

**United States Department of Commerce**

**Combined Coastal Management Program and  
Final Environmental Impact Statement for  
the State of Minnesota**

**May 1999**

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## **ABSTRACT**

**DESIGNATION:** Final Environmental Impact Statement

**TITLE:** Proposed Federal Approval of the Minnesota Coastal Management Program

**ABSTRACT:** The State of Minnesota has submitted its Coastal Management Program as Minnesota's Lake Superior Coastal Program (MLSCP) to the Office of Ocean and Coastal Resource Management for approval pursuant to Section 306 of the Federal Coastal Zone Management Act of 1972 as amended (CZMA), 16 U.S.C. 1451 et seq. Approval would allow program administrative grants to be awarded to the state and would require that federal actions be consistent with the program. This document includes a copy of the program, which is a comprehensive management program for coastal land and water use activities. It consists of numerous policies on diverse management issues which are administered under Minnesota laws and is the culmination of several years of program development. Minnesota's Lake Superior Coastal Program promotes the beneficial use of coastal resources, prevents their impairment, and manages major activities that substantially affect numerous resources. The program will enhance decision-making processes used for determining the appropriateness of actions in the coastal area.

Approval and implementation of the program will enhance governance of Minnesota's coastal land and water uses according to the coastal policies and standards contained in Minnesota's statutes, authorities and rules. Federal alternatives to program approval include delaying or denying approval, if certain requirements of the Coastal Zone Management Act have not been met. The state could modify parts of the program or withdraw its application for federal approval if either of the above federal alternatives results from circulation of this document. This document includes responses to comments received on the Draft Environmental Impact Statement (DEIS) published in June 1998.

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## NOTE TO READERS

The National Environmental Policy Act (NEPA) of 1969 requires that an environmental impact statement be prepared as part of the review and approval process by federal government agencies of major actions which significantly affect the quality of the human environment. The federal action contemplated is approval of Minnesota's Lake Superior Coastal Program (MLSCP) under Section 306 of the Federal Coastal Zone Management Act of 1972, as amended (CZMA). It is the general policy of the Federal Office of Ocean and Coastal Resource Management (OCRM) to issue combined environmental impact statements and program documents.

Part I and Part II of this Final Environmental Impact Statement (FEIS) were prepared jointly by the State of Minnesota and the Office of Ocean and Coastal Resource Management, and provide summary information concerning Minnesota's Lake Superior Coastal Program, including how the state has addressed the requirements of the CZMA. Part V and Part VI of this FEIS are a description of Minnesota's Lake Superior Coastal Program that were prepared by the state. It has been reviewed by the OCRM and is relied upon as a description of the proposed action for purposes of NEPA. Part III and Part IV fulfill the remaining NEPA requirements for a FEIS and were prepared by the Office of Ocean and Coastal Resource Management with assistance from the State of Minnesota. Part VII contains public comments on the DEIS and NOAA's response to those comments.

An immediate effect of federal approval of the Minnesota program is the qualification of the state for federal matching of funds for use in administering the program. In addition, the CZMA provides a procedure for the state to review federal actions for consistency with its approved coastal management program.

For purposes of reviewing this proposed action, the key questions are:

- whether the Minnesota program is consistent with the objectives and policies of the national legislation;
- whether the award of federal funds under Section 306 of the federal act will help Minnesota to meet those objectives;
- whether Minnesota management policies and authorities are adequate to implement the program;
- whether there will be a net environmental gain as a result of program approval and implementation.

OCRM has made a preliminary determination that the answers to these questions are affirmative.

# MINNESOTA'S LAKE SUPERIOR COASTAL PROGRAM

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## **PART I PROGRAM OVERVIEW**

This document is the Final Environmental Impact Statement (FEIS) for Minnesota's Lake Superior Coastal Program. It is the third printed version of the program manual. It was preceded by the draft Minnesota's Lake Superior Coastal Program (MLSCP) document and the Draft Environmental Impact Statement (DEIS). Written comments and oral testimony received from two public hearings on the DEIS are addressed in this document. Other comments and suggestions for changes from review of the DEIS were considered and where appropriate, incorporated into this FEIS. This document essentially contains a description of the federal program and how Minnesota's program will be implemented. It includes a description of the boundary, setting and socioeconomic characteristics of the coastal area. It also contains a listing of the existing management policies and authorities and special programs and management areas that are currently in place to protect the coastal resources.

### **A. OVERVIEW**

Established by the Congress in 1972, the Coastal Zone Management Act (CZMA) makes states and territories along the coasts of the Atlantic and Pacific Oceans, the Gulf of Mexico, and the Great Lakes eligible to participate in the Coastal Zone Management Program. The CZMA affirms a **national commitment to the effective protection and rational development of coastal areas** by providing assistance and encouragement to coastal states to voluntarily develop and implement management programs for their coastal areas. Responsibility for administering the national program rests with the Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce.

**The goal of the Coastal Zone Management Program is to preserve, protect, develop, and where possible, restore and enhance coastal resources for present and future generations.**

Through a partnership of state, local, and federal agencies and units of government, the national program seeks to sustain coastal communities, sustain coastal ecosystems, and improve government efficiency. The management aspect of the program will be administered through the already existing authorities within state and federal rules and regulations. The Coastal Program will not in effect perform any management duties, other than to administer the Coastal Program grants program and consistency reviews.

## **1. Benefits of a Federally Approved Coastal Management Program (CMP)**

Benefits to states that participate in the program include:

- C Financial Assistance - Approximately \$600,000 per year to implement Minnesota's Lake Superior Coastal Program.
- C Technical Assistance - Workshops and training coordinated with other state, federal, and local agencies and organizations to address common coastal issues and data and research information through NOAA's National Ocean Service.
- C Federal Consistency - This component requires that actions of federal agencies be consistent with approved state coastal management programs.

Indirect benefits include participation in a program that provides a network of resource and business professionals nationwide that together work to solve problems common to coastal areas. Shoreline, streambank and bluffland erosion, aquatic nuisance species, harbor development and dredging issues, permit simplification processes, data sharing, public participation processes and use of technology are issues and strategies where states have shared their expertise through this program.

## **2. Minnesota's Lake Superior Coastal Program**

Beginning in 1993, Minnesota has worked to develop a coastal management program for the Lake Superior area. Citizen participation was a key component in the development of the program beginning with an issues forum in January 1994, continuing with the formation of work groups to develop the program boundary and implementation process for the program, the participation by local units of government and local stakeholders through presentations, joint meetings, and open house presentations. This process is concluding with review and comment on various drafts of the program document.

Minnesota is recognized nationally for its leadership in resource protection programs. The Coastal Management Program that developed is one based on the strength of the existing policies and authorities that address land and water uses and resource protection in the area. Further, the North Shore of Lake Superior is on the leading edge of local "grassroots" shoreland management planning as exemplified by the North Shore Management Plan. Using the combined resources, organization, and implementation abilities of federal, state, and local governments that manage land and water resources in the state, Minnesota developed a program that together would address the balance between resource protection, development, and sustainability for both the resources and the local economy.

Throughout this document, Minnesota's Lake Superior Coastal Program maybe called the MLSCP or Coastal Program.

## **B. MAJOR COMPONENTS OF MINNESOTA'S LAKE SUPERIOR COASTAL PROGRAM**

### **1. Public Participation**

Throughout program development, public participation has been fundamental. Public forums, open house public meetings, presentations to organizations and local units of government, a newsletter published almost monthly and local work groups have all been components of program development. During implementation, a "Governor's Council on Minnesota's Coastal Program" will initially be established through an executive order, consisting of 15 individuals. In the second phase, legislation will establish this council as the "Coastal Council" with a membership of 15 to 17 individuals. These individuals will represent the geographic and ideological diversity of the North Shore and will seek public input through regular needs assessment to assist in developing program priorities.

### **2. The State's Lead Agency**

The Department of Natural Resources (DNR) has been designated as the lead agency for Minnesota's Lake Superior Coastal Program. A coalition of state resource agencies including the Pollution Control Agency, the Board of Water and Soil Resources, the Department of Health and the Department of Agriculture will, however, work with the DNR to coordinate administrative and implementation functions of the program.

The role of the lead agency is to administer Minnesota's Lake Superior Coastal Program. Administrative responsibilities include serving as the fiscal agent for the program, as staff to the Coastal Council, as liaison between NOAA and state and local agencies and units of government, and the overall coordinator for components including state and federal consistency. A program coordinator will facilitate the program from an office within the coastal area as defined in the program document. This office will be located in Two Harbors, Minnesota.

### **3. A Coastal Council Will be Established**

Initially a "Governor's Council on Minnesota's Coastal Program" will be established through an executive order. This council will be made up of 15 people who will make recommendations to the Commissioner of the DNR on Minnesota's Lake Superior Coastal Program. As soon as possible, the Coastal Council will be established through legislation. This council will be made up of 15-17 individuals as the primary decision making body for the grant component of Minnesota's Lake Superior Coastal Program.

Twelve of the positions (three from each of the four coastal counties) and three to five positions (from an at-large pool) for a total of 15-17 will be selected from nominees chosen from within each county and submitted by local units of government. Appointments will be made by the Governor with each member serving up to two consecutive four-year terms. The council will assist in determining grant program priorities, as well as review and select programs and projects for grant funding. It will also assist and recommend overall program direction to the program coordinator.

#### **4. Coastal Boundary**

The “coastal area” as defined by the program’s coastal boundary follows the nearest legal coastal township along the shore, or approximately six miles inland. In the metropolitan area around Duluth it includes all of the cities of Duluth, Hermantown, Proctor, Carlton, Wrenshall and Cloquet and all or parts of the adjacent townships. This area was determined to have the most significant impact on Lake Superior and its tributaries.

#### **5. Networked Program**

Each state develops a program that best fits its organizational structure and addresses the issues in the coastal area. Three types of program organization are recognized through the national program:

- C Direct Permitting - where the lead state agency directly implements law(s) which regulate or manage coastal development;
- C Networked - where the lead state agency coordinates with other state and local agencies which together manage land and water uses and protect coastal resources; and
- C Local Coastal Programs - where the lead state agency works with local units of government to develop state approved local coastal programs.

**Minnesota has developed a networked program that uses existing state policies and authorities that are implemented by a number of different state agencies and local units of government.**

***Local Governments*** create comprehensive land use plans and establish zoning ordinances to implement these plans. Local governments are also active in economic development issues in their communities. Through the state’s Coastal Program, local units of government have an opportunity to obtain financial and technical assistance to develop and implement inventories, plans, and projects basic to the community environment and infrastructure.

***State Agencies*** implement a wide range of programs managing coastal resources and development. Air and water quality standards, protected water permits, and shoreland and floodplain managements are just a few activities administered at the state level. The number of agencies, regulations, and permits is often confusing to the public and to other agencies. Through this program an effort to coordinate, simplify and streamline planning, processes, and permitting will be encouraged.

***Federal Agencies*** conduct many projects and activities in the coastal area. Federal agencies own land such as military bases, national forests, and national monuments; administer federal laws and programs such as national defense, endangered species protection, and the dredging of



navigational channels; and provide financial assistance for projects including our transportation systems. Federal actions are usually exempt from state laws and regulations. Once a state's coastal management plan has been approved however, federal actions which are likely to affect any coastal use or resource must be conducted consistently to the maximum extent practicable with the enforceable policies of the state's coastal management program. Review of these actions will be coordinated by the Department of Natural Resources and an effort for early coordination with federal agencies on projects will be a priority during program implementation.

## **6. Based on Existing Policies and Authorities**

The national Coastal Zone Management Program, established through the enactment of the Coastal Zone Management Act (CZMA) of 1972, does not create any federal regulatory authority, nor mandate the adoption of any additional state regulations. Instead, Minnesota's Lake Superior Coastal Program will be based on existing state policies and authorities governing land and water use and resource protection. In other words, the development and implementation of Minnesota's Lake Superior Coastal Program does not create any new permits and does not require any new regulations, zoning ordinances or enforceable mechanisms. The state legislature, state agencies, and local government units can adopt new laws or new rules according to existing processes and mechanisms. The state maintains the position that existing regulatory and voluntary mechanisms exist in Minnesota to adequately meet the intent of the Coastal Nonpoint Program (Section 6217 of CZARA, 1990).

Further, the public will have the opportunity to provide input on the effectiveness of the state's policies, authorities, and programs that are included in Minnesota's Lake Superior Coastal Program document during program reviews conducted by OCRM every two to three years.

## **7. State Agencies Must be Consistent With the Coastal Program**

By participating in the national program, state agencies agree to be consistent with the enforceable policies of Minnesota's Lake Superior Coastal Program. State agencies continue to exercise existing authorities. The consistency requirement is not intended to provide new criteria for any agency's permit decisions. Program consistency for state agencies means that state agencies must comply with the enforceable policies, laws, and regulations of the state. An executive order and memorandums of agreement will be developed to ensure understanding and compliance with this program component. A method of reporting actions of state agencies relative to the state's Coastal Program will be developed to document compliance if necessary.

## **8. Actions of Federal Agencies Must be Consistent With the Coastal Program**

Actions of federal agencies, including direct activities; federal licenses, permits or other required federal approvals to non-federal applicants; and financial assistance programs to state agencies and local governments, also must be consistent with the state enforceable policies of Minnesota's Lake Superior Coastal Program. The process developed encourages early coordination and review and comment on certain federal actions that affect the coastal area.

## C. SUMMARY

Participation in the national Coastal Zone Management Program provides a number of opportunities for Minnesota to address issues of development, resource protection, and public access along the North Shore that go beyond political boundaries. Opportunities for additional financial and technical resources certainly provide motivation to participate, but benefits also include incentives to review and revise redundant or complex permitting or regulatory processes, opportunities to share information, technology, training and staff, and through the network of coastal states and related organizations, and the potential to effect change on a national scale.

**Minnesota's Lake Superior Coastal Program is not another plan to implement. It is instead, a new tool to implement existing programs and to provide funding for unique or under-funded opportunities.**

## **PART II**

### **THE COASTAL ZONE MANAGEMENT ACT**

#### **A. THE COASTAL ZONE MANAGEMENT ACT**

In response to intense pressure on coastal resources, and because of the importance of coastal areas of the United States, Congress passed the Coastal Zone Management Act of 1972 (CZMA), (16 USC 1451-1464). The CZMA authorizes a state-federal program to encourage coastal states and territories to develop comprehensive coastal management programs. The CZMA has been reauthorized on several occasions, most recently with the enactment of the Coastal Zone Protection Act of 1996 (P.L. 104-150). The program is administered by the Secretary of Commerce, who in turn has delegated this responsibility to the National Oceanic and Atmospheric Administration (NOAA), Office of Ocean and Coastal Resource Management (OCRM). In addition to Minnesota, 32 states and territories have coastal programs approved by the Department of Commerce - a network representing 99 percent of the United States coastline.

The CZMA affirms the national interest in the effective protection and careful development of the coastal zone by providing assistance and encouragement to coastal states to voluntarily develop and implement management programs for their coastal areas. The CZMA authorizes financial assistance grants under Section 305 for program development and Section 306 for program implementation to provide coastal states and territories with the means for achieving these objectives. The Section 305 program development section was re-authorized by Congress in the 1990 amendments to the CZMA (P.L. 101-508, November 5, 1990) and in the 1996 amendments to the CZMA (P.L. 104-150, June 3, 1996).

Sections 305 and 306 of the CZMA and implementing regulations, 15 C.F.R. Part 923, provide the requirements and procedures for state management program development and federal approval. In summary, the requirements for program approval are that a state develop a management program that among other things:

1. Identifies and evaluates those coastal resources recognized in the act that require management or protection by the state or territorial government;
2. Re-examine existing policies or develops new policies to manage these resources. These policies must be specific, comprehensive, and enforceable, and must provide an adequate degree of predictability as to how coastal resources will be managed.
3. Determines specific uses and special geographic areas that are to be subject to the management program, based on the nature of identified coastal concerns. Uses and areas subject to management should be based on resource capability and suitability analyses and socioeconomic considerations;
4. Identifies the inland and seaward areas subject to the management program;
5. Provides for consideration of the national interest in planning for the siting of facilities; and

6. Includes sufficient legal authorities and organizational structure to implement the program and to ensure conformance to it.

In arriving at these substantive aspects of the management program, states are obligated to follow an open process which involves providing information to and considering the interests of the general public, interest groups, local governments, and regional, state, interstate, and federal agencies.

Section 303 of the CZMA provides guidance on specific national objectives that warrant full consideration during the development and implementation of approved state coastal management programs.

Section 305 of the CZMA authorized four annual grants to states desiring to develop a coastal management program. After its management program receives federal approval, the state is then eligible for annual grants under Section 306 to implement the program. Section 306A of the CZMA also provides that states may use a portion of their Section 306 awards for, among other things, low cost construction projects that result in the preservation of important natural areas, improved public access, or renewal of urban waterfronts.

Section 307 contains the federal consistency provisions of the CZMA to ensure that federal actions are consistent with the state's federally approved management program. Paragraphs (1) and (2) of Section 307(c) require federal activities and development projects in or outside the coastal zone affecting the coastal zone be consistent to the maximum extent practicable with a federally approved state management program. Subparagraphs (A) and (B) of Section 307(c) require that federal license and permit activities affecting the coastal zone also are consistent with federally approved state management programs. Section 307(d) requires federal assistance to state and local governments for projects affecting the coastal zone to be consistent with federally approved state management programs. Federal regulations implementing Section 307 are found in 15 C.F.R. Part 930.

Section 309 establishes a coastal enhancement grant program. This section provides that a portion of Section 306 funds is available to states to develop program changes which strengthen their CZM program's ability to address particular coastal issues. State efforts to seek such improvements are meant to focus on priorities based on self-assessment of the nine objectives listed in Section 309. These objectives include, among others, stronger wetland protection, improved management of coastal hazards and additional public access.

Section 312 directs the secretary to evaluate the performance of the state coastal programs on a continuing basis. OCRM formally reviews the implementation of each state program on a three-year cycle.

Section 315 establishes a national estuarine research reserve system to preserve representative estuarine areas for long-term scientific and educational purposes. There are currently no estuarine research reserve sites designated in Minnesota.

The Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) established a Coastal Nonpoint Pollution Control Program (CNPC), in addition to updating the CZMA. The State of Minnesota will submit a nonpoint source management program for the Lake Superior watershed as the basis for an approvable CNPC to NOAA and U.S. EPA (see Part VI). NOAA and EPA will make a final determination regarding its compliance with Section 6217.

**B. CROSS REFERENCE TO PROGRAM REQUIREMENTS**

<b>CZMA Section</b>	<b>Requirement</b>	<b>CZMA Approval Regulations</b>	<b>Program Document</b>
306(d)(1)	Minnesota's Lake Superior Coastal Program (MLSCP) contains policies to adequately manage all uses with direct and significant impacts on coastal waters and ensure protection of those resources and areas that make the Minnesota coast a unique, vulnerable or valuable area.	15 C.F.R. §923.3	Part V, Chapter 3 and 4
306(d)(1)	Minnesota's Lake Superior Coastal Program (MLSCP) was developed after notice and with the opportunity for full participation by federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties and individuals, public and private.	15 C.F.R. §923.3	Part V Chapter 2, Section A Chapter 6, Section A  Part I, pages 2, 3 Part VII, Appendices B-E
306(d)(2)(A)	Minnesota's Lake Superior Coastal Program (MLSCP) includes sufficient inland, seaward, and interstate boundaries.	15 C.F.R. §923.31-34	Part V Chapter 1, Section B
306(d)(2)(B)	Minnesota's Lake Superior Coastal Program (MLSCP) identifies the land and water uses subject to the management program.	15 C.F.R. §923.11	Part V Chapter 3
306(d)(2)(C)	Minnesota's Lake Superior Coastal Program (MLSCP) designates Areas of Particular Concern.	15 C.F.R. §923.21-23	Part V Chapters 3 and 4
306(d)(2)(D)	Minnesota's Lake Superior Coastal Program (MLSCP) identifies the means by which the state will exert control over the defined land and water uses.	15 C.F.R. §923.40-43	Part V Chapters 3 and 4
306(d)(2)(E)	Minnesota's Lake Superior Coastal Program (MLSCP) contains broad guidelines on priorities of uses in particular areas, including those uses of lowest priority.	15 C.F.R. §923.3 (923.21)	Part V Chapters 3 and 4
306(d)(2)(F)	Minnesota's Lake Superior Coastal Program (MLSCP) includes a description of the organizational structure proposed to implement the Minnesota's Lake Superior Coastal Program (MLSCP), including the responsibilities and interrelationships of local, area wide, state, regional, and interstate agencies in the management process.	15 C.F.R. §923.46	Part V Chapter 2, Section A, B

## THE COASTAL MANAGEMENT ACT

<b>CZMA Section</b>	<b>Requirement</b>	<b>CZMA Approval Regulations</b>	<b>Program Document</b>
306(d)(2)(G)	Minnesota's Lake Superior Coastal Program (MLSCP) includes a definition of the term beach, and a planning process for the protection of, and provision of access to, public beaches and other public coastal areas.	15 C.F.R. §923.24	Part V Chapter 4, Section C
306(d)(2)(H)	Minnesota's Lake Superior Coastal Program (MLSCP) includes a planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including a process for anticipating the management of the impacts from such facilities.	15 C.F.R. § 923.13	Part V Chapter 3, Section G
306(d)(2)(I)	Minnesota's Lake Superior Coastal Program (MLSCP) includes a planning process for assessing the effects of, and studying and evaluating ways to manage the impacts of, shoreline erosion and for restoring areas adversely affected by such erosion.	15 C.F.R. §923.25	Part V Chapter 3, Section A (3)
306(d)(3)(A)	The state has coordinated Minnesota's Lake Superior Coastal Program (MLSCP) with local, area wide, and interstate plans applicable to areas within the coastal zone existing before 1/1/95.	15 C.F.R. §923.56	Part V Chapter 2, 3, 4
306(d)(3)(B)	The state has established an effective mechanism for continuing consultation and coordination between the lead agency and local governments, interstate agencies, regional agencies, and area wide agencies within the coastal boundary.	15 C.F.R. §923.57	Part V Chapter 2, Section A, B Chapter 6
307	Minnesota's Lake Superior Coastal Program (MLSCP) contains adequate federal consistency procedures.	15 C.F.R. §923.53 and §930 Subparts C-F	Part V Chapter 6, Section C
306(d)(4)	The state has held adequate public hearings during the development of Minnesota's Lake Superior Coastal Program (MLSCP).	15 C.F.R. §923.58	Part VII Appendix D  Part I, Section B
306(d)(5)	The Governor has reviewed and approved the management program and certifies that it contains adequate authorities.	15 C.F.R. §923.48	Letter at beginning of Part III
306(d)(6)	The Governor has designated a lead coastal agency.	15 C.F.R. §923.47	Letter at beginning of Part III  Part I, Section B (2)

## PART II

<b>CZMA Section</b>	<b>Requirement</b>	<b>CZMA Approval Regulations</b>	<b>Program Document</b>
306(d)(7)	The state is organized to implement Minnesota's Lake Superior Coastal Program (MLSCP).	15 C.F.R. §923.46	Part V Chapter 2, A (I)
306(d)(8)	Minnesota's Lake Superior Coastal Program (MLSCP) provides for adequate consideration of the national interest.	15 C.F.R. §923.52	Part V Chapter 6, Section B
306(d)(9)	Minnesota's Lake Superior Coastal Program (MLSCP) includes a program by which specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, historical, or aesthetic values.	15 C.F.R. §923.22	Part V Chapter 4
306(d)(10)(A) and (B)	The state has authority for the management of the coastal zone in accordance with Minnesota's Lake Superior Coastal Program (MLSCP), including the power to: a) administer land use and water use regulations to control development to ensure compliance with Minnesota's Lake Superior Coastal Program (MLSCP); b) resolve conflicts among competing uses; and c) acquire fee simple and less than fee simple interests in land, waters, and other property through condemnation or other means, if necessary.	15 C.F.R. §923.41	Part V Chapters 3 and 4
306(d)(10)(B)	The state has the authority to acquire interests in real property when necessary to achieve conformance with the management program.	15 C.F.R. §923.41	Part V Chapter 3 and 4
306(d)(11)	Minnesota's Lake Superior Coastal Program (MLSCP) uses any or a combination of the following techniques for control of land uses and water uses within the coastal zone: a) state establishment of criteria and standards for local implementation, b) direct state land and water use planning and regulation; and/or c) state administrative review of development plans, projects, or land and water use regulations.	15 C.F.R. §923.41-44	Part V Chapter 3
306(d)(12)	Minnesota's Lake Superior Coastal Program (MLSCP) ensures that local land use and water use regulations within the coastal boundary do not unreasonably restrict or exclude land uses and water uses of regional benefit.	15 C.F.R. §923.12	Part V Chapter 3 and 5



## THE COASTAL MANAGEMENT ACT

<b>CZMA Section</b>	<b>Requirement</b>	<b>CZMA Approval Regulations</b>	<b>Program Document</b>
306(d)(13)	Minnesota's Lake Superior Coastal Program (MLSCP) provides for an inventory and designation of areas that contain one or more coastal resources of national significance and specific and enforceable standard to protect such resources.	No Regulations	Part V Chapter 3, 4, 6
306(d)(14)	Minnesota's Lake Superior Coastal Program (MLSCP) provides for public participation in permitting processes, consistency determinations, and other similar decisions.	No Regulations	Part V Chapter 2, Section C Chapter 6, Section C
306(d)(15)	Minnesota's Lake Superior Coastal Program (MLSCP) ensures that all state agencies will adhere to the program.	No Regulations	Part V Chapter 2, Section B
306(d)(16)	Minnesota's Lake Superior Coastal Program (MLSCP) contains enforceable policies and mechanisms to implement applicable requirements of the §6217(g).	Guidance on Coastal Nonpoint Source Program issued January 1993.	Part VI

## **THE FRAMEWORK FOR NATIONWIDE PROGRAM IMPLEMENTATION**

### **Federal Role**

- Set national policy and advocate program goals
- Review, approve, and evaluate state coastal management programs
- Develop CZMA regulations and legislative proposals
- Review/approve legal changes to federally-approved CZM programs
- Coordinate national interagency policies & activities
- Ensure adequate consideration of national interests
- Provide “federal consistency” technical assistance & mediation services
- Ensure public participation in national CZM activities
- Provide technical assistance and information transfer
- Provide federal funding

### **State, Territorial, and Commonwealth Role**

- Represent state interest in the coast and shape national agenda
- Develop and implement comprehensive coastal management programs
- Prepare state regulations and statutory change proposals for CZM issues
- Update/improve resource management capabilities
- Coordinate state interagency policies and activities
- Provide state funding, and manage federal funds
- Ensure state and federal consistency with state enforceable policies
- Provide technical assistance to local governments
- Ensure public participation
- Advocate program goals

### **Local Role**

- Influence state and national agenda and goals
- Develop and implement delegated authorities, including permitting
- Develop local ordinances and regulations for land and water uses
- Update/improve delegated local coastal authorities
- Coordinate local interagency policies and activities
- Provide local funding
- Represent local interests in the coast
- Provide a forum for citizen participation
- Encourage public education and outreach
- Develop and implement local coastal land and water use plans

From: Sustaining America’s Coastal Communities and Resources, A Strategic Framework for the Coastal Zone Management Program, September 1997

## PART III MINNESOTA'S LAKE SUPERIOR COAST

### A. SETTING

#### 1. Physical Environment

##### a. Area Geography

Lake Superior is the largest of the Great Lakes and has the greatest surface area of any freshwater lake in the world. It contains almost 3,000 cubic miles of water, an amount that could fill all the other Great Lakes plus three additional Lake Eries. This is about 10 percent of the world's fresh water. With an average depth approaching 500 feet, Lake Superior also is the coldest and deepest (1,332 feet) of the Laurentian Great Lakes. The lake stretches approximately 350 miles from the west to east, and 160 miles north to south, with a shoreline almost 2,800 miles long. The drainage basin, totaling 49,300 square miles, 89 percent of which is forested, encompasses parts of Michigan, Minnesota, Wisconsin, and Ontario (Lydecker 1976).

Figure 1. The Great Lakes and adjacent states and provinces.



Minnesota's lowest (602 feet above sea level) and highest (2,301 feet) elevations are found in the Lake Superior watershed. Within the immediate vicinity of the lake, elevations vary from 602 feet above sea level at Lake Superior to 1,770 feet near Grand Marais. A pattern emerges in elevation

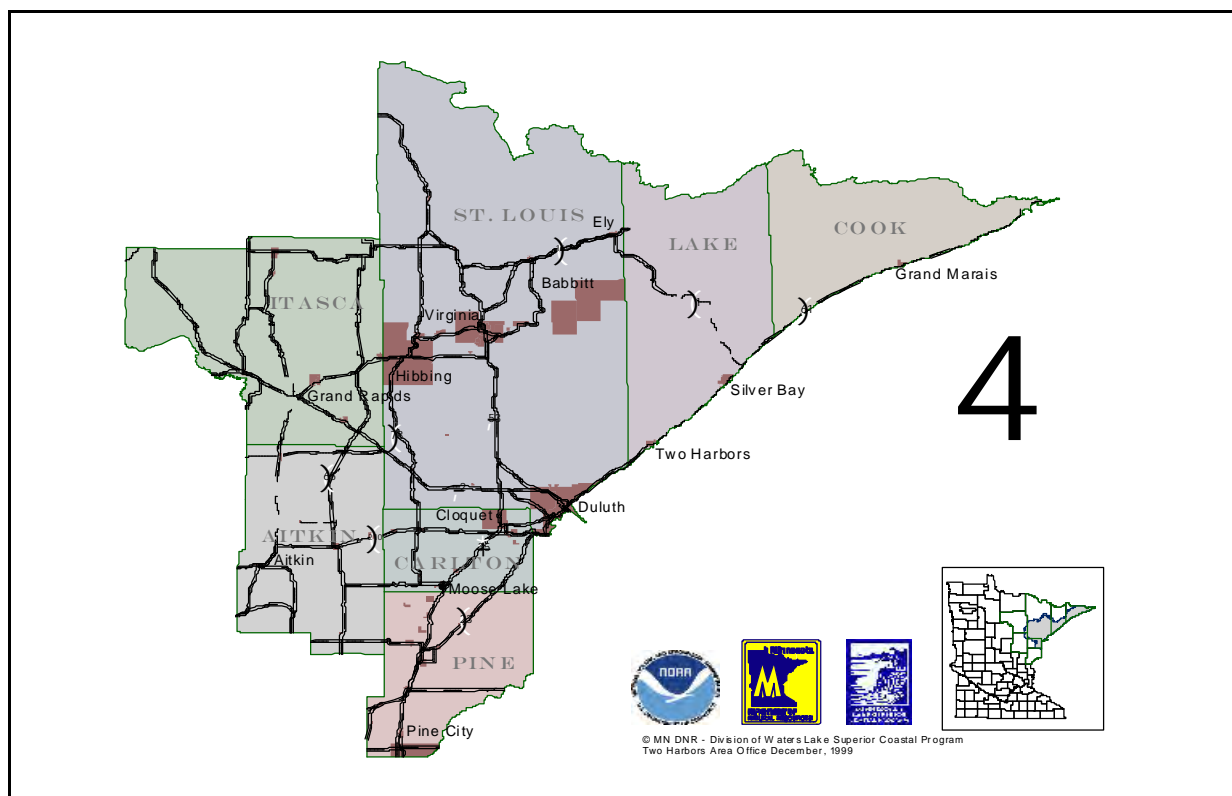
### PART III

as one goes north along the shoreline. St. Louis County has, at most, an 800-foot change in elevation adjacent to the lake, while Cook County has more than a 1,100 foot change in elevation (Lydecker 1976).

Within the coastal area are 12 cities, 15 state parks, a national monument, portions of a national forest, two Indian reservations and an international seaport. Numerous unincorporated settlements are scattered through the area, most of them hugging the coast. The Minnesota coastal area is divided into four political units: St. Louis, Carlton, Lake and Cook Counties. St. Louis County comprises 80 percent of the population of the four county area, while Carlton County has 12 percent of the population. Cook and Lake Counties comprise 2 and 5 percent respectively. Just under 70 percent of the coastal area's inhabitants live in Duluth.

St. Louis, one of the largest counties in the nation, touches the Lake Superior coast in a small area comprising the city of Duluth and to the east, Lakewood and Duluth Townships. Of the 206 miles of coastline, 32 are within the city of Duluth. The southern portions of both Lake and Cook Counties border on Lake Superior. Southwest of Lake Superior is Carlton County. The St. Louis River (the largest tributary to Lake Superior in Minnesota and the United States) flows through the northeast corner of Carlton County.

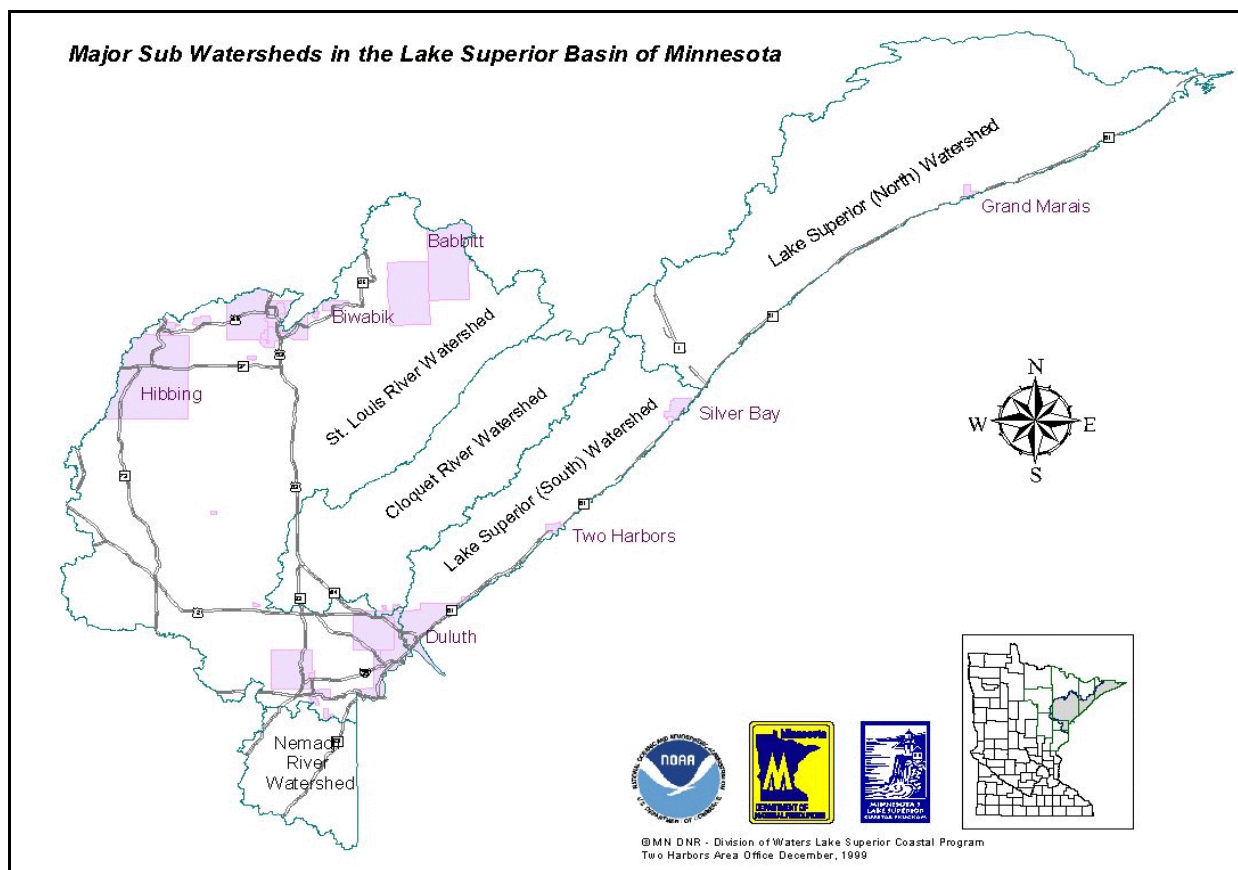
Figure 2. Minnesota's Arrowhead Region.



Minnesota is known for its wealth of lakes, but the gem may be the North Shore of Lake Superior. The North Shore is located in northeastern Minnesota, representing approximately 206 miles of shoreline extending from the St. Louis River on the south to the Pigeon River on the United States/Canadian Border. Minnesota's portion of Lake Superior is flanked by Cook, Lake, and St. Louis Counties.

The North Shore has a significant amount of scenically attractive relief, even when compared to the rest of Minnesota's Arrowhead Region. Very rugged relief occupies 5 percent of the watershed sub-basin and is concentrated along the shoreline of Cook County. Rugged areas are mainly in the northern portion of the watershed with an extension along the west border of Lake County down to the shore near Silver Bay. Rolling relief is concentrated primarily in St. Louis County along the shore, while flat and other classes are scattered throughout the watershed sub-basin. Relief in Carlton County varies from 50 feet in the south, to 550 feet in the northeastern part of the county.

Figure 3. Subwatersheds of Minnesota's Lake Superior basin.



Minnesota Point, also called Park Point, is a six-mile bay mouth sand bar that averages two to three blocks wide. Formed by wave action of Lake Superior and from silt and sand deposits of the St. Louis and Nemadji Rivers, this strip of land protects the Duluth-Superior Harbor from the strong northeast winds which blow across Lake Superior.

**b. Climate**

The Lake Superior region in Minnesota has a continental climate regime characterized by wide variations in temperature. Temperatures can range from more than 100 degrees in the summer to 50 degrees below zero in the winter. The climate of the areas located along the North Shore, are greatly influenced by Lake Superior. The moderating effect of the lake results in cooler summer and warmer winter temperatures. The winter warming effect lessens if the western portion of Lake Superior freezes over (St. Louis County 1991).

Average annual precipitation varies from 26 inches inland, to 28 inches along the North Shore. Though spring and fall precipitation patterns follow the rest of Minnesota, summer and winter precipitation differs as it is influenced by Lake Superior. Before the western part of Lake Superior freezes, snowfall increases near the lake. This is due to southerly and easterly winds absorbing large amounts of moisture as they cross over the open lake. When the moister air reaches land it is cooled and condenses as snow. An area of heavy snowfall generally occurs five to seven miles inland from Lake Superior. In the summer, land quickly becomes warmer than the water in Lake Superior. Air passing over the lake is ordinarily cooled and stabilized, occasionally to the point of condensation. For this reason fog is not an uncommon feature on the lake and nearby shoreline during the summer. The least amount of rain is found in the very northeast part of the state, an effect of Lake Superior and prevailing winds.

Normal summer precipitation (June, July, August) averages 10 inches. Precipitation during the growing season (May - September) averages 15-17 inches inland. Average annual runoff is between 12 and 15 inches.

The median snowfall is 70 inches. The number of days when the snow cover is greater than 12 inches varies from 65 days along Lake Superior to 100 days inland. The average date of the last frost in the spring is May 22 with the first frost occurring September 21.

**c. Geology**

The Lake Superior region has been affected by several major periods of volcanism, mountain-building, deformation, erosion and sedimentation throughout geologic time. Billions of years ago, intense deformation metamorphosed many of the volcanic and sedimentary rocks producing a mountainous landscape. However, by about 1.2 billion years ago, erosion had reduced the area to a low, rolling plain.

The Midcontinent Rift System is a feature that extends from the east end of Lake Superior to Duluth, then south along the Minnesota-Wisconsin border to Iowa and on into Kansas. Rifting occurred around 1.1 billion years ago as a result of the North American continent splitting apart. As the earth's crust thinned, a depression formed and fractures allowed magma to work its way to the surface to be erupted as lava flows. The lava flows are well exposed along the North Shore of Lake Superior, and their well-preserved flow features are much the same as those in modern

day volcanic rocks such as those found in Iceland and Hawaii. The Lake Superior agate, for which Minnesota is famous, originally formed as fillings in the vesicles of these volcanic basalts. The last major volcanic sequence can now be seen as the "backbone" of Isle Royale and of Keweenaw Point, far across the lake in Michigan. The rift continued to sink for a while, however, and streams washed sand, pebbles, and mud into the slowly subsiding basin. Finally, over a period of 100 million years, the crust stabilized, and the buried sediments gradually hardened into rock (Lydecker 1976).

Within the past two million years (most recently about 14,000 years ago) the Great Ice Age brought new forces shaping the landscape. Great continental glaciers, up to one or two miles thick, built up and flowed from Canada. The ice streams eroded the underlying rock, some of which had become deeply weathered. The Superior Lobe (moving southwestward) carried debris (including volcanic rocks, agates, and sandstone) from the North Shore area as far as the Twin Cities, the Minnesota River and even to Iowa. The ice eroded the sedimentary rock in the middle of the old Midcontinental Rift System relatively easily, and it excavated what was to be the Lake Superior basin well below sea level. As the glacier receded about 11,000 years ago, it uncovered this scoured out depression which filled with water. Currently, the principal geologic processes occurring in this area are:

1. Slow weathering of the surface rocks and soils.
2. Stream erosion of surface materials (mainly glacial and glacial-lake deposits, which carry the sediments downstream and into Lake Superior).
3. Erosion, transportation, deposition by wave activity of rocks and surface materials, and the building and maintaining of sand beaches. Resuspension of fine offshore sediment is also common during large storms with high waves.
4. Hydrogeological processes involving precipitation, runoff in streams, and infiltration in the subsurface as ground water. This water eventually moves downhill toward Lake Superior.

Geologic processes are constantly reworking Lake Superior and its shore. While the processes generally act very slowly to yield almost imperceivable changes, the combination of beach and bluff erosion associated with rising water levels of Lake Superior have, and will continue to cause, considerable changes along the shoreline of Lake Superior.

#### **d. Soils**

The soils within the Lake Superior watershed formed as a result of the weathering of unconsolidated materials derived from very deep to shallow glacial and organic deposits. This material has been subjected to climate and organisms as conditioned by relief over the last 14,000 years.

The relative proportions of soil types vary dramatically within the Lake Superior watershed mostly due to the depth to bedrock, slope gradient, geologic parent material and landscape

position. The following narrative is based on major soil groupings within the subwatersheds.

The major soils within the St. Louis River watershed are very deep, nearly level to sloping, on loamy glacial till moraines and nearly level silty glacial lake plains and nearly level muck and peat in bogs. They are well and moderately well drained on summits and sideslopes, somewhat poorly and poorly drained on flat areas and very poorly drained in depressions and bogs. Natural fertility is moderately high to high. The potential for surface erosion on steeper areas is high. Minor soils are on sandy glacial outwash plains.

The major soils within the Cloquet River watershed are very deep, nearly level to sloping, on sandy glacial outwash plains. They are somewhat excessively to moderately well drained on summits and sideslopes, somewhat poorly drained on flat areas and poorly or very poorly drained in depressions. Natural fertility is low to moderate. The potential for surface erosion on steeper areas is moderately high. Minor soils are on dense-loamy glacial till moraines and drumlins on the borders of the outwash plains. Other minor soils are muck and peat in bogs.

The major soils within the Lake Superior (south) and (north) watersheds above 1,000 feet elevation, are very deep to shallow over bedrock, nearly level to extremely steep, on gravelly-loamy glacial till moraines. They are well to moderately well drained on summits and sideslopes, somewhat poorly and poorly drained on flat areas and poorly or very poorly drained in depressions. Natural fertility is low to moderately high. The potential for surface erosion on steeper areas is high. Below 1,000 feet elevation, the major soils are very deep to shallow over bedrock, nearly level to steep, on clayey glacial till moraines. They are well to moderately well drained on summits and sideslopes, somewhat poorly and poorly drained on flat areas and poorly or very poorly drained in depressions. Natural fertility is high. The potential for surface erosion and soil slumping on steeper areas is high. Minor soils are on sandy glacial outwash terraces adjacent to major streams. Other minor soils are mucks and peat in bogs.

### **e. Physical Shoreline**

The Duluth-Superior Harbor, protected by Minnesota Point, a six mile long bay mouth sand bar, covers 19 square miles of land and water that includes 17 miles of dredged channels, most with a depth of 27 feet. The Duluth-Superior Harbor receives more than 1,000 visits by lake carriers and oceangoing ships, which load or deliver some 35 million tons of bulk and packaged general cargoes annually.

Lester River is the first major stream entering Lake Superior at the eastern limits of Duluth. Nearly all agriculturally suitable land in the coastal area, with the exception of Carlton County, is between Duluth and Two Harbors. Along this twenty-five mile stretch, the land rises gently northwestward in a ten-mile wide swath composed of woods, a few lakes and little development other than rural homes and small farms.

State Highway 61 becomes a four-lane expressway between Duluth and Two Harbors, while the old Route 61 provides a scenic drive along the shore. Most of the development here is confined to private residences or tourist accommodations. At French River, the Minnesota Department of



Natural Resources operates a modern fish hatchery for sport and commercial species. Six miles beyond, at Knife River, is a modern marina which can accommodate nearly 100 boats. The Knife River is one of the North Shore's most popular trout streams.

Two Harbors, population 3,650, is primarily an ore shipping and railroad center with an excellent natural harbor, Agate Bay. To the east is the second harbor, Burlington Bay, which is not commercially developed. Two Harbors is the terminus of a mining railroad from the Iron Range and of a rail spur to Duluth. The city also has several small manufacturing plants.

East of Two Harbors, the coastal highway mounts the cliffs and tunnels through the bluffs that have made the North Shore such a popular tourist attraction. The bluffs found at Silver Creek Cliff, Split Rock, Beaver Bay, Palisade Head, and Shovel Point are composed of very hard volcanic and intrusive rock that resisted the erosion that cut down surrounding formations. Between these headlands the North Shore rivers have cut their way through the softer rock on their brief but tumultuous journeys from the upland to Lake Superior. The gorges of most of these streams cut through still more volcanic flows of varying hardness accounting for the spectacular waterfalls found along the shore on such rivers as the Gooseberry, Baptism, Manitou, Brule, and Cascade.

Gooseberry Falls State Park is one of nine state parks located in the coastal boundary. Atop a high bluff several miles to the east is Split Rock Lighthouse. Built in 1909, it is no longer used for navigation and is now a popular state park and historic site. Beyond Split Rock is Beaver Bay, the oldest town on the shore.

In sharp contrast to Beaver Bay is Silver Bay, a planned community built during the 1950s to provide housing when Reserve Mining Company began its taconite operations there. Reserve Mining Company closed in 1986. Cyprus Northshore reopened operations in 1990. After the company was acquired by Cleveland-Cliffs, the facility was renamed Northshore Mining Company in 1994. The economy of southern Lake County centers on the mining firm that mines the ore 45 miles northwest in Babbitt.

At Silver Bay and eastward to Taconite Harbor, the Lake Superior watershed widens. Beyond Shovel Point the extremely rugged character of the shore ends for quite a distance. Here the underlying lava flows were more easily eroded resulting in a plain sloping up to the highland ridge.

About two miles east of Taconite Harbor the Superior National Forest begins, and comprises the entire coastal area for 40 miles. Within the national forest are the coastal towns of Schroeder, Tofte and Lutsen. Originally commercial fishing and logging settlements, they now depend largely upon tourism.

The generally-level slope of the coast breaks at Tofte, where Carlton Peak, an outcropping of very hard rock called anorthosite, stands more than 900 feet above lake level. Beyond Tofte the coast levels out again until it rises over the basalt cliff several miles southwest of Grand Marais.

This lava flow overlies the largest of the occasional sandstone deposits found between lava flows on the North Shore.

Closely paralleling the coast in this area, the North Shore ridge becomes a jagged range called the Sawtooth Mountains. Three state parks are spread along this section of the coast. Grand Marais, the only city in Cook County, was founded as a trading post and commercial fishing center. It now hosts tourist and logging industries. The city has a population of 1,200 and is the foot of the Gunflint Trail which runs northwestward into the Boundary Waters Canoe Area. Grand Marais owes its excellent harbor to the existence of a volcanic flow of diabase rock.

The Cook County section of the coastal watershed is by far the largest along the North Shore, stretching more than 20 miles inland in some areas. The shoreland is fairly level east of Grand Marais, sloping up away from the lake to the north. However, at Hovland, the ridge formed by the eastern end of the Duluth Gabbro Complex cuts back, down to the shore.

Beyond Hovland, the shore is relatively level again until the vicinity of Grand Portage Indian Reservation. Here, dramatic results of unequal erosion and glacial action are evident in some of the shore's most spectacular scenery. Intrusive rock formations come down to the lake shore as mountains, ridges and points. These rock masses trend generally northeastward but one particularly large formation runs at almost a right angle to the ridge, jutting out into Lake Superior. This forms 700-foot Mt. Josephine and tapers down to Hat Point, dividing Grand Portage and Wausaugoning Bays.

Grand Portage Bay is the result of erosion of a relatively soft shale and sandstone formation. From the head of the bay the historic Grand Portage Trail ascends the North Shore ridge. It is nine rugged miles to the Pigeon River and the site of Fort Charlotte, the upper staging area of the 17th and 18th century fur traders.

The U.S. National Park Service operates the Grand Portage National Monument, a replica fur company stockade. This restoration provides direct employment plus a craft outlet for the American Indians on the 45,000 acre reservation. From May to October passenger ferry service is operated from Grand Portage to Isle Royale National Park in Michigan, 18 miles offshore. This extremely rugged and scenic wilderness island is noted as a natural laboratory of the indigenous wolf packs and moose herd. Beyond Grand Portage is the Pigeon River and the international border. From the border it is 40 miles to the port city of Thunder Bay, Ontario. Thus, the North Shore highway serves not only local and tourist traffic but provides the only land route between two major commercial centers: the Twin Ports and the Canadian Lakehead.

### **f. Forestry**

The forest cover in Minnesota, while contributing to the character of the area, also has a great impact on the economy and the environment. The timber is used for providing structure to various natural ecosystems. It is also used for lumber, pulp and as a scenic resource that adds to the recreational attraction of the area. Approximately 79 percent of the forest land in these counties is classified as timberland. Nearly two-thirds (2.9 million acres) of the timberland is publicly owned.

Of the 1.6 million acres that is privately owned, about 260 thousand is held by the forest industry, the remainder of private ownership is held by American Indians tribes, farmers who own timberland, and other individuals.

Northeastern Minnesota is the most heavily forested region of the state. Cook, Lake, St. Louis and Carlton Counties contain 6.7 million acres of land of which 5.6 million acres, or 84 percent, are forested. This area originally comprised many coniferous stands of eastern white pine, jack pine, red pine, white spruce, black spruce, northern white cedar, tamarack, and balsam fir. Disturbances from logging activities and fire have altered the composition of the forest, producing forests dominated by hardwoods and aspen. While 37 percent of Minnesota's total land area is forested, the Lake Superior watershed is 95 percent forested. The land adjacent to Lake Superior has a forest mix of aspen-birch, spruce-fir, maple-yellow birch, and white-red-jack pine. The aspen-birch extends the entire length of the North Shore. Spruce-fir forests are concentrated in Cook County, and maple-yellow birches are concentrated in Lake County. The intermixing of the yellow aspens with the bright red maples and green conifers enhances the recreational attraction of the North Shore in the fall (Minnesota DNR 1997).

#### **g. Wetlands**

In the Lake Superior watershed, greater than 90 percent of the presettlement wetlands remain. Wetland management in Minnesota, including the coastal area, strives to achieve a "no net loss" of wetland values. The preservation of wetlands is necessary to preserve the multitude of public benefits they provide: floodwater and storm water retention, including reducing the potential for flooding in the watershed; water quality benefits, including filtering of pollutants out of surface water and ground water, using nutrients that would otherwise pollute public waters, trapping sediments, protecting shoreline, and recharging ground water supplies; public recreation and education benefits, including hunting and fishing areas, wildlife viewing areas, and nature areas; commercial benefits, including wild rice and cranberry growing areas and aquaculture areas; fish and wildlife habitat; low-flow augmentation benefits during times of drought; and other public uses. Because of the large amount of wetland losses statewide, Minnesota has placed a high priority on the need to preserve, restore, and enhance wetlands. Wetland protection at the state level is accomplished primarily through the Wetland Conservation Act. Approximately 90 percent of the total wetland acreage in the coastal area is affected under the auspices of the act (Minnesota DNR 1997).

The St. Louis River, Cloquet River, Nemadji River, and the various North Shore river watersheds are rich in wetlands and water bodies. Table 1 summarizes the information on wetland and lake coverage using the National Wetland Inventory.

Table 1. Wetland Coverage in Lake Superior's Major Minnesota Watersheds.

Coverage (acres)	North Shore	St. Louis	Cloquet	Nemadji	Total
Wetlands	256,752	752,035	170,346	41,653	1,220,786
Deepwater habitat	61,499	34,350	22,682	1,451	119,982
Total watershed	1,424,091	1,825,257	507,844	177,767	3,934,959
Percent wetlands	18%	41.2%	33.5%	23.4%	31%
Percent lake area	4.3%	1.9%	4.5%	0.8%	3%

## h. Water Quality

Minnesota's wealth of high quality surface and ground water offer immense benefits to the state's overall economy. The state boasts some 25,000 miles of fishable streams, 15,000 lakes (more than 10 acres in size), 10 million acres of wetlands, and vast quantities of ground water that support a multitude of uses, including shipping, recreation, industry, domestic water supply, irrigation, and hydropower generation. As abundant as these waters may seem, they are not evenly distributed throughout the state, therefore competition for available supplies can impact both the quantity and quality of available water.

By virtue of the geologic makeup of the coastal area, sewage disposal is a very real problem and a threat to water quality. Because of the impermeability of the predominantly clay soils, and in some cases, the lack of soils, the typical residential septic system is regarded as unsuitable for the majority of installations.

In 1979 the Western Lake Superior Sanitary District (WLSSD) began operations of treating 43 million gallons of wastewater per day. The plan was the first total-concept facility in the nation. The processing facility currently converts solid waste to refuse-derived fuel to incinerate sewage sludge, thereby conserving energy and fossil fuel resources. This \$125 million advanced co-disposal system serves a 500 square mile area, encompassing Carlton and southern St. Louis Counties. Future plans for WLSSD include converting from incineration to a system of land application of bio-solids.

Water quality investigations of many northeastern Minnesota lakes have revealed the presence of heavy metal and chemical contamination. The levels of such contaminants as mercury, copper, lead, DDT, and PCBs (polychlorinated biphenyls) in Lake Superior appear to be the lowest in the Great Lakes. In an attempt to ensure the health of Minnesota anglers the Department of Natural Resources and the Minnesota Pollution Control Agency collaborate annually to test the water quality of lakes in Minnesota (MPCA 1997). The Minnesota Department of Health then publishes the Minnesota Fish Consumption Advisory booklet to illustrate guidelines for how often fish can be eaten safely. The advisory is not intended to discourage anglers from eating fish, but is used as

a guideline for choosing fish which are low in contaminants. There are fish consumption advisories for Lake Superior, the St. Louis River, and about 145 lakes in the drainage basin.

In 1991 various governments, including the State of Minnesota, accepted "zero discharge" into Lake Superior, under the Lake Superior Binational Program. This concept was designated to achieve zero discharge and zero emission of certain designated persistent, bioaccumulative toxic substances which may degrade the ecosystem of the Lake Superior basin. These toxic substances have long-term health implications making it important to work toward zero discharge from every source.

The Duluth-Superior Harbor and the lower St. Louis River have a history of water quality problems resulting primarily from municipal and industrial discharges. The lower St. Louis River, including the Duluth-Superior Harbor, has been classified by the International Joint Commission as an Area of Concern owing to impaired water resources. Water quality has improved markedly in recent years with improved wastewater treatment at and upstream from Duluth (MPCA 1997).

Table 2. Critical Pollutants in Lake Superior (Minnesota Pollution Control Agency).

Management Approach	Chemicals
<b>Virtual Elimination</b>	chlordane DDT and metabolites dieldrin/aldrin dioxin mercury ochtachlorostyrene PCBs toxaphene
<b>Lakewide Remediation</b>	PAHs alpha-BHC cadmium heptachlor/heptachlor epoxide
<b>Local Remediation</b>	metals (including aluminum, arsenic, chromium, copper, iron, lead, manganese, nickel and zinc)

Bottom sediments in the harbor, which consist of silts, sands, and clays, have contaminant concentrations that reflect past conditions in the harbor. Periodic maintenance dredging has removed some of the historic contamination. Analytical results from comprehensive sampling of the federal navigation channels in 1994 and 1995 show that the contaminant character of the channel sediments throughout the harbor is moderate and comparable to background levels in the harbor vicinity. In an effort to characterize the nature of sediment contamination in the lower St. Louis River, the U.S. Environmental Protection Agency and the MPCA have undertaken a series of investigations. These investigations identified a number of sites where sediments are polluted with oil and grease, polynuclear hydrocarbons (PAHs), trace metals, and cyanide. These sites include Slip C and Minnesota Slip in Superior Bay. The sediment studies are summarized reports such as the *Sediment Assessment of Hotspot Areas in the Duluth/Superior Harbors (1997)*.

In Carlton County, the Nemadji River contributes the highest sediment load per drainage area of the tributaries to Lake Superior averaging 131,000 tons per year.

### **i. Fish and Wildlife Habitat**

**Fisheries:** The Lake Superior fish community has undergone dramatic changes since the mid-1900s due to over-fishing, introduction of nonnative species, pollution and land use changes in the watershed. Before 1950, the community was a relatively simple one with lake trout, siscowet, lake whitefish, brook trout, lake sturgeon and walleye as the top native predators. Rainbow trout was intentionally introduced in the late 1800's and quickly established self-reproducing populations throughout the lake. The major species of prey fish were lake herring, chubs and sculpins.

Since the 1950s, the Lake Superior fish community has become much more complex, and is now composed of both native and nonnative species. Introductions of nonnative species were both intentional and unintentional. Introduced game fish species include chinook salmon, coho salmon, pink salmon, Atlantic salmon, brown trout, and a variety of rainbow trout strains. The introduced nonnative rainbow smelt population increased dramatically in importance for commercial use and as a prey species by most game fish. Populations have since fallen in Lake Superior and are less important today commercially or as a forage species. The most devastating introduction to the Lake Superior community has been the sea lamprey, which virtually eliminated the lake trout in all but a few isolated areas of Lake Superior. More recently there has been a flurry of unwanted introductions from Europe that include ruffe, zebra mussel, and the spiny water flea. Since the 1960s, rehabilitation efforts, including sea lamprey control, harvest regulations and stocking programs, along with stricter pollution standards and best management practices for land use have led to partial restoration of healthy fish stocks.

**Wildlife:** The ecology of this area, while heavily forested, has been vastly altered due to logging and forest fires during presettlement. Present logging will keep a great deal of the forest in a early successional phase and there is a concern for animal species that require large blocks of older forests. Habitat loss or alteration and changes in biological communities are important factors threatening the survival of threatened and endangered species. A significant portion of the Lake Superior Watershed is habitat for the following federally listed threatened species: gray wolf, bald eagle, and the endangered peregrine falcon. Other large mammals species include white-tailed deer, black bear and moose. The main furbearers are bobcat, coyote, red fox, fisher, pine marten, beaver, otter, mink, muskrat, and raccoon. Small mammals of the forest include porcupine, snowshoe hare, striped skunk, red squirrel, chipmunk and several kinds of mice, shrews and bats. Common birds of this forest include: ruffed grouse, spruce grouse, woodcock, common raven, American crow, several species of hawks and owls and many species of songbirds, common loon, red-winged blackbird, mallard, blue-winged teal, and wood duck. Reptiles and amphibians found in the coastal area include many frogs and salamanders that breed in the wetlands. The blue spotted salamander, red-backed salamander, spring peeper, green frog, leopard frog, chorus frog, wood frog, common garter snake, snapping turtle, red bellied snake and painted turtle may be found in the coastal watershed.

No discussion of the environmental quality of Lake Superior would be complete without considering the impact of zebra mussels and other exotic species.

#### **j. Aquatic Nuisance Species**

**Zebra mussels** are small, fingernail-sized mollusks native to the Caspian Sea region of Asia. They were discovered in Lake St. Clair near Detroit in 1988. Tolerant of a wide range of environmental conditions, zebra mussels have now spread to parts of all the Great Lakes and the Mississippi River and are also showing up in inland lakes. Zebra mussels clog water intake systems of power plants and water treatment facilities, and the cooling systems of boat engines. They have severely reduced, and may eliminate native mussel species. Zebra mussels are believed to have entered the lower Great Lakes basin in 1986 through the discharge of ship ballast water.

The **Ruffe**, a native of the perch family, is also an invader species. The Ruffe is a small but aggressive fish species native to Eurasia. It was also introduced into Lake Superior in the mid-1980s in the ballast water of an ocean-going vessel. Because the Ruffe grows very fast, has a high reproductive capacity, and adapts to a wide variety of environments, it is considered a serious threat to commercial and sport fishing. It also has the potential to seriously disrupt the delicate predator/prey balance vital to sustaining a healthy fishery.

The **Spiny Tailed Bythotrephes** is an invertebrate that will also pose a threat to the ecosystem of the Great Lakes. A native of Great Britain and northern Europe east to the Caspian Sea, the animal was first found in Lake Huron in 1984, likely from ballast water of an ocean-going vessel. The water flea is a predator on other macro invertebrates and can produce up to 10 offspring every two weeks. It competes directly with young perch and other small fish for food.

The **Sea Lamprey** is an aggressive parasite equipped with a tooth-filled mouth that flares at the end of its eel-like body. The lamprey is an ocean fish that has adapted to the Great Lakes and spawns in fresh water streams. It poses a threat mostly to lake trout and salmon by attaching itself to their bodies.

**Purple Loosestrife** is a wetland plant from Europe and Asia. It was introduced on the east coast of North America in the 1800s. First spreading along roads, canals and drainage ditches, then later, it was distributed as an ornamental. This plant is in 40 states and all of the Canadian border provinces. The plant can form dense, impenetrable stands that are unsuitable as cover, food, or nesting sites for a wide range of native wetland animals including ducks, geese, rails, bitterns, muskrats, frogs, toads and turtles. One plant can disperse 2 million seeds annually.

#### **k. Land Use**

Major industrial and manufacturing uses of the coastal area occur primarily in the Duluth-Superior metropolitan area, Wrenshall, Two Harbors, Silver Bay, Taconite Harbor, and along the St. Louis River in Cloquet. Other minor industrial activities occur in scattered locations throughout the coastal area and include sawmills and logging operations, salvage yards, gravel pits, and equipment storage areas.

Commercial development in the coastal area is confined mainly to the Highway 61 corridor. Most commercial development that is located in the rural area is highway-orientated, service/commercial uses that cater to the traveling public and resort industry. More conventional types of commercial activity are found in the major urban communities, particularly Duluth and to a lesser degree, Cloquet, Two Harbors, Silver Bay, and Grand Marais. Such uses consist of department stores, food outlets, offices, etc.

The majority of the North Shore residents reside within the corporate boundaries of existing communities, however, there is scattered residential development in a narrow band immediately adjacent to the shore and Highway 61. The development outside municipal boundaries has required numerous points of access to Highway 61 be constructed, thus decreasing the carrying capacity and safety of the roadway. In addition, this residential development is almost impossible to serve with public sewer and water because of its linear development and the rocky nature of the substratum in the area.

Land use in Carlton County consists mainly of agricultural and forestry activities. Table 5 shows agriculture data from all counties in the Lake Superior watershed.

### **l. Minerals**

The mineral resources of the coastal counties include iron ore, copper, nickel, other base metals, platinum group elements, clay, peat, sand, and gravel. The most important mineral is iron ore which provided the original basis for the area's growth and has been a mainstay of the economy since the late nineteenth century. As a result of a variety of economic reasons, the mining industry has switched to the concentration of lower grade taconite ore. Estimates of the untapped deposits of the ore resources accessible by open pit mining run as high as 27 billion tons, excluding potential for underground mining.

The major potential for an expanded mineral extractive industry exists in the Duluth Gabbro Complex, which lies north of Duluth. The U.S. Bureau of Mines considers the Duluth Gabbro Complex, which contains copper and nickel, and platinum group elements, as the largest known nickel sulfide resource in the country (Minnesota DNR 1997).

### **m. Submerged Lands**

The State of Minnesota owns all submerged lands in the Minnesota portion of Lake Superior including the Minnesota portion of the Duluth-Superior Harbor below the ordinary low water mark. The state owns beds of navigable water beyond the low water mark in trust for people for public uses.



## 2. Socioeconomic Characteristics

### a. Demographics

One reason that the water quality in the Lake Superior basin, and in the coastal area, is good overall is that the area is not densely populated. Population is clustered in three areas.

- , The lower St. Louis River area, which is the Area of Concern described by the St. Louis River System Remedial Action Plan, includes the cities of Cloquet and Duluth, as well as a number of smaller communities in St. Louis and Carlton Counties.
- , The Iron Range in St. Louis County is another population center, although some Range communities straddle the watershed divides between Lake Superior, the Rainy River and the Mississippi River.
- , Although the North Shore of Lake Superior has long stretches of undeveloped shoreline, there are a number of small communities and some cities near the shore. Most of the population of Lake and Cook Counties live along the North Shore.

### b. Population

In the 1980s, St. Louis County went through a downturn in the taconite and shipping industries that led to a decrease in population and jobs (McMurry et al., 1993). Lake County experienced a similar downturn. More recently, however, the population in Carlton, Cook, and Lake Counties has increased, particularly in Cook County, which has the sixth highest growth rate in Minnesota (Skog and Lincoln, 1997). Table 3 shows the difference between the 1990 census figures and the 1996 population estimates. The increases are due to a solid economy and the job market, but tourism, lower crime rates and wilderness appeal are also part of the reason for the upswing.

Table 3. Change in Population in the Lake Superior Basin Counties, 1990-1996.

County	1990 Census	1996 Estimate	Percent change 1990-1996
<b>Carlton</b>	29,259	30,426	4.0%
<b>Cook</b>	3,868	4,688	24.2%
<b>Lake</b>	10,415	10,707	2.8%
<b>St. Louis</b>	198,213	196,414	-0.9%

### c. Commerce and Industry

Job growth between 1988 and 1993 (illustrated in Table 4) shows an increase in the four major counties. Casinos in Carlton and Cook Counties have contributed to job growth in those counties and job growth in Lake County is linked to the partial recovery of the taconite industry. Another factor in job growth in Cook County is the popularity of the region with retirees and tourists.

During a peak tourist season, this county can expect an average of 15,000 visitors per day (Buchta 1995). Within the next 10 years, more than 3,400 jobs in the taconite industry are expected to open up as the work force approaches retirement (Bloomquist 1997). In addition, Iron Range cities are expanding their economic base to include a variety of other employers. In the last 20 years, employment in the Iron Range taconite mines has been reduced from 13,500 to 6,000, while overall employment has increased from 113,000 to 127,500 (Phillips 1997).

Table 4. Job Growth in Lake Superior Basin Counties, 1988-1993.

County	1988	1993	Percent change 1990-2020
Carlton	12,833	14,913	16.2%
Cook	2,281	3071	34.6%
Lake	4,095	5,303	29.5%
St. Louis	96,154	105,167	9.4%

Data from McMurry, 1996.

**Mineral Extraction:** The DNR Division of Minerals is responsible for managing more than 12 million acres of state-owned mineral rights, three million acres of peat lands, and surface rights for industrial and construction materials on three million acres of state land.

Minnesota's iron ore and taconite industry has had significant impact on the region and state. Iron ore and taconite pellets are currently shipped from ports in Duluth, Two Harbors (Agate Bay), Silver Bay (Beaver Bay), and Schroeder (Taconite Harbor). Total tonnage is approximately 8 million net tons. Although the iron ore and taconite industry is the major mineral industry in the watershed, there are other nonferrous metallic minerals with potential for development, including the base metals such as copper, nickel, platinum group elements, lead, zinc, gold, chromium, cobalt, and titanium. While no minable deposits have been developed, mining activity contributes millions of dollars each year to Minnesota's economy.

Current iron ore/taconite mining activities in the near coastal area include the unloading/loading facilities at ports in Duluth, Two Harbors, Silver Bay, and Schroeder. Northshore Mining operates a power plant at Silver Bay, and LTV Steel Mining Company owns and operates a 225-megawatt power plant at Schroeder producing power primarily for its own use in its Hoyt Lakes

mining/beneficiating facility. Taconite (crude ore) and/or pellets are shipped by rail from mining operations on the "Iron Range" and loaded on ships with destination points being the steel producing plants in the lower Great Lakes states of Ohio, Indiana, and Pennsylvania (Lydecker 1976).

**Agriculture:** Only a small portion of the land in the four major Lake Superior basin counties is occupied by farms. Table 5 illustrates the amount of land used in different farming practices. Carlton County, with 26.9 percent of its area occupied by agricultural lands, is obviously more agriculturally orientated than Cook, Lake, and St. Louis, where the percent of agricultural land ranges from 0.2 to 4.9 percent. St. Louis County, however, has more total agricultural land area, due to the large size of the county. Table 6 summarizes some additional data from the agricultural census.

Despite its smaller size, Carlton County is similar in the number of farms and size of farms to St. Louis County (Lake County Soil and Water 1997).

Table 5. Agricultural Land Areas in Lake Superior Basin Counties, 1992.

Coverage (acres)	Carlton	Cook	Lake	St. Louis	Total
<b>Total Area</b>	552,800	903,800	1,313,700	3,919,900	6,690,200
<b>Total Cropland</b>	61,392	715	1,530	80,397	144,034
<b>Pastureland</b>	14,453	181	432	16,523	31,589
<b>Total Agricultural Land</b>	148,976	1,591	6,573	193,526	350,666
<b>% Agricultural Land</b>	26.9%	0.2%	0.5%	4.9%	5.2%

Table 6. Summary of Agricultural Data From the Lake Superior Basin, 1992.

Item	Carlton	Cook	Lake	St. Louis
<b>Number of Farms</b>	509	7	35	677
<b>Average Size</b>	223	178	150	226
<b>Market Value of Agricultural Goods Sold</b>	\$9.4M	\$44,000	\$114,000	\$13.3M

**d. Recreation and Tourism**

The coastal area of Duluth and the North Shore are key to Minnesota's tourism and recreation industry and contribute \$110 million in revenue and provide more than 11,200 jobs to the area (Kreag and Moe 1995). The combination of significant areas of diverse, undeveloped wilderness, much of which is publicly accessible, and moderate climate, is attractive to residents and visitors alike. Opportunities and facilities, both public and private, abound and provide for a multitude of styles to enjoy the area's resources. Many of the state's programs that provide for the development, use and conservation of natural and cultural resources of the coastal area are described in Part V, Chapter 4. Coastal resources are, however, protected, interpreted, accessed, and developed through a number of programs managed by federal, state and local agencies, private individuals and organizations. Following, are natural and cultural resources of statewide or nationwide significance in the coastal area.

***State Parks and State Wayside Parks:*** Preserving natural and cultural resources for present and future generations, yet providing access and recreational opportunities; nine state parks and six state wayside parks are located within the coastal area. They include:

State Parks

C Cascade River  
C George Crosby Manitou  
C Gooseberry Falls  
C Grand Portage  
C Jay Cooke  
C Judge C. R. Magney  
C Split Rock Lighthouse  
C Temperance River  
C Tettegouche

State Wayside Parks

C Caribou Falls  
C Cross River  
C Devil Track  
C Flood Bay  
C Kadunce  
C Ray Berglund

***National Forests - Superior National Forest***

The Superior National Forest was designated in 1909 by proclamation (848) by Theodore Roosevelt. Spanning 150 miles of the United States/Canadian border from Grand Portage to Rainy Lake, the Superior National Forest contains some of the most beautiful land in the Great Lakes region. Dotted with hundreds of lakes surrounded by majestic forest, the area is a magnet for campers, canoeists, hunters, backpackers, and anglers. To preserve the pristine nature of some of the forest's most attractive areas, the Superior Roadless Primitive Area was established in 1938. It was essentially this area within Superior National Forest that was to become the Boundary Waters Canoe Area (BWCA). The Wilderness Act of 1964 designated the BWCA as a unit of the National Wilderness Preservation System and recognized the unique history and character and provided for special management considerations. The BWCA Wilderness Act of 1978 added the "W" and created the BWCAW. The BWCAW is not within the boundary of Minnesota's Lake Superior Coastal Program, therefore, the program will not affect the current BWCAW management, except in the case of federal activities that may have indirect impacts on the coastal area (See Chapter 6, Federal Coordination and the National Interest).

The Forest Service is committed to multiple use management approach balancing forest resources and recreational use of the forest. The Superior National Forest also provides about 2.4 million recreation visitor days on its lands outside the wilderness. The Superior National Forest also plays a major role in maintaining wildlife habitat, hosting about 155 breeding species of birds with many more migrants, 52 species of mammals and 18 species of Herpetofauna. The Superior National Forest annually produces wood for Minnesota's forest-based industries on more than 1.2 million acres available for timber harvesting.

***Regional Trail Systems:*** There are many opportunities for trail use along the North Shore of Lake Superior. Even so, there is growing competition from the multiple users and efforts are coordinated in order to create additional linkages with existing trail systems and provide other uses through the establishment of new systems. Regional trail systems are described in more detail in Part V, Chapter 4.

**Lake Superior Water Trail:** The trail will be created along the Lake Superior shoreline from the St. Louis River in Duluth to the border with Canada and primarily developed for sea kayakers, using existing public lands for designated rest areas. The trail, when completed, will be part of the Lake Superior Water Trail encircling all of Lake Superior.

**North Shore State Trail (NSST):** The NSST is used primarily by snowmobilers and hikers, but also by backpackers, horseback riders, hunters, dog sledders, skiers and mountain bikers. The trail extends from Duluth to Grand Marais along the North Shore of Lake Superior, a distance of approximately 235 miles.

**Superior Hiking Trail:** The Superior Hiking Trail, now a national recreation trail, will extend from Duluth to the Canadian border, a trail distance of nearly 300 miles, when complete. The trail is narrow and rugged, and is designed for hiking only.

**Willard Munger State Trail/Carlton-West Duluth Segment:** This 14.5 mile segment of the Willard Munger State Trail runs along a ridge from the town of Carlton, along the border of Jay Cooke State Park, through a forest of aspen, birch, maple and pine, to the west end of Duluth. Near Carlton, it passes over an old railroad bridge across the cascades of the St. Louis River. From its height, the trail provides great views of miles of rolling forest and the Duluth Harbor, with its distinctive aerial lift bridge. Although the trail is relatively level, there is a light (one percent) grade uphill for nine miles from the Duluth end.

**Other Hiking Trails:**

- |                        |  |
|------------------------|--|
| C Border Route Trail   | C Lake Superior Vista Trail                              |
| C Eagle Mountain Trail | C Oberg and Leveaux Mountains National Recreation Trails |
| C Grand Portage Trail  |  |
| C Mount Rose           |  |

**Other Ski Trails:**

- |                                       |                                 |
|---------------------------------------|---------------------------------|
| C Deer Yard Lake                      | C Northwoods Ski Touring Trails |
| C North Shore Mountain Ski Trails     | C Korkki Nordic Ski Trails      |
| C North Shore Mountains Ski Beartrack | C Two Harbors Ski Trail         |

## PART III

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- C Lookout Mountain X/C Ski Trail
- C City of Duluth

- C Pincushion Mountain

### Other Snowmobile Trails:

- |                      |                        |
|----------------------|------------------------|
| C Moose Run          | C Silver Bay (Red Dot) |
| C Lutsen             | C Tomahawk             |
| C Tofte              | C Two Harbors          |
| C Finland (Sawtooth) | C Hermantown           |
| C City of Duluth     |                        |

### Biking Trails:

- C North Shore Touring Trail

***Historical Sites and Structures:*** Minnesota's Lake Superior area is steeped in history, reflecting times past when the Chippewa tribe inhabited the North Shore, when the first white man saw the Lake Superior region, when voyagers capitalized on the European craze for fashionable fur hats, and finally when settlers arrived to make the area their permanent home. History continued to enrich the North Shore area with the emergence of commercial fishing, timber, mining, and a thriving shipping industry on Lake Superior. This history is revealed by the abundance of historic and archaeological sites within the coastal area.

### National Register of Historic Places

Currently, there are 66 sites within the coastal area which are on the National Register of Historic Places. They are:

- |  |  |
|--|--|
| C Aerial Lift Bridge                             | C Duluth South Breakwater Inner Lighthouse                                   |
| C Amboy and George Spencer Shipwrecks            | C Duluth State Normal School Historic District                               |
| C Bally Blacksmith Shop                          | C Duluth Union Depot   |
| C Bridge No. L-6007                              | C Dwan, John, Office Building  |
| C Carlton County Courthouse                      | C Endion School  |
| C Chester Terrace                                | C Fire House No. 1   |
| C Church of St. Francis Xavier (Catholic)        | C Fitger's Brewing Company   |
| C Cloquet City Hall                              | C Gooseberry Falls State Park CCC Structures/Rustic Style Historic Resources |
| C Cloquet-Northern Office Building               | C Grand Portage of the St. Louis River                                       |
| C Congdon, Chester and Clara, Estate (Glensheen) | C Grand National Portage Monument  |
| C Cook County Courthouse                         | C Hartley Building   |
| C DeWitt-Seitz Building                          | C Hesper Shipwreck   |
| C District No. 4 School                          | C Irving School  |
| C Duluth Central High School                     | C Jay Cooke State Park CCC/WPA/Rustic Style Historic District                |
| C Duluth Civic Center Historic District          | C Jay Cooke State Park CCC/WPA/Rustic Style Picnic Grounds                   |
| C Duluth and Iron Range Depot                    |  |
| C Duluth Missabe and Iron Range Depot (Endion)   |  |
| C Duluth Public Library                          |  |

C Jay Cooke State Park CCC/WPA Rustic Style Service Yard	C St. Mark's African Methodist Episcopal Church
C Kitchi Gammi Club	C Samuel P. Ely Shipwreck
C Lake County Courthouse and Sheriff's Residence	C Schroeder Lumber Company Bunkhouse
C Lindholm Oil Company Service Station	C Scott, Jim, Fishhouse
C Madeira Shipwreck	C Shaw Memorial Library
C Mattson, Edward and Lisa, House and Fish House	C Split Rock Lighthouse
C Minnesota Point Lighthouse	C Tettegouche Camp
C Moe, Bergetta, Bakery	C Thomas Wilson Shipwreck
C Munger Terrace	C Traphagen, Oliver G., House
C Naniboujou Lodge	C Tugboat Edna G.
C Niagara Shipwreck	C Two Harbors Carnegie Library
C Northeastern Hotel	C Two Harbors Light Station
C North Superior Lifeboat Station	C U.S. Army Corps of Engineers Duluth Vessel Yard
C Lightkeeper's House	C U.S. Fisheries Station-Duluth
C Onoko Shipwreck	C U.S.S. Essex Shipwreck
C Park Place Historic District	C William A. Irvin (Freighter)
C Sacred Heart Cathedral and Cathedral School	C Wirth Building

#### State Historic Sites Registry

There are six sites within the coastal area which are on the State Historic Sites Registry. They are:

C Duluth Ship Canal	C Minnesota Point Lighthouse
C Duluth Union Depot	C Split Rock Light Station
C Grand Portage National Monument	C Witch Tree

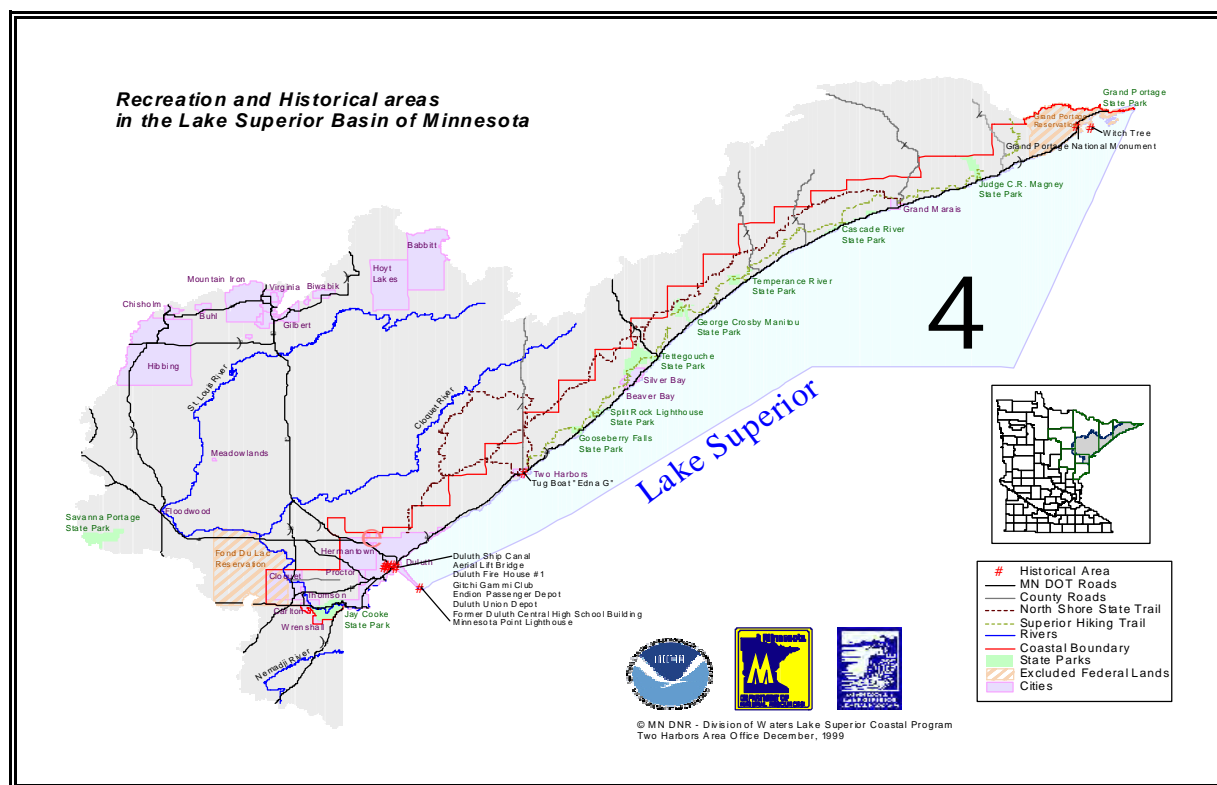
#### Minnesota Inventory of Prehistoric and Historic Places

Twenty-four historic resources located on the Minnesota Inventory of Prehistoric and Historic Places include:

C Brewer House	C Jefferson School
C Cotton House	C Mallet Locomotive
C Crosby House	C Meyers House
C Cutter House	C Morgan Park Historic District
C Duluth Board of Trade Building	C Olcutt House
C First Presbyterian Church	C Ordean House
C Fish Lake Dam	C Parkerville Ghost Town
C Fond du Lac Historic District	C Patrick House
C Glen Avon Station	C Sellwood Hall
C Holy Rosary Church & Cemetery	C Thomsons Beach
C House, F. E., Residence	C Three Spot Locomotive & Cars
C Hunter House	C William Crooks Locomotive

***Grand Portage National Monument:*** Grand Portage National Monument is located in the heart of the Grand Portage Reservation and was authorized by legislation enacted by Congress in 1958. The 710 acre site was established for the purpose of “preserving an area containing unique historical value”. The dominant American history theme, for which Grand Portage Monument is significant, is associated with the fur trade in the Old Northwest, 1731-1822. The monument includes the stockade site on Grand Portage Bay, the 8.5 mile Grand Portage, and the site of Fort Charlotte on the Pigeon River.

Figure 4. Partial Listing of the Recreation and Historic Sites Within the Coastal Area.



***Hunting and Fishing:*** Hunting and fishing in Minnesota has been a source of life and livelihood on the Minnesota coast throughout recorded history. The first commercial fishing operations, conducted by the American Fur Company, ceased in 1840 (NOAA 1976). The commercial catch on Lake Superior is mostly lake herring, roughly 85 percent, and smelt about 15 percent, they bring an estimated \$230,000 annually to the North Shore economy (Geving 1997). Minnesota Sea Grant estimates that the Lake Superior sport fishery is worth about \$9.4 million annually (Sea Grant). Hunters, both resident and nonresident totaled 458,000, and contributed \$290 million to the Minnesota economy in 1990 (Minnesota DNR 1991).



**B. COASTAL RESOURCE AND DEVELOPMENT ISSUES**

In January 1994, Minnesota Sea Grant sponsored a forum entitled "Lake Superior's Future".

The vision suggested at the workshop as the goal for Lake Superior's future was "To maintain or restore the beauty and health of the environment, the health of the economy, and the stability of communities in the Lake Superior Region".

Participants were asked at the beginning of the workshop to complete a survey on the goals and strategies for the Minnesota Lake Superior region. Issues that participants provided input on are listed in Table 7. Education to increase appreciation of the area, improve sewage and septic systems, streamlining of management and regulatory programs, and improve water quality were goals for which there was greatest agreement. The results also indicated that citizen participation, education and land use planning were the best strategies for achieving their shared vision for the Lake Superior region.

Table 7. Goals for the North Shore - 1994 Survey Results (Sea Grant unpublished 1997).

<b>Specific Goals</b>	<b>Agree</b>	<b>Disagree</b>	<b>No opinion/response</b>
Use education to increase appreciation of the area	94.0%	.7%	5.3%
Work on sewage and septic system problems	91.4%	1.3%	7.3%
Do a better job of streamlining existing management and regulatory programs	90.7%	.7%	8.6%
Improve current water quality	87.4%	2%	10.6%
Seek increased funding to control erosion	74.2%	6.6%	19.2%
Maintain current water quality	67.5%	21.2%	11.3%
Promote additional tourism and recreation opportunities	57.6%	23.2%	19.2%
Develop stronger regulations	57%	25.2%	17.9%
Seek economic growth	56.3%	24.5%	19.2%
Limit growth and development	54.3%	26.5%	19.2%
Increase shoreline access	49%	34.4%	16.6%
Limit tourism and recreation opportunities	29.1%	45.7%	25.2%
Keep the management measures we have now	25.2%	47.0%	27.8%

Recent efforts to revise county comprehensive land use plans have included surveys of and public meetings with residents and seasonal land owners regarding their issues and concerns and their vision for the future. Cook County conducted a survey of residents and land owners in late 1995. Lake County conducted public visioning meetings during the spring of 1996.

Significant in the results of the Cook County survey was that physical characteristics, most notably Lake Superior, define the positive quality of the county. Degradation of natural features and the loss of quiet were seen as negative forces. With respect to economic conditions, increasing property taxes, lack of affordable housing and rising property values were of greatest concern. The large amount of public land was generally seen as positively contributing to the character of the county and to its economic base, though this issue was also seen as a potential constraint to economic development. Survey responses confirmed continued support for the concept of nodal development along the shore with the majority supporting a slow population growth rate (Cook County Comprehensive Land Use Plan 1997).

Another survey conducted in 1996 by The Nature Conservancy, also asked residents to rank issues that were important to them. The issues listed were broad in nature and included economic, social, and resource related issues. The top two issues within Lake Superior's North Shore, were "protecting Minnesota's environment" (18 percent) and "the quality and cost of public elementary and high school education" (17 percent). Of the environmental issues, "water quality" ranked of greatest importance, with "clean air" ranking second (The Nature Conservancy unpublished 1996).

An interest in addressing water quality issues has resulted in a variety of plans including: initiation of a Lake Superior basin plan by the Minnesota Pollution Control Agency, county water plans, watershed and sub-watershed plans. Water plans developed by each of the four Lake Superior counties (Cook County Water Plan, Lake County Water Plan, St. Louis County Water Plan, and Carlton County Water Plan) have identified a number of common issues including:

- C Protecting water quality
- C Protection of ground water recharge areas
- C Improper use and disposal of pesticides, fertilizers and hazardous waste
- C Air pollution
- C Failing septic systems and inadequate municipal waste water treatment
- C Conserving soil from erosion
- C Fish contamination

Additional issues were identified in a survey conducted in 1997 for the Minnesota Pollution Control Agency (MPCA 1997). Respondents rated the following nine issues on a scale between 1 and 5, with 5 being very serious and 1, not serious.

Dumping garbage/hazardous wastes	4.49
Mercury Contamination	4.13
Sewage overflows	4.11
Air pollution	3.38

Florescent disposal	3.63
Water contamination	3.59
Failing septics	3.54
Odors	3.47
Development	3.28

Issues such as those listed by surveys and water plans go beyond political boundaries. They are related to the geology, climate, and economics of the area. Identifying and addressing the issues requires a regional approach to be most effective. As developed, Minnesota's Lake Superior Coastal Program, at the lead of the Coastal Council, will work with agencies, government bodies, and local citizenry to evaluate the major issues and prioritize needs approximately every three to five years. Funds through this program will be directed at addressing these needs.

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**PART IV**  
**REQUIREMENTS OF THE NATIONAL ENVIRONMENTAL**  
**POLICY ACT (NEPA)**

**A. NEPA REQUIREMENTS**

This document is both a Final Environmental Impact Statement (FEIS) and Minnesota's Lake Superior Coastal Plan. Some of the section headings, and the order in which they are presented, are different from those frequently found in other environmental impact statements. To assist NEPA reviewers, the following table has been developed. Topics normally addressed in an EIS document are listed under the heading "NEPA Requirement." The corresponding section of this document and the page numbers are provided in the other two columns.

Table 8. NEPA Requirements.

<b><u>NEPA Requirement</u></b>	<b><u>Draft EIS/Mgmt Plan</u></b>	<b><u>Page</u></b>
Purpose and Need for Action	Part IV	Part IV - 2
Alternatives	Part IV	Part IV - 4
Affected Environment	Part III	Part III - 1
Environmental and Socio-economic Consequences	Part IV	Part IV - 7
Unavoidable Adverse Environmental Effects	Part IV	Part IV - 12
Relationship Between Short-term Uses of the Environment and the Maintenance and Enhancement of Long-term Productivity	Part IV	Part IV - 13
Irreversible and Irretrievable Commitment of Resources	Part IV	Part IV - 14
List of Preparers	Part VII	Appendix B
List of Agencies, Organizations, & Persons Receiving Copies of the FEIS/Program Document	Part VII	Appendix C

## **B. PURPOSE AND NEED FOR ACTION**

NOAA has prepared this Final Environmental Impact Statement (FEIS) pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq. to assess the environmental impacts associated with the approval and implementation of the coastal management program submitted to NOAA by the State of Minnesota. The State of Minnesota has submitted its coastal management program to the Office of Ocean and Coastal Resource Management (OCRM) for approval pursuant to Section 306 of the federal Coastal Zone Management Act (CZMA) of 1972 as amended, 16 U.S.C. 1451.

The proposed action on the FEIS is approval of Minnesota's Lake Superior Coastal Program (MLSCP). The OCRM has made an initial determination that the program meets the requirements of the CZMA. Federal approval of Minnesota's program will enable the State of Minnesota to receive federal grant assistance for program implementation and will require that federal actions in or affecting the Minnesota coast be consistent with the Minnesota program. The Minnesota Coastal Management Program is described in Part V of this document. A table cross-referencing CZMA requirements with sections from this document may be found in Part II.

Approval and implementation of the MLSCP will improve management of Minnesota's coastal land and water uses according to the coastal policies and standards contained in the existing statutes, authorities and rules. Federal alternatives to program approval include delaying or denying approval, if certain requirements of the Coastal Zone Management Act have not been met. The state could modify parts of the program or withdraw its application for federal approval if either of the above federal alternatives results from circulation of this document.

### **The Coastal Zone Management Act (CZMA)**

In response to the intense pressures upon coastal areas of the United States, Congress passed the Coastal Zone Management Act (16 U.S.C. § 1451 et seq.). The CZMA was signed into law on October 27, 1972. The CZMA authorizes a federal grant program to be administered by the Secretary of Commerce, who in turn delegated this responsibility to the National Oceanic and Atmospheric Administration's (NOAA) Office of Ocean and Coastal Resource Management (OCRM). The CZMA affirms a national interest in the effective protection and development of coastal areas by providing assistance and encouragement to coastal states to develop and implement rational programs for managing their coastal areas.

Broad guidelines and the basic requirements of the CZMA provide the necessary direction for developing these state programs. These guidelines and requirements for program development and approval are contained in 15 C.F.R. Part 923.

**In summary, the requirements for program approval are that a state develops a management program that:**

- Identifies and evaluates those coastal resources recognized in the act that require management or protection by the state;
  - Re-examines existing policies or develops new policies to manage these resources. These policies must be specific, comprehensive and enforceable, and must provide an adequate degree of predictability as to how coastal resources will be managed;
  - Determines specific uses and special geographic areas that are to be subject to the management program, based on the nature of identified coastal concerns. The basis for managing uses, or their impacts, and areas, should be based on resource capability and suitability analyses, socio-economic considerations and public preferences;
  - Identifies the inland and seaward areas subject to the management program;
  - Provides for the consideration of the national interest in the planning for the siting of facilities that meet more than local requirements; and
  - Includes sufficient legal authorities and organizational structure to implement the program and to ensure conformance to it.
-



## **C. ALTERNATIVES INCLUDING THE PROPOSED ACTION**

### **1. Introduction**

Given the nature of the proposed federal action, approval, delay and denial of Minnesota's Lake Superior Coastal Program, are all alternatives available to OCRM. In approving a coastal management program (the preferred alternative), the assistant administrator for Ocean Services and Coastal Zone Management must find that a state has met the federal approval requirements of the CZMA at 15 C.F.R. Part 923. Delay or denial of program approval could be based on failure of Minnesota's Lake Superior Coastal Program to meet any of the requirements of the CZMA, as amended.

In an effort to elicit public and agency comment and to assure that the assistant administrator's determination will be appropriate, this section identifies possible programmatic reasons for delaying or denying approval of the MLSCP identified through the public review process to date.

### **2. Federal Alternatives**

Three alternatives to the proposed action are available to the assistant administrator: approve, delay, or take no action/deny. The assistant administrator's approval must be based upon affirmative findings for all of the requirements of the CZMA.

- a. Alternative 1:** The assistant administrator could approve the MLSCP. This is the preferred alternative.

Approval of the MLSCP would be based on an affirmative finding that the program meets all requirements of the CZMA and its regulations. The benefits of the MLSCP implementation would include improved regulation and enforcement through intergovernmental coordination; balanced coastal community development; improved economic development for water dependent uses; better natural resource and hazardous areas management; and improved public awareness. Additional benefits are reviewed by Minnesota of federal and federally permitted and funded projects for consistency with its Coastal Management Program and consideration of the national interest in state decision making.

- b. Alternative 2:** The assistant administrator could deny approval (take no action) on the MLSCP.

OCRM could deny approval if the program is found to not meet all requirements. With respect to the "no action" alternative, the Office of Ocean and Coastal Resource Management considers federal denial or state withdrawal from the program and "no action" as synonymous. State participation under the CZMA is voluntary. When a state participates in program development, it determines whether or not program approval and implementation is in its best interest. The impacts of "no action" are described below:

- , Loss of federal funds to administer the program: Under Section 306 of the CZMA, Minnesota would receive about \$600,000 annually to administer its Coastal Management Program.
- , Loss of consistency review of federal actions: This will mean that federal actions would not be reviewed by Minnesota for consistency with the MLSCP as required by Section 307 of the CZMA.
- , Loss of adequate consideration of the national interest in the siting of facilities which are other than local in nature as required by Section 306(d)(8) of the CZMA. By delaying or denying approval, the State of Minnesota and local governments would be under no obligation under Section 306(d)(8) to give adequate consideration to coastal facilities that are of national interest. This could result in loss of public benefit that the use of such facilities provide.

**c. Alternative 3:** The assistant administrator could delay approval of the MLSCP.

OCRM could delay if any element of the MLSCP necessary for program approval does not meet approval requirements and requires some modification. The MLSCP is a “networked” program consisting of several Minnesota natural resource protection programs. The MLSCP requires that all state agency actions affecting the coast be consistent with the existing state laws embodied within the MLSCP. Responsibility in Minnesota for implementing the relevant statutes and coordinating the overall program falls to the Department of Natural Resources. Other state agencies need to act consistently with the MLSCP. The assistant administrator could delay program approval if the coordination and consistency provisions of the MLSCP are insufficient to effectively network state agencies and divisions into an overall coastal management program.

Before taking final action approving the MLSCP, OCRM will review the complete record of comments and responses on this document.

### **3. State Alternatives Considered During Program Development**

Throughout the effort to develop a program in Minnesota, preference was always given to using a networked approach based on existing authorities rather than creation of new laws or regulations. Minnesota’s program establishes a networked program, with the DNR as lead agency assuring consistency in implementation of existing authorities.

In the process of developing an inland boundary through the use of a citizen’s work group, several alternatives were considered. The largest boundary considered was the extent of the natural watersheds adjacent to Lake Superior. While this boundary made sense from an ecological standpoint, it was determined that it encompassed areas that did not have a direct or significant impact on the coastal area and did not lend itself to the most efficient management. The smallest boundary considered was the boundary created under the North Shore Management Plan, consisting of the 40 acre subdivision lines of the rectangular coordinate system established in the

U.S. Public Land Survey, nearest to the landward side of a line 1,000 feet from the shoreline of Lake Superior or 300 feet landward from the center line of U.S. Highway 61, whichever is greater. This narrow boundary did not cover the entire Minnesota Lake Superior shoreline and was deemed insufficient to encompass the resources intended to be protected under the Coastal Zone Management Act. The selected boundary which is primarily the coastal townships covers an area sufficient to address coastal resources, including most of the population and towns that are in the watershed.

Similar to the boundary development process, a work group of citizens was established to discuss and propose the organization of the program and the implementation process. The organizations of numerous existing state coastal management programs were examined as alternatives before the unique organization and implementation process was selected that is described in this document.

#### **4. Consultation and Coordination**

All local, state and federal agencies referenced in Appendix C of this document were consulted during initial phases of program development and during development of the 1997 public review draft document. The Minnesota DNR consulted each agency again in 1998 with the review of the DEIS in order to incorporate necessary revisions prior to publication of the FEIS.

## **D. ENVIRONMENTAL AND SOCIO-ECONOMIC CONSEQUENCES**

In enacting the CZMA, Congress declared that "it is national policy to preserve, protect, develop, and where possible, restore or enhance the resources of the nation's coastal zone for this and succeeding generations." States are to achieve these potentially conflicting goals by improving governmental coordination, incorporating consideration of long term implications of development decisions, and instituting a more rational decision-making process which conforms to CZMA policies. Such actions have the potential to substantially affect future coastal area activity and have a significant positive environmental impact. The CZMA mandates giving full consideration to ecological, cultural, historic and aesthetic values as well as to needs for economic development when considering various development proposals.

Thus many factors and diverse, often conflicting values, between resource protection and development must be weighed. The CZMA requires that a balance must be achieved which allows or encourages development, while still protecting unique and critical resources.

It is the intent of the MLSCP to carry out these legislative mandates of the CZMA. Therefore, the environmental, institutional and socio-economic effects are expected to be primarily beneficial. The MLSCP will provide more coordinated decision-making with a greater focus on critical coastal issues.

There are four impacts associated with approval of the MLSCP: (1) impacts resulting from federal approval and (2) impacts resulting from implementation of Minnesota's coastal protection statutes embodied within the program. In contrast to approving the MLSCP, the assistant administrator could decide to (3) deny, or (4) delay approval of the program. In general, such impacts are discussed with respect to direction of change (positive or beneficial, negative or neutral) and with respect to duration (long-term or short-term). Because the proposed action is approval of a broad ranging program, quantification of net effects is not possible.

### **1. Positive Impacts Directly Resulting from Federal Approval**

**Section 306 Funding:** Federal approval will enhance the State of Minnesota's financial ability to carry out its various coastal management efforts in accordance with Minnesota policies in the MLSCP. The state will rely to a considerable degree on the program funding made available in annual grants under Section 306 of the CZMA, both for program administration and for local and regional coastal management assistance grants. Program administration funding will support staff, contracts, and other resources to provide assistance to local governments and other entities as well as enhancement of implementation of laws included in MLSCP. Section 306 funding for local and regional assistance grants will be used for environmentally and socio-economically beneficial efforts, such as the following:

- C Feasibility studies and engineering reports for projects at the local level that are consistent with the policies in the coastal management program document;

## PART IV

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- C The protection and preservation of wetlands, beaches, fish and wildlife habitats, mineral, natural areas, endangered plant and animal species, or other significant natural coastal resources;
- C Development and adoption of procedures to assess, consider, and control cumulative and secondary impacts of coastal growth and development, including the collective effect on various individual uses or activities on coastal resources, such as coastal wetlands and fishery resources;
- C The management of shoreline development to prevent loss of life and property in coastal flood hazard areas and coastal erosion areas, to set priorities for water-dependent energy, commercial, industrial, and recreational uses, or to identify environmentally acceptable sites for dredge spoil disposal;
- C Increasing public access to Lake Superior and other public places in the coastal area;
- C The protection and preservation of historical, cultural, or aesthetic coastal resources;
- C Improving the predictability and efficiency of governmental decision making related to coastal area management;
- C The redevelopment of deteriorating and underutilized waterfronts and ports; and
- C Other purposes approved by the Coastal Council and the Department of Natural Resources.

