

State

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STATE OF
MINNESOTA

Register

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EXECUTIVE ORDERS

Executive Order No. 102A

Amending Executive Order No. 102 by Restating Sections of Appendix 1 — Natural Disaster Assignments

I, Wendell R. Anderson, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order:

WHEREAS, Executive Order Number 102 assigned emergency responsibilities to State agencies; and,

WHEREAS, certain responsibilities assigned to the Department of Aeronautics and the Department of Public Service are now under the jurisdiction of the Minnesota Department of Transportation:

NOW, THEREFORE, I order that:

1. Section 1-301 of Appendix 1 be entitled and read as follows:

PART III — DEPARTMENT OF TRANSPORTATION

The use of aircraft for transportation in an emergency and for search in aircraft accidents will be coordinated by the Department of Transportation. The Department will establish flight restrictions to the extent authorized by federal law over disaster areas when requested by the State Division of Emergency Services or other appropriate authority.

2. Part XV — Department of Public Service be deleted, and Sections 1-1501 and 1-1502 be made a part of Part III, becoming Sections 1-302 and 1-303.

This order shall be effective upon publication in the *State Register* and shall remain in force until rescinded by the proper authority.

IN TESTIMONY WHEREOF, I hereunto set my hand on this 27th day of December, 1976.

Wendell R. Anderson

RULES

Department of Public Safety Motor Vehicle Division

Rules Adopted as Proposed

The following rules are adopted and are identical in every respect to their proposed form as published in *State Register* Vol. 1, No. 5, August 9, 1976 (1 S.R. 199-201), and are published here by reference only as provided in RGSTR 5.

Chapter Four: Personalized Plates: Applications, Issuance, Transfer and Refunds

MoVeh 50 Purpose.

MoVeh 51 Scope.

MoVeh 52 Definitions.

MoVeh 54 Application, contents and review.

MoVeh 55 Replacement plates.

MoVeh 56 Fees.

MoVeh 57 Refunds.

MoVeh 58 Assignment of plates.

MoVeh 59 Initial issue.

MoVeh 60 Reservation data.

MoVeh 61 Daily sequencing of applications.

MoVeh 62-69 Reserved for future use.

Rules Adopted with Amendments

The following rules are adopted and have been amended from their proposed form as published in *State Register* Vol. 1, No. 5, August 9, 1976 (1 S.R. 200).

MoVeh 53 Plates, format and content.

A. The characters displayed upon a personalized plate may be only:

1. The following upper-case letters: A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, and Z.

2. The following numbers: 0, 1, 2, 3, 4, 5, 6, 7, 8, and 9.

[[3. A hyphen.]]

B. The plates shall be manufactured with the paint color, character size, character type style, reflective material and other specifications used by the Division for vehicles registered pursuant to Minn. Stat. § 168.017 for the appropriate plate year.

C. All plates shall have at least one character.

D. No characters other than those specified in MoVeh 53 A.1. and 2. will be permitted.

E. No plate shall be a duplicate of any current personalized plate or a duplicate of any plate in a numbering system used by the Division. The specific numbering systems prohibited on personalized plates shall be indicated on applications for personalized plates.

F. No plate used by the Division for other types of vehicles will be recalled from storage and destroyed in order that the combination may be issued as a personalized plate.

G. An applicant may elect to group characters by spacing and/or hyphenation. A space or hyphen is not a character. The maximum number of characters is six. Combinations of characters, [[and]] spaces and/or hyphens totaling more than seven will be rejected. No more than one space or hyphen is permitted between adjoining characters. If the total of characters, [[and]] spaces and/or hyphens is less than seven, the Division shall have the right to center the characters, [[and]] spaces and/or hyphens on the plate.

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface**. Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

PROPOSED RULES

Department of Natural Resources

Designation of the Public Waters of McLeod County and Delegation of Certain Permit Authority to the McLeod County Board of Commissioners.

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the Assembly Room of the McLeod County Courthouse, Glencoe, Minnesota on Monday, February 14, 1977 commencing at 2:00 p.m. and again at 7:30 p.m. and continuing until all persons have had an opportunity to be heard. The hearing will be conducted as provided by Minn. Stat. §§ 15.0411 through 15.051 and § 15.052 and as provided by the rules for rule-making of the Office of Hearing Examiners.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to:

Howard L. Kaibel, Jr.
1745 University Avenue
St. Paul, Minnesota 55105

either before the hearing or within 20 days after the close of the hearing.

The proposed rules, if adopted, would officially identify the public waters of McLeod and would provide the basic criteria whereby the McLeod County Board of Commissioners may issue or deny permits for certain activities that would change the course, current, or cross-section of certain public waters within their political boundaries. Copies of the proposed rules are now available and one free copy may be obtained by writing to the Minnesota Department of Natural Resources, Division of Waters, 345 Centennial Office Building, St. Paul, Minnesota 55155. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Laws of 1976, ch. 83, particularly §§ 8 and 10. A "statement of need" explaining why the agency feels the proposed rules are necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

A body of water designated as public waters is subject to the jurisdiction of the Commissioner of Natural Resources for changes that may be proposed in the body of water. Designation as public waters does not transfer ownership of the bed or shore nor does it provide members of the public with public access if it was not available before the classification.

