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STATE REGISTER



STATE OF MINNESOTA

RULES

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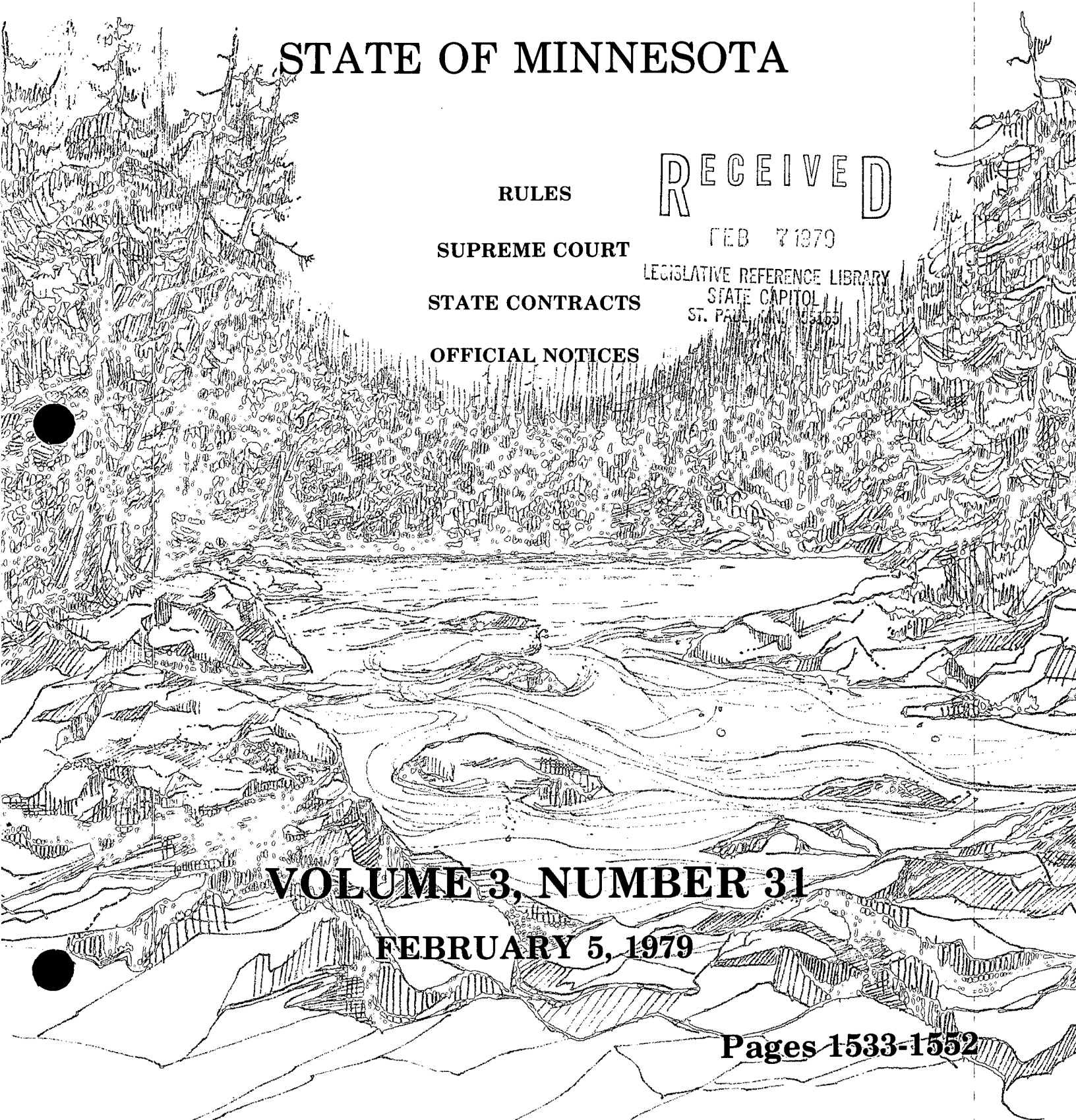
SUPREME COURT

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STATE CONTRACTS

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VOLUME 3, NUMBER 31

FEBRUARY 5, 1979

Pages 1533-1552



STATE REGISTER

Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices.	Issue Date
SCHEDULE FOR VOLUME 3			
32	Monday Jan 29	Monday Feb 5	Monday Feb 12
33	Monday Feb 5	Monday Feb 12	Monday Feb 19
34	Monday Feb 12	Friday Feb 16	Monday Feb 26
35	Tuesday Feb 20	Monday Feb 26	Monday Mar 5

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of Public Hearings on proposed rules are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102.

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Subscribers who do not receive a copy of an issue should notify the *State Register* Circulation Manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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MCAR AMENDMENTS AND ADDITIONS

The following is a listing of all proposed and adopted rules published in this issue of the *State Register*. The listing is arranged in the same order as the table of contents of the *Minnesota Code of Agency Rules* (MCAR). All adopted rules published in the *State Register* and listed below amend the rules contained in the MCAR set. Both proposed temporary and adopted temporary rules are listed here although they are not printed in the MCAR due to the short term nature of their legal effectiveness. During the term of their legal effectiveness, however, adopted temporary rules do amend the MCAR. A cumulative listing of all proposed and adopted rules in Volume 3 of the *State Register* will be published on a quarterly basis and at the end of the volume year.

