committee actions.

A more detailed summary of comments and responses is attached as Appendix D.

History of Conflict. There has been a long history of conflict over land and resource management in northern Minnesota. The conflict has obviously intensified since passage of environmental statutes in the late 1960's and 1970's.

It is fair to say that the most contentious issues have arisen as the result of actions by federal agencies, including the National Park Service, U.S. Forest Service, U.S. Fish and Wildlife Service, the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers. This does not mean that actions by these agencies are malicious or not well-intended. What it does mean is that policies and regulations formulated and directed from Washington do not necessarily work or make sense at the grass roots level. This is also

somewhat true of policies and regulations formulated and directed from St. Paul. One size does not fit all.

It is also fair to say that government agencies have often been criticized for implementing regulations resulting in consequences that many legislators (including those who supported various pieces of legislation) claim were not intended.

Many issues have ended up in protracted and expensive legal affairs. The winners generally have been those with the financial resources to prevail. Moreover, it has been demonstrated that the courts are not particularly good at making land use decisions.

In any event, the conflict in northern Minnesota will certainly intensify further in the absence of meaningful change in the way issues are approached, processes are designed, and decisions are made.

A more detailed description and explanation of specific conflicts will be included in the final report. Appendix E is a list of some of the more notable conflicts that have occurred in the region over the past 25 years.

Private Property Rights. The mere mention of private property rights in a discussion about land use and natural resource management is almost certain to provoke disagreement. Much of the disagreement is based on concerns about the possible effects on the environment of instituting laws and policies to ensure the protection of private property rights.

The central private property rights issue is based on the 5th amendment to the constitution (the "takings" clause) which provides that no private property shall be taken for a public use without just compensation.

This provision has been widely accepted and practiced in instances where eminent domain has been used (for the construction of highways, as an example). There are disputes, of course, regarding

the level of compensation required, such as in the current cases involving the acquisition practices of the MN Department of Transportation. There is no disagreement, however, about the fact that compensation is required.

The real policy question for now and the future is what, if any, compensation is due in cases involving "regulatory takings," the "taking" of private property for public purposes, whether it be for the protection of endangered species, wildlife habitat, or wetlands preservation. Advocates argue that devaluation of property (taking) through regulation designed to provide a public good should be paid for by the public (the taxpayer) under the takings clause. Opponents argue that regulations do not represent a "taking," since the title does not change. Furthermore, they argue, the public can't afford to pay.

The larger policy question is this: What is the effect of large-scale devaluation of private property through regulation on economic growth and prosperity of a region, the state, or the nation?

Potential conflicts with private property rights that have been identified to date, include federal and state agency acquisitions, wetlands regulations, rails-to-trails proposals, OHV/ATV regulations on private land, and basinwide or watershed planning and management initiatives.

A more detailed description and explanation of conflicts with private property rights will be included in a separate report.

There are Solutions. There have been numerous attempts to resolve disputes in northern Minnesota outside the courtroom. These efforts have largely been unsuccessful. Many of these efforts have involved professional mediators or facilitators. The National Park Service, U.S. Forest Service, and U.S. Fish and Wildlife Service have all tried such an approach. In addition, mediators from Minnesota and Ontario were hired to help resolve border disputes, but the attempt was scrapped after just one meeting of the affected parties.

A contentious fishing dispute was finally "resolved" through the intervention of the U.S. Trade Representative under provisions of the North American Free Trade Agreement (NAFTA), but only at the expense of damaged relations that adversely affected other border initiatives.

There has been some success where counties and private citizens and interest groups have come together. In the early 1980's, the Minnesota Headwaters Board, with the help of the Minnesota Legislature, was established as an alternative to a National Park Service plan for the management of the upper 400 miles of the Mississippi River.

In the late 1980's, again with the help of the legislature, river plans were completed under joint powers agreements among counties, as an alternative to a proposal to designate many northern Minnesota rivers under the federal Wild and Scenic Rivers Act.

One of the most notable success stories involved the Quincy Library Group (QLG) in eastern California. After years of frustration and devisiveness, local citizens and counties prepared a plan for a national forest that was taken directly to Congress for approval. The plan had broad support at the local level, and was approved by the U.S. House of Representatives by a vote of 429-1.

A number of states have established, either by statute or administrative action, land use and/or natural resource boards, commissions or councils to address specific issues or land use from a broader, statewide perspective.

For its part, the federal government has established a "Gateways Community" program to acknowledge the impact federal policies and regulations have on local cultures and economies.

In all of the approaches examined to date, it has been demonstrated here in Minnesota and elsewhere across the country, that consensus-building and broad agreement on policy issues is best achieved at the local, grass-roots level.