Please be advised that pursuant to Minn. Stat. § 10A.01, subd. 11 (1974) any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual.

Robert L. Herbst
Commissioner of Natural Resources

Rules as Proposed

NR 5343 McLeod county public waters

A. Authority and scope.

1. This rule identifies the waterbasins and watercourses in McLeod County which are public waters, classifies the watercourses, and delegates to the McLeod County Board of Commissioners certain of the regulatory authority of the Commissioner of the Department of Natural Resources over the Class III watercourses in the county.

2. This rule is adopted pursuant to Laws of 1976, ch. 83.

B. Water basins which are public waters.

1. The following water basins of the county are public waters:

Number and Name	Township (Section)
43-12: Winsted Lake	Winsted (2, 11, 12)
-13: Grass Lake	Winsted (3, 9, 10)
-14: South Lake	Winsted (11-14)
-33: Mud Lake	Rich Valley (2, 3) and Hale (34, 35)
-34: Silver Lake	Rich Valley (4) and Hale (33, 34)
-40: Swan Lake	Hale (28-32)
-42: Rice Lake	Sumter (12) and Glencoe (7)
-47: Unnamed	Penn (4, 9)
-48: Baker Lake	Penn (7, 8, 17, 18, 20)
-50: King Lake	Penn (10, 15)
-53: Penn Marsh	Penn (28)
-56: Lake Mary	Sumter (8, 17)
-57: Unnamed	Sumter (11)
-58: Ryan Lake	Sumter (11-13)
-59: Unnamed	Sumter (13-14)
-60: Clear Lake	Sumter (13, 24)

PROPOSED RULES

-61: Lake Addie	Sumter (19, 30, 31)
-63: Unnamed	Sumter (27, 34)
-67: Little Bear Lake	Hutchinson (3, 9, 10)
-68: O'Mera Lake	Hutchinson (4)
-69: Unnamed	Hutchinson (4, 5)
-70: Longanans Lake	Hutchinson (5, 6)
-71: Todd Lake	Hutchinson (5, 8)
-73: Lake Hook	Hutchinson (8, 9, 17)
-74: Lake Emily	Hutchinson (9)
-75: Tomlinson Lake	Hutchinson (10, 11, 14, 15)
-76: Bear Lake	Hutchinson (10, 15)
-77: Sustucek Lake	Hutchinson (14)
-78: Pikers Lake	Hutchinson (15, 16)
-79: Harrington Lake	Hutchinson (15, 22)
-80: Unnamed	Hutchinson (16)
-81: Echo Lake	Hutchinson (6, 17)
-84: Lake Marion	Collins (1, 12, 13) and Lynn (35, 36)
-85: Otter Lake (Campbell Lake)	Acoma (25, 26, 35, 36) and Lynn (1-3, 10, 11)
-90: Unnamed	Round Grove (13)
-93: Kujas Lake	Round Grove (25, 26, 35, 36)
-97: Whitney Lake	Collins (10, 11, 15)
-98: Eagle Lake	Lynn (33) and Collins (3, 4, 9)
-99: Lake Ellen	Lynn (22, 23)
-100: Lake Barber	Lynn (26, 27, 34, 35)
-101: Rasmussen Slough (Mud Lake)	Lynn (27, 33, 34)
-102: Dettmans Marsh	Acoma (1, 11, 12)
-103: Clear Lake	Acoma (9, 16)
-104: Stahl Lake	Acoma (10, 11, 15)
-105: Mud Lake	Acoma (11)
-106: Unnamed	Acoma (11, 14)
-107: Schleuter Slough	Acoma (12)
-108: Campbells Lake	Acoma (12, 13)
-109: French Lake	Acoma (14, 15)
-112: Pierce Lake	Acoma (22)
-113: Fernold Lake	Acoma (24)
-124A: Biehoffers Lake	Glencoe (14)
-129A: Halva Marsh	Hassen Valley (1)
-131A: Unnamed	Collins (5)

2. The following boundary water basins, which lie predominantly in McLeod County, are public waters:

Number and Name	McLeod Township (Section)	Adjacent County
43-20: Coon Lakes	Winsted (5)	Wright
43-88: Ward Lake	Round Grove (33)	Sibley
43-115: Cedar Lake	Acoma (4-6, 8, 9)	Meeker
43-116: Round Grove Lake	Round Grove (6, 7)	Sibley, Renville
43-117: Prieve Marsh	Acoma (31)	Renville

3. The following boundary water basins, which lie predominantly in adjacent counties, are public waters

subject to a public waters hearing conducted in those counties:

Number and Name	McLeod Township (Section)	Adjacent County
10-127: Campbell	Winsted (13)	Carver
10-128: Unnamed	Winsted (1)	Carver
47-4: Lake Byron	Hutchinson (2)	Meeker
47-43: Unnamed	Acoma (1)	Meeker
47-49: Belle Lake	Acoma (2, 3)	Meeker
72-57: Mud Lake	Penn (25, 36)	Sibley
86-253: Butternut Lake	Hale (1)	Wright
86-254: Unnamed	Hale (4)	Wright
86-255: Shakopee Lake	Hale (4, 5)	Wright

C. Watercourses which are public waters.

The following watercourses of the county are public waters:

1. Class I

South Fork Crow River.

