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WATER PLANNING AND MANAGEMENT
REQUIRED BY THE
METROPOLITAN SURFACE WATER MANAGEMENT ACT

CHAPTER 509, LAWS OF 1982
MINNESOTA STATUTES SECTIONS 473.875 TO 473.883

"The purpose of the surface water management programs required by sections 473.875 to 473.883 is to preserve and use natural water storage and retention systems in order to (a) reduce to the greatest practical extent the public capital expenditures necessary to control excessive volumes and rates of runoff, (b) improve water quality, (c) prevent flooding and erosion from surface flows, (d) promote ground water recharge, (e) protect and enhance fish and wildlife habitat and water recreational facilities, and (f) secure the other benefits associated with the proper management of surface water."

Minnesota Water Resources Board
555 Wabasha Street
Room 206
St. Paul, Minnesota 55102
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I. PREFACE

The Metropolitan Surface Water Management Act (Act) assigns new planning and management responsibilities for water resources to the local governmental units in the metropolitan area. This pamphlet provides these local governments with the general information they will need in carrying out these new responsibilities, especially those calling for the preparation of watershed plans.

A copy of this pamphlet has been sent to each affected governmental unit in the metropolitan area. Questions should be directed to the Water Resources Board, 555 Wabasha Street, Room 206, St. Paul, Minnesota, 55102; 612 - 296-2840.

II. THE METROPOLITAN SURFACE WATER MANAGEMENT ACT

A. OVERVIEW

1. The Water Planning Concept

Implicit in the Act is the finding by the Legislature that prevention of water problems through sound planning and management is better public policy than allowing water problems to develop. Therefore, the Act requires that stormwater management plans shall be prepared and implemented over the seven-county metropolitan area. To effectuate the purposes of the Act the Water Resources Board believes it is essential that the watershed management organizations responsible for preparing the watershed plans do the following:

- a) assess existing water quantity and quality problems;
- b) assess potential water problems and opportunities for natural resource enhancement in view of projected watershed development;
- c) and formulate practical strategies to correct existing problems, to prevent potential problems, and to take advantage of opportunities to enhance water-related natural resources.

The purposes of the Act will be achieved only if the responsible local officials make a good faith effort to carry out these three basic tasks.

2. Watershed Management Organization Plans

The act recognizes that management of a body of water or watercourse requires control of the contributing drainage area. Therefore, the Act requires, as a first step, the preparation of a water management plan for each and every watershed unit in the metropolitan area. The ten watershed districts and the three joint powers watershed management organizations currently in existence within the metropolitan area are charged with preparing and implementing these plans. For those watersheds without a watershed man-

agement organization, the affected local governmental units have until the ~~end~~^{3rd} of 198~~15~~⁵ to establish, by joint powers agreement, a watershed management organization. If they don't, the affected counties become responsible for ensuring that watershed plans are prepared and implemented. If a watershed is wholly or partly within Hennepin or Ramsey county, the Act directs the counties to petition for a watershed district.

The Act directs that preparation of all watershed plans must be completed by the end of 1986.

3. Local Water Plans

After a watershed plan has been approved by the Water Resources Board, each local governmental unit within that watershed is to prepare a local water plan to bring its local water management into conformance with the watershed plan. The Act gives the local governmental units authority to levy taxes, without regard to levy limitations, sufficient to pay the costs of the local water planning and management activities that are required under the Act. The watershed management organization must approve the local plan for conformance with the watershed plan before it can be adopted by the local unit.

After a watershed management organization has approved a local water plan, it cannot require permits for the use and development of land within the territory of the local unit unless:

- a) the local unit does not implement its plan;
- b) the proposed action requires an amendment to or variance from the local plan;
- c) or the local unit authorizes the watershed management organization to require permits within its jurisdiction.