Funding for such efforts is expected to have direct beneficial impacts on the natural and socio-economic environment of the coastal region, through protection of natural areas and other sensitive resources, waterfront revitalization, comprehensive planning, streamlining of permits and the monitoring of their effects, and conflict resolution. The integrated management approach of a coordinated cooperative MLSCP is expected to result in direct benefits to the environment through a heightened proactive focus on coastal resource management. The MLSCP provides the framework for a partnership among state and local agencies and other entities, public and private, to cooperate to preserve, protect, develop and restore the region's unique values.

***Federal Consistency Review:*** Federal approval and implementation of the MLSCP will have effects upon federal agency actions. Approval will activate the federal consistency review provisions of Section 307 of the CZMA. The MLSCP federal consistency process and relevant provisions of 15 C.F.R Part 930 are described in Part V, Chapter 6. Because federal consistency entails early coordination and closer cooperation in planning as well as review of project proposals, it is presumed that federal consistency will provide another means to minimize the potential for adverse environmental impacts. This is considered to be a desirable impact and one of the main purposes of the CZMA.

The MLSCP has been developed with the assistance and input of numerous federal agencies having responsibility for activities in or affecting the coastal area. Therefore, conflicts between Minnesota's enforceable policies included in the MLSCP and federally permitted or conducted

activities should be minimal. Federal activities will not be excluded but rather will be required to be consistent with the policies in the MLSCP.

***National Interest:*** Part V, Chapter 5 and Chapter 6 of the MLSCP describes how the siting of land and water uses of regional benefit, coordination with federal agencies, and consideration of national interest are integrated in the program. In general, the activities identified for being of regional benefit are under direct state and/or federal management, which preclude the unreasonable restriction or exclusion of the use of regional benefit by local regulation. This does not mean, however that local concerns are not sought and addressed. Each state agency administers a review process or other mechanism to assure consideration of all interests in the exercise of its authorities related to the regional use.

As MLSCP includes procedures for considering national and regional interests in comprehensive planning and decision making for the coastal area, the potential for conflicts between state, regional and national goals is reduced. Consideration of national interest during program implementation will be achieved by the review, certification, and permitting process described in the federal consistency section of this document (Part V, Chapter 6, page 7) or through processes outlined in Memorandums of Understanding (list of agreements in Appendix G) that address alternative review processes.

## **2. Impacts (of Approval) Attributable to Minnesota's Lake Superior Coastal Program**

The Minnesota Department of Natural Resources (DNR) is designated by executive order as the lead agency for development and implementation of the MLSCP. The functions and authorities of the DNR with respect to MLSCP administration, described in detail in Part V, Chapter 2, provide a cohesive framework for improved and integrated decision making regarding coastal issues. Memoranda of Understanding between the DNR and other agencies as well as state consistency review coordinated by the DNR further foster unified coordination. Decisions and activities of federal, state and local agencies as well as those within the DNR will be monitored, coordinated and mediated by one office within the DNR Waters to assure compliance with the MLSCP. Greater consistency, a central focus and streamlining of the decision-making process is expected to improve the predictability of that process and bring about beneficial environmental and institutional impacts.

Assuring state agency consistency with the Coastal Program will help maintain program strength. As with federal consistency provisions and mechanisms, the impacts are expected to be positive. Improved coordination and cooperation throughout project planning and review will serve to minimize adverse impacts and to enhance predictability of decision making regarding state projects which may affect coastal resources. The MLSCP structure is described in Part V, Chapter 2, and the means to assure state consistency is described in Part V, Chapter 6.

The Coastal Council is the decision-making mechanism through which Minnesota's Lake Superior Coastal Program implements the grant program. The responsibilities of the Council include development of program priorities, review and selection of grant proposals, review of the annual budget, and periodic review of the program. The Council will provide direction for the Coastal Program to the program coordinator and informally serve as liaison to outside organizations.

These functions help to assure that public concerns regarding the environment are emphasized in the state's decision making.

***Public Participation:*** There is a shared value of the Lake Superior resource base by those who work, live, or visit the area and there is a strong interest in public participation in the decision making and policy making process to protect this area. A coastal program will provide another avenue for public participation and additional funding to conduct these citizen based planning processes. The Coastal Council will provide additional means of providing public participation in the MLSCP including representation of the large geographical area of the North Shore as well as the diversity of issues and perspectives.

***Shoreline, Stream Bank and Bluff Erosion:*** Erosion and sedimentation problems exist along the Lake Superior shoreline. Although the potential exists that erosion management may result in decreased property values for some individuals who own shorefront property with extremely high erosion rates, the costs of protective actions are expected to be short term with property values generally increasing over the long term due to improved protection and decreased risk. The Coastal Program can provide resources for planning, engineering or other tools to assist in solving erosion problems.

Counties or municipal corporations with land in the designated coastal flood hazard area are required to participate in the National Flood Insurance Program (NFIP) or adopt resolutions or ordinances meeting or exceeding NFIP requirements. Although they participate in the NFIP, no flood hazard areas have been identified in Cook and Lake Counties. Carlton and St. Louis Counties have identified flood hazard areas and participate in the NFIP. For the long term, this will assure that the state standards and the minimum federal standards are always in effect in the Lake Superior coastal flood hazard areas.

***Harbor Development and Dredging Issues:*** All the ports and harbors in the Minnesota coastal area are important to local and regional economies. The Duluth-Superior Harbor is the most significant shipping port in the region as well as the leading bulk cargo port on the Great Lakes and one of the busiest in the nation. The Duluth Comprehensive Port Development Plan addresses preservation and restoration of natural areas, placement of dredged material, and revitalization of commercial/industrial land adjacent to the harbor. The Port Plan is implemented through the existing framework of the Duluth-Superior Metropolitan Interstate Committee. The committee was formed to address issues related to the Duluth-Superior Harbor among which the placement of dredged material is a very high priority. Representatives on the committee include local and state agencies from Wisconsin and Minnesota. This interstate relationship will be enhanced through the communication of the Coastal Programs in Wisconsin and Minnesota. Implementation of the Port Plan will also be improved through better communication with state and federal agencies and new linkages formed at the state and national level. These linkages will also provide a means to exchange technical assistance at the local, state, and national levels.

***Public Access:*** Through the implementation of the MLSCP, technical assistance to and coordination with local communities will improve the recreational potential of the lakeshore. There is strong interest in enhancing the waterfront and increasing public access to Lake Superior. Public access programs will benefit from increased resources and funding through MLSCP

implementation. The Coastal Program can help fund planning as well as low-cost construction projects and waterfront improvements. The Coastal Program will promote improved coordination of public access projects, facilities, and plans along the entire shoreline and across all levels of government and organizations.

***Environmental Justice:*** Approval of Minnesota's Lake Superior Coastal Program will lessen the likelihood of environmental inequities and may promote greater environmental justice. MLSCP policies provide for the protection of resources, such as fish and wildlife and their critical habitats, that are the mainstays of traditional coastal economies. MLSCP project grants will provide funds to local communities to increase and enhance access to Minnesota's waters and shore areas for all residents and will provide additional means to address development pressures in small-town waterfront areas and rehabilitate degraded urban waterfront areas. Approval of the MLSCP may provide additional resources to organizations such as the North Shore Management Board to address development issues such as wastewater treatment which will reduce impacts to groundwater and water bodies and improve public health generally. The MLSCP has included economic development areas, cultural resource protection areas, and natural resource protection areas as Areas of Particular Concern. This provides special management attention to these areas and makes them eligible for construction and acquisition projects under Section 306A of the federal Coastal Zone Management Act.

### **3. Impacts Resulting from Denying Federal Approval**

Several environmental, economic and social impacts could result if OCRM decided to deny approval of the MLSCP. An obvious economic impact is the loss of federal funds to administer and implement the program. Under Section 306 of the CZMA, Minnesota would receive about \$600,000 annually to implement its Coastal Management Program. Consistency of federal actions, as required by Section 307, CZMA, would be lost to Minnesota. Adequate consideration of the national interest in siting facilities of national interest, as required by CZMA section 306(d)(8), would be lost and could result in loss of public benefit from use of those facilities. The technical assistance available to Minnesota from OCRM would be lost without federal approval of the program as well as the benefit from information exchange and coordination with other states both in the Great Lakes region and nationally.

### **4. Impacts Resulting from Delaying Federal Approval**

The environmental, economic and social impacts listed above, that result from denial of federal approval of the MLSCP, also apply to delaying approval of the program. Further, continued delay at this juncture may make it impossible, due to limits in funding, for Minnesota to enter the federal program in the future.



## **E. UNAVOIDABLE ADVERSE ENVIRONMENTAL EFFECTS**

The probable effects of Minnesota's Lake Superior Coastal Program implementation will, on the whole, be environmentally beneficial. However with or without the program, adverse impacts associated with the siting of major facilities for purposes of defense, transportation, and energy requirements in which both the state and federal governments have interest, will continue. It is important to note, however, that under the Coastal Program and related federal laws (e.g., National Environmental Policy Act), such projects will be evaluated as to the impacts on the natural coastal environment. That is, investigations will be made, alternatives considered, et cetera. The program also makes provisions for consideration of the national interest in the siting of these facilities.

No new energy generation facilities are planned in Minnesota's coastal area, and it is anticipated that existing facilities will remain largely unchanged.

**F. RELATIONSHIP BETWEEN SHORT-TERM USES OF THE ENVIRONMENT AND THE MAINTENANCE AND ENHANCEMENT OF LONG-TERM PRODUCTIVITY**

Minnesota's Lake Superior Coastal Program will provide long-term assurance that the natural resources and benefits provided by the Minnesota Lake Superior coast will be available for future use and enjoyment, by more effectively administering existing resource protection laws.

Minnesota's Lake Superior Coastal Program recognizes in the short-term that some coastal-dependent developments have adverse environmental consequences, but that they may still be located in the coastal zone to protect the inland environment as well as help provide for orderly economic development, and meet national interest.

Regarding the long-term use of the environment, the MLSCP recognizes the coastal area as a delicately balanced ecosystem; establishes a process of balanced management of coastal resources; allows growth to continue while protecting key resources; and provides a framework which can protect regional, state and national interests by assuring the maintenance of the long-term productivity and economic vitality of coastal resources necessary for the well-being of the public. Beneficial changes will likely promote avoidance of long-term costs to the public and a diminished quality of life resulting from the misuse of coastal resources.

## **G. IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES**

The only irretrievable or irreversible commitment of resources that will result directly from the approval of Minnesota's Lake Superior Coastal Program is the commitment of state and federal funds and personnel for the purpose of achieving the goals and objectives of the MLSCP. It is presumed that irretrievable and irreversible commitments of economic and environmental resources will occur during the implementation of the MLSCP. This MLSCP is designed to balance the need for development with the need for the protection and enhancement of coastal environmental resources by avoiding, minimizing and mitigating the consequences of coastal development on resources such as wetlands and shallow water Lake Superior habitats.

The MLSCP ensures, through enhanced local and regional participation and awareness, that any such proposed activities which commit coastal resources are provided a more comprehensive review as individual actions and as an action contributing to the cumulative impacts taking place on coastal resources. Such review will ensure that those irretrievable and irreversible commitments of resources which are undertaken under MLSCP are made with full awareness of the consequences of those commitments.

# PART V

## MINNESOTA'S LAKE SUPERIOR COASTAL PROGRAM

# CHAPTER 1

## PROGRAM BOUNDARY

### A. INTRODUCTION

The term “coastal waters” in the Great Lakes area means “the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes.” The coastal waters in Minnesota, therefore, consist of those waters of Lake Superior within the territorial jurisdiction of Minnesota.

Section 304(1) of the Coastal Zone Management Act identifies the “coastal zone” as *the coastal waters (including lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada, in other areas, seaward to the outer limit of the United States territorial sea.*

By definition, the zone “extends inland from the shorelines only to the extent necessary to control shorelands and the uses which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands, the use of which is by law subject solely to the discretion of or which is held in trust by the federal government, its officers or agents” (CZMA, Section 304(1)).

The following boundaries have been developed for the Minnesota program: the seaward or waterward boundary, interstate boundary, excluded lands, and the inland boundary. Definitions of each boundary and a summary of the issues analyzed to develop the boundary are discussed. A detailed description for the inland boundary follows the discussion.

The program boundary chapter is broken down into two sections, **Introduction** and **Boundary Establishment**. The boundary establishment is divided into the following parts: 1. **Seaward Boundary and Interstate Boundary**, 2. **Excluded Lands**, 3. **Nonpoint Source Pollution Control Program Boundary** and finally, 4. **Inland Boundary**. Also included in this chapter is the Justification for the Selected Boundary. The legal description for the boundary is described in: a. St. Louis River Watershed, b. Duluth and Surrounding Urban Areas, c. St. Louis County - North Shore, d. Lake County - North Shore and e. Cook County - North Shore.

## **B. BOUNDARY ESTABLISHMENT**

There are five elements to Minnesota's Lake Superior Coastal Program boundary: the inland boundary, the lakeward (seaward) boundary, the interstate boundary, the excluded federal lands, and the coastal nonpoint source program boundary. A boundary work group was established and developed recommendations for the boundary in Minnesota. The work group consisted of 14 local citizens representing the geographic area from Carlton to Cook County. The recommendations of the work group were presented at a series of open house meetings to obtain public input. Input was also solicited through state and local government participation, and a final work group recommendation was developed. The establishment of a final boundary is the result of thoughtful consideration and a decision which is acceptable to those impacted by the program.

### **1. Seaward Boundary and Interstate Boundary**

Minnesota adjoins Lake Superior, one of the Great Lakes. The seaward boundary for Minnesota's Lake Superior Coastal Program is the international boundary with Canada and the boundaries with the adjacent states of Wisconsin and Michigan. Minnesota has consulted and coordinated with its coastal neighboring states of Wisconsin and Michigan.

Both adjoining coastal states provided input into the development and delineation of adjacent inland and lateral seaward boundaries. Based on the input received, it was determined that the lakeward coastal boundary as described is consistent with both states. Minnesota shares an inland state boundary with Wisconsin. The boundary in Wisconsin includes the entire county of Douglas adjacent to Minnesota. The Minnesota inland boundary does not extend inland as far as the adjoining Wisconsin coastal boundary. Through boundary work group consultation, it was determined that the interstate relationship would not be compromised, part of Douglas County does not drain into Lake Superior.

### **2. Excluded lands**

States must exclude those federal lands as described in the chapter introduction. To meet this requirement, Minnesota will map and describe lands owned, leased, held in trust or otherwise used solely by federal agencies. The exclusion of federal lands from the coastal area does not remove federal agencies from the obligation of complying with Section 307 of the act (federal consistency review) when federal actions on these excluded lands have spillover effects on any land or water use or natural resource of Minnesota's Lake Superior Coastal Program. Table 9 lists and describes excluded federal lands for Minnesota's Lake Superior Coastal Program. Excluded federal lands are mapped if they are large scale holdings (more than 100 acre parcels) or near special management areas (Figures 5 - 8). Grand Portage and Fond du Lac Reservations are the only two federally excluded lands greater than 100 acres in the coastal boundary.

Table 9. Excluded Federal Lands.

These are sites that contain large land areas more than 50 acres in size or are located adjacent to special management areas. Not included in this table, but likewise excluded from Minnesota's Lake Superior Coastal Program, are individual federal buildings and sites such as post offices and small Coast Guard or Army Corps of Engineers installations.

SITE	AGENCY	COUNTY
Fond du Lac Indian Reservation	Bureau of Indian Affairs	Carlton
Duluth International Airport	Air National Guard	St. Louis
Duluth International Airport	U.S. Air Force	St. Louis
Minnesota Point	U.S. Army Corps of Engineers	St. Louis
Superior National Forest	U.S. Forest Service	Cook
Grand Portage Indian Reservation	Bureau of Indian Affairs	Cook
Grand Portage National Monument	National Park Service	Cook

### **3. Nonpoint Source Pollution Control Program Boundary**

The Nonpoint Program of the CZMA, also known as Section 6217, serves as an update and expansion of the state Nonpoint Source Management Program developed under the federal Water Pollution Control Act, as the program under that section relates to land and water uses that affect coastal waters. The Nonpoint Program will be a stand alone program and the boundary for the program will be developed through a separate process. In general, the nonpoint program boundary should be large enough to address the land uses that individually or cumulatively may cause or contribute significantly to degradation of the quality of coastal waters. See Part VI, Coastal Nonpoint Pollution Control Program, for information on Minnesota's Nonpoint Source Program development efforts.

### **4. Inland Boundary**

Federal regulations require that the inland boundary of Minnesota's coastal area include those areas for which management is necessary to control uses that have direct and significant impacts on coastal waters; special management areas; wetland areas subject to regular inundation by Lake Superior that contain flora typical of the region; sandy beaches, dunes, and rocky areas to the point of upland vegetation; and islands in their entirety, except when uses of interior portions do not cause direct and significant impacts.

The inland boundaries extend landward to cover all coastal resource areas, all major coastal issue areas, and all lands which could have a direct and significant impact on coastal waters as a result of their use.

### **Justification for Selected Boundary**

In selecting boundaries for Minnesota's Lake Superior Coastal Program, a detailed analysis was made of those potential areas (including sensitive or fragile ecosystems and various physical considerations relative to development in these areas) which might have a direct and significant impact upon coastal waters. Another important consideration in developing boundaries for the program is funding and the limitations on funding for program implementation. A third consideration is the ease in which the boundary can be mapped, managed, and understood.

The Minnesota coastal area of Lake Superior can be divided into three parts for purposes of discussion. One part includes the area of the St. Louis River in Carlton County, south of Duluth. Another part is the city of Duluth and surrounding areas of urban growth and expansion to the north and west. The third part is the region between the Duluth city limits north to the Canadian border, also known as the "North Shore."

There are variations in the natural and cultural features in the coastal area. The St. Louis River, which flows south of Duluth before it enters Lake Superior, is a major source for hydropower generation and recreation in Carlton County. The major issues identified include erosion, contaminant/sediment problems, exotic species, and hydropower operations. The city of Duluth and surrounding urban area is the location of a major shipping port and is also the largest population center in the watershed. The major issues included in this part of the coastal area are: urban runoff, sewage treatment, erosion along waterways, harbor and port planning, and open space planning. The North Shore is unique in the fact that the area is not as densely populated; the majority of land adjacent to Lake Superior is in private ownership, and the majority of land inland from the coast is in public ownership. This part of the coastal area is valued for its natural character and beauty. Maintaining the character of the area while providing a sustainable way of life is important. The most important issues included in this part of the coastal area are water quality, sewage treatment, shoreline erosion, recreation, tourism, stream corridors, and unique management areas. Common concerns throughout the coastal area include water quality and erosion, sewage treatment, and the cumulative impacts from growth.

Because of the unique character of the North Shore, an inland boundary based on coastal townships was developed. Coastal townships include those areas that are described by the subdivision lines of the rectangular coordinate system established in the U.S. Public Land Survey. The U.S. Public Land System or the Rectangular Survey System is a method of land description used to describe more than 50 percent of the land in the United States. The land is divided into approximate squares called "townships" which have sides approximately 6 miles in length. Townships are further subdivided into 36 sections each approximately one square mile. The townships are described by a township (north or south) number and a range (east or west) number. The coastal township boundary is a convenient means to identify a coastal program boundary since the boundary is defined by a legal description shown in local land surveys and is typically an existing government subdivision boundary.



The coastal township boundary is defined as close to a 6- by 6-mile township as possible. In areas where the coastal township inland boundary was less than three or four miles from Lake Superior, the next inland 6-mile township was chosen as the coastal township boundary. In one instance, where the coastal boundary was less than 6 miles from Lake Superior and the next township boundary was 10 miles inland, the boundary of the Pat Bayle State Forest was used (Cook County). The forest border makes use of an existing known geographic boundary, thus avoiding confusion. In addition, a number of inland water resources, namely, Devil Track Lake, Caribou Lake, Christine Lake, White Pine Lake, and Mistletoe Creek are within the boundary. Using the rationale above, the inland coastal township boundary stays approximately six miles from the Lake Superior shore.

Based upon the analysis, considerations, and relying upon the assumption that “the closer a use is to the coast the greater the impact on coastal waters,” it was decided that the area within which activities would be eligible for program implementation funds and subject to program management policies would extend inland as described below (see Figure 5).

#### **a. St. Louis River Watershed**

The inland boundary affecting Carlton County, the Duluth-Superior Harbor and parts of St. Louis County: at the St. Louis River confluence with Lake Superior, going upstream along the Minnesota/Wisconsin border, within the county of St. Louis to the Carlton County line, thence south along the Jay Cooke State Park border, thence westerly along the park border and including the city limits of the city of Wrenshall, thence, northwesterly along the border of Jay Cooke State Park and including the city limits of Carlton to the intersection of Highway 210, thence westerly along Highway 210 to the western border of Section 6, T48N, R17W, thence north along the R17W line following the western border of the city of Cloquet to the St. Louis County border, thence easterly along the Carlton/St. Louis County line to the western border of Midway Township and the city of Hermantown (see Figure 6).

#### **b. Duluth and Surrounding Urban Areas**

The inland boundary for Minnesota’s Lake Superior Coastal Program affecting the Duluth metropolitan area, including the cities of Hermantown and Proctor within St. Louis County: from the point where Carlton County, Hermantown, Midway Township, and Solway Townships meet, north along Solway Road (County Road 889, the western border of Hermantown), to the intersection of Highway 53, thence northwesterly along Highway 53 to Munger Shaw Road (County Road 15), thence north on Munger Shaw Road to Abrahamson Road, thence east along the section line to the NE corner of Section 18, thence south on Midway Road to Martin Road (County Road 9), thence west on Martin Road to Rice Lake Road (County Road 4), thence north on Rice Lake Road, to West Beyer Road (County Road 259), thence east on West Beyer Road to Jean Duluth Road (County Road 37), the western border of Lakewood Township (see Figure 6).

**c. St. Louis County - North Shore**

From the intersection of Jean Duluth Road and West Beyer Road, north on Jean Duluth Road (County 37) to the north border of Lakewood Township, thence east to the west border of Duluth Township, thence north to the north border of Duluth Township, thence east to the Lake County border (see Figure 6).

**d. Lake County - North Shore**

From Unorganized Territory Number Two west border, north along the R11W line to the T53N, R11W north corner, thence east along the T53N line to county-state aid Highway 2, thence north along Highway 2 to the T54N line, thence east to the R9W west line, thence north to the T55N line, thence east to the R8W line, thence north along the R8W west line to the T56N line, thence east to the R7W line, thence north along the R7W west line to the T57N north line, thence east to the R6W line, thence north along the R6W west line to the T58N north line, thence east to the Cook County line (see Figure 7).

**e. Cook County - North Shore**

From the Cook County line (NW corner Section 6, T58N, R11W) north along the R5W west line to T59N north line, thence east to the R4W line, thence north along the R4W west line to T60N north line, thence east to the R3W line, thence north along the R3W west line 3 miles to the Pat Bayle State Forest border, thence east to the R2W line, thence north 3 miles along the R2W line to the Pat Bayle State Forest border, thence east to the R1W line, thence north along the R1W west line 2 miles to the Pat Bayle State Forest border, thence east to the R2E line, thence north along the R2E west line 4 miles to the T62N line, thence east along the T62N line 12 miles to the R4E line, thence north along the R4E west line to the T63N line, thence east along the T63N north line to the Grand Portage Indian Reservation, thence northerly along the west border of the Grand Portage Indian Reservation to the USA/Canada border, thence easterly along the Minnesota side of the USA/Canada border to Lake Superior (see Figure 8).

Maps which show the coastal boundaries in greater detail are on file at the Minnesota Department of Natural Resources office in Two Harbors.

Figure 5.  
The Coastal Boundary  
in Minnesota

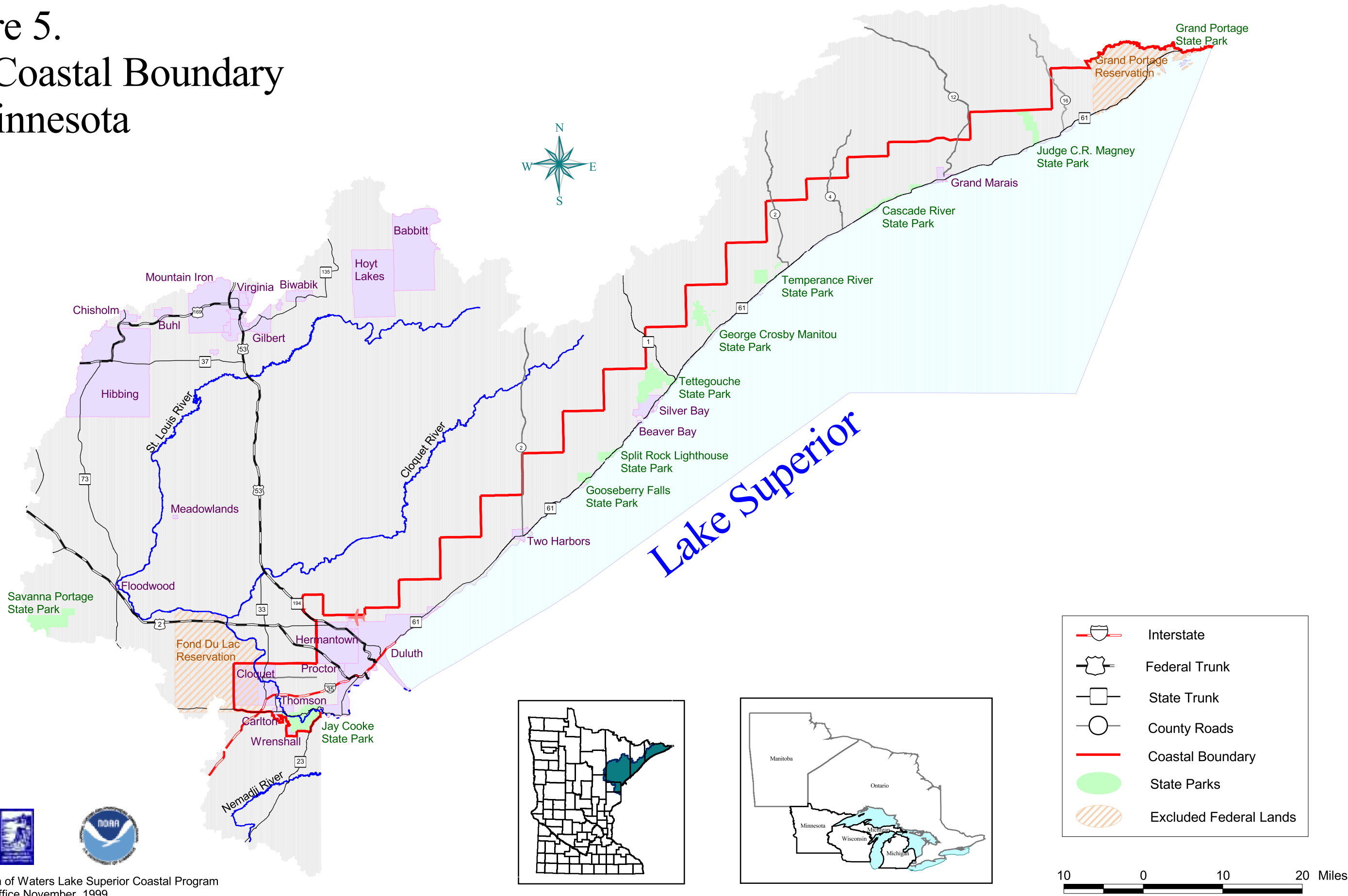


Figure 6.  
The Coastal Boundary in  
St. Louis and Carlton Counties, Minnesota

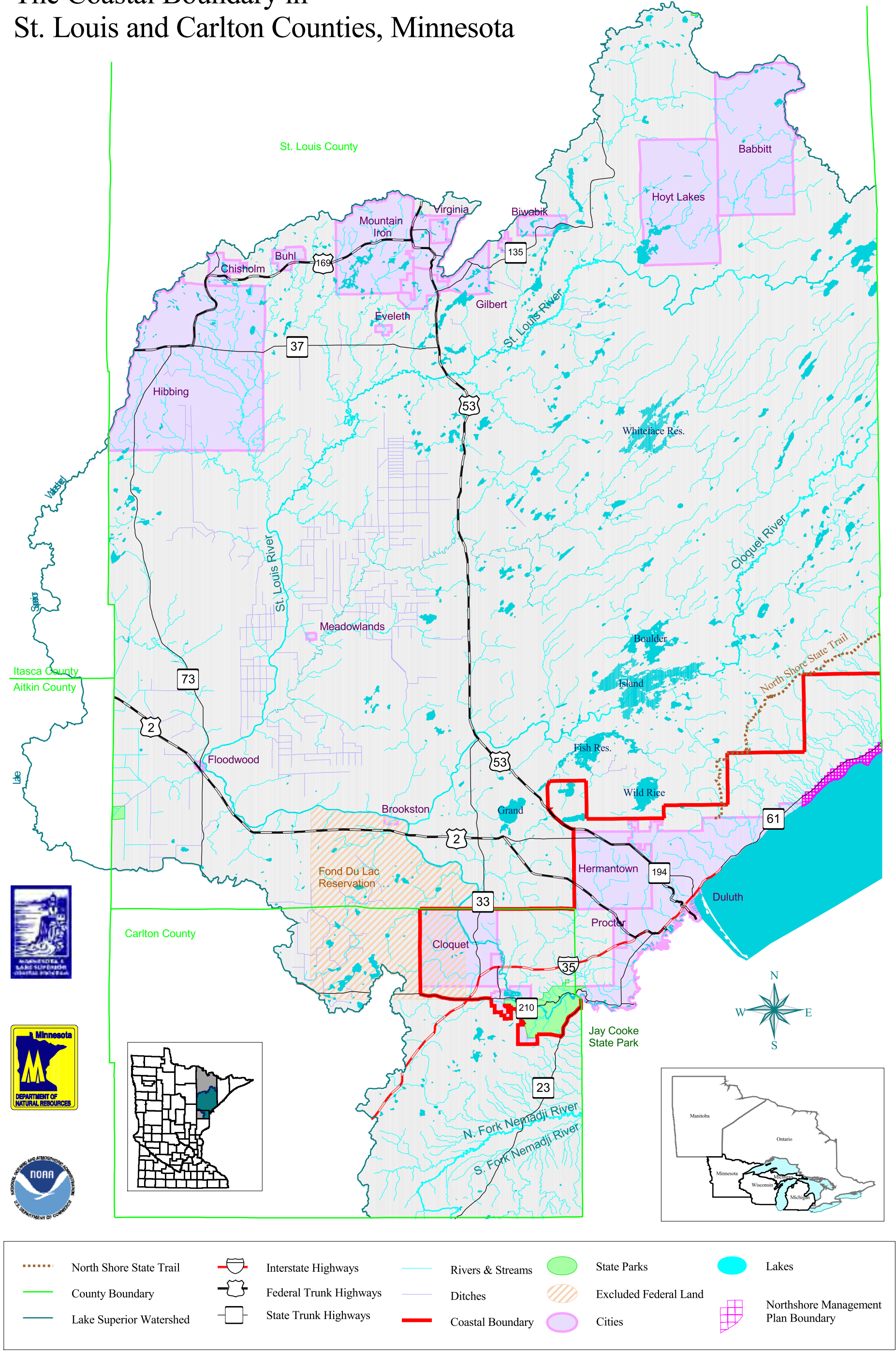


Figure 7.  
The Coastal Boundary  
in Lake County, Minnesota

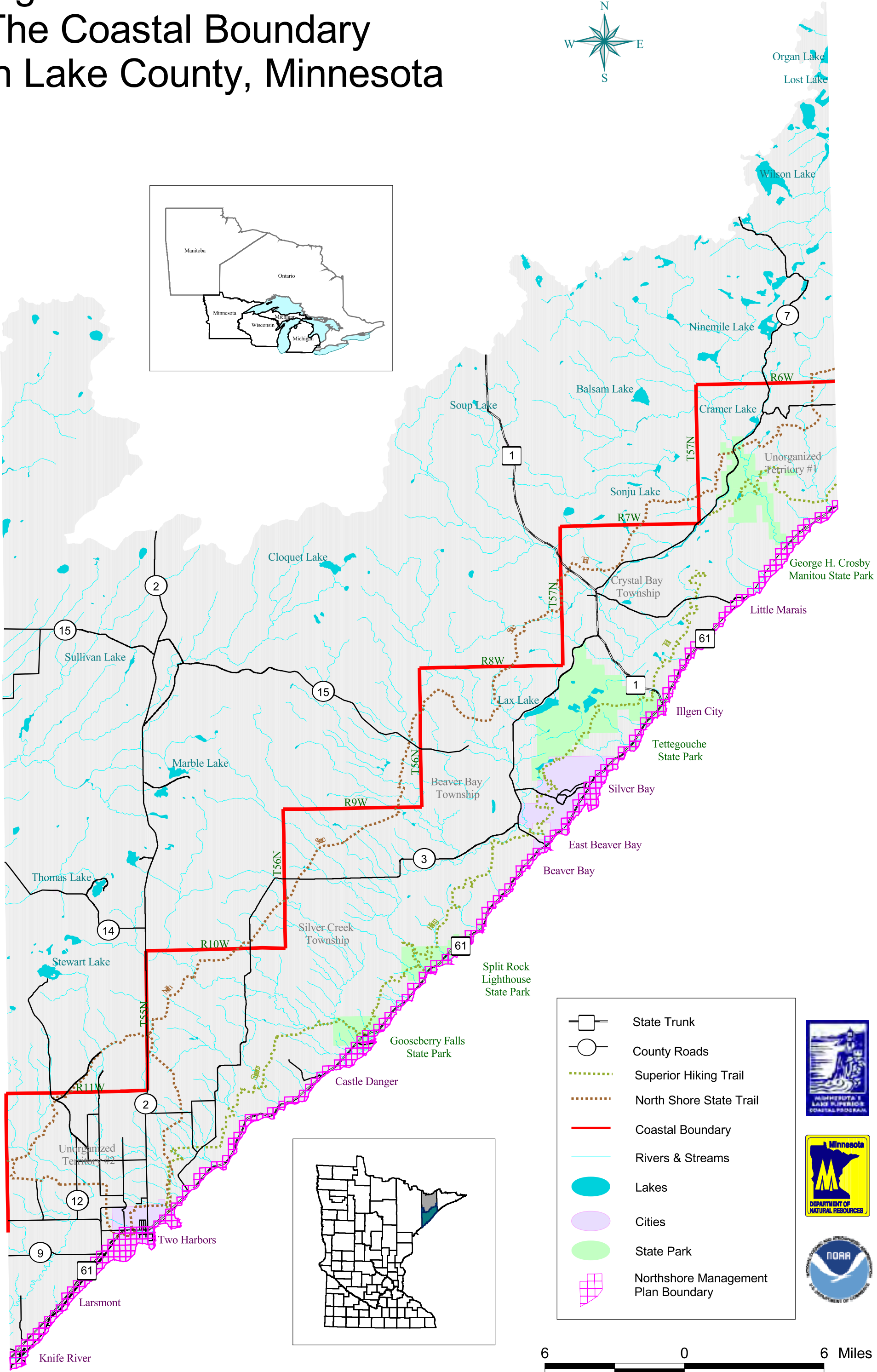
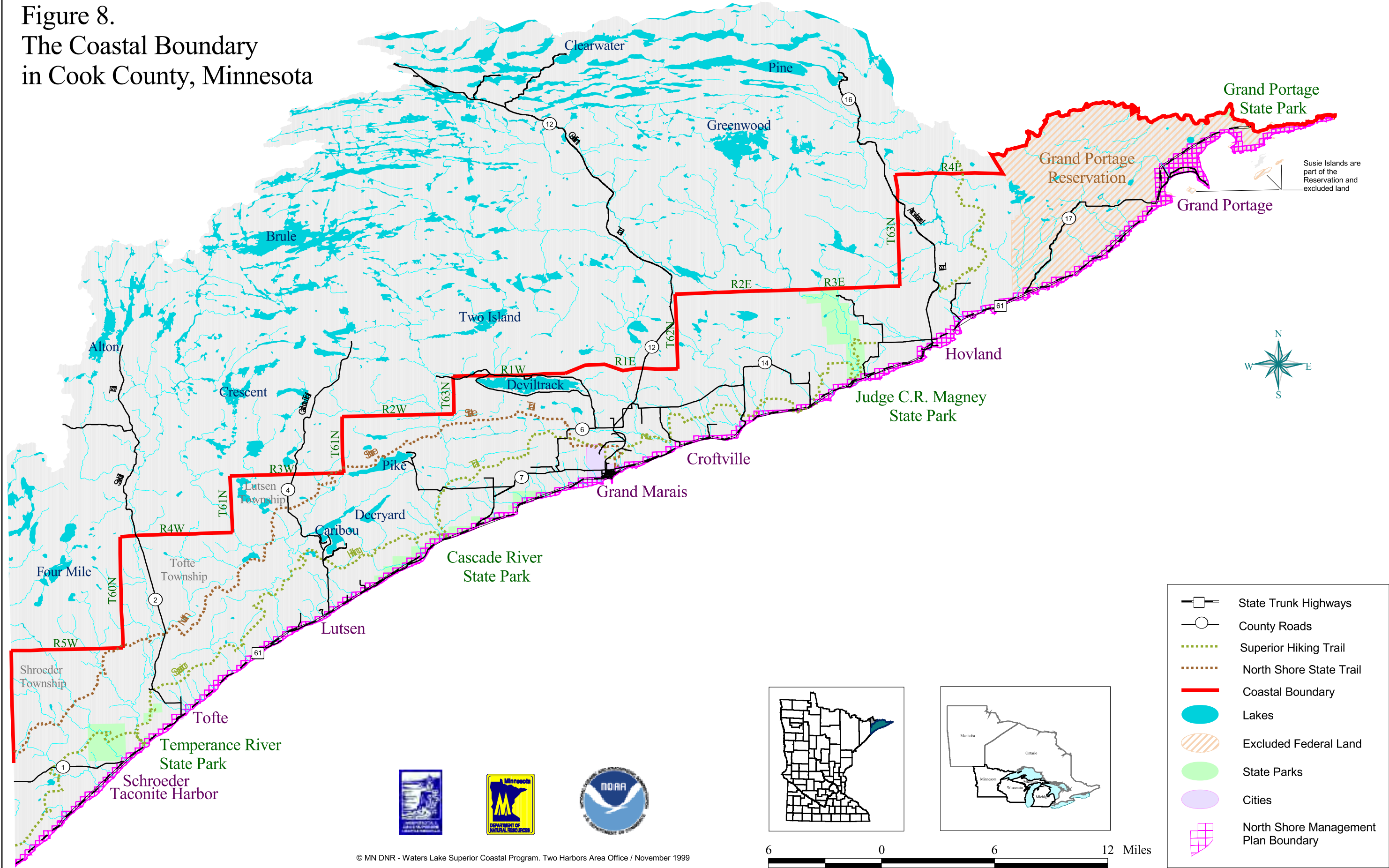




Figure 8.  
The Coastal Boundary  
in Cook County, Minnesota



## **CHAPTER 2**

### **PROGRAM IMPLEMENTATION**

#### **A. ORGANIZATIONAL STRUCTURE**

Collectively, state, local and federal agencies and units of government, through a variety of mechanisms, both policy and law, manage the natural and cultural resources of the Lake Superior watershed in Minnesota. Currently, the umbrella for all state and local management is the body of policy and law provided by the Minnesota Statutes. The statutes provide guidance and assign implementation authority to a variety of state agencies and local units of government as outlined in Chapter 3 - Management Policies and Authorities. Agencies and units of government work together with their stakeholders to address resource issues. It is through this network that Minnesota accomplishes resource management in the Lake Superior watershed. The management aspect of the program will be administered through the already existing authorities within state and federal rules and regulations. The Coastal Program will not in effect perform any management duties, other than to administer the Coastal Program grants program and consistency reviews.

**Minnesota's Lake Superior Coastal Program was developed to encourage greater cooperation, to encourage simplification of governmental processes, and to provide tools to implement existing policies, authorities and programs within the area defined by the program boundary.**

#### **1. Role of the Lead State Agency**

The Coastal Zone Management Act (CZMA) requires states to designate a single state agency to receive and administer the grants for implementing the state's Coastal Management Program. The agency must have the fiscal and legal capacity to accept and administer grant funds and have the administrative capability to monitor and evaluate the management of the state's coastal resources by the various agencies and/or local governments.

Tasks generally assigned to the lead agency include general program administration, federal consistency review, grant administration, program review and evaluation, monitoring and evaluation of compliance with the coastal program's policies and authorities, state agency consistency review, networking with state and local agencies, and outreach and education. As lead fiscal agent for the program, the agency will prepare and submit the grant application, as directed by the Coastal Council, administer funds, including pass-through grants and contracts, and monitor and summarize project performance as required by NOAA's Office of Ocean and Coastal Resource Management.

The Governor, with input from the organization and implementation work group and from the Commissioners of the various state agencies, has designated the Department of Natural

Resources (DNR) as the lead agency for Minnesota's Lake Superior Coastal Program. This agency, working in partnership with other state resource agencies including the Board of Water and Soil Resources, the Pollution Control Agency, and the Departments of Health and Agriculture, will be responsible for program implementation and program related administrative activities. The office of the Coastal Program coordinator will be located within the coastal area as defined by Minnesota's Lake Superior Coastal Program boundary. As a networked program, functions including accounting, federal consistency, and implementation of many of the statewide and regional programs and authorities included within the program may take place or be directed from offices outside the coastal area.

This chapter is divided into four sections. Section A. **Organizational Structure** describes the roles of the lead agency, coastal council, local units of government, state agencies and the cooperation of other programs. Section B. **Program Implementation** describes the implementation of policies and authorities from the networked program, consistency, and the implementation of the grant program. Section C. **Review and Evaluation of Program** describes program priorities and review of performance, and Section D. describes the **Termination Recommendation Process**.



## **2. Role and Responsibilities of the Coastal Council**

In the development of Minnesota's Lake Superior Coastal Program a work group made up of individuals from within the Lake Superior watershed (Carlton, St. Louis, Lake and Cook counties) representing a variety of perspectives, met to address several components of how a coastal management program might work in Minnesota. The Organization and Implementation Work Group recommended the establishment of an administrative board by the legislature whose members would be nominated by local units of government as well as selected from at-large nominations and be appointed by the Governor. It is designed to include representation from the large geographical area of the North Shore as well as the diversity of issues and perspectives.

This will be a two phased approach. Initially this board will be established through an Executive Order, which specifies that the role of the board is to make recommendations to the Commissioner of the DNR on program priorities, funding decisions, program evaluation and procedural review. This board will be limited to no more than fifteen members during this first phase. The board, under the Executive Order will be called the "Governor's Council on Minnesota's Coastal Program." In the second phase, the board will seek to be established through legislation, which specifies the role of the board, as one with decision making powers with regards to the use of the federal funds. The board will remain advisory and make recommendations to the Commissioner on the conduct and direction of the Coastal Program. Under this legislation, the board will be called the "Coastal Council."

### **Governor's Council on Minnesota's Coastal Program**

#### **15 Member Board Created through Executive Order Governor Appointed**

12 members: 3 persons per county selected from pool submitted by each of the cities, townships, and counties within the coastal boundary

3 members selected from At-Large pool

#### **Functions:**

- Advise on grant program funding priorities
- Advise on pass-through grant decisions
- Participate in local program evaluation
- Assist and recommend changes at annual review of grant program operations.

The **Coastal Council** will initially be composed of 15 members, three from each of the four counties represented in the state's Coastal Management Program boundary (Carlton, St. Louis, Lake, and Cook) and three at-large members. After legislation, two more at-large members may be added. A minimum three and a maximum of five Council members will represent any one county, and no more than one elected official ((includes all state and local elected officials except soil and watershed conservation district (SWCD) supervisors)) from each county may be represented on the Council. No requirement exists to select an elected official. Policies governing

## CHAPTER TWO

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administrative boards established through legislation are defined in Minn. Stat. §15.0575 and Minn. Stat. §15.0597.

As openings on the Coastal Council occur, each local government unit (LGU, defined to include all counties, cities/municipalities, and townships) within the county where the opening occurs, will be asked to submit two names for a pool of potential candidates. The Governor will choose Council members to fill the open positions from this pool of names. As at-large openings occur a pool of names will be solicited from the public and private sector statewide. Selection by the Governor will be made from this pool of candidates.

As outlined in Minnesota Statutes, terms of Coastal Council members are for four years each with approximately one-fourth of the terms expiring each year. No member may serve more than two consecutive terms. Replacements for open, unexpired terms will be filled in the same manner as explained above with the replacement serving out the remainder of the unexpired term. The Coastal Council will establish recommended membership criteria and details of the application process not covered by statute. Applicants will complete the required State Open Appointment Application and Supplemental Application developed for this program. All terms will end on the first Monday of January.

The role of the coastal program staff in this process is to announce council openings, solicit applications, sort applications, and submit the list of nominations to the Governor's Open Appointment Office for selection. Filings for open terms are due to the program coordinator of Minnesota's Lake Superior Coastal Program by October 1. The list will be submitted to the Governor by October 31. Term length during the first four years of the Coastal Council's existence will vary to create staggered terms during subsequent years. Development of bylaws and working procedures and policies will be developed by the Coastal Council. The chair of the Council will be elected by the Council members.

The responsibilities of the Coastal Council include:

***Development of grant program funding priorities:*** This process will be conducted with the assistance of program staff. Priorities will reflect a balance between preservation, protection,

### **Coastal Council**

#### **15-17 Member Board Created through Legislation Governor Appointed**

12 members: 3 persons per county selected from pool submitted by each of the cities, townships, and counties within the coastal boundary

3-5 members selected from At-Large pool

#### **Functions:**

- Determine grant program priorities
- Make funding decisions on pass-through grants
- Participate in local program evaluation
- Determine and annually review procedures for

development and where possible the restoration and enhancement of the coast for present and future generations, as defined by the CZMA. Opportunities for input by stakeholders will be an important component of the development of program priorities.

***Review and selection of grant proposals:*** The process for solicitation, review, and selection has been developed by the organization and implementation work group and is detailed in “Proposal Guidance for Minnesota’s Lake Superior Coastal Program” which will be published and distributed annually.

***Review of annual budget:*** The Coastal Council will work together with the DNR to establish an annual administrative (nonproject administration) budget for the program. During the first year of the program administrative funds will be approximately 20 percent. During successive years staff will draft an administrative budget for review and agreement jointly by the Council and the DNR. It is expected that the administrative budget be approximately 20 percent annually.

***Periodic review of program:*** A program evaluation will be held every two to three years. Review may coincide with NOAA’s Office of Ocean and Coastal Resource Management (OCRM) review as described in Section 312 of the Coastal Zone Management Act (CZMA). This review will evaluate the programs efforts to ensure a balance between preservation, protection, development, restoration and enhancement of the coastal resources as specified in the CZM Act. Input from stakeholders, state and federal agencies and local units of government will be sought during this review. (See Part V 2-17).

#### **a. Relationship Between the Coastal Council and Coastal Program Staff**

The Coastal Council is the decision making mechanism through which Minnesota’s Lake Superior

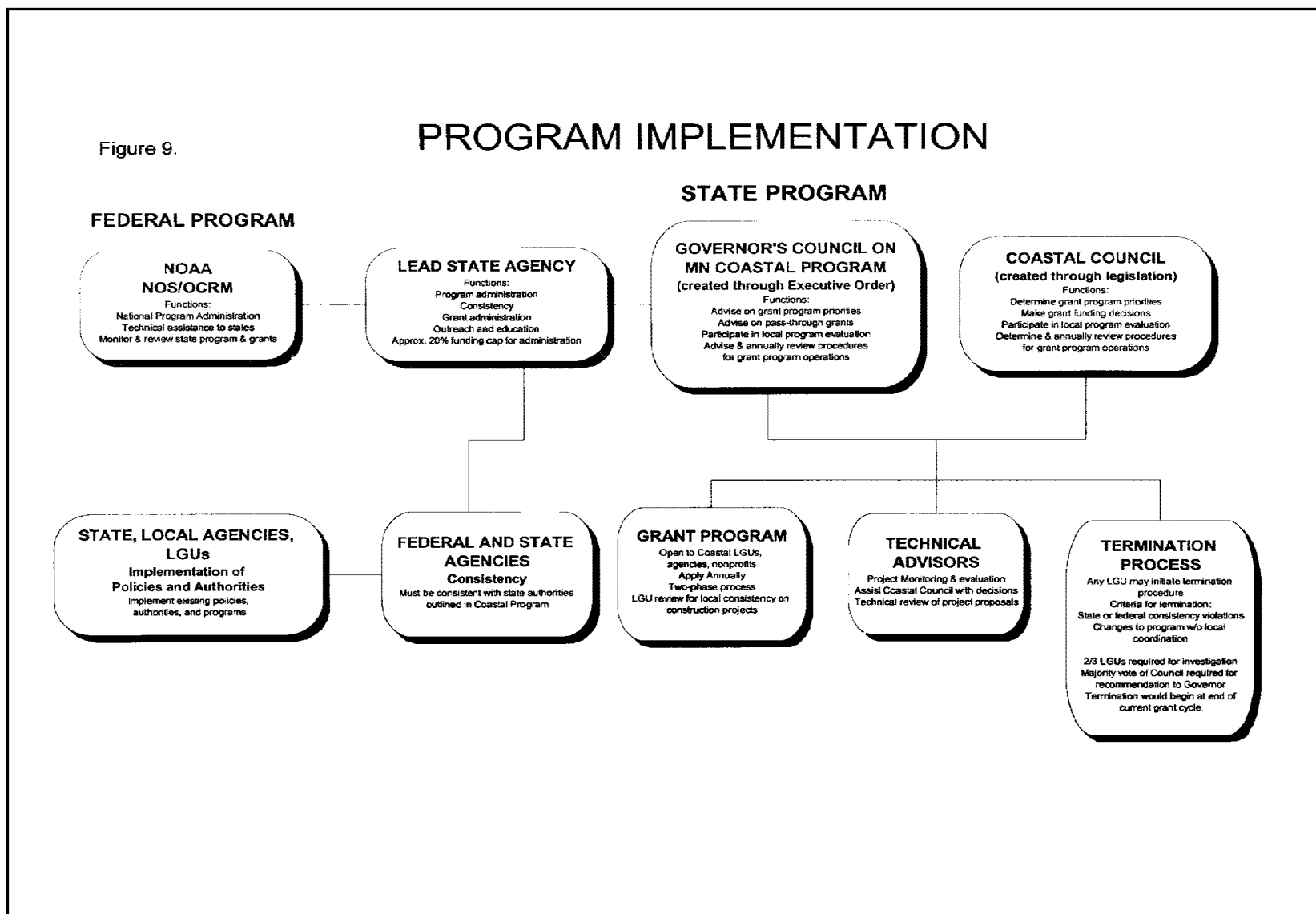
Coastal Program implements the grant program. The Coastal Program staff will work together with and as staff for the Coastal Council on responsibilities related to the grant program as listed in the previous section. Other functions, such as federal consistency and monitoring and evaluating coastal policies and authorities are accomplished by state agencies as outlined by statute or as coordinated by the program coordinator. The Coastal Council will assist and recommend direction for the Coastal Program to the program coordinator.

#### **b. Relationship Between the Coastal Council and Technical Advisors**

Technical advisors include professional staff (private or public) in fields such as resource management, engineering, planning, recreation and public works. The role of technical advisors will be determined specifically by the Coastal Council, but generally professionals will be asked to provide technical review of project proposals and to assist the Coastal Council in their decision making role, as requested.

Figure 9.

## PROGRAM IMPLEMENTATION



### **3. Local Units of Government**

#### **Counties, Cities, Townships**

The following local units of government are included within the coastal area. Each unit manages land use within its political boundary through comprehensive land use plans and supporting ordinances and zoning as authorized by state statute. A variety of relationships occur between state and local agencies and between local agencies regarding implementation of state statutes and implementation and enforcement of local comprehensive land use plans and zoning ordinances.

#### **Cook County**

Grand Marais  
Lutsen Township  
Schroeder Township  
Tofte Township  
Cook County

#### **Lake County**

Beaver Bay  
Beaver Bay Township  
Crystal Bay Township  
Silver Bay  
Silver Creek Township  
Two Harbors  
Lake County

#### **St. Louis County**

Canosia Township  
Duluth  
Duluth Township  
Hermantown  
Grand Lake Township  
Lakewood Township  
Midway Township  
Proctor  
Rice Lake Township  
St. Louis County

#### **Carlton County**

Cloquet  
Carlton  
Scanlon  
Silver Brook Township  
Thomson  
Thomson Township  
Twin Lakes Township  
Wrenshall  
Carlton County

#### **County Soil and Water Conservation Districts**

Though Soil and Water Conservation Districts (SWCD) are local units of government that manage and direct conservation programs, they are not eligible to submit nominations to the Coastal Council. The district's function is to assist land occupiers in both rural and urban settings to protect soil and water resources. Board of Water and Soil Resources (BWSR) is the state administrative agency for the SWCDs and channels state funds to the districts for many conservation programs.

#### **4. Roles of State Agencies**

<b>Mechanism for Networking</b>
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To address simplification of governmental processes and encourage cooperation, the state has developed numerous agreements (Memoranda of Understanding (MOU), Memoranda of Agreement (MOA), and Memoranda of Direction (MOD)) within agencies, between agencies and between units of government to address specific responsibilities related to resource protection and land use. Existing agreements which are applicable to Minnesota's Lake Superior Coastal Program are listed in Appendix G. In addition, communication and cooperation between local units of government and between state and local agencies and/or units of government also occur through numerous formal and informal means including the North Shore Management Board (NSMB), the Arrowhead Regional Development Commission (ARDC), the Metropolitan Interstate Committee (MIC), and the Harbor Technical Advisory Committee (HTAC). Forums, such as those facilitated by Minnesota Sea Grant, the University of Minnesota Extension Office, and others, offer additional opportunities for individuals, agencies and government representatives to learn and share information.

Minnesota's Lake Superior Coastal Program will assist in enhancing communication and in simplifying governmental processes through the encouragement of additional MOUs and MOAs, through implementation grants that address these issues, and by collecting input and recommending solutions through its public participation process during program review (see section on Program Review, Part V 2-17). The effectiveness of current strategies for networking - between federal and state agencies, between state agencies, and between state and local agencies and local units of government will also be considered during program review.

Organized below are the state agencies that have a role in managing land and water resources in the State of Minnesota. Listed for each is the agency mission statement followed by the policies, authorities, and programs included in Minnesota's Lake Superior Coastal Program and administered by the agency. It is proposed that each of the agencies has signed a Memorandum of Understanding (MOU) that confirms its role in implementation of Minnesota's Lake Superior Coastal Program, its understanding of and agreement to be consistent with the state's Coastal Management Program, and its support for collaborative management of our coastal resource - Lake Superior.

The role of the DNR and other regulatory agencies will remain unchanged. Permits will be granted or denied with respect to each agency's existing statutes and regulations, and there is no new requirement to be consistent with or comply with local ordinances or approvals.

State permitting agencies will only administer and apply their existing statutes and regulations, they will not be applying authorities of other agencies or programs.

**BOARD OF WATER AND SOIL RESOURCES (BWSR):** The mission of the Board of Water and Soil Resources is to provide leadership enabling local governments to properly manage water and soil resources and to help all citizens be stewards of our irreplaceable natural resources. It is unique in its purpose of working with local units of government - particularly soil and water conservation districts (SWCDs), watershed districts and water management organizations, and counties - to assist in effective resource management at the local level. The BWSR has an office in Duluth. The Board also has a role in the question of water policy with the process under Minn. Stat. ch. 103A Water Policy and Information that contain procedures for conflict resolution, if one should occur.

Authorities, policies, or programs this agency administers which are part of Minnesota's Lake Superior Coastal Program and are detailed in the following two chapters include:

- ℄ Wetland Conservation Act (Administration)*
  - ℄ County Water Plans*
- 
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**DEPARTMENT OF AGRICULTURE (MDA):** The Minnesota Department of Agriculture is responsible for ensuring that the food we eat is safe and wholesome all the way from the farm until it reaches the consumer. Its mission is to work toward a diverse agricultural industry that is profitable as well as environmentally sound; to protect the public health and safety regarding food and agricultural products; and to assure orderly commerce in agricultural and food products. The Department of Agriculture has an office in Duluth.

Authorities, policies, or programs this agency administers which are part of Minnesota's Lake Superior Coastal Program and are detailed in the following two chapters include:

- ℄ Groundwater Protection Act*
- 
- 

**DEPARTMENT OF HEALTH (MDH):** The mission of the Minnesota Department of Health is to protect, maintain and improve the health of the citizens of Minnesota. The Department of Health has offices in Duluth and a district office in Virginia, Minnesota.

Authorities, policies, or programs this agency administers which are part of Minnesota's Lake Superior Coastal Program and are detailed in the following two chapters include:

- ℄ Safe Drinking Water Act*
  - ℄ Wells, Borings, and Underground Uses*
  - ℄ Well Water Construction Code*
- 
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**DEPARTMENT OF NATURAL RESOURCES (DNR):** The mission statement of the Department of Natural Resources is to preserve, protect and enhance Minnesota's natural resource heritage in order to benefit the environment, economy, and quality of life of all Minnesotans, present and future. The DNR has a number of offices along the North Shore including those in Cloquet, Two Harbors, Duluth, Duluth Township, Finland and Grand Marais.

Authorities, policies, or programs this agency administers which are part of Minnesota's Lake Superior Coastal Program and are detailed in the following two chapters include:

- C Shoreland Management Act*
  - C Floodplain Management Act*
  - C DNR Protected Waters Program*
  - C Water Appropriation Permits*
  - C Dam Safety*
  - C Wetland Conservation Act (enforcement of Act)*
  - C Groundwater Protection, Degradation Prevention Goal*
  - C Fish and Wildlife Management*
  - C State Water Access Site Program*
  - C Minnesota State Parks, Monuments, Recreation Reserves, Waysides*
  - C State Trail System*
  - C Utility Crossings of Public Lands and Waters*
  - C Scientific and Natural Areas Program*
  - C County Biological Survey*
  - C Mineland Reclamation*
  - C Forest Resource Management Act (1982)*
  - C Sustainable Forest Resources Act (1995)*
- 

**DEPARTMENT OF TRANSPORTATION (MNDOT):** The Minnesota Department of Transportation fundamental purposes are: to develop a coordinated transportation network by leading and acting to preserve, manage, and improve the state's highway system; to promote and support the transit, air, rail, waterways, bicycle and pedestrian systems; to promote nontravel alternatives; and to promote and support connections among transportation systems.

Authorities, policies, or programs this agency administers which are part of Minnesota's Lake Superior Coastal Program and are detailed in the following two chapters include:

- C MN DOT Rest Area Program*
  - C MN DOT Highway Program*
- 

**ENVIRONMENTAL QUALITY BOARD (EQB):** The Environmental Quality Board is the state's principle forum for discussing environmental issues. The current 15-member board is composed of a chairperson and five citizen members appointed by the Governor, the Commissioners of the State Department of Agriculture, Health, Natural Resources, Public Services, Transportation, and Pollution Control Agency, and the Directors of the Office of Strategic and Long Range Planning and the Office of Environmental Assistance. It provides the public with an accessible forum for debating and discussing the environmental policies and decisions of state government; it provides the mechanism for coordinating the actions of major state agencies and the impact of their decisions on the environment; and it provides the Governor and the legislature with a tool for working on those environmental issues and problems that do not fit in one of the state's other environmental agencies. The EQB does not currently have an office



along the North Shore. Staff and consultant support for Board activities is provided by the Office of Strategic and Long-Range Planning (MN Planning).

Authorities, policies, or programs this agency administers which are part of Minnesota's Lake Superior Coastal Program and are detailed in the following two chapters include:

- C Minnesota Environmental Rights Law*
  - C Environmental Review Program*
  - C Minnesota Power Plant Siting Act*
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**MINNESOTA HISTORICAL SOCIETY (MHS):** The mission of the Minnesota Historical Society is to foster an awareness of Minnesota history among people so that they may draw strength and perspective from the past and find purposes for the future.

Authorities, policies, or programs this agency administers which are part of Minnesota's Lake Superior Coastal Program and are detailed in the following two chapters include:

- C State Historic Sites and Monuments*
  - C Submerged Cultural Resource Management Program*
- 
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**OFFICE OF ENVIRONMENTAL ASSISTANCE (OEA):** The Office of Environmental Assistance (OEA) protects Minnesota's environment and assures a sustainable economy through waste prevention and resource conservation. Types of programs included under the umbrella of O.E.A. include environmental education, business assistance, solid waste assistance, sustainable communities, and financial assistance (for waste management projects). The Office of Environmental Assistance has no office in Duluth.

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**POLLUTION CONTROL AGENCY (MPCA):** The Minnesota Pollution Control Agency is the state agency responsible for protecting Minnesota's air, water and land resources from the effects of pollution. The MN Pollution Control Agency has an office in Duluth.

Authorities, policies, or programs this agency administers which are part of Minnesota's Lake Superior Coastal Program and are detailed in the following two chapters include:

- C Clean Water Act Section 401 Water Quality Certification*
  - C Air Emissions*
  - C Acid Deposition*
  - C Lead-based paints*
  - C Water Pollution Control Act*
  - C Water Quality Standards*
  - C National Pollutant Discharge Elimination System*
  - C Animal Feedlots*
  - C Waste Water Treatment Facilities*
  - C Onsite Septic Systems*
-

- C Groundwater Protection Act*
  - C Solid Waste Management, Policy and Authorization*
  - C Sewage Sludge Management*
  - C Waste Treatment Facilities*
  - C Hazardous and Radioactive Waste; State Potable Water Protection Policy*
  - C St. Louis River RAP*
- 
- 

**The Environmental Cluster**, established by Governor Carlson and reorganized on July 8, 1997 is composed of the heads of the following departments or boards: DNR, Health, Board of Water and Soil Resources, Transportation, Office of Environmental Assistance, MN Planning, PCA, Environmental Quality Board, Public Utilities Commission, Public Service and Agriculture. The function of this group is to share information on agency activity and to discuss issues of regional or statewide importance. Changes in administration may change the composition, organization, and function of this group. To ensure support for a collaborative approach to resource protection and development along the North Shore, it is recommended that agency heads or their designates for each of the state resource agencies meet at least annually to discuss Minnesota's Lake Superior Coastal Program and issues related to resource protection and development that impact or have the potential to impact Lake Superior and the Lake Superior watershed.

### **North Shore State Agency Meetings**

To facilitate communication and coordination between agencies, it is recommended that area staff representing each of the state resource agencies (BWSR, DNR, and PCA) with field offices on the North Shore, meet quarterly to share information and coordinate efforts within the Lake Superior watershed. Efforts to encourage networking between federal, state, and local agencies, local organizations and businesses should be considered as well as mechanisms for reducing redundancy and simplifying permitting procedures.

## **5. Cooperation with Other Programs**

### Arrowhead Regional Development Commission (ARDC)

One of several regional development commissions located throughout Minnesota, ARDC serves seven counties in northeastern Minnesota. Through its mission to provide local leadership, it is involved in many issues related to the environment in the Lake Superior basin including serving as staff for the North Shore Management Board (NSMB). It is anticipated that ARDC may work together with local units of government, and the NSMB to prepare grant proposals and assist in implementing projects through this program.

### North Shore Management Board (NSMB)

The North Shore Management Board was created in July 1987 to develop a North Shore Management Plan. The Board consists of county, city and township elected officials and is assisted by two 16-member advisory committees, the Citizens Advisory Committee and the Technical Advisory Committee. Through a Joint Powers Agreement, the Board monitors how each local unit of government carries out the plan and sees that the plan's policies are applied and

enforced. As administrator of the North Shore Management Plan, the NSMB and the local governments it represents, plays a valuable role in the vision and implementation of planning, development, and resource protection along the North Shore. It is anticipated that funding through this program will assist the Board and its individual members in implementing its goals.

#### Sea Grant

A unique partnership of public and private sectors that combines research, education and technology transfer for public service - is a NOAA-sponsored national network of universities meeting the changing environmental and economic needs of Americans in coastal ocean and Great Lakes regions. The Minnesota Sea Grant office is located on the lower campus of the University of Minnesota - Duluth. Opportunities to collaborate on projects, especially those related to providing opportunities to gather public input and to disseminate information on coastal resources and resource issues, have occurred throughout program development and should continue during program implementation.

## **B. PROGRAM IMPLEMENTATION**

### **1. Implementation of Policies and Authorities Through Networked Program**

#### **a. Implementation Mechanisms**

Minnesota will implement its Coastal Program through **existing** mechanisms. Primary among these mechanisms are Minnesota statutes and rules, many which are implemented by local units of government, and state, and local programs and plans. Within the state's Coastal Management Program the CZMA requires the state to identify enforceable mechanisms to control land and water uses. In addition, Minnesota has chosen to include those nonregulatory measures it uses to manage its resources and the impacts of development upon those resources.

The specifics of these authorities and programs are reviewed in subsequent chapters.

#### **b. Monitoring and Enforcement Mechanisms**

Monitoring and enforcement of the authorities listed in this document are generally outlined by law. In an effort to evaluate the success or value of these programs relative to Lake Superior's coastal resources, the program coordinator will compile, for periodic program reviews (see section on 312 reviews), documentation on the following: NSMB annual reports to the DNR, information on changes in local planning and zoning, a summary of federal consistency actions, annual state agency consistency reports, and summaries of the accomplishments of grant funding over the review period. Additional monitoring strategies and enforcement mechanisms may be recommended during program review by local, state, or federal agencies or by stake holders. New regulations (state statutes or rules) however **will not** be created directly by the creation or implementation of this program. Recommendations to local or state agencies regarding additional enforcement needs may be made to the pertinent agencies for consideration. Changes made to Minnesota statutes however which directly impact Minnesota's Lake Superior Coastal Program will be reviewed by stakeholders and this may impact continued participation in the nationwide Coastal Program (see termination process).

### **2. Consistency**

#### **a. State Consistency**

CZMA regulations require that the state "bind each party which exercises statutory authority that is part of the management program to conformance with relevant enforceable policies and management techniques." This component requires state agencies to be consistent with state policies and authorities included within this document. The Governor's Executive Order will reaffirm the state's commitment to this component of the Coastal Zone Management Act.

State agencies are encouraged to be proactive. It is recommended that input be sought from local units of government and interest groups which may be impacted by agency decisions, particularly

regarding land acquisition and development within the coastal program boundary. If it is determined that an action will not be consistent with the state's program, the agency should notify Minnesota's Lake Superior Coastal Program coordinator as early as possible in the planning process. Further, it is recommended that the agency document the rationale for its decision and provide information to the public regarding the uniqueness of the situation.

State consistency does not require state agencies to implement new monitoring or reporting requirements. State agencies will continue to implement existing policies and authorities pursuant to rules, authorities, executive orders and policies. Where there is conflict between state agency programs and state and local programs, the coastal program will assist in attempting to resolve the conflict, if so requested by each party.

#### **b. Mechanisms to Ensure State Consistency**

Each state agency which conducts activities or issues permits or licenses within the area included in the boundary of Minnesota's Lake Superior Coastal Program will receive a copy of the program document and subsequent revisions. Workshops to inform agencies on the Coastal Program and the requirement of state consistency will be conducted by coastal program staff.

This program and the requirement of state consistency do not impose any new requirements on any state agency, local government, or person. Furthermore, this program and the requirement of state consistency do not give any state agency or local government any new regulatory authority or criteria to apply.

The program document will assist state agencies in understanding the role of other governmental units and programs. No new criteria have been introduced, therefore, the program document serves to remind state agency managers of the various authorities of existing state programs.

Agencies listed previously as "networked agencies" administer one or more of the policies, authorities, or programs included within this document. It is proposed that Memorandums of Understanding (MOU) will be developed between these agencies and the DNR which acknowledge the agency's understanding of state consistency with Minnesota's Lake Superior Coastal Program and an agreement to be consistent to the maximum extent practicable with the state's Coastal Program. The DNR will review these MOUs with other agencies that share jurisdiction of issues in these documents.

Conflicts between Divisions within the DNR regarding state consistency with Minnesota's Lake Superior Coastal Program will be addressed by the Commissioner of the DNR at the request of Coastal Program staff. Conflicts between state agencies regarding consistency with Minnesota's Lake Superior Coastal Program will be addressed through the Commissioners of each agency using the appropriate and existing mechanisms for conflict resolution. Parties to the conflict will resolve the issues at the appropriate level.

### **c. Federal Consistency**

Considered by states as one of the key benefits of the national Coastal Management Program, federal consistency, the component of the Coastal Zone Management Act that requires actions of federal agencies to be consistent with the state's Coastal Management Program, will encourage federal agencies to seek input early in the planning of activities and gives the state additional leverage in and assurance that federal actions will be conducted in accordance with state law.

The Coastal Program staff within the DNR will take the lead for the state in reviewing proposed federal actions to determine if they will be consistent with the state's Coastal Management Program. An annual summary of consistency reviews will be prepared by Minnesota's Lake Superior Coastal Program coordinator. At the federal level, NOAA oversees the state's use of consistency, mediates consistency disputes and processes appeals to the Secretary of Commerce.

Specific processes for applying consistency in Minnesota have been developed following the guidance from NOAA's Office of Ocean and Coastal Resource Management for the review of federal activities and development projects, permits and licenses, and federal assistance programs that may impact the coastal area. Where Memoranda of Understanding have been developed and received public input, alternative processes for reviewing consistency may be used. Whenever possible, efforts will be made to consolidate and simplify the review process into existing procedures. Detailed consistency procedures and time lines are discussed in Part V 6-7.

### **3. Implementation of the Grant Program**

The DNR is responsible for the disbursement of funds received through the national Coastal Management Program. Together with the Coastal Council an annual budget will be drafted and submitted to OCRM for approval. The budget will include administrative costs which should approximate 20 percent as well as specific project proposals. The Coastal Council will annually draft, and direct staff to publish and distribute a "Proposal Guidance for Minnesota's Lake Superior Coastal Program" which will describe the process for solicitation, review, and selection of projects and programs to be funded through this program. During the phase in which the Coastal Council is established under Executive Order, their role will be as an advisory council to the DNR. After being established through legislation, the role of the Coastal Council will become one of decision making with regards to the expenditure of federal 306 and 306A funds for pass-through grants. The DNR will administer funding, including coordination of pass-through grants. Staff will monitor project progress and complete semiannual reports on program implementation to OCRM. OCRM remains the final decision maker on all applications for federal funds.

## **C. REVIEW AND EVALUATION OF PROGRAM**

### **1. Program Priorities**

Program priorities will be determined by the Governor's Council on Minnesota's Coastal Program (during the Executive Order term) in an advisory capacity until the Coastal Council is established through legislation and priorities will be determined with decision making authority.

### **2. Review of Performance**

A continuing review of the performance of states with respect to coastal management as outlined by the CZMA (Section 312) is conducted by NOAA's Office of Ocean and Coastal Resource Management (OCRM). OCRM monitors state performance through ongoing review of financial assistance awards and performance reports, and through a periodic (usually every three years) evaluation of the state's Coastal Program. Evaluation of the state's Coastal Program means the state must effectively implement and enforce the policies and standards it has developed to guide public and private uses of its coastal area. The state must also show compliance to the terms of federal financial assistance awards.

### D. TERMINATION RECOMMENDATION PROCESS

The work group developed the following termination process to address concerns regarding additional regulation by state or federal agencies that would cause undue hardship through participation in the Coastal Program and regarding violations of the program by state or federal agencies. For the purpose of this document, termination is defined as withdrawal by the state from the national Coastal Zone Management Program.

Any local unit of government may initiate program termination procedure based on the following reason(s):

- a) Noncompliance of **consistency component** of program by state or federal agencies. (According to the CZMA, federal and state agencies must comply with policies and Authorities within the state's Coastal Program to the maximum practicable extent - See Part V 6-7 of the program document).
- b) Changes are made in federal or state policies or authorities which have a significant effect on Minnesota's Lake Superior Coastal Program **and which are made without coordination with local program participants.**

The local unit of government initiating program termination will provide a statement clearly outlining their complaints. The statement should include as many specifics as possible including dates, explanations of events, impact on the local unit of government, impact on Minnesota's Lake Superior Coastal Program, action taken by the local unit of government, and a recommended action(s). The program termination request should be received by the Coastal Council in the form of a resolution as approved by the local unit of government.

The local unit of government initiating the termination becomes the process leader and has the responsibility to circulate a petition to all LGUs within the Coastal Program boundary. Two-thirds of the LGUs must sign the petition and submit official actions or resolutions supporting termination of the program for the resolution to be considered by the Coastal Council.

The Coastal Council will appoint a team to investigate the facts stated in the petition. Discrepancies will be discussed with the initiating LGU. The Coastal Council will review the investigating team's findings and recommendations. The Coastal Council will also review and consider evaluation of the impacts and ramifications of termination of the program.

If the Coastal Council, by a majority vote, supports the advisory recommendation, the recommendation will be forwarded to the Governor and information copied to the DNR. Advisory recommendations short of termination may also be forwarded at this point. Upon receipt of the Coastal Council's recommendation to terminate the program, the Governor will review the advisory recommendation and notify in writing, his/her decision whether or not the state should withdraw as a participant in the national Coastal Zone Management Program. Termination



becomes effective at the end of the current funding cycle to allow time to complete projects for which funding has been received.

If the Coastal Council does not support the recommendation, they will return the statement and petition to the initiating local unit of government, stating their reasons for nonsupport. The initiating LGU may request a meeting with the Coastal Council to try to resolve the differences or they may resubmit a petition which responds to the comments of the Coastal Council.

## CHAPTER 3

### MANAGEMENT POLICIES AND AUTHORITIES

The Coastal Zone Management Act (CZMA), Section 306 (d) (B), requires Minnesota to define what constitutes permissible land and water uses within the Minnesota coastal boundary which have a direct and significant impact on the coastal waters. Those land and water uses are defined in this chapter.

This chapter also identifies the methods by which Minnesota addresses land and water uses through measures such as state laws and regulations. In addition, the chapter lists the agencies (including local governments, area wide agencies, regional agencies, or interstate agencies) that have the authority for the management of the coastal area in accordance with the program. These authorities include the administration of land and water use regulation. General techniques include the establishment of criteria and standards for local implementation, such as the Shoreland Management Act administered through local zoning ordinances and the North Shore Management Plan (NSMP). Other techniques include direct state land and water use planning and regulation, such as the Protected Waters and Wetlands Program or other comprehensive legislation and networked programs. The program also contains a method of assuring that land use and water use regulations do not unreasonably restrict or exclude uses of regional benefit.

*Minnesota's Lake Superior Coastal Program will be based on existing policies and authorities governing land and water use and resource protection. No new policies or authorities will be created by implementation of the state's Coastal Program. In addition, there will be no new applications of existing laws or new requirements for conformance with existing laws created by the implementation of the state's Coastal Program. The state legislature, state agencies, and local government units can adopt new laws or new rules according to existing processes and mechanisms.*

The Minnesota's Lake Superior Coastal Program is based on the policies presented in this chapter. These policies are drawn from existing state laws. In the Minnesota coastal area, the state policies and authorities are the minimum standards by which activities on land or in water are managed. Local plans either countywide or at the municipality and township level can be developed that are more restrictive than the state standards.

For the purposes of the Minnesota Coastal Program, the state statutes and rules are the authorities for state and federal agency consistency.

Matrices have been developed identifying state and local programs. The matrices include non-enforceable programs which contribute toward effective management of Minnesota's coastal resources but, as nonregulatory enabling legislation, they do not constitute enforceable policies of the program and are not subject to federal consistency reviews. The matrix of respective programs follows each section.

The Minnesota Statutes referenced in this document as well as other state statutes can be found in offices of state and local agencies, most public libraries, local courthouses, and numerous other public offices including the State Office of Revisor of Statutes, Seventh Floor, State Office Building, St. Paul, MN, 55155. Minnesota Statutes can also be found on the World Wide Web at <http://www.leg.state.mn.us/leg/statutes.html>. Minnesota Rules can be found at <http://www.revisor.leg.state.mn.us/forms/getrulechap.html>.

This chapter is a general introduction to the relevant laws, but the applicable statutes, rules, and case law decisions must be consulted for an authoritative statement of the applicable requirements. The summary of the laws in this chapter is not binding on any person or agency. Readers should obtain specific legal advice from their own lawyers to the extent necessary. The summary is not intended to be an exhaustive statement of all relevant requirements of any of the reference laws or programs. Furthermore, the summary is not a complete listing of all the laws applicable to the coastal zone, only the laws that are identified as part of Minnesota's Coastal Program.

This chapter is broken down into sections by topic, starting with the land management programs in Minnesota, then describing other Minnesota programs which fulfill the national coastal management program requirements. Section A of this chapter, **Coastal Land Management**, describes the programs most directly applicable to the Coastal Program in Minnesota such as the Shoreland Management Act and the North Shore Management Plan. Section B describes **Coastal Water Management** programs, Section C describes **Air and Water Quality** programs, Section D describes **Fish and Wildlife Management**, Section E describes **Forest Management** Programs, Section F describes **Mineral Resources**, Section G describes **Energy** programs, and Section H describes **Environmental Review**.

Each program described within these sections contains the following elements:

- C *Legislative Policy*
- C *Activities Managed*
- C *Implementation*
- C *Standards and Criteria*
- C *Authorities*

## **A. COASTAL LAND MANAGEMENT**

Since activities which occur on land can profoundly impact the quality of nearby surface waters, the State of Minnesota has recognized the importance of managing development and use of lands abutting surface waters within the coastal area. Improper land management can contribute nutrient, sediment, and chemical loading to surface waters reducing the water's ability to support a diversity of fish and wildlife species, limiting its use for water supply and recreational purposes, and decreasing its aesthetic and economic values.

Lake Superior offers a multitude of opportunities for recreational pursuit and its North Shore provides scenic vistas that are unequalled anywhere else in the state. Such amenities draw an estimated three million visitors to the region annually, placing considerable pressure on the region's natural resources. The bulk of this activity is concentrated along the Trunk Highway 61 corridor which follows the shore of Lake Superior and provides the only major land transportation route between Duluth and Thunder Bay, Ontario. Development within this corridor has been intense, with townhouse and condominium developments and conversions, commercial service-related uses, and traditional recreational developments representing the greatest pressures. Yet, the very nature of the North Shore that attracts these types of land uses also places it at great risk: a landscape generally characterized by rock outcroppings having steep slopes and limited soil cover. Each new development proposal on this fragile landscape poses unique challenges with respect to sewage treatment, water supply, and soil erosion potential.

Since the remainder of the Lake Superior watershed beyond the Trunk Highway 61 corridor is traversed by numerous rivers and streams which drain to the lake, this area also plays a role in the overall management of the coastal area. While development activities within this area are less intense than in the corridor, they nonetheless have the potential to impact resources within the coastal area. Therefore any efforts to identify and manage activities that could threaten the coastal area must include consideration of the Lake Superior watershed as a whole.

In order to guide development in a manner that protects these fragile resources, Minnesota has in place a combination of state policies and laws and local authorities that apply controls to the subdivision and use of land. Within the coastal area, these controls are specifically administered through the Shoreland Management Act, the North Shore Management Plan, County Planning and Zoning, Municipal and Township Planning and Zoning, the Floodplain Management Act, and the Wetland Conservation Act. Although each of these programs is guided by state standards or enabling laws, their administration and enforcement are accomplished at the local level, i.e., by the counties, municipalities, and townships.

### 1. Shoreland Development

Within the coastal area, control over the use of lands adjacent to lakes and rivers is primarily accomplished through the Shoreland Management Act and the North Shore Management Plan. These programs guide activities on shorelands for the primary purpose of minimizing the potential impacts of land development on the area's surface water and ground water features. While the provisions of the Shoreland Management Act apply to lakes and rivers in general, those of the North Shore Management Plan more specifically apply to land located along the North Shore of Lake Superior.

#### a. **Shoreland Management Act**

**Legislative Policy:** *It is in the interest of the public health, safety, and welfare to: (1) Provide guidance for the wise development of shorelands of public waters and thus preserve and enhance the quality of surface waters; (2) Preserve the economic and natural environmental values of shorelands; and (3) Provide for the wise use of water and related land resources of the state.*

**Activities Managed:** The Shoreland Management Act controls the following activities within the coastal area:

- C Residential lot sizes
- C Placement and height of structures
- C Placement and design of roads, driveways and parking areas
- C Shoreland alterations
- C Agricultural activities
- C Forest management activities
- C Extractive use/Mining of metallic minerals and peat
- C Commercial, industrial, public, and semi-public uses
- C Storm water management
- C Sanitary systems
- C Subdivisions and planned unit developments
- C Administrative review

**Implementation:** Under the act, the Commissioner of Natural Resources is mandated to promulgate minimum standards for the subdivision, use, and development of shorelands of "public waters" in both unincorporated areas of counties and within municipalities. Shorelands include lands within 300 feet of streams and rivers and within 1,000 feet of lakes and flowages. "Public waters" for the purposes of shoreland management means any waters as defined in Minn. Stat. §103G.005, Subdivision 15. No lake, pond, or flowage of less than ten acres in size in municipalities and 25 acres in size in unincorporated areas need be regulated for the purposes of these rules.

Standards for counties were developed in 1970, and separate standards were developed for municipalities in 1976. In 1989, these standards were amended and combined into a single document under Minn. Rules 6120.2500 - 6120.3900. The act requires counties and

municipalities to adopt and administer these state standards as part of their official land use controls. A local government may adopt and enforce controls that are more restrictive, and may, under special circumstances and with the Commissioner's approval, adopt shoreland management controls that are not in strict conformity with these minimum standards and criteria through alternative management standards. Local governments are required to adopt land use ordinances when they are notified by the Commissioner in writing according to Minn. Rules 6120.2800. Failure to adopt means the community has not submitted a draft or adopted ordinance to the Commissioner. The Shoreland Management Act obligates the Commissioner to adopt an ordinance for a community when the community refuses to do so.

Activities such as grading, filling, tree and shrub removal, onsite sewage treatment system placement, types of development allowed, and subdivisions and planned unit developments are guided by a system of building permits, conditional use permits, variances, and shoreland alteration permits. Permits for activities having minimal impact and meeting the performance standards of the local controls are generally issued by the local government's zoning staff, while the more complicated permits may be reviewed and approved by a zoning commission, board of adjustment, or the governing body. If a planned shoreland activity proposes excavation where the intended purpose is connection to a public water, local government approval to excavate may be given only after the Commissioner of Natural Resources has approved the proposed connection to public waters pursuant to Minn. Stat. §103G.245. Any aggrieved person can appeal a permit decision of a local governmental unit. Such appeals may be heard by the governing body of the local government or ultimately be decided by an appropriate state court of law.

Local governments are required to provide the Commissioner with copies of all notices of any public hearings to consider variances, amendments, or conditional uses under their shoreland controls at least 10 days before the hearings. Also, copies of approved amendments and subdivision plats, and notices of final decisions granting variances or conditional uses must be provided to the Commissioner within 10 days of final action. This notification process allows the DNR to provide advisory information to local governments on shoreland development proposals and enables the Department to monitor local decision making to assure consistency with the statewide minimum standards. The Department works with the local government to insure that it has fulfilled all statutory procedural requirements in the granting of plats, variances, and conditional use permits. The Department has no prior approval authority over the issuance of a variance or conditional use permit. However, the Department does have legal standing to appeal these decisions within 30 days to the district court.

Within the coastal area, compliant shoreland controls have been adopted by all of the coastal counties, cities, and townships with shoreland area that have been notified by the DNR.

***Standards and Criteria:***

Residential lot sizes: All newly created lots must meet the minimum size requirements that are prescribed in the statewide standards (Minn. Rules 6120.3300, Subparts 2a and 2b). Minimum lot sizes on lakes range from 15,000 square feet in area to 80,000 square feet, and from 75 feet in width to 200 feet. Minimum lot widths on rivers range from 75 feet to 300 feet. Generally, the lot size standards are more restrictive in areas not served by a municipal sewer system than in those

areas that are served by a municipal system. The reason for this is that in areas without a municipal sewer system, all residential structures must instead utilize an onsite sewage treatment system constructed in accordance with Minnesota Pollution Control Agency standards (Minn. Rules ch. 7080). These onsite systems may occupy several hundred square feet of land area. Therefore, lots sizes must be sufficient to accommodate these onsite systems along with the other customary improvements that might occur, such as residences, garages, and driveways.

Placement and height of structures: Structures must meet minimum setbacks from public waters that range from 50 feet to 200 feet. Here too, the greater structure setbacks are generally required on properties that utilize onsite sewage treatment, the reason being that onsite systems generally pose fewer maintenance problems where gravity feed from the residence to the system can be maintained. Shorelands nearly always slope downward toward a lake or stream, placement of a sewage system at a safe distance from the waterbody would then place the residence even further back from the waterbody.

Another key setback requirement that applies to structures is the setback from a bluff. A “bluff” is land that slopes toward a waterbody and rises at least 25 feet above the waterbody at an average slope of 30 percent or greater. Since development on bluffs can threaten soil stability and result in high structure visibility as viewed from a waterbody, a minimum setback of 30 feet from the top of a bluff applies to all buildings. Only stairways, lifts and landings are allowed to be constructed on a bluff.

The height of structures is also limited to a 25-foot maximum within residential districts in municipalities in order to minimize the visibility of these structures from a waterbody. This height limit would generally keep structures below the height of the surrounding trees thereby preserving the natural screening of the structures.

Placement and design of roads, driveways and parking areas: Roads, driveways and parking areas must meet structure setbacks from water bodies, unless such locations are infeasible or unreasonable, in which case they may be located within the structure setback limits if they are designed to minimize adverse impacts on the land and adjacent waters.

Shoreland Alterations: Shoreland alterations are controlled in order to minimize adverse impacts to the natural resources of shoreland areas that can result from alterations to vegetation and the topography. The complete removal of trees and shrubs from a contiguous patch, strip or block (termed “intensive vegetation clearing”) is prohibited within shorelands. Instead, thinning of such vegetation is allowed if necessary to provide a view of the waterbody from a residential structure. Any movement of more than 10 cubic yards of earth by excavating or filling must first be authorized by a grading and filling permit from the local governmental unit if such activity is in a shore impact zone (i.e., land extending from the shore to a distance equal to one-half the required structure setback), or is within a bluff impact zone or a steep slope area (land having a slope greater than 12 percent as measured over horizontal distances of 50 feet or greater).

Agricultural use and forest management standards: Agricultural practices must maintain permanent vegetation in shore and bluff impact zones and on steep slopes under a conservation

plan that is consistent with the field office technical guides of the local Soil and Water Conservation District or the USDA Natural Resources Conservation Service. Animal feedlots are not allowed within 300 feet of public waters or within bluff impact zones. Forest management, including timber harvesting, must meet a set of best management practices prescribed by Protecting Water Quality and Wetlands in Forest Management “Best Management Practices in Minnesota.”

Extractive uses standards/mining of metallic minerals and peat: Extractive uses (i.e., sand and gravel pits) must follow a site development and restoration plan that is approved by the local governmental unit. Any processing machinery associated with an extractive use operation must meet the minimum shoreline setbacks applicable to structures if such use abuts a waterbody. Mining of metallic minerals and peat may be allowed in shoreland areas, however, such mining is more specifically regulated under separate laws (Minn. Stat. §93.44 - 93.51) that mandate an in-depth analysis and environmental review of each mining proposal, and requires a state level permit to mine, and compliance with state prescribed site reclamation standards.

Standards for commercial, industrial, public, and semi-public uses: Any commercial, industrial or semi-public uses which do not have surface water-oriented needs must be located on lots or parcels without water frontage, or, if located on lots or parcels with water frontage, must either be setback double the shoreline setback or be substantially screened from view from the waterbody by vegetation or topography.

Storm water management: All shoreland developments must give consideration to the proper handling of storm water runoff. Natural features such as existing drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain storm water runoff before discharge to water bodies. Where such natural features do not exist, constructed facilities including diversions, settling basins, skimming devices, dikes, waterways, and ponds may be required. For all shoreland lots, impervious surface coverage is limited to a maximum of 25 percent.

Sanitary systems: All public and private supplies of water for domestic purposes must meet or exceed water quality standards of the Minnesota Department of Health and the Minnesota Pollution Control Agency. The location, construction, maintenance and abandonment of wells are controlled by the Water Well Construction Code of the Minnesota Department of Health (Minn. Rules 4725.0100 - 4725.7600). As mentioned previously, all onsite sewage treatment systems must meet design standards of the Minnesota Pollution Control Agency (Minn. Rules ch. 7080).

Subdivisions and planned unit developments: Under the shoreland standards, all local governmental units are required to perform a land suitability evaluation for each lot created through subdivision. The suitability analysis must consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near shore aquatic conditions unsuitable for water based recreation, important fish and wildlife habitats, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.



The guidance provided in this part of the standards is that each newly created lot must be suitable in its natural state for the intended use with minimal alteration (Minn. Rules 6120.3500, Subpart 1).

In addition, all subdivisions that create five or more parcels or lots that are less than two and one-half acres in size must be processed by local governmental units as plats in accordance with Minn. Stat. ch. 505. This processing procedure includes a formal review by the local governmental units which often involves a public hearing before the planning and zoning commission appointed by the local governing body.

Provisions of the shoreland standards allow local governmental units to permit planned unit developments (PUDs) as an alternative to the more conventional subdivision process for dividing and developing land. PUD standards seek to group or cluster dwelling units or sites within areas of suitable soils and slopes that have vegetative screening. These standards also designate the more sensitive resource areas within a development including wetlands, steep slopes, and the near shore areas along lakes and streams into open space preservation areas. Services such as sewer and water and water oriented recreational facilities are also centralized within suitable areas of the PUD. This type of land development is encouraged in areas having a mixture of land types that are both suitable and unsuitable for development.

Administrative review: The shoreland standards contain administrative procedures that seek to manage and eliminate nonconformities. This is a key component of the shoreland program since it directs local governmental units to require the upgrading or replacement of any existing nonconforming onsite sewage treatment system. Nonconforming sewage systems are often considered to be the most significant sources of contamination that threatens the surface and ground water resources within the coastal area. Such systems may be identified through either of two mechanisms: 1) through an evaluation of a property's existing system at the time a landowner applies for any type of local land use permit, or 2) through a general systematic review of existing records or a systematic onsite inspection program conducted by the local governmental unit. Any nonconforming systems that are identified are upgraded to meet the Minn. Rules ch. 7080 standards.

The shoreland standards require local governmental units to notify the Commissioner of Natural Resources of any proposed hearings to consider variances, conditional uses, subdivisions and PUDs, and proposed shoreland ordinance amendments. Following these hearings, they are required to provide the Commissioner with copies of approved amendments and subdivision plats, as well as final decisions granting variances or conditional uses. The purpose of these notification procedures is to afford the Commissioner an opportunity to review and comment to the local governmental unit on individual development proposals, and to monitor a unit's performance in administering the standards of the shoreland management program.

***Authorities:***

**C Shoreland Management Act, Minn. Stat. §103F.201 - 103F.221**

**C Statewide Standards for "Management of Shoreland Areas," Minn. Rules 6120.2500 - 6120.3900**

## **b. North Shore Management Plan**

The North Shore of Lake Superior is a high amenity area with abundant natural resources and outstanding recreational opportunities. Lake Superior has long been recognized by federal, state and local officials, as well as private interests, as a unique body of water with distinctive shoreland characteristics. Lake Superior is no longer seen as just a products shipping waterway. As demonstrated by the recent increase in fishing, pleasure boating, marina proposals, condominium and townhouse developments and the expansion of land oriented recreational facilities, the North Shore has developed into an area of multiple uses.

The North Shore will continue to experience significant development pressure over the next several decades. Tourism will play an increasing role in the economy of the area. Townhouses and condominium development, resort/condominium conversions, traditional recreational developments and greater demand for land and especially water based recreational facilities all present economic development opportunities and resource management challenges. Several issues concerning Highway 61, the critical transportation link through the North Shore area, need to be addressed in concert with land and water resources policies.

Minnesota's Statewide Shoreland Management Program was conceived by the Legislature in 1969 as a cooperative effort of the Minnesota Department of Natural Resources (MDNR) and local units of government. In 1981, the Legislative Commission on Minnesota Resources funded a program evaluation which identified Lake Superior as a distinctive management unit, not adequately addressed by the existing statewide Shoreland Management Program.

Recommendation for this evaluation called for the initiation and support of a local government effort to develop a shoreland management plan for the North Shore of Lake Superior.

During the fall of 1986, the MDNR proposed new shoreland management regulations. These draft regulations were presented by MDNR staff at a public information meeting to concerned citizens and government officials on the North Shore. During that meeting, it became evident that there was a large amount of opposition to the proposed management regulations. The opposition mainly centered around the rules not being applicable to the North Shore, the difficulty and added administrative costs for enforcement of the rules, and the further erosion of local control.

From October 1986 to July 1987, a task force consisting of representatives from the North Shore, local units of government, MDNR and the Arrowhead Regional Development Commission (ARDC), discussed the possibility of jointly organizing the government units along the North Shore for the purpose of developing and implementing a management plan for the shoreland corridor of Lake Superior. The establishment of a Joint Powers Board was recommended. In July of 1987 the North Shore Management Board (NSMB), consisting of county, city and township governments, was established.

The purpose of the NSMB is to direct the development of a North Shore Management Plan with strategies for environmental protection and orderly growth of the North Shore of Lake Superior. The management responsibility is jointly shared by the counties, cities and townships exercising

land use control and jurisdiction over certain public and private lands within this corridor. Management responsibility accomplished through adoption of a comprehensive North Shore Management Plan which provides the foundation for strong local official controls and policy decisions within the boundaries of the member units of government.

A Memorandum of Understanding between the NSMB and the MDNR pertaining to the coordination, cooperation and responsibilities in developing the Shoreland Management Plan was developed in October of 1987. The goals of the Memorandum of Understanding were to define the responsibilities of the MDNR and NSMB in support of common objectives, interests and statutory requirements; to ensure timely identification and resolution of differences; and, to enhance communication and coordination.

Two sixteen member advisory committees, the Citizens Advisory Committee and the Technical Advisory Committee, were appointed by the NSMB in October of 1987 to provide assistance in defining issues to be addressed during the planning process. Services were purchased from ARDC to provide technical assistance during the planning process.

The North Shore Management Board adopted the plan on November 29, 1988 after an extensive process of local participation through which all major interests were fully represented.

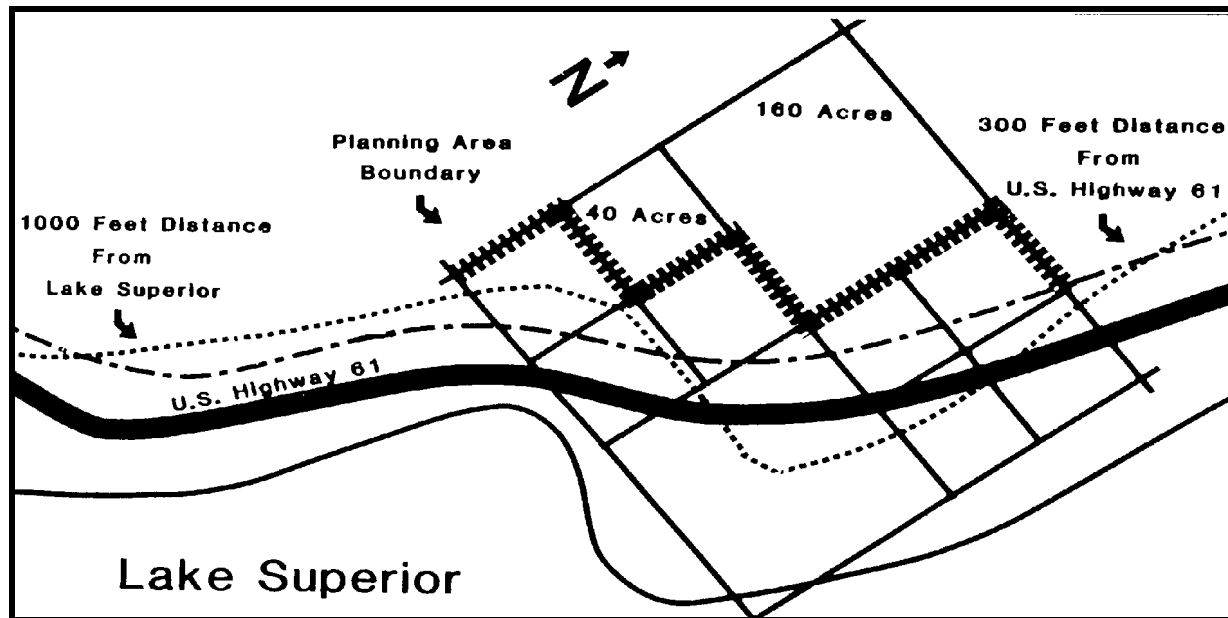
When the North Shore Management Board adopted the plan it requested the Department of Natural Resources to adopt the plan as a state rule through the non-controversial rule making process. As outlined in the Memorandum of Understanding between the Board and the DNR, it has, from the initiation of the process, been the intent of the DNR to adopt the Management Plan as a state rule to replace the statewide Shoreland Management Rules for the North Shore from and including Duluth Township in St. Louis County to the Canadian Border at the Pigeon River in Cook County.

The North Shore Management Plan (NSMP - Minn. Rules 6121.2800 subp. 1.a.) incorporates standards for shoreland management that are consistent with the statewide minimum standards contained in Minn. Rules 6120.2500 - 6120.3900, Statewide Standards for "Management of Shoreland Areas." The minimum standards and criteria for the subdivision, use, and development of the shoreland of Lake Superior, other than for the city of Duluth, are those specified in the North Shore Management Plan, A Shoreland Management Plan for Lake Superior's North Shore, December 1988. Local governments shall adopt shoreland management controls conforming to the North Shore Management Plan and comply with Minn. Rules 6120.3900, subpart 6, in administration of their shoreland management controls. (Minn. Rules 6120.2800, Shoreland Management Plan for Lake Superior's North Shore.)

The NSMP planning area is approximately 150 miles long, extending from and including Lakewood Township east of Duluth, to the Pigeon River on the USA/CANADA border. The inland boundary includes the 1,000 foot shoreland jurisdiction along Lake Superior as established in Minn. Stat. §103F.205, but also extends to include the Trunk Highway 61 corridor. As stated in the North Shore Management Plan, A Shoreland Management Plan for Lake Superior's North Shore, December 1988, "The NSMP area boundary is defined along the 40 acre subdivision lines

of the rectangular coordinate system established in the U.S. Public Land Survey, nearest to the landward side of a line 1,000 feet from the shoreline of Lake Superior or 300 feet landward from the center line of U.S. Highway 61, whichever is greater. However, the boundary between Lakewood Township and the western corporate limits of Two Harbors is the center line of the U.S. Highway 61 Expressway” (see Figure 10).

Figure 10. North Shore Management Plan Boundary.



**Policies:** The policies and goals of the NSMP are identified in the planning document titled: North Shore Management Plan. A Shoreland Management Plan for Lake Superior's North Shore, December 1988. Within the NSMP, there are 16 policy fundamentals identified which provide the foundation for the shoreland management standards and criteria of this plan. These policies are intended to serve as general guidelines of the NSMP and characterize more specific shoreland management policies and implementation strategies which are detailed in the NSMP. They provide a range of options and address anticipated development and shoreland management protection problems and issues. They provide the policy guidance to be followed by local units of government in revising their existing ordinances to be consistent with the plan, as well as assist in making specific land use decisions during the implementation (administration and enforcement) phases of the plan. They are intended to address a variety of possible situations, issues and problems and therefore are necessarily broad. They can, however, serve as a policy reference for local zoning officials, planning commissions, boards of adjustment, or county boards in deciding specific shoreland use questions. The policy fundamentals are self-evident and are intended to be used in conjunction with the specific management area policies which follow. The specific management area policies should be consulted and the policy fundamentals used as a further guide. Proposed developments that are inconsistent with the specific management area policies and/or the policy fundamentals should not be permitted.

