

# Appendix C

## **Legal, Institutional, and Economic Framework for Water and Land Conservation and Sustainable Management**

### **Purpose**

To present an analysis of, and method for, organizing and discussing the factors critical to the long-term management of the watershed. It is intended as an overall organization of facts.

### **Goal**

To address available management tools (pertinent statutes, levy and special assessment authority, intergovernmental cooperation and public relations).

The goal is to assess the managerial capabilities and needs that affect each of these items, and determine the capability and feasibility of addressing the social needs and demands within the capability and constraints of the physical resource.

### **Scope**

The assessment is organized as follows:

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## Appendix A-1

### *ORGANIZATIONAL*

#### **History – Chronology of Milestone Events**

The following are key dates and events affecting the organization and direction of the Coon creek Watershed District:

<b>Year</b>	<b>Event(s)</b>
<b>1954</b>	<p>Organized efforts to solve water problems in the Coon Creek Watershed began when a steering committee was formed to support a flood control project. Flooding had become a severe problem. Annual flooding of large areas was hurting the agricultural economy of the area, and damaging homes and property along the creek.</p> <p>A petition for a P.L. 566 study of the Coon Creek Watershed was submitted to the U.S. Department of Agriculture Soil Conservation Service (SCS). The SCS completed a "Watershed Work Plan" in 1958 with the help of the Anoka Soil and Water Conservation District and the Anoka County Board of Commissioners.</p>
<b>1959</b>	<p><u>January 8</u>: A nominating petition to establish the Coon Creek Watershed District was signed by the Chairman of Anoka County Board of Commissioners, and was filed with the Minnesota Water Resources Board.</p> <p><u>February 12</u>: The Water Resources Board held a hearing on the establishment of the Coon Creek Watershed District in Coon Rapids.</p> <p><u>May 28</u>: The Water Resources Board issued its Findings of Fact, Conclusions of Law and Order which established the District.</p>
<b>1961</b>	<p><u>February 6</u>: The Board of Managers adopted their initial Overall Plan and submitted their plan to the Water Resources Board.</p> <p><u>April 14</u>: The Water Resources Board Prescribed an Overall Plan for the District.</p>
<b>1967</b>	<p>The State of Minnesota gave the Metropolitan council the responsibility of preparing a "Development Guide" regional plan for the seven county metropolitan area.</p>
<b>1972</b>	<p>The passage of the Clean Water Act (U.S. Code, Title 33)</p>

- 1977** An amendment to Clean Water Act brings water quality goals of the nation and the region into sharp focus.
- Section 208 of the Act requires the preparation of "area-wide waste water treatment management plans" to address both point and non-point pollution sources.
- 1979** The Metropolitan Council initiated extensive field investigations to examine the impact of non-point source runoff on the region's lakes, streams and rivers.
- The investigations revealed that, "Indeed, nonpoint source pollution is a major problem for all receiving waters in the Metropolitan Area".
- 1982** The Metropolitan Council published Part 2 of its Metropolitan Development Guide. The guide fulfills the federal requirements as the Region's plan for controlling non-point source pollution under section 208 of the Clean Water Act.
- The Council's work also supported concerns and work within the Minnesota Legislature that resulted in the passage of the *Metropolitan Water Management Act* in 1982 (Chapter 509, Laws of 1982, Minnesota Statutes Sections 473.875 to 473.883).
- The Metropolitan Water Management Act sets out 7 goals and requires the watershed district to develop a Comprehensive Plan to pursue and achieve those goals
- 1987** The Metropolitan Water Management Act is amended to authorize ground water planning.
- 1988** July 27: The first Comprehensive Plan for the Coon Creek Watershed District required under the Metropolitan Water Management Act is approved by the Board of Water and Soil Resources.
- 1990** The Metropolitan Water Management Act is revised.
- 1991** The Legislature enacts the Wetland Conservation Act establishing a "No Net Loss of Wetlands" for the state.
- The Legislature enacts Redding Bill which requires ponding for development resulting in greater than 1 acre of impervious area.
- The U.S. Environmental Protection Agency requires an erosion control

permit for development greater than 5 acres in size.

**1992** The BWSR adopts rules governing planning and reporting under the Metropolitan Water Management Act.

The Metropolitan Council adopts an interim policy on Non-Point Source Pollution control that requires ‘pre-treatment prior to discharge’ in to waters of the state.

**1993** The BWSR proposes rules (MR 8420) for implementing the Wetland Conservation Act.

The Pollution Control Agency adopts rules (MR 7050) for wetlands and water quality standards.

