

Statutory Obligations, Requirements and Abilities of Coon Creek Watershed District

Statutory Obligations of the Watershed District

The Water Law of this state is contained in many statutes that must be considered as a whole to systematically administer water policy for the public welfare. Water law that seems contradictory as applied to a specific proceeding creates a need for a forum where the public interest conflicts involved can be presented and, by consideration of the whole body of water law, the controlling policy can be determined and apparent inconsistencies resolved (M.S. 103A.211).

The Coon Creek Watershed District is a public body organized pursuant to the Watershed Law, M.S. 103D. The laws that influence its activity determine the basic purposes of the District. Most, but not all, of those statutes are listed.

While the Watershed District Act (103D) and the Metropolitan Water Management Act (103B) provide the most basic authorities for the District, the following statutes also influence the District's operation and priorities.

Statutes

Chapter 103A- Wetland Conservation Act (.201 (Subd. 2 (b)):

1. To achieve no net loss in the quantity, quality and biological diversity of Minnesota's existing wetlands;
2. Increase the quantity, quality, and biological diversity of Minnesota's wetlands by restoring or enhancing diminished or drained wetlands;
3. Avoid direct or indirect impacts from activities that destroy or diminish the quantity, quality, and biological diversity of wetlands;
4. Replace wetland values where avoidance of activity is not feasible and prudent.

Chapter 103A- Wetland Policy (.202):

1. To preserve Wetlands
2. To conserve waters
3. To maintain and improve water quality
4. To preserve wildlife habitat
5. To reduce runoff
6. To provide for floodwater retention
7. To reduce stream sedimentation
8. To contribute to improved subsurface soil moisture
9. To enhance the natural beauty of the landscape
10. To promote comprehensive and total water management

Chapter 103A- Rainwater Conservation Policy (.205):

1. To promote retention and conservation of all water precipitated from the atmosphere in the areas where it falls, as far as practicable.

Chapter 103A- Soil and Water Conservation Policy (.206):

1. To encourage land occupiers to conserve soil and water resources through the implementation of practices to that effectively reduce or prevent erosion, sedimentation, siltation and agriculturally related pollution.
2. To preserve natural resources
3. To Insure continued soil productivity
4. To control floods
5. To prevent impairment of dams and reservoirs
6. To assist in maintaining the navigability of rivers and harbors
7. To preserve wildlife
8. To protect the tax base
9. To protect public lands

Chapter 103A- Floodplain Management Policy (.207):

1. To reduce flood damages through floodplain management, stressing non-structural measures such as floodplain zoning and flood proofing, and flood warning practices
2. To guide development of floodplains consistent with legislative findings
3. To adopt, enforce and administer sound floodplain management ordinances

Chapter 103A- Marginal, Erodible Land Retirement Policy (.209):

1. To encourage the retirement of marginal, highly erodible land adjacent to public waters and drainage systems

Chapter 103A- Water Law Policy (.211):

1. To consider the water law of the state of Minnesota as a whole
2. To systematically administer water policy for the public welfare

Chapter 103B- Metropolitan Surface Water Management Act (.201):

1. To protect, preserve, and use natural surface and ground water storage and retention systems
2. To minimize public capital expenditures needed to correct flooding and water quality problems
3. To identify and plan for means to effectively protect and improve surface and groundwater quality
4. To establish uniform local policies and controls for surface and groundwater management
5. To prevent soil erosion into surface water systems
6. To promote ground water recharge,
7. To protect and enhance fish and wildlife habitat and water recreational facilities,

8. To secure the other benefits associated with the proper management of surface and ground water.

Chapter 103D- Watershed District Act (.201):

1. To conserve natural resources through:
 - Land use planning
 - Flood control
 - Other conservation projects
 - Use sound scientific principals for the protection of public health and welfare and the provident use of natural resources.

