

August 1, 1998

**MEMORANDUM OF AGREEMENT
FOR IMPLEMENTATION
OF
MINNESOTA WETLANDS CONSERVATION PLAN**

This Memorandum of Agreement is made and entered into this 1st day of August, 1998, by and among the Minnesota Department of Natural Resources, the Minnesota Board of Water and Soil Resources, the Minnesota Department of Transportation, the Minnesota Pollution Control Agency, and the Minnesota Department of Agriculture (collectively the "Sponsoring State Agencies"), and the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Services (collectively the "Cooperating Federal Agencies").

WHEREAS, the development of the Minnesota Wetland Conservation Plan, Version 1.01, 1997 ("MWCP") was sponsored by the Sponsoring State Agencies and Cooperating Federal Agencies; and

WHEREAS, the MWCP, as referred to in this Agreement, consists of Version 1.01, 1997, attached as Exhibit A; as amended by the section entitled "Wetland Replacement Siting Criteria," dated December 1997, attached as Exhibit B; and the supplemental report entitled "Minnesota Wetland Banking Study," dated January 1998, attached as Exhibit C; and

WHEREAS, in the Charter for the MWCP signed in November 1995, the Sponsoring State Agencies identified the following needs and concerns for wetland conservation planning:

1. To create a wetlands conservation, restoration, and mitigation strategy that includes:
 - (a) up-to-date qualitative and quantitative information on statewide wetland resources;
 - (b) specific objectives for existing and former wetland resources across the state;
 - (c) a framework to guide public and private sector wetlands programs and priorities; and
 - (d) suggestions for improvements to Minnesota's wetland banking program.

2. To improve the wetlands permitting and management system; to coordinate regulatory efforts with public and private non-regulatory programs for wetlands conservation; and to assist local government units with their responsibilities for wetlands.
3. To clarify the statewide public benefits from wetlands conservation and benefits for individuals and communities; and to deal with the potential burdens of wetland conservation upon local government units and landowners which could be barriers to wetland conservation; and

WHEREAS, the Minnesota Department of Natural Resources, the Minnesota Board of Water and Soil Resources, and the Minnesota Pollution Control Agency were the responsible agencies for a planning grant from the U.S. Environmental Protection Agency (“EPA”) under its State Wetland Development Grant Program (Clean Water Act, Section 104); and

WHEREAS, in addition to the proceeds of the planning grant from the EPA, state matching funds were used for the development of the MWCP; and

WHEREAS, the MWCP was developed as a voluntary initiative with the combined efforts and contributions of a diverse group of knowledgeable, experienced citizens and professionals throughout Minnesota; and

WHEREAS, the MWCP addresses four basic challenges for the State’s wetlands conservation system in the mid-1990s:

- (1) To recognize and apply regional differences in wetlands policies and decision-making.
- (2) To simplify the permitting system and make it more accessible, responsive, and efficient.
- (3) To develop and deliver better information to people making decisions about wetlands.
- (4) To give resource agencies a common set of statewide strategies for conservation of wetlands.

WHEREAS, the MWCP provides guidance for anticipating future choices and the consequences of alternative decisions; and

WHEREAS, the MWCP sets forth, among other things, strategies for regional management, statewide management, regulatory simplification, and education and outreach; and

WHEREAS, the Sponsoring State Agencies and Cooperating Federal Agencies desire to enter into this Memorandum of Agreement to adopt the MWCP as a guidance document and set forth procedures to assist in the implementation of MWCP; and

WHEREAS, an Interagency Wetland Group was formed in 1991 by the Sponsoring State Agencies and Cooperating Federal Agencies to discuss, plan, and coordinate wetland management and regulatory issues and activities of common concern.

NOW, THEREFORE, the parties agree as follows:

1. The Sponsoring State Agencies approve the issuance of the MWCP as the final report of their wetland conservation planning project.
2. To the extent deemed appropriate by each of the Sponsoring State Agencies and Cooperating Federal Agencies, the Sponsoring State Agencies and Cooperating Federal Agencies will consult the MWCP for guidance in the improvement of their respective programs, plans, and activities pertaining to wetland conservation in Minnesota.
3. The Interagency Wetlands Group will be the primary forum for continuing discussion among the Sponsoring State Agencies and Cooperating Federal Agencies regarding the implementation of the MWCP.
4. The Sponsoring State Agencies shall each appoint one or more staff members who will be responsible individually and collectively for monitoring implementation of the MWCP and reporting from time to time to the Interagency Wetlands Group and the Sponsoring State Agencies on progress toward implementation of the MWCP.
5. The Sponsoring State Agencies and Cooperating Federal Agencies shall, from time to time, update any technical information and associated recommendations in the MWCP as new data, information, and commonly accepted developments in wetland science emerge.
6. Nothing in this Agreement or lack of compliance with it creates any cause of

action for damages, bears upon the admissibility of evidence, provides the basis for the issuance or non-issuance of a permit or other regulatory action or otherwise constitutes a defense to any regulatory or enforcement action.

7. This Agreement does not create rights enforceable by any party to this Agreement or any other person or entity.

8. Any party to this Agreement may withdraw from it upon written notice to all other parties.

SIGNATURE PAGE #1 FOR
Memorandum of Agreement
for Implementation of
Minnesota Wetlands Conservation Plan
dated August 1, 1998

MINNESOTA DEPARTMENT OF
NATURAL RESOURCES

By: Rodney W. Sando

Its: Commissioner

Date: August 18, 1998

MINNESOTA BOARD OF WATER AND
RESOURCES

By: Ronald Harnack

Its: Executive Director

Date: August 19, 1998

MINNESOTA DEPARTMENT OF
TRANSPORTATION

By: James N. Denn

Its: Commissioner

Date: September 18, 1998

MINNESOTA POLLUTION CONTROL
AGENCY

By: Lisa J. Thorvig

Its: Deputy Commissioner

Date: August 31, 1998

MINNESOTA DEPARTMENT OF
AGRICULTURE

By: Gene Hugoson

Its: Commissioner

Date: September 1, 1998