**1995** The Wetland Conservation Act is amended and revised.

**2000** The Wetland Conservation Act is amended and revised.

August: The MPCA sampled four sites within the watershed.

**2003** February: The Minnesota Pollution Control Agency informs the Coon Creek Watershed District that the public ditch system under the Watershed District’s jurisdiction functions as a storm sewer, the District had been included in a group of Municipal Separate Storm Sewer Systems (MS4s) under the National Pollution Discharge Elimination System (NPDES).

May: Coon Creek develops and submits its first Storm Water Pollution Prevention Plan (SWPPP) required as an MS4 under the Federal NPDES program administered by the MPCA.

**2004** The BWSR approves the second generation Comprehensive Plan required under the Metropolitan Water Management Act. The scope of the plan is 2000 to 2010.

**2006** June: The Minnesota Pollution Control Agency (MPCA) lists Coon Creek, Sand Creek, Pleasure Creek and Springbrook Creek as biologically impaired and listed these resources on the 303d list reported to the U.S. Environmental Protection Agency as required.

The Impairment is listed as a Category 5C, meaning the water quality standard is not attained due to “suspected” natural conditions. Further, the water is impaired for one or more designated uses by a pollutant(s) and may require development of a Total Maximum Daily Load (TMDL) to bring the pollutant under control. Water Quality Standards for these waters may be re-

evaluated due to the presence of natural conditions.

November: Coon Creek develops and submits its second Storm Water Pollution Prevention Plan (SWPPP) required as an MS4 under the Federal NPDES program administered by the MPCA.

**2007** The Wetland Conservation Act is amended and revised.

District coordinates efforts of Andover, Blaine and Coon Rapids and develops own Non-Degradation Report required by MPCA.

**2008** The BWSR Performs a ‘Performance Review’ of the District’s operations and programs through its PRAP program.

The review found that the CCWD is making good progress in the implementation of the comprehensive watershed management plan. The District is efficient in its administrative, planning, execution and communication-coordination functions. The district’s annual reports and work plans provide good documentation of progress and the trends, issues and needs facing the district.

**2009** MPCA requests CCWD staff to participate in Tiered Aquatic Life Uses (TALU) work team and rule development

MPCA requests CCWD staff to participate in Minimal Impact Design Standards work team.

MPCA requests CCWD staff to participate in Watershed Approach work team.

CCWD Staff requested to be part of County Groundwater Assessment

**2010** District contributes funds to the development of County Geologic Atlas

## **Appendix A-2**

# **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.

**Frequency Analysis of 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	Freq	# Laws	Product
<b>Conserve, prevent, preserve, protect</b>	<b>16</b>	<b>4</b>	<b>64</b>
<b>Comprehensiveness</b>	<b>4</b>	<b>3</b>	<b>12</b>
<b>Health, safety, &amp; welfare</b>	<b>3</b>	<b>3</b>	<b>9</b>

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
<b>Flooding</b>	<b>5</b>	<b>3</b>	<b>15</b>
<b>Lands/Property/Natural Resources</b>	<b>4</b>	<b>3</b>	<b>12</b>
<b>Soils</b>	<b>4</b>	<b>3</b>	<b>12</b>
<b>Water Quality</b>	<b>4</b>	<b>3</b>	<b>12</b>
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

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## Appendix A-3

### 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)

## Appendix A-4

### 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).





## **Organization of the Coon Creek Watershed District**

In 1990 the Board adopted the following statement of mission to provide more direction to this charge.

### **STATEMENT OF MISSION**

To manage groundwater and the surface water drainage system to  
Prevent property damage,  
Maintain hydrologic balance and  
Protect water quality  
for the safety and enjoyment of citizens, and the preservation and  
enhancement of wildlife habitat.

The District intends to do this by using the natural drainage system to  
provide for conveyance and disposal of storm water runoff without  
degrading the natural system.

### **Intent**

The above statutes emphasize a comprehensive approach to the wise use, preservation, and protection of water and related land resources for the public health, safety and welfare. While the statutes address almost all water resource features, they emphasize flood control and the protection of the soil and water quality. To this end the District's most basic responsibilities are:

1. To protect the health and safety of the present and future people that live, and will live, within the watershed.
2. To provide for opportunities and uses of the water and related natural resources of the watershed which are demanded and appropriate for the area. Appropriate refers to the natural ability of the water and related resources to continue to perform and function on their own or with a minimum subsidy or cost to the public at large;
3. To prevent unacceptable damage to the water and related natural resources of the watershed. Unacceptable here refers to the decreasing or diminishing the ability of the water and related resources to continue to perform and function on their own in perpetuity.

