

Chapter Five: Administration

Chapter Five provides detailed information on Plan administration with sections on plan schedule, plan coordination, plan implementation, definition of a basic water management project, establishment of water management districts, available funding mechanisms, types of projects, project initiation, recommendations to agency programs, intergovernmental conflict resolution, plan evaluation, plan amendment procedure, and references to statutes and rules.

A. Plan Schedule

Implementation of this Plan will commence with its adoption by the Board of Managers and final approval from the BWSR. The Plan will remain in effect for a ten-year period, which is specified as April 2007 to April 2017.

B. Plan Coordination

Water resource management in the District involves many stakeholders. To effectively achieve the goals and objectives set forth in this Plan, a well-coordinated effort will be needed. The District will ensure coordination of this Plan through its Board of Managers and Advisory Committee. An annual Work Plan will be developed and approved by the Board of Managers that identifies the initiatives targeted for implementation on an annual basis.

C. Plan Implementation

An evaluation of the estimated costs associated with the implementation of this Plan is provided in Table 5A. According to the Table, to fully implement the 106 initiatives contained in the Plan would cost an estimated \$2,193,200 over the next ten years. While the District generates \$250,000 per year through its General Fund tax levy, not all of this money can be dedicated to projects; a portion will be used for staffing and other administrative costs. As a result, the District understands that it will need to seek outside sources of revenue (i.e. grants) and partnerships with other local units of government and State and Federal agencies to effectively implement this Plan.

**Table 5A
Estimated Plan Implementation Costs**

Goal	# Initiatives	Total Estimated Cost
Goal 1: Protect and improve surface water quality.	26	\$974,250
Goal 2: Protect groundwater quality.	3	\$40,000
Goal 3: Maintain an adequate supply of surface and groundwater for all users.	3	\$7,500
Goal 4: Protect and restore critical areas.	7	\$133,600
Goal 5: Promote Wise Land Use Management.	9	\$30,250
Goal 6: Expand our knowledge and understanding of the watershed.	22	\$601,500
Goal 7: Engage residents in water resource management.	12	\$84,500
Goal 8: Provide for efficient and effective administration.	24	\$321,600
Total	106	\$2,193,200

D. Basic Water Management Project Defined

Minnesota Statutes Chapter 103D.605 grants the District the authority to implement a “basic water management project”, but does not specifically define what such a project is. The statute does generically define a “project” as the “planning and development, construction, maintenance, repair, or improvement of a watershed district for a purpose for which the watershed district is established”. For the purpose of this Plan, the basic water management project of the District shall be to implement the goals, objectives, and initiatives contained in the Implementation Plan.

E. Establishment of Water Management Districts

Minnesota Statutes Chapter 103D.729 permits the establishment of one or more water management districts within the territory of the District to ensure that adequate financial resources are available to address resource concerns in all areas. The cost of actions or projects funded within each management district could be paid, in whole or in part, through the collection of water management charges. The water management charges could be apportioned among the landowners within the management district on the basis of their relative contribution of stormwater runoff, sediment, nutrients, and other pollutants. Rates may differ on the basis of the amount of land, type of land cover, and type of land use. Due to the diversity of resources and socioeconomic characteristics within the Watershed, the District shall be divided into ten water management districts, following the subwatershed boundaries described in this Plan.

F. Available Funding Mechanisms

The District is allowed to establish a number of funds for the purpose of carrying out its powers and duties. Among the most common funding mechanisms available to the District include Ad valorem tax levies, assessment levies, bond sales, collection of charges, and fees and escrows. A detailed description of each of these funding mechanisms, adapted from the *Watershed District Handbook* is provided below.

Ad Valorem Tax Levies

The phrase “Ad valorem” refers to a tax that is collected over the entire taxing district and is based on property value, rather than benefits. For example, if the District were to collect \$100,000 through an ad valorem tax, the Board of Managers would provide a certified levy to the county auditors who would calculate the tax rate necessary to generate that amount based on the total value of real property within the District. This tax rate would then be used to determine the tax for individual properties by maintaining the same proportion of tax to value for all properties within the District.

General Fund

The District has the authority to levy annually for a General Fund (M.S. 103D.905, Subd. 3) to pay for general administrative expenses and for the construction or implementation and maintenance of projects that are projects of common benefit. The levy consists of an ad valorem tax of up to 0.048 percent of taxable market value or \$250,000, whichever is less. The amount of the annual levy for the fund must be determined and justified through the District’s annual budget process.

In addition to the general fund levy, the District may annually levy to pay the cost of basic water management projects initiated by petition of a political subdivision within the District or by petition

of at least 50 resident owners whose property is within the District. This annual levy is not to exceed 0.00798 percent of taxable market value for a period of not more than 15 consecutive years.

The District is also permitted to levy outside of the administrative levy for liability insurance. In order to exercise this authority, the District must identify the liability insurance premium as a separate line in its levy certification to the county and indicate that the premium amount is being levied under M.S. Chapter 466.06.

