

**PUBLIC PARTICIPATION REPORT
FOR THE
SHORELAND RULES UPDATE PROJECT**



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APRIL 30, 2009

**STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATERS**



Note: the asterisk () references the Issue Identification Report.*

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Public Participation Report Executive Summary

The 2007 Minnesota State Legislature directed the Department of Natural Resources (DNR) to commence rulemaking by January 15, 2008, to update the statewide minimum shoreland standards. A framework was established for the Shoreland Rules Update Project that involved a core team of DNR staff working with assembled committees and work groups as well as a comprehensive public participation and communication plan.

The update presented an opportunity to revise outdated shoreland standards, which guide the use and development of Minnesota's lake and rivers, last revised in 1989. Since the current standards were developed, land development patterns have changed and trends indicate that will continue, as have the latest science and land development technologies.

The DNR recognized that any successful shoreland rules update is dependent on good public participation. Therefore, a robust public participation plan was established for the Shoreland Rules Update Project that involved a transparent and inclusive process of issue identification; policy and option recommendations; and review of draft rule language.

Following the Request for Comments issued on January 22, 2008, the DNR embarked on an extensive and adaptive public participation process to "seek information by other methods" to examine policy and option recommendations toward the development of rule language.

From January 2008 to June 2009, DNR staff worked with citizens across the state to assess shoreland conservation standards by reviewing the science related to shoreland conservation, development, and management. Five advisory committees were convened to provide advice to the DNR. These advisory committees met regularly and discussed the merits of numerous policy and regulatory options. Twelve open houses were conducted to gain public comment on development standards for lake and river protection, and the DNR talked with over 500 citizens.

Note: the asterisk () references the Issue Identification Report.*

The DNR convened a series of ten work group meetings across the state to gain feedback from stakeholders on resort-specific items. Over 250 attendees participated in the resort meetings, including resort owners, resort association representatives, and elected and appointed officials from state and local government. Three agricultural forums were held to review and discuss agricultural use standards in shoreland areas with over 200 participants including farmers, producers, and local and state government officials. A group of metropolitan area planning and zoning staff provided feedback on urban expansion issues and shoreland management that occur in urban growth areas across the state.

Differences of opinion were to be expected and were respected along the way. Committee and work group discussions were characterized by careful deliberation and civility. The committees operated by informed consent, whereby the vast majority of committee members concurs, with the remaining members able to accept the decision.

The Shoreland Rules Update Project promoted collaborative decision making, citizen engagement, advocacy, mediation, community building, and consensus building. It provided opportunities for meaningful dialogue on policy matters related to shoreland. The dialogue was enriched through deliberative discussions, open houses, community conversations, and surveys. These dialogues and information sharing sessions have resulted in better proposed policy changes and a more informed and engaged public.

The proposed rule revisions utilize best science and subdivision design criteria along with the latest information on development trends and measured impacts to water quality, property values, and habitat. The proposed rules provide local governments a broad array of innovative options whereby shoreland development can be achieved that will sustain the economic, community and natural resource values of Minnesota's treasured shorelands and waters.

Note: the asterisk () references the Issue Identification Report.*

The Public Participation Process

The public participation plan for the Shoreland Rules Update Project engaged diverse stakeholders from across the state in an open and transparent process of issue identification; policy and option recommendations; and review of draft rule language. Figure 1 below illustrates the three phase process the DNR designed for the project.