TITLE 5 EDUCATION

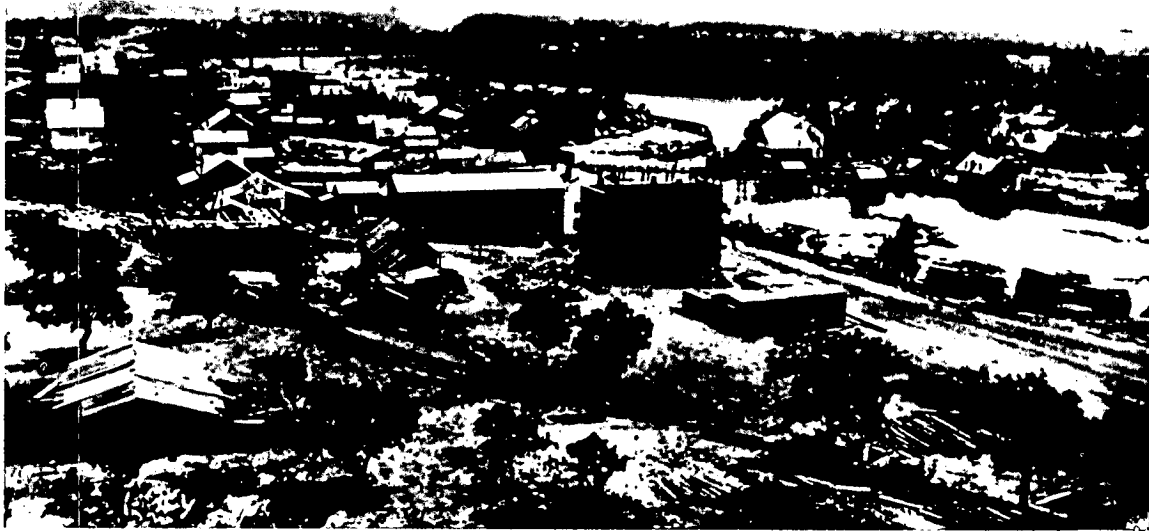
Part 1 Education Department

5 MCAR §§ 1.00811, 1.0088, 1.0102, 1.0104, 1.0112-1.0118
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TITLE 13 TAXATION

Part 1 Revenue Department

13 MCAR § 1.5423 (adopted) 1538



Not all pioneers in Minnesota lived on farms. The city that is now Minneapolis was at first two towns — Minneapolis on the west bank of the Mississippi River and St. Anthony on the east side. Both can be seen in this photograph, which was taken in 1857. The two towns grew rapidly, thanks to the Falls of St. Anthony which provided power to run sawmills and flour mills.

The adoption of a rule become effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption as proposed and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Department of Education State Board of Education (State Board for Vocational Education)

Adopted Rules for Changes in the Rules for Vocational Education

The rules proposed and published at *State Register*, Volume 3, Number 5, pages 164-178, August 7, 1978 (3 S.R. 164) are adopted as proposed, with the following amendments:

Chapter Five A: Secondary Vocational Education

5 MCAR § 1.00811 A. The board withdrew its proposed change.

5 MCAR § 1.0088 B. Secondary vocational education programs offered by the contracting public or private agency shall comply with all rules governing vocational education except for teacher-student ratios in order to be eligible for aid.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. **Strike outs** indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

RULES

C. A district or cooperative center shall receive aid in the amount of 40 percent of the amount of an approved contract entered into pursuant to this section as provided in Laws of 1978, ch. 764, § 71.

Department of Revenue Sales and Use Tax Division Adopted Rule Governing the Exemption for Residential Heating Fuel

The rule published at *State Register*, Volume 2, Number 52, pp. 2352-2354, July 3, 1978 (2 S.R. 2352) is adopted with the following amendments:

Rule as Adopted

13 MCAR § 1.5423 Residential heating fuels.

A. In general. Minn. Stat. § 297A.25, subd. 1(x) exempts from sales and use tax, "the gross receipts from the sale of residential heating fuels in the following manner: 1. all fuel oil, coal, wood, steam, propane gas, and L.P. gas sold to residential customers for residential use; 2. natural gas sold for residential use to customers who are metered and billed as residential users and who use natural gas for their primary source of residential heat, for the billing months of November, December, January, February, March and April; 3. electricity sold for residential use to customers who are metered and billed as residential users and who use electricity for their primary source of residential heat, for the billing months of November, December, January, February, March and April."

Natural gas or electricity sold for residential use to customers, who are metered and billed as residential users and who use natural gas or electricity for their primary source of residential heat, is exempt from the sales and use tax for the billing months of November, December, January, February, March and April after March 31, 1978. When gas or electricity is exempt as a heating fuel, all other gas or electricity used through the same meter shall also be exempt for the six-month period.

All sales of fuel oil, coal, steam, propane gas and L.P. gas sold to residential customers for residential heating after March 31, 1978, are exempt from the sales and use tax. This exemption applies on a year-round basis. These fuels must be delivered to the residence in order to be exempt. All fuel oil, coal, steam, propane gas and L.P. gas delivered to a residence is assumed to be used for residential heating and

exempt. All fuel oil, coal, propane gas and L.P. gas that is not delivered to a residence is taxable. Sales of firewood are exempt as residential heating fuel whether delivered or picked up by the customer. Sales of artificial fireplace logs are not exempt from the sales and use tax.