A report documenting relevant attempts to resolve conflicts is scheduled to be completed by the end of April of this year.

Current and Emerging Issues

Meanwhile, there are a number of current and emerging issues that deserve attention in the short term.

ATV Legislation. Legislation during the last session is seen to be unworkable for large areas of northern Minnesota, because of the difficulty, and in some cases, the impossibility of access to private and public lands. Language prohibiting use of OHV's on private land is also seen as an infringement on private property rights.

Permanent Easements. Perpetual easements proposed for the Red River Valley under the new state Water Initiative are viewed as inappropriate and unnecessary. Permanent easements take land out of productive use, removes land from the tax rolls, and preempts options of future generations.

Water Resources. Policies and regulations stemming from state and federal agencies and bi-national organizations, particularly those dealing with non-point source pollution control, are confusing and duplicative and need more legislative oversight.

ISTS. Policies and regulations governing individual sewage treatment systems need to consider the statewide geographic differences, and the special difficulties inherent in large parts of northern Minnesota.

Wetlands. Federal and state wetlands regulations need to be further scrutinized by the legislature to ensure that they are fair, reasonable and compatible, and to avoid duplication of effort among government agencies.

Drainage Law. Issues relating to drainage should be addressed and resolved voluntarily under existing drainage law.

Next Steps

Briefly, here are the next steps in the project, prior to the implementation phase beginning July 1, 2004.

- (1) Continue to build on and improve communications and relations with government agencies and diverse stakeholder groups and private citizens.
- (2) Solicit political and financial support for the project from the federal government.
- (3) Complete reports documenting instances where policies and regulations are in conflict with local government authority or private property rights.
- (4) Complete a report documenting conflict resolution or problem-solving models or processes.
- (5) Develop an implementation strategy for the second year of the project.

Preliminary Recommendations

1. The legislature should revisit the OHV/ATV legislation and either repeal or substantially revise it so it is workable on the ground.
2. The legislature should review the current Water Initiative, and provide guidance, especially with regard to the purchase of perpetual easements in the Red River Valley.
3. The legislature should review and provide guidance on state basinwide planning initiatives.

Omnibus Agriculture Policy Bill
Chapter 373
(signed into law on May 18, 2002)

- 19.21 Sec. 33. [NORTHERN COUNTIES LAND USE COORDINATING BOARD;
19.22 LAND USE MANAGEMENT; PILOT PROJECT.]
- 19.23 (a) The northern counties land use coordinating board may
19.24 initiate a pilot project to promote cooperative efforts among
19.25 county, state, federal, and local units of government and
19.26 private citizens regarding land use management issues. The
19.27 office of strategic and long-range planning must coordinate the
19.28 activities of state agencies, which shall include the
19.29 departments of agriculture, commerce, natural resources, trade
19.30 and economic development, board of soil and water resources,
19.31 iron range resources and rehabilitation board, environmental
19.32 quality board, pollution control agency, and the office of
19.33 environmental assistance.
- 19.34 (b) The board must also solicit cooperation with Canadian
19.35 officials who represent areas contiguous to the region and with
19.36 organizations representing recreational, agricultural, mining,
20.1 forestry, and tourism interests within the affected boundaries
20.2 of the northern counties land use coordinating board.
- 20.3 (c) The legislature also encourages participation by
20.4 appropriate federal agencies.
- 20.5 (d) The objectives of the pilot project are to:
- 20.6 (1) document instances when land use regulations and
20.7 policies are incompatible with local government land use
20.8 authority;
- 20.9 (2) document instances when regulations and policies
20.10 interfere with private property rights; and
- 20.11 (3) identify and promote a means of resolving differences.
- 20.12 (e) The board must report to the legislature by January 15,
20.13 2004, on the status of the project. The pilot project ends on
20.14 June 30, 2004.
- 20.15 (f) Costs to the office of strategic and long-range
20.16 planning related to its coordination duties under this section
20.17 must be reimbursed by the northern counties land use
20.18 coordinating board or its participating counties as provided in
20.19 an agreement between the office and the board. The agreement is
20.20 not subject to the limits on contracts and hiring in Laws 2002,
20.21 chapter 220, article 10, sections 36 to 38. Reimbursements must
20.22 be deposited in the state treasury and credited to the special
20.23 revenue fund and are appropriated to the office to carry out the
20.24 agreement.

State Government Finance Bill
(signed into law on May 28, 2003)

From MN Planning, Department of Administration Budget: \$50,000.00 the first year and \$50,000.00 the second year is for a grant to the Northern Counties Land Use Coordinating Board pursuant to Chapter 373, Section 33. The pilot project ends on June 30, 2005.