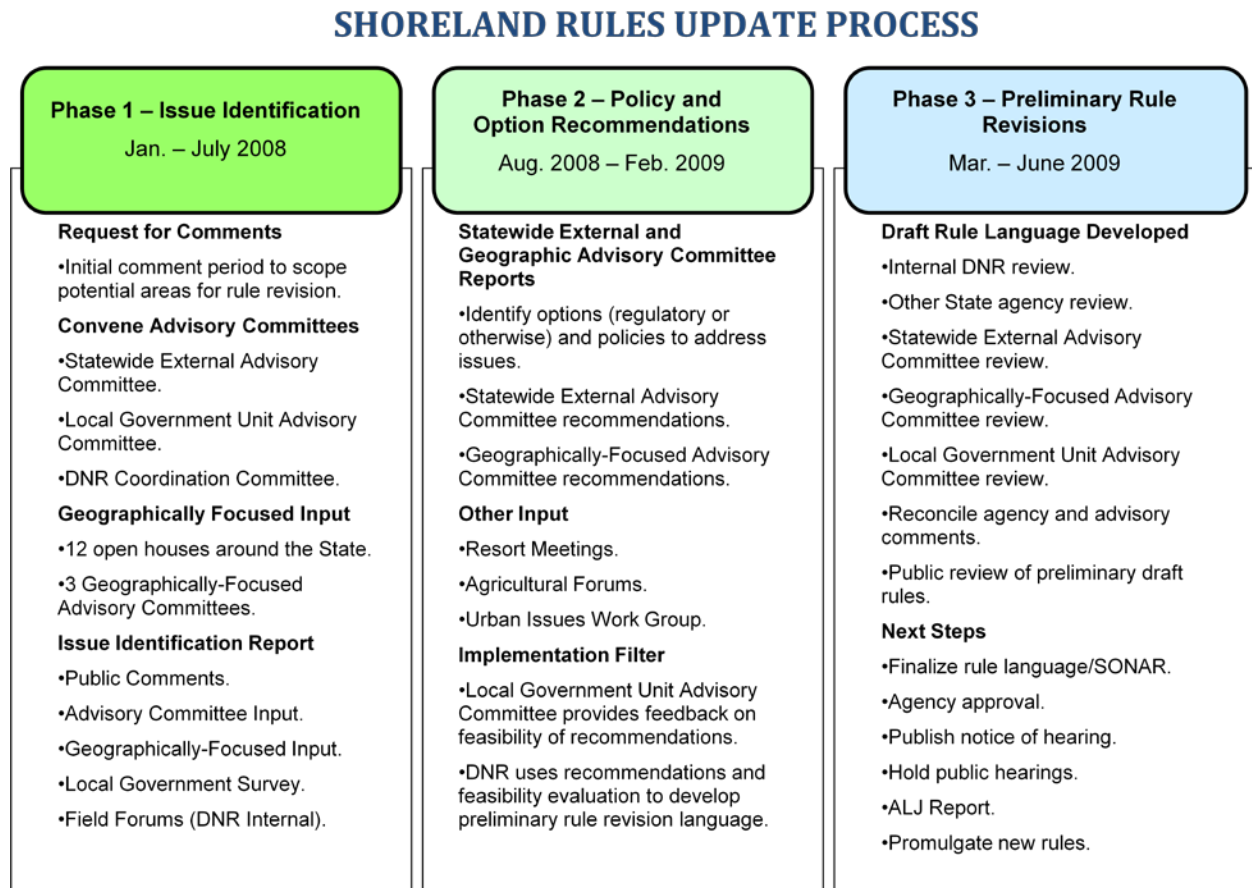


Figure 1

The comments received from the open houses along with other input that was gathered from the committees, from the Request for Comments, etc., were compiled into a report on the important issues identified. This closed out Phase 1 (Issue Identification) and served as a basis for Phase II (Policy and Option Recommendations) of the project during which the advisory committees identified options (regulatory or otherwise) and policies to address the issues identified. In Phase III (Preliminary Rule Revisions) of the project, the draft rule language was developed and refined into a Preliminary Draft that was published on the DNR project Web site in April 2009. The resulting Preliminary Draft is reflective of countless volunteer hours of dedicated advisory committee members.

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Advisory Committees

In an attempt to consider statewide diversity, the DNR convened five external advisory committees. Each of the committees had a distinct role in the rulemaking update process (see Figure 2 below):

- 1) The Statewide External Advisory Committee (SEA) – discussed shoreland management policy from a broad perspective of interests.
- 2) The Local Government Advisory Committee (LGU) – along with the Urban Issues Work Group - discussed administration and implementation aspects of policy and shoreland rule language.
- 3) Three Geographically Focused Advisory (GFA) Committees (Fergus Falls, Brainerd, and Grand Rapids/Tower) brought in diverse interests from across the state and assisted in the development and review of preliminary rule revisions.
- 4) A sixth advisory committee, the Internal Coordinating Committee (ICC), comprised of representatives from various DNR divisions and regions, provided internal review and comment along with the DNR Division of Waters Field Forums and Peer Review Committee.
- 5) Other state agencies also provided input.