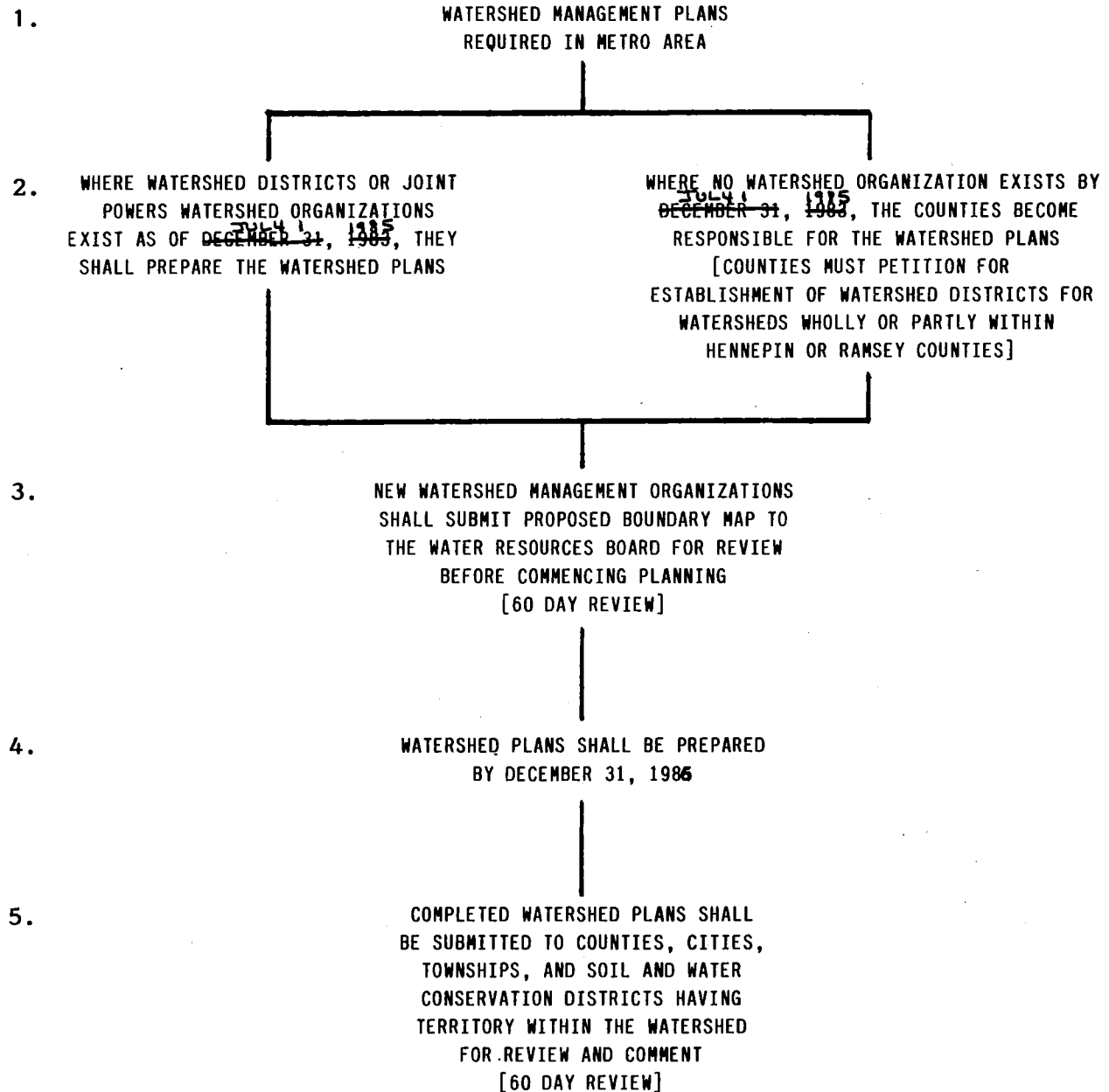
4. The Role of State Agencies

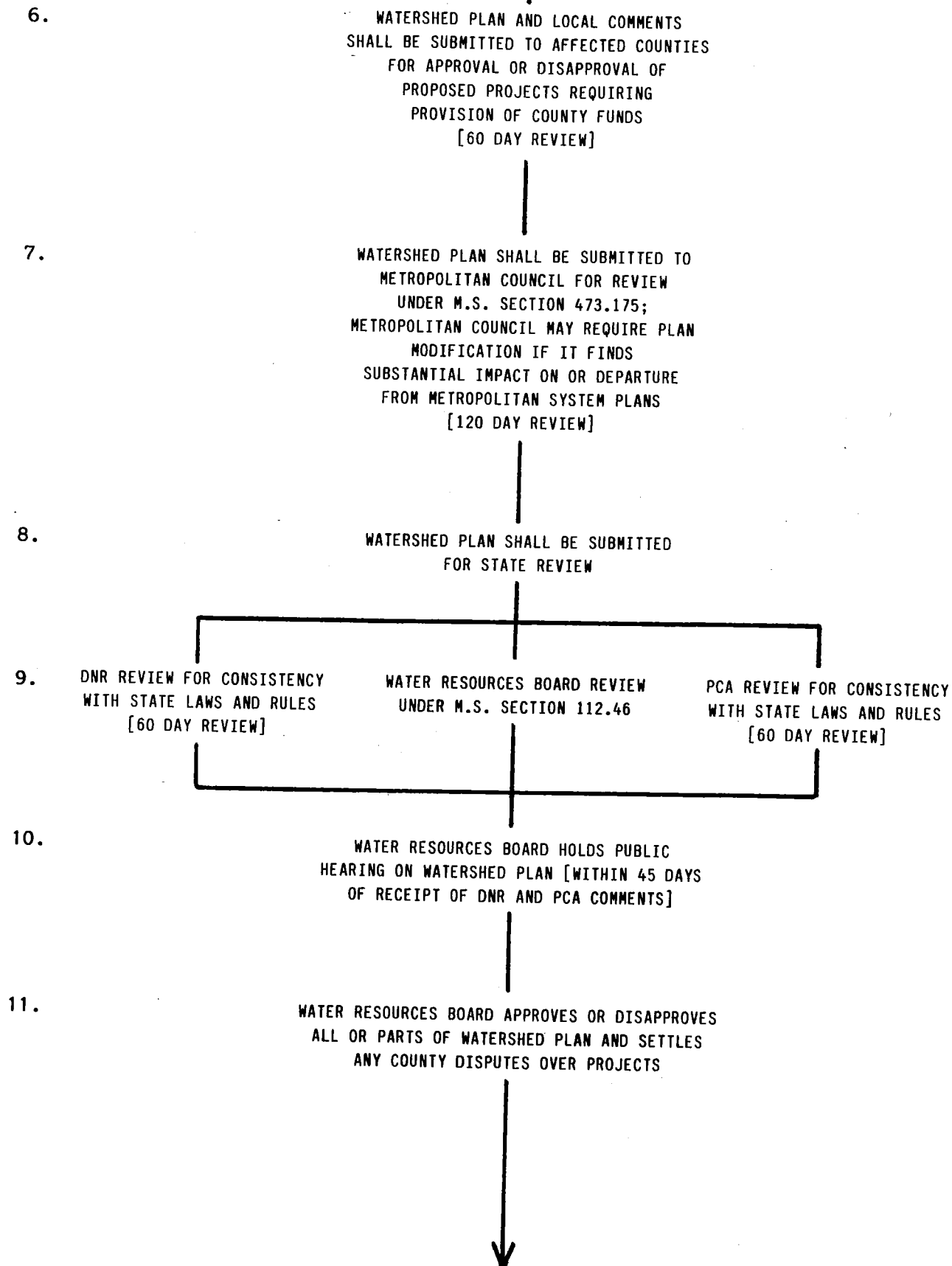
The State's role under the Act is essentially limited to reviewing the watershed boundaries and ensuring that the watershed plans meet the requirements of the law. Neither the state agencies nor the Metropolitan Council are given a strong oversight role in watershed or local plan implementation. Achievement of the Act's purposes, therefore, depends on each local government official recognizing his or her responsibilities and accepting the necessary leadership role.

B. FLOW CHART

The following flow chart outlines the basic planning procedure, significant deadlines, and plan review periods.

GENERALIZED FLOW CHART OF PROCEDURES
REQUIRED UNDER THE
METROPOLITAN SURFACE WATER MANAGEMENT ACT





12.

WATERSHED ORGANIZATION SHALL ADOPT
WATERSHED PLAN WITHIN 120 DAYS OF
WATER RESOURCES BOARD APPROVAL

13.

EACH AFFECTED LOCAL UNIT SHALL PREPARE
A LOCAL WATER PLAN TO BRING LOCAL
WATER MANAGEMENT INTO CONFORMANCE
WITH THE WATERSHED PLAN
[WITHIN TIME PERIOD PRESCRIBED IN WATERSHED PLAN]

14.

COMPLETED LOCAL PLAN SHALL BE SUBMITTED
TO WATERSHED ORGANIZATION FOR APPROVAL

15.

WATERSHED ORGANIZATION SHALL APPROVE
OR DISAPPROVE ALL OR PARTS OF LOCAL PLAN
[60 DAY REVIEW]

16.

LOCAL UNIT SHALL ADOPT AND IMPLEMENT ITS
LOCAL PLAN WITHIN 120 DAYS OF
WATERSHED ORGANIZATION APPROVAL
AND SHALL AMEND ITS OFFICIAL CONTROLS
ACCORDINGLY WITHIN 180 DAYS

17.

REVIEW OF AMENDMENTS TO WATERSHED AND
LOCAL PLANS SHALL FOLLOW THE STATUTORY
PROCEDURES FOR REVIEW OF THE ORIGINAL
PLANS - TO THE EXTENT AND IN THE
MANNER REQUIRED BY THE ADOPTED PLANS

Sections 18 through 25 of the Act, as codified in Minnesota Statutes Sections 473.875 to 473.883, are included here for reference purposes.

METROPOLITAN SURFACE WATER MANAGEMENT

473.875 SURFACE WATER MANAGEMENT PROGRAM; PURPOSES.

The purpose of the surface water management programs required by sections 473.875 to 473.883 is to preserve and use natural water storage and retention systems in order to (a) reduce to the greatest practical extent the public capital expenditures necessary to control excessive volumes and rates of runoff, (b) improve water quality, (c) prevent flooding and erosion from surface flows, (d) promote ground water recharge, (e) protect and enhance fish and wildlife habitat and water recreational facilities, and (f) secure the other benefits associated with the proper management of surface water.

History: 1982 c 509 s 18

473.876 DEFINITIONS.

Subdivision 1. Scope. For the purposes of sections 473.875 to 473.883, the following terms have the meanings given them.

Subd. 2. Capital improvement program. "Capital improvement program" means an itemized program for at least a five year prospective period, and any amendments to it, subject to at least biennial review, setting forth the schedule, timing, and details of specific contemplated capital improvements by year, together with their estimated cost, the need for each improvement, financial sources, and the financial effect that the improvements will have on the local government unit or watershed management organization.

Subd. 3. Local comprehensive plan. "Local comprehensive plan" has the meaning given it in section 473.852, subdivision 5.

Subd. 4. Local government unit. "Local government unit" or "local unit" has the meaning given it in section 473.852.

Subd. 5. Minor watershed units. "Minor watershed units" means the drainage areas identified and delineated as such pursuant to Laws 1977, Chapter 455, Section 33, Subdivision 7(a).

Subd. 6. Official controls. "Official controls" has the meaning given it in section 473.852.

Subd. 7. Watershed. "Watershed" means a drainage area having boundaries which are substantially coterminous with those of an aggregation of contiguous minor watershed units possessing similar drainage patterns and which cross the borders of two or more local government units.

Subd. 8. Watershed district. "Watershed district" means a district established under chapter 112.

Subd. 9. Watershed management organization. "Watershed management organization" or "organization" means a watershed district wholly within the metropolitan area or a joint powers entity established wholly or partly within the metropolitan area by special law or by agreement that performs some or all of the functions of a watershed district for a watershed and that has the characteristics and the authority specified under section 473.877. Lake improvement or conservation districts are not watershed management organizations.

History: 1982 c 509 s 19; 1984 c 411 s 3

473.877 JOINT POWERS WATERSHED MANAGEMENT ORGANIZATION.

Subdivision 1. Authority. Any agreement under section 471.59 to jointly or cooperatively manage or plan for the management of surface water in a watershed delineated pursuant to subdivision 2, as required by sections 473.875 to 473.883, may provide, in addition to other provisions authorized by section 471.59, for a joint board having:

(a) the authority to prepare, adopt, and implement a plan for the watershed meeting the requirements of section 473.878;

(b) the authority to review and approve local water management plans as provided in section 473.879;

(c) the authority of a watershed district under chapter 112 to regulate the use and development of land in the watershed when one or more of the following conditions exists: (1) the local government unit exercising planning and zoning authority over the land under sections 366.10 to 366.19, 394.21 to 394.37, or 462.351 to 462.364, does not have a local water management plan approved and adopted in accordance with the requirements of section 473.879 or has not adopted the implementation program described in the plan; (2) an application to the local government unit for a permit for the use and development of land requires an amendment to or variance from the adopted local water management plan or implementation program of the local unit; (3) the local government unit has authorized the organization to require permits for the use and development of land;

(d) the authority of a watershed district under section 112.65 to accept the transfer of drainage systems in the watershed, to repair, improve, and maintain the transferred drainage systems, and to construct all new drainage systems and improvements of existing drainage systems in the watershed, provided that projects may be carried out under the powers granted in chapter 106, 112, or 473 and that proceedings of the board with respect to the systems must be in conformance with the watershed plan adopted under section 473.878; and

(e) other powers necessary to exercise the authority under clauses (a) to (c), including the power to enter into contracts for the performance of functions with governmental units or persons.

Subd. 2. Review of watershed boundaries. Before commencing planning under section 473.878, a watershed management organization established pursuant to section 471.59 and this section shall submit a map delineating the boundaries of the watershed to the water resources board for review and comment on the conformance of the boundaries with the requirements of sections 473.875 to 473.883. The board shall have 60 days to comment.