***The North Shore Management Plan Policy Fundamentals***

- 1. Shoreland use should first satisfy the economic, social, and environmental needs of the North Shore region and its people.***
- 2. Shoreland areas particularly suited for specific and appropriate use should be designated and reserved for such use through shoreland use districts.***
- 3. Shoreland areas unsuitable for development because of public health or physical limitations should be designated and managed to encourage appropriate use.***
- 4. Where feasible, shoreland use should restore, enhance, or maintain the land and water environments.***
- 5. Shoreland use should not negatively affect the economic base of the area.***
- 6. Shoreland development should be encouraged in areas where public services and facilities essential to such development are adequate.***
- 7. Like or compatible shoreland use should be located in an orderly manner rather than developed at random.***
- 8. All shoreland use should be located, designed, constructed and operated in a manner that assures minimal impact on surrounding lands and waters and their use.***
- 9. All shoreland use should be aesthetically compatible with the natural environment.***
- 10. Scenic, aesthetic, geologic and ecological qualities of natural and developed shoreland should be recognized and where possible preserved as valuable resources.***
- 11. Fish and wildlife habitats should be protected, preserved, and where practical restored or enhanced so as to maintain their viability as habitats.***
- 12. Structures, sites or areas that are of significance in the history, architecture, archeology or culture of the North Shore should be identified and protected, enhanced or restored.***
- 13. All proposed governmental agency management decisions and plans within the NSMP area should be consistent with the policies, standards and criteria of this plan and be coordinated through the North Shore Management Board.***
- 14. All North Shore Management actions shall protect and enhance the public health and safety of residents and visitors.***
- 15. Existing public access areas should be protected and maintained. Additional public access opportunities should be pursued.***
- 16. Lake Superior's land and water resources should be locally managed and protected recognizing their statewide and national significance.***

***Shoreland Management Areas:*** The shoreland use guide plan defines six types of management areas within the North Shore planning area to guide local plan implementation and shoreland decision making. Management areas are defined and goals and policies established for each.

When necessary, local ordinances and/or performance standards will be revised to be consistent with the management area policies. The goals and policies are intended to be used by local units of government in carrying out their specific planning and zoning responsibilities. The goals and policies provide a uniform decision-making framework for the North Shore. They address shorewide issues and treat the North Shore as a single resource unit. Local units of government have the responsibility of carrying out their specific planning and zoning responsibilities, including but not limited to the issuance of permits, conditional uses, variances and land use zoning district designations or zoning changes. To ensure that the goals and objectives of the plan are achieved, these local decisions should be made after consulting these policies and in compliance with them.

The management area policies together with the maps provide the framework for future protection and development of the shore. The management area concept is designed to separate incompatible uses, provide for shoreland development and protection consistent with the carrying capacity of the shoreland (provide development policies that will ensure stable, long term growth and protection of environmentally sensitive areas) and foster the “node” concept of development. The “node” concept seeks to centralize like or compatible uses. Sensitive environmental areas or areas that are of exception scenic or historical value should be protected from the more intense types of land uses.

Within each management area, specifically designed land use policies provide development and/or performance standards which protect existing uses and land values. Incompatible uses are strongly discouraged. Policies also ensure to the extent possible compatibility with adjacent management areas. For example, uses immediately adjacent to sensitive protected resource areas should be permitted only if such uses don’t adversely affect the protected resource area. Low impact uses could be allowed.

The management area policies and maps are a general guide for local shoreland zoning decision making, including zoning district delineation, permits, conditional uses and prohibited uses. In most cases the management area policies are founded on common sense principles and are intended to bracket the range of options available to local decision makers in each management area and provide a degree of consistency along the entire corridor. The ultimate decision for shoreland use is left to the responsible local unit of government, but the plan provides the common policies and parameters for those local decisions. The criteria used to determine the management areas were existing development patterns, existing zoning, shoreland resource characteristics, location of scenic and historical areas, and desired location for new uses. The management areas are broadly mapped and do not replace existing zoning maps of the counties, cities or townships. They are intended to reflect existing development patterns and are to be used to further the “node” concept of development and resource protection.

Industrial areas were limited to existing industrialized areas, or where existing industrial parks are located. Only water dependent industrial uses are allowed in shoreland areas (and only in

industrial management areas). A water dependent use is one that must be located near the lake for its successful existence and/or operation, that is, water is required either for the transportation or use of finished product or raw materials or water is needed for the industrial process, or water is otherwise needed to support or sustain the economic viability of the industry. If an industry does not require a waterfront location to exist, then it is not a water dependent use.

The planning area is divided into six management areas which are identified in the plan: Protected Resource Areas, Residential Areas, Commercial/Rural Areas, Commercial/Urban Areas, Resort/Commercial Areas, and Industrial Areas. For each of these management areas, the NSMP elaborates management goals and policies. The plan contains a set of maps showing the boundaries for these management areas.

Protected Resource Areas (PR) - Protected resource areas are outstanding or unique natural or scenic areas, existing relatively free from human influence, significant archeological or historic areas, state parks and other public lands managed for resource conservation or recreation purposes.

Residential Areas (R) - Areas presently zoned or developed primarily for residential uses, capable of supporting low to medium density residential uses and compatible uses such as small resorts. Areas where residentially planned unit developments (PUDs) could be allowed under special conditions to ensure compatibility with surrounding land use.

Commercial/Rural Areas (CR) - Unincorporated areas presently zoned or developed for commercial use. Existing commercial nodes with low to medium intensity commercial use such as grocery stores, shops, gas stations or other traditional retail, wholesale or service oriented activities. Areas developed or capable of supporting commercial PUDs. Major highway corridor intersections where commercial development should locate to provide needed services and facilities.

Commercial/Urban Areas (CU) - Sewered areas which are zoned for or developed for commercial use, and areas within incorporated areas which are zoned for or developed for commercial use.

Industrial Areas (I) - Areas where industrial activities have already located along the shore such as in Two Harbors, Silver Bay and Taconite Harbor. Areas where water dependent, light industrial use can be found to be compatible with the shoreland environment.

***Activities Managed:***

- C Zoning
- C Sanitary systems
- C Shoreland alterations
- C Erosion hazard areas
- C Planned unit developments

***Implementation:*** The NSMP was developed by the North Shore Management Board (NSMB), a joint power's board created under the authority of a joint powers agreement (Minn. Stat. §471.59). The NSMB comprises the counties of Cook, Lake, and St. Louis, the cities of Beaver

Bay, Grand Marais, Silver Bay, and Two Harbors, and the townships of Duluth and Lakewood. Under the joint powers agreement, the NSMB is empowered to:

- C Contract for services, in the manner prescribed by law, that are required and necessary to prepare a comprehensive plan for management of the North Shore of Lake Superior within the boundaries of the members units of government from the western boundary of Lakewood Township to the Pigeon River in Cook County.
- C Accept and disburse funds. To apply for state and federal funds necessary to prepare and implement its plan.
- C Develop and recommend a schedule for plan implementation by member units of government and to provide assistance in those instances where common administration of plan elements is appropriate and approved by member units of government. This could include general technical assistance, certain zoning oversight responsibilities, issues investigation, operation of the Citizens and Technical Advisory Committees, etc.
- C Initiate and maintain a liaison with governmental agencies necessary to complete a comprehensive plan for the North Shore of Lake Superior within the members government jurisdictions.
- C Appoint advisory committees and conduct such public meetings and hearings as are necessary to provide full public review and participation of the management plan for the North Shore of Lake Superior.
- C Arrange for the independent audit of its expenditures and disbursements, consistent with state law.

Exercise of these powers and duties will require a majority of the North Shore Management Board voting members.

To assure consistency of governmental decisions with the Plan, the NSMB has retained the authority to review certain zoning decisions of the members local governmental units. The types of decisions subject to the board's review include ordinance amendments, variances, conditional uses, subdivision plats, and planned unit developments. The DNR, through the Area Hydrologist, provides ongoing technical assistance to the NSMB units of government in the administration and enforcement of their ordinances. In addition, all major federal and state agency permit decisions and plan approvals within the planning area are first reviewed by the NSMB for the purposes of evaluating plan consistency. Formal appeals of decisions made by local governments within the NSMP planning area are heard by the governing body of the local government or by a court of law of the state. The NSMP is the statewide standards and criteria for both municipalities and counties (local governments). As indicated on Part V, page 3-5, local governments failure to adopt an ordinance obligates the Commissioner of the DNR to adopt for them.



***Standards and Criteria:*** The North Shore Management Plan contains specific standards to guide the management of the Lake Superior shoreland area. Lake Superior offers challenges for land use managers that go far beyond those normally associated with inland lakes and streams. Natural forces that play upon Lake Superior's shoreline pose formidable problems for development. Hence, it is necessary to tailor development standards specifically for the lake, the purpose of the NSMP. The NSMP contains specific standards for zoning, sanitary systems, shoreline alterations, erosion hazard areas, and planned unit developments. Additional components of the plan describe administrative review procedures that apply within the NSMP planning area. As mentioned above, the details of these standards can be found in the NSMP.

***Authorities:***

- C **North Shore Management Plan, Minn. Rules 6120.2800**
- C **Joint Exercise of Powers, Minn. Stat. §471.59**
- C **Shoreland Development Model Standards and Criteria, Minn. Stat. §103F.211**
- C **Planning, Development, Zoning (County), Minn. Stat. ch. 394**
- C **Municipal Planning and Development, Minn. Stat. ch. 462**

## **2. Floodplain Management**

Minnesota has more than 14,000 lakes and 95,000 miles of streams and rivers. These lakes and watercourses are confined within their banks throughout most years, however, periodically these water bodies reclaim the low-lying surrounding lands, resulting in flooding. This flooding is normally the result of heavy summer thunderstorms, or a combination of snowmelt and spring rains.

The state Floodplain Management Act enacted in 1969 (Minn. Stat. §103F.101 - 103F.165), stresses the need for a comprehensive approach for solving flood problems by emphasizing nonstructural measures, such as floodplain zoning regulations, flood insurance, flood proofing, and flood warning and response planning.

Flood considerations along the Lake Superior shoreline require special attention. Here, flooding is influenced by two factors: lake level fluctuation and storm induced wave runoff. The most sensitive flood hazard area is along Minnesota Point (Park Point), the beach/bar interface between Lake Superior and the St. Louis River. During fall storm events, wind generated waves, primarily from the northeast can result in property and infrastructure damage along the point. The city of Duluth is working with the Park Point Community Club and state and federal agencies to develop both short term and long term strategies to protect property from damages due to wave action. Included in this strategy is a proposal to coordinate with the U.S. Army Corps of Engineers to place clean dredge material along the beach for nourishment. Other proposals that are being implemented include revegetation of beach dunes, improved signage to minimize impacts from recreational users, and cost share assistance to land owners from federal, state, and local sources for shore protection structures.

In addition, the National Flood Insurance Program in cooperation with the U.S. Fish and Wildlife Service has identified a coastal barrier resources system for the undeveloped area along the end of Minnesota Point. This area is particularly susceptible to wave damage and has significant value for fish and wildlife habitat. As a result of this designation, flood insurance is not available for structural development in this area. The designation has been incorporated into the city of Duluth's floodplain management standards.

***Legislative Policy:*** *It is the policy of this state to reduce flood damages through floodplain management, stressing nonstructural measures such as floodplain zoning and flood proofing, and flood warning practices. It is the policy of this state: (1) not to prohibit but to guide development of the flood plains consistent with legislative findings; (2) to provide state coordination and assistance to local governmental units in floodplain management; (3) to encourage local governmental units to adopt, enforce and administer sound floodplain management ordinances; and (4) to provide the Commissioner of Natural Resources with authority necessary to carry out a floodplain management program for the state and to coordinate federal, state, and local floodplain management activities in this state. (Minn. Stat. §103F.105)*

### ***Activities Managed:***

- C Delineation of floodplains and floodways
- C Regulation and use of land in the floodplain
- C Structure alterations and hazardous uses
- C Flood protection measures
- C Administrative review

***Implementation:*** By law, flood prone communities in Minnesota are required to:

1. Adopt floodplain management regulations when adequate technical information is available to identify floodplain areas; and
2. Enroll and maintain eligibility in the National Flood Insurance Program (NFIP) so that the community residents may insure themselves from future losses through the purchase of flood insurance. A state cost-sharing grant program to help local government units plan for and implement flood hazard mitigation measures were enacted in 1987.

Pursuant to the Floodplain Management Act, DNR developed statewide minimum standards for the management of floodplain areas (Minn. Rules 6120.5000 - 6120.6200). Where sufficient technical information is available for the delineation of floodplains and floodways on watercourses within a local governmental unit and the governmental unit is advised by the Commissioner of Natural Resources of the availability of this information, the local government must prepare or amend its floodplain management ordinances in conformance with these standards within six months after receiving the Commissioner's notice (Minn. Stat. §103F.121, Subdivision. 2). If a local governmental unit fails to adopt a floodplain management ordinance as prescribed above, then the Commissioner shall adopt an ordinance meeting the state minimum standards for that governmental unit. (Minn. Stat. §103F.121, Subdivision. 3). Permit decisions made pursuant to a local government's floodplain management ordinance may be appealed either to the local government's Board of Adjustment or, if necessary, to a state court of law.

No flood hazard areas have been identified in Cook and Lake Counties, therefore, even though they participate in the NFIP, these counties and the communities within each county are not required to develop flood plain controls pursuant to Minn. Stat. ch. 103F. The local government units with identified areas susceptible to flooding and their associated controls include:

#### Carlton County

- C Carlton County, Floodplain Management Ordinance, #15.
- C City of Cloquet, Ordinance No. 185A.

#### St. Louis County

- C St. Louis County, Floodplain Management Ordinance #43.
- C City of Hermantown, Ordinance #92-08.
- C City of Duluth, Water Resource Management Ordinance, Chapter 51.
- C City of Proctor, Municipal Floodplain Ordinance.
- C Rice Lake Township, Floodplain Management Ordinance #20.
- C Midway Township, Midway Zoning Ordinance #76-6.

- C Lakewood Township, Lakewood Township Ordinance #93-7-1.
- C Canosia Township, Floodplain Ordinance #92-1.
- C Gnesen Township, Town of Gnesen General Floodplain Ordinance.

***Standards and Criteria:*** Minnesota Rules define the technical standards and requirements for determining floodplain delineations and mandate that the limits of the floodway shall be designated so that permissible encroachments on the floodplain will not cause an increase in the stage of the regional flood of more than 0.5 feet in any reach or for the cumulative effect of several reaches of a watercourse.

Minnesota's floodplain management rules prohibit the storage of any potentially hazardous materials within the floodway, and require proper elevation, floodproofing, or containment of these materials within flood fringe areas. Any proposed construction of solid or liquid waste treatment and disposal facilities in floodplain areas requires preparation of emergency plans and procedures for action to be taken in the event of flooding.

State standards place limits on improvements to any existing nonconforming uses located within the floodplain. Additions and modifications to nonconforming uses must be protected to the regional flood elevation and must not increase the flood damage potential or increase the degree of obstruction to flood flows. Local governmental units may provide for the gradual elimination of all nonconforming uses located within the floodway. In administering their floodplain ordinances, local governmental units are required to submit to the Commissioner of Natural Resources notices of all hearings to consider any variance or special use permit under the provisions of their ordinances.

***Authorities:***

- C **Floodplain Management Act, Minn. Stat. ch. 103F**
- C **Floodplain Management, Minn. Rules 6120.5000 - 6120.6200**

### 3. Coastal Shoreline Erosion

The North Shore Management Plan (Minn. Rules 6120.2800, subp. 1a) establishes development standards for “Erosion Hazard Areas”(EHA). EHAs are defined as those areas of Lake Superior’s North Shore where the long term average annual rate of recession is one foot or greater per year.

The Erosion Hazard Subcommittee of the North Shore Management Planning Process used the following process to identify EHAs. First, a detailed soil map from the 1978 Coastal Zone Management study was transferred onto a Minnesota Department of Transportation strip map of the North Shore. Then, 199 surveys from a 1986 shoreline erosion survey were transferred to the map. Surveys indicating high erosion rates were tagged for further analysis. Fifty sites were revisited and measurements were made to see how far the erosion had progressed since 1986. From this information, it was determined that many of the erosion problems reported in 1986 were attributed to the extremely high water level and severe storms of the period. Losses of cobble beaches, collapse of sea caves and the erosion of rocky shorelines were identified as outside EHAs. However, areas of high clay banks continued to show signs of failure despite the two intervening years of relatively low, calm water. These are the areas identified as Erosion Hazard Areas on the maps in the NSMP.

The more critical areas of clay banks were examined from the water. The area from French River to Split Rock River was covered by boat and pictures were taken of potential EHAs. Field notes, photos, and the 1986 and 1988 videotapes of the shoreline were then used to set the approximate boundaries.

The EHAs accurately represent the more severe problems of erosion on the shore. Further studies such as the Natural Resources Research Institute (NRRI) study on recession rates and detailed mapping by local zoning officials have improved the data used to identify and manage erodible areas along the shore.

***Policy:*** The goal of these special management standards is, “*To Protect public and private property and protect public interest and safety by guiding development in areas prone to excessive shoreline erosion including promoting awareness and understanding of shoreline erosion, defining and identifying Erosion Hazard Areas, and designating special provisions for Erosion Hazard Areas*” (North Shore Management Plan).

***Activities Managed:***

- C Vegetation removal including proposed landscaping
- C Proposed sewage treatment systems
- C Structure and driveway location
- C Bluff toe protection
- C Slope alterations

***Implementation:*** Structural measures to control erosion along Lake Superior are regulated by the Minnesota Department of Natural Resources, pursuant to Minn. Stat. ch. 103G, and Minn. Rules ch. 6115. Any activity to control erosion that occurs at or below the Ordinary High Water

Level (OHWL) requires a permit. (On Lake Superior, the OHWL is the wave run up line or vegetation line). See Protected Waters Program in Part V, Section B, 1. The North Shore Management Plan, which stands as the state Shoreland Rule (pursuant to the State of Minnesota Shoreland Act, Minn. Stat. ch. 103F) establishes development standards for EHAs.

Technical Assistance: Technical assistance is provided primarily through the local Soil and Water Conservation Districts. At the regional level, technical assistance is provided through the MPCA, DNR, but primarily comes from the Board of Water and Soil Resources, North Shore engineer stationed in Duluth. Other regional providers of technical assistance include the Joint Powers Board #3 (Duluth) and the Natural Resources Conservation Service (NRCS) district conservationists, also in Duluth.

There are many brochures, guidebooks, and handouts that provide information to land owners on how to protect and develop their property in order to minimize the effects of erosion. Information is available from the BWSR, DNR, and local SWCDs. In addition, Minnesota developed a set of Shoreland Best Management Practices (BMP). This series of eighteen fact sheets contains technical assistance to help shoreland property owners protect their investment. Number 7 in the series, "Stabilizing your Shoreland to Prevent Erosion", is specifically aimed at reducing erosion hazards along the shoreline.

Financial Assistance Programs: It is estimated that the cost for installation of natural rock rip rap along the Lake Superior shoreline is approximately \$100-175 or more per foot of protection. Because the cost is quite high, financial assistance is available to property owners to reduce and eliminate the hazard of living in and near EHAs.

- C **SWCD Cost-Share Funds** - Local SWCDs receive annual allotments of funds that are used to fund erosion control and water quality improvement projects. Cost-share rates vary from 50 to 75 percent and are available on a year-round basis.
- C **Special Project Funds** - The State of Minnesota makes additional funds available for erosion control and water quality improvement through the Board of Water & Soil Resources. These funds are applied for on a competitive basis by Soil and Water Conservation Districts across Minnesota. Cost share rates vary from 50 to 75 percent. Application time periods are December and April.
- C **State Revolving Loan Fund** - Low interest loans are available to individuals for qualifying projects. Eligible projects may include erosion control projects and sewage treatment systems. Included in this is the Lake Superior Shoreline Protection Project low interest loans.

***Standards and Criteria:*** The policies, authorities, and design standards of the NSMP and local government ordinances control and mitigate the effects of erosion caused by Lake Superior's storm-generated waves. The North Shore Management Plan contains maps which serve as guidelines for designation of Erosion Hazard Areas (EHA).

The standards and criteria of the NSMP require at the time of permitting and/or sale of a property within an erosion hazard area (EHA) that a covenant be recorded against the property stating that it is in an EHA. Prior to all new construction in an EHA, a site development plan shall be required and approved by the local land use authority. Structures and sewage treatment systems shall be set back the annual erosion rate times 50 plus 25 feet from the top edge of the eroding bluff. In the absence of an established long term erosion rate, the setback shall be 125 feet. The setback can be modified by variance if the landowner provides technical data proving a different recession rate or that the erosion hazard, although correctly estimated, can be mitigated by structural protection.

***Authorities:***

- C Shoreland Management Act, Minn. Stat. ch. 103F**
- C Protected Waters Program, Minnesota Rules ch. 6115, Minn. Stat. ch. 103G**
- C North Shore Management Plan, Minn. Rules 6120.2800**

#### **4. County, Municipal and Township Planning and Development**

Legislation in Minnesota empowers local governmental units (counties, townships, and municipalities) with the authority to plan for and manage the use of lands located within their boundaries. In contrast to the Shoreland Management Act and the NSMB Plan which manage the use of lands within specifically defined areas that are associated with surface water features such as lakes, streams and the North Shore of Lake Superior, local planning and development authority enables local governments to manage land use activities throughout their entire jurisdiction.

In granting local governments this authority, Minnesota has recognized that certain activities, regardless of their location, can have impacts that are of more than local significance. Local controls provide a means for managing such activities, thereby minimizing the impacts associated with them.

The planning and zoning authority of local government units in Minnesota are the cornerstones by which a great deal of state policies and programs are implemented. Shoreland, floodplain, wetlands, hazard areas, and other management programs are administered and enforced by the township, municipality, city, or county, whichever is the responsible local government unit with planning and zoning authority.

***Legislative Policy:*** *The legislature finds that municipalities are faced with mounting problems in providing means of guiding future development of land so as to insure a safer, more pleasant and more economical environment for residential, commercial, industrial and public activities and to promote the public health, safety, morals and general welfare. Municipalities can prepare for anticipated changes and by such preparations bring about significant savings in both private and public expenditures. Municipal planning, by providing public guides to future municipal action, enables other public and private agencies to plan their activities in harmony with the municipality's plans. Municipal planning will assist in developing lands more wisely to serve citizens more effectively, will make the provision of public services less costly, and will achieve a more secure tax base. It is the purpose of Sections 462.351 to 462.364 to provide municipalities, in a single body of law, with the necessary powers and a uniform procedure for adequately conducting and implementing municipal planning (Minn. Stat. §462.351, Municipal, Planning and Development; Statement of Policy).*

*For the purpose of promoting the health, safety, morals, and general welfare of the community any county in the state having less than 300,000 population according to the 1950 federal census is authorized to carry on county planning and zoning activities. (Minn. Stat. §394.21, Planning, Development, Zoning; Authority to Carry on County Planning and Zoning Activities)*

##### ***Activities Managed:***

- C Zoning activities
- C Subdivision plats
- C Nonconformities
- C Administrative procedures



***Implementation and Organization:*** Local governmental units develop comprehensive land use plans and local zoning ordinances. The local ordinances manage subdivisions, and control development so that it is done in an orderly manner consistent with established local customs/traditions and state and regional policies. In general, it is the policy and intent of local government to promote the health, safety, and welfare of citizens by dividing the local governmental unit into zones and regulating the uses of land and the placement of all structures with a view to encouraging the most appropriate use of the land, and to recognize and preserve the economic and natural environmental values of all lands within the governmental unit.

Official controls adopted by the local government apply to the use of land for both private and public purposes, except that no land owned or leased by the federal or state government shall be subject to official controls of the local government.

Counties, cities, and townships may adopt land use controls that are more restrictive than minimum state standards and criteria. State standards that are implemented through local controls or ordinances apply to state and federal agencies and are only enforceable to the extent of the state standard.

Local governmental units apply their land use controls throughout their jurisdictions. This has the effect of establishing procedures for the review of building placement, land division, and evaluating the appropriateness of proposed uses in locations not covered by the aforementioned Shoreland Management Act, North Shore Management Plan, or Floodplain Management Act. Appeals of local decisions are made to the governing body or to a court of law of the state. Local land use plans and controls include:

### Carlton County

- ☐ Carlton County Shoreland Management Ordinance #19.
- ☐ Carlton County Subdivision Ordinance #8.
- ☐ Carlton County Zoning Ordinance #6.

### Cook County

- ☐ Cook County Zoning Ordinance #37.
- ☐ City of Grand Marais Zoning Ordinance, Sec. 19.

### Lake County

- ☐ Lake County Comprehensive Plan and Land Use Ordinance #12.
- ☐ Lake County Sewage Treatment Ordinance #11.
- ☐ Lake County Solid Waste Ordinance #4.
- ☐ Subdivision Regulations of Lake County, Ordinance #9.
- ☐ City of Two Harbors, Zoning Ordinance #317.
- ☐ Beaver Bay Zoning Ordinance.
- ☐ City of Silver Bay, Ordinance No. 73 “N.”

St. Louis County

- C Subdivision Regulations of St. Louis County, Minnesota, Ordinance #33.
- C Zoning Ordinance of St. Louis County, Minnesota, Ordinance #46.
- C St. Louis, Cloquet, Whiteface Corridor Management Plan.
- C Duluth Zoning Regulations, Chapter 50.
- C Duluth Water Resources Management Ordinance, Chapter 51.
- C Zoning Ordinance for the City of Proctor.
- C Zoning Ordinance for the City of Hermantown.
- C Town of Lakewood Zoning Ordinance #15.
- C Zoning Ordinance for the Town of Duluth.
- C Zoning Ordinance for Canosia Township, Ordinance #98-1.
- C Canosia Township Comprehensive Plan, February 1996.

***Standards and Criteria:*** Within each local governmental unit, official controls may be adopted by ordinance to establish districts within which the use of land may be regulated. The specific standards that are developed will vary for each local governmental unit, however, the standards typically control the placement, height, and size of structures, the specific uses for which structures might be utilized, minimum lot sizes, structure setbacks from roads and highways, controls relating to appearance including signs, lighting, and hours of operation, off street loading and parking facilities, and special standards near airports.

Local governmental units may, under the authorities granted by Minn. Stat. ch. 394 and 462, adopt standards to guide the subdivision of land, however, standardized procedures for the preparation and review of subdivision plats is specifically contained in Minn. Stat. ch. 505.

The planning and development authority given to local governmental units under Minn. Stat. ch. 394 and 462 allow these units to manage nonconformities. Local planning and zoning legislation provides local governmental units with the authority to establish a planning commission and a board of adjustment for the purposes of developing the local unit's land use controls and reviewing and approving development proposals that are regulated by those controls.

***Authorities:***

- C **Planning, Development, Zoning, Minn. Stat. ch. 394**
- C **Municipal Planning and Development, Minn. Stat. ch. 462**

Table 10.

**Enforceable Policies/Programs Subject to Federal Consistency**  
**Section A. Coastal Land Management Programs**

Agency Name	Program	Authority	Funding	Program Delivery
DNR  Area Hydrologist or Shoreland Management Program: (612) 296-4800	<b>Shoreland Management Program:</b> establishes standards for development of shoreland areas (land within 300 feet of a stream or 1,000 feet of a lake or wetland, or within the floodplain). Standards address subdivision of land, structure setbacks, vegetative management, land alterations, agricultural activities, and sewage treatment	Minn. Stat. §103F.201 to 103F.221 Minn. Rules 6120.2500 to 6120.3900	General Fund	State sets standards that are incorporated into local government zoning ordinances. DNR reviews and comments on certain zoning actions. DNR provides technical support and grants to local governments to help implement programs.
DNR  Division of Waters Floodplain Management Program: (612) 296-4800	<b>Flood Plain Management:</b> provides standards for identifying floodplains, floodways and flood fringe areas; describes flood protection measures for new construction in the flood fringe.	Minn. Stat. §103F.101 to 103F.165  Minn. Rules 6120.5000 to 6120.6200	FEMA-CAP funds and state General Fund	State has set standards that are incorporated into local government zoning ordinances. DNR reviews and comments on certain zoning actions, provides technical support to local governments, and reviews and conducts flood studies.
North Shore Management Board (NSMB)	<b>North Shore Management Plan:</b> establishes standards within the North Shore Management Plan boundary (land adjacent to Lake Superior). NSMP standards are used in place of the Shoreland Management Program standards.	Minn. Stat. §103F.201 to 103F.221  Minn. Rules 6120.2500 to 6120.3900  Minn. Rules 6120.2800	General Fund	NSMB has set NSMP standards that are incorporated into local government land use ordinances. ARDC provides staff assistance to NSMB. Citizens Advisory Committee (CAC) and Technical Advisory Committee (TAC) assist NSMB. DNR provides technical and financial assistance, reviews and approves annual work plan.

Table 11. **Other Non-Regulatory Programs Not Subject to Federal Consistency Reviews**  
Section A. Coastal Land Management Programs

Agency Name	Program	Authority	Funding	Program Delivery
BWSR  Grants Coordinator: (612) 297-7361	<b>Local Water Resources Protection and Management Program:</b> provides grants to counties to assist in administration and implementation of approved and adopted local water plans. Wetlands inventory, monitoring and data collections are eligible uses of these grant funds.	Minn. Stat. §103B.3369; Minn. Rules ch. 9400	State funds are provided as base grants to counties, combined with special local levy for water plan implementation to provide \$37,500 in revenue for each participating county.	Administered at the state level by BWSR; administered locally by counties and water planning task forces. Counties must have a state approved and locally adopted plan.
BWSR  Water Planning Coordinator: (612) 297-5617	<b>Local Water Resources Protection and Management Program:</b> provides noncompetitive base grants and competitive challenge grants to counties for administration and implementation of approved and locally adopted local water plans. Lakes restoration and enhancement projects are an eligible action.	Minn. Stat. §103B.3369, Minn. Rules ch. 8405	\$2.5 million annually. Funding is provided annually as base grants to counties. Base grant amounts are variable but when combined with the special levy for water plan implementation results in \$37,500 per county. Challenge grants are available when funding permits.	Administered at the state level by BWSR; administered locally by counties and water planning task forces. Counties prepare work plans and budgets during October through December of each year. Counties must have a state approved and locally adopted plan to receive funding.
BWSR  Grants Coordinator: (612) 297-7361	<b>Streambank, Lakeshore, and Roadside (SLR) Program:</b> provides financial assistance to local units of government and private landowners to solve erosion and sediment control problems on streams, lakes and roadsides. Priority is given to projects eligible for federal matching funds.	Minn. Stat. §103C.501, Minn. Rules ch. 8400	\$150,000 annually; cost-share rates cannot exceed 50%, or 50% of the local share if federally funded.	Administered by the BWSR at the state level; administered locally through soil and water conservation districts. Applications are taken once each year; application deadline is April 1.

## CHAPTER THREE

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Agency Name	Program	Authority	Funding	Program Delivery
DNR  Shoreland Hydrologist: (218) 828-2605	<b>Lake Advocate Program:</b> train private citizens living on lakes as "lake advocates" regarding shoreland regulations, state permitting processes and surface and ground water issues. Answer questions from other lake residents or refer to governmental units.	Agency authorities	Federal grant to PCA and local governments.	A partnership among the DNR, PCA, local units of government and coalition of Lake Associations. They provide training and materials to advocates and coordinate this network.
DNR  Local Area Hydrologist or Floodplain Management Program: (612) 296-4800	<b>Flood Damage Reduction Program:</b> provides matching grants to local governments to implement flood damage reduction projects.	Minn. Stat. §103F.161	State General Fund and Bonding	Local Area Hydrologists provide assistance. If funds are available, DNR can make grants up to \$75,000. For larger projects, the legislature acts on bonding requests.

## **B. COASTAL WATER MANAGEMENT**

Minnesota's wealth of high quality surface and ground water offer immense benefits to the state's overall economy. The state boasts some 25,000 miles of fishable streams, 15,000 lakes (more than 10 acres in size), 10 million acres of wetlands, and vast quantities of ground water that support a multitude of uses including shipping, recreation, industry, domestic water supply, irrigation, and hydropower generation. As abundant as these waters may seem, they are not evenly distributed throughout the state, therefore competition for available supplies can impact both the quantities and qualities of available water.

Lake Superior and the adjacent coastal waters in the watershed have long been recognized for their value as a source for transportation, economic opportunities, and recreational pursuits. Lake Superior is the largest fresh water lake in the world, and its tributaries are coldwater streams and creeks that support native and non-native populations of trout. The lake and tributaries are a focus for hunting, fishing, camping, hiking, boating, skiing and other recreational pursuits. The corridor areas around the lake and tributary streams are also valued for commercial and residential development as well as some industrial uses. Since there is a public need to utilize the coastal waters of Lake Superior in many different ways, there are often conflicts between competing uses. To manage Minnesota's water resources, the state has promulgated a body of laws that guide the alteration and use of water in order to assure its continued high quality and availability for future users.

The primary state agencies involved in the protection and regulation of Minnesota's water and wetland resources are the Department of Natural Resources (DNR), the Board of Water and Soil Resources (BWSR) and the Minnesota Pollution Control Agency (MPCA). The U.S. Army Corps of Engineers (USCOE) is the primary federal agency involved with water and wetland regulation. The USCOE regulates various activities in virtually all of Minnesota's waters (lakes, rivers and all wetland types). All four of these agencies are working to simplify and coordinate the regulatory process.

The DNR administers the Protected Waters Permits Program for activities at or below the ordinary high water level which alter the course, current or cross-section of Minnesota's public waters and public waters wetlands (Protected Waters). A DNR Water Appropriation Permit is required for taking in excess of 10,000 gallons of water per day and/or one million gallons per year.

The Board of Water and Soil Resources (BWSR) and Soil and Water Conservation Districts oversee local governmental unit (LGU) regulation of wetland areas (Types 1 through 8 with certain exemptions) not under the jurisdiction of the DNR. There are no minimum basin size limit and the jurisdictional boundaries of regulated wetland areas generally corresponds to the boundary that would be used by the U.S. Army Corps of Engineers (1987 Federal Delineation Manual). Applicants must replace altered/degraded wetlands under a locally approved mitigation plan.

The MPCA issues certification for activities which will result in the discharge of dredge or fill materials into waters of the state. The MPCA's rules are applicable to both state and federal permits. When applicable, regulatory agencies may send a copy of application materials to the MPCA.

At the local level, Soil and Water Conservation Districts (SWCD) assist landowners in the implementation of plans to conserve and protect soil and water resources. Many counties and municipalities have implemented shoreland, floodplain and wetland ordinances, in addition to their own building and zoning codes, to control development and protect the environment.

Depending on the size and the type of wetland or water basin affected by a proposed action, a permit applicant could be faced with working with a number of possible combinations of regulatory agencies. To address this issue, the DNR and the Board of Water and Soil Resources, in cooperation with the U.S. Army Corps of Engineers, have developed the “Combined Joint Notification” form. This form allows a potential applicant to notify all regulatory agencies of a project. The applicant is responsible for sending a copy of the form, with required attachments including plans and drawings to each agency listed on the back of the form. The form enables regulatory agencies to determine jurisdictional authority over a proposed project. The agencies then notify the applicant of their jurisdictional interest, and the need for any additional application forms, project information and fees. The forms are available from all the agencies.

## 1. Protected Waters Program

<b>Introduction</b>
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The Department of Natural Resources administers the state's Protected Waters Permit Program on surface water features that meet certain criteria. Public waters are those waters as defined in Minn. Stat. §103G.005, subd. 15. For the purposes of administration of the DNR program, protected waters are defined per Minn. Rules 6115.0170, subp. 31. This program has been in place in its present form since the late 1970s.

<b>Lake Superior is a protected water. The waters regulated as protected waters include all watercourses, lakes, and wetlands that have been inventoried on the DNR's protected waters inventory maps.</b>
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Protected waters and wetlands inventory maps are developed for each county and are on file in the county auditor's office. The Protected Waters Permit Program applies to physical changes such as excavation, fill, and construction of permanent structures that extend below the ordinary high water level (OHWL) of a protected water. The OHWL means the boundary of water basins, watercourses, public waters, and wetlands, and is defined in Minn. Stat. §103G.005, Subdivision 14.

The Protected Waters Program is broken down into three categories in this section: work in the beds permits; water appropriations; and dam safety. The legislative policy and implementation are the same for each of the three categories except where additional information is provided in a category.

***Legislative Policy:*** *To conserve and use water resources of the state in the best interests of its people, and to promote the public health, safety, and welfare. It is the policy of the state that:*

- 1. Subject to existing rights, public waters are subject to the control of the state;*
- 2. The state, to the extent provided by law, shall control the appropriation and use of waters of the state; and*
- 3. The state shall control and supervise activity that changes or will change the course, current, or cross section of public waters, including the construction, reconstruction, repair, removal, abandonment, alteration, or the transfer of ownership of dams, reservoirs, control structures, and waterway obstructions in public waters. (Minn. Stat. §103A.201 Regulatory Policy)*

***Implementation:*** Protecting water resources and managing usage is the responsibility of the DNR Waters. Through the Protected Waters and Water Appropriation Permits, the DNR manages water resources. A DNR Protected Waters Permit is required for *activities that will alter the course,*



*current or cross-section of a protected water or wetland*; or a DNR Water Appropriation Permit is required for activities that result in appropriation of large volumes of water (see item (b.) Water Appropriation Permits).

Applications for Protected Waters Permits are submitted to and reviewed by DNR Waters and decisions on individual applications are guided by a set of state rules that are identified as Minn. Rules 6115.0150 - 6115.0520. The standards prescribed in these rules were developed upon the following legal premise contained in state statutes. If plans are reasonable, practical, and will adequately protect public safety and promote the public welfare, the permit may be granted. Generally, the rules seek to balance one's lawful right to reasonable use of and access to protected waters with the need to maintain the quantity and quality of these waters for the benefit of the public as a whole. The evaluation of activities that result in physical changes to protected waters is necessary to assure that private/public projects will minimize impacts to the public values of waters, which include fish and wildlife habitat, water supply, flood damage reduction, recreational use, and aesthetic amenities. While the program primarily manages physical alterations to waters such as excavations and placement of structures or fill, it also establishes a link with water quality issues. Issuance of a Protected Waters Permit may be conditioned upon certain specific water quality parameters. Where such parameters are managed under other programs more specifically related to water quality, those programs are identified and addressed more fully in Section C, "Air and Water Quality."

Administration of this program at the area level is handled by the DNR Waters Area and Regional Hydrologist. Permit applications are reviewed within the DNR by Area Fisheries and Wildlife Managers, Regional Nongame Wildlife Specialist, and the Regional Environmental Assessment Ecologist. Applications are also reviewed by the local soil and water conservation district, the county and the affected municipality. The DNR typically makes decisions on permit applications within 60 days of receiving a completed application. The DNR notifies the local governmental unit, the local SWCD, and the U.S. Army Corps of Engineers of the DNR application. The agencies are given 30 days to review and comment. Based on comments and input received during the review period, the application is either issued, denied, or modified. The applicant can request a public hearing to seek reversal of a permit decision. The applicant may not proceed with the project until a permit is issued. Violations occur when an activity is conducted without a permit or if conditions of a permit are not met. Violations are prosecuted by criminal and civil proceedings, and restoration can be ordered, if necessary. A permit issued from the DNR applies only to activities regulated by the DNR. A DNR permit does not give authorization for work outside of the Department's jurisdiction.

### **a. Work in the Beds Permits**

#### ***Activities Managed:***

- C Placement of fill
- C Excavation
- C Placement of structures
- C Water level controls
- C Bridges, culverts, intakes and outfalls

- C Mining
- C Drainage
- C Diversions of water
- C Dredging and port development

***Standards and Criteria:*** In the protected waters of the state, Minnesota Rules regulate placement of fill, excavation, placement of structures, water level controls, bridges, culverts, intakes, and outfalls, mining, drainage, and diversions of water. Minnesota Rules lay out comprehensive goals for each of these activities and criteria for specific types of activities.

**Filling:** Placement of fill is not permitted for:

- C Vegetation control, creating upland areas;
- C Stabilizing the beds of protected waters in areas that cannot support the fill;
- C Stabilizing or impounding active springs;
- C Disposing of rock, sand, or any other solid material resulting from activities carried out above the ordinary high water level;
- C Constructing roadways or pathways to islands;
- C Filling posted fish spawning areas.

Filling necessary for port development or improvement shall be allowed only on those waters which are under the jurisdiction of established port authorities subject to the following:

- C No filling shall be allowed to extend beyond the limits of federally established harbor lines, or where no harbor line has been established, beyond the maximum distance waterward which could be attained without obstructing navigational use of waters;
- C The proposed development must be part of a comprehensive port development plan which has been approved by the Commissioner;
- C Adverse effects of the proposed filling on the physical and biological character of the area shall be subject to mitigation measures approved by the Commissioner.

The Duluth Comprehensive Port Plan details the goals and procedures for compliance with the port development and improvement standards. The Port Plan is described in Chapter 4, Special Programs and Management Areas, Part V 4-6.

**Water Level Controls:** It is the goal of the Department to manage protected waters in order to:

- C Maintain natural flow and natural water level conditions to the maximum feasible extent;
- C Encourage the construction of small upstream retarding structures for the conservation of water in natural waterbasins and watercourses;
- C Limit the artificial manipulation of water levels except where the balance of affected public interests clearly warrants the establishment of appropriate controls and it is not proposed solely to satisfy private interests.

Excavation: The goals of the program relating to excavation are:

- C To limit excavation from the beds of protected waters in order to preserve the natural character of protected waters and their shoreland;
- C Regulate the nature, degree, and purpose of excavations so that excavations will be compatible with the capability of the waters to assimilate the excavation; and
- C Control the deposition of materials excavated from protected waters and protect and preserve the waters and adjacent lands from sedimentation and other adverse physical and biological effects.

Placement of structures: Structures are not permitted in protected waters where it:

- C Will obstruct navigation or create a water safety hazard;
- C Will be detrimental to significant fish and wildlife habitat or protected vegetation;
- C Is designed or intended to be used for human habitation or as a boathouse; or
- C Is designed or intended to include walls, a roof, or sewage facilities.

Bridges, Culverts, Intakes, Outfalls: Bridge and culvert crossings may be permitted for a variety of purposes provided they are properly designed. They are not permitted where they will:

- C Obstruct navigation or create a water safety hazard;
- C Cause or contribute to significant increases in flood elevations and flood damages either upstream or downstream;
- C Involve extensive channelization of a stream channel;
- C Be detrimental to water quality, protected vegetation, or significant fish and wildlife habitat;
- C Provide private access to an island.

Water intake and sewer outfall structures may be permitted in protected waters if they are designed to:

- C Minimize detrimental impacts on fish and wildlife habitat, navigation, water supply, water quality, and storm water retention;
- C Incorporate erosion control measures.

Mining: It is the goal of the DNR to protect and preserve protected water basins and wetlands from damage or destruction by drainage. Minnesota has also adopted specific legislation relating to the drainage of water to facilitate mining activities.

To control mining impacts, the DNR has set the goal to ensure that alterations of protected waters for mining or reclamation of mining areas will:

- C Minimize adverse environmental effects,
- C Preserve water resources to the maximum extent feasible and practical, and
- C Encourage the planning of future land and water utilization while at the same time promoting the orderly development of mining and the use of sound mining practices.

Mineral development within the coastal area is discussed in greater detail in Section F of this chapter.

Minnesota discourages any diversions of water from the state for use in other states or regions of the United States or Canada. Diversions that are related to the mining of iron ore, taconite, copper, copper-nickel, or nickel in Minnesota are subject to the same review standards that are established for drainage activities pursuant to Minn. Stat. §103G.297, Subdivision 3. Those standards are described more fully in Section 2, a, (3), g, above and will not be repeated here.

***Authorities:***

- C   Protected Waters Permit Program, Minn. Stat. §103G.201 - 103G.315**
- C   Water Permits, Minn. Rules 6115.0010 - 6115.0810**

### **b. Water Appropriation Permits**

In the Minnesota coastal area, permitted water appropriation is generally limited to surface water withdrawals. Because of the great depth to water bearing formations and low yields, ground water is used sparingly for domestic supply (mostly to single residences). Surface water appropriation of Lake Superior is used for municipal supply for the cities along the coast, including the cities of Duluth, Cloquet, Two Harbors, Silver Bay, and Grand Marais. Other large appropriators include the paper and mining industry. Appropriation of ground and surface water for agricultural use is insignificant. In terms of conflicts, the coastal area in Minnesota has very few competing users. Generally, the precipitation exceeds evapotranspiration, requiring very little surface or ground water appropriation to meet needs.

In Minnesota, surface and ground water is managed to avoid interference among users and to ensure an available supply of water for priority uses. Permits are required for large water users (>10,000 gallons per day and/or one million gallons per year). Annual water use fees, based on the amount of water used, are collected from water users to recover program costs. This program is closely coordinated with the surface water and ground water monitoring programs to identify and resolve water use conflicts. A priority system allocates water when a water source is limited. Protected flows for streams, protected elevations for basins, and safe yields for aquifers are being identified to protect instream needs and higher priority users and to ensure that long-term withdrawals do not exceed the available supply.

#### ***Activities Managed:***

- C Irrigation
- C Public water supplies
- C Mining and processing of metallic minerals and peat
- C Thermal heat pumps
- C Hydropower

***Implementation:*** Applications for Water Appropriation Permits are submitted to and reviewed by DNR Waters and decisions on individual applications are guided by a set of state rules that are identified as Minn. Rules 6115.0600 - 6115.0810. The standards prescribed in these rules were developed upon the legal premise contained in state statute. If plans are reasonable, practical, and will adequately protect public safety and promote the public welfare the permit may be granted (Minn. Stat. §103G.315). Generally, the rules seek to balance one's lawful right to appropriations and use of waters of the state with the need to conserve and utilize the water resources of the state in the public interest.

***Standards and Criteria:*** Permit issue for water appropriation is based on the standards and criteria in Minnesota Rules. These rules regulate activities including irrigation, public water supply, mining and processing of minerals and peat, thermal heat pumps, and hydropower. The rules lay out comprehensive goals for each of these activities and criteria for specific types of activities. Irrigation under these standards includes agricultural, wild rice, golf courses, sod, nurseries, horticultural crops, and landscaping. Decisions to issue permits for irrigation are based

on climatic characteristics of the area involved, soil types and major crops to be irrigated, best available technology and crop-water use requirements of the Irrigation Guide for Minnesota.

The approval of amendments and expansions to public water supplies is based on the impact of the proposal to the water resource and conflict or well interference of neighboring wells. Water Appropriation Permit approval requires a drought contingency plan and is also based on the number of domestic users, reasonable projection of population growth, type of industrial and commercial users, and other users such as golf courses, and wastewater treatment systems.

Activities managed under mining include makeup water, dewatering, water level control in tailing basins or treatment ponds, and reclamation. Permits are approved based on the impacts to the water resources involved and interference to other users, the applicant's utilization of available surplus water from pre-existing mining operations or facilities, legal requirements for water quality, disposal of excess water, and the utilization of water from runoff and other related mining operations.

Minnesota Stat. ch. 156A, Water Wells and Exploratory Boring define Minn. Stat. ch. 103G requirements regarding appropriation of water for thermal conductance. A water appropriation permit is required if actual flow exceeds 20 gallons per minute.

Permits for hydropower activities include raising or lowering of spillway level; changes in water level fluctuation and discharge; dam modification/reconstruction; dredging and disposal of dredge material; shore protection, riprap, shoreline excavation; partial or complete drainage; water level control structure; stream or channel enlargement or relocation; and diversion of water out of the river channel.

***Authorities:***

- C Work in Public Waters, Minn. Stat. §103G.245**
- C Appropriation and Use of Water/Denial and Issuance of Permits, Minn. Stat. §103G.271 - 103G.315**
- C Water Resources, Minn. Rules 6115.0600 - 6115.0810**

### c. Dam Safety

The purpose of the Dam Safety Program is to ensure that dams are designed, constructed, operated and maintained to protect public safety and welfare. DNR Waters reviews designs or plans and issues permits for dam construction, inspects dams to detect unsafe conditions, and provides grants to local governmental units (LGUs) to make repairs or remove structures when they become safety hazards or are too expensive to repair. The Dam Safety Program is also responsible for coordinating state review of federal hydropower license applications and dam operating plans to establish minimum stream flow levels necessary to protect instream uses such as fish and wildlife habitat, and recreation.

**Activities Managed:** Minnesota Dam Safety Rules have been in effect since March 1980. The rules regulate the construction and alteration of dams, as well as the enlargement, repair, maintenance, operation, transfer of ownership and abandonment of such structures. A protected waters permit is required to construct, alter, enlarge, operate, conduct major repair or maintenance work, transfer the ownership, or abandon any dam as defined in the Dam Safety Rules or the Protected Water Permits Rules (Minn. Rules 6115.0320). A dam is any artificial barrier, together with appurtenant works, which does or may impound water and/or waste materials containing water except:

1. Dams which are less than 25 feet in height and have a storage capacity at maximum storage elevation of less than 50 acre/feet shall be exempt from Dam Safety Permit requirements if they do not have potential for loss of life resulting from failure or misoperation;
2. Any artificial barrier which is not in excess of six feet in height regardless of storage capacity or which has a storage capacity not in excess of 15 acre/feet regardless of height;
3. Underground or elevated tanks to store water and/or waste;
4. Any artificial barrier constructed solely for the purpose of containment of sewage or biological treatment of wastewater which is under the jurisdiction of the MPCA;
5. Dams owned by the United States;
6. Dikes and levees constructed for flood control purposes to divert water flood waters and which are not intended to act as impoundment structures.

**Implementation:** Minnesota Rules governing dam safety are intended to be consistent with the goals and objectives of applicable federal and state environmental quality programs and policies. Where the dam safety rules conflict with other appropriate rules and requirements, the most restrictive provision shall apply.

The DNR is required to make an initial detailed systematic technical inspection and evaluations of every Class I, II, or III dam in order to assess the general safety conditions including a review and

analysis of available data on the design, construction, and operation, and for the adequacy and quality of maintenance and operating equipment and procedures.

The permit applicant must submit a final design report, together with plans and specifications to the DNR for approval. Approval of a dam safety permit is based on the potential hazards to the health, safety and welfare of the public and the environment including probable future development of the area downstream or upstream. The applicant may be required to take measures to reduce risks, and the DNR shall furnish information and recommendations to local governments for present and future land use controls to minimize risks to downstream areas. Compliance with prudent, current environmental practices throughout the structure's existence is required.

For water level control structures 25 feet or more in structural height or having a maximum storage capacity of 50 acre/feet or more, permits will be issued only to governmental agencies, public utilities, or corporations having authority to construct and maintain such projects, except that a title-registration type permit may be issued to the owner or owners of the private property upon which the proposed water level control structure will be located where the provisions of the program are met.

***Standards and Criteria:*** Dam owners are required to keep records and report on maintenance, operation, staffing, and engineering and geologic investigations and any other data necessary to protect the public health, safety, and welfare.

Unless the dam is removed, the dam owner is required to perpetually maintain the dam and appurtenances so as to ensure the integrity of the structure. For dams utilized for waste disposal, the owner must prepare and submit to the Commissioner of Natural Resources plans for termination of operations and perpetual maintenance which will address the owner's plans for both an unanticipated or premature termination of operations and for the ultimate intended termination of operations.

All construction must be carried out in accordance with the approved design, plans, and specifications. No alteration, modification, or addition to the approved designs, plans, and specifications that could adversely affect the safety or environmental impact of the dam may be made by the permittee without prior permission of the DNR. The DNR makes inspections for the purpose of securing conformity with approved designs, plans, and specifications and shall require the owner to perform, at the permittee's expense, work or tests as found necessary to disclose sufficient information to determine if there is conformity.

***Authorities:***

- C Waters of the State, Minn. Stat. ch. 103G
- C Dams, Minn. Rules 6115.0300



### 2. Wetlands Programs

Statewide, more than 80 percent of the state's original prairie pothole wetlands have been drained and more than 60 percent of the state's total original wetland base have been drained, filled or otherwise diminished. Before passage of the Wetlands Conservation Act (WCA) it was estimated that the loss of wetlands in the state, both rural and urban, was in excess of 5,000 acres per year. According to the National Wetland Inventory (NWI), there are approximately 1.2 million acres or 90 percent of wetlands in the Minnesota Lake Superior watershed.

The University of Minnesota has calculated that 4.3 million acres of wet mineral and peat soils exist in the seven northeastern counties of Minnesota. Approximately 3.75 million acres are in public ownership. The majority of the wetlands are Type 6, 7, and 8. In the Lake Superior watershed, greater than 90 percent of the presettlement wetlands remain. Wetland management in Minnesota, including the coastal area, strives to achieve a “no net loss” of wetland values. The preservation of wetlands is necessary in order to preserve the multitude of public benefits they provide flood water and storm water retention, including reducing the potential for flooding in the watershed; water quality benefits, including filtering of pollutants out of surface water and ground water, using nutrients that would otherwise pollute public waters, trapping sediments, protecting shoreline, and recharging ground water supplies; public recreation and education benefits, including hunting and fishing areas, wildlife viewing areas, and nature areas; commercial benefits, including wild rice and cranberry growing areas and aquaculture areas; fish and wildlife habitat; low flow augmentation benefits during times of drought; and other public uses. Because of the large amount of wetland losses statewide, Minnesota has placed a high priority on the need to preserve, restore, and enhance wetlands. Wetland protection at the state level is accomplished primarily through the Wetland Conservation Act of 1991 (Minn. Stat. §103G.222-.2373) and its amendments. Other wetland protection is accomplished through Clean Water Act Section 401 Water Quality Certification, the DNR Protected Waters Program, and state Executive Order 91-3, No Net Loss of Wetlands. Approximately 90 percent of the total wetland acreage in the coastal area is affected under the auspices of the Wetland Conservation Act.

Minnesota has developed a state wetland management plan. The plan, Minnesota Wetlands Conservation Plan, Version 1.01, 1997 refines the public policy goals for wetlands, establishes specific management objectives to achieve those goals, and identifies how to improve the system.

**State Executive Order 93-1:** Issued by the Governor of Minnesota in 1991, it directs state agencies to protect, enhance, and restore wetlands to the fullest extent of their authority, and to follow a strict policy of “no-net-loss” of wetlands for any projects which are their responsibility. The order requires state agencies to survey and categorize all wetlands on lands being acquired by or donated to the state, and wetlands on state lands that may be threatened by developments. The head of each state agency is required to report to the Commissioner of Natural Resources each year summarizing the extent of wetland activities resulting from an agency’s activities. All state agencies are required to monitor and record all wetland impacts, wetland mitigation, wetlands restored or created other than for mitigation, and the acreage of wetlands acquired or removed from state ownership or administration. The DNR and BWSR report to the Governor and the legislature on the status of the implementation of wetland regulations.

**Clean Water Act Section 404 Program:** The Section 404 Program is a component of the federal Clean Water Act and is administered by the U.S. Army Corps of Engineers (Corps) with oversight from the U.S. EPA. The program regulates the placement of fill, ditching, channelization, and mechanized land clearing in all waters of the United States, which includes all wetlands. Section 404 jurisdiction at the federal level is equal to the WCA and Protected Waters Program at the state level. Activities covered by the Section 404 program must be authorized by a permit issued by the St. Paul District of the Corps. Various types of permits are issued, depending on the situations described below. The Minnesota Pollution Control Agency (MPCA) has the Clean Water Act Section 401 water quality certification responsibility. A Section 401 Water Quality Certification is required for all activities which require a 404 Permit from the U.S. Army Corps of Engineers (discharges of fill into surface waters, including wetlands). Under the Section 401 provision, the MPCA reviews Corps permits for compliance with state water quality standards (Minn. Rules ch. 7050). Water quality certification may be approved, waived, or denied. The Corps cannot issue a permit for which water quality certification has been denied by the MPCA. Approval for discharges to wetlands is usually dependent on satisfactory mitigation sequencing and wetland replacement. The MPCA has issued blanket water quality certifications for the Section 404 nationwide permits, with regional conditions, and for the General Permit (MN-001-GP) for the State of Minnesota. See Part V, Chapter 3(C) for air and water quality standards, policies, and authorities.

*Nationwide Permits:* A variety of activities having minor impacts are covered by nationwide permits which essentially constitute authorizations. They are subject to regional conditions tailored to Minnesota. Certain nationwide permits require notification of the Corps prior to the activity; others may proceed without prior notification. Activities covered by certain of the nationwide permits are exempt from the Wetland Conservation Act.

*General Permit (MN-001-GP):* This is a blanket authorization for certain activities that are regulated by the DNR under the Protected Waters Program. The intent is to eliminate regulatory duplication. If an applicant receives a DNR permit for any of the activities covered by the general permit, authorization from the Corps is automatic. Procedurally, the DNR Regional Hydrologist sends the Corps a copy of the Protected Waters Permit Application. If the activity qualifies, the Corps will send a letter to the applicant notifying them that they may proceed upon receipt of the DNR permit.

*Individual Permit:* All activities regulated by the Corps that do not qualify for a nationwide permit or the general permit must be authorized by an individual permit. An individual permit is subject to a public interest review conducted by the Corps. A public notice is prepared and circulated to solicit comments from the public and other agencies.

***Legislative Policy:*** *The legislature finds that it is in the public interest to preserve the wetlands of the state, to conserve surface waters, maintain and improve water quality, preserve wildlife habitat, reduce runoff, provide for floodwater retention, reduce stream sedimentation, contribute to improved subsurface moisture, enhance the natural beauty of the landscape, and promote comprehensive and total water management planning (Minn. Stat. §103A.202 Wetland Policy).*

**DNR Protected Waters Program:** Types of 3, 4, and 5 wetlands, as defined in U.S.F.W.S. Circular No. 39, are 10 or more acres in size in unincorporated areas or 2.5 acres in size in incorporated areas, are inventoried and mapped as “public waters” pursuant to Minn. Stat. ch. 103G, Waters of the State. These wetlands were inventoried during the 1980s. The total acreage of protected waters wetlands in the coastal area is about 5 percent of the total acreage of all wetlands and deep water habitats. Projects affecting the “course, current, or cross-section” of these wetlands are regulated by the Minnesota Department of Natural Resources through Minn. Rules, ch. 6115. See Part V, pages 3-31 to 3-39 for more information on the Protected Waters Program.

**Minnesota Wetlands Conservation Act of 1991:** The Wetland Conservation Act (WCA) of 1991, along with subsequent amendments, extended protection to wetlands not covered under the “public waters” statute (Minn. Stat. ch. 103G), and established a “no net loss” policy. The purpose of the act is to: *achieve no net loss in the quantity, quality, and biological diversity of Minnesota’s existing wetlands; increase the quantity, quality, and biological diversity of Minnesota’s existing wetlands; avoid direct or indirect impacts from activities that destroy or diminish the quantity, quality, and biological diversity of wetlands; and replace wetland values where avoidance of activity is not feasible and prudent.* The central tenet of the WCA is that wetlands may not be drained or filled without replacement by wetlands of equal public value, either through restoration or creation. In the coastal area, it regulates draining and filling of wetlands that are greater than 400 square feet within shoreland areas and wetlands Type 1, 2, 6 or 7 (except for white cedar and tamarack wetlands) that are greater than 10,000 square feet and outside of shoreland areas. The de minimis exemption of 10,000 square feet only applies to those counties that have greater than 80 percent of their presettlement wetlands (Minn. Rules ch. 8420). All of the coastal counties in Minnesota have greater than 90 percent of their wetlands still remaining. In Lake and Cook Counties, the estimate for wetland areas remaining from presettlement is close to 100 percent. Under WCA, Wetlands are defined according to the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (January 1987).

Amendments to WCA in 1996 (Laws 1996, Chapter 462) provided additional local control, regionalization, and flexibility by allowing local units of government to develop a comprehensive wetland protection and management plan with modifications to certain provisions of the state rule. To accomplish this, the amendment provides for the integration of wetland protection measures with the local water planning process and local zoning ordinances. In addition, the amendments streamline the approval process for landowners by enabling local governments to act in a reasonable time frame, and allowing onsite determinations for small projects.

Additional features of WCA include:

- C A dedicated state fund for restoring wetlands impacted by local road authorities.
- C Additional incentives to include vegetative buffers and water quality treatment systems in areas adjacent to wetlands, thereby enhancing the water quality and wildlife benefits of the wetlands.

- C A strong state participation and oversight role in the development, implementation, and enforcement of local government comprehensive wetland protection and management plans. This state presence is intended to ensure that the law is consistently and fairly administered.
- C Enhancement of the notification and administrative appeals process, by providing an avenue for concerned citizens to participate in the environmental review process to help ensure that the public maintains an active voice in the management of their resources, while allowing project sponsors to get timely decisions on their proposals.
- C A tax exemption program and an easement program to protect high priority wetlands. Landowners who maintain wetlands (rather than draining or filling them) will have access to some financial compensation for the value of their land.
- C The commitment to protecting calcareous fens.
- C Incentives to retain restored wetlands that are eligible for drainage.
- C Local government liability prevention, whereby the state will pay claims against and assist in the defense of the local government if they are properly implementing the law and a court awards a taking or damage claim against the local government.

***Activities Managed:***

- C Exemptions
- C Calcareous fens
- C Mining
- C High priority regions/areas and wetland preservation areas
- C Sequencing, wetland replacement plans and monitoring
- C Local comprehensive wetland protection and management plans
- C Wetland banking

***Implementation:*** A key feature of the Wetland Conservation Act is that it gives to local government units (counties, cities, townships, watershed districts, or soil and water conservation districts) the primary responsibility for implementing the WCA, including review and approval of wetland replacement plans. The Minnesota Board of Water and Soil Resources provides administrative and technical assistance, coordinates wetland mitigation banking, and hears administrative appeals. The DNR provides enforcement (along with local government units), regulation of calcareous fens, and wetlands impacted by metallic and peat mining, and review of proposed replacement plans.

A joint notification form allows all relevant agencies to view proposed wetland impacts. The USCOE, DNR, BWSR, SWCD, MPCA (401 Water Quality Certification) and the LGU all review the same application. This technique is efficient for both the landowner and government agencies.

A person or entity proposing to fill or drain a wetland, unless the activity is exempt, must apply to the appropriate local government unit for a sequencing determination and approval of a wetland replacement plan to compensate for all unavoidable wetland losses. LGUs are the counties, cities, or their delegate, in some instances the soil and water conservation district. The replacement plan contains a description of the proposed impact and a proposal for replacing the lost wetland values through restoration or creation of another wetland, which may involve the use of a wetland bank. The LGU must determine that impacts have been fully avoided and minimized and if the proposed restoration or creation will adequately replace the lost wetland values. State agencies act as the LGU for their own projects and are therefore not required to obtain local government approvals for their projects. However, they must comply with the sequencing and replacement provisions of the WCA and are required to consult with local government units having jurisdiction in the project area. The notice includes both the proposed impact and the mitigation required (replacement plan).

All the agencies that administer wetland laws have consistent mitigation requirements so that one mitigation plan is usually accepted by all the agencies if various permits are required.

The decision of a local government unit can be appealed to the Board of Water and Soil Resources. Enforcement of the act is performed by the Commissioner of Natural Resources, conservation officers, and other peace officers through Cease and Desist Orders and Restoration and Replacement Orders. Violation of any of these orders is a misdemeanor offense in Minnesota.

Funding for wetlands is provided for the Board of Water and Soil Resources to establish wetland banking credits, for easement and acquisition on Reinvest in Minnesota (RIM) land, and some money may be used by the Board on waterbank conversion acres and enrollment in the wetland preserve program.

If the Board of Water and Soil Resources has information that a local government unit is not following Minn. Rules ch. 8420 (Wetland Conservation Act Rules) or the WCA in making exemption, no-loss, replacement plan, or banking determinations, the Board shall notify the local government unit of its concerns. If necessary the Board can take appropriate legal action to ensure compliance.

Technical assistance is available to local governmental units (LGUs) through a three member technical evaluation panel. The panel is composed of technical professionals from the LGU, the SWCD, and the Board of Water and Soil Resources. The panel makes determinations on matters such as wetland function and value, location, type and size for wetland replacement plans, exemptions, sequencing, and other responsibilities as appointed by the county board. For landowners, LGUs throughout the coastal area have been trained in wetland delineation. Usually for a fee, the LGU can ascertain the wetland limits and offer advice on proper land development. Contact LGU for advice on wetland delineations.

***Standards and Criteria:*** The standards and criteria described below are an overview found in Minn. Rules, ch. 8420, Implementation of the Wetland Conservation Act (WCA).

Exemptions: An activity is exempt if it qualifies for any one of the activities listed in the Minnesota Rules. These exemptions do not apply to calcareous fens as identified by the Commissioner of Natural Resources or to wetlands that have been previously restored or created as a result of an approved replacement plan. Activities initiated under one of the exemptions must be performed with appropriate erosion control to prevent sedimentation of the water and cannot block fish activity in a watercourse. The activity must also be conducted in compliance with all other applicable federal, state, and local requirements.

Calcareous Fens: Calcareous fens may not be drained or filled or otherwise altered or degraded except as provided for in a management plan approved by the Commissioner of Natural Resources.

Mining: Wetlands may not be drained or filled as part of a project for which a permit to mine is required by Minnesota statutes, except as approved by the Commissioner of Natural Resources.

High Priority Regions, Areas, and Wetland Preservation Areas: The high priority regions and areas are those places in Minnesota that are priority regions and areas for replacement, enhancement, restoration, and preservation of wetlands. High priority regions include those counties that have lost 50 percent or more of their presettlement wetlands. In the coastal area, all counties have greater than 90 percent of their presettlement wetlands, therefore, there are no high priority regions, and high priority areas are those approved, as such, by a county board. Wetland preservation areas are wetlands located in areas that are both high priority regions and areas. High priority regions are identified in the county water plan updates.

Enrollment as a wetland preservation area results in the wetland becoming exempt from property tax. The state reimburses the county for the lost tax revenue. Wetland preservation areas are optional to LGUs. Currently, no coastal county is offering this program.

Sequencing, Wetland Replacement Plans, and Monitoring: A landowner intending to drain or fill a wetland who does not qualify for an exemption under Minn. Rules 8420.0122 is required to obtain approval from the local governmental unit (LGU) for a replacement plan before beginning any draining or filling. Minnesota rules specify the procedures and criteria for avoiding and minimizing (sequencing) impacts to wetlands and for ensuring adequate replacement of lost public values for unavoidable wetland impacts. Sequencing involves the compliance with the following principles in descending order of priority:

- C Avoidance of direct or indirect impacts;
- C Minimization of impacts by limiting magnitude or degree of activity;
- C Rectification of impact by repair, rehabilitation, or restoration;
- C Reduction or elimination of impacts over time;
- C Replacement of unavoidable impacts by restoration or creation;

Replacement plans must contain the following components pursuant to Minn. Rules 8420.0530. In general, the wetland acres and values being impacted must be replaced before or concurrent with the activity to drain or fill. Replacement of wetland functions and values are accomplished through

restoration or creation, although restoration is preferred. In addition to the physical characteristics of the impacted wetland, the following special considerations must be incorporated into the LGU review of replacement plans: federal or state listed endangered species, rare natural communities, special fish and wildlife resources, archaeological or historic sites, ground water sensitivity, sensitive surface waters, education or research use, waste disposal sites, and consistency with other plans.

Replacement wetlands must be located within the same watershed or county, except in areas where greater than 80 percent of presettlement wetlands remain such as the coastal counties, replacement may be in areas where less than 50 percent of presettlement wetlands remain. Monitoring is done to ensure that the replacement wetland achieves the goals of replacing the lost functions and values. A monitoring report is completed annually for a period of five years or until the replacement wetland is deemed fully functional (Minn. Rules 8420.0600).

Local Comprehensive Wetland Protection and Management Plans: In order to provide local government control, regionalization, and flexibility, amendments to the WCA made in 1996 allow local governmental units to adopt Local Comprehensive Wetland Protection and Management Plans. The plans allow certain modifications to the rules governing the act by providing the greater than 80 percent areas of the state (the coastal area) additional flexibility in the situations below.

Replacement credit may be allowed for any project that increases the public value of a wetland, including activities in adjacent uplands:

- C The agriculture exemptions for Types 1, 2, 6 wetlands may be expanded to non-ag land, provided there is no net loss of wetland values;
- C The application of sequencing may be varied; and
- C Individual impacts may be replaced anywhere within the plan area.

Wetland functional assessments must be used as the basis for public value determinations.

The local government unit must adopt the plan as an ordinance pursuant to Minn. Stat. ch. 462, for cities; Minn. Stat. ch. 395, for counties; Minn. Stat. ch. 366, for a town. The plan contents are identified in the rules and other state agencies can participate in the planning process. The Board of Water and Soil Resources reviews the final plan for compliance with Minn. Rules 8420.0650.

Wetland Banking: The creation of a wetland banking system must meet the intent of the WCA by achieving a “no net loss” of wetland functions and values including the quantity, quality, and biological diversity. The use of the wetland banking system is conditional on compliance with the sequencing requirements of the act, in addition to meeting the approval of the local government unit. Created and restored wetlands are allowed to be placed in wetland banks for the entire coastal area (greater than 80 percent areas). The local government unit is responsible for monitoring wetland banking within its jurisdiction. All local government units are required to submit an annual report to the Board of Water and Soil Resources summarizing the use of wetland banking.

*Authorities:*

- © **Public Water Wetlands- Minn. Stat. §103G.221 - 103G.2373**
- © **Wetland Conservation Act Rules - Minn. Rules ch. 8420**



Table 12.

**Enforceable Policies/Programs Subject to Federal Consistency**  
**B. Coastal Water Management Standards**

Agency Name	Program	Authority	Funding	Program Delivery
DNR  Area Hydrologists, or DNR Waters: (612) 296-4800	<b>Protected Waters &amp; Wetlands Permit Program:</b> requires a permit for activities that will change or diminish the course, current or cross-section of wetlands or streams that are designated as protected waters or wetlands by the DNR. Scope: Approx. 100 permits are processed yearly in coastal area.	Minn. Stat. §103G.101-103G.315; Minn. Rules 6115.0150-6115.0280	Permit application fees go to the General Fund and are then appropriated to DNR Waters.	DNR regional offices process permit applications. Area hydrologists review applications and make recommendations for their respective areas. Permits are approved, modified or denied at region or Central Office depending on permit type.
DNR  Area Hydrologists, or DNR Waters Permit Coordinator: (612) 296-4800	<b>Water Appropriation Permit Program:</b> requires permits for appropriations of surface or ground water exceeding 10,000 gallons per day or one million gallons per year. Includes surface waters in lakes, wetlands and streams. Scope: Approximately 100 permits are processed yearly in coastal area.	Minn. Stat. §103G.255 to 103G.297; Minn. Rules 6115.062	Permit application fees go to the General Fund and are then appropriated to the DNR Waters.	DNR regional offices process permit applications. Area hydrologists review applicants and make recommendations in their respective areas. Permits are approved, modified, or denied at the region or Central Office, depending on permit type.
DNR  DNR Waters Dam Safety Supervisor or Area Hydrologist: (612) 296-0525	<b>Dam Safety Program:</b> requires a permit for construction, alteration, operation, repairs, transfer of ownership and abandonment of a dam which is greater than 6' in height and has a maximum storage capacity greater than 15 acre/feet with some exemptions.	Minn. Stat. ch. 103G  Minn. Rules 6115.0300 to 6115.0520	Permit application fees go to state General Fund and are then appropriated to DNR Waters.	DNR regional offices process permit applications. Area hydrologists review and make recommendations. Technical review is conducted by the Dam Safety Unit, which also inspects and evaluates existing dams, the contact for grant program and hydropower information.

Agency Name	Program	Authority	Funding	Program Delivery
DNR  Surface Water Unit: (612) 296-0525	<b>Stream Flow Protection &amp; Regulation:</b> recommends protected flow levels for rivers, lakes, hydropower and reservoir operations. Reviews applications to FERC for relicensing of hydropower facilities.	Minn. Stat. ch.103G	State General Fund	DNR Waters Permit Unit initiates requests for protected flow determination. Field studies and/or statistical analysis of historic flow data used to set protected flow levels.
BWSR  Wetlands Specialist (612) 297-3432	<b>Wetland Conservation Act:</b> provides protection to wetlands that are not protected by other state and federal programs. Includes Wetland Preservation Areas to protect priority wetlands and tax incentives to landowners. The Act includes some exemptions.	Minn. Stat. §103G.222 through 103G. 2373  Minn. Rules ch. 8420	State General Fund	Local governments and watershed management organizations certify exemptions and approve replacement plans. DNR and local government licensed peace officers enforce the act.
DNR  Area Hydrologist, or DNR Waters (612) 296-4800	<b>Duluth Comprehensive Port Development Plan:</b> provides standards and criteria for dredging activities and land use management for Duluth Harbor and St. Louis River Estuary.	Minn. Stat. ch. 103G  Minn. Rules 6115.0191	State General Fund	City of Duluth, Port Authority of Duluth and MDNR through an MOU manage all actions relating to the Duluth Harbor.

Table 13. **Other Non-Regulatory Programs Not Subject to Federal Consistency Reviews**  
B. Coastal Water Management Standards

Agency Name	Program	Authority	Funding	Program Delivery
DNR  Program Coordinator: (612) 297-5476	<b>Adopt-A-River Program:</b> encourages better stewardship of state rivers by sponsoring group cleanups of nonpoint source pollution on designated rivers. Groups make a two-year commitment to clean a stretch at least once a year. Average stretch is 2 miles. Program has 144 active groups.	Commissioner's authority	Funds from Water Recreation Account. MN Conservation Corps used to leverage corporate and private funds that provide support program.	Interested groups contact the program coordinator, who provides "how-to" kits that explain the program. Groups register with the coordinator and receive a video describing cleanups, and determine a cleanup time and location with the coordinator.
DNR  Area Wildlife Managers	<b>Migratory Waterfowl Feeding and Resting Areas Program:</b> designates and protects wetlands that provide feeding and resting habitat for ducks, geese, other migratory waterfowl and wildlife. Some uses of these areas are restricted to minimize human disturbance.	Minn. Stat. §97A.145	Duck stamp revenues and State General Fund	DNR area wildlife managers identify and designate refuge sites.
BWSR  Grants Coordinator: (612) 297-7361	<b>BWSR Cost-Share Program:</b> provides financial assistance to landowners and operators for installation of erosion, sediment, and water quality control projects. Wetlands enhanced or restored to improve water quality may be eligible for this program.	Minn. Stat. §103C.501; Minn. Rules ch. 8400	Congressional appropriation. Cost-share with landowners up to 75% of total cost for high priority erosion and water quality problems.	Administered by BWSR at the state level, administered locally through soil and water conservation districts. Applications taken at SWCD offices year-round.

Agency Name	Program	Authority	Funding	Program Delivery
BWSR  Grants Coordinator: (612) 297-7361	<b>BWSR Special Projects:</b> provide cost-sharing to landowners and local units of government for projects such as wetlands restoration or enhancement done as part of a demonstration or special purpose project.	Minn. Stat. §103C.501; Minn. Rules ch. 8400	State General Fund	Administered by the BWSR at the state level, administered locally through soil and water conservation districts. Applications are taken once per year; deadline is in April.
BWSR  Easement Coordinator: (612) 297-7965	<b>Reinvest in Minnesota (RIM) Wetland Restoration Program:</b> to restore drained or altered wetlands in agricultural areas of the state. Upon restoration the wetland must be protected with a perpetual easement with the State of Minnesota.	Minn. Stat. §103F.501-103F.535	Landowner payment for restoration is 100% of cost up to \$300 per acre. Payments to landowners for perpetual easements are 90% of estimated market value of ag-land in township.	Administered by the BWSR at the state level, administered locally through soil and water conservation districts. Application period determined annually.
BWSR  Easement Coordinator: (612) 297-7965	<b>Wetland Establishment &amp; Restoration Program:</b> allows the landowner to apply to counties or local watershed management organizations for assistance to restore or enhance wetlands in identified high priority areas.	Minn. Stat. §103F. 903	No appropriation. Local governments can apply to BWSR for cost-sharing on restoration for up to 50% of the total cost, not to exceed \$20,000.	Landowners apply to counties or local watershed management organizations.
DNR  Area Wildlife Managers	<b>Forestry Stewardship Program:</b> funds the costs of wildlife habitat restoration projects on wetlands in forested areas. A cooperative program between DNR Wildlife and DNR Forestry.	Minn. Stat. §97A.145	U.S. Forest Service federal grant funds.	Local area wildlife manager or foresters provide information and assistance to interested landowners and local governments.

## CHAPTER THREE

Agency Name	Program	Authority	Funding	Program Delivery
DNR Area Fisheries Supervisors	<b>Northern Pike Spawning Area Program:</b> develops controlled Type II wetlands adjacent to lakes and streams as northern pike spawning and nursery habitat by diking and manipulating water levels. Most sites are less than 15 acres, and selected where natural spawning habitat is limited or lost to drainage or shoreland development.	Minn. Stat. §97A.135, 97A.141 and 97A.145	Fishing license fees; Federal Aid in Sport Fishing Restoration; and Reinvest in Minnesota (RIM) Funds	Area fisheries supervisors identify sites for acquisition and development. Fisheries staff operate ponds to produce northern pike fingerlings.
DNR Area Wildlife Managers	<b>Private Lands Wetland Restoration Program:</b> assistance provided to private landowners to restore wetlands and improve associated upland areas for wildlife habitat.	Minn. Stat. §97A.145	RIM and pheasant stamp revenues	Contact local area wildlife manager for information and assistance.
DNR Area Wildlife Managers	<b>Wildlife Habitat Enhancement on Wildlife Management Areas (WMAs) Program:</b> improves wildlife habitat through wetlands restoration, addition of cover grasses, and development of upland habitat areas.	Minn. Stat. §97A.145	Waterfowl stamp revenues and surcharge on hunting licenses.	Local area wildlife managers identify or suggest projects.
DNR Area Wildlife Managers	<b>Wildlife Lakes Designation and Enhancement Program:</b> designates and enhances wetlands and lakes for wildlife management based on habitat suitability. These are generally shallow public waters with a history of wildlife use and public access.	Minn. Stat. §97A.145	Duck stamp revenues	Local area wildlife managers select appropriate lakes and develop and implement management plans.

Agency Name	Program	Authority	Funding	Program Delivery
BWSR Wetlands Specialist: (612) 297-3432	<b>Permanent Wetland Preserves Program:</b> acquires perpetual conservation easements for existing Type 1, 2, and 3 wetlands.	Minn. Stat. §103F. 516	State bonding funds	Administered at the state level by BWSR; administered locally by soil and water conservation districts.
DNR Area Wildlife Managers	<b>Consolidated Conservation Lands Program:</b> acquires wetlands through tax forfeiture for development of wildlife habitat.	Minn. Stat. §97A.145	Lands transferred at no cost to DNR.	Local area wildlife managers identify and acquire properties.
DNR Area Wildlife Managers	<b>Land Acquisition for Wildlife Management Areas Program:</b> acquires existing or drained wetlands and associated upland areas in fee title for wildlife management areas.	Minn. Stat. §97A.145	RIM; surcharges on hunting licenses; private donations; federal grant funds; and LCMR funds.	Local Area Wildlife Managers develop a prioritized list of acquisition sites and implement this program.
BWSR Grants Coordinator: (612) 297-7361	<b>Local Water Resources Protection and Management Program:</b> provides grants to counties to assist in administration and implementation of approved and adopted local water plans. Wetlands inventory, monitoring and data collections are eligible uses of these grant funds.	Minn. Stat. §103B.369; Minn. Rules ch. 9400	State funds are provided as base grants to counties, combined with special local levy for water plan implementation to provide \$37,500 in revenue for each participating county.	Administered at the state level by BWSR; administered locally by counties and water planning task forces. Counties must have a state approved and locally adopted plan.
DNR Area Wildlife Managers	<b>Game Lake Designation Program:</b> includes survey, inventory and mapping of wetlands and lakes for potential wildlife habitat for waterfowl and furbearing animals.	Minn. Stat. §97A.145	Duck stamp revenues and General Fund	Local area wildlife managers implement this program.

## CHAPTER THREE

Agency Name	Program	Authority	Funding	Program Delivery
DNR  Area Hydrologists or Protected Waters Coordinator: (612) 296-4800	<b>Protected Waters and Wetlands Inventory:</b> Inventory of waters and wetlands for which permits are required--includes 10,029 wetlands on 261,700 acres. Available as paper maps on county highway map base with legal descriptions for protected lakes, streams, and wetlands.	Minn. Stat. §103G.201	Inventory complete activities. Current digitization is funded by LCMR.	Area hydrologist or Central Office provides maps.
DNR  Area Wildlife Managers	<b>Purple Loosestrife Survey Program:</b> includes informal surveys to locate and control purple loosestrife in wetlands.	Minn. Stat. §84.966	General Fund	Local area wildlife managers complete surveys at their discretion.
DNR  Bemidji Wetland/Wildlife Research Station: (218) 755-2973	<b>Waterfowl and Wetland Conditions Survey Program:</b> count of breeding and migrating wildfowl and an index of wetland conditions statewide.	Minn. Stat. §97A.145	Duck stamp revenues and General Fund	The Bemidji Wetland/Wildlife Research Station is completing the survey.
DNR  Bemidji Regional Waterfowl Specialist: (218) 755-2973	<b>Waterfowl Survey in Forested Areas of Minnesota:</b> survey of waterfowl populations in forested areas to develop population indices; a partnership with the U.S. Fish and Wildlife Service.	Minn. Stat. §84.03	General Fund and federal grant funds.	Bemidji regional waterfowl specialist and USFWS are completing the survey.
BWSR  Grants Coordinator: (612) 297-7361	<b>BWSR General Services:</b> provides assistance to counties on the technical review panels required under the Wetland Conservation Act of 1991, assistance to local units of government on available programs, and interpretation of BWSR administered laws and rules.	Minn. Stat. ch. 103C	General Fund	County SWCD offices provide technical assistance. (State provides grants to local offices to support these services.)

Agency Name	Program	Authority	Funding	Program Delivery
DNR Area Wildlife Managers	<b>Wetland and Lake Wildlife Management Program:</b> provides assistance to landowners to increase wildlife populations on wetlands and lakes including advice on enhancement techniques and funding available.	Minn. Stat. §97.145	General Fund	Local area wildlife managers provide information and assistance on request.
DNR Area Wildlife Managers	<b>Wetland Restoration Technical Assistance:</b> provides assistance to private landowners and local governments on wetlands restoration potential, best restoration techniques, and information on funds available, including funding from private sources such as Ducks Unlimited.	Minn. Stat. §97.145	General Fund	Local area wildlife managers provide information and assistance on request.
SWCD's Local SWCD Offices	<b>SWCD Technical Assistance Programs:</b> provide assistance to landowners and occupiers for planning, survey, and design of wetlands enhancements and/or restorations.	Minn. Stat. §103C.401	Federal funds given as grants to SWCDs.	Local SWCD staff provides information and technical assistance as requested.
DNR Area Wildlife Managers	<b>DNR Training and Education Programs:</b> provide workshops, training and education programs on wildlife and habitat development for professionals, clubs and schools. A variety of pamphlets and educational materials are available on request.	Minn. Stat. §84.027	State General Fund	Contact local area wildlife manager to schedule education and training programs.



## **C. AIR AND WATER QUALITY**

In order to provide a reasonable standard of purity, and to meet the variety of pollution problems associated with water, air, and land, it was deemed to be in the interest of the state to create a Pollution Control Agency. The Minnesota Pollution Control Agency (MPCA or PCA) was subsequently created with the authority to improve air quality through waste disposal practices and energy sources. In areas relating to solid waste, the MPCA was charged with the mission to eliminate open dumps, improve incinerator systems, and encourage collection system improvements. The agency was also charged with adopting standards for hazardous waste and identification, labeling, classification, storage, collection, transportation, processing and disposal of hazardous waste. The MPCA has a very strong regulatory role, and data gathering role, as well as providing financial assistance to people and local units of government to resolve issues.

The areas of management and regulation include surface and ground water quality, air quality, solid waste disposal, inventory and management of feedlots, underground storage tanks and landfills, disposal of wastes or surplus waters in wells or sumps, hazardous waste shipment, storage, and disposal, used oil, used tires, operation and management of individual and municipal waste treatment systems, and cleanups of accidental spills.

Coordination and administration of Minnesota's air and water quality programs generally take place on a case by case basis. Authorities such as the Waste Water Treatment Assistance Program (Minn. Rules ch. 7077), for instance, require that municipalities work with the MPCA to obtain federal and state funding for upgrades and new construction of wastewater treatment plants. This process reduces competition between communities, and provides the Agency with the flexibility to target resources to areas with the greatest needs. Other programs such as the Individual Septic Treatment System Program (Minn. Rules ch. 7080) are implemented in parts, by local government units through permitting and inspection. Air and water quality authorities with permit requirements also include public notice requirements. These public notice requirements serve as an effective mechanism for interagency coordination and review. As a matter of courtesy, the MPCA typically sends these notices to state, federal, and local units of government. These notices are also sent to the state of Wisconsin in projects that includes the lower St. Louis River.

### **1. Air Quality**

Minnesota Pollution Control Agency rules for air quality are, and continue to be promulgated under the authority provided by Minn. Stat. §116.07. The MPCA has delegated authority to implement EPA programs in the Clean Air Act (CAA) and Code of Federal Regulations (CFR). The MPCA must adopt minimum standards, criteria, and rules as prescribed in these sections. Additional or more restrictive rules or criteria may be promulgated by the MPCA in instances where it is deemed appropriate. Rules must be equal to or more stringent than CFR to obtain delegation authority from EPA.

***Legislative Policies:***

- 1. Improve air quality by promoting, in the most practical way possible, the use of energy sources and waste disposal methods which produce or emit the least air contaminants consistent with the overall goal of reducing all forms of pollution.*
- 2. Adopt standards of air quality, including maximum allowable standards of emission of air contaminants from motor vehicles, recognizing that due to variable factors, no single standard of purity of air is applicable to all areas of the state.*
- 3. Recognize the fact that the quantity or characteristics of air contaminants or the duration of their presence in the atmosphere, which may cause air pollution in one area of the state, may cause less or not cause any air pollution in another area of the state, and take into consideration in this connection such factors, including others which it may deem proper, as existing physical conditions, zoning classifications, topography, prevailing wind directions and velocities, and the fact that a standard of air quality which may be proper as to an essentially residential area of the state, may not be proper as to a highly developed industrial area of the state.*
- 4. Such standards of air quality shall be premised upon scientific knowledge of causes as well as effects based on technically substantiated criteria and commonly accepted practices.*
- 5. No local government unit shall set standards of air quality which are more stringent than those set by the Pollution Control Agency (Minn. Stat. §116.07, Subd. 2, Adoption of Standards).*

***Activities Managed:***

- C** Air emission
- C** Air quality standards
- C** Acid deposition
- C** Lead based paints
- C** Noise

***Implementation:*** Permits are required by the MPCA for air emissions of regulated pollutants from facilities, buildings, or installations with the propensity to result in mobile sources or stationary sources.

***Standards and Criteria:***

**Air Emission:** Under Minn. Rules ch. 7001, permits are required by the MPCA for air emissions of regulated pollutants from facilities, buildings, or installations with the propensity to result in mobile sources. Permit application procedures, deadlines, signature requirements, applicant record keeping requirements, and public review responsibilities are prescribed in Minn. Rules ch. 7001.

Minnesota Rules ch. 7002 establishes the annual fee schedule for all persons required to obtain an emission permit. Fees are based on a number of factors, including changes, modifications, and amendments to permits.

Minnesota Rules ch. 7005 establishes definitions and abbreviations as used in air quality rules. Described in this section are criterion for the specific pollutants including: sulfur dioxide, particulate matter, nitrogen oxides, carbon dioxide, ozone, lead, and other pollutants prescribed in 40 C.F.R., Part 50. Volatile organic compounds, stationary sources, secondary emissions, and other air quality terms are described in this section as well.

Minnesota Rules ch. 7007 prescribes permit requirements for installations, emission units, facilities, and stationary sources of air emissions regulated by the MPCA. Stationary air emission sources that have the potential to emit more than 100 tons of criteria pollutants or 10 to 25 tons of hazardous pollutants are required by Minn. Rules 7007.0200 to obtain a Part 70 or federal permit. Emission sources that have the potential to emit more than 50 tons of sulfur dioxide, 25 tons of PM-10, or 0.25 tons of lead are required to obtain a state permit. These emission sources include, but are not limited to: kraft pulp mills, portland cement plants, iron and steel mills, fuel conversion plants, lead smelters, municipal incinerators, fossil fuel fired electric plants, and petroleum refineries. Solid waste incinerators, and sources that must comply with the new source review and acid rain requirements of the Clean Air Act, must obtain permits regardless of emissions. State permits are required of emission sources with the potential to emit from .5 to 100 tons of certain pollutants. The MPCA also issues installation and operation permits. These permits are issued as an interim step in the process of obtaining a state permit. Insignificant sources such as barbecue pits, emergency backup generators, and residential fuel use do not require permits.

Under Minn. Rules ch. 7009, the MPCA has the authority to prescribe ambient air quality standards that protect healthy and sensitive individuals from acute or chronic symptoms or physiological effects, and that “does not interfere unreasonably with a person’s quality of or use of their property”. Ambient air quality standards are prescribed for hydrogen sulfide, ozone, carbon monoxide, sulfur dioxides, PM-10, particulate matter, lead, and nitrogen oxides. Under Minn. Rules ch. 7009.0040, the MPCA may revoke or modify permits or amend a stipulation agreement for violations of ambient air quality. In addition, the Commissioner of the MPCA has the authority to issue episodic air pollution alerts, air pollution warnings, and air pollution emergencies. This authority also allows the Commissioner to issue directives which require cessation or modification of air emissions from facilities that emit 250 tons or more in the affected area.

Minnesota Rules ch. 7011 establishes air quality standards for stationary sources of air emissions. These sources include, but are not limited to: fossil fuel burning activities and heating equipment, steam generators, industrial process equipment, cement plants, coal handling facilities, asphalt roofing plants, waste combustors, sewage sludge incinerators, kraft pulp mills, zinc and copper smelters, and lead acid battery plants. Minnesota Rules ch. 7011.0150 also covers control of

fugitive dust. This section requires implementation of preventative measures to control airborne particulate matter.

Minnesota Rules ch. 7017 establishes continuous emission standards and procedures for testing. Within this authority, the agency has the prerogative to require installation of systems or equipment necessary to monitor air emissions. This authority also extends to standards for equipment, sample locations, tests, and data collection.

Minnesota Rules ch. 7019 establishes a notification and record keeping system for continuous emission sources. Owners or operators of continuous emission sources are required by this authority to notify the agency of shutdowns, breakdowns, and operational changes of monitoring or control equipment. Where control equipment fails, the agency commissioner can compel the facility owner or supervisor to cease or modify operation of the emission source. Minn. Rules ch. 7019 also requires that annual emission reports be submitted to the agency by continuous emission operators and facility owners. These inventories are used to calculate yearly fees.

Minnesota Rules ch. 7023 addresses nonstationary or mobile air emission sources. Mobile emission sources include, but are not limited to motor vehicles, trains, boats, and construction equipment. This chapter covers inspection procedures, schedules, fees, and public notification requirements. Indirect sources, or facilities that attract mobile sources, require permits under Minn. Rule ch. 7023.9000. These facilities include, but are not limited to highways, and roads, retail, commercial, and industrial facilities, airports, and parking facilities. Minnesota Rules ch. 7023.9030 through 7023.9050 describe permit procedures, schedules, amendments, conditions, and modifications.

Acid deposition: Minnesota Rules ch. 7021 establishes acid deposition controls. Under MN Rules ch. 7021.0050, the MPCA Commissioner is authorized to review and impose additional control requirements on sulfur dioxide emission sources to meet the statewide limit of 194,000 tons per year. Waters in the coastal area of Lake Superior were identified as sensitive to acid deposition by the *Sulfur Emissions and Deposition in Minnesota: 1990 Biennial Report to the Legislature*.

Lead based paints: Minnesota Rules ch. 7025 establishes procedures for the testing and removal of lead-based paints by abrasives from buildings within 100 feet of a residential area, child care facility, school building or playground. Minnesota Rules ch. 7025.0030 through 7025.0060 prescribe procedures and conditions for testing, notification, containment, and cleanup of lead-based paints.

Stratospheric Ozone Protection: Minnesota Rules ch. 7027 adopts, with some modifications, federal regulations regarding servicing of motor vehicle air conditioners, and the servicing and recycling of appliances. In addition, the chapter provides a standard of competence, a technician certification program, and standards for appliance recyclers.

Noise Pollution: Minnesota Rules ch. 7030 prescribes noise standards, land use classifications, exemptions, and measurement methodologies. Provisions of this chapter also outline noise limits, standards, and exemptions associated with the use of motor vehicles.

*Authorities:*

- C Pollution Control Agency - Minn. Stat. ch. 116**
- C Air Emission Permits - Minn. Rules ch. 7001**
- C Air Emission Permit Fees - Minn. Rules ch. 7002**
- C Air Quality Rules - Minn. Rules ch. 7005**
- C Air Emission Permits - Minn. Rules ch. 7007**
- C Ambient Air Quality Standards - Minn. Rules ch. 7009, 7017, 7019**
- C Stationary Source Air Standards - Minn. Rules ch. 7011**
- C Acid Deposition Controls - Minn. Rules ch. 7021**
- C Mobile Source Air Quality Standards - Minn. Rules ch. 7023**
- C Lead-based Paints - Minn. Rules ch. 7025**
- C Noise Standards - Minn. Rules ch. 7030**

## 2. Water Quality

The water quality of Minnesota's coastal area is good. The conservation and protection of water resources and their improvement in areas adversely affected by human activities are major objectives of water managers.

Water quality management in the Minnesota coastal area may involve up to five levels of government: federal, interstate, state, regional, and local. At the state level, the Minnesota Pollution Control Agency is the primary agency responsible for water quality management. The comprehensive **Local Water Planning Act, Minn. Stat. ch. 103B**, enables counties to prepare local water management plans. In the sections that follow, management policies and authorities relating to surface and ground water quality are identified. In addition, the state's approach to addressing nonpoint source pollution in the coastal area is presented in Part VI of this program document.

The MPCA's authority to regulate pollution of state waters is principally vested in the federal Clean Water Act. The MPCA must adopt minimum standards, criteria, and rules as prescribed in the federal law and sections. Additional or more restrictive rules or criteria are promulgated by the MPCA in instances where it is deemed necessary and appropriate. The basic authorities of the agency with respect to water quality are found in **Minn. Stat. ch. 115 (Water Pollution Control Act) and Minn. Rules ch. 7050 (Water Quality Rules)**.

**Legislative Policies:** The policies of the state toward water pollution control are those powers and duties listed primarily in Minn. Stat. §115.03.

1. *It is the policy of the State of Minnesota to protect all waters from degradation from point and nonpoint sources and wetland alterations, and to maintain existing water quality uses, aquatic and wetland habitats, and the level of water quality necessary to protect these uses.*
2. *The maintenance of existing high quality in some waters of outstanding resource value to the state is essential to their function as exceptional recreational, cultural, aesthetic, or scientific resources.*
3. *To preserve the value of these special waters, the agency will prohibit or stringently control new or expanded discharges from either point or nonpoint sources to outstanding resource value waters.*

**Activities Managed:**

- C Water quality standards
- C NPDES and state disposal permits
- C NPDES and storm water permits
- C Animal feedlots
- C Waste treatment facilities
- C Individual sewage treatment systems
- C Section 401 water quality certification

**Implementation:** The MPCA administers and enforces all laws relating to the pollution of any waters of the state. The MPCA is actively involved with gathering data concerning water quality in the state. They are involved with assessments of surface water and ground water quality, setting limits on contaminants, establishing nondegradation standards for water quality. The MPCA relies on local groups to assist with the data collection, and supports a number of programs to help fund these initiatives.

The MPCA is in the process of implementing a basin approach for planning and managing its programs and activities. The focus of the basin approach is on hydrologic units (basins and watersheds). This planning effort will be coordinated with the stakeholders involved in or affected by water resource management decisions. Comprehensive Local Water Plans developed by local governments, as well as other water quality related plans and activities already underway by various organizations, will be recognized and built upon under this planning process.

Through this process, a basin management plan for the Lake Superior watershed will be developed. It will describe how the MPCA will manage its programs with respect to the basin and why. The plan will identify the water quality related priorities and activities of other agencies, local governments, and the MPCA. Based on these programs, the MPCA will develop water quality priorities and management strategies, including a monitoring plan for the basin.

In 1985, the Minnesota legislature authorized counties to prepare and adopt comprehensive local water plans. These water plans are revised and updated every five years. Plan updates will include an emphasis on watershed management, water quality assessments, sensitive ground water areas, well-head protection, stormwater management for developing areas, and high priority wetland area identification. All of the counties within the coastal area of Lake Superior have developed and adopted comprehensive local water plans.

**Clean Water Act Section 401 Water Quality Certification:** The Minnesota Pollution Control Agency (MPCA) has the Clean Water Act Section 401 water quality certification responsibility. A Section 401 Water Quality Certification is required for all activities which require a 404 Permit from the U.S. Army Corps of Engineers (discharges of fill into surface waters, including wetlands). Under the Section 401 provision, the MPCA reviews Corps permits for compliance with state water quality standards (Minn. Rules ch. 7050). Water quality certification may be approved, waived, or denied. The Corps cannot issue a permit for which water quality certification has been denied by the MPCA. Approval for discharges to wetlands is usually dependent on satisfactory mitigation sequencing and wetland replacement. The MPCA has issued blanket water quality certifications for the Section 404 nationwide permits, with regional conditions, and for the General Permit (MN-001-GP) for the State of Minnesota. See Part V, Chapter 3(C) for air and water quality standards, policies, and authorities.

### ***Standards and Criteria:***

Water quality standards consist of two parts: beneficial uses for a water body and numeric or narrative water quality standards. Beneficial uses are the desirable uses that water quality should support, legally defined in Minn. Rules ch. 7050, to include domestic consumption, aquatic life, recreation (swimming), agriculture and wildlife, industrial consumption, and aesthetics. Numeric

water quality standards establish the minimum chemical and physical parameters required to support a beneficial use. Physical and chemical numeric standards set maximum concentrations of pollutants, acceptable ranges of physical parameters, and the minimum concentrations of parameters such as dissolved oxygen.

As required by the 1990 Great Lakes Critical Programs Act, Minnesota promulgated a special set of water quality rules for the Lake Superior watershed that became effective March 9, 1998. The rules, Minn. Rules ch. 7052, were established to provide water quality standards, and to implementation procedures and nondegradation policies that provide “a consistent level of environmental protection for the Great Lakes ecosystem (60 Fed. Reg. 15368).” The rules focus on point source discharges of 29 toxic or bioaccumulative pollutants. The rules also provide non-degradation provisions, including special protection designations, applicable to new and expanded discharges of 22 bioaccumulative chemicals of concern.

NPDES and State Disposal Permits: This regulation is hereby adopted and promulgated by the agency to implement the provisions of Minn. Stat. ch. 115 and 116, as amended, in instituting a permit program in accordance with the National Pollutant Discharge Elimination System (NPDES) and by providing for the processing of disposal system permits required pursuant to Minn. Stat. §115.07. The NPDES has been initiated by Congress through the enactment of the federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500).

Minnesota Rules ch. 7001, establishes the procedures, terms, conditions, schedules, documentation requirements, and public notice requirements of MPCA permits issued for pollutants which enter waters of the state. Under 7001.0210, the MPCA may issue general permits for activities which are substantially similar types of discharges, facilities, and operations. With some exceptions, National Pollutant Discharge Elimination System (NPDES) permits are required under 7001.1030 for any person who discharges to waters of the state. Exceptions include, but are not limited to: discharges of sewage or effluent from a vessel, persons discharging pollutants into private treatment facilities, or persons discharging dredge or fill materials regulated under Section 404 of the Clean Water Act. The agency also has the authority under 7001.1400 to issue water quality certifications for any person who requires state certification as required under Section 401 of the Clean Water Act. The agency may issue, reissue, deny, revoke, or modify a Section 401 water quality certification.

NPDES and Storm Water Permits: Minn. Rules ch. 7002, establishes permit fees for both NPDES point source and storm water permits. This chapter prescribes fee schedules, annual fees, and late payment penalties. The 1987 amendments to the Clean Water Act required the EPA to develop regulations for storm water discharges associated with industrial activity. The activities that disturb five or more acres of land. These activities are managed by the MPCA through the Storm Water Permit for Construction Activities. The General Construction Storm Water Permit requires that a temporary erosion and sediment control plan be developed in order to prevent erosion during construction. The permit also requires that a permanent erosion and sediment control plan be developed for the project to address negative storm water impacts from the site after construction.



Animal Feedlots: Minn. Rules ch. 7020, establishes permit conditions and cooperative arrangements necessary for the regulation of animal husbandry. Unlike some laws and programs, these rules recognize the expertise and sensitivity of local governments to agricultural practices and soil and water conservation. Local units of government have the authority under Chapter 7020 to work in cooperation with the MPCA to develop plans and programs which meet unique geographic conditions and needs. Under 7020.0100, local units of government have the primary responsibility to manage animal husbandry in a manner that protect other land uses. Emphasis on local management, however, does not absolve the local unit of government or the Agency of its responsibility to protect the environment.