~~No Exemption certificate shall~~ certificates may be required by the vendor to ~~qualify~~ establish eligibility for the residential heating fuel exemption.

B. Description of terms. For purposes of this exemption, the following definitions shall be applicable.

1. "Residential use" means use for general household purposes including cooking and water heating. It does not include use in travel trailers, motor homes or other recreational vehicles. The use of fuel to heat fish houses is taxable since these are not regarded as residences.

Where a building, which houses both residential quarters and a commercial operation, contains one central heating plant for the entire building, heating fuels supplied to or for such heating plant shall ~~not~~ be regarded as used for residential use if less than 50 percent of the square footage of the building is used for commercial operations. ~~No provision is made for allocating a portion of the total usage.~~

2. "Residential customers" and "residential users" shall include persons billed for sales of residential heating fuel for ~~apartment buildings containing less than five units; fraternity houses; sorority houses and rooming houses.~~ These terms shall include persons residing in multiple dwelling units containing more than four dwelling units; who are billed for fuel usage measured by separate meters; even though the multiple dwelling unit may contain more than four such units. These terms shall not include persons billed for sales of residential heating fuels for multiple dwelling units such as apartment buildings; co-op apartments; condominiums with more than four dwelling units and having one central heating plant; single family homes, duplexes, townhouse units, condominium units or buildings, apartment units, apartment buildings, mobile homes, fraternity or sorority houses, and rooming houses.

3. The "billing month" for natural gas or electricity is the month the bill is dated regardless of when the service was rendered. Bills dated April, 1978, will qualify for the exemption. "Billing month" is the meter reading date if there is no date on the bill. If a utility uses a system of cycle billing and 12 revenue months per year, the "billing month" may be the utility's revenue month. In any event, each qualifying customer shall receive six months of service exempt from taxation.

4. The "primary source of residential heat" shall be

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that source which heats the largest square footage of floor space. Where a user heats the same area with two sources of heat, each using different fuels, such as a home heated by wood which also has an electric heating system, then the primary source of residential heat shall be that source which supplies more than any other source for the largest period of time during the heating season.

5. The effective date of this rule is April 1, 1978. Any tax on heating fuel previously collected on the basis of earlier rulings, inconsistent with this rule shall be refunded or credited by the vendors to their customers.

C. Examples. The following are examples where a residence has more than one source of heat or where the residence is also used as commercial property.

Example 1. A. owns a building with a restaurant on the first floor, which he operates. A. lives in an apartment on the second floor. There is one central heating plant for the entire building, and the primary source of heat is natural gas. The basement is not used as part of the commercial operation. Since a portion of the natural gas is used for commercial purposes, there is no exemption. No provision is made for allocating a portion of the total usage less than 50 percent of the square footage is used for commercial purposes, the exemption applies.

Example 2. B. heats his home with natural gas. B. adds an addition to his home, which is heated with electricity. The largest square footage of the floor space is heated with gas. Since only that fuel which provides the primary source of heat for the entire residence qualifies for the exemption, both fuels cannot be exempt. Here the electricity is taxable and the natural gas exempt because the primary source of heat for the entire residence is natural gas.

Example 3. C. owns and operates a resort. He has a home and four cabins which are heated by L.P. gas from one L.P. gas tank. The home is considered as one unit and since more than four units are being heated, all fuel is taxable. C. is not a residential user. The four cabins constitute a commercial business activity. There is only one common source of heat. The fuel supply to the common heating plant is not regarded as used for residential use if the square footage of the four cabins exceeds that of the home. In

determining the square footage of commercial use, the seasonal use must also be considered. Assume a resort owner has a 1,600 square foot home and four rental units of 750 square feet each that are available for rent six months of the year. In computing the square footage for commercial use, $4 \times (\frac{1}{2} \text{ of } 750)$ or 1,500 square feet is for commercial use; and as 1,600 square feet is for residential use, the heating fuel is exempt.

Example 4. D. is a dentist, who has his dental office in his home. D.'s home is heated with fuel oil. The fuel is ~~taxable since D. is not a residential user~~ exempt if the office occupies less than 50 percent of the square footage of the home.

Example 5. A person uses fuel oil to heat his home, but uses electricity to provide additional heat in the basement. What is exempt? All fuel oil delivered to the residence is exempt starting April 1, 1978, but as the electricity is not the primary source of heating the residence, it is taxable.

Example 6. L.P. gas dealer delivers gas to individual homes at a mobile home park. How can he determine if the L.P. gas is used for heating? L.P. gas delivered to a residential customer is deemed to be for heating purposes and exempt.

Example 7. Customer heats his residence with natural gas and is on a budget plan with a local utility. Will his budget payments be less for the months of November through April? No, the utility does not pay the sales tax on the monthly payments, but they pay it on actual consumption. Your monthly payments would remain the same, but you would not be paying a sales tax on gas during the six-month period.

Example 8. Resort uses L.P. gas to heat the owner's residence and five rental units from the same tank. At the end of the season, the rental units are closed down and only the owner's residence consumes L.P. gas. Should the rental units which are not operational during the winter be included in the number of units used in determining if the customer is a residential user? Yes. No provision for allocating is being made. Therefore, all of the L.P. gas purchased is taxable, but the seasonal use of the rental units is considered in determining if the commercial use exceeds 50 percent (see Example 3 above).