Subd. 3. Jurisdiction over nonmembers. A watershed management organization established by agreement pursuant to subdivision 1 may exercise the authority provided in the agreement throughout the watershed delineated, including territory in statutory and home rule charter cities and towns that are not members of the organization, if the cities and towns that are not members consent to the exercise of authority within their jurisdictions and if the membership of the organization includes:

(a) the county or counties having jurisdiction over all of the territory of the watershed that is within the cities and towns that are not members of the organization; and

(b) either cities and towns having jurisdiction over at least 50 percent of the land area of the watershed and comprising at least three-quarters of all of the cities and towns having territory in the watershed, or cities and towns having jurisdiction over at least 75 percent of the land area of the watershed.

The county or counties identified in clause (a) are responsible for watershed management activities and may exercise authority under sections 473.875 to 473.883 in and for consenting cities and towns that are not members of the organization.

History: 1982 c 509 s 20; 1982 c 642 s 14; 1984 c 411 s 4

473.8771 WATERSHED DISTRICTS; BOUNDARY CHANGE; TERMINATION.

Subdivision 1. Boundary change. The boundaries of a watershed district wholly within the metropolitan area may be changed pursuant to this subdivision or chapter 112. The governing board of a watershed management organization may petition the water resources board for an order changing the boundaries of a

watershed district, wholly within the metropolitan area, either by adding new territory to the district or by transferring territory that is within the district to the jurisdiction of another watershed management organization. The petition must:

(a) describe with particularity the change in boundary requested, the territory affected, and the reasons for the change;

(b) show that the change is consistent with the purposes and requirements of sections 473.875 to 473.883; and

(c) identify any property subject to subdivision 3.

The petition must be accompanied by a written statement of concurrence in the petition from the governing body of each statutory or home rule charter city and town and each watershed management organization having jurisdiction over the territory proposed to be added or transferred. Upon the filing of a sufficient petition, the water resources board shall give notice of the filing of the petition by publication once each week for two successive weeks in a legal newspaper in each county affected and by mail to the county auditor of each county affected and to the chief official of each statutory or home rule charter city and township affected. The notice must describe the action proposed by the petition and invite written comments on the petition for consideration by the board. The notice must announce that any person who objects to the action proposed in the petition may submit a written request for hearing to the board within 20 days of the last publication of the notice of the filing of the petition and that if no timely request for hearing is received the board will make a decision on the petition pursuant to this subdivision without conducting the public hearing required under chapter 112. If no timely request for hearing is received the board shall make a decision on the petition without a hearing within 30 days after the last publication of the notice. If one or more timely requests for hearing are received the board shall hold a hearing on the petition and shall follow the procedures in chapter 112 regarding notice and conduct of hearings. After completing the procedures required by this subdivision, the board shall, by its findings and order, make the boundary change requested if the board determines that:

(a) the governing body of each statutory or home rule charter city and town and each watershed management organization having jurisdiction over the territory proposed to be added or transferred concurs in the petition,

(b) the change is consistent with the purposes and requirements of sections 473.875 to 473.883, and

(c) the change can be accomplished in conformance with subdivision 3. The board shall file a certified copy of the findings and order with the secretary of state. The order making the change must conform to subdivision 3. The order making the change may amend the order prescribing the distribution of managers of the district.

Subd. 2. Termination. A watershed district wholly within the metropolitan area may be terminated pursuant to this subdivision or chapter 112. Proceedings for termination under this subdivision must be initiated by a petition to the water resources board filed jointly by the governing bodies of all statutory and home rule charter cities and towns having jurisdiction over territory within the watershed. Upon the filing of a sufficient petition, the board shall hold a hearing in accordance with the procedures prescribed in chapter 112, to take testimony on the determinations required to be made by the board. Following the hearing, the board shall, by its findings and order, terminate the district as requested if the board determines:

(a) that the local units of government having jurisdiction over territory within the watershed have formed a joint powers organization for the watershed pursuant to section 473.877.

(b) that upon termination of the district the members of the joint powers organization, jointly or severally, are willing and able to assume ownership of the district's assets and the responsibility for managing and maintaining the district's projects as necessary to accomplish the purposes of sections 473.875 to 473.883 and to implement the watershed plan of the joint powers organization to be developed pursuant to section 473.878, and

(c) that the termination can be accomplished in conformance with subdivision 3. The board shall file a certified copy of the findings and order with the secretary of state. The order terminating the district must transfer the assets of the district to the joint powers organization or its members. The order must conform to subdivision 3.

Subd. 3. Limitation. The addition or transfer of property or termination of a district pursuant to this section must not affect the benefits or damages for any improvement previously constructed by the district having jurisdiction over the property before the board's order. The property affected is and remains liable for its proper share of any outstanding indebtedness of the watershed district applying to the property before the board's order, and levies and assessments for the indebtedness continue in force until the debt is fully paid. In order to satisfy the requirements of this subdivision, the board may prescribe conditions on the boundary change or termination or may prescribe a later effective date for the termination of specified powers of a watershed district.

History: 1984 c 411 s 5

473.878 WATERSHED PLANS.

Subdivision 1. Requirement. A watershed management plan is required for watersheds comprising all minor watershed units within the metropolitan area. For the purposes of this section a minor watershed unit shall be considered within the metropolitan area if more than 90 percent of its area is within the metropolitan area. The watershed management plan shall be prepared, adopted, and implemented in accordance with the requirements of sections 473.875 to 473.883.

Subd. 1a. Optional participation. Local government units, within or outside of the metropolitan area, having territory that is not subject to the requirements of this section but that is within a watershed part of which is subject to the requirements of this section, may enter into an agreement under section 473.877. A local government unit that enters into an agreement under this subdivision has the duties imposed and the authority granted in sections 473.875 to 473.883.

Subd. 2. Responsible units. Where a watershed management organization exists, the plan for the watershed shall be prepared and adopted by the organization. If a watershed management organization is not established by July 1, 1985, for any minor watershed unit located wholly outside of Hennepin and Ramsey counties, the county or counties containing the watershed unit shall prepare, adopt and implement the watershed plan and for this purpose the county or counties have the planning, review, permitting, and financing authority of a watershed management organization specified in sections 473.877 to 473.883. If a watershed management organization is not established by July 1, 1985, for any minor watershed unit within the metropolitan area and wholly or partly within Hennepin or Ramsey counties, the county or counties containing the watershed unit shall petition for the establishment of a watershed district under chapter 112, provided, however, that a district established pursuant to such a petition shall not cross a primary river nor a river forming the boundary between a metropolitan county and a county outside the metropolitan area, shall have boundaries which are based upon negotiations among all local government units which may have territory within the district and adjacent watersheds and shall not cross county boundaries to include territory whose distinguishing

characteristic is multiple drainage points into a primary river. A watershed management organization may request a county to prepare all or part of a plan. A county may delegate the preparation of all or part of a plan to the county soil and water conservation district. Upon request of a statutory or home rule charter city or town, a county may delegate the preparation of all or part of a plan to the city or town.

Subd. 3. General standards. The watershed management plan shall extend through the year 1990 or any year thereafter which is evenly divisible by five. The plan shall contain the elements required by subdivision 4. Each element shall be set out in the degree of detail and prescription necessary to accomplish the purposes of sections 473.875 to 473.883, considering the character of existing and anticipated physical and hydrogeologic conditions, land use, and development and the severity of existing and anticipated water management problems in the watershed. The plan shall be prepared and submitted for review under subdivision 5 not later than December 31, 1986. Existing plans of a watershed management organization shall remain in force and effect until amended or superseded by plans adopted under sections 473.875 to 473.883. Existing or amended plans of a watershed management organization which meet the requirements of sections 473.875 to 473.883 may be submitted for review under subdivision 5.

Subd. 4. Contents. The plan shall:

- (a) Describe the existing physical environment, land use, and development in the area and the environment, land use, and development proposed in existing local and metropolitan comprehensive plans;
- (b) Present information on the hydrologic system and its components, including any drainage systems previously constructed under chapter 106, and existing and potential problems related thereto;
- (c) State objectives and policies, including management principles, alternatives and modifications, water quality, and protection of natural characteristics;
- (d) Set forth a management plan, including the hydrologic and water quality conditions that will be sought and significant opportunities for improvement;
- (e) Describe the effect of the plan on existing drainage systems;
- (f) Describe conflicts between the watershed plan and existing plans of local government units;
- (g) Set forth an implementation program consistent with the management plan, which includes a capital improvement program and standards and schedules for amending the comprehensive plans and official controls of local government units in the watershed to bring about conformance with the watershed plan; and
- (h) Set out a procedure for amending the plan.

Subd. 5. Review. Upon completion of the plan but before final adoption by the organization, the organization shall submit the plan for review and comment to all counties, soil and water conservation districts, towns, and statutory and home rule charter cities having territory within the watershed. Any local government unit which expects that substantial amendment of its local comprehensive plan will be necessary in order to bring local water management into conformance with the watershed plan shall describe as specifically as possible, within its comments, the amendments to the local plan which it expects will be necessary. Sixty days after the submission to local government units for comment, the organization shall submit the plan, any comments received, and any appropriate amendments to the plan, to the board of the county or counties having territory within the watershed. The county shall approve or disapprove projects in the capital improvement program which may require the provision of county funds pursuant to section 112.60, subdivision 2, or section 473.883. The county shall have 60 days to complete its

review of the capital improvement program. If the county fails to complete its review within the prescribed period, unless an extension is agreed to by the organization the program shall be deemed approved. If the watershed extends into more than one county and one or more counties disapprove of all or part of a capital improvement program while the other county or counties approve, the program shall be submitted to the water resources board for review pursuant to subdivision 7.