Chapter 7020 prescribes the pollution control procedures for animal feedlots, general agency permit procedures, county permit procedures, and appeal and variance processes. Under 7020.0500, owners of proposed or existing feedlots of more than ten animal units, are required to make a permit application to the MPCA whenever 1) a new feedlot is proposed, 2) a change of the existing feedlot is proposed, 3) feedlot ownership changes, and 4) whenever an NPDES permit is required by state and federal laws. Counties may assume some of these permit processing responsibilities by resolution. Counties' animal husbandry programs are responsible for the requirements specified in 7020.1600. Counties may voluntarily withdraw from program operation by stating the rationale for doing so, and by forwarding an official resolution to the agency. The agency may also revoke the county's review authority for failing to uphold the requirements of Part 7020.1600.

Sewage Sludge Management: Minn. Rules ch. 7041, outlines requirements for sewage sludge management. In general, this chapter specifies permit procedures, characteristics necessary of land spreading sites, and prerequisites of land spreading facilities. Applicants for land spreading site permits must submit detailed information to the MPCA regarding area hydrologic characteristics, well locations, soil conditions, recreational areas, and other pertinent data. Similar types of data are also required for permits to operate sewage land spreading facilities (i.e., storage facilities). Minn. Rules 7041 assigns specific performance standards to protect surface waters and public health. For instance, sewage land spreading sites may not be located within 1,000 feet of the ordinary high water mark of public waters. Sewage sludge applied to food chain crops must also meet the requirements of the U.S. Department of Agriculture, and the U.S. Food and Drug Administration.

Waste Treatment Facilities: Minn. Rules ch. 7048, defines wastewater treatment facilities and related terms, and specifies procedures and requirements for the certification of treatment operators. Disposal facilities are organized in five basic categories under 7048.0300. These categories include: 1) facilities that accept hazardous waste - Type I, 2) any facility that accepts solid waste, or that is permitted to dispose of sewage sludge as a solid waste - Type II, 3) any facility that accepts nonhazardous waste from industrial processes or construction waste - Type III, 4) any facility that land applies sewage sludge - Type IV, and 5) any disposal facility that land applies nonhazardous liquid waste from commercial, agriculture, or industrial sources - Type V.

Minnesota Rules 7048.0400 to 7048.1300 describe certification procedures and processes for the operators of each of these types of facilities.

Onsite Septic Systems: Minn. Rules ch. 7080, establishes technical standards and criteria, a framework for locally administered permitting and inspection programs, and describes “responsibilities, licensing, and enforcement requirements of sewage treatment system professionals.” Technical standards cover such areas as system sizing requirements, tank construction, soil standards, effluent distribution systems, and setbacks. Owners are also required to adhere to maintenance and system abandonment procedures as described in 7080.0175 through 7080.0176. County administration of the individual sewage treatment system program and licensing standards are outlined in 7080.0300 through 7080.0860.

Local units of government with onsite septic system ordinances must adopt Chapter 7080 by January 1, 1998. All of the coastal counties currently have onsite septic system ordinances. As such, these counties will be required to adopt provisions of Chapter 7080.

Cleaning Agents: Chapter 7100 establishes procedures and performance standards for the management of oil and other hazardous substances including excessive nutrients from cleaning agents. The purpose of 7100.0150 to 7100.0240 is to limit adverse impacts to surface waters from nutrients contained in cleaning agents and water conditioners. Minnesota Rules 7100.0210 requires that phosphorous not exceed .5 percent by weight for laundry detergents, 11 percent by weight for household and commercial detergents, .5 percent by weight for all household cleaners, and 20 percent by weight for chemical water conditioners. No person is allowed to sell, distribute, or offer for sale any cleaning agents or water conditioners which exceed the limitations described above.

***Authorities:***

- C Water Pollution Control Act - Minn. Stat. ch. 115, 115A-B**
- C Water Quality Standards - Minn. Rules ch. 7050**
- C Water Quality Standard - Standard Implementation, and Nondegradation Standard for Great Lakes Initiative Pollutants in the Lake Superior Basin - Minn. Rules ch. 7052**
- C NPDES and State Disposal Permits - Minn. Rules ch. 7001**
- C NPDES and Storm Water Permits - Minn. Rules ch. 7002**
- C Animal Feedlots - Minn. Rules ch. 7020**
- C Waste Treatment Facilities - Minn. Rules ch. 7048**
- C Individual Sewage Treatment Systems - Minn. Rules ch. 7080**
- C Oil and Hazardous Substances - Minn. Rules ch. 7100**
- C Sewage Sludge Management - Minn. Rules ch. 7041**

### 3. Ground Water Protection

Although better known for more than 10,000 lakes, Minnesota has an abundance of, and is highly dependent on ground water. Besides being used for drinking water, ground water is used for irrigation, and industrial and commercial water supplies. An adequate and high quality source of ground water is essential to the economic growth and sustainability of Minnesota's way of life. A variety of federal, state and local programs are designed to protect this resource. Federal involvement generally is related to the Clean Water Act, the Safe Drinking Water Act, the Resource Conservation and Recovery Act (RCRA), the Toxic Substances Control Act, or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). These federal programs complement Minnesota's authorities and promote consistency among the states. Interstate involvement is through various commissions and boards that function by agreement between Minnesota and neighboring states and the Canadian and Provincial governments. Regional and local involvement is through regional development commissions, soil and water conservation districts, counties, and cities.

The MPCA and the Minnesota Department of Agriculture have responsibility for protecting ground water quality. The DNR works on water supply and quantity issues. The Minnesota Department of Health is responsible for protecting wells and drinking water supplies (see subsequent section). In the coastal area, ground water withdrawal is primarily from two types of water bearing formations: surficial sand aquifers, and precambrian age aquifers. The quality of water in most aquifers is suitable for most uses, however, ground water is unsuitable for some uses because of naturally occurring saline water along the North Shore of Lake Superior. The North Shore Volcanic Aquifer is the major bedrock aquifer along the North Shore of Lake Superior. Water generally is obtained from the upper 300 to 400 feet where fractures and weathering are extensive. The aquifer is moderately developed for rural and public supply.

***Legislative Policy:*** *It is the goal of the state that ground water is maintained in its natural condition, free from any degradation caused by human activities. It is recognized that for some human activities this degradation prevention goal cannot be practicably achieved. However, where prevention is practicable, it is intended that it is achieved. Where it is not currently practicable, the development of methods and technology that will make prevention practicable is encouraged.*

***Activities Managed:***

- C Sensitive areas
- C Best management practices
- C Ground water pollutants

***Implementation:*** Minnesota has extensive ground water management and planning legislation. Three state-level organizations implement most of the regulatory and planning programs mandated by this legislation.

DNR Waters provides technical assistance on water supply, conservation, and well interference issues and manages an appropriation permit program (see Water Appropriation Permits, Part V, page 3-36). The DNR is also responsible for maintenance of a statewide observation well monitoring program, and investigation of ground water resources. The research, data collection, and analysis are operated in cooperation with the U.S. Geological Survey.

The Minnesota Department of Health (MDH) is responsible for health-related and domestic supply issues involving ground water (see Water Supply, Part V, pages 3-69 to 3-70).

The MPCA administers programs dealing with ground water quality issues and pollution control requirements. (Minn. Stat. ch. 115 and 116). The MPCA implements these programs through a system of rules that prevent any new pollution and abate existing pollution. The MPCA also regulates sewage sludge land spreading, hazardous waste facilities, sanitary landfills, septic tanks and drainfields, storage of liquid products, and interstate and intrastate standards for water quality and purity. The Environmental Response and Liability Act (Minn. Stat. ch. 115B) passed in 1984, is referred to as the “Minnesota Superfund Act” and authorized the MPCA to provide funds to clean up contamination sites and gain reimbursement. Permits are required for disposal practices and to operate facilities that could affect the quality of ground water. The MPCA maintains a network of approximately 400 wells and springs to monitor ground water quality throughout Minnesota.

#### ***Standards and Criteria:***

The Commissioner of Natural Resources in consultation with the Minnesota Geological Survey, soil and water conservation districts, local water planning authorities, and others identify the location of sensitive areas by mapping and other methods. The type of risk of ground water degradation that may occur from activities at or near the surface are identified for a particular area. Best management practices, water resource protection plans, and water resource protection requirements are established and implemented by the Minnesota Department of Agriculture and the MPCA. (Minn. Stat. §103H.101) A landowner’s portion of the sensitive area is subject to plans developed to protect the ground water from degradation through surface water recharges. BMPs have also been developed for agricultural chemicals and practices. Sensitive ground water areas are identified in county water plan updates.

If ground water pollution is detected, and implementation of BMPs fails to prevent or minimize the source of pollution, the MPCA and the Department of Agriculture may adopt rules and criteria for preventing and minimizing the pollution. Alternative protection measures can be proposed by an individual. Violation of a ground water protection requirement is subject to penalties for violating a rule under Minn. Stat. ch. 116 or Minn. Stat. ch. 18D, for agricultural chemicals and practices. For the purpose of protecting ground water as the primary source of potable water, Minn. Rules ch. 7060 prohibits discharge of sewage, industrial wastes, or other wastes directly into saturated zones. The regulation requires implementation of control measures for any person engaged in an activity which may impair, or potentially impair the quality of underground waters. Minnesota Rules ch. 7060, does preclude use of septic systems or holding tanks for organic materials in areas where public waste treatment systems are not feasible or available. This regulation also allows for the application of agricultural chemicals and fertilizers,

or the recharge of aquifers, where such activity does not present a significant pollution threat. An exemption from parts of Chapter 7060 may be granted where its enforcement would be unreasonable, impractical, or cause undue hardship.

*Authorities:*

- C    Underground Waters - Minn. Rules ch. 7060**
- C    Water Pollution - Minn. Stat. ch. 115**
- C    Pollution Control Agency - Minn. Stat. ch. 116**
- C    Agricultural Chemical Liability, Incidents, and Enforcement - Minn. Stat. ch. 18D**
- C    Groundwater Protection Act - Minn. Stat. ch. 103H**

#### **4. Water Supply**

A variety of programs exist to assure that Minnesotans have a clean and plentiful water supply. Although other state and local agencies have a role, the Minnesota Department of Health (MDH) has the primary responsibility for water supply management. Standards for drinking water and water supply that are mandated by the federal Safe Drinking Water Act (SDWA) are implemented in Minnesota through the Safe Drinking Water Act (Minn. Stat. ch. 144) and drinking water regulations of Minn. Rules ch. 4720. The federal government through the EPA, sets standards for drinking water quality and establishes the frequency at which water samples must be collected and analyzed. In return for federal grant money, the Minnesota Department of Health administers and enforces safe drinking water regulations.

In 1986, Minn. Stat. ch. 115 (Water Pollution) was amended to establish potable water supply as the highest priority use of water in the state. The law prohibits the location of hazardous or radioactive waste facilities where they might cause pollution of potable water.

The MDH administers the state well code, and the well abandonment procedures found in Minn. Stat. ch. 103I.

##### ***Legislative Policies:***

1. *It is the policy of the state to insure safe drinking water in all public water supplies. (Safe Drinking Water Act, Minn. Stat. §144.383)*
2. *It is policy to consider the actual or potential use of the underground waters for potable water supply as constituting the highest priority use and as such to provide maximum protection to all underground waters. For the conservation of underground water supplies for present and future generations and prevention of possible health hazards, it is necessary and proper to employ a nondegradation policy to prevent pollution of the underground waters of the state. (Classification of Underground Waters of the State and standards for Waste Disposal, Chapter Twenty-two: AC 22)*
3. *It is the policy to protect the health and general welfare by providing a means for the development and protection of the natural resource of ground water in an orderly, healthful, and reasonable manner. (Wells, Borings, and Underground Uses, Minn. Stat. 103I.001)*

##### ***Activities Managed:***

- C Public water supply
- C Water wells

***Implementation:*** The Minnesota Department of Health (MDH) is concerned with the health related and domestic supply issues involving surface and ground water. The MDH approves plans for public water supply wells, establishes and enforces well construction standards, and licenses well drillers (Minn.Stat. ch.156A). The MDH also requires well completion reports for new wells,

regulates, through permits, the reinjection of ground water and ground water thermal exchange devices (Minn. Stat. ch. 103I), and administers the public water supply regulations in concurrence with the Safe Drinking Act (Minn. Stat. ch.144).

### ***Standards and Criteria:***

**Public Water Supply:** In accordance with MDH 136, no system of water supply, where such system is for public use, shall be installed by any public agency or by any person or corporation, nor shall any such existing system be materially altered or extended, until complete plans and specifications for the installation, alteration, or extension, together with such information as the State Board of Health may require, have been submitted in duplicate and approved by the director insofar as any features thereof affect or tend to affect the public health. No construction shall take place except in accordance with the approved plans. The plans for the well shall conform as specified by this well code. No municipal well may be drilled without approval of the site by the director.

Public water supply emergency and conservation plans are developed by water suppliers serving more than 1,000 customers. Water suppliers are also required to develop demand reduction measures before new wells or increases in water use are approved.

**Water Wells:** The rules and regulations, Minn. Rules ch. 4725, shall apply to all water wells in the State of Minnesota except those specifically exempted by the Safe Drinking Water Act. Those aspects covered are the construction of new wells, the repair and maintenance of wells where specified, and the proper abandonment of wells to protect the quality of ground water aquifers for providing safe drinking water supplies.

### ***Authorities:***

- C Safe Drinking Water Act - Minn. Stat. ch. 144**
- C Drinking Water Rules - Minn. Rules ch. 4720**
- C Wells, Borings, and Underground Uses - Minn. Stat. ch. 103I**
- C Minnesota Well Code - Minn. Rules ch. 4725**

## **5. Waste Management**

### **a. Solid Waste**

Protecting the coastal area's land, air, water, natural resources, and public health requires that garbage be managed in environmentally sound ways that recover resources from the garbage before disposal. The legislature seeks to encourage both the reduction of the amount and type of material entering the solid waste stream and the reuse and recycling of materials. Solid waste represents discarded material and energy resources, and it also represents an economic burden to the people of the state. The recycling of solid waste materials is one alternative for the conservation of material and energy resources, but it is also in the public interest to reduce the amount of materials requiring recycling or disposal.

Solid waste as defined in statute means "garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludge, in solid, semisolid, liquid, or contained gaseous form, resulting from industrial, commercial, mining, and agricultural operations, and from community activities." Solid waste does not include hazardous waste, animal waste used as fertilizer, sewage sludge, solid or dissolved material in domestic sewage, or other common pollutants in water resources.

### **b. Hazardous Waste Management**

The waters within the coastal area, because of their abundant quantity and high natural quality, constitute a unique natural resource of immeasurable value which must be protected and conserved for the benefit of the health, safety, welfare, and economic well being of present and future generations of the people of the state. The actual or potential use of the waters of the state for potable water supply is the highest priority use of that water and deserves maximum protection by the state. The disposal of hazardous waste and radioactive waste in Minnesota may pose a serious risk of pollution of the waters of the state, particularly potable water.

Environmental Response and Liability Act: The Minnesota Environmental Response and Liability Act (MERLA) is the state counterpart to CERCLA. The purpose of the act was to provide state capability to clean up and remediate hazardous waste releases at sites not on the national priority listing, or where the federal government does not have sufficient financial capability. The act established a trust fund and assigned financial liability for clean up, personal injury damages, economic hardship costs to responsible parties. The trust fund is now supported by taxes on hazardous waste generators, penalties and fees paid in association with hazardous waste generation or management, interest on the account balance, and any grants, gifts, reimbursements to the account (Minn. Stat. §225B.22, 1992).

MERLA is similar to CERCLA in that any person who causes or threatens to cause the release of hazardous materials into the environment is responsible "jointly and severally" for costs and damages which result from the release or threatened release of a hazardous substance (Minn. Stat. §115B.04, 1992). This liability includes costs incurred by agencies and political subdivisions of



the state, removal costs incurred by any person, and damages to natural resources, including costs required to assess damages. Liability also extends to economic losses, including claims for personal or real property, wrongful death, and health complications (Minn. Stat. §115B.05, 1992).

### **c. Industrial Waste**

Industrial waste is defined as any liquid, gaseous or solid waste substance resulting from any process of industry, manufacturing trade or business or from the development of any natural resource. The MPCA issues permits for industrial, hazardous, and mixed solid waste. Technical and research assistance programs for generators of industrial waste are designed to help obtain information about management, to identify and apply methods of reducing the generation of waste, and to improve management and compliance. Assistance is provided in the form of engineering, hydrology, and monitoring.

***Legislative Policies:*** *In order to protect the state's water, air and land resources so as to promote the public safety, health, welfare and productive capacity of its population, it is in the public interest that counties conduct solid waste management programs.* (Solid Waste Management, Policy and Authorization, Minn. Stat. §400.01)

*It is the policy of the State of Minnesota, consistent with the state's primary responsibility and rights to prevent, reduce, and eliminate water pollution and to plan for the preservation of water resources, that depositories for hazardous waste or radioactive waste should not be located in any place or be constructed or operated in any manner that can reasonably be expected to cause pollution of potable water.*

### ***Activities Managed:***

- C Solid waste disposal
- C Waste treatment facilities
- C Hazardous waste facilities
- C Hazardous waste generators
- C Underground storage tanks
- C Above ground storage tanks
- C Petroleum contaminated soil management
- C Low level radioactive waste
- C Priority assessment criteria

***Implementation:*** The MPCA shall promote solid waste disposal control by encouraging the updating of collection systems, elimination of open dumps, and improvements in incinerator practices. Consistent with these objectives, it shall be the policy of the Pollution Control Agency to encourage the development and expansion of solid waste control programs in cities, counties and other political subdivisions of the state and to provide planning, technical and enforcement assistance.

The Minnesota Office of Environmental Assistance (OEA) is established to assist in management of waste. Partnerships with local government, business and local educators help reduce the impact and better manages waste. The OEA was established on July 1, 1994. The agency is a descendant of the Minnesota Waste Management Board, established in 1980, and the Minnesota Office of Waste Management, established in 1989.

The OEA's Solid Waste Assistance Program provides help to local government in building and financing solid waste facilities and local and regional solid waste management planning. The OEA operates under the direction of the Commissioner of the MPCA and is established in the state's Waste Management Act.

The Pollution Control Agency is responsible for implementing the hazardous waste programs in the coastal area. The MPCA coordinates permit activities with the Office of Environmental Assistance.

***Standards and Criteria:*** The MPCA has adopted standards for the control of the collection, transportation and disposal of solid waste for the prevention and abatement of water, air, and land pollution. Due to variable factors, no single standard of solid waste control is applicable to all areas of the state. Pursuant and subject to the provisions of Minn. Stat. ch. 115, the MPCA has adopted regulations and standards having the force of law relating to the collection, transportation, and disposal of solid waste for the prevention, abatement, or control of water, air, and land pollution, and the deposition in or on land of any other material that may tend to cause pollution. The MPCA has also adopted rules and standards for sewage sludge, addressing the suitability of land, the volume and rate of application of sewage sludge, designs of facilities, and operation of facilities and sites.

**Solid Waste Procedural Authorities:** Minnesota Rules ch. 7001 defines procedural authorities for the storage, treatment, utilization, processing, transfer, intermediate or final disposal of solid waste. Part 7001.0040 applies to permits associated with transfer, recycling, refuse-derived fuel processing, and recycling facilities. This chapter prescribes conditions, terms, schedules, and documentation and public notice requirements for permits. It also prescribes procedures for the extension, modification, and revocation of permits.

**Solid Waste:** With the exception of petroleum contaminated soil, Minn. Rules ch. 7035 outlines the requirements for the storage, processing, disposal, transportation, use, or disposal of any solid waste. This chapter defines the responsibilities of individual property owners, and the technical requirements of industrial and solid waste facilities. Parts 7035.2665 through 7035.2775 identify the closure and fiduciary responsibilities for owners and operators of mixed municipal solid waste land disposal and municipal solid waste combustor ash land disposal facilities. Other issues addressed within the context of this chapter include abandoned motor vehicles, scrap metal, infectious wastes, and solid waste grants and planning assistance.

Permits for new facilities or for additional capacity require solid waste management plans. As part of a permit for waste incineration, a plan for ash management and leachate treatment or ash utilization must be approved.

Hazardous Waste: The MPCA has adopted rules and standards for the identification of hazardous waste and for the management, identification, labeling, classification, storage, collection, transportation, processing, remediation, and disposal of hazardous waste. No local unit of government may set standards of hazardous waste control which are in conflict or inconsistent with the rules set by the MPCA.

The location, construction, or operation of any depository for hazardous waste or radioactive waste, whether generated within or outside of the state, in any place or in any manner that can reasonably be expected to cause the pollution of potable water is prohibited.

Minnesota Rules ch. 7045, require that all hazardous waste facilities have contingency plans for the effective containment and control in any emergency condition. It also defines the properties and substances that constitute hazardous wastes; describes standards applicable to hazardous waste generators, transporters, and facilities; and outlines responsibilities for pre, post, and final closure of hazardous waste facilities. The chapter also addresses land disposal and restrictions and management of special wastes. Special wastes include such items as spent lead batteries and used oil burned for energy recovery purposes. Land disposal restrictions include substances such as dioxin, and hazardous wastes identified in subparts 7045.1320 through 7045.1335.

A mechanism must be established to assure that money to cover the costs of closure and postclosure monitoring and maintenance of hazardous waste facilities will be available. The owner or operator of a hazardous waste facility must have liability insurance during the operating life of the facility.

The owner or operator of a solid waste disposal facility or resource recovery system must have a management plan for the separation of household hazardous waste and other problem materials from solid waste prior to disposal or processing.

Chapter 7100 establishes procedures and performance standards for the management of oil and other hazardous substances. Minnesota Rules 7100.0020 states that “no substance shall be stored, kept, or allowed to remain in or upon any site without reasonable safeguards adequate to prevent the escape or movement of the substance or solution . . .” Storage of such substances requires a permit and the implementation of safeguards as described by 7100.0030. The MPCA is responsible for issuance of permits.

Minnesota Rules 7100.0300 establishes procedures for certificates of exemption for the use, possession, sale, purchase, or manufacture of polychlorinated biphenyl (PCBs). Certificates of exemption are not required for small, specific uses of products which contain PCBs. All persons who manufacture, use, possess, purchase, or sell PCBs must, however, obtain a certificate of exemption from the MPCA. Applications for certificates of exemption require the submission of a completed application as stipulated in 7100.0340. As part of the review process, the public may also comment on the application and/or seek a contested case hearing.

Industrial Waste: Minnesota Rules ch. 7105 requires that a person who installs, repairs, or who takes an underground storage tank permanently out of service, is first required to obtain a

certificate of competency from the MPCA. This chapter prescribes certification requirements, standards of performance, training course requirements and approvals, examinations and diplomas, sanctions, and fees.

Minnesota Rules ch. 7150 generally establishes standards for underground storage tank systems. Within the scope of this authority, are sections that cover tank design, construction, installation, release detection, and notification requirements. Sections of this rule also prescribe site close procedures and record keeping responsibilities.

Minnesota Rules ch. 7151 create the administrative and technical requirements for the above ground storage of liquids with the potential to impact waters of the state. This chapter outlines permit procedures, above ground tank and containment standards, labeling requirements, and tank operation and maintenance. This section also addresses liquid releases and the de-activation and re-activation of above ground tanks.

Minnesota Rules ch. 7037 establishes minimum standards for the management and treatment of petroleum contaminated soils removed from locations where a release occurs. This authority prescribes standards for land treatment of petroleum contaminated soil, soil spreading procedures, and acceptable and unacceptable treatment sites. This rule also outlines exemptions, soil sampling requirements, methods, and procedures for soils contaminated with hazardous wastes.

Minnesota Rules ch. 7042 purpose is to levy fees on the generators of low level radioactive waste.

Minnesota Rules ch. 7044 governs the procedures for establishing a permanent list of releases or threatened releases of hazardous substances, pollutants, or contaminants. In addition, this chapter establishes various classifications for sites with releases or threatened releases, describes the procedures for adding sites with releases or threatened releases, deletes sites from the permanent list, provides for an annual review and update of the permanent list, establishes the funding priority among classifications and the funding priority within classifications, creates an annual project list, and specifies a ranking system to be used in scoring sites.

***Authorities:***

- C Water Pollution Control Act - Minn. Stat. ch. 115**
- C Waste Management - Minn. Stat. ch. 115A**
- C Pollution Control Agency - Minn. Stat. ch. 116**
- C Waste Treatment Facilities - Minn. Rules ch. 7048**
- C Solid Waste Management, Policy and Authorization - Minn. Stat. §400.01**
- C Oil and Hazardous Substances - Minn. Rules ch. 7100**
- C Hazardous Waste - Minn. Rules ch. 7045**
- C Underground Storage Tanks - Minn. Rules ch. 7105**
- C Underground Storage Tanks Program - Minn. Rules ch. 7150**
- C Above Ground Storage Tanks - Minn. Rules ch. 7151**
- C Petroleum Contaminated Soil Management - Minn. Rules ch. 7037**
- C Low Level Radioactive Waste - Minn. Rules ch. 7042**
- C Priority Assessment Criteria - Minn. Rules ch. 7044**
- C Solid Waste Management Facility Permits - Minn. Rules ch. 7035**

Table 14.

**Enforceable Policies/Programs Subject to Federal Consistency**  
**Section C. Air and Water Quality**

Agency Name	Program	Authority	Funding	Program Delivery
MPCA  Water Quality Programs: 1-800-657-3864	<b>National Pollutant Discharge Elimination System (NPDES) Permit Program:</b> regulates point source discharges into waters of the United States, including wetlands, lakes and streams. The MPCA is delegated by the U.S. Environmental Protection Agency (EPA) to issue these permits. Effluent limits are assigned to each permit for oxygen demand, solids, pathogens, nutrients, temperature, toxics, and other pollutants.	Minn. Stat. §115.07, Sub. 1 Minn. Stat. §116.081 Minn. Rules ch. 7050 Minn. Rules ch. 7001 Executive Order 91-3	Federal 106 Fund; Permit fees; State General Fund	An applicant applies to the MPCA at least 180 days prior to commencing construction of a facility that would result in a point source discharge to waters of the United States. Agency staff review the application and may require an environmental review of the proposed project. Permits are typically issued for five years.
MPCA  Water Quality Programs: 1-800-657-3864	<b>Water Quality Certification Program:</b> requires that an applicant for federal permits or licenses for a project that may affect water quality obtain a certification from MPCA that water quality standards will be met before the license or permit may be granted. The majority of applications include construction projects which involve physical alterations of wetlands.	Minn. Stat. §116.07 Minn. Rules ch. 7050 Minn. Rules 7001.1400-.1470 Executive Order 91-3	State General Fund; Federal 106 Fund	An applicant may apply directly to the MPCA for a water quality certification, or the federal agency granting the permit or license may notify the MPCA of the application through public notice or other formal notification.
MPCA  Air Quality Programs:	<b>Air Quality:</b> Defines the powers and duties of the PCA in improving air quality and developing air quality standards.	Minn. Stat. ch. 116	General Fund, EPA	Agency staff.

Agency Name	Program	Authority	Funding	Program Delivery
MPCA Air Quality Programs:	<b>Acid Deposition Control:</b> Provides authority to review and control atmospheric sources of sulfur dioxide.	Minn. Stat. §116.44  Minn. Rules ch. 7021	General Fund, EPA Permit fees	PCA develops acid deposition standard for wet plus dry acid deposition in sensitive areas.
MPCA Air Quality Programs:	<b>Air Emission Permits:</b> provides instructions, procedures, fees, and deadlines for air quality permits. Establishes permit requirements for installations, units, facilities, and other stationary sources of air emissions.	Minn. Stat. §116.07 Minn. Stat. §116.44 Minn. Rules ch. 7001, 7002, 7007	General Fund, EPA Permit fees	Permits are required from the PCA for emission of air contaminants or the installation and operation of any air emission facility.
MPCA Air Quality Programs:	<b>Air Quality Standards:</b> establishes definitions. Provides the authority to protect human health and property uses from adverse impacts of air pollution. Establishes standards for stationary sources and mobile sources of air pollution.	Minn. Stat. §116.07  Minn. Rules ch. 7005, 7009, 7011, 7017, 7019, 7023	General Fund, EPA Permit fees	Air quality standards are developed by the PCA to protect health and environment. MPCA has the authority to require monitoring and testing of continuous sources; includes inspection procedures and public notification requirements for mobile sources of emission. Record keeping is also established for continuous emission sources.
MPCA Air Quality Programs:	<b>Lead Paint Waste:</b> establishes procedures for testing and removal of lead based paints.	Minn. Stat. §116.07 Minn. Stat. §144.07 Minn. Rules ch. 7025	General Fund, EPA Permit fees	Disposal of lead based paint must be done at an approved disposal facility.

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Agency Name	Program	Authority	Funding	Program Delivery
MDH  Well Management Unit:	<b>Well Management Program:</b> enforces the state well code to protect public health and ground water. Requires that persons constructing, repairing, or sealing wells or borings in Minnesota be licensed by MDH in one or more of eight license categories and that MDH be notified prior to construction of any water supply well. Requires construction permits for all monitoring wells, elevator shafts, heat pumps, and heat loops and some dewatering wells.	Minn. Stat. ch. 103I  Minn. Rules ch. 4725	State General Fund and fee recovery	Staff in eight district offices conduct inspections of the work of approximately 500 licenses/registered contractors involved in the construction, sealing, and repair of wells and borings to ensure compliance with the state well code. MDH also conducts training sessions throughout the year to provide information to well contractors, local program officials, and the general public. Water quality and well construction information are available on a computer database for wells constructed since Jan. 1, 1991.
MDH  Supervisor, Special Services Unit: (612) 627-5169	<b>Wellhead Protection Program:</b> protects public wellhead areas from contaminants that may adversely affect human health. Public water suppliers are required to delineate wellhead areas and develop a program for managing contaminants in wells. The program will include a GIS to handle data, technical assistance, training, and education components.	Minn. Stat. §103I.101, subd. 5	State General Fund, Well notification filing and permit fees; USEPA Clean Water Act, Section 106 and 319 Ground Water and Nonpoint Source Grants.	MDH works closely with public water suppliers and local units of government in developing long-term WHPA management plans.
MDA  Agronomy Services Division - Incident Response Unit: (612) 297-1975	<b>Agricultural Chemical Spills Response Program:</b> requires that spills of agricultural chemicals (pesticides or fertilizers) be immediately reported to MDA.	Minn. Stat. §18D.103-.331	Federal grants, Pesticide registration fees, Superfund, and penalties	The program is administered statewide by the MDA. Any person who has a spill of an agricultural chemical is required to immediately report it to the MDA.
MDH  Division of Environmental Health: (612) 627-5100	<b>Health Risk Limits Program:</b> develops health based standards for ground water contaminants to be used by ground water regulatory programs in accordance with provisions of the 1989 Ground Water Protection Act, or incorporated into existing or new ground water regulations.	Minn. Stat. §103H.201	State General Fund	MDH's Section of Health Risk Assessment develops health risk limit rules.

Agency Name	Program	Authority	Funding	Program Delivery
MDH  Public Water Supply Unit: (612) 627-5180	<b>Public Water Supply Program:</b> regulates public water supplies that use ground water and surface water sources through enforcement of water quality standards and facility construction standards. Provides technical assistance, training and public information.	Minn. Stat. §144.381-144.387 Minn. Rules ch. 4720	Fees and federal Safe Drinking Water grant (The federal Safe Drinking Water Program is enforced in MN by MDH through an agreement with the U.S. EPA)	MDH performs most monitoring; field staff conduct routine inspections of public water supplies and collect water samples. MDH provides water operator training and certification. Construction standards are enforced through a plan review and approval process. Remediation activities and public notice are the responsibility of the water supplier.
MPCA  Water Quality Programs: 1-800-657-3864	<b>Individual Sewage Treatment Systems (ISTS) Program:</b> sets minimum standards and criteria for the design, location, installation, use and maintenance of individual sewage treatment systems.	Minn. Stat. §116.07 Minn Rules ch. 7080	General Fund	Local units of government administer and enforce the ISTS standards, mainly through incorporation into local planning and zoning.
MPCA  Water Quality Programs: 1-800-657-3864	<b>Sewage Sludge Management Program:</b> issues permits for the design, location, and operation of municipal sewage sludge landspreading sites and facilities.	Minn Rules ch. 7041 and 7001	Permit Fees	MPCA issues permits and regulates activities
MPCA  Water Quality Programs: 1-800-657-3864	<b>Wastewater Treatment Facility Operator Certification, Training and Assistance Program:</b> provides mandatory training to wastewater collection system and treatment facility operators. Certification is obtained through a combination of facility experience and by passing a written examination.	Minn. Stat. §115.71 - 115.82 Minn Rules ch. 7048	State Wastewater Operator Training Fund; State General Fund; EPA 104(g)1 grant	15 to 25 training courses are held each year throughout the state. Certification examinations are generally offered at each course. MPCA provides on-the-job assistance to any facility with a design flow less than 1.0 million gallons per day.



## CHAPTER THREE

Agency Name	Program	Authority	Funding	Program Delivery
MPCA Hazardous Waste Programs: 1-800-657-3864	<b>Hazardous Waste Management Program:</b> provides a tracking system for hazardous wastes. Tracks materials from the point at which the wastes are generated to their final disposal, and ensures that at all times the wastes are stored, handled and disposed of safely.	Minn Rules ch. 7001, 7045, and 7100	Federal funds and fees	The MPCA licenses all generators of hazardous waste and provides assistance to companies in managing hazardous wastes. Waste generators must notify the MPCA of waste shipments and verify receiving locations and proper disposal. Facility owners must clean up on-site contamination. Criminal penalties may be assessed for improper waste management.
MPCA Hazardous Waste Programs: 1-800-657-3864	<b>Spills Response Program:</b> ensures cleanup of hazardous materials spills, leaks and other catastrophic occurrences. State law requires those who are responsible for pollution to clean it up. Spill response staff also serve as responders to emergencies.	Minn. Stat. ch. 115 Minnesota Environmental Response and Liability Act (MERLA)	General Fund; Minnesota State Petrofund	All spills and incidents are required to be reported to the MPCA when they occur. MPCA staff coordinate the cleanup process. Training has been given to clean-up contractors to explain the MPCA guidance.
MPCA Ground Water and Solid Waste Programs: 1-800-657-3864	<b>Superfund and Site Assessment Program:</b> allows the MPCA to respond to releases or threatened releases of hazardous substances, largely from inactive or abandoned disposal sites, for the protection of public health, welfare or environment.	Minn. Stat. ch. 115B	Tax on hazardous waste generators and reimbursement of state expenses from responsible parties.	MPCA implements programs and may take removal or response actions if responsible parties do not. Program includes a fund for removal or remedial actions and injury compensation due to an exposure to a release, and establishes a process from site investigation through cleanup.
MPCA Ground Water and Solid Waste Programs: 1-800-657-3864	<b>Solid Waste Disposal Program:</b> requires permits for most categories of solid waste disposal, storage, and transfer facilities.	Minn. Stat. ch. 115, 115A, 116 Minn. Rules ch. 7001	State General Fund Fees Select Committee on Recycling and the Environment (SCORE)	MPCA issues permits. Permit requirements vary, depending on type of facility. Facilities must comply with design, siting, and operation requirements.
MPCA Water Quality Programs: 1-800-657-3864	<b>State Disposal System Permit Program:</b> permits required for facilities operating waste disposal systems that discharge wastewater to the environment. The permits limit pollutants from entering the waters of the state.	Minn. Stat. §115.03, subd. 1 Minn Rules ch. 7001	Permit Fees	MPCA issues permits for up to five years. Public notices and public comment periods allow citizen involvement in the permit process.

Agency Name	Program	Authority	Funding	Program Delivery
MPCA Ground Water and Solid Waste Programs: 1-800-657-3864	<b>Underground Disposal Control Program:</b> regulates the use of on-site sewage treatment systems for disposal of industrial and commercial wastewaters.	Minn. Stat. ch. 103H Minn. Rules ch. 7001 and 7060	State General Fund	The program is implemented by the MPCA through the Underground Disposal Coordinator.
MPCA Water Quality Programs: 1-800-657-3864	<b>Feedlot Program:</b> requires the owner of a proposed or existing feedlot of 10 or more animal units to apply for an MPCA permit when a feedlot is proposed, modified, changes ownership; when a federal permit is required; or an investigation of a complaint reveals a pollution problem.	Minn. Stat. §116.07 Minn Rules ch. 7020 and 7001	Federal 106 and 319 Funds	The MPCA reviews applications by examining the livestock facility for potential pollution problems. The feedlot review process results in issuance of a certificate of compliance, an interim permit, an NPDES permit or a five year feedlot permit.
MPCA Water Quality Programs: 1-800-657-3864	<b>Water Pollution Control Act:</b> authorizes the MPCA to regulate activities that have the potential to pollute waters of the state.	Minn. Stat. ch. 115	State General Fund	The MPCA is empowered to administer all laws relating to the pollution of any of the waters of the state, including NPDES, disposal systems, point sources, sanitary districts, and municipal water pollution control.
MPCA Water Quality Programs: 1-800-657-3864	<b>Water Quality Standards:</b> water quality standards are developed to regulate discharges to state waters. Standards include effluent standards, effluent limitations, water quality, pretreatment standards and prohibitions.	Minn. Sta. §115.44 Minn. Rules ch. 7050 and 7052	State General Fund	Any applicant for a federal or state permit or license for a project that has the potential to affect water quality must obtain a certification from MPCA that water quality standards will be met before the license or permit is issued.
MPCA Water Quality Programs: 1-800-657-3864	<b>NDPES/Storm Water Permits:</b> permits are required for industrial activities and construction activities that disturb five acres, or more, of land.	Minn. Rules ch. 7002	Federal Section 319 - Nonpoint Source Program	Any applicant that requires a permit must submit plans and design to control storm water runoff during construction and after development of a site. The MPCA coordinates review and monitoring of the permit.

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Agency Name	Program	Authority	Funding	Program Delivery
MPCA	<b>Noise Abatement and Control:</b> establishes measurement methodologies, standards, and limits for noise pollution. This authority includes recreational and motor vehicles, as well as land use activities that generate noise.	Minn. Stat. §116.07  Minn. Rules ch. 7030	Metropolitan Air Ports Commission	MPCA staff implements program.
MPCA	<b>Underground Storage Tanks Program:</b> generally establishes standards for underground storage tank systems. Within the scope of this authority, are sections that cover tank design, construction, installation, release detention, and notification requirements. Sections of the rule also prescribe site closure procedures and record keeping responsibilities.	Minn. Rules ch. 7150	Federal UST Program Grant; State General Fund	The MPCA implements the program often with the assistance of local government units. State inspectors conduct compliance inspections and enforce UST rules.
MPCA	<b>Above Ground Storage Tanks:</b> creates the administrative and technical requirements for the above ground storage of liquids with the potential to impact waters of the state. This chapter outlines permit procedures, above ground tank and containment standards, labeling requirements, and tank operation and maintenance. This section also addresses liquid releases and the de-activation and re-activation of above ground tanks.	Minn. Rules ch. 7151	General Fund	MPCA implements the program through the permit and notification procedures. Tanks must be registered, monitored and may also need other permits.

Agency Name	Program	Authority	Funding	Program Delivery
MPCA	<b>Petroleum Contaminated Soil Management:</b> establishes minimum standards for the management and treatment of petroleum contaminated soils removed from locations where a release occurs. This authority prescribes standards for the land treatment of petroleum contaminated soil, soil spreading procedures, and acceptable and unacceptable treatment sites. This rule also outlines exemptions, soil sampling requirements, methods, and procedures for soils contaminated with hazardous wastes.	Minn. Rules ch. 7037	General fund	MPCA implements and oversees contaminated soil management. Permits and administration is accomplished through local government units where applicable.

Table 15. **Other Non-Regulatory Programs Not Subject to Federal Consistency Reviews**  
Section C. Air and Water Quality

Agency Name	Program	Authority	Funding	Program Delivery
MPCA Water Quality Division: (612) 296-7202	<b>Clean Lakes Program:</b> provides financial assistance through matching grants and technical assistance to local governments to lead lake restoration projects with an emphasis on watershed management. Includes data collection, problem identification, and development of an implementation plan to restore water quality.	Section 314 of the Clean Water Act. The program is administered by the Environmental Protection Agency, working through the Minnesota Pollution Control Agency for projects in Minnesota.	Federal funds. Local governments are required to provide a 50/50 match to the federal funds.	Local governments apply to the program to conduct a watershed project directed at protecting a specific lake resource. The applications are ranked and selected by the Environmental Protection Agency. Applicants of selected projects develop a work plan and monitoring plan that is approved by the MPCA. The local government then may apply for funds to implement their project.
MPCA Tanks and Spills Section: (612) 297-8564	<b>Underground Storage Tank (UST) Program:</b> maintains a database of registered underground storage tanks in the state. Program staff inspect selected sites for compliance with state and federal requirements. The program includes outreach and technical assistance.	Minn. Rules ch. 7105 and 7150; U.S. Resource Conservation and Recovery Act, Subtitle I	Federal UST Program Grant; State General Fund	The MPCA implements the program, often with the input and assistance of local units of government. State inspectors conduct compliance inspections, provide technical assistance, and enforce UST rules.
MPCA Water Quality Division: Nonpoint Source Section (612) 296-7248	<b>Individual On-Site Wastewater Treatment Systems Grant Program:</b> provides grants to municipalities to assist owners of individual on-site systems to upgrade or replace failing systems.	Minn Stat §116.18 Subd. 3c; Minn. Rules 7077.0700-7077.0765	Program will cover 50% of construction costs per dwelling to a maximum of \$2500 for trench systems and \$3750 for a mound system. Cluster systems are also eligible.	Municipalities contact MPCA for assistance. Only those notified that their project is fundable are eligible to submit applications. Projects must be within the official boundaries of a municipality or alternative approved planning area. Projects that meet requirements will be ranked in priority order based on median household income of municipality or planning area.

Agency Name	Program	Authority	Funding	Program Delivery
MPCA Water Quality Division (612) 296-7202	<b>Clean Water Partnership Program:</b> provides matching grants and technical assistance to local governments to lead watershed management projects; to protect and improve wetlands, lakes, streams, and/or ground water degraded by nonpoint sources of pollution.	Clean Water Partnership Act, (Minn. Stat. §103F.701); Minn Rules ch. 7076	Local governments provide a 50/50 match to state funds.	Local governments apply to the MPCA to conduct a project directed at protecting a specific resource. The applications are ranked, projects selected and work plans developed. Implementation funds are also available.
MPCA Ground Water and Solid Waste Division: (612) 296-7786	<b>Potential Sources of Ground Water Contamination Inventories:</b> a computer database listing potential sources of ground water contamination: suspected hazardous waste sites, state and federal superfund sites, hazardous waste permit and enforcement sites, solid waste permit sites, and known dumps.	Minn. Stat. ch. 115	State General Fund; Clean Water Act and Section 106 Ground Water Grant	MPCA staff maintain and update the database. Requests for information are handled on a fee-for-service basis. MPCA coordinates an interagency work group on the development of ground water contamination inventories.
MPCA Ground Water and Solid Waste Division: (612) 296-7777	<b>Property Transfer Technical Assistance Program:</b> provides technical assistance and file evaluation to buyers, sellers, lending institutions, or property owners who want to assess a property for potential environmental problems.	Minn. Stat. §115B.17, Subd. 14	Costs are paid by party requesting the services.	Upon request, the MPCA may provide assistance or review of voluntary investigations and cleanup plans, and oversee response action implementation. Assistance may include a review of MPCA records and files.
MPCA Hazardous Waste Division: (612) 297-8502	<b>Household Hazardous Waste Program:</b> helps local governments establish programs to safely manage household hazardous wastes that can affect ground water quality. Includes a public education component along with development of regional collection sites.	Minn. Stat. ch. 115A	State General Fund	Counties operate programs in partnership with the MPCA. MPCA provides technical assistance in program and collection facility design, staff training, waste management, and developing educational materials. Funding assistance is available to counties.
BWSR Hydrogeologist: (612) 296-0439	<b>Well-Sealing Cost-Share Program:</b> provides grants to counties to share the cost of sealing high-priority abandoned ground water wells with landowners.	Minn. Stat. §103I.331	State General Fund and LCMR	Counties deliver cost-share assistance to landowners and administer the program locally. Local water planning coordinators or BWSR provide information.

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Agency Name	Program	Authority	Funding	Program Delivery
DNR Ground Water Unit: (612) 296-0439	<b>Geophysics Program:</b> applies a variety of techniques to map subsurface ground water units, evaluate mineral resources, quantify ground water supplies, locate buried wastes and trace contaminant plumes.	Minn. Stat. §103H.101	State General Fund	The DNR Waters Ground Water Unit in St. Paul implements this program.
DNR Ground Water Unit: (612) 296-0433	<b>Technical Analysis and Appropriation Permits Support:</b> provides technical support and investigations for allocation of ground water. Includes assessing the impacts of resource development actions, quantification of ground water supplies and technical assistance for resource management.	Minn. Stat. §103H.101	State General Fund	Ground Water Unit Supervisor coordinates assistance.
DNR Ground Water Unit: (612) 296-0434	<b>Regional Aquifer Studies:</b> technical investigations of the entire area of an aquifer. Includes data gathering, modeling of flows, prediction of yield capability, water level change for future development levels, and ground water quality.	Minn. Stat. §103H.101	50% USGS funds and 50% DNR funding with state General Funds.	The Ground Water Unit in St. Paul coordinates these studies.
DNR Ground Water Unit: (612)296-0427	<b>Well Inventory Program:</b> requires the DNR to identify locations and status of all wells and abandoned wells on state property, present a plan and request appropriations to seal unused wells annually.	Minn. Stat. §103I.311	State General Fund	The Ground Water Unit in St. Paul implements this program.
LMIC Project coordinator: (612) 297-4986	<b>Ground water Clearinghouse Database:</b> will consolidate ground water data from various management agencies into one automated database that will be tied to LMIC's GIS.	Minn. Stat. §103H.175, subd. 2.	State General Fund	LMIC is developing this data base in cooperation with other agencies. LMIC will assist users in accessing data.

Agency Name	Program	Authority	Funding	Program Delivery
<p>MDH</p> <p>Well Management Unit: (612) 627-5410</p>	<p><b>Well disclosure Program:</b> maintains a database containing well disclosure information. Well disclosure certificates are filed with county recorders and passed to MDH. Any wells that are not in use must be returned to service, permanently sealed by a licensed well contractor, or placed under annual maintenance permits.</p>	<p>Minn. Stat. ch. 103I</p>	<p>Supported through a filing fee paid to county recorders.</p>	<p>Property sellers must disclose the status and location of known wells on property at the time of property transfer. MDH works with realtors, county recorders, title companies, and mortgage bankers to maintain well data and implement this program. Information on wells for a particular property is available upon request.</p>
<p>MGS</p> <p>Senior Scientist, Technical Mgr. Of County Atlas Program: (612) 627-4780</p>	<p><b>County Geologic Atlas Program:</b> produces maps of bedrock geology and overlying deposits of Minnesota counties. Maps include geologically and hydrologically relevant control points, new maps of bedrock and surficial geology, and Quarternary stratigraphy at scale of 1:100,000 in both paper and ARC/INFO formats.</p>	<p>Ground Water Protection Act</p>	<p>\$90,000 cost share funds from each county; DNR base-level biennial contracts to MGS; Environmental Trust Fund</p>	<p>MGS produces paper maps, ARC/INFO digital data; upgrade of county well index for counties covered; workshops for county personnel, cooperative work on atlas with count personnel and local college students. Program jointly managed with DNR Waters which produces accompanying hydrogeologic and sensitivity maps.</p>



## **D. FISH AND WILDLIFE MANAGEMENT**

The mission of the DNR Division of Fish and Wildlife (DFW) is “*to protect and manage Minnesota’s fish, wildlife, native plants, and their communities for their intrinsic values and long-term benefits to the people of Minnesota*”. As indicated in the plan for fish and wildlife resources, “to protect and manage” means the full range of resource stewardship responsibilities and activities pursued, including regulatory protection, physical management of populations and habitats, advocacy of ecosystem integrity, resource investigations, and education. “Minnesota’s fish, wildlife, native plants, and their communities” means all species of wild aquatic and terrestrial animals and native plants over which the DNR has jurisdiction, as well as the ecosystems they inhabit. The concept of ecosystem management requires that not just a species of interest be managed in a given habitat, but that all plants, animals, and the physical and chemical constituents of the environment be a part of the management program. “For their intrinsic values” mean the inherent values possessed by every living creature, whether or not utilized by humans. “For their long term benefits to the people of Minnesota” means benefits such as maintenance of a healthy environment, aesthetic value, and providing recreational and economic opportunities for society. People of Minnesota, including future generations, are the primary recipients of these benefits. (Fisheries Management Operational Guidelines, 1994).

**Legislative Policy:** *It is the policy of the state that fish and wildlife are renewable natural resources to be conserved and enhanced through planned scientific management, protection, and utilization (Minn. Stat. §84.941). The Commissioner shall make special provisions for the management of fish and wildlife to ensure recreational opportunities for anglers and hunters (Minn. Stat. §97A.045).*

### **Activities Managed:**

- C Fish and habitat management
- C Wildlife and habitat management
- C Fish and wildlife harvest
- C Threatened, rare, and endangered species
- C Exotic species

**Implementation:** The Commissioner of Natural Resources is responsible for the management of fish and wildlife in the state. Minnesota is divided into six administrative regions which are subdivided into areas. All management functions within each area are performed by the area staff. For administration, logistical support, and program direction, the areas are grouped into regions under a regional manager. Regions are delineated, to the extent possible, to give the greatest degree of homogeneity in ecological classification types. Direct supervision of regional managers is by the fisheries chief or in wildlife through the operations manager. Program direction is provided by the program coordinator. The Central Office staff in St. Paul functions to coordinate and assist in implementing and monitoring all management programs.

The matrix of Fish and Wildlife Management Standards (Part V, page 3-91) describes the implementation mechanisms for state-based programs. Other wildlife program descriptions

can be found in the matrices of Coastal Water Management Standards in Part V, page 3-48. Management programs unique to Lake Superior include:

Fisheries Management Plan for The Minnesota Waters of Lake Superior, November 1995: As stated in the plan, "This plan is a comprehensive guide on how to best continue management for Minnesota's portion of the Lake Superior fishery. The plan is based on a community approach to fisheries management. The goals and objectives are expected to remain relevant for 10 years, but the plan is written to be flexible, and modifications are expected to occur during that time period. The long term goal for fisheries management is to protect the Lake Superior ecosystem and to develop a diverse, stable, self-sustaining fish community that provides both recreational and commercial fishing opportunities."

Lake Superior Habitat Coordination: The Lake Superior Habitat Coordination Program is a part of the Surveys and Review Unit, Section of Ecological Services, Division of Fish and Wildlife. This program is managed by the Lake Superior Habitat Coordinator located in the area office in Two Harbors. The program goal is to identify, protect, and restore important plant and animal habitat in the Lake Superior watershed. Funding for the program is from an EPA Great Lakes National Program Office grant.

***Standards and Criteria:*** Habitat management for fish and wildlife is strongly emphasized as a means to maintain and enhance fish and wildlife populations. Habitat management involves protection, rehabilitation, and improvement to lake, stream, upland, and wetland habitat. The types of physical fisheries habitat improvements include: barrier removal and installation, maintenance and improvement of riparian areas, instream structures, flow modification, aeration, spawning development and improvement, aquatic plant management, and artificial habitat structures/fish attractors. Wildlife habitat improvement is coordinated with the state Scientific and Natural Areas Program, Wildlife Management Area Acquisition Program, and private organizations. Much habitat protection occurs through coordination with DNR and county foresters through forest planning processes. Wildlife habitat improvements include: landscaping, removal or installation of impoundment structures, restoration of wetland areas, and plantings.

Habitat loss or alteration and changes in biological communities are important factors threatening the survival of threatened and endangered species. Requirements for protection of threatened and endangered species are found in Minn. Stat. ch. 84. A list of species in Minnesota that fall into the categories of endangered, threatened, and of special concern are found in Minn. Rules ch. 6134. Minnesota Rules ch. 6212 provide details on regulations for the issuance of special permits dealing with endangered or threatened species.

Introduction of exotic species, or nonindigenous flora and fauna, to the coastal area have affected the area's ecosystem, economically as well as ecologically. The most devastating introduction to the Lake Superior community has been the sea lamprey, which virtually eliminated the lake trout in all but a few isolated areas of Lake Superior. Minnesota does not permit the introduction of exotic species (species not native to Minnesota) into the state without a thorough evaluation of their impact to the ecosystem. Authority to issue permits for the introduction of exotic species is

with the Director of the DNR Division of Fish and Wildlife. Minnesota Rules ch. 6216 and 6250 and Minn. Stat. ch. 18 and 84 describe the criteria and standards for exotic species management.

*Authorities:*

- C Department of Natural Resources - Minn. Stat. ch. 84**
- C Game and Fish - Minn. Stat. ch. 97A**
- C Hunting - Minn. Stat. ch. 97B**
- C Fishing - Minn. Stat. ch. 97C**
- C Game and Fish Rulemaking - Minn. Stat. ch. 14**
- C Aquaculture - Minn. Stat. ch. 17**
- C Exotic Species - Minn. Stat. ch. 18**
- C Game and Fish Rules - Minn. Rules ch. 6200 through 6290**
- C Threatened and Endangered Species - Minn. Stat. §84.0895**

Table 16.

**Enforceable Policies/Programs Subject to Federal Consistency****Section D. Fish and Wildlife Management Standards**

<b>Agency Name</b>	<b>Program</b>	<b>Authority</b>	<b>Funding</b>	<b>Program Delivery</b>
DNR  Aquatic Biologist: (612) 296-0777	<b>Aeration Program:</b> issue permits to operate aeration systems in public waters to prevent winter fish kills. The agency also develops agreements with local governments to purchase & install aeration equipment on lakes with management plans.	Minn. Stat. §103G.611	Game and Fish funds plus federal cost share.	Central office in St. Paul handles applications and grants permits.
DNR  Exotics Program Coordinator: (612) 297-1464	<b>Aquatic Exotics Program:</b> include inventory, monitoring and control of infestations of purple loosestrife, milfoil, and zebra mussels. Provide public education, information, and conducts research on control and eradication of exotics.	Minn. Stat. §18.317 and 84.966-.969	Water Recreation Account and boat license surcharge funds.	Ecological Services Division coordinates this program, with field assistance from regional offices in monitoring and control efforts.
DNR  Aquatic Plant Management Program Supervisor: (612) 296-0782	<b>Aquatic Plant Management Program:</b> issue permits to lake property owners to kill aquatic vegetation on their property, and in adjacent waters, using herbicides or mechanical removal.	Minn. Stat. §84.092 and Commissioner Order No. 2210	Game and Fish Fund plus federal cost share.	Interested landowners apply to Area Fisheries Managers for permits. Information may be obtained at DNR local or St. Paul offices. Appeals handled at central office.
DNR  Division of Fish and Wildlife:	<b>Aquaculture</b>	Minn. Stat. §17.46	Game and Fish Fund	The DNR Section of Fisheries has the authority to license operations including the raising, transportation, and sale of fish.
DNR  Division of Fish and Wildlife:	<b>Fishing</b>	Minn. Stat. ch. 97C	Game and Fish Fund	DNR Section of Fisheries manages fishing habitat, propagation, fishing methods, minnows, amphibians, reptiles, mussels and clams, and netting and commercial fishing.

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Agency Name	Program	Authority	Funding	Program Delivery
DNR Division of Fish and Wildlife:	<b>Game and Fish Laws</b>	Minn. Stat. ch. 97A  Minn. Rules 6200-6290	Game and Fish Fund	The game and fish laws provides the Commissioner of Natural Resources the authority to preserve, protect, propagate desirable species of wild animals, and ensure recreational opportunities for anglers and hunters. The majority of programs are implemented at the area level.
DNR Section of Wildlife:	<b>Hunting</b>	Minn. Stat. ch. 97B  Minn. Rules ch. 6200-6290	Game and Fish Fund	Hunting program rules and laws implemented include those for hunting restrictions and requirements, big game, deer, bear, moose, elk, small game, birds, migratory waterfowl, fur-bearing animals and trapping. The majority of these programs are implemented at the area level.
DNR Section of Wildlife:	<b>Threatened and Endangered Species:</b> inventory of threatened and endangered species is maintained and updated. Research and surveys compliment the program. Consideration of these species in management decisions affecting forests, parks, wildlife management areas, and public waters. Taking of these species is generally prohibited.	Minn. Stat. §84.0895  Minn. Rules 6212.1800-.2300	Income tax checkoff, federal research funds, General Fund	The Nongame Wildlife Program coordinates this program. Education, habitat, research, species restoration and environmental review programs are coordinated in St. Paul and also implemented at the region and area level by specialists.

Table 17.

**Other Non-Regulatory Programs Not Subject to Federal Consistency Reviews****Section D. Fish and Wildlife Management Standards**

<b>Agency Name</b>	<b>Program</b>	<b>Authority</b>	<b>Funding</b>	<b>Program Delivery</b>
DNR  Aquatic Plan Management Program Supervisor: (612) 296-0782	<b>Fish Kill Investigations Program:</b> investigate pollutants that cause fish and wildlife kills in lakes and streams. Pollutants are traced to the discharger, and damages are assessed based on damage to fish and wildlife.	Minn. Stat. §97C.065, plus PCA authority Chapter 115.	Game and Fish fund and federal cost-sharing.	Program is coordinated from the Ecological Services Division in St. Paul. Field office staff also conduct investigations when necessary. Contact St. Paul or field offices for assistance.
DNR  Regional Fisheries Supervisors:	<b>Lake Habitat Improvement Program:</b> includes a variety of methods to manage lake communities and improve or maintain angling opportunities, such as shoreline stabilization, vegetative restoration or improvement, or development of fish spawning habitat.	Minn. Stat. §97A.345	Fishing license revenues, partially reimbursed by federal Sport Fish Restoration Funds.	Improvements initiated by regional fisheries managers or occasionally requested by local interests. Contact regional managers for information and project approval.
DNR  Regional Fisheries Supervisors:	<b>Lake Reclamation Program:</b> intensive habitat improvement program that includes use of chemicals to effect fish kills and reclaim lakes for desired sport fish populations.	Minn. Stat. §97A.345	Funding from fishing license revenues, partially reimbursed by federal Sport Fish Restoration Funds.	Projects are initiated by regional fisheries managers or occasionally requested by local interests. Contact area managers for information and project approval.
DNR  Regional Fisheries Managers:	<b>Aquatic Management Areas Program:</b> acquire easements along lakeshores to provide corridors for angler access, riparian protection, habitat improvement or rehabilitation, or fish structures/ barriers.	Minn. Stat. §86A.05	Funding from bonding programs, license fees, and federal Sport Fish Restoration Funds.	Projects are initiated by area fisheries managers.

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Agency Name	Program	Authority	Funding	Program Delivery
DNR  Aquatic Education Coordinator: (612) 297-4919	<b>MinnAqua Program:</b> includes urban angling and volunteer instructor training programs to teach people about lake and stream ecology by teaching them to fish. Programs provided to groups include fishing clinics and specials fishing events. Classroom program available (Aquatic Wild) in cooperation with DNR - Wildlife.	MN Leg. Chapter 254, Article 1, Section 14, Sub. 8C.	RIM General Funds, federal Sportfishing Restoration Fund, and LCMR funds. Aquatic Wild also supported by Non-Game Program Check-Off Fund. Fees are charged to schools participating in this program.	Programs implemented in Twin Cities and Duluth by program coordinator, in cooperation with Hennepin County, Minneapolis Parks and Minnesota Extension Service 4-H Programs. Programs will be available throughout Minnesota in the future.
DNR  Regional Fisheries Managers:	<b>Trout Stream Habitat Improvement Program:</b> improves trout habitat on streams in public ownership or where easements have been acquired by DNR. Includes grading of banks, riprap, and addition of instream cover structures as needed to improve habitat.	Minn. Stat. §97.135, .141 and .145	Supported by federal funds through trout and salmon stamp purchases, and state RIM Funds and fishing license revenues.	Program is delivered through Area Fisheries offices. DNR staff survey streams, prioritize for improvements, and implement improvement projects.
DNR  Regional Fisheries Managers:	<b>Warmwater Stream Habitat Improvement Program:</b> includes a variety of techniques to maintain and improve fish habitat, such as shoreline stabilization, addition of instream cover and structures, and flow modifications such as dam or barrier removal.	Minn. Stat. §97.135, .141 and .145	Supported by fishing license fees, federal Sport Fish Restoration Funds and some state bonding funds.	Area fisheries managers propose and implement projects.
DNR  Area Fisheries Supervisors:	<b>Fisheries Land Acquisition for Angler Access Program:</b> acquires corridor easements on designated trout streams for access by anglers and management agency and for riparian protections.	Minn. Stat. §97A.135, 97A.141 and 97A.145	Fishing license fees; Federal Aid in Sportfish Restoration; trout stamps; and Reinvest In Minnesota (RIM) Funds.	DNR fisheries personnel solicit landowners to sell corridor easements. Anglers are then permitted access to fish.
DNR  Regional Fisheries Managers	<b>Trout Stream Easements Program:</b> acquire easements along trout streams to improve angler access. Includes riparian protection and habitat improvement activities.	Minn. Stat. §97A.135, .141 and .145	Supported by license fees, bonding, and partial reimbursement from federal Sport Fish Restoration Funds.	Area fisheries managers propose and implement projects.

Agency Name	Program	Authority	Funding	Program Delivery
DNR  Senior Biologist: (218) 739-7449	<b>In-Stream Flow Programs:</b> collect biological and hydraulic data, mainly on warmwater streams, and apply Instream Flow Incremental Methodology (IFIM) models to examine water level manipulations (i.e., dams and water appropriation) and their effects on the ecology of the stream. Goal is to develop a modeling method that may be incorporated into water appropriation rules.	Minn. Stat. ch. 103G	RIM Fund	Studies are coordinated by Fergus Falls Regional office.
DNR  Survey and Systems Coordinator: (612) 297-3287	<b>Stream Creel Surveys</b> (also called Study IV surveys): One stream in Minnesota is surveyed annually, based on management priorities. Survey includes fishing pressures, harvest, catch and recreational use parameters.	Minn. Stat. §97A.045	State Fish and Game Fund, partially reimbursed by USFWS Federal Aid for Sport Fish Restoration Fund. Occasionally trout stamp funds are also used.	Department produces a report for each creel survey, and uses data gathered to develop stream management plans.
DNR  Survey and Systems Coordinator: (612) 297-3287	<b>Stream Management Data Base:</b> Department is currently developing this data base to include all data from DNR stream surveys and monitoring programs.	Minn. Stat. §97A.045	State Fish and Game Fund, partially reimbursed by USFWS Federal Aid for Sport Fish Restoration Funds.	Database maintained at fisheries division offices in St. Paul.
DNR  SNA Planning Supervisor: (612) 297-2357	<b>Scientific and Natural Areas Acquisition Program:</b> acquires lands to preserve remaining natural areas and native ecosystems in the state for protection and scientific study.	Minn. Stat. §84.033	LCMR and RIM funds	Scientific and Natural Areas Program identifies areas for acquisition with field and central office staff.
DNR  Regional Nongame Wildlife Specialists or Natural Heritage Program: (612) 296-4284	<b>Annual Colonial Waterbird and Bald Eagle Survey Program:</b> includes an annual survey of breeding sites and population characteristics. Data is entered in Natural Heritage Database.	Minn. Stat. §84.03	"Chickadee Checkoff" on state income tax forms.	Surveys completed by regional non-game specialists. Regional specialists or Natural Heritage Program in St. Paul can supply data.



Agency Name	Program	Authority	Funding	Program Delivery
<p>DNR</p> <p>Natural Heritage Program: (612) 296-3344</p>	<p><b>Natural Heritage Program Inventory and Database:</b> Minnesota County Biological Survey identifies remaining natural communities and locations of endangered, threatened and rare animals and plants in the state. Information is stored in extensive GIS database that also includes historical records, other rare features databases, colonial waterfowl and bald eagle nesting sites.</p>	<p>Minn. Stat. §84.0895</p>	<p>LCMR, RIM, "Chickadee Checkoff", and General Fund</p>	<p>Natural Heritage Program in St. Paul or regional nongame wildlife specialists provide information about rare feature locations and provide access to Natural Heritage Program information. Maps are being developed in counties where County Biological Survey has been completed.</p>
<p>DNR</p> <p>Nongame Wildlife Specialists: (612) 297-4966</p>	<p><b>Endangered Species Assessments and Technical Assistance:</b> provides assistance to public agencies and private landowners in assessing the possible presence of endangered species and in managing species and their habitats.</p>	<p>Minn. Stat. ch. 84</p>	<p>LCMR, RIM, "Chickadee Checkoff" and General Fund</p>	<p>Nongame wildlife specialists at DNR regional and Central Offices provide information and technical assistance upon request.</p>
<p>DNR</p> <p>Project WILD-Minnesota: (612) 297-2423</p>	<p><b>Project WILD:</b> an interdisciplinary environmental and conservation education program for K-12th grade students. Project materials are designed for integration into regular classroom activities.</p>	<p>Minn. Stat. ch. 97A</p>	<p>"Chickadee Checkoff" and General Fund</p>	<p>DNR Nongame Wildlife Program sponsors workshops throughout the state to introduce the project to teachers and environmental educators. Only participants who attend workshops can receive Project WILD materials suitable to the grade level they teach.</p>

## E. FOREST MANAGEMENT

Northeastern Minnesota is the most heavily forested region of the state. Cook, Lake, St. Louis and Carlton counties contain 6.7 million acres of land of which 5.6 million acres, or 84 percent, are forested. Based on the original vegetation of the Minnesota portion of the Lake Superior watershed from public land survey notes by Marshner, approximately one-third of the area was aspen-birch forest with another 4 percent in other hardwood types. The majority of the area was coniferous stands of eastern white pine, jack pine, red pine, white spruce, black spruce, northern white cedar, balsam fir, and tamarack.

Approximately 79 percent of the forest land in these counties is classified as timberland. Timberland is forest land capable of producing a minimum of 20 cubic feet per acre per year of industrial wood crops and that is not withdrawn from timber harvesting. Nearly two-thirds (2.9 million acres) of the timberland is publicly owned. Publicly owned forest land is divided between the federal, state, and county governments. Management of these lands is, therefore, the combined responsibility of federal (e.g., primarily U.S. Forest Service), state (e.g., DNR) and county (e.g., county land commissioners) agencies. Private forest land management is influenced through technical assistance provided through the DNR via DNR staff and a number of cooperators (BWSR, SWCDs, private consulting foresters, and forest industry). Of the 1.6 million acres that are privately owned, about 260 thousand are held by forest industry. The remainder of private ownership is held by American Indians, farmers who own timberland, and miscellaneous individuals.

In April 1994, the Environmental Quality Board (EQB) completed the Generic Environmental Impact Statement on timber harvesting and forest management in Minnesota (GEIS). The purpose of the study was to determine the impacts of timber harvesting on a wide range of forest resource values related to environmental, economic, and social health. The study examined how the quality of these forest resources would change as timber harvesting levels increased throughout Minnesota. The GEIS recommended mitigating measures and programs and identified site and landscape level impacts. The GEIS represents one of the most extensive scientific studies ever conducted on forest resources and timber harvesting in the United States. (Minnesota Forest Resources Council, 1996)

The second phase of the process was the GEIS Implementation Strategy Roundtable, a collaborative effort of 25 leaders in Minnesota's forest policy representing the forest industry, government, and the environmental community. The recommendations of this group form the foundation of the Sustainable Forest Resources Act of 1995 (Minn. Stat. ch. 89A).

***Legislative Policy:*** *It is the policy of the state to:*

*(1) pursue the sustainable management, use, and protection of the state's forest resources to achieve the state's economic, environmental, and social goals; (2) encourage cooperation and collaboration between public and private sectors in the management of the state's forest resources; (3) recognize and consider forest resource issues, concerns, and impacts at the site and landscape levels; and (4) recognize the broad array of perspectives regarding the management, use, and protection of the state's forest resources, and establish processes and mechanisms that seek and incorporate these perspectives in the planning and management of the state's forest resources.* (Sustainable Forest Resources Act of 1995, Minn. Stat. ch. 89A)

*The Commissioner shall manage the forest resources of state forest lands under the authority of the Commissioner according to the principles of multiple use and sustained yield. The Forest Resource Management Policy shall not supersede any existing duty or authority of the Commissioner in managing forest lands, but the duties and authorities, as far as practicable, shall be exercised consistently with this policy. The Forest Resource Management Policy is not intended to exclude extractive uses of forest lands under the authority of the Commissioner pursuant to state law. (a) The Commissioner shall maintain all forest lands under authority of the Commissioner in appropriate forest cover with species of trees, degree of stocking, rate of growth and stand conditions designed to secure optimum public benefits according to multiple use, sustained yield principles and consistent with applicable forest management plans. (b) Each year the Commissioner shall strive to assure that (1) reforestation occurs annually on an acreage at least equal to the acreage harvested that year on all forest lands under the authority of the Commissioner; (2) additional reforestation is accomplished on areas previously harvested but not adequately reforested so that the backlog of reforestation work can be eliminated; and (3) poorly stocked forest land, or forest land damaged by natural causes, shall be returned to a state of productivity.*

*The Commissioner shall provide a system of forest roads and trails which provides access to state forest land and other forest land under the Commissioner's authority which is adequate to permit the Commissioner to manage, protect, and develop those lands and their forest resources consistent with the Forest Resource Management Policy, and to meet demands for forest resources (Minnesota Forest Management Act of 1982, Minn. Stat. ch. 89).*

*The Commissioner shall ascertain and observe the best methods of reforesting cut over and denuded lands, foresting waste and prairie lands, preventing destruction of forests and lands by fire, administering forests on forestry principles, encouraging private owners to preserve and grown timber for commercial purposes, and conserving the forests around the head waters of streams and on the watersheds of the state (Minn. Stat. §89.01, subd. 1).*

*The Commissioner shall execute all rules pertaining to forestry and forest protection within the jurisdiction of the state; have charge of the work of protecting all forests and lands from fire; shall investigate the origin of all forest fires; and prosecute all violators as provided by law; shall prepare and print for public distribution an abstract of the forest fire laws of Minnesota, together with such rules as may be formulated (Minn. Stat. §98.01, subd. 2).*

*The Commissioner shall cooperate with the several departments of the state and federal governments and with counties, towns, corporations, or individuals in the preparation of plans for forest protection, management, replacement of trees, wood lots, and timber tracts, using such influence as time will permit toward the establishment of scientific forestry principles in the management, protection, and promotion of the forest resources of the state (Minn. Stat. §89.01, subd. 4).*

*Federal Coordination. The Department of Natural Resources shall coordinate all forest resources planning efforts with the appropriate federal agencies in order to achieve optimum public benefit, to obtain federal assistance, to participate in the federal forestry planning process, and to enhance the productivity and multiple use management of forest resources (Minn. Stat. §89.011, subd. 4).*

*Public and Private Coordination. The Department of Natural Resources shall coordinate all forest resources planning efforts with counties and other public agencies and private organizations engaged in forest resource management and research (Minn. Stat. §89.011, subd. 5).*

*The county board may appoint a land commissioner and necessary assistants, such land commissioner to perform any or all of the following duties as directed by the county board: to gather data and information on tax-forfeited lands; make land classifications and appraisals of land, timber and other products and uses; enforce trespass laws and regulations; seize and appraise timber and other products and property cut and removed illegally from tax-forfeited lands; assist the county auditor in the sale and rental of forfeited lands and the products thereon; and such other duties concerning tax-forfeited lands as the county board may direct (Minn. Stat. §282.13).*

***Activities Managed:***

- C Forest management including timber harvesting, reforestation, forest stand improvement, forest roads and recreation.
- C Forest protection including wildfire prevention/protection, forest health (i.e., insect and disease control), prescribed fire, and cultural/historic resources.
- C Monitoring including forest resource monitoring and monitoring the compliance and effectiveness of forest management practices.
- C Forest resource planning and coordination.
- C Forest resource information management.
- C Continuing education; certification.

***Implementation:*** The 1995 Sustainable Forest Resources Act responds to the recommendations of the Generic Environmental Impact Statement (GEIS) on Timber Harvesting and Forest Management (MN EQB April 1994) by establishing a number of policies and programs to ensure the long-term sustainability of the state's forest resources. Among these are:

- C The Minnesota Forest Resources Council: established with major responsibility for implementing the Sustainable Forest Resources Act, and identifying consensus-based solutions to issues and concerns associated with the sustainable management, use, and protection of the state's forest resources. The 13-member Council is appointed by the Governor to represent various forest interests.
- C Development and implementation of comprehensive timber harvesting and forest management guidelines. The act requires the council to coordinate the development of comprehensive guidelines to address the water, air, soil, biotic, recreational, and aesthetic resources found in forest ecosystems. Integrated timber harvesting and forest management guidelines are expected to be available by the end of 1998.

- C Development and implementation of a landscape-based forest resources planning program, to be delivered through regional forest resource committees established by the council.
- C The Forest Resources Research Advisory Committee: established by the council to address research needs associated with sustainable forest resources management.
- C The Interagency Forest Resources Information Cooperative: established by the council to coordinate the development and use of, and access to a wide range of forest resource data in Minnesota.
- C Comprehensive monitoring programs: The DNR, with input and direction from the council, is responsible for establishing programs to better monitor the condition of the state's forest resources, use of various timber harvesting and forest management practices, compliance with voluntary management guidelines, and effectiveness of various timber harvesting and forest management practices.
- C Continuing education for loggers and natural resources professionals: the newly-established Center for Continuing Education for Natural Resources Professionals and Minnesota Logger Education Program are examples of these efforts.

The 1982 Forest Resources Management Act required the DNR to prepare a comprehensive statewide forest resource management plan designed to implement the policies stated in the FRMA (e.g., multiple-use, sustained yield; reforestation; forest roads). The statewide plan, referred to as the Minnesota Forest Resources Plan (MFRP) is to include two primary components:

- C A forest resource assessment updated at least once every ten years that includes, but is not limited to: the present and projected use and supply of and demand for forest resources in the state; development of a forest resources database; the current and anticipated reforestation needs for forest land; an inventory and map of all existing state forest roads and classification by use, standard, and condition. The statewide forest resource assessment was originally completed in 1983 and once again in 1995.
- C Program elements that are updated every four years and describe specific actions to address the assessment and to implement the forest resources management policy, the FRMA, including but not limited to: improvement of silvicultural practices and improved methods for harvesting and utilizing timber and timber residues; measures to improve reforestation practices; measures to enhance recreational opportunities and fish and wildlife habitat; priorities for construction and improvement of forest roads to achieve the FRMA's state forest road policy; an estimate of the expenditures necessary to implement the elements of the program, along with the sources and amounts of revenue necessary to finance the estimated expenditures. The statewide program plan was originally completed in 1983, then again in 1987 and 1991.

The 1982 FRMA also requires the DNR to prepare unit forest resource management plans for each geographic administrative unit of the Division of Forestry identified by the Commissioner as an

appropriate unit for forest resource planning. Unit plans are to be consistent with the forest resource management policy and statewide plan, including state reforestation and road policies. Unit plans set forth the specific goals and objectives for the management, protection, development, and production of forest resources in the administrative unit; and require integration of forest resource management with other uses of forest land. During the mid- to late-1980s the DNR completed unit forest resource management plans for six Division of Forestry areas. In the 1990s, DNR regions became the “appropriate administrative unit” for planning under the 1982 FRMA. In the future, the unit planning requirement will likely be satisfied via the Council’s landscape-based forest resource planning program using regions identified by the Council.

The DNR implements requirements contained in legislative policies, the 1982 FRMA and the 1995 SFRA through the programs and activities of several divisions and bureaus. Some of these programs are described in other sections of this chapter. The DNR Division of Forestry has established a number of programs to carry out these directives in concert with the Department’s vision and mission. For budget preparation and performance evaluation, these programs are grouped into two primary activities:

The **Forest Management** activity provides for the management of 3.2 million acres of state owned land within the boundaries of 57 state forests and 1.3 million acres of other state-owned lands for sustainable levels of resource outputs, uses, and opportunities. This activities also provides technical forest management and cost-share assistance to other public and private landowners; monitors the health, growth and composition of Minnesota’s forests; provides forest resource information to forest land managers and users; produces tree and shrub seedlings for planting on public and private lands; and coordinates the development and delivery of forestry related environmental education materials. Specific activities include:

- C Forest vegetation management planning for 4.5 million acres of state forest lands. Forest vegetation management planning directs state land timber sales and harvesting, reforestation, and timber stand improvements.
- C Maintenance and operation of the 2,064 mile state forest road system that provides access to state forest lands for public use and resource management, and to several million acres of federal, county, and private forest lands.
- C Maintenance and operation of 46 state forest campgrounds (with nearly 1,000 campsites), 44 day-use areas, and 1,200 miles of recreational trails.
- C Enforcement of state forest rules and regulations.
- C Forest stewardship planning, technical, and cost-share assistance for non-industrial private forest landowners.
- C Technical urban forestry and cost-share assistance to Minnesota communities.
- C Maintenance and analysis of the management-level forest resource inventory for DNR administered lands, and a statewide forest inventory that encompasses all land ownerships.

- C Implementation, and monitoring of water quality and wetland best management practices for forest management across all ownerships.
- C Implementation, and monitoring of visual quality guidelines for forest management across all ownerships through collaborative work with counties, other public agencies, and private landowners.
- C Development of a statewide ecological classification system (ECS) to support ecosystem-based management.
- C Forest pest population monitoring and evaluation on forest lands in the state, and the development and communication of pest management guidelines to forest landowners, industry, and other units of government.
- C Remote sensing products and services (e.g., aerial photography, satellite imagery, interpretation) for use by resource managers and the general public.
- C Development and coordination of geographic information system (GIS) technologies and applications for forest resource management.

The **Firefighting** activity provides for the protection of all non-federal lands in the state (45.5 million acres) from wildfires.

The Firefighting activity includes:

- C Promotion of wildfire prevention through public education, regulation of open burning, enforcement of wildfire statutes, and fuels management. Prevention activities are designed to reduce the number of wildfires and minimize the damage caused by wildfires.
- C Preparedness for wildfire suppression through interagency/cooperative training of firefighters and support personnel, developing and maintaining partnerships with local fire departments and federal agencies that are involved in fire protection, operation of a statewide interagency wildfire coordination center, maintaining a national interagency fire cache which is located in Minnesota, precontract arrangements for ground and aerial wildfire fighting equipment, maintenance of a radio communications network, developing mobilization and dispatching plans, and other activities to provide for effective wildfire fighting activities.
- C Detection and suppression of wildfires. The department detects wildfires through aerial detection flights and some wildfire lookout towers. The most effective and efficient way to extinguish reported wildfires is through quick initial response. Quick response by a balanced force of trained firefighters, support personnel, and aerial and ground equipment helps minimize overall program costs, and protects life, property, and natural resources.
- C Planning, coordination, and management of prescribed fire on state-administered lands.

Counties along the shore of Lake Superior would also have programs for the management of county administered forest lands as authorized in Minn. Stat. ch. 282. Counties play a significant role in the implementation of the 1995 SFRA and statewide strategic forest resource management direction.

***Standards and Criteria:*** Technical teams are responsible for development of comprehensive timber harvesting and forest management guidelines for the areas of riparian zone, site-level wildlife habitat, soil productivity, and historical/cultural resources. The guidelines are used to address the impacts commonly associated with site-level forestry practices. The goals of the landscape-based planning include, in part, maintaining or expanding total forested land area within the region over time, and encouraging an appropriate mixture of forest cover types and age class to promote biological diversity and viable forest dependent fish and wildlife habitat. Each landscape region's forests shall be able to provide a full range of products, services, and values that contribute to economic stability, environmental quality, social satisfaction, and community well-being. Compliance monitoring and effectiveness monitoring is implemented to determine the effectiveness of silviculture practices and application of timber harvesting and forest management guidelines. Interagency information cooperation includes data sharing, development of systems, integration and linking of data to other resource information, and expanded capacity and reliability of models. Timber harvesters and forest resource professionals are encouraged to establish voluntary certification and continuing education programs. The MFRC shall develop programs where appropriate.

Forestry BMPs are contained in the revised guidebook, "Protecting Water Quality and Wetlands in Forest Management: Best Management Practices in Minnesota." The BMPs identified in this guidebook were developed to apply to all forest landowners in Minnesota. The guidebook recommends that timber harvesting and other forest management activities should be well planned to minimize sediment, nutrient and debris movement into surface water or ground water, and to minimize thermal impacts to surface water.

The water quality BMPs were expanded in 1995 to address wetland impacts. The revised BMPs provide expanded filter and shade strips adjacent to water and wetlands that, along with other practices in the guidebook, help minimize sediment, nutrient and debris movement. In addition, there is a field audit process that determines the degree of compliance with the BMP guidelines across all ownerships. The water quality/wetland BMPs will be incorporated into the comprehensive timber harvesting and forest management guidelines developed by the Minnesota Forest Resources Council. A compliance monitoring program will be implemented/continued for the comprehensive guidelines once they are completed.

Area Forest Resource Management Plans. Formerly known as the Timber Management Planning Information System (TMPIS) these plans are now completed on a five-year cycle instead of every ten years. These management plans incorporate DNR guidelines for old-growth forests and extended rotation forests, along with other standards such as the protection of listed species, rare communities, and cultural/historic sites.



### Other Permits/Regulations:

*Minnesota Stat. §92.45 - The Shipstead-Nolan Law (U. S. Code Title 16, Section 577)* restricts logging adjacent to specified lakes and streams on public lands of the U.S. within Lake, Cook and St. Louis counties and within the boundaries of the Superior National Forest. Harvesting is also restricted on public lands of the U.S. adjacent to the natural shore line of Lake Superior. Within the area of Cook, Lake, and St. Louis counties described in the federal act, timber on state lands is subject to similar restrictions.

*Minnesota Stat. §88.16 and §88.17* - A burning permit must be obtained from a Division of Forestry field office or township fire warden prior to conducting the burn activity.

Local Zoning - The St. Louis River Management Plan requires a no-cut zone along the St. Louis River as well as forest management plans. Implementation of the plan is the responsibility of St. Louis County. Carlton County has adopted the plan by reference. The North Shore Management Plan requires that clear cutting be reviewed by the local governmental unit where it occurs adjacent to Lake Superior (Refer to Chapter 3, Section A, Coastal Land Management). The state Shoreland Management Act also addresses timber harvesting in the shoreland area is described in Chapter 3, Section A, Coastal Land Management.

### Authorities:

- C Sustainable Forest Resources Act of 1995 - Minn. Stat. ch. 89A**
- C Minnesota Forest Management Act of 1982 - Minn. Stat. ch. 89**
- C State Land on Meandered Lakes Withdrawn From Sale - Minn. Stat. §92.45**
- C Wildfire and Open Burning - Minn. Stat. ch. 88**
- C State Timber Sales - Minn. Stat. ch. 90**
- C Administration Sales of Tax-forfeited Forest Lands - Minn. Stat. ch. 282**

Table 18.

**Enforceable Policies/Programs Subject to Federal Consistency****Section E. Forest Management Standards**

<b>Agency Name</b>	<b>Program</b>	<b>Authority</b>	<b>Funding</b>	<b>Program Delivery</b>
DNR  Fire Management Specialist: (612) 296-4490	<b>Wildfire Protection and Management Program:</b> includes prevention, presuppression and suppression of wildfires on public and private lands. Department provides public education, regulates open burning, trains local firefighters, provides law enforcement, and coordinates interagency actions. Includes prescribed burning activities for site preparation, forest regeneration, pest management, and maintenance of natural communities.	Minn. Stat. §88.04-90.041	State General Fund	Programs provided through regional and area forestry offices. MN Interagency Fire Center coordinates the activities and resources of state, federal, and local agencies.
DNR  Division of Forestry	<b>State Timber Sales</b>	Minn. Stat. ch. 90	General Fund	Timber sales and permits for harvesting on state lands are administered at the area level. Foresters develop the site sale including standards and criteria for achieving management goals.

Table 19. **Other Non-Regulatory Programs Not Subject to Federal Consistency Reviews**  
Section D. Forest Management Standards

Agency Name	Program	Authority	Funding	Program Delivery
DNR Private Forest Management: (612) 296-5970	<b>Conservation Reserve Program (CRP):</b> includes private landowner sign-up, conservation plan development and technical assistance on projects planting more than two acres of trees or shrubs.	Minn. Stat. §89.01, 88.79  Federal 1995 Farm Bill	Annual federal appropriation for CRP Program.	Area foresters provide technical assistance and training on forestry projects, in cooperation with county NRCS/FSA offices.
DNR Forest Pest Control: (612) 296-5965	<b>County Forest Access Roads Assistance:</b> provides pass-through grants to counties to improve access to timber stands, and construct and maintain county access roads on county-administered forest lands.	Minn. Stat. §89.72	Unrefunded tax paid on fuels used to operate vehicles on forest roads.	Funds are passed-through to counties for administration of programs.
DNR Private Forest Management: (612) 296-5970	<b>Forestry Incentives Program (FIP):</b> activities include thinning, seeding, and planting for reforestation and timber stand improvement on nonindustrial private forest lands.	Minn. Stat. §89.79, 89.01  Public Law 95.313	Annual federal appropriation for FIP Program.	Area foresters provide technical assistance and training.
DNR Regional Wildlife Managers:	<b>Habitat Management on Public Lands:</b> includes maintenance and development of grasslands and woody cover, development of food plots, forest stand development, forest openings development and prescribed burns to improve wildlife habitat on public lands.	Minn. Stat. §97.045 and 84.95	RIM Fund and deer hunting license fees.	Program delivered through county land offices by a cooperative agreement between counties and DNR Wildlife and Forestry Divisions.

Agency Name	Program	Authority	Funding	Program Delivery
DNR Farmland Wildlife Program Leader: (612) 296-3344	<b>Habitat Management on Private Lands:</b> provides cost-sharing assistance to private landowners to develop food plots, woody cover, grasslands, forest openings and regeneration, and prescribed burning to improve wildlife habitat at private land.	Minn. Stat. §97A.125	RIM and pheasant stamp Fund.	Landowners should contact Farmland Wildlife Program leader for information and assistance.
DNR Private Forest Management: (612) 296-5970	<b>Private Forest Management (PFM) Program:</b> promotes forest management on private lands through contacts with landowners and development of forest stewardship management plans, technical assistance in forest practices, marketing assistance, and educational opportunities.	Minn. Stat. §88.79	State General Fund  Federal Forest Stewardship funds  State Environmental Trust Fund	Area foresters visit private forest properties on request, develop forest stewardship management plans, and provide technical assistance to landowners. Programs implemented in cooperation with local soil and water conservation district offices, private forestry consultants, environmental organizations, and forest industries.
DNR Private Forest Management: (612) 296-5970	<b>Stewardship Incentive Program:</b> provides technical and cost-share assistance to private landowners in managing forests for multiple uses.	Minn. Stat. §89.02, 88.79  Public Law ch. 101	Annual appropriation of federal Stewardship Program Funds.	Area foresters provide technical assistance and training.
DNR Tree Nurseries: (218)652-2385	<b>Tree Sales Program:</b> large scale sale of tree seedlings from state nurseries.	Minn. Stat. §89.35-89.39	Nursery and tree sales programs are self-supporting.	Program is administered through Forestry Division in St. Paul. Trees available through some soil and water conservation districts.
DNR Forest Land Administration: (612) 297-3508	<b>Land Administration Program:</b> includes acquisition, exchange, sale and lease of lands for forestry purposes to protect resources, consolidate ownership patterns, and provide access to other lands.	Minn. Stat. §89.022, 89.032 Minn. Stat. ch. 94	State bonding	DNR forestry field staff are involved in identifying and developing acquisition priorities, recommending sales, leases or exchanges, inspecting leases, and maintaining contacts with other agencies and individuals. The DNR Bureau of Real Estate Management assumes responsibilities for negotiations, appraisals, record keeping, and other services.

Agency Name	Program	Authority	Funding	Program Delivery
DNR  Forest Recreation: (612)297-3508	<b>Forest Recreation Program:</b> maintenance and operation of 46 state forest campgrounds (with nearly 1,000 campsites), 44 day-use areas, and 1,200 miles of recreational trails. Also the development and enforcement of state forest recreation rules.	Minn. Stat. ch. 86A	State General Fund and State bonding	Program is delivered primarily through area forestry offices, with assistance from region and St. Paul staff.
DNR  Urban & Community Forestry: (612) 772-7562	<b>Accelerated Community Forestry Assistance Program:</b> provides training to foresters, cities, community leaders, contractors and developers in management and protection of community forests. Also provides technical assistance to local communities and individuals in management, ordinance development, and tree planting and maintenance. Promotes Arbor Day celebrations and interagency coordination activities. Includes Minnesota RELEAF program, Energy Conservation Tree Planting, and Tree City USA Program. The Forestry Division also distributed a Community Forestry Resource Directory.	Minn. Stat. §89.01	State General Fund and federal allocations under the Minnesota RELEAF, America the Beautiful, Tree City USA, and Energy Conservation Tree Planting Programs.	Programs coordinated through the Forestry Division's Urban Forestry Program. Programs and technical assistance to communities and individuals are delivered by local area foresters.
DNR  Forest Development: (612)297-3513	<b>State Forest Development:</b> Provides for forest regeneration and timber stand improvement on state forest lands. Activities include site preparation, seeding, planting, thinning, pruning, seedling protection, and development of silvicultural guidelines.	Minn. Stat. §89.002	State General Fund	Program is delivered through area forestry offices with coordination through region and St. Paul staff.

Agency Name	Program	Authority	Funding	Program Delivery
Forest Roads: (218)297-4449 x 240	<b>State Forest Roads:</b> Maintenance and operation of the 2,064 mile state forest road system that provides access to state forest lands for public use and resource management, and to several million acres of federal, county, and private forest lands.	Minn. Stat. §89.001, 89.002, 89.18, 89.71	State bonding (reconstruction, construction and resurfacing). State General Fund and unfunded tax paid on fuels used to operate vehicles on forest roads (maintenance and operation).	Program is delivered through area offices with coordination from region and St. Paul staff.
DNR  Resource Assessment: (218)327-4449 x 222	<b>Forest Resources Assessment:</b> maintenance and analysis of the management-level forest resource inventory for DNR administered lands, and a statewide forest inventory that encompasses all land ownerships. Includes periodic aerial photography/satellite imagery of all or parts of the state to inventory and monitor changes in forest resources.	Minn. Stat. §89.011	State General Fund Federal funding for the FIA/AFIS statewide inventory. Federal project funding such as funding from the National Biological Service for Gap Analysis.	Overall coordination of remote sensing and forest inventories is through the DNR Resource Assessment Office. Field forest inventory work is accomplished through contracts and area foresters.
DNR  Forest Health: (218)327-4449 x 241	<b>Forest Ecosystem Health:</b> forest pest population monitoring and evaluation on forest lands in the state, and the development and communication of pest management guidelines to forest landowners, industry, and other units of government.	Minn. Stat. §89.51 - 89.53	State General Fund	Program is delivered through St. Paul and Regional forestry staff in cooperation with the DNR Resource Assessment office.
DNR  Division of Forestry:	<b>Forest Resources Management Act of 1992</b>	Minn. Stat. §89.001-89.012	General Fund	Each regional unit of the Division of Forestry prepares a forest resource plan for the management, protection, development, and production of forest resources. Plans are implemented at the area level.
DNR  Division of Forestry	<b>Sustainable Forest Resources Act of 1995</b>	Minn. Stat. ch. 89A	General Fund	The Minnesota Forest Resources Council develops recommendations with respect to forest resource policies and practices that result in sustainable management, use, and protection of forest resources. Guidelines established are implemented in site level practices.



## F. MINERAL RESOURCES

The DNR Division of Minerals is responsible for coordinating the state's mineral policy. The division manages more than 12 million acres of state-owned mineral rights, 3 million acres of peat lands, and surface rights for industrial and construction materials on 3 million acres of state land.

Minnesota's iron ore and taconite industry has had a significant impact on the region and state. Iron ore and taconite pellets are currently shipped from ports in Duluth, Two Harbors (Agate Bay), Silver Bay (Beaver Bay), and Schroeder (Taconite Harbor). Total tonnage is approximately 8 million net tons. Although the iron ore and taconite industry is the major mineral industry in the watershed, there are other nonferrous metallic minerals with potential for development, including the base metals such as copper, nickel, platinum group elements, lead, zinc, gold, chromium, cobalt, and titanium. While no minable deposits have been developed, mining activity contributes millions of dollars each year to Minnesota's economy.

Other mineral development includes peat mining and industrial minerals including sand and gravel, and dimension stone.

Current iron ore/taconite mining activities in the near coastal area include the unloading/loading facilities at ports in Duluth, Two Harbors, Silver Bay and Schroeder. North Shore Mining operates a taconite processing facility at Silver Bay, and LTV Steel Mining Company owns and operates a 225-megawatt power plant at Schroeder producing power primarily for its own use in its Hoyt Lakes mining/beneficiating facility. Taconite (crude ore) and/or pellets are shipped by rail from mining operations on the "Iron Range" and loaded on ships with destination points being the steel producing plants in the lower Great Lakes states of Ohio, Indiana and Pennsylvania.

***Legislative Policy:*** *In recognition of the effects of mining upon the environment, it is hereby declared to be the policy of this state to provide for the reclamation of certain lands hereafter subjected to the mining of metallic minerals or peat where such reclamation is necessary, both in the interest of the general welfare and as an exercise of the police power of the state, to control possible adverse environmental effects of mining, to preserve the natural resources, and to encourage the planning of future land utilization, while at the same time promoting the orderly development of mining, the encouragement of good mining practices, and the recognition and identification of the beneficial aspects of mining (Minn. Stat. §93.44).*

***Activities Managed:*** The Mineland Reclamation Policy controls the following activities:

- C Iron Range Trail; establishment; Commissioner's duties
- C Peat mining
- C Permit to mine
- C Penalties for violation

***Implementation:*** The Commissioner of Natural Resources has established Mineland Reclamation Rules (Minn. Rules ch. 6130) to implement Minn. Stat. §93.44 to 93.51 in order to control possible adverse environmental effects of mining, to preserve the natural resources, and to encourage the planning of future land utilization, while at the same time promoting the orderly development of mining, the encouragement of good mining practices, and the recognition and identification of the beneficial aspects of mining.



Taconite and iron ore mining must be conducted on sites that minimize adverse impacts on the environment and the public. Separations between mining areas and adjacent conflicting land uses must be maintained. All sites must incorporate setbacks or separations which are needed to comply with air, water, and noise pollution standards; local land use regulations; and requirements of other appropriate authorities.

***Standards and Criteria:*** The DNR Division of Minerals is responsible for management of state-owned mineral rights for the benefit of the state's citizens through environmental protection and the sale of state mineral leases. Although the division is involved in many initiatives, their primary responsibilities are in the following areas:

Permit to mine: No person shall carry out a mining operation for metallic minerals in Minnesota without first obtaining a permit to mine from the Commissioner of Natural Resources. As part of the application process, environmental setting maps are required which describe bedrock geology, water courses, boundaries of watersheds; details of ground water conditions; natural resource sites as listed in the Minesite Data Manual, V21 - Natural Resource Sites, Minnesota DNR; a forest inventory; a soil inventory; past mining facilities; surface ownership of record; and exclusion, avoidance, and setback areas.

Mineland Reclamation: The guidelines determine criteria for site selection, exclusion and avoidance areas for mining; in-mine disposal issues; buffers and barriers; goals of sloping and landform design; stockpile design and construction; management of runoff; standards for rock, lean ore, and coarse tailing stockpiles; and vegetation requirements.

Sand and Gravel Handbook: The Division has worked with industry and other stakeholders to develop educational information such as "A Handbook for Reclaiming Sand and Gravel Pits in Minnesota," 1992. The purpose of the handbook is to provide technical information to landowners, state agencies, local government and the aggregate industry about reclaiming sand and gravel pits. This document was developed as a result of a recommendation from the Governor's task force on gravel pit reclamation in 1989.

Other permits: Other agencies are responsible for specific permits and regulations applicable to mining operations in Minnesota. The Minnesota Pollution Control Agency requires an national pollutant discharge elimination system permit and the DNR regulates dam safety requirements for the Milepost 7 tailing basin and associated dams near Silver Bay. U.S. Army Corps of Engineers wetlands permits may apply for draining/filling operations. Sand and gravel operations require county/city permits. Refer to Part V, Section C, Air and Water Quality Programs for applicable air and water permits and enforceable regulations.

### ***Authorities:***

- C Mineland Reclamation Program - Minn. Stat. §93.44 - 93.51**
- C Mining Reclamation - Minn. Rules ch. 6130 - ferrous currently undergoing amendment**

- C Nonferrous Mining - Minn. Rules ch. 6132**
- C Peatland Reclamation - Minn. Rules ch. 6131**
- C Iron Ore/Taconite Leasing Program - Minn. Stat. §93.14 - 93.28**
- C Metallic Minerals Leasing Program - Minn. Stat. §93.08 - 93.12 and 93.25**
- C Metallic Minerals Leasing Program - Minn. Rules ch. 6125**
- C Peat Leasing Program - Minn. Stat. §92.5.**
- C Exploratory Borer Registration Program - Minn. Stat. ch. 103I**
- C Exploratory Borer Registration Program - Minn. Rules ch. 4727**
- C Industrial Minerals Leasing - Minn. Rules ch. 6125.8000 to 6125.8700**  
**- Minn. Stat. §93.08 - 93.12 and 93.25**

Table 20.

**Enforceable Policies/Programs Subject to Federal Consistency**  
**Section F. Mineral Resource Standards**

Agency Name	Program	Authority	Funding	Program Delivery
DNR  Minerals Division, Hibbing: (218) 262-6767	<b>Mineland Reclamation Program:</b> the DNR regulates various activities related to mining including siting, dust suppression, and ground vibrations from blasting and reclamation to control possible adverse environmental effects of mining, conserve natural resources and encourage the planning of future land utilization.	Minn. Stat. §93.44 - 93.51  Minn. Rules ch. 6130  Minn. Rules ch. 6131  Minn. Rules ch. 6132	General Fund	Mineland reclamation manager in Hibbing provides information and technical assistance in mineland reclamation.
DNR  Minerals Division: (612) 296-4807	<b>Iron Ore/Taconite Leasing Program:</b> the Minerals Division administers more than 100 state taconite and iron ore mining leases covering more than 9,000 acres. There are currently seven active taconite mining operations located in the state.	Minn. Stat. §93.14 through 93.28	General Fund	Minerals leasing section supervisor in St. Paul administers taconite mining leases.
DNR  Minerals Division: (612) 296-4807	<b>Metallic Minerals Leasing Program:</b> ten different companies currently hold 150 state metallic minerals leases. A variety of exploration activities are conducted under the current leases, which cover more than 65,000 acres in nine counties. Additional state lands are offered for lease at lease sales which are held on an annual basis.	Minn. Stat. §93.08 through 92.12 and 93.25  Minn. Rules 6125.0100 through 6125.0700	General Fund	Minerals leasing section supervisor in St. Paul provides assistance with leases and information on public sales.

Agency Name	Program	Authority	Funding	Program Delivery
DNR  Minerals Division: (612) 296-4807	<b>Peat Leasing Program:</b> five different companies currently hold six state peat leases. The removal of peat for commercial purposes occurs on these leased premises which cover 2,540.11 acres in Carlton, St. Louis and Marshall counties.	Minn. Stat. §92.50	General Fund	Contact Minerals leasing section supervisor in St. Paul for information and assistance.
DNR  Minerals Division: (612) 296-4807	<b>Exploratory Borer Registration Program:</b> an explorer must register with the DNR 30 days before making an exploratory boring. The explorer must submit a map of boring locations, provide access to drill sites, submit a report of drill hole sealing, and submit certain other data obtained from the exploratory boring.	Minn. Stat. §1031.602 and 1031.605  Minn. Rules ch. 4727	General Fund	Minerals leasing section supervisor in St. Paul provides assistance with registration.

## G. ENERGY

### 1. Energy Facility Siting

#### a. Minnesota Power Plant Siting Act

**Legislative Policy:** *The legislature hereby declares it to be the policy of the state to locate large electric power facilities in an orderly manner compatible with environmental preservation and efficient use of resources. In accordance with this policy, the Board shall choose locations that minimize adverse human and environmental impact while insuring continuing electric power system reliability and integrity and ensuring that electric energy needs are met and fulfilled in an orderly and timely fashion.*

**Activities Managed:** The Minnesota Power Plant Siting Act controls the following activities:

- C Environmental review
- C Designation of sites and routes; procedures; considerations; emergency certification; exemption
- C Public hearings; inventory
- C Facility licensing, state permits
- C Improvement of sites and routes
- C Enforcement, penalties

**Implementation:** Under the act, the Minnesota Environmental Quality Board (MEQB) has authority to provide for energy facility site and transmission line route selection. “Large electric power facilities” for the purposes of energy facility siting means large electric power generating equipment and associated facilities with a capacity of 50,000 kilowatts or more and high voltage transmission lines capable of operation at a nominal voltage of 200 kilovolts or more as defined in Minn. Stat. §116C.52, Subdivision 4, 5.

