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A SUMMARY OF
MINNESOTA WATER RESOURCES LAWS,
1969 - 1978

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PREFACE

The following document contains a chronological summary of major Minnesota water resources laws from 1969 to 1978. "Major" is used subjectively in this compilation. There is a topical index included which lists the laws by subject, and shows the number of laws passed and where they are located in the report according to the year of passage. The index is cross-referenced because some laws encompassed many water-related topics.

This paper was prepared as a reference tool for Minnesota legislators interested in water law. It is safe to say that in no other decade in legislative history has there been so much new law in this subject area.

Questions concerning this paper should be directed to John Helland, 296-5039.

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MAJOR MINNESOTA WATER RESOURCES LAWS

FROM 1969 TO 1978

1969

Chapter 825

Provides that any public agency or political subdivision of the state interested in the betterment of water pollution may receive a state grant of funds in anticipation of a federal grant. Administered by the MPCA and appropriates a sum of \$1,500,000. Shall be known as the Crystal Waters Act.

Chapter 898

Provides that the State Board of Health shall establish regulations to govern all new water conditioning services and water conditioning installations including water or sewer disposal systems. Requires installers of such systems to be licensed and establishes a Water Conditioning Advisory Board under the State Board of Health. Authorizes municipalities having populations of over 5,000 to enact ordinances governing water conditioning permits, bonding, approval of plans, and inspection of water conditioning installations.

Chapter 931

Adds section providing that it is the duty of every person to notify MPCA immediately if that person discharged any material which may cause water pollution. M.S. 115.03 is amended to read that it be unlawful for any person to grant a construction permit for building of more than 12 persons unless their sewage will be discharged into a system that has a MPCA granted permit. Unlawful to discharge any sewage, industrial wastes, or other wastes which may cause pollution if there is an absence of any standards.

1971

Chapter 478

Provides for the creation of a sanitary sewer board to handle the collection, treatment and disposal of sewage in the lower St. Louis River Basin. The area over which the sanitary sewer board has jurisdiction shall be called the "Western Lake Superior Sanitary District" and shall include: the city of Cloquet, the villages of Carleton, Scanlon, Thomson, and Wrenshall, and the townships of Knife Falls, Silver Brook, Thomson, and Twin Lakes in the county of Carleton; the city of Duluth, the village of Proctor, and the townships of Canosia, Duluth, Grand Lake, Herman, Lakewood, Midway, Rice Lake and Solway in the county of St. Louis; and any waters of the state adjacent thereto. The sanitary sewer board shall prepare and adopt a comprehensive

plan for the treatment of sewage through a system of interceptors and treatment works; taking into account the preservation and best and most economic use of water and other natural resources in the area, and the impact such a disposal system will have on present and future land use in the area affected thereby. A local government unit may specifically assess all or any part of the cost of acquisition and betterment of any project ordered by the board under the provisions of Minnesota Statutes 1969, Sections 429.051 to 429.081.

Chapter 493

Provides for the creation and establishment of the Minneapolis Lakes Pollution Control Fund to be maintained by an annual property tax levy not to exceed .5 mill. Before the commencement of the 1973 Legislative Session, the Park and Recreation Board of Minneapolis shall submit to the Legislature a comprehensive report outlining the pollution problems affecting Minneapolis Lakes and programs designed to abate such pollution problems.

Chapter 828

Provides for the classification of all water supply systems and wastewater treatment facilities within the state. The classification will be based on the degree of hazard to public health together with the type and loading of plant and the population affected. Chapter 828 also requires the examination of operators of water supply systems and wastewater treatment facilities, and certification of their competency to supervise and operate such facilities. On or after July 1, 1972, it shall be unlawful for any person, firm, or corporation operating a water supply system or wastewater treatment facility which serves the public to operate unless the competency of the operator is duly certified under the provisions of this act.

Chapter 861

Prohibits watercraft from discharging waste into state waters. Marine toilets must have retention devices to store their waste for disposition on land by means of facilities constructed and operated in accordance with rules and regulations adopted by the state Board of Health and approved by the PCA. These provisions shall not apply until December 31, 1975 to watercraft that were equipped with treatment devices approved by the PCA prior to the effective date of this act, so long as such equipment continues to operate in accordance with its design capability. The requirement of retention facilities imposed by this act is effective on the Minnesota-Wisconsin boundary waters of the Mississippi and St. Croix rivers on January 1, 1972 and on other waters of the state of Minnesota on January 1, 1973.