Survey and Data Acquisition Fund

The Survey and Data Acquisition Fund (M.S. 103D.905, Subd. 8) is designed to pay for conducting necessary surveys and acquiring data. The Fund is established by an ad valorem tax levy and may only be collected once every five years. The maximum levy is 0.02418 percent of taxable market value of real property within the District. The Fund balance may never exceed \$50,000 at the time of the annual audit.

Emergency Projects of Common Benefit Fund

The purpose of the Emergency Projects of Common Benefit Fund (M.S. 103D.615, Subd. 3) is to pay for the costs of projects that protect the interest of the District when associated with a declaration of an emergency. If the work is found to be of common benefit to the District, funding may be raised by an ad valorem tax levy upon all taxable property within the watershed if the cost is not more than 25 percent of the most recent general ad valorem levy of the District.

Assessment Levies

An assessment levy is a special tax levied on a property to pay for a local public improvement that will benefit that property, such as a drainage ditch. There are three types of assessment levy funds: preliminary, construction or implementation, and repair and maintenance. A brief summary of each of these funds is provided herein.

Preliminary Fund

The Preliminary Fund (M.S. 103D.905, Subd. 6) is used for preliminary work on proposed projects of the District. The Fund, which can only be established by the District Court, can be used for projects that are to be paid for by assessment and for projects that are to be paid for by a combination of assessment and ad valorem levies.

Construction or Implementation Fund

The purpose of a Construction Fund (M.S. 103D.905, Subd. 5) is to establish an account that consists of:

- the proceeds of District bonds or notes or of the sale of county bonds;
- construction or implementation loans from the MPCA under M.S. Chapter 103F.701-103F.761 or from any agency of the Federal government; and/or
- funds from special assessments, stormwater charges, loan repayments, and ad valorem tax levies levied or to be levied to supply funds for the construction or implementation of projects.

Repair and Maintenance Fund

The purpose of the Repair and Maintenance Fund (M.S. 103D.905, Subd. 7 and 103D.631) is to provide money for repairing and maintaining the projects of the District to ensure the projects will remain effective. The Board of Managers may assess all of the properties originally assessed for benefits at the time of construction. The assessment must be made pro rata according to benefits determined. The levy resulting from an assessment may be made annually; however, the fund may not exceed 20 percent of the original cost of construction of the project.

Bond Sales

The District may establish a Bond Fund (M.S.103D.905, Subd. 4) consisting of the proceeds of special assessments, stormwater charges, loan repayments, and ad valorem tax levies pledged by the District for the payment of bonds or notes issued by the District. The fund is to be used for the payment of the principal, premium, administrative surcharge, or interest on the bonds and notes issued by the District and for payments required to be made to the Federal government.

Collection of Charges

As previously mentioned, the District has the authority to establish water management districts within the territory of the District for the purpose of collecting revenues and paying the costs of projects initiated under M.S. 103B.231, 103D.601, 103D.605, 103D.611, or 103D.730. Revenue can be collected either in the form of a charge or fee.

Fees and Escrows

The District is allowed to establish fees and charges for services provided (M.S. Chapter 103D.345). Fees cannot be charged to governmental units.

Fees

- Permit Fees: application fees of \$10 for processing applications for a permit to do work in the District.
- Inspection Fees: fees charged for inspection of permitted work in the District. The fee is established by the hourly rate of the individual doing the inspection.
- Engineer Review Fees: fees charged for the review work done by the District engineer at the engineer's hourly rate.
- Wetland Delineation Fee: a fee for determining the type and boundary of a wetland. The fee suggested in statute is \$75. Some Districts have determined staff costs on an hourly rate and bill private individuals according to time involved in the delineation.

Permit Performance Escrow

Permit performance escrow is collected from permit applicants to ensure performance of permit requirements. Escrow is generally set up so that it can be calculated by a number of different variables, depending upon which are the most appropriate to the characteristics of the District. The following items are shown as an example of the types of things that can be used to establish the escrow amount:

- A base fee of (\$X) dollars, set by the District.
- A frontage fee of \$X/ft on the main channel and \$X/ft on a branch.
- A property size at \$X/acre, set by the District.

Wetland Escrow Accounts

Since passage of the Wetland Conservation Act, some Districts have set up wetland escrow accounts to cover the costs of wetland mitigation, including land acquisition, attorney's fees, etc.

G. Types of Projects

The purpose of this section is to introduce the types of projects that can be initiated and established and how they may be done. The law has been summarized to highlight the key elements. These statutes should be referred to prior to initiating a project.

Basic Water Management Projects

Basic water management projects (M.S.103D.605 and 103D.905, Subd. 3) must be identified in the District's watershed management plan or constructed within the District under an agreement between the Board of Managers and the State or Federal government. Projects initiated under this section may be linked to M.S.103D.905, Subd. 3, which allows the use of a District-wide ad valorem levy if the project is initiated by a municipality and the cost is attributable to implementing and managing the basic water management features of projects identified in the plan.