#### ***Standards and Criteria:***

Designation of sites and routes: A utility must apply to the MEQB for designation of a specific site for a certain size and type of facility. The application must include at least two proposed sites. The procedure for designation of transmission line routes involves having the utility apply for a permit for the construction of a high voltage transmission line. This application must also contain at least two proposed routes.

Emergency certification: Any utility whose electric power system requires the immediate construction of a large electric power generating plant or high voltage transmission line may make application to the MEQB for emergency certification. A public hearing to determine if an emergency exists, will be held within 90 days of the application.

Considerations in designating sites and routes: The MEQB will evaluate research and investigations relating to the effects on land, water and air resources of electric power facilities and high voltage lines including: the effects of water and air discharges and electric fields on public health and

welfare, vegetation, animals, materials and aesthetic values. Some large power plants require certification of need from Public Utilities Commission (PUC)(See Minn. Stat. ch. 216B).

Exemption of certain routes: A utility may apply to the MEQB to exempt the construction of any proposed high voltage transmission line from siting requirements. If the MEQB determines that the proposed high voltage line will not create significant human or environmental impact, it may exempt the proposed transmission line, but the utility must comply with any applicable state rule and any applicable zoning, building and land use rules, regulations and ordinances of any regional, county or local government in which the route is proposed.

Exemption of certain sites: A utility may apply to the MEQB to exempt the proposed construction of a facility from siting requirements. If the MEQB determines that the proposed plant has an electric power production capacity less than 80 megawatts and the proposed site will not have a significant human and environmental impact, the MEQB may exempt the plant from the requirements of §116C.51 to 116C.69.

Public Hearings/Participation: The MEQB will hold an annual public hearing and hold at least one public hearing in each county where a site or route is being considered for designation. The Board may appoint one or more advisory task forces to assist it in carrying out its duties.

Inventory: An initial inventory of large electric facilities was generated in the late 1970s. The MEQB has a continuing responsibility to evaluate, update, and publish this inventory.

Facility Licensing, State Permits: Utilities are required to obtain state permits that may be required to construct and operate large electric facilities and high voltage lines.

Improvement of sites and route: Utilities may construct or improve their site or route for up to four years after their initial site certification. Following the four-year period, the utility must show the MEQB that the site or route continues to meet the permit conditions.

Enforcement, Penalties: Any person who violates §116C.51 to 116C.69 is guilty of a misdemeanor for the first offense and a gross misdemeanor for the second and subsequent offense. Each day of violation constitutes a separate offense. The provisions of §116C.51 to 116C.69 may be enforced by injunction, action to compel performance, or other action in the district court of the county where the violation takes place. The court may impose a civil penalty of not more than \$10,000 for each violation.

***Authorities:***

- C Minnesota Power Plant Siting Act - Minn. Stat. §116C.51 - 116C.69**
- C Power Plant Siting - Minn. Rules ch. 4400**

**b. Pipelines**

***Legislative Policy:*** The Environmental Quality Board shall adopt rules governing the routing of pipelines.

**Activities Managed:** Chapter 116I - (Pipelines) controls the following activities:

- C Routing of certain pipelines
- C Pipeline proposal information book
- C Public meetings
- C Protection of public facilities and cultivated agricultural land

**Implementation:** The Minnesota Environmental Quality Board (MEQB) has authority to provide for routing of pipelines. “Pipelines” for the purposes of energy facility siting means any pipe with a nominal diameter of six inches or more that is designed to transport hazardous liquids, but does not include pipe designed to transport a hazardous liquid by gravity; pipe designed to transport or store a hazardous liquid within a refining, storage or manufacturing facility; or pipe designed to be operated at a pressure of more than 275 pounds per square inch and to carry gas as defined in Minn. Stat. §116I.015, Subdivision 1 (1), (2).

***Standards and Criteria:***

Routing of certain pipelines: A pipeline constructor must apply to the MEQB for a routing permit which designates a specific route for the pipeline. MEQB rules governing the routing of pipelines include:

- C Requiring the pipeline constructor to submit one preferred route for the pipeline and evidence of consideration of alternatives;
- C Providing for notice of proposed pipeline routes to local units of government and to owners and lessees of property along the routes being considered;
- C Providing for public hearings on proposed pipeline routes;
- C Providing criteria that the MEQB will use in determining pipeline routes including: existence of populated areas, consideration of local government land use laws, and the impact of the proposed pipeline on the natural environment;
- C Allow the MEQB to provide an exemption from the process in the event of an emergency or if the MEQB determines that the proposed pipeline will not have a significant impact on humans or the environment; and
- C Requiring that the pipeline constructor, to the extent possible, restore the area affected by the pipeline to a natural condition.

Pipeline proposal information book: The pipeline constructor is required by the MEQB to submit an information book containing:

- C A description of the pipeline proposed for construction including the proposed route, types of commodities to be carried, size of the line and construction and operational characteristics;
- C An explanation of the steps which must be taken to acquire right-of-way for the pipeline and the rights and alternatives of the landowner;

- C An explanation of the legal requirements that must be met in constructing the pipeline;
- C An explanation of the county inspection procedure and instructions for contacting the inspector in the event of noncompliance with legal requirements.

Public meetings: Within 60 days of notification, the county board of each county in which the pipeline route is proposed must hold a public meeting which provides information concerning:

- C The pipeline route, size, types of commodities to be carried, and construction and operating characteristics;
- C The legal requirements which must be met in acquiring easements and in constructing and operating the pipeline.

Protection of public facilities and cultivated agricultural land: Pipelines must be buried with a minimum level cover of 4½ feet in all areas where the pipeline crosses the right-of-way of any county, town or municipal street or highway and where the pipeline crosses cultivated agricultural land. Where the pipeline crosses the right-of-way of any drainage ditch, the pipeline must be at least 4½ feet below the authorized depth of the ditch.

Exemption for Interstate Pipelines: Minn. Stat. §116I.05 provides an exemption for certain actions of projects fall under authority of the federal Natural Gas Act.

***Authorities:***

- C **Pipelines - Minn. Stat. §116I.01 - 116I.11**
- C **Pipeline Routing - Minn. Rules ch. 4415**

**2. Utility Crossings of Public Lands and Waters**

***Legislative Policy:*** *The Commissioner of Natural Resources shall promulgate rules containing standards and criteria governing the sale of licenses permitting the passage of utilities over public lands and waters. The rules shall include provisions to insure that all projects for which licenses are sold will have a minimum adverse impact on the environment.*

***Activities Managed:*** Licenses to cross both over and under public land are granted by the Commissioner of Natural Resources. Passage may be allowed over, under, or across any part of any school, university, internal improvement, swamp, tax-forfeited or other public land or public water. Allowed crossings may include telephone, telegraph, and electric power lines, cables or conduits, underground or otherwise, or mains or pipelines for gas, liquids, or solids in suspension.

***Implementation:*** The Commissioner of Natural Resources has established rules (Minn. Rules ch. 6135) concerning utility crossings over public lands and waters under DNR and county



administration (tax-forfeited lands). These guidelines set fees, standards, and criteria for minimizing the environmental impact of utility crossings. It is essential to regulate crossings of public lands and waters to provide maximum protection and preservation of the natural environment and to minimize any adverse effects which may result from proposed crossings.

The DNR Bureau of Real Estate Management administers the state's Utility Crossing License Program. Each type of crossing, public land or public water, has a unique application which must be submitted in quadruplicate. The applicant must follow the specific standards in Minn. Rules ch. 6135 relating to the route design, construction, and right-of-way maintenance of the proposed utility crossing.

### ***Standards and Criteria:***

#### **Summarizing Minn. Rules §6135.1100 Standards for Route Design:**

- C With regard to topography: avoid steep slopes, scenic intrusions and creating tunnel vistas.
- C With regard to vegetation: avoid wetlands, and run along fringes of forests.
- C With regard to soil: avoid soils susceptible to erosion, plastic soils subject to slippage, areas with high water tables.
- C With regard to crossing of public waters: avoid streams, or if not possible, cross at the narrowest places; avoid lakes or cross under the water.
- C With regard to special use areas (Scientific and Natural Areas): avoid or go underground; follow existing public facilities such as roads and utilities.

#### **Section 6135.1200 Standards for Structure Design:**

- C Primary consideration shall be given to underground and underwater placement in order to minimize visual impact.
- C If overhead placement is necessary, the crossing shall be hidden from view as much as practicable.

### ***Authorities:***

- C **Utility Companies, Permit to Cross State-Owned Lands - Minn. Stat. §84.415**
- C **Utility Crossings of Public Lands and Waters - Minn. Rules 6135.0100 to 6135.1800**

Table 21.

**Enforceable Policies/Programs Subject to Federal Consistency**  
**G. Energy Standards**

<b>Agency Name</b>	<b>Program</b>	<b>Authority</b>	<b>Funding</b>	<b>Program Delivery</b>
EQB	<b>Minnesota Power Plant Siting Act</b>	Minn. Stat. ch. 116C	General Fund Site and application fees	The EQB issues certificates and permits for utility facility construction, routes, and sites. A utility makes application to the board.
EQB	<b>Pipeline Routing</b>	Minn. Stat. ch. 116I	General Fund and pipeline permit fees.	A person(s) proposing construction of a pipeline must submit an application to the EQB.
DNR  Bureau of Real Estate Management:	<b>Utility Crossing of Public Land and Waters</b>	Minn. Stat. §84.415  Minn. Rules 6135.0100 to 6135.1800	General Fund	Utility line license application is submitted and issued by the Bureau of Real Estate Management. A \$40.00 fee is required. The standards and criteria deal with route and structure design, construction methods, safety, and right-of-way maintenance.

## H. ENVIRONMENTAL REVIEW

### 1. Minnesota Environmental Rights Act (MERA)

The Minnesota Environmental Rights Act, Minn. Stat. ch. 116B.03, provides for any person residing in the state to maintain a civil action in the district court for declaratory or equitable relief in the name of the State of Minnesota against any person, for the protection of the air, water, land, or other natural resources located within the state, whether privately or publicly owned, from pollution, impairment, or destruction. Where the subject of the action is conduct governed by an environmental quality standard, limitation, rule, order, license, stipulation agreement, or permit promulgated or issued by the MPCA, DNR, Department of Health, or Department of Agriculture, the person taking the action must show evidence that the action violates or is likely to violate the environmental quality standard, limitation, rule, order, license, stipulation agreement, or permit.

***Legislative Policy:** The legislature finds and declares that each person is entitled by right to the protection, preservation, and enhancement of air, water, land, and other natural resources located within the state and that each person has the responsibility to contribute to the protection, preservation, and enhancement thereof. The legislature further declares its policy to create and maintain within the state conditions under which human beings and nature can exist in productive harmony in order that present and future generations may enjoy clean air and water, productive land, and other natural resources with which this state has been endowed. Accordingly, it is in the public interest to provide an adequate civil remedy to protect air, water, land and other natural resources located within the state from pollution, impairment, or destruction (Environmental Rights, Purpose - Minn. Stat. §116B.01 Purpose).*

**Minnesota Environmental Quality Board (MEQB):** The environmental review responsibilities of state agencies are defined by the Minnesota Environmental Quality Board (EQB), which was created in 1973 in recognition that “problems related to the environment often involve the responsibilities of several state agencies and that solutions to environmental problems require the interaction and coordination of the agencies” (Minn. Stat. Ch. 116C). The board is the State of Minnesota's principle forum for discussing environmental issues that do not fit in one of the state's other environmental agencies. The current 16 member board is composed of a chairperson and five citizen members appointed by the Governor; the Commissioners of the state departments of Agriculture, Health, Natural Resources, Public Services, Transportation, and Pollution Control Agency; and the Directors of the Office of Strategic and Long Range Planning (Minnesota Planning) and the Office of Environmental Assistance (formerly the Office of Waste Management); Department of Trade and Economic Development (DTED) and the chair of the Board of Water and Soil Resources.

The MEQB provides the public with an accessible forum for debating and discussing the environmental policies and decisions of state government; it provides a mechanism for coordinating the actions of major state agencies and the impact of their decisions on the environment; and it provides the Governor and the legislature with a tool for working on environmental issues that have not been assigned to other state agencies.

Ongoing activities of the Board established in a statute and supported by staff include: administration and implementation of environmental review, power plant siting and transmission line routing, pipeline routing, critical areas, genetic engineering regulation, water planning, and high-level radioactive waste monitoring programs.

## **2. Minnesota Environmental Policy Act (MEPA)**

The purposes of Laws 1973, Chapter 412, are (a) to declare a state policy that will encourage productive and enjoyable harmony between human beings and their environment; (b) to promote efforts that will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of human beings; and (c) to enrich the understanding of the ecological systems and natural resources important to the state and to the nation.

Authorization for the state Environmental Review Program is found in MEPA (Minn. Stat. §116D.04 and 116D.045). MEPA provides further direction concerning protection of natural resources in Minn. Stat. §116D.04, subd. 6, which relates significant environmental impacts disclosed through the Environmental Review Program to permitting and approval decisions. No state action can be allowed or permitted if it is likely to cause pollution, impairment, or destruction of the air, water, land or other natural resources if there is a prudent and feasible alternative. Economic considerations alone cannot be used to justify a decision.

In addition, MEPA directs state agencies to:

- C Use a systematic, interdisciplinary approach to ensure the integrated use of the natural and social sciences and the environmental arts in planning and in decision making which may have an impact on the environment.
- C Identify and develop methods and procedures to ensure that environmental amenities and values, whether quantified or not, will be given at least equal consideration with economic and technical considerations in decision making.
- C Study, develop, and describe appropriate alternatives to recommended courses of action for any proposal which involves unresolved conflicts concerning alternative uses of available resources.
- C Make available to federal and state government agencies, counties, municipalities, institutions and individuals, information useful in restoring, maintaining, and enhancing the quality of the environment, and in meeting the policies of the state set forth throughout the Environmental Policy Act.
- C Initiate the gathering and utilization of ecological information in the planning and development of resource oriented projects.

***Legislative Policy:*** *Where there is potential for significant environmental effects resulting from any major governmental action, the action shall be preceded by a detailed environmental impact*

*statement by the responsible governmental unit. The environmental impact statement shall be an analytical rather than an encyclopedic document which describes the proposed action in detail, analyzes its significant environmental impacts, discusses appropriate alternatives to the proposed action and their impacts, and explores methods by which adverse environmental impacts of an action could be mitigated. The environmental impact statement shall also analyze those economic, employment and sociological effects that cannot be avoided should the action be implemented. To ensure its use in the decision making process, the environmental impact statement shall be prepared as early as practical in the formulation of an action.*

### **3. Environmental Review Program**

The purpose of Minnesota's Environmental Review Program is to avoid and minimize damage to Minnesota's environmental resources caused by public and private development. Administered and implemented by the Minnesota Environmental Quality Board, the program is intended to disclose information concerning potential environmental impacts which are anticipated to result from proposed projects and ways that impact can be avoided or minimized. The information is to be used by decision makers to make sound decisions about the projects. Two documents used in the Environmental Review Program are the Environmental Assessment Worksheet (EAW) and the Environmental Impact Statement (EIS).

#### ***Activities Managed:***

- C Categories of actions requiring an EAW or EIS
- C Environmental impact statements, costs
- C Citizen petitions

***Implementation:*** Minnesota Environmental Quality Board rules assign responsibility for preparing the Environmental Assessment Worksheet and determining the need for an Environmental Impact Statement to a specific unit of government called the "Responsible Governmental Unit" or "RGU." The RGU is generally the unit with the greatest responsibility for approving or supervising the project. The project proposer is required to supply any data or information requested by the RGU for completion of the document. A 30-day public comment period follows a published notice of availability of the document in the MEQB Monitor, a biweekly publication of the MEQB.

Other types of environmental review include voluntary EAWs and EISs, joint federal/state review, alternative urban areawide review (AUAR), and generic EIS (GEIS). Additional information on the environmental review process can be found in, **EAW Guidelines, Guidance and Information for the Preparation of Environmental Assessment Worksheets, Minnesota Environmental Quality Board, June 1990.**

#### ***Standards and Criteria:***

Categories of actions requiring an EAW or EIS: Certain types and sizes of projects are identified as either requiring preparation of an EAW or EIS. These "mandatory categories" are listed in Minn. Rules 4410.4300 (EAW) and Minn. Rules 4410.4400 (EIS) and are also listed in the Guide to the Rules of the Minnesota Environmental Review Program.

Examples that would require an EAW within the coastal area include:

- C Marina development (20,000 sq. ft. of area)
- C Residential and recreational development (dependent on site size or units)
- C Highway projects (new roads, additional lanes)
- C Projects that would affect wetlands and protected waters (size of impact)
- C Stream diversions (watershed greater than 10 sq. miles or designated trout stream)
- C Agriculture and forestry (harvesting and conversion of land)
- C Natural areas (permanent physical encroachment)
- C Historic places (National Register of Historic Places)

A project may also be exempt from environmental review if it meets one of the conditions identified as a standard exemption. These exemptions are also listed in the Guide to the Rules of the Minnesota Environmental Review Program.

***Authorities:***

- C **Minnesota Environmental Policy Act (MEPA), Minn. Stat. ch. 116D**
- C **Minnesota Environmental Quality Board (EQB), Minn. Stat. ch. 116C**
- C **Environmental Quality, Minn. Rules 4410.0200 to 4410.8000**
- C **Minnesota Environmental Rights Act (MERA), Minn. Stat. ch. 116B**

Table 22.

**Enforceable Policies/Programs Subject to Federal Consistency**  
Section H. Environmental Review Standards

Agency Name	Program	Authority	Funding	Program Delivery
EQB	<b>Environmental Review:</b> proposed major actions are reviewed for their effects on the environment before government approvals or permits are issued. The Environmental Assessment Worksheet is the primary tool used to evaluate the significance of proposed actions.	Minn. Stat. §116D.04  Minn. Rules 4410.0200-4410-8000	Those developing an EIS may charge the project proposer for its cost.	The EQB has rules for determining when and how to prepare an EIS and EAW. The rules list which projects require an EIS or EAW, and also specify the unit of government responsible for carrying it out. The EQB may order a generic EIS to investigate classes of activities and to recommend ways to avoid or minimize effects.
Attorney General	<b>Environmental Rights Acts</b>	Minn. Stat. §116D.03	General Fund	No action may cause the pollution, impairment, or destruction of the air, water, land or other natural resources located within the state.

Table 23. **Other Non-Regulatory Programs Not Subject to Federal Consistency Reviews**  
Section H. Environmental Review Standards

Agency Name	Program	Authority	Funding	Program Delivery
EQB	<b>Coordinates Water Planning and Management:</b> the EQB coordinates water management among state agencies. Integrates other planning activity with state strategies.	Minn. Stat. §103A.204, 103A.43, 103B.151 and 116C.04	General Fund	EQB has a Water Resources Committee comprising state agency, university, Legislative Water Commission, metropolitan council and citizens. It developed the <i>Minnesota Water Plan</i> , 1991, and <i>1995-97 Water Policy Report</i> . The Board is required to identify water policy priorities each even-numbered year and review various agencies' reports.
EQB	<b>Ensures Data Compatibility:</b> ensures that monitoring and related data is provided and integrated into the Minnesota land management according to guidelines.	Minn. Stat. §103B.151	State government and local government receiving state funds are required to have compatible data.	LMIC has guidelines for data compatibility. EQB Water Resources Committee oversees certain water-related data.



## CHAPTER 4

### SPECIAL PROGRAMS AND MANAGEMENT AREAS

<b>Introduction</b>
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Section 306(d)(2)(C) of the CZMA requires that each state's coastal program include a description, inventory and designation of areas of particular concern within their coastal area. The following sections address those areas on Minnesota's North Shore of Lake Superior that are of particular concern because of their coastal related values or characteristics, or because they may face pressures which require detailed attention beyond the general planning and regulatory system. These are areas which require special management attention and may include: regulatory or permit requirements applicable only to the area of particular concern, increased intergovernmental coordination, technical assistance, enhanced public expenditures, or additional public services and maintenance to a designated area. In many cases, these special management areas on the North Shore are also areas which have been identified for preservation and/or restoration.

Pursuant to the Coastal Zone Management Program Development and Approval Regulations 15 C.F.R. Parts 923.20 through §923.24, Special Management Areas and Areas of Particular Concern include the following considerations:

- C Areas of unique, scarce, fragile or vulnerable natural habitat: unique or fragile, physical, figuration; historical significance, cultural value or scenic importance (including resources on or determined to be eligible for the National Register of Historic Places).*
- C Areas of high natural productivity or essential habitat for living resources, including fish, wildlife, and endangered species and the various trophic levels in the food web critical to their well being.*
- C Areas of substantial recreational value and/or opportunity.*
- C Areas where developments and facilities are dependent upon the utilization of, or access to, coastal waters.*
- C Areas of unique hydrologic, geologic, or topographic significance for industrial or commercial development or for dredge spoil disposal.*
- C Areas or urban concentration where shoreline utilization and water use are highly competitive.*
- C Areas where, if development were permitted, it might be subject to significant hazards due to storms, slides, floods, erosion, and settlement.*
- C Areas needed to protect, maintain or replenish coastal lands or resources including coastal flood plains, aquifers and their recharge areas, estuaries, and beaches.*

## CHAPTER FOUR

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In Minnesota, much has been done to inventory and/or designate areas of particular concern, areas for preservation or restoring shorefront access and protection planning, and shoreline erosion/mitigation planning, in both a site specific as well as on a generic (policy) basis. Minnesota has strong comprehensive authorities, programs and controls applied throughout the coastal area on both the state and local level. The following programs or efforts address the inventory and designation and, in some cases the management strategies, for areas of concern in Minnesota's coastal area of Lake Superior. Special management strategies addressed in many of these programs identify the specific concern and reason for individualizing the management, as well as their priority of use. A number of the programs also provide procedures for the restoration and/or protection of areas for their conservation, recreational, ecological or aesthetic values.

The special programs and management areas in this chapter are not subject to federal consistency unless they are identified or listed in Chapter 3, Management Policies and Authorities (see Appendix H).

This chapter is broken down into four sections. Section A describes **Development/Economic Revitalization Plans** that address development and economic issues. Section B describes **Natural Resource Protection and Management** which includes scientific and natural areas and state wildlife management areas. Section C describes **Recreation and Water Access** that consists of shorefront access and protection planning, harbors/marinas and water access, state parks, and trail systems. Section D describes **Cultural Resource Protection and Management** containing historical works and the Minnesota Historical Society.

## **A. DEVELOPMENT/ECONOMIC REVITALIZATION PLANS**

There are a number of existing plans which were created to identify special management areas along the North Shore of Lake Superior that address development and economic issues. These plans are described below.

### **1. Highway Transportation**

Transportation issues within the Lake Superior watershed are those issues associated with transportation in all forms including waterborne, rail, road, and air. Water borne navigation primarily consists of the shipping of commodities from ports along the shore, as discussed in this chapter in Part A(2), Port Development Plans. Within the coastal area, the most significant transportation issue is the management of Highway 61 (North Shore Highway).

The North Shore Highway from Duluth to the Canadian border has been identified as one of the most scenic roads in the United States since its opening in 1924 and is under consideration for federal Scenic Byways Designation. The approximately 180 mile artery is also significant as it is the primary transportation link from Canada to Duluth, roughly paralleling the shoreline. Often, the lack of alternatives creates conflicts between commuter, commercial, and tourism traffic. The highway is also the focal point for most development in the area.

Increases in land and lake-oriented recreation and development along the shore and inland, necessitated highway improvements to accommodate more traffic and to improve safety conditions for motorists. These highway improvements and roadside management activities play an important role in a motorist's impression of this dynamic natural treasure.

MNDOT has numerous management activities in place to address the significance of Highway 61 among which is the development of a draft Corridor Management Plan (1989), a highway improvement schedule, creation of nationally reknown tunnels, the establishment of local partnerships to assist with highway improvement planning, and the Rest Area Program.

***Legislative policy:*** *In order to provide a balanced transportation system, which includes aeronautics, highways, motor carriers, ports, public transit, railroads and pipelines, a Department of Transportation is created. The Department shall be the principal agency of the state for development, implementation, administration, consolidation, and coordination, of state transportation policies, plans, and programs.*

Additional enabling legislation and rules provide road authorities in the coastal area to develop roads and plans to address Natural Preservation Routes (Minn. Rules 8820.4010 and Minn. Stat. §162.021).

### **a. The North Shore Corridor Management Plan**

The North Shore of Lake Superior has seen increasing development pressure over the last couple of years. This pressure will likely continue as seasonal homes and tourism remain strong elements of the local economy. A major resource in the development of the North Shore is Highway 61, the major transportation link. This link provides access to homes, businesses, and recreational opportunities and affords visitors the chance to enjoy a scenic treasure. The highway and surrounding corridor are controlling factors for any type of development or human interaction along the North Shore.

The Highway 61 corridor along Lake Superior was chosen in 1994 as one of three roadways in the United States to be part of a federally funded scenic byway case study. The case study was performed by Scenic America, a nonprofit organization under contract with the Federal Highway Administration (FHWA). In addition, the North Shore Management Board (NSMB) applied for and received federal Intermodal Surface Transportation and Efficiency Act (ISTEA) Scenic Byways Program funding to do an additional planning study along the North Shore, with a special focus on the highway corridor.

The North Shore Corridor Management Plan, currently being developed by the North Shore Management Board, provides a comprehensive tool for the efficient management of resources located within the Highway 61 corridor, within the North Shore Management Plan boundary, north of the Duluth city limits. The plan will address cultural, scenic, historic, archeological, natural, recreational, economic, and transportation resources. Goals, strategies, and policies for the management of these resources will be developed and included to ensure sustainability so that future generations will be provided the opportunity to experience the North Shore.

It is likely that the plan will be adopted by member units of government, and where appropriate, provisions incorporated into local zoning ordinances. Recommendations for state or other participants will be handled on an individual basis as appropriate. Phase 1 document has been completed; Phase 2 is currently underway.

The intended result of the North Shore Corridor Management Plan is the designation of Highway 61 as a Scenic Byway under the federal Scenic Byways Program. The designation would mean increased opportunities for tourism, marketing, and positive economic impacts in addition to preservation of scenic and aesthetic values within the corridor.

### **b. MN DOT Rest Area Program**

The Minnesota Department of Transportation operates a statewide system of safety rest areas. Safety rest areas are divided into four classifications representing various levels of service and times of operation. MNDOT's present rest area development program was begun in 1967 when the Federal Highway Administration placed increased emphasis on safety rest area development via interstate and highway beautification funding in recognition of the value and importance of providing rest area services to travelers and traveler safety.

The Site Development Unit, Office of Technical Support, maintains a computerized inventory, by trunk highway and mile post, of all existing MNDOT rest areas. In addition, a listing of local noncommercial, public rest area facilities is also maintained for the designated, noninterstate network of highways. A list of proposed MNDOT, Class I and Class II rest areas are also included in the data base.

This data base permits easy comparison and coordination of existing local rest area services with proposed state and local rest area development as a planning tool to minimize facility duplication. MNDOT district involvement is required to provide updates in local services, identify local planning proposals and partnership opportunities, and initiate departmental programming and funding for construction of needed facilities.

On Highway 61, MNDOT has listed 35 existing and proposed rest areas located between Duluth and the Canadian border. These rest areas range from small pullouts with gravel parking lots and minimal facilities to full service rest areas with heated buildings, paved parking areas, flush toilets, and a host of other travel amenities. Many of the rest stop areas along the North Shore serve as scenic overlooks or provide access to and contain markers indicating historic, cultural, geologic, or site interpretation opportunities.

### **2. Port Development Plans**

Port and harbor development is broken down into two types: commercial/industrial and recreational. The federal U.S. Army Corps of Engineers authorized navigation projects include the harbors of Duluth-Superior, Knife River, Two Harbors (Agate Bay), Beaver Bay (Northshore Mining), Schroeder (Taconite Harbor/LTV), and Grand Marais.

Although all the ports and harbors in the Minnesota coastal area are important to local and regional economies, the Duluth-Superior Harbor is the most significant shipping port in the region. The Duluth-Superior Harbor, “Twin Ports”, is the leading bulk cargo port on the Great Lakes, as well as one of the busiest in the nation. The Twin Ports is the farthest inland seaport in the world; 2,342 miles from the Atlantic Ocean; close to essential resources: grain, iron, ore, stone, and coal. The port occupies roughly 32 square miles and has more than 100 miles of waterfront. The harbor is protected by a natural barrier, a sand and gravel bar more than six miles in length, which is transected by the Duluth Ship Canal and the Superior Entry providing access to Lake Superior. The harbor is situated on the boundary between Minnesota and Wisconsin.

Approximately 40 million tons of bulk cargoes are shipped from the combined ports every season. In some years the total has reached 75 million tons. Approximately 113 docks and terminals at the harbor handle a variety of commodities including coal, grain, limestone, iron ore, petroleum, steel and scrap iron, cement, and general cargo. The channels and the two entries to the Twin Ports are maintained by the U.S. Army Corps of Engineers, Detroit District, which has an area office at Canal Park in Duluth.

The Duluth-Superior Harbor is normally dredged once a year at an average of 150,000 cubic yards between 1980-1994. Channel depths are maintained to a controlling depth of 27 feet or greater, referenced to International Great Lakes Datum (IGLD) 1955. Over a fifteen-year history, approximately 25 percent of the material dredged is classified as “clean,” making it suitable for beach nourishment and other beneficial uses. The balance of the material is classified as “contaminated,” needing a confined placement facility, unless treated. With an existing washing process in place, the material has been suitable for upland unconfined disposal.

During the period from the original harbor project up to present, the Corps dredged disposal methods have included open water placement and the creation of unconfined islands (such as Interstate Island, Hog Island, and Barker’s Island), and the creation of the Erie Pier confined disposal facility (CDF). As the existing Erie Pier CDF reaches its capacity within the next two to three years, the need for new material placement alternatives becomes essential.

In response to the requirements of Minn. Stat. ch. 103G and Minn. Rules 6115.0191, Subpart 5, port development and improvement is subject to a comprehensive port development plan. The Duluth Comprehensive Port Development Plan is applicable to those lands and waters within the municipal limits of the City of Duluth that are in or front upon the St. Louis River and estuary. The plan is a binding agreement on the City of Duluth, the Seaway Port Authority, and the Department of Natural Resources and sets specific procedures for ensuring the preservation of

designated natural areas, disposal of polluted dredged material in designated disposal sites, and conservation of lands suitable for water oriented commercial/industrial development adjacent to the harbor. The Plan is comprehensive because it geographically encompasses the Minnesota portion of the Duluth Harbor and is endorsed by the agencies directly responsible for land use planning and regulation within the harbor and estuary.

The Port Plan consists of specifically designated natural resource protection areas; designated dredged material disposal sites; a mitigation procedure; an inventory of wetlands within the harbor; a map of harbor front maps (lands zoned W-1, Waterfront District) dedicated for harbor dependent land uses; an inventory of mitigation sites; and a memorandum of understanding which specifies the plan goals and objectives, provides an environment of regulatory predictability, and establishes a format for periodic review.

The Duluth Comprehensive Port Plan is a memorandum of understanding (MOU) signed by the City of Duluth, Seaway Port Authority of Duluth, and the DNR. The Port Plan is binding on all three agencies, setting forth specific procedures for ensuring the preservation of designated natural areas, the disposal of dredged material, and the conservation of lands suitable for water oriented commercial/industrial development adjacent to the harbor, and providing a forum for joint discussion and formal comments on land use development issues in and adjacent to the St. Louis River and estuary (see appendix G for MOU).

In guiding land and water use activities within the port, the Port Plan establishes the following goals:

1. *Specify a site for a future contained disposal and reuse facility in Minnesota waters that all three signatories to the Memorandum of Understanding agreed to.*
2. *Prolong the useful life of existing contained disposal and reuse facilities by reusing the dredged materials therein.*
3. *Protect designated Natural Resource Protection Areas through the use of local land use authority and state regulations.*
4. *Carefully review non-surface water dependent development proposals on harbor front land adjacent to the navigation channel.*
5. *Any proposal for fill into the St. Louis River and estuary that is sponsored, supported, promoted, and/or authorized by the signatories must be for harbor-related surface water dependent land uses or a specific public purpose and will be subject to an environmental and regulatory permit process.*
6. *Acknowledge the value of wetlands, fish habitat, and aquatic communities in the estuary and adopt a policy of “no-net-loss” for these valuable habitat areas in the harbor through preservation, mitigation, and enhancement.*

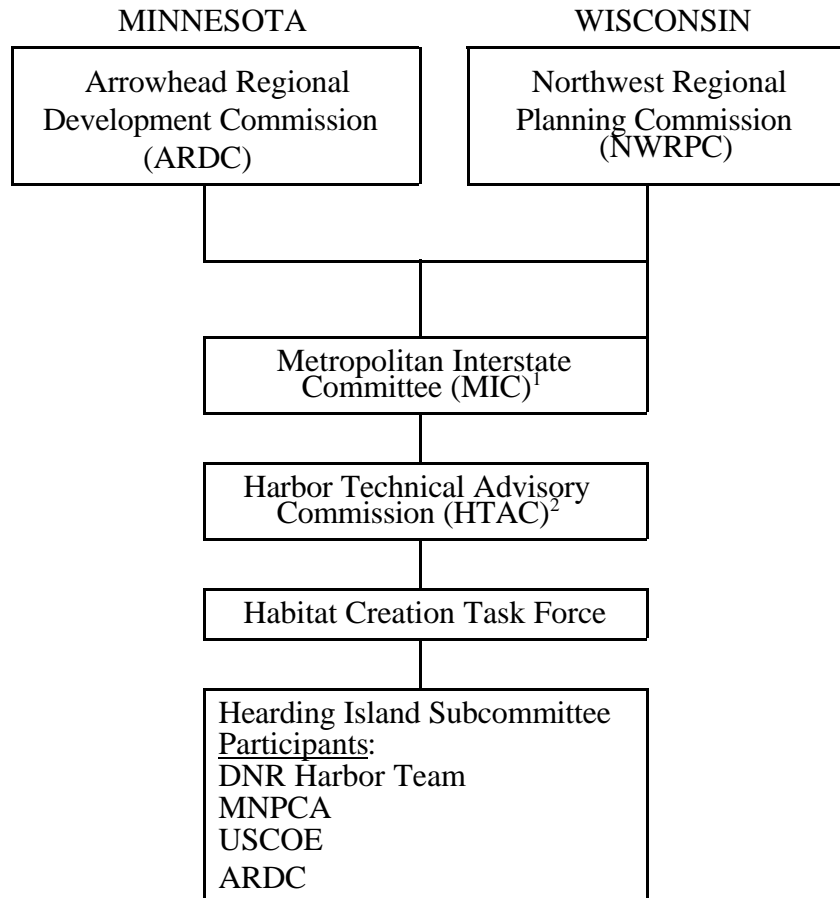
7. *Develop alternatives for disposal of unpolluted dredged materials that shall not threaten adjacent wetlands or other environmentally sensitive areas of the estuary.*
8. *Establish and/or support the existing framework of the Harbor Technical Advisory Committee of the Duluth-Superior Metropolitan Interstate Commission as the designated forum for advice and comment to the signatories on harbor management and development issues.*

The Port Plan consists of designated natural resource protection areas, designated dredged material disposal sites, mitigation procedures, an inventory of wetlands that serve as the baseline for establishing a “no-net-loss” policy for preservation, a map of harbor front lands, an inventory of mitigation sites, and a memorandum of understanding.

The mechanism used to implement the Port Plan is the existing framework of the Harbor Technical Advisory Committee (HTAC) of the Duluth-Superior Metropolitan Interstate Committee (MIC) (see Figure 11). The committee was formed to address issues related to the Duluth-Superior Harbor among which the placement of dredged material is a very high priority. Representatives on the HTAC include local and state agencies from Wisconsin and Minnesota.



Figure 11. Port Plan Implementation Mechanism.



<sup>1</sup> The **MIC** is the official metropolitan planning organization for the Duluth-Superior urbanized area and is responsible for transportation and harbor planning and coordination. The Committee is made up of elected officials from the cities of Duluth, Superior, Proctor and Hermantown; St. Louis and Douglas Counties; and surrounding townships.

<sup>2</sup> The **HTAC** is made up of representatives of public agencies which have a direct and active management role in the harbor. Groups and people representing marine industry, environmental interests, waterfront neighborhoods, marine unions, recreationists, and general public are notified of meetings. HTAC is an advisory body for MIC. HTAC operates under the guidance of the Comprehensive Port Development Plan developed by DNR, Seaway Port Authority of Duluth, and the City of Duluth.

### **3. The Duluth Downtown Waterfront Plan**

This plan was developed to guide the transformation of Duluth's waterfront from an industrial to tourism orientation. The plan addresses the two miles along Lake Superior and the Duluth Harbor basin between 14th Avenue West and 10th Avenue East. Tourist and other visitor-oriented development is identified as a priority with a strong emphasis on public access and preserving and protecting the scenic, historic, and aesthetic values of the waterfront. The land use plan seeks to encourage economic development with an emphasis on new tourist services and facilities, to provide for local resident requests for more attractive and convenient access to the waterfront, to make more use of the waterfront in the traditionally slow tourism months of November through April, and to encourage building and landscape design programs that reflect Duluth's traditional character and natural environment. The plan recommends rezoning the area to create a special district which allows a mix of residential and retail uses and to serve as the basis for the site plan review of proposed development. Site specific recommendations identify areas for preservation and protection. The plan also outlines the organizational strategy for plan management and implementation.

### **4. Endion Waterfront Plan and Development Strategy**

The Endion Waterfront Plan continues the work implemented in the Downtown Waterfront Plan and addresses the area from 12th Avenue East to the termination of the I-35 freeway at London Road, near 26th Avenue East. The plan for the Endion waterfront is designed to establish a long term master guide that enhances the land use elements and upgrades the character and image of the neighborhood. Recommendations for the Lake Superior shoreland area include maintaining and enhancing the natural landscape quality of the shoreline, including the major rock outcrops; providing an extension of the Lakewalk East Trail along the water's edge; and developing a public open space at the eastern end of the study area. Recommendations for plan implementation include area rezoning, land acquisition and retention, establishment of a Lakewalk extension, stabilization and clean up of shoreline, and trail construction.

### **5. The West Duluth Plan**

The West Duluth Plan is a comprehensive plan for the betterment of West Duluth. The planning boundary addressed in the plan was based on where changes were either taking place or expected to occur in the future. The area consists of most of the land mass below Grand Avenue between the ore docks and the Lake Superior Zoological Gardens. In addition, the triangular shaped area above Grand Avenue between Elinor Street and 59th Avenue West is a part of the plan study area.

The plan addresses neighborhood stabilization through rezoning, rerouting of nonresidential traffic, buffering, residential rehabilitation, street surfacing, and new housing opportunities. Public improvements include an expanded and upgraded Lake Superior Zoological Garden, extension of the Western Waterfront Trail from Fremont to the Irving area, the construction of a new fire hall/branch library building, development of the Oneota "Noise Pocket" area and the Oneota III

area east of 40th Avenue. Public access to the St. Louis River and bay is also addressed to allow West Duluth residents the opportunity to enjoy the natural resource values of the area.

#### **6. Two Harbors Waterfront Development Plan, 1991**

In 1991, the City of Two Harbors completed an update of their Waterfront Development Plan, originally prepared in 1978, in order to incorporate changes in development patterns, demographics, the regional and local economies, and opportunities. The plan was driven by the desire to achieve certain desired outcomes including strengthened links between the lake, waterfront, and community, to develop a recognizable image for the city, and to increase tourism/economic opportunities through a well-planned strategy of balanced land use. The plan addresses many issues including public access, marina construction, historic identification and preservation, and recreational trails and walkways. The plan outlines a management strategy for implementation of plan recommendations which specify actions and policies, including zoning ordinance amendment.

#### **7. Grand Marais Comprehensive Plan**

The Grand Marais Comprehensive Plan was established to create a framework for public and private decision making affecting the City of Grand Marais. The plan establishes land use districts, goals and policies, and development guidelines within the city. Below are land use areas described in the Grand Marais Comprehensive Plan that may be considered special management areas for the purposes of this program.

The Parks - Recreation/Protected Resources are areas, public and private, with outstanding or unique natural or scenic areas existing relatively free from human influence. They include areas that are archaeologically or historically significant. State parks and other public lands managed for resource conservation or recreation purposes are also included. The protected resource areas in Grand Marais are focused along Lake Superior. The types of uses that are generally compatible with these areas are nonstructural, such as park and recreation areas, hiking trails, and scenic areas. Specific examples are Artist's Point, the Coast Guard Station, Boulder Park, Beartree Park, Sweethearts Bluff, East Bay and harbor shoreline. The protected resource area is not intended to be a location of private enterprise and should remain as relatively free of development, and should be preserved as natural and scenic.

A harbor development area provides for water development and water-related commercial and water dependent, light industrial development that is compatible with the natural environment of Lake Superior. It also provides for reserving open space, harbor and lake views, public access, and the development of a public park system along the harbor. Commercial development along the harbor should be limited, water dependent, and not detrimental to the natural environment.

## **B. NATURAL RESOURCE PROTECTION AND MANAGEMENT**

### **1. Scientific and Natural Areas Program - SNAs**

To ensure preservation of Minnesota's invaluable legacy of land and all its biological diversity, the DNR established a state system of natural areas called the Scientific and Natural Areas Program.

Statement of Policy and Purposes:

- a. The legislature has provided for creation and establishment of Scientific and Natural Areas for the purpose of preserving, protecting and managing lands or waters possessing inherent natural values, including soils, waters or sediments, sites of scientific value, habitats of rare or endangered species of plants and animals, places of historic or prehistoric interest and scenic beauty, and areas uniquely suitable for teaching natural history and conservation.*
- b. The purpose of the rules is to provide for the use and protection of Scientific and Natural Areas for educational and research purposes in such manners and by such means as will leave them conserved for future generations.*
- c. The rules and regulations notwithstanding, the Commissioner of Natural Resources, his agents and employees, those persons operating under contract with the Department of Natural Resources, and law enforcement officers, may take such steps as may be necessary to enforce rules and regulations, and to establish, maintain, manage, and operate Scientific and Natural Areas. The rules and regulations notwithstanding, the Commissioner of Natural Resources also may suspend any one or more of such rules and regulations by written permit to a specific applicant or applicants for scientific or educational purposes. (Minn. Stat. §84.033 - Scientific and Natural Areas)*

The program is managed by the Minnesota DNR, Scientific and Natural Areas Program of the Section of Wildlife. SNAs are proposed, designated, and managed by the Department of Natural Resources with advice from the public through a citizens advisory committee.

State Scientific and Natural Areas are open to the public for nature observation, education and research. However, they are sensitive areas which could be damaged if misused or overused, therefore, activities such as picking flowers, hunting, snowmobiling, camping, and collecting rocks are generally prohibited.

Scientific and Natural Areas established within the Lake Superior watershed include, from south to north:

- C Hemlock Ravine, Carlton County, 50 acres; (late 1970s)
- C Moose Mountain, St. Louis County, 55 acres (1989);
- C Sugarloaf Point, Cook County, 3 and ½ acres (1992);
- C Lutsen Natural Area, Cook County, 720 acres (1991);

- C Butterworth Cliffs, Cook County, 53 acres (1981);
- C Spring Beauty Northern Hardwoods, Cook County, 400 acres, (1988);
- C Hovland Woods, Cook County, 280 acres (1992).

Efforts to establish management plans and/or habitat restoration proposals include:

- C Sugarloaf Point and Adjacent State Owned Lands Management Plan, Sugarloaf Interpretative Center (July 1993);
- C Sugarloaf Cove Habitat Restoration, Minnesota DNR (January 1997);
- C Butterworth Cliffs Management Plan, Minnesota DNR (January 1988);
- C Hemlock Ravine Management Plan, Minnesota DNR (March 1985).

Proposed Scientific and Natural Areas within the coastal boundary from south to north include:

- C Magney Hardwoods, St. Louis County, 400 acres (1986);
- C Iona's Beach, Lake County, 20 acres (1995).

Additional information or a copy of the book, A Guide to Minnesota's Scientific and Natural Areas can be obtained by contacting the Minnesota Department of Natural Resources, Scientific and Natural Areas Program (612) 296-3344 or writing to: DNR, 500 Lafayette Road, St. Paul, MN 55155-4031.

## **2. State Wildlife Management Areas**

The state Wildlife Management Areas (WMA) are acquired and managed for three primary reasons: wildlife production, public hunting, and trapping. The goal of acquiring wildlands is to preserve these unique areas for future generations. These lands belong to the public and are maintained by the DNR Division of Fish & Wildlife for recreational use. The Save Minnesota's Wetlands Program was initiated in 1951. Wildlands acquired and developed under this program were paid for by hunting licenses, a surcharge on the small game license, cigarette tax money administered by the Legislative Commission on Minnesota's Resources (LCMR), state bonds, and Pittman-Robertson federal aid funds (derived from a special tax on sporting arms and ammunition). A list of the WMAs in Minnesota's coastal area is below.

### Lake County

- C Caribou Falls WMA, 305 acres
- C Little Marais WMA, 295 acres

### Cook County

- C Leveaux WMA, 80 acres

### St. Louis County - Duluth Harbor

- C Hearing Island WMA 30 acres
- C Interstate Island WMA 8 acres

### **3. Sensitivity of Coastal Environments and Wildlife to Spilled Oil, Lake Superior, Vol. 1**

Environmental sensitivity maps for Lake Superior were created in a multiagency collaborative effort and include three main components: shoreline habitats, sensitive biological resources, and human-use resources. The Environmental Sensitivity Index ranks shoreline environments as to their relative sensitivity to oil spills, potential biological injury, and ease of cleanup. The key biological resources of the area that are most likely at risk in the event of an oil spill are depicted on the maps. The four categories of biological resources are birds, fish, plants, and mammals. Many different human-use features are depicted on the maps and include those that would either be impacted by an oil spill, would provide access to the cleanup operations, or both. Human-use features include access-sites, airports, aquaculture sites, known archeological sites, boat ramps, campgrounds, Coast Guard stations, commercial fisheries, ferry locations, historical sites, hoists, marinas, national parks, Native American lands, recreational beaches, state parks, water intake sites, and wildlife areas.

The entire atlas product is stored in digital form in a geographic information system as maps and associated databases. The maps are available to state or local agency personnel identified as potential responders to a cleanup operation.

The environmental sensitivity atlas was prepared for NOAA's Hazardous Materials Response and Assessment Division and Ninth Coast Guard District, U.S. Coast Guard, Cleveland, Ohio. Funding was provided by the U.S. Coast Guard. Additional information can be obtained by contacting NOAA at (216)522-7760.

### **4. Important Habitat Data in the Minnesota Portion of the Lake Superior Basin, 1995**

The Important Habitat in the Lake Superior Basin, 1996 Report and accompanying map was prepared by the DNR, Division of Fish and Wildlife, Section of Ecological Services for the Lake Superior Binational Program. It is based on previously existing data. A comprehensive inventory has never been done in the Lake Superior watershed. These sites, therefore, likely represent a subset of the areas of important habitat in the watershed. A systematic and comprehensive ecological inventory is needed in this region.

This report also summarizes a preliminary process to identify and describe known sites or important habitat in the Minnesota portion of the Lake Superior watershed. In A Binational Program to Restore and Protect the Lake Superior Basin (September 1991) the governments agreed to undertake the following actions:

Action: The governments will inventory habitats in the basin.

Action: The governments will continue the habitat reclamation projects currently underway to restore fisheries and wetlands in areas of concern, and in the United States portion of the basin, and other impacted areas, where appropriate.

More than 130 sites and subsites in the Lake Superior watershed have been identified as possessing important habitat features. One megasite, the Lake Superior Highlands ecosystem, covers more than 1.2 million acres and encompasses most of the sites whose ecology is heavily influenced by Lake Superior. This ecosystem has been designated a priority landscape for conservation action by the DNR and the Nature Conservancy. Other sites range from large, complex and heavily developed estuaries (i.e., the St. Louis River estuary) to small, but significant sites, where wood turtles or peregrine falcons nest. Seventy-eight of the sites have been ranked either high or medium priority for conservation action. Remaining sites are ranked lower priority or are unranked.

Information relating to areas of important habitat in Minnesota is abundant and diverse. The interest in identifying and protecting the natural heritage of Minnesota and the Lake Superior Watershed is not new. However, systematic and comprehensive data on the relative quality and quantity of natural habitats in the Lake Superior watershed are lacking. The Minnesota Department of Natural Resources is developing partnerships that will enable the critical process of a comprehensive natural community survey through the County Biological Survey of the Natural Heritage Program.

Other ongoing activities continue to add to the base of information available on the status of habitat in the Lake Superior basin. For example, the County Biological Survey is initiating a pilot study for testing and refining survey techniques in Minnesota's forested landscape. The Natural Resources Research Institute, Center for Water and the Environment (NRRI-CWE) is studying arctic disjunct plant communities. The DNR, USFWS and NRRI-CWE are cooperating to inventory Lake Superior substrate types and lake trout spawning sites.

Our current understanding of habitat in the Lake Superior watershed is based on scattered and fragmented information. Many of the most useful and comprehensive reports on Lake Superior habitat features (e.g., Green and Green 1975, Goodyear et al. 1982, Herdendorf et al. 1981) are either out of print or were never widely distributed. Site Basic Records, a standardized format for recording data about significant sites, are available for a small fraction of the sites. This report summarizes previously existing information as one part of an effort to understand and communicate to others, the status of habitat in the Lake Superior watershed not only in Minnesota, but also in the states of Wisconsin, and Michigan, and the province of Ontario.

For more information about the Lake Superior Binational Program and its habitat projects, contact: Minnesota Department of Natural Resources, 500 Lafayette Road, St. Paul, MN 55155-4020 or call (612)297-1308, fax: (612)297-7272.

## **5. County Biological Survey**

***Project Purpose:*** The Minnesota County Biological Survey (MCBS) began in 1987 in response to the need to assess biological diversity in Minnesota. The goal of the survey is to identify significant natural areas and to collect and interpret data on the distribution and ecology of natural communities, rare plants and rare animals. This information serves as a foundation for the management and conservation of areas of ecological significance.

**Procedure:** MCBS uses a multi-level survey technique beginning with air photo interpretation followed by air and ground surveys. Data are entered into the Department of Natural Resources Natural Heritage Information System that now includes twenty-two databases, and the computer mapping capabilities of an ARC/INFO geographic information system.

**Status:** To date, the survey has been completed in 23 counties, and is underway in eleven. Since 1987, more than 6,000 new locations of rare features have been recorded. Survey results are now available in computerized map format for 12 counties. The survey results have significantly contributed to the knowledge of the status and distribution of the state's flora, fauna and natural communities. Eight species of native plants and two species of amphibians not previously documented in Minnesota have been recorded by MCBS.

**Cooperators:** The survey coordinates with other biodiversity related projects. One example is a cooperative agreement with the Chippewa National Forest to conduct rare species and natural community surveys to enhance the development of an ecological classification system. A cooperative project with the Agassiz Environmental Learning Center in Polk County that provided data for the Polk County Highway Department on roadside locations of the federally threatened prairie fringed orchid (*Platanthera praeclara*) is another example.

**Funding:** Funding for the MCBS comes primarily through the Minnesota Environment and Natural Resources Trust Fund with lesser amounts from general fund revenues and various cooperative agreements.

**Start/Finish Dates:** The Minnesota County Biological Survey was initiated in 1987 with projected completion for the entire state by 2015.

**Project Contact:** Minnesota County Biological Survey Supervisor, Box 7, Lafayette Road, St. Paul, MN 55155, (612) 296-9782.

### **6. Minnesota Natural Area Register**

Lands selected for inclusion on the Minnesota Natural Area Register are representative of Minnesota's original landscape and contain outstanding ecological features such as unique plant communities, rare plant and animal species, and significant geological sites. The Minnesota Natural Area Register recognizes tracts of public land that contain natural features of statewide ecological significance and honors those agencies and individuals that manage those lands to protect and perpetuate the features of interest. The following represent register tracts within the coastal area:

- C Yellow Birch Natural Area, Lake County, 130 acres (1976)
- C Lake Agnes Northern Hardwoods, Cook County, 80 acres (1987)
- C South Fowl Lake Cliff, Cook County, 5 acres (1985)



## **7. St. Louis River Management Plan**

Lake Superior contains about 10 percent of the world's fresh surface water supply. This enormous lake is supplied by direct precipitation and the 366 tributaries which drain its watershed. One of the most important tributaries on the American side of Lake Superior is the St. Louis River. Not only is the St. Louis River estuary home to one of the largest population centers on Lake Superior, but its discharge into Lake Superior is second only to that of Canada's Nipigon River. The St. Louis River drains a region of approximately 3,600 square miles in northeastern Minnesota and northwestern Wisconsin. It has two major tributaries, the Cloquet and Whiteface Rivers.

The St. Louis River Management Plan, approved Feb, 1994, was developed to protect the river system's natural beauty, environment and cleanliness balanced by the recreational opportunities, existing and future developments and land management practices. The need to take immediate action to protect the river from large-scale development became necessary when Minnesota Power decided to sell much of its riparian land holdings, which had been purchased to ensure water levels for its hydroelectric dams.

The Plan recognizes the authority of local units of government to administer this plan through zoning ordinances or land use plans. The plan may provide for: standards and criteria for the wise use; protection and appropriate development of adjacent lands; recreational use of the river and adjacent lands; donation or public purchase of critical lands or interest in land in the public interest; the sound management of public lands along these rivers; strong cooperative planning and management agreements with the Fond du Lac Reservation Business Committee for the wise management and protection of lands within its jurisdiction, and the identification of significant historical and archeological sites along the rivers.

The St. Louis River Board: The St. Louis River Board (SLRB) was formally established as a Joint Powers Board in March of 1991. Membership consists of elected officials from St. Louis, Carlton and Lake counties, 6 representative and 6 alternates representing 52 townships and the Fond du Lac Reservation Business Committee. The purpose of the SLRB is to formulate a comprehensive management plan for the environmental protection and wise use of the St. Louis, Cloquet and Whiteface Rivers, and adjacent lands from their headwaters to the Fond du Lac Dam in St. Louis County. The management responsibility is jointly shared by the counties, townships, cities and Fond du Lac Reservation exercising land use control and jurisdictions within the river corridor.

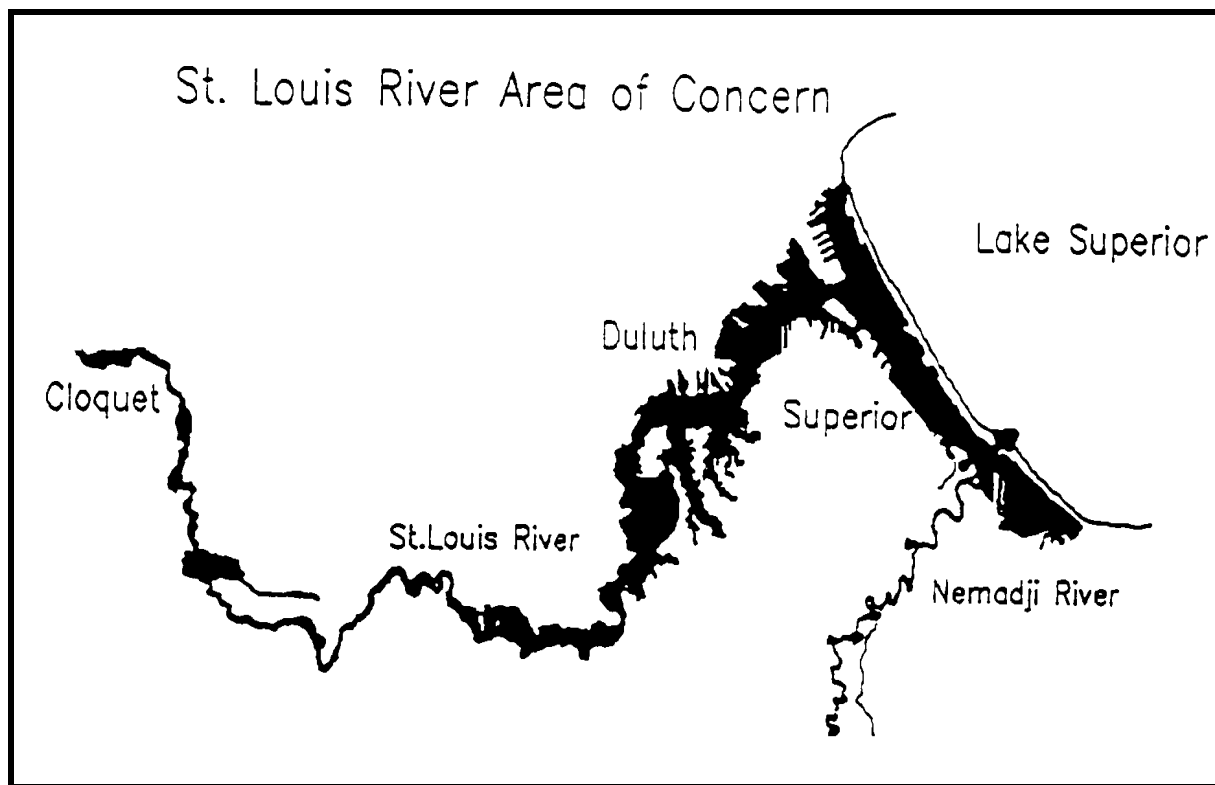
## **8. The St. Louis River System Remedial Action Plan**

The Remedial Action Plan (RAP) process was the result of the International Joint Commission's (IJC) efforts to halt the degradation of the water quality in the Great Lakes. After the signing of the 1978 Great Lakes Water Quality Agreement between Canada and the United States, the IJC identified and designated 43 areas of concern (AOC). The IJC requested that the Minnesota Pollution Control Agency and Wisconsin DNR develop a RAP which identified specific

management strategies to control sources of pollution, abate environmental contamination already present, and restore beneficial uses in the AOC.

Remedial Action Plans (RAPs) were established as one of the principal mechanisms to implement provisions of the 1972 Water Quality Agreement and to address the most severely impacted geographic areas around the Great Lakes basin. The plans embody a comprehensive ecosystem approach and include substantial citizen participation. The St. Louis River system area of concern (AOC) refers to the geographic area being addressed by the RAP, without naming all of the individual regions and waterways it represents. The St. Louis River system RAP primarily focuses on the St. Louis River below Cloquet, including St. Louis Bay, Superior Bay, Allouez Bay, and the lower Nemadji River.

Figure 12. Map of the St. Louis River Area of Concern.



The principal goal of the St. Louis River System Remedial Action Plan Stage I Report, April 1992, is to characterize the environmental condition of the St. Louis River area of concern. The document is essentially a “state of the river” report on the environmental integrity of the St. Louis River and western Lake Superior, synthesizing diverse pieces of information into a composite picture of ecosystem health. The report addresses each of the International Joint Commission’s 14 impaired use categories which serve as indicators of past actions and of the biological, physical, and chemical status of the resource.

The Stage II Report represents detailed recommendations which outline the specific actions necessary to restore and/or protect natural resource values. This report lists the impaired uses and environmental problems in the area of concern, the recommendations developed and actions taken to restore these impaired uses, and future actions that are needed. It discusses the strategy for implementing recommendations and the progress that has been made toward meeting the RAP goals defined in Stage I.

St. Louis River Citizens Action Committee: The St. Louis River Citizens Action Committee (CAC) is a locally responsive nonprofit organization formed to protect and restore the St. Louis River and western Lake Superior. The St. Louis River CAC has a history of working to restore and protect the St. Louis River. As indicated above, originally established in 1989, the predecessor group provided guidance to the Minnesota Pollution Control Agency and Wisconsin Department of Natural Resources on the St. Louis River Remedial Action Plan (RAP). More than 260 people participated in the development and implementation of the plan. Some key actions precipitated by this plan include purchase and preservation of 7,000 acres of riparian lands, Miller Creek storm water protection efforts, and the extension of sewer service to Oliver, Wisconsin. The St. Louis River CAC will continue its role into the future by actively promoting watershed management and sustainable development concepts.

Up to 40 volunteer board members are authorized by the St. Louis River CAC's bylaws. Nominees are selected such that no single interest achieves numerical dominance. Since government plays a critical role in land use and natural resource management, membership is specifically granted for representatives of the MPCA, Wisconsin DNR, Minnesota DNR, and other state, local, and federal units of government.

## **9. The Nature Conservancy (Minnesota Chapter)**

The Minnesota Chapter of the Nature Conservancy, founded in 1958, is a statewide organization with more than 19,000 members. As a conservation organization, the Nature Conservancy protects ecologically significant lands through acquisition, gifts of land, management agreements, conservation easements and voluntary land protection.

### **a. Efforts in the Lake Superior Highlands**

Tettegouche State Park nearly doubled in size through a complex land exchange engineered by the Conservancy. The 2,800 acre Palisade Valley, a unique old-growth forest and wetland complex, has permanent protection within the Lake Superior Highlands ecosystem.

During the summer of 1996, the Conservancy negotiated the acquisition of 3,280 acres of lands in and around the Swamp River watershed in eastern Cook County. This area is a mix of forested tracts containing a variety of mature, late successional and old-growth stands and wetland portions representing the largest marsh in northeastern Minnesota.

**b. Susie Island Francis Lee Jaques Memorial Preserve**

This island preserve, located offshore near Grand Portage, was acquired by the Conservancy in 1988. Rare communities of plant species including 400 species of lichens thrive on the island which is the largest of 13 small, rocky islands jutting out of Lake Superior.

**10. The Trust for Public Land - Midwest Region**

The Trust for Public Land (TPL) is a nonprofit corporation which acts in the public interest to acquire property, easements or other interests in land for the purpose of public use and enjoyment.

Efforts in the Lake Superior Highlands: The TPL received Cook County property from Consolidated Paper, Incorporated on June 1, 1989 in a quit claim deed. The TPL approached the Minnesota Department of Natural Resources in the summer of 1989 with an offer to donate portions of this land for natural resource-related activities including development of a portion of the North Shore Trail.

**11. Minnesota Land Trust**

The Minnesota Land Trust (MLT) is a membership-based, nongovernmental, non-profit organization funded solely through membership dues and donations from individuals, businesses and foundations. The mission of the Minnesota Land Trust is to promote the protection and enhancement of open space including farmland, wetlands, woodlands, bluff land, wildlife habitat and scenic areas in Minnesota.

Minnesota Land Trust conservation easements are legally binding agreements that place perpetual limits on the level of development that can occur on a landowner's property. If land ownership ever changes, the new owners are obligated to abide by the easement terms. With all MLT conservation easements, the terms are adapted to reflect the landowner's personal goals and unique situation.

Efforts in the Lake Superior Highlands: Several conservation easement projects have been completed along the Lake Superior Highlands. In addition, there are several conservation easement projects currently being processed.

**a. Completed Projects**

- C Hartwell: 20 acres of Lake Superior shoreline near Beaver Bay (conservation easement)
- C Ulland: .5 acre island near East Beaver Bay (fee title in MLT)
- C Dunn: 40 acres on Caribou Lake, north of Lutsen (conservation easement)
- C Grand Marais: 60 acres on Lake Superior in city limits (conservation easement)

**b. In Process (All Conservation Easements)**

- C 35 acres of Lake Superior shoreline near Silver Bay
- C 65 acres of Lake Superior shoreline near Schroeder
- C 20 acres of Lake Superior shoreline near George Crosby-Manitou State Park
- C 5 wooded acres adjacent to Girl Scout Camp near Duluth (including the creek which drains into Lake Superior)
- C A few other 40+ acre parcels at least 5 miles inland from the lake, in Lake and Cook counties.

## C. RECREATION AND WATER ACCESS

### 1. Shorefront Access and Protection Planning

According to the CZMA, Section 306(d)(2)(G), a state is required to have management programs that include a “definition of the term “beach” and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, aesthetic, ecological, or cultural value.”

**Definition of “beach”:** The North Shore is considered quite rugged compared to areas along the South Shore of Lake Superior, the other Great Lakes, and other coastal waters of the U.S. and its territories, therefore, the term “beach” has significantly different meaning in Minnesota than in Michigan, Massachusetts, or Florida. Minnesota does not have a definition of “beach” in laws or rules pertaining to land use or protected waters management. Instead, the state relies on the definition of Beds of Protected Waters (all portions of protected waters below the ordinary high water mark) and Ordinary High Watermark (the boundary of protected waters) to manage protection of waters. Along the Lake Superior shoreline, the regulatory jurisdiction of the North Shore Management Plan and local zoning includes the land above the permanent vegetation line. Any activities carried out at or below the permanent vegetation line are regulated by the DNR Waters through Minn. Stat. ch. 103G.

Designation of waters as public (protected) waters and DNR permit protection to ordinary high water mark provides no greater public access or use. See Minn. Statute §103G.205.

**Planning Process for Protection and Shorefront Access:** Minnesota’s shorefront access programs enable the public many opportunities to enjoy Lake Superior and its shorelines. Programs at the state and local level provide the planning process and mechanisms to ensure that the public will be able to participate in inventorying and identifying priority shorefront access opportunities. The different types of access addressed include boater access, state parks, wayside rests, and trail systems. Although boater access and development of safe harbors has received much attention, efforts are also concentrated on providing the public with access to scenic vistas, historic sites, and the shoreline. The enabling legislation and specific programs that are implemented to provide shorefront access are identified and discussed below in this section.

#### ***Enabling Legislation:***

##### Chapter 86A-Outdoor Recreation System, §86A.02 Policy

*Subdivision 1. The legislature finds that the unique natural, cultural, and historical resources of Minnesota provide abundant opportunities for outdoor recreation and education, and finds that these opportunities should be made available to all citizens of Minnesota now and in the future.*

*Subdivision 2. The legislature further finds that the preservation and proper utilization of Minnesota’s outdoor recreational resources is becoming increasingly important to the*

*health, welfare, and prosperity of the citizens of Minnesota due to the growing demand for outdoor recreational facilities and the spread of development and urbanization in the state.*

*Subdivision 3. The legislature further finds that the outdoor recreational needs of the people of Minnesota will be best served by the establishment of an outdoor recreational system which will (1) preserve an accurate representation of Minnesota's natural and historical heritage for public understanding and enjoyment and (2) provide an adequate supply of scenic, accessible, and usable lands and waters to accommodate the outdoor recreational needs of Minnesota's citizens.*

*Subdivision 4. Nothing in Sections 86A.01 or 86A.11 shall be deemed or construed to abolish, repeal or negate any of the ongoing program, approved by law, or the authority or activities of the Commissioner of Natural Resources in improving, maintaining and developing fishing, hunting, or other recreational activities conducted upon the public waters and lands of the state or on private lands in cooperation with the owners thereof, except as the uses of the lands or waters may be in express conflict with the provisions of Sections 86A.01 to 86A.11.*

*Subdivision 5. The legislature hereby determines that the establishment of an outdoor recreation system will serve these needs and will thus serve a valid public purpose for the people of this state.*

Chapter 361-Waters and Watercraft Safety, §361.01 Policy of State

*It is the policy of this state, which is blessed with an abundance of water, to promote its full use and enjoyment by all of the people, now and in the future, to promote safety for persons and property in connection with the use of the waters of the state, to promote uniformity of laws relating to such use and to conform with any requirements of the United States relating thereto.*

### 2. Harbors/Marinas and Water Access

Stakeholders in the state have been discussing the needs, benefits and negative impacts of marinas, harbors of refuge, lake access sites, and related recreational boating issues for years. There has generally been agreement between stakeholders on the placement and number of harbors of refuge and boat ramps needed to provide opportunities for recreation in a safe and sustainable manner. Lake Superior is a unique resource in that the shoreline is rugged and provides very little natural safe haven for boaters during storm events. Because of the value citizens place on the natural, undisturbed condition of many shoreline areas, and the need to provide access and protection, conflicts often result. Boater access to Lake Superior and related facilities including parking lots and boat ramps is a high priority in Minnesota. The Safe Harbors Program researched and selected sites for quick removal or safe shelter of boats during storms. These areas are usually on the edge of urban areas, near other marinas, where public access is a possible consideration.

Along Minnesota's Lake Superior shoreline, there are presently nine marinas and operations/facilities. There are six marinas which provide 388 seasonal slips and 27 transient slips. Three of those are outside of Duluth and provide 115 seasonal slips and 27 transient slips. A recreational harbor of refuge at Silver Bay is being completed, and planning for additional harbor of refuge facilities is underway for Two Harbors and Taconite Harbor. The creation of these facilities along Minnesota's North Shore between Knife River and Grand Marais, a distance of about 90 miles will improve opportunities for safe recreational boating on Lake Superior.

A number of planning efforts are underway to develop or expand protected boat accesses, harbors of refuge and other facilities. Boat access and recreational harbors are shown in Table 24 on page 27 in this chapter.

The authorities used to regulate the physical development of recreational harbors, marinas, and lake access facilities are the same as those identified in Coastal Water Management (Part V, Chapter 3, Section B). These include: Minn. Stat. ch. 103G, which requires a protected waters permit for marinas (mooring for boats or watercraft in excess of five watercraft), boat ramps, and excavation or structural encroachment below the ordinary highwater mark; Minn. Stat. ch. 104F, which gives authority to DNR Waters for management of the state's Shoreland Management Program; Minn. Stat. ch. 394, and Minn. Stat. ch. 462, is the authority given to local government units for management of land and water uses through the North Shore Management Plan and local land use ordinances.

***North Shore Harbor Plan:*** At the local level, the NSMB, a joint powers board consisting of county, city, and township government, created to direct development of a North Shore Management Plan (NSMP), has developed the North Shore Harbor Plan. This plan identified the feasibility and locations of nine safe harbors and public accesses on the North Shore of Lake Superior for recreational boating. The North Shore Harbors Plan identified a list of siting criteria for developing harbor facilities and public accesses along Lake Superior. A key consideration for evaluating each location is that harbor development is sensitive to environmental concerns, natural resource areas, and areas of natural or historic interest. Additional analysis of each location has placed a great deal of emphasis on



potential aesthetic and environmental impacts. Strong opposition to locating facilities in sensitive areas were a major factor in determining possible site selection. One of the goals of the plan is to encourage redevelopment and expansion of existing marinas and harbors. A number of surveys were conducted and a steering committee formed to evaluate the need and potential placement of harbors and facilities. The NSMB and the Citizens Advisory Committee continue to provide leadership in implementing the plan. The DNR - Division of Trails and Waterways provided assistance in developing the plan and is also assisting in implementing the plan through technical and financial assistance.

***Lake Superior Safe Harbors, Site Planning Process and Assistance Program Instruction***

***Manual:*** The NSMB with assistance from the DNR - Division of Trails and Waterways developed the manual in September 1991. This document outlines a site planning process and assistance program through the NSMB and the DNR. Implementation assistance is available to the local units of government which comprise the NSMB, or any other unit of government as approved by the NSMB, for developing specific site plans for the harbors identified and approved in the North Shore Harbors Plan. The relationship between the DNR, NSMB, and the local units of government is a partnership, where DNR provides funding and broad direction based on a legislative mandate but relies on the NSMB and its local constituency to develop local decisions.

***State Water Access Site Program:*** The DNR - Division of Trails & Waterways has the authority to implement the state Water Access Site Program. In keeping with the Outdoor Recreation Act of 1975, the DNR has established goals, policies, and objectives for assuring consistency in the selection and management of water access sites where the DNR has a proprietary interest, but not necessarily in fee ownership of land. In the Lake Superior coastal area, the regional trails and waterways coordinator is responsible for the implementation of the Water Access Program. The primary goal of the program is to establish adequate road access, parking facilities, and a boat launching ramp. Uses such as camping, picnicking, swimming, water skiing, and toilet and trash facilities are developed only when justified and when not in conflict or interfering with the launching of watercraft. The DNR coordinates all activities relating to access priorities, development, acquisition, and management with other units of government as appropriate such as county, city, regional development commission, and MNDOT. The acquisition, development, and maintenance of public water access sites are funded from the budget of the Water Access Program.

***Other Legislation:***

Minnesota Stat. Ch. 86A, Outdoor Recreation System (Outdoor Recreation Act of 1975), establishes an outdoor recreation system which preserves an accurate representation of Minnesota's natural and historical heritage for public understanding and enjoyment, and provides an adequate supply of scenic, accessible, and usable lands and waters to accommodate the outdoor recreational needs of Minnesota's citizens. State water access sites are established as one component of this outdoor recreation system.

Minnesota Stat. §86A.20, Lake Superior Safe Harbors Program, provides authority to the DNR - Division of Trails and Waterways to acquire, construct, and maintain small craft harbors, channels, and facilities for recreational watercraft. Pursuant to Minn. Stat. §86A.22, counties,

## CHAPTER FOUR

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townships, and cities on Lake Superior are authorized to enter into agreements with the DNR to accomplish the goals of providing safe watercraft facilities.

Minnesota Stat. §97A.141, Public Water Access Sites, authorizes the DNR to acquire access sites adjacent to public waters and easements and rights-of-way necessary to connect the access sites with public highways.

Table 24. Boat Access on Lake Superior in Minnesota.

NAME (miles from Duluth)	PUBLIC OR PRIVATE	HARBOR TYPE	SLIPS/ DOCKS	MARINA SERVICE	FEE	IMPROVEMENT/ EXPANSION PLANS
RICE'S POINT (0)	PUBLIC, DNR	OPEN, ST. LOUIS BAY	NONE	NONE	NO	PAVE SECOND LOT
PARK POINT REC. AREA (0)	PUBLIC, CITY OF DULUTH	OPEN, ST. LOUIS BAY	NONE	NONE	NO	NONE
HARBOR COVE MARINA (0)	PRIVATE					
McQUADE ROAD (9)	THIS SITE IS IN THE PLANNING STATE. CONSTRUCTION FUNDING IS BEING SOUGHT.					
KNIFE RIVER (18)	PUBLIC, LAKE CO.	INLAND DREDGED	YES, 95 SLIPS	YES	YES	EXPANDED SLIPS & SERVICES BEING STUDIED
AGATE BAY (TWO HARBORS) (25)	PUBLIC, DNR/TWO HARBORS	BREAKWATER COMMERCIAL SHIPPING	LIMITED, BREAKER MOORING	NONE	NO	SMALL CRAFT HARBOR & MARINA SERVICE BEING STUDIED
BURLINGTON BAY (26)	PUBLIC, DNR	OPEN, BAY	NONE	NONE	NO	NONE
TWIN POINTS RESORT (39)	PUBLIC	CRIBDOCK, PROTECTED ACCESS	FLOATING AND CRIBDOCK	NONE	NO	PROTECTED ACCESS IN PLANNING PROCESS EXPECTED COMPLETION IN SUMMER OF 1999.
RAGNALD SVE (41)	PRIVATE	OPEN	NONE	NONE	YES	NONE
EAST BEAVER BAY (49)	PRIVATE	OPEN	NONE	NONE	YES	NONE
SILVER BAY (50)	PUBLIC, DNR	BREAKWATER	160 UNDER CONSTRUCT ION	NONE	NO LAUNCH YES SERVICES	MARINA SERVICE TO BE ADDED IN 1999.
FENSTAD'S RESORT	PRIVATE	PROTECTED BREAKWATER	LIMITED MOORING	NONE	YES	BREAKWATER REPAIR/ IMPROVEMENTS
TACONITE HARBOR (73)	This site is in the planning and assessment stages of a 2.5 acre harbor with launching facilities by the DNR.					
SCHROEDER TOWN LAUNCH (76)	PUBLIC, SCHROEDER	OPEN	NONE	NONE	NO	NONE
TOFTE MUNICIPAL LAUNCH (79)	PUBLIC, TOFTE	SMALL BREAKWATER	NONE	NONE	NO	SMALL IMPROVEMENTS TO RAMP, DOCK & PARKING WAVE PROTECTION
GRAND MARAIS REC. AREA (106)	PUBLIC, GRAND MARAIS	BREAKWATER	LIMITED	SOME	NO	SOME PROPOSALS TO EXPAND MARINA & HARBOR.
GRAND MARAIS (106)	PUBLIC, DNR/CITY	BREAKWATER	NONE	NONE	NO	INCORPORATE W/ REC. AREA MARINA
HOVLAND TOWN LAUNCH (124)	PUBLIC, HOVLAND	OPEN	NONE	NONE	NO	NONE
HORSESHOE BAY (126)	PUBLIC, DNR	OPEN, BAY	NONE	NONE	NO	
GRAND PORTAGE MARINA (140)	PRIVATE, GRAND PORTAGE BAND	DREDGED INLAND	YES, 22	YES	YES	PROPOSALS TO EXPAND MARINA SERVICES & HARBOR SIZE.
VOYAGEUR'S MARINA (143)	PRIVATE	OPEN, BAY	LIMITED, 6-12 SLIPS	YES	YES	PLANS TO EXPAND SLIPS, BUILD BREAKER, PENDING PERMITS

### **3. State Parks**

The Outdoor Recreation Act (ORA), Minn. Stat. ch. 86A, was authorized to provide organizational direction to the Minnesota State Recreation System. Minnesota state parks are a part of this recreation system. State park staff are primarily responsible for managing three recreational unit classifications: state parks, state recreational areas, and additional parks. Minnesota Stat. ch. 86 provides the authorities, purpose, resource and site qualifications, and administration of the three unit classifications. The mission of the Division of Parks and Recreation is to “work with the people of Minnesota to provide a state park system which preserves and manages Minnesota’s natural, scenic, and cultural resources for present and future generations while providing appropriate recreational and educational opportunities.”

Along the North Shore of Lake Superior there are outstanding recreational, scenic, cultural, and natural resources. The state parks along the shore have some of the highest use rates in the state park system, and are managed to accommodate intense visitor use. Some large portions of parks contain sensitive natural resources and are managed so as not to detract from their natural beauty. There are 15 state parks, including former state waysides, within the Lake Superior area from Jay Cooke State Park along the St. Louis River in Carlton County to Grand Portage State Park along the Pigeon River on the Canadian border (see Part III, page 18). These parks provide overnight facilities, trails, summer recreation, winter recreation, and visitor services (see Figure 4).

State parks are established “to preserve, perpetuate, and interpret natural features that existed in the area of the park prior to settlement and other significant natural, scenic, scientific, or historic features that are present. Management shall seek to maintain a balance among the plant and animal life of the park and to re-establish desirable plants and animals that were formerly indigenous to the park area but are now missing. Programs to interpret the natural features of the park shall be provided. Outdoor recreation activities to utilize the natural features of the park that can be accommodated without material disturbance of the natural features of the park or the introduction of undue artificiality into the natural scene may be permitted. Park use shall be primarily for aesthetic, cultural, and educational purposes, and shall not be designed to accommodate all forms or unlimited volumes of recreational use. Physical development shall be limited to those facilities necessary to complement the natural features and the values being preserved.”

State recreation areas are managed “primarily to provide as broad a selection of opportunities for outdoor recreation as is consistent with maintaining a pleasing natural environment. Scenic, historic, scientific, scarce, or disappearing resources within state recreation areas shall be recommended for authorization as historic sites or designated Scientific and Natural Areas pursuant to §86A.08 to preserve and protect them. Physical development shall enhance and promote the use and enjoyment of the natural recreational resources of the area.”

Park plans have been developed for individual parks in the area by park planning staff pursuant to Minn. Stat. ch. 86A. After a park resource inventory is completed, planning staff recommend a park classification according to the resources present and the ability of those resources to tolerate visitor use. Individual park management plans include:

☐ Gooseberry Falls	☐ Cascade River
☐ Split Rock Lighthouse	☐ Judge C. R. Magney
☐ Tettegouche	☐ Grand Portage
☐ George Crosby Manitou	☐ Jay Cooke
☐ Temperance River	

Subunits within state parks in the Lake Superior watershed include state trails, state scientific and natural areas, state water access sites, and state rest areas. The administration of these subunits is coordinated with appropriate state agencies and other DNR disciplines including the Department of Transportation (MNDOT), DNR Trails and Waterways, and the DNR Division of Fish and Wildlife.

***Division of Parks and Recreation:*** The establishment of state parks, state recreation areas, and additional parks is based on meeting the criteria of the resource and site location qualifications listed in Minn. Stat. ch. 86A. The Commissioner of Natural Resources is responsible for the administration of these units.

***Enabling Legislation:***

Minnesota Stat. §85.011 Confirmation of Creation and Establishment of State Parks, Monuments, Recreation Reserves, Waysides. The legislature of this state has provided for the creation and establishment of state parks, designated monuments, state recreation reserves and state waysides for the purpose of conserving the scenery, natural and historic objects and wildlife and to provide for the enjoyment of the same in such a manner and by such a means as will leave them unimpaired for the enjoyment of future generations.

The establishment of such state parks, designated monuments, state recreation reserves and waysides are hereby confirmed as provided in this Section and §85.012 and 85.013 and they shall remain perpetually dedicated for the use of the people of the state for park purposes.

#### **4. Trail Systems**

There are many opportunities for trail use along the North Shore of Lake Superior despite this, there is growing competition from the multiple users groups. Planning and implementation efforts are coordinated in order to create additional linkages with existing trail systems and to provide opportunities for competing uses through the establishment of new systems.

***Lake Superior Water Trail:*** The Lake Superior Water Trail was authorized by the legislature in 1993. The trail follows the Lake Superior shoreline from the St. Louis River in Duluth to the border with Canada. The trail, which is being developed in cooperation with the Lake Superior Water Trail Association, uses existing public lands for designated rest areas. The DNR is authorized to accept donations of land, or easements in land, for the rest areas along the water trail, and may accept money for this purpose from other public or private sources. A pilot project

area, about 40 miles from Two Harbors to the Cook County line has been completed. The trail will eventually be part of the Lake Superior Water Trail encircling all of Lake Superior.

***North Shore State Trail (NSST):*** This trail was authorized by the state legislature in 1975. When completed, it will extend between Duluth and Grand Portage along the North Shore of Lake Superior, a distance of approximately 235 miles. After the completion of a master plan, a 146 mile segment between Duluth and Grand Marais was completed and opened for use in 1984. The trail is used primarily by snowmobilers and hikers, but also by backpackers, horseback riders, hunters, dog sledders, skiers and mountain bikers. All terrain vehicles (ATVs) are prohibited. The U.S. Forest Service, DNR, Grand Portage Reservation, Cook County, City of Grand Marais, and other stakeholders are currently developing a plan to complete the trail from Grand Marais to the Canadian border.

***Superior Hiking Trail:*** The Superior Hiking Trail, now a national recreation trail, will extend from Duluth to the Canadian border, a trail distance of nearly 300 miles, when completed. Currently 200 miles of trail have been completed. The trail is narrow and rugged, and is designed for hiking only. It links seven North Shore state parks and county or U.S. Forest Service roads. Back country campsites are situated every five to eight miles along much of the trail. The Superior Hiking Trail is not subject to any permit regulations regarding camping. Camp sites are available on a first come first use basis and there is no fee. Within state parks, camping is allowed only in designated campgrounds and normal fees apply. The Superior Hiking Trail Association (SHTA) was formed by volunteers in 1986 to build, promote, and maintain the continuous, long distance footpath along the ridgeline overlooking Lake Superior. SHTA is a nonprofit organization committed to providing low impact, educational, and recreational access to one of the most rugged and scenic areas of the Midwest.

***Willard Munger Trail/Carlton-West Duluth Segment:*** This 14.5 miles trail runs along a ridge from the town of Carlton, along the border of Jay Cooke State Park, through a forest of aspen, birch, maple and pine, to the west end of Duluth. Near Carlton, it passes over an old railroad bridge that crosses the cascades of the St. Louis River. From its height, the trail provides great views of miles of rolling forest and the Duluth Harbor, with its distinctive aerial lift bridge. Although the trail is relatively level, there is a slight (one percent) grade uphill for nine miles from the Duluth end.

***Other Hiking Trails:***

- |                             |  |
|-----------------------------|--|
| C Border Route Trail        | C Oberg and Leveaux Mountains National |
| C Eagle Mountain Trail      | Recreation Trails                      |
| C Lake Superior Vista Trail | C Grand Portage                        |
| C Mount Rose                |  |

***Other Ski Trails:***

- |                        |                                       |
|------------------------|---------------------------------------|
| C Deer Yard Lake       | C North Shore Mountains Ski Beartrack |
| C North Shore Mountain | C Northwoods                          |

- C Korkki Nordic
- C Two Harbors
- C Lookout Mountain X/C

- C City of Duluth
- C Pincushion

***Other Snowmobile Trails:***

- C Moose Run
- C Lutsen
- C Tofte
- C Finland (Sawtooth)
- C Silver Bay (Red Dot)

- C Tomahawk
- C Two Harbors
- C Hermantown
- C City of Duluth

***Biking Trails:***

- C North Shore Touring

***Division of Trails & Waterways:*** The Minnesota DNR organized the Trails and Waterways Unit in 1979 to meet the growing public demand for trail and water recreation. The unit provides services and information to canoeists, boaters, anglers, snowmobilers, cross country skiers, hikers, bicyclists, horseback riders, and all terrain vehicle users. Specifically, the unit plans, develops, and manages DNR public accesses, canoe routes, state trails and fishing piers. It also administers the Grants-in-Aid Program for cross country skiers and snowmobilers, and all terrain vehicle users.

Table 25.

## Shorefront Access Programs

Agency Name	Program	Authority	Funding	Program Delivery
DNR  Water Recreation Supervisor: (612) 296-6413	<b>Boat Access Acquisition Program:</b> acquires and develops sites for public boat launching facilities. Sites must be less than 7 acres in size.	Minn. Stat. §86A.05, Subd. 9	Water Recreation Account, including funds from boat license fees, gasoline tax funds, etc.	Area supervisors and St. Paul staff identify appropriate sites and complete activities to acquire and develop the sites. Lakes in the state have been prioritized for public access development, based on size, water quality, and a variety of other factors.
DNR  Trail Recreation Supervisor: (612) 296-4782	<b>State Trail Acquisition Program:</b> acquires and develops property for state recreational trails.	Minn. Stat. §85.015 and 86A.05, Subd. 4	State bonding	State Trails Plan prioritizes trail acquisition and development needs. Trail recreation supervisor coordinates implementation of the plan.
DNR  Water Recreation Supervisor: (612) 296-6413	<b>Canoe and Boating Routes Program:</b> designates and names canoe and boating routes, develops and maintains camping sites, and coordinates hazard removal on the routes.	Minn. Stat. §85.32	Water Recreation Account	Routes are authorized through river plans, and designated legislatively. Field staff complete site development.
DNR  MIS Supervisor (612) 297-7877	<b>Trails and Waterways User Surveys:</b> a variety of user surveys are completed on state trails and waterways to determine levels of use, characteristics of users, etc.	Minn. Stat. ch. 86A	State General Fund	A limited number of surveys are completed as needed and as funding allows. Area and central office staff determine priorities and implement surveys.
DNR  Boating Safety Specialist: (612) 296-0905	<b>Boating Safety Programs:</b> enhance boating safety through the removal of hazards, placement of buoys, signage, and information materials.	Minn. Stat. §86B.101	Water Recreation Account and enforcement funding by county governments	Field office staff request assistance and materials as needed.
DNR  Water Recreation Supervisor: (612) 296-6413	<b>Cooperative Access Development Program:</b> shares costs of land and recreational site development between state and local government. A variety of approaches are possible.	Minn. Stat. ch. 86A	Water Recreation Account, including funds from boat license fees, gasoline taxes, etc.	Local governments contact Area staff to develop ideas for cooperation. Area staff initiate projects and coordinate development with local governments.
DNR  Federal Aid Specialist: (612) 297-4954	<b>Fishing Pier Program:</b> cooperative development of fishing piers on public lands, usually owned by local governments. DNR builds and installs piers and local governments provide land and maintenance.	Minn. Stat. ch. 85	Federal cooperative opportunities for recreational enhancement funds.	Local governments contact regional offices for assistance. Regions rank priorities for development.



## SPECIAL PROGRAMS AND MANAGEMENT AREAS

Agency Name	Program	Authority	Funding	Program Delivery
DNR  Federal Aid Specialist: (612) 297-4954	<b>State Park Road Account:</b> provides aid to local governments to improve roads that lead to state facilities, such as water access sites. State and local governments share development costs and local governments maintain roads.	Minn. Stat. ch. 85	State highway funds allocated to the DNR for park roads.	Local governments contact the federal aid specialist to apply for funds. The list of requests statewide is prioritized for funding.
DNR  Recreation Services Supervisor: (612) 296-6048	<b>Trail Connections Program:</b> provides assistance to develop local trail connections to state recreation trails.	Minn. Stat. §85.015	LCMR funding (time limited)	Local governments contact regional offices for assistance. The regions rank priorities for development.
DNR  Trail Recreation Supervisor: (612) 296-4782	<b>Trails Grant-In-Aid Programs:</b> provide assistance to local governments and groups to develop, maintain and operate cross-country ski, snowmobile, and all-terrain vehicle trails.	Minn. Stat. ch. 86A	Funding from snowmobile, ATV, and cross-country ski licenses and state's General Fund.	Local governments and groups contact area offices, who provide assistance in developing trails.
DNR  Water Recreation Supervisor: (612) 296-6413	<b>Water Access Development Technical Assistance:</b> staff provides assistance to local governments or groups interested in developing recreational access. Provide specifications and assist with access development, funding and installation.	Minn. Stat. ch. 86A	Water Recreation Account, including boat license fees, gas tax funds, etc.	Local governments and groups request and receive assistance from area office staff.
DNR  Public Information Center: (612) 296-6157	<b>Recreation and Trails Information:</b> provides information to governments, agencies and the public on river levels, snow depth, special celebrations, and other information on recreation facilities and trails in the state.	Minn. Stat.	General Fund	Information provided at central office and area offices.

## **D. CULTURAL RESOURCE PROTECTION AND MANAGEMENT**

### **1. Historical Works**

In addition to sites already on the State and/or National Register of Historic Places and those inventoried by the Minnesota Historical Society, there have been other studies conducted which expanded awareness of historical and archaeological sites within Minnesota's coastal area.

*Historical, Natural, and Scientific Sites of the Lake Superior North Shore, 1975* by the Arrowhead Regional Development Commission. The historic inventory contained in this report was primarily a recompilation of work previously conducted by John Fritzen, noted area historian and member of the St. Louis County Historical Society. The survey contains 110 identified sites of historic, natural, and/or scientific significance.

*Duluth-Superior Harbor Cultural Resources Study, 1975*. Initiated when Russell Fridley, Director of the Minnesota Historical Society and State Preservation Officer, suggested to the U.S. Army Corps of Engineers that a study be conducted to evaluate the cultural resources in the Duluth-Superior Harbor. One of the major goals of the study was to locate, inventory, and evaluate the significance of hundreds of historic sites of widely varying types in and around the harbor. Three hundred and thirty sites were classified into 16 categories. Thirteen major sites of significance were identified.

*North Shore Corridor Management Plan, 1996*. As a part of the Corridor Management planning process, an inventory is being compiled by the North Shore Management Board Citizen Advisory Committee and will include resources of historic, archeological, scenic, and cultural significance, as well as, management strategies to "ensure sustainability so that future generations will be provided the same opportunity to experience firsthand, our North Shore."

### **2. Organizations and Programs for Resources of State and/or National Significance**

#### **a. Minnesota Historical Society**

The Minnesota Historical Society was established in 1849 as the territory's first institution. The society's mission statement is to "nurture among people a knowledge of and appreciation for the history of Minnesota. To realize this objective, the society shall collect and preserve the materials and records of human culture relating to Minnesota and Minnesotans, serve as an information center on and for the state, and through research and interpretation, illuminate the human story. It shall counsel and assist organizations, institutions, units of government, and individuals in identifying, preserving, and interpreting the cultural resources of Minnesota."

The Minnesota Historical Society plays a vital role in Minnesota through its outreach and assistance programs. The society counsels 87 county historical societies, 400 historical and genealogical organizations, and 5,000 government agencies. Through the State Historic Preservation Office and Field Services Program, the society also provides technical advice and general assistance to state agencies, cities, and private individuals in their desire to learn, interpret,

and save history. The program trains people to recognize the potential of historic properties, to restore them correctly, and to present historical information through exhibits and interpretation. Preservation of manuscripts, archives, official state documents, and oral histories plus an extensive traveling exhibit program contribute to the society's statewide presence.

#### **b. Minnesota State Historic Preservation Office**

The Minnesota Historical Society's State Historic Preservation Office (SHPO) administers several programs to help identify important resources and to create a climate to aid their preservation and restoration. SHPOs were established in each state by the National Historic Preservation Act of 1966. They administer the National Preservation Program directed by the National Park Service and the Advisory Council on Historic Preservation as well as the state preservation initiatives. The SHPO administers various programs which fall into the following two categories:

***The History Component*** includes programs for identifying and evaluating historic properties and registering those finds to be significant. This component focuses preservation efforts by connecting historical patterns with individual properties. The State Historic Preservation Office maintains a continuous survey program, based on a reconnaissance-level building and structure survey of the entire state completed between 1978 and 1988. Currently, the SHPO is conducting indepth studies of properties that the stateside survey identified for further work. Identified properties are entered into a statewide inventory at the SHPO. An inventory of archaeological properties is coordinated with the Office of the State Archaeologist. These inventories also include the results of surveys conducted by local preservation commissions as well as state and federal agencies. To date, more than 41,000 properties comprise this combined inventory.

Once a property has been evaluated as significant, either architecturally or historically, formal recognition of its historic value is accomplished through the process of registration. The National Register of Historic Places, the National Historic Landmarks Program, the State Register (under the stipulations of Minn. Stat. ch. 138), or local registration (Minn. Stat. §471.193) are the primary means of registration.

***The Protection Component*** provides incentives and establishes regulations to encourage appropriate treatment of historic properties. This component involves a wide range of local, state, and federal agencies, as well as the private sector, all of which have the potential to affect historic properties. Protection strategies include review and compliance, tax incentives, grants-in-aid, covenants and letters of agreement, reuse studies, Historic American Buildings Survey/Historic American Engineering Record (HABS/HAER) documentation projects, and technical assistance or other protection strategies.

#### **c. Submerged Cultural Resource Management Program**

State and federal laws have determined that the ownership of Minnesota Lake Superior shipwrecks and other submerged cultural resources (remains of wharves, docks, and refuse sites associated with fur trading stations, fishing settlements, lumber and mining camps, and vessel

salvage activities) rest with the State of Minnesota. The Abandoned Shipwreck Act requires that each state develop a Submerged Cultural Resource Management Plan.

The shipwrecks and other submerged cultural resources that lie in Minnesota's Lake Superior waters represent a unique and finite physical aspect of the state's cultural heritage. The State Historic Preservation Office is mandated to direct efforts to protect and manage these resources. The SHPO has drafted a management plan which focuses on conservation. To establish a basis for managing the state's Lake Superior shipwrecks, the SHPO sponsored a comprehensive historical and literature survey. Information provided by the survey supported the development of a national register of historic places multiple property documentation form in 1991. The document identifies historical themes associated with Lake Superior shipwrecks and defines preliminary criteria for establishing the significance of individual vessels. This data is the foundation of Minnesota's Submerged Cultural Resource Management Program. Management activities are directed toward identifying sites for preservation, scientific investigation, education, and recreational use.

### **d. Office of the State Archaeologist**

The state archaeologist (established by Minn. Stat. §138.35) approves licenses to conduct archaeological work on nonfederal public land, reviews development plans of state agencies, and promotes research and preservation of archaeological sites. This office also administers the reburial of human remains in cooperation with the Indian Affairs Council.

### **e. County and Local Historical Societies**

Local Heritage Preservation Commissions (HPCs) are established by local ordinances enacted under state-enabling legislation (Minn. Stat. §471.193). Such an ordinance creates a commission of local residents who recommend local designation of historic properties to the city council or town board and review proposed changes to designated properties. Many commissions also work with other local agencies to create incentive programs for historic properties. Public education strategies for protection/recognition (markers, walking and driving tours, historic festivals, and publications) are also carried out by these commissions.

HPCs may apply to the SHPO to become a certified local government (CLG). Certain specific requirements defined in federal and state regulations must be met to achieve this status. CLG designation qualifies the city, county, or township to apply to the SHPO for federal matching grants for survey and planning work. CLGs also play an expanded role in the process of nominating properties to the national register.

## **CHAPTER 5**

### **LAND AND WATER USES OF REGIONAL BENEFIT**

To provide a fair and equitable management program, Minnesota's Lake Superior Coastal Program must ensure that local land and water regulations do not unreasonably restrict or exclude land or water uses of regional benefit. The state must identify those activities which are determined to be of regional benefit and demonstrate how state legal authority will ensure that these activities are not unreasonably excluded by local government action from locating in the coastal area.

Unreasonable restriction or exclusion of an activity by local government action is that which is arbitrary and capricious. It involves a local decision not based on rational or legal factors and implies an exclusion that is a detriment to the region. Local and county governments within the coastal area have not exhibited any trend toward excluding activities that offer benefits to an area of greater than local concern.

Uses of regional benefit are those land or water uses that:

- C Serve or affect more than a single unit of local government
- C Result in an environmental, economic, social, or cultural benefit, and
- C Have a direct and significant impact on the land or waters within the coastal area

A use must satisfy all three criteria to be considered a use of regional benefit.

<b>Identification of Activities of Regional Benefit</b>
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- C Major energy transmission or generating facilities
- C Waste treatment facilities including:
  - Industrial wastewater treatment and disposal
  - Municipal wastewater treatment and disposal
  - Sewage collection lines
- C Water supply facilities including:
  - Reservoirs and groundwater pumping stations
  - Water distribution and transition lines
  - Water treatment facilities
- C Transportation facilities including:
  - State and federal highways
  - Railroads
  - Airports
  - Ports and navigational channels
- C Public recreation facilities of a regional or statewide significance including:
  - State parks
  - State trails
- C Natural and cultural resources including:
  - State wildlife management areas (WMA)
  - Scientific and natural areas (SNA)

***Management Authority:*** In general, the activities identified as being of regional benefit are under direct state and/or federal management, which preclude the unreasonable restriction or exclusion of the use of regional benefit by local regulation. This does not mean, however, that local concerns are not sought and addressed. Each state agency administers a review process or other mechanism to assure consideration of all interests in the exercise of its authorities related to the regional use.

## CHAPTER 6

### FEDERAL COORDINATION AND THE NATIONAL INTEREST

State agencies in Minnesota have a history of strong and positive working relationships with federal agencies. Together they have coordinated agreements regarding natural and cultural resource concerns. Coordination with the Environmental Protection Agency regarding air and water quality certification, with the U.S. Army Corps of Engineers regarding wetland permits, harbor dredging and related activities and with the U.S. Forest Service that address protected waters concerns are examples of agreements whose purpose is to satisfy resource needs through mutual cooperation and process simplification. Through Minnesota's Lake Superior Coastal Program, the relationships between state, local, and federal agencies can be further strengthened through early coordination of projects and by reducing redundancy through permit and process simplification.

Considered by states as one of the key benefits of the national Coastal Management Program, the Coastal Zone Management Act federal consistency provision requires actions of federal agencies to be consistent to the maximum extent practicable with the enforceable policies of approved state management programs. This requirement will encourage federal agencies to seek input early in the planning of activities that affect any land or water use or natural resource of the coastal area.

This chapter is divided into sections. Section A describes **Federal-State Consultation** during program development and implementation. Section B describes the **Consideration of the National Interest** which includes identification and management of those facilities and resources of national interest. Section C describes the **Federal Consistency Procedures**.

#### A. FEDERAL-STATE CONSULTATION

##### 1. During Program Development

Notification to and consultation with relevant federal agencies occurred early in the process of developing a coastal management program in Minnesota. Notices were sent on February 26, 1996, to federal agencies announcing Minnesota's intent to develop a Coastal Management Program (see Appendix E-1). Included with this notice was a reply form asking agencies to indicate the level of information desired regarding program development and the level of program and document review desired. Mailing list updates were also requested. A scoping meeting scheduled for federal agencies was also announced in this notice.

A second letter announcing the April 30, 1996, scoping meeting was sent on April 5, 1996. Included with this mailing was a survey form requesting input concerning activities and resources of national interest and benefit and review of federal activities, permits and licenses, and assistance programs conducted within the Lake Superior watershed. National interest statements related to federal consistency are included in Appendix E, page 3.

The scoping meeting on April 30, 1996, was conducted jointly by staff developing Minnesota's Coastal Management Program and NOAA's Office of Ocean and Coastal Resource Management (OCRM), the federal agency responsible for administration of the program at the national level.

The purpose of the meeting was to review the goals, benefits and conditions of the Coastal Management Program from a national perspective, review development of a Coastal Management Program in Minnesota, and lastly, to explain the requirements of federal consistency, as outlined in the Coastal Zone Management Act.

Throughout the development of the program during 1996 and 1997, federal agencies received regular updates through a newsletter produced by program development staff in Minnesota and, as desired, drafts of the program document.

Federal agencies will also have an opportunity to provide input during draft and final environment review periods.