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. **Strike outs** indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

SUPREME COURT

Decisions Filed Friday,
January 26, 1979

Compiled by John McCarthy, Clerk

48980 **First Fiduciary Corporation, Personal**
49131/439 **Representative of the Estate of Olive G.**
 Blanco, Appellant, vs. Manuel F. Blanco,
 Jr., et al, John D. Wood, Jr., et al, and
 First Fiduciary Corporation, personal
 representative of the Estate of Olive C.
 Blanco, Plaintiff, vs. Manuel F. Blanco,
 Jr., and Monica A. Blanco, Defendants-
 Appellants, and John D. Wood, Jr. and
 Dana F. Wood. Hennepin County.

Where the deed to a homestead has been properly executed in conformance with the statute, the risk that one of the grantors was incompetent at the time of this transfer should not be borne by a subsequent bona fide purchaser.

Although the covenants of a warranty deed do not entitle grantees to reimbursement from their grantors for attorney's fees and costs incurred in the successful defense of their title, they may be entitled to such reimbursement if grantors wrongfully thrust them into litigation.

Affirmed in part and reversed in part. Sheran, C. J. Took no part, Otis, J.

48796/438 **State of Minnesota, Appellant, vs. Billy**
 Roy Tyler. Hennepin County.

In de novo proceedings before the committing district court, under the repealed provisions of the Youth Conservation Act, Minn. St. 1976, § 242.36, to review an order of the Minnesota Corrections Board denying discharge to an offender upon his 25th birthday following his commitment to the board upon conviction for kidnapping in 1973 when 20 years old, an appeal by the state from the committing district court's order reversing the board's order and granting discharge is not authorized.

Appeal dismissed. Rogosheske, J.

47346/275 **Allison Contos, et al, Appellants, vs.**
(1977) **Robert L. Herbst, Individually, and as**
 Commissioner of the Minnesota Depart-
 ment of Natural Resources, et al, Andrew
 Korda, Individually, and as Auditor for
 St. Louis County, Minnesota Chippewa
 Tribe. Ramsey County.

L. 1973, c. 650, art. XX [mineral registration act] which classifies severed mineral interests for purposes of taxation

does not violate the uniformity clause of the Minnesota Constitution.

The uniformity clause does not require that real property taxes be related to value.

The forfeiture provisions of the mineral registration act do not violate the due process clauses of the state and Federal constitution.

The procedures attending the forfeiture provisions of the mineral registration act violate the due process clause of the state and Federal constitutions because the notice provisions are inadequate and because an owner of severed mineral interest who fails to comply with the registration requirement is denied an opportunity for a hearing before the forfeiture occurs.

The language governing the registration requirements of the mineral registration act is not unconstitutionally vague. Affirmed. Kelly, J. Took no part, Sheran, C. J., Otis and Rogosheske, JJ.

47208/5 **State of Minnesota vs. Robert Brian**
(1978) **Gallagher, Appellant. Steele County.**

Where a law enforcement officer, after stopping a vehicle for a traffic offense, observes certain furtive gestures by the occupants coupled with other suspicious circumstances, he may have probable cause to search the vehicle.

In this case, defendant's immediate exit from the car to meet the officer, the passenger's apparent attempts to conceal a paper bag and awkward exit from the car and the glassy stares of both constituted sufficient probable cause to justify the officer's search.

Affirmed. Kelly, J. Dissenting, Wahl, J.

48773/285 **State of Minnesota vs. Michael Douglas**
 Harvey, Appellant. Hennepin County.

In a murder case, once the defendant has raised the issue of justification, the burden is on the state to prove beyond a reasonable doubt the absence of justification.

The elements necessary to establish a defense of justification are:

(1) The killing must have been done in the belief that it was necessary to avert death or grievous bodily harm;

(2) The judgment of the defendant as to the gravity of the peril to which he was exposed must have been reasonable under the circumstances;

(3) The defendant's election to kill must have been such

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as a reasonable man would have made in light of the danger to be apprehended.

The evidence presented by the state was insufficient to establish beyond a reasonable doubt that defendant was not justified in killing decedent who was in defendant's house, was armed and appeared to be threatening defendant's brother.

Reversed with directions. Kelly, J.

48328 **Edgewater Motels, Inc., Appellant-**
48347/357 **Respondent, vs. A. J. Gatzke,**
 Respondent-Appellant, B & D Corpora-
 tion, Inc., d.b.a. The Bellows, Walgreen
 Company. St. Louis County.

An employer can be held vicariously liable for an employee's negligent smoking of a cigarette if he was otherwise acting in the scope of his employment at the time of the negligent act.

Where a motel has notice of its guests' practice of placing cigarettes in the rooms' wastebaskets made of plastic material that burns readily, a jury can reasonably conclude that the owner breached a duty of due care and can reasonably find from the evidence and the inferences therefrom that such breach was the proximate cause of the motel's damages when a fire resulted.

Reversed in part; affirmed in part. Scott, J. Took no part, Otis, J.

48656/384 **The Vista Fund, Appellant, vs. Gordon O.**
 Garis, et al., Deltak Corporation, et al,
 Community Investment Enterprises, Inc.,
 Cummins Diesel Sales, Inc., etc. Henne-
 pin County.

