

TC 424 .M6 T69× A REPORT OF THE MINNESOTA WATER PLANNING BOARD TO THE LEGISLATIVE COMMISSION ON MINNESOTA RESOURCES AND GOVERNOR ALBERT H. QUIE

#### FOREWARD

Pursuant to its charge in Laws 1980, Chapter 548, the Minnesota Water Planning Board has carefully studied the local role in water management. Seven staff technical studies, a survey of nearly 500 local officials, personal meetings with over 80 local leaders, contact with the state's Regional Development Commissions and a subgroup of the Board's Water Interests Advisory Committee, and a major conference attended by nearly 100 invited key persons, have provided essential background information. Based on this information and supplemented by the experience of Board members, the Water Planning Board recommends a course of action designed to improve and clarify relationships and authorities in local water management in Minnesota.

While it is clear that there is no magical combination, no single answer, the Minnesota Water Planning Board believes it has a positive, constructive solution for local involvement in water and related land resources management. The Board sends this report and its recommendations to the Governor, the Legislature, and the public for consideration. It is intended to capture the attention and stimulate the debate which the Board believes the issue it addresses requires.

The study, which was begun in June 1980, represents nearly three person-years of work on the part of the Board's staff. It was funded primarily by the Legislative Commission on Minnesota Resources with additional assistance from the U.S. Water Resources Council. John Wells served as study manager. Other members of the Board's professional staff -- Brandt Richardson, Linda Bruemmer, Susanne Maeder, Steve Pedersen, and Jack Ditmore -- contributed a substantial portion of their time to the project. Don Frederiksen, Andy Frank, Nancy Edwardson, Carol Sinden, and Ann Barclay assisted the professional staff. The State Planning Agency's Land Management Information Center provided computer services for analysis of a survey of local officials. Gene Hollenstein and Joe Gibson of the Department of Natural Resources assisted with development of local water management planning concepts and with case studies, respectively. The study could not have been completed without the aid of Patty Stadstad and Renee Fisher.

The members of the Water Planning Board contributed large amounts of time both in meetings and on their own to review staff papers, to draft alternative language, and to debate critical issues.

The Local Water Management Study is the result of all of these efforts. It is the Board's intent that it result in positive action.

TOM KALITOWSKI, CHAIRMAN MINNESOTA WATER PLANNING BOARD

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## THE LOCAL WATER MANAGEMENT STUDY RECOMMENDATIONS TO THE GOVERNOR AND THE LEGISLATURE

Pursuant to its charge in Laws 1980, Chapter 548, the Minnesota Water Planning Board has carefully studied the local role in water management. Seven technical staff studies, a survey of nearly 500 local officials, personal meetings with over 80 local leaders, and a major conference attended by nearly 100 invited key persons, have provided background information. Based on this information and supplemented by the experience of Board members, the Water Planning Board offers its recommendations for consideration by the Governor, the Legislature, and the citizens of this state.

The governing legislation directed the Board to initiate "a study of possible clarifications and improvements in authorities and relationships of local water management agencies" and to "define the role of local units of government in the implementation of the framework plan."

The Water Planning Board recommends that the Governor and the Legislature adopt nine basic positions which would clarify and improve authorities and relationships at the local level in water and related land resources management. These recommendations should be considered in light of and in concert with the state-level recommendations made by the Board in "Toward Efficient Allocation and Management: A Strategy to Preserve and Protect Water and Related Land Resources" (June 1979). The recommendations are:

- \*\* GENERAL PURPOSE GOVERNMENTS, PARTICULARLY COUNTIES, SHOULD BE THE FUNDAMENTAL DECISION-MAKERS AT THE LOCAL LEVEL.
- \*\* COUNTY WATER PLANNING AND MANAGEMENT SHOULD BE BASED ON HYDROLOGIC UNITS.
- \*\* COUNTIES SHOULD HAVE THE BASIC RESPONSIBILITIES AND AUTHORITIES FOR DEVELOPING AND INSURING IMPLEMENTATION OF COMPREHENSIVE WATER AND RELATED LAND RESOURCES PLANS.
- \*\* GENERAL PURPOSE GOVERNMENTS SHOULD BE REQUIRED TO PROVIDE FINANCIAL SUPPORT FOR WATER AND RELATED LAND RESOURCES MANAGEMENT.
- \*\* SOIL AND WATER CONSERVATION DISTRICTS AND WATERSHED DISTRICTS SHOULD CONTINUE TO EXIST. THEY SHOULD BE MORE DIRECTLY TIED TO GENERAL PURPOSE GOVERNMENT THROUGH COMPREHENSIVE PLAN CONSISTENCY AND APPROVAL AND THROUGH FORMAL AGREEMENTS AMONG THE GOVERNMENTAL UNITS.

- \*\* WHERE WATER RESOURCE PROBLEMS CROSS COUNTY BOUNDARIES, THE OPTION OF FORMING WATERSHED DISTRICTS OR ENTERING INTO JOINT POWERS ARRANGEMENTS SHOULD REMAIN OPEN.
- \*\* INCENTIVES FOR LOCAL PLAN COMPLETION SHOULD BE PROVIDED, WITH PENALTIES IMPOSED FOR FAILURE TO COMPLETE THIS STEP. TO FACILITATE COMPLETION OF THE PLANNING PROCESS, THE PROPOSED NATURAL RESOURCES MANAGEMENT FUND SHOULD BE ADOPTED.
- \*\* REGIONAL COMMISSIONS MAY SERVE AS A PLANNING ADVISOR AND SOURCE OF ASSISTANCE TO COUNTIES IN CARRYING OUT PLANNING RESPONSIBILITIES.
- \*\* AT THE STATE LEVEL, RESPONSIBILITY SHOULD EXIST FOR ESTABLISHING MANAGEMENT GUIDELINES, ASSURING THAT COUNTY PLANS AND MANAGEMENT ARE CONSISTENT WITH THESE GUIDELINES, AND FOR RESOLVING CONFLICTS.

While these nine points provide the basic framework for clarifying local relationships, to implement specific framework plan recommendations at the local level, the Board proposes that:

- \*\* CITIES BE GIVEN THE RESPONSIBILITY FOR CARRYING OUT MANDATORY STORMWATER PLANNING AND MANAGEMENT WITHIN INCORPORATED AREAS.
- \*\* LOCAL UNITS OF GOVERNMENT BE ELIGIBLE TO RECEIVE FLOOD DAMAGE REDUCTION GRANTS-IN-AID, PROVIDED THEIR PROGRAMS ARE CONSISTENT WITH COUNTY COMPREHENSIVE MANAGEMENT PLANS.
- \*\* SOIL AND WATER CONSERVATION DISTRICTS IMPLEMENT THE EXPANDED STATE SOIL AND WATER CONSERVATION COST-SHARE PROGRAM.
- \*\* COUNTIES AND CITIES BE RESPONSIBLE FOR ADOPTION AND ENFORCEMENT OF ORDINANCES FOR CONSTRUCTION-SITE EROSION CONTROL.

Local water and related land resources planning is a principal component of the Board's recommended course of action. A "comprehensive plan" would provide a reconnaissance-level evaluation of water and related land resources, identify both immediate and longer-range needs, and guide solutions to problems. It would precede more detailed analysis necessary to adopt structural solutions. More important, however, the Board recommends that:

- \*\* COMPLETION AND APPROVAL OF LOCAL PLANS TRIGGER THE DELEGATION OF APPROPRIATE STATE MANAGEMENT RESPONSIBILITIES TO THE COUNTY. THE COUNTY MAY ELECT, BY FORMAL AGREEMENT, TO IMPLEMENT DELEGATED RESPONSIBILITIES THROUGH OTHER UNITS OF GOVERNMENT (E.G., SWCD'S OR WATERSHED DISTRICTS).
- \*\* COMPLETION AND APPROVAL OF LOCAL PLANS SIGNAL ELIGIBILITY OF THE COUNTY AND OTHER LOCAL UNITS TO RECEIVE STATE IMPLEMENTATION GRANTS (E.G., FLOOD REDUCTION AID, EROSION CONTROL COST-SHARING) AND EXERCISE PROJECT DEVELOPMENT AUTHORITIES (E.G., UNDER CHAPTERS 106 AND 112).

The course of action recommended by the Water Planning Board will require a number of actions by the Legislature. These include:

Passage of a "Comprehensive Local Water Management Act". The purpose of this Act should be to establish a set of principles under which comprehensive local water and related land resources plans would be developed and implemented. It should establish the structure of local planning process, the scope and content of plans, authorities under approved plans, and implementation elements. This Act would designate counties as the units of government responsible for local water and related land resources planning and for implementation of plans (although county authorities may be delegated) and would require development of formal agreements with other units of government. Hennepin and Ramsey Counties, which are excluded generally from planning requirements, would be given water and related land resources planning responsibilities by the Act.

Amendment of Minnesota Statutes, Chapter 112. Chapter 112 would be amended to permit the Water Resources Board to modify petitions to establish watershed districts and to revise existing district boundaries such that districts are coextensive with the hydrologic units considered in local planning. Chapter 112 also should be amended to give counties authority to petition the Water Resources Board for both establishment and termination of watershed districts. When a petition for termination is filed, the Water Resources Board should be required to consider the county's intent to accomplish the purposes of the Minnesota Watershed Act under its own authorities and to terminate the district if it finds the county will accomplish these purposes. Finally, Chapter 112 should be amended to require that programs and policies of watershed districts be consistent with approved comprehensive plans of each county which they intersect.

Amend county authorities. The authorities of Chapter 112 should be brought together with the basic county authorities in Chapter 106 and 378 to give counties the powers of watershed districts and to require counties to operate under the same water management principles underlying the Minnesota Watershed Act. County authorities for project development should also be amended to require prior approval of comprehensive plans by the state coordinating body before such authorities can be used. In addition, county authorities would be amended to require the dedication of a certain amount of their tax levy for local water planning and management purposes; authority added to allow counties to petition the Water Resources Board for creation or termination of watershed districts; and to allow formation of "subordinate service areas." As noted above, Ramsey and Hennepin Counties should be included under the planning and implementation responsibilities and authorities.

Creation of a "Natural Resources Management Fund" under Minnesota Statutes, Chapter 105. The Natural Resources Management Fund should provide for grants to counties to assist them in planning activities required under the "Comprehensive Local Water Management Act" and grants to eligible governments responsible for implementing statemandated programs for water and related land use management. Amendment of Minnesota Statutes, Chapter 104 to require urban stormwater planning and management by cities. Amendments should specify the authority of counties to approve city plans and programs which transcend city boundaries.

Amendment of Chapter 104 to provide for a statewide flood damage reduction grant-in-aid program. This legislation would define eligibility for grants-in-aid and clarify the relationships of cities, counties, and other local units of government. Flood damage reduction planning requirements would be carried out within the context of water management plans developed under the "Comprehensive Local Water Management Act."

Amendment of Minnesota Statutes, Chapter 40 to require approval of SWCD plans by counties. Amendments should specify that approval be based on state-approved local comprehensive water and related land resources plans and that such approval be a condition of district eligibility for receipt or administration of state cost-share funds and for exercise of project development powers under Minnesota Statutes, Section 40.072.

Amendment of Minnesota Statutes, Chapters 394 and 462 to require counties and cities to adopt construction-site erosion ordinances. Amendments should specify the authorities of counties to approve city plans and programs which transcend city boundaries. In addition, they should provide for review of permit applications by soil and water conservation districts.

Passage of permanent water resources coordinating body legislation. The creation of a permanent water resources coordinating body with adequate authority to carry out specific coordination and review functions was recommended in the framework plan ("Toward Efficient Allocation and Management: A Strategy to Preserve and Protect Water and Related Land Resources"). Four alternatives were suggested to the Legislature for "housing" this body. In addition to the recommendations of the framework plan, the coordinating body should include representation of county interests in its membership in order to fully recognize the expanded role of counties provided for in the Local Water Management Study recommendations.

A recent Citizens League report defines the central issue for the 1980's as "how we will go about acting on our problems and opportunities." The working-out of a positive, constructive solution will be a major challenge.

The Minnesota Water Planning Board believes it has a positive, constructive solution for local involvement in water and related land resources management. The Board sends this report and its recommendations to the Governor, the Legislature, and the public for consideration. It is intended to capture the attention and stimulate the debate which the Board believes the issue it addresses requires. And, it is intended to produce action.

## INTRODUCTION

"WHEN GOVERNMENT ACTION IS NECESSARY, IT SHOULD BE TAKEN BY THE LEVEL OF GOVERNMENT THAT IS CLOSEST TO THE PEOPLE AND BEST SUITED TO HANDLE THE RESPONSIBILITY."

This statement of philosophy made by Governor Quie and widely espoused by the Legislature and the people of the State of Minnesota guides the Local Water Management Study of the Water Planning Board.

In "Toward Efficient Allocation and Management: A Strategy to Preserve and Protect Water and Related Land Resources," the Water Planning Board recommends that:

- \*\* The state serve as the steward of Minnesota's water and related land resources, providing policy guidance and incentives for local and regional action;
- \*\* Regional bodies focus on integrating local interests with a comprehensive view, providing coordination among levels of government and affording assistance to local authorities; and
- \*\* Local governments initiate local management plans and implement solutions to problems, consistent with state policy guidelines.

This philosophy reflects the notion that there can and should be different job assignments for different levels of government which affect water and related land resources management. We cannot afford to neglect the impacts of one level of government simply because we prefer another one more. In this context, the purpose of this report is to sort out the job assignments of local government; to define the necessary powers and relationships of local government units (or the unit) given a responsibility; and to provide the opportunity to enhance the role of local units of government in water management.

#### AUTHORITY

Minnesota Statutes, Section 105.401 requires the Water Planning Board to direct the preparation of a "framework water and related land resources plan" for the State of Minnesota. The completion of "Toward Efficient Allocation and Management" in June 1979 was the first step in this ongoing process. On April 1, 1980, Governor Quie signed Laws 1980, Chapter 548. This Act directs the Water Planning Board

"...to prepare a report to the Governor...and the legislature from which appropriate legislation may be developed...which will define the role of local units of government in the implementation of the framework plan."

A separate section of the Act requires the Board to consider "... possible clarifications and improvements in authorities and relationships of local water management agencies."

The Board was directed to complete the report by January 1, 1981. This report fulfills the charge to the Board.

#### ORGANIZATION

The Local Water Management Study is a continuation of the framework planning process begun in 1977. The recommendations of the framework plan include recommendations for the analysis of "possible clarifications and improvements in the authorities and relationships of local water management agencies."

The Local Water Management Study report consists of this "Special Study" report and seven staff technical support documents. The "Special Study" report summarizes the information available in the technical support documents, defines possible approaches to implementation of the local water management recommendations of the framework plan, and makes recommendations for action by the Governor and the Legislature. The staff technical support documents are identified in Appendix B and are available through the Water Planning Board. In addition, information developed during a two-day conference on "Local Water Management: Issues for the '80s" was utilized in preparation of the report. The conference report is identified in Appendix B and is available through the Board.

### OBJECTIVES OF THE STUDY

Based on Laws 1980, Chapter 548, the objectives of Local Water Management Study are:

- \*\* To define the role of local units of government in the implementation of the framework plan; and
- \*\* To clarify and improve relationships and authorities at the local level.

The Local Water Management Study report recommends to the Governor and the Legislature the steps necessary to overcome present obstacles to efficient and effective water and related land resources management which arise under existing local organizational arrangements in Minnesota. The more far-reaching, but less obvious, result of the recommendations is to more effectively provide for the reflection of the will of the people in water and related land resources management decisions.

#### PREVIOUS STUDIES OF LOCAL WATER MANAGEMENT

The Legislative Interim Commission on Water Conservation, Drainage, and Flood Control was convened in 1953 to review the 1917 and 1919 drainage laws and their ability to meet the needs of the 1950's. The Interim Commission determined that many projects and activities necessary to sound water management should be conducted at the local level under control of people living in the affected area. In 1955, the Minnesota Watershed Act was adopted, providing the authority to create watershed districts and creating the Minnesota Water Resources Board.

At the direction of the Legislature, the Water Resources Board conducted another study of water law in Minnesota in 1963. The Board's study recommended a number of changes at the state level (including creation of a permanent legislative commission to address water resource issues, establishment of an independent Department of Waters, and expansion of the WRB) and recommended that watershed districts be established throughout the state.

Following the 1969 legislative session, the House Committee on Land and Water Resources began studies to update the 1955 analysis. The two subcommittees of the House Committee which conducted the study concluded that there had grown a complex arrangement for the administration of water and related land resources activities in Minnesota--with an administrative system so large and complicated that few, if any, governmental officials and citizens could have a clear understanding of the entire system. The subcommittees called for (1) establishment of a "water and soil development board" to coordinate activities of special purpose districts involved in water resources management and to review the multiplicy and fragmentation of special purpose districts and (2) creation of a "water and related land resources board" which would be responsible for coordinating all activities relating to water and related land resources planning, development, and management. Although the recommendations were not adopted in full, they were instrumental in the creation of the Environmental Quality Board in 1973.

In 1972, still another interim study was conducted by legislative committees. A joint Senate and House study committee concluded:

"Either municipalities and counties must assume greater roles in water and related land resources planning, development, and management or the number of special purpose districts must be greatly increased and their powers must be considerably broadened if plans are to be effectively implemented in the future. The subcommittees feel that the wiser choice is to contain the proliferation of special purpose districts and to strengthen the roles of municipalities and counties."

However, if the general purpose governments could not or would not focus on water and related land resources problems, the joint study committee did not rule out the establishment of another means of dealing with water and related land resources. The report of the joint study committee did not recommend that special purpose districts be abolished. Rather, the joint committee recommended that counties and municipalities be given the authority to guide the actions of sanitary districts, watershed districts, lake conservation districts, soil and water conservation districts, and other special purpose districts entirely within their jurisdiction. When necessary to finance county water and related land resources plans, the joint committee recommended that counties be given the authority to create subordinate service areas. In 1973, an attempt was made to pass a "Local Water Management Act" based on the findings of the joint study committee. Although the full measure was not approved, lake improvement district legislation did grow out of the effort.

In 1976, the Legislative Commission on Minnesota Resources chose to accelerate statewide water and related land resources planning. The Water Planning Board was formed to direct the planning process in 1977. From 1977 to 1979, the Water Planning Board gathered information, identified problems, and recommended changes in water management at the state level. In interim hearings and hearings during the 1980 legislative session, legislators concluded that it is impossible to divorce state-level management from local water management because each affects the other.

From this new expression of interest arose the charge to the Water Planning Board in Laws 1980, Chapter 548.

In authoring "Local Government and Finance in Minnesota" in 1935, William Anderson observed:

"The simple fact is that the American people have desired two things which seem to be incompatible. One is complete local self-government in a system of small units coming down from earlier days; the other is a standard of services higher than ever before and a distribution of expenses over wide areas, so that no local area, especially not a poor one, will be unduly burdened."

In the 45 years since Anderson's observation, Minnesota has continued to pursue both goals. In 1980, the pressures of accomplishing both is approaching critical mass.

## THE EXISTING SITUATION

Minnesota is fortunate to have many resources which can be put to economic use. The state has large deposits of minerals which have or could be extracted. Its population is well educated and capable of supporting development of high technology industries. Still, its basic resources are its soil and water. Agriculture is the state's principal industry. Tourism benefits from abundant, clean lakes. Soil and water resources have propelled Minnesota forward.

Early settlers and their immediate successors were able to build a successful economic and social order by developing the state's land and water resources. The push for their development made it necessary to systematically organize to address emerging problems -- both to increase productivity and to protect natural resources.

Article XII, Section 3 of the Minnesota Constitution provides that:

"The legislature may provide by law for the creation, organization administration, consolidation, division, and dissolution of local government units and their functions, for the change of boundaries thereof, and for their elective and appointive officers..."

As early as 1883, the Legislature authorized county boards to allow drainage of lakes not over four feet deep. In 1919, the "Drainage and Conservancy Act of Minnesota" provided authority for the creation of drainage and conservancy districts with multiple purposes.

In 1937, the Minnesota Soil Conservation Districts Law was enacted. The Act provided for creation of special purpose districts whose main focus would be on controlling soil erosion. It suggested that districts cover naturally bounded areas, such as watersheds. Although the first several districts were formed on a watershed basis, difficulties in identifying land occupiers for petition and referendum requirements led to the abandonment of this approach in favor of political boundaries in the early 1940's.

As noted above, watershed district authorities were created in 1955. Special purpose district authority for rural water supply systems has existed since 1971; sanitary districts have been authorized by legislative acts in 1971, 1973, and 1974; lake improvement districts have been formed since 1976; and the Lower Red River Watershed Management Board was formed by an Act of the Legislature in 1976. Various joint powers agreements have grown out Minnesota Statutes, Section 471.59 (e.g., the Elm Creek Conservation Commission in 1973 and the Bassetts Creek Flood Control Commission in 1969). In 1980, the Legislature provided for the creation of solid waste management districts.

Special purpose districts have been created in response to perceived resource problems. They have contributed to Minnesota's growth and development. For example, the 35 watershed districts in the state have developed approximately 80 project plans. Through 1978, water-shed districts have sponsored the completion of six P.L. 566 projects with a total benefit of well over \$4.5 million. Watershed districts have been instrumental in gaining approximately \$1.5 million in special legislative funding for flood damage reduction projects in critical regions of Minnesota in the 1979-81 biennium.

Minnesota has assumed a national leadership role in soil and water conservation. In a letter to the state Soil and Water Conservation Board chairman, the National Association of Conservation Districts regional representative states:

"... the National Association of Conservation Districts needed a state soil and water conservation program which could be used as a model for discussion and implementation in the other 49 That model came from Minnesota... Further, the federal states. government has asked the Minnesota State Board to develop a model process for conducting a state soil and water conservation program."

The accomplishments of existing districts must not be taken lightly. The Water Planning Board, however, has focused its efforts on developing a total water management approach in Minnesota. While special purpose district legislation frequently has broadly stated purposes, districts frequently have formed to address one need at a time. This has spawned the growth of the many districts we know today.

## CURRENT LOCAL WATER MANAGEMENT AUTHORITIES

It is difficult to achieve a complete tabulation of the current status of local water management authorities because they do not report to a single state authority. Further, there are no comprehensive and reliable statistics on finance and personnel which cover all units of local government in Minnesota.

Using the information which is available, the Water Planning Board estimates that there are 211 special purpose districts in Minnesota, of which about 70 percent deal with water and related land resources. Districts dealing with water and related land resources include:

- 35 watershed districts
- 92 soil and water
- 2 lake improvement districts
- 3 drainage and conservancy districts

- 35
   watershed districts
   3
   drainage and conservancy districts

   32
   soil and water
   5
   rural water systems

   33
   drainage and conservancy districts

   34
   rural water systems

   35
   rural water systems

   36
   rural water systems

   36
   rural water systems

   37
   rural water systems

   38
   rural water systems

   39
   rural water systems

   30
   Commission

In addition, the state's 87 counties, 855 cities, and 1,798 townships have a direct role in water and related land resources management. The 12 regional development commissions and the Metropolitan Council become involved in water-related issues through their planning and review responsibilities.

In the above list of units of government with direct management responsibility, only counties and soil and water conservation districts blanket the state. The list does not include Farmer's Home Administration county committees, ASCS county committees, water and sewer commissions, resource conservation and development areas, or the solid waste management districts provided for by the 1980 Legislature.

A compilation of districts by type for Ramsey County provides a vivid example of the overlap of area coverage that exists. The county boundaries and those of the Ramsey SWCD are identical. Three watershed districts cut into the county -- Rice Creek, Ramsey-Washington Metro, and Valley Branch. One township and 17 cities fall within the county. The White Bear Lake Conservation District is in Ramsey County. The Metropolitan Council and the Metropolitan Waste Control Commission include the county. This makes 26 local water management authorities in a single county.

Three federal agencies -- the Soil Conservation Service, the Agricultural Stabilization and Conservation Service, and the Army Corps of Engineers -- deliver services directly to the local level. In F.Y. 1979, these federal agencies spent about \$41.0 million at the local level.