2. Class II

Bear Creek (downstream from n. section line, Sec. 17, Rich Valley Township).
Buffalo Creek.
High Island Creek (Downstream from J. D. No. 11 outlet, e. c. Sec. 19, Round Grove Township).

3. Class III

Bear Creek (Silver Lake outlet to n. section line, Sec. 17, Rich Valley Township).
Crane Creek and tributaries.
Mc Cuen Creek and tributaries.
Otter Creek (downstream from C. D. No. 10-A outlet, N.W. corner Sec. 34, Winsted Township.) and tributaries.
Silver Creek (downstream from C. D. No. 5 outlet, W. section line, Sec. 14, Bergen Township).

Unnamed tributaries to the South Fork Crow River out-letting in:

Sec. 8, Bergen Township (downstream from C. D. No. 32 outlet).
Sec. 13, Rich Valley Township.
Sec. 23, Rich Valley Township.

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface**. Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

PROPOSED RULES

Sec. 22, Rich Valley Township.
Sec. 30, Rich Valley Township.
Sec. 31 (n. e.), Rich Valley Township.
Sec. 31 (s. w.), Rich Valley Township.
Sec. 16, Hassen Valley Township.
Sec. 34, Acoma Township.
Sec. 3, Lynn Township.
Sec. 30, Acoma Township.

Unnamed tributaries to Buffalo Creek outletting in:

Sec. 24, Bergen Township.
Sec. 15, Helen Township.
Sec. 18, Glencoe Township.
Sec. 14, Glencoe Township.
Sec. 23, Glencoe Township.
Sec. 34, Glencoe Township.
Sec. 35, Sumter Township.
Sec. 28, Sumter Township.
Sec. 19, Sumter Township.
Sec. 23, Collins Township.
Sibley County, leaving McLeod County in Sec. 32, Glencoe Township;
Sec. 1, Penn Township; and Sec. 12, Penn Township.

Unnamed tributaries to High Island Creek outletting in:

Sec. 23, Penn Township.
Sec. 22, Penn Township.
Sec. 16, Penn Township.

Unnamed tributaries to:

Belle Lake, Sec. 3, Acoma Township.
Clear Lake, Sec. 9, Acoma Township.
Otter Lake, Sec. 26, Acoma Township.
Otter Lake, Sec. 35, Acoma Township.
Stahl Lake, Sec. 10, Acoma Township.
Stahl Lake, Sec. 11 (s. w.), Acoma Township.
Stahl Lake, Sec. 11 (n. w.), Acoma Township.
Longanans Lake, Sec. 6, Hutchinson Township.
J. D. No. 11 (Wright-McLeod), Sec. 1, Hale Township.
Lake Allen, Sec. 22, Lynn Township.
Eagle Lake, Sec. 4, Collins Township.
Marion Lake, Sec. 12, Collins Township.
Lake Mary, Sec. 8, Sumter Township.
Ryan Lake, Sec. 11, Sumter Township.
Lake Addie, Sec. 30, Sumter Township.
Lake Addie, Sec. 31, Sumter Township.
Baker Lake, Sec. 7, Penn Township.
Baker Lake, Sec. 20, Penn Township.
Mud Lake, Sec. 36, Penn Township.

and all other natural watercourses outletting into public waters. Those portions of the above Class III public watercourses that are separately distinguished on the official public waters maps (illustrative copy of which is attached) have been significantly altered through ditch construction other than under Minn. Stat. ch. 106, or prior applicable laws, prior to this rule hearing.

4. Class IV

County Ditches Nos. 3, 5, 8, 10-A, 11, 12-A, 13, 15-A, 16, 24, 26, 27, 28, 29, 30, 32, 35, 36, 39, 40, 63, and 64.

Judicial Ditches Nos. 1 (Renville — McLeod — Meeker), 1 (McLeod — Carver), 4 (McLeod — Renville), 8 McLeod — Sibley), 9 McLeod), 11 (Sibley — McLeod — Renville), 11 (McLeod — Wright), 15 (Sibley — McLeod), 17 (Sibley — McLeod), and 18 (Sibley — McLeod).

D. Regulation of the waters of the county.

1. This rule does not relate to appropriation and use of waters of the state, for which permits from the commissioner of natural resources are required by Minn. Stat. § 105.41 whether or not the water is listed as "public" in this rule.

2. Any activity which will change the course, current or cross-section of a public water basin, or Class I or Class II watercourse, requires a permit from the commissioner of natural resources pursuant to Minn. Stat. §§ 105.42 or 105.64 or other statutes. In addition, utility crossings require a permit pursuant to § 84.415.