Rule 23.06, Rules of Civil Procedure, requires that a plaintiff be a shareholder at the time he commences a stockholder's derivative action.

Such ownership must be continuous and uninterrupted from the time of the alleged wrong to the time suit is brought, and repurchase of stock shortly before commencing an action does not satisfy this requirement.

The alleged wrongs in this case cannot be construed as "continuing" so as to give the plaintiff an equitable right of action upon such repurchase of stock, without substantially subverting the policy behind Rule 23.06.

Plaintiff has not shown that Rule 23.06, Rules of Civil Procedure, infringes upon his substantive rights, and thus there is no merit to its contention that the rule is invalid under Minn. St. § 480.151, the enabling legislation.

Affirmed and remanded. Scott, J.

48693/433 **Margaret Ann Dahle vs. Patrick**
 Robertson, Appellant. Ramsey County.

The defense of laches does not apply to belatedly commenced complaint charging paternity.

Affirmed. Stone, J. Concurring specially, Otis, Todd, Yetka, and Wahl, JJ. Took no part, Sheran, C. J.

48451/413 **Virginia E. Hansen, petitioner, vs. James**
 P. Hansen, Appellant. Hennepin County.

Award of alimony, property division, and award of attorney's fees in marriage dissolution are supported by the record and do not constitute an abuse of the trial court's discretion.

Affirmed. Per Curiam.

48181/415 **State of Minnesota vs. Gary Benjamin**
 Waters, Appellant. Faribault County.

Where incriminating evidence is seen by police while locking defendant's car to protect its contents following defendant's request to have police tow it from the scene of an accident, and where evidence is later seized by police following inventories of defendant's car after impoundment, defendant's Fourth Amendment rights were not violated.

Where prosecutor read a short portion of the transcribed testimony of one of the witnesses during cross-examination of defendant about his criminal record, prosecutor's conduct was not improper, but in the future the judge and opposing counsel should be notified of an intention to do this.

Affirmed. Per Curiam.

48196/419 **State of Minnesota vs. Leon Dennis**
 Myers, Appellant. Norman County.

The determination of whether or not to submit third-degree felony murder is a matter for decision by the trial court based on the facts of the particular case, and this court will not review that determination since the submission by the trial court was at the request of the defendant.

Affirmed. Per Curiam.

48569 **State of Minnesota vs. Lance Allen**
48734/435 **Lorentz, Appellant, and State of Minne-**
 sota vs. Kim Marie Lorentz, Appellant.
 Ramsey County.

Contention that defense counsel failed to inform defendants that state would have to prove that substance was marijuana and that defendants could call their own experts

SUPREME COURT

to rebut the state's experts does not persuade us to conclude that the pleas were not intelligently entered where records indicate that defendants were questioned by the trial court and advised by counsel before entering their guilty pleas.

Affirmed. Per Curiam.

49634/60 **In the Matter of the Contest of a General Election Held on 11-7-78, for the Purpose of Electing a State Representative in District 58B in the City of Minneapolis, County of Hennepin, State of Minnesota. Ann O'Loughlin, contestant, Appellant, vs. Todd Otis, contestee. Hennepin County.**

Strict compliance with the jurisdictional provisions of the election contest statute, Minn. St. c. 209, is required where the contestant has not served the contestee by personal or substituted service, the affidavits of the sheriff and the official authorized to issue the certificate of election must be executed and filed within the 7 day period mandated by the statute.

Affirmed. Took no part, Otis, J.

STATE CONTRACTS

Pursuant to the provisions of Laws of 1978, ch. 480, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

Department of Education Special and Compensatory Education Division

Notice of Availability of Contract for Certain Therapy and Ancillary Services to the Programs at the State Residential Schools

School for the Deaf

One part-time occupational therapist to provide evaluation of the occupational therapy needs of enrolled deaf students; to make recommendations regarding the amount of occupational therapy services needed by this student body; and to contribute to educational staffings to determine the needs of students. Services are needed for 3 days per week during the term February 1979 and May 24, 1979. Salary based on full-time salary range: \$1094-1481/month.

One physical therapist for two six-hour days per week to provide evaluation of referred deaf students and provide ongoing physical therapy for 10-20 such students; and for 5 additional full days during the school year to participate in inservice workshops, educational team staffings and consultation with teachers. The contract will be written for approximately 35 days between February 1979 and May 24, 1979. Salary based on full-time salary range of \$1136-1538/month.

Interested persons are invited to contact Dr. Will Antell, Assistant Commissioner of Education, Minnesota State Department of Education, Division of Special and Compensa-

tory Education, 8th Floor Capitol Square Building, 550 Cedar St., St. Paul, Minnesota 55101.

Closing date for all applications shall be March 1, 1979.

Department of Health Family Planning Unit

Notice of Request for Proposals for Multi-media Public Information Campaign

The Minnesota Department of Health is requesting proposals from public and private organizations to develop and produce materials for a statewide multi-media family planning public information campaign. An amount not to exceed \$75,000 is available for this subject.

Proposals must be submitted to the Minnesota Department of Health no later than 4:30 p.m. on February 23, 1979.