Subd. 6. Review by metropolitan council. After completion of the review under subdivision 5, the plan shall be submitted to the metropolitan council for review. Notwithstanding any provision to the contrary in sections 112.46 and 473.165, the council shall review the plan in the same manner and with the same authority and effect as provided for the council's review of the comprehensive plans of local government units under section 473.175. The council shall comment on the apparent conformity with metropolitan system plans of any anticipated amendments to local comprehensive plans.

Subd. 7. Review by state agencies. After completion of the review under subdivision 6, the plan shall be submitted to the commissioner of natural resources and the pollution control agency for review and comment on the consistency of the plan with state laws and rules relating to water and related land resources, and to the water resources board for review under section 112.46. Except as otherwise provided in this subdivision, the water resources board shall review the plan as provided in section 112.46. The board shall review the plan for conformance with the requirements of chapter 112 and sections 473.875 to 473.883. The board shall not prescribe a plan, but may disapprove all or parts of a plan which it determines is not in conformance with the requirements of chapter 112 and sections 473.875 to 473.883. If the capital improvement program is the subject of a dispute between counties, the water resources board shall make a final decision on the issue. The decision shall be binding on the organization and the counties involved.

Subd. 8. Adoption; implementation. The organization shall adopt and implement its plan within 120 days after compliance with the provisions of subdivision 7 and approval of the plan by the water resources board. A watershed district may implement its approved plan and approved capital improvement program by resolution of the majority of the board of managers and without respect to the provisions of chapter 112 requiring the managers to wait upon petitions for projects, to submit projects for review by the water resources board, and to limit the cost and purposes of projects.

Subd. 9. Amendments. To the extent and in the manner required by the adopted plan, all amendments to the adopted plan shall be submitted to the towns, cities, county, and other agencies for review in accordance with the provisions of subdivisions 5, 6, and 7.

History: 1982 c 509 s 21; 1984 c 411 s 6-9

473.879 LOCAL WATER MANAGEMENT PLANS.

Subdivision 1. Requirement. After the watershed plan is approved and adopted, or amended, pursuant to section 473.878, the local government units having land use planning and regulatory responsibility for territory within the watershed shall prepare or cause to be prepared a local water management plan, capital improvement program, and official controls as necessary to bring local water management into conformance with the watershed plan within the time period prescribed in the implementation program of the watershed plan and, as necessary, shall prepare or cause to be prepared amendments to the local comprehensive plan. Each town within the counties of Anoka, Carver, Dakota, Scott, and Washington authorized by general or special law to plan and regulate the use of land under

sections 462.351 to 462.364 shall by resolution determine whether to prepare the local water management plan itself or to delegate all or part of the preparation of the plan to the county. Towns within counties which have adopted comprehensive plans applicable to the town shall use county preparation of their plan to the maximum extent possible.

Subd. 2. Standards; contents. Each local plan, in the degree of detail required in the watershed plan, shall:

- (a) Describe existing and proposed physical environment and land use;
- (b) Define drainage areas and the volumes, rates, and paths of stormwater runoff;
- (c) Identify areas and elevations for stormwater storage adequate to meet performance standards established in the watershed plan;
- (d) Define water quality and water quality protection methods adequate to performance standards established in the watershed plan;
- (e) Identify regulated areas; and
- (f) Set forth an implementation program, including a description of official controls and, as appropriate, a capital improvement program.

Subd. 3. Review. After consideration but before adoption by the governing body, each local unit shall submit its water management plan to the watershed management organization for review for consistency with the watershed plan adopted pursuant to section 473.878. The organization shall approve or disapprove the local plan or parts thereof. The organization shall have 60 days to complete its review. If the organization fails to complete its review within the prescribed period, unless an extension is agreed to by the local unit the local plan shall be deemed approved.

Subd. 4. Adoption; implementation. After approval of the local plan by the organization, the local government unit shall adopt and implement its plan within 120 days and shall amend its official controls accordingly within 180 days.

Subd. 5. Amendments. To the extent and in the manner required by the organization, all amendments to local water management plans shall be submitted to the organization for review and approval in accordance with the provisions of subdivision 3 for the review of plans.

History: 1982 c 509 s 22

473.881 EXEMPTION FROM LEVY LIMIT.

Any levy to pay the increased costs to a local government unit or watershed management organization of implementing sections 473.878 and 473.879 or to pay costs of improvements and maintenance of improvements identified in an approved and adopted plan shall be in addition to any other taxes authorized by law and shall be disregarded in the calculation of limits on taxes imposed by chapter 275, except levies pursuant to section 473.883, subdivision 7, for taxes payable in 1985 and thereafter. Notwithstanding any provision to the contrary in chapter 112, a watershed district may levy a tax sufficient to pay the increased costs to the district of implementing sections 473.878 and 473.879. The proceeds of any tax levied under this section shall be deposited in a separate fund and expended only for the purposes authorized by this section.

History: 1982 c 509 s 23

473.882 SPECIAL TAX DISTRICT.

Subdivision 1. Watershed management tax district. Any local government unit planning for water management under sections 473.878 and 473.879 may

establish a watershed management tax district in the territory within the watershed, for the purpose of paying the costs of the planning required under sections 473.878 and 473.879. Any local government unit which has part of its territory within a watershed for which a plan has been adopted in accordance with section 473.878 and which has a local water management plan adopted in accordance with section 473.879 may establish a watershed management tax district in the territory within the watershed, for the purpose of paying capital costs of the water management facilities described in the capital improvement program of the plans and for the purpose of paying for normal and routine maintenance of the facilities. A county or counties required by section 473.878, subdivision 2, to prepare, adopt, and implement a watershed plan ^{shall} apportion the costs of planning, capital improvements, and maintenance ^{proportionate to benefits. The county may apportion the costs} among the minor watershed units in the watershed, or among the statutory and home rule charter cities and towns having territory in the watershed, and for this purpose may establish more than one watershed management tax district in the watershed.

Subd. 2. Procedure. The district shall be established by ordinance adopted after a hearing. Notice of the time, place, and purpose of the hearing shall be published for two successive weeks in the official newspaper of the local government unit, ending at least seven days before the day of the hearing. The ordinance shall describe with particularity the territory or area to be included in the district. After adoption, the ordinance shall be filed with the county auditor and county recorder. The district may be dissolved by following the procedures prescribed for the establishment of the district.

Subd. 3. Tax. After adoption of the ordinance under subdivision 2, a local government unit may annually levy a tax on all taxable property in the district for the purposes for which the tax district is established. The proceeds of the tax shall be paid into a fund reserved for these purposes. Any proceeds remaining in the reserve fund at the time the tax is terminated or the district is dissolved shall be transferred and irrevocably pledged to the debt service fund of the local unit to be used solely to reduce tax levies for bonded indebtedness of taxable property in the district. A tax levied in accordance with this subdivision for paying capital costs is a levy for the payment of principal and interest on bonded indebtedness within the meaning of section 275.50, subdivision 5, clause (c).

Subd. 4. Bonds. After adoption of the ordinance under subdivision 2, and after a contract for the construction of all or part of an improvement has been entered into or the work has been ordered done by day labor, the local government unit may issue obligations in the amount it deems necessary to pay in whole or in part the capital cost incurred and estimated to be incurred in making the improvement. The obligations shall be payable out of the proceeds of the tax levied pursuant to subdivision 3. The local unit may by resolution of its governing body adopted prior to the sale of obligations pledge the full faith, credit and taxing power of the local unit to assure payment of the principal and interest in the event the proceeds of the tax levy in the district are insufficient to pay principal and interest. The amount of any taxes which are required to be levied outside of the territory of the tax district or taken from the general funds of the local unit to pay principal and interest on the obligations shall be reimbursed to the local unit from taxes levied within the territory of the tax district. Obligations shall be issued in accordance with chapter 475, except that an election is not required and the amount of any obligations shall not be included in determining the net indebtedness of the local unit under the provisions of any law or charter limiting indebtedness.

History: 1982 c 509 s 24; 1984 c 411 s 10

473.883 WATERSHED MANAGEMENT ORGANIZATION; CAPITAL IMPROVEMENTS; PAYMENT BY COUNTY.

Subdivision 1. General authority. The authority provided to watershed districts in this section is in addition to the authority provided in chapter 112. A watershed management organization which has adopted a watershed plan in accordance with section 473.878 may certify for payment by the county as provided in this section all or any part of the cost of a capital improvement contained in the capital improvement program of the plan.