3. In the Class III and Class IV watercourses of the county, the following activities require a § 105.42 or § 105.64 permit from the commissioner of natural resources.

a. Any activity which would require a change in the course, current, or cross-current of a class I or class II public water course, except where that construction is only to make a physical connection and no other changes occur, or a public water basin, as listed in rule, as a result of the activity in the class III or class IV public watercourse.

These activities affect public waters not specifically delegated to the county.

b. Any diversion of water from a class III public watercourse into a different watershed which is not part of the same drainage basin.

These activities have the potential of significantly altering the flow regime of two or more watersheds, the result of which often affects areas of more than local significance, requiring the kind of analysis that should not have to be borne by the local government.

c. Construction of any dam 20 feet or more in structural height as measured vertically from the lowest point of the foundation surface to the top of the dam or impounding 50 acre-feet or more of water at maximum storage capacity.

These activities fall under the responsibility of the state as outlined in the National Dam Inspection Program and Minn. Stat. § 105.52

PROPOSED RULES

d. Any lowering of the existing streambed elevation resulting in an overfall of two feet or more for which no provision has been made for adequate headward erosion control.

This area of concern will readily drop out as local governments generally recognize the significance of headward erosion protection. This section is provided solely for the purpose of promoting the protection of the benefits achieved through watercourse alteration.

e. Utility crossings and mining activities.

These activities over, in or under public waters are regulated by Minn. Stat. §§ 84.415 and 105.64.

f. All other activities affecting public water requiring permits from the commissioner under statutes other than § 105.42.

4. All other activities changing the course, current or cross-section of Class IV watercourses are supervised by the county under existing drainage laws. The method of that supervision is not a subject of these rules.

5. Except for those activities listed in C. 3., the commissioner of natural resources delegates his authority under Minn. Stat. §§ 105.38, clause (3), and 105.42, subd. 1, to regulate changes in the course, current, or cross-section of Class III watercourses to the County Board of Commissioners. Without limiting his own authority, the commissioner also delegates to the county the responsibility and authority to make investigations and to issue orders to restore and other orders as authorized by Minn. Stat. §§ 105.461 and 105.462, and to undertake civil actions pursuant to Minn. Stat. § 105.55.

6. This is a delegation, not a transfer or abdication of authority. The commissioner of natural resources remains responsible to the legislature and the people of Minnesota for management of all watercourses of the county, including Class III watercourses, in accordance with Minn. Stat. ch. 105. The commissioner may revoke the delegation by amending this rule in the manner specified in the rule-making provisions of Minn. Stat. ch. 15. Ground for revocation is that the county board is not adhering to the terms of the delegation specified in these rules. The revocation hearing shall be held within county where original delegation hearing is held.

7. Additions, deletions, or other changes in the public waters designation and classification may be

made by amending this rule in the manner specified in the rule-making provisions of Minn. Stat. ch. 15.

E. Regulation of class III watercourse by the county: procedures.

In handling permit applications, the county shall stand in the place of the commissioner of natural resources in following the procedural provisions of Minn. Stat. §§ 105.44, .45, and .46, and other relevant statutes, with the following variations and supplements:

1. The county shall send a copy of each permit application to the appropriate DNR regional office, city or town, watershed district and soil and water conservation district, and the adjacent county in the case of an inter-county watercourse when the activity is within one mile of the adjacent county, for their advice and comment as may be appropriate. Comments to be considered must be returned within 14 calendar days after the mailing, and the permit may not be issued until all comments have been received or after the 14 days, whichever comes first.

2. The county shall be notified in writing of all proposed activities within those portions of the Class III public watercourses that have been identified as being significantly altered through ditch construction other than under Minn. Stat., ch. 106, or prior applicable laws, prior to this rule hearing. Permits shall not normally be required within these portions except where such activities will involve diversions or impoundments of the watercourse or will create erosion and sedimentation problems affecting other interconnected waters.

3. In all appeals to district court taken pursuant to Minn. Stat. § 105.47, the commissioner shall act as co-respondent.

4. Costs of public hearing which are for the commissioner when the commissioner conducts a public hearing, shall be for the county when the county conducts the hearing.

5. The county may collect and place in its funds the permit application, field investigation, and monitoring fees authorized by Minn. Stat. § 105.44, subd. 10.

F. Granting and denying permits: decision criteria.

1. Statutory decision guidelines.

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The county shall decide whether to grant or deny a permit for an activity in Class III watercourses according to the statutory decision guidelines to which the commissioner is subject, including the provisions of Minn. Stat. §§ 105.45, 116D.04, subs. 5 and 6, and any other applicable laws.

2. Permit evaluation: general.

Permit proposals for activities in Class III public watercourses require sound overall plans. They must incorporate the needs and desires of the people who will be served by the activity as well as of other people who may be affected. An evaluation must be made of the proposed conditions, relative to existing conditions, to determine the overall project effect. Activities proposing changes in the course, current, or cross-section of Class III public watercourses may potentially affect watercourse flow volumes and velocities, erosion potential and susceptibility, adjacent land usage, and water usage. Permits shall not be issued where changes in the course, current, or cross-section of a Class III public watercourse will result in damages (that is, the net result after consideration of benefits, compensation and mitigation):

a. To public or private lands due to overbank flooding through increased downstream flow conditions or increased backwater stages.