### **2. During Program Implementation**

Coordination of federal agency activities in and affecting the coastal area will be provided by Minnesota's federal consistency process (see Section C page 6-7) which uses numerous existing and new mechanisms (including MOUs and partnership agreements), the federal consistency process as detailed in the OCRM's federal consistency workbook, periodic 312 reviews and program changes, environmental reviews (NEPA) and informal communication.

The intent of federal consistency is to ensure that federal actions, activities, and permits are consistent with the state's policies and authorities. It is an important mechanism to help resolve conflicts between states and federal agencies. The result of having a federal consistency component in the Coastal Program should lead to and improve: early coordination, consultation, cooperation and consistency with state policies. Therefore, the goal of federal consistency in Minnesota is to improve early coordination where lacking, improve cooperation between federal, state, and local governments when needed, and reduce conflict when possible. The outcome of early coordination will result in timely decision making and more effective and efficient government decisions. It is the intent of the state to review and require federal consistency determinations for federal actions or activities that have been identified as creating conflict or controversy, and affect the state's coastal uses or resources.

The MN Coastal Management Program will review existing and proposed federal actions at the time of federal program approval to determine if those activities are consistent with the state's enforceable policies. This initial review will not require the submittal of consistency determinations by federal agencies, for those activities that MN finds are consistent. For future proposed activities the focus of the consistency process in Minnesota is to develop MOUs or partnership agreements with federal, state, and local agencies. The MOUs or partnership agreements will identify the process for coordination and a tiered approach to decision making. Whenever possible, review and inclusion of voluntary Best Management Practices (BMP) will be considered when developing MOUs with federal agencies. Existing MOUs and partnership agreements are identified in Part VII, Appendix G.



## **B. CONSIDERATION OF THE NATIONAL INTEREST**

Section 306(d)(8) of the CZMA and 15 C.F.R. 923.52 of the Coastal Zone Management Development and Approval Regulations require that states give adequate consideration to the national interest in planning for and management of the coastal zone including the siting of facilities which are of greater than local significance. In addition, section 307(b) of the CZMA requires that the views of federal agencies principally affected by a state's coastal management program be adequately considered during program development.

These requirements establish a reciprocal state-federal relationship in which the state, by providing relevant federal agencies with the opportunity for full participation and by giving full consideration to their interests in Minnesota's Lake Superior coast during program development, can administer the federal consistency requirements of 307(c) and (d) of the CZMA, once Minnesota's Lake Superior Coastal Program is approved. In order to meet these requirements the state's Coastal Management Program must:

- C Describe the national interest in the planning for and siting of facilities considered during program development;
- C Identify the sources relied upon for a description of the national interest;
- C Identify how and where the consideration of the national interest is reflected in Minnesota's Lake Superior Coastal Program; and
- C Describe the process for continued consideration of the national interest in the planning for and siting of facilities during program implementation.

Recognizing the distinct and irreplaceable nature of the nation's coast, Congress declared in Section 302 of the CZMA:

- C There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone.
- C The coastal zone is rich in a variety of natural, commercial, recreational, ecological, industrial, and aesthetic resources of immediate and potential value to the present and future well being of the nation.

Thus, the primary focus for the consideration of the national interest under the National Coastal Management Program is the balance between providing for facilities and activities which are in the national interest and for protecting coastal resources, which are also in the national interest.

### **1. Identification of Facilities and Resources of National Interest**

The facilities of national interest were documented by program development staff with input from federal agencies at local, regional, and national levels in response to a survey sent to each office early in the program development process. Additional review was requested of local, state, and federal agencies following the draft of this information and upon completion of the Draft Environmental Impact Statement. In addition to certain facilities of national interest, various coastal natural resources were identified by the Lake Superior Binational Program and by federal agencies as being of national interest.

Consideration of the national interest during program implementation will be achieved by the review, certification, and approval process described in the federal consistency section of this document (Part V, page 6-7) or through processes outlined in Memorandums of Understanding (list of agreements in Appendix G) that address alternative review processes.

The following types of coastal facilities, activities, and resources are considered by Minnesota to be of national interest:

- C National defense
- C Energy production and transmission
- C Transportation, ports, and navigation
- C Public recreation areas
- C Coastal resources:
  - Threatened wildlife habitats
  - Historical, cultural, and archeological sites
  - Wetlands
  - Coastal Barrier Resource System

### **2. Management for Facilities and Resources in the National Interest**

#### **National Defense**

The policies and authorities of particular interest for national defense include those that regulate transportation (ports, roads and highways, airports, railways), public services and facilities (e.g., water supply, waste management), and areas of special concern (e.g. navigation channels).

#### **Energy Production and Transmission**

Energy facilities and activities considered to be in the national interest and currently located in the coastal area include: hydroelectric and coal-fired generating plants, energy transmission facilities and activities, transportation of raw materials such as coal and petroleum products. State and local agencies within the coastal area will consider the national interest in energy production and transmission when they plan for energy facilities (new or expanded facilities, new uses, or relicensing) located in or affecting the coastal area. See “Energy Facility Siting” (Chapter 3 Section G) for a more detailed description of this process. Energy production and transportation may be addressed in other state policies or programs found in Chapter 3 including: Floodplain Management Act (Minn. Stat. ch. 103F), Shoreland Management Act (Minn. Stat. ch. 103F),

Protected Waters Program (Minn. Stat. ch. 103G), Groundwater Protection Act (Minn. Stat. ch. 103H), Water Pollution Control Act (Minn. Stat. ch. 115).

#### Transportation, Ports, and Navigation

Water and highway transportation, ports and other navigation facilities serve national defense, recreation, economic, and other needs along Minnesota's North Shore. The policies and authorities concerning port facilities, transportation, and dredging provide consideration of the national interest in these activities. More detailed descriptions of these processes can be found in Chapter 3 Floodplain Management Act (Minn. Stat. ch. 103F), Shoreland Management Act (Minn. Stat. ch. 103F), Protected Waters Program (Minn. Stat. ch. 103G), Groundwater Protection Act (Minn. Stat. ch. 103H), Water Pollution Control Act (Minn. Stat. ch. 115). Part V, Chapter 4 (A) (1) and (2) identify the highway transportation and port planning programs in the coastal area. In addition, Minn. Stat. ch. 458 identifies the national interest in Water Transportation Facilities; Port Authorities.

#### Public Recreation Areas

With tourism one of the leading forms of industry within the Coastal Program boundary, considerable interest is given to the area's natural and cultural areas and their recreational use. Areas of regional and national significance are listed under Special Programs and Management Areas in Chapter 4. In addition to regional and national consideration given specific unit management plans, the Minnesota DNR also develops a Statewide Comprehensive Outdoor Recreation Plan (SCORP) which is reviewed every five years. The SCORP must be approved by the U.S. Department of the Interior's National Park Service to receive funding from the Land and Water Conservation Fund. This process includes identification of recreational issues of national interest within the state.

#### Coastal Resources:

##### Threatened Wildlife Habitats

Similar to the federal endangered species program, Minnesota monitors and protects, through its own and through federal policies and regulations, species considered by the state or nationally, as endangered or threatened. The DNR, through its Natural Heritage Program, maintains a database of information on these species in the state. Through the Scientific and Natural Areas Program (SNA), areas containing unique elements or are themselves unique on a statewide or national scope, are protected. This program and a list of sites are further described in Chapter 4 - Special Programs and Management Areas.

##### Historical, Cultural, and Archeological Sites

The coastal area is rich in history. The Minnesota Historical Society as well as other state, county and local agencies address regional and national interests in its preservation, restoration, interpretation and development of historical sites. Listed in Chapter 4, Special Programs and Management Areas, are sites, policies and authorities that pertain to the coastal area.

### Wetlands

The issues of diminishing wetlands in Minnesota and nationwide has been addressed at both state and federal levels. Minnesota's policies and authorities, contained in Chapter 3 of this document, address the national interest.

### Coastal Barrier Resource System

The Coastal Barrier Resources System, as designated by the U.S. Fish and Wildlife Service and National Flood Insurance Program, protects areas particularly susceptible to wave damage and having significant value for fish and wildlife habitat from structural development. In Minnesota, the undeveloped area along the end of Park Point has been designated as a Coastal Barrier Resource System. This designation has been incorporated into the City of Duluth's floodplain management standards (see Floodplain Management Act, Part V, Chapter 3, page 17).

## **C. FEDERAL CONSISTENCY PROCEDURES**

Federal consistency is a powerful tool available to states that provides a mechanism with which to review and comment on federal actions and effect change on actions which are inconsistent with state policies and authorities.

### **1. Definition**

Federal consistency is the CZMA requirement that federal actions that affect (including reasonably foreseeable effects) any land or water use or natural resource of the coastal area be consistent with the enforceable policies of the state's federally approved coastal management program. Within the Department of Natural Resources, the Waters Coastal Program will take the lead for the state in coordinating review of federal actions to determine if proposed actions will be consistent with the state's Coastal Management Program. An annual summary of federal activities of concern or consistency reviews will be prepared by the Coastal Program Coordinator. At the federal level, OCRM/NOAA oversees the state's use of consistency, acts as an advocate for the state, mediates consistency disputes and NOAA processes appeals to the Secretary of Commerce. The requirements of federal consistency are defined in greater detail in 15 C.F.R. Part 930. Federal actions include:

- C Direct federal actions - Activities and development projects performed by a federal agency or by a contractor for the benefit of a federal agency.
- C Indirect federal actions - Activities not performed by a federal agency, but requiring federal permits or licenses or other forms of federal approval.
- C Federal financial assistance to states and territories and local governments.

The list of federal actions that are subject to consistency review is included at the end of this chapter. The list is a comprehensive list of federal actions that may affect the coastal area and is not an indication of federal agency actions being taken in conflict with state policies or authorities. Federal actions not listed at the end of this chapter will be monitored with the assistance of and consultation with state and local agencies. The list may be revised by the state following consultation with the federal agency and approval by OCRM.

### **2. Process**

#### **a. Consistency for Federal Activities and Development Projects**

Federal agency activities are any functions performed by or on behalf of a federal agency in the exercise of its statutory responsibilities, but does not include the granting of a federal license or permit. A federal development project is a federal activity involving the planning, construction, modification, or removal of public works, facilities, or other structures; and the acquisition, utilization, or disposal of land or water resources.

Federal agencies must review proposed actions, whether within or outside the coastal area, affecting any land or water use or natural resource of the coastal area, to determine that they will be carried out in a manner consistent to the maximum extent practicable with the enforceable policies of the state's Coastal Management Plan. Federal actions that are occurring within the coastal area (as described in Part V, Chapter 1) will have the greatest potential for impact to coastal resources, therefore, these activities shall be a priority for inclusion in MOUs or partnership agreements between the federal agency and state. Federal actions or activities occurring outside the coastal area but within the Lake Superior Watershed have the potential for impacting coastal resources. In certain situations, federal actions and activities outside the Lake Superior Watershed have the potential for impacting coastal resources, therefore, the location and magnitude of these actions will be the deciding factor for determining the level of coordination and cooperation needed to comply with state policies and authorities. During program implementation, the Coastal Program will work with federal, state, and local agencies in identifying actions and activities to be incorporated into MOUs and other agreements, either formal or informal. The consistency process helps to maintain the necessary communication and coordination between all levels of government to ensure the wise management of coastal resources.

Where federal and state agencies are already implementing consistency practices such as early coordination and consultation, and where the federal and state activities are being performed consistent with the enforceable policies and authorities of the state, the consistency process or procedure will be described in a Memorandum of Understanding (MOU) or other agreement between the Coastal Program and federal agencies.

Likewise, if an activity that impacts the coastal area is required to comply with an existing process or procedure in order to obtain a state permit, license, or approval, after receiving all of the necessary permits, licenses or approvals, the activity will be considered consistent with the Coastal Program and deemed approved.

***Federal Consistency Determinations:*** Where not already occurring under an MOU, partnership agreement, formal or informal agreement, federal agencies submit to the Coastal Program consistency determinations for all federal activities affecting the coastal area as indicated in the process that follows. A model determination statement in Appendix E, page 6 can be used if desired by a federal agency for notification. Consistency determinations should be submitted as early as practicable during the planning of the activity but at least 90 days before federal approval of the activity. The Coastal Program and the federal agency may agree to extend the notification period beyond 90 days under certain circumstances.

Various networked state agencies are responsible for administration or implementation of the state policy or authority that will potentially be affected by the federal action or activity. These agencies are identified on the Coastal Management Consistency Form in appendix E-7. The state agencies responsible for enforceable policies and authorities are: DNR, PCA, MDA, MHD, BWSR, and EQB. The Coastal Program coordinates its consistency response with these networked state agencies to ensure that all applicable enforceable policies are considered.
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In an effort to use existing review procedures already established in Minnesota, the Coastal Program will use whenever applicable and as frequently as possible, the process established under the Environmental Review Program pursuant to Minnesota Statutes, section 116D.04 and 116D.045 and the administrative rules adopted by the Environmental Quality Board: Minnesota Rules, chapter 4410 parts 4410.0200 to 4410.7500. This program requires certain proposed projects to undergo special review procedures prior to obtaining approvals and permits otherwise needed. The program lists in detail three categories for activities that are; exempt from review, require a mandatory Environmental Assessment Worksheet (EAW) or require a mandatory Environmental Impact Statement (EIS). For the purposes of Minnesota's Lake Superior Coastal Program, those activities listed as exempt will be considered approved for federal consistency. Those activities that meet the mandatory EAW thresholds shall require a consistency determination by the federal agencies responsible.

In addition, consistency determinations are required (unless otherwise covered by an MOU or general determination) when it is determined that an activity will have reasonably foreseeable effects and the activity falls between the list of mandatory EAW categories and exemption categories, or is not listed in the Environmental Review Rules.

The mandatory categories (or thresholds) for activities that require a consistency determination and review are described in detail on page 6-18 of this chapter. Some of these categorical approvals for activities that have been reviewed are identified in MOUs shown in Appendix E.

If a federal agency determines that coastal effects are not reasonably foreseeable or believes that a consistency determination is not required for a listed activity under the Environmental Review Program, the agency shall notify the Coastal Program and the appropriate reviewing state agency of its decision as soon as possible, but at least 90 days before final approval of the activity. The notification shall briefly set forth the reasons for the negative determination. The Environmental Review Program is provided by the state as an administrative convenience, thus the Coastal Program is the ultimate decision maker as to whether a federal activity is subject to the requirements of the Environmental Review Program.

As indicated above, alternative review processes may be developed by state and federal agencies regarding state review of federal activities through written Memorandums of Understanding (MOU), general consistency determinations or other similar agreements. These MOUs or agreements may establish and identify thresholds for activities that may impact the coastal area. A list of existing agreements between state and federal agencies in Minnesota are listed in Appendix G, pages 1-2. The activities agreed upon in these MOUs will be reviewed for consistency with the state's Coastal Management Program and where appropriate, will replace the consistency procedures listed below. Revised, updated, or additional MOUs may be developed and included in this document following a public review and a consistency determination as specified below.

If a federal activity meets or exceeds mandatory thresholds provided for in this section, the consistency determination for a federal activity affecting the Minnesota coastal area shall

include:

- C A brief statement indicating whether the proposed activity will be undertaken in a manner consistent to the maximum extent practicable with the enforceable policies of Minnesota's Lake Superior Coastal Program.
- C A detailed description of the proposed activity and associated facilities and their effects on the Minnesota coastal area and,
- C Comprehensive data and information to support the federal agency's consistency statement.

MOU's, general consistency determinations or other similar agreements will be amended and/or developed to address the relevant issues and concerns of federal consistency and Minnesota's Lake Superior Coastal Program. These agreements and understandings shall:

- C Identify the activities to be addressed
- C Establish procedures that are necessary to comply with program requirements or documentation requirements
- C May determine categorical approval under agreed upon conditions
- C May require a determination under certain detailed conditions
- C May identify and provide an opportunity to meet public notice requirements
- C May include activities that are repetitive or without cumulative effects

The level of detail in the consistency determination should be commensurate with the reasonably foreseeable effects of the activity on the coastal area. In the case of an activity that involves more than one federal agency, preparation of a joint consistency determination should be developed.

In this process, if the federal agency and the Coastal Program have agreed that if the activity is covered under an MOU or falls under the exempted category of the Environmental Review Rules (ERR), a determination shall not be required unless the Coastal Program believes that the scope, magnitude and coastal effects warrants a consistency review. If the activity meets or exceeds the thresholds of the Minnesota Environmental Review Program's mandatory EAW category, then a consistency determination must be filed with the Coastal Program.

For projects that are not listed in the Minnesota Environmental Review Program, the federal agency shall submit a determination of consistency to the Coastal Program. The Coastal Program will then coordinate the review process with the appropriate networked state agency (s).

**State Response:** Upon receipt of the consistency determination, the Coastal Program will coordinate with appropriate networked state agencies for the public notice and comment process and to conduct the consistency review of the proposal. The NEPA process may be used as a part



of the public notice and participation requirements when appropriate by agreement with the federal agencies. Consistency reviews will incorporate the Minnesota Environmental Quality Board's review process as indicated in Part V, Section H, particularly the EQB rules, Minn. Rules 4410.0200 to 4410.8000.

The Coastal Program shall inform the federal agency of its decision regarding the consistency determination within 45 days (or as provided for in 15 C.F.R. Part 930, subpart C) from receipt of the determination and supporting information unless the Coastal Program notifies the federal agency within that time that the state's final response will be delayed and provides the reasons for the delay. Federal agencies shall approve one request for an extension period of 15 days or less. Other extensions shall be negotiated between the parties, but are at the discretion of the federal agency. If no response or request for extension of time is received from the Coastal Program within 45 days (or as provided for in 15 C.F.R. Part 930, subpart C), agreement on the consistency determination may be presumed.

If the state objects to the federal agency's consistency determination, the Coastal Program will notify the federal agency in writing according to the schedule described in the preceding paragraph and a copy will be sent to the Director, OCRM. The objection shall include:

- C The rationale for the disagreement
- C An explanation of how the proposed activity is inconsistent with the enforceable policies and authorities of Minnesota's Lake Superior Coastal Program, and
- C Alternative measures that, if implemented, would make the proposed activity consistent with Minnesota's Lake Superior Coastal Program.

If objection with the consistency determination is based on the lack of necessary information from the federal agency, the response shall describe the type of information needed to determine consistency and the rationale for its need.

If the Coastal Program and appropriate networked state agency(s) finds that an activity that was previously determined to be consistent with the approved program or was previously determined not to be a federal activity affecting any land or water use or natural resource of the coastal area, but now appears to be inconsistent with the approved program, the DNR Waters will promptly notify the appropriate federal agency in writing. Notification shall include supporting information regarding the inconsistency and a proposal recommending remedial action. Mediation regarding the activity and proposed remedial action may be requested by either party (see Chapter 6, Part 3, Mediation).

**1. b. Consistency for Activities Requiring a Federal License or Permit**

Federal license or permit activities include any authorization, certification, approval or other form of permission that any federal agency is empowered to issue to an applicant. Federal license or permit activities include renewals of and major amendments to federal license and permit activities that are ongoing within or have an effect on the Minnesota coastal area. The list of federal licenses or permits that are likely to affect land and water uses or natural resources in the coastal area are listed at the end of this chapter. In addition, the Coastal Program and appropriate networked state agency(s) will assist permit and license applicants regarding the means for ensuring that the proposed activity will be conducted in a manner consistent with the state's Coastal Management Program. It is the responsibility of both the applicant and the federal permitting agency to be familiar with Minnesota's Lake Superior Coastal Program. To facilitate the process, a Coastal Management Consistency Form (Appendix E, page 7-10) is available for inclusion in federal permit applications. The Coastal Program may also review unlisted activities on a case-by-case basis, pursuant to NOAA regulations (15 C.F.R. Part 930, Subpart D).

***Consistency Certifications for Federal Permits:*** In the cases where a state permit(s) or license(s) and a federal permit or license is required for the same activity, the issuance of the state permit(s) or license(s) will meet the requirement for federal consistency. In such cases, the procedures to obtain the state permit(s) or license(s), including notification and submittal of information on the activity need only be submitted to the appropriate permitting state agency(s). It is understood that when a state permitting agency issues a permit for an activity, it has been determined that the permit complies with the agency's enforceable policies and procedures and will be consistent with Minnesota's Lake Superior Coastal Program. This will eliminate duplication of process and result in more efficient and timely decision making. In the cases where a state license or permit is not required for an activity that requires a federal license or permit, the applicant shall furnish to the federal permitting agency and the Coastal Program a certification statement specifying that the proposed activity complies with and will be conducted in a manner consistent with Minnesota's Lake Superior Coastal Program enforceable policies and authorities. The applicant shall also furnish the necessary data and information as described below.

***Information Requirements for Permit Applications:*** The following information is required for review of permit and license certification:

- C A detailed description of the proposed activity and its associated facilities which is adequate to permit an assessment of their consistency with the relevant enforceable policies and authorities of the Coastal Program.
- C A brief assessment relating the probable effects of the proposal on the coastal area and its associated facilities to the relevant policies and authorities of the coastal management program.

- C A brief set of findings, derived from the assessment, indicating that the proposed activity, its associated facilities, and effects, are all consistent with the relevant enforceable policies and authorities of the coastal management program.
- C A copy of the federal application and all supporting information supplied to the federal agency.

In the majority of cases, information required by the federal permitting agency and provided to the appropriate permitting state agency(s) by public notice and through routine correspondence will usually serve the requirement to furnish the certification and supporting information to the Coastal Program.

**Public Notice:** Public notices of direct federal activities and applications for federal permits and licenses are coordinated by the Coastal Program through the DNR Regional Environmental Review Log. In addition, by Memorandum of Understanding between the Environmental Quality Board (EQB) and the DNR, copies of all applications and comments received by EQB for the Board's publication, the Monitor, will be forwarded to the Coastal Program for use in determining consistency with the enforceable policies and authorities of the approved coastal program. The Coastal Program will coordinate the notice of application with the appropriate state agency(s). Thus, existing public notice and comment procedures will be used to ensure public participation in the consistency certification review. The appropriate state agency(s) in coordination with the Coastal Program will ensure that additional public participation is provided for, if necessary, including public hearings.

**State Review:** Within a minimum of 30 days (or as required through existing state regulations) of receipt of the applicant's consistency certification, the appropriate permitting state agency, or the Coastal Program will notify the applicant and the federal agency whether the state concurs with or objects to the consistency certification. Requests for additional information or data beyond that required will not extend the decision date of the review unless agreed to by the applicant and federal agency. If the applicant does not receive the response within 30 days, concurrence by the state shall be conclusively presumed.

If the Coastal Program objects to the applicant's consistency certification within 30 days (or as required through existing state regulations), or the appropriate permitting state agency (s) denies the permit, the objection or permit must describe:

- C How the proposed activity is inconsistent with specific enforceable policies and authorities of Minnesota's Lake Superior Coastal Program and
- C Alternative measures (if they exist), which, if adopted by the applicant, would permit the proposed activity to be conducted in a manner consistent with the enforceable policies and authorities of Minnesota's Lake Superior Coastal Program.

The Coastal Program shall notify the applicant, federal agency, and the Director OCRM of the state's objection. The objection will include a statement informing the applicant of the right of appeal to the Secretary of Commerce pursuant to the procedures described in 15 C.F.R. Part 930, Subpart H.

Where possible, applicants may consolidate related federal license and permit activities affecting the coastal area for the state's review. The Coastal Program and appropriate permitting state agency(s) will review these consolidated applications as a group to minimize duplication of effort and avoid unnecessary delays. An objection to one or more of the license or permit activities submitted for consolidated review does not prevent the applicant from receiving those licenses or permits for activities found to be consistent with the enforceable policies and authorities of the approved Minnesota's Lake Superior Coastal Program.

The federal agency may not approve the federal license or permit unless the Coastal Program issues a concurrence or is conclusively presumed to concur, (or the appropriate permitting state agency issues a permit) or if on appeal by the applicant, the Secretary of Commerce overrides the state's objection finding, that the proposed activity is consistent with the objectives or purposes of the CZMA or is necessary in the interest of national security. An applicant's appeal to the Secretary of Commerce does not affect state permit requirements or denials.

The Coastal Program will request that a federal agency take appropriate remedial action in case of a federal license or permit activity that was:

- C Determined to be consistent with the enforceable policies and authorities of Minnesota's Lake Superior Coastal Program but which the Coastal Program maintains is being conducted in a manner different from that originally proposed, or has coastal effects different from those originally envisioned, and is no longer consistent with the enforceable policies and authorities of Minnesota's Lake Superior Coastal Program, or
- C Determined not to be an activity affecting the coastal area, but which the Coastal Program maintains is being conducted or has coastal effects substantially different from those originally envisioned, and therefore is not consistent with the enforceable policies and authorities of Minnesota's Lake Superior Coastal Program.

The request shall include supporting information and propose recommended action. A copy of the request shall also be provided to the applicant.

***Unlisted licenses and permits:*** Certain federal licenses or permit activities not on the list or occurring outside the coastal area may be reviewed by the Coastal Program and appropriate permitting state agency(s). If it is determined that any of these license or permit activities will have an effect on any land or water use or natural resource of the area within the coastal boundary, the Coastal Program will notify in writing and within 30 days of receipt of the notice of federal application, the respective agencies, applicants, and the Director, OCRM, of the intent of the Coastal Program to initiate state agency review.

The federal agency and the applicant have 15 days from receipt of notification from the Coastal Program to provide comments to the Director, OCRM. The Director, OCRM, will issue a decision and supporting comments within 30 days. If review by the state is disapproved by OCRM, the federal agency may approve the permit or license. If review is approved, the applicant shall amend the federal application by including a consistency certification and supporting documentation. Concurrence on the consistency certification will be conclusively presumed if an objection from the Coastal Program is not received within 30 days of the original federal notice or receipt of the applicant's certification and supporting information, whichever terminates last.

**c. Consistency for Federal Assistance to State and Local Governments**

All applications by state and local governments or any related public entity such as a special-purpose district, for federal financial assistance for projects affecting Minnesota's coastal area must be consistent with the enforceable policies and authorities of Minnesota's Lake Superior Coastal Program. Federal assistance programs subject to the consistency requirement are listed at the end of this chapter. This list may be modified subject to the provisions of the CZMA. The Coastal Program may also monitor applications for federal assistance in areas outside the coastal boundary but that affect the coastal area.

The Coastal Program will request to be included on the mailing list of appropriate federal agencies who provide financial assistance to state and local agencies who apply for federal funding. The Coastal Program will then review the application for consistency with the enforceable policies and authorities of Minnesota's Lake Superior Coastal Program and either concur or object. During program implementation, MOUs or general consistency determinations will be developed to streamline this process, acting as the federal consistency review, where appropriate.

If, after review of an application for federal financial assistance, the Coastal Program determines the proposed project is inconsistent with the enforceable policies and authorities of Minnesota's Lake Superior Coastal Program, formal objection will be provided to the federal or state agency administering the funding program. The formal objection will describe:

- C How the proposed project is inconsistent with specific enforceable policies and authorities of Minnesota's Lake Superior Coastal Program, and
- C Alternative measures, if they exist, that, if adopted by the applicant agency, would permit the proposed project to be conducted in a manner consistent with the enforceable policies and authorities of Minnesota's Lake Superior Coastal Program.

If the objection by the Coastal Program is based on the failure of the applicant to provide necessary information, the objection must describe the nature of the information requested and the necessity of having such information to determine consistency. The objection should also include a statement informing the applicant agency of the right of appeal to the Secretary of Commerce.

The Coastal Program shall notify the applicant agency, the federal agency, and the Director, OCRM of the objection.

The federal agency may not grant the financial assistance if the Coastal Program determines it to be inconsistent with the enforceable policies and authorities of Minnesota's Lake Superior Coastal Program. If the Coastal Program objects to the application, the federal agency may grant the financial assistance only if the Secretary of Commerce, on appeal by the applicant, overrides the state's objection on the grounds that the proposed activity is consistent with the objectives or purposes of the CZMA or is necessary in the interest of national security.

If the Coastal Program determines that an application for federal assistance for an activity or project outside of the coastal area is subject to the consistency requirement, the Coastal Program and appropriate state agency(s) will immediately notify the applicant agency, the federal agency, and the Director, OCRM.

### **3. Mediation**

Section 307(h) of the CZMA and NOAA's regulations provide for mediation of a serious disagreement between any federal agency and a coastal state in the development and implementation of a management program (15 C.F.R. Part 930, Subpart G).

<b>Conflict Resolution Process</b>
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State-local-federal differences should be addressed initially by the parties involved. During implementation of Minnesota's Coastal Program, the focus of Minnesota's Coastal Program will be to develop agreements between federal, state, and local agencies. There already exist examples where federal, state, and local agreements have been developed that identify coordination and conflict resolution mechanisms. One such agreement is the partnership agreement between the USCOE, state, and local agencies (see Appendix G). Where such agreements exist, these will be the mechanism by which conflicts will be resolved. Where agreements for conflict resolution do not exist, the following procedure should be used:

The Coastal Program should attempt to resolve directly with the federal agency disputes regarding:

- C A determination of whether a proposed activity affects the coastal area and therefore is subject to a consistency review; or
- C A determination of the consistency with Minnesota's Lake Superior Coastal Program of a proposed activity affecting the coastal area; or
- C A determination of whether a listed or unlisted federal license or permit activity is subject to consistency review; or
- C A determination that a federal assistance activity is subject to consistency review; or

- Ⓒ Actual compliance with Minnesota's Lake Superior Coastal Program of an activity previously determined to be consistent.

If a serious disagreement cannot be resolved between the parties concerned, either party may request the informal assistance of the Director, OCRM in resolving the disagreement. The request should be in writing, stating the points of disagreement and reasoning. Copies of the request shall be sent to all parties involved in the disagreement.

If a serious disagreement persists, the Secretary or other head of a relevant federal agency, or the Governor or the Coastal Program and Commissioner of DNR may notify the Secretary of Commerce of the disagreement and request mediation. A copy of the notice shall be sent to the agency with which there is a disagreement, and to the OCRM Director.

Mediation will last as long as the parties agree to participate. Mediation will terminate when:

- Ⓒ Parties agree to a resolution;
- Ⓒ One of the parties withdraws from mediation;
- Ⓒ A resolution is not reached following 15 days of mediation following Secretarial conference efforts and parties do not agree to extend mediation beyond that period; or
- Ⓒ Other good cause

#### **4. Minnesota's Environmental Review Program and Minnesota's Lake Superior Coastal Program**

Minnesota's Environmental Review Program is based on the Minnesota Environmental Policy Act (Minnesota Statutes Chapter 116D) which recognizes that the restoration and maintenance of environmental quality is critically important to our welfare. The act also recognizes that human activity has a profound and often adverse impact on the environment. Minnesota's Lake Superior Coastal Program also shares these concerns and seeks to use these existing mechanisms that have been established in Minnesota law to aid in the administration of the Coastal Program, to eliminate bureaucracy and streamline the process as much as possible. Following is the purpose of the Minnesota Environmental Policy Act:

A first step in achieving a more harmonious relationship between human activity and the environment is understanding the impact which a proposed project will have on the environment. The purpose of parts 4410.0200 to 4410.6500 of Chapter 4410 Environmental Quality Board Environmental Review is to aid in providing that understanding through the preparation and public review of environmental documents.

Environmental documents shall contain information that addresses the significant environmental issues of a proposed action. This information shall be available to governmental units and citizens early in the decision making process.

Environmental documents shall not be used to justify a decision, nor shall indications of adverse environmental effects necessarily require that a project be disapproved. Environmental documents shall be used as guides in issuing, amending and denying permits and carrying out other responsibilities of governmental units to avoid or minimize adverse environmental effects and to restore and enhance environmental quality.

### **EXEMPTIONS AND MANDATORY EAW CATEGORIES**

As a part of the Environmental Review process, a specific list of activities and thresholds has been established to allow applicants to determine the potential environmental effects and determine which process to follow. There are generally three levels that require different types of review: those activities that require and Environmental Assessment Worksheet (EAW), those activities that require and Environmental Impact Statement (EIS) and those activities that are exempt. MLSCP is using the existing the mandatory EAW and exemption categories as benchmarks to assess the effects of activities within the coastal region remaining consistent with the intent to use existing mechanisms where possible and further using existing policies and authorities in the management of the coastal region.

The following is a list of the exemption and mandatory EAW categories from the Minnesota Environmental Review Program, Minnesota Rules, parts 4410.4300, 4410.4400 and 4410.4600. The function of the Environmental Review Program is to avoid and minimize damage to Minnesota's environmental resources caused by public and private actions. The program requires



certain proposed projects to undergo special review procedures prior to obtaining approvals and permits otherwise needed. This list will be used, to the extent it is practicable, by the federal agencies to determine which federal activities required consistency determinations or certifications. Those federal activities that fall at or below the exemption categories will be deemed approved. Those federal activities that meet or exceed the mandatory EAW thresholds require a consistency determination to be submitted to the Coastal Program and will undergo a consistency review. Those federal activities that are not listed in the EAW thresholds, but which have coastal effects also require a consistency determination and will be reviewed by the Coastal Program. Review of any activity the meets or exceeds the mandatory EAW categories will follow the procedures outlined on pages 6-8 through 6-11 (Responsible Governmental Unit-RGU).

Table 26. <b>NUCLEAR FUELS AND NUCLEAR WASTE</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>None</b>	<b>Subpart 2</b> A. For construction or expansion of a facility for the storage of high level nuclear waste, the EQB shall be the RGU. B. For construction or expansion of a facility for the storage of low level nuclear waste for one year or longer, the MDH shall be the RGU. C. For expansion of a high level nuclear waste disposal site, the EQB shall be the RGU. D. For expansion of a low level nuclear waste disposal site, the MDH shall be the RGU. E. For expansion of an away-from-reactor facility for temporary storage of spent nuclear fuel, the EQB shall be the RGU. F. For construction or expansion of an on-site pool for temporary storage of spent nuclear fuel, the EQB shall be the RGU.

Table 27. <b>ELECTRIC GENERATING FACILITIES</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>Subpart 3</b> Construction of an electric generating plant or combination of plants at a single site with a combined capacity of less than five megawatts.	<b>Subpart 3</b> For construction of an electric power generating plant and associated facilities designed for or capable of operating at a capacity of 25 megawatts or more, the EQB shall be the RGU.

Table 28. <b>PETROLEUM REFINERIES</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>None</b>	<b>Subpart 4</b> For expansion of an existing petroleum refinery facility that increases its capacity by 10,000 or more barrels per day, the PCA shall be the RGU.

Table 29. <b>FUEL CONVERSION FACILITIES</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>None</b>	<b>Subpart 5</b> A. For construction of a facility for the conversion of coal, peat, or biomass sources to gaseous, liquid or solid fuels if that facility has the capacity to utilize 25,000 dry tons or more per year of input, the PCA shall be the RGU. B. For construction or expansion of a facility for the production of alcohol fuels which would have or would increase its capacity by 5,000,000 or more gallons per year of alcohol produced, the PCA shall be the RGU.

Table 30. <b>TRANSMISSION LINES</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>Subpart 5</b> Construction of a transmission line with a nominal capacity of 69 kilovolts or less.	<b>Subpart 6</b> For construction of a transmission line at a new location with a nominal capacity of 70 kilovolts or more with 20 or more miles of its length in Minnesota, the EQB shall be the RGU.

Table 31.	PIPELINES
Exemption Categories	Mandatory EAW
None	<p><b>Subpart 7</b></p> <p>A. For routing of a pipeline, greater than six inches in diameter and having more than 0.75 miles of its length in Minnesota, used for the transportation of coal, crude petroleum fuels or oil or their derivatives, the EQB shall be the RGU.</p> <p>B. For the construction of a pipeline for distribution of natural or synthetic gas under a license, permit, right, or franchise that has been granted by the municipality under authority of Minnesota Statutes, Section 216B.36, designed to operate at pressures in excess of 275 pounds per square inch (gauge) with a length greater than: (1) five miles if the pipeline will occupy streets, highways and other public property; or (2) 0.75 miles if the pipeline will occupy private property; the EQB or the municipality is the RGU.</p> <p>C. For construction of a pipeline to transport natural or synthetic gas subject to regulation under the federal Natural Gas Act, the United States, title 15, Section 717, et. seq., designed to operate at pressures in excess of 275 pounds per square inch (gauge) with a length greater than: (1) five miles if the pipeline will be constructed and operated within an existing right-of-way; or (2) 0.75 miles if construction or operation will require new temporary or permanent right-of-way; the EQB is the RGU. This item shall not apply to the extent that the application is expressly preempted by federal law, or under specific circumstances when an actual conflict exists with applicable federal law.</p> <p>D. For construction of a pipeline to convey natural or synthetic gas that is not subject to regulation under the federal Natural Gas Act, United States Code, title 15, Section 717, et. seq.; or to a license, permit, right, or franchise that has been granted by a municipality under authority of Minnesota Statutes, Section 216B.36; designed to operate at pressures in excess of 275 pounds per square inch (gauge) with a length greater than 0.75 miles, the EQB is the RGU.</p>

Table 32. <b>TRANSFER FACILITIES</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>Subpart 6</b> Construction of a facility designed for or capable of transferring less than 30 tons of coal per hour or with an annual throughput of less than 50,000 tons of coal from one mode of transportation to a similar or different mode of transportation, or the expansion of an existing facility by these respective amounts.	<b>Subpart 8</b> A. For construction of a facility designed for or capable of transferring 300 tons or more of coal per hour or with an annual throughput of 500,000 tons of coal from one mode of transportation to a similar or different mode of transportation; or the expansion of an existing facility by these respective amounts, the PCA shall be the RGU. B. For construction of a new facility or the expansion by 50 percent or more of an existing facility for the bulk transfer of hazardous materials with the capacity of 10,000 or more gallons per transfer, if the facility is located in a shoreland area, delineated flood plain, a state or federally designated wild and scenic rivers district, Minnesota River Project Riverbend area, or the Mississippi headwaters area, the PCA shall be the RGU.

Table 33. <b>UNDERGROUND STORAGE</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>None</b>	<b>Subpart 9</b> A. For expansion of an underground storage facility for gases or liquids that requires a permit, pursuant to Minnesota Statutes, Section 103I.681, subdivision 1, paragraph (a), the DNR shall be the RGU. B. For expansion of an underground storage facility for gases or liquids using naturally occurring rock materials, that requires a permit pursuant to Minnesota Statutes, Section 103I.681, subdivision 1, paragraph (b), the DNR shall be the RGU.

Table 34. <b>STORAGE FACILITIES</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>Subpart 7</b> Construction of a facility designed for or capable of storing less than 750 tons of coal or more, with an annual throughput of less than 12,500 tons of coal, or the expansion of an existing facility by these respective amounts.	<b>Subpart 10</b> A. For construction of a facility designed for or capable of storing more than 7,500 tons of coal or with an annual throughput of more than 125,000 tons of coal; or the expansion of an existing facility by these respective amounts, the PCA shall be the RGU. B. For construction of a facility on a single site designed for or capable of storing 1,000,000 gallons or more of hazardous materials, the PCA shall be the RGU. C. For construction of a facility designed for or capable of storing on a single site 100,000 gallons or more of liquefied natural gas synthetic gas, or anhydrous ammonia, the PCA shall be the RGU.

Table 35. <b>METALLIC MINERAL MINING AND PROCESSING</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>Subpart 8</b> A. General mine site evaluation activities that do not result in a permanent alteration of the environment, including mapping, aerial surveying, visual inspection, geologic field reconnaissance, geophysical studies, and surveying, but excluding exploratory borings. B. Expansion of metallic mineral plant processing facilities that are capable of increasing production by less than ten percent per year, provided the increase is less than 100,000 tons per year in the case of facilities for processing natural iron ore or taconite. C. Scram mining operations.	<b>Subpart 11</b> A. For mineral deposit evaluation of metallic mineral deposits other than natural iron ore and taconite, the DNR shall be the RGU. B. For expansion of a stockpile, tailings basin, or mine by 320 or more acres, the DNR shall be the RGU. C. For expansion of a metallic mineral plant processing facility that is capable of increasing production by 25 percent per year or more, provided that increase is in excess of 1,000,000 tons per year in the case of facilities for processing natural iron ore or taconite, the DNR shall be the RGU.

Table 36. <b>NONMETALLIC MINERAL MINING</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>None</b>	<b>Subpart 12</b> A. For development of a facility for the extraction or mining of peat which will result in the excavation of 160 or more acres of land during its existence, the DNR shall be the RGU. B. For development of a facility for the extraction or mining of sand, gravel, stone, or other nonmetallic minerals, other than peat which will excavate 40 or more acres of land to a mean depth of ten feet or more during its existence the local government unit shall be the RGU.

Table 37. <b>PAPER OR PULP PROCESSING MILLS</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>Subpart 9</b> Expansion of an existing paper or pulp processing facility that will increase its production capacity by less than 10 percent.	<b>Subpart 13</b> For expansion of an existing paper or pulp processing facility that will increase its production capacity by 50 percent or more, the PCA shall be the RGU.

Table 38. **INDUSTRIAL, COMMERCIAL AND INSTITUTIONAL FACILITIES**

Exemption Categories	Mandatory EAW
<p><b>Subpart 10</b></p> <p>A. Construction of a new or expansion of an existing warehousing, light industrial, commercial, or institutional facility of less than the following thresholds, expressed as gross floor space, if no part of the development is within a shoreland area, delineated flood plain, state or federal designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area:</p> <p>(1) third or fourth class city or unincorporated area, 50,000 square feet</p> <p>(2) second class city, 75,000 square feet</p> <p>(3) first class city, 100,000 square feet.</p> <p>B. Construction of a warehousing, light industrial, commercial, or institutional facility with less than 4,000 square feet of gross floor space, and with associated parking facilities designed for 20 vehicles or less.</p>	<p><b>Subpart 14</b></p> <p>A. For construction of a new or expansion of an existing warehousing or light industrial facility equal to or in excess of the following thresholds, expressed as gross floor space, the local governmental unit shall be the RGU.</p> <p>(1) unincorporated area, 150,000;</p> <p>(2) third of fourth class city, 300,000;</p> <p>(3) second class city, 450,000;</p> <p>(4) first class city, 600,000.</p> <p>B. For construction of a new or expansion of an existing industrial, commercial, or institutional facility, other than a warehousing or light industrial facility, equal to or in excess of the following thresholds, expressed as gross floor space, the local governmental units shall be the RGU. (1) unincorporated area, 100,000 square feet; (2) third or fourth class city, 200,000 square feet; (3) second class city, 300,000 square feet; (4) first class city, 400,000 square feet.</p> <p>C. This subpart applies to any industrial, commercial, or institutional project which includes multiple components in subparts listed in Minnesota Rule 4410.4300, for more than two or more of the components, regardless of whether the project in question meets or exceeds any threshold specified in those subparts. In those cases, the entire project must be compared to the thresholds specified in items A and B to determine the need for an EAW. If the project meets or exceeds the thresholds specified in any other subpart as well as that of item A or B, the RGU must be determined as provided in part 4410.0500, subpart 1.</p> <p>D. This subpart does not apply to projects for which there is a single mandatory category specified in Minnesota Rules 4410.4300 regardless of whether the project in question meets or exceeds any threshold specified in those subparts. In those cases, the need for an EAW must be determined by comparison of the project to the threshold specified in the applicable subpart, and the RGU must be the governmental unit assigned by that subpart.</p>

Table 39. <b>AIR POLLUTION</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>Subpart 10, Item C</b> Construction of a new parking facility for less than 100 vehicles if the facility is not located in a shoreland area, delineated flood plain, state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area.	<b>Subpart 15</b> A. For construction of a stationary source facility that generates 100 tons or more per year or modification of a stationary source facility that increases generation by 100 tons or more per year of any single air pollutant after installation of air pollution control equipment, the PCA shall be the RGU. B. For construction of a new parking facility for 2,000 or more vehicles, the PCA shall be the RGU, except that this category does not apply to any parking facility which is part of a project reviewed pursuant to part 4410.4300, subpart 14, 19, 32, or 34, or part 4410.4400, subpart 11, 14, 21, or 22.

Table 40. <b>HAZARDOUS WASTE</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>None</b>	<b>Subpart 16</b> A. For construction or expansion of a hazardous waste disposal facility, the PCA shall be the RGU. B. For construction of a hazardous waste processing facility with a capacity of 1,000 or more kilograms per month, the PCA shall be the RGU. C. For expansion of a hazardous waste processing facility that increase its capacity by ten percent or more, the PCA shall be the RGU. D. For construction or expansion of a facility that sells hazardous waste storage services to generators other than the owner and operator of the facility or construction of a facility at which a generator's own hazardous wastes will be stored for a time period in excess of 90 days, if the facility is located in a water-related land use management district, or in an area characterized by soluble bedrock, the PCA shall be the RGU.



Table 41. <b>SOLID WASTE</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>None</b>	<p><b>Subpart 17</b></p> <ul style="list-style-type: none"> <li>A. For construction of a mixed municipal solid waste disposal facility for up to 100,000 cubic yards of waste fill per year, the PCA is the RGU.</li> <li>B. For expansion by 25 percent or more of previous capacity of a mixed municipal solid waste disposal facility for up to 100,000 cubic yards of waste fill per year, the PCA is the RGU.</li> <li>C. For construction or expansion of a mixed municipal solid waste transfer station for 300,000 or more cubic yards per year, the PCA is the RGU.</li> <li>D. For construction or expansion of a mixed municipal solid waste energy recovery facility or incinerator, or the utilization of an existing facility for the combustion of mixed municipal solid waste or refuse-derived fuel, with a capacity of 30 or more tons per day of input, the PCA is the RGU.</li> <li>E. For construction or expansion of a mixed municipal solid waste compost facility or a refuse-derived fuel production facility with a capacity of 50 or more tons per day of input, the PCA is the RGU.</li> <li>F. For expansion by at least ten percent but less than 25 percent of previous capacity of a mixed municipal solid waste disposal facility for 100,000 cubic yards or more of waste fill per year, the PCA is the RGU.</li> <li>G. For construction or expansion of a mixed municipal solid waste energy recovery facility ash landfill receiving ash from an incinerator that burns refuse-derived fuel or mixed municipal solid waste, the PCA is the RGU.</li> </ul>

Table 42.	WASTEWATER SYSTEMS
Exemption Categories	Mandatory EAW
<p><b>Subpart 11</b> Construction of a new wastewater treatment facility with a capacity of less than 5,000 gallons per day average wet weather flow or the expansion of an existing wastewater treatment facility by less than 5,000 gallons per day average wet weather flow or the expansion of a sewage collection system by less than 5,000 gallons per day design daily average flow or a sewer line of 1,000 feet or less and eight-inch diameter or less.</p>	<p><b>Subpart 18</b></p> <ul style="list-style-type: none"> <li>A. For expansion, modification, or replacement of a municipal sewage collection system resulting in an increase in design average daily flow of any part of that system by 1,000,000 gallons per day or more, the PCA shall be the RGU.</li> <li>B. For expansion or reconstruction of an existing municipal or domestic wastewater treatment facility which results in an increase by 50 percent or more and by at least 50,000 gallons per day of its average wet weather design flow capacity of 50,000 gallons per day or more, the PCA shall be the RGU.</li> <li>C. For expansion or reconstruction of an existing industrial process wastewater treatment facility which increases its design flow capacity by 50 percent or more and by at least 200,000 gallons per day or more, or construction of a new industrial process wastewater treatment facility with a design flow capacity of 200,000 gallons per day or more, 5,000,000 gallons per month or more, or 20,000,000 gallons per year or more, the PCA shall be the RGU. This category does not apply to industrial process wastewater treatment facilities that discharge to a publicly-owned treatment works or to a tailings basin reviewed pursuant to subpart 11, item B.</li> </ul>

Table 43.

**RESIDENTIAL DEVELOPMENT**

Exemption Categories	Mandatory EAW
<p><b>Subpart 12</b></p> <p>A. Construction of a sewer residential development, no part of which is within a shoreland area, delineated flood plain state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area, of:</p> <ol style="list-style-type: none"> <li>1) less than ten units in an unincorporated area,</li> <li>2) less than 20 units in a third or fourth class city,</li> <li>3) less than 40 units in a second class city, or</li> <li>4) less than 80 units in a first class city.</li> </ol> <p>B. Construction of a single residence or multiple residence with four dwelling units of less and accessory appurtenant structures and utilities.</p>	<p><b>Subpart 19</b></p> <p>A. 50 or more unattached or 75 or more attached units in an unsewered unincorporated area or 100 unattached units or 150 attached units in a sewer unincorporated area;</p> <p>B. 100 unattached units or 150 attached units in a city that does not meet the conditions of item D;</p> <p>C. 100 unattached units or 150 attached units in a city meeting the conditions of item D if the project is not consistent with the adopted comprehensive plan; or</p> <p>D. 250 unattached units or 375 attached units in a city within the seven-county Twin Cities metropolitan area that has adopted a comprehensive plan under Minnesota Statutes, Section 473.859, or in a city not located within the seven-county Twin Cities metropolitan area that has filed with the EQB chair a certification that it has adopted a comprehensive plan containing the following elements:</p> <ol style="list-style-type: none"> <li>1) a land use plan designating the existing and proposed location, intensity, and extent of use of land and water for residential, industrial, agricultural, and other public and private purposes;</li> <li>2) a transportation plan describing, designating, and scheduling the location, extent, function, and capacity of existing and proposed local public and private transportation facilities and services;</li> <li>3) a sewage collection system policy plan describing, designating, and scheduling the areas to be served by the public system, the existing and planning capacities of the public system, and the standards and conditions under which the installation of private sewage treatment systems will be permitted;</li> <li>4) a capital improvements plan for public facilities; and</li> <li>5) an implementation plan describing public programs, fiscal devices, and other actions to be undertaken to implement the comprehensive plan, and a description of official controls addressing the matters of zoning, subdivision, private sewage systems, and a schedule for the implementation of those controls. The EQB chair may specify the form to be used for making a certification under this item.</li> </ol>

Table 44. <b>CAMPGROUNDS AND RV PARKS</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>None</b>	<b>Subpart 20</b> For construction of a seasonal or permanent recreational development, accessible by vehicle, consisting of 50 or more sites, or the expansion of such a facility by 50 or more sites, the local government unit shall be the RGU.

Table 45. <b>AIRPORT PROJECTS</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>Subpart 13</b> A. Runway, taxiway, apron, or leading ramp construction or repair work including reconstruction, resurfacing, marking, grooving, fillets, and jet blast facilities, except where the project will create environmental impacts off airport property. B. Installation or upgrading of airfield lighting systems, including beacons and electrical distribution systems. C. Construction or expansion of passenger handling or parking facilities, including pedestrian walkway facilities. D. Grading or removal of obstructions and erosion control projects on airport property, except where the projects will create environmental impacts off airport property.	<b>Subpart 21</b> A. For construction of a paved, new airport runway, the DOT, local governmental unit, or the Metropolitan Airports Commission shall be the RGU. B. For construction of a runway extension that would upgrade an existing runway to permit usage by aircraft over 12,500 pounds that are at least three decibels louder than aircraft currently using the runway, the DOT, local government unit, or the Metropolitan Airports Commission shall be the RGU. The RGU shall be selected according to part 4410.0500, subpart 5.

Table 46. <b>HIGHWAY PROJECTS</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>Subpart 14</b> A. Highway safety improvement projects. B. Installation of traffic control devices, individual noise barriers, bus shelters and bays, loading zones, and access and egress lanes for transit and paratransit vehicles. C. Modernization of an existing roadway or bridge by resurfacing, restoration, or rehabilitation that may involve the acquisition of minimal amounts of right-of-way. D. Roadway landscaping, construction of bicycle and pedestrian lanes, paths, and facilities within existing right-of-way. E. Any stream diversion or channelization within the right-of-way of an existing public roadway associated with bridge or culvert replacement. F. Reconstruction or modification of an existing bridge structure on essentially the same alignment or location that may involve the acquisition or minimal amounts of right-of-way.	<b>Subpart 22</b> A. For construction of a road on a new location over one mile in length that will function as a collector roadway, the DOT or local government unit shall be the RGU. B. For construction of additional travel lanes on an existing road for a length of one or more miles, the DOT or local government unit shall be the RGU. C. For the addition of one or more new interchanges to a completed limited access highway, the DOT or local government unit shall be the RGU.

Table 47. <b>BARGE FLEETING</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>None</b>	<b>Subpart 23</b> For construction of a new or expansion of an existing barge fleeting facility, the DOT or port authority shall be the RGU.

Table 48. <b>WATER APPROPRIATION AND IMPOUNDMENTS</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>Subpart 15</b> A new or additional permanent impoundment of water creating a water surface of less than ten acres.	<b>Subpart 24</b> A. For a new appropriation for commercial or industrial purposes of either surface water or ground water averaging 30,000,000 gallons per month; or an a new appropriation of either ground water or surface water for irrigation of 540 acres or more in one continuous parcel from one source of water, the DNR shall be the RGU. B. For a new permanent impoundment of water creating additional water surface of 160 or more acres or for an additional permanent impoundment of water creating additional water surface of 160 or more acres, the DNR shall be the RGU. C. For construction of a dam with an upstream drainage area of 50 square miles or more, the DNR shall be the RGU.

Table 49. <b>MARINAS</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>Subpart 16</b> Construction of private residential docks for use by four or less boats and utilizing less than 1,500 square feet of water surface.	<b>Subpart 25</b> For construction or expansion of a marina or harbor that results in a 20,000 or more square foot total or a 20,000 or more square foot increase of water surface area used temporarily or permanently for docks, docking, or maneuvering of watercraft, the local government unit shall be the RGU.

Table 50. <b>STREAMS AND DITCHES</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>Subpart 17</b> Routine maintenance or repair of a drainage ditch within the limits of its original construction flow capacity, performed within 20 years of construction of major repair.	<b>Subpart 26</b> For a diversion, realignment, or channelization of any designated trout stream, or affecting greater than 500 feet of natural watercourse with a total drainage area of ten or more square miles unless exempted by part 4100.4600, subpart 14, item E, or 17, the local government unit shall be the RGU.

Table 51. <b>WETLANDS AND PROTECTED WATERS</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>None</b>	<p><b>Subpart 27</b></p> <p>A. For projects that will change or diminish the course, current, or cross-section of one acre or more of any protected water or protected wetland except for those to be drained without a permit pursuant to Minnesota Statutes, chapter 103G, the local government unit shall be the RGU.</p> <p>B. For projects that will change or diminish the course, current, or cross-section of 40 percent or more or five or more acres of types 3 through 8 wetland of 2.5 acres or more, excluding protected wetlands, if any part of the wetland is within a shoreland area, delineated flood plain, a state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area, the local government unit shall be the RGU.</p>

Table 52. <b>FORESTRY</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<p><b>Subpart 18</b></p> <p>A. Harvesting of timber for maintenance purposes.</p> <p>B. Public and private forest management practices, other than clear cutting or the application of pesticides, that involve less than 20 acres of land.</p>	<p><b>Subpart 28</b></p> <p>A. For harvesting of timber for commercial purposes on public lands within a state park, historical area, wilderness area, scientific and natural area, wild and scenic rivers district, the Minnesota River Project Riverbend area, the Mississippi headwaters area, or critical area that does not have an approved plan under Minnesota Statutes, Section 86A.09 or 116G.07, the DNR shall be the RGU.</p> <p>B. For a clear cutting of 80 or more contiguous acres of forest, any part of which is located within a shoreland area and within 100 feet of the ordinary high water mark of the lake or river, the DNR shall be the RGU.</p>

Table 53. <b>ANIMAL FEEDLOTS</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>Subpart 19</b> Construction of an animal feedlot facility of less than 100 animal units or the expansion of an existing facility by less than 100 animal units no part of either of which is located within a shoreland area, delineated flood plain, state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area.	<b>Subpart 29</b> For the construction of an animal feedlot facility with a capacity of 1,000 animal units or more or the expansion of an existing facility by 1,000 animal units or more or construction of a total confinement animal feedlot facility of 2,000 animal units or more or the expansion of an animal feedlot facility by 2,000 animal units or more if the expansion is a total confinement facility, the PCA shall be the RGU.

Table 54. <b>NATURAL AREAS</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>None</b>	<b>Subpart 30</b> For projects resulting in the permanent, physical encroachment on lands within a national park, state park, wilderness area, state lands and waters within the boundaries of the Boundary Waters Canoe Area, scientific and natural area, or state trail corridor when the encroachment is inconsistent with laws applicable to or the management plan prepared for the recreational unit, the DNR or local government unit shall be the RGU.

Table 55. <b>HISTORICAL PLACES</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>None</b>	<b>Subpart 31</b> For the destruction, in whole or part, or the moving of a property that is listed on the National Register of Historic Places or State Register of Historic Places, the permitting state agency or local unit of government shall be the RGU, except this does not apply to projects reviewed under Section 106 of the National Historic Preservation Act of 1966, United States Code, title 16, Section 470, or the federal policy on lands, wildlife and waterfowl refuges, and historic sites pursuant to United States Code, title 49, Section 303.



Table 56. **MIXED RESIDENTIAL AND INDUSTRIAL-COMMERCIAL PROJECTS**

Exemption Categories	Mandatory EAW
None	<b>Subpart 32</b> If a project includes both residential and industrial-commercial components, the project must have an EAW prepared if the sum of the quotient obtained by dividing the number of residential units by the applicable residential threshold of subpart 19, plus the quotient obtained by dividing the amount of industrial-commercial gross floor space by the amount of industrial-commercial threshold of subpart 14, equals or exceeds one. The local government unit is the RGU.

Table 57. **COMMUNICATIONS TOWERS**

Exemption Categories	Mandatory EAW
None	<b>Subpart 33</b> For construction of a communications tower equal to or in excess of 500 feet in height, or 300 feet in height within 1,000 feet of any protected water or protected wetland and within two miles of the Mississippi, Minnesota, Red, or St. Croix rivers, or Lake Superior, the local governmental unit is the RGU.

Table 58. **SPORTS OR ENTERTAINMENT FACILITIES**

Exemption Categories	Mandatory EAW
None	<b>Subpart 34</b> For construction of a new sports or entertainment facility designed for or expected to accommodate a peak attendance of 5,000 or more persons, or the expansion of an existing sports or entertainment facility by this amount, the local governmental unit is the RGU.

Table 59. <b>RELEASE OF GENETICALLY ENGINEERED ORGANISMS</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>None</b>	<b>Subpart 35</b> For the release of a genetically engineered organism that requires a release permit from the EQB under chapter 4420, the EQB is the RGU. For all other releases of genetically engineered organisms, the RGU is the permitting state agency. This subpart does not apply to the direct medical application of genetically engineered organisms to humans or animals.

Table 60. <b>LAND USE CONVERSION, INCLUDING GOLF COURSES</b>	
<b>Exemption Categories</b>	<b>Mandatory EAW</b>
<b>None</b>	<b>Subpart 36</b> A. For golf courses, residential development where the lot size is less than five acres, and other projects resulting in the permanent conversion of 80 or more acres of agricultural, native prairie, forest, or naturally vegetated land, the local government unit shall be the RGU, except that this subpart does not apply to agricultural land inside the boundary of the Metropolitan Urban Service established by the Metropolitan Council. B. For projects resulting in the conversion of 640 or more acres of forest or naturally vegetated land to a different open space land use, the local government unit shall be the RGU.

**Federal Activities, Licenses, Permits and Assistance Programs  
Subject to Federal Consistency Requirements**

**I. Direct Federal Activities and Development Projects**

If a direct federal activity is not addressed in an agreement with the state, and the activity meets or exceeds the “mandatory EAW categories”, a federal agency must provide the DNR Waters and appropriate state agency(s) with a consistency determination for any activity affecting any land or water use or natural resources within Minnesota’s coastal boundary. The following list is provided to highlight those activities most likely to affect the coastal area.

*Department of Agriculture, Forest Service*

- Harvest of timber, reforestation, road and trail building and maintenance, fish and wildlife enhancement, shoreline erosion control/bank stabilization, construction and operation of campgrounds and wilderness access points, construction and maintenance of water access sites, exchange and acquisition of federal land, design and construction of administrative site, and site cleanup under RCRA or CERCLA.

*Department of Defense, Army Corps of Engineers*

- Dredging, channel improvement, breakwaters, other navigational works, erosion control structures, beach replenishment, dams or flood control works, ice management practices and activities and other projects with the potential to impact coastal lands and waters.
- Land acquisition or disposal for spoil disposal or other purposes.
- Habitat creation (islands, marshes, etc. created by dredge material).
- Selection of disposal sites for dredged material from federal harbors and navigation channels.

*Department of Defense, Air Force, Army, and Navy*

- Location, design, and acquisition of new or expanded defense installations (active or reserve status including associated housing, transportation or other facilities).
- Plans, procedures and facilities for handling storage use zones.
- Establishment of impact, compatibility or restricted use zones.
- Disposal of defense property.

*Department of Energy*

- Prohibition orders.

### *Department of Interior, Bureau of Indian Affairs*

- Indian trust (reservation) land acquisitions (25 C.F.R. 151)
- Development of trust lands
  - Realty actions: leases, rights of way
  - Environmental review in compliance with tribal/federal mandates
- Inventorying, monitoring and protection of trust resources
  - (Includes adjudicated ceded territory resources in 1854 Authority)
  - Forest management and sales
  - Fish, wildlife & wild rice habitat management/restoration
  - Integrated Resource Management Plans (IRMPs)
  - Solid and hazardous waste compliance (dump caps, USTs, etc.)
  - Natural Resources Damage Assessments (CERCLA, CWA, OPA 90)

### *Department of Interior, Fish and Wildlife Service*

- Management of Natural Wildlife Refuges; land acquisition.

### *Department of Interior, National Park Service*

- National Park Service unit management; land acquisitions.
- Location, design, and acquisition of new or expanded facilities.

### *Department of Justice, U.S. Marshals Service*

- Disposition of property acquired by the Marshals Service.

### *Department of Transportation, Coast Guard*

- Location and design, construction, or enlargement of Coast Guard stations, bases, and lighthouses.
- Location, placement, or removal of navigation devices which are not part of the routine operations under the Aids to Navigation Program (ATON).
- Expansion, abandonment, designation of anchorages, lighting areas or shipping lanes and ice management practices and activities.
- Ice breaking
- Oil and hazardous material pollution response planning and response activities

### *Department of Transportation, Federal Aviation Administration*

- Location and design, construction, maintenance, and demolition of federal aids to air navigation.

*Department of Transportation, Amtrak, Conrail*

- Expansions, curtailments, new construction, upgrades or abandonments of railroad facilities or services, in or affecting the state's coastal area.

*Department of Transportation, Federal Highway Administration*

- Highway construction.

*Department of Transportation, Maritime Administration*

- Port planning

*Environmental Protection Agency*

- Activities conducted under the Resource Conservation and Recovery Act (RCRA) of 1976.
- Activities conducted under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980.

*Federal Energy Regulatory Commission*

- Construction to develop new supplies or to reinforce existing transportation systems

*General Services Administration*

- Acquisition, location and design of proposed federal government property or buildings, whether leased or owned by the federal government.
- Disposition of federal surplus lands and structures.

*Nuclear Regulatory Commission*

- The siting, construction and operation of nuclear generating stations, fuel storage, and processing centers pursuant to the Atomic Energy Act of 1954, Title II of the Energy Reorganization Act of 1974.

## II. Federal Licenses and Permits

### *Department of Agriculture, Forest Service*

- Road/trail access across federal land to nonfederal land to provide access to nonfederal land or to allow development of state, county or township roads and highways (36 C.F.R. 251.110).
- Minerals or energy development (includes mineral exploration, mine development and operation, gravel extraction and quarry stone extraction) (36 C.F.R. 228).
- Recreational uses (shoreline resorts, shoreline homes) (36 C.F.R. 251.50).
- Special events (36 C.F.R. 251.50).
- Utility corridors (power line and pipelines across federal land) (36 C.F.R. 251.50).
- Protection of archeological resources (36 C.F.R. 296).

### *Department of Defense, Army Corps of Engineers*

- Construction of dams, dikes, or ditches across navigable waters, or obstruction or alteration of navigable waters required under Sections 9 and 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401, 403).
- Establishment of harbor lines pursuant to Section 11 of the Rivers and Harbors Act of 1899 (33 U.S.C. 404, 405).
- Occupation of seawall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the U.S. pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408).
- Approval of plans for improvement made at private expense under USACE supervision pursuant to the Rivers and Harbors Act of 1902 (33 U.S.C. 565).
- Disposal of dredged or fill material into the waters of the U.S. pursuant to the Clean Water Act, Section 404 (33 U.S.C. 1344).
- All actions for which permits are required pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

### *Department of Interior, Bureau of Indian Affairs*

- Archaeological Resources Protection Act Permits for trust lands (25 C.F.R. 262).

### *Department of Interior, Fish and Wildlife Service*

- Fish and Wildlife coordination (17 U.S.C. 661-667).

- Endangered species permits pursuant to the Endangered Species Act (16 U.S.C. 153 (a)).

*Department of Transportation, Coast Guard*

- Construction or modification of bridges, causeways, or pipelines over navigable waters pursuant to 49 U.S.C. 1455.
- Hazardous substances and materials (33 U.S.C. 419).
- Marine event permits (46 U.S.C. 454, 33 C.F.R. 100.15).

*Department of Transportation, Federal Aviation Administration*

- Permits and licenses for construction, operation, or alteration of airports (F.A.R. Part 157).

*Environmental Protection Agency*

- NPDES permits and other permits for federal installations, sludge runoff and aquaculture permits and all other permits pursuant to §401, 402, 403, 405, and 318 of the federal Water Pollution Control Act of 1972 (33 U.S.C. 1341, 1342, 1343, and 1328).
- Permits pursuant to the Resource Conservation and Recovery Act (RCRA) of 1976.
- Permits pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980.
- Permits pursuant to the underground injection control program under Section 1424 of the Safe Water Drinking Water Act (42 U.S.C. 300 h-c).
- Permits pursuant to the Clean Air Act of 1976 (42 U.S.C. 1857).

*Federal Energy Regulatory Commission*

- Licenses, renewals, or amendments to licenses for nonfederal hydroelectric projects and primary transmission lines under Section 3(11), 4(e), and 15 of the federal Power Act (16 U.S.C. 796 (11), 797 (11), and (808)).
- Orders for interconnection of electric transmission facilities under Section 202 (b) of the federal Power Act (15 U.S.C. 824 a (b)).
- Certificates for the construction and operation of interstate natural gas pipeline facilities, including both pipelines and terminal facilities under §7 (c) of the Natural Gas Act (15 U.S.C. 717 f (c)).
- Permission and approval for the abandonment of natural gas pipeline facilities under §7 (b) of the Natural Gas Act (15 U.S.C. 717 f (b)).

- Regulation of gas pipelines, and licensing of import and export of natural gas pursuant to the Natural Gas Act (15 U.S.C. 717) and the Energy Reorganization Act of 1974.
- Exemptions from prohibition orders (15 U.S.C. 791).

*Nuclear Regulatory Commission*

- Licensing and determination of the siting, construction and operation of nuclear generating stations, fuel storage, and processing centers pursuant to the Atomic Energy Act of 1954, Title II of the Energy Reorganization Act of 1974 and the National Environmental Policy Act of 1974.

*Surface Transportation Board*

- Authority to abandon railway lines (to the extent that the abandonment involves removal of trackage and disposition of right-of-way); authority to construct railroads; authority to construct coal slurry pipelines (49 U.S.C. 10901 @ seq.).

**III. Federal Assistance**

(NOTE: Numbers refer to the Catalog of federal Domestic Assistance Programs.)

*Department of Agriculture*

- 10.025 Plant and Animal Disease and Pest Control
- 10.405 Farm Labor Housing Loans and Grants
- 10.411 Rural Housing Site Loans
- 10.414 Resource Conservation and Development Loans
- 10.415 Rural Rental Housing Loans
- 10.418 Water and Waste Disposal Systems for Rural Communities
- 10.419 Watershed Protection and Flood Prevention Loans
- 10.420 Rural Self-Help Housing Technical Assistance
- 10.422 Business and Industrial Loans
- 10.423 Community Facilities Loans
- 10.424 Industrial Development Grants
- 10.433 Rural Housing Preservation Grants
- 10.760 Water and Waste Disposal Systems Loans and Grants
- 10.762 Solid Waste Management Grants
- 10.763 Emergency Community Water Assistance Grants
- 10.764 Resource Conservation and Development Loans
- 10.765 Watershed Protection and Flood Prevention Loans
- 10.766 Community Facilities Loans
- 10.767 Intermediary Relending Program
- 10.768 Business and Industrial Loans
- 10.769 Rural Business Enterprise Grant Program
- 10.850 Rural Electrification Loans and Guarantees
- 10.851 Rural Telephone Loans and Guarantees
- 10.852 Rural Telephone Bank Loans



- 10.854 Rural Economic Development Loan and Grant Program
- 10.901 Resource Conservation and Development
- 10.904 Watershed Protection and Flood Prevention
- 10.906 River Basin Surveys and Investigations

*Department of Commerce*

- 11.300 Economic Development - Grants and Loans for Public Works and Development Facilities
- 11.302 Economic Development - Support for Planning Organizations
- 11.303 Economic Development - Technical Assistance
- 11.304 Economic Development - Public Works Impact Projects
- 11.305 Economic Development - State and Urban Area Economic Development Planning
- 11.307 Special Economic Development and Adjustment Assistance, Sudden and Severe Economic Dislocation (SSED) and Long-Term Deterioration (LTED)
- 11.405 Anadromous and Great Lakes Fisheries Conservation
- 11.407 Interjurisdictional Fisheries Act of 1986
- 11.417 Sea Grant Support
- 11.419 Coastal Zone Management Program Administration
- 11.420 Coastal Zone Management Estuarine Research Reserves
- 11.427 Fisheries Development and Utilization Research/Development Grants/Coop Agreements
- 11.550 Public Telecommunications Facilities - Construction and Planning

*Department of Defense*

- 12.101 Beach Erosion Control Projects
- 12.104 Flood Plain Management Services
- 12.105 Protection of Essential Highways, Highway Bridge Approaches, and Public Works
- 12.106 Flood Control Projects
- 12.107 Navigation Projects
- 12.108 Snagging and Clearing for Flood Control
- 12.109 Protection, Clearing and Straightening Channels
- 12.110 Planning Assistance to States
- 12.610 Joint Military/Community Comprehensive Land Use Plans

*Department of Housing and Urban Development*

- 14.170 Congregate Housing Services Program
- 14.174 Housing Development Grants (HoDAG)
- 14.218 Community Development Block Grants/Entitlement Grants
- 14.219 Community Development Block Grants/Small Cities Grants

*Department of the Interior*

- 15.600 Anadromous Fish Conservation
- 15.605 Sport Fish Restoration
- 15.611 Wildlife Restoration
- 15.612 Endangered Species Conservation

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- 15.614 North American Wetlands Conservation
- 15.616 Clean Vessel Act
- 15.904 Historic Preservation Fund Grants-In-Aid
- 15.910 National Natural Landmarks Program
- 15.916 Outdoor Recreation - Acquisition, Development and Planning

### *Department of Transportation*

- 20.005 Boating Safety Financial Assistance
- 20.106 Airport Improvement Program
- 20.205 Highway Planning and Construction (Including Intermodal Surface Transportation Efficiency Act Programs)
- 20.219 Symms National Recreation Trails Fund Act - Grants for Motorized and Non-motorized Trails
- 20.308 Local Rail Service Assistance Program
- 20.500 Urban Mass Transportation Capital Improvement Grants
- 20.509 Public Transportation for Nonurbanized Areas
- 20.801 Development and Promotion of Ports and Intermodal Transportation
- 20.998 Transportation Improvement Program

### *General Services Administration*

- 39.002 Disposal of Federal Surplus Real Property

### *National Foundation of the Arts and the Humanities*

- 45.007 Promotion of the Arts - State Programs
- 45.023 Promotion of the Arts - Local Programs

### *Department of Veteran Affairs*

- 64.005 Grants to States for Construction of State Home Facilities

### *Environmental Protection Agency*

- 66.001 Air Pollution Control Program Support
- 66.419 Water Pollution Control - State and Interstate Program Support
- 66.432 State Public Water System Supervision
- 66.433 State Underground Water Source Protection
- 66.435 Water Pollution Control - Lake Restoration Cooperative Agreements
- 66.438 Construction Management Assistance
- 66.454 Water Quality Management Planning
- 66.456 National Estuary Program
- 66.458 Capitalization Grants for State Revolving Funds
- 66.500 Environmental Protection - Consolidated Research
- 66.501 Air Pollution Control Research
- 66.502 Pesticides Control Research
- 66.504 Solid Waste Disposal Research
- 66.505 Water Pollution Control - Research, Development, and Demonstration
- 66.506 Safe Drinking Water Research and Demonstration

- 66.507 Toxic Substances Research
- 66.600 Environmental Protection Consolidated Grants - Program Support
- 66.700 Pesticides Enforcement Program
- 66.701 Toxic Substances Compliance Monitoring Cooperative Agreements
- 66.702 Asbestos Hazards Abatement (Schools) Assistance
- 66.801 Hazardous Waste Management State Program Support
- 66.802 Hazardous Substance Response Trust Fund
- 66.804 State Underground Storage Tanks Program
- 66.805 Underground Storage Tank Trust Fund
- 66.807 Superfund Innovative Technology Evaluation Program (SITE)
- 66.808 Hazardous Waste; Integrated Training and Technical Assistance - Interstate

*Department of Energy*

- 81.041 State Energy Conservation
- 81.049 Basic Energy Sciences, High Energy or Nuclear Physics, Magnetic Fusion Energy, Health and Environmental Research, Program Analysis and Field Operations Management

*Federal Emergency Management Agency*

- 83.503 Civil Defense - State and Local Emergency Management Assistance
- 83.513 State and Local Warning and Communication Systems
- 83.516 Disaster Assistance

Table 61. **Summary of Federal Consistency Provisions**

	Direct Federal Actions & Development Projects	Federal License or Permit Activities	Federal Assistance to State and Local Governments
CZMA Section 307	(c)(1) & (2)	(c)(3)(A)	(d)
Activity subject to review, if it...	Affects any land or water use or natural resource of the coastal zone	Affects any land or water use or natural resource of the coastal zone	Affects any land or water use or natural resource of the coastal zone
Consistency requirement	Consistent to the maximum extent practicable with state CMP	Consistent with state CMP	Consistent with state CMP
Who decides?	Federal agency	State CMP and networked state agency(s)	State CMP and networked state agency(s)
Time limit	45 days, plus 15 day extension	30 days; state may extend	30 days state may extend
Impact of State Objection	Federal agency may proceed. Must cite legal authority as to why it must proceed despite inconsistency	Federal agency may not issue permit, license, or other approval	Federal agency may not grant assistance
Administrative conflict resolution	Mediation by the Secretary of Commerce (voluntary, non-binding)	Appeal to the Secretary to override state objection	Appeal to the Secretary to override state objection

## **PART VI**

### **MINNESOTA COASTAL NONPOINT SOURCE PROGRAM**

#### **A. SUMMARY OF DEVELOPMENT AND STATUS OF STATE NPS PROGRAMS**

##### **1. Background**

A major effort to combat water pollution began with the passage of the federal Clean Water Act of 1972. The basic goal of the Clean Water Act was to "restore and maintain the chemical, physical, and biological integrity of the nation's waters." This federal legislation created a variety of programs to control water pollution, with most of the responsibility for carrying out these programs assigned to state governments under supervision of the U.S. Environmental Protection Agency (EPA).

Under Section 319 of the Clean Water Act, nonpoint source pollution is defined as:

*"Land management activity or land use activity that contributes or may contribute to ground and surface water pollution as a result of runoff, seepage, or percolation and that is not defined as a point source in Section 115.01, subdivision 15. Nonpoint sources include, but are not limited to, rural and urban land management activities and land use activities and specialty land use activities such as transportation." (Section 115.03. Subdivision 6).*

Section 208 of the Clean Water Act requires states preparing area wide waste treatment plants to consider aspects of nonpoint source pollution (NPS). In particular, different types of activities normally associated with NPS has to be identified, including agriculture, silviculture, urban construction, and mining activities. Once NPS problems were identified, methods could be examined to abate them through the use of "best management practices" (BMPs).

As a part of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA), Congress created a stand-alone provision, Section 6217, which requires that states and territories with approved coastal management programs develop a coastal nonpoint pollution control program. The program must be submitted to NOAA and U.S. EPA for approval, and be implemented through changes to both the state coastal management program and the nonpoint source management program (Section 319, federal Clean Water Act). The State of Minnesota will submit its updated Nonpoint Source Management Program as the basis for an approvable Coastal Nonpoint Pollution Control Program to NOAA and U.S. EPA within 30 months of approval of MLSCP.

Approval of Minnesota's Section 6217 Coastal Nonpoint Pollution Control Program will come at a later time, after full program development and is not a part of the approval of Minnesota's Lake Superior Coastal Program.

##### **2. What Is Nonpoint Source Pollution?**

Even though the term "nonpoint source pollution" can be technically defined, the concept can be confusing. Not only are there a wide variety of human activities and land management practices considered to be potential nonpoint sources of pollution, but many of the activities which are

classified as nonpoint sources take place away from water. The concept of NPS can perhaps best be clarified by describing the relationship between the potential pollutant and the type of activity generating the pollutant.

Some of the more significant land use activities related to impairment of water quality in Minnesota include the following:

- C Urbanization of large land areas
- C Use of pesticides and fertilizers
- C Animal feedlots
- C Construction site practices
- C Septic systems
- C Forestry practices
- C Removal or modification of wetlands
- C Activities that accelerate erosion of roads, streambanks, and lakeshores
- C Cropland erosion

Contaminants associated with these land use practices are carried from land to water through stormwater or from snowmelt runoff, seepage into the soil or atmospheric deposition. All of these forms of pollutant movement from land to water, define the nature of nonpoint source pollution.

### **3. Recent Efforts in Minnesota**

In the mid-1970s, the Minnesota Pollution Control Agency (MPCA), in cooperation with state and federal agencies and local officials, initiated the water quality management planning effort required under Section 208 of the Clean Water Act. The purpose of the planning effort was to identify significant water quality problems due to nonpoint sources of water pollution and set forth effective programs to correct those problems.

A number of significant developments impacted the original intent of the 1980 Minnesota Water Quality Management Plan. Fiscal, administrative and legislative constraints limited its implementation.

In 1987, the Clean Water Partnership Program was established by the Minnesota legislature. The CWP program was to protect and improve surface and ground water quality by providing state financial and technical assistance to local units of government.

Many of the activities, resources and accomplishments of the 208 planning process provided the basis for Minnesota's 1988 Nonpoint Source Management Program. This plan was designed to be an action plan for addressing nonpoint source problems over a four-year period. The plan was approved by the EPA in 1989.

In January 1993, a statewide planning effort was initiated to meet the NPS challenge and find

solutions that would be relevant for Minnesota over time. Recognizing the breadth of nonpoint source issues, the range of expertise needed to deal with them, and the distribution of legal authority, a concerted effort was made to actively involve a variety of federal, state, and local resource managers in the planning effort.

In 1994, the Minnesota Pollution Control Agency published and submitted to EPA its Nonpoint Source Management Program. The document was the result of a comprehensive planning effort. It reflects the priority needs and action steps necessary for the state to realize water quality goals through abatement of nonpoint source pollution.

Besides providing direction for nonpoint source pollution, the plan is a framework for funding opportunities under Section 319 of the Clean Water Act. The management plan builds upon and replaces the 1988 Nonpoint Source Assessment Report and the 1988 Nonpoint Source Management Program developed in 1987 under Section 319 guidance.

## **B. MINNESOTA'S APPROACH TO NONPOINT SOURCE POLLUTION**

Minnesota relies on a balance of voluntary versus regulatory approaches in controlling nonpoint source pollution. For example, in agriculture, most approaches for dealing with nonpoint source issues have historically used a mix of voluntary and positive incentive approaches (technical and financial assistance). Negative incentives such as the highly erodible lands cross compliance feature of the 1990 Farm Bill have only been introduced recently.

The following tables list the tools and programs focusing on water quality improvement through control of nonpoint sources, and identify whether each tool or program is predominantly voluntary or regulatory. The purpose of this listing is to provide a snapshot of the current voluntary/regulatory mix in Minnesota.

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**PART VI**

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Table 62. Existing Tools for Addressing Nonpoint Source Pollution.

Tool	Voluntary	Regulatory
Local Ordinances		X
Comprehensive Plans	X	X
Cost-share Programs	X	
Citizen Monitoring	X	
Training Seminars	X	
Certification Programs		X
Compliance Monitoring		X
Use Restrictions (i.e., pesticides)		X
Structural BMPs	X	X
Zoning		X
Conservation Easements	X	
Interagency Coordination	X	
Demo Projects	X	
Performance Standards		X
Technical Assistance	X	
Developing TMDLs	X	X
Design Standards		X
Tax Incentives	X	
BMP Auditing	X	
Research	X	
Numeric Water Quality Standards	X	X
Technical Transfer	X	
Marketable Permits (Pt./NPS trading)	X	X
BMP Effectiveness Monitoring	X	
Trend Monitoring	X	
Education Programs	X	
Permitting Programs		X
Local Water Planning	X	
Penalties		X
Targeting	X	
Low Interest Loans and Grants	X	



Table 63. Existing Programs.

Program	Voluntary	Regulatory
Ambient Surface Water Monitoring	X	
Conservation Reserve Program	X	
Hydrologic Unit Areas Program	X	
Agricultural Conservation Program	X	
Ambient Ground Water Quality Monitoring	X	
Citizen Lake Monitoring Program	X	
Flood Plain Management Program		X
Regulation of Fertilizers Soil and Plant Amendments		X
MN Water Well Construction Code		X
NPDES Program		X
Public Water Supply Program		X
Individual Sewage Treatment System Program		X
Sludge Disposal Program		X
Water Quality Cert. Of Wetlands (401)		X
Wellhead Protection Program		X
Wastewater Treatment Facility Operator Certification/Training		X
MN Pesticide Control Act		X
Aquatic Plant Management Program		X
Local Water Planning Program	X	
Fish Contaminant Monitoring Program	X	
BWSR's Cost Share Program Through local county SWCD	X	
Clean Water Partnership Program Lake Superior Shoreline Protection Project	X	
Intensive Surveys Program	X	
Lake Sampling Program	X	
Lake Assessment Program	X	
Clean Lakes Program	X	
Forestry BMP Program	X	
Water Quality Special Projects	X	
Water Quality Demo Projects	X	

## C. DEVELOPMENT OF A COASTAL NONPOINT PROGRAM

### 1. State of Minnesota Nonpoint Source Pollution: Existing Controls and Programs, Lake Superior Watershed Report - May 1995

Minnesota applied for and received a grant to develop a coastal management program in August of 1993. In June 1993, a coastal nonpoint source workshop introduced the requirements of Section 6217 of the CZMA Reauthorization Amendments of 1990. The nonpoint amendments require states with approved coastal programs to develop and implement a coastal nonpoint source pollution control program. The coastal nonpoint program was intended to be an update and expansion to existing nonpoint source pollution control programs. The guidance for the program, developed by EPA, identifies six major sources of NPS pollution (forestry, agriculture, wetlands, urban areas, marinas, and hydromodification) and the management measures (55 of them) that are required to be implemented to control water quality impairment from each source of pollution. The nonpoint amendments also provide standards for implementation, enforcement, monitoring, and program implementation time lines.

Many states with approved coastal programs, and states developing programs, including Minnesota, determined that compliance with the nonpoint program guidance would be potentially infeasible and unacceptable by the public. As a result, Minnesota DNR, the lead agency for coastal program development, and MPCA, the lead agency for NPS pollution, agreed to develop a coastal NPS document. The purpose of the document is to identify existing NPS program efforts in the coastal area and compare those efforts with nonpoint guidance.

In May 1995, a program document was developed in order to determine how Minnesota's existing state and local nonpoint source pollution controls meet Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) within the watershed of Lake Superior. The document was developed as a joint effort between the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency, the Board of Water & Soil Resources, the Department of Agriculture, and Department of Health. Additionally, cooperation in the development and review of the document was provided by other state agencies and local units of government that administer nonpoint source pollution programs. The program document describes existing nonpoint source pollution programs in Minnesota's Lake Superior watershed and does not contain an evaluation of where programs could be strengthened or improved or where additional linkages could be established.

Within the document, six nonpoint source categories are addressed as individual chapters:

- C Agriculture
- C Forestry
- C Urban
- C Marinas
- C Hydromodification
- C Wetlands

Fifty-five management measures summarize existing authorities, regulations, programs, technical assistance, public education, and monitoring approaches which are being implemented in Minnesota, on a state and local basis.

In May 1995, a consultation process was initiated by Minnesota in order to receive early feedback from NOAA and EPA on the proposed approaches to meet the CZARA requirements. The comments provided in the consultation report (received January 31, 1996) address the program document and the discussions held at a meeting in Duluth on June 14, 1995 with state agencies, NOAA, and EPA.

## **2. General Comments from NOAA and EPA**

Minnesota has many existing authorities and mechanisms that can be used to address the management measures of the above nonpoint source categories. There may be aspects of Minnesota's existing programs that do not fully meet program requirements for CZARA, but would be eligible for conditional approval. Additional documentation of specific programs is needed in order to determine which program elements are eligible for final program approval.

In the final submittal of a coastal nonpoint program, Minnesota will need to describe all the programs that support specific management measures for each source category. In addition, Minnesota will need to submit information in order to determine if source categories or specific management measures are not significant contributors to nonpoint source pollution, and therefore, do not need to be included in the program.

## **3. Next Steps**

The Minnesota Pollution Control Agency, as lead agency for nonpoint source pollution, put together a work plan in order to continue development of a coastal nonpoint program.

The state maintains a position that existing regulatory and voluntary mechanisms exist in Minnesota to adequately meet the intent of the Coastal Nonpoint Program (Section 6217 of CZARA, 1990).

The Minnesota Pollution Control Agency will take the lead in developing a coastal nonpoint program. Minnesota intends to submit a coastal nonpoint pollution control program proposal to NOAA and EPA within 30 months after NOAA approval of the MLSCP to meet the 6217 program requirements. For further information on this planning effort, contact Lake Superior Coastal Management and Nonpoint Coordinator, MPCA, North District Duluth Office, 320 West Second Street, Duluth, Minnesota 55802, (218) 723-4898. A copy of the Minnesota Nonpoint Source Program Report for the Lake Superior Watershed or a copy of the NOAA/EPA Consultation Report can be obtained by contacting: DNR Waters, 1568 Highway 2, Two Harbors, Minnesota 55616, (218) 834-6620.



Minnesota Pollution Control Agency

October 15, 1998

Mr. Jeffrey R. Benoit, Director  
Office of Ocean and Coastal Resource Management  
NOAA - U.S. Department of Commerce  
1305 East-West Highway, N/ORM3  
Silver Spring, MD 20910

Dear Mr. Benoit:

Governor Arne Carlson will be submitting Minnesota's Lake Superior Coastal Program (MLSCP) to the National Oceanic and Atmospheric Administration (NOAA) for federal approval. After federal approval, the nonpoint pollution provisions of Section 6217 of the Coastal Zone Management Act Reauthorization Amendments of 1990 will apply to MLSCP.

The State of Minnesota believes that its existing comprehensive Nonpoint Source Pollution Management Program contains the authorities, assessments and implementation activities that provide the foundation of an approvable coastal nonpoint pollution control program. However, we recognize that NOAA and the U.S. Environmental Protection Agency (U.S. EPA) cannot make a final finding on that issue because the type and amount of information included in Part VI of MLSCP document clearly does not constitute a complete description and assessment of Minnesota's program under the requirements set out in NOAA and U.S. EPA Coastal Nonpoint Program guidance dated January 1993 and March 16, June 21, and June 28, 1995.

The State of Minnesota commits to submitting its coastal nonpoint source pollution management program to NOAA and U.S. EPA within 30 months of MLSCP approval. We look forward to working with you and your staff on this matter.

Yours truly,

A handwritten signature in cursive script, appearing to read 'Rod Sando'.

Rodney W. Sando  
Commissioner  
Minnesota Department of Natural Resources  
500 Lafayette Road Box 37  
St. Paul, MN 55155-4037

A handwritten signature in cursive script, appearing to read 'Peder Larson'.

Peder Larson  
Commissioner  
Minnesota Pollution Control Agency  
520 Lafayette Road Box  
St. Paul, MN 55155

**PART VII**

**APPENDICES**

## **PART VII**

### **APPENDIX A**

#### **Acronyms and Glossary**

## **APPENDIX A LIST OF ACRONYMS**

ACP	Agricultural Conservation Program
AOC	Area of Concern
APC	Area of Particular Concern
ARDC	Arrowhead Regional Development Commission
ASCS	Agricultural Stabilization and Conservation Service
ATB	America The Beautiful
ATON	Aids to Navigation
ATV	All Terrain Vehicles
AUAR	Alternative Urban Areawide Review
BMP	Best Management Practices
BWCAW	Boundary Waters Canoe Area Wilderness
BWSR	Board of Water and Soil Resources
CAA	Clean Air Act
CAC	Citizens Advisory Committee
CBRS	Coastal Barrier Resources System
CDF	Confined Disposal Facility
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
CFR	Code of Federal Regulations
CLG	Certified Local Government
CMP	Coastal Management Program
CNPC	Coastal Nonpoint Pollution Control Program
COE	U.S. Army Corps of Engineers
CRP	Conservation Reserve Program
CWA	Clean Water Act
CWP	Clean Water Partnership
CZARA	Coastal Zone Act Reauthorization Amendments of 1990
CZMA	Coastal Zone Management Act
DEIS	Draft Environmental Impact Statement
DDT	Dichlorodiphenyltrichloroethane

DFW	Division of Fish and Wildlife
DM&IR	Duluth, Mesabi and Iron Range
DMMP	Dredged Material Management Plan
DNR	Department of Natural Resources
DOF	Department of Forestry
DTED	Department of Trade and Economic Development
EAW	Environmental Assessment Worksheet
EHA	Erosion Hazard Areas
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
EQB	Environmental Quality Board
ERR	Environmental Review Rules
FEMA	Federal Emergency Management Agency
FERC	Federal Energy Regulatory Commission
FHA	Federal Highway Administration
FHWA	Federal Highway Administration
FIP	Forestry Incentives Program
FIS	Forest Information Systems
GEIS	Generic Environmental Impact Statement
GIS	Geographic Information System
GLWQA	Great Lakes Water Quality Agreement
GPD	Gallons Per Day
HABS	Historic American Buildings Survey
HAER	Historic American Engineering Record
HoDag	Housing Development Grants
HPC	Heritage Protection Commission
HTAC	Harbor Technical Advisory Committee
IFIM	Instream Flow Incremental Methodology
IGLD	International Great Lakes Datum
IJC	International Joint Commission
IRMP	Integrated Resource Management Plans



ISTEA	Intermodal Surface Transportation and Efficiency Act
ISTS	Individual Sewage Treatment Systems
LAC	Legislative Advisory Commission
LCMR	Legislative Commission on Minnesota's Resources
LGU	Local Government Unit
LMIC	Land Management Information Center
LSA	Lead State Agency
LSASWCD	Lake Superior Association of Soil and Water Conservation Districts
LTED	Long Term Deterioration
MCBS	Minnesota County Biological Survey
MDA	Minnesota Department of Agriculture
MDH	Minnesota Department of Health
MEA	Minnesota Energy Agency
MEPA	Minnesota Environmental Policy Act
MEPA	Minnesota Environmental Protection Act
MEQB	Minnesota Environmental Quality Board
MERA	Minnesota Environmental Rights Act
MERLA	Minnesota Environmental Response and Liability Act
MFRC	Minnesota Forest Resources Council
MGS	Minnesota Geological Society
MHD	Minnesota Health Department
MIC	Metropolitan Interstate Committee
MLSCP	Minnesota's Lake Superior Coastal Program
MLT	Minnesota Land Trust
MNDOT	Minnesota Department of Transportation
MOA	Memorandum of Agreement
MOD	Minnesota Department of Direction
MOU	Memorandum of Understanding
MPCA	Minnesota Pollution Control Agency
MWP	Minnesota Water Plan
NEPA	National Environmental Policy Act

NFIP	National Flood Insurance Program
NOAA	National Oceanic and Atmospheric Administration
NPDES	National Pollutant Discharge Elimination System
NPS	Nonpoint Source Pollution or National Park Service
NPSA	Northern Pike Spawning Area
NRCS	Natural Resources Conservation Service
NRRI	Natural Resources Research Institute
NRRI-CWE	Natural Resources Research Institute-Center for Water and the Environment
NSMB	North Shore Management Board
NSMP	North Shore Management Plan
NSST	North Shore State Trail
NWRPC	Northwest Regional Planning Commission
OCRM	Office of Ocean and Coastal Resource Management
OEA	Office of Environmental Assistance
OHW	Ordinary High Water Mark
OHWL	Ordinary High Water Level
ONRV	Outstanding Natural Resources Value
ORA	Outdoor Recreation Act
PCA	Pollution Control Agency
PCB	Polychlorinated biphenyl
PFM	Private Forest Management
PUC	Public Utilities Commission
PUD	Planned Unit Development
RAP	Remedial Action Plan
RBC	Reservation Business Committee
RCRA	Resources Conservation and Recovery Act
RDC	Regional Development Commission
RGU	Responsible Government Unit
RIM	Reinvest In Minnesota
RNA	Research Natural Areas
RTC	Reservation Tribal Council

SCORE	Select Committee On Recycling and the Environment
SCORP	Statewide Comprehensive Outdoor Recreation Plan
SDWA	Safe Drinking Water Act
SHPO	State Historic Preservation Office
SHTA	Superior Hiking Trail Association
SIA	Special Interest Areas
SITE	Superfund Innovative Technology Evaluation
SLR	Streambank, Lakeshore, and Roadside
SLRB	St. Louis River Board
SMA	Special Management Areas
SNA	Scientific and Natural Area
SSED	Sudden and Severe Economic Dislocation
SWCD	Soil and Water Conservation District
TAC	Technical Advisory Committee
TMPIS	Timber Management Planning Information System
TPL	Trust for Public Land
USC	United States Code
USCOE	U.S. Army Corps of Engineers
USDA	United States Department of Agriculture
USEPA	United States Environmental Protection Agency
USFWS	United States Fish and Wildlife Service
UST	Underground Storage Tank
WCA	Wetland Conservation Act
WHPA	Well Head Protection Act
WQD	Water Quality Division
WLSSD	Western Lake Superior Sanitary District
WMA	Wildlife Management Area

## **Glossary**

**Act** - Coastal Zone Management Act

**Bluff** - Land that slopes toward a waterbody and rises at least 25 feet above the waterbody at an average slope of 30 percent or greater.

**CMP** - State's Coastal Management Program as outlined in the CZMA and approved by NOAA. In Minnesota the program is titled: "Minnesota's Lake Superior Coastal Program".

**Coastal Area** - The area defined by Minnesota's Lake Superior Coastal Program as lying within the Program's coastal boundary - See Part V, Chapter 1.

**Coastal Boundary** - The boundary as defined in Minnesota's Lake Superior Coastal Program.

**Coastal Waters** - The waters within the territorial jurisdiction of the U.S. consisting of the Great Lakes, their connecting waters, harbors, roadsteads and estuary-type areas such as bays, shallows and marshes.

**Coastal Zone** - The coastal waters (including lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of several coastal states, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the U.S. and Canada, in other areas, seaward to the outer limit of the U.S. territorial sea (CZMA §304.(1).

**Corps** - United States Army Corps of Engineers

**Dam** - Any artificial barrier, together with appurtenant works, which does or may impound water and/or waste materials containing water with some exceptions.

**Erosion hazard areas** - Areas of Lake Superior's North Shore where the long term average annual rate of recession is 1 foot or greater per year.

**Exotic Species** - Species not native to Minnesota.

**Intensive vegetation clearing** - Complete removal of trees and shrubs from a contiguous patch, strip or block.

**LGU** - Local governmental unit; all counties, cities, municipalities, and townships.

**MN Coastal Waters** - Waters of Lake Superior within the territorial jurisdiction of Minnesota.

**OCRM** - Office of Ocean and Coastal Resource Management. OCRM is an office of the National Ocean Service, National Oceanic and Atmospheric Administration, the U.S. Department of Commerce.

**OHWL** - Ordinary High Water Level; boundary of water basins, watercourses, public waters and wetlands as defined by statute.

**Pipelines** - Any pipe with a nominal diameter of 6 inches or more that is designed to transport hazardous liquids, but does not include pipe designed to transport a hazardous liquid by gravity, and pipe designed to transport or store a hazardous liquid within a refining, storage or manufacturing facility; or pipe designed to be operated at a pressure of more than 275 pounds per square inch and to carry gas as defined.

**Program Coordinator** - The program coordinator is the lead staff person for Minnesota's Lake Superior Coastal Program and the direct contact to OCRM in Washington DC.

**Protected Waters** - Include all Types 3, 4, and 5 wetlands (USFWS Circular 39) 10 acres or larger in unincorporated areas and 2.5 acres or larger in municipalities, and all protected

watercourses and lakes that have been inventoried in the protected waters inventory for each county of the state. Also defined as public waters.

**Public waters** - Surface waters that generally meet certain minimum basin or drainage size requirements. Also defined as protected waters.

**Solid waste** - Garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludge, in solid, semisolid, liquid, or contained gaseous form, resulting from industrial, commercial, mining and agricultural operations, and other community activities.

**State** - State of Minnesota

## **PART VII**

### **APPENDIX B**

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## **PART VII**

### **APPENDIX C**

#### **List of Agencies, Organizations, and Individuals Receiving Copies of FEIS**

**APPENDIX C**  
**LIST OF AGENCIES, ORGANIZATIONS AND INDIVIDUALS**  
**RECEIVING COPIES OF FEIS**

**Federal Agencies**

Department of Agriculture

- Farm Service Agency
- Animal and Plant Health Inspection Service
- Rural Development
- Federal Grain Inspection Service
- Forest Service
- Extension Service - University of Minnesota
- Natural Resource Conservation Service
- Soil and Water Conservation Service

Department of Commerce

- Economic Development Administration
- National Oceanic and Atmospheric Administration
  - National Marine Fisheries Service
  - National Weather Service
- Office of Ocean and Coastal Resources Management

Department of Defense

- Air Force
  - Civil Air Patrol
- Army
  - Corps of Engineers
  - Reserve
- Marine Corps
- Navy
  - Naval Reserve

Department of Education

Department of Energy

Department of Health/Human Service

Department of Housing and Urban Development

Department of Interior

- Bureau of Indian Affairs
- Bureau of Land Management
- Fish and Wildlife Service
- Geological Survey
- Minerals Management Service
- National Biological Service
- National Park Service

Department of Justice

- Environment and Natural Resource Division
- Immigration and Naturalization Service
- Marshals Office

Department of Labor

- Employment and Training Administration

Mine Safety and Health Administration  
Veterans Employment and Training Service  
Department of State  
Office of Oceans and International Environmental and Scientific Affairs  
Department of Transportation  
U.S. Coast Guard  
Federal Aviation Administration  
Federal Highway Administration  
Federal Railroad Administration  
Federal Transit Administration  
Maritime Administration  
U.S. Customs Service  
Internal Revenue Service  
Department of Veterans Affairs  
Environmental Protection Agency  
Federal Communications Commission  
Federal Emergency Management Agency  
Federal Energy Regulatory Commission  
Federal Trade Commission  
Federal Transit Administration  
General Services Administration  
Interstate Commerce Commission  
Nuclear Regulatory Commission  
Small Business Administration  
U.S. Courts  
U.S. Postal Inspection Service  
U.S. Postal Service

**National or Regional Organizations**

Coastal States Organization  
Isaak Walton League of America  
National Audubon Society  
Great Lakes Commission  
The Nature Conservancy

**State Agency Offices**

Board of Water and Soil Resources  
Department of Agriculture  
Department of Trade and Economic Development  
Department of Natural Resources  
Division of Fish and Wildlife  
Section of Wildlife  
Section of Fisheries  
Ecological Services  
Division of Enforcement  
Division of Forestry

Division of Waters  
Division of Trails and Waterways  
Division of Parks and Recreation  
Division of Minerals  
Office of Planning  
Office of Environmental Assistance  
Pollution Control Agency

**Local Units of Government**

Beaver Bay Township Board of Supervisors  
Beaver Bay City Council and Planning Commission  
Canosia Township Board of Supervisors and Planning Commission  
Carlton County Board and Planning Commission  
Carlton City Council and Planning Commission  
Cloquet City Council and Planning Commission  
Cook County Board and Planning Commission  
Crystal Bay Township Board of Supervisors  
Duluth Township Board of Supervisors and Planning Commission  
Duluth City Council and Planning Commission  
Grand Marais City Council and Planning Commission  
Grand Lake Township Board of Supervisors and Planning Commission  
Hermantown City Council and Planning Commission  
Lake County Board and Planning Commission  
Lakewood Township Board of Supervisors and Planning Commission  
Lutsen Township Board of Supervisors  
Midway Township Board of Supervisors and Planning Commission  
Proctor City Council and Planning Commission  
Rice Lake Township Board of Supervisors and Planning Commission  
Scanlon City Council and Planning Commission  
Schroeder Township Board of Supervisors  
Silver Creek Township Board of Supervisors  
Silver Brook Township Board of Supervisors  
Silver Bay City Council and Planning Commission  
St. Louis County Board and Planning Commission  
Thomson City Council and Planning Commission  
Thomson Township Board of Supervisors and Planning Commission  
Tofte Township Board of Supervisors  
Twin Lakes Township Board of Supervisors and Planning Commission  
Two Harbors City Council and Planning Commission  
Wrenshall City Council and Planning Commission

**Organizations**

Arrowhead Regional Libraries  
Duluth  
Two Harbors  
Silver Bay  
Grand Marais

Minnesota Forest Industries  
Minnesota Forest Resources Council

**Individuals**

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Representative James Oberstar  
Senator Paul Wellstone  
Senator Rod Grams  
Senator Doug Johnson  
Senator Sam Solon  
Senator Becky Lourey  
Representative Tom Bakk  
Representative Tom Huntley  
Representative Willard Munger  
Representative Mike Jaros  
Representative Mary Murphy

In addition, Minnesota has provided the program document to individuals and organizations on their mailing list, made it available at public meetings, provided it upon request, and have published it on the program's web page.