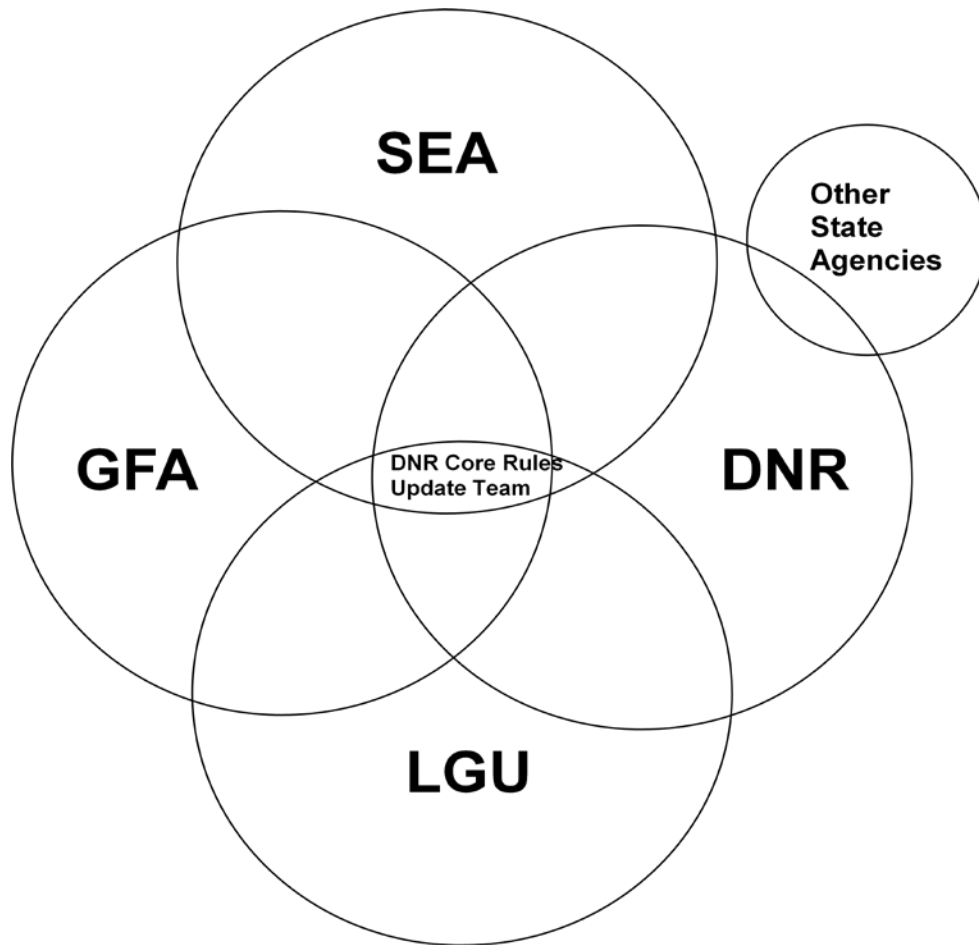


Figure 2

Note: the asterisk () references the Issue Identification Report.*

Decision Making Model

Throughout the public participation process, the DNR was committed to fully considering all recommendations and differences of opinion. In absence of agreement, members were asked where they disagree, and their individual level of support for the proposal. Every effort was made to state all points clearly, accurately, and fairly. Decision making was based on the Guiding Principles developed during Phase I, which are located in Appendix A.

During Phase II, staff provided white papers for each advisory committee meeting which laid out the issues, current rule, proposed rule/options/recommendations, and guiding principles. During the process, the committees revisited recommendations only when it was demonstrated that new information would improve their quality. Staff made clear that the final decision on the content of any shoreland rule revision rests with the Commissioner of the DNR. For more information, see Meeting Ground Rules in Appendix B.

Request for Comments

A. Shoreland Management Standards, chapter 6120.

The DNR published a Request for Comments (RFC) in the State Register on January 22, 2008, relating to possible rule revisions governing shoreland management. Since specific rule language had not yet been developed, the DNR considered public input submitted prior to May 20, 2008, as an aid to scoping rule revision language. The DNR received 21 written responses representing interests from city government, citizens, and non-governmental organizations. The results are tabulated in the Issue Identification Report, a separate document compiled during Phase I of the Project. *

B. Wild and Scenic River Standards, chapter 6105.

During winter 2009, as part of the rule update project, the DNR decided to assess the feasibility of integrating the rules governing Minnesota's state-designated Wild and Scenic Rivers (chapter 6105) with the new shoreland rules. The RFC for the potential merger was published in the State Register on March 2, 2009, with a closing period of April 17, 2009. The DNR sent out the notice to an extended mailing list as well as posting it on the project Web site and sending out a news release. The DNR received 22 comments from citizens (including numerous landowners), local governments, non-government organizations, and interest groups. The comments indicated varying degrees of support and opposition regarding the potential merger. For more information on the comments and the outreach for the RFC, see Appendices C and D.