This protects public and private interests on lands along the watercourse that may suffer increased amount or frequency of flooding as a direct result of the proposed activity.

b. To public or private lands or waters due to increased erosion, or increased susceptibility to erosion, through changes in sediment deposition, turbidity, flow velocities, exposed or inadequately protected areas subject to surface flow, sideslopes construction and land usage.

This protects public and private interests on lands and public waters that may suffer the detrimental effects of erosion as a direct result of the proposed activity.

c. To any material beneficial public purpose(s) the watercourses may serve, through detrimental changes in flow conditions and erosion hazards.

This protects the existing material beneficial public purpose, relative to the benefits achieved that may, in certain cases, otherwise detrimentally change the very resource that was originally intended to be protected for the benefit of all the public.

d. To a public area so designated, purchased, operated, managed, or otherwise existing with specific public values, including but not limited to state wildlife management areas, federal waterfowl production areas, federal, state, and local parks, and other recreational areas including units of the outdoor recreation system, due to detrimental changes.

This protects existing public lands that may, in certain cases, be detrimentally changed such that their public value no longer serves, exists, or is beneficial to the public.

3. Permit evaluation: alterations.

The following particular factors shall be observed relative to permit applications to widen, deepen, straighten, or relocate a Class III watercourse.

a. Watercourse capacity is a function of the channel slope, roughness, and cross-section configuration. Flow volume is a function of the runoff from the contributing watershed. The capacity of the altered watercourse must be capable of carrying the range of flow volumes which would occur under present and past conditions; based on known facts or reasonable evaluation of hydraulic and hydrologic factors for the watershed involved. The creation of abrupt variations in channel shape play an important part in reducing the ability of a watercourse to efficiently convey flows downstream and must be avoided. The outlet must also have adequate capacity such that induced flow stages, when occurring, do not have adverse effects on the resources or habitat of the downstream area. The outlet may be construed to be that downstream portion of the same watercourse, another watercourse, a water basin, or the like, that will have to carry the discharge flow from the area proposed for alteration.

b. Erosion potential, as influenced by an alteration to a public watercourse, is a function of the watercourse and watershed soil types, flow velocities, sideslope construction and stability, channel alignment, watershed topography, and land usage. Flow velocity, a function of flow volume, channel roughness, and cross-section configuration, must not be greater than that existing prior to the alteration unless it can be shown that for the given soil types or channel bottom material, the expected flow velocities are non-erosive. Grade control structures may be required in the channel to reduce gradients and contribute to channel stability.

c. Sideslopes must be graded and spoil banks shaped and leveled to prevent bank overburden and slumping. It is recommended that sideslopes never be steeper than 1½ feet horizontal to 1 foot vertical.

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d. Efforts should be made to reduce overbank flows of concentrated surface waters into the altered watercourse; but where this entry is required, it is to be provided for by the installation of side inlet pipes.

e. Watercourse sideslopes, berms, spoil banks, and other disturbed areas subject to erosive action must be vegetated to control erosion and protect channel sections from scour. Vegetation is recognized as playing a major part in reducing the downstream sediment load. To protect the altered watercourse banks and to compensate some of the loss of natural conditions, the permitted alteration must include the seeding of the bank sideslopes and the establishment of a permanently vegetated strip along both sides of the watercourse. The strip shall be a minimum of 25 feet wide as measured from the top of the altered watercourse bank landward. Mowing of this strip shall be allowed after July 31 of each year, except where weed control is required.

f. Recognizing the need in certain instances for watercourse realignment, the applicant should be made aware that the use of gradual or large radii smooth curves, wherever possible, reduces the susceptibility of the watercourse sideslopes to erosion due to the abrupt change in flow direction. This is especially true in situations where flow velocities are relatively high. Where gradual or large radii smooth curves are not used, the altered watercourse may require mechanical stream bank protection (i.e., riprap).

g. One of the more significant measures that can be used to reduce downstream sediment loads is the installation of sediment traps in the altered watercourse to collect and retain the coarser fraction of particles moving along the channel bottom. If sediment traps are installed, provision must be made in the permit to periodically clean them out so they remain effective.

h. In recognition of the effects of alterations to natural watercourses the county should consider ways to retain the natural benefits as much as possible. Retention of natural benefits to the county may be achieved through the preservation of existing water basins for flood storage and nutrient entrapment, woodlands or tree lines for reduction in wind erosion susceptibility, the provision for new water basins or woodlands, and the establishment of many of the erosion control features identified above.

i. The applicant has the responsibility to provide the appropriate hydraulic and hydrologic data and de-

sign factors relating to alterations involving changes in watercourse capacity. The county shall review this information for technical adequacy. The county may seek assistance in this review from any existing federal or state governmental agency having said expertise including the DNR, Soil and Water Conservation District, Minnesota Highway Department, U.S. Soil Conservation Service, U.S. Dept. of the Interior, U.S. Corps of Engineers, and U.S. Dept. of Transportation.

