

Section 6. **Effective July 1, 1937.**—This Act shall take effect on July 1, 1937.

Approved April 26, 1937.

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CHAPTER 468—S. F. NO. 1218

*An act to declare the policy of the state to control, so far as practicable, the appropriation and use of surface and underground waters of the state; to control the construction, reconstruction, repair and removal of dams and water-way obstructions and reservoirs in any of the waters of the state; to devise and develop a general water resources conservation program for the state; to provide for hearings on application for permits and to grant permits to appropriate and use the waters of the state and to construct, reconstruct, repair or remove dams and water-way obstructions and reservoirs; to investigate or examine any existing reservoir, dam or water-way obstruction; to make such rules and regulations to enforce the purposes of this act; to provide for appeals from any determination of the commissioner, and to provide penalties for violating the provisions of this act.*

Be it enacted by the Legislature of the State of Minnesota :

**Section 1. Declaration of purpose.**—In order to conserve, protect and utilize the water resources of the state, in accordance with the best interests of the people of the state, it is hereby declared to be the policy of the state that, subject to existing rights, all waters in streams and lakes wholly within the state and such portions of all boundary streams and lakes as lie within the state, whether meandered or nonmeandered which are navigable in fact shall be public waters and that the state, so far as practicable, shall control the appropriation and use of surface and underground waters of the state. It is also declared to be the policy of the state for the purpose of promoting the public safety and welfare, to control and supervise so far as practicable, the construction, reconstruction, repair, removal and abandonment of dams, reservoirs and all other control structures in any of the waters of the state.

**Section 2. Commissioner of conservation to make investigation.**—For the purpose of enforcing the provisions of this act, the commissioner of conservation of the State of Minnesota hereinafter referred to as the commissioner, by and with the approval of the conservation commission, shall be authorized and empowered

to cause to be made investigations into the extent, value, conservation and control, in the general public interest, of the state's water resources, to receive and hear applicants for permits to use and appropriate the surface and underground waters of the state; to control and supervise, so far as practicable, the construction, reconstruction, repair, removal and abandonment of dams, reservoirs, and other control structures in any of the waters of the state and to make or cause to be made all surveys, maps, investigations and studies necessary to effectually perform these functions and to do such other acts as are specifically provided in this act.

**Section 3. Shall develop water conservation program for state.**—The commissioner shall devise and develop a general water resources conservation program for the state. This program shall contemplate the proper conservation, allocation and development of all of the waters, surface and underground, of the state for the best interests of all of the people of Minnesota, and shall guide the commissioner in the issuing of permits for the use and appropriation of the waters of the state and the construction, reconstruction, repair, removal or abandonment of dams, reservoirs, and other appurtenant structures as hereinafter provided. The commissioner is hereby authorized and empowered to make, or cause to be made, all such surveys, maps, investigations and studies of the water resources of the state as he may deem necessary to provide him with sufficient information to formulate a program, and to perform his duties under this act. He is also authorized to cooperate with any department, bureau or body of the federal government, state agency, county board, town board, city or village council, private corporation or organization or individual in carrying out the provisions of this act.

**Section 4. Must have written permission from commissioner.**—From and after July 1, 1937, except as hereinafter provided, it shall be unlawful for the state or any agency thereof, any person or persons, partnership, association, private or public corporation, county, municipality, or other political subdivision of the state, to appropriate or use any waters of the state, surface or underground, without the written consent or permit of the commissioner, previously obtained upon written application therefor to the commissioner as hereinafter provided. Nothing in this section shall be construed to apply to the use of water for domestic purposes serving at any time less than 25 persons, or to the use of water for any purpose originating within the geographical limits of any municipality; nor shall it apply to beneficial uses in existence on July 1, 1937 or interfere with or infringe upon existing rights as provided in Section 17 of this Act.

**Section 5. Must have permission to construct dams.**—From and after July 1, 1937 it shall be unlawful for the state or any

agency thereof, any person or persons, partnership, association, private or public corporation, county, municipality or other political subdivision of the state, to construct, reconstruct, remove or abandon any reservoir, dam or water-way obstruction; or to make or construct, or permit to be made or constructed, any change therein or addition thereto; or to make, or permit to be made, any change in, addition to, remove or abandon any existing dam, reservoir or waterway obstruction; or in any manner other than in the course of usual operation of dams beneficially using water prior to July 1, 1937, to change or diminish the course, current, or cross-section of any stream or body of water, wholly or partly within this state, without a written permit from the commissioner previously obtained, upon written application on forms to be furnished by the commissioner therefor to said commissioner as provided in section 4 of this act. Nothing in this section shall be construed to apply to any dam or obstruction in a stream or other body of water which has less than one square mile of drainage area or a normal flow of less than two cubic feet per second or to the erection, use or control of structures operated or to be operated for the production of water power.