While there was not an advisory committee specific to the Wild and Scenic River rules, the DNR received considerable comments and feedback on the potential to merge the statewide standards and criteria of the Wild and Scenic River rules with the shoreland conservation standards. The primary purpose for integrating the two sets of standards is to simplify administration by eliminating inconsistencies and reducing duplication.

Note: the asterisk () references the Issue Identification Report.*

In addition, several material changes to the wild, scenic, and recreational river rules are proposed: using the shoreland framework for DNR review of local land use decisions, inclusion of stormwater standards, and guidance for conservation subdivisions. The end result of the proposed rules will be a unified set of standards that simplifies management while enhancing resource protection.

Open Houses

In June 2008, the DNR held twelve open house meetings throughout the state to gain public comment on development standards for lake and river protection. From Windom to Winona to International Falls, project staff talked with over 500 citizens. These evening events were also attended by other DNR staff from the Division of Waters, Fish and Wildlife, Ecological Resources, Parks and Trails, Enforcement, and Lands and Minerals. In addition, there were information stations on related work staffed by other agencies and organizations.

The open houses provided a good opportunity for interested people to learn about the Shoreland Rules Update Project and to express their concerns and opinions on this rulemaking effort. Comments from the open houses are included in the Issue Identification Report. * For locations and dates of the open houses, along with a sample meeting flyer, see Appendices E and F.

During the open houses, the project team solicited nominations for the Geographically Focused Advisory (GFA) Committees to assist with the rulemaking project by providing area-specific input. Three GFA Committees were convened in Brainerd, Grand Rapids/Tower, and Fergus Falls in September 2008. Initially, it was intended to have four GFA Committees in each part of the state; however, after the limited interest in volunteers from the southern and urban parts of the state, the decision was made to seek input from the southern and metropolitan parts of the state in other ways. Thus the Agricultural Forums and the Urban Issues Work Group were formed. Because of the great interest and attendance by resort owners at the open houses, it was determined to seek further input in this area through work group meetings, which were held November/December 2008 throughout the state.

Issue Identification Report

The Issue Identification Report, a capsulation of the information gathering stage of the Shoreland Rules Update Project, was completed October 2008 after extensive input. The top issue identified in the Report was water quality, in terms of stormwater, impaired waters, and on-site sewage treatment. This information served as a foundation from which to review and develop revised shoreland standards. More details can be found in the Issue Identification Report. *

Note: the asterisk () references the Issue Identification Report.*

Information and Education

Throughout the process, information and education was a high priority, with the project Web site currently located at <http://mndnr.gov/waters/shoreland.html> serving as a clearinghouse for information related to the project, including meeting notes and project documents.

The project team updated the public about relevant findings on a regular basis throughout the study process. In addition, project communications included news releases on subjects such as natural shorelines, a regular newsletter and a listserv. Project newsletters and news releases can be found in Appendices G and H.

Early in the committee meeting process, guest speakers were brought in to educate the statewide committees and core team on key issues like stormwater management, subsurface sewage treatment, and conservation development. A list of the presentations can be found in Appendix I.

Statewide External Advisory Committee

The Statewide External Advisory (SEA) Committee met eleven times from March 2008 to March 2009, and discussed shoreland policy from a broad perspective of interests as it relates to shoreland in Minnesota.

The SEA engaged in dialogue on issue identification, options and policy recommendations, and reviewed draft rule language. The SEA served as a filter for all of the information obtained during the process.

The SEA Committee was comprised of 34 members (see Appendix J), representing the following sectors and/or organizations:

Agriculture:

MN Farm Bureau

Business:

MN Chamber of Commerce

Realtor:

MN Association of Realtors

Resorts/Campgrounds:

Resort and Campground Association

Congress of MN Resorts

Forestry:

MN Forest Industries

Note: the asterisk () references the Issue Identification Report.*

MN Forest Resources Council

Developers/Builders:

DW Jones
Builders Association of MN
Naterra Land, Inc.
Builders Association of the Twin Cities

Environment/Conservation:

Izaak Walton League
1000 Friends of MN
Ducks Unlimited
Minnesota Center for Environmental Advocacy
Minnesota Waters

Local Government/Consultants:

Fillmore County
City of Baxter
MN Association of Townships
Beltrami County
Association of MN Counties
Murray County
Lake City
Aitkin County
City of Alexandria
Koochiching County
MN American Planning Association
Meeker County

State Government/Other Agencies:

Board of Water and Soil Resources
Metropolitan Council
MN Pollution Control Agency

Others:

MN Society of Professional Surveyors

In addition, other regular attendees included representatives from Explore Minnesota and the League of MN Cities.