Interested persons may obtain a Request for Proposal and further instructions by submitting a written request to:

Judi Kapuscinski, Supervisor
Family Planning Unit
Minnesota Department of Health
717 S.E. Delaware Street
Minneapolis, Minnesota 55440

Housing Finance Agency

Notice of Intent to Enter into a Contract for Consultant Services Related to the Development of Congregate Housing for the Elderly and Handicapped

The Minnesota Housing Finance Agency is seeking the services of a consultant to provide technical information related to the development of congregate housing for the elderly and handicapped. The contractor shall appear in person to consult with Agency staff and members of the Agency Board of Directors for a period not to exceed two business days or less than one business day. Consulting services will be required during the month of March. Exact days will be negotiated.

The consultant shall advise the MHFA Board and staff

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regarding the feasibility of the development of a program for congregate housing. Such advice shall include but not be limited to the following:

1) Federal laws, policies and programs which support and encourage the development of congregate housing. Such information should be summarized in written form with references and citations for particular programs.

2) Financing and methods of delivery of nutrition, health and social services to residents of congregate housing with a focus upon the human services delivery system in Minnesota.

3) Information about congregate housing in other states regarding construction, management, and operating costs related to services in congregate facilities. Cost information should include a written case study of an operating congregate facility.

4) Provide assistance to individual MHFA staff members regarding the development of a congregate housing program including design and management.

Such information shall be submitted orally except where written information is required above. Additional written information may also be submitted by the contractor.

The cost of these consultant services shall not exceed \$800.00.

General inquiries and proposals should be directed to:

Mr. Frank Altman
Research Coordinator
Minnesota Housing Finance Agency
Second Floor — Nalpak Building
333 Sibley Street
St. Paul, Minnesota 55101
(612) 296-9819

All inquiries and applications should be submitted to the Agency by 4:30 p.m., February 19, 1979.

Notice of Extension of Deadline for Submitting Proposals in Regard to Contract for Auditing Services

The Minnesota Housing Finance Agency intends to engage the services of a certified public accounting firm to audit its Section 8 Federal Housing Assistance Payments Program for the two-year period ending December 30, 1978.

The estimated fee range for this project is \$2,500 to \$4,000.

The deadline for submitting proposals is extended from 12:00 noon, February 2, 1979, to 12:00 noon, February 9, 1979. For detailed information please contact:

Mr. Alan L. Hans
Director of Finance
Minnesota Housing Finance Agency
333 Sibley Street, Suite 200
St. Paul, Minnesota 55101
(612) 296-9806

Notice of Availability of Funds for the Urban Indian Housing Program

Notice is hereby given that \$613,000 in funds are available for the Urban Indian Housing Program. The funds are available for programs to be operated within the city of Duluth and Region 11 outside the city of Minneapolis. The Urban Indian Housing Program is governed by 12 MCAR §§ 3.150 to 3.157. The Agency will select administrators for the program. Applications shall be accepted by the Agency for 20 days following the publishing of this notice.

General inquiries and applications should be directed to:

Ms. May Hutchinson
Minnesota Housing Finance Agency
Suite 200 — Nalpak Building
333 Sibley Street
St. Paul, Minnesota 55101
(612) 296-8840

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Agriculture

Notice of Rescheduled Hearing on Proposed Rules Governing the Purchase of Milk on the Basis of Protein

Notice is hereby given that the public hearings in the above-entitled matter published in the *State Register* December 11, 1978, and postponed in the *State Register* January 8, 1979, until July 16, 1979 at 10:00 a.m. in the Veterans Service Building, Room D, 20 West 12th Street and Columbus Avenue, Saint Paul, Minnesota; at the Houston County Courthouse, 304 South Marshall Street, Caledonia, Minnesota on July 17, 1979 at 7:00 p.m.; and in the Sauk Center City Hall, Meeting Hall, 405 Sinclair Lewis Avenue, Sauk Center, Minnesota on July 19, 1979, at 7:00 p.m., have been rescheduled.

Notice is hereby given that the public hearing will now be held in the Sauk Center City Hall, East Meeting Hall, 405 Sinclair Lewis Avenue, Sauk Center, Minnesota on March 6, 1979, at 7:30 p.m., or as soon thereafter as possible; at the Scott County Courthouse, 428 South Holmes, Shakopee, Minnesota on March 7, 1979, at 7:30 p.m., or as soon thereafter as possible; and at the Houston County Courthouse, 304 South Marshall Street, Caledonia, Minnesota on March 8, 1979, commencing at 7:30 p.m., or as soon thereafter as possible, and continuing until all persons have had an opportunity to be heard.

January 29, 1979

Mark W. Seetin
Commissioner of Agriculture

Board of Cosmetology

Notice of Application for a Certificate of Approval of Brooks Beauty School

Please take notice that an application for a certificate of approval for a hairdressing and beauty culture school, to be known as "Brooks Beauty School," 481 Rice Street, St. Paul, Minnesota 55103, has been filed with the Minnesota State Board of Cosmetology by Mr. Arthur Brooks, 1882 Colvin Avenue, St. Paul, Minnesota 55116.

Any party wishing to object to this application may do so by writing to the Minnesota State Board of Cosmetology, 500 Metro Square Building, St. Paul, Minnesota 55101. The objection must be received within twenty (20) days after this notice has been fully published. If any objections are received within that time period, the Board will hold a contested case hearing in this matter.