Subd. 2. Procedure. A copy of the plan for the improvement shall be forwarded to the county board. The organization shall then hold a public hearing on the proposed improvement, following publication once each week for two successive weeks before the date of the hearing in a legal newspaper published in the county or counties in which a part or all of the affected waters and lands are located. The last publication shall occur not more than 30 days nor less than ten days before the hearing. The notice shall state the time and place of hearing, the general nature of the proposed improvement, the estimated cost, and the method by which the cost of the improvement is to be paid, including the cost to be allocated to each county under subdivision 3. Not less than ten days before the hearing, notice by mail shall be given to the counties and to each home rule charter or statutory city or town located wholly or partly within the territory of the watershed management organization. Failure to give mailed notice or defects in the notice shall not invalidate the proceedings. At the time and place specified in the notice the organization shall hear all parties interested in the proposed improvement. If upon full hearing the organization finds that the improvement will be conducive to public health and promote the general welfare, and is in compliance with sections 473.875 to 473.883 and the plan adopted pursuant to section 473.878, it shall make findings accordingly, determine the cost of the improvement, and certify the cost to the county or counties for payment.

Subd. 3. Apportionment of costs. If the territory of the watershed management organization extends into more than one county, the cost of the improvement shall be certified to the respective county boards in the proportions prescribed in the capital improvement program of the organization.

Subd. 4. County payment. Each county receiving a certification for payment from a watershed management organization pursuant to this section shall provide funds to meet its proportionate share of the cost of the improvement as shown in the certification by the organization.

Subd. 5. Bonds. In order to make the payment required by subdivision 4, the county board of each county may issue general obligation bonds of the county in the amount necessary to pay all or part of the cost of improvements certified to the county board or to refund general obligation bonds issued for this purpose. The bonds shall be sold, issued, and secured in accordance with the provisions of chapter 475 for general obligation bonds, except as otherwise provided in this subdivision. No election shall be required.

Subd. 6. Tax. For the payment of principal and interest on the bonds issued under subdivision 5 and the payment required under subdivision 4, the county shall irrevocably pledge and appropriate the proceeds of an ad valorem tax levied on all taxable property located within the territory of the watershed management organization for which the bonds are issued. Each year until the reserve for payment of the bonds is sufficient to retire the bonds, the county shall levy on all taxable property in the territory of the organization, without respect to any statutory or other limitation on taxes, an amount of taxes sufficient to pay principal and interest on the bonds and to restore any deficiencies in reserves required to be maintained for payment of the bonds. If at any time the amounts available from the levy on property in the

territory of the organization are insufficient to pay principal and interest on the bonds when due, the county shall make payment from any available funds in the county treasury. The amount of any taxes which are required to be levied outside of the territory of the watershed management organization or taken from the general funds of the county to pay principal or interest on the bonds shall be reimbursed to the county from taxes levied within the territory of the watershed management organization.

Subd. 7. Maintenance levy. For the purpose of creating a maintenance fund to be used for normal and routine maintenance of a work of improvement constructed in whole or part with money provided by the county pursuant to subdivision 4, the board of managers of a watershed district, with the approval of the county, may impose an ad valorem levy on all property located within the territory of the watershed district. The levy shall be certified, levied, collected, and distributed as provided in section 112.611, and shall be in addition to any other moneys levied and distributed to the district thereunder. The proceeds of the levy shall be deposited in a separate maintenance and repair account to be used only for the purpose for which the levy was made.

History: 1982 c 509 s 25

III. CHANGES TO THE MINNESOTA WATERSHED ACT

A. APPOINTMENT OF WATERSHED DISTRICT MANAGERS

The Minnesota Watershed Act, Minnesota Statutes Chapter 112, governs the establishment and operation of watershed districts. The Metropolitan Surface Water Management Act amended the Watershed Act to require county commissioners to select watershed district managers from a list of persons nominated by townships and municipalities within the district. The amendment was made to Minnesota Statutes Section 112.43, Subdivision 3; which now reads in pertinent part:

"If the nominating petition that initiated the district originated from a majority of the cities within the district or if the district is wholly within the metropolitan area, the county commissioners shall appoint the managers from a list of persons nominated jointly or severally by the townships and municipalities within the district. The list shall contain at least three nominees for each position to be filled. It shall be submitted to the affected county board at least 60 days prior to the expiration of the term of office. If the list is not submitted within 60 days prior to the expiration of the term of office, the county commissioners shall select the managers from eligible individuals within the district."

B. RESTRUCTURING OF EXISTING WATERSHED DISTRICTS

The Act increases to nine the allowable number of managers on metropolitan watershed district boards. The amendment was made to Minnesota Statutes Section 112.37, Subdivision 7, which now reads in pertinent part:

"The managers of a district wholly within the metropolitan area shall number not less than five nor more than nine."

Should there be local desire for increasing the number of managers on any of the currently existing metropolitan watershed district boards, the Act directs the Water Resources Board to "restructure" the boards of managers. This directive to the Water Resources Board is found in Minnesota Statutes Section 112.42, Subdivision 3a, which reads:

"The board* shall restructure the boards of managers of districts established before the effective date of Laws 1982, Chapter 509 and located wholly within the metropolitan area to ensure compliance with the requirements of sections 112.37, subdivision 7 and 112.42, subdivision 3. The board shall request recommendations from the district and the affected local government units. Additional managers, if any, shall be appointed by the county designated by the board, to terms designated by the board, at the time of and in the manner provided for the next regular appointment of successors to managers of the district."

The Act does not specify a procedure for the Water Resources Board to follow in "restructuring". The logical first step would be for the Board to determine if there is local desire for increasing the number of managers on any of the ten existing metropolitan watershed district boards. The Board, therefore, has requested recommendations from the Carnelian-Marine, Coon Creek, Lower Minnesota River, Minnehaha Creek, Nine Mile Creek, Prior Lake-Spring Lake, Ramsey-Washington Metro, Rice Creek, Riley-Purgatory Creek, and Valley Branch Watershed Districts, and from the local government units having territory within these districts on whether the size of the boards of managers should be increased, and, if so, the number of managers preferred.

IV. WATERSHED ORGANIZATION AND PLANNING

A. WATERSHED DEFINITIONS

1. Minor Watersheds

The Act defines minor watershed units as "...the drainage areas identified and delineated as such pursuant to Laws 1977, Chapter 455, Section 33, Subdivision 7(a)". This law directed the Department of Natural Resources (DNR) to "...determine a standard delineation of watershed boundaries and prepare an appropriate map for official use." The DNR delineated watershed boundaries according to decision criteria contained in their "Watershed Boundaries 1979, Mapping Procedure Manual". The basic data used by the DNR were the latest available 1:24,000 and 1:62,500 scale U.S.G.S. topographical quadrangle maps. The minor watershed units mapped by the DNR are stored in the form of an acetate overlay for each topographic map used. These units also have been approximated on the basis of 40-acre cells that have been stored on a computer file by the Land Management Information Center (LMIC) within the Department of Energy, Planning and Development. Computer generated maps of these minor watershed units at any scale (e.g. 1:24,000) desired are available from LMIC for a nominal charge.

*Water Resources Board

2. Secondary Watersheds

The foldout map contained in the Metropolitan Council's recently published regional surface water management plan is useful as a general reference on metropolitan watershed boundaries. This regional plan comprises Part 2 of the Council's Water Resources Management Development Guide and is entitled "Surface Water Management: Nonpoint Source Pollution and Storm Water Runoff". The "secondary" watersheds shown on this map represent the Council's recommended watershed management organization boundaries. [Note: This map also shows minor watersheds, but it does not show all of the minor watersheds delineated on the DNR's official state map. Questions about minor watershed boundaries or possible errors in the Council's map should be discussed with Jim Thornton of the DNR (296-4891). The DNR will correct errors in the official state watershed map, if they are brought to the DNR's attention.]

3. Primary Watersheds

The Metropolitan Council uses the term "primary watersheds" to describe the Mississippi, Minnesota, and St. Croix River basins.

B. JURISDICTIONAL AREA

The Act's planning requirements apply to every minor watershed unit within the metropolitan area. The Act defines a minor watershed unit to be "within the metropolitan area" if more than 90% of its area is within the metropolitan area. The Metropolitan Council planimetered all of the minor watersheds along the periphery of the seven-county metropolitan area to identify those units having less than 90% of their area within the metropolitan area. These minors are cross-hatched on the Metropolitan Council's foldout map and are exempt from the Act's planning requirements. Communities with questions on whether these cross-hatched minor watershed units are properly identified should contact the DNR.

C. DELINEATION OF WATERSHED MANAGEMENT ORGANIZATION BOUNDARIES

The Act requires plans to be prepared for watersheds comprising all minor watershed units with more than 90% of their area within the metropolitan area.

The Act defines a watershed as "...a drainage area having boundaries which are substantially coterminous with those of an aggregation of contiguous minor watershed units possessing similar drainage patterns and which cross the borders of two or more local government units." This definition is intended to avoid fragmentation of principal hydrologic units. Since any drainage area can be subdivided into smaller units, a definition of "watershed" was necessary to preserve the concept of watershed planning.

The Act does not direct the Metropolitan Council nor any state agency to define appropriate boundaries for watershed management organizations. Consistent with other provisions of the Act, determination of watershed management organization boundaries is the responsibility of the affected governmental units.