## **PART VII**

### **APPENDIX D**

#### **Comments on DEIS and Response to Comments**

## INDEX TO WRITTEN COMMENTS

<u>No.</u>	<u>Commentor</u>	<u>Date</u>
1.	United States Coast Guard	September 18, 1998
2.	St. Louis County Board of Commissioners	September 8, 1998
3.	St. Louis County Planning Department	October 8, 1998
4.	Mike Forsman & Dennis Fink, St. Louis County Commissioners	October 21, 1998
5.	Minnesota Pollution Control Agency	October 2, 1998
6.	John Green - geologist	September 22, 1998
7.	Nuclear Regulatory Commission	September 21, 1998
8.	Canosia Township	August 28, 1998
9.	John Kessler - citizen	September 8, 1998
10.	Lake County Board of Commissioners	September 17, 1998
11.	USDA Natural Resources Conservation Service	October 7, 1998
12.	United States Department of the Interior	October 27, 1998
13.	Unsigned "fill out and return" card from DEIS	September 8, 1998



## INDEX TO ORAL COMMENTS

<b><u>No.</u></b>	<b><u>Commentor</u></b>	<b><u>Date</u></b>
1.	Mr. Dennis Fink, St. Louis County Commissioner DEIS Public Hearing, Duluth, MN	September 1, 1998
2.	Ms. Sharon Hahn, Lake County Commissioner DEIS Public Hearing, Duluth, MN	September 1, 1998
3.	Ms. Debra Taylor, South St. Louis County Soil and Water Conservation District DEIS Public Hearing, Duluth, MN	September 1, 1998
4.	Mr. Brian Fredrickson, Lake Superior Basin Coordinator MN Pollution Control Agency DEIS Public Hearing, Duluth, MN	September 1, 1998
5.	Mr. Paul Iverson, City of Two Harbors City Councilor DEIS Public Hearing, Duluth, MN	September 1, 1998
6.	Mr. Arnold Overby, resident of Beaver Bay, MN DEIS Public Hearing, Silver Bay, MN	September 2, 1998
7.	Mr. Jim Allert, resident of Knife River, MN DEIS Public Hearing, Silver Bay, MN	September 2, 1998
8.	Mr. Joel Peterson, MN Pollution Control Agency DEIS Public Hearing, Silver Bay, MN	September 2, 1998
9.	Mr. Tom Peterson, Silver Creek Township Supervisor DEIS Public Hearing, Silver Bay, MN	September 2, 1998
10.	Mr. Steve Mueller, MN DNR-Trails and Waterways phone conversation	September 30, 1998



5892  
18 September 1998

Joseph A. Uravitch  
Chief, Coastal Programs Division  
SSMC4, Room 11537  
1305 East-West Highway  
Silver Spring, MD 20910



ST

Re: Minnesota Lake Superior Coastal Program  
Draft Environmental Impact Statement (DEIS)

Dear Mr. Uravitch:

This letter provides comments of the U.S. Coast Guard on the referenced DEIS, pursuant to Ms. Fruchter's letter of July 24, 1998.

As an initial matter, please note for the record that, to the best of my knowledge, the Coast Guard has had no previous opportunity for input to or comment on the proposed Minnesota Coastal Program ("the Program"). I have been listed with your agency as the Coast Guard's Federal consistency liaison since August, 1996. Any prior correspondence concerning this matter should have been addressed to me, as was Ms. Fruchter's letter; however, I am unaware of any such correspondence.

Further, Ms. Fruchter's letter was received in my office on September 3, 1998. Solicitation of written comments on a DEIS, allowing only two weeks for review and comment prior to the announced deadline of September 21, can hardly be viewed as constituting an "opportunity for full [Federal agency] participation" in the development of the Program. See 16 U.S.C. § 1455(d)(1); 15 C.F.R. § 923.51.

My comments therefore focus on the proposed Program.

The Coast Guard's main concern is that the Program does not provide a workable means for accommodating the needs of (1) Federal oil or hazardous substance response activities under the National Contingency Plan (NCP), or (2) Federal participation in contingency planning. "Response planning" and "response activities" are listed together in the Program as a direct Federal activity subject to consistency requirements.

With respect to response activities, the Program should state that Federal response activities undertaken in accordance with the NCP do not require consistency determinations. This is so because the regulatory time frames for submittal and review of consistency determinations cannot be satisfied in emergency response situations. Additionally, such activities are only taken in conformance with contingency plans created with the full participation of the State. Finally,

the Coastal Zone Management Act itself precludes interfering with the directives of the Federal On Scene Coordinator when undertaking a spill response pursuant to the Clean Water Act. *See* 16 U.S.C. § 1456(f).

If pollution response activities remain listed as Federal actions requiring consistency determinations, *then the DEIS must include discussion of the environmental damage which will occur when future oil spills are ignored by the responsible Federal cleanup authority pending the State's concurrence in the consistency determination.*

With respect to contingency planning, Federal agencies and the interested States participate in various ways at the national, area, regional, state and local levels. *See* 40 C.F.R. Part 300, Subpart C. We hope and expect that, to the extent Minnesota may feel a need to conduct consistency review of contingency plans, such review can be incorporated into the State's participation in the contingency planning process conducted under section 311(j) of the Clean Water Act. In our view, the appropriate time for consistency review is when a contingency plan is initially being prepared or subsequently renewed. Concurrent State participation/consistency review would streamline the process of assuring State concurrence with contingency plans and their consistency with the Program. It would be most helpful if the Program included a clear State commitment to coordinate its review in this manner.

As a final matter, marine event permits are listed under Federal licenses and permits as requiring consistency certifications. This is not particularly troublesome to the Coast Guard, as the burden is on the permit applicants to satisfy the consistency requirements. The State should take note, however, of the significant burden and time delay it is imposing on its own citizens attempting to organize marine events which may be small and have negligible impacts on coastal resources. The State may be well advised to limit this consistency requirement to larger events, and/or those contemplated within particularly sensitive areas.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. E. Kilroy', with a stylized flourish extending from the end.

R. E. KILROY  
Commander, U.S. Coast Guard  
Acting Chief, Office of Environmental Law  
By direction of the Commandant

Copy: Susan B. Fruchter  
Director, Office of Policy and Strategic Planning  
Room 5805, PSP  
U.S. Department of Commerce  
Washington, DC 20230

## RESPONSES TO COMMENTS

WRITTEN COMMENT NO. 1: UNITED STATES COAST GUARD  
September 18, 1998

### Responses to Comments:

1. Comment (previous opportunity to comment on the proposed Minnesota Coastal Management Program) noted. No change required. The Minnesota Coastal Management Program has provided the Coast Guard with numerous opportunities to participate in program development. On February 26, 1996, a notice of intent to develop a program was sent to Ms. Janice Jackson, G-MEP-3, Coast Guard, Washington, D.C. and to the Captain of the Port in Duluth, Minnesota. On April 5, 1996, Minnesota sent a federal activity questionnaire to the Chief, Port and Environmental Management Branch, and Chief, Environmental Law Division of the Coast Guard in Washington, D.C. This questionnaire was also sent to the Coast Guard office in Duluth and to the Coast Guard's Ninth District in Cleveland, Ohio. The Duluth office and the Ninth District replied to the questionnaire. A federal agency meeting was held in Duluth on April 29, 1996. In December 1997, a draft Program Document was sent to the Coast Guard's Washington D.C. offices. No comments on the draft Program Document were submitted by the Coast Guard. In August 1998 a revised draft Program Document and DEIS was sent to all Coast Guard local, district and headquarter offices.
2. Comment (short DEIS review time) noted. No change required. The DEIS printing company experienced delays in the printing and shipping of the DEIS. While this was unfortunate, the Coast Guard did not request an extension of time in which to respond.
3. Comment (listing oil and hazardous contingency planning) noted. No change required. The State of Minnesota has participated and will continue to participate in spill contingency planning and response with all appropriate federal, state and local agencies. As indicated in the DEIS, Part V, pages 6-7 through 6-11, a goal of the program is to develop (or use existing) formal and informal agreements with federal agencies in order to address consistency issues. The State, through coordination with NOAA's Hazardous Materials Response Assessment Division, the U.S. Coast Guard Ninth District, and the U.S. Corps of Engineers, has developed an Environmental Sensitivity Index for Lake Superior. Contingency planning is retained as a listed activity since response actions can affect coastal uses or resources. However, the State will continue to coordinate contingency planning, as well as federal consistency reviews, through the existing contingency planning mechanism.
4. Comment (listing oil and hazardous spill response actions) noted. No change required. Response actions are retained as a listed activity. However, as noted in the response to comment No. 3, above, the Minnesota Coastal Management Program will develop (or use existing) formal and informal agreements and mechanisms. Minnesota does not intend to require consistency determinations for spill response actions taken pursuant to existing oil and hazardous substance contingency plans, but will conduct consistency reviews of contingency plans.

Response activities are subject to federal consistency review (whether listed or not) if coastal effects are reasonably foreseeable. Federal consistency should not, however, impede emergency response actions. Federal agencies may deviate from consistency due to unforeseen circumstances (like an emergency). 15 C.F.R. § 930.32 (b). Federal agencies may also proceed with an activity, including an emergency activity, if federal law prohibits the federal agency from being fully consistent. 15 C.F.R. § 930.32 (a). If a federal agency must respond within a certain time to a hazardous substance spill, then the federal agency should attempt to coordinate with the state coastal management program to the extent that exigent circumstances allow. Moreover, a federal agency would not have to address consistency requirements for emergency response actions if the response actions were covered under a contingency plan, the federal agency provided a consistency determination for the contingency plan and the state coastal management program agreed with the consistency determination and that actions taken under the contingency plan would be deemed consistent.

5. Comment (marine events permits) noted. No change required. There is no indication that reviewing marine event permits for consistency will impose a “significant burden and time delay.” Minnesota expects to complete its consistency review well within the allowed six month time frame. Also, as Minnesota gains experience reviewing marine event activities, Minnesota may amend its Coastal Management Program to exclude certain types of marine events which have little or no coastal effect.



*Resolution  
of the  
Board of County Commissioners  
St. Louis County, Minnesota*

*Adopted on: September 8, 1998*

*Resolution No. 710*

*Offered by Commissioner: Sweeney*

WHEREAS, Minnesota's Lake Superior Coastal Program / Draft Environmental Impact Statement has been prepared to assess the environmental impact of policies and actions taken affecting natural resources in St. Louis County and the rest of the Lake Superior Basin; and

WHEREAS, the Minnesota's Lake Superior Coastal Program / Draft Environmental Impact Statement was received by members of the St. Louis County Board after August 25, 1998; and

WHEREAS, the St. Louis County Board has not had adequate time for review and analysis of the statement.

NOW, THEREFORE, BE IT RESOLVED, that the St. Louis County Board of Commissioners goes on record objecting to the short time period available for review of the plan.

RESOLVED FURTHER, that the St. Louis County Board of Commissioners requests an extension of thirty days to submit written comments.

Commissioner Sweeney moved the adoption of the Resolution and it was declared adopted upon the following vote:

Yeas - Commissioners Kron, Sweeney, Prebich, Raukar, and Chair Forsman - 5

Nays - None

Absent - Commissioners Fink and Krueger - 2

STATE OF MINNESOTA  
Office of County Auditor, ss.  
County of St. Louis

I, GORDON D. MCFALL, Auditor of the County of St. Louis, do hereby certify that I have compared the foregoing with the original resolution filed in my office on the 8th day of September, A.D. 1998, and that the same is a true and correct copy of the whole thereof.

WITNESS MY HAND AND SEAL OF OFFICE at Duluth, Minnesota, this 8th day of September, A.D., 1998

GORDON D. MCFALL, COUNTY AUDITOR

By

*Paul J. Sweeney*  
Clerk of County Board/Deputy Auditor



*Resolution  
of the  
Board of County Commissioners  
St. Louis County, Minnesota*

*Adopted on: September 1, 1998*

*Resolution No. 701*

*Offered by Commissioner: Prebich*

WHEREAS, Minnesota's Lake Superior Coastal Program / Draft Environmental Impact Statement has been prepared to assess the environmental impact of policies and actions taken affecting natural resources in St. Louis County and the rest of the Lake Superior Basin; and

WHEREAS, the Minnesota's Lake Superior Coastal Program / Draft Environmental Impact Statement was received by members of the St. Louis County Board after August 25, 1998; and

WHEREAS, the St. Louis County Board has not had adequate time for review and analysis of the statement.

NOW, THEREFORE, BE IT RESOLVED, that the St. Louis County Board of Commissioners goes on record objecting to the short time period available for review of the plan.

Commissioner Prebich moved the adoption of the Resolution and it was declared adopted upon the following vote:

Yeas - Commissioners Fink, Kron, Sweeney, Prebich, Raukar, and Chair Forsman - 6

Nays - None

Absent - Commissioner Krueger - 1

STATE OF MINNESOTA  
Office of County Auditor, ss.  
County of St. Louis

I, GORDON D. MCFAUL, Auditor of the County of St. Louis, do hereby certify that I have compared the foregoing with the original resolution filed in my office on the 1st day of September, A.D. 1998, and that the same is a true and correct copy of the whole thereof.

WITNESS MY HAND AND SEAL OF OFFICE at Duluth, Minnesota, this 1st day of September, A.D., 1998

GORDON D. MCFAUL, COUNTY AUDITOR

By:

*Paul Krueger*  
Clerk of County Board/Deputy Auditor



STATE OF  
**MINNESOTA**  
DEPARTMENT OF NATURAL RESOURCES

PHONE NO.

FILE NO.

**DNR WATERS**

**"Helping people ensure the future of our water resources"**

1568 Highway 2, Two Harbors MN 55616  
218/834-6625

September 29, 1998

St. Louis County Board of Commissioners  
208 Courthouse  
100 North 5<sup>th</sup> Ave West  
Duluth, MN 55802

Dear Commissioners:

This letter is to acknowledge Resolution No. 710, adopted on September 8, 1998. Minnesota's Lake Superior Coastal Program will be happy to fulfill your request of an extension of 30 days to submit written comments. The new date is October 8, 1998. We look forward to receiving your comments at this time and apologize for any problems the delayed delivery of the document caused. Any further questions, please don't hesitate to call me at 723-4971 ext. 6625. Thank you

Sincerely,

Tricia Ryan  
Program Coordinator  
Minnesota's Lake Superior Coastal Program



WRITTEN COMMENT NO. 2: ST. LOUIS COUNTY BOARD OF COMMISSIONERS  
September 1, 1998 and September 8, 1998

Responses to comments:

1. Comment (resolution objecting to the short time period available for review of the plan) noted. No change required. See other explanations for document delay (response to written comment no. 1, response 2).
2. Comment (resolution requesting an extension of thirty days to submit written comments) accepted. Requested extension granted through October 8, 1998. (See letter to Board of Commissioners dated September 29, 1998).



# Saint Louis County

Planning Department • 901 Missabe Building • 227 West First Street • Duluth, MN 55802  
Phone: (218) 725-5000 • Fax: (218) 725-5029

**Mark Flaherty**  
Director

October 8, 1998

Tricia Ryan  
Minnesota Coastal Zone  
120 State Road  
Two Harbors, MN 55616

**Re: Comments 6-30-98 draft EIS**

Dear Ms. Ryan:

The following comments are, hereby, submitted relative to the draft Environmental Impact Statement on the proposed "Minnesota's Lake Superior Coastal Program," dated June 30, 1998.

1. The document, as a whole, is comprehensive and well prepared. Certainly, the existing policies and authorities, upon which the proposed Minnesota program is based, are in complete harmony with the objectives and policies of the national coastal zone legislation.
2. The organizational mechanism outlined to implement the program is most thoughtful. It not only meets the federal requirements for participation, but also meets the needs for local ownership in the implementation process.
3. It is suggested that consideration be given to one minor adjustment to the "coastal boundary" in St. Louis County, by moving said boundary one mile northward as it crosses Rice Lake Township between the Rice Lake Road and the Jean Duluth Road. This places the boundary along a more natural elevation of land. To make this adjustment would require that the last three lines on page "Part V 1-5" be changed to read as follows:

"thence north on Rice Lake Road to West Beyer Road  
(County Road 259), thence east on West Beyer Road and  
West Beyer Road extended to Jean Duluth Road (County  
Road 37), the western boundary of Lakewood Township  
(see Figure 6).

Ms. Tricia Ryan

2

October 8, 1998

Attached is a map showing the suggested boundary change.

I wish to thank you for the opportunity to make these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark C. Flaherty", with a long, sweeping horizontal line extending to the right.

Mark C. Flaherty  
Planning Director

MCF:dlb  
Enclosure: map

**Suggested change in Coastal Boundary.**

**Planning Division  
Zoning Map**

### River Classification




### Functional Classification

## Read Subjects

- |                    |        |
|--------------------|--------|
| KLC Remains        | 200 ft |
| Rural/Agricultural | 200 ft |
| Trout Streams      | 150 ft |
| DNR Forested       | 150 ft |
| Tributary's        | 100 ft |
| DNR Remote         | 200 ft |
| Recreational       | 150 ft |
| Primitive          | 300 ft |
| Urban              | 100 ft |

Principal and Minor Arterial  
Major Collectors  
Minor Collectors

### Lake Classification

- | Shoreline Setbacks  |  |
|---|--|
|  | Natural Environment<br>NE 150 ft.      |
|  | Recreational Development<br>RD 100 ft. |
|  | General Development<br>GD 75 ft.       |

1 Inch = 1 Mile

**JUNE 14, 1996**

This zoning map was prepared on November 14, 1995. It is effective on January 29, 1996. For any subsequent changes contact the St. Louis County Planning & Zoning Department.

**St. Louis County Board Resolution No. 961**  
**Adopted December 19, 1995**

WRITTEN COMMENT NO. 3: ST. LOUIS COUNTY PLANNING DEPARTMENT  
October 8, 1998

Responses to comments:

3. Comment (document is comprehensive and well prepared) noted. No change required. Thank you.
4. Comment (organization mechanism) noted. No change required. Thank you.
5. Comment (minor adjustment to coastal boundary) accepted. The program's coastal boundary will be adjusted in St. Louis County by moving said boundary one mile northward to the West Beyer Road as it crosses Rice Lake Township between Rice Lake Road and the Jean Duluth Road. Maps (Figure 6) and descriptions in the document will reflect this change.





# Saint Louis County

100 North 5th Avenue West, Rm. 202, Duluth, Minnesota 55802-1287 (218) 726-2562

October 21, 1998

Tricia Ryan  
DNR Waters  
1568 Highway 2  
Two Harbors, MN 55616

RE: Public Comments on Minnesota's Lake Superior Coastal Program

Dear Ms. Ryan:


Over twenty years ago, the Minnesota counties designated to be part of the coastal zone management program said, "No thanks". Using the national objectives, local governments clearly proclaimed that we'd rather have local management, local policies, and local control. To demonstrate our commitment to watershed protection, the North Shore Management group was formed. Today this group actively pursues preservation and conservation projects, prioritizes them, solicits funds, and implements the projects.

Local management of Minnesota's coastal zone is based on federal guidelines. This is a voluntary process and local leaders have made a commitment to the region and their communities. Each cooperative effort utilizes local and state ordinances. The question then is, what does coastal zone management bring to the table? Certainly \$600,000 of matching funds and a process for distributing them cannot be the answer. Do we really need another layer of government just to distribute funds? Attached is what I believe to be a fair representation of the framework for nationwide program implementation. Notice that the federal role is to set national policy and advocate program goals, while the county role is to try to influence state and national agendas. It is hard to imagine local governments successfully influencing state and national agendas when this program has moved forward without regard to the opposition presented by the counties involved. In a presentation to the St. Louis County Board in May of 1997, representatives of the Coastal Zone Management Planning staff did not ask if there was a need for the plan and impact statement, nor were we asked if the process should move forward. Instead we were told that the program would be completed shortly, that we did not need to sign on, and that the program would be ready to submit to the Governor early in 1998. When does this program begin to become voluntary? There is little doubt that the Minnesota Lake Superior Coastal Program (MLSCP) has been well written and documented based on the existing statutes, ordinances, acts and regulations of the local governments impacted, and I believe that the MLSCP addresses all of the federal thresholds. I have found nothing objectionable in either the MLSCP or the draft environmental statement insofar as legal adequacy is concerned.

What is objectionable is the fact that countless CZM staff and volunteer hours were consumed creating a document which effected counties have continually rejected since the Coastal Zone Management Act was enacted in 1972. Then CZM and the DNR staff act surprised. Your actions lead us to believe that you could care less about our opinion and that our actions and those of the North Shore Management Group are viewed as meaningless. After showing so little regard for local government and its efforts, is it any wonder that we view this document with skepticism?

A handwritten signature in black ink, reading "Michael D. Forsman". The signature is fluid and cursive, with the first name "Michael" being more prominent than the last name "Forsman".

Michael D. Forsman, Chair  
St. Louis County Board

A handwritten signature in black ink, reading "Dennis Fink". The signature is cursive, with the first name "Dennis" being more prominent than the last name "Fink".

Dennis Fink, Chair  
St. Louis County Environment & Natural Resources Committee

Attachment

## **THE FRAMEWORK FOR NATIONWIDE PROGRAM IMPLEMENTATION**

### **Federal Role**

- Set national policy and advocate program goals
- Review, approve, and evaluate state coastal management programs
- Develop CZMA regulations and legislative proposals
- Review/approve legal changes to federally-approved CZM programs
- Coordinate national interagency policies & activities
- Ensure adequate consideration of national interests
- Provide "federal consistency" technical assistance & mediation services
- Ensure public participation in national CZM activities
- Provide technical assistance and information transfer
- Provide federal funding

### **State, Territorial, and Commonwealth Role**

- Represent state interest in the coast and shape national agenda
- Develop and implement comprehensive coastal management programs
- Prepare state regulations and statutory change proposals for CZM issues
- Update/improve resource management capabilities
- Coordinate state interagency policies and activities
- Provide state funding, and manage federal funds
- Ensure state and federal consistency with state enforceable policies
- Provide technical assistance to local governments
- Ensure public participation
- Advocate program goals

### **Local Role**

- Influence state and national agenda and goals
- Develop and implement delegated authorities, including permitting
- Develop local ordinances and regulations for land and water uses
- Update/improve delegated local coastal authorities
- Coordinate local interagency policies and activities
- Provide local funding
- Represent local interests in the coast
- Provide a forum for citizen participation
- Encourage public education and outreach
- Develop and implement local coastal land and water use plans



WRITTEN COMMENT NO. 4:      MICHAEL FORSMAN & DENNIS FINK, ST. LOUIS  
COUNTY COMMISSIONERS  
October 21, 1998

Comments to written testimony:

Response to Comment:

1. Comment (program of twenty years ago) noted. This commentor refers to a program that was designed and perceived 20 years ago. In 1978, the residents who testified overwhelmingly opposed the program. Today that sentiment has reversed and the majority of residents who have commented, in the enclosed written and oral testimony, support the approval of the coastal program.
2. Comment (another layer of government) noted. Once a state submits a coastal program for federal approval and it is determined that the program fulfills the requirements of the CZMA, the program becomes the responsibility of the state to implement. The Minnesota coastal program is comprised solely of existing state authorities and programs. The process for coordination of state and local government is unchanged except for the benefit that the coastal program will enhance the coordination between state agencies and local units of government. This is not an additional layer of government but rather a tool to help bridge the existing government entities. The coastal program will have no regulating authority. It is a grant program to provide additional resources to the coastal area.
3. Comment (voluntary aspect of program) noted. The Coastal Zone Management Program is a voluntary partnership between the federal government and a state. The voluntary nature of the program means that the state has the option of participating or not in the coastal program. There is no federal mandate for participation. The state must represent the wishes of the group of people in the coastal area when making this decision. The fact that the program in Minnesota was developed in the local area by residents indicates that the program has much support at the grass roots level and was designed to meet the needs at the local level. Residents of St. Louis County will benefit from projects if the county or a local unit of government within St. Louis County receives CZM funding for a local project. The county, or any LGU may choose to participate or not, by submitting nominations to the Coastal Council and by applying for grants.
4. Comment (time it took to create a document which affected counties have defeated) noted. After the program was rejected in 1978, by an overwhelming opposition, some analysis was done based upon several comments that the program was defeated based upon certain perceptions and understandings, which may or may not have accurately reflected the intent and purpose of the program. Many concerns were raised, some relevant to the development of a coastal program, some more relevant to the separate actions of the federal government. Those concerns that dealt with the program were brought to workgroups, made up of a cross-section of residents. These formal work groups were set up to develop a proposed boundary and a proposed organization and implementation strategy. Their discussion, debate and the consensus decisions are presented in this document. The coastal program in Minnesota has

been designed to address the concerns held by St. Louis County residents and all the residents along the Lake Superior shore, to enhance the already careful and conscientious manner in which the shore is currently being managed. It is important to note that Minnesota's Lake Superior Coastal Program has at its foundation, the culture of the shoreline area and its residents, and it was formed and written almost entirely by Lake Superior shoreline residents. A significant part of the time spent on development of the coastal program was devoted to making the public aware of the program over the past four years, through fifteen open houses, two federal public hearings and nearly 100 meetings with local units of government including counties, townships, towns, cities and regional groups or individuals that expressed interest in knowing more about the program. Throughout this process, comments on the developing program were actively solicited and changes to the program were made to reflect those comments. The North Shore Management Board, its members, and members of the associated Citizens Advisory Committee were both recipients of briefings on the program and several provided comments on the program document. In addition, a member of the St. Louis County Planning Department played an active role in setting up this program, and supports the program as shown in comment No. 3 of the written testimony. As a result of these numerous activities, the present document reflects many of the thoughts, ideas, and concerns of a large cross-section of the residents of the Lake Superior Coastal area. This program is an opportunity to enhance the already valuable and dedicated work that is happening on Minnesota's Lake Superior shoreline, through the actions of the state and local units of government.



# Minnesota Pollution Control Agency

October 2, 1998

Tricia Ryan  
Minnesota Department of Natural Resources  
120 State Road  
Two Harbors, MN 55616

Re: Comments on the Draft Environmental Impact Statement for Minnesota's Lake Superior Coastal Program (dated 6/30/98)

Dear Ms. Ryan

Thank you for the opportunity to review and comment on the draft Lake Superior Coastal Program Environmental Impact Statement (EIS). This document is very comprehensive and well done. We commend your staff on the organization of the document, and the considerable effort that obviously went into its creation.

As might be expected, we have a number of comments that should be useful in clarifying the objectives of the program, and our responsibilities in particular. These comments are identified in the following section by Part, Chapter (where appropriate), page, and paragraph. Our suggestions are in bold letters.

These comments are in chronological order. However, we would like to draw your attention to comments numbered 6 and 7, which are of particular interest to us.

## COMMENTS:

1. Part I-3, the last two paragraphs: It mentions the Governor's Council will be 15 members and when it becomes the Coastal Council through legislation it will be 15-17 members. The final paragraph mentions that 12 positions will come, 3 each, from the four counties. **It does not mention where the remaining 3-5 members will come from. Identifying how these remaining members will be placed is important for those interested in becoming council members.**
2. Part V 2-16 paragraph 6 states: "Agencies listed previously as "networked agencies" administer one or more of the policies, authorities, or programs included within this document. It is proposed that Memorandums of Understanding (MOU) will be developed between these agencies and the DNR which acknowledge the agency's

Duluth Government Center, Suite 704; 320 West Second St.; Duluth, Minnesota 55802; (218) 723-4660, FAX (218) 723-4727

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understanding of state consistency with Minnesota's Lake Superior Coastal Program and an agreement to be consistent to the maximum extent practicable with the state's Coastal Program." We would suggest that you add to the end of the paragraph the sentence: **The DNR will review these MOUs with other agencies that share jurisdiction of issues in these documents.** This language would assure the public and the other agencies that all the professionals with jurisdictional interests have a say in the development of the MOUs.

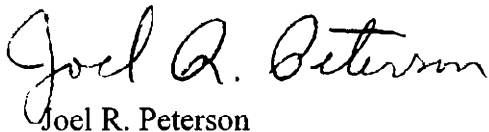
3. Part V 2-16 paragraph 7 states: "Conflicts between state agencies, ..... regarding state consistency with Minnesota's Lake Superior Coastal Program will be addressed by the Commissioner of the DNR at the request of Coastal Program staff or of the Coastal Council." **If there is a conflict between another state agency and the DNR it would be inappropriate for the DNR Commissioner to resolve the issue. In this case it should be mediated by a neutral party such as OCRM, EPA, or a group with representation from the OCRM, EPA, DNR, PCA, and Coastal Council.**
4. Part V 2-17 last paragraph, second from the last sentence reads: "The DNR will administer funding, including coordination of pass-through grants." **Section 319 grants for non-point source pollution have been administered by the MPCA in the past. If 319 funding is secured for the Coastal Program it is more appropriately handled by the MPCA in coordination with the DNR Coastal Program staff.**
5. Part V 6-2 last paragraph states: "The MN Coastal Management Program will review existing and proposed federal actions at the time of federal program approval to determine if those activities are consistent with the state's enforceable policies." **Many of the controls for our future non-point portion of the Coastal Program are voluntary BMPs for various sources. If federal agencies decline to adhere to the voluntary programs others have agreed too, it could undermine the Lake Superior Coastal Program. It would seem appropriate to suggest that MOU's be developed with federal agencies to follow the voluntary programs that apply to the Lake Superior Coastal Program like all the other parties involved.**
6. Part V 6-8 paragraph 3 reads: "Likewise, if an activity that impacts the coastal area is required to comply with an existing process or procedure in order to obtain a state permit, license, or approval, after receiving the necessary permit, license or approval, the activity is deemed approved." **The language in this paragraph is particularly problematic, since it infers that the approval of one state permit, threshold, or procedure is sufficient to meet the threshold for federal consistency approval. This procedure is not sufficient because it does not acknowledge that projects typically have cumulative and multiple impacts. Since cumulative impacts may ultimately have the greatest effect on coastal waters, we believe it to be in our collective interests to strike this paragraph from the final EIS.**

7. Part V 6-9 the first paragraph discusses: Using our state environmental review process to determine if there are potential environmental impacts from a federal action. This process, of course, already applies to state and local jurisdictions. **This is adequate in most circumstances, however, this process has a category of “exempt from review” that applies to the entire state. The very fact that there is a Coastal Program shows this resource is different from the rest of the state. Most of the Coastal Program area has steep slopes, highly erodible clay soils and is dissected by numerous designated trout streams, all of which are also classified as Outstanding International Resource Waters. These waters flow into Lake Superior which the State has designated an Outstanding Resource Value Water and the International Joint Commission has proposed as a demonstration area for zero discharge of toxic chemicals. Therefore, the sensitive nature of this area dictates that we need to look at the environmental review exemption categories and determine which thresholds are appropriate for the coastal environment of the Lake Superior Basin. We would be more than willing to help with this process.**

**The other weak point in the present environmental review process is that EAWs are reviewed by the Responsible Governmental Unit (RGU) which is often a local or county governmental unit. If they decide an EIS is not needed, that ends the process. Sometimes the issues impact more than the RGU’s jurisdictional area. Additionally, the RGU may not have staff trained at evaluating potential environmental impacts. In order to have a fair environmental review of the future projects, we think the Coastal Council should be able to request, of the Environmental Quality Board, that they be the RGU for a project within the coastal watershed.**

8. Part VI - 7 the last paragraph: **The contact for the agency should read “Lake Superior Coastal Zone Management & Non-point Coordinator, North District Duluth Office, MPCA, 320 West Second Street, Duluth, MN 55802, (218) 723-4898.**

Sincerely,



Joel R. Peterson  
Pollution Control Specialist Senior  
North District Duluth Office  
Minnesota Pollution Control Office

cc: Neil K. Christerson, Office of Ocean and Coastal Resource Management

WRITTEN COMMENT NO. 5: MINNESOTA POLLUTION CONTROL AGENCY  
October 2, 1998

Responses to comments:

1. Comment (where the 3-5 at-large Coastal Council members will come from) accepted. Part I-3 last paragraph now clarifies that the remaining 3-5 at-large members of the Coastal Council will be chosen from a pool of names submitted to the Governor.
2. Comment (addition of sentence) accepted. Part V 2-16 paragraph 6 has been revised to include the sentence: "The DNR will review these MOUs with other agencies that share jurisdiction of issues in these documents."
3. Comment (conflict between other state agencies and the DNR) accepted. Part V 2-16 paragraph 7 has been revised to read as follows: "Conflicts between Divisions within the DNR regarding state consistency with Minnesota's Lake Superior Coastal Program will be addressed by the Commissioner of the DNR at the request of Coastal Program staff. Conflicts between state agencies regarding consistency with Minnesota's Lake Superior Coastal Program will be addressed through the Commissioners of each agency using the appropriate and existing mechanisms for conflict resolution. Parties to the conflict will resolve the issues at the appropriate level." In addition to this process, the Board of Soil and Water Resources has a role when there is a question of water policy with the process under Minn. Stat. Ch. 103A Water Policy and Information that contains procedures for conflict resolution, if that is the appropriate mechanism to consider. To further clarify, it is intended that the Coastal Council will have no role in state or federal consistency issues. The role of the Coastal Council will primarily be to set priorities and make funding decisions for the pass-through grant (306A) component of the program. The Coastal Council will also participate in program evaluations and review procedures for grant making operations.
4. Comment (Section 319 funding) noted. No change required. This program and document addresses Section 306 and 306A grants only. Section 319 grants are currently being handled by MPCA. This program does not suggest or recommend any changes to this procedure.
5. Comment (use of voluntary measures in MOUs) accepted. Part V 6-2 paragraph 6, second to last sentence, the following additions to the last paragraph have been made: "The MOUs or partnership agreements will identify the process for coordination and a tiered approach to decision making. Whenever possible, review and inclusion of voluntary Best Management Practices (BMP) will be considered when developing MOUs with federal agencies. Existing MOUs and partnership agreements are identified in Part VII, Appendix G." It should be noted that federal activities are required to be consistent with the states enforceable policies.
6. Comment (cumulative and multiple impacts) noted. Revision to Part V 6-8 paragraph three now include the following: "Likewise, if an activity that impacts the coastal area is required to comply with an existing process or procedure in order to obtain a state permit, license, or approval, after receiving all of the necessary permits, licenses or approvals, the activity will be considered consistent with the Coastal Program and deemed approved."

7. Comment (environmental review exemption categories) noted. No change required. Minnesota's Lake Superior Coastal Program is based upon existing policies and authorities, including Minnesota's Environmental Review Program, its mandatory EAW and EIS categories and those activities that are exempt. MLSCP is using the existing mandatory EAW and exemption categories as benchmarks to assess the effects of activities within the coastal region. This is consistent with the intent to use existing mechanisms where possible and further using existing policies and authorities in the management of the coastal area. It is also our intention to work with the federal agencies in the development of MOUs to identify proactively, areas of particular concern that may not be listed for review through Minnesota's Environmental Review Program. Any changes to the Environmental Review Process with mandatory EAW or exemption categories must be done at the EQB level. We hope to continue to work closely with the MPCA in identifying problems within this established process as they relate to the particular concerns of the coastal environment of the Lake Superior Basin and would work to provide solutions during program implementation.

Comment (suggestion that the Coastal Council be able to request of the EQB that they be the RGU) noted. No change required. The Coastal Council does not have the legal authority to be considered an RGU for the purposes of environmental review. To address the concern about the process being more fair, the EQB rules do allow any governmental unit with approval authority to order a discretionary EAW if it determines that the project may have the potential for significant environmental effects, unless the project is exempt. The DNR or MPCA could take the role of RGU if necessary. In addition, citizens can prepare a petition to bring attention to projects which may have the potential for significant environmental effects. This includes the projects that do not fall into any mandatory category or are below the EAW thresholds.

8. Comment (contact for agency) accepted. Change made to document for agency contact to read MPCA Lake Superior Coastal Management and Non-point Coordinator, North District Duluth Office, 320 West Second Street, Duluth, MN 55802, (218) 723-4898. (Slight alteration based upon phone conversation with Joel Peterson on 10/15/98). WRITTEN

WRITTEN COMMENT NO. 6: J.C. GREEN - PROFESSOR OF GEOLOGY,  
UNIVERSITY OF MINNESOTA - DULUTH  
September 22, 1998

Responses to comments:

1. Comments (received was a manually edited copy of pages of the DEIS containing twenty three minor corrections of spelling, clarifications with word insertions and phrases and technical corrections to Part II sections on geology, physical shoreline, forestry, aquatic nuisance species and minerals) accepted. Changes made to the document.





UNITED STATES  
**NUCLEAR REGULATORY COMMISSION**  
WASHINGTON, D.C. 20555-0001

September 21, 1998

Mr. Joseph A. Uravitch, Chief  
Coastal Programs Division  
SSMC4, Room 11537  
1305 East-West Highway  
Silver Spring, MD 20910

Dear Mr. Uravitch:

The Nuclear Regulatory Commission (NRC) received a copy of the draft Environmental Impact Statement for Minnesota's Lake Superior Coastal Program. The NRC has reviewed the document and determined the closest nuclear power plant is the Monticello site located on the south bank of Mississippi River in Wright County, Minnesota, which is southwest of the program boundary. We do not believe the program boundary will impact the plant, nor do we believe, based on the licensing environmental impact statement, that the plant will effect the program boundary. Thank you for the opportunity to comment on your document.

Sincerely,

A handwritten signature in dark ink, appearing to read "Thomas H. Essig", is written over the typed name.

Thomas H. Essig, Acting Chief  
Generic Issues and Environmental Projects  
Branch  
Division of Reactor Program Management  
Office of Nuclear Reactor Regulation

cc: Ms. Susan B. Fruchter, Director  
Office of Policy and Strategic Planning  
U.S. Department of Commerce  
Room 5805, PSP  
Washington, D.C. 20230

9/25

ST.

WRITTEN COMMENT NO. 7:      NUCLEAR REGULATORY COMMISSION  
September 21, 1998

Responses to comments:

Comment (impact of program boundary on Monticello nuclear power plant) noted. No change required.

**From:** <RGEORGESEN@aol.com>  
**To:** DNR-GrandRapids.GrandRap(TRRYAN)  
**Date:** 8/28/98 5:45AM  
**Subject:** MN Costal Program EIS

Tricia

I reviewed the Draft EIS. The basic document is very good. I can see a lot of work has gone into this. There are a few additions relative to Canosia Township and St. Louis County. They are as follows

Page: Part V 3-25

Chapter 3

4 County, Municipal and Township Planning and Development

Add the fact that Canosia Township has adopted and administers it own Planning and Zoning. Has Ordinance Number 98-1 Adopted January 7, 1998 and a 1995 Updated Comprehensive Plan adopted February 1996

Part V 3-42

Minnesota Wetlands Conservation Act

St. Louis County is in the process of adopting a new Wetland Plan specific to areas in St. Louis County. You can contact Mark Johnson about this. His Phone number is 218-725-5000

Thanks for the work on this project. Canosia is looking forward to the benefits of this process.

Russ Georgesen  
Supervisor, Canosia Township  
4977 E. Pike Lake Road  
Duluth, MN 55811

Phone Home: 218-729-8108  
Work 218-725-5250

WRITTEN COMMENT NO. 8:      CANOSIA TOWNSHIP SUPERVISOR  
August 28, 1998

Responses to comments:

1. Comment (additions to Planning and Zoning ordinances) accepted. Additions of Canosia Townships Planning and Zoning Ordinance No. 98-1 and Updated Comprehensive Plan will be included on Part V 3-25. Thank you for the clarifications.
2. Comment (MN Wetland Conservation Act) noted. No change required. Thank you for the resource.
3. Comment (about work on project) noted. No change required. The Coastal Program also looks forward to working with Canosia Township.

JOHN E. KESSLER  
5290 PINE TREE ROAD  
DULUTH, MN 55804

September 8, 1998

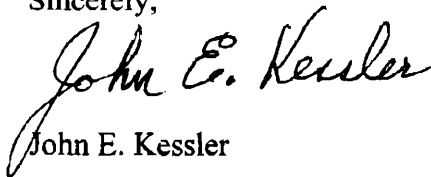
Tricia Ryan, Program Coordinator  
MN Lake Superior Coastal Program  
MN DNR  
1568 Highway 2  
Two Harbors, MN 55616

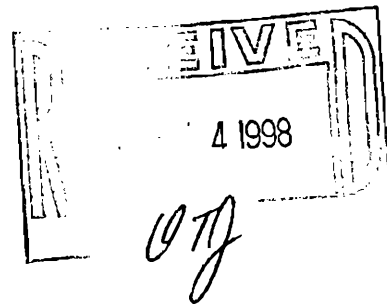
Dear Tricia,

The June 30, 1998, Draft Environmental Impact Statement applicable to the Minnesota Lake Superior Coastal Resource Management Program, as developed and documented to date, is completely acceptable to me. It is a most comprehensive plan, and document, and deserves universal acceptance and adoption. It certainly has been developed by a wide diversity of minds, and a full spectrum of concerns for the North Shore of Lake Superior. It should contribute to the benefit of all of the elements and factors on the North Shore, in ways not now in place. I look forward to its adoption.

Thank you for the opportunity to be involved with the plan development.

Sincerely,

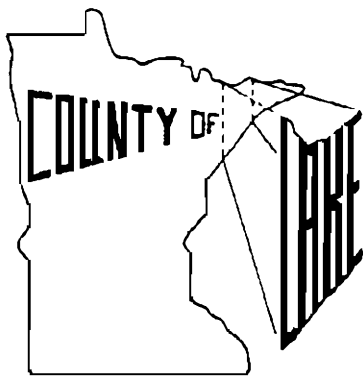
  
John E. Kessler



WRITTEN COMMENT NO. 9:      JOHN KESSLER - CITIZEN  
September 8, 1998

Responses to comments:

1. Comment (adoption of Coastal Management Program ) noted. No change required. Thank you for your support.



COMMISSIONERS' OFFICE  
**County of Lake**

Courthouse  
601 Third Avenue  
Two Harbors, MN 55616  
(218) 834-8320 FAX (218) 834-8360

*FIRST DISTRICT*  
CLAIR A. NELSON, FINLAND  
*SECOND DISTRICT*  
DERRICK L. GOUTERMONT, SILVER BAY  
*THIRD DISTRICT*  
SHARON HAHN, TWO HARBORS  
*FOURTH DISTRICT*  
WILLARD M. CLARK, TWO HARBORS  
*FIFTH DISTRICT*  
STANLEY A. NELSON, TWO HARBORS

September 17, 1998

Mr. Rodney W. Sando, Commissioner  
Minnesota Department of Natural Resources  
500 Lafayette Road  
St. Paul, MN 55155-4037

Dear Mr. Sando:

This letter is in response to your letter of August 7, 1998, regarding the Federal Coastal Zone Management Program. You note you are very aware of Lake County's objection to participation in the program but seem to lack any understanding of the reasons for our objections. I hope this letter will help you come to a greater understanding of our way of thinking.

Please let me attempt to explain some customs, traditions and values cherished by Lake County residents. Lake County was founded by independent people suspicious of and far from the control of central governments. Many of these people rode the surf of the frontier, as new states developed following the Northwest Ordinance and were involved in the logging. As time progressed along the North Shore, Swedes and Norwegians set up their independent fisheries, developed communities and took care of themselves. As the iron industry began its boom and Minnesota's first iron mining railroad connected Two Harbors with the East Range, central European miners from Austria and Hungary arrived after supporting and following the reports of missionary fathers, Baraga and Alineau. Whole villages moved to the Range nearly intact, population wise. They too brought deep suspicions of central authority and their descendants demonstrate that in their independent Range Spirit.

In more recent times, the Federal Government set up the Boundary Waters Canoe Area and were instrumental in closing Reserve Mining Company. Governmental interference has not been accepted by our constituents and as Lake County Commissioners, we reaffirmed their position by passing a resolution stating the County's opposition to Coastal Zone Management.

The last attempt at Coastal Zone Management was accompanied by a significant amount of federal dollars and promises of a lion's share of off-shore oil leasing monies. Once the promises were made, the funds dried up and the participating states were left to bear the majority of program costs while being controlled by Federal Government regulations.

Mr. Rodney W. Sando  
September 17, 1998  
Page Two

As elected officials, we find ourselves tempted by the promise of the return of portions of our tax dollars in exchange for carrying out Federal edicts and adopting Federal priorities. If we were able to retain those dollars and still address our own priorities and issues without bureaucratic interference, we would do a better job of serving the public.

When Coastal Zone Management was first introduced, our constituents let us know that they were opposed to the program. As a result, we all worked with the State to set up the North Shore Management Board. The abolishment of the North Shore Management Board to make way for Coastal Zone Management would not be in keeping with the wishes of the community.

You asked that we "be specific in identifying program deficiencies so a final decision can be made based on the facts." In the Program Overview Part I - 5, #6. Based on Existing Policies and Authorities, it states, "The state and its people, do reserve the right to, in the future, add new programs, policies or authorities following a formal public review to ensure resource protection of the coastal area. The state maintains the position that existing regulatory and voluntary mechanisms exist in Minnesota to adequately meet the intent of the Coastal Nonpoint Program (Section 6217 of CZARA, 1990). This quote is the basic reason why we will continue to fight CZM.

In closing, I would like to re-state that the position of this Board is to act as the voice for the people and develop our policies and priorities based on their wishes, when they represent the majority of our constituents and the well-being of the County as a whole. Please remember that the best government is the least government and the best government is the government closest to the people.

Sincerely,



Willard M. Clark, Chairman  
Lake County Board of Commissioners

WMC/wk

cc: Lake County Board of Commissioners  
Richard Sigel, Land Use Administrator



WRITTEN COMMENT NO. 10: WILLARD CLARK, CHAIR, LAKE COUNTY  
BOARD OF COMMISSIONER  
September 17, 1998

Responses to comments:

Willard M. Clark, Lake County Board of Commissioners (9/17/98)

1. Comment (regarding MN DNR's lack of understanding Lake County objections and the Lake County customs, traditions, and values) noted. No change required. [The August 7, 1998, letter was a response from DNR Commissioner Rod Sando to a previously written letter from Lake County Board of Commissioners] The Lake County Board of Commissioners has historically and repeatedly objected to adoption of a coastal program by Minnesota. Many of Lake County's objections are to a program that was designed and perceived 20 years ago and not to the program that exists today. Many of the objections are vague statements of dissatisfaction with the existing system of government (international, national, state, and local), objections which do not apply directly to the proposed coastal program. Relevant objections which Lake County has repeatedly raised are either positively addressed in the coastal program document or have been addressed directly to Lake County by the staff guiding the coastal program development. The coastal program in Minnesota has been designed to address the concerns held by Lake County and all the residents along the Lake Superior shore. It is important to note that Minnesota's Lake Superior Coastal Program has as its foundation the culture of the shoreline area and its residents and it was almost entirely formed and written by Lake Superior shoreline residents.
2. Comment (regarding governmental interference) noted. No change required. As noted above, many of Lake County's objections are to a program that was designed and perceived 20 years ago and not to the program that exists today. Those federal and state government activities which occurred 20 years ago are separate and different actions than the adoption of a coastal program. Rather than interference from the government, the coastal program provides resources to both state and local units of government (counties and towns) to further assist them in addressing resource and development issues that exist along the shoreline. Through financial and technical assistance the coastal program gives local governments additional control over their local resources. The coastal program gives the state (and thus the local governments) the authority to object to federal actions affecting the coastal area that do not meet state laws.
3. Comment (regarding federal CZMA funding) noted. No change required. In the 1970's, Minnesota received modest grants to develop a coastal program. In 1978, it was estimated that Minnesota would receive about \$400,000 a year after approval of their coastal program which did not occur at that time. Today it is estimated that Minnesota will receive over \$600,000 for program implementation. Regarding funding at the national level, all coastal states participating in the national coastal program have received close to level funding or steadily increased funding since the inception of their programs. This would have been the case with Minnesota had they adopted a coastal program in 1978. Federal funds have not dried up but, to the contrary, have continued to increase over the years. In the last ten years, funding for state coastal management programs under the CZMA has increased from

approximately 36 million dollars to almost 53 million dollars. Under the Outer Continental Shelf Lands Act, states continue to share in offshore leasing revenues through loan repayments on coastal impacts projects started in the 1970s.

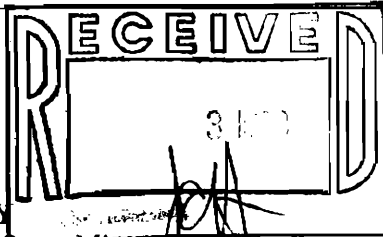
Once a state submits a coastal program for federal approval and it is determined that the program fulfills the requirements of the CZMA, the program becomes the responsibility of the state to implement. The Coastal Zone Management Program is a voluntary partnership between the federal government and states. As a partner in the coastal program the state receives financial and technical support from NOAA and participates in a periodic evaluation of the program. The state coastal program is comprised solely of state authorities and programs. A state is not required to adopt a coastal program but when it does, a coastal program allows a state to take advantage of federal dollars that are already set aside by congress.

4. Comment (regarding the North Shore Management Board) noted. No change required. As detailed in the coastal program document, the program has no impact on the North Shore Management Board except to provide it with additional assistance to achieve its goals. Part V, page 2-13 states “It is anticipated that funding through this program will assist the board and its individual members in implementing its goals.”
5. Comment (regarding the Coastal Nonpoint Program) noted. No change required. This statement by the commentor is confusing. The statement which is quoted addresses the concern that this program may result in additional authorities by stating clearly that the state feels it has adequate authorities to fulfill the Coastal Nonpoint Program and does not intend to create any new laws.
6. Comment (regarding the Lake County Board of Commissioners as the voice for the people) noted. No change required. Also consider the oral testimony from Tom Peterson, Silver Creek Township Supervisor (DEIS Public Hearing, Silver Bay, MN, Sept. 2, 1998) and Paul Iverson, Two Harbors City Councilor (DEIS Public Hearing, Duluth, MN Sept. 1, 1998) who both speak in support of the program and are elected officials also representing constituents of Lake County.



Natural  
Resources  
Conservation  
Service

375 Jackson Street - Suite 600  
St Paul, Minnesota 55101-1854



October 7, 1998

IN REPLY  
REFER TO: Minnesota's Lake Superior Coastal Program

Joseph Uravitch  
Coastal Programs Division  
SSMC4, Room 11537  
1305 East-West Highway  
Silver Spring, MD 20910

Dear Mr. Uravitch:

Natural Resources Conservation Service (NRCS) has reviewed the appropriate sections (wetlands and threatened and endangered species) for the above mentioned proposed project. The project sponsors are not USDA program benefit recipients, thus, the wetland conservation provisions of the 1985 Food Security act, as amended are not applicable. It should be noted, however, that actions by a non-USDA participant third party (project sponsor) which impact wetlands owned or operated by USDA participants, may jeopardize the owner/operators USDA eligibility. If such impacts are anticipated, the owner/operator should contact the county Farm Service Agency (FSA) office to consider an applicant for a third party exemption.

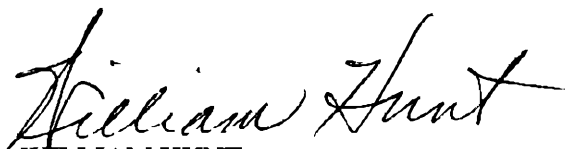
Neither NRCS technical nor financial assistance is being provided in support of this project, thus, specific NRCS environmental policies are not applicable.

The following agencies may have federal or state wetlands, cultural resources, water quality or threatened and endangered species jurisdiction in the proposed project, and should be consulted.

Army Corps of Engineers  
US Fish and Wildlife Service  
Board of Soil and Water Resources  
Minnesota Department of Natural Resources  
Minnesota Pollution Control Agency  
State Historic Preservation Officer/State Archaeologist

If through these impacts you are purchasing new or acquiring additional lands and if any federal monies are involved, it is a requirement that a Farmland Policy Protection Act (FPPA) site assessment be appropriately filed. these site assessments are, conducted by NRCS personnel to review the project for possible effects on unique, prime or statewide important farmland. Contact your local NRCS office for more information.

Sincerely,

A handwritten signature in cursive script that reads "William Hunt". The signature is written in black ink and is positioned above the printed name and title.

WILLIAM HUNT  
State Conservationist

WRITTEN COMMENT NO. 11:     USDA NATURAL RESOURCES CONSERVATION  
   SERVICE  
   October 7, 1998

Responses to comments:

1. Comment noted. No response required.



IN REPLY REFER TO:

# United States Department of the Interior

OFFICE OF THE SECRETARY  
Office of Environmental Policy and Compliance  
Custom House, Room 244  
200 Chestnut Street  
Philadelphia, Pennsylvania 19106-2904

October 27, 1998

ER-98/566

Joseph A. Uravitch  
Coastal Programs Division  
NOAA-U.S. Department of Commerce  
SSMC-4, Room 11109  
1305 East-West Highway  
Silver Spring, Maryland 20910

Dear Mr. Uravitch:

The Department of the Interior (Department) has reviewed the Draft Environmental Impact Statement for the State of Minnesota Lake Superior Coastal Program.

The document adequately address the concerns of the Department regarding fish and wildlife resources. We have no comment on the adequacy of other resource discussions presented in the document.

Thank you for the opportunity to provide these comments.

Sincerely,

Michael T. Chezik  
Regional Environmental Officer

WRITTEN COMMENT NO. 12: United States Department of the Interior  
October 27, 1998

Responses to comments:

Comment noted. No change required.

# Minnesota's Lake Superior Coastal Program Draft Environmental Impact Statement Review

Please take time to read the Draft Environmental Impact Statement (DEIS) and provide specific input on the DEIS. All comments will be considered, though not necessarily incorporated, by program development staff and work groups.

Please mail the comments to Joseph A. Uravitch, Coastal Programs Division Chief, SSMC4, Room 11537, 1305 East-West Highway, Silver Spring, MD 20910 by September 14, 1998.

Comments may also be sent to Minnesota's Lake Superior Coastal Program and will be forwarded to Joseph A. Uravitch and the Office of Ocean and Coastal Resource Management. Please provide all comments under the appropriate sections listed below. Include additional sheets if necessary. Be sure to indicate page number when listing suggested changes.

In which county(s) do you reside and/or own property?

Carlton \_\_\_\_\_ St. Louis \_\_\_\_\_ Lake \_\_\_\_\_ Cook \_\_\_\_\_ Other (specify) \_\_\_\_\_

## Part I      Program Overview

*page 3, 2. Please consider inserting location of Lake Superior Coastal Program coordinator Office. (Is it in Duluth?)*

## Part II      Minnesota's Lake Superior Coast

## Part III      The Coastal Management Act

## Part V      Minnesota's Lake Superior Coastal Program

### Chapter 1      Program Boundary

### Chapter 2      Program Implementation

### Chapter 3      Management Policies and Authorities

*page 21 - Financial Assistance Programs Add - "Lake Superior Shoreline Protection Project (LSSPP) Low Interest Loans  
(Julie McDonnell, MPCA Duluth can give you information)*

### Chapter 4      Special Programs and Management Areas

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WRITTEN COMMENT NO. 13:     UNSIGNED COMMENT CARD -  
September 8, 1998

Responses to comments:

1. Comment (location of office) accepted. The office location of Minnesota's Lake Superior Coastal Program's Coordinator will be in Two Harbors, MN. Part I - 3 paragraph three, last sentence now reads "A program coordinator will facilitate the program from an office within the coastal area as defined in the program document. This office will be located in Two Harbors, MN.
2. Comment (Lake Superior Shoreline Protection Project Low Interest Loans) accepted. The Lake Superior Shoreline Protection Project Low Interest Loans will be included as a resource under the State Revolving Loan Fund on Part V, page 3-21.
3. Comment accepted. Additions to Table 62 and 63 will be made.

## RESPONSES TO ORAL TESTIMONY

ORAL TESTIMONY NO. 1: DENNIS FINK, ST. LOUIS COUNTY COMMISSIONER  
DEIS PUBLIC HEARING TESTIMONY, DULUTH, MN  
September 1, 1998

Oral Testimony:

MR. DENNIS FINK: Good evening. My name is Dennis Fink, I'm a county commissioner here in St. Louis County. We want to first thank you for giving us an opportunity to have an opportunity to say something. The -- that's the good news. The bad news is that your document weighed in on our desk on the 25<sup>th</sup> of August, and even if the process that you talked about in having announced this through the National Register on the -- on August 7<sup>th</sup>, that's not required reading at the county level, so we had a little difficulty getting to look at this and see what's going -- how it's going and where you wanted to go with this and reviewing the changes with all the other previous document.

Therefore I have a resolution in front of me that talks about the fact that there is not, in our opinion, enough time to be able to prepare for comments here at this particular public meeting. That concerns us a great deal because we are one of those six counties that you talked about and we are really concerned about what is in this document and how this document might work.

And there are several things that occur that's kind of challenging to us. While you wouldn't know this for sure, we certainly had a problem because our County Board does not meet from mid-August until September 1<sup>st</sup>, so to be able to sit down and discuss this with some kind of intelligence and respond to you, that causes us a great deal of difficulty. In fact, when I brought this up at the board meeting this morning, only two of the commissioners had even seen the document, having just come back from their vacation.

We're looking here to be able to extend our comment period so that we have an opportunity to review this in its entirety. We have had an opportunity to look at the earlier documents, but the fact of the matter is that this product - - this product weighs in and it takes us a while to go through and understand where the changes are. So our request here today is to have more time to be able to make some reasonable comments. Thank you.

Response to comments:

1. Comment (date document received) noted. No change required. Print Communications-Sales Service Manager Berry J. Conway apologizes for the delay in letter dated September 28, 1998 which details the factors that accounted for the delay in printing and shipping documents to mailing list.
2. Comment (St. Louis County being one of six counties) noted. No change required. Clarification to Mr. Fink's comments. There are four counties included in the program, Carlton, St. Louis, Lake and Cook Counties.

3. Comment (request for more time to make comments) accepted. See written testimony No. 7. Board requested and extension of 30 days on September 8, 1998 was granted. New expiration date was October 8, 1998.

ORAL TESTIMONY NO. 2: SHARON HAHN, LAKE COUNTY COMMISSIONER  
DEIS PUBLIC HEARING TESTIMONY, DULUTH, MN  
September 1, 1998

Oral Testimony:

MS. SHARON HAHN: I'm Sharon Hahn, I'm a Lake County Commissioner, and I'm here representing Lake County tonight. We have to reiterate what Dennis Fink has said in that we received this document Thursday in our office. I have read only the first section. I apologize, but I had a wedding this weekend and did not get my reading done.

I would like to start out my testimony by bringing up two articles in our paper. This is the Lake County New Chronicle, one dated April 5<sup>th</sup> of 1978, CZM Hearing Today in Two Harbors, Residents Express Opposition to Plan. There's a full article regarding the initial response to coastal zone in our county. Then I have April 12, 1978 paper from Lake County again. May God Have Mercy on Us if CZM is Approved. Testimony show overwhelming opposition to CZM in Lake County. Another article is County Board Says CZM Stay out of Minnesota.

This is 20 years ago and we return with the new document. In my briefcase I have the original document from 20 years ago. Again, I have not had time to compare those two documents either, other than this one is much thicker.

We have a problem with the voluntary status of the Coastal Program. And, in fact, when NOAA was before our board was that four years ago, I think, Neil, that NOAA came down and sat with our board because we had some real problems with even having it come to our area again. The people said no 20 years ago and many people in my county still feel that no is sufficient notice now. We tried to tell them that it's not. They say we're elected to represent them and we will try to represent after we have had time to go through the whole document.

Voluntary status came about and - - when the state started the process they said this is a voluntary process and you need not worry, and so we said we do not want Lake County in those boundaries at that time. We've had three different resolutions from our county over this four-, five-year period again reiterating that Lake County is not interested in the coastal resources program. Okay?

Somehow I went to two meetings of the boundary work group. This will be my second request to have my name removed from the boundary work group in that at the second meeting there was discussion over the minutes and whether they were correct or not and at that time I pulled out of the work group. I see my name is still on there and I would request that that be removed. I was not in on the final analysis of the boundaries.

The other -- the other thing that I would like to point out tonight, and we will be doing a more thorough written testimony going in, we would request that possibly we could have another public hearing in a couple weeks where people have had time to go through the document. If we as county commissioners received the document last Thursday, we worry if a lot of the citizens are even aware yet that it's out. You did have your notice in the Lake County Chronicle, but whether they are assuming that the new document is ready or not, I'm not sure.

In the Part 1, Page 5, and Part 1 unfortunately is the only section I got through, I guess the most troubling to me already is the section is under Part 6, Based on Existing Policies and Authorities. The state and its people, do reserve the right to, in the future, add new programs, policies or authorities following a formal public review to ensure resource protection of the coastal area. In this section, if we are taking existing land use plans and zoning regulations in this area, it says nowhere in here that you need to follow the public hearing process of changing any of the policies and regulations within our county. It says the state may and they will take review, but nowhere does it say that a local unit of government has any say in the final changes of any policies done by the state of Minnesota. We have a real problem with that.

We have a comprehensive land use plan in our county for over 20 years. We are -- it's a living document. We are in the process of updating. We have been working for almost two years on that. It's a lengthy process with a lot of public input. And we feel as a county that we will probably have to go to the wall on saying that we will still be the regulating enforcement agency of our county.

Jeanne Daniels, who is no longer here, and I had a discussion probably six months ago of okay, it's voluntary, we do not want to be in the boundary. At that time Jeanne Daniels said, Well, you can choose not to be -- the voluntary part is the grant program that we are -- we can pull out of the grant program, but our county remains in coastal resource management program. My definition of voluntary and the state or the federal government's definition of voluntary are much different.

Again, I thank you for the opportunity tonight. We will be coming back as a county with more comment after we've had time to review the whole document. Thank you.

#### Additional oral testimony:

MS. SHARON HAHN: I guess I'd like to address the \$600,000 coming in as work money. I'm not sure how many people the state is planning on having employed through the coastal program, but if there are only five people employed with salary, benefits, office space, we're going to be at least 300 to \$350,000 and what does that leave left for programs? And again I haven't read through all of the document and so if I am incorrect on that, I apologize. But obviously you do need to have people employed to do a program and how much money will be used -- or left for working money when those people are employed. Thank you.

#### Response to comments:

1. Comment (delay in receipt of document) noted. No change required. Due to unforeseen delays in the printing and mailing process, the document was not received by some people until the third week of August, 1998, approximately two weeks after the beginning of the 45 day comment period. Most people received the document in a timely manner and copies of the documents were available at the Coastal Program Office, DNR regional office in Two Harbors, MN. In response to this concern, NOAA and Minnesota agreed to accept comments up to 30 days after the close of the official comment period.

2. Comment (regarding articles from 1978) noted. No change required. This commentor raises an objection to a program that was designed and perceived 20 years ago and not to the program that exists today -- a very different program. In 1978, the residents who testified overwhelmingly opposed the program. Today that sentiment has reversed and the majority of residents who have commented support the approval of the coastal program. The coastal program in Minnesota has been designed to address the concerns held by Lake County and all the residents along the Lake Superior shore. It is important to note that Minnesota's Lake Superior Coastal Program has as its foundation the culture of the shoreline area and its residents, and it was almost entirely formed and written by Lake Superior shoreline residents. Ms. Hahn was invited to participate in that process, but declined.
3. Comment (regarding voluntary status) noted. No change required. The Coastal Zone Management Program is a voluntary partnership between the federal government and a state. The voluntary status of the program means that the state has the option of participating or not in the coastal program. The state must represent the people in the coastal area when making this decision. The fact that the program in Minnesota is developed in the local area by local residents indicates that the program has much support at the grass roots level. This is a bottom-up process of development which is reflected in actions of the DNR, other state agencies, and the Governor's office. Lake County is not required to participate in the program. Some residents may benefit from projects if a local unit of government within Lake County receives funding for a local project.
4. Comment (regarding removal of name on Boundary Workgroup) accepted. The commentor's name will be removed from the list of members of the Boundary Workgroup.
5. Comment (requesting another public hearing) noted. No change required. The request to hold another hearing was strongly considered but because written comments will be accepted through the end of the comment period and comments will be accepted later from those who request more time, it was felt that an additional hearing would not be necessary.
6. Comment (regarding passage "Based on Existing Policies and Authorities") noted. Change made. The following change has been made in the statement that was read by the commentor in an attempt to clarify. "... In other words, the development and implementation of Minnesota's Lake Superior Coastal Program does not create any new permits and does not require any new regulations, zoning ordinances or enforceable mechanisms. The state legislature, state agencies, and local government units can adopt new laws or new rules according to existing processes and mechanisms. The state maintains the position that existing regulatory and voluntary mechanisms exist in Minnesota to adequately meet the intent of the Coastal Nonpoint Program (Section 6217 of CZARA, 1990).

Once a state submits a coastal program for federal approval and it is determined that the program fulfills the requirements of the CZMA, the program becomes the responsibility of the state to implement. The state coastal program is comprised solely of state authorities and programs. Any changes to those authorities and programs must follow the existing procedures as defined in state law and the coastal program does not change that process except that it is hoped that the coastal program will enhance the coordination between state agencies and local units of government. Nor does the coastal program change the application

of Lake County's comprehensive land use plan, local ordinances, or state laws and regulations. The enforcement of these remains up to each county.

7. Comment (regarding distribution of \$600,000) noted. No change required. The Organization and Implementation Work Group carefully considered this concern and have addressed this issue on Part V 2-6, paragraph three, "During the first year of the program administrative funds will be approximately 20 percent. During successive years staff will draft an administrative budget for review and agreement jointly by the Council and the DNR. It is expected that the administrative budget be approximately 20 percent annually."

ORAL TESTIMONY NO. 3: DEBRA TAYLOR, SOUTH ST. LOUIS COUNTY SWCD  
DEIS PUBLIC HEARING TESTIMONY, DULUTH, MN  
September 1, 1998

Oral Testimony:

MS. DEBRA TAYLOR: I'm going to sit down. I worked about 25 hours in the last two days. I'm going to put my butt on a chair. Debra Taylor, South S. Louis County Soil and Water Conservation District. Like the last two speakers, I am an elected person here, elected from the southern part of St. Louis County and specifically to represent the cities of Duluth, Hermantown, Proctor and Midway Township, although I -- my involvement stretches farther than that to the entire southern half of the county.

The comments that I've gotten back from my people in my constituency have been very positive as to joining the program. A large majority are in support of it. That's based on the fact that it works in other coastal states. Minnesota is the only state along the Great Lakes border that's not involved and people see it in a world of tightening money available to get things done, as a way to tap into some federal resources.

And I share the concerns of the last two speakers of getting the document rather late. For that reason I'm not going to be addressing any specific things because I've only gotten about a quarter of the way through it myself and I want to look at the whole document before I start picking out individual things because my questions may be answered at some later point in the document and it would take too much time here.

As far as the -- my personal involvement in this, I was involved with the boundary group, which was a struggle to get a boundary set. I support where the boundary currently ended up getting set. I myself wanted it a little farther away. We had people up in Solway Township, Knife River area, Clover Valley that wanted to be included, but didn't get in it.

So if anything from the people that I talked with, they wanted more rather than less and sooner rather than later.

Later testimony:

MS. DEBRA TAYLOR: Question from the floor? Does not the document at some point establish what the maximum percentage of the money can be used for administrative costs as the program is being set up? Can you respond at least with yes or no? Is there a maximum percentage given in the document that can be used for administrative costs?

Response to comments:

1. Comment (received document late) noted. See other remarks about delays in document printing (responses to written comment no. 1, response 2).
2. Comment (support of the program from constituents) noted. No change required. Thank you for support of the program



3. Comment (maximum percentage for administrative costs) noted. Yes, the document states that during the first year of the program administrative funds will be approximately 20 percent. Based upon past concerns, it is the primary intent of this coastal program to support the local units of government and other eligible organizations as much as possible with pass-through grants for projects, while still being able to maintain the administration support necessary to operate this program.

ORAL TESTIMONY NO. 4:     BRIAN FREDRICKSON, MN POLLUTION CONTROL  
                                  AGENCY, LAKE SUPERIOR BASIN PLANNER  
                                  DEIS PUBLIC HEARING TESTIMONY, DULUTH, MN  
                                  September 1, 1998

Oral Testimony:

MR. BRIAN FREDRICKSON: Since the chair is the order of the day, I think I'll do that too. My name is Brian Fredrickson and I'm with the Minnesota Pollution Control Agency out of the Duluth office, and my position in the Duluth office is as Lake Superior Basin Coordinator. And within our agency that position is responsible for working with most of the programs that we have that deal with Lake Superior, so the Coastal Program kind of fits within that purview.

I appreciate the opportunity again to comment tonight. And like some of the other speakers, I really haven't had a chance to go through the document because I got it pretty late as well. And I guess I'd like to say that originally our agency was probably as skeptical as anybody out there, any of the citizens and others about the coastal process because we have, I think like many people, a pretty long memory. We remember the 1970s, and also because the coastal program had a new component in it dealing with the nonpoint source pollution, something that was pretty new us. And after a great deal of discussion with some of the folks from NOAA and the Department of Natural Resources and a lot of research on our part, I think we came the conclusion that the program has far more benefits than it has drawbacks.

And one of the things that obviously was pointed out already is that the state will be able access some really scarce federal funds to do what looked like could be some pretty good projects, both in terms of public access and environmental protection. And I think we've missed out on a lot of these funds over the years because we haven't been in the program. So, that's something that is a real important part of it.

Another part that maybe gets overlooks pretty often too is that the program has a bunch of communication tools and technical resources that the state hasn't had access to in the past, mainly through the National Oceanic and Atmospheric Administration and Department of Commerce. They have a wealth of expertise, technical expertise, that we'll be able to tap into and use to our benefit with regard to coastal issues.

And perhaps just as important, we'll be part of a national program with other states that deal with coastal issues, so we should be able to benefit a great lead from the collective wisdom of those folks regarding some of the problems that they've already gone through on their coasts. So hopefully, we won't have repeat that.

As the state water quality agency, we are responsible for the-- a big part of the nonpoint program which is a companion program to the traditional Coastal Zone Management Program, and we believe that NOAA and the Environmental Protection Agency have provided considerable flexibility to make that program work through the use of voluntary programs and existing authorities that we already have in place and we're very much looking forward to working on the program, once the coastal program is adopted.

I'd like say that having had a chance to work with some of the folks from the Department of Natural Resources and NOAA and some of the work group members, I applaud your efforts. I think you've done an extremely good job of working on a pretty complicated program and providing a great deal of opportunities for people to comment in a whole variety of settings and from what I can tell it looks like it's been very much a bottom-up process, so thanks.

Response to comments:

1. Comment noted. No change required. Thank you for your support and efforts on behalf of the PCA in the development of this program. It is a much more comprehensive and cooperative program because of the collaborative effort we received from you and your agency.

ORAL TESTIMONY NO. 5: PAUL IVERSON, TWO HARBORS CITY COUNCIL  
DEIS PUBLIC HEARING TESTIMONY, DULUTH, MN  
September 1, 1998

Oral Testimony:

MR. PAUL IVERSON: I'm Paul Iverson, I'm from the City of Two Harbors, and I actually have read most of the document. And I do have one suggestion and that's that in the termination process you have a two-thirds majority of the local units of government have to sign a document saying that they want to be terminated, and I really believe that that should be 51 percent, a simple majority.

But other than that, I guess what most of the speakers have said I kind of have to agree with. I--after reading this document I think it is a pretty good document, and local units of government, I don't believe, have done a real good job of planning on the North Shore and that they do need help one way or another and this may be one of those ways. And it seems like it's a fairly democratic system, the Coastal Zone Council, as far as I can tell, so it may be something that just may work.

I think that's all I had. The other thing that is I do wonder how the coastal council would affect the North Shore Management Board and I know that they are two different zones. I know that the coastal zone thing would go much further inland, but it seems like they're almost redundant in some ways and I was just wondering how that does work, although I noticed that the coastal zoning had no power of implementation. But I guess those are my comments on it.

Response to comments:

1. Comment (termination process requiring two-thirds majority of the local units of government) noted. No change required. The Organization and Implementation Work Group developed the guidelines for this process as detailed on Part V 2-18. Further concerns could be addressed during program implementation or during a Section 312 review.
2. Comment (how the Coastal Council would affect the North Shore Management Board) noted. No change required. There are several differences to note between the Coastal Council and the North Shore Management Board (NSMB). As the commentor stated, there are two different zones (geographic boundaries) that define each program. Minnesota's Lake Superior Coastal Program defines a boundary that follows the coastal townships along the north shore, includes the cities of Duluth, Hermantown, Proctor, Carlton and Cloquet as well as some of the areas affected by the St. Louis River. This boundary is much broader geographically than the North Shore Management Plan. The Coastal Council's role will be to set grant program priorities (based on stakeholder input) and determine recipients for the pass-through grant portion of the program. It will have no authority to set policy, make rules or enforce any of the existing policies now managed by the NSMB or any other regulating authority. At best, it will be an additional funding source for projects deemed valuable to be carried out the North Shore Management Plan.

ORAL TESTIMONY NO. 6: ARNOLD OVERBY, RESIDENT OF BEAVER BAY, MN  
DEIS PUBLIC HEARING TESTIMONY, SILVER BAY, MN  
September 2, 1998

Oral Testimony:

MR. ARNOLD OVERBY: I'd like to support NOAA's adoption of this proposed plan. I think that the -- we need all the help we can get to protect the North Shore and the coastal zone of Lake Superior.

I read in the introduction here, the first pages, it says this program does not create any new permits and does not require any new regulations, zoning ordinances or enforceable mechanisms. So I see no conflict, it's just another added bit of protection for a precious area.

I was born in Two Harbors in 1934, my grandparents settled on the shore around the turn of the century, and I'm very familiar with the changes that have occurred in a fairly short period of time. And if the present trends continue, the North Shore will become overdeveloped and we'll lose the valuable resource that we have. So I support the adoption of this Lake Superior Coastal Program.

Response to comments:

1. Comment (support of the program) noted. No change required. Thank you for your support of the adoption of the Lake Superior Coastal Program.

ORAL TESTIMONY NO. 7: JIM ALLERT, RESIDENT OF KNIFE RIVER, MN  
DEIS PUBLIC HEARING TESTIMONY, SILVER BAY, MN  
September 2, 1998

Oral Testimony:

MR. JIM ALLERT: Thank you for allowing me to speak before you tonight. I have some prepared remarks which I'll turn over when I'm finished. I've served on the boundary group for this CZM project and I believe the boundary has been well fashioned to include areas that are most critical. Tonight I speak as a concerned citizen.

I attended the public hearing in Duluth last night where Commissioner Hahn expressed the historical opposition of Lake County to the CZM plan. From her testimony it seems the Lake County Board of Commissioners opposes the plan for what appear to be two main reasons: First, and foremost, they fear that it will effectively impose a new and unresponsive layer of government regulation. Secondly, they believe that the net monetary benefits for Lake County would be far less than we are led to believe. I feel both issues, given their political prominence, could be better addressed by this document. One can hardly blame local government for opposing what it perceives as the uncompensated loss of local control. Part of their job is to watch out for these things.

Another aspect of their job is to do whatever it takes to meet the needs of Lake County residents. With Lake County's population projected to decline over the next several decades, I believe that financing for all kinds of public projects becomes more and not less difficult without substantial tax increases.

Yet as an article in today's Duluth News-Tribune points out, it's kind of in the bottom left-hand side of the page, Minnesotans get back only 78 cents on each tax dollar that they send to the federal government. And Lake County residents get back even less than many Minnesota counties.

As I said, I live in Knife River. We have a failing fishery in a river where you could catch record sized fish just 20 years ago, now you can hardly catch anything in that river. We've got a marina that's in bad need of repair and when money goes to safe harbors and all kinds of other things it seem to bypass existing facilities like that. And this past winter mechanical failures completely disabled our sewer plant for weeks and we're now forced to try to either rebuild the thing or abandon it. This Coastal Zone Management Plan would contain ongoing funds to address these kinds of problems, funds that are not now available in Lake County.

While the debate about local control rages at one level, the average citizen in Knife River is more concerned about simple things, like being able to catch a fish in the river, enjoying lasting public recreational facilities and being able to flush their toilet, all three of which are iffy propositions for us right now.

This coastal plan would start funneling some of our federal tax dollars back to where we live instead of sending our money off to improve coastal areas in Mississippi and California and North Carolina like we've been letting the federal government do for decades.

I believe this plan has great merit and I would urge NOAA to approve the plan. And I'd like to encourage local residents to perhaps spend less time looking for things to be against in this document and more time trying to make the thing work because we can use this money now and we deserve a better return than we're getting on your federal tax dollars. Thank you.

Response to comments:

1. Comment noted. No change required. Thank you for your support of approval of the program.
2. No written comments were submitted.

ORAL TESTIMONY NO. 8: JOEL PETERSON, MN POLLUTION CONTROL AGENCY  
DEIS PUBLIC HEARING TESTIMONY, SILVER BAY, MN  
September 2, 1998

Oral Testimony:

MR. JOEL PETERSON: A few months ago I became the Pollution Control Agency's northeastern area office designated person to work on coastal zone management and nonpoint issues to the Lake Superior basin. So, I've just gotten involved with this program relatively recently, but had been familiar with it in the past and have been to some of the open houses that they had a couple years ago.

I'd like to thank you for this opportunity to comment on this very timely and needed program.

The North Shore of Lake Superior is characterized by steep slopes, highly erodible red clay soils, a thin topsoil layer, bedrock outcrops and forest, all intersected by high water quality designated trout streams. It has stellar beauty combined with numerous year-round recreational opportunities. It's a fragile and unique ecosystem poised on the largest fresh water lake in the world.

The rivers and creeks of the North Shore are the most fragile of all. All but the intermittent creeks are designated cold water trout streams. They are unusual in that they maintain their cold water even though they are primarily surface water fed. The forest canopy keeps the surface water runoff shaded and cold and prevents rain drops from starting the fine clay soils moving. Moving fine soils fill in gravel beds where most stream invertebrates live and where trout eggs must incubate in contact with moving water. Mercury most often -- most of which is deposited far away -- from far away by air current clings to these surface soils and is easily transported to the waters of the basin where it bio-accumulates in our fish.

Each new house, condo, business or golf course opens the canopy a little more, exposes the thin fine soils and changes the hydrology with roofs, ditches, evaporation and paved surfaces.

We have a high percentage of failing septic systems throughout the Lake Superior basin. They contribute to polluting nutrients and some hazardous waste to the basin waters and Lake Superior. This inability to be able to maintain and site septic systems on the North Shore has been a limiting factor on growth and development, but has helped maintain the character of the North Shore. There are currently at least four proposals in the work for sewage treatment systems or major sewage pipe extensions that will in all likelihood eliminate the limiting factor to development.

In the last few years, we've seen an explosion in development in such North Shore communities as Two Harbors and Grand Marais where sewer is available. The pressure is there to develop wherever the sewer pipe arrives. Are the communities and counties ready for that? Have sensitive and scenic areas been set aside? Are communities going to be able to control and guide the future development in the direction the community desires? Has comprehensive land use planning been done?



The CZM program can provide technical assistance, planning and project dollars to local governments that will have to deal with the dramatic change in the next decade. Application for CZM grants is not mandatory. It is a win/win program for those local governments that choose to use it to help manage one of the most remarkable natural resources in the world.

We will have more formal comments on the draft EIS, official comments from the MPCA and any specifics before the end of the comment time. Thank you much.

Response oral testimony:

1. Comment noted. No change required. Written comments from MNPCA are contained in other parts of the response to written testimony.

ORAL TESTIMONY NO. 9: TOM PETERSON, SILVER CREEK TOWNSHIP  
SUPERVISOR  
DEIS PUBLIC HEARING TESTIMONY, SILVER BAY, MN  
September 2, 1998

Oral Testimony:

MR. TOM PETERSON: I'd just like to make a quick point. I too have heard members of the County Board claim that Lake County is opposed to this program. Well, Silver Creek Township is entirely within Lake County and we have long supported this program. I think that an elected official in this day and age, ignores potential funding sources at their own peril. Thank you.

Response comments:

1. Comment noted. No change required.

ORAL COMMENTS NO. 10: STEVE MUELLER, MNDNR-TRAILS AND WATERWAYS  
VIA TELEPHONE CONVERSATION  
September 30, 1998

Oral Comments:

The Lake Superior Water Trail is now 40 miles long, beginning in Two Harbors and ending at the Cook County line. Also, include the St. Louis River Board and the St. Louis River Management Plan in the document. The new recreation plan has just been completed.

Response to Comments:

1. Comment (length of Lake Superior Water Trail) accepted. Changes have been made in the document to reflect length, current beginning and terminus of trail.
2. Comment (include St. Louis River Board and St. Louis River Management Plan) accepted. Both will be referenced in the document.

## **PART VII**

### **APPENDIX E**

#### **Federal Consistency**

## **APPENDIX E**

### **FEDERAL AGENCIES CONSULTED DURING PROGRAM DEVELOPMENT**

#### Department of Agriculture

- Farm Service Agency
- Animal and Plant Health Inspection Service
- Rural Development
- Federal Grain Inspection Service
- Forest Service
- Extension Service - University of Minnesota
- Natural Resource Conservation Service
- Soil and Water Conservation Service

#### Department of Commerce

- Economic Development Administration
- National Oceanic and Atmospheric Administration
  - National Marine Fisheries Service
  - National Weather Service
  - Office of Ocean and Coastal Resources Management

#### Department of Defense

- Air Force
  - Civil Air Patrol
- Army
  - Corps of Engineers
  - Reserve
- Marine Corps
- Navy
  - Naval Reserve

#### Department of Education

#### Department of Energy

#### Department of Health/Human Service

#### Department of Housing and Urban Development

#### Department of Interior

- Bureau of Indian Affairs
- Bureau of Land Management
- Fish and Wildlife Service
- Geological Survey
- Minerals Management Service
- National Biological Service
- National Park Service

#### Department of Justice

- Environment and Natural Resource Division
- Immigration and Naturalization Service
- Marshals Office

#### Department of Labor

- Employment and Training Administration
- Mine Safety and Health Administration
- Veterans Employment and Training Service

Department of State  
    Office of Oceans and International Environmental and Scientific Affairs  
Department of Transportation  
    U.S. Coast Guard  
    Federal Aviation Administration  
    Federal Highway Administration  
    Federal Railroad Administration  
    Federal Transit Administration  
    Maritime Administration  
U.S. Customs Service  
Internal Revenue Service  
Department of Veterans Affairs  
Environmental Protection Agency  
Federal Communications Commission  
Federal Emergency Management Agency  
Federal Energy Regulatory Commission  
Federal Trade Commission  
Federal Transit Administration  
General Services Administration  
Interstate Commerce Commission  
Nuclear Regulatory Commission  
Small Business Administration  
U.S. Courts  
U.S. Postal Inspection Service  
U.S. Postal Service

## **NATIONAL INTEREST STATEMENTS RELATED TO FEDERAL CONSISTENCY**

The following comments were received from federal agencies in response to a survey mailed to agencies consulted during program development. The survey was sent to the agencies on April 5, 1996 and asked how the functions, responsibilities, activities, and/or projects of the agency relate to the national interest concerns (national defense, energy production and transmission, transportation, ports and navigation, and coastal resources). It further requested they list any other national concerns relevant to the agency.

### *Department of Agriculture - Farm Service Agency*

The Farm Service Agency can provide, on a voluntary basis, financial assistance to eligible land owners and operators who wish to convert cropland to various types of conservation practices for extended periods of time. In addition, the agency maintains records of food and fertilizer storage sites in each county.

### *Department of Agriculture - Rural Development*

During the application process an environmental assessment is prepared which takes into account the impact the proposed action would have on the environment and protected resources. Avoidance is the primary goal. If the impact cannot be avoided, the impact is minimized and mitigation measures are established to assure the proposed action results in no significant effect to the environment.

### *Department of Agriculture - Natural Resources Conservation Service*

We provide technical assistance to individuals, groups, and units of government that helps protect, conserve, and enhance the listed concerns.

### *Department of Agriculture- Forest Service*

Related to energy production: Role provided the FS in FERC licensing/relicensing process for hydropower facilities. Related to energy production: FS issuance of permit/lease for exploration or development of mineral or energy resources on federal lands. Federal land manager affirmative role under Federal Clean Air Act, to review major new or modified sources of air emissions to protect air quality related values of Class I air quality areas (such as BWCAW). Related to energy transmission: FS issuance of permits for pipe lines and power lines. Related to transportation: FS issuance of permits/easements for state, county, township or private roads across federal land or, FS required role in review of Federal Department of Transportation easements for such roads. Related to Coastal Resources/Threatened Wildlife Habitats: FS management actions designed to enhance habitat for federally-listed wolf and bald eagle and peregrine falcon. Related to Coastal Resources/Public Recreation Areas: The BWCAW, managed by the Superior National Forest, is a significant component of the National Wilderness Preservation System. The eastern end of the BWCAW lies within the Lake Superior watershed. Related to Coastal Resources/Historical, Cultural, and Archeological Sites: Two sites managed by the Superior National Forest, and within the proposed Coastal Program area, are on the National Register of Historic Places. These sites are: South Fowl Lake archeological site and Height of Land Portage. Both sites are located in the BWCAW.

Department of Defense, Army, Corps of Engineers

The following are considered during the review of proposed projects during the permitting process: National defense, energy production and transmission, transportation, ports, and navigation, and coastal resources (significant fish species and habitats, threatened wildlife habitats, public recreation areas, and historical, cultural and archeological sites). In addition, by maintaining navigation channels/harbors, the Corps is involved with transportation, ports, and navigation. It relates to our national defense since some waterborne commerce directly impacts the defense industry (taconite pellets for steel production). Coal shipments (energy production) is often carried by water transportation. The coastal resources are important especially in harbor maintenance and dredge disposal.

Department of Interior - Geological Survey - Water Resources Division

Our information is used for planning - droughts, floods, water supply.

Department of Interior- National Park Service (Grand Portage National Monument)

Grand Portage National Monument manages both natural and cultural resources on the North Shore of Lake Superior. Cultural resources are significant and primary to congressional intent in authorizing the area. Some natural resources parallel others nearby in protecting threatened species. Shoreline protection from high water has been undertaken on several occasions.

Department of Interior - Bureau of Indian Affairs

The following items relate BIA mission to identified national interests: National defense - Impacts of military activities to reservation, availability of lands from base closure for addition to reservations. Energy - Relicensing of hydropower projects, development of new energy facilities within reservations, pesticides on rights-of-way. Transport, ports, navigation - Development of and expansion of facilities within reservation or ceded territories, effects on fish and wildlife and water quality. Significant fish species & habitats - Tribes are adjudicated co-trustees for fish resources in Lake Superior and ceded territory lakes, assist tribe in management & protection. Threatened wildlife habitats - identification & protection of habitat on reservations, consider habitats in tribal developments. Public Recreation Areas - Impacts to reservations and ceded territories; potential issues raised by Grand Portage RBC on new state park within Grand Portage Reservation, affects to trust resources by recreation areas related to relicensing of St. Louis River and Cloquet hydropower projects. Historical, cultural , archaeological - Issue permits to non-tribal archaeologists for surveys within Indian reservations, conduct surveys and comply with National Historic Preservation Act for BIA undertakings to facilitate tribal proposals. Wetlands - Help tribes (funding, technical assistance) inventory, restore, protect wetlands, consider impacts to wetlands for BIA undertakings needed to facilitate tribal proposals, wild rice restoration and management.

Department of Interior - National Biological Service

The National Biological Service conducts research that leads to information on population status and trends that can be used for proposing listing or delisting species as federally threatened or endangered.

Department of Transportation - Federal Aviation Administration

Airport establishment and development.



#### Department of Transportation - U.S. Coast Guard

Primarily in the protection of coastal resources during pollution incidents and in the prioritization of natural resources for protection. In addition, pre-spill planning has identified and developed strategies for the protection of and cleanup in the event of a spill, for coastal resources.

The Coast Guard's Civil Engineering Unit in Cleveland would consult with MNDNR if it was planning any new construction, i.e. Coast Guard bases. None are currently planned.

#### Department of Transportation - Maritime Administration

The Minnesota commercial ports play an important role in supplying raw materials for the steel making and power generating facilities throughout the Great Lakes region, particularly, during military supply buildup. Minnesota ports and Great Lakes shipping provide an alternate route for vessel operators serving in national defense or national emergency situations. Minnesota commercial port facilities must be adequately maintained in regard to dredging in order to provide the maximum vessel efficiency and carrying capacity throughout the service area in domestic or international trade.

#### Environmental Protection Agency

Under the National Environmental Policy Act as well as under the Clean Water Act and Clean Air Act, the Environmental Protection Agency comments on the likely consequences for water quality, air quality and wetlands of major implementation projects or actions.

#### Federal Energy Regulatory Commission

Regulation of natural gas transportation in interstate commerce. Review natural gas facility construction applications. Our authority to approve interstate natural gas transmission facilities has a positive impact on national energy concerns. Our NEPA responsibilities assure that all impacts on coastal resources are taken into account in FERC's decision making process. Hydroelectric projects in Minnesota contribute to the state's need for energy production. Hydroelectric projects can cause both adverse and beneficial effects to coastal resources (fisheries, wetlands, recreation, water quality and quantity, etc.)

#### Nuclear Regulatory Commission

Should an electric utility decide to use nuclear power to meet energy production needs, the NRC would regulate the construction and operation of the nuclear power facility. As such, much of NRC's licensing activities relate to energy production and transmission. During NRC review of a proposed licensing activity, the staff reviews the environmental impacts of licensed activities on coastal resources under the National Environmental Policy Act.

## MODEL FEDERAL CONSISTENCY DETERMINATION FOR FEDERAL AGENCIES

The CZMA requires that “each federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved state management programs”, 16 U.S.C. 1456(c)(1)(A).

Minnesota has an approved Coastal Management Program (CMP) which is based on existing state statutes and rules as outlined in “*Minnesota’s Lake Superior Coastal Program*” document. Part V, Chapter 6 of the document defines the program process regarding federal consistency.

This section details the analysis by which the [federal agency] has determined that its [project title or description of action/activity] is consistent to the maximum extent practicable with the enforceable policies of *Minnesota’s Lake Superior Coastal Program*.

The [federal agency] has determined that the [project title or description of action/activity] affects the land or water uses or natural resources of Minnesota’s coastal area in the following manner:

[Provide analysis or effects or reference pages of NEPA document if appropriate.]

The [federal agency] has evaluated the following relevant enforceable policies of *Minnesota’s Lake Superior Coastal Program*:

[Describe state CZM program enforceable policies]

Based on the following information, data and analysis the [federal agency] finds that the [project] is consistent to the maximum extent practicable with *Minnesota’s Lake Superior Coastal Program*.

[Provide information, data and analysis supporting the determination of consistency with *Minnesota’s Lake Superior Coastal Program*.]

By this determination that the [project] is consistent to the maximum extent practicable with *Minnesota’s Lake Superior Coastal Program*, the State of Minnesota is notified that it has 45 days (plus any appropriate extension under 15 C.F.R. 930.41(b)) from the receipt of this letter in which to agree or disagree with the [federal agency’s] determination. The agreement or disagreement of the State of Minnesota with the federal agency’s consistency determination shall be sent to:

[provide federal agency contact]

---

Signature

---

Title

---

Date

# Coastal Management Consistency Form

## Enforceable Policies and Authorities

## Appropriate State Agency

### Coastal Land Management

- |  |                              |
|--|------------------------------|
| <input type="checkbox"/> <b>Shoreland Management Act</b><br>Minn. Stat. § 103F .201 - 103 F .221                           | DNR Waters                   |
| <input type="checkbox"/> <b>Statewide Standards for “Management of Shoreland Areas”</b><br>Minn. Rules 6120.2500-6120.3900 | DNR Waters                   |
| <input type="checkbox"/> <b>North Shore Management Plan</b><br>Minn. Rules 6120.2800                                       | North Shore Management Board |
| <input type="checkbox"/> <b>Floodplain Management</b><br>Minn. Rules 6120.5000 - 6120.6200                                 | DNR Waters                   |
| <input type="checkbox"/> <b>Floodplain Management Act</b><br>Minn. Stat. ch. 103F  | DNR Waters                   |

### Coastal Water Management

- |   |   |
|---|---|
| <input type="checkbox"/> <b>Protected Water Program</b><br>Minn. Stat. ch. 103G           | DNR Waters                                    |
| <input type="checkbox"/> <b>Water Permits</b><br>Minn. Rules 6115.0010 - 6115.0810        | DNR Waters                                    |
| <input type="checkbox"/> <b>Water Appropriation</b><br>Minn. Stat. §103G .271 - 103G .315 | DNR Waters                                    |
| <input type="checkbox"/> <b>Dams</b><br>Minn. Rules 6115.0300                             | DNR Waters                                    |
| <input type="checkbox"/> <b>Wetlands</b><br>Minn. Stat. §103G .221 - 103G .2373           | DNR Waters<br>Board of Water & Soil Resources |
| <input type="checkbox"/> <b>Wetland Conservation Act Rules</b><br>Minn. Rules ch. 8420    | Board of Water & Soil Resources               |

### Air Quality

- |   |                          |
|---|--------------------------|
| <input type="checkbox"/> <b>Pollution Control Agency (Powers, duties)</b><br>Minn. Stat. ch. 116    | Pollution Control Agency |
| <input type="checkbox"/> <b>Acid Deposition Controls</b><br>Minn. Rules ch. 7021                    | Pollution Control Agency |
| <input type="checkbox"/> <b>Air Emission Permit Fees</b><br>Minn. Rules ch. 7002                    | Pollution Control Agency |
| <input type="checkbox"/> <b>Air Emission Permits</b><br>Minn. Rules ch. 7001                        | Pollution Control Agency |
| <input type="checkbox"/> <b>Air Emission Permits</b><br>Minn. Rules ch. 7007                        | Pollution Control Agency |
| <input type="checkbox"/> <b>Air Quality Rules</b><br>Minn. Rules ch. 7005                           | Pollution Control Agency |
| <input type="checkbox"/> <b>Ambient Air Quality Standards</b><br>Minn. Rules chps. 7009, 7017, 7019 | Pollution Control Agency |

- |                          |  |                          |
|--------------------------|--|--------------------------|
| <input type="checkbox"/> | <b>Stationary Source Air Standards</b><br>Minn. Rules ch. 7011     | Pollution Control Agency |
| <input type="checkbox"/> | <b>Mobile Source Air Quality Standards</b><br>Minn. Rules ch. 7023 | Pollution Control Agency |
| <input type="checkbox"/> | <b>Lead-based Paints</b><br>Minn. Rules ch. 7025                   | Pollution Control Agency |
| <input type="checkbox"/> | <b>Noise Standards</b><br>Minn. Rules ch. 7030                     | Pollution Control Agency |

#### **Water Quality**

- |                          |  |                          |
|--------------------------|--|--------------------------|
| <input type="checkbox"/> | <b>Waste Treatment Facilities</b><br>Minn. Rules ch. 7048  | Pollution Control Agency |
| <input type="checkbox"/> | <b>Water Pollution Control Act</b><br>Minn. Stat. ch. 115  | Pollution Control Agency |
| <input type="checkbox"/> | <b>Water Quality Standards</b><br>Minn. Rules ch. 7050   | Pollution Control Agency |
| <input type="checkbox"/> | <b>Water Quality Standard - Standard Implementation, and Non-degradation Standard for Great Lakes Initiative Pollutants in the Lake Superior Basin</b><br>Minn. Rules ch. 7052 | Pollution Control Agency |
| <input type="checkbox"/> | <b>NPDES &amp; State Disposal Permits</b><br>Minn. Rules ch. 7001  | Pollution Control Agency |
| <input type="checkbox"/> | <b>NPDES &amp; Storm Water Permits</b><br>Minn. Rules ch. 7002   | Pollution Control Agency |
| <input type="checkbox"/> | <b>Animal Feedlots</b><br>Minn. Rules ch. 7020   | Pollution Control Agency |
| <input type="checkbox"/> | <b>Onsite Septic Systems</b><br>Minn. Rules ch. 7080   | Pollution Control Agency |
| <input type="checkbox"/> | <b>Oil and Hazardous Substances</b><br>Minn. Rules ch. 7100  | Pollution Control Agency |
| <input type="checkbox"/> | <b>Underground Waters</b><br>Minn. Rules ch. 7060  | Pollution Control Agency |
| <input type="checkbox"/> | <b>Agricultural Chemical Liability, Incidents and Enforcement</b><br>Minn. Stat. ch. 18D   | Pollution Control Agency |
| <input type="checkbox"/> | <b>Groundwater Protection Act</b><br>Minn. Stat. ch. 103H  | Pollution Control Agency |
| <input type="checkbox"/> | <b>Safe Drinking Act</b><br>Minn. Stat. ch. 144  | Pollution Control Agency |
| <input type="checkbox"/> | <b>Drinking Water Rules</b><br>Minn. Rules ch. 4720  | Pollution Control Agency |
| <input type="checkbox"/> | <b>Wells, Borings, and Underground Uses</b><br>Minn. Stat. ch. 103I  | Pollution Control Agency |
| <input type="checkbox"/> | <b>Waste Management</b><br>Minn. Stat. ch. 115A  | Pollution Control Agency |

<input type="checkbox"/>	<b>Sewage Sludge Management</b> Minn. Rules ch. 7040	Pollution Control Agency
<input type="checkbox"/>	<b>Hazardous Waste</b> Minn. Rules ch. 7045	Pollution Control Agency
<input type="checkbox"/>	<b>Minnesota Well Code</b> Minn. Rules ch. 4725	Pollution Control Agency
<input type="checkbox"/>	<b>Environmental Response and Liability</b> Minn. Stat. ch. 115B	Pollution Control Agency
<input type="checkbox"/>	<b>Waste Treatment Facilities</b> Minn. Rules ch. 7048	Pollution Control Agency
<input type="checkbox"/>	<b>Solid Waste Management</b> Minn. Rules ch. 7035	Pollution Control Agency
<input type="checkbox"/>	<b>Underground Storage Tanks</b> Minn. Rules ch. 7150	Pollution Control Agency
<input type="checkbox"/>	<b>Above Ground Storage Tanks</b> Minn. Rules ch. 7151	Pollution Control Agency
<input type="checkbox"/>	<b>Petroleum Contaminated Soil Management</b> Minn. Rules ch. 7037	Pollution Control Agency

#### **Fish and Wildlife Management**

<input type="checkbox"/>	<b>Aquaculture</b> Minn. Stat. §17.46	DNR Division of Fish and Wildlife
<input type="checkbox"/>	<b>Exotic Species</b> Minn. Stat. §18.317 and Minn. Stat. §84.966-84.9691	DNR Division of Fish and Wildlife
<input type="checkbox"/>	<b>Fishing</b> Minn. Stat. ch. 97C	DNR Division of Fish and Wildlife
<input type="checkbox"/>	<b>Game and Fish</b> Minn. Stat. ch. 97A	DNR Division of Fish and Wildlife
<input type="checkbox"/>	<b>Game and Fish Rules</b> Minn. Rules chps. 6200-6290	DNR Division of Fish and Wildlife
<input type="checkbox"/>	<b>Hunting</b> Minn. Stat. ch. 97B	DNR Division of Fish and Wildlife
<input type="checkbox"/>	<b>Aquatic Plan Management Program</b> Minn. Stat. §84.092	DNR Division of Fish and Wildlife
<input type="checkbox"/>	<b>Threatened and Endangered Species</b> Minn. Stat. §84.0895	DNR Division of Fish and Wildlife

#### **Forest Management**

<input type="checkbox"/>	<b>State Timber Act</b> Minn. Stat. ch. 90	DNR Division of Forestry
<input type="checkbox"/>	<b>Permission to Start Fires</b> Minn. Stat. §88.17	DNR Division of Forestry

#### **Mineral Resources**

<input type="checkbox"/>	<b>Iron Ore/Taconite Leasing Program</b> Minn. Stat. §93.14 - 93.28	DNR Division of Minerals
--------------------------	--	--------------------------

<input type="checkbox"/>	<b>Metallic Minerals Leasing Program</b> Minn. Rules ch. 6125	DNR Division of Minerals
<input type="checkbox"/>	<b>Metallic Minerals Leasing Program</b> Minn. Stat. §93.08 - 93.12	DNR Division of Minerals
<input type="checkbox"/>	<b>Metallic Minerals Leasing Program</b> Minn. Stat. §93.25	DNR Division of Minerals
<input type="checkbox"/>	<b>Mineland Reclamation Program</b> Minn. Stat. §93.44 - 93.51	DNR Division of Minerals
<input type="checkbox"/>	<b>Mining Reclamation</b> Minn. Rules ch. 6130	DNR Division of Minerals
<input type="checkbox"/>	<b>Nonferrous Mining</b> Minn. Rules ch. 6131	DNR Division of Minerals
<input type="checkbox"/>	<b>Peat Leasing Program</b> Minn. Stat. §92.5	DNR Division of Minerals
<input type="checkbox"/>	<b>Peatland Reclamation</b> Minn. Rules ch. 6132	DNR Division of Minerals
<b><u>Energy</u></b>		
<input type="checkbox"/>	<b>Minnesota Power Plant Siting Act</b> Minn. Stat. §116C .51-.69	MN Environmental Quality Board
<input type="checkbox"/>	<b>Pipelines</b> Minn. Stat. §116I .01-.11	MN Environmental Quality Board
<input type="checkbox"/>	<b>Utility Companies, Permit to Cross State-Owned Lands</b> Minn. Stat. §84.415	DNR Bureau of Real Estate Mgmt.
<input type="checkbox"/>	<b>Utility Crossings of Public Lands and Waters</b> Minn. Rules 6135.0100 - 6135.1800	DNR Bureau of Real Estate Mgmt.
<b><u>Environmental Review</u></b>		
<input type="checkbox"/>	<b>Minnesota Environmental Policy Act</b> Minn. Stat. ch. 116D	MN Environmental Quality Board
<input type="checkbox"/>	<b>Water Quality</b> Minn. Rules 4410.0200 - 4410.8000	MN Environmental Quality Board

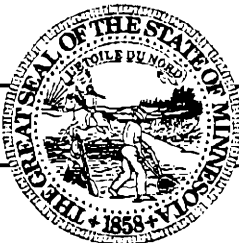
## **PART VII**

### **APPENDIX F**

#### **Executive Order**

# STATE of MINNESOTA

EXECUTIVE



DEPARTMENT

**JESSE VENTURA**  
GOVERNOR

**EXECUTIVE ORDER 99-12  
PROVIDING FOR A GOVERNOR'S COUNCIL  
ON MINNESOTA'S LAKE SUPERIOR COASTAL PROGRAM,  
AND ASSIGNING RESPONSIBILITY TO THE  
DEPARTMENT OF NATURAL RESOURCES**

I, JESSE VENTURA, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, Minnesota is nationally recognized for its leadership in resource protection programs; and

WHEREAS, Minnesota state agencies are committed to operating consistently with state and federal rules, regulations, statutes and authorities; and

WHEREAS, the Department of Natural Resources, with the advice of local units of government, the general public, other state and appropriate federal agencies, has developed Minnesota's Lake Superior Coastal Program; and

WHEREAS, the Federal Coastal Zone Management Act of 1972 provides funds to states that voluntarily implement a federally approved Coastal Zone Management Program; and



WHEREAS, Minnesota's Lake Superior Coastal Program is based on existing policies and authorities that address land and water uses and resource protection in the coastal area; and

WHEREAS, public participation is a fundamental aspect of program development and implementation of an advisory council with specific functions and responsibilities is an integral part of Minnesota's Lake Superior Coastal Program.