Specifically to:

1. Control or alleviate damage from flooding;
2. Improve stream channels for drainage, navigation, and any other public purpose;
3. Reclaim or fill wet or overflowed land;
4. Provide a water supply for irrigation
5. Regulate the flow of streams and conserve stream water;
6. Divert or change all or part of water course;
7. Provide or conserve water supply;
8. Provide for sanitation and public health and regulate the use of streams, ditches or water courses to dispose of waste;
9. Repair, improve, relocate, modify, consolidate, and abandon all or part of drainage systems within a watershed district;
10. Control or alleviate soil erosion and siltation of watercourses or water bodies;
11. Regulate improvements by riparian property owners of the bed, banks, and shores of lakes, streams, and wetlands for preservation and beneficial use;
12. Provide for hydroelectric power generation
13. Protect and enhance the water quality in watercourses or water basins; and
14. Provide for the protection of groundwater and regulate its use to preserve it for beneficial purposes

Chapter 103E- Drainage Act (.011):

1. To construct and maintain drainage systems;
2. To deepen, widen, straighten, or change the channel or bed of a natural drainage way that is part of the drainage system or is located at the outlet of the drainage system;
3. To extend the drainage system into or through a municipality for a suitable outlet;
4. To construct dikes, dams, and control structures.
5. To receive permission from the Commissioner of the Department of Natural Resources to:
 - Remove, construct or alter a dam affecting public water
 - Establish, raise, or lower the level of public water
 - Drain any portion of a public water
6. Before establishing or conducting a drainage project consider **(.015)**:
 - Private and public benefits and costs of the project

- The present and anticipated agricultural land acreage availability and use
- The present and anticipated land use within the drainage project or system
- Flooding characteristics of property in the drainage project or system and downstream for the 5-, 10-, 25-, and 50-year flood events
- The waters to be drained and alternative measures to conserve, allocate, and use the waters including storage and retention of drainage waters
- The effect on water quality
- The effect on fish and wildlife
- Shallow ground water availability
- The overall environmental impact of the above criteria

Chapter 116B-Environmental Rights Act (.01):

1. To create and maintain 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 we have been endowed.

Chapter 116C-Environmental Coordination Procedures Act (.22):

1. To coordinate with and increase the understanding between state and local agencies in the administration of the various programs relating to air, water and land resources.

Chapter 116D-Environmental Policy Act (.04):

1. To encourage productive and enjoyable harmony between human beings and their environment;
2. To promote efforts that will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of human beings; and
3. To enrich the understanding of the ecological systems and natural resources important to the state and the nation.

Statutory Requirements

The following Minnesota Statutes *require* the watershed district to:

Administration

The Board must:

1. Take oaths of office (103D.315 Subd 1).
2. File performance bonds (103D.315 Subd 2).
3. Elect managers as president, secretary, and treasurer (103D.315, Subd. 3).
4. Adopt a seal for the watershed district (103D.315 Subd 4).
5. Hold meetings at least annually (103D.315, Subd. 10).
6. Adopt bylaws for the administration of business and affairs of the watershed district (103D.315, Subd. 11).
7. Designate a public facility within the watershed district as a principal place of business (103D.321, Subd. 1).

Records:

1. Keep efficient records of all business done and meetings held by the Board of Managers (103D.315, Subd. 5).

Financial Management:

1. Have an annual audit completed of the books and accounts of the district (103D.355).

Development Regulation and Land Use

1. Adopt rules to accomplish the purposes of M.S. 103D and implement the powers of the managers (103D.341).
2. Charge a permit application fee to defray the cost of administering permit applications (103D.345)

Planning

1. Prepare a local water management plan, capital improvement program, and official controls as necessary to bring local water management into conformance with the watershed plan (103B.231).
2. Adopt a watershed management plan (103D.401).
3. Revise and update the water management plan every 10 years (103D.405)
4. Prepare a yearly report (103D.351).