Communities investigating watershed boundaries should begin by examining the Metropolitan Council's map to gain a general understanding of the configuration of metropolitan watersheds. More detail is available on the DNR's topographical base maps, which delineate the minor watershed units. Municipal storm sewer maps can provide additional detail.

Communities considering the formation of a joint powers organization should meet jointly to discuss appropriate boundaries. The staff of the Water Resources Board, of the Department of Natural Resources, and of the Metropolitan Council are ready and willing to assist communities in these efforts.

The Act directs each watershed management organization established by joint powers agreement to submit to the Water Resources Board a map delineating its proposed watershed boundary for review and comment. Counties preparing watershed plans should also submit proposed boundary maps to the Water Resources Board. The Board will transmit these boundary maps to the DNR for their comments before responding to the watershed management organization.

The Board realizes that communities will need to have a good idea of the Board's position on a proposed boundary before they enter into a formal joint powers agreement. The Board, therefore, has decided that it will preliminarily review and comment on boundary maps submitted by local units working toward the establishment of joint powers organizations.

The Water Resources Board (Board) will be guided by the following general policies in its review of watershed boundaries:

- a) To assure coordinated watershed planning, the well-defined secondary hydrologic units (e.g., Vermillion River) that are composed of two or more minor watershed units that are tributary to a common outlet, should not be subdivided.
- b) In regard to the small isolated minor watershed units that are directly tributary to the Mississippi, Minnesota, and St. Croix Rivers, the Board encourages communities to consider either annexing them to existing adjacent watershed management organizations or combining them, if possible, to form larger watershed planning organizations.

- c) Final watershed management organization boundaries should follow actual hydrologic boundaries, except they should remain on taxing parcel lines. If over 50% of a taxing parcel drains into the watershed, the entire parcel should be included.
- d) A watershed boundary should be coterminous with the boundaries of adjacent watershed management organizations. If the boundary of an existing watershed organization is improperly located, it should be corrected. The Board has the legal boundary of each watershed district on file and can advise local units on how watershed district legal boundaries can be amended.
- e) The Board will preliminarily review and comment on boundary maps submitted by local units working toward the establishment of watershed management organizations.
- f) Before commencing watershed planning, a joint powers watershed organization or responsible county should submit their watershed boundary map to the Water Resources Board for formal review and comment in accordance with M.S. Section 473.877, Subdivision 2.

D. WATERSHED ORGANIZATIONAL OPTIONS

1. The Options

Existing watershed management organizations already cover nearly half of the metropolitan area. The remaining areas are required by the Act to also have watershed management organizations. At this time the following options are open:

- a) Establish a watershed management organization by a joint powers agreement between local units;
- b) Establish a watershed district;
- c) Expand an existing joint powers watershed organization;
- d) Expand an existing watershed district;
- e) Failing all of the above, the counties themselves must assume responsibility for watershed planning.

⁵ The Act gives the affected local communities until the ^{middle} ~~end~~ of 198⁵ to determine which options are applicable to their area, and discretion to select the preferred option. If they fail to take the initiative in 198⁵, the counties must assume responsibility for watershed planning. A special case is where the watershed is wholly or partly within Hennepin or Ramsey county, in which case the affected county(s) must petition for a watershed district.

Local officials should meet with the other local units in the watershed, with neighboring watershed management organizations, and with all other interested sectors in the watershed before selecting the type of organization to be used in developing and implementing the watershed plan.

2. Joint Powers Agreements

Joint powers watershed organizations can be formed under the authority of Minnesota Statutes Section 471.59. This statute allows two or more governmental units by agreement of their governing bodies to cooperatively exercise their powers. The first step in forming a joint powers agreement is communication among the affected units. Once a decision to formally cooperate is made, a contract must be written that spells out the purpose of the agreement and how it will be accomplished. The contract should also define the organizational structure, financing, staffing, amendment procedure, and termination procedure. The representatives on the governing body of the joint powers agreement can be the elected officials themselves or their appointees. The Minnesota State Planning Agency (now a division within the Department of Energy, Planning and Development) published a manual in 1969 on joint powers agreements entitled "Interlocal Cooperation". The manual is out of print, but the Water Resources Board can loan a community a copy for review or reproduction. It should be noted that the joint powers law was amended in 1973, 1975, 1980, and 1982.

3. Watershed Districts

Watershed districts are special purpose units of government specially designed to carry out watershed management. Watershed districts are established and operated under the authority of Minnesota Statutes Chapter 112 - The Watershed Act. Establishment of a watershed district can be initiated by a petition to the Water Resources Board signed by any one of the following groups:

- 1) at least one-half of the counties within the proposed district;
- 2) by a county or counties having at least 50 percent of the area within the proposed district;
- 3) by a majority of the cities within the proposed district;
- 4) or by at least 50 resident freeholders of the proposed district.

Watershed districts are governed by a board of managers appointed by the affected counties to staggered three-year terms. The Metropolitan Surface Water Management Act requires the counties to select managers from a list of nominees submitted by affected cities and townships. At least three nominees must be submitted at least 60 days prior to the expiration of a term for each position to be filled.

4. Counties

If a county assumes responsibility for preparing the watershed plan, the elected county commissioners will be in charge. If the watershed affects two or more counties, it will be necessary for the affected counties to enter into a joint powers agreement to prepare and implement the watershed plan. The Act allows a county to delegate the preparation of all or part of a plan to the soil and water conservation district. Upon request of a city or town, a county may delegate the preparation of all or part of a plan to the city or town.

E. PREPARATION OF WATERSHED PLANS

1. Assignment of Planning Responsibilities

Before commencing work on a watershed plan the governing body must decide who will supervise the planning effort and who will carry out the basic planning tasks. In most cases the technical work will be delegated to staff or consultants, and the policy decisions will be directly made by the governing body or be partially delegated to an appointed planning committee or staff director. The governing body should take full advantage of existing staff capabilities, the abilities of advisory committee members, and all other available technical expertise.

It is important that the governing body, or its appointed designee(s), retain full control over the policy directions taken in developing a plan. By regularly reviewing draft plan elements, the governing body should be able to avoid having to reject staff or consultant work late in the planning process.

2. Public Participation

A public participation program can be used to obtain the views of people interested in water management and of parties who may be directly affected by a watershed plan. All possible public participation methods should be considered, including public meetings, press releases, watershed tours, and newsletters. An active public participation program will assist the watershed organization in developing a workable plan that will be widely understood and supported.

Advisory committees can be an important element of a public participation program. [Note: Watershed districts are required by law to appoint an advisory committee.] An advisory committee on water planning could be given the important duty of the day-to-day supervision of the planning staff or it could serve as a "sounding board" for ideas and proposals of staff, citizens, and decision-makers. Whichever choice is made, it is important to define the duties and authorities of an advisory committee. Advisory committees can be made up of a wide range of interests, including both technical and nontechnical people. Candidates for membership on advisory committees might include representatives of city and town governments, soil and water conservation districts, environmental organizations, farm organizations, sportsmen clubs, developers, public interest groups, and other interested parties.

Some watershed management organizations may choose to appoint a technical as well as a policy advisory committee.

3. Delegation of Responsibility

The law provides that a watershed management organization may request a county to prepare all or part of a plan. The county may delegate all or part of its planning duties to the soil and water conservation district. Upon request, the county may delegate planning duties to a city or town. The governmental unit to which planning responsibility has been delegated may act as a subcommittee, an advisory committee, or as staff to the governing body. Delegation can be an excellent way to take full advantage of the expertise of other units of government.

In making a decision to delegate planning duties, the watershed management organization or county should be sure to identify the topics to be covered, the results expected, the deadlines for completing tasks, the schedule for reporting progress back to the watershed management organization or county, and any requirements for citizen involvement.

4. Development of a Work Plan

A work plan can be an excellent tool for managing the preparation of a plan. It forces the governing body to assign duties, establish review procedures, and set timetables and milestones for completing tasks. In short, it helps the governing body visualize from the start how statutory deadlines and planning requirements are to be met. It is the place for making tentative decisions on the detail needed in the plan and on the relative emphasis to be given to each of the steps in plan formulation. These decisions will be based upon such factors as the extent of available data, existence of relevant plans and studies, the apparent magnitude of problems, expected planning costs, and the ability to pay for planning activities. It is also the appropriate place to show how and when coordination with local units in the watershed will

be achieved. If the watershed management organization is a county or watershed district, it is especially important to spell out how local units of government will be involved in developing the watershed plan. Once completed, the work plan becomes the yardstick by which the governing body can measure progress in completing the plan.

5. Resource Inventory and Data Collection

The first step in actual planning is the inventory of pertinent data on the watershed. Local comprehensive plans should provide needed information on current and projected land use, development, and population. Resource information can be gathered from local units and from regional, state, and federal agencies. A thorough search of all sources of water-related information should be made before any money is spent to generate new data. See Section V.