Chapter 896

Prohibits cleaning agents and chemical water conditioners which contain certain nutrients that overstimulate the growth of aquatic life in Minnesota's waters. The prescribed nutrients and their maximum permissible concentration will be determined and regulated by the PCA. The PCA will also have authority to seize

a cleaning agent or chemical water conditioner which does not meet their regulations.

Chapter 896 further provides that no manufacturer, wholesaler, or retailer shall attempt to sell a household laundry or dishwashing compound unless a certified test result is filed with the PCA stating the percentage content of phosphorus by weight contained in the product. A list stating the phosphorus content by percentage of weight to weight of the package contents shall be prominently displayed near the product display in a retail outlet. "The Pollution Control Agency shall supply any person upon request with a current listing of household laundry and dishwashing compounds and their phosphate contents received pursuant to this act."

Chapter 916

Authorizes counties and district courts, after the receipt of a petition signed by at least 50% of the residents of an area, to make orders for and construct and maintain public water and/or sewer districts in areas of the county not organized into municipalities. Provides for hearings, appointment of an engineer, assessment of damages, issuance of bonds by counties, and the appointment of water and sewer commissions to construct and operate water and sewer systems.

Chapter 953

Establishes a \$34,750,000 state water pollution control fund for the appropriation and loan of money to municipalities for sewage treatment facilities. Authorizes the state to begin paying 25% of the cost of municipal sewage treatment facilities which reduces the local cost to 20 or 25%, with the federal payments being 50 or 55%. The PCA shall promulgate rules for the administration of grants and loans authorized to be made from the water pollution fund. "The rules of the agency (PCA) shall provide that a high priority shall be given to applications from municipalities which because of limited tax base, excessive bonded indebtedness, or critical conditions of water pollution requiring agency action pursuant to law, would face extreme financial hardship without the assistance provided by this act. . . ."

EXTRA SESSION

Chapter 17

Regulates marine toilets on boats on all waters of the state.

Chapter 29

Requires the licensing--charging a \$50 application fee--of water well contractors in Minnesota by the State Board of Health, to reduce and minimize the waste of ground water resources; ". . . and to protect the health and general welfare by providing a means for the development and protection of the natural resource of underground water in an orderly, sanitary and reasonable manner."

1973

Chapter 211

Authorizes the Commissioner of DNR to charge fees for water appropriation permits to improve the state water use data collection system, and to charge fees for underground gas and liquid storage permits to cover the actual costs of processing and field inspection. State and federal permit applications are exempt from this fee charge. The act is effective January 1, 1974.

Chapter 236

Requires local governments served by the Metropolitan Sewer Board to adopt by January 1, 1974, a system of charges that will assure that each recipient of waste treatment services will pay its proportionate share of current allocated costs, as required by the federal water pollution control act amendments of 1972. Grants the Metropolitan Sewer Board all necessary ~~authority to recover from users the costs of treatment works paid with~~ federal grant funds.

Chapter 271

The "Minnesota Wild and Scenic Rivers Act" declares a state policy to preserve and protect those rivers that possess ". . . outstanding scenic, recreational, natural, historical, scientific and similar values." Rivers in the "system" would be classified as wild, scenic or recreational, depending upon their water quality and adjacent land development. The Commissioner of DNR will administer and designate those rivers to be included within the system, and the legislature may add to or modify river designation and classification. The act further provides that the Commissioner of DNR shall adopt a management plan for each river, or component thereof, and may acquire the title, scenic easements or other interests in land by purchase, grant, gift, devise, exchange, lease, or other lawful means; and shall promulgate management regulations relating to the uses in and of the water and the land areas designated in the management plan. Local governments would have to adopt "wild and scenic river ordinances," if a river included in the system was within a local government's boundaries.