Expenditures of local units of government for water and related land resources management in 1978 were estimated to be \$465 million. There is a great variation in the amounts expended. Including federal funds for construction of supply and treatment works, cities spent about \$290 million for water and related land resources management in 1978. The three remaining drainage and conservancy districts spent under \$1,500. While the Cook SWCD spent about \$7,650 in the year reviewed, the Stearns SWCD spent over \$106,000. The fact that the many units of local government spend several hundreds of million dollars annually in widely varying ways and amounts demonstrates the need for coordination to promote efficient use of limited resources.

The present authorities of the many local water management agencies are illustrated in Table 1. This table presents the local authorities which exist in Minnesota and sets out the functions which each is empowered to undertake. Each purpose for which more than one unit of government shares responsibility may result in an overlap in services and makes the management system difficult for the public to understand. On the other hand, multiple responsibilities provide flexibility for achieving management objectives and can be coordinated.

The authorities of counties, cities, towns, watershed districts, soil and water conservation districts, and regional development commissions are of primary importance to the Local Water Management Study.

					1/
TABLE	1.	LOCAL	WATER	AUTHORITIES	±′

Authorities	County	City	Township	Watershed district	Soil & water conservation	LRRWMB	Lake improve- ment district	Drainage & conservancy	Rural water systems	Lake conser- vation dist.	Sanitary districts	Regional de≦⁄ velopment com
Number of units	87	855	1,800	35	92	1	2	3	5	2	5	13
Public water and sewer systems	x	x	x	x		х	х		x		x	
Stormsewers and stormwater	x	x		x	x	X	x	x		x		
Drainage 3/	x	x		x	x	<u>x</u>		x		L		
Flood control	x	x		x	x	x		x				
Management of lakes	x	x	x	x		х	x			_ x		
Establishment and operation of lake improvement districts	x	x	x									ľ
Water surface use regulation	x	x	x				x			x		
Dam safety	x	<u>x</u>										ļ]
Stream maintenance	x	X	x	<u>x</u>	x	x		x			ļ	ļ
Flood plain zoning	x	x	x	x		<u>x</u>				l	L	
Shoreland management	x	x	x	<u> </u>						x		
Erosion control	x_	x_		x	x		x			x	L	
Public waters regulation	x	x	x	x	x	x	x					
Water quality protection 4/	x	x	x	X	x		x			x	х	
Water planning	x	x	x	x	x	x	x	x	x	x	x	x
Water appropriation		х		x	x							

- 1/ Does not include joint powers agreements or the Metropolitan Waste Control Commission. Authorities cited for townships refer only to non-urban townships. Authorities of urban towns parallel cities. 2/ Does not include certain powers available only to the Metropolitan Council.
- $\underline{3}$  / Includes reclaiming and filling of wetlands.
- 4/ Includes regulating use of streams for waste disposal, control of vegetation in public waters, and septic tank and feedlot regulation.

1 ∞ 1 <u>Counties</u>. Counties have broad authorities in water management, with important powers granted for flood damage reduction, lake and shoreland management, drainage, and erosion control. However, there are limits to the power of counties to implement solutions to problems. Their power to exercise eminent domain and to assess benefitted properties is restricted (although some of these powers may be exercised in combination with SWCD's). County powers are also severely limited in incorporated areas.

<u>Cities</u>. Cities appear to have the fewest limitations in water management. Specific authorities exist for lake and shoreland management, flood plain zoning and dam safety, stormwater management, and erosion control. A primary concern is the difficulty of obtaining coordination among programs of cities within the same watershed, and between cities and other units of government. For example, cities appear to be especially uncertain about the role and purpose of SWCD's.

Towns. In Minnesota, a distinction between urban and rural towns must be drawn. Urban towns have nearly all the water management powers of cities. Rural towns have lesser, but substantial authorities. However, the authorities of rural towns are contingent upon the approval of the use of powers by the town electorate. Town powers are also more restricted in developmental aspects of water resources management.

Watershed districts. Watershed districts may exercise powers over drainage; flood control; erosion control regulation; works in the beds of streams, marshes, or lakes; control of land use; and water use regulation. Developmental powers of these districts are limited by petition requirements and financial restrictions. Watershed district powers to adopt ordinances for flood plain management are valid only where cities and counties have not adopted similar ordinances.

Soil and water conservation districts. Soil and water conservation districts have significant responsibilities relating to erosion control, flood damage reduction, stormwater management, and water quality protection. The authority of these districts to take regulatory action does not exist, however. In addition, any works of improvement requiring eminent domain or assessments must be carried out in conjunction with counties and a reliable source of funding for staff support is absent.

Regional development commissions. Regional development commissions have significant planning, but virtually no implementation, authority. The Metropolitan Council is an exception in that its authorities provide a direct link to operating agencies; the Mandatory Land Planning Act empowers the Council to set the requirements of, review, and approve local comprehensive plans; and, as a designated 208 Areawide Agency, the Council is required to design and implement a water quality management plan.

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### 1. Current Authorities in Operation

Numerous types of organizational arrangements have been attempted in Minnesota to solve water and related land resources management problems. Solutions are being developed under regional arrangements authorized by statute (Lower Red River Watershed Management Board), incorporated under joint powers agreements (Area II Minnesota River Basin Projects, Inc.), and funded by the federal government (Hiawatha Valley RC & D). Soil and water conservation districts have worked separately and in concert with other special purpose districts (Gentilly project) to develop solutions to problems. Cities, counties, and townships have become both successfully (Olmsted County) and unsuccessfully (City of St. Paul in Battle Creek) involved in water management. Associations of interested citizens and officials have been formed to develop an alternative to the proposed Wild and Scenic Rivers designation for the Minnesota River and the Priebe Lake Outfall Project. Local joint powers agreements have been successful (Elm Creek Conservation Commission) and unsuccessful (Battle Creek).

To better understand why the various organizations were formed, why some have contributed to finding solutions to problems and some have not, and what the Water Planning Board might learn from past efforts, 13 studies of local organizations were conducted. A number of these case studies are briefly described below.

Lower Red River Watershed Management Board (LRRWMB). The LRRWMB grew out of a recognition by citizen leaders in the late 1960's and early 1970's that local organization was necessary if implementation of solutions to flooding along the Red River was going to follow federal planning efforts. In part, the recognition of this need grew from a U.S. Army Corps of Engineers proposal for a major impoundment on the Red Lake River, called the Huot Reservoir. A group of citizens organized the Lower Red Lake Basin Planning Commission to obtain local support for the proposed impound-In 1976, a more formal organization, the LRRWMB, ment. was established based on the recognition that a regional approach to the Red River flooding problem was needed. The founders noted: "It is apparent to all the participants... that planning and construction to control the floods along the Red River of the North and its tributaries cannot be done on the basis of each district working at its individual problems, but that these problems must be looked at and solved on a regional basis..."

In creating the LRRWMB, the Legislature combined the efforts of watershed districts to levy up to an additional two mills for water management, one-half to be used by individual districts and one-half for the construction fund of the LRRWMB. In 1979, the LRRWMB was able to secure passage by the Legislature of a \$1 million grant-in-aid fund to be administered by the Department Natural Resources. The DNR was given a complement position and funding for a staff person to assist in the administration of grants and to act as aliaison between the DNR and the LRRWMB. Several lessons can be learned from the LRRWMB experience. First, the key ingredients to the formation of the LRRWMB were the recognition by local citizens that a major problem existed and that the solutions to this problem would require a strong, locally-based organization to implement. The prior existence of watershed districts possessing the power of taxation and management authority was likely a necessary precursor to the regional body (i.e., the LRRWMB). However, the recognition that the problems of the Red River basin were beyond the capacity of individual watershed districts to resolve was central to the formation of the LRRWMB. Second, the success-if not the very existence--of the LRRWMB as a catalyst for construction of flood control projects may be attributed in large part to the taxing authority (and later the grants-in-aid) provided to the Board and to member watershed districts. Third, the grant-in-aid fund and complement position approved by the Legislature has served both as a catalyst for construction of dams and as a vehicle by which the state (through the DNR) has been able to take a positive developmental role in working with local leaders to help solve local water management problems.

The Gentilly Project. This project was initiated by the West Polk Soil and Water Conservation District to correct water management problems caused when one landowner cut a ridge to change drainage patterns on his farm to the detriment of downstream landowners. The regulatory authority of the Red Lake Watershed District was instrumental in assuring the acceptance of the SWCD project by landowners. (The district at one point informed one landowner that they would take him to court to have the cut refilled if he did not go along with the proposed plan). The watershed district has also agreed to assume responsibility for assuring project operation and maintenance by the landowners and for sharing in project costs to the extent that flood reduction benefits are involved. The federal Agricultural Stabilization and Conservation Service and State Soil and Water Conservation Board are also contributing funds to the project. The project demonstrates the ability to provide management solutions through cooperation among existing governmental units at all levels of government. It also illustrates how voluntary and regulatory aspects of the two local districts can be complementary in addressing resource management needs.

"Area II" Joint Powers Board. Area II Minnesota River Basin Projects, Inc. is a non-profit corporation formed through a joint powers agreement among ten counties in south-central and western Minnesota. The major objective of the Area II Board is to develop and manage structures for controlling cross-over flooding (although to date structures built have dealt primarily with overbank flooding). The Board represents a successful application of a joint powers arrangement among counties and in coordination with watershed districts. The agreement has facilitated cooperation among participants, enabled a large-scale approach, and hastened implementation. The Board was formed after initial informal attempts to "blanket" the area with watershed districts met resistance from county leaders. The joint powers agreement was probably created because (1) the SMRB study served to convene citizens and to provide planning and technical support, (2) an organization was required to share the grants-in-aid provided by the Legislature in 1976 to local units of government in Area II, and (3) the state Soil and Water Conservation Board as administrator of the grant program became actively involved in helping local leaders put together a local organization.

The major questions regarding the performance of the Joint Powers Board are with regard to its relationship with the state. Nearly all the comprehensive planning for Area II has been federally funded and carried out by federal agencies. Thus, it is difficult to determine whether the activities of the Joint Powers Board are consistent with state policy on flood plain management (Minnesota Statutes, Section 104.01). The principal administrator of state flood plain management policy--the Department of Natural Resources--has not been actively involved with the operations of the Joint Powers This is not only because DNR did not provide planning Board. assistance when local efforts were begun, but also because the Legislature by-passed DNR in assigning oversight of the grant-in-aid program to the Soil and Water Conservation Board. (During the planning phase, the DNR was assigning its highest priority to implementing floodplain management ordinances throughout the state and had only a small floodplain management unit. The absence of active DNR involvement in operations of the Joint Powers Board is expected to change in the near future and a comprehensive flood plain management program utilizing both structural and non-structural measures should be jointly implemented in the area.)

To date, the grant-in-aid program and its benefits to the state have not been evaluated as directed by the Legislature. (A report was due two years following initiation of the project.) The Soil and Water Conservation Board has reportedly been unable to deliver the required report and evaluation due to untimely transitions in staff. Preparation of the report is now progressing and the SWCB expects to deliver it to the Legislature in 1981.

A final question regarding the performance of the Joint Powers Board concerns the relationship of its activities to a comprehensive plan for the watershed. The Board's projects are being constructed prior to completion of the detailed implementation plan (639 Study) for the region. While there may be no conflict between these efforts, there is also no assurance that state funds are being expended on the most beneficial projects. It should be noted, however, that all constructed and planned projects are consistent with the 81 structure sites targeted in the 639 Study for evaluation. Implementation of projects by the Board is presently constrained by the availability of land rights and the ability of local government to generate the required matching funds. It has therefore been limited to small projects where land is readily available, rather than those with the highest demonstrated net benefits.

It is difficult to fault the Joint Powers Board for proceeding with construction of these reservoirs without sufficient evaluation, however. Residents witnessed nearly twenty years of "false starts" and uncoordinated flood control planning without any alleviation of the problems. The state's principal flood management agency played only a limited role in comprehensive flood control planning for Area II, and as a result its policies have not been clearly reflected in Area II operations. However, these circumstances notwithstanding, the Joint Powers Board is effectively achieving its own specific objective of small reservoir construction.

Minnesota River Wild and Scenic Rivers proposal. In 1977, the Department of Natural Resources requested authority to study the segment of the Minnesota River from Franklin to LeSueur for possible inclusion in the state's Wild and Scenic Rivers system. The planning process aroused intense local opposition focused on the issue of state versus local control. The opposition led to a moratorium on Wild and Scenic Rivers designation of this stretch of the Minnesota River in order to give affected counties an opportunity to prepare their own plans to protect the river. A committee composed of zoning administrators and citizen appointees from six counties was established to carry out this function. In November 1980, the "Minnesota River Six County Management Plan" was submitted to the DNR. The sixcounty planning process has proved viable because the people involved are working toward something they perceive to be in their interest. While the county planning process has been effective, the administrative process will ultimately prove the success of this approach. In the end, institutional arrangements have had less effect than individual people, personalities, and politics.

<u>Olmsted County</u>. Located in southeastern Minnesota, Olmsted County has had to deal with a growing urban area (Rochester) interfaced with substantial rural farming activities. It is in a sinkhole-prone area, a geologic characteristic which facilitates ground-water contamination. The Olmsted County Health Department preceded the state with its own water well construction code, water supply, sewage system, and chlorination ordinances. State laws passed in 1949 (County Board of Health Act) and 1976 (Community Health Services Act) strenthened the county's role in the health field.

The success of the Olmsted County Health Department's environmental health program is due to the support it has from the community through adequate funding, authority, and technical expertise. Local initiative for programs intended to safeguard water supply and water quality arises from the existence of a well-informed citizenry. Additional reasons are the longevity of service of the public health engineers and the active coordination with the City of Rochester's Health Department.

Battle Creek flooding and erosion. Extensive flooding and erosion along Battle Creek in Ramsey and Washington counties has been caused by a combination of natural forces and inadequate stormwater management. Authorized by the City of St. Paul in 1971, an initial hydrologic study reported on the severity of the problem and the need for coordination among all units of government if the problem was to be solved. St. Paul initiated discussions with other governmental units which resulted in the formation of a joint powers agreement among six affected municipalities and Ramsey County. The joint powers agreement dissolved over questions of allocating the \$1.2 million proposed project cost and whether community ponding costs should be included in the shared project cost. In February 1975, the Ramsey-Washington Metro Watershed District (R-WMWD) was established. At approximately the same time, the Ramsey and Washington County SWCD's were requesting and receiving SCS assistance in studying the problem. In January 1976, federal flood disaster funds were provided through the SCS. Since this time, the R-WMWD has worked to develop a plan to control flooding and erosion along Battle Creek, completing a feasibility report in June 1979.

The failure of the joint powers arrangement; the inadequacy of the independent actions by municipalities, counties, and SWCD's; and the length of time required for the R-WMWD to design a project upon petition have increased the damage to public and private property and have resulted in higher costs for a solution. In addition, the absence of state financial and technical assistance has left the full burden of deriving a solution at the local level. The increased costs incurred by the citizens of the Battle Creek area and by the affected local governments may be attributed to the fact that an effective local management structure was not in place and a local-state partnership was non-existent when both were needed.

Bassett Creek Flood Control Commission. The Bassett Creek watershed in Minneapolis and western suburbs is affected by flooding from spring thaws and heavy summer storms. In 1969, a joint powers agreement was developed among nine affected communities after nearly a decade of informal attempts to arrive at a solution. A watershed district was rejected because it constituted another layer of government and another autonomous taxing authority, and did not provide for representation of all nine communities. To date, the Bassett Creek Joint Powers Agreement has achieved what it was set up to do--develop a solution to the flooding problem. However, it has not yet borne the weight of financing the project (although members claim costs can be successfully apportioned); the powers of a watershed district may have facilitated development of a solution more quickly; and there has been little state involvement in development of the proposed solution.

Elm Creek Conservation Commission. The Elm Creek watershed is located in North Central Hennepin County. Urbanization of the watershed and its potential for affecting the severity of flooding, erosion and sedimentation, and destruction of wetlands led to adoption of a joint powers agreement in February 1973. The joint powers agreement involves six cities and one township. (Two cities and the Elm Creek Park Reserve are in the watershed, but are not part of the JPA). The joint powers agreement links its members with the Hennepin Soil and Water Conservation District. The teaming of the ECCC with the Hennepin SWCD has given the Commission access to technical assistance, direct involvement with an agency experienced in water management, and a local sponsor for projects. This interaction has contributed to the successful operation of the ECCC. However, the Commission does not cover all land in the watershed, detracting from its ability to provide total water management; is principally dependent on the goodwill and cooperation of its members for success; and has yet to have to deal with the apportionment of costs for a large project.

Priebe Lake Outfall Project. Priebe Lake is a six-acre pond in the southern part of the White Bear Lake watershed. By the early 1970's, land development had caused an increase in surface water which exceeded the capacity of injection wells installed during initial development. For several years, the City of White Bear attempted to control the Priebe Lake water level by using an irrigation water pump. In early 1976, the Priebe Lake Homeowners' Association petitioned the city to solve the problem permanently. The Rice Creek Watershed District, four state agencies, three cities, the White Bear Lake Conservation District and two homeowners' associations became directly or indirectly involved in seeking solutions. While the Rice Creek Watershed District implemented the Priebe Lake Outfall Project in 1979-80, the case has demonstrated the value of volunteer labor in reducing study costs and improving the quality of solutions; the inadequacy of water quality information on major recreational lakes; and the problems of locally funded water projects developing limited solutions to meet local needs where a regional resource is affected (i.e., assessing affected parties for the cost of a project may guarantee a minimum cost project with minimal attempts to meet needs of other than the immediate area).

In addition to the organizations and organizational questions noted above, several other case studies produced additional findings. The case of <u>Spring Creek Township vs. Wild Rice Watershed District</u> settled a dispute between a township and a watershed districtover water management, but revealed the failure of state law to establish a clear hierarchy of authority among townships, watershed districts, and others. The "Rosewood Project" in the Middle River-Snake River Watershed District demonstrates an instance of desirable state (DNR)local (watershed district) cooperation in an attempt to provide both wildlife habitat protection and flood detention. The efforts of the City of Rochester to solve severe flooding problems illustrates that even with complex institutional arrangements, planning can proceed smoothly, where there is a consensus on the problem to be attacked. Finally, the Hiawatha Valley RC & D program provides an example of a regional entity which was well accepted because it was created by local initiative and because of its access to federal funds. However, as federal assistance waned in the mid-1970's, so did the RC & D.

Taken all together, the case studies provide several important lessons.

\*\* The failure of the state to define its role and interests in water management clearly and consistently has created problems in developing solutions at the local level. The Legislature has provided state funds to help with the resolution of flooding problems in Area II and the Red River Valley, but does not have a statewide program which would assist the City of Rochester or which could have assisted in the solution of the Battle Creek problem when the joint powers arrangement was within \$12,000 of agreement. Although the Legislature enacted both programs, the construction activities in Area II are not consistent with state policy as reflected in the Flood Plain Management Act (Minnesota Statutes, Chapter 104). The failure of the state to provide financial assistance in cases such as the Priebe Lake Outfall Project may promote the development of only limited solutions to meet local needs where a regional resource is affected. The absence of a clear and consistent definition of the state role and interests has often resulted in state-local confrontation rather than partnership.

\*\* Strong, knowledgeable local leadership is a key to success. In Olmsted County, the medical community provided a unique base around which a strong county program could be built. In the Red River Valley and Minnesota River basin, strong, knowledgeable leaders developed after constant exposure to flooding problems. The Hiawatha Valley RC & D program grew out of the conviction that resource problems could only be solved from a regional perspective, but sputtered in the late 1970's as first funding and then the federal partnership faded.

In many cases, the amount of time required of local leaders has been excessive. While not quantifiable, this fact leads to the questions of how many water management issues continue to be unaddressed for the lack of local leadership. The Battle Creek problem in the early 1970's has often been cited as an issue without a leader who could devote sufficient time to pushing a solution forward.

\*\* Local leaders have had to grope for solutions, with the cost of potential solutions climbing as leaders cast around for the proper vehicle. The Battle Creek flooding and erosion control effort provides a classic example. In 1971, the City of St. Paul attempted to address the problem through a hydrologic study. A joint powers agreement followed, but fell apart over the question of how to allocate project costs. The project cost was \$1.2 million. The Ramsey-Washington Metro Watershed District was formed to provide a means of assessing benefitted property owners. By the time the R-WMWD project plan was completed in 1979, project costs had grown to nearly \$6 million.

Local leaders in both the Red River Valley and Area II were forced to spend a great deal of time searching for effective vehicles through which to funnel solutions to their problems before existing arrangements were adopted.

\*\* There must exist either a problem which is clearly recognized by local citizens or there must be strong inducement (either positive or negative) to act. While examples abound, the City of Rochester is a case where such a severe problem has developed, local action followed. The financial incentives provided by the state in Area II and the Red River Valley have speeded action in these areas. The negative perception of state control led local citizens to initiate their own planning for the stretch of the Minnesota River proposed for inclusion in the Wild and Scenic Rivers system. In addition to such catalysts for action, each of the case studies indicates the need for some forum through which to channel actions.

Further, the case studies demonstrate that institutions organized along hydrologic boundaries are not an absolute necessity (e.g., in the cases of Olmsted County and Area II) and that there is a need for planning and technical assistance in developing solutions to problems (for example, the Soil Conservation Service and the Corps of Engineers have provided such assistance to the City of Rochester and the Department of Natural Resources provides similar assistance to the LRRWMB). They also demonstrate that in the majority of cases financing solutions is a problem. The LRRWMB and Area II appear to be succeeding with the infusion of capital from the state. The Battle Creek joint powers agreement fell apart over financing questions and other joint powers agreements have yet to cross this hurdle. The Hiawatha Valley RC & D suffers from uncertain federal finances. The Priebe Lake Outfall Project raises the central question of the degree to which broader resource protection concerns can be addressed in projects financed solely at the local level.

These lessons must be considered in the evaluation of alternatives to the existing water management structure in Minnesota.

2. Perceptions of Current Operations

The perceptions of local officials and leaders of the local role in water and related land resources management was measured in a survey of nearly 500 county commissioners, mayors, township officers, watershed district managers, soil and water conservation district supervisors, officials of other special purpose districts, executive directors of regional development commissions and the chairman of the Metropolitan Council, and interest group leaders. Subject to a sampling error of plus or minus five percentage points, the responses reveal: Generally positive relations between existing units of government. Each survey group (county commissioners, mayors, etc.) was asked to describe their perception of their relations with other governmental units. Of those with an opinion, 91 percent characterized their relationship with soil and water conservation districts as "good" or better. At the lowest, 84 percent of respondents characterized their relationships with watershed districts as between "good" and "excellent".

Despite the positive perception of relations among governmental units, overlapping authorities do create problems in water and related land resources management. When asked how they thought Minnesota could best avoid problems resulting from overlapping authorities, only nine percent indicated that no problems exist. Of those respondents with an opinion, at least one of four indicated problems had been encountered in each of 10 subject areas (e.g., drainage, flood control, or erosion control) due to overlapping authorities.

Local officials see the need for some type of change in order to avoid problems resulting from overlaps in authority. Each survey group was asked: "Based on your experience, how do you think Minnesota could best avoid problems resulting from overlapping authorities?" Given the choices of a "single unit," "management district," "formal agreement," "improved communications," "no change," and "state," local leaders and officials generally ranked "formal agreements" or "improved communications" first or second and "single unit" or "management district" third or fourth. The options of "no change" or "state" ranked fifth or sixth for all survey groups.

Local officials are not united on what changes should take place. When sample sizes are "weighted" to give approximately equal sized samples, counties, SWCD's, the state, and a combination of units generally appear among the top four choices of local officials to carry out management responsibilities in 14 areas (e.g., administration of construction site erosion control ordinances) about which the question of local preference was asked. Counties were among the top four choices in 13 of 14 areas, as were "combination" approaches. Counties were the first choice in six areas and "combination" were first in six others.

In assessing possible alternative approaches to avoid problems resulting from overlapping authorities, the greatest support falls to developing "formal agreements between units of government with similar authorities." This option was the first preference of six of the eight survey groups. Some support does emerge for placing water management authority in a single unit of government at the local level or developing water management authorities along major basin lines.

Financial assistance and staff support are the types of assistance most often identified as the greatest need for increasing local involvement in water planning and management. Most survey groups (six out of eight) ranked financial assistance as their first priority need. General planning and technical assistance was identified by most survey groups (five of eight) as their second greatest need.