At this stage a tentative decision must be made on how much water-related information is needed to prepare a plan. Section 473.878, Subdivision 3, of the Act recognizes that the degree of detail needed in plans will vary from watershed to watershed. As an example, a rural watershed that is not presently experiencing any significant water quantity or quality problems, and which is projected to maintain its rural land use for many years to come, will likely not need to do sophisticated hydrologic modeling. On the other hand, an urbanizing watershed will need to analyze its hydrologic system in some detail in order to judge the potential for future water quantity and quality problems. A detailed study of a watershed's hydrologic system will require detailed watershed data.

6. Analysis of Problems

Watershed data must be analyzed to determine existing water problems and to forecast future problems. Future development and land use projected in local comprehensive plans should be used to forecast the possibility and probability of future water-related problems. This is a crucial step in the planning process, since the primary purpose of the Act is to prevent the need for expensive structural solutions to water problems that could have been avoided by careful planning. Again, the level of analysis required will depend on the watershed's existing hydrology and projected development.

7. Setting Goals and Priorities

The watershed management organization or county, with the active involvement of affected local units, its advisory committee, and the public, should define its water quantity and quality goals, consistent with any applicable state laws and standards.

Existing and potential water problems that must be addressed in order to reach these goals should be given high priority in the plan.

As an example, Watershed A defines the water quality of Blue Lake as a high priority concern because it is used for swimming and fishing. The watershed organization forecasts that the lake's water quality will decline significantly by the year 2000 if development occurs as planned without additional controls. After studying the problem, the watershed organization might determine that the lake's water quality should be maintained at 1982 levels. Control of nonpoint source pollution in the lake's subwatershed could be identified as a high priority problem.

8. Formulation of Alternative Solutions

Alternative solutions to high priority problems should be considered. Both structural and nonstructural methods should be evaluated.

Structural approaches include:

- a) use of artificial detention storage;
- b) storm sewers;
- c) ditches;
- d) and channel improvements.

It must be noted, however, that Section 473.875 of the Act makes it clear that the overall purpose of the planning should be to preserve natural water storage and retention systems in order to avoid costly structural methods of managing stormwater.

Nonstructural methods of stormwater management include:

- a) use of natural detention storage;
- b) land use zoning;
- c) acquisition of land or easements;
- d) regulation of development;
- e) soil and water conservation practices;
- f) and housekeeping practices (street sweeping, cleaning of catch basins, etc.).

As an example, Watershed A determines that residential flooding will occur along the south shoreline of Blue Lake if sub-watershed development occurs as planned. In order to prevent this problem, one or more of the following alternative management approaches could be taken:

- a) natural water storage areas and wetlands in the subwatershed could be protected by ordinance or easement;
- b) upland in the subwatershed could be rezoned to a less intensive land use;
- c) staged detention ponding could be required as the subwatershed develops;
- d) the endangered shoreland area could be rezoned to prevent residential use;
- e) a drainage easement could be purchased, or dedicated, in the endangered shoreland area;
- f) or the outlet capacity of the lake could be increased by an improvement project.

Technical studies may be required to define feasible alternatives to specific problems. The alternative solutions should be identified as short-term or long-term, depending on how and when they would be implemented.

9. Determination of Preferred Management Alternatives

The watershed organization should weigh the advantages and disadvantages of the alternative solutions. Criteria should be developed for evaluating alternatives in view of watershed goals. These criteria might include: cost, overall benefits, environmental impacts, natural resource impacts, effects on preferred development, aesthetics, etc. The preferred solution(s) should be identified.

Determination of preferred management alternatives for dealing with the high priority existing and potential watershed problems should involve close communications among the watershed organization, affected local units, the advisory committee, and the public.

10. Capital Improvement Program

If the plan identifies any structural projects as the preferred or required solution to a high priority problem, the plan must include a capital improvement program. The Act defines a capital improvement program as "...an itemized program for at least a five-year prospective period, and any amendments to it, subject

to at least biennial review, setting forth the schedule, timing, and details of specific contemplated capital improvements by year, together with their estimated cost, the need for each improvement, financial sources, and the financial effect that the improvements will have on the local government unit or watershed management organization".

11. Determination of Standards and Schedules for Amending Local Plans

Inconsistencies between local comprehensive plans and the watershed plan must be identified. The watershed plan must include "...standards and schedules for amending the comprehensive plans and official controls of local government units in the watershed to bring about conformance with the watershed plan...". The watershed plan should serve as a guide for the preparation of local plans.

12. Assignment of Implementation Responsibilities

Who will carry out the watershed plan elements? The answer will vary from watershed to watershed depending on:

- 1) the management strategy selected;
- 2) the location and scope of the solutions;
- 3) the costs;
- 4) the capabilities and attitudes of affected local units;
- 5) and other factors.

In any case, the watershed plan should clearly set forth and distinguish the roles and responsibilities of each affected governmental unit.

13. Definition of Plan Amendment Procedure

The final step is to define how the watershed plan is to be amended. There must be a procedure by which a concerned party can have an amendment considered by the watershed organization. Of course, the watershed organization and affected local units must also be able to initiate their own plan review. An open process should be used so that any interested party is made aware of proposed amendments and is given an opportunity to comment.

The Act states that all amendments to an adopted watershed plan shall be reviewed according to the procedure for reviewing the original plan "to the extent and in the manner required by the adopted plan". The Board suggests that the watershed plan specifically define the types of plan amendments that the watershed management organization proposes could be made locally without the need for state review.

14. Watershed Plan Checklist

The following page contains a checklist of items for watershed management organizations to consider in developing a plan.

WATERSHED PLAN CHECKLIST

I. Inventory:

- 1) Land use and population - current and projected
- 2) Soils and topography
- 3) Surficial geology
- 4) Ground water table and natural springs
- 5) Lakes and streams
- 6) Ditches and storm sewers
- 7) Subwatersheds and minor drainageways
- 8) Wetlands and ponding areas
- 9) Water quality
- 10) Sources of point and nonpoint pollution
- 11) Recreational facilities
- 12) Fish and wildlife habitat
- 13) Regulated areas, drainage easements, dedicated lands
- 14) Current ordinances regulating development or water resources
- 15) Unique natural resource areas, prime agricultural lands
- 16) Major water uses and users
- 17) Pipeline and utility crossings
- 18) Transportation network

II. Analysis:

- 1) Watershed hydrology
 - a) drainage capacities, drainage restrictions, storage area requirements
 - b) design storms, peak discharges
 - c) floodplains, flood profiles
- 2) Effect of projected development on watershed hydrology
- 3) Alternative methods of preventing water quantity problems
- 4) Projected water quality
- 5) Alternative methods of preventing water quality problems
- 6) Critical soil erosion areas and protection methods
- 7) Unique features requiring greater protection
- 8) Water management priorities
- 9) Effect of artificial detention on ground water quality

III. Goals:

- 1) Water quality
- 2) Water quantity
- 3) Soil erosion control
- 4) Recreational opportunities
- 5) Preservation of unique features and aesthetics
- 6) Fish and wildlife habitat

IV. Policies, Standards, Plans:

- 1) Post-development discharge limits
- 2) Water quality
- 3) Soil conservation and erosion control
- 4) Floodplain, shoreland, wetland regulation
- 5) Ponding areas
- 6) Regulation of development - permits
- 7) Capital improvement program - need, schedules, costs, financing
- 8) Comprehensive plans and official controls amendments
- 9) Monitoring and data collection
- 10) Public participation and education
- 11) Roles and responsibilities of water management organizations and local units
- 12) Local water plan standards and schedules
- 13) Watershed plan amendment procedure

F. REVIEW OF WATERSHED PLANS

1. Local Review

After a watershed management organization or county has drafted a watershed plan, it must submit the plan for review and comment to every affected soil and water conservation district, county, city, and township. Following local review, the plan and all comments must be submitted to each affected county.

The Act directs the counties to approve or disapprove proposed capital improvement projects that would require the counties to provide construction funds.

2. Regional Review

Following county review, the plan must be submitted to the Metropolitan Council for review.

The Act authorizes the Metropolitan Council to review the plan in the same manner and with the same authority and effect as it reviews local comprehensive plans under Minnesota Statutes Section 473.175. Under this statute the Metropolitan Council must review a plan to determine its compatibility with other local plans; its consistency with the metropolitan development guide; and its conformity with metropolitan system plans. The four metropolitan systems are: 1) airports, 2) waste control, 3) transportation, and 4) regional recreation open space.

The Metropolitan Council has the authority to require a local governmental unit to modify a plan if it finds that the plan or part thereof may have a substantial impact on or contain a substantial departure from metropolitan system plans.

3. State Review

After completion of Metropolitan Council review, the plan must be submitted to the Department of Natural Resources and to the Pollution Control Agency for review and comment on the plan's consistency with state laws and rules.

The Act then directs the Water Resources Board to review the watershed plan in the same manner as it reviews watershed district overall plans under Minn. Stat. Section 112.46. The Act, however, states that the Board shall not prescribe a plan for the watershed, but may "...disapprove all or parts of a plan which it determines is not in conformance..." with the requirements of Chapter 112 and of the Act. Additionally, if the counties affected by a project proposed in a capital improvement program of a watershed plan are not in agreement on the project, the Board is directed to make a final decision on the issue.