Chapter 315

Defines "appropriating" of waters as: "includes but is not limited to taking, regardless of the use to which the water is put;" defines "beneficial public purpose," in relation to waters of the state, as including certain purposes; defines "waters of the state" as "any waters, surface or underground, except those surface waters which are not confined but are spread and diffused over the land," including all boundary and inland waters. Declares a state policy to supervise any modification of public waters, and establishes a statewide water information system. Strengthens the Commissioner of DNR's permitting and inspection powers regarding the appropriation and use of waters of the state. Deletes a legally authorized public drainage system from obtaining a permit for modification of public waters. Modifies the procedures of application or a permit for the establishment of lake levels. Strengthens the Commissioner's powers to reject permit applications, with the burden of

proof falling on the applicant. The Commissioner may further require the applicant to restore public waters to the state they were in before any unlawful action took place, and he may investigate any disturbing activities; misdemeanor penalties are provided.

Chapter 344

Engenders a state policy for the supervision of all changes, including the transfer of ownership, in the present status of dams, reservoirs, control structures, or other waterway obstructions, and further requires a permit from the Commissioner of DNR for such changes. Outlines the procedures for effecting emergency repairs and routine maintenance. Standards, procedures and limitations are prescribed for the Commissioner of DNR to allocate matching funds to local governments for dam and reservoir repair and maintenance. If a local government fails to act upon the Commissioner's order to repair dam facilities, the Commissioner may assume the responsibility of effecting such repairs. Further expands the Commissioner's powers to examine and investigate controlled structure facilities. The act is effective July 1, 1973.

Chapter 351

Declares a state policy that flood plain management ordinances are to be given first priority among flood damage reduction practices; structural projects are to be considered only as elements of the flood plain management program. The Commissioner of DNR shall examine plans submitted by local governments regarding the use of new emergency flood protection measures as part of a future comprehensive flood emergency program, and he may require modifications in this plan. If a local government fails to adopt flood plain management ordinances, the Commissioner may adopt an ordinance for that local unit and costs incurred by the Commissioner adopting such ordinances shall be paid by that local government. Local governments subject to recurrent flooding are required to participate in the national flood insurance program (PL 90-448); mechanisms for appeal are established.

Chapter 374

Redefines and expands the powers and duties of the Pollution Control Agency in regard to recently enacted federal water pollution legislation. The PCA can require the discontinuance of sewage flow causing excessive pollution in state waters or waters likely to enter state waters, and prohibit the storage of harmful materials likely to enter state waters. The PCA can also require the construction of disposal systems to prevent discharge of pollutants, and they must establish standards for new source performance based on the best available technology by July 1, 1977, and to establish standards for pre-treatment before pollutants enter into any publicly owned disposal system. Any point source of pollution constructed after the date of enactment shall have a ten-year exemption from any more stringent standards. The PCA may require disposal system operators to maintain adequate records, and further may impose more stringent standards in particular instances to insure the overall water quality of a specific area. Prior to establishment of such effluent limitation, a public hearing must be held to analyze public and private costs and benefits. The PCA must also establish and adopt plans for statewide water pollution control, and to provide for implementation of such plans; train water pollution control personnel; and perform any acts necessary

to allow the state to participate in the National Pollution Discharge Elimination System. The act also broadens the PCA's powers to inspect and examine records of disposal systems, and further gives agency stipulation agreements or permits the force of agency orders.

Available remedies for enforcement of the act are listed and criminal penalties prescribed: not less than \$300 in the event of negligent violations; not less than \$2,500 in the event of a willful violation; and in neither case more than \$25,000 per day of violation or by one year's imprisonment or both. The fine shall not exceed \$50,000 for a violation after the first conviction. Penalties are also provided for false representation or documentation of information. Civil penalties are set at not more than \$10,000 per day of violation plus compensation for clean-up expenses and loss of wildlife. Other provisions of the act include the establishment of criteria for injunctions and actions to compel performance and allows the state to recover expenses if it prevails; allowing the PCA to establish standards to control the heat component of discharged effluent; a provision to provide, after hearing, areawide waste management in particular areas; and a broadening definition of the agency's emergency powers.

Chapter 379

Directs the Commissioner of DNR to promulgate standards for the development of shorelands within municipalities. The Commissioner shall also review existing municipal shoreland ordinances indicating changes he feels are necessary. Municipalities must adopt shoreland ordinances by July 1, 1975. The act is effective July 1, 1973.