Chronology of Pilot Land Use Project

- 1987 Northern Resources Alliance of MN (NRAM) formed -- Includes elected officials, representatives of agriculture, forestry, mining and recreation
- 1988 NRAM proposes local alternative to federal wild and scenic rivers initiative in northern Minnesota
- 1989-90 Legislature (LCMR) approves initial funding for local rivers initiative (approximately \$1 million approved over several years for 12 river plans, led by boards of elected officials, citizen advisory committees, and technical committees)
- 1991 NRAM sponsors National Stewardship Conference in Duluth; speakers include former U.N Ambassador Jeane Kirkpatrick and environmental leaders from the former U.S.S.R.; the leader of the largest environmental organization signs symbolic agreement with NRAM endorsing rivers program
- 1992 Ukrainian Minister of the Environment visits MN and endorses NRAM approach to governance
- 1993 Northern Counties Land Use Coordinating Board (NCLUCB) established for five northern MN counties (Cook, Koochiching, Lake, Lake of the Woods, and St. Louis)
- 1994-95 Five other counties join NRAM, in part, to address impacts of state wetlands legislation; amendment to wetlands act approved
- 1994 Demonstration project for portion of NCLUCB proposed to address multiple issues in northern MN

- 1994-95 NCLUCB requests and receives grants from MN legislature and IRRRB for comprehensive land use planning in northern MN
- 1994-95 NCLUCB requests that a Congressional Hearing be held in northern MN; board sponsors issue papers in preparation for hearing
- 1995-96 Hearings held in International Falls, St. Paul and Washington, D.C.
- 1996 Bill introduced by Sen. Grams and Rep. Oberstar introduce bill that would give local elected officials and citizens a larger role in resolving land use conflicts in northern MN; bill does not pass
- 1996 Resolution of portage issue in BWCAW reached and approved by Congress
- 1996-97 Pioneer biologist Dr. Dan Botkin, recipient of an international award on sustainable development, assists board in promoting a pilot project; estimates total cost of such a project at over \$2 million; he posed the following question: "If we can't do such a project in northern MN, where can we do it?"
- 1998 NCLUCB sponsors conference in Brainerd that includes experts from around the country; author and syndicated columnist, Dr. Alston Chase, recommends local initiative and experimentation as a means of resolving land use conflicts
- 1998-99 NCLUCB leads the effort to defeat a centralized planning initiative (Community-based planning)

- 1999 NCLUCB delegation meets with representatives of the Quincy Library Group in California, made up of county commissioners and citizens representing diverse interests; the group developed a plan for a national forest that was approved by Congress
- 2000 NCLUCB requests a Congressional Forestry Hearing in northern Minnesota, and assists in organizing and preparing testimony for the hearing
- 2001 NCLUCB drafts pilot project legislation for consideration by the MN legislature, including an appropriation of \$250,000.00; bill approved by the house, but doesn't survive conference committee
- 2002 Pilot project policy bill drafted by NCLUCB and approved by the MN legislature
- 2002 LCMR approves \$200,000 to implement pilot project
- 2003 Pilot project eliminated after LCMR budget is reduced by one-third
- 2003 An amendment to fund project at \$200,000.00 is approved unanimously by the House Ways and Means Committee; effort to restore LCMR funding in Senate fails
- 2003 Conference Committee approves \$100,000 for project
- 2003 Grant agreement between NCLUCB and Dep't of Admin. reached on September 18th

Timelines for Pilot Project Activities (10/03-6/04)

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Initial public meetings/ public input	-----								
Progress report to the legislature			-----						
Apply for grants						-----			
Establish agency contacts	-----								
Establish association contacts	-----								
Establish data base of private citizens	-----								
Review interagency cooperative agreements				-----					
Identify and communicate with Canadian officials			-----						
Request and plan for Congressional hearing				-----					
Plan and conduct Wash., DC trip			-----						
Research and report on institutional models	-----								
Documentation of conflicts	-----								
Develop imple- mentation strategy								-----	

Getting to Win-Win Land Management Decisions Public Meetings October 22, 28, 29 and 30, 2003

As part of its effort to solicit input and ideas for the pilot project, the Northern Counties Land Use Coordinating Board held public meetings in four locations across northern Minnesota. Meetings were held in Two Harbors (10/22/03), Eveleth (10/28/03), International Falls (10/29/03), and Thief River Falls (10/30/03).