4. Permit evaluation: bridges and culverts.

The following particular factors shall be observed relative to permit applications for bridge and culvert installations.

a. Permit applications requesting public and private crossing of those Class III public watercourses which are not within the jurisdiction of a floodplain ordinance, do not have specific game fish value, or are not normally utilized by the public for recreational navigation, may be authorized provided:

(1) The capacity of the proposed structure is sufficient to convey the range of flow volumes which would occur under present and past conditions; based on known facts or reasonable evaluation of hydraulic and hydrologic factors for the watershed involved. The sizing of a structure based solely on the size of existing up- and downstream structures may not be adequate, particularly in urban and urban fringe areas.

(2) The erosion potential, if increased by the proposed installation as a function of changes in flow velocities or as a function of the entrance/exit conditions, is adequately controlled through the use of seeding, riprap, or other such measures.

(3) If the crossing is to be temporary, seasonal, or would in some manner require future maintenance, the permit must contain clauses to provide removal, repair, etc.

(4) Where private crossings are requested for the purposes of moving field equipment and the like, due consideration should be given to a low-water ford type crossing. This feature, in reviewing the crossing needs and the physical characteristics of the watercourse bed, may provide an adequate crossing at lower costs and less maintenance.

b. Permit applications requesting public and

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private crossing of those Class III public watercourses within the jurisdiction of a flood plain ordinance, having specific game fish value, or normally utilized by the public for recreational navigation may be authorized provided:

(1) The structure is in compliance with floodplain ordinance as required in Minn. Stat. § 104.03, subd. 2, as it relates to flood carrying capacity.

(2) The structure provides for game fish movement unless specifically intended to impede rough fish movement.

(3) The structure provides for navigational passage or the means for a reasonable portage.

c. The applicant has the responsibility to provide the appropriate hydraulic and hydrologic data and design factors relating to bridge and culvert installations. The county shall review this information for technical adequacy. The county may seek assistance in this review from any existing federal or state governmental agency having said expertise including the DNR, Soil and Water Conservation District, Minnesota Highway Department, U.S. Soil Conservation Service, U.S. Dept. of the Interior, U.S. Corps of Engineers and U.S. Dept. of Transportation.

d. Where the proposed structure must meet statewide floodplain management standards, a check should be made on the regional (100-year frequency) flood conditions, as follows:

(1) the estimated regional flood magnitude.

(2) the tailwater elevation below the structure during regional flood conditions.

(3) the headwater elevation necessary to pass the regional flood through the proposed structure.

(4) the maximum headwater elevation permissible without causing damage to property upstream of the structure.

e. The statewide floodplain management standards ordinarily limit the difference between items d. (2) and (3) above (called "swellhead") to 0.5 feet. However, if a 0.5 foot increase would cause flood damages according to item (4), the allowable stage increase could be diminished below 0.5 feet until the damage ceases. Conversely, a swellhead greater than 0.5 feet may be allowable as long as the elevation of item (4) is not exceeded and such an increase is acceptable to the local governmental unit (township, municipality, etc.).

f. The applicant has the responsibility to provide the appropriate technical data and design factors relating to floodplain management criteria. The county shall review this information for technical adequacy. The county may seek assistance in this review from any existing federal or state governmental agency having said expertise including the DNR, Soil and Water Conservation District, U.S. Soil Conservation Service, U.S. Dept. of the Interior, and U.S. Corps of Engineers.

4. Permit evaluation: riprap and retaining walls.

a. Riprapping of Class III public watercourses may be authorized upon submission of evidence by the applicant of existing, expected, or recent watercourse bank erosion. Riprap materials must be of sufficient size, quality, and thickness to withstand anticipated forces of wave and ice action. Materials such as debris, junk, wrecked auto bodies, shall not be permitted. Site soils must be capable of supporting riprap. If necessary, the banks shall be compacted and sloped prior to riprap installation and a filter blanket of sand, gravel, or other materials selected for this purpose shall be placed thereon to prevent undercutting. Placement of riprap in the bed of the watercourse should be the minimum amount necessary to provide desired bank protection which does not unduly interfere with the flow of water.

b. Retaining walls, vertical or nearly vertical along-shore structures constructed of mortar-rubble masonry, hand-laid rock or stone, vertical timber pilings, horizontal timber planks with piling supports, sheet piling, poured concrete, concrete blocks, or other durable materials, should be authorized for erosion protection only when all of the following conditions are met:

(1) The appearance will be consistent with existing uses and provide limited encroachment.

(2) Adequate engineering studies have been performed as to the technical feasibility of foundation conditions, tie-backs, internal drainage, materials of construction, and flanking protection. The applicant has the responsibility to provide this data. The county shall review this information for technical adequacy. The county may seek assistance in this review from any existing federal or state governmental agency having said expertise including the DNR, Soil and Water Conservation District, U.S. Soil Conservation Service, U.S. Dept. of the Interior and U.S. Corps of Engineers.