Chapter 423

Charges the Director of the PCA to establish guidelines determining funding priorities for municipal sewage treatment projects that are not covered under existing federal law and regulations. The definition of municipality is broadened to include an Indian tribe or an authorized Indian tribal organization. Amends M.S. 116.17 by stipulating that all income from the investment of the Minnesota state water pollution control fund shall be credited to the bond account. Twenty-five million dollars is appropriated for the biennium from the state water pollution control fund to provide 15% toward the eligible cost of projects, while municipalities would provide the remaining 10%; the federal government providing 75% of the treatment cost. The PCA is authorized to exceed the 15% funding level if a municipality is determined to have a financial hardship case under rules promulgated by the agency. The "Crystal Waters Act" is repealed.

Chapter 434

Establishes a stream maintenance program under the supervision of the Commissioner of DNR, and authorizes up to 75% financing to counties for maintenance programs. Rules for delineating types of stream maintenance projects qualifying for state funds are established, along with guidelines for county applications for these funds.

Chapter 479

Directs the Commissioner of DNR to establish regulations governing the sale of licenses for the passage of utilities over public lands and waters. M.S.

92.46 is amended so that the practice of leasing state lands for private recreational development is halted. Lake drainage and the channelization of a natural water course is halted unless the Commissioner of DNR interprets that such lake or natural water course is not public waters of the state. Further directs the Commissioner to promulgate by January 1, 1974, criteria that county boards or court must consider when establishing and improving drainage systems. M.S. 106.81, 106.091, 106.101, and 106.121, dealing with the engineer survey of proposed drainage systems are modified to conform with the DNR criteria for drainage approval. The powers of the Commissioner to accept or reject the engineer survey are expanded, and the guidelines for the establishment of such projects are more closely defined.

Chapter 702

Directs the Commissioner of DNR to adopt standards relating to the watercraft use of surface waters of the state. In order to preserve and protect Minnesota lakes, the county board are empowered to acquire dams and control works, construct such structures, maintain and regulate the use of bodies of water for recreational purposes, and generally maintain public waters within their boundaries pursuant to DNR and PCA regulations. Counties are granted levy powers to implement the provisions of the act, and they may also apply for federal grants. The Commissioner of DNR shall promulgate by July 1, 1974, regulations providing for the criteria for the establishment of lake improvement districts by counties, cities and villages. The county board may establish a lake improvement district after a public hearing and by an appropriate resolution. A petition signed by 5% of the qualified voters within any portion of a proposed lake improvement district may be submitted to a county board requesting a district's establishment. Counties are further granted the same authority as cities in establishing sewer systems, disposal systems and sewage treatment works, utilizing the same types of financing such projects. The jurisdiction of local governments over local waters is further defined.

Chapter 712

Amends M.S. 112.38, 112.42, and 112.44 regarding hearing procedures and the choice of managers for watershed districts. District works may be instituted by unanimous resolution of the district managers and guidelines for the taking of such action are described. Procedures are further outlined for the consolidation of two or more districts into one, the choosing of the new district's managers and the transference of all assets of the old districts to the new.

Chapter 747

Establishes procedures for the examination and licensing of water well contractors by the State Board of Health, charging a \$50 fee for licensing and renewal thereof. Further authorizes the Department of Health to collect data on water and groundwater resources for use in the establishment of a state water information system.

Chapter 771

Appropriates \$55,000,000 from the Minnesota state water pollution control fund for the biennium to be disbursed to municipalities for sewage treatment projects. The PCA may, after consideration of the amount of state funds required to match federal funds, make a grant of state funds not exceeding 25% to a municipality that qualifies for federal fund granting but needs immediate funding to abate a health hazard.

1974

Chapter 267

Authorizes the Commissioner of Natural Resources to charge a permit fee not exceeding \$50 to gather or harvest any aquatic plants in public waters. The Commissioner is required by January 1, 1975, to establish standards and criteria governing the issuance and denial of permits for activities affecting aquatic plants, including provisions to insure that aquatic plant control is consistent with shoreland conservation ordinances, lake management plans and programs, and wild and scenic river plans.

Chapter 352

Amends Minnesota Statutes, 1973 Supplement, 106.021, Subd. 6. Provides that no criteria relating to drainage systems promulgated by Laws 1973, Chapter 315, shall be effective prior to July 1, 1975.