The purpose of the meetings was to inform citizens, federal, state and local governments, and organizations representing recreational, agricultural, mining, forestry, and tourism interests about the NCLUCB pilot project and solicit their input on instances where:

- Land use regulations and policies are incompatible with local government land use authority, and
- Regulations and policies interfere with private property rights

Two press releases were developed and sent to newspapers and radio stations in northern Minnesota to inform people about the meetings. Approximately 30 people attended the four meetings.

Each meeting began with an overview of the project and a presentation on who manages Minnesota's land. Participants then broke into small groups to discuss where regulations and policies collide. A facilitator worked with each group to keep the discussions going and ensure that everyone had an opportunity to participate. Ideas were recorded on worksheets and flipcharts; note takers also recorded highlights of discussions. Each meeting ended with an "open microphone" session. Staff from the Department of Administration's Local Planning Assistance Center conducted the meetings, with assistance from the Arrowhead and Northwest Regional Development Commissions.

Attendees were given a postage-paid mailer so that they could submit additional comments after the meeting. The mailer also was distributed at the annual meetings of the Association of Minnesota Counties and Minnesota Association of Townships in order to solicit further input.

Summary of Comments

Although attendance was light, the quality of comments and ideas received provide excellent input for documenting concerns and focusing the next phase of the pilot project. Four major themes emerged, as did a number of general observations and concerns and concerns related to specific land management issues. Finally, participants offered some suggested solutions to their concerns.

Major Themes:

Flexibility. Programs and regulations must be flexible to account for physical and socioeconomic variations across the state.

Involvement/Communications. Local governments and citizens must be involved and their concerns and desires addressed.

Cooperation/Partnerships. Local governments should be viewed as partners and their plans, which represent the desires of citizens, respected.

Consistent/Non-arbitrary application. Programs and regulations must be applied fairly and consistently.

General – comments related to overall land management conflicts, rather than a specific land management issue.

- Interpretation of legislation by regulating agencies and public or local units of government is different.
- State plans and regulations don't recognize local plans.
- "One size fits all" cannot work in a state as large and diverse as Minnesota for most every land management/use issue.
- Individuals and local governments experience financial losses due to regulations and lost economic opportunity
- Lack of responsiveness and cooperation among federal and local governments, regulators and regulations is a problem.
- People from outside are doing the planning; e.g., state agency staff and others with vested interests.
- Newcomers and outsiders don't respect existing local controls, may overly control local policies and impede economic development through delay tactics.
- State and federal government agencies must follow deadlines/timelines when responding to projects in order to avoid cost and time delays or changing project.
- Environmental impact statement timelines can be problematic.
- People are willing to accept regulations if they protect national resources; wetland, feedlot and other regulations have useful purposes.
- State planning efforts (e.g., basin plans) generally involve insufficient public participation and notification, and are designed for convenience of state workers.
- Board of Water and Soil Resources takes all money from local water boards to increase its own power.

Use – conflicts related to an individual's ability to use land.

- Lack of access to private land:
 - Land locked parcels – private land surrounded by state land can lack legal access, lowers land values.
 - Forest Service regulates new and old roads and access to new development of privately owned land-locked parcels; can't make economic use of property, including timber, minerals.
- Lack of access to public lands and/or restricted use.
- Legal takings – versus losing a "use" of private land.

- Impacts of state public lands policies on surrounding lands, roads and utilities, and inconsistencies with local plans.
- Impact of state regulations on recreational uses, including ATV's, snowmobiles, jet-skies and other watercraft on local waterways; O.H.V. use on wetlands and private property; and use restrictions on horseback riding in Wildlife Management Areas.
- Feedlot regulations affect neighboring property owners; feedlot owners may be elected officials.
- Not allowing deer stands to be kept up overnight in Wildlife Management Areas.
- Strict implementation of shoreland laws on streams can leave some landowner with no usable space (e.g., farmstead located between ox bow and river), amounting to "taking."
- Taking by legislation, as in wild and scenic designations.
- Basin plans have potential to infringe on private property rights, since they deal with roads, trails, wetlands and use of private property.

Land Management – conflicts related to who manages land and who makes decisions.

- The National Park Service exercises extra territorial authority.
- Wildlife Management Areas conflict with local management:
 - Impacts of WMA's are inconsistent with wishes of neighboring constituents and local plans.
 - Control of public roads and access to lands are blocked by state for benefit of WMAs.
 - DNR usurps rights/authority of townships to manage their own roads, but townships resources to challenge DNR.
- Wilderness designation (e.g., scientific and natural areas) without public notice or input.
- Waffle plans for drainage proposed by university could be imposed.
- Utility corridor planning/resource management in corridors.
- Regulations in Right-of-Ways. Who will be responsible?
- Eminent domain authorized by state for utilities and recreational uses, disregarding local wishes and health issues.
- Annexation – city authorization over steps townships; usurps township's tax base.
- County comprehensive land use plans and water plans are not considered in Basin Plans.