Issue Identification

Early in the process, the SEA Committee identified key issues through an issue identification exercise, which ultimately led to the development of Guiding Principles.*

Note: the asterisk () references the Issue Identification Report.*

At a number of meetings, the SEA Committee had educational presentations on topics such as stormwater, conservation development, collaborative approach, etc. This gave the committee background information as they worked through difficult and sometimes unfamiliar subject areas.

Policy Discussion

Many topics were discussed over the months. Some of the most notable discussion included the following: scope of public waters, buffers, stormwater management, sewage treatment systems, conservation development, collaborative approach, and administration. SEA meeting notes and issue tracking can be found in Appendices K and L, respectively.

Preliminary Draft Input

The SEA Committee met twice to go over the Preliminary Draft in small group format. They provided both language and technical input.

Local Government Unit Committee

The Local Government Unit (LGU) Committee, consisting of approximately 20 local government zoning administrators and planners, met six times from June 2008 to April 2009. This committee engaged in issue identification, contemplating administrative items for efficient implementation, and reviewing draft rule language. Committee representation included cities, townships, counties, and consulting staff from a wide geographic cross section of the state (see Appendix M).

The LGU Committee included representation from the following:

Aitkin County
Mower County
Stearns County
City of Victoria
Todd County
City of Spicer
Chisago City
Kandiyohi County
City of Lino Lakes
City of Alexandria
Olmsted County/Rochester
City of North Oaks
City of Crosslake
City of Waconia
Community Growth Institute
Wright County
Cass County
Beltrami County
St. Louis County

Note: the asterisk () references the Issue Identification Report.*

Issue Identification

The LGU Committee conducted an issue identification exercise early in the process. *

LGU Survey

The LGU Committee assisted in the development of a LGU Survey that was sent to 310 local governments with shoreland ordinances early in the rulemaking process. *

Policy Discussion

The LGU Committee focused great attention on the definitions, providing direction in areas of improvement as well as new language. In addition, the LGU Committee provided specific input into the provisions relating to stormwater, administration, open space, and subdivision provisions. LGU issue tracking and meeting notes can be found in Appendices L and N, respectively.

Preliminary Draft Input

The LGU Committee met to go over the Preliminary Draft language in April 2009. They provided comment and wrapped up their meeting work.

Fiscal Impact Survey

The LGU Committee provided financial estimates for the Fiscal Impact Survey (both implementation and administration/enforcement) that helped shape the subsequent survey sent to the LGUs with shoreland ordinances that had received the earlier survey. See Appendix Y for a sample of the survey form and list of LGUs that received it.

Geographically-Focused Advisory Committees

Three Geographically-Focused Advisory (GFA) Committees were formed in the Brainerd, Fergus Falls, and the Grand Rapids/Tower areas after soliciting nominations at the June 2008 Open Houses and via the project Web site. The committees consisted of broad representation, including individuals from lake associations, legal, county staff and board members, citizens at large, conservation, dock manufacturer, nonprofit groups, developers, realtors, planning commission members, and consultants (see Appendices O, P, and Q).

Issue Identification

Each of the three GFA Committees spent their first meeting with issue identification. It was helpful for laying the foundation for their work plans. *

Policy Discussion

The three GFA Committees each spent two meetings discussing policy and options. Some key discussion areas included resorts, PUDs, buffers, mooring sites, controlled access lots, and shoreline recreational facilities. For issue tracking information, see Appendix R. For meeting notes, see Appendices S (Brainerd), T (Fergus Falls), and U (Grand Rapids/Tower). All three of the GFA Committees spent considerable time reviewing options, and how they could offer better protections for the resource and yet be understood in the rule language.

Note: the asterisk () references the Issue Identification Report.*

Preliminary Draft Input

Each of the GFAs met once in the spring 2009 to discuss the draft rule language. In total, the GFA Committees assisted the Shoreland Rules Update process with significant discussion on buffers, stormwater, septic systems, impervious surfaces, and planned unit developments.