Local leaders consider governmental units organized along hydrologic boundaries to be in a better position to make water-related decisions than units organized along political lines. Of those with an opinion, 61 percent agreed. However, hydrologic boundaries were described in a way that relates to surface water management. It is arguable that water management can effectively be handled by units with political bounds.

There is a continuing need to improve communication and <u>coordination with (and among) local governmental units</u>. Only 35 percent of the respondents find state water and related land resources management goals to be clear. Only 19 percent of cities understand SWCD's goals in water management, although cities have been included in these districts only since 1972. Lack of coordination is seen as the greatest barrier to effective management by interest groups and as the second greatest barrier by watershed districts and regional development commissions.

There is generally strong support for water and related land resources planning at the local level. Local officials generally support development of water and related land resources plans as an element of comprehensive planning and are generally optimistic that planning will aid in improving coordination of local actions, influencing state management decisions, increasing citizen involvement in decision-making, and expanding the possibility of transferring permitting authority to the local level.

#### LOCAL WATER MANAGEMENT IN OTHER STATES

A host of state, regional, and local authorities are assigned water management authorities in other states. The approaches of other states may prove instructive for Minnesota.

At the beginning of 1977, there was nearly 24,250 special purpose districts; 3,050 counties; 18,865 municipalities; and 16,825 townships in the United States. Of the special purpose districts, nearly one-half had powers related to natural resource management, water supply, or sewerage. While Minnesota has only 211 special purpose districts (compared to 2,745 in Illinois), 70 percent deal with water resources.

No single pattern of organization and operation can serve the needs of every state. There are basic diversities in interest, capacities, problems, and convictions that must be recognized and accomodated. However, the diverse approaches of other states should be of interest to Minnesota policy-makers because these diverse approaches indicate the range of things that are feasible to accomplish. Five state systems which highlight a range of approaches in other states stretching from strong state control to strong local (county) control are briefly described below. <u>New Jersey</u>. Strong state control is maintained through the Department of Environmental Protection. The DEP promulgates minimum standards for floodways, flood hazard areas, and the flood fringe area (although authority may be delegated); must approve projects of joint flood control commissions; has power to give orders regulating wetlands; designates wild and scenic rivers; consults with counties on stormwater control and drainage plans; and approves acquisition or condemnation of land by soil conservation districts. In addition, the state Soil Conservation Committee appoints soil conservation district supervisors and promulgates standards for soil erosion and sediment control.

Florida. Florida has created five multi-county water management districts to provide for water and related land resources management; development of dams, reservoirs, and other works; prevention of damage from floods and erosion; and general protection. Florida does retain other special purpose districts, such as soil conservation districts and watershed improvement districts (as subdivisions of the soil conservation district), but relies principally on water management districts where their plans have been developed. (Two of the five districts have not exercised their authorities to date).

Nebraska. Natural resource districts covering the entire state were created in 1969 and implemented in 1972 to conserve, protect, manage, and develop natural resources in Nebraska. The functions of soil and water conservation districts, water conservancy, and watershed districts were consolidated in the natural resource districts. The natural resource districts develop plans and carry out programs relating to erosion prevention and control; prevention of flooding; soil conservation; water supply; pollution control; solid waste disposal; and drainage. Other special purpose districts continue to exist.

<u>Iowa</u>. Iowa provides an example of a state retaining numerous special purpose districts with widely diffused responsibility for water management. The county board can subdivide a county into districts for the purpose of soil conservation, flood water control, and construction of improvements; establish benefitted water districts and rural water districts; and create county conservation boards. Soil conservation districts are provided for in statute, and state law provides for six conservancy districts to supervise water resources, develop plans, coordinate programs, and construct improvements. Nearly 78 percent of Iowa's 334 special purpose districts deal with natural resources water supply, or sewerage.

<u>Pennsylvania</u>. A strong county role in water management is provided in Pennsylvania. The county board may organize county water supply authorities; establish conservation districts; and develop watershed stormwater management plans. County boards appoint members to the special purpose districts they organize. North Dakota is currently a state whose local water management structure is in transition. Legislation has been prepared to (1) alter the organization and structure of existing water management districts and (2) expand the powers and duties of these districts. New "water resources districts" would (1) be organized along watershed boundaries (generally); (2) have elected managers; and (3) usurp the existing Legal Drain Boards. New powers would include revenue bonding, coordination of culvert sizing and bridge siting, mandatory planning, and new mill levy procedures.

The State of Wisconsin is considering changes in its approach to soil and water conservation districts and the state board governing the districts. A bill has been prepared with the support of the state Board of Soil and Water Conservation Districts to replace soil and water conservation districts (county level special purpose units of government) with a committee of the county board (the land conservation committee). This committee would have most of the present responsibilities of the existing soil and water conservation districts and some added authority for local planning, land use regulation, and coordination of related natural resource programs. In addition, the state Board of Soil and Water Conservation Districts (and the Agricultural Lands Preservation Board) would be replaced by a Land Conservation Board. This board would advise the Department of Agriculture, Trade, and Consumer Protection, which will set overall state policy on soil and water conservation and administer the soil and water conservation program.

The approaches of states to selecting local special purpose district leaders and to organizing districts along hydrologic boundaries also varies. Wyoming, for example, has both appointed and elected supervisors for its conservation districts. In Ohio, soil and water conservation districts are generally organized along political lines and supervisors are elected in elections conducted by the state Soil and Water Conservation Commission. In Wisconsin, the county board may declare a county to be a soil conservation district and use the county agriculture and extension committee (plus up to two additional appointees) as supervisors. In Florida, the state Soil and Water Conservation Council establishes district boundaries.

While it is difficult to draw firm conclusions from a review of 12 states selected for their diversity, as well as their proximity to Minnesota, the study of local management in other states is important as an indicator of what has been accomplished in other states and, therefore, may be possible to accomplish in Minnesota. For example, while in the 1940's Minnesota rejected the formation of hydrologically-bounded districts with elected officials, the State of North Dakota has recently concluded that such an approach is feasible if special elections are used. Such lessons should not be overlooked in consideration of alternatives.

There are several reasons that we should look at alternatives to the existing local water management approach in Minnesota.

The need for strengthened local control and simplification of government. The existence of nearly 2,900 units of local government with water management responsibilities leads to a conclusion drawn by the Minnesota House Land and Water Resources Committee in 1969 which is still valid in 1981:

"There has grown a complex arrangement for the administration of water and related land resources activities in Minnesota. The administrative system has become so large and complicated that few if any governmental officials and citizens have a clear understanding of the entire system. There are many responsible people who feel that the proper development and management of water resources is being hindered by present institutional arrangements."

A major impact of a system which is not understandable may be the loss of local control because the public is unable to devote sufficient time to understand the system and to exert adequate control over the myriad of actors.

The need to create financial and technical capability at the local level. In a recent article, Water Planning Board Chairman Tom Kalitowski warned that "recent events...unmistakably point to the fact that government is entering a period of limited financial resources." Studies of actual water and related land resources activities uncovered a consistent theme of financial and technical support issues and needs. Surveys of local officials placed financial and general planning assistance at the top of the list of needs for increasing the involvement of local government in water planning and management. In the early 1970's, the Battle Creek flooding and erosion control project could not be completed because of insufficient local funds. The City of Rochester is concerned with being able to provide local matching for a necessary flood control project. The Bassett Creek Flood Control Commission is faced with finding over \$1.9 million to complete a project for which only \$1.2 million can be raised from local sources. The existing system cannot meet its needs. A way must be found to address this basic problem.

<u>Problems arise under existing arrangements</u>. Current arrangements are often characterized by unclear relationships, are frequently dependent upon development of crises before adequate authorities are mobilized, are given to single purpose and uncoordinated approaches, and are typically carried out without the kind of state technical and financial assistance an effective local-state partnership warrants. Four examples from across the state point out these problems.

- \*\* In the Red River Valley, townships and watershed districts have clashed over authorities. In the case of <u>Spring</u> <u>Creek Township vs. Wild Rice Watershed District</u>, townships passed a zoning ordinance requiring that the watershed district obtain a permit for conditional use prior to constructing any dams in the townships. One township denied the watershed district request to construct the upper of two detention structures. The township went to court for an injunction when the watershed district proceeded with construction.
- \*\* In the metropolitan area, Battle Creek Park in St. Paul has been closed since 1975 because of the inability of involved authorities to arrive at a solution to a massive erosion and significant flooding problem. When individual units could not solve the problems, a joint powers agreement was developed. When the joint powers agreement proved ineffective, a watershed district was formed. The increased costs incurred by the citizens of the Battle Creek area and by the affected local governments because of escalating project costs and continuing damages may be attributed to the absence of an effective local management structure and a local-state partnership at a time when both were needed.
- \*\* In southwestern Minnesota, a ten-county joint powers board has been organized to address a major flooding problem with success. However, this board lacks the financial resources to implement a complete solution to flooding problems and the technical resources to adequately address the economic benefits of alternative projects. The state's principal flood management agency did not actively assist in developing the comprehensive flood control plan for the area and was by-passed by the Legislature in administering the state grants-in-aid program for the area. As a result, construction activities in Area II are not consistent with the policies of the Flood Plain Management Act.
- \*\* An in-depth survey of watershed district and soil and water conservation district participation in the review of Department of Natural Resources water permit applications showed rates of non-participation ranging between 40 and 50 percent. Watershed districts were found to have the lowest rates of participation where permits for ground-water appropriation were concerned (a 68 percent rate of nonparticipation). Soil and water conservation districts had the lowest rates of participation in review of public waters (works-in-the-beds) permits (a 50 percent nonparticipation rate). Although a majority of both types of districts is involved in the program, a working partnership between the DNR and the districts is lacking. (It should be noted that a staff liaison position has recently been created to identify problems and develop a guidebook for SWCD involvement in permit review, although no similar

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effort has been devoted to watershed districts.) The survey found some districts operating without a technical basis for their decisions, failing to notify DNR of project activities or to otherwise coordinate local and state permits, and failing to adopt a comprehensive approach to water and related land resources management. In turn, the DNR has not consistently defined the kinds of comments most helpful to it nor made it clear to districts the reasons for using or not using comments which have been received.

As indicated above, the state has a degree of responsibility for local problems which do arise. It has not provided clear policy guidance (as evidenced by the disparity between the Area II program and Chapter 104) and technical and financial assistance (e.g., in Battle Creek) to aid in the resolution of problems.

Lack of a comprehensive approach to resolving problems. While both general and special purpose governments have been given comprehensive planning and management responsibilities, problems generally have been tackled one at a time. For example, although the Minnesota Watershed Act provides for the establishment of watershed districts for a wide range of purposes and some districts (e.g., Nine Mile Creek) attempt total watershed management, other districts (e.g., Crooked Creek) have been established only for P.L. 566 project operation and maintenance. While 24 watershed districts are making broad use of their authorities through the establishment of permitting requirements, 11 districts have no such requirements. The full value of public investments can only be achieved if maximum consideration is given to a planned approach to resolving root causes, not just to putting band-aids on problems which pop to the surface.

Stresses on finding strong leaders. The success of many activities in Minnesota can be traced directly to strong knowledgeable, committed leaders (e.g., in Area II and on the Lower Red River Watershed Management Board). The total person-power commitment to local leadership numbers in the thousands and the time required for their participation is enormous. As Professor John Bollens, an authority on special purpose districts and local government, notes:

"The underlying reason for the low level of public interest and participation in many districts is not difficult to diagnose. Few citizens feel that they can afford to spend much time on governmental affairs, and responsibility is now so widely shared by many independent governments that thorough comprehension is not easy."
It is to the credit of those who do serve that they are willing to assume responsibility, but an important question is whether a sufficient number of leaders can be attracted to the water and related land resources management system as it now exists to meet the needs of the 1980's.

Local leaders believe change is necessary. Those involved with the existing system feel change is necessary. Local leaders were asked: "Based on your experience, how do you think Minnesota could best avoid problems resulting from overlapping authorities?" Among six major options, the option of making "no change" ranked either fifth or sixth for county commissioners, mayors, township officials, watershed district managers, soil and water conservation district supervisors, leaders of other special purpose districts, executive directors of regional development commissions, and interested citizens.

To advocate "no change" is to accept uncoordinated, incremental revisions to the existing system. The continuing evolution of water management in Minnesota in the absence of any coordinated effort to guide change is reflected in the different special taxing authorities given to the member watershed districts of the Lower Red River Watershed Management Board and to the counties in Area II of the Minnesota River basin. The new authorities given soil and water conservation districts in permit review and public waters classification also demonstrate the evolving picture of water management. Further changes are on the immediate horizon. Recent support of the Minnesota Association of Soil and Water Conservation Districts for independent SWCD taxing authority and for soil loss limit regulatory authority provide a case-inpoint.

While these changes may be meritorious, they should be considered in a well-defined framework of local relationships and authorities. To proceed in any other fashion risks a collision between the authorities of the various local governments, or inconsistent treatment of special powers. The "Local Water Management Study" provides the opportunity to define the framework for local relationships and minimizes the chance of collision between the different systems.

As the Water Planning Board stated in an earlier paper:

"The breadth of possibilities, the magnitude of the resource problems and the funds used to address them, and the fact that in some cases the institutional arrangements have worked well while in other cases they have failed, make an examination of local water and related land use management in Minnesota essential as we enter the decade of the 1980's."

### ALTERNATIVE COURSES OF ACTION CONSIDERED

A statement of the Council of State Governments is the cornerstone on which the alternatives considered by the Board are founded:

"There are two principal objectives for any program of state-local relations: First, local units of government should be strengthened in every possible way. Second, state supervision of local affairs should be improved so that activities of statewide concern will be carried out in all jurisdictions at a high level of performance."

Several "General Principles" identified in the framework plan expand on the Council of State Governments' statement and provide further guidance in determining alternate courses of action. These "General Principles", which are followed by the Board in its decision process, include:

- \*\* Strengthening of local participation in the decision-making process of the state through sound water management planning;
- \*\* Consideration of all potential actions in light of their possible impact on state, regional, and local programs, functions, and contributions;
- \*\* Recognition that the use of water resources should be considered in a framework of long-term costs and benefits to society and not in a framework of short-term demands and crises;
- \*\* Employment of a holistic perspective in water resources decisions;
- \*\* Fostering of a partnership between state and local levels of government based on a spirit of cooperation and willingness to accept a "give and take" relationship founded on trust; and
- \*\* Responsiveness and adaptability of organizations developed to deal with evolving water-related concerns.

These "General Principles" led to six institutional, economic, and practical questions which were considered in an assessment of alternative courses of action. These considerations are encompassed in a quotation from a recent Citizens League report:

"The theme for the '80s seems likely to be change...in response to powerful forces working in demographics, in the economy, in technology, and in the cost and availability of resources. We will need to adapt, and to adjust the way we do things. Essentially, it is a question of process. How will we adjust?" The questions which the Board asked itself about the alternative courses of action were:

Does the proposed system have the flexibility to adapt to changing needs? Water and related land resources management must be sufficiently flexible to adapt to the changes of the 1980's. Flexibility is provided through the opportunity to develop innovative service delivery systems and to permit decisions to emerge through a pattern of choices made by people who are the "users" of services.

Is the proposed system a simplification of government? A democracy must encourage citizen participation in decision-making. To encourage participation, the management system must be understandable. This does not argue necessarily for centralization of authority. In a period of change, decentralization may be highly functional. Centralization reduces options and the scope for experimentation.

Will the proposed system be administratively and economically efficient? That is, will the system attain its objectives in a straightforward manner and at a minimum cost? Will it promote equity in the allocation of available resources? Will it avoid needless sacrifices by providing for the consideration of tradeoffs between competing objectives?

Does the proposed system provide for its financial and technical needs? The economic realities of the early-1980's mean that local government must be willing and able to take on the provision of financial assistance and technical services which federal and state governments may abandon due to tight budgets. Local management units must have the ability to tax to meet their needs, to obtain technical assistance, and to attract competent leaders.

Is the proposed system accountable to those who support it? Service systems must be accountable to the public. Accountability promotes responsiveness to user needs. An opportunity should exist to influence the behavior of the system. This might occur through the provision of an opportunity to remove unresponsive leaders, but it can also be created through the opportunity to "walk away" from unresponsive institutions to an organization which can do the job better.

Is the proposed system likely to be acceptable to the public? People can be governed only to the extent to which they are willing to be governed. Therefore, public acceptability must be considered.

Implicit in these considerations is the question of whether the existing system can do the job. While the existing local management structure has provided many benefits, the Board holds that to advocate "no change" is to accept uncoordinated, incremental revisions to the present system. The local water management system continues to evolve with special authorities being granted or created in nearly every legislative session. While these changes may be meritorious, they should be made within a welldefined framework of local relationships and authorities. Three alternatives to the course of action recommended were considered in the Board's study of local water and related land resources management. These were:

- (1) Extension of Watershed Districts Across the State;
- (2) Realignment and Strengthening of Soil and Water Conservation Districts; and
- (3) Establishment of Regional Water Management Districts.

In addition, a fourth alternative entitled "Redirection and Acceleration of Existing Arrangements" was utilized by the Board in arriving at its recommended course of action (described fully in the following chapter). This alternative is presented in Appendix A as it appeared prior to Board modification.

The alternative courses of action were selected to provide the decision-makers with a full range of considerations. Further, each alternative is feasible in the sense that it has been suggested or advocated in Minnesota at some point. For example, the focus on general purpose government in the alternative for redirection and acceleration of existing arrangements (see Appendix A) was suggested by a joint Senate and House study committee in 1972. In 1977 and 1979, the Minnesota Association of Watershed Districts supported a proposal for water resource management in Minnesota through a statewide system of watershed districts. During the 1980 annual meeting of the Minnesota Association of Soil and Water Conservation Districts, one speaker outlined a future in which SWCD's were organized along hydrologic boundaries and were given taxing and regulatory authority. The regional water management concept was introduced in the 1979 session of the Legislature as S.F. 2364. No alternative, however, was limited to a recapitulation of an earlier proposal.

There are common elements in each course of action. This is particularly true in the areas of implementing specific framework plan recommendations and local water management planning. For example, in the three alternatives, cities are assigned the basic responsibility for stormwater planning and management, soil and water conservation districts would implement the expanded soil and water conservation cost-share program, and counties and cities would be given responsibility for adoption and enforcement of construction site erosion control ordinances. Therefore, these aspects of each alternative are not discussed in this section. They are displayed in detail in Appendix A of this report along with the full description of the alternative "Redirection and Acceleration of Existing Arrangements." Similarly, legislative actions necessary to implement each alternative are described in Appendix A, but not in this section.

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### ALTERNATIVE NO. 1 -- EXTENSION OF WATERSHED DISTRICTS ACROSS THE STATE

The basic positions which would have been accepted under Alternative No. 1 and the arguments supporting them are set forth below.

WATERSHED DISTRICTS AS THEY ARE CONSTITUTED UNDER MINNESOTA STATUTES, CHAPTER 112 SHOULD BE EXTENDED TO COVER THE ENTIRE AREA OF THE STATE.

The complex issues embodied in decisions affecting water and related land resources necessitate embracing a local unit of government whose primary focus is on water and related land resources management issues. This focus is not provided by general purpose government. The watershed district is a local unit of government established under Chapter 112 "to carry out conservation of natural resources of the state through land utilization, flood control, and other needs..."

The watershed district should become the central focus of local government for coordinating and developing water management programs. Districts should exercise principal authorities for water resources planning, regulation, and project development. They should be charged with coordinating the water-related activities of cities, counties, towns, and special purpose districts and their regulatory authorities should supercede the authorities of these units of government. Watershed districts should be given limited powers to enact zoning regulations in the absence of city and county ordinances and to coordinate city and county ordinances throughout the watershed. They should continue to have taxing and other existing authorities.

Counties should continue to play the lead role in the exercise of resource zoning powers in unincorporated areas. However, county powers to otherwise regulate activities affecting water resources (including development) should be exercised subject to watershed district approval for consistency with the district plan. Cities should continue to be autonomous in those issues originating and remaining within city limits. Townships will be subordinate to the watershed district and the county.

LOCAL WATER MANAGEMENT SHOULD BE KEYED TO HYDROLOGIC BOUNDARIES.

Water resources issues cannot be divorced from land management decisions. Since the hydrologic unit is the functional unit within which the effects of land and water use decisions will be measured, a local governmental unit whose focus and authorities are keyed to hydrologic boundaries is essential. In 1955, the Legislative Interim Commission on Water Conservation, Drainage, and Flood Control argued: "The behavior of water...is determined by the character of the watershed. Political subdivision lines have no bearing. It is often necessary to treat the watershed as an entity, for what happens...in any part of the watershed may affect the entire drainage basin." Watershed government should be keyed to the major watershed -boundaried identified by the 1979 "State of Minnesota Watershed Boundaries" map, or other appropriate divisions of hydrologic boundaries as determined by the Legislature. In the metropolitan area, smaller units may be adopted. The governmental units created under these criteria would be approximately eighty in number and would be local in nature.

THE WATERSHED DISTRICT SHOULD PROVIDE THE NECESSARY FOCUS FOR ATTAINING FINANCIAL AND TECHNICAL SUPPORT TO RESOLVE WATER AND RELATED LAND RESOURCES MANAGEMENT PROBLEMS.

With its single focus on water and related land resources issues and its existing taxing authority, the watershed district is capable of assuring continued emphasis on water management in a period of potentially decreasing federal and state financial and technical assistance. Competition for financial resources will increase in the coming years. The focus on an issue which can be provided by special purpose districts will be necessary in the competition for scarce dollars.

WATERSHED DISTRICT MANAGERS SHOULD BE APPOINTED BY COUNTY BOARDS.

Decisions on complex water resource issues are frequently controversial. Decision-makers (e.g., watershed district managers) must be sufficiently insulated from political pressures to provide a balancing of concerns. Without the insulation provided by appointments, it is less likely that water resource issues will be considered in a framework of long-term costs and benefits to society.

Counties should continue to appoint watershed district managers according to the formula of the Water Resources Board and for the terms prescribed by the Legislature.

EXCEPT FOR DRAINAGE AND CONSERVANCY DISTRICTS, OTHER SPECIAL PURPOSE DISTRICTS SHOULD CONTINUE TO EXIST.

Specifically, soil and water conservation districts should continue in their present form. Separate local districts relating to water and soil resource management (although each affects the other) are complementary and constructive in pursuit of overall resource management goals. They are further warranted by basic differences in philosophy between watershed districts (regulatory) and soil and water conservation districts (voluntary).

The programs of special purpose districts which are exercised within the boundaries of a watershed district should be subject to watershed district approval for consistency with the comprehensive water and related land resources plan of the watershed district.

Drainage and conservancy districts would be redundant if the state is covered by watershed districts. Therefore, their operations should be transferred to watershed districts. WATERSHED DISTRICTS SHOULD HAVE THE BASIC RESPONSIBILITY FOR DEVELOPMENT OF LOCAL COMPREHENSIVE WATER AND RELATED LAND RESOURCE MANAGEMENT PLANS.

Development of water and related land resources management plans is essential if local governments are to address water management problems systematically and comprehensively. Watershed districts-to greater or lesser degrees--have carried forward overall district planning for the last 25 years. Extension of watershed districts across the state would require a strong commitment of districts to continue and expand this planning. This commitment is needed to heighten the perception of water-related issues among citizens and other officials as key management concerns for the 1980's and to make the watershed district the focus of water planning and management activities.

In carrying forward its planning responsibilities, a working partnership with local general and special purpose governments, regional development commissions, and the state must be maintained.

INCENTIVES FOR LOCAL PLAN COMPLETION SHOULD BE PROVIDED AND PENALTIES FOR FAILURE TO COMPLETE THIS STEP IMPOSED.

Watershed districts with completed and approved plans should be eligible for delegation of appropriate state permitting responsibilities. Watershed districts without approved plans would be ineligible to receive proposed flood damage reduction grants, land and water conservation funds, cost-sharing for erosion control and water management, grants under the proposed natural resources management fund (other than for planning), Rural Clean Water Act funds, and others. Further, approval of district plans should be a prerequisite for the use of project development authorities.

To facilitate the planning process, the natural resources management fund proposed in the framework plan should be expanded to include planning assistance goals.