Chapter 558

Requires the Commissioner of Natural Resources to prepare a statewide framework and assessment of water and related land resource plans for presentation to the Legislature by November 15, 1975, for its review and approval or disapproval. The plan must relate each of the programs of the Department of Natural Resources for specific aspects of water management to the others, and must include at least 16 spelled-out water resource provisions. The Commissioner must also submit to the Legislature by January 1, 1975, for its approval, proposed rules governing the allocation of waters among potential water users. These rules shall be based on the following priorities for appropriation and use of water: 1) domestic water supply and agricultural irrigation; 2) any use of water that involves consumption of less than 10,000 gallons of water per day; 3) power production, involving consumption in excess of 10,000 gallons per day; 4) industrial and commercial uses, involving consumption in excess of 10,000 gallons per day; and 5) other uses, involving consumption in excess of 10,000 gallons per day. Diversions from the state for use in other states or regions of the United States or Canada will be discouraged, subject to the jurisdiction of the federal government. The act provides for the processing of some water use permits at the regional or local level, based on DNR regulations by January 1, 1977. The Commissioner shall recommend by January 15, 1975, to the Legislature a comprehensive law containing standards and criteria governing the issuance and denial of DNR water use permits. In unincorporated areas and, after January 1, 1976, in incorporated

areas, the Commissioner shall impose charges for the excavation of valuable materials from the beds of public waters under the provisions of the mining law, Chapter 93. Other public employees are stipulated to cooperate with the Commissioner in monitoring and enforcing water permits. The Commissioner must develop, by January 1, 1975, criteria for allocating state aid funds among various local projects for lake improvement. Minnesota Statutes, Chapter 113, relating to irrigation, is repealed as having been superceded by the provisions of Chapter 105.

1975

Chapter 147

Authorizes a county board to exercise certain powers concerning waters located wholly within a city or lake conservation district after the approval of the city or lake conservation district.

Chapter 294

Authorizes county boards to form water and sewer districts in the same manner authorized by municipalities. Specifies the formation and operation procedures of such districts.

Chapter 354

Appropriates an additional \$40,000,000 to the state water pollution control fund, composed of an appropriation of \$11,000,000 from the general fund and the sale of an additional \$29,000,000 in bonds. Requires the \$11,000,000 to be obligated prior to the sale of the additional bonds. Requires the Pollution Control Agency to submit a report to the Legislature by January 1, 1976, concerning the water pollution control funding program.

1976

Chapter 83

Clarifies procedures for the acquisition of wildlife lands. Modifies the definition of beneficial public purpose. Establishes a program of inventorying, classifying and designating public waters. Prescribes the powers and duties of the Commissioner of Natural Resources and the counties in connection with public waters classification. Specifies certain restrictions on drainage. Eliminates the duty of the commissioner of natural resources to promulgate certain criteria relating to drainage. Clarifies the criteria which county boards or district courts must consider concerning drainage systems. Establishes a state water bank program for public waters.

Chapter 126

Authorizes the consideration of engineers' and viewers' reports in certain circumstances. Allows the consideration of changed circumstances due to inflation.

Chapter 346

Exempts senior citizens from payment of certain camping fees. Reduces to 1/2 the fee for small game licenses for senior citizens. Increases the entrance fee for motor vehicles in state parks. Authorizes the designation of the Zumbro River as a canoe and boating route. Authorizes the issuance of a Minnesota sportsman's license. Increases the fees for certain game, fish and commercial licenses. Section 18 requires the promulgation of certain rules concerning water permits.

1977

Chapter 135

Transfers the administration of judicial ditches to county boards. Increases the interest rate limitation on ditch lien statements, certain penalties and bonds from 6% to 7%. Authorizes the redetermination of benefits and benefited areas. Clarifies the maximum annual assessment levies for repairs and maintenance. Requires a ditch authority to require permanent grass planted under certain circumstances. Effective May 20, 1977.

Chapter 162

Requires hearings and judicial review concerning certain water resource permit applications to be conducted pursuant to the administrative procedures act. Clarifies hearing cost and establishes \$750 as the maximum hearing cost a permit applicant must pay. Authorizes an applicant to contest an order by the Commissioner of Natural Resources to restore public waters or beds if there was no hearing on the application. Effective May 20, 1977.