Section 6. **Applications.**—Each application for a permit required by this act shall be accompanied by maps, drawings, and specifications describing the proposed appropriations and use of waters or of the changes, additions, or repairs, proposed to be made, and such other data and information as the commissioner may require.

Section 7. **Hearings.**—As soon as convenient after the filing with the commissioner of any application for a permit to appropriate or use any waters of the state, or to construct or reconstruct or remove or abandon any reservoir, dam or water-way obstruction, in any waters of the state under the provisions of this act, or upon his own initiative for any of the above reasons in the interests of conserving, utilizing or protecting the water resources of the state, the commissioner shall set a day for a public hearing upon said application. The applicant shall give notice to the public of such application and hearing, either in the manner prescribed by the commissioner, or by publication once in each week for two successive weeks prior to said hearing in a legal newspaper published within the county within which a part or all of the proposed appropriation or use, or construction, reconstruction, removal or abandonment is located; provided, nothing in this Act shall apply to ordinary or usual repairs or replacements or any necessary emergency repairs or replacements. The county commissioners of each such county, the mayor or chief executive officials of each such city and the proper officials or any interested agency of the state, or political subdivision thereof, designated by the Commissioner, shall also be

notified by the applicant by mail and satisfactory evidence of such notices filed with the commissioner. The published notice of such application shall recite the date, place and time fixed by the commissioner for the public hearing on said application. At such public hearing, the applicant and all other affected persons or corporations, municipal or private, shall be given an opportunity to be heard for or against the granting of said application.

Section 8. **Shall investigate evidence.**—Before acting on any application the commissioner shall weigh all of the evidence offered in behalf of and in opposition to the action prayed for in the application and if he deems it necessary shall make appropriate investigations of his own. If the commissioner shall be of the opinion from all of the evidence submitted that, in pursuance of the policy of the state for the conservation of its water resources in the general public interest as herein declared, that the plans of the applicant provide for the greatest practicable utilization of the waters of the state and will adequately protect public safety and will promote the general public welfare he shall grant the permit to appropriate or to use the waters, or to construct, reconstruct or remove or abandon the proposed reservoir, dam, or water-way obstruction, or to accomplish any combination of these objects. But if the commissioner is of the opinion, from the evidence before him, that the proposed appropriation or use of state waters or that the proposed construction is inadequate, wasteful, dangerous, impracticable, or will be detrimental to the best public interest, the commissioner may reject such application or he may order such modifications of the proposed plans as he deems sufficient to protect the public welfare and safety. In granting a permit authorizing the use or appropriation of water, or the construction or alteration or the removal or abandonment of any reservoir, dam or water-way obstruction, the commissioner may include in said permit such reasonable conditions, terms and reservations with respect to the character, amount means and manner of such use or appropriation of water or method of construction reasonably necessary to preserve the proper control in the state of the waters to be affected and to insure the safety and welfare of the people of the state. It shall be unlawful to construct or begin construction, or to make or begin any change or addition, or reconstruct, abandon or remove any reservoir, dam or water-way obstruction, except in accordance with the terms, conditions, regulations and restrictions of a written permit or permits first obtained therefor from the commissioner, and such rules and regulations, with regard to said construction, changes, or additions, as may be prescribed by the commissioner. The commissioner may determine and specify in each permit granted for the construction of a dam or other water works what provisions, if any, should be made for the passage of fish, low water flows and flood water discharges and

that the elevation of the control sill of said dams shall at no time be lower than the elevation of the natural outlet in the state of nature. The Commissioner shall approve, modify or disapprove applications within sixty days after filing of application or within sixty days after date of hearing if any be deemed necessary.

**Section 9. Shall investigate dams and reservoirs.**—Upon complaint, or upon his own initiative, the commissioner shall have power to cause an investigation or examination to be made of any reservoir, dam, or water-way obstruction now existing or hereafter constructed. If the commissioner shall determine that such reservoir, dam or water-way obstruction is unsafe or needs repair, the commissioner shall, in writing, notify the owner or owners thereof to repair or remove the same, as the exigencies of the case may require; such work to be commenced and prosecuted to completion within such reasonable time as may be prescribed in such notice by the commissioner.

**Section 10. May set time limit.**—The commissioner shall prescribe a time limit of not more than two years from the granting of any permits within which the construction, or reconstruction, must be begun. The commissioner shall also fix the time within which all construction, reconstruction of reservoirs, dams, or water-way obstruction authorized in the permit must be completed, or the appropriation or use of water must be made which time shall in no instance exceed five years from the date of the granting of said permit, provided, that the commissioner shall have authority, for good cause, to extend the time for commencing and completing the work authorized under a permit for the use of water in connection therewith.

**Section 11. Shall make rules and regulations.**—The commissioner, with the advice and approval of the Attorney General, is hereby authorized and empowered to make such reasonable rules and regulations and issue such orders as may be proper for effecting the purposes of this act.