Operations and Maintenance

1. Manage transferred county ditch systems (103D.625 Subd 1).
2. Maintain transferred projects in a condition to accomplish their constructed purpose (103D.631 Subd 1)

Public and Government Relations

1. Appoint an advisory committee (103D.331, Subd. 1).
2. Establish a technical advisory committee (103D.337)

3. Conduct public hearings on planning and budgeting (103D.401 Subd 4; 103D.729 Subd 3; 103D.911)
4. Recognize preexisting rights to use the waters of the watershed district at those rights existed at the time the watershed district was established (est. 5/28/59) (103D.515 Subd 2)

Statutory Abilities

To accomplish the above, the following Minnesota Statutes *enable* the watershed district to:

1. Certify for payment by the county all or any part of the cost of a capital improvement contained in the capital improvement program of the plan (103B.251).
2. Change the boundaries of the watershed district (103D.251).
3. Employ a chief engineer, professional assistants, and other employees (103D.325, Subd. 1).
4. Perform all acts expressly authorized, and all other acts necessary and proper for the watershed district to carry out and exercise the powers expressly vested in it (103D.335, Subd. 1).
5. Cooperate or contract with any state or subdivision of a state or federal agency, private corporation, political subdivision, or cooperative association (103D.335, Subd. 7).
6. Construct, clean, repair, alter, abandon, consolidate, reclaim, or change the course or terminus of any public ditch, drain, sewer, river, watercourse, natural or artificial, within the watershed district (103D.335, Subd. 8).
7. Enter lands inside or outside the watershed district to make surveys and investigations to accomplish the purposes of the watershed district (103D.335, Subd. 14).
8. Make contracts or other arrangements with private and public organizations and corporations for cooperation or assistance in the operations of the watershed district (103D.335, Subd. 21).
9. Charge application and/or field inspection fees (103D.345).
10. Establish projects (103D.601).
11. Initiate emergency projects (103D.615).
12. Determine benefits and damages (103D.721).
13. Build, construct, reconstruct, repair, enlarge, improve, or in any other manner obtain, maintain, or operate storm water systems (103D.730).
14. File special assessments and collect levies (103D.905).
15. Construct, maintain, deepen, widen, straighten, extend, or change the channel or bed of drainage systems and construct necessary control structures (103E.011).
16. Determine property liability for drainage system costs (103E.601).
17. Conduct research (103D.335).
18. Acquire land rights by eminent domain.(103D.335)
19. Purchase district insurance. (103D.335)
20. Borrow money (103D.335).
21. Join association of watershed districts (103D.335).
22. Administer grants (103D.335).
23. Petition for consolidation with another watershed district (103D.265).
24. Require permit applicant to file bond (103D.345).
25. Seek court orders enforcing rules/permits (103D.545).

Analysis of Management Principles and Resource Concerns Emphasized in Minnesota State Statutes

Principle Analysis

The above statutes were reviewed and key principles that provide direction to water and related land management were counted. The results reflect the number of times a given term was used (frequency) and the number of statutes in which it was used. Emphasis is the product of frequency x number of statutes.

Principle	# Citations	# Laws	Product
Conserve. prevent, preserve, protect	16	4	64
Comprehensiveness	4	3	12
Health, safety, & welfare	3	3	9
Control	3	2	6
Improve	3	2	6
Alternatives	2	2	4
Awareness of effects	4	1	4
Future	2	2	4
Harmony	2	2	4
Promote/Provide	2	2	4
Construct	2	1	2
Regulate	2	1	2
Use	2	1	2
Benefit Cost Analysis	1	1	1
Coordinate	1	1	1
Maintain	1	1	1
Manage	1	1	1
Reduce	1	1	1
Scientific principals	1	1	1

Resource Concerns Analysis

The above statutes were also reviewed for the resource concerns that appear to be emphasized in the State's water law as a whole. The results reflect the number of times a given term was used (frequency) and the number of statutes in which it was used. Emphasis is the product of frequency x number of statutes.

Resource Concern	Freq	# Laws	Emphasis
Flooding	5	3	15
Lands/Property/Natural Resources	4	3	12
Soils	4	3	12
Water Quality	4	3	12
Drainage	5	2	10
Wetland	5	2	10
Ground water	3	3	9
Wildlife	3	3	9
Water supply	3	2	6
Water Features	2	1	2
Impoundments	1	1	1