REGIONAL DEVELOPMENT COMMISSIONS SHOULD SERVE AS A PLANNING ADVISOR AND SOURCE OF ASSISTANCE TO WATERSHED DISTRICTS IN CARRYING OUT PLANNING RESPONSIBILITIES.

The Regional Development Act of 1969 has as its purpose "...to facilitate intergovernmental cooperation and to insure the orderly and harmonious coordination of state...and local comprehensive planning and development programs for the solution of...problems of the state and its citizens by providing for the creation of regional development commissions." The 12 regional development commissions should continue to serve in their role as defined in the Act, providing planning assistance to local government. They should review local plans and provide comments for consideration by the coordinating body.

The Metropolitan Council should continue to function in its current role. That is, county or other local water management programs will be subject to Council approval to the extent that regional concerns are involved. In addition, the Council should be given comparable authority over watershed district programs and plans which are regional in scope.

### AT THE STATE LEVEL...

The state should continue to function in its stewardship role. The state coordinating body (e.g., the Water Planning Board or its successor) should be responsible for assuring watershed district planning is consistent with state goals and objectives and should be given policy conflict resolution authority, as recommended in the framework plan.

Under this alternative, the Water Resources Board and the Soil and Water Conservation Board should continue as separate entities.

# 1. <u>Rationale For Rejecting Extension of Watershed Districts</u> Across the State

In considering the six major questions addressed to each alternative course of action, the Board found:

- \*\* The proposed alternative provides less flexibility to adapt to changing needs than does the recommended course of action. The option of creating watershed districts as needed to address special problems is foreclosed by the mandate of such districts across the state.
- \*\* The proposed alternative provides less simplification of government because it forces "users" to relate to a governmental unit which is outside longer recognized political units. That is, most citizens can identify the county in which they reside, but few can associate with a major watershed unit. It increases the total number of units involved in water and related land resources actions.
- \*\* In the long-run, the proposed alternative may be as administratively or economically efficient as the recommended course of action. However, the conflicts between strong, existing political units and emerging hydrologic units could pose administrative burdens in the short-run.
- \*\* The proposed alternative is capable of meeting its financial the technical needs, but would impose a new taxing authority over approximately two-thirds of the state.
- \*\* The proposed alternative is less accountable to the public than the recommended course of action. Watershed district managers are appointed by county commissioners and are, therefore, outside direct electoral control. While it is argued that managers may be removed by elected officials, this still gives the public less "voice" in the decision.
- \*\* The proposed alternative does not appear acceptable to the public. In the 25 years of the Minnesota Watershed Act, only 35 watershed districts covering approximately one-third of the state have been voluntarily formed. In some areas (e.g., Area II of the Minnesota River basin and Bassett Creek), other approaches have been preferred.

Surveys of local officials show less support for placing management authorities in single units of government than for other options designed to improve on existing governmental structures (despite the fact about 71 percent of local officials with an opinion believe that governmental units organized along hydrologic boundaries are in a better position to make water-related decisions than units organized along political lines).

Therefore, this alternative was rejected in favor of the recommended course of action.

## ALTERNATIVE NO. 2 -- REALIGNMENT AND STRENGTHENING OF SOIL AND WATER CONSERVATION DISTRICTS

Under Alternative No. 2, the following nine basic positions and arguments would have been adopted.

THE FORMATION OF ONE SPECIAL PURPOSE DISTRICT--A STRENGTHENED AND REALIGNED SOIL AND WATER CONSERVATION DISTRICT--IS THE MOST EFFICIENT, STRAIGHTFORWARD WAY TO ORGANIZE LOCAL WATER AND RELATED LAND RESOURCES MANAGEMENT.

The complex issues embodied in decisions affecting water and related land resources management necessitate a strong special purpose district whose focus is on water and related land resources issues. Soil and water conservation districts provide a strong framework because of their long successful tenure at the local level. Water and soil resources management issues are inseparable. This fact would be clearly recognized under a single district approach. While soil and water conservation districts would be required to take on new regulatory responsibilities, the differences between the voluntary and regulatory philosophies are no longer clear-cut and should not hinder combining watershed district and soil and water conservation district authorities.

The strengthened and realigned soil and water conservation district should be the principal unit of local government for water and related land use planning and management programs. Districts should exercise planning, regulatory, and project development authority. They should be charged with coordinating the water and related land resources activities of counties, cities, towns, and other special purpose districts and their regulatory authorities should supersede the authorities of these units of government. SWCD's should be granted limited powers to enact zoning regulations in the absence of city and county ordinances and to coordinate city and county ordinances throughout the district. In addition, they should possess taxing authorities.

Counties should continue to play the lead role in the exercise of resource zoning powers in unincorporated areas. However, county powers to regulate activities affecting water and related land resources (or their development) should be subject to SWCD approval for consistency with the local water and related land resources plan. Cities should continue to be autonomous in issues originating and remaining within city limits. Townships should be subordinate to SWCD and county powers, although they should be able to adopt regulations relating to water management which are more stringent, with the approval of the SWCD.

The programs of special purpose districts which are exercised within the SWCD should be subject to SWCD approval for consistency with the approved local water and related land resources plan. THE AUTHORITIES OF CHAPTER 112 RELATING TO LOCAL WATER MANAGEMENT SHOULD BE COMBINED WITH THOSE OF CHAPTER 40.

Watershed districts would cease to exist as they are now formulated under Chapter 112, although SWCD's should be given the power to form subdistricts on a watershed basis to develop projects or deal with specific problems. The water management powers currently available to the watershed district under Chapter 112 should be provided to the SWCD.

In addition, Minnesota Statutes, Section 111.01 to 111.42 should be repealed, as recommended in the framework plan. The three remaining drainage and conservancy districts should transfer ongoing responsibilities to the strengthened soil and water conservation district.

LOCAL WATER MANAGEMENT SHOULD BE KEYED TO HYDROLOGIC BOUNDARIES AND SOIL AND WATER CONSERVATION DISTRICT BOUNDARIES SHOULD BE REALIGNED ON THE BASIS OF HYDROLOGIC UNITS.

Since the hydrologic unit is the functional unit within which the effects of land and water use decisions will be measured, a local governmental unit whose focus and authorities are keyed to this unit is essential. Initially, SWCD's in Minnesota were formed on this basis and early federal government thought on district formation contained this view.

The hydrologic boundaries along which realigned watershed districts should be formed should be determined by the Legislature upon the recommendation of the state coordinating body (i.e., the Water Planning Board or its successor). The 1979 "State of Minnesota Watershed Boundaries" map and data base should serve as the principal source for realignment decisions. The number of districts should fall between 35 and 85 to assure adequate size and financial capability, while maintaining a local perspective.

SOIL AND WATER CONSERVATION DISTRICT SUPERVISORS SHOULD BE ELECTED WITHIN THEIR DISTRICTS.

It is important that local water management decision-makers be accountable to citizens in their district for decisions involving use of local tax dollars and governmental powers. Election of leaders is the best way of assuring this accountability. Elected supervisors are necessary to keep local water management authorities responsive to citizen needs and desires. Elections should, however, be conducted apart from general elections--perhaps in a manner similar to school board elections--to ease burdens imposed by hydrologic boundaries.

Following the realignment of SWCD boundaries, the election of supervisors should proceed as follows. The merged Soil and Water Conservation/Water Resources Board should appoint existing supervisors and watershed district managers to sit as interim boards until elections can be held. The interim boards should determine sub-district boundaries (based on equal representation of citizens in the district and other criteria set by law) for approval by the merged state board and should carry on interim functions. Within one year after passage of the act authorizing realigned districts, an election of supervisors should be held. Supervisors should be elected to a four-year term.

STRENGTHENED SOIL AND WATER CONSERVATION DISTRICTS SHOULD HAVE THE AUTHORITY TO LEVY AN AD VALOREM TAX SIMILAR TO THE TAXING AUTHORITY NOW HELD BY WATERSHED DISTRICTS.

With increased responsibility comes increased need of financial and technical support. These new demands will be made at a time when federal financial and technical assistance is likely to be decreasing. Separate taxing authority is necessary to assure an adequate financial and technical support base. Less obvious, but important, is the fact that taxing authority will focus interest on the district and promote interest in citizen involvement within the district.

While soil and water conservation districts do not currently have taxing authority, at their annual meeting for 1980 the Association of Soil and Water Conservation Districts did approve a resolution calling for mill levy authority for the districts.

SOIL AND WATER CONSERVATION DISTRICTS SHOULD HAVE THE BASIC RESPONSIBILITY FOR DEVELOPMENT OF LOCAL COMPREHENSIVE WATER AND RELATED LAND RESOURCES PLANS.

Soil and water conservation districts have long carried on overall planning responsibilities for soil and water conservation programs. The general approach of this alternative requires a strong commitment by districts to water and related land resources planning. Development of comprehensive local plans is essential if local government is to address water and related land resources management problems systematically and comprehensively. Ongoing water and related land resources planning is essential to guide programs, heighten citizens' perception of water-related problems and possible solutions, promote working partnerships among local governments, and focus on the SWCD as the first step in arriving at water and related land resources problem solutions.

INCENTIVES FOR LOCAL PLAN COMPLETION SHOULD BE PROVIDED AND PENALTIES FOR FAILURE TO COMPLETE THIS STEP IMPOSED.

Soil and water conservation districts with completed and approved plans should be eligible for delegation of appropriate state permitting responsibilities. Soil and water conservation districts without approved plans would be ineligible to receive proposed flood damage reduction grants, land and water conservation funds, cost-sharing for erosion control and water management, grants under the proposed natural resources management fund (other than for planning), Rural Clean Water Act funds, and others. Further, approval of district plans should be a prerequisite for the use of project development authorities.

To aid in completion of the planning process, the natural resources management fund proposed in the framework plan should be expanded to include planning assistance grants.

REGIONAL DEVELOPMENT COMMISSIONS SHOULD SERVE AS A PLANNING ADVISOR AND SOURCE OF ASSISTANCE TO SOIL AND WATER CONSERVATION DISTRICTS IN CARRYING OUT PLANNING RESPONSIBILITIES.

The Regional Development Act of 1969 has as its purpose "...to facilitate intergovernmental cooperation and to insure the orderly and harmonious coordination of state...and local comprehensive planning and development programs for the solution of...problems of the state and its citizens by providing for the creation of regional development commissions." The 12 regional development commissions should continue to serve in their role as defined in the Act, providing planning assistance to local government. They should review local plans and provide comments for consideration by the coordinating body.

The Metropolitan Council should continue to function in its current capacity. That is, county and other local water management programs should be subject to Council approval to the extent that regional concerns are involved. In addition, the Council should be given comparable authority to approve aspects of soil and water conservation district plans and programs which are regional in scope.

AT THE STATE LEVEL...

The state should maintain its stewardship responsibilities, in general. The state coordinating body (i.e., the Water Planning Board of its successor) should be responsible for assuring comprehensive planning is consistent with state goals and policies, for making recommendations to the Legislature on the hydrologic boundaries for districts, and for policy conflict resolution. The Soil and Water Conservation Board and the Water Resources Board should be merged, with the merged board responsible for oversight of the strengthened soil and water conservation district.

1. Rationale for Rejecting Realignment and Strengthening of Soil and Water Conservation Districts

In examining this alternative approach relative to the six major questions examined by the Board, it was determined:

\*\* The proposed alternative does provide flexibility to adapt to changing needs. However, it appears more likely that the special purpose district--created as an alternative to existing general purpose governments-would take on many activities itself. In practice, the apparent flexibility of this alternative would be diminished.

- \*\* The proposed alternative does provide a simplification of government by reducing the number of organizations involved. However, as in Alternative No. 1, it would force "users" to think in terms of governmental units which are outside of easily identifiable political units. This may pose a complication.
- \*\* In the long-run, the proposed alternative should be as administratively and economically efficient as the recommended course of action--if not more efficient. However, the required changes in a way of thinking about problems which has evolved since the creation of soil and water conservation districts in the late 1930's; potential conflicts with strong, existing local governmental units; and the introduction of new boundaries and elections would pose significant short-run problems which would not be encountered under the recommended course of action.
- \*\* The proposed alternative would be capable of meeting its financial and technical needs with the addition of SWCD taxing powers. However, this alternative would add a new taxing authority across the state (or at least in areas where watershed districts do not now exist).
- \*\* While relying on elected officials, the proposed alternative is still likely to be less accountable to the public than the recommended course of action. To account for hydrologic boundaries, special elections would be required. Turnout for special elections is significantly lower than for general elections. Further, in 1980 elections, participation in soil and water conservation district balloting averaged about 69 percent of participating voters, compared to 91 percent on the average for legislative races; nearly 8 percent of supervisors were elected by write-in and received under 100 total votes; and 8 supervisors received one percent or less of the vote.
- \*\* The proposed alternative does not appear acceptable to the public. As noted in Alternative No. 1, surveys of local officials reveal less support for placing water and related land resources management in a single unit of government than for improving the existing structure. Based on survey responses, SWCD supervisors were significantly less likely to accept the single district approach than an approach based on formal agreements among governmental units.

Therefore, the Water Planning Board preferred the recommended course of action over this alternative.

# ALTERNATIVE NO. 3 -- ESTABLISHMENT OF REGIONAL WATER MANAGEMENT DISTRICTS

Nine basic positions and their accompanying arguments would have been adopted under Alternative No. 3.

REGIONAL GOVERNMENT SHOULD BE THE PRIMARY LEVEL OF GOVERNMENT IN WATER AND RELATED LAND RESOURCES MANAGEMENT.

Primary involvement by a regional level government is necessary to account for regional variation in availability and use of water supplies, and in the capacity of water and related land resources to assimilate resource demands.

A regional level government can be best equipped with the technical and financial resources, and with the authorities, necessary to assume many of the responsibilities currently vested in the state level. The regional level is in a better position to coordinate water and related land resources activities of local units of government by virtue of its proximity to local units and its linkage to regional characteristics of resource availability, assimilative capacity, and use.

IT IS APPROPRIATE TO STRUCTURE WATER MANAGEMENT PROGRAMS ALONG MAJOR HYDROLOGIC BOUNDARIES.

The river basin and, in certain regional instances, the aquifer are the functional units within which the effects of land and water use decisions will be measured. Regional water management districts possessing the focus and authorities keyed to these functional units are desirable.

REGIONAL WATER MANAGEMENT DISTRICTS SHOULD BE THE REGIONAL GOVERNMENT CHARGED WITH WATER MANAGEMENT AUTHORITY.

The complex issues embodied in decisions affecting water and related land resources necessitate a regional unit of government whose primary focus is to deal with these issues.

The duties of regional water management districts should include development of rules for regulating (and coordinating the regulation of) work within or draining of waters of the state, appropriating waters, developing and managing waters, and related activities. The regional water management districts should also be charged with developing and implementing a comprehensive water management plan which provides for the development and management of water resources by the districts, and by local units of government. The districts should possess taxing authorities and other water management powers currently available to watershed districts. Regional water management districts should be governed by a board of directors composed of one member elected from each major watershed unit within the district. Each board member should be either a county board member, a town board member, or an elected member of the governing body of a city within the watershed represented.

REGIONAL WATER MANAGEMENT DISTRICTS ARE BETTER ABLE TO MEET FINANCIAL AND TECHNICAL SUPPORT NEEDS THAN ARE LOCAL GOVERNMENTS.

If federal and/or state support for water and related land resources management decreases (as appears increasingly likely), local and/or regional government will have to pick up the slack. Increased local and/or regional responsibility will also bring with it increased financial and technical support needs. Because local general purpose governments will also be facing a "fiscal crunch," and because the regional level has access to a broader tax base, regional water management districts are in a better position to meet financial and technical support needs for resource management.

LOCAL UNITS OF GOVERNMENT SHOULD CONTINUE CURRENT EFFORTS IN WATER AND RELATED LAND RESOURCE MANAGEMENT, BUT BE SUBJECT TO REGIONAL GUIDANCE.

The local level of government is closest to the people and to the water-related issues which must be addressed. General purpose units, especially the city and county, are the primary local decision-makers concerning land and water management issues. Special purpose districts provide an important service in addressing water and soil management needs. Local units of government should continue current efforts in management of water and related land resources, but should be subject to the coordination and guidance of regional water management districts where necessary to meet resource management goals.

Counties and cities will continue to play the lead role in the exercise of resource zoning powers in unincorporated and incorporated areas, respectively. Cities will continue to be autonomous in those issues originating and remaining within city limits. City and county powers to develop water resources will be exercised subject to regional water management district approval for consistency with district water and related land resources management plans. Township government should be subordinate to county, watershed district, and regional water management district authorities, except that in areas where zoning authorities currently exist, townships would be allowed with water management district approval to adopt regulations more stringent than those of other local governments. The programs and policies of watershed districts, soil and water conservation districts, and other special purpose districts should be subject to approval by the regional water management district in which they are located once the district plan has received state approval. Further, the water management district should be authorized to establish or abolish watershed districts upon petition as needed to effect the purposes of the regional water and related land resources management plan.

REGIONAL WATER MANAGEMENT DISTRICTS SHOULD HAVE THE BASIC RESPONSIBILITY FOR DEVELOPING COMPREHENSIVE WATER AND RELATED LAND RESOURCES PLANS.

A strong commitment by regional water management districts is required. Development of plans is essential if local and regional governments are to address water-related problems systematically and in a comprehensive fashion. Ongoing planning is vital to guide management programs and to heighten awareness of citizens. It is a prerequisite to decentralization and delegation of state authority.

INCENTIVES FOR REGIONAL PLAN COMPLETION SHOULD BE PROVIDED AND PENALTIES FOR FAILURE TO COMPLETE THIS STEP IMPOSED.

Regional water management district administration of state water permit programs would be initiated upon approval of regional plans by the state water resources coordinating body. Regional districts and affected local governments should be ineligible to receive proposed flood damage reduction grants, land and water conservation funds, cost-sharing for erosion control and water management, grants under the proposed natural resources management fund (other than for planning), Rural Clean Water Act funds, and other funds if plans are not completed.

To facilitate the planning process, the natural resources management fund proposed in the framework plan should be expanded to include planning assistance grants.

REGIONAL DEVELOPMENT COMMISSIONS SHOULD SERVE AS A PLANNING ADVISOR AND SOURCE OF ASSISTANCE TO REGIONAL WATER MANAGEMENT DISTRICTS IN CARRYING OUT PLANNING RESPONSIBILITIES.

Regional development commissions should continue to carry out responsibilities for development of comprehensive plans as provided in the Regional Development Act. They should work with the water management district to assure district plans are developed with appropriate consideration for related issues, such as land use.

The Metropolitan Council should be given supervisory powers over the activities of the districts within the seven-county metropolitan area, in much the same way the Council oversees the Metropolitan Waste Control Commission under present law.

#### AT THE STATE LEVEL...

State government will maintain certain responsibilities, under its stewardship role, for developing broad policies governing actions of the regional districts and local units of government. The water resources coordinating body should be charged with resolving conflicts among regional water management districts, and between regional districts and local governments, where questions of state policy are at stake. The Water Resources Board should be abolished by the Legislature or, alternatively, combined with the water resources coordinating body.

# 1. Rationale for Rejecting Establishment of Regional Water Management Districts

In applying its six major considerations to Alternative No. 3, the Water Planning Board determined that:

- \*\* The proposed alternative does provide flexibility to adapt to changing needs. However, as in Alternative No. 2, it appears possible that a new special purpose government could seek to carve its own niche in the water and related land resources management structure and, in practice, reduce efforts to seek innovative service delivery systems. Centralization may tend to reduce options.
- \*\* The proposed alternative does not necessarily provide for a simplification of government. It increases, rather than decreases, the number of governmental units involved in water and related land resources management. It would force citizens to identify with a regional management authority, a concept which has not been fully accepted in the state to date. Further, as the Citizen League has argued: "In a period of change, de-centralization may be highly functional for the system."
- \*\* In the long-run the proposed alternative could be economically and administratively efficient. In the short-run, it is certain to encounter substantial start-up "costs." Further, it runs the risk of being unevenly implemented. In Florida, after nine years two of the state's five regions have yet to implement their full range of authorities.
- \*\* The proposed alternative would be capable of meeting its financial and technical needs from a broad tax base. However, as in the preceding alternatives, a new taxing authority would be created.
- \*\* Accountability could be provided under the proposed alternative, although the election problems related to Alternative No. 2 would exist. Further, regional government is both physically and conceptually more distant from the average citizen and, historically, has appeared more difficult for the public to deal with.

\*\* The proposed alternative appears to be the least acceptable of the alternatives to the public. During the 1980 legislative session, the regional development commissionsystem came under attack in Minnesota. Although no commissions have been terminated, public opposition to the regional approach remains in some areas of the state. Development of water management districts along major basin lines received less support in a survey of local officials than options designed to improve existing structures. Given six alternatives, six of the eight survey groups (i.e., mayors, county commissioners, etc.) ranked this option third or fourth.

Therefore, the Water Planning Board rejected this alternative.

### THE RECOMMENDED COURSE OF ACTION

In response to the charge of the Legislature in Laws 1980, Chapter 548, the Water Planning Board recommends a course of action designed to improve and clarify relationships and authorities in local water management in Minnesota. The recommended course of action was developed by the Board from the alternative for "Redirection and Acceleration of Existing Arrangements" which is presented in Appendix A. The Board's recommendations seek to provide a well-defined, understandable framework of local relationships and authorities. The Board further believes its recommendations address an important theme of the 80's: that Minnesota must expand the capacity of its institutions to adapt to changing needs.

### RECOMMENDATIONS

The Water Planning Board recommends that the Governor and the Legislature adopt nine basic positions with regard to the local role in water and related land resources management. These recommendations should be considered in light of and in concert with the state-level recommendations made by the Board in "Toward Efficient Allocation and Management: A Strategy to Preserve and Protect Water and Related Land Resources" (June 1979).

GENERAL PURPOSE GOVERNMENTS, PARTICULARLY COUNTIES, SHOULD BE THE FUNDAMENTAL DECISION-MAKERS AT THE LOCAL LEVEL.

The local water management structure should be directly tied to general purpose government. Water resource issues cannot be divorced from land management decisions. Since general purpose governments possess broad zoning powers in land use management, they should be given equivalent powers in water management if water and related land use solutions are to be fully integrated.

Counties should have the central responsibility in this structure, with cities remaining autonomous on problems originating and remaining within city limits. Township government should be subordinate to county authorities. Formal agreements should be established between counties and cities, soil and water conservation districts, and watershed districts (where they exist), detailing the primary roles and responsibilities to be carried out by each unit of government within the county.

A National Academy of Sciences report argues: "Although the drainage basin provides a coherent hydrologic unit relative to water control, it is not...usually, coincident with the appropriate social, political or economic region within which society functions. Water planning should relate more to man's activities, needs, desires, and ability to manage water than to water itself." This does not imply that watersheds should not be considered in the planning and management process, however. It principally states that the institutional structure does not have to be oriented to hydrologic boundaries.

The Water Planning Board's survey of nearly 500 local leaders and officials revealed that many view counties as the "best" unit of government to deal with many water and related land use problems. In questions about 14 management areas (e.g., flood plain management and appropriations permitting), counties were among the most frequent choices in 13 areas, and the first choice in six areas. The leadership of individual counties--such as Olmsted, Dakota, and Stearns--in water and related land resources management and of groups of counties--such as the 10 counties in Area II of the Minnesota River basin--demonstrate the many possibilities of focusing water and related land resources planning and management in general purpose governments. The Board's recommendation is further supported by a joint House-Senate study in 1971 which concluded that "... the wiser choice is to contain the proliferation of special purpose districts and to strengthen the roles of municipalities and counties."

The Board's local management survey suggests that where problems are likely to be confined with city boundaries (e.g., in stormwater management), local leaders support municipal autonomy. The district court decision in <u>Spring Creek Township vs. Wild Rice</u> <u>Watershed District</u> reveals the need to establish a clear hierarchy between watershed districts and townships (as well as other local units of government). To meet this need, the Board recommends that township authorities in water and related land resources management be subordinate to those of counties.

The Board recommends that formal agreements between counties and cities, soil and water conservation districts, and watershed districts (where they exist) be developed. Local leaders recognize the need for such agreements. In order to avoid problems which have resulted from overlapping authorities, the greatest support of local officials and leaders falls to developing "formal agreements between units of government with similar authorities..." For six of the eight survey respondent groups (e.g., county commissioners, mayors, and soil and water conservation district supervisors), this option was preferred above all others as a means of avoiding problems related to overlapping authorities.

