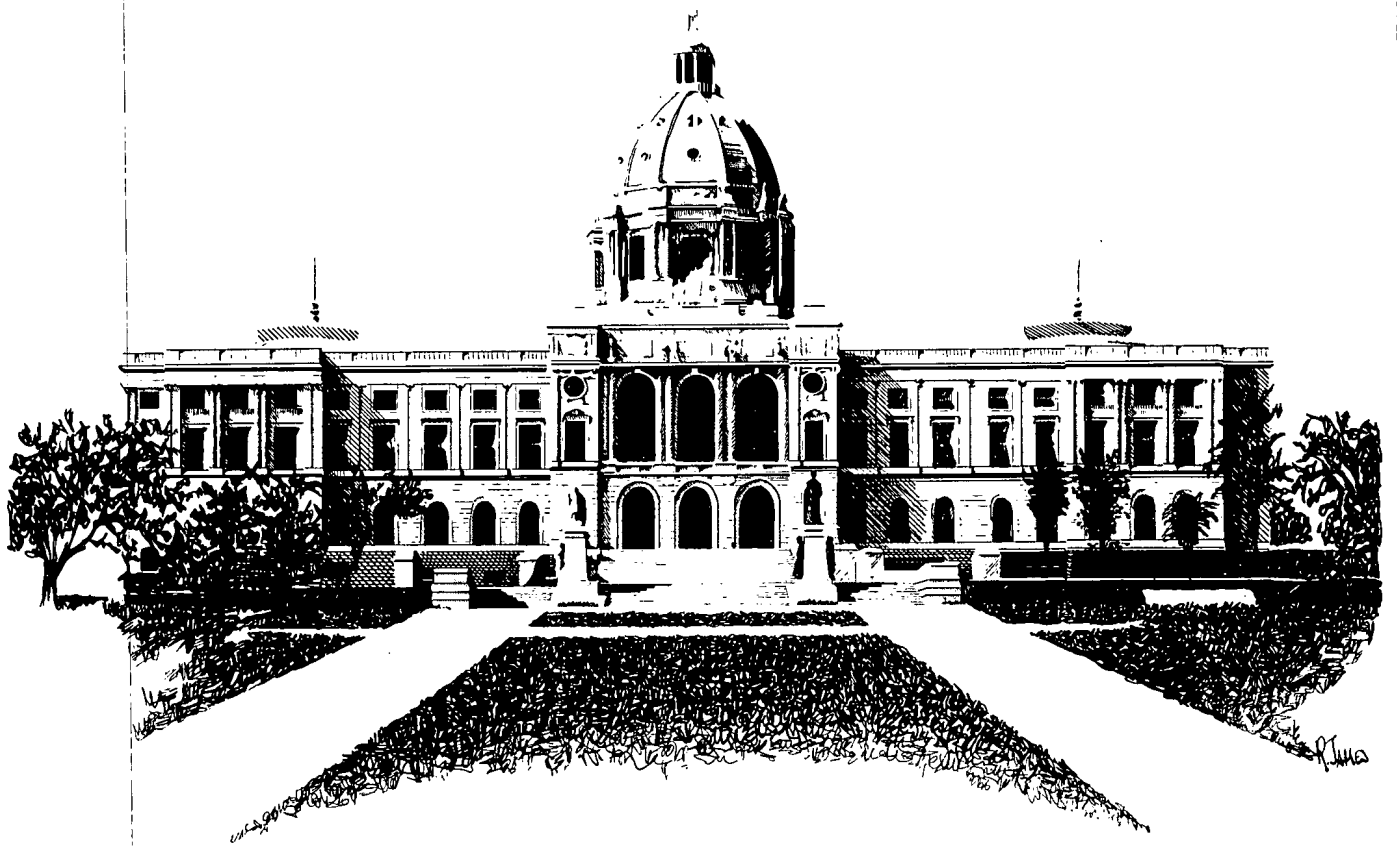


80 Aug. 18

# STATE REGISTER

STATE OF MINNESOTA



VOLUME 5, NUMBER 7

August 18, 1980

Pages 227-262



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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 5			
8	Monday Aug 11	Monday Aug 18	Monday Aug 25
9	Monday Aug 18	Monday Aug 25	Monday Sept 1
10	Monday Aug 25	Friday Aug 29	Monday Sept 8
11	Friday Aug 29	Monday Sept 8	Monday Sept 15