NOW, THEREFORE, I hereby order that:

1. The Minnesota Department of Natural Resources be designated the lead state agency to act for the Governor in preparing an application for, receiving, accepting and expending federal funds, and act for implementation and administration of Minnesota's Lake Superior Coastal Program as specified by the Coastal Zone Management Act of 1972.
2. To the extent permitted by law, state administrative departments, independent administrative boards and commissions, and all other state agencies shall, to the extent practicable and upon federal approval of Minnesota's Lake Superior Coastal Program, enforce and act consistently with the goals, policies and objectives of the Coastal Program.
3. The Governor's Council on Minnesota's Coastal Program is established and shall:
  - a. Make recommendations to the Commissioner of the Department of Natural Resources on Minnesota's Lake Superior Coastal Program priorities;
    1. With the assistance of program staff; and
    2. Reflect a balance between preservation, protection, development and, where possible, the restoration and enhancement of the coast for present and future generations.
  - b. Review and make recommendations to the Commissioner of the Department of Natural Resources on select programs and projects for funding.
  - c. Review annual administrative (non-project) budget with the Department of Natural Resources and make recommendations to the Commissioner of the Department of Natural Resources.
  - d. Review the Coastal Program every two years and make recommendations to the Commissioner of the Department of Natural Resources.

4. Membership in the Governor's Coastal Council shall consist of 15 members to be appointed by the Governor according to Minnesota Statutes, section 15.0593.
  - a. Twelve of the members shall consist of three persons per county appointed from a pool of names submitted by each of the cities, townships and counties within the Lake Superior coastal boundary in Minnesota. Each entity may submit up to three nominees.
  - b. Three at-large members shall be selected from individuals nominated by the public statewide and submitted to the Governor.
  - c. A minimum of three and a maximum of five Council members may represent any one county at any time.
  - d. No more than one elected official from each county shall be represented on the Council.
5. The Chair of the Council is elected by the Council membership.
6. The Council shall be operated in accordance with adopted rules of procedure and bylaws.

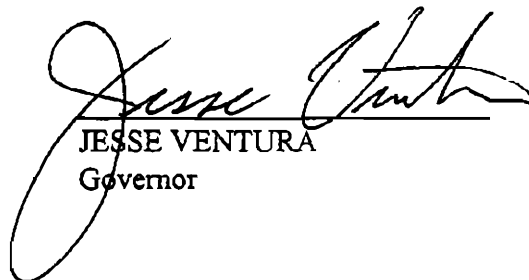
This Order shall be reviewed by the Governor, in consultation with the affected agency or agencies, every two years in order to assess its reasonableness and need.

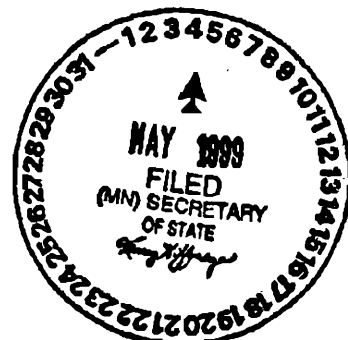
Pursuant to Minnesota Statutes 1998, section 4.035, subd. 2, this Order shall be effective fifteen (15) days after publication in the State Register and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with Minnesota Statutes 1998, section 4.035, subd. 3.

IN TESTIMONY WHEREOF, I have set my hand this third day of May, 1999.

Filed According to Law:

  
MARY KIEFMEYER  
Secretary of State

  
JESSE VENTURA  
Governor



## **PART VII**

### **APPENDIX G**

#### **Memorandums of Understanding**

## **APPENDIX G**

### **MEMORANDUMS OF UNDERSTANDING**

#### **AGREEMENTS BETWEEN FEDERAL AND STATE AGENCIES**

##### **U.S. Forest Service - Minnesota Department of Natural Resources**

- C Work in the beds of protected waters.
- C Fish and wildlife management within the BWCAW.

##### **U.S. Forest Service - Minnesota Department of Natural Resources MOU dated May 18, 1981 (Superior National Forest) and amended on January 8, 1988 and March 23, 1995**

- C To develop a process to jointly identify, communicate, and coordinate actions of common concern relating to the lands and resources.
- C To provide a mechanism for continuing involvement in the development, implementation, monitoring, and amendment or revision of land management actions and land use plans.
- C To provide a framework to guide and direct individual programs and organizational units during the planning, implementation, and monitoring process.
- C To benefit the people of Minnesota and the United States through increased efficiency and responsiveness in public land and natural resources management.

##### **U.S. Army Corps of Engineers - Minnesota Department of Natural Resources**

- C General permit (GP1) procedures used to coordinate Corps general permit authorizations for specified categories of projects which are authorized, approved or permitted by the DNR dated April 13, 1984.

##### **U.S. Army Corps of Engineers (Detroit District), Seaway Port Authority of Duluth, City of Superior, WI, Minnesota Pollution Control Agency, Minnesota Department of Natural Resources, Wisconsin Department of Natural Resources, Arrowhead Regional Development Commission, and the Northwest Regional Planning Commission (WI)**

- C Partnering agreement to work on dredge material management matters of the St. Louis River and Western Lake Superior environment and Duluth-Superior commercial navigation dated August 14, 1996.

##### **Great Lakes Indian Fish and Wildlife Commission and National Park Service, U.S. Fish and Wildlife Service, U.S. Forest Service, Environmental Protection Agency, U.S. Geological Survey, Bureau of Indian Affairs, Soil Conservation Service, Wisconsin Department of Natural Resources, Michigan Department of Natural Resources, Minnesota Pollution Control Agency, University of Wisconsin, University of Minnesota, Northland College, Michigan Technological University, Lakehead University**

- C Cooperative agreement for providing coordinated research, information exchange, outreach and education for the benefit of Lake Superior.

**Minnesota Pollution Control Agency and the Grand Portage Band of Chippewa**

- C Cooperative working relationships relative to water quality standards and certification programs and their procedures.

**Board of Water and Soil Resources, U.S. Army Corps of Engineers, Minnesota Pollution Control Agency, Minnesota Department of Natural Resources, U.S. Department of Agriculture - Soil Conservation Service, Minnesota Department of Transportation, U.S. Environmental Protection Agency, Minnesota Department of Agriculture, U.S. Fish and Wildlife Service.**

- C Interagency memorandum of understanding regarding wetland regulatory simplification dated August 24, 1994.
- C Mutual agreement between the USDA, the State of Minnesota and each of the soil and water conservation districts in the state to establish a cooperative relationship to achieve common natural resources conservation goals and objectives.

**Minnesota Association of County Land Commissioners, The Land Management Information Center, Minnesota Department of Natural Resources, U.S. Department of Agriculture Forest Service's North Central Forest Experiment Station, Superior National Forest, Chippewa National Forest, University of Minnesota's College of Natural Resources, and University of Minnesota's Natural Resource Research Institute.**

- C The Sustainable Forest Resources Act (Minn. Stat. §89A.09) requires the Commissioner of Minnesota Department of Natural Resources to establish an interagency information cooperative to coordinate the development and use of forest resources data.

**Copies of each MOU may be obtained by contacting the Program Manager.**

## **AGREEMENTS BETWEEN STATE AGENCIES**

- C MOU between PCA and DNR regarding guidelines for environmental investigations for feedlots dated March 3, 1993.
- C MOU between PCA and DNR regarding environmental law enforcement, August, 1994.
- C MOA between PCA and DNR pertaining to coordination and cooperation of activities and programs related to protection, management and conservation of lake associated natural resources dated February 24, 1988.
- C Cooperative agreement between PCA and DNR establishing procedures governing state permit review of certain activities in Minnesota public waters dated October 29, 1984.
- C MOA between PCA and DNR establishing procedures governing state permit review of activities in waters of the State of Minnesota dated April 21, 1989.
- C MOA between the PCA and the DNR pertaining to control of nonpoint sources of pollution.
- C MOA between PCA, DNR, Minnesota Dept. of Agriculture, BWSR and the Met Council pertaining to coordination and cooperation of activities and programs related to protection, management and conservation of Minnesota's lakes dated February 24, 1988.
- C MOA between the DNR and BWSR pertaining to the allocation and administration of shoreland management grants as part of block grants dated October 18, 1993.
- C MOA between Minnesota Department of Health and the MPCA regarding response to contamination in private and municipal water supply wells and in establishing special well construction areas dated March 14, 1995.
- C MOA between the MPCA and the DNR for cooperative involvement in the regulation of mining industries in Minnesota.
- C MOU between Minnesota PCA and Minnesota Extension Service regarding cooperative working relationships dated September 28, 1995.
- C MOA between the Minnesota Department of Transportation and the Board of Water and Soil Resources regarding development of wetland banking credits and wetland restoration and mitigation costs.
- C Interagency memorandum of understanding regarding wetland regulatory simplification.

## **AGREEMENTS BETWEEN STATE AND LOCAL AGENCIES**

- C MOU between the North Shore Management Board and the Minnesota Department of Natural Resources pertaining to the coordination, cooperation and responsibilities relating to the development and implementation of the North Shore Management Plan.
- C MOU between the Minnesota PCA, Fond du Lac Band of Chippewa and Minnesota Power and Light Company regarding water quality issues in the St. Louis River system dated November 23, 1992.
- C Mutual agreement between the USDA, the State of Minnesota and each of the soil and water conservation districts in the state to establish a cooperative relationship to achieve common natural resources conservation goals and objectives.
- C Memorandum of understanding between the Minnesota DNR, Division of Forestry and the Minnesota Department of Agriculture, Soil and Water Conservation Board regarding assistance to nonindustrial private forest (NIPF) landowners in Minnesota dated June 3, 1985.
- C Memorandum of understanding between the State Soil and Water Conservation Board (now the Board of Water and Soil Resources) and the Minnesota Department of Agriculture dated January 6, 1984 regarding authorization to carry out a broad program of assistance to soil and water conservation districts.
- C Interagency agreement between the Minnesota Pollution Control Agency and the State Soil and Water Conservation Board (SWCB) (now the Board of Water and Soil Resources - BWSR) dated May 2, 1977 regarding the performance and administration of the SWCB.
- C Memorandum of understanding between the City of Duluth, Seaway Port Authority of Duluth, and the DNR dated April 26, 1993 that sets forth specific procedures for ensuring the preservation of designated natural areas, the disposal of dredged material, and the conservation of lands suitable for water oriented commercial/industrial development adjacent to the harbor, and providing a forum for joint discussion and formal comments on land use development issues in and adjacent to the St. Louis River and estuary.



IN REPLY REFER TO

DEPARTMENT OF THE ARMY  
DETROIT DISTRICT, CORPS OF ENGINEERS  
BOX 1027  
DETROIT, MICHIGAN 48231-1027

September 18, 1996

Executive Office

Mr. Henry Hanka, Executive Director  
Arrowhead Regional Development Commission  
330 Canal Park Drive  
Duluth, MN 55802

Dear Mr. Hanka:

Please find enclosed a copy of the fully signed Partnering Agreement for the management of dredge materials in Duluth-Superior Harbor, MN-WI.

I truly appreciate your expression of willingness, on behalf of your agency, to be an active participant in the future management of dredge materials at the harbor. Your involvement will ensure the continued operation and viability of one of the most important ports in the United States into the future in an economically and environmentally sound manner.

I look forward to working with you.

Sincerely,

Thomas C. Haid  
Lieutenant Colonel, U.S. Army  
District Engineer

Enclosure



## **OBJECTIVES (in support of GOALS):**

### **Promote Mutual Understanding**

- Contribute to a more thorough understanding of each agency's functions, responsibilities, mission, and authorities on dredging issues by:
  - > Preparing a summary of each agency's role and jurisdiction on dredging issues and developing a mission statement for the Harbor Technical Advisory Committee (HTAC) of the Metropolitan Interstate Committee (MIC) (see footnote on page 3 for additional information about HTAC).\*
  - > Actively participating in the HTAC.
- Explore joint training opportunities between agencies.


### **Enhance Coordination and Information Exchange**

- Conduct quarterly HTAC meetings.
- Conduct annual HTAC meeting with managers in each Agency.
  - > Review the status of dredging permits, sediment research, beneficial uses of sediment, habitat creation, and educational programs.
  - > Conduct project tours.
- Conduct USCOE partnership satisfaction surveys twice per year.
- Identify opportunities for joint participation in programs of mutual benefit and interest involving water resources planning, engineering and design, construction and operations, and regulatory programs. Examples include the Coastal Resource ~~Zone~~ Management Program and the Sediment Contamination Workgroup of the St. Louis River Remedial Action Plan.
- Enhance joint interaction with the public on projects and programs. Examples include the Hearing Island Habitat Project and the Park Point Beach Nourishment Project.
- Develop and maintain local "contact" list for dredging issues and projects.
- Develop a public outreach plan.


### **Provide for Timely Problem Solving and Decision Making**

- Provide prompt identification/response/resolution of issues.
- Develop trust/teamwork to resolve issues in a timely manner.
- Seek to resolve issues at lowest organizational level.
- Develop a tiered system to elevate issues for timely decision making.


This agreement is not a contract and in no way alters the statutory authority of any signatory. This agreement will start on the date of the last signatory. Any signatory may terminate their participation within 30 days notice to the U.S. Army Corps of Engineers, Detroit District.

  
Randolph O. Buck, Colonel  
U.S. Army District Engineer

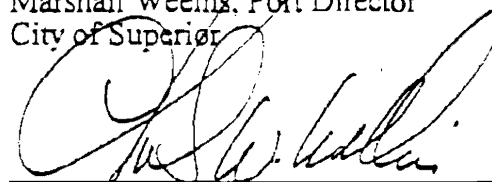
14 Apr 96  
Date (month/day/year)

  
Davis Helberg, Executive Director  
Seaway Port Authority of Duluth

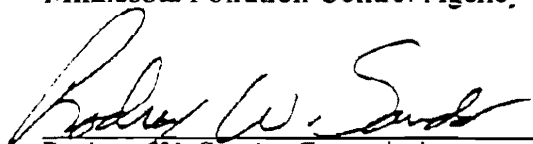
6/14/96  
Date (month/day/year)

  
Marshall Weems, Port Director  
City of Superior

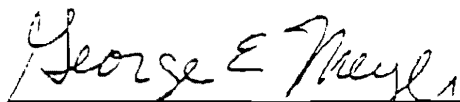
8-14-96  
Date (month/day/year)

  
Charles W. Williams, Commissioner  
Minnesota Pollution Control Agency


7/3/96  
Date (month/day/year)

  
Rodney W. Sando, Commissioner  
Minnesota Department of Natural Resources

8/1/96  
Date (month/day/year)

  
George E. Meyer, Secretary  
Wisconsin Department of Natural Resources

8/14/96  
Date (month/day/year)

  
Henry Hanka, Executive Director  
Arrowhead Regional Development  
Commission

7-23-96  
Date (month/day/year)

  
Bruce Davis, Executive Director  
Northwest Regional Planning Commission

8-6-96  
Date (month/day/year)

**COOPERATIVE AGREEMENT  
BETWEEN  
THE GRAND PORTAGE BAND OF CHIPPEWA  
AND  
THE MINNESOTA POLLUTION CONTROL  
AGENCY**

**JULY 16, 1996**

**APPROVED BY THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

\*\*\*\*\*  
COOPERATIVE AGREEMENT  
BETWEEN  
THE GRAND PORTAGE BAND OF CHIPPEWA  
AND  
THE MINNESOTA POLLUTION CONTROL AGENCY  
\*\*\*\*\*  
PREAMBLE

**WHEREAS,** The Grand Portage Band of Chippewa ("Grand Portage Band" or "Band") is a sovereign Indian nation, and a federally recognized Indian Tribe pursuant to 25 U.S.C. § 476, the Indian Reorganization Act; and

**WHEREAS,** On March 1, 1994, the Band applied to the United States Environmental Protection Agency ("EPA") for treatment as a state under section 518 of the Federal Water Pollution Control Act ("the Act"), 33 U.S.C. § 1377( e), for purposes of the Water Quality Standards Program, section 303 of the Act, and for purposes of the Certification Program, section 401 of the Act; and

**WHEREAS,** On April 14, 1994, the State of Minnesota ("State"), through its Commissioner of the Minnesota Pollution Control Agency ("MPCA"), submitted comments to the EPA on the Band's application, recognizing for purposes of the Act the Band's jurisdiction over waters of the Grand Portage Reservation excepting those waters described in the Band's application along the shoreline of Lake Superior; and

**WHEREAS,** On May 6, 1994, the Band submitted a response to the MPCA's comments noting that the portions of Lake Superior described in the Band's application were historically and are currently viewed by the Band as part of its Reservation; and

**WHEREAS,** The MPCA and the Band have a common interest and desire to protect the quality of the waters along the shoreline of Lake Superior and desire to enter into a cooperative agreement to jointly plan and administer the requirements of the Act's Water Quality Standards Program and Certification Program in the waters described in Part I.A. of this Cooperative Agreement; and

**WHEREAS,** Section 518(d) of the Act specifically provides that Indian tribes and states can enter into cooperative agreements in order to ensure the consistent implementation of the requirements of the Act. 33 U.S.C. § 1377(d).

**NOW, THEREFORE,** the Grand Portage Band of Chippewa and the State of Minnesota, acting through its Minnesota Pollution Control Agency ("the parties"), enter into this Cooperative Agreement and agree as follows:

## **I. PURPOSES OF THE COOPERATIVE AGREEMENT**

The purposes of this Cooperative Agreement are to:

A. Establish a process by which the Band and the MPCA will work together cooperatively to plan and administer independently adopted water quality standards and certification programs under the Act for the portion of Lake Superior described as follows:

That part of Lake Superior described as follows: beginning at the intersection of the west line of Range 5 East and the shoreline of Lake Superior, thence to a point in Lake Superior one half mile south as measured along the southerly extension of the west line of Range 5 East, thence northeasterly to a point on the Minnesota-Michigan boundary line at latitude 47 degrees, 58 minutes, 40 seconds, thence northerly along the Minnesota-Michigan boundary line to the point which forms the common boundary between Minnesota, Michigan and the Province of Ontario, Canada, and thence westerly along the International Boundary line to the confluence of the Pigeon River.

(hereinafter "Shoreline Waters"); and

B. Develop procedures for joint implementation of Band and MPCA water quality standards and certification programs in the Shoreline Waters.

C. Preserve the issue of jurisdiction over the Shoreline Waters so that neither the Band nor the State is conceding any claim to jurisdiction over those waters by entering this Cooperative Agreement.

## **II. GUIDING PRINCIPLES**

The MPCA and the Band have a common interest in maintaining and restoring the chemical, physical and biological integrity of the Shoreline Waters. In order to accomplish that goal, the MPCA and the Band agree to the following principles:

A. The MPCA and the Band will work together as partners in a spirit of trust, openness, and cooperation and with respect for each other's roles.

B. The MPCA and the Band will maintain scheduled communications with the appropriate persons for both the Band and the MPCA.

C. The MPCA and the Band will ensure that their staffs at all levels are aware of and held accountable for realizing these agreed-upon principles.

D. The Band and the MPCA will respect one another's claims to jurisdiction over the Shoreline Waters, and operate under this Agreement in accordance with that mutual respect.

### **III. EXCHANGE OF INFORMATION AND COMMUNICATION**

A. The MPCA and the Band agree to provide, in a timely manner and when requested, information and data necessary to implement this Cooperative Agreement. Such information may include, but not be limited to, the following:

1. information relating to research, investigations, training, and water quality surveillance systems and reports undertaken pursuant to 33 U.S.C. § 1254;
2. information relating to water quality standards and implementation plans developed pursuant to 33 U.S.C. § 1313; and
3. information relating to certification of permits and licenses issued pursuant to 33 U.S.C. § 1341.

The MPCA will respond to information requests in accordance with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13.

B. The MPCA's designated staff person to coordinate communication with the Band is Duane Anderson. The Band's designated staff person to coordinate communication with the MPCA is Kris Carre. The parties may change their designated staff persons by written notice to the other party.

### **IV. JOINT IMPLEMENTATION AND ENFORCEMENT OF THE FEDERAL WATER POLLUTION CONTROL ACT**

A. *Research, investigations, training and information.* The Band and the MPCA agree to cooperate in the implementation of 33 U.S.C. § 1254 under which the EPA Administrator works with states and tribes to conduct research on "the causes, effects, extent, prevention, reduction, and elimination of pollution" in the nation's waterways. Both the Band and the MPCA agree to work with the EPA on research conducted pursuant to this section of the Act.

B. *Water quality standards and implementation plans*

1. The Band and the MPCA will each establish water quality standards for the Shoreline Waters which will be submitted to and reviewed by the EPA pursuant to 33 U.S.C. § 1313 and regulations adopted thereunder.

a. In the portion of the Shoreline Waters described below, the Band will propose water quality standards that prohibit any new or expanded discharge of a pollutant from any point or non-point source, and the MPCA staff will propose, at the next Minn. Rule ch. 7050 rulemaking, water quality standards classifying such water as an Outstanding Resource Value Water (ORVW - Prohibited) pursuant to Minn. R. 7050.0180, subp. 6.A. These water quality standards will apply in the water described as follows:

That portion of the Shoreline Waters north of latitude 47 degrees, 57 minutes, 13 seconds and east of Hat Point.

b. In all other portions of the Shoreline Waters, the Band will propose water quality standards that prohibit any new or expanded discharge of a pollutant from any point or non-point source unless there is not a prudent and feasible alternative to the discharge, and the MPCA staff will propose to retain in such water the current MPCA classification as an Outstanding Resource Value Water (ORVW-Restricted Discharges) pursuant to Minn. R. 7050.0180, subp. 6.A. The MPCA and the Band agree that once adopted, these standards shall remain unchanged unless modified in accordance with substantive and procedural requirements of statutes and rules.

c. For purposes of Part IV.B.1., the Band will use definitions at least as inclusive as those in 33 U.S.C. § 1362, and the Band will define non-point source to mean any source that is not a point source.

2. Until the MPCA revises its water quality standards, the MPCA will make any § 401 certifications in the Shoreline Waters using the current MPCA water quality standards and other applicable state law.

3. The Band and the MPCA will each hold public hearings to review their standards for the Shoreline Waters and to modify them as appropriate in accordance with the procedures and timeline required in 33 U.S.C. § 1313 and regulations adopted thereunder. To the extent that the proposed standards are consistent with the level of protection contemplated in this Agreement, the Band and the MPCA will support each other in their public hearings. In any event, the Band and the MPCA will be allowed to participate in each other's public hearings as any member of the public would.

4. The Band and the MPCA agree that they will cooperate with each other in the implementation of each of the parties' standards, and will comply with the requirements of the Act and regulations adopted thereunder regarding the issuance of National Pollution Discharge Elimination System permits and water quality standard variances.

C. *Certification.* The Band and the MPCA agree to implement certification of permits and licenses for the Shoreline Waters pursuant to 33 U.S.C. § 1341. Neither the Band nor the MPCA will certify a discharge that would violate their individual water quality standards. The Band and the MPCA agree to consult with each other prior to issuance, denial, or waiver of any certification. The Band and the MPCA agree that any applicant for a federal permit or license for discharge to the Shoreline Waters must obtain a certification from both the Band and the MPCA. The MPCA and the Band agree to inform applicants for § 401 certifications that they need § 401 certifications from both the MPCA and the Band.

D. *Enforcement.* Each party shall notify the other and EPA if it believes that a violation of either party's water quality standards has occurred in the Shoreline Waters. The Band and the MPCA agree to consult with each other prior to taking any enforcement action. A single party may take enforcement action through its own administrative and judicial system. The parties may refer the matter to EPA for enforcement.

## **V. DISPUTE RESOLUTION**

A. *Dispute Resolution Under 40 C.F.R. § 131.7.* If a dispute arises between the MPCA and the Band because of differing water quality standards that result in unreasonable



consequences, the MPCA and the Band shall first make a good faith attempt to resolve the dispute through discussions between the parties. If the dispute cannot be resolved through discussions, either party may request EPA to assist in resolving the dispute using the procedures in 40 C.F.R. § 131.7. EPA agrees to consult with MPCA and the Band prior to including other entities as parties to the dispute pursuant to 40 C.F.R. § 131.7(g)(2).

B. *Other Disputes Under the Agreement.* If a dispute arises between the MPCA and the Band under this Agreement that involves matters not covered by Part V.A., the MPCA and the Band shall first make a good faith attempt to resolve the dispute through discussions between the parties. If the dispute cannot be resolved through discussions, either party may request EPA to assist in resolving the dispute through mediation as described below.

1. EPA shall appoint a neutral mediator who may be an EPA employee, an employee of another federal agency, or other individual with appropriate qualifications. EPA shall select as a mediator a person who is knowledgeable concerning the requirements of the water quality standards program.

2. The mediator shall act as a neutral facilitator whose function is to encourage communication and negotiation between the parties.

3. The mediator may establish an advisory panel, consisting in part of representatives from the affected parties, to study the problem and recommend appropriate solutions.

4. The mediator shall establish the procedures and schedules for mediation of disputes in consultation with the parties.

5. The mediator may consult with EPA's Office of Regional or General Counsel on legal issues, but otherwise shall have no ex parte communication pertaining to the dispute.

6. The mediator may recommend to the parties a means of resolving the dispute, but the recommendation shall not be binding unless the parties so agree.

## **VI. SOVEREIGN IMMUNITY AND JURISDICTION**

A. *Sovereign Immunity.* Nothing in this Cooperative Agreement is or shall be construed to be a waiver of the sovereign immunity of the Grand Portage Band of Chippewa or the State of Minnesota, and the Grand Portage Band of Chippewa and the State of Minnesota hereby expressly retain their sovereign immunity from suit.

B. *Jurisdiction.* Nothing in this Agreement shall preclude the parties from raising objections to the assertion of jurisdiction over the Shoreline Waters by the other party if this Cooperative Agreement is terminated. Nothing in this agreement shall be construed to limit any jurisdiction or authority of the EPA under the Act.

## **VII. EFFECTIVE DATE OF THE AGREEMENT AND AMENDMENT**

This Cooperative Agreement shall be effective upon its signature by the Grand Portage Band and the MPCA and approval by EPA. The Cooperative Agreement may be amended by written agreement of the parties and approval of EPA.

## **VIII. TERMINATION OF AGREEMENT**

This Agreement may be terminated by either the Band or the MPCA after thirty (30) day notice given in writing to the other party and EPA. Prior to such notice and at the request of either party, the parties agree to discuss issues related to termination. A party's decision to terminate is not subject to the mediation provisions of Part V.A. After termination of this Agreement, the MPCA or the Band may request EPA to recognize its exclusive authority over the Shoreline Waters or parts thereof in accordance with EPA's water quality standards program approval procedures.

## **IX. EPA APPROVAL**

EPA's approval of this Agreement is an approval for the cooperative implementation by the Band and the MPCA of the federal water quality standards program for the Shoreline Waters. EPA agrees not to make a determination that either the Band or the MPCA has exclusive authority to implement the water quality standards program in the Shoreline Waters while this Cooperative Agreement is in effect nor before the Band and the MPCA have been given a

reasonable opportunity to submit comments to EPA with regard to jurisdiction over the Shoreline Waters.

**SIGNED:**

GRAND PORTAGE BAND OF CHIPPEWA

By: *Norman W. Deschampe*  
Norman Deschampe, Chair  
Reservation Tribal Council

Date: *July - 16 - 96*

STATE OF MINNESOTA through its  
Commissioner of the MINNESOTA  
POLLUTION CONTROL AGENCY

By: *Peder Larson*  
Peder Larson  
Acting Commissioner

Date: *July 16, 1996*

**APPROVED:**

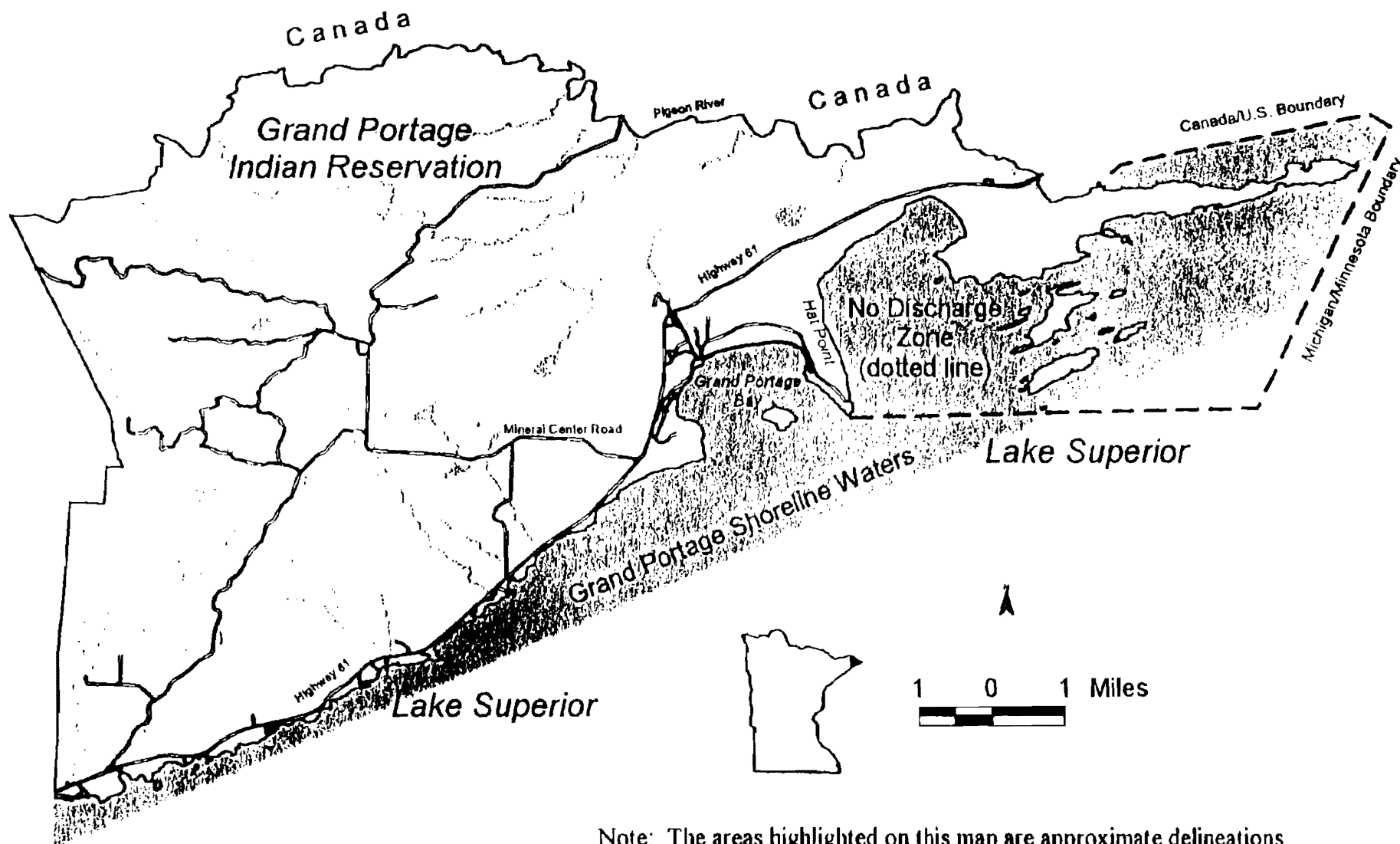
U.S. ENVIRONMENTAL PROTECTION  
AGENCY

By: *Valdas V. Adamkus*  
Valdas V. Adamkus  
Regional Administrator, Region 8

Date: *7/16/96*

AG:24272 v1

# Grand Portage Reservation Shoreline Waters



Note: The areas highlighted on this map are approximate delineations and are not intended for legal descriptive use.

**AMENDMENT #1**  
**MASTER MEMORANDUM OF UNDERSTANDING**  
**Between**  
**COMMISSIONER, STATE OF MINNESOTA,**  
**DEPARTMENT OF NATURAL RESOURCES**  
**and**  
**FOREST SUPERVISORS MINNESOTA NATIONAL FORESTS**  
**FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE**  
Chippewa NF and MN DNR (Approved 12/28/76)  
Superior NF and MN DNR (Approved 5/18/81)

**I. PURPOSE**

To provide a process for the State of Minnesota, and the United States Department of Agriculture Forest Service (USFS), to jointly identify, communicate, and coordinate actions of common concern relating to the lands and resources. To provide a mechanism for continuing involvement in the development, implementation, monitoring, and amendment or revision of land management actions and land use plans. To provide a framework to guide and direct individual programs and organizational units during the planning, implementation, and monitoring process. To benefit the people of Minnesota and the United States through increased efficiency and responsiveness in public land and natural resources management.

**II. AUTHORITY**

**A. State of Minnesota**

- Minnesota Statute 1992 Sec 89.011, Subd. 5.

**B. Forest Service**

- Inter-governmental Cooperation Act, P.L. 90-577.
- National Environmental Policy Act, P.L. 91-190, Executive Order 11752 of December 17, 1973.
- Endangered Species Act, P.L. 93-205, as amended.
- Fish and Wildlife Coordination Act, P.L. 86-624, as amended
- Sikes Act of 1974.
- The Coastal Zone Management Act of 1972.
- The National Wild and Scenic Rivers Act of 1968.
- Federal Water Pollution Control Act of 1972, P.L. 92-538, as amended.
- Clean Air Act of 1970, P.L. 88-206, as amended.
- Clean Water Act of 1977, P.L. 89-753, as amended.
- Antiquities Act of 1906, as amended.
- National Historic Preservation Act of 1966.
- Mineral Leasing Act of 1947.
- Mining and Mineral Policy Act of 1970.
- Coastal Barriers Resource Act of 1982.
- Wilderness Act of 1964.
- Multiple-Use Sustained Yield Act, P.L. 86-517, as amended.
- Forest and Rangeland Renewable Resources Planning Act, P.L. 93-378, as amended by the National Forest Management Act, P.L. 94-588.
- Challenge Cost Share Authority (102-154).

### III. FINDINGS

The signatories to this Amendment each find that:

- A. Land and resource management plans of the U.S. Forest Service and the State of Minnesota are interrelated with similar missions and goals.
- B. Actions of one signatory directly or indirectly affect the other signatory.
- C. Active communication among all levels of both organizations is necessary to the operation of efficient government, and will further the public interest.
- D. Land management and land use planning are key elements within which coordination can provide significant benefits.
- E. A continuous information exchange can help to eliminate duplication of effort, and to resolve policy and management differences.

### IV. OBJECTIVES

The signatories of this Amendment each agree to the following objectives:

- A. To assure that notice of State of Minnesota and Forest Service policy and program recommendations, actions, and other information affecting one or the other party are routinely transmitted to the other signatory.
- B. To eliminate duplication of effort where possible, help resolve policy and management differences, and achieve maximum effectiveness between the parties in the use of funds and personnel.
- C. To achieve effective coordination in the development, implementation, monitoring, and amendment or revision of land use plans, and in the resolution of significant natural resource issues of interest to both parties.
- D. To provide a framework within which individual programs and administrative units can develop their own implementation and monitoring plans.

### V. RESPONSIBILITIES

#### A. Mutual Responsibilities

In order to attain the stated objective, each signatory agrees to:

- 1. Use fully the existing institutional systems for mutual cooperation. Such direct contacts, either under formal agreements or by informal procedures, are encouraged in the interest of better communication and coordination.
- 2. Develop and carry out an active communication program whereby each party will apprise the others of proposed planning, policy formulation, and management efforts affecting the others. Each party will promptly respond to the others' notice with a verbal and/or written response if it proposes to become involved in a particular planning, policy formulation, environmental analysis, or management effort.

3. Identify those issues for which the Commissioner and Forest Supervisor(s) desire routine personal contacts in addition to those regular contacts existing between the State and Forest Service.
4. Cooperate and coordinate in the development, implementation, monitoring, amendment and revision as appropriate of Forest Plans under NFMA, and State policies and plans, (e.g., Minnesota Forest Resources Plan, DNR regional plans, the State Comprehensive Outdoor Recreation Plan, land use plans, water resource plans, transportation plans, river and scenic waterway management plans, air and water quality management plans, and historic preservation programs), and provide for the timely review of such plans in accordance with the public involvement efforts associated with the plan, and the resolution of differences, where possible, between parties.
5. Cooperate and coordinate via discussions of natural resource issues and problems that involve and concern both parties.
6. Cooperate and coordinate to the extent practical in developing data standards, inventorying and sharing data, utilizing automated systems for analyses (e.g., GIS), and sharing products of automated systems (e.g., maps, files, and records).
7. Make personnel available to the extent possible for preparation and review of planning documents, environmental assessments, reports, and impact statements, and to participate in implementation, monitoring, and amendment or revision of plans and actions.
8. Coordinate news releases on issues or projects directly affecting both parties.
9. Official representatives for signatories will meet annually to develop and agree to specific actions needed to meet the requirements of this Amendment.
10. Develop and maintain implementation and monitoring plans which define:
  - a. Mutual goals and priorities.
  - b. Funding requirements, including coordination for seeking and sharing agency funds, and funds from other parties.
  - c. Appropriate research, including the development and implementation of proposals.
  - d. The framework to guide individual programs and organizational units.
  - e. Opportunities for sharing data and developing consistent data standards.
11. On an annual basis, official representatives for the signatories intend to:
 

Review the status of plan implementation and monitoring. Each organization will brief the other on plan accomplishments including monitoring. Each organization will be requested to review and comment on the other's plan implementation and monitoring documents, reports, etc., throughout the year. The State and Forest Service will provide reports regarding specific program and/or geographic implementation and monitoring efforts.

12. Official representatives for signatories will meet as needed to (a) evaluate the overall operation of this Amendment, (b) discuss forthcoming activities or current situations of mutual concern or interest, and (c) develop, or set the stage to develop other agreements between appropriate State agencies and the Forest Service.

**B. Individual Responsibilities**

**1. The Commissioner agrees to:**

- a. Designate an appropriate State official to meet annually with the a MN National Forest Supervisor(s) or her/his designated representative and act on issues or programs when contact with the Commissioner's office is not desired.
- b. Ensure the dissemination of Forest Service Forest Plans or plan amendments or revisions, environmental impact statements, and other major environmental documents to the appropriate State agencies. Nothing contained herein shall be construed as prohibiting direct contact between the parties and other State agencies when appropriate.
- c. Ensure that DNR divisions, when appropriate, develop agreements or contracts with the Forest Service.
- d. Advise the Forest Service concerning the development, amendment and revision of land management plans, guidelines, rules, and regulations affecting Forest Service administered lands within the State, as well as such other land management matters as may be requested or appropriate.
- e. Provide the Forest Service with information or request the Forest Service's involvement when State programs, regulations, or decisions may influence or affect management or use on National Forest administered lands.
- f. Assist the Forest Service in securing cooperative relationships and/or agreements with local governments, special purpose or quasi-governmental units, or interest groups within the State as needed to carry out the intent of this Amendment or Master MOU.
- g. Solicit participation of the Forest Service, when deemed mutually desirable, in the work of appropriate State boards, commissions, and advisory groups.
- h. Provide for State participation, when appropriate, in the Forest Service's planning and environmental analysis.

**2. The Forest Supervisors(USFS) agree to:**

- a. Designate a representative(s) to ensure that the Commissioner is informed of USFS land management planning activities, and the preparation of environmental impact statements. This information will include planning activity schedules and notice of public meetings and review dates. For major plans and proposed actions, the USFS will transmit information and assistance requests through the Commissioner's designated official.
- b. Ensure the dissemination of State Natural Resource Plans or plan amendments or revisions, environmental impact statements, and other major environmental documents to the appropriate National Forest units.



- c. Meet, or assign a representative(s) to meet, at least annually with the Commissioner's designated representative to discuss and forecast activities of mutual interest.
- d. Assure that reviews are made of the planning and land use policies of other Federal agencies and State and local governments in the development of National Forest land management plans. Direct that this review give consideration to the objectives of other Federal, State, and local governments in an effort to promote consistency. This consideration shall be documented in the planning records.
- e. When taking any federal action on policy and administrative matters covered by this Amendment or Master MOU where there are different recommendations between two or more State entities, (1) seek recommendations from the Commissioner or designated representative as to the State's preferred course of action, or (2) inform the Commissioner of the USFS position, and provide information on the tradeoffs involved between the differing recommendations.
- f. Consult with the Commissioner or designated representative on matters of mutual concern.
- g. Provide for the involvement of elected and appointed State and local governmental officials in the development of decisions for lands administered by the USFS.

#### VI. LIMITATIONS

- A. Nothing in this Amendment shall be construed as limiting or expanding the statutory or regulatory responsibilities of the State, or USFS in the performance of functions granted to them by law; or as requiring any party to expend any sum in excess of its respective appropriations. Each and every provision of this Amendment is subject to the laws and regulations of the State of Minnesota, the laws of the United States, and the regulations of the Secretaries of Agriculture as appropriate.
- B. Reimbursement or exchange of funds may be needed for such activities as planning coordination, data collection, research, and projects. Such actions will require a separate collection agreement, contract or purchase order which will be subject to all State statutes, and Federal regulations.
- C. This document is not a legally enforceable, binding contract.

#### VII. EFFECTIVE DATE

This Amendment shall become effective upon signatures by the Commissioner and Forest Supervisors, and will remain in force unless formally terminated by any party after thirty (30) days written notice to the other of their intentions to do so.


VIII MODIFICATIONS

Modifications to this Amendment or the Master MOU may be proposed at any time by either party, and shall become effective upon approval by all.


IX. KEY CONTACTS

STATE OF MINNESOTA  
DEPARTMENT OF NATURAL RESOURCES

U.S. DEPARTMENT OF AGRICULTURE  
FOREST SERVICE, MN NATIONAL FORESTS

  
RODNEY SANDO  
Commissioner

Date: 3-23-95

  
STEVEN T. EUBANKS  
Chippewa National Forest Supervisor

Date: 3/23/95

  
KATHLEEN A. MCALLISTER  
Superior National Forest Supervisor

Date: 3-23-95

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MASTER MEMORANDUM OF UNDERSTANDING

between

MINNESOTA DEPARTMENT OF NATURAL RESOURCES

and

UNITED STATES FOREST SERVICE

SUPERIOR NATIONAL FOREST

This Memorandum of Understanding is made and entered into this 8<sup>th</sup> day of January, 1988; between the Minnesota Department of Natural Resources, herein after called the Department, and the United States Forest Service, Superior National Forest, herein after called the Forest Service.

WHEREAS: It is the desire of the Department and the Forest Service to work in harmony to protect and manage fish and wildlife habitat, particularly that associated with populations of state and federally listed threatened, endangered, and sensitive plant and animal species which may be found on Superior National Forest lands, and

WHEREAS: The Forest Service, under laws of the United States and regulations of the Secretary of Agriculture, is responsible for the management of fish and wildlife habitat on lands under its administration, compatible with other recognized uses of the lands and waters concerned, and

WHEREAS: The Department, under laws of the State of Minnesota, is responsible for managing fish and wildlife populations within the state and for the management of fish and wildlife habitat under State jurisdiction.

THE FOREST SERVICE AGREES:

1. To recognize the Department as the agency responsible for the management of fish and wildlife populations within the state.
2. To recognize the Department as the agency responsible for determining and enforcing the regulations under which fish and wildlife within the state of Minnesota will be protected and utilized.
3. To recognize fish and wildlife values in planning and conducting all resource programs consistent with applicable laws, regulations and policies.
4. To advise the Department of Forest Service projects, programs, policies and other activities which may have an impact on the fish and wildlife resources in the State of Minnesota, and to keep the Department informed, in writing, of any Forest Service policies, programs, projects or regulations which may have significant impact on these resources.

5. To consult and coordinate with Department personnel in the development and execution of any Forest Service challenge grant projects involving parties other than the Department and Forest Service and to insure that such projects are in compliance with Department management plans for fish and wildlife populations.
6. To consult and coordinate with Department personnel in complying with the provisions of the National Environmental Policy Act.
7. To enter into cooperative agreements with the Department for improvements of benefit to fish and wildlife habitat and access in connection with fish and wildlife management, to the extent such improvements or activities conform to Forest Service policy.
8. To permit the Department to undertake and maintain fish and wildlife habitat improvements on National Forest lands pursuant to laws and regulations governing use of these lands.
9. To permit the erection and maintenance of structures needed to facilitate fish and wildlife management activities of the Department on National Forest lands, provided such structures conform in character and location with the usual requirements of the Forest Service.
10. To assist, when requested, and insofar as is consistent with the regularly assigned duties of personnel, on mutually agreed upon fish and wildlife activities conducted by the Department on Forest Service lands.

THE DEPARTMENT AGREES:

1. To recognize the Forest Service as the agency responsible for occupancy, use and management of the National Forest lands and the management of fish and wildlife habitat present or potentially available thereon.
2. To manage fish and wildlife populations to the extent permitted by state laws and regulations so that damage to other National Forest resources is minimized.
3. To consult with the Forest Service with regard to the regulation of fish and wildlife populations and harvests on National Forest lands.
4. To notify the Forest Service promptly of changes in the game, fur and fish laws or regulations, including the issuance of special permits to take protected wildlife on National Forest lands.
5. To provide the Forest Service with reports, findings, new releases or other written material relative to wildlife use on National Forest lands and copies of other materials and vital correspondence relating to this agreement.

6. To cooperate with and assist the Forest Service, within limitations established by state law or policy, in the preparation of management and resource plans or environmental statements that involve fish and wildlife habitat on National Forest lands.
7. To provide Forest Supervisor, upon request, written comments on project plans within a reasonable period of time.
8. To jointly develop, with the Forest Service, within limitations established by state law or policy, environmental assessments or environmental impact statements where mandated on Forest Service lands.
9. To cooperate, insofar as possible, in the control of damage done by wildlife on lands under Forest Service administration.
10. To erect no signs or structures and perform no construction or other acts on National Forest lands, not herein provided for, without first securing the approval of the Forest Supervisor.
11. To report any pesticide to be used by the Department on National Forest lands to the Forest Service.

THE DEPARTMENT AND THE FOREST SERVICE MUTUALLY AGREE:

1. That the successful management of the fish and wildlife habitat on National Forest lands depends on close coordination between the Department and the Forest Service.
2. To cooperate in the restoration and management of fish and wildlife habitat on Superior National Forest lands.
3. To cooperate in the formulation and application of practical long-range objectives, plans and programs for the management of fish and wildlife habitat upon National Forest lands.
4. To develop and maintain, in a current status, comprehensive fish and wildlife plans as provided for in appropriate laws.
5. That specific project plans may be jointly prepared by the Department Area Wildlife and Fisheries Supervisors and the Forest Service District Rangers for individual development projects. Projects will require approval by the Forest Service and Regional Wildlife or Fisheries Supervisors.
6. That certain approved project work may be conducted for either party on a reimbursement basis as provided for in appropriate laws.
7. To keep each other informed of vital reports and correspondence relating to this Memorandum of Understanding, amendments thereto, and other agreements made thereunder.
8. That the Regional Forester and the Department Directors (or delegates) shall meet annually to discuss compliance with this

Memorandum of Understanding, major issues of disagreement and opportunities to enhance fish and wildlife coordination of the agencies.

9. To meet jointly, at least once annually, at the Forest Supervisor/Regional Supervisor level, and more often if necessary, to discuss matters relating to the Management of fish and wildlife resources within or affecting the National Forest, and to provide for other necessary meetings at various administrative levels for discussions of law enforcement, harvest recommendations and regulations, educational programs, cooperative studies, plans, fish and wildlife surveys, and such other matters as may be relevant to fish and wildlife and its habitat.
10. To promote a free exchange of information pertinent to the management of fish and wildlife, or National Forest resources, between the personnel of the Forest Service and the Department.
11. To jointly study and resolve problems and capitalize on opportunities involving fish and wildlife habitat on land administered by the Forest Service.
12. That improvements placed on National Forest lands, at the direction of either party, unless otherwise covered in separate agreement, shall become property of the United States, and shall be subject to the same regulations and administration of the Forest Service as all other Forest Service improvements of a similar nature.
13. To promote a united approach by all interested parties relating to fish and wildlife management and to promote better public understanding of problems therewith.
14. That when the views of one agency are contrary to the accepted policy or plans of the other, representatives of both agencies shall meet and attempt to work out the differences, to the greatest extent practicable, before either agency expresses in public a view contrary to the accepted policy or plans of the other agency.
15. That each and every provision of this agreement is subject to the laws of the State of Minnesota and the laws of the United States.
16. That nothing in this agreement shall be construed as obligating the Department or Forest Service in the expenditure of funds or for future payment of money in excess of appropriations authorized by law.
17. That nothing herein contained shall be construed as limiting or affecting in any way the authority of the Forest Supervisor in connection with the proper administration and protection of the National Forests in accordance with the purpose for which the lands contained therein were acquired and reserved; or as limiting or affecting in any way the authority of the Commissioner of the Department for the protection and management of the fish and wildlife populations of the state.

18. That procedures or details associated with carrying out the provisions of this Memorandum of Understanding may be outlined in amendments or supplements to this agreement.
19. That amendments or supplements to this Memorandum of Understanding may be proposed by either party and shall become effective upon approval by both parties.
20. That this Memorandum of Understanding shall become effective upon signature by both parties hereto and shall continue in force until termination by any of the parties upon 30 days notice, in writing to the other, of its intention to terminate upon a date indicated.
21. That no member of, or delegate, to Congress, or Resident Commissioner shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this agreement if made for a corporation for its general benefit.

IN WITNESS THEREOF, the parties hereto have executed this Agreement as of the date when last signed below.

MINNESOTA DEPARTMENT OF NATURAL RESOURCES

November 12, 1987  
Date

7-1-88  
John H. Allman  
Commissioner  
Department of Natural Resources

UNITED STATES FOREST SERVICE

January 5, 1988  
Date

by Alan H. Beal  
Forest Supervisor  
Superior National Forest

APPROVED AS TO FORM AND EXECUTION

HUBERT H. HUMPHREY, III  
Attorney General

by S. B. Mather 1/11/88  
Special Assistant Attorney General

MASTER MEMORANDUM OF UNDERSTANDING  
BETWEEN  
DEPARTMENT OF NATURAL RESOURCES  
and  
UNITED STATES FOREST SERVICE

This Memorandum of Understanding, is made and entered into this 18<sup>th</sup> day of March, 1981, by and between the Department of Natural Resources, State of Minnesota, acting by and through its Commissioner under the authority of Minn. Stat. 1975 Sec. 84.025, Subd. 7, hereinafter called the Department, and the United States Forest Service, acting by and through the Forest Supervisor, Superior National Forest, under the authority of P.L. 86-517, June 12, 1960, 74 Stat. 215, hereinafter called the Forest Service, and

WHEREAS, the Department and the Forest Service manage intermingled lands within the boundaries of the Superior National Forest, and management of such public lands affects the social economic well-being of the citizens of the State and the Nation, and

WHEREAS, these interrelated effects may either diminish or materially add to the contribution such lands make toward meeting the needs of the public, and

WHEREAS, it is the objective of the Department and the Forest Service, through application of sound practices and policies, to provide maximum benefits to the public at a reasonable cost while protecting, conserving, improving and providing for wise use of all natural resources, and

WHEREAS, coordination of resource management through coordinated planning and cooperative efforts can effect economies of operation, reduce duplication of effort, provide for conservation and wise use of natural resources, protect and improve the beauty of the area, and safeguard the health and well-being of the citizens,

NOW, THEREFORE, the Department and the Forest Service mutually agree as follows:

1. To enter into discussions with the intention of developing agreements for coordinated approaches and management practices on lands within the external boundary of the Superior National Forest under their respective administration in the following areas:
  - A. Granting of easements, leases, or permits, for projects which involve the use of intermingled lands under the jurisdiction of the Department and the Forest Service.
  - B. Protection of endangered, threatened and unique species of wild-life and vegetation.
  - C. Development of land use management objectives and practices on lands which border on streams, lakes, wetlands, and certain specified roads.



- D. Planning, location and construction of snowmobile and other trail systems within and adjacent to the Superior National Forest.
  - E. Planning and development of public access to lands and waters within the Superior National Forest.
  - F. Such other areas of mutual concern where coordinated action is deemed to be in the public interest.
2. That Agreements made under this memorandum shall be called Supplemental Agreements and shall be designated as Supplemental Agreement No. 1, No. 2, etc. Such Agreements shall be negotiated and approved for the Forest Service by the Forest Supervisor, Superior National Forest, and for the Department by the Commissioner of Natural Resources or his delegates.
  3. That future additions, deletions or revisions to the basic Memorandum of Understanding will be called "Amendments".
  4. That Amendments to this Memorandum of Understanding and Supplemental Agreements made hereunder, may be proposed by either party and shall become effective upon approval by both parties.
  5. That each and every provision of this Memorandum of Understanding and Supplementary Agreements made hereunder is subject to the laws of the United States.
  6. That nothing contained herein or in any agreement made hereunder shall be construed to limit, modify or affect in any way the authority or responsibility of the Forest Service in connection with the proper administration and protection of the Superior National Forest in accordance with the purpose for which the lands contained therein were acquired or reserved; or to limit, modify, or affect in any way the authority or responsibility of the Commissioner of the Department of Natural Resources for the protection or management of State lands and resources in the manner required by State laws and regulations.
  7. That this Memorandum and any Supplemental Agreement hereunder, shall become effective as soon as it is signed by the parties hereto and shall continue in force until terminated by either party upon thirty (30) days notice, in writing, to the other of his intention to terminate upon a date indicated.
  8. That no member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this Memorandum, or to any benefit that may arise therefrom unless it is made with a corporation for their general benefit.

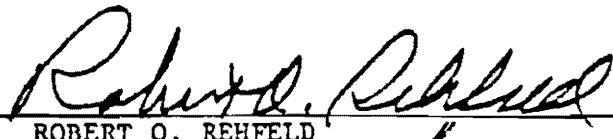
IN WITNESS WHEREOF, the parties hereto executed this Memorandum as of the day and year first hereinabove written.

DEPARTMENT OF NATURAL RESOURCES

UNITED STATES FOREST SERVICE

By 

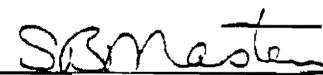
TITLE: Commissioner

  
ROBERT O. REHFELD

TITLE: Forest Supervisor  
Superior National Forest

APPROVED AS TO FORM AND EXECUTION

WARREN SPANNAUS

By   
Special Assistant Attorney General

DATE: 18 March 81

# INTERAGENCY MEMORANDUM OF UNDERSTANDING for the State of Minnesota

## WETLAND REGULATORY SIMPLIFICATION

### I. WETLAND BANKING

WHEREAS, landowners that have received wetland project approvals, as required by state and federal laws, rules and regulations, should have access to all applicable replacement options; and

WHEREAS, the State Wetland Bank established by the Minnesota Wetland Conservation Act, Minn. Rules Chapter 8420, provides a potential option for compensatory mitigation through wetland replacement; and

WHEREAS, the participating Federal agencies concur that the State Wetland Bank is consistent with the Corps of Engineers (Corps) and Environmental Protection Agency (EPA) Mitigation Memorandum of Agreement dated February 7, 1990 and the Generic Mitigation Banking Guidelines promulgated by EPA - Region 5 and the Corps - St. Paul District on July 10, 1991; and,

WHEREAS, benefits of use of a wetland banking program include:

1. Appropriate and perpetual mitigation, pursuant to Wetland Conservation Act requirements, is assured as wetland replacement credits will meet the principles and procedures for review, deposit, auditing and monitoring as provided for in the Wetland Conservation Act.
2. More efficient and cost-effective mitigation will be realized as landowners will be able to seek wetland replacement that would likely meet all of the agencies' requirements for compensatory mitigation.
3. A positive balance of wetland acres will be realized as wetland restoration and creation projects must be completed and deposited before credits can be withdrawn; and

WHEREAS, Wetland bank credits provide a replacement option only where the proposed use of such credits meets all of the compensatory mitigation requirements (e.g., size, type and location) of the Federal, state or local approval agency(s); and

WHEREAS, the undersigned agencies concur that the consideration of state wetland bank credits should be allowed as a potential compensatory mitigation option by landowners if such option is consistent with the approval agency's applicable compensatory mitigation requirements; and

THEREFORE, the undersigned agencies concur that it is in the public's interest to allow use of the State Wetland Bank, where appropriate, as a compensatory option, and that the respective agencies will consider state wetland bank credits in applicable and appropriate situations.

### II. STATEWIDE GENERAL PERMIT(s)

WHEREAS, federal wetland policy encourages the U.S. Army Corps of Engineers to issue Regional General Permits where state and/or local government regulations duplicate those of the Clean Water Act; and

WHEREAS, Federal wetland policy (as issued on August 24, 1993) states that "...PGPs (Programmatic General Permits) are extremely useful in reducing unnecessary duplication between Federal and non-Federal regulatory programs and in generally enhancing the role of State and local governments...in decisions regarding wetlands and other aquatic resources."; and

WHEREAS, the Wetland Conservation Act, as administered by local governments and overseen by state government, overlaps the wetland protection provisions of the Federal Clean Water Act for many projects; and

WHEREAS, implementation of the Statewide General Permit(s) is intended to provide:

- i.) increased efficiency for Federal, State and local government regulatory programs; and
- ii.) improved service to the regulated public by establishing "one-stop shopping", at the local government level, for seeking the approvals necessary to conduct many projects impacting wetlands; and,

WHEREAS, the Wetland Conservation Act requirements and the provisions of a Statewide General Permit(s) provide for oversight of local government activities by the Federal and State Governments and affected members of the public; and

THEREFORE, the undersigned agencies concur that it is in the public's interest to develop a Statewide General Permit(s) that effectively protects wetlands while minimizing regulatory duplication.

### III. COLLABORATIVE EFFORTS

WHEREAS, through Inter-Agency Wetlands Group and other joint efforts, further opportunities exist for wetland regulatory simplification and coordination, including:

1. Development of an interagency wetlands newsletter service and brochures to a wide spectrum of public and private interests; and
2. Scientific training for agency staff (conducted by an interagency team) in wetland identification and delineation; and
3. Where appropriate -- reciprocal acceptance of wetland delineations completed under each agency's respective authority, if they are conducted consistent with the techniques prescribed in the present and future versions of the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands*, the *U.S. Army Corps of Engineers Wetland Delineation Manual*, and the *National Food Security Act Manual*; and,
4. Comprehensive administrative training and guidance for agency staff implementing and complying with wetland regulations; and
5. Continued acceptance of the combined project notification/application form as a permit application form to all agencies for wetland projects; and
6. State Wetland Planning efforts; and
7. Coordination of wetland preservation and incentive programs.

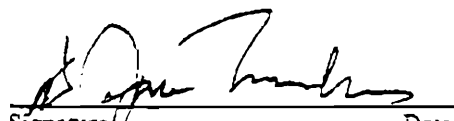
THEREFORE, the undersigned agencies agree to undertake and continue these initiatives and other collaborative efforts resulting in effective wetland protection through regulatory simplification.


### IV. GENERAL

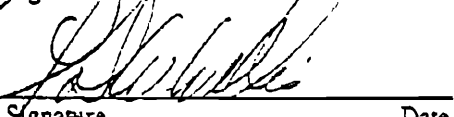
1. The policy and procedures contained within this Memorandum of Understanding (MOU) do not create any rights, either substantive or procedural, enforceable by any party regarding an application for a permit or enforcement action brought by the United States or the State of Minnesota. Deviation or variance from the administrative procedures included in this MOU will not constitute a defense for violators or others concerned with any State or Federal enforcement action.

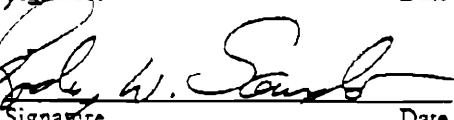
2. Nothing in this MOU is intended to diminish, modify, or otherwise affect statutory or regulatory authorities of any of the signatory agencies. All formal guidance interpreting this MOU and background materials upon which this MOU is based will be issued jointly by the agencies.
3. Nothing in this MOU will be construed as indicating a financial commitment by the signatory agencies for the expenditure of funds except as authorized by specific appropriations.
4. This MOU will take effect on the date of the last signature below and will continue in effect until modified or revoked by agreement of all signatory agencies. Any one of the signatory agencies may revoke its participation in this MOU by a 90 days prior written notice to all of the other signatory agencies. Modifications to this MOU may be made by mutual agreement and approval by all the signatory agencies. Such modifications will take effect upon signature of the modified document by all the signatory agencies.

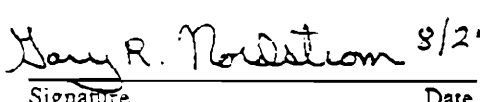
[SIGNATURES]

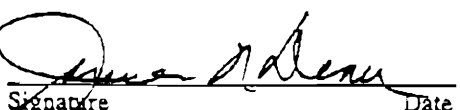
  
 Signature \_\_\_\_\_ Date \_\_\_\_\_  
 D. James Nielsen, Chairman, Board of Water & Soil Resources

  
 Signature \_\_\_\_\_ Date \_\_\_\_\_  
 James T. Scott, Colonel, Corps of Engineers, District Engineer


  
 Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Chuck Williams, Commissioner, MN Pollution Control Agency

  
 Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Rod Sando, Commissioner, MN Dept. of Natural Resources

  
 Signature \_\_\_\_\_ Date 8/24/94  
 Gary Nordstrom, SCS State Conservationist, USDA

  
 Signature \_\_\_\_\_ Date \_\_\_\_\_  
 James N. Denn, Commissioner, MN Dept. of Transportation

  
 Signature \_\_\_\_\_ Date 8/24/94  
 Dale Bryson, Water Division Director, Region 5 - USEPA

  
 Signature \_\_\_\_\_ Date 8-24-94  
 Elton Redalen, Commissioner, MN Dept. of Agriculture

  
 Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Lynn Lewis, Field Supervisor, Twin Cities Field Office - USFWS

Cooperative Agreement  
Between the St. Paul Corps of Engineers  
and the  
State of Minnesota Department of Natural Resources  
General Permit Number GP-001-MN

I. PREAMBLE. The St. Paul District, Corps of Engineers (Corps), has regulatory jurisdiction over certain work in waters of the United States under Section 404 of the Clean Water Act (33 USC 1344) and Section 10 of the River and Harbor Act of 1899 (33 USC 403). The Corps has authority under both authorizations to issue general permits on a statewide basis for specific categories of activities. Such a permit has been developed for certain activities in the State of Minnesota.

The Minnesota Department of Natural Resources (MDNR) has regulatory authority over activities that affect the course, current or cross-section of protected waters in the State of Minnesota 6 MCAR, Sections 1.5020-1.5029.

The Corps, MDNR and the Minnesota Pollution Control Agency have developed a general permit (GP-001-MN) which will become effective in 1984, and which includes many activities currently regulated by these agencies. This general permit is attached hereto and is made a part hereof. This Cooperative Agreement is entered into to facilitate evaluation of applications under GP-001-MN (GP) and reduce dual regulation where the Corps and the MDNR have similar programs.

II. PURPOSE. This Cooperative Agreement is made between the District Engineer, St. Paul District Corps of Engineers (Corps) and the Commissioner, Minnesota Department of Natural Resources (MDNR) to describe procedures which will be used to coordinate Corps general permit authorizations, under the GP for specified categories of projects which are authorized, approved or permitted by the MDNR. The purpose of this Agreement is to clarify procedures.

III. PROCEDURES.

a. MDNR Procedures.

1. Upon receipt by MDNR of a permit application, regional personnel will review it and transmit a legible copy to the Corps. This transmittal will include a statement of MDNR jurisdiction and shall be done within 10 working days of making that determination.

2. MDNR will furnish the Corps copies of applications or letters of no state jurisdiction.

3. The MDNR, through the Director, Division of Waters, or the Commissioner, may request at any time prior to the issuance of the MDNR permit, that the Corps require an individual permit be processed. The MDNR will provide to the Corps specific information concerning the reasons for the request.

b. Corps Procedures.

Upon receipt of an application which has been forwarded by the MDNR, the Corps will:

1. Process the application as an individual permit action if the project is found unsuitable by the Corps for authorization under the GP or NWP.

2. Process the application as a general permit action if the project is determined to be eligible under the GP. A letter confirming such action will be sent to the applicant, with the requirement that the applicant must obtain necessary State permits and approvals prior to starting work.

#### IV. JOINT AGENCY PROCEDURES.

1. Every 6 months, the Corps will provide MDNR a computerized list of GP authorizations.

2. MDNR and the Corps will initiate a cooperative effort to improve joint application procedures, which may also include a joint application form.

3. MDNR, MPCA and the Corps will jointly participate in any public hearings or public meetings deemed necessary regarding the enactment of, or modification to, the GP.

V. LIAISON. The processing of all applications under this Cooperative Agreement and the GP will be handled by the MDNR Regional Hydrologist and the Regulatory Functions Branch, St. Paul District.

Any problems should be brought to the attention of the appointed liaison individuals, who are:

a. MDNR. Director, Division of Waters (or his alternate), P.O. Box 32, Centennial Office Building, St. Paul, Minnesota 55155 (telephone: (612) 296-4810).

b. Corps. Ms. Char Hauger, Chief, Permit Evaluation Section, Regulatory Functions Branch, 1135 U.S.P.O., St. Paul, Minnesota 55105 (telephone: 612-725-7712).

The respective parties to this Agreement shall each notify the other party of any changes in liaison positions.

#### V. REVIEW PROCEDURES.

a. In the event that the Corps or MDNR determines that the GP should be modified, notification of this determination shall be provided in writing to the appropriate liaison.

b. Upon receipt of the above notification, the Corps will arrange a meeting with the MDNR to discuss possible modifications to the GP. Modifications to the GP may necessitate changes to this Cooperative Agreement.


c. The MDNR and the Corps will review this Cooperative Agreement within 1 year of the effective date.

VI. MODIFICATION. This Cooperative Agreement shall be amended or revised only upon written mutual agreement of the parties. Any proposed modifications shall be submitted in writing to the other party for review and consideration. Only upon agreement between the parties will such modification be incorporated into this Cooperative Agreement.

VII. EFFECTIVE DATES. This Agreement shall become effective upon the signature of both parties. However, either party may terminate the Agreement upon a written 30-day notification to the other party.

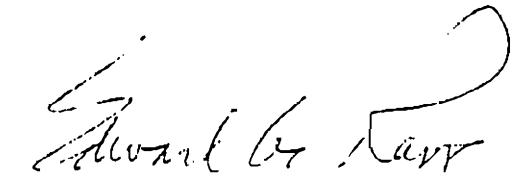
This Agreement will expire on the date that the referenced GP expires. The expiration date of this Agreement will be automatically extended should the expiration date of the GP be extended.

Signed:

  
Joseph N. Alexander, Commissioner  
Minnesota Department of  
Natural Resources

Date

13 Apr 84

  
Edward G. Rapp, Colonel  
District Engineer, St. Paul  
District, Corps of Engineers

Date

29 March 1984



September 25, 1996

Dear Soil and Water Conservation District Chair:

RE: MUTUAL AGREEMENT

The "PARTNERSHIP", represented through National Association of Conservation Districts (NACD), National Association of State Conservation Agencies (NASCA), and Natural Resource Conservation Service (NRCS) completed the initiative to enhance the way we do business together and to lay a framework for cooperation, coordination, and to facilitate effective and efficient delivery of conservation programs. This Mutual Agreement, the first step in the three step process, affirms the state and federal commitment to support the efforts of the Districts as the primary mechanism to put conservation on the ground. The Mutual Agreement is being signed by all Districts in the United States and sets the stage for the development of the COOPERATIVE WORKING AGREEMENT, step 2, and the OPERATIONAL AGREEMENT, step 3. This process reaffirms the guiding principles for the conservation partnership:

- \* Decision-making at the local level, District
- \* Maintain and enhance our grassroots delivery system
- \* Build new alliances
- \* Teamwork
- \* Empowering people
- \* Quality and improvement

The Mutual Agreement (replacing the Basic Agreement) has been signed by the Secretary of Agriculture, and the Chair of the Board of Water and Soil Resources (BWSR). The final signature, and most important signature is that of the District. We encourage your District to sign the attached agreement and return the fully executed Mutual Agreement to Bill Hunt, State Conservationist, NRCS.

Thank you for your continued commitment and leadership in soil and water conservation.

Yours truly,

*Barb Cobb Jim Schafer Dwain Otte Bill Hunt*

Barb Cobb  
Chair  
BWSR

Jim Schafer  
President  
MASWCD

Dwain Otte  
NC Director  
NACD

Bill Hunt  
State Conservationist  
NRCS



MUTUAL AGREEMENT  
Between the  
UNITED STATES DEPARTMENT OF AGRICULTURE  
and the  
STATE OF MINNESOTA  
and the  
AITKIN COUNTY SOIL AND WATER CONSERVATION DISTRICT

For their Cooperation in the  
Conservation of Natural Resources

THIS AGREEMENT is between the United States Department of Agriculture (USDA), the state of Minnesota, and the Aitkin County Soil and Water Conservation District.

The authority of USDA to enter into this agreement is the Soil Conservation and Domestic Allotment Act, 16 U. S. C. 590; the Department of Agriculture Reorganization Act of 1994, Public Law No. 103-354; and Secretary's Memorandum No. 1010-1, dated October 20, 1994. The state of Minnesota's authority is defined in Minnesota Statutes Chapter 103C, Minnesota Soil and Water Conservation Districts. The authority of the Aitkin County Soil and Water Conservation District to enter into this agreement is also defined in Minnesota Statutes Chapter 103C, Powers of Districts and Supervisors.

STATEMENT OF PURPOSE

The parties have the common objective of assisting people in their efforts to utilize and manage natural resources in accordance with their capabilities and needs for protection and improvement. Each party is independent, has its respective responsibilities, yet recognizes the need to coordinate as a federal, state and local partnership for the successful delivery of conservation programs related to our soil, water, air, plant, animal, and human resources. Therefore, the parties will cooperate to implement their respective long-range natural resources conservation programs considering available resources, statutory authorities, and regulations. The parties will develop appropriate agreements to further define this relationship.

IT IS UNDERSTOOD THAT:

Broad based conservation programs delivered through the cooperation of the United States Department of Agriculture (USDA), the Aitkin County Soil and Water Conservation District, and the state of Minnesota are vital to the protection of the natural resources, economic stability and well-being of our Nation.

The parties reaffirm the relationship between the United States Department of Agriculture (USDA), the Aitkin County Soil and Water Conservation District, and the state of Minnesota. The Secretary will continue, within the terms of various statutes administered by USDA, to carry out broad conservation programs of assistance encompassing technical, research, educational, and financial assistance to land owners and users through the Aitkin County Soil and Water Conservation District, and the state of Minnesota.

The parties also recognize and encourage a continued commitment from the State of Minnesota in aiding administration, coordination, financing, and the delivery of conservation programs through the Aitkin County Soil and Water Conservation District.

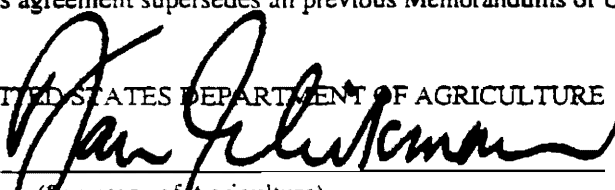
This Agreement establishes an enduring basis for cooperation and assistance between the parties to achieve common natural resources conservation goals and objectives. Authority to carry out specific projects or activities, such as the transfer of funds, acquisition of services, and property will be carried out under separate agreements. The parties will encourage other natural resource related agencies to develop similar agreements.

The signatories will be in compliance with the nondiscrimination provisions contained in Titles VI and VII of the Civil Rights Act of 1964, as amended, the Civil Rights Restoration Act of 1987 (Public Law 100-259) and other nondiscrimination statutes, namely, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, Americans with Disabilities Act of 1990, and in accordance with regulations of the Secretary of Agriculture (7 CFR-15, Subparts A & B), which provide that no person in the United States shall, on the grounds of race, color, national origin, age, sex, religion, marital status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Agriculture or any Agency thereof.

This agreement can be modified or terminated at any time by mutual consent of all parties or can be terminated by any party by giving 60 days written notice to the others.

This agreement supersedes all previous Memorandums of Understanding.

UNITED STATES DEPARTMENT OF AGRICULTURE

By:   
(Secretary of Agriculture)

Date: 1-26-96

STATE OF MINNESOTA

By:   
(Board of Water and Soil Resources)

Date: 9-25-96

AITKIN COUNTY SOIL AND WATER CONSERVATION DISTRICT

By: \_\_\_\_\_  
(Chairperson)

Date: \_\_\_\_\_



STATE OF  
**MINNESOTA**  
**DEPARTMENT OF NATURAL RESOURCES**

1201 East Highway 2, Grand Rapids, MN 55744

PHONE NO. 218/327-4416

FILE NO.

June 9, 1988

Clay G. Beal, Supervisor  
Superior National Forest  
Federal Building  
Duluth, MN 55800

Dear Mr. Beal:

Enclosed is a signed copy of the Agreement between the Department of Natural Resources and the National Forest relating to work in protected waters. This agreement will provide the basis for continuing coordination between our agencies.

Very truly yours,

DIVISION OF WATERS

DANIEL G. RETKA  
Regional Hydrologist

DGR/dlm  
Enclosure

State of Minnesota  
Department of Natural Resources

U.S.D.A. Forest Service.  
Superior National Forest and  
Chippewa National Forest

SUPPLEMENTAL AGREEMENT NO. 10 (WITH SUPERIOR NATIONAL FOREST) AND NO. 7 (WITH  
CHIPPEWA NATIONAL FOREST)

WORK IN THE BEDS OF PROTECTED WATERS

This supplemental agreement is made and entered into this 25<sup>th</sup> day of May, 1988, in accordance with the provisions of the Memoranda of Understanding dated 18 March 1981 and 28 December 1976, respectively, between the Commissioner of the Department of Natural Resources (hereinafter referred to as "the Department") and the Supervisors of the Superior National Forest and the Chippewa National Forest (hereinafter referred to as "the Forests").

WHEREAS, the Department is charged with the responsibility of administering Minnesota Statutes Section 105.41 pertaining to water appropriation and Section 105.42 pertaining to protected waters within the State of Minnesota, and has developed administrative rules to carry out those responsibilities, and

WHEREAS, the Forests are charged under Federal law with the responsibility of managing National Forest lands and waters within their boundaries, and intend to comply with the aforementioned rules to the extent the rules are consistent with Federal law or policy, and

WHEREAS, it is the desire of both the Department and the Forests to use their collective wisdom and cooperate to the fullest extent possible in the development, use and protection of protected waters within the boundaries of the Forests,

NOW, THEREFORE, it is agreed between the Department and the Forests as follows:

1. The Forests will:

- o review all planned activities to determine whether or not they have the potential to alter the course, current, or cross section of protected waters.
- o evaluate all activities having such potential to determine whether or not they fall within the limits for the project categories listed in Exhibit 1, Item 4.

2. The Forests will, in the event a planned activity is either not covered by, or exceeds the scope of activities listed in Exhibit 1, Item 4, provide written information and documentation on the planned activity to the appropriate Department Division of Waters Regional Hydrologist. The

information will be conveyed to the Regional Hydrologists in the format shown in Exhibit 2.

3. The Forests and the Department agree that any time there is uncertainty about the potential of a planned activity to alter a protected water or whether or not a planned activity is covered by the list in Exhibit 1, Item 4, the Forests will consult the appropriate Department Regional Hydrologist who will then assist in the determination.
4. The Forests and the Department agree that for any planned activity involving alteration of protected waters that has the potential to create significant conflicts between resources, management interests, or public interest groups, one or more on-site field visits will be arranged. These visits will be made as soon as possible after conception of the planned activity and may be repeated as needed at critical stages of the activity planning process. These visits will typically involve field level representatives of the Department's Division of Waters and the affected National Forest. The purpose of these visits will be to resolve potential conflicts at the earliest possible stage of the planning process.
5. The Department will, in the case of planned activities that will affect the course, current, or cross section of protected waters and not covered by Exhibit 1, Item 4, accept written information and documentation on planned activities provided in the format given in Exhibit 2. The Department agrees to distribute the information between interested Divisions within the Department and, as needed, with other State and local governmental entities. The Department agrees to review the information using a standardized evaluation process and respond to the affected Forest within 60 (sixty) days of receipt of Exhibit 2.
6. The Department agrees that the responses to Exhibit 2's will be in the form of a notation and signature directly on the Exhibit 2 form. The notation will consist of:
  - o checking off whether the planned activity has been found to be either consistent or not consistent with State Rules governing alterations of protected waters.
  - o an explanation of why the activity is either consistent or not consistent with State Rules and/or a listing of suggested mitigation measures or project modifications.
7. The Forests agree to notify the Department in the event they (the Forests) decide to proceed with a project in spite of a "not consistent with State Rules" determination. Such notification will be made within 14 (fourteen) days of receipt of the Exhibit 2 response from the Department.

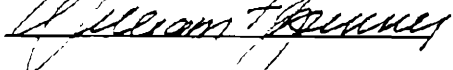
8. The Forests and the Department each recognize that in the event a Forest decides to initiate a project despite recognition that the project is "not consistent with State Rules", the Department may appeal such decision under the standard Forest Service Appeals Process as described in Forest Service Appeals Regulation 36 CFR 211.18.
9. The Forests will, during the period of actual on-site project activity, display a poster (similar to the one shown in Exhibit 3) at all project sites which have undergone Exhibit 2 review by the Department. The poster will be displayed regardless of the nature of the Department's response.
10. IT IS MUTUALLY AGREED:
  - a. That this agreement shall become effective as soon as signed by the parties hereto and shall continue in effect until terminated by either party upon thirty (30) days notice of intent to terminate.
  - b. Exhibits 1, 2, and 3 of this agreement may be revised at any time with approval indicated by letter from each party.

IN WITNESS WHEREOF, the parties hereto have executed this Supplemental Agreement as of the day and year first hereinabove written.

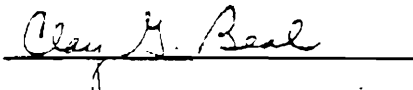
DEPARTMENT OF NATURAL RESOURCES

UNITED STATES FOREST SERVICE

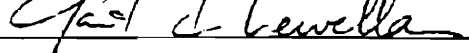
By:   
Title: COMMISSIONER

By:   
Title: Forest Supervisor  
Chippewa National Forest

and

By:   
Title: Forest Supervisor  
Superior National Forest

APPROVED AS TO FORM AND EXECUTION

By: 

Date: 5/31/88

## EXHIBIT 1

## WHEN TO SUPPLY PROJECT INFORMATION FOR REVIEW TO MN-DNR DIVISION OF WATERS

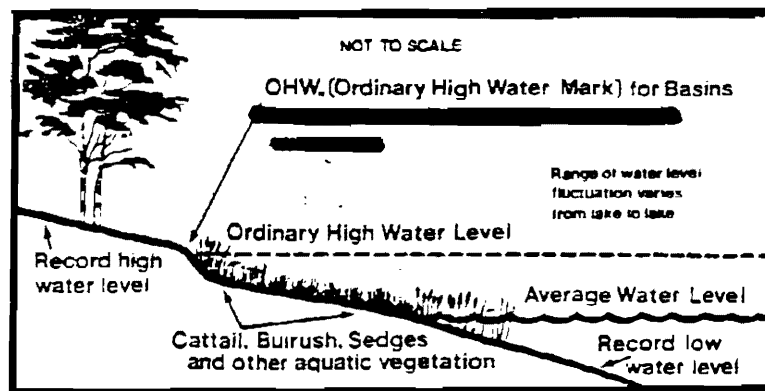
Project information in the form of a completed Exhibit 2 (Project Information -- Forest Service Work Involving Protected Waters or Wetlands) will be provided to the appropriate MN-DNR Regional Hydrologist whenever all of the following conditions are met:

1. The proposed project involves the bed of a Protected Water or Wetland.

(Protected Waters and Wetlands are clearly indicated on county-by-county maps and lists.)

2. The proposed project involves work below the Ordinary High Water (OHW) Mark.

(For lakes and wetlands the OHW is the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The OHW is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the OHW is the elevation of the top of the bank of the channel. For reservoirs and flowages, the OHW is the operating elevation of the normal summer pool. See drawing below for guidance:



3. The proposed project will alter the course, current, or cross section of the water body or wetland.
4. The proposed project is either not addressed by, or exceeds the scope of, the following conditions for specific types of projects. Projects meeting the conditions listed below may be undertaken without prior submission of Exhibit 2 information to MN-DNR:



#### BEACH SAND BLANKETS

- o Clean, inorganic sand or gravel free of pollutants and nutrients is used.
- o The blanket is no more than 6 inches thick, 50 feet wide along the shore or one-half the lot width (whichever is less), and 10 feet waterward of the Ordinary High Water Mark.
- o Site is not a posted fish spawning area.
- o Installation of sand or gravel may only be repeated once at same location, not exceeding same amount and dimensions of the original sand blanket.

#### ROCK RIPRAP (FOR SHORE PROTECTION)

- o Only natural rock is used, and rock is 12 inches diameter or larger.
- o Placement extends no more than 5 feet waterward of the Ordinary High Water Mark.
- o Conforms to natural alignment of shore and does not obstruct flow of water.
- o Minimum finished slope is no steeper than 3:1 (horizontal to vertical).
- o Site is not a posted fish spawning area, designated trout stream, nor along the shores of Lake Superior.

#### BRIDGES, CULVERTS, FILL PLACEMENT OR EXCAVATION

- o The project is planned for a watershed having a total size, at its mouth, of 5 square miles or less, and:
  - The project will not divert water to a different watershed.
  - The project will not impound water by damming the watercourse.
  - The watercourse is not an officially designated trout stream.

#### DEBRIS REMOVAL

- o Removal of debris such as trees, logs, stumps and trash, provided the original alignment, slope or cross-section of the lake, marsh, or stream bed is not altered.

#### SEASONAL DOCKS AND FLOATING STRUCTURES

- o Must be removed from water on a seasonal basis (before winter freeze-up).
- o All components must be removable from lake or stream bed by nonmechanized means.
- o Will not be a hazard to navigation or endanger public health and safety.
- o Site is not a posted fish spawning area.
- o Will not include fuel handling or sewage facilities.
- o Is not used or intended to be used for human habitation, as a boathouse or as a marina.
- o Allows for free flow of water beneath it.

#### PERMANENT DOCKS (ON LAKES ONLY)

- o Dock is a single linear structure not more than 6 feet wide.
- o Does not exceed 50 feet in length, or extend into water that is more than 4 feet deep, whichever is less.
- o No more than one dock is placed per waterfront lot.
- o Will not obstruct navigation or create a water safety hazard.
- o Site is not a posted fish spawning area.
- o Will not include fuel handling or sewage facilities.
- o Is not used or intended to be used for human habitation, as a boathouse or as a marina.
- o Allows for free flow of water beneath it.
- o Lake must be 500 acres or larger if dock is built on wood pilings.
- o Lake must be 2,500 acres or larger, and site must preclude the use of a dock on wood pilings if dock is built on rock filled cribs.

#### BOAT RAMPS

##### Privately Owned Ramps:

- o Site can support ramp without pilings, dredging, or other special site preparations.
- o Constructed only of gravel, natural rock, concrete, steel matting, or other durable inorganic material.
- o No more than 6 inches thick, 12 feet wide along shore, and 10 feet waterward of the Ordinary High Water Mark or into water depth of 4 feet, whichever is less.
- o No more than 5 cubic yards of excavation and 5 cubic yards of fill allowed for a stable base.
- o Site is not a posted fish spawning area.

##### Publicly Owned Ramps:

- o Same as for privately owned ramps, except ramp can be up to 24 feet wide and 20 feet waterward of the shoreline or into water depth of 4 feet, whichever is less, with up to 30 cubic yards of fill and 60 cubic yards of excavation.

#### REMOVAL OF EXISTING STRUCTURES

- o The original lake, marsh, or stream bed is restored.
- o All parts of the structure, including footings or pilings, are removed.
- o The structure is not a water level control device and is not on an officially designated trout stream.

#### LOW WATER FORD CROSSINGS (ON STREAMS ONLY)

- o No special site preparation is necessary.
- o Normal summer flow does not exceed 2 feet in depth.
- o Normal low flow is not restricted or reduced.
- o Crossing conforms to the shape of the natural stream channel.
- o Original stream bank is no higher than 4 feet.

LOW WATER FORD CROSSINGS, continued

- o Constructed only of gravel, natural rock, concrete, steel matting, or other durable, inorganic material not more than 1 foot thick.
- o Graded finished slope no steeper than 5:1 (horizontal to vertical).
- o Site is not an officially designated trout stream, wild, scenic, or recreational river or officially designated canoe and boating route.

TEMPORARY BRIDGES (ON STREAMS ONLY)

- o Stream bank can support bridge without pilings, foundations, culverts, excavation, or other special site preparations.
- o Nothing is placed in the bed of the stream.
- o Capable of removal for maintenance and flood damage prevention.
- o Bridge is firmly anchored at one end and can swing away during flooding.
- o Minimum 3 feet of clearance between lowest portion of bridge and normal summer stream flow.
- o Consistent with wild, scenic, or recreational river ordinances.

Project No. \_\_\_\_\_

EXHIBIT 2

PROJECT INFORMATION -- FOREST SERVICE WORK INVOLVING PROTECTED WATERS  
OR WETLANDS

I. National Forest: \_\_\_\_\_ Ranger District: \_\_\_\_\_

Forests Supervisors Office Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Telephone Number: (\_\_\_\_) \_\_\_\_\_

Field Level Contact Person and Telephone Number:

\_\_\_\_\_

Project Location: Township(s): \_\_\_\_\_ Range(s): \_\_\_\_\_

Section(s): \_\_\_\_\_ Quarter Section(s): \_\_\_\_\_ Govmnt Lot(s): \_\_\_\_\_

County: \_\_\_\_\_ Lake, Wetland or Watercourse Project Will Affect:

(name and MN-DNR number, if known): \_\_\_\_\_

II. PROJECT TYPE: \_\_\_\_\_

III. BRIEF EXPLANATION OF PROJECT: (Include sketch showing dimensions): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

IV. WHY IS PROJECT NEEDED?: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

V. ENVIRONMENTAL IMPACT: (Anticipated changes to water and related land  
resources, including unavoidable but detrimental effects): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## VI. ALTERNATIVES TO THE ACTION PROPOSED: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## VII. CHECKLIST OF ADDITIONAL PROJECT DATA ENCLOSED:

\_\_\_ Ground level photo(s) showing water conditions at project site, upland conditions, aquatic vegetation, and proposed spoil disposal area (if applicable).

\_\_\_ Plat map (if proposed project is on property in a platted area).

\_\_\_ Sketches/Engineering plans (including cross-sectional sketch and top view sketch).

\_\_\_ Location/Vicinity map (to clearly show how project site can be reached).

\_\_\_ List of type of machinery that will be used to construct project.

\_\_\_ Aerial photos (mandatory for watercourse re-alignment projects)

\_\_\_ Environmental assessments/Environmental Impact Statements

\_\_\_ Additional Information (specify): \_\_\_\_\_

## VIII. DEPARTMENT NOTATIONS AND SIGNATURE:

The project as described above has been reviewed by the Department and found to be \_\_\_\_\_ consistent \_\_\_\_\_ not consistent with State Rules. The basis for this finding and/or suggested mitigation measures or project modifications are presented below or on attached sheets:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Regional Hydrologist

\_\_\_\_\_  
Date

EXHIBIT 3

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USDA FOREST SERVICE PROJECT NO. \_\_\_\_\_

\_\_\_\_\_ Appropriation and use of water

\_\_\_\_\_ Work in the beds of public waters

THIS PROJECT HAS BEEN REVIEWED BY THE COMMISSIONER MINNESOTA  
DEPARTMENT OF NATURAL RESOURCES PURSUANT TO A SUPPLEMENTAL AGREEMENT  
DATED 5/25/88 WITH THE SUPERIOR AND CHIPPEWA NATIONAL  
FORESTS. THIS AGREEMENT IS SUPPLEMENTAL TO MASTER MEMORANDA OF  
UNDERSTANDING WITH EACH FOREST DATED 18 MARCH 1981 FOR THE SUPERIOR  
NATIONAL FOREST AND 28 DECEMBER 1976 FOR THE CHIPPEWA NATIONAL FOREST.

POST CONSPICUOUSLY AT PROJECT SITE

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[note: This poster will be printed by the Forests on 8.5" X 5.5" florescent orange stiffened waterproof paper similar to that used for the standard Department permit poster card. The poster will be prominently displayed at Forest project sites during the period construction activities are taking place. The poster will be a substitute for the Department's standard poster card and is intended to provide contractors with evidence that the project has been reviewed by the Department.]

## **PART VII**

### **APPENDIX H**

#### **Authorities**

## APPENDIX H AUTHORITIES

### Minnesota Statutes

All statutes referenced as part of Minnesota's Lake Superior Coastal Program may be viewed on the Internet at: [www.leg.state.mn.us/leg/statutes.html](http://www.leg.state.mn.us/leg/statutes.html). At the home page you will be asked to enter the chapter number of the statute.

Minn. Stat. ch. 14	Game and Fish Rulemaking
Minn. Stat. ch. 17	Aquaculture
Minn. Stat. ch. 18	Exotic Species
Minn. Stat. ch. 18D	Agricultural Chemical Liability, Incidents and Enforcement
Minn. Stat. ch. 84	Department of Natural Resources
Minn. Stat. §84.033	Scientific and Natural Areas
Minn. Stat. §84.415	Utility Companies, Permit to Cross State-Owned Lands
Minn. Stat. §88.16	Starting Fires
Minn. Stat. §88.17	Permission to Start Fires
Minn. Stat. ch. 89	Minnesota Forest Management Act of 1982
Minn. Stat. ch. 89A	Minnesota Sustainable Forest Resources Act of 1995
Minn. Stat. ch. 90	State Timber Act
Minn. Stat. §92.45	State Land on Meandered Lakes Withdrawn From Sale
Minn. Stat. §92.5	Peat Leasing Program
Minn. Stat. §93.08 - 93.12	Metallic Minerals Leasing Program
Minn. Stat. §93.14 - 93.28	Iron Ore/Taconite Leasing Program
Minn. Stat. §93.25	Metallic Minerals Leasing Program
Minn. Stat. §93.44 - 93.51	Mineland Reclamation Program
Minn. Stat. ch. 97A	Game and Fish
Minn. Stat. ch. 97B	Hunting
Minn. Stat. ch. 97C	Fishing
Minn. Stat. ch. 103F	Floodplain Management Act
Minn. Stat. §103F .201 - 103 F .221	Shoreland Management Act
Minn. Stat. §103F .211	Shoreland Development Model Standards and Criteria
Minn. Stat. ch. 103G	Waters of the State
Minn. Stat. ch. 103G	Protected Water Program
Minn. Stat. §103G .201 - 103 G .315	Public Waters Inventory
Minn. Stat. §103G .221 - 103G .23	Public Water Wetlands
Minn. Stat. §103G .245	Work in Public Waters
Minn. Stat. §103G .271 - 103 G .315	Appropriation and use of Water/Denial and issuance of Permits
Minn. Stat. ch. 103H	Groundwater Protection Act
Minn. Stat. ch. 103I	Wells, Borings, and Underground Uses
Minn. Stat. ch. 103I	Exploratory Borer Registration Program
Minn. Stat. ch. 115	Water Pollution Control Act
Minn. Stat. ch. 115A	Waste Management
Minn. Stat. ch. 115B	Environmental Response and Liability
Minn. Stat. ch. 116	Pollution Control Agency
Minn. Stat. ch. 116B	Minnesota Environmental Rights Law
Minn. Stat. ch. 116C	Minnesota Environment Quality Board
Minn. Stat. §116C .51 - .69	Minnesota Power Plant Siting Act
Minn. Stat. ch. 116D	Minnesota Environmental Policy Act



Minn. Stat. §116I .01 - .11  
Minn. Stat. ch. 144  
Minn. Stat. ch. 394  
Minn. Stat. §400.01  
Minn. Stat. ch. 458  
Minn. Stat. ch. 462  
Minn. Stat. §471.59

Pipelines  
Safe Drinking Act  
Planning, Development, Zoning (County)  
Solid Waste Management, Policy and Authorization  
Water Transportation Facilities; Port Authorities  
Municipal Planning and Development  
Joint Exercise of Powers

### **Minnesota Rules**

All rules referenced as part of Minnesota's Lake Superior Coastal Program may be viewed on the Internet at: [www.revisor.leg.state.mn.us/forms/getrulechap.html](http://www.revisor.leg.state.mn.us/forms/getrulechap.html). At the home page you will be asked to enter the chapter number of the rule.

Minn. Rules 4410.0200 - 4410.8000	Water Quality - Definitions and Abbreviations
Minn. Rules ch. 4720	Drinking Water Rules
Minn. Rules ch. 4725	Minnesota Well Code
Minn. Rules ch. 4727	Exploratory Boring
Minn. Rules 6115.0010 - 6115.0810	Water Permits
Minn. Rules 6115.0190 - 6115.0231	Stream Crossings
Minn. Rules 6115.0300	Dams
Minn. Rules 6115.0600 - 6115.0810	Water Resources
Minn. Rules 6120.2500 - 6120.3900	Statewide Standards for "Management of Shoreland Areas"
Minn. Rules 6120.5000 - 6120.6200	Floodplain Management
Minn. Rules ch. 6125	Metallic Minerals Leasing Program
Minn. Rules ch. 6130	Mining Reclamation
Minn. Rules ch. 6131	Nonferrous Mining
Minn. Rules ch. 6132	Peatland Reclamation
Minn. Rules ch. 6133	Restitution Value for Fish and Wildlife
Minn. Rules 6135.0100 - 6135.1800	Utility Crossings of Public Lands and Waters
Minn. Rules ch. 6200 - 6290	Game and Fish Rules
Minn. Rules ch. 7001	NPDES & State Disposal Permits and Air Emission Permits
Minn. Rules ch. 7002	NPDES & Storm Water Permits and Air Emission Permit Fees
Minn. Rules ch. 7005	Air Quality Rules
Minn. Rules ch. 7007	Air Emission Permits
Minn. Rules ch. 7009	Ambient Air Quality Standards
Minn. Rules ch. 7011	Stationary Source Air Standards
Minn. Rules ch. 7017	Emission Standards
Minn. Rules ch. 7019	Emission Reporting
Minn. Rules ch. 7020	Animal Feedlots
Minn. Rules ch. 7021	Acid Deposition Controls
Minn. Rules ch. 7023	Mobile Source Air Quality Standards
Minn. Rules ch. 7025	Lead-based Paints
Minn. Rules ch. 7030	Noise Standards
Minn. Rules ch. 7040	Sewage Sludge Management
Minn. Rules ch. 7045	Hazardous Waste
Minn. Rules ch. 7048	Waste Treatment Facilities
Minn. Rules ch. 7050	Water Quality Standards
Minn. Rules ch. 7052	Water Quality Standard - Standard Implementation, and Non-degradation Standard for Great Lakes Initiative Pollutants in the Lake Superior Basin

Minn. Rules ch. 7060  
Minn. Rules ch. 7080  
Minn. Rules ch. 7100  
Minn. Rules ch. 8420

Underground Waters  
Onsite Septic Systems  
Oil and Hazardous Substances  
Wetland Conservation Act Rules

### **Other Documents**

#### **The Duluth Downtown Waterfront Plan**

A copy of this plan is available for review by contacting the Duluth Public Library Reference Section at (218)723-3802.

#### **Endion Waterfront Plan**

A copy of this plan is available for review by contacting the Duluth Public Library Reference Section at (218)723-3802.

#### **Grand Marais Comprehensive Plan**

A copy of this plan is available for review by contacting the Grand Marais Public Library - Reference Section at (218)387-1140.

#### **The North Shore Corridor Management Plan**

For more information or to review the Plan, please contact the Arrowhead Regional Development Commission (Duluth) at (218)722-5545.

#### **North Shore Harbors Plan**

A Recreational Boating Harbors Plan for Lake Superior's North Shore, June 1991

A copy of this plan is available from the Arrowhead Regional Development Commission (Duluth) at (218)722-5545 or for review by contacting the Duluth Public Library - Reference Section at (218)723-3802.

#### **North Shore Management Plan**

A copy of this plan is available from the Arrowhead Regional Development Commission (Duluth) at (218)722-5545 or for review by contacting the Duluth Public Library - Reference Section at (218)723-3802.

#### **St. Louis River Management Plan**

A copy of this plan is available from the Arrowhead Regional Development Commission (Duluth) at (218)722-5545 or for review by contacting the Duluth Public Library - Reference Section at (218)723-3802.

#### **St. Louis River Remedial Action Plan**

A copy of the St. Louis River Remedial Action Plan is available for review by contacting the Minnesota Pollution Control Agency (Duluth);704 Government Services Center; 320 West Second St.; Duluth, MN 55802 at (218)723-4660.

#### **Two Harbors Waterfront Development Plan, 1991**

A copy of this plan is available for review by contacting the Two Harbors Public Library - Reference Section at (218) 834-3148.

**The West Duluth Plan**

A copy of this plan is available for review by contacting the Duluth Public Library Reference Section at (218)723-3802.