Wetland, Drainage – conflicts due to implementation of wetlands laws.

- Federal and state wetland regulations can have a negative economic impact on private property.
- State and federal wetland definitions are inconsistent with private use/freedom: prevent best and highest use of property, inhibit use and development of private property, and negatively impact land values.
- Different interpretation among all levels yield vague and inconsistent wetland determinations and affect land values and development opportunities.

- Wetland replacement regulations are unjustified; add cost and delays to potential projects.
- Lack of communication and accountability between property owner and regulatory body.
- Same set of wetland standards apply statewide. Unique situations require flexibility.
- Too many permits and regulations for wetlands/ditches; they impact what counties can do and leave counties and townships with no local authority.
- Certain CRP practices require plugging ditches, blocking drainage.

Roads – conflicts resulting from road construction, management.

- MNDOT does what it pleases – reduces quality of life – must cooperate more with local governments.
- MNDOT highway realignment holds up private property development and inhibits access.
- Local input is needed for MNDOT policies/roads/speed zones.
- MNDOT's use of eminent domain.
- Road alignment, extension of rights-of-way may affect property values.
- Management/decisions regarding roads crossing multiple jurisdictions

Septic – conflicts regarding implementation of septic requirements.

- Excessive state regulations of septic systems; should use performance standards and allow for alternative systems.
- “One size doesn't fit all.” Regulations are too restrictive and not flexible enough in a large state with differing soil classes, geology, etc.
- Arbitrary enforcement of permits and regulations for septic systems adjacent to ditches versus septic systems in other areas.
- Local control is subject to state rules – no local authority.
- State agency fees for septic systems are unclear and unjustified. Where is the money going? What is its use? Who should administer the inspection program?

Wildlife/endangered species – conflicts arising from wildlife management programs.

- Regulations and protection on “predator” animals, such as the timber wolf, conflict with local authority and private property rights.
- Wolf control plan is to benefit of southern farmers.
- Exotic species – for example, from bilge water into the Great Lakes – no one wants to take responsibility.
- Endangered species law currently pursued through fines, penalties and “takings,” Rather than working with farmers and ranchers to increase habitat with cost sharing and other approaches.

Zoning – conflicts in application of local controls.

- Comprehensive plan are compatible with private property rights (i.e. signs, lot size, building height), if property enforced.
- Variance provisions are applied unevenly.
- No way to involve Federal and State agencies in local platting process.

Local taxes – conflicts in taxing authority, ability to control tax base.

- Local tax base losses:
 - Allowing of perpetual easements results in local tax base loss.
 - Conservation easements lower value of property and reduce taxes.
 - Tax burden is increased in remaining private properties as a result of conversion of private lands to state/public lands and taxes are not paid on converted land.
- Property tax unfairly applied – based on building value as opposed to services provided.
- Nonpayment of ditch taxes by state.
- Farm land forfeitures immediately go to federal or state agencies for wildlife reserves, conflicting with county desires to keep land in farms and logging.

Suggested Solutions:

- Establish forums for cooperation and stronger commitments from state to recognize local authorities.
- Require that new state regulations recognize local issues, needs and evidence.
- State should seek broader public participation throughout the state when developing statutes and regulations.
- Rules process should be modified to include timeliness, people affected.
- Make agency heads available for feedback.
- Create a public board, which represents the whole state, to create/change regulations.
- Return wetland regulations back to local authority with state oversight.
- Change legislative process and conference committee to allow public input.
- Decentralize state offices; focus offices in regions/rural areas.

Selected Northern Minnesota Issues Over the Past 25 Years

Agassiz National Wildlife Refuge Management
American Heritage Trust Act
ATV/OHV Use
Biodiversity
Biological Surveys
Border Fishing Disputes
Border Water Management (MN-Canada)
BWCAW Management
Buffer Zones
Coastal Zone Management
Community-Based Planning
Consolidated Conservation Lands
Ecosystems Management
Endangered Species
Land Acquisition
Mississippi River Management
National Forest Management (Superior and Chippewa)
National Natural Landmark Designations
North Country Scenic Trail
Northwoods International Biosphere Reserve (U.N.)
Research Management Areas
Scientific and Natural Areas
Special Management Zones
Sustainable Development
Tall Grass Prairie Preserve
Voyageurs National Historic Trail
Voyageurs National Park Management
Water Jurisdiction
Watershed Planning and Management
Wetlands
Wild and Scenic River Designations
Wilderness
WMA Designations and Management