(3) Provision for adequate erosion control has been made at the ends of the structure such that a hazard is not created on lands immediately upstream or downstream.

c. Consideration and evaluation of the potential

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effects of riprapping and retaining structures is similar to that outlined for alterations and bridge/culvert installation above.

5. Permit evaluation: filling.

a. Filling of Class III public watercourses may be authorized upon submission of evidence by the applicant that the natural shoreland was in fact lost by erosion or other natural forces within a recent time framework.

b. Filling must be consistent with applicable local, state, or federal water management standards, regulations, or requirements, including but not limited to water surface use, water quality management, and shoreland zoning.

c. Fill material must consist of clean earthen material, normally sand, gravel, or rock. Where necessary, stabilization of the fill bank must be made part of the permit which is consistent with conditions outlined for riprapping or vegetative cover outlined for alterations above.

6. Permit evaluation: other activities.

a. Other activities, including but not limited to

small dam construction and reconstruction, watermain and sewer crossings, waterway obstructions, inland excavations, intake and outfall structures, may be permitted subject to the decision criteria identified in E.1. and 2. For several of these types of proposals adequate engineering detail may be necessary for appropriate review. Considerations for watercourse capacity, erosion susceptibility, existing public values, local, state, or federal regulations must be evaluated as outlined in general throughout these rules. In certain instances (for example, intake structures, diversions for irrigation), an appropriation permit from the Commissioner will also be required regardless of the class of the public watercourse.

b. The applicant has the responsibility to provide the appropriate engineering data and design factors relating to the above activities. The county shall review this information for technical adequacy. The county may seek assistance in this review from any existing federal or state governmental agency having said expertise including the DNR, Soil and Water Conservation District, Minnesota Highway Department, U.S. Soil Conservation Service, U.S. Dept. of the Interior, U.S. Corps of Engineers and U.S. Dept. of Transportation.

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OFFICIAL NOTICES

Energy Agency

Notice of Contested Case Hearing on Oil Facility

Energy Agency

It is hereby ordered, and notice is hereby given, that a contested case hearing concerning the above-entitled matter will commence at 9:30 a.m. on February 7, 1977, in Room 300, 1745 University Avenue, Saint Paul, Minnesota. The hearing will continue at times and places to be specified by the Hearing Examiner. The Hearing Examiner, by further order, will specify dates on which portions of the hearing will be held at places to be specified in Farmington, Faribault, Owatonna, and Albert Lea, Minnesota.

The hearing will be held before Howard L. Kaibel, Hearing Examiner, Room 300, 1745 University Avenue, Saint Paul, Minnesota, 55104, telephone (612) 296-8107, an independent hearing examiner appointed by the Chief Hearing Examiner of the State of Minnesota. All parties have the right to be represented by legal counsel or any other representative of their choice throughout the contested case proceeding. The hearing will be conducted pursuant to the contested case procedures set out in Minn. Stat. §§15.0411 through 15.052 and procedural rules HE 201-222 and EA 500-520. Where the procedural rules conflict, the Hearing Examiner's Rules, HE 201-222, supersede the Agency's rules, EA 500-520. Questions concerning the issues raised in this Order or concerning informal disposition or discovery may be directed to Special Assistant Attorney General Dwight S. Wagenius, 740 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota, 55101, telephone (612) 296-8278.

The purpose of the hearing is to determine whether Williams Pipe Line Company (hereinafter the "applicant") has justified its need for the proposed facility in its application filed pursuant to Minn. Stat. § 116H.13 (1974) and EA 1001-1091. The hearing will address, among other things, the accuracy of the applicant's forecast of demand for the type of energy that will be supplied by the proposed facility, and alternative ways of meeting the demand. Determination must be made whether the consequences of granting the certificate of need outweigh the consequences of denying it, considering socioeconomic and environmental factors. In addition, a certificate of need cannot be granted if it has been demonstrated on the record that the proposed facility will fail to comply with relevant policies, rules and regulations of other state agencies, federal agencies, and local governments which have been considered during the hearing process.

Any person wishing to become a party to the proceeding must file a Notice of Intervention or a Petition for Leave to Intervene with the Hearing Examiner pursuant to EA 506 and HE 210(a). The Notice or Petition must be received by the Hearing Examiner on or before January 19, 1977, and a copy must be served on the Energy Agency and on the applicant.

Any person who wishes to give testimony, present other evidence or exhibits, or note his appearance at the hearing may do so, pursuant to HE 210(e), without having attained party status by intervention. Registration forms for such appearances will be available at the hearing.

All persons are advised that no factual information or evidence, except tax returns and tax reports, which is not part of the hearing record shall be considered by the Hearing Examiner or by the Director in the determination of the above-entitled matter. Persons attending the hearing should bring all evidence bearing on the case including any records or other documents.