The Board has general authority to promulgate rules to exercise its functions, but the Act itself does not direct the Board to adopt rules on watershed plans. The Board has decided that rules on plan content should not be necessary, but it will reconsider the need for rules if problems arise in reviewing plans.

Upon receipt of a watershed plan that has been reviewed by the affected local units and by the Metropolitan Council, and after receipt of recommendations from the Department of Natural Resources and the Pollution Control Agency, the Board will schedule a public hearing on the plan in accordance with Chapter 112.46. All interested persons, organizations, agencies, and governmental units will have the opportunity to provide input to the Board at the hearing. The Board will compare the contents of the plan against the seven required plan elements set forth at Minnesota Statutes Section 473.878, Subdivision 4. The Board will judge whether these elements have been adequately addressed to accomplish the purposes of the Act defined at Minnesota Statutes Section 473.875. Based on all the evidence gathered at the hearing the Board will make a decision on whether the plan conforms to the law. The Board will work diligently with the watershed management organization to assist it in bringing its plan into conformance with the law before disapproving any parts of the plan.

Some representatives of local governmental units have expressed concern that conflicts may arise among the reviewing agencies - the Metropolitan Council, Department of Natural Resources, Pollution Control Agency, and Water Resources Board - over what information needs to be contained in a watershed plan in order to meet the intent of the Act. The Board, as the state agency designated to approve or disapprove the watershed plans, wants to avoid the possibility of the watershed management organizations receiving conflicting advice from the reviewing agencies. In an effort to minimize conflicts the Board intends to work closely with the other reviewing agencies over the coming months. In any planning assistance materials, voluntary planning guidelines, or agency plan review criteria which may be developed, the Board will seek to promote communication, cooperation, and compromise among the reviewing agencies and local units of government in order to achieve the purposes of the Act with the least amount of uncertainty and conflict.

V. SOURCES OF INFORMATION AND ASSISTANCE

A. LOCAL

1. General Purpose Governmental Units

County, city, and township staff or consultants should be able to provide detailed information on existing stormwater systems.

2. Soil and Water Conservation Districts

Soil and water conservation district information, expertise, and technical assistance should be fully utilized. The state Soil and Water Conservation Board provided the following list of district personnel:

Anoka County SWCD [Pat Rudolph / 757-4221]
Carver SWCD [Jeff Hedtke / 442-2614]
Dakota County SWCD [Brian Christensen / 463-8626]
Hennepin SWCD [Pat Kennedy / 473-0249]
Ramsey SWCD [Tom Peterson / 777-0127]
Scott SWCD [Pete Beckius / 492-2636]
Washington SWCD [Doug Thomas / 439-6361]

3. Watershed Districts

Local officials are encouraged to draw upon the experience and expertise of existing metropolitan watershed districts. The following list contains the names of current watershed district Presidents:

Carnelian-Marine WD [Ronald Gavelek / 631-5932]
Coon Creek WD [Melvin Schulte / 755-9901]
Lower Minnesota River WD [Russell Sorenson / 920-8444]
Minnehaha Creek WD [David Cochran / 474-4743]
Nine Mile Creek WD [Aileen Kulak / 831-4847]
Prior Lake-Spring Lake WD [Cleve Mickley / 445-3255]
Ramsey-Washington Metro WD [Roger Lake / 296-3344]
Rice Creek WD [Diane Harstad / 636-3751]
Riley-Purgatory Creek WD [William Sault / 474-6091]
Valley Branch WD [Allen Dornfeld / 777-5590]

B. REGIONAL

1. Metropolitan Council [Marcel Jouseau / 291-6402]

7th and Robert Streets, St. Paul

The Metropolitan Council has established a "208 Advisory Committee" to advise the Council on nonpoint pollution control issues and to develop technical assistance materials for watershed organizations and local units. The Council also is planning to establish a committee of local government representatives, agency staff, and technical professionals to further develop and refine Council plan content guidelines for voluntary use by watershed organizations and local units. The Council has collected a considerable amount of water-related data that is available to watershed management organizations and local units upon request. The Council has published several documents related to local water management: Watershed Planning Guide (Publication No. 10-83-115); Evaluation of Nationwide Urban Runoff Program (10-83-127); Simplified Modeling for Watersheds (10-83-130); Financing Local Management Programs (10-83-143); Management Practices Evaluation (10-83-144); Precipitation Frequency Analysis (10-84-007); and the Water Resources Management Development Guide (W/9/82); call 291-6464.-29-

2. 509 Section of the Minnesota Association of Watershed Districts [Howard Peterson / 934-2050 evenings]

The metropolitan watershed districts have formed a 509 Section to share information and to discuss issues relating to the Act. The 509 Section can provide information on watershed district programs and watershed district progress in implementing the Act's planning requirements.

C. STATE

1. Water Resources Board [Mel Sinn / 296-2840]

555 Wabasha Street, St. Paul

The Water Resources Board's staff is available to answer questions about the Act. The Board can also provide information about the Watershed Act and watershed districts. The Board has current watershed district overall plans on file.

2. Pollution Control Agency [~~David Richfield~~ ^{Gaylen Reetz} / 296-~~7223~~ ⁷⁷³⁴]

1935 W. County Road B2, Roseville

Minnesota Pollution Control Agency staff are available to answer questions and assist watershed management organizations. They can assist in defining water quality problems and developing and implementing solutions.

3. Department of Natural Resources
[State Office - Wayne Edgerton / 296-0519
Regional Office - Kent Lokkesmoe / 296-7523]

444 Lafayette Road, St. Paul

The Department of Natural Resources will work with communities in revising the minor watershed boundaries where they may be in error. In addition, local units may wish to contact the DNR regarding the extent of flooding problems, existing fish or wildlife data, or the criteria to be used by the DNR in plan review.

4. ~~Water Planning Board~~ ^{State Planning Agency} [John Wells / ~~296-1424~~ ^{297 2377}]

150 E. Kellogg Blvd., St. Paul

~~The Minnesota Water Planning Board is preparing~~ ^{State Planning Agency plans to} a handbook to assist counties and other local governmental units in water planning and management. ~~It is scheduled for completion in mid-1983.~~ Although the handbook's emphasis will be on counties, it also should be useful to the metropolitan watershed organizations and communities. The handbook will describe logical steps to follow in developing a water plan, and will identify important sources of

local, regional, state, and federal planning assistance. It will emphasize using locally available plans and services; fitting local water plans into existing policies and procedures; focusing on essential tasks and functions; and approaching water planning from a comprehensive perspective.

5. Land Management Information Center

~~[Dean Anderson / 296-2489]~~

Susanne Maeda 297.4986

7th and Robert Streets, St. Paul

The Land Management Information Center (LMIC) maintains computer based information about Minnesota's land use, soils, water resources, and land ownership. The information is available at cost for modeling and maps. A catalog of water resource information is available at cost. The catalog contains descriptions of available data, the names of people who can furnish the data, and the status of water resource programs in Minnesota. LMIC also maintains a public data base about lakes in the state. This data base may be accessed by computer terminal free of charge.

6. Soil and Water Conservation Board

[Jim Birkholz / 296-3767]

90 W. Plato Blvd., St. Paul

The Soil and Water Conservation Board provides funding and administrative assistance, and coordinates the activities of local soil and water conservation districts.

D. FEDERAL

A number of federal agencies collect water-related data and carry out water-related programs. The principal federal agencies that may be able to provide technical assistance to watershed management organizations are:

1. United States Geological Survey

[Donald R. Albin / 725-7841]

180 E. Kellogg Blvd., St. Paul

The United States Geological Survey has surface and ground water data, and information on hydraulics and hydrology. The U.S.G.S. provided the following list of agency personnel:

Information on Surface Water Programs [George H. Carlson]
Information on Ground Water Programs [Daniel C. Gillies]
Water Data [Kurt T. Gunard]

2. Soil Conservation Service
[State Office - John DeGroot / 725-7684
Area Office - Al Fischer / 566-2941]

316 N. Robert Street, St. Paul

The Soil Conservation Service provides technical assistance to local soil and water conservation districts to help individual districts carry out their programs. The following types of SCS technical data are available through soil and water conservation districts: technical guides, soil conservation practices, design standards and specifications, soil survey publications and interpretations, engineering design procedures, and hydraulic and hydrologic evaluation procedures. Arrangements can be made to obtain at cost SCS engineering manuals, hydraulic and hydrologic computer programs, and other technical materials. Technical services are generally limited to interpreting readily available data, recommending solutions to site-specific erosion problems, and providing general guidance in resource management. SCS engineering assistance is generally limited to those projects for which federal cost-sharing is authorized.

3. Corps of Engineers [District Engineer / 725-7506]

180 E. Kellogg Blvd., St. Paul

The St. Paul District office of the Corps of Engineers is involved in many water-related activities including: flood control, navigation, recreation, fish and wildlife enhancement, water supply, shoreland and river bank protection, water quality, wastewater treatment, floodplain management services, various technical services, disaster relief, and regulation of placement of dredged or fill material in waters of the United States. Upon request, the Corps of Engineers can provide existing information on watershed hydrology. Requests for services or information should be by letter to the District Engineer and should specifically describe the exact information needed.