Chapter 304

Adds the Commissioner of Natural Resources as an ex-officio member of the state soil and water conservation board. Authorizes the state board and local districts to cooperate in the establishment of a cost-sharing contract program with landowners for erosion control and water quality improvement projects. Clarifies the powers and duties of the state board and local districts. Adds a temporary member to the state board. Effective May 28, 1977.

Chapter 418

Prohibits any municipality from using certain state grants for additional construction of a wastewater treatment facility after meeting state water

quality standards. Authorizes the issuance of an additional \$40 million of state water pollution control bonds. Decreases the amount and changes the criteria of state grants a municipality may receive if it would qualify for a federal grant but desires to initiate construction of a project without a federal grant.

Chapter 446

Creates a Water Planning Board composed of a chairman appointed by the governor, the Commissioner of Natural Resources, the Commissioner of Health, the Director of the Pollution Control Agency, the Commissioner of Agriculture, the Director of the Energy Agency and the Chairman of the State Soil and Water Conservation Board. Specifies the duties of the Water Planning Board. Clarifies procedures for processing certain water permits. Establishes emergency restrictions on the use of water for irrigation and other uses. Requires municipal water supply authorities to conserve water during shortages. Appropriates \$132,000 to the Water Planning Board, \$500,000 to the Commissioner of Natural Resources, \$270,000 to the Minnesota Geological Survey, \$184,000 to the State Soil and Water Conservation Board and \$155,000 to the Department of Health. Effective June 3, 1977.

1978

Chapter 505

Clarifies the definition of "public waters" so as to not require public access because of such designation. Adds the processing of agricultural products to agricultural irrigation as a third priority for appropriation and use of waters in Minnesota. Effective March 17, 1978.

Chapter 513

Allows a watershed district to borrow funds from any state agency or a financial institution authorized under chapter 47 (financial corporation law) to do business in Minnesota. Raises the limitations to \$200,000 of the engineer's preliminary estimate of costs for works in a district before they are paid by assessment upon benefited properties. Establishes a survey and data acquisition fund consisting of an annual ad valorem levy not to exceed 1 mill on each dollar of assessed valuation of all taxable property within the watershed district; the fund is not to exceed \$50,000. Permits watershed districts to charge application and/or field inspection fees for permits required by the managers, with exceptions for state and federal agencies; the managers may also require a bond for a permit applicant. Effective March 24, 1978.

Chapter 726

Requires the Commissioner of Natural Resources to develop by April 1, 1979, rules and criteria for allocating state aid funds for lake improvement among proposed projects. Specifies the procedure for creation of lake improvement districts. Authorizes districts to undertake certain improvement projects

and assess benefited property. Requires lake improvement districts to hold an annual meeting for budget and election purposes. Clarifies the authority of home rule charter and statutory cities and towns over public waters and lake improvement districts. Effective April 6, 1978.

Chapter 744

New legislation authorizing the establishment of rural water user districts. Authorizes the initiation of a proposed district upon petition of 50% of the land owners within the proposed district. Provides for the district court to approve the petition and establish the district. Provides for an elected board of directors for the district. Authorizes the board to exercise its powers outside the district. Does not permit a district to levy taxes, to levy special assessments, to issue general obligation bonds, or to obligate the funds of any city, town, or county (except for expenses in contractual liability if they are water users). Provides that all expenses of the district must be borne by the users in proportion to their use of water supplies by the district. Stipulates that a work or system of the board cannot be used for irrigation purposes. Effective April 6, 1978.

Chapter 779

Requires an annual report from the Department of Natural Resources to the Legislature on state and local governmental dams that are in need of repair and which may be dangerous. Mandates that no state or local governmental unit shall purchase or accept as a gift any privately owned dam until the DNR has examined and reported to the Legislature on the dam, and the Legislature has had an opportunity to prohibit the purchase or gift. Appropriates \$200,000 to the DNR for the examination of dams, and \$250,000 for the repair and reconstruction of state-owned dams and the state's share of grant-in-aid to local governmental units. Requires the DNR to promulgate rules by April 1, 1979. The rules shall: (a) exclude from permit requirements minor dams; (b) include a fee schedule to cover dam inspection costs; and (c) classify structures to define safety risks and hazards; but shall not impose a field inspection fee on any federal, state or local government. Effective April 6, 1978.