The procedural rules cited above are available for review at the Office of Hearing Examiners (HE 201-222) and at the offices of the Energy Agency (EA 500-520). The applicant's application for a certificate of need and the substantive rules applicable to this matter, EA 1001-1091, are also available for review at the offices of the Energy Agency. All rules may be purchased from the Documents Section, Department of Administration, 140 Centennial Building, Saint Paul, Minnesota, 55155, telephone (612) 296-2874. The cited procedural rules provide generally for the procedural rights and obligations of the parties including the right to advance notice of witnesses and evidence, the right to present evidence and cross-examine witnesses, the right to purchase a record or transcript, the right to object to petitions for intervention, the obligation to meet certain time limits, the obligation to file proposed findings and conclusions, and the right to file comments on and exceptions to the findings and recommendation of the Hearing Examiner.

Parties are entitled to issuance of subpoenas to compel witnesses to attend and produce documents and other evidence. Requests for subpoenas must be made of the Hearing Examiner in writing, pursuant to HE 216.

If persons have good reason for requesting a delay in the hearing, the request must be made in writing to the Hearing Examiner at least 5 days prior to the hearing. A copy of the request must be served on the Agency and any other parties.

John P. Millhone
Director

Department of Finance
Notice of Intent to Solicit Outside Opinion
Regarding Selection of State
Depository Banks

Notice is hereby given, pursuant to Minn. Stat. § 15.0412, subd. 6 (Supp. 1975), that the Minnesota State Department of Finance will now seek information and opinions preparatory to promulgating and proposing rules governing the selection procedures it utilizes in determining banks eligible for the deposit of state funds.

Minn. Stat. § 16A.27 (1974), directs the Commissioner of the Minnesota State Department of Finance to select banks to serve as depositories for state funds by bidding and, in exceptional cases, without recourse to bidding. Such selections are subject to approval by the State of Minnesota Executive Council pursuant to Minn. Stat. § 9.031 (1974). As Minn. Stat. § 15.0412, subd. 3 (Supp. 1975), requires each agency to adopt rules setting forth the nature and requirements of all formal and informal procedures related to the administration of official agency duties, the Commissioner of the Minnesota State Department of Finance has directed that rules be promulgated in the bank depository selection area and, toward that end, that outside opinions be sought.

The rules to be promulgated shall encompass methods of solicitation, specification of bank service requirements, bid evaluation and methods of final selection with respect to the bank depository bid process. Additionally, the rules shall define the exceptional cases in which bids will not be sought and consider the depository award process in such situations.

In order to seek outside information and opinions, representatives of the Minnesota State Department of Finance will be conducting a series of meetings throughout the State of Minnesota. The dates and locations of those meetings are as follows:

Date	City	Meeting Location
January 20	Mankato	Holiday Inn — 1111 Range Street
January 26	Alexandria	Holiday Inn — Highway I 94 — exit on 29
January 27	Rochester	Ramada Inn — 1625 South Broadway
January 31	Duluth	Radisson — 505 West Superior Street
February 1	Hibbing	Kahler Motel — 1402 E. Howard Street

To be
announced Twin Cities
Each meeting will run from 1:30 to 4:00 p.m.

In addition to the meetings noted above, any and all interested persons may submit oral or written data or views

regarding the promulgation of bank depository rules by contacting Mr. Otto V. Byhre Jr., Director of Banking Activities, Minnesota State Department of Finance, Room 309, State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota, 55155, Telephone: 612-296-5631.

This notice and any written material received by the Minnesota State Department of Finance with respect thereto shall become a part of the rule promulgation hearing record to eventually be submitted to the Attorney General pursuant to Minn. Stat. § 15.0412, subd. 4 (Supp. 1975).

Gerald W. Christenson
Commissioner

Department of Public
Service
Public Service
Commission

Summary of PSC Order Relating to Rates
for Grain and General Commodity
Products

The Minnesota Permit Truckers Association filed a Complaint-Petition with the Commission requesting an investigation and hearing relating to rates and charges of all permit carriers operating in Minnesota intrastate commerce, and an order by the Commission prescribing reasonable and compensatory minimum rates. Hearing was held on the matter September 23, 1976. Hearing Examiner Recommended Report and Order dated November 23, 1976 proposed an increase in the present minimum grain rates of a lesser amount than sought by Complainant-Petitioner, averaging approximately 10% in distances through 150 miles. The Examiner also recommended a 15% increase in the present minimum class rates, as requested by Complainant-Petitioner.

By order served January 10, 1977, the Commission adopted the Recommended Order of the Hearing Examiner, except for certain typographical corrections, including prescribed minimum scales of grain rates and class rates attached thereto. Effective date for the new rates is February 1, 1977.

Carriers and/or interested parties may obtain specific information concerning said prescribed minimum class rates and minimum grain rates by contacting the Minnesota Public Service Commission, American Center Building, 160 East Kellogg Boulevard, St. Paul, MN 55101 (telephone: (612) 296-7103 or 296-7120).

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House of Representatives
Attn: Edward Burdick, Chief Clerk
Room 211 Capitol
St. Paul, Minnesota 55155

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