The alternatives to the Board's recommended course of action require the formation of special purpose districts (e.g., watershed districts extended throughout the state, realigned soil and water conservation districts, or establishing a regionalized water management system). Surveys of local officials indicated less support for placing water management authority in a single, special purpose district at the local level than in improving coordination and communication among existing units. Further, as political scientist John Bollens has noted: "One serious argument against (special districts) is the inability of the public to exert adequate control over them...Citizens no longer keep themselves well informed on this aspect of governmental affairs."

### COUNTY WATER PLANNING AND MANAGEMENT SHOULD BE BASED ON HYDROLOGIC UNITS.

Since the watershed is the functional unit within which the effects of most land and water use decisions will be measured, a management plan whose focus and authorities are keyed to hydrologic boundaries is essential. In 1955, the Legislative Interim Commission on Water Conservation, Drainage, and Flood Control noted: "The behavior of water...is determined by the character of the watershed...It is often necessary to treat the watershed as an entity, for what happens...in any part of the watershed may affect the entire drainage basin." While the Interim Commission reached a different conclusion on the institutional means of recognizing this fact, the general observation is as important in 1981 as it was in 1955.

County water planning and management initiatives should be keyed to hydrologic boundaries consistent with the 1979 "State of Minnesota Watershed Boundaries" map. Frequently, the 81 major watershed units may prove appropriate for planning purposes, although smaller units may be appropriate in some areas and units defined by other than height-of-land criteria may be appropriate where ground-water concerns are paramount (e.g., southeastern Minnesota). County planning should consider, at a minimum, the effects of plan proposals on major watershed units. Where management initiatives are being implemented, smaller hydrologic units may be considered.

The concept of planning and management based on hydrologic considerations is both accepted by local leaders and successfully practiced in Minnesota. Sixty-eight percent of the respondents who expressed an opinion in the local water management survey indicated they believed that governmental units organized along hydrologic boundaries are in a better position to make water-related decisions than governmental units organized along political lines.

The Lower Red River Watershed Management Board (LRRWMB) provides a case example of a local authority basing planning and management efforts on hydrologic boundary considerations. The LRRWMB grew out of a recognition by citizen leaders that planning and construction to control floods along the Red River of the North and its tributaries must be looked at and solved on the basis of the regional hydrology. Minnesota's 35 watershed districts, the Bassett Creek Flood Control Commission, or the Elm Creek Conservation Commission might similarly be cited as examples of the acceptance of the hydrologic boundary principles.

GENERAL PURPOSE GOVERNMENTS SHOULD BE REQUIRED TO PROVIDE FINANCIAL SUPPORT FOR WATER AND RELATED LAND RESOURCES MANAGEMENT.

Increased local responsibility for water and related land resources management will bring with it increased local requirements for financial and technical support. Unfortunately, this increased local demand will arise during a period in which federal and/or

state financial and technical support could decrease. Although also facing a "fiscal crunch," general purpose governments are better choices to meet resource management needs than are new or expanded special purpose districts. A dedicated fund for water and related land resources management should be created in each county. The fund would both augment the resources of special purpose districts and provide matching dollars for the "Natural Resources Management Fund" proposed below.

Surveys of local officials point to financial assistance and staff support as the greatest needs at the local level. Six out of eight respondent groups ranked financial assistance as the greatest need to increase local involvement in planning and management. While both county commissioners and mayors were among the respondent groups citing the need for greater assistance, the Board holds that general purpose government provides the best mechanism at the local level for meeting these needs. The alternative at the local level, the special purpose district, too often (1) affords too little public control because it is less visible and/or incomprehensible to all but the most persistent citizens and (2) sometimes requires funding for its projects to be developed from such a small area that affected citizens are unduly burdened.

In fiscal year 1978, county expenditures for water and related land resources management varied widely. Anoka County spent less than \$18,000 (and zero on planning and zoning), while neighboring Sherburne County spent over \$84,000 (nearly \$64,000 on planning and zoning). Eleven counties spent no monies on planning and zoning activities, seven counties contributed nothing to soil and water conservation districts (although in total counties provided nearly \$825,000 to districts), and 24 counties expended less than \$50,000 on water-related activities. These disparities would be reduced by the dedicated fund requirement (and would be further mitigated by state assistance recommended below and in the framework plan).

SOIL AND WATER CONSERVATION DISTRICTS AND WATERSHED DISTRICTS PROVIDE AN IMPORTANT SERVICE IN ADDRESSING SOIL AND WATER MANAGEMENT NEEDS AND SHOULD CONTINUE TO EXIST. THEY SHOULD BE MORE DIRECTLY TIED TO GENERAL PURPOSE GOVERNMENT THROUGH COMPREHENSIVE PLAN CONSISTENCY AND APPROVAL AND THROUGH FORMAL AGREEMENTS AMONG THE GOVERNMENTAL UNITS.

The value of retaining these special districts is demonstrated by their past accomplishments. The regional representative of the National Association of Conservation Districts has told the State of Minnesota that when the Association "needed a state soil and water conservation program which could be used as a model for discussion and implementation in the other 49 states" that "...model came from Minnesota." The 35 watershed districts have developed approximately 80 project plans, completed P.L. 566 projects with total benefits of well over \$4.5 million, and have been instrumental in gaining approximately \$1.5 million in special legislative funding for flood damage reduction. The Board recognizes the need for these programs to be more closely tied to general purpose government. Therefore, programs and policies of special purpose districts should be consistent with state-approved county comprehensive water and related land resources plans and subject to county approval. The programs and policies of watershed districts which transcend county lines should be consistent with the approved comprehensive plans of each county which they intersect.

To facilitate this activity, counties should be given the necessary range of authorities available to the watershed districts under Minnesota Statutes, Chapter 112. This may make single-county watershed districts unnecessary in the future, although the option of the county to create a "subordinate service area" with the same functions as a watershed district should be available. Counties should also be given the authority to petition the Water Resources Board for termination of watershed districts entirely within their boundaries pursuant to Minnesota Statutes, Section 112.411. When such a petition is filed, the Water Resources Board should consider the county's intent to accomplish the purposes of the Minnesota Watershed Act under its own authorities and terminate the district if it finds that the county will accomplish these purposes.

The rationale for formal agreements was provided above. The agreements should detail the responsibilities of each unit of government (counties, soil and water conservation districts, and watershed districts) in the planning and decision-making process and provide for the delegation of management responsibilities.

Other states have established or are pursuing the linkage of special districts to counties. In Pennsylvania, county boards may organize special districts and appoint their leaders. Wisconsin is presently considering legislation which would make the county board responsible for creating a county land conservation committee (which would replace soil and water conservation districts). While not going as far as either of these states, the Board proposes to closely tie special purpose districts to the county and to create the flexibility to adapt to changing needs.

The alternative approaches considered by the Board provide less flexibility for meeting changing needs by mandating special districts across the state at either local (e.g., watershed district) or regional levels. Such an approach is less desirable to local leaders and officials than an approach based on increased communication and coordination through formal agreements. The Board's recommended approach focuses on general purpose government (particularly counties) stressing strong ties through formal agreements with special purpose districts. This approach is flexible in that it provides for a variety of actions by the county; simplifies the existing system by focusing water and related land resources activities on the county; and avoids accountability and administrative problems which could result from further diffusion of authorities to special purpose districts. The recommended approach emphasizes formal agreements among local governmental units. The purpose of such agreements is to assure that local efforts in water and related land resources management are both coordinated and directed toward plan implementation. The value of tapping the expertise of special purpose government through agreements is demonstrated in several case studies. The Area II joint powers board illustrates a situation under which counties have banded together to address major flooding problems, relying extensively upon watershed and soil and water conservation district expertise. The Elm Creek Conservation Commission illustrates a successful agreement among cities and an urban township which uses the expertise of the Hennepin Soil and Water Conservation District to address flood plain management, wetlands protection, and other resource management issues. Similar relationships have developed in Rice and Wabasha Counties.

WHERE WATER RESOURCE PROBLEMS CROSS COUNTY BOUNDARIES, THE OPTION OF FORMING WATERSHED DISTRICTS OR ENTERING INTO JOINT POWERS AGREEMENTS SHOULD REMAIN OPEN.

Subject to the review and approval of the Water Resources Board, counties should continue to have the authority to petition for the creation of a multi-county watershed district. As a corollary, counties should have the authority to petition for the termination of a multi-county district if there is a unanimous agreement among the counties that they will use county authorities to accomplish the purposes of the Minnesota Watershed Act. The petition should be subject to the approval of the Water Resources Board, consistent with the procedures in Minnesota Statutes, Chapter 112.

Where resource problems transcend city boundaries, joint powers agreements should be employed, including the county as a partner. If solutions cannot be agreed to under the joint powers agreement, the county should be empowered to adopt a solution consistent with its approved plan.

Both joint powers arrangements and multi-county watershed districts have been successfully employed in Minnesota. The Bassett Creek Flood Control Commission and the Elm Creek Conservation Commission emphasize the possibilities of intra-county joint powers agreements to address stormwater and related land management problems. The Battle Creek case study, in particular, reveals the need for the flexibility to move from a joint powers arrangement to a watershed district if the former falters. The Area II joint powers board provides an example of how a joint powers arrangement can work to solve a multi-county resource management problem. Watershed districts in the Red River Valley (and the more basin-wide approach of the Lower Red River Watershed Management Board) demonstrate the importance of inter-county watershed districts.

COUNTIES SHOULD HAVE THE BASIC RESPONSIBILITIES AND AUTHORITIES FOR DEVELOPING AND INSURING IMPLEMENTATION OF COMPREHENSIVE WATER AND RELATED LAND RESOURCES PLANS.

Water and related land resources planning is the centerpiece around which awareness of resource management issues can be created. As Dr. Robert G. Smith has concluded in his writing on special districts and local government: "It is increasingly apparent...that the planning process is really the key to democratic control... Elected officials, with their direct accountability to the electorate and their special talent for ascertaining the public will, should be the principal decision makers in the planning process."

A strong commitment of counties to develop comprehensive plans is essential if local government is to address water and related land resources problems systematically and in a comprehensive fashion. Ongoing planning is vital to guide management programs and to heighten citizen awareness of resource problems. It is a prerequisite to decentralization and delegation of appropriate state authorities.

A "comprehensive plan," as it is envisioned by the Board, should provide a reconnaissance-level evaluation of water and related land resources, designed to identify both immediate and longer-range needs and to guide solutions to problems extending 10 to 20 years into the future. (This type of plan can be contrasted with an implementation plan which includes specific investigations designed to formulate alternate solutions to an identified problem, analyze alternatives, and recommend a feasible solution.) The comprehensive plan should recognize the "total resource." It should evaluate the need for and effect of activities affecting surface waters, ground water, water surface use, and related land resources. It should develop explicit goals and objectives under which waterrelated programs and projects will be carried forward and identify the roles and responsibilities of the various governmental units in short and long-term solutions to identified problems and needs.

Comprehensive water and related land resources plans developed by the counties should be evolving, working documents serving as the basis for implementing solutions to problems by or within the county. Where the need for specific programs or projects is identified in the planning process, more detailed analysis may be necessary prior to implementation. For example, where the need for a structural solution to a flooding problem is identified in a comprehensive plan, further analysis (i.e., an implementation plan) may be necessary prior to construction. An implementation plan would necessarily involve the hydrologic, engineering, environmental, and economic analyses needed to devise a completed project which is consistent with the comprehensive water and related land resources plan of the county.

To facilitate plan implementation, the Board recommends that the authorities of Minnesota Statutes, Chapter 112 be brought together with the basic county authorities in Chapters 106 and 378 to give counties the powers of watershed districts and to require counties to operate under the same water management principles underlying the Watershed Act (Chapter 112).

Local governmental officials generally strongly support development of water and related land resources plans as an element of local comprehensive planning. Eighty-eight percent of county respondents to the Board's local water management survey indicated they believe that a water and related land resources plan element should be developed by their county. Counties firmly believe that planning will aid in improving coordination of local actions (83 percent), in influencing state decisions (83 percent), and citizen involvement (90 percent). Eighty-two percent of county respondents indicated they felt counties were the appropriate unit of government to carry out comprehensive local planning.

The major alternative to counties as principal planners--soil and water conservation districts and watershed districts--were approximately equal to counties in their support for local planning. Ninty-three percent of soil and water conservation districts and 85 percent of watershed districts expressed support.

Where joint powers agreements or inter-county watershed districts have been formed to address inter-county resource problems, counties should have the authority to delegate planning responsibilities to these units. The plans of these entities would become elements of the comprehensive plan of each affected county upon approval of the counties.

To fully link special purpose districts such as rural water systems, lake improvement and lake conservation districts, and drainage and conservancy districts (as well as solid waste management districts, as they are created) to the planning process, these districts should provide annual reports on their activities, accomplishments, and future directions to the county board (or boards) in which the district is located. Counties should consider the plans and operations of these districts in developing the county comprehensive plan.

INCENTIVES FOR LOCAL PLAN COMPLETION SHOULD BE PROVIDED, WITH PENALTIES IMPOSED FOR FAILURE TO COMPLETE THIS STEP. TO FACILITATE COMPLETION OF THE PLANNING PROCESS, THE PROPOSED NATURAL RESOURCES MANAGEMENT FUND SHOULD BE ESTABLISHED.

Counties with completed plans approved by the state coordinating body should be eligible for delegation of appropriate state permitting authorities. (Counties should have the authority to approve use of delegated authorities by other governmental units, consistent with the county plan.) Counties without approved plans (and governmental units within the county) would be ineligible to receive proposed flood damage reduction grants, land and water conservation funds, grants under the proposed natural resources management fund (other than for planning), cost-sharing for erosion control and water management, and Rural Clean Water Act funds. Similarly, counties without state-approved plans would not be allowed to exercise water project development authorities (e.g., under Minnesota Statutes, Chapters 106, 112, and 378, and Section 40.072).

To avoid a problem with an abrupt termination of funds, the incentives and penalties provisions would not come into play until three years after the effective date of the legislation. In the interim, the state coordinating body (i.e., the Water Planning Board or its successor) should be responsible for monitoring progress in the planning process and for reporting to the Legislature on progress made, including any recommendations for revision. To facilitate completion of the planning process, the natural resources management fund proposed in the framework plan should be expanded to include planning assistance grants.

The local case studies conducted by the Board provided the pertinent lesson: either a problem must exist which is clearly recognized by local citizens or there must be a strong inducement (either positive or negative) to act. The City of Rochester is a case where such a severe problem has developed, local action followed. The financial incentives provided by the state in Area II and the Red River basin have speeded action to resolve flooding problems. The negative perception of state control led local citizens to initiate their own planning for the stretch of the Minnesota River proposed for inclusion in the Wild and Scenic Rivers system.

Further, if the state expects to derive a benefit from local planning, it should be willing to provide financial assistance to accomplish it. Such assistance should be provided through adoption of a "Natural Resources Management Fund," expanded to include planning assistance. Such a fund was recommended in the framework plan. As noted above, local units of government frequently see financial assistance as the greatest need for increasing local involvement in water planning and management.

REGIONAL COMMISSIONS MAY SERVE AS A PLANNING ADVISOR AND SOURCE OF ASSISTANCE TO COUNTIES IN CARRYING OUT PLANNING RESPONSIBILITIES.

The Regional Development Act of 1969 has as its purpose "...to facilitate intergovernmental cooperation and to insure the orderly and harmonious coordination of state...and local comprehensive planning and development programs for the solution of...problems of the state and its citizens by providing for the creation of regional development commissions." The 12 regional development commissions should continue to serve in their defined role, providing planning assistance to local units of government. They should review local plans and provide comments for consideration by the state coordinating body. These comments should be used by the coordinating body in its reports to the Legislature on the progress in comprehensive planning and in approval of county plans.

The Board's survey of local officials suggested a strong need for general planning technical assistance. Interest groups see this as the greatest need to increase involvement of local units of government in water and related land resources planning and management, while counties, towns, watershed districts, soil and water conservation districts, and other special purpose districts rank it second.

The Metropolitan Council should continue to function in its current role. That is, to the extent that regional concerns are involved, county and other local water management programs will be subject to Metropolitan Council approval. AT THE STATE LEVEL, RESPONSIBILITY SHOULD EXIST FOR ESTABLISHING MANAGEMENT GUIDELINES, ASSURING THAT COUNTY PLANS AND MANAGEMENT ARE CONSISTENT WITH THESE GUIDELINES, AND FOR PESOLVING CONFLICTS.

The state should continue to function in its stewardship role. State agencies will maintain certain regulatory and planning responsibilities governing activities whose effects are significantly more than local (e.g., in permits for major mining activities or major power plants). State agencies should be responsible for establishing rules for delegation of those permitting authorities appropriately administered at the local level. Rules should also establish procedures for obtaining first-level review at the local level of state permits not delegated to the local level. State agencies should continue to carry out statewide planning and plan implementation where federal or state acts require such action (e.g., "208" water quality planning through the Pollution Control Agency and framework water planning through the state coordinating body).

While providing for local decision-making in appropriate areas, it is not practical to anticipate delegation of all state authorities. As one survey respondent put it: "Local government is simply not equipped to handle many of the pervasive water problems of the state." Surveys of local officials support this point. For example, the state is the clear first choice to carry out the Wild and Scenic Rivers program.

As recommended in the framework plan, a water resources coordinating body should be created. The state coordinating body (i.e., the Water Planning Board or its successor) should be charged with the establishment of a statewide planning process, including procedures for coordinating and integrating state regulatory policies and rules to maintain consistency among agency programs. The coordinating body should be charged with implementing the local planning process through development of planning guidelines, establishment of a process for assuring local plans are consistent with state goals and objectives, and delineation of a conflict resolution procedure. The coordinating body should be responsible for approval of local plans developed pursuant to the recommendations of this study.

Because of the central role afforded to counties, provision should be made for county representation on the coordinating body. Counties are not represented on the Water Planning Board at the present time. Further, the state should be willing to provide both financial, technical, and planning assistance to local government. Financial assistance should be provided through the "Natural Resources Management Fund," as discussed above. State agencies, particularly the coordinating body, should provide the assistance of staff planners to local government in the planning process.

Taken as a whole, the case studies of local actions conducted by the Board suggest that the failure of the state to define its role and interests in water management has created problems in developing solutions at the local level (e.g., in Battle Creek, Area II, and the Red River Valley). This has forced local leaders to grope for solutions, with the cost of potential solutions climbing as leaders castaround for the proper vehicle to solve the problem. The cost of a solution to the Battle Creek flood and and erosion control problem grew from \$1.2 million to about \$5.9 million as local leaders moved from the City of St. Paul's initial interest, to a joint powers agreement, to a watershed district over nine years. Through establishment of management guidelines and the coordinating body process, the Board believes that the state may be able to remedy many of these problems.

#### RATIONALE FOR ACCEPTING THIS COURSE

The course of action recommended by the Water Planning Board meets a fundamental requirement set out by Governor Quie in his statement of philosophy to guide the Administration:

"When government action is necessary, it should be taken by the level of government that is closest to the people and best suited to handle the responsibility."

Given the possible alternatives in water and related land resources planning and management--general purpose government, blanketing the state with watershed districts, expanding and realigning soil and water conservation districts, and creating regional water management authorities--the Board holds that general purpose governments, particularly counties, are the level of government closest to the people suited to handle the responsibilities which must be addressed. Analysis provided in the text above supports this conclusion.

Further the Board holds:

\*\* The proposed system provides the flexibility necessary to adapt to changing needs. While authority is focused in counties, county authorities may be delegated through joint powers agreements, to watershed districts, or to soil and water conservation districts. The county itself may create new committees, utilize existing committees, or create "subordinate service areas." In sum, a degree of flexibility which is not provided in other options is provided for in the Board's recommended course of action. The Citizens League has recently concluded that "...strategically, the way to increase the ability...to induce change and adjustment...is to encourage a broad innovation in service-delivery, and to permit decisions then to emerge increasingly through the pattern of choices made by the people who are the users."

- \*\* The proposed system is a simplification of government. Responsibility is clearly focused in the county. Citizens would know which officials to press for action. While not necessarily a reduction in the number of units of government involved (e.g., which would have occurred if the option of realigning and strengthening soil and water conservation districts was selected), the order of action is clarified.
- \*\* The proposed system provides for the consideration of tradeoffs between competing objectives through the planning process and, therefore, for the efficient use and protection of resources. By focusing responsibility in the county, the system should attain its objectives in a straightforward manner and at a minimum cost.
- \*\* The requirements that counties dedicate a portion of their tax levy to water and related land resources management, that the state establish a "Natural Resources Management Fund", that the state adopt a statewide flood damage reduction grant-inaid program, and that the state expand the existing soil and water cost-sharing program will help to provide for financial and technical needs at the local level.
- \*\* The proposed system is accountable to the public. County commissioners are highly visible elected officials. The opportunity to "walk away" from ineffective or unresponsive institutions is provided through the flexibility to create entities to address a particular problem (e.g., a "subordinate service area") or to terminate a special purpose unit whose need has passed (e.g., an intra-county watershed district).
- \*\* The proposed system is more likely than the alternatives considered to be acceptable to the public. Local water management survey results appear to show an interest of local leaders in building on the basic elements of what now exists rather than adopting new systems.

The Legislature is the key to reform in the local water and related land resources system. It is responsible for an adequate local governmental system. The Legislature can employ a statewide look and understand the seriousness and total effects of the problems which exist. The Water Planning Board recommends the system outlined above to the Legislature. The challenge and the opportunity for action is the Legislature's.

# IMPLEMENTING SPECIFIC FRAMEWORK PLAN RECOMMENDATIONS

While the nine basic points outlined and discussed above provide the basic framework for clarifying and improving relationships and authorities at the local level, under Laws 1980, Chapter 548, the Water Planning Board is charged with the duty to recommend a means of implementing framework plan recommendations at the local level. Under the Board's recommended course of action: <u>Cities should be responsible for carrying out mandatory stormwater</u> <u>planning and management within incorporated areas</u>. Where stormwater management problems or solutions transcend the limits of a single city, the county (where a joint powers agreement cannot produce a solution) or an intercounty arrangement (e.g., watershed district of JPA) should be responsible for plan development and program implementation. The responsible government unit should be required to solicit and utilize the information and expertise available through the soil and water conservation district. Stormwater plans and programs developed within the seven-county metropolitan area should be included under the purview of the Metropolitan Council under the provisions of the Mandatory Land Planning Act.

Local leaders and officials supported this approach in the local water management survey conducted by the Board. Cities (24 percent) or a combination of authorities (33 percent) were preferred by over half of the respondents to the survey as the level of government to prepare stormwater management plans and programs.

Local units of government should be eligible to receive flood damage reduction grants-in-aid, provided their programs are consistent with comprehensive water management plans. The county should be responsible for development of flood plain management plans as an element of comprehensive plans (a responsibility which may be delegated by formal agreement) and be eligible to receive flood damage grant-in-aid funds. City plans and programs which cross city lines must be consistent with county programs and plans. Receipt of grants-in-aid by soil and water conservation districts, watershed districts, or other special purpose districts within a county should be subject to county approval regarding consistency with the county comprehensive plan.

This recommendation is consistent with the recommendations of the framework plan which provided for "incentives to local units to implement flood plain management measures." However, it changes the focus at the local level from watershed distircts to counties. The recommendation is consistent with the findings of the local survey which revealed local officials believe that counties (28 percent), a combination of authorities (24 percent), soil and water conservation districts (16 percent), and watershed districts (10 percent) are the best units of government to receive and expend these funds.

Soil and water conservation districts should implement the expanded state soil and water cost-share program. The SWCD plan for soil and water conservation should be subject to approval by the county for consistency with the county comprehensive water and related land resources plan. Upon approval, the soil and water conservation program should become an integral part of the comprehensive local program, and land treatment and other measures installed under this program must be targeted to complement other phases of the total water and related land resources management program.
Soil and water conservation districts are in place and have been administering the state cost-share program since F.Y. 1978. Eighty-five percent of county respondents with an opinion believe that there is adequate coordination between counties and districts. Ninety-six percent of districts view their relationships with counties as between "good" and "excellent".