Ethical Practices Board

Advisory Opinion #57 Re: Campaign Finance — Effective Dates of Tax Credit Agreement

Approved by the Ethical Practices Board
on January 19, 1979

Issued to:

Senator Robert O. Ashbach
State Office Building
St. Paul, Minnesota 55155

Summary

57. A signature by a candidate or an officeholder on a tax subsidy agreement in 1978 requires the signatory to adhere to campaign expenditure limits through the opening of filing for office in 1980 or the dissolution of the candidate or officeholder's principal campaign committee, whichever occurs first.

The full text of the opinion is available upon request from the office of the State Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, (612) 296-5148.

Housing Finance Agency

Notice of Intent to Solicit Outside Opinion Regarding the Adoption of Permanent Rules Governing the Urban Indian Housing Program

Notice is hereby given that the Minnesota Housing Finance Agency is seeking information or opinions from sources outside the Agency in preparing permanent rules governing the operation of the Urban Indian Housing Program established pursuant to Minn. Stat. § 462A.07, subd. 14A.

The Agency invites interested persons or groups to submit written data, information or comments on the subject. All written materials should be directed to:

Ms. May Mutchinson
Minnesota Housing Finance Agency
Suite 200 — Nalpak Building
333 Sibley Street
St. Paul, Minnesota 55101
(612) 296-8840

Any written material received by the Agency shall become a part of the hearing record in the event rules governing this subject are promulgated.

Department of Human Rights

Settlements for the Period of October 1, 1978 through January 22, 1979

Settlement Agreements

In addition to specific remedies, standard agreements reached prior to a hearing contain the following stipulations:

1. The agreement does not constitute an admission by the respondent of a violation of Minn. Stat. ch. 363.
2. The respondent agrees to abide by the provisions of Minn. Stat. ch. 363.

Settlement agreements were reached between the department, charging parties, and the following respondents:

Bell Cold Storage, Inc., E2749, E2751
Blue Cross and Blue Shield of Minnesota, E3369, E3367
Coca Cola Bottling Company, E5085
County of Wabasha, Minnesota, E2921
Dakota County Vocational Technical Institute, E4497
FMC Corporation, Northern Ordinance Division, E2619
Foursome Clothing Store, PA190
Grain Terminal Association, E5137
Group Health Plan, Inc., a Minnesota non-profit corporation, E2792
Hennepin County Medical Examiner's Office, E3468
Independent School District #94, E5215
Independent School District #573, ED50
Jacob Schmidt Brewing Company, E3711
Miles Homes, Division of Insilco Corporation, E5308
Minneapolis Area Painting and Taping Joint Apprenticeship and Training Committee, E2452
Robert V. Shannon, H837
S. R. Harris Industries, E4067
White Motor Corporation and White Farm Equipment Company, E2374

Pre-determination Agreement

A pre-determination agreement is an agreement reached before the Commissioner has determined whether or not there is reason to believe that a discriminatory practice occurred. It is signed by the charging party, the respondent, and the Commissioner. By entering into a pre-determination agreement, a respondent makes no admission that a discriminatory practice has occurred. Pre-determination agreements were reached between the department, charging parties, and the following respondents:

American Heart Association, E5227
American Life & Casualty Insurance Company, A16
Applebaum Food Market of Highland Village, E3758
Blackbourne, Inc., E5307
Black Swan Pub, E5397
Boise Cascade — Insulite Division, E3517
Catholic Welfare Services of Minneapolis, E5157
Commonwealth Terrace Co-op, Inc. E5268
Cooperative Power Association, E5405
Dalco Concrete & Masonry, E5262
Disabled American Veterans, PA346
Donaldson Company, E5229, E5303
Elvien Martinson, H1010
Erv's Cafe, PA352
Fingerhut Corporation, E5328, E4134
Franklin Manufacturing Co., E5174, E5344
Hanna Mining Company, E5162
Hotlicks Record Store, E5297
Independent School District #197, E5315
Independent School District #709, E5148
Independent School District #833, E5132
Jim Christy Pontiac, GMC, E5223
Jo R. Semplot Company, E4840

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Knappen Molasses Company, E3962
L'Hotel Sofital, E4320
Machining, Inc., E5408
Marvin Daring, H1045
Meeker County Memorial Hospital, E5239
Melrose Hospital & Pine Villa Nursing Home, E4202
Metropolitan Airport Commission, PA357
Mike's Fixtures/Cabinets, a/k/a Mike's Fixture Company, Inc., E5236
Minneapolis Police Department, PS269
Minnesota Mining & Manufacturing Co., E5301
Nic-O-Lake SuperValu, E5076
Northern States Power Company, E4248
Nutrition World, E3397
O. J. Boldt Construction Co., E5325
Perkins' Cake & Steak, Inc., E4260
The Pillsbury Company, E4951
Radisson St. Paul Hotel, E4643
Ramsey County Welfare Department, PS207
Reserve Mining Company, E5324
St. Paul Rehabilitation Center, E4090
Taco Bell Corporation, E5241
Thrifty Scott Motels, E5084, RP220
TSI, Inc., E5040
Unity Hospital, E5261
Valleyfair Entertainment Center, E5133
Weight Watchers of the Twin Cities, E5465
Wohl Shoe Company, E5365
Zayre Shoppers' City, E4854

Hearing Examiner's Orders

A case that is not settled through conciliation is scheduled for hearing before a state hearing examiner following a complaint issued by the Commissioner and a notice and order for hearing. Based upon evidence, testimony, and exhibits, a hearing examiner makes findings of fact, and conclusions of law and issues an order. The following cases were heard before a state hearing examiner:

Department of Human Rights v. Ray Dougherty, Shelter Care Resort, PA283
Department of Human Rights v. Standard Conveyor Company, E2027

Court Decisions

The following cases have been heard, decisions made, and orders issued:

County Road Fine Properties vs. Minnesota Department of Human Rights
Crown Builders, Inc., Howard Gelb, Anthony Steffel vs. Minnesota Department of Human Rights
Fairway Foods, Inc., vs. Minnesota Department of Human Rights

Ronald E. Seliski vs. Minnesota Department of Human Rights
Patrick Steeber vs. Minnesota Department of Human Rights

Hearing Notices

Department of Human Rights, Complainant, vs. Robert Denker, d/b/a Tonka Bottle Shop, Respondent, March 12-13, 1979, 9:00 a.m. Hennepin County Government Center, Room F, Minneapolis, Minnesota 55487.

Minnesota State Retirement System

Notice of Regular Meeting, Board of Directors

Regular quarterly meeting of the Board of Directors, Minnesota State Retirement System, will be held on Friday, February 23, 1979, at 9:00 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

Department of Natural Resources Soil and Water Conservation Board

Notice of Meeting Cancellation

The Minnesota Soil and Water Conservation Board has cancelled their regular monthly meeting for February. The Board will resume their regular schedule on March 13, 1979.

Department of Public Service

Notice of Intent to Solicit Outside Opinion Concerning a Proposed Rule Relating to the Use of Prospective Test Years by Gas and Electric Utilities When Filing a Rate Case

Notice is hereby given that the Minnesota Public Service Commission is considering adoption of rules which would

OFFICIAL NOTICES

regulate the use of a prospective test year. These issues will be considered:

1. Whether petitions for rate increases shall be based on financial data pertaining to a prospective test year.
2. Whether a prospective test year shall be limited to a company's fiscal year.
3. Whether a projected test year shall coincide with the period during which rates shall be in effect under bond.
4. Whether a prospective test year shall be limited to (12) months after the end of the historical fiscal year.

These rules would most likely be promulgated as amendments to existing rules of the Minnesota Public Service Commission, including Minn. Rules PSC 400-406, which would also be amended consistent with the new provisions.

All statements of information and comment must be received by March 28, 1979. All interested or affected persons or groups may submit information on this subject. Written or oral information and comment should be addressed to:

Mr. Stephen A. Finn, Acting Secretary
Minnesota Public Service Commission
7th Floor, American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101

Any written material received will become part of the record of any rules hearing held on this subject.

Stephen A. Finn
Acting Secretary

Notice of Intent to Solicit Outside Opinion Concerning a Proposed Rule Relating to the Automatic Adjustment Charges for Gas Energy Costs

Notice is hereby given that the Minnesota Public Service Commission is considering adoption of a rule which would discontinue the automatic adjustment charge for gas energy costs.

This rule may amend existing rules of the Minnesota Public Service Commission, including Minn. Rules PSC 390-395.

All interested or affected persons or groups may submit information on this subject. Written or oral information and comment should be addressed to:

Mr. Stephen A. Finn, Acting Secretary
Minnesota Public Service Commission
7th Floor, American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101

All statements of information and comment must be received by March 28, 1979.

Any written material received will become part of the record of any rules hearing held on this subject.

Stephen A. Finn
Acting Secretary

Office of the Secretary of State

Administration Division

Open Appointment Process: Notice of Openings on State Agencies — Application Procedures

Pursuant to Laws of 1978, ch. 592, the legislature has implemented an Open Appointment process by which the public is informed of openings on state multi-member agencies (boards, commissions, councils) created by statute and having statewide jurisdiction.

Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul, MN 55155, (612) 296-3266. Contact the Secretary of State for the Open Appointment Process information brochure and specific agency related information. Application deadline is Friday, February 23, 1979.

STATE ZOOLOGICAL BOARD: Four vacancies; open immediately. The Board meets every Friday at 9:00 a.m. in the conference room of the Minnesota Zoological Garden. It consists of 11 members appointed by the Governor with the advice and consent of the senate. Members serve a four-year term.

Water Planning Board Notice of Meeting

Notice is hereby given that the Water Planning Board will hold a meeting on Friday, February 9, 1979 at 9:30 a.m. in

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Conference Room D, Fifth Floor, Veterans Service Building, St. Paul, Minnesota. An agenda for the meeting may be obtained one week prior to the meeting by contacting the undersigned at 600 American Center Building, 150 E. Kellogg Boulevard, St. Paul, Minnesota 55101.

Thomas Kalitowski
Chairman

Water Resources Board

Notice of Hearing Concerning the Minnehaha Creek Watershed District

The Minnesota Water Resources Board will hold a hearing on Thursday, February 15, 1979, beginning at 7:00 p.m. in the Wayzata Council Chambers, Wayzata, Hennepin County, Minnesota.

The hearing concerns a petition to change the boundary of the Minnehaha Creek Watershed District. The Board's notice of hearing is being published in the *Waconia Patriot*, Carver County, on January 25 and February 1, 1979, and in the *Lake Minnetonka Sun*, Hennepin County, on January 24 and 31, 1979.

January 29, 1979

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OFFICE OF THE STATE REGISTER

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