Urban Issues Work Group

The Urban Issues Work Group, comprised of five planning and zoning local government staff from collar suburban communities, met four times from October 2008 to March 2009. Their purpose was to address urban expansion issues and shoreland management that occur in urban growth areas across the state. Their work coordinated with the Local Government Unit (LGU) Committee, which focused on administration and implementation of the rules. Participants of the Urban Issues Work Group (see Appendix V) were from the following local governments:

- City of Burnsville
- City of Minnetrista
- City of Lino Lakes
- City of Hanover
- City of Andover

The Work Group members engaged in the process had experience working on urbanization issues in the fringe areas of the metropolitan area. They served as an important administrative checkpoint in the policy formation stage (Phase II) as well as vetting the Preliminary Draft language (Phase III). Meeting notes for the Urban Issues Work Group can be found in Appendix W.

Policy Discussion/Preliminary Draft Input

Significant input from this committee was given in the area of performance standards and offering options for LGUs, given various capacities. The Urban Issues Work Group met and discussed the Preliminary Draft document in March 2009.

Resort Work Group Meetings

The DNR held a series of ten work group meetings across the state in November/December 2008 to gain feedback from stakeholders on resort-specific items in shoreland areas for the Shoreland Rules Update Project.

Over 250 attendees participated in the resort meetings, including resort owners, resort association representatives, as well as elected and appointed officials from state and local government, and concerned citizens. Protection of water quality, structure replacement, fractional ownership and vacation home rental were some of key items addressed. More information can be found in the Resort Work Group Report located in Appendix X.

Note: the asterisk () references the Issue Identification Report.*

Discussions with resort owners were based on the Alternative Shoreland Management Standards, developed in 2005, which created specific resort provisions that allowed for expansion and improvements, while addressing water quality concerns. The discussion was also shaped by 2006 legislation that created a definition for “resort” and a mechanism whereby resort improvements could be achieved under 103F.227.

The draft rules for resorts are based on the voluntary alternative shoreland management standards and the statutory amendment as well as the experience of counties that implemented the alternative resort standards.

Agricultural Forums

Planning groups were assembled for each of the Agricultural Forums and consisted of representatives from Soil and Water Conservation Districts, local DNR field staff, farm groups, watershed districts, other agency staff, and local government elected/appointed officials. The planning groups discussed regional issues affecting agricultural practices in shoreland areas, and helped to organize the Agricultural Forums in Rochester, Redwood Falls, and Frazee late winter/early spring 2009.

An estimated 200 attendees participated in the three Agricultural Forums, providing input on agricultural use standards in the shoreland rules. At the meetings, there were farmers/producers, concerned citizens, university staff, state, local and appointed officials and staff.

The Ag Forums provided an opportunity for information and dialogue. Overall, the 50 foot buffer was viewed as acceptable policy, with attendees pointing to education, incentives, and enforcement as being significant for success.

For more information on the process utilized to develop input into the agricultural use standards for the shoreland rules, see Appendix Z.

Interagency and Intragency Input

There was substantial DNR input, from the Internal Coordinating Committee (ICC), comprised of representatives from various divisions and regions, to the Division of Waters Field Forums and Peer Review Committee.

In addition, core project staff coordinated with the following state agencies during the course of the rule development process: MN Department of Agriculture, MN Department of Health, Explore Minnesota, Metropolitan Council, and the MN Pollution Control Agency.

Note: the asterisk () references the Issue Identification Report.*

APPENDICES

(Information in the appendices including newsletters may have been added after the date of the report.)

Appendix:	A: Guiding Principles
	B: Advisory Committee Meeting Ground Rules
	C: Comment Summary on Potential WSR/Shoreland Merger
	D: RFCs and Certificates of Mailing
	E: Open House Locations
	F: Open House Sample Flyer
	G: Project Newsletters
	H: News Releases
	I: Committee Meeting Presentations
	J: SEA Advisory Committee Member List
	K: SEA Advisory Committee Meeting Notes
	L: SEA/LGU Issue Discussion Tracking
	M: LGU Advisory Committee Member List
	N: LGU Advisory Committee Meeting Notes
	O: GFA – Brainerd Committee Member List
	P: GFA – Fergus Falls Committee Member List
	Q: GFA – Grand Rapids/Tower Committee Member List
	R: GFA Issue Discussion Tracking
	S: GFA – Brainerd Meeting Notes
	T: GFA – Fergus Falls Meeting Notes
	U: GFA – Grand Rapids/Tower Meeting Notes
	V: Urban Issues Work Group Member List
	W: Urban Issues Work Group Meeting Notes
	X: Resort Work Group Report
	Y: Fiscal Impact Survey
	Z: Agricultural Report

Note: the asterisk () references the Issue Identification Report.*