<u>Counties and cities should be responsible for adoption and enforcement of ordinances for control of construction-site erosion.</u> Where coordination is required between a county and a city, the county should serve as the lead agency and should have the authority to approve city programs which transcend city limits. The soil and water conservation district should provide technical review of construction-site erosion control plans and permits for use by the city or county, based on a formal agreement with the county.

The framework plan approved by the Board in June 1979 further defines this recommendation, proposing "mandatory statewide adoption through county and municipal ordinances of construction erosion controls, under state guidelines including model ordinances."

Counties (26 percent) and a combination of authorities (25 percent) were the top choices of local officials to administer constructionsite erosion controls. Twenty-three percent of the local survey respondents indicated they believed soil and water conservation districts were the best unit of government to administer construction site erosion controls, suggesting the districts should have a strong voice in county and city actions.

### LOCAL WATER MANAGEMENT PLANNING

Local water management planning is the principal component of the Board's recommended course of action. It can be described in terms of the structure of the process; the scope and content of plans; authority under approved plans; and implementation elements. The proposed local water management planning system is described in detail in this section.

Structure of the process. The county should be responsible for development of local comprehensive water and related land resources plans. These plans must be consistent with guidelines developed by the state coordinating body (i.e., the Water Planning Board or its successor). Where intercounty arrangements (e.g., watershed districts or joint powers agreements) have not been delegated planning responsibilities, counties should be required to demonstrate how upstream and downstream interests are taken into account. Counties should, by formal agreement, involve cities, soil and water conservation districts, watershed districts, and other entities in the planning process.

The planning authority of a county may be delegated to another unit (e.g., a watershed district or a soil and water conservation district), by formal agreement. Further, where counties determine it to be desirable or necessary in a major drainage basin to carry out planning and implementation of plan elements of the entire drainage basin, they may petition the state coordinating body to establish a regional planning board. A majority of counties in the drainage basin should be required to initiate such a petition. In the seven-county metropolitan area, the counties should be authorized to use the Metropolitan Council as the planning entity.

Regional development commissions and the Metropolitan Council should provide planning assistance to local units of government in developing water and related land resources management plans. They should provide advice to the state coordinating body on measures to coordinate local plans and/or to adjust state plans to meet local needs.

The state coordinating body should determine whether local plans meet planning guideline requirements and are consistent with state goals and objectives in approving local plans. The coordinating body should consider the recommendations of other state agencies in approving local plans. Where the coordinating body has reason to believe there has been inadequate coordination of upstream and downstream interests, it should involve these interests as a condition to plan approval. The incentives (and penalties) recommended by the Board are designed to promote active participation in the planning process and to assure a coordinated local approach to water and related land resources programs.

Scope and content. Local water and related land resources plans should recognize the "total resource" involved. They should evaluate the need for and effect of activities affecting surface waters, water surface use, related land resources, and groundwater resources. They should anticipate short and long-term needs and demands and examine alternative solutions. They should develop explicit goals and policies under which all local water-related programs and projects will be carried forward and an implementation strategy for projects and programs. The essential nature of the local water and related land resources plan will be everchanging. Provisions should be made for their ongoing evaluation and update.

More specifically, comprehensive local water and related land resource management plans should address the items outlined below. These items are intended to provide general guidance on the elements to be included in a comprehensive plan, although the plan should not necessarily be limited to these considerations. The recommended items are:

- An inventory of resources, including hydrologic, geologic, and geographic data; monitoring information; and available studies and analyses of the area.
- (2) An assessment of major water and related land use problems, needs, and concerns.
- (3) A set of clear and specific water management goals and objectives, including major emphasis on the delineated problem areas, needs, and concerns and on topical activities pertinent to the area.
- (4) A review and analysis of existing state and federal authorities, policies, and programs as they apply to the area involved.

- (5) A delineation of the roles, responsibilities, and commitments of actors in the planning effort.
- (6) A system for integrating and coordinating actions of local, regional, state, and federal agencies having authorities, programs, and interests in the area.
- (7) Proposals for state policy definition, clarification, or changes to provide for more efficient, coordinated actions.
- (8) A review and analysis of existing and potential funding to accomplish the development and implementation of the water planning process.
- (9) A range of alternative water management methods, techniques, programs, and projects which might be applied to problems, needs, concerns, and activities, based on analyses of environmental, economic, and social values and impacts related to the alternative.
- (10) A list of the most feasible, practical, and acceptable alternatives designed to provide for total resource management based on considerations of resource capabilities, value and impact assessments, public acceptability, and legal constraints.

<u>Authority</u>. Local water and related land resources plans should be approved by the state coordinating body. Upon approval, local units of government will be eligible for state financial and technical assistance for carrying out programs and projects consistent with the approved plan (e.g., flood damage reduction grants-in-aid, costsharing for erosion control and water management, grants under the proposed natural resources management fund, and land and water conservation funds). Approval of local plans should be a prerequisite for exercise of water project development authorities (e.g., under Minnesota Statutes, Chapters 106, 112, and 378, and Section 40.072). Approval of local plans should also make counties or other local authorities eligible for delegation of appropriate state permitting authorities.

County approval should be required for water-related activities of cities where impacts extend beyond city boundaries and for activities of soil and water conservation districts, towns, and other special purpose districts wholly within county boundaries; and for intercounty watershed district activities.

Implementation. After passage of a "Comprehensive Local Water Management Act," counties should be free to determine their approach to local water management planning, consistent with state guidelines. They may carry forward planning through county commissions, or designate watershed or soil and water conservation districts as the planning body. To assure consideration or upstream and downstream interests, they may utilize joint powers arrangements or seek creation of intercounty watershed districts along the lines of watershed planning units defined by the Legislature. (The 81 major watershed units identified in the 1979 "State of Minnesota Watershed Boundaries" map may prove most appropriate, although smaller units may be appropriate in some areas and units defined by other than heightof-land criteria may be appropriate where ground-water concerns are paramount.)

Planning procedures established by counties should include methods for involving citizens and affected local units of government in establishing local goals and policies, identifying water and related land resources problems, and coordinating local programs and approaches to solve problems.

A timetable for plan completion should be established by the Legislature. It is suggested that a three year timetable be employed, commencing with the effective date of the "Comprehensive Local Water Management Act" (see below). In the interim, no penalties (e.g., loss of state assistance) should be imposed, but the state coordinating body should be charged with monitoring local plan development and reporting to the Legislature on progress at the local level. To guide the monitoring process, major milestones should be established (e.g., development of inter-agency agreements within nine months; completion of inventories within 24 months; and draft plans for public review within 32 months). As an element of its monitoring and reporting process, the coordinating body should be authorized to recommend revisions in the planning process to the Legislature.

During the three year "phase-in" period, the delegation of appropriate state authorities to local governmental units under existing authorities (for example, as is being considered by the Department of Natural Resources in the case of administration of the public waters program by counties) should continue.

### LEGISLATIVE ACTIONS REQUIRED

The course of action recommended by the Water Planning Board will require several actions by the Legislature. These include:

Passage of a "Comprehensive Local Water Management Act". The purpose of this Act should be to establish a set of principles under which comprehensive local water and related land resources plans would be developed and implemented. It should establish the structure of local planning process, the scope and content of plans, authorities under approved plans, and implementation elements, including requirements for citizen participation. This Act would designate counties as the units of government responsible for local water and related land resources planning and for implementation of plans (although county authorities could be delegated) and would require development of formal agreements with other units of government. Hennepin and Ramsey Counties, which are excluded generally from planning requirements, would be given water and related land resources planning responsibilities by the Act.

Amendment of Minnesota Statutes, Chapter 112. Chapter 112 would be amended to permit the Water Resources Board to modify petitions to establish watershed districts and to revise existing district boundaries such that districts are coextensive with the hydrologic units considered in local planning. Chapter 112 also should be amended to give counties authority to petition the Water Resources Board for both establishment and termination of watershed districts. When a petition for termination is filed, the Water Resources Board should be required to consider the county's intent to accomplish the purposes of the Minnesota Watershed Act under its own authorities and to terminate the district if it finds the county will accomplish these purposes. Finally, Chapter 112 should be amended to require that programs and policies of watershed districts be consistent with approved comprehensive plans of each county which they intersect.

Amend county authorities. The authorities of Chapter 112 should be brought together with the basic county authorities in Chapter 106 and 378 to give counties the powers of watershed districts and to require counties to operate under the same water management principles underlying the Minnesota Watershed Act. County authorities for project development should also be amended to require prior approval of comprehensive plans by the state coordinating body before such authorities can be used. In addition, county authorities would be amended to require the dedication of a certain amount of their tax levy for local water planning and management purposes; authority added to allow counties to petition the Water Resources Board for creation or termination of watershed districts; and to allow formation of "subordinate service areas." As noted above, Ramsey and Hennepin County should be included under the planning and implementation responsibilities and authorities.

<u>Creation of a "Natural Resources Management Fund" under Minnesota</u> <u>Statutes, Chapter 105</u>. The Natural Resources Management Fund should provide for grants to counties to assist them in planning activities required under the "Comprehensive Local Water Management Act" and grants to eligible governments responsible for implementing statemandated programs for water and related land use management.

Amendment of Minnesota Statutes, Chapter 104 to require urban stormwater planning and management by cities. Amendments should specify the authority of counties to approve city plans and programs which transcend city boundaries.

Amendment of Chapter 104 to provide for a statewide flood damage reduction grant-in-aid program. This legislation would define eligibility for grants-in-aid and clarify the relationships of cities, counties, and other local units of government. Flood damage reduction planning requirements would be carried out within the context of water management plans developed under the "Comprehensive Local Water Management Act".

Amendment of Minnesota Statutes, Chapter 40 to require approval of SWCD plans by counties. Amendments should specify that approval be based on state-approved local comprehensive water and related land resources plans and that such approval be a condition of district eligibility for receipt or administration of state cost-share funds and for exercise of project development powers under Section 40.072.

Amendment of Minnesota Statutes, Chapters 394 and 462 to require counties and cities to adopt construction-site erosion controls. Amendments should specify the authorities of counties to approve city plans and programs which transcend city boundaries. In addition, they should provide for review of permit applications by soil and water conservation districts. Passage of permanent water resources coordinating body legislation. The creation of a permanent water resources coordinating body with adequate authority to carry out specific coordination and review functions was recommended in the framework plan ("Toward Efficient Allocation and Management: A Strategy to Preserve and Protect Water and Related Land Resources"). Four alternatives were suggested to the Legislature for "housing" this body. In addition to the recommendations of the framework plan, the coordinating body should include representation of county interests in its membership in order to fully recognize the expanded role of counties provided for in the Local Water Management Study recommendations.

A recent Citizens League report defines the central issue for the 1980's as "how we will go about acting on our problems and opportunities." The working-out of a positive, constructive solution will be a major challenge.

The Minnesota Water Planning Board believes it has a positive, constructive solution for local involvement in water and related land resources management. The Board sends this report and its recommendations to the Governor, the Legislature, and the public for consideration. It is intended to capture the attention and stimulate the debate which the Board believes the issue it addresses requires. And, it is intended to produce action.

# APPENDIX A -- ALTERNATIVES CONSIDERED BY THE WATER PLANNING BOARD

This appendix to the Local Water Management Study presents in full detail the four alternative courses of action orginally considered by the Board. These alternatives include the alternative on which the Board based its recommended course of action (although the recommended course of action is not identical to the alternative) and the three alternatives considered but rejected by the Board.

### ALTERNATIVE COURSES OF ACTION CONSIDERED

The four alternative courses of action originally considered by the Board are described in this appendix. These are:

- (1) Extension of Watershed Districts Across the State;
- (2) Realignment and Strengthening of Soil and Water Conservation Districts;
- (3) Establishment of Regional Water Management Districts; and
- (4) Redirection and Acceleration of Existing Arrangements.

Each alternative course of action is described in terms of the policies and assumptions which underlie it, the hierarchy of local relationships which would be established, the disposition of key framework plan recommendations within the hierarchy, and the specific legislative actions which would be required to implement the course of action.

The alternative courses of action were selected to provide the decision-makers with a full range of considerations. Further, each alternative is feasible in the sense that it has been suggested or advocated in Minnesota at some point. For example, the focus on general purpose government was suggested by a joint Senate and House study committee in 1971. In 1977 and 1979, the Minnesota Association of Watershed Districts supported a proposal for water resource management in Minnesota through a statewide system of watershed districts. During the 1980 annual meeting of the Minnesota Association of Soil and Water Conservation Districts, one speaker outlined a future in which SWCD's were organized along hydrologic bounaries and were given taxing and regulatory authority. The regional water management concept was introduced in the 1979 session of the Legislature as S. 2364. No alternative, however, was limited to a recapitulation of an earlier proposal.

There are common elements in each course of action. This is particularyly true in the areas of implementing specific framework plan recommendations and local water management planning. For example, in all four alternatives, cities are assigned the basic responsibility for stormwater planning and management, soil and water conservation districts would implement the expanded soil and water conservation cost-share program, and counties and cities would be given responsibility for adoption and enforcement of construction site erosion control ordinances. Despite such commonalities, the appendix discusses the implementation of framework plan recommendations and the planning process under each alternative in the interest of providing the decision-maker with a total perspective on each alternative.

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### ALTERNATIVE NO. 1

### EXTENSION OF WATERSHED DISTRICTS ACROSS THE STATE

The basic positions established under Alternative No. 1 and the arguments supporting them are set forth below.

WATERSHED DISTRICTS AS THEY ARE CONSTITUTED UNDER MINNESOTA STATUTES, CHAPTER 112 SHOULD BE EXTENDED TO COVER THE ENTIRE AREA OF THE STATE.

The complex issues embodied in decisions affecting water and related land resources necessitate embracing a local unit of government whose primary focus is on water and related land resources management issues. This focus is not provided by general purpose government. The watershed district is a local unit of government established under Chapter 112 "to carry out conservation of natural resources of the state through land utilization, flood control, and other needs..."

The watershed district should become the central focus of local government for coordinating and developing water management programs. Districts should exercise principal authorities for water resources planning, regulation, and project development. They should be charged with coordinating the water-related activities of cities, counties, towns, and special purpose districts and their regulatory authorities should supersede the authorities of these units of government. Watershed districts should be given limited powers to enact zoning regulations in the absence of city and county ordinances and to coordinate city and county ordinances throughout the watershed. They should continue to have taxing and other existing authorities.

Counties should continue to play the lead role in the exercise of resource zoning powers in unincorporated areas. However, county powers to otherwise regulate activities affecting water resources (including development) should be exercised subject to watershed district approval for consistency with the district plan. Cities should continue to be autonomous in those issues originating and remaining within city limits. Townships will be subordinate to the watershed district and the county.

LOCAL WATER MANAGEMENT SHOULD BE KEYED TO HYDROLOGIC BOUNDARIES.

Water resource issues cannot be divorced from land management decisions. Since the hydrologic unit is the functional unit within which the effects of land and water use decisions will be measured, a local governmental unit whose focus and authorities are keyed to hydrologic boundaries is essential. In 1955, the Legislative Interim Commission on Water Conservation, Drainage, and Flood Control argued: "The behavior of water...is determined by the character of the watershed. Political subdivision lines have no bearing. It is often necessary to treat the watershed as an entity, for what happens... in any part of the watershed may affect the entire drainage basin." Watershed government should be keyed to the major watershed boundaries identified by the 1979 "State of Minnesota Watershed Boundaries" map, or other appropriate divisions of hydrologic boundaries as determined by the Legislature. In the metropolitan area, smaller units may be adopted. The governmental units created under these criteria would be approximately eighty in number and would be local in nature.

> THE WATERSHED DISTRICT WILL PROVIDE THE NECESSARY FOCUS FOR ATTAINING FINANCIAL AND TECHNICAL SUPPORT TO RESOLVE WATER AND RELATED LAND RESOURCES MANAGEMENT PROBLEMS.

With its single focus on water and related land resources issues and its existing taxing authority, the watershed district is capable of assuring continued emphasis on water management in a period of potentially decreasing federal and state financial and technical assistance. Competition for financial resources will increase in the coming years. The focus on an issue which can be provided by special purpose districts will be necessary in the competition for scare dollars.

WATERSHED DISTRICT MANAGERS SHOULD BE APPOINTED BY COUNTY BOAPDS.

Decisions on complex water resource issues are frequently controversial. Decision-makers (e.g., watershed district managers) must be sufficiently insulated from political pressures to provide a balancing of concerns. Without the insulation provided by appointments, it is less likely that water resource issues will be considered in a framework of long-term costs and benefits to society.

Counties should continue to appoint watershed district managers according to the formula of the Water Resources Board and for the terms prescribed by the Legislature.

EXCEPT FOR DRAINAGE AND CONSERVANCY DISTRICTS, OTHER SPECIAL PURPOSE DISTRICTS SHOULD CONTINUE TO EXIST.

Specifically, soil and water conservation districts should continue in their present form. Separate local districts relating to water and soil resource management (although each affects the other) are complementary and constructive in pursuit of overall resource management goals. They are further warranted by basic differences in philosophy between watershed districts (regulatory) and soil and water conservation districts (voluntary).

The programs of special purpose districts which are exercised within the boundaries of a watershed district should be subject to watershed district approval for consistency with the comprehensive water and related land resources plan of the watershed district.

Drainage and conservancy districts would be redundant if the state is covered by watershed districts. Therefore, their operations should be transferred to watershed districts. WATERSHED DISTRICTS SHOULD HAVE THE BASIC RESPONSIBILITY FOR DEVELOPMENT OF LOCAL COMPREHENSIVE WATER AND RELATED LAND RESOURCE MANAGEMENT PLANS.

Development of water and related land resources management plans is essential if local governments are to address water management problems systemmatically and comprehensively. Watershed districts-to greater or lesser degrees--have carried forward overall district planning for the last 25 years. Extension of watershed districts across the state would require a strong commitment of districts to continue and expand this planning. This commitment is needed to heighten the perception of water-related issues among citizens and other officials as key management concerns for the 1980's and to make the watershed district the focus of water planning and management activities.

In carrying forward its planning responsibilities, a working partnership with local general and special purpose governments, regional development commissions, and the state must be maintained.

INCENTIVES FOR LOCAL PLAN COMPLETION SHOULD BE PROVIDED AND PENALTIES FOR FAILURE TO COMPLETE THIS STEP IMPOSED.

Watershed districts with completed and approved plans should be eligible for delegation of appropriate state permitting responsibilities. Watershed districts without approved plans would be ineligible to receive proposed flood damage reduction grants, land and water funds, cost-sharing for erosion control and water management, grants under the proposed natural resources management fund (other than for planning), Rural Clean Water Act funds, and others. Further, approval of district plans should be a prerequisite for the use of project development authorities.

To facilitate the planning process, the natural resources management fund proposed in the framework plan should be expanded to include planning assistance goals.

REGIONAL DEVELOPMENT COMMISSIONS SHOULD SERVE AS A PLANNING ADVISOR AND SOURCE OF ASSISTANCE TO WATERSHED DISTRICTS IN CARRYING OUT PLANNING RESPONSIBILITIES.

The Regional Development Act of 1969 has as its purpose "...to facilitate intergovernmental cooperation and to insure the orderly and harmonious coordination of state...and local comprehensive planning and development programs for the solution of...problems of the state and its citizens by providing for the creation of regional development commissions." The 12 regional development commissions should continue to serve in their role as defined in the Act, providing planning assistance to local government. They should review local plans and provide comments for consideration by the coordinating body.

The Metropolitan Council should continue to function in its current role. That is, county or other local water management programs will be subject to Council approval to the extent that regional concerns are involved. In addition, the Council should be given comparable authority over watershed district programs and plans which are regional in scope.

### AT THE STATE LEVEL...

The state should continue to function in its stewardship role. The state coordinating body (e.g., the Water Planning Board or its successor) should be responsible for assuring watershed district planning is consistent with state goals and objectives and should be given policy conflict resolution authority, as recommended in the framework plan.

Under this alternative, the Water Resources Board and the Soil and Water Conservation Board should continue as separate entities.

1. Implementing Specific Framework Plan Recommendations

Under Laws 1980, Chapter 548, the Water Planning Board is charged with the duty to "define the role of local units of government in implementation of the framework plan." Under Alternative No. 1:

Cities should be responsible for carrying out mandatory stormwater planning and management responsibilities within incorporated areas. Where stormwater management problems or solutions begin or terminate beyond a city's boundary, the watershed district should be responsible for plan development and program implementation. Cities and watershed districts should solicit and utilize expertise available through soil and water conservation districts in this process. Within the seven-county metropolitan area, stormwater management plans should be included explicitly under the purview of the Metropolitan Council within the provisions of the Mandatory Land Planning Act.

Watershed districts should be responsible for development of comprehensive flood plain management plans. Watershed district flood plain management plans should integrate the plans and programs of other local units for structural and non-structural measures. State grants to any local unit should be conditioned upon the inclusion of the proposal in (or its consistency with) the approved plan of the watershed district.

Soil and water conservation districts should implement the expanded state cost-share program for soil and water conservation. The SWCD plan for soil and water conservation should be subject to approval for consistency with the local comprehensive water and related land resources plan by the watershed district. Upon approval, the soil and water conservation program should become an integral part of the comprehensive local program, and land treatment and other measures installed under this program must be targeted to complement other phases of the total water management program. <u>Counties and cities should be responsible for adoption and</u> <u>enforcement ordinances for control of construction-site erosion</u>. Where coordination of county and city ordinances is required, the watershed district should exercise this responsibility consistent with its water and related land resources plan. In addition, the watershed district should develop rules which assure the integration of erosion control and stormwater management. The soil and water conservation district should provide technical review of construction-site erosion control plans and permit applications. Cities and counties should use soil and water conservation district comments and consider the potential effects of construction-site erosion control decisions on the overall water and related land resources management program of the watershed.

2. Local Water Management Planning

Local water management planning is a primary component of Alternative No. 1. It can be described in terms of the structure of the process; the scope and content of plans; authority under approved plans; and implementation elements. Because of its importance, the local water management planning system is described in detail in this section.

Structure of the process. Watershed districts should be responsible for development of local comprehensive water and related land resources plans. They should involve cities, counties, towns, soil and water conservation districts, other special purpose districts, and citizens in the planning process. District plans must be consistent with guidelines developed by the state coordinating body (i.e., the Water Planning Board or its successor).

The hydrologic units which should serve as the basic planning and management units (i.e., watershed districts) should be defined by the Legislature, based on the major watershed units identified in the 1979 "State of Minnesota Watershed Boundaries" map and data base and other considerations the Legislature deems appropriate (e.g., limited area within Minnesota where hydrologic units cross state lines). In the metropolitan area, smaller units may be adopted.

Regional development commissions and the Metropolitan Council should provide assistance to local units of government in developing water and related land resources management plans. They should provide advice to the state coordinating body on measures to coordinate local plans and/or to adjust state plans to meet local needs.

The state coordinating body in approving local plans, should determine that they meet planning guideline requirements and are consistent with state goals and objectives. The coordinating body should consider the recommendations of the Water Resources and Soil and Water Conservation Boards in these decisions.

Scope and Content. Watershed district water and related land resources plans should recognize the "total resource" involved. They should evaluate the need for and effect of activities affecting surface waters, water surface use, related land resources, and ground-water resources. They should anticipate short- and longterm needs and demands and examine alternative solutions. They should develop explicit goals and policies under which all local water-related programs and projects will be carried forward, and an implementation strategy for projects and programs.

The essential nature of the local water and related land resource plan will be ever-changing. Provisions should be made for their ongoing evaluation and update.

<u>Authority</u>. Watershed district water and related land resources plans should be approved by the state coordinating body. Upon approval, local units of government should be eligible for state financial and technical assistance for carrying out programs and projects consistent with the approved plan (e.g., flood damage reduction grants-in-aid, land and water conservation funds, and costsharing for erosion control and water management). Approval of district plans should be a prerequisite for exercise of water project development authorities (e.g., under Minnesota Statutes, Chapters 106, 112, and 378, and Section 40.072) in a watershed. Approval of plans should also make watershed districts eligible for delegation of appropriate state permitting authorities.

Watershed district approval should be required for water-related activities of cities (where impacts stretch beyond city boundaries), counties and towns, and for activities of soil and water conservation districts and other special purpose districts within watershed district boundaries.