\*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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**NOTICE**

**How to Follow State Agency Rulemaking Action in the State Register**

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION**. Such notices are published in the **OFFICIAL RULES** section. Proposed rules and adopted rules are published in separate sections of the magazine.

**The PROPOSED RULES section contains:**

- Proposed new rules (including Notice of Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

**The ADOPTED RULES section contains:**

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

All ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* will be published in the Minnesota Code of Agency Rules (MCAR). Proposed and adopted TEMPORARY RULES appear in the *State Register* but are not published in the MCAR due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the MCAR AMENDMENTS AND ADDITIONS list on the following schedule:

Issues 1-13, inclusive	Issue 39, cumulative for 1-39
Issues 14-25, inclusive	Issues 40-51, inclusive
Issue 26, cumulative for 1-26	Issue 52, cumulative for 1-52
Issue 27-38, inclusive	

The listings are arranged in the same order as the table of contents of the MCAR.

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# PROPOSED RULES

Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new rule or amendment. The agency shall make at least one free copy of a proposed rule available to any person requesting it.

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Public Hearings on Agency Rules August 25-30, 1980		
Date	Agency and Rule Matter	Time & Place
Aug. 26	Department of Natural Resources Water Surface Use Management Hearing Examiner: Kent Roberts	10:00 a.m. and 7:30 p.m. Weyerhauser Room, Minnesota Historical Society Bldg., 640 Cedar St., St. Paul, MN
Aug. 28	Livestock Sanitary Board Amendments to Rules on Importation of Cattle and Eradication of Bovine Brucellosis in Minnesota; Proposed Rule for Control of Anaplasmosis Hearing Examiner: Richard Luis	9:30 a.m., 500 Rice St., St. Paul, MN

# ADOPTED RULES

The adoption of a rule becomes 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 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.

## Board of Nursing

### Adopted Amendment of Rules Relating to Nursing Education

Rule 7 MCAR § 5.1070 C., proposed and published at *State Register*, Volume 4, Number 37, pp.1490-1491 (4 S.R. 1490), is now adopted.

Rules 7 MCAR § 5.1060 A. and § 5.2050 A., proposed and published at *State Register*, Volume 4, Number 37, pp. 1490-1491 (4 S.R. 1490), are now adopted, with the following amendments:

#### 7 MCAR § 5.1060 Controlling institution.

A. The controlling institution shall be an educational institution which the board deems able to provide an effective program leading to graduation and eligibility for Registered Nurse licensure and which shall include universities, senior colleges, or community/junior colleges, both public and private. Only those general hospitals which have existing programs as of July 1, 1976 shall constitute a controlling institution within these rules.

**KEY: 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." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

## ADOPTED RULES

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### 7 MCAR § 5.2050 Controlling institution.

A. The controlling institution shall be an educational institution which the board deems able to provide an effective Licensed Practical Nurse preparing program and which shall include but not be limited to comprehensive high schools, vocational-technical schools, community/junior colleges, senior colleges and universities, both public and private. Only those general hospitals which have existing programs as of July 1, 1976 shall constitute a controlling institution within these regulations.