Construction by Government Agencies

These are projects to be constructed within the District under a contract between the District and the State or Federal government (M.S. 103D.611). The main difference between this type of project and projects constructed with government aid is that this section requires a contract between the parties as compared to a grant or cost-share agreement.

Emergency Projects of Common Benefit Fund

The purpose of the Emergency Projects of Common Benefit Fund (M.S. 103D.615, Subd. 3) is to pay the costs of projects that protect the interest of the District when associated with a declaration of an emergency. If the work is found to be of common benefit to the District, funding may be raised by an ad valorem tax levy upon all taxable property within the watershed if the cost is not more than twenty-five (25%) percent of the most recent general ad valorem levy of the District. This ad valorem authority may be combined with assessments against benefited property in order to pay costs associated with emergency work performed without a contract.

Drainage Systems and Projects

A county board or a joint county drainage authority may direct the Board of Managers to assume responsibility for a drainage system within the District (M.S.103D.621-103D.625). After the transfer, any repairs, improvements, or construction must take place in accordance with Minnesota Drainage Law (M.S. Chapter 103E).

Maintenance and Repair Projects

The cost of routine maintenance and repair of the District's projects (M.S.103D.631, 103D.635 and 103D.641), including the cost of removing obstructions and accumulations of foreign substances from drainage systems, must be paid from the District's maintenance fund. If the cost of maintenance or repair, including all fees and costs relating to it, is less than \$25,000, the District may have the work done by contract without advertising for bids (M.S.103D.641).

Stormwater Facilities/Utilities

As previously mentioned, M.S. 103D.729 allows the District to establish water management districts for the purpose of collecting revenue to pay the cost of projects, including stormwater facilities/utilities. These funds can be used by the District to build, construct, reconstruct, repair, enlarge, improve, or in any other manner obtain stormwater systems, including mains, holding areas and ponds, and related facilities for the collection and disposal of stormwater (M.S. 103D.730).

H. Project Initiation

District projects can be established in one of the following manners specified in M.S. 103D.601-103D.615:

- by a vote of the managers;
- by a petition;
- by a contract with a government entity;
- through establishment of an emergency project; or
- through the Drainage Law (M.S. Chapter 103E).

I. Recommendations to Agency Programs

The District has reviewed the programs of the local, State, and Federal agencies that are involved in land/water resource management in the Watershed. In order to increase coordination in the implementation of this Plan, the District respectfully makes the following recommendations regarding agency programs:

- The District should be better informed of State agency program changes and the availability of funding.
- Data collected by State agencies should be readily shared with the District to avoid duplicative efforts.
- State agencies should continue to provide local and/or regional staff to assist local officials with agency programs.
- Cities and Counties should update and amend their comprehensive land use plan every 5 to 10 years. All amendments should be forwarded to the District for review and comment.

J. Intergovernmental Conflict Resolution

During the development of this Plan, no intergovernmental conflicts arose. In the event of such a conflict, the Board of Managers and Advisory Committee shall intervene and resolve the conflict. If the conflict is unable to be resolved, the Board of Managers shall petition the BWSR for a contested case hearing.

K. Plan Evaluation

To successfully implement this Plan, periodic review will be necessary. The Board of Managers and Advisory Committee shall review the Plan at least once every two years in order to ensure that the District's goals and objectives remain both accurate and constructive. The Plan can be amended in order to address changing needs, priorities, and conditions.

L. Plan Amendment Procedure

The District must prepare Plan amendments in accordance with M.S. Chapter 103D.411. In general the following steps are required:

1. After the Plan amendment is prepared, the District must initiate the amendment procedure by submitting a petition along with a copy of the proposed amendment to the BWSR.
2. At the same time that the District sends the proposed Plan amendment to the BWSR, it must also send a copy of the amendment to the DNR, Division of Waters Director, as well as the county boards, county auditors, cities, and soil and water conservation districts within its territory. Although not required, the proposed amendment should also be sent to the MPCA Regional Director.
3. Within sixty (60) days of receiving the proposed amendment, the DNR, Division of Waters Director must review and make recommendations on the proposed amendment. The Director must send the recommendations to the District.
4. Within forty-five (45) days of receiving the Director's recommendations, the BWSR must give notice and hold a hearing on the proposed amendment. If the BWSR determines the proposed amendment to be non-controversial it may provide notice to that effect. If a non-controversial procedure is used, a hearing will be held only if one or more persons request a hearing on the proposed amendment.
5. After the hearing, the BWSR may, by order, approve or prescribe changes in the amendment. The amendment becomes part of the Plan after it is adopted by the Board of Managers. The BWSR is responsible for notification of the approved amendment.

M. References to Statutes and Rules

All State statutes and rules cited in this Plan were effective at the time of adoption by the Board of Managers and approval by the BWSR. In the event that such statutes or rules are changed or amended, the new and updated provisions will apply. The District will not pursue a plan amendment solely for the purpose of changing references to such statutes and rules.

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