Implementation. After passage of a "Comprehensive Local Water Management Act" and designation of watershed district boundaries by the Legislature, boards of managers must be appointed by counties and the watershed planning process begun. Watershed districts should be free to determine their approach to local water management planning. However, planning procedures should include methods for involving citizens and affected local units of government in establishing local goals and policies, identifying water and related land resources problems, and coordinating local programs and approaches to solving problems.

The timetable for completion of the planning process should be established by the Legislature. It is suggested that a three year timetable be employed, beginning with the effective date of the legislation establishing the process. The state coordinating body should report to the Legislature on progress in the planning process, including any recommendations for revision. The state coordinating body may take over planning responsibilities in areas where local planning is not undertaken.

### 3. Legislative Actions Required

Acceptance of Alternative No. 1 will require several actions by the Legislature. These include:

Passage of a "Comprehensive Local Water Management Act." The purpose of this Act should be to establish a set of principles under which comprehensive local water and related land resources plans would be developed by watershed districts. It should establish the structure of the local planning process, the scope and content of plans, authorities under approved plans, and implementation elements.

Amendment of Minnesota Statutes, Chapter 112. Chapter 112 would be amended to provide for the extension of watershed districts across the state, including the designation of watershed district boundaries. Chapter 112 would further be amended to require development and enforcement of comprehensive water and related land resources plans by watershed districts.

Amendment of Minnesota Statutes, Chapter 111. The Drainage and Conservancy Act located in Minnesota Statutes, Section 111.01 to 111.42 should be repealed, with provision made to transfer district assets and liabilities to watershed districts.

Amend county authorities. County authorities in Chapters 104, 105, 106, 378, and 394 would be amended to require consistency with plans for water and related land resources management prepared by watershed districts.

Amend city authorities. City authorities in Chapters 104, 105, 378, 429, and 462 would be amended to require consistency with plans for water and related land resources management prepared by watershed districts.

<u>Creation of a "Natural Resources Management Fund" under</u> <u>Minnesota Statutes, Chapter 105.</u> The Natural Resources Management Fund should provide for grants to watershed districts to assist them in planning activities required under the Comprehensive Local Water Management Act

and grants to eligible governments responsible for implementing state-mandated programs for water and related land use management.

Amendment of Chapter 104 to require urban stormwater planning and management by cities. Amendments should specify the authority of watershed districts to coordinate city plans and programs which transcend city boundaries. Amendment of Chapter 104 to provide for a statewide flood damage reduction grant-in-aid program. This legislation would define eligibility for grants-in-aid and clarify the relationships of cities, counties, and watershed districts. Flood damage reduction planning requirements would be carried out within the context of water management plans developed under the "Comprehensive Local Water Management Act."

Amendment of Chapter 40 to require approval of SWCD plans by watershed districts. Amendments should specify that approval be based on state-approved local comprehensive water and related land resources plans and that such approval be a condition of district eligibility for receipt or administration of state cost-share funds and for exercise of project development powers under Section 40.072.

Amendment of Chapter 394 and 462 to require counties and cities to adopt construction-site erosion controls. Amendments should specify the authorities of watershed districts to coordinate city and county plans and programs. In addition, they should provide for review of permit applications by soil and water conservation districts.

Passage of permanent water resources coordinating body legislation. The creation of a permanent water resources coordinating body with adequate authority to carry out specific coordination and review functions was recommended in the framework plan ("Toward Efficient Allocation and Management: A Strategy to Preserve and Protect Water and Related Land Resources"). Four alternatives were suggested to the Legislature for "housing" this body. In addition to the recommendations of the framework plan, the coordinating body should be charged with implementing the local planning process through development of planning guidelines, establishment of a process for reviewing watershed district plans for consistency with state goals and objectives, and delineation of a conflict resolution procedure.

### ALTERNATIVE NO. 2

# REALIGNMENT AND STRENGTHENING OF SOIL AND WATER CONSERVATION DISTRICTS

Under Alternative No. 2, the following nine basic positions and arguments would be adopted.

THE FORMATION OF ONE SPECIAL PURPOSE DISTRICT--A STRENGTHENED AND REALIGNED SOIL AND WATER CONSERVATION DISTRICT--IS THE MOST EFFICIENT, STRAIGHTFORWARD WAY TO ORGANIZE LOCAL WATER AND RELATED LAND RESOURCES MANAGEMENT.

The complex issues embodied in decisions affecting water and related land resources management necessitate a strong special purpose district whose focus is on water and related land resources issues. Soil and water conservation districts provide a strong framework because of their long successful tenure at the local level. Water and soil resources management issues are inseparable. This fact would be clearly recognized under a single district approach. While soil and water conservation districts would be required to take on new regulatory responsibilities, the differences between the voluntary and regulatory philosophies are no longer clear-cut and should not hinder combining watershed district and soil and water conservation districts.

The strengthened and realigned soil and water conservation district should be the principal unit of local government for water and related land use planning and management programs. Districts should exercise planning, regulatory, and project development authority. They should be charged with coordinating the water and related land resources activities of counties, cities, towns, and other special purpose districts and their regulatory authorities should supersede the authorities of these units of government. SWCD's should be granted limited powers to enact zoning regulations in the absence of city and county ordinances and to coordinate city and county ordinances throughout the district. In addition, they should possess taxing authorities.

Counties should continue to play the lead role in the exercise of resource zoning powers in unincorporated areas. However, county powers to regulate activities affecting water and related land resources (or their development) should be subject to SWCD approval for consistency with the local water and related land resources plan. Cities should continue to be autonomous in issues orginating and remaining within city limits. Townships should be subordinate to SWCD and county powers, although they should be able to adopt regulations relating to water management which are more stringent, with the approval of the SWCD.

The programs of special purpose districts which are exercised within the SWCD should be subject to SWCD approval for consistency with the approved local water and related land resources plan. THE AUTHORITIES OF CHAPTER 112 RELATING TO LOCAL WATER MANAGEMENT SHOULD BE COMBINED WITH THOSE OF CHAPTER 40.

Watershed districts would cease to exist as they are now formulated under Chapter 112, although SWCD's should be given the power to form subdistricts on a watershed basis to develop projects or deal with specific problems. The water management powers currently available to the watershed district under Chapter 112 should be provided to the SWCD.

In addition, Minnesota Statutes, Section 111.01 to 111.42 should be repealed, as recommended in the framework plan. The three remaining drainage and conservancy districts should transfer ongoing responsibilities to the strenthened soil and water conservation district.

LOCAL WATER MANAGEMENT SHOULD BE KEYED TO HYDROLOGIC BOUNDARIES AND SOIL AND WATER CONSERVATION DISTRICT BOUNDARIES SHOULD BE REALIGNED ON THE BASIS OF HYDROLOGIC UNITS.

Since the hydrologic unit is the functional unit within which the effect of land and water use decisions will be measured, a local governmental unit whose focus and authorities are keyed to this unit is essential. Initially, SWCD's in Minnesota were formed on this basis and early federal government thought on district formation contained this view.

The hydrologic boundaries along which realigned soil and water conservation districts should be formed should be determined by the Legislature upon the recommendation of the state coordinating body (i.e., the Water Planning Board or its successor). The 1979 "State of Minnesota Watershed Boundaries" map and data base should serve as the principal source for realignment decisions. The number of districts should equal roughly eighty to assure adequate size and financial capability while maintaining a local perspective.

SOIL AND WATER CONSERVATION DISTRICT SUPERVISORS SHOULD BE ELECTED WITHIN THEIR DISTRICTS.

It is important that local water management decision-makers be accountable to citizens in their district for decisions involving use of local tax dollars and governmental powers. Election of leaders is the best way of assuring this accountability. Elected supervisors are necessary to keep local water management authorities responsive to citizen needs and desires. Elections should, however, be conducted apart from general elections--perhaps in a manner similar to school board elections--to ease burdens imposed by hydrologic boundaries.

Following the realignment of SWCD boundaries, the election of supervisors should proceed as follows. The merged Soil and Water Conservation/Water Resources Board should appoint existing supervisors and watershed district managers to sit as interim boards until elections can be held. The interim boards should determine sub-district boundaries (based on equal representation of citizens in the district and other criteria set by law) for approval by the merged state board and should carry on interim functions. Within one year after passage of the act authorizing realigned districts, an election of supervisors should be held. Supervisors should be elected to a four-year term.

STRENGTHENED SOIL AND WATER CONSERVATION DISTRICTS SHOULD HAVE THE AUTHORITY TO LEVY AN AD VALOREM TAX SIMILAR TO THE TAXING AUTHORITY NOW HELD BY WATERSHED DISTRICTS.

With increased responsibility comes increased need of financial and technical support. These new demands will be made at a time when federal financial and technical assistance is likely to be decreasing. Separate taxing authority is necessary to assure an adequate financial and technical support base. Less obvious, but important, is the fact that taxing authority will focus interest on the district and promote interest in citizen involvement within the district.

While soil and water conservation districts do not currently have taxing authority, at their annual meeting for 1980 the Association of Soil and Water Conservation Districts did approve a resolution calling for mill levy authority for the districts.

SOIL AND WATER CONSERVATION DISTRICTS SHOULD HAVE THE BASIC RESPONSIBILITY FOR DEVELOPMENT OF LOCAL COMPREHENSIVE WATER AND RELATED LAND RESOURCES PLANS.

Soil and water conservation districts have long carried on overall planning responsibilities for soil and water conservation programs. The general approach of this alternative requires a strong commitment by districts to water and related land resources planning. Development of comprehensive local plans is essential if local government is to address water and related land resources management problems systematically and comprehensively. Ongoing water and related land resources planning is essential to guide programs, heighten citizens' perception of water-related problems and possible solutions, promote working partnerships among local governments, and focus on the SWCD as the first step in arriving at water and related land resources solutions.

INCENTIVES FOR LOCAL PLAN COMPLETION SHOULD BE PROVIDED AND PENALTIES FOR FAILURE TO COMPLETE THIS STEP IMPOSED.

Soil and water conservation districts with completed and approved plans should be eligible for delegation of appropriate state permitting responsibilities. Soil and water conservation districts without approved plans would be ineligible to receive proposed flood damage reduction grants, land and water conservation funds, cost-sharing for erosion control and water management, grants under the proposed natural resources management fund (other than for planning), Rural Clean Water Act funds, and others. Further approval of district plans should be a prerequisite for the use of project development authorities.

To aid in completion of the planning process, the natural resources management fund proposed in the framework plan should be expanded to include planning assistance grants.

REGIONAL DEVELOPMENT COMMISSIONS SHOULD SERVE AS A PLANNING ADVISOR AND SOURCE OF ASSISTANCE TO SOIL AND WATER CONSERVATION DISTRICTS IN CARRYING OUT PLANNING RESPONSIBILITIES.

The Regional Development Act of 1969 has as its purpose "...to facilitate intergovernmental cooperation and to insure the orderly and harmonious coordination of state...and local comprehensive planning and development programs for the solution of...problems of the state and its citizens by providing for the creation of regional development commissions." The 12 regional development commissions should continue to serve in their role as defined in the Act, providing planning assistance to local government. They should review local plans and provide comments for consideration by the coordinating body.

The Metropolitan Council should continue to function in its current capacity. That is, county and other local water management programs should be subject to Council approval to the extent that regional concerns are involved. In addition, the Council should be given comparable authority to approve aspects of soil and water conservation district plans and programs which are regional in scope.

AT THE STATE LEVEL...

The state should maintain its stewardship responsibilities, in general. The state coordinating body (i.e., Water Planning Board or its successor) should be responsible for assuring comprehensive planning is consistent with state goals and policies, for making recommendations to the Legislature on the hydrologic boundaries for districts, and for policy conflict resolution. The Soil and Water Conservation Board and the Water Resources Board should be merged, with the merged board responsible for oversight of the strengthened soil and water conservation district.

1. Implementing Specific Framework Plan Recommendations

Under Laws 1980, Chapter 548, the Water Planning Board is required to define ways of implementing framework plan recommendations at the local level. Under Alternative No. 2:

Cities should be responsible for carrying out mandatory stormwater planning and management responsibilities within incorporated areas. Where stormwater management problems transcend city boundaries, the soil and water conservation district should be responsible for plan development and program implementation. Stormwater plans and programs developed within the seven-county metropolitan area should be included under the purview of the Metropolitan Council according to Mandatory Land Planning Act provisions.

The soil and water conservation district should be responsible for development of comprehensive flood plain management plans as a component of overall planning and should become eligible for flood damage reduction grant-in-aid funds. District flood plain management plans should integrate the plans and programs of counties, cities, and towns for structural and non-structural measures. Flood damage reduction grants-in-aid to any unit of local government should be conditioned on the inclusion of the proposal (or its consistency with) the approved comprehensive water and related land resources plan of the district.

The soil and water conservation district should implement the expanded soil and water cost-sharing program. Land treatment or other measures installed under this program should be targeted to complement other phases of the water and related land resources management program.

Counties and cities should be responsible for adoption and enforcement of ordinances for control of construction-site erosion, subject to guidelines provided by the SWCD in its comprehensive plan. The SWCD should be responsible for coordination between ordinances, as necessary. In addition, the district should be responsible for developing procedures to assure the integration of construction-site erosion controls with stormwater management. City and county ordinances and policies should be an integral part of the district comprehensive plan, and the effects of construction-site erosion control decisions on other aspects of the district program should be considered in each permit decision.

2. Local Water Management Planning

Local water management planning conducted through the soil and water conservation district is an integral component of Alternative No. 2.

Structure of the process. Soil and water conservation districts should be required to develop comprehensive water and related land resources plans under the principles described in Alternative No. 1.

The hydrologic unit on which the district is founded should serve as the basic planning unit. However, districts may petition the state coordinating body for the right to conduct planning on a regional basis along the lines of the major river basin areas of the state.

Regional development commissions and the Metropolitan Council should provide assistance to local units of government in developing water and related land resources management plans. They should provide advice to the state coordinating body on measures to coordinate local plans and/or to adjust state plans to meet local needs. The state coordinating body should determine whether local plans meet planning guideline requirements and are consistent with state goals and objectives in approving local plans. The coordinating body should consider recommendations of the merged Soil and Water Conservation/Water Resources Board in its decisions.

Scope and content. The scope and content of the local plan should be the same as described under Alternative No. 1.

<u>Authority</u>. Upon approval of the local plan, local units of government should be eligible for financial and technical assistance and for exercise of development authorities as described under Alternative No. 1. In addition, approval of local plans should make soil and water conservation districts eligible for delegation of appropriate state permitting authorities.

Implementation. Upon authorization of this option by the Legislature, the water resources coordinating body should institute a process (including public meetings) to develop recommendations to the Legislature for the realignment of soil and water conservation districts along hydrologic lines. Recommendations should be made to the Legislature by January 1 of the year following authorization of this option.

Following realignment of boundaries and the election of the first board of supervisors (a 12-month process described above), the districts should initiate the planning process defined in the "Comprehensive Local Water Management Act". These procedures should include methods for involving citizens and affected local units of government in establishing local goals and policies, identifying water and related land resources problems, and coordinating local programs and approaches to solving problems.

The timetable for the planning process itself should be the same as under Alternative No. 1, commencing upon the election of the first group of supervisors. Oversight and reporting would occur as under Alternative No. 1.

3. Legislative Actions Required

Acceptance of Alternative No. 2 will require several actions by the Legislature. These include:

Passage of a "Comprehensive Local Water Management Act". The purpose of this Act should be to establish a set of principles under which comprehensive local water and related land resources plans would be developed by soil and water conservation districts. It should establish the structure of the local planning process, the scope and content of plans, authorities under approved plans, and implementation elements. Amendment of Minnesota Statutes, Chapter 40. Chapter 40 would be amended to realign soil and water conservation districts along hydrologic boundaries and to vest districts with most of the authorities currently possessed by watershed districts under Chapter 112. Chapter 40 would further be amended to require development and enforcement of comprehensive water and related land resources plans by soil and water conservation districts.

Repeal of Minnesota Statutes, Section 111.01 to 111.42 and Chapter 112. Repeal of these portions of Minnesota Statutes would specify a procedure for transferring drainage and conservancy district and watershed district assets and liabilities to soil and water conservation districts.

Amend county authorities. County authorities in Chapters 104, 105, 106, 378, and 394 would be amended to require consistency with plans for water and related land resources management prepared by soil and water conservation districts.

Amend city authorities. City authorities in Chapters 104, 105, 378, 429, and 462 would be amended to require consistency with plans for water and related land resources management prepared by soil and water conservation districts.

<u>Creation of a "Natural Resources Management Fund" under</u> <u>Minnesota Statutes, Chapter 105</u>. The Natural Resources Management Fund should provide for grants to soil and water conservation districts to assist them in planning activities required under the Comprehensive Local Water Management Act and grants to eligible governments responsible for implementing state-mandated programs for water and related land use management.

Amendment of Chapter 104 to require urban stormwater planning and management by cities. Amendments should specify the authority of soil and water conservation districts to coordinate city plans and programs which transcend city boundaries.

Amendment of Chapter 104 to provide for a statewide flood damage reduction grant-in-aid program. This legislation would define eligibility for grants-in-aid and clarify the relationships of cities, counties, and soil and water conservation districts. Flood damage reduction planning requirements would be carried out within the context of water management plans developed under the "Comprehensive Local Water Management Act".

Amendment of Chapters 394 and 462 to require counties and cities to adopt construction-site erosion controls. Amendments should specify the authorities of soil and water conservation districts to coordinate city and county plans and programs. Amendment of Minnesota Statutes, Chapters 40 and 105 to merge the Soil and Water Conservation Board and Water Resources Board. Amendments should specify that the consolidated board be granted the oversight powers of the two state boards and the Department of Natural Resources lake improvement district function.

Passage of permanent water resources coordinating body legislation. The creation of a permanent water resources coordinating body with adequate authority to carry out specific coordination and review functions was recommended in the framework plan ("Toward Efficient Allocation and Management: A Strategy to Preserve and Protect Water and Related Land Resources"). Four alternatives were suggested to the Legislature for "housing" this body. In addition to the recommendations of the framework plan, the coordinating body should be charged with implementing the local planning process through development of planning guidelines, establishment of a process for reviewing SWCD plans for consistency with state goals and objectives, and delineation of a conflict resolution procedure.

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# ALTERNATIVE NO. 3

# ESTABLISHMENT OF REGIONAL WATER MANAGEMENT DISTRICTS

Nine basic positions and their accompanying arguments would be adopted under Alternative No. 3.

REGIONAL GOVERNMENT SHOULD BE THE PRIMARY LEVEL OF GOVERNMENT IN WATER AND RELATED LAND RESOURCES MANAGEMENT.

Primary involvement by a regional level government is necessary to account for regional variation in availability and use of water supplies, and in the capacity of water and related land resources to assimilate resource demands.

A regional level government can be best equipped with the technical and financial resources, and with the authorities, necessary to assume many of the responsibilities currently vested in the state level. The regional level is in a better position to coordinate water and related land resources activities of local units of government by virtue of its proximity to local units and its linkage to regional characteristics of resource availability, assimilative capacity, and use.

IT IS APPROPRIATE TO STRUCTURE WATER MANAGEMENT PROGRAMS ALONG MAJOR HYDROLOGIC BOUNDARIES.

The river basin and, in certain regional instances, the aquifer are the functional units within which the effects of land and water use decisions will be measured. Regional water management districts possessing the focus and authorities keyed to these functional units are desirable.

REGIONAL WATER MANAGEMENT DISTRICTS SHOULD BE THE REGIONAL GOVERNMENT CHARGED WITH WATER MANAGEMENT AUTHORITY.

The complex issues embodied in decisions affecting water and related land resources necessitate a regional unit of government whose primary focus is to deal with these issues.

The duties of regional water management districts should include development of rules for regulating (and coordinating the regulation of) work within or draining of waters of the state, appropriating waters, developing and managing waters, and related activities. The regional water management districts should also be charged with developing and implementing a comprehensive water management plan which provides for the development and management of water resources by the districts, and by local units of government. The districts should possess taxing authorities and other water management powers currently available to watershed districts. Regional water management districts should be governed by a board of directors composed of one member elected from each major watershed unit within the district. Each board member should be either a county board member, a town board member, or an elected member of the governing body of a city within the watershed represented.

REGIONAL WATER MANAGEMENT DISTRICTS ARE BETTER ABLE TO MEET FINANCIAL AND TECHNICAL SUPPORT NEEDS THAN ARE LOCAL GOVERNMENTS.

If federal and/or state support for water and related land resources management decreases (as appears increasingly likely), local and/or regional government will have to pick up the slack. Increased local and/or regional responsibility will also bring with it increased financial and technical support needs. Because local general purpose governments will also be facing a "fiscal crunch", and because the regional level has access to a broader tax base, regional water management districts are in a better position to meet financial and technical support needs for resource management.

LOCAL UNITS OF GOVERNMENT SHOULD CONTINUE CURRENT EFFORTS IN WATER AND RELATED LAND RESOURCE MANAGEMENT, BUT BE SUBJECT TO REGIONAL GUIDANCE.

The local level of government is closest to the people and to the water-related issues which must be addressed. General purpose units, especially the city and county, are the primary local decision-makers concerning land and water management issues. Special purpose districts provide an important service in addressing water and soil management needs. Local units of government should continue current efforts in management of water and related land resources, but should be subject to the coordination and guidance of regional water management districts where necessary to meet resource management goals.

Counties and cities will continue to play the lead role in the exercise of resource zoning powers in unincorporated and incorporated areas, respectively. Cities will continue to be autonomous in those issues originating and remaining within city limits. City and county powers to develop water resources will be exercised subject to regional water management district approval for consistency with district water and related land resources management plans. Township government should be subordinate to county, watershed district, and regional water management district authorities, except that in areas where zoning authorities currently exist, townships would be allowed with water management district approval to adopt regulations more stringent than those of other local governments. The programs and policies of watershed districts, soil and water conservation districts, and other special purpose districts should be subject to approval by the regional water management district in which they are located once the district plan has received state approval. Further, the water management district should be authorized to establish or abolish watershed districts upon petition as needed to effect the purposes of the regional water and related land resources management plan.

REGIONAL WATER MANAGEMENT DISTRICTS SHOULD HAVE THE BASIC RESPONSIBILITY FOR DEVELOPING COMPREHENSIVE WATER AND RELATED LAND RESOURCES PLANS.

A strong commitment by regional water management districts is required. Development of plans is essential if local and regional governments are to address water-related problems systematically and in a comprehensive fashion. Ongoing planning is vital to guide management programs and to heighten awareness of citizens. It is a prerequisite to decentralization and delegation of state authority.

INCENTIVES FOR REGIONAL PLAN COMPLETION SHOULD BE PROVIDED AND PENALTIES FOR FAILURE TO COMPLETE THIS STEP IMPOSED.

Regional water management district administration of state water permit programs would be initiated upon approval of regional plans by the state water resources coordinating body. Regional districts and affected local governments should be ineligible to receive proposed flood damage reduction grants, land and water conservation funds, cost-sharing for erosion control and water management, grants under the proposed natural resources management fund (other than for planning), Rural Clean Water Act funds, and other funds if plans are not completed.

To facilitate the planning process, the natural resources management fund proposed in the framework plan should be expanded to include planning assistance grants.

REGIONAL DEVELOPMENT COMMISSIONS SHOULD SERVE AS A PLANNING ADVISOR AND SOURCE OF ASSISTANCE TO REGIONAL WATER MANAGEMENT DISTRICTS IN CARRYING OUT PLANNING RESPONSIBILITIES.

Regional development commissions should continue to carry out responsibilities for development of comprehensive plans as provided in the Regional Development Act. They should work with the water management district to assure district plans are developed with appropriate consideration for related issues, such as land use.

The Metropolitan Council should be given supervisory powers over the activities of the districts within the seven-county metropolitan area, in much the same way the Council oversees the Metropolitan Waste Control Commission under present law.

#### AT THE STATE LEVEL...

State government will maintain certain responsibilities, under its stewardship role, for developing broad policies governing actions of the regional districts and local units of government. The water resources coordinating body should be charged with resolving conflicts among regional water management districts, and between regional districts and local governments, where questions of state policy are at stake. The Water Resources Board should be abolished by the Legislature or, alternatively, combined with the water resources coordinating body.