**Section 12. Appeals to district court.**—Any party in interest may appeal from any determination of the commissioner to the district court of the county in which the project is wholly or partially located or to the district court of Ramsey County. Appeals may likewise be taken from the judgments of the District Court to the Supreme Court of the state. Such appeal may be taken and the rules of pleading and procedure on such appeal shall be the same as now provided by law for appeals from orders of the Railroad and Warehouse Commission of this state and on the trial or appeal the Judge of the District Court having jurisdiction, or the Supreme Court, may set aside, modify or confirm such determination as the evidence or law may require. The pendency of any such appeal

shall not of itself stay or suspend the operation of the order or determination of the Commissioner, but the District Court, or the Supreme Court, in their discretion may restrain or suspend, in whole or in part, the operation of the Commissioner's determination pending the final hearing and determination of the appeal by requiring the filing of an appropriate bond or other undertaking by the appellant conditioned that the appellant shall answer for all damages caused by the delay in the enforcement of the determination of the Commission. The Court may, in lieu of such bond, require or permit of such other security as it may deem proper.

**Section 13. Violation a misdemeanor.**—Any person or persons, partnership, association or corporation, public or private, that shall do or cause to be done, any act or thing contrary to or required by the provisions of this act, or that shall fail, neglect or refuse to do or cause to be done any act required by the provisions of this act; or that shall violate or fail to comply with any order of the commissioner of which due notice shall be given; or that shall violate any of the provisions of this act, shall be guilty of a misdemeanor and upon conviction thereof, shall be sentenced to pay a fine of not more than \$1000.00, or, in the discretion of the court, such person or persons, or the members of such partnership or association, or the officers and directors of such corporation, public or private, as the case may be, may be sentenced to imprisonment for a period not exceeding one year, either or both, in the discretion of the court. In the case of the state or any agency thereof, counties, municipalities, and other political subdivisions of the state, the officials responsible for the violation shall, after hearing, be subject to removal from office by the governor of the state.

**Section 14. May enforce orders of commissioner.**—Upon application of the commissioner, verified by oath or affirmation, the district court of any county in which the project is wholly or partially located, or the district court of Ramsey County, may, by injunction, enforce the compliance with, or restrain the violation of any order or notice, or rule or regulation of the commissioner made pursuant to the provisions of this act, or restrain the violation or attempted violation of any of the provisions of this act. The Attorney General of Minnesota shall act as legal advisor to the commissioner.

**Section 15. Commissioner to appear for state in federal hearings.**—The commissioner may appear, and represent and act for the state in any matter relating to any application to be made to the federal government or to any of its officers, boards or commissioners for permit to develop or use water power in the state, and may do and perform such acts in connection therewith as he deems proper to protect the interests of the people of the state consistent with the provisions of the act.

**Section 16. Dams to be maintained by state.**—All dams owned by the state or erected upon lands owned by the state or for which the state has acquired permanent easement shall be maintained by the state from funds appropriated by the legislature directly for such purpose or from such other sources as may be provided by law. The commissioner is authorized to accept from local governmental and civic agencies, or persons, funds for the purpose of maintaining such dams and appurtenant or control structures.

**Section 17. Not to affect existing contracts.**—Nothing herein shall apply to existing contracts with or permits, grants, or other authorizations by this state, any other state or the federal government for the appropriation, use or diversion of public waters, nor shall apply to existing dams, reservoirs, or control structures, owned, leased, or operated by municipalities, individuals, private corporations or commercial companies operated for the production of power, except as may be necessary in emergencies to protect the health and safety of the people of the state.

**Section 18. Inconsistent acts repealed.**—All acts and parts of acts inconsistent herewith are hereby superseded, modified, or amended, so far as necessary, to give effect to the provisions of this act except that nothing in this act shall be construed so as to interfere with the exercise of the lawful jurisdiction of the government of the United States or its duly constituted agencies over the waters of the state and provided that nothing in this act shall in any way supersede, alter, or amend the provisions of Mason's Minnesota Statutes, 1927, Chapter 40, Section 6463, and Chapter 412, Laws 1933.

**Section 19. Provisions severable.**—The various provisions of this act are declared to be severable. If any provisions thereof shall be declared unconstitutional the remaining provisions shall remain in full force and effect.

Approved April 26, 1937.

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CHAPTER 469—S. F. No. 1304

*An act to amend Section 4 of Chapter 225, Laws 1923; as amended by Chapter 270, Laws 1925, Section 1, (Mason's Minnesota Statutes of 1927, Section 6033) as amended by Section 4, of Chapter 429, Laws 1933, as amended by Section 1, Chapter 298, Laws 1935, (1936 Supplement to Mason's Minnesota Statutes of 1927, Section 6033) authorizing the conservator of rural credit to*