1. Implementing Specific Framework Plan Recommendations

Under Laws 1980, Chapter 548, the Water Planning Board is charged with the duty to recommend a means of implementing framework plan recommendations at the local level. Under Alternative No. 3:

<u>Cities should be responsible for carrying out mandatory</u> <u>stormwater planning and management within incorporated areas</u>. Where stormwater management problems or solutions transcend the limits of a single city, the watershed district (where one exists) and, ultimately, the regional water management district should be responsible for plan development and program implementation. The responsible governmental unit should be required to solicit and utilize the information and expertise available through the soil and water conservation district. Stormwater plans and programs developed within the seven-county metropolitan area should be included under the purview of the Metropolitan Council under provisions of the Mandatory Land Planning Act.

Local units of government and regional water management districts should be eligible to receive flood damage reduction grants-in-aid, provided their programs are consistent with approved regional comprehensive water and related land resource management plans. The regional water management district should be responsible for developing comprehensive flood plain management plans and for coordinating the development of local flood plan management programs with regional plans. The regional district should receive and administer state grants to local units and grants for projects or activities undertaken at the regional level. State approval of regional plans will be a prerequisite for eligibility of the district or units of government within the region for grants-in-aid.

Soil and water conservation districts should implement the expanded state soil and water cost-share program. The district plan for soil and water conservation should be subject to approval by the regional water management district, in order that land treatment and other measures installed under this program will be targeted to complement other phases of the total water and related land resources management program. <u>Counties and cities should be responsible for adoption and</u> <u>enforcement of ordinances for control of construction-site</u> <u>erosion</u>. Where coordination between city and county ordinances is required, the regional water management district should exercise this responsibility in accordance with its approved plan for water and related land resources management. The soil and water conservation district should provide technical review of construction-site erosion control plans and permits for use by the city or county.

# 2. Regional Water Management Planning

Regional water management planning is a principal component of Alternative No. 3. It can be described in terms of the structure of the process; the scope and content of plans; authority under approved plans; and implementation elements. Because of its importance to this Alternative, the regional water management planning system is described in some detail.

Structure of the process. The regional water management district should be required to develop water management plans under the principles described in Alternative No. 1. The question of the size and location of the management unit upon which plans should be based should be determined by the regional water management district. Water management districts should, themselves, be delineated by the Legislature upon recommendation of the state coordinating body (i.e., the Water Planning Board or its successor). They should be regional in nature, numbering between eight and fourteen for the entire state.

Scope and content. Regional water management planning should recognize the "total resource" involved and should address a wide range of water and related land resources issues and topics. Districts should coordinate and integrate into these plans, as appropriate, the water-related programs and needs of cities, counties, towns, and the local special purpose districts. They should establish an ongoing procedure for involving these parties, and interested citizens, in developing and maintaining the plan and program for total water and related land resources management.

<u>Authority</u>. Regional water management district plans should be approved (or disapproved) by the state coordinating body for consistency with state policy and overall plans. The districts and local units of government within the district should subsequently become eligible for state financial and technical assistance in carrying out programs and projects identified in the plans. State approval of regional plans should also be a prerequisite for exercise of water project development authorities by regional and local units of government. Regional water management district administration of state water permit programs should be put into effect upon the approval of regional plans by the state water resources coordinating body.

<u>Implementation</u>. After passage of the "Regional Water Management Act," the state coordinating body (i.e., Water Planning Board or its successor) should conduct public meetings and hearings to develop recommendations to the Legislature for the number and location of regional water management districts. Recommendations, based on criteria in the Act, should be reported to the Legislature by January 1, in the year following passage of the Act.

Following organization of the district and election of the first board of directors, the districts should develop and put into effect procedures for carrying forward water management planning responsibilities on an ongoing basis. These procedures should include methods for involving citizens and affected local units of government in setting regional goals and policies, identifying water-related issues and problems, and coordinating local programs and approaches to their solution.

Explicit standards should be established whereby regional water management district planning can be evaluated by the state coordinating body to determine whether legislative intent is being met and whether regional planning is proceeding satisfactorily. A timetable for completion of plan components should be established by the Legislature to serve as the basis for these evaluations. The coordinating body should report to the Legislature on the progress of regional water management planning, and make recommendations for necessary changes in the process and in local, regional, and state authorities for water and related land resources management. The state coordinating body may take over planning responsibilities in areas where regional planning is not undertaken.

3. Legislative Actions Required

Acceptance of Alternative No. 3 will require several actions by the Legislature. These include:

Passage of a "Comprehensive Regional Water Management Act." The purpose of this Act would be two-fold: (a) to provide for the creation of regional water management districts, and (b) to establish a set of principles and procedures under which comprehensive regional water management plans should be developed and implemented by the districts and by local units of government. The authorities of the regional water management districts should be patterned, in general, after those of watershed districts, except that the regional district should be authorized to regulate the actions of all local water management authorities and to administer state programs once district plans are approved by the state. Amendment of Minnesota Statutes, Chapter 112. Chapter 112 would be amended to authorize regional water management districts to create and abolish watershed districts (rather than the Water Resources Board). Chapter 112 would further be amended to require approval of watershed district management plans, regulations, and projects by the regional water management district.

Amend county authorities. County water and related land resources management authorities in Minnesota Statutes, Chapters 104, 105, 106, 378, and 394 would be amended to provide for approval by regional water management districts of county activities, where necessary, to assure consistency with state-approved regional water management plans.

Amend city authorities. City water and related land resources management authorities in Chapters 104, 105, 378, 429, and 462 should be amended to provide for approval by regional water management districts of city activities, where necessary to assure consistency with state-approved regional water management plans.

<u>Creation of a "Natural Resources Management Fund" under</u> <u>Minnesota Statutes, Chapter 105</u>. The Natural Resources Management Fund should provide for grants to regional water management districts to assist them in planning activities required under the "Comprehensive Regional Water Management Act" and grants to eligible governments responsible for implementing state-mandated programs for water and related land use management.

Amendment of Minnesota Statutes, Chapter 104 to require urban stormwater planning and management by cities. Amendments should specify the authority of regional water management districts to coordinate city plans and programs which transcend city boundaries.

Amendment of Chapter 104 to provide for a statewide flood damage reduction grant-in-aid program. This legislation would authorize regional water management districts to receive and administer grants-in-aid for flood damage reduction. Flood damage reduction planning requirements would be carried out by the districts or by local governments within the context of water management plans developed by regional water management districts under the "Comprehensive Regional Water Management Act."

Amendment of Minnesota Statutes, Chapter 40 to require approval of SWCD plans by regional water management districts. Amendments should specify that approval be based on stateendorsed regional water and related land resources plans and that such approval be a condition of district eligibility for receipt or administration of state cost-share funds and for exercise of project development powers under Section 40.072. Amendment of Minnesota Statutes, Chapters 394 and 462 to require counties and cities to adopt construction-site erosion controls. Amendments should specify the authority of regional water management districts to coordinate and approve city and county plans and programs based on their consistency with state-approved regional management plans. In addition, amendments should specify a requirement for review of permit applications by soil and water conservation districts.

Passage of permanent water resources coordinating body legislation. The creation of a permanent water resources coordinating body with adequate authority to carry out specific coordination and review functions was recommended in the framework plan ("Toward Efficient Allocation and Management: A Strategy to Preserve and Protect Water and Related Land Resources"). Four alternatives were suggested to the Legislature for "housing" this body. In addition to the recommendations of the framework plan, the coordinating body should be charged with implementing the regional planning process through development of planning guidelines, establishment of a process for reviewing regional plans for consistency with state goals and objectives, and delineation of a conflict resolution procedure.

#### ALTERNATIVE NO. 4

# REDIRECTION AND ACCELERATION OF EXISTING ARRANGEMENTS

Nine basic positions and their accompanying arguments would be adopted under Alternative No. 4.

GENERAL PURPOSE GOVERNMENTS, PARTICULARLY COUNTIES AND CITIES, SHOULD BE THE FUNDAMENTAL DECISION-MAKERS AT THE LOCAL LEVEL.

The local water management structure should be directly tied to general purpose government. Water resource issues cannot be divorced from land management decisions. Since general purpose governments possess broad zoning powers for land use management, they should be given equivalent powers in water management if water and land use solutions are to fully integrated.

Counties should have the central responsibility in this structure, with cities remaining autonomous on problems originating and remaining within city limits. Township government should be subordinate to county authorities, except that in areas where zoning authorities currently exist, townships would be allowed with county approval to adopt regulations more stringent than those of counties if they are compatible with the overall county water and related land resources management program.

IT IS APPROPRIATE TO STRUCTURE WATER MANAGEMENT PROGRAMS WITHIN POLITICAL BOUNDARIES.

A National Academy of Sciences report argues: "Although the drainage basin provides a coherent hydrologic unit relative to water control, it is not...usually, coincident with the appropriate social, political or economic region within which society functions. Water planning should relate more to man's activities, needs, desires, and ability to manage water than to water itself."

GENERAL PURPOSE GOVERNMENTS ARE MORE APPROPRIATE MECHANISMS FOR PROVIDING FINANCIAL AND TECHNICAL SUPPORT THAN ARE SPECIAL PURPOSE DISTRICTS.

If federal and/or state support for water and related land resources management decreases (as may occur in the near-term), local government will have to pick up the slack. Increased local responsibility also will bring with it increased need for financial and technical support. Although facing a "fiscal crunch" also, general purpose governments are in a better position to meet resource management needs than are special purpose districts. While special purpose districts should be given taxing authority, such authority has less direct citizen accountability and may contribute to the confusion over local roles.
SPECIAL PURPOSE GOVERNMENTS PROVIDE AN IMPORTANT SERVICE IN ADDRESSING SOIL AND WATER MANAGEMENT NEEDS AND SHOULD CONTINUE TO EXIST, BUT SHOULD BE MORE DIRECTLY TIED TO GENERAL PURPOSE GOVERNMENT THROUGH COMPREHENSIVE PLAN CONSISTENCY AND APPROVAL.

Programs and policies of special purpose districts lying wholly within a county (e.g., soil and water conservation districts) should be consistent with county comprehensive water and related land resources plans and subject to county approval. The programs and policies of those special purpose districts which transcend county lines (e.g., watershed districts) should consider the comprehensive plans of each of the counties which they intersect when the county has chosen to develop such plans. To facilitate this activity, counties should be given the full range of authorities available to watershed districts. This may make single-county watershed districts unnecessary, although the option of creating a similar organization as a subordinate service area should be available to counties.

WHERE WATER RESOURCE PROBLEMS CROSS COUNTY BOUNDARIES, THE OPTION OF FORMING WATERSHED DISTRICTS OR ENTERING INTO JOINT POWERS AGREEMENTS SHOULD REMAIN OPEN.

Where resource problems transcend city boundaries, joint powers agreements should be employed, including the county as partner. If solutions cannot be agreed to under the JPA, the county should be empowered to adopt a solution consistent with its approved plan. In cases where watershed districts or JPA's are adopted for a specific project (e.g., P.L. 566 project), provision for the termination of the district or JPA should be made.

COUNTIES SHOULD HAVE THE BASIC RESPONSIBILITY FOR DEVELOPING LOCAL COMPREHENSIVE WATER AND RELATED LAND RESOURCES PLANS.

Where joint powers agreements or intercounty watershed districts have been formed specifically to address intercounty water resource problems, these units will carry out water and related land resources planning responsibilities. The plans of these entities would become elements of the comprehensive plan of each affected county.

A strong commitment of general purpose governments and intercounty authorities is required. Development of plans is essential if local government is to address water problems systematically and in a comprehensive fashion. Ongoing planning is vital to guide management programs and to heighten awareness of citizens, and is a prerequisite to decentralization and delegation of appropriate authorities.

INCENTIVES FOR LOCAL PLAN COMPLETION SHOULD BE PROVIDED, WITH PENALTIES IMPOSED FOR FAILURE TO COMPLETE THIS STEP. Counties and watershed districts with completed and approved plans should be eligible for delegation of state permitting responsibilities. Counties and watershed districts without approved plans would be ineligible to receive proposed flood damage reduction grants, land and water conservation funds, cost-sharing for erosion control and water management grants under the proposed natural resources management fund (other than for planning), Rural Clean Water Act funds, and others. Approval of local plans should be a prerequisite for exercise of water project development authorities (e.g., under Minnesota Statutes, Chapters 106, 112, and 378, and Section 40.072).

To facilitate the planning process, the natural resources management fund proposed in the framework plan should be expanded to include planning assistance grants.

REGIONAL DEVELOPMENT COMMISSIONS SHOULD SERVE AS A PLANNING ADVISOR AND SOURCE OF ASSISTANCE TO COUNTIES AND WATERSHED DISTRICTS IN CARRYING OUT PLANNING RESPONSIBILITIES.

The Regional Development Act of 1969 has as its purpose "...to facilitate intergovernmental cooperation and to insure the orderly and harmonious coordination of state...and local comprehensive planning and development programs for the solution of...problems of the state and its citizens by providing for the creation of regional development commissions." The 12 regional development commissions should continue to serve in their role as defined in the Act, providing planning assistance to local government. They should review local plans and provide comments for consideration by the state coordinating body.

The Metropolitan Council should continue to function in its current role. That is, to the extent regional concerns are involved, county and other local water management programs will be subject to Metropolitan Council approval.

AT THE STATE LEVEL...

The state should continue to function in its stewardship role. The coordinating body (e.g., the Water Planning Board or its successor) should be responsible for assuring county and intercounty planning is consistent with state goals and objectives and should be given policy conflict resolution authority. The Soil and Water Conservation Board and the Water Resources Board should be consolidated to provide a unified voice for local management at the state level, and should include county representation.

1. Implementing Specific Framework Plan Recommendations

Under Laws 1980, Chapter 548, the Water Planning Board is charged with the duty to recommend a means of implementing framework plan recommendations at the local level. Under Alternative No. 4: Cities should be responsible for carrying out mandatory stormwater planning and management within incorporated areas. Where stormwater management problems or solutions transcend the limits of a single city, the county (where a joint powers agreement cannot produce a solution) or an intercounty arrangement (e.g., watershed district or JPA) should be responsible for plan development and program implementation. The responsible governmental unit should be required to solicit and utilize the information and expertise available through soil and water conservation districts. Stormwater plans and programs developed within the seven-county metropolitan area should be included under the purview of the Metropolitan Council under the provisions of the Mandatory Land Planning Act.

Local units of govenment should be eligible to receive flood damage reduction grant-in-aid, provided their programs are consistent with local comprehensive water management plans. The county-or an intercounty watershed district or joint powers agreement where one exists--should be responsible for development of flood plain management plans as an element of comprehensive plans and be eligible to receive flood damage grant-in-aid funds. City plans and programs which cross city lines must be consistent with county programs and plans (or intercounty arrangements, if they exist). Receipt of grantsin-aid by soil and water conservation districts, watershed districts, or other special purpose districts wholly within a county should be subject to county approval regarding consistency with the county comprehensive plan.

Soil and water conservation districts should implement the expanded state soil and water cost-share program. The SWCD plan for soil and water conservation should be subject to approval of the county board for consistency with the comprehensive water and related land resources plan of the county. Upon approval, the soil and water conservation program should become an integral part of the comprehensive local program. Land treatment under the cost-share program should complement other phases of the county water management program.

Counties and cities should be responsible for adoption and enforcement of ordinances for control of construction-site erosion. Where coordination is required between a county and a city, the county should serve as the lead agency and should have the authority to approve city programs which transcend city limits. Where intercounty arrangements exist, the watershed district or JPA should be responsible for coordinating construction-site erosion controls with the total watershed management program. The soil and water conservation district should provide technical review of construction-site erosion control plans and permits for use by the city or county.

## 2. Local Water Management Planning

Local water management planning is the principal component of Alternative No. 4. It can be described in terms of the structure of the process; the scope and content of plans; authority under approved plans; and implementation elements. Because of its overriding importance, the local water management planning system is described in detail in this section.

Structure of the process. The county, or an intercounty arrangement where one exists, should be responsible for development of local comprehensive water and related land resources plans. These plans must be consistent with guidelines developed by the state coordinating body (i.e., the Water Planning Board or its successor). Where intercounty arrangements (e.g., watershed districts or JPA's) do not exist, counties should be required to demonstrate how upstream and downstream interests are taken into account. Counties and intercounty arrangements should involve cities, soil and water conservation districts, towns, and other special purpose districts wholly within county or intercounty watershed districts in the planning process.

Regional development commissions and the Metropolitan Council should provide planning assistance to local units of government in developing water and related land resources management plans. They should provide advice to the state coordinating body on measures to coordinate local plans and/or adjust state plans to meet local needs.

The state coordinating body should determine whether local plans meet planning guideline requirements and are consistent with state goals and objectives in approving local plans. The coordinating body should consider the recommendations of the consolidated SWCB/WRB in these decisions. Where the coordinating body has reason to believe there has been inadequate coordination of upstream and downstream interests, it should require involvement of these interests as a condition to plan approval.

Scope and content. Local water and related land resources plans should recognize the "total resource" involved. They should evaluate the need for and effect of activities affecting surface waters, watersurface use, related land resources, and ground-water resources. They should anticipate short- and long-term needs and demands and examine alternative solutions. They should develop explicit goals and policies under which all local water-related programs and projects will be carried forward and an implementation strategy for projects and programs.

The essential nature of the local water and related land resource plan will be ever-changing. Provisions should be made for their ongoing evaluation and update.

Authority. Local water and related land resources plans should be approved by the state coordinating body. Upon approval, local units of government should be eligible for state financial and technical assistance for carrying out programs and projects consistent with the approved plan (e.g., flood damage reduction grants-in-aid, land and water conservation funds, and cost-sharing for erosion control and water management. Approval of local plans should be a prerequisite for exercise of water project development authorities (e.g., under Minnesota Statutes, Chapters 106, 112, and 378, and Section 40.072). Approval of local plans should also make counties or intercounty watershed districts eligible for delegation of appropriate state permitting authorities.

County or intercounty watershed district approval should be required for water-related activities of cities where impacts stretch beyond city boundaries and for activities of soil and water conservation districts, towns, and other special purpose districts wholly within county or intercounty watershed district boundaries.

<u>Implementation</u>. After passage of a "Comprehensive Local Water Management Act," affected counties and intercounty watershed districts should be free to determine their approach to local water management planning. They may carry forward planning through county committees or designate soil and water conservation districts as the planning body. To assure consideration of upstream and downstream interests, they may utilize joint powers arrangements or seek creation of intercounty watershed districts along the lines of watershed planning units defined by the Legislature. (With the exception of smaller units in the metropolitan area, the major watershed units identified in the 1979 "State of Minnesota Watershed Boundaries" map may be the appropriate size hydrologic units).

Planning procedures should include methods for involving citizens and affected local units of government in establishing local goals and policies, identifying water and related land resources problems, and coordinating local programs and approaches to solve problems.

A timetable for completion of the planning process should be established by the Legislature. It is suggested that a three year timetable be employed, beginning with the effective date of the legislation establishing the process. The state coordinating body should report to the Legislature on progress in the planning process, including any recommendations for revision. The state coordinating body may take over planning responsibilities in areas where local planning is not undertaken.

## 3. Legislative Actions Required

Acceptance of Alternative No. 4 will require several actions by the Legislature. These include:

Passage of a "Comprehensive Local Water Management Act". The purpose of this Act should be to establish a set of principles under which comprehensive local water and related land resources plans would be developed. It should establish the structure of the local planning process, the scope and content of plans, authorities under approved plans, and implementation elements.

Amendment of Minnesota Statutes, Chapter 112. Chapter 112 would be amended to require development of comprehensive water and related land resources plans by intercounty watershed districts. Chapter 112 would further be amended to permit the Water Resources Board to authorize watershed districts which are coextensive with the watershed planning units considered in local planning.

Amend county authorities. The basic county authorities in Chapters 106 and 378 would be combined with those of Chapter 112 to give counties the same powers as those of watershed districts and to require counties to operate under the same water management principles.

Creation of a "Natural Resources Management Fund" under Minnesota Statutes, Chapter 105. The Natural Resources Management Fund should provide for grants to counties and intercounty watershed districts to assist them in planning activities required under the "Comprehensive Water Management Act" and grants to eligible governments responsible for implementing state-mandated programs for water and related land use management.

Amendment of Minnesota Statutes, Chapter 104 to require urban stormwater planning and management by cities. Amendments should specify the authority of counties and intercounty watershed districts to coordinate city plans and programs which transcend city boundaries.

Amendment of Chapter 104 to provide for a statewide flood damage reduction grant-in-aid program. This legislation would define eligibility for grants-in-aid and clarify the relationships of cities, counties, and watershed districts. Flood damage reduction planning requirements would be carried out within the context of water management plans developed under the "Comprehensive Local Water Management Act".

Amendment of Minnesota Statutes, Chapter 40 to require approval of SWCD plans by counties, intercounty watershed districts or joint powers boards. Amendments should specify that approval be based on state-endorsed local comprehensive water and related land resources plans and that such approval be a condition of district eligibility for receipt or administration of state cost-share funds and for exercise of project development powers under Section 40.072.

Amendment of Minnesota Statutes, Chapters 394 and 462 to require counties and cities to adopt construction-site erosion controls. Amendments should specify the authorities of counties and intercounty watershed districts to coordinate city plans and programs which transcend city boundaries. In addition, they should provide for review of permit applications by soil and water conservation districts. Amendment of Minnesota Statutes, Chapters 40 and 105 to consolidate the Soil and Water Conservation Board and Water Resources Board. Amendments should specify that the consolidated board be granted the oversignt powers of the two state boards and the Department of Natural Resources lake improvement district function. Amendments should also specify representation on the consolidated board by counties, watershed districts, and soil and water conservation districts.

Passage of permanent water resources coordinating body legislation. The creation of a permanent water resources coordinating body with adequate authority to carry out specific coordination and review functions was recommended in the framework plan ("Toward Efficient Allocation and Management: A Strategy to Preserve and Protect Water and Related Land Pesources"). Four alternatives were suggested to the Legislature for "housing" this body. In addition to the recommendations of the framework plan, the coordinating body should include representation of county interests in its membership in order to fully recognize the expanded role of counties provided for in the alternative.

## APPENDIX B --STAFF TECHNICAL SUPPORT PAPEPS

The following technical support papers were prepared by staff of the Water Planning Board to provide Board members with background information necessary to select among the options for improving the capability and effectiveness of local water management authorities. The staff papers were not formally approved by the Board; however, they were reviewed and modified by the Board for accuracy prior to public distribution in the Board's citizen review process. Comments were offered by agencies, associations, regional development commissions, and citizens in review of the support papers and are attached to the appropriate documents. The Board utilized the staff papers and comments as appropriate in arriving at its recommendations for local water management. The papers themselves contain no statements of Board policy but instead attempt to describe facts and discuss issues relevant to the Board's charge.

- "An Overview of Expenditures for Water Management by Local Units of Government," Prepared by the Staff of the Minnesota Water Planning Board for the Legislative Commission on Minnesota Resources, September 1980.
- "Background for Making Decisions Based on the Local Water Management Study," Prepared by the Staff of the Minnesota Water Planning Board for the Legislative Commission on Minnesota Resources, October 1980.
- "Analysis of Local Water Management Authorities," Prepared by the Staff of the Minnesota Water Planning Board for the Legislative Commission on Minnesota Resources, October 1980.
- "Preliminary Analysis of Local Water Management Survey Responses," Prepared by the Staff of the Minnesota Water Planning Board for the Legislative Commission on Minnesota Resources, October 1980.
- "Case Studies of Local Water Management in Minnesota," Prepared by the Staff of the Minnesota Water Planning Board for the Legislative Commission on Minnesota Resources, January 1981.
- "Review of Local Water Management in Selected States," Prepared by the Staff of the Minnesota Water Planning Board for the Legislative Commission on Minnesota Resources, January 1981.
- "Report on the Feasibility of Consolidating the Soil and Water Conservation Board, the Water Resources Board, and Department of Natural Resources - Lake Improvement District Establishment Functions," Prepared by the Staff of the Minnesota Water Planning Board for the Legislative Commission on Minnesota Resources, July 1980.

## Related Paper:

"Conference Report: Local Water Management: Issues for the 80s," Report on a Conference Sponsored by the Water Planning Board and Spring Hill Center, May 4 and 5, 1980.