## Department of Economic Development Indian Business Loan Division

### Adopted Rule Governing Business Loans to Indians in Minnesota

Rule 4 MCAR § 2.201, proposed and published at *State Register*, Volume 4, Issue 26, pp. 1069-1071, December 31, 1979 (4 S.R. 1069), is now adopted with the amendments shown below:

#### Rule as Adopted

#### 4 MCAR § 2.201 ~~Proposed~~ Adopted rule, as amended, governing business loans to Indians in Minnesota.

A. Scope of the program. To provide an opportunity for eligible Indians in Minnesota to improve economic independence by implementing a business loan program which will promote an environment for economic expansion and diversification in the field of business ownership.

B. Purpose of rule. The purpose of the rule is to augment Minn. Stat. § 362.40 (1978) and Laws of 1979, ch. 333, §§ 100-102, by establishing criteria which will enable Indians in Minnesota to utilize the business loan program for the expansion or establishment of Indian-owned businesses in the state.

C. Definitions. As used in this rule, the following words and terms shall have the meaning given, except where the context clearly indicates otherwise.

1. "Department" means the Department of Economic Development.
2. "Administrative costs" means those costs incurred in administering the Tribal Council's portion of the program.
3. "Commissioner" means the Commissioner of the Department of Economic Development or his/her designated representative.
4. "Borrower" means the person making application to the department for loan funds to start or expand a business.

D. Criteria for the acceptance or rejection of business loan applications. Criteria for the acceptance or rejection of business loan applications will be based on the following requested information which will convey to the department a complete basis of information on which to evaluate the loan request, ability to repay and management of the business so that comparisons may be made with known industry standards as indicators of a company's ability to succeed.

1. Application must only be made for a profit oriented business.
2. Approval by commissioner of:
  - a. Personal financial statement(s) and resume(s) of management personnel which will indicate that an applicant is not in an excessive debt position and serve to demonstrate the expertise of management.
  - b. Operating statements of existing business for which expansion, technical or management assistance loans are requested which will demonstrate the need for and feasibility of the application.
  - c. Financial statements for past three (3) years for existing businesses, if applicable.
  - d. Credit verifications to ascertain financial responsibility.
  - e. Employment verification to ascertain steadiness and extent of past work experience.
  - f. Documentation supporting cost of real estate, building(s), machinery and/or equipment which will be used to ascertain reasonableness of cost and present condition(s).
  - g. Detailed project description which will demonstrate dollar scope of the project, estimated revenue anticipated and indicate ability to repay the loan.
  - h. Equity or collateral available which must be at least five percent (5%), to demonstrate applicant's insertion of risk capital.

- i. Income and expense projections which will indicate cash flow anticipated.
  - j. Applicants who will establish a business on a reservation must have or obtain approval of: tribal licenses if applicable, and/or leases when tribal lands are to be leased by the proposed business enterprise.
  - k. Last two (2) filed tax returns, if applicable.
3. All documents a.-k. shall be submitted to the department at one time, and because this program is a participant in the total loan package, the department's evaluation will be only one of other financial institutions' evaluations.
4. Loans for the purchase of land will require the construction of a physical facility and establishment of a business on that land within one year of receiving the loan approval; construction of a physical facility to begin within six (6) months of receiving loan approval.
5. Business loans shall not be made to repay or consolidate existing liabilities.
6. Any loan made hereunder will become due and payable if the ownership of the business for which it was made is transferred in whole or in part to any individual, partnership or corporation that would have been ineligible to have received the loan in the first instance.
- E. Procedures for making business loan applications.
- 1. Complete standard application on forms prescribed by the department.
  - 2. A time limitation of sixty (60) days shall be imposed for the completion and submission of all documentation, which will allow applicant a reasonable time to obtain supplemental financing for the total project. The commissioner shall extend the time limitation if based on good cause shown in writing.
- F. Repayment. The department shall establish repayment of the loan on a schedule which will be determined by an assessment of the cash flow and ability to repay.
- G. Review. There will be monthly review of all loan accounts by the commissioner.
- H. Maximum participation. Maximum participation in any one loan will be twenty-five percent (25%) of the project cost; ~~not to exceed twenty percent (20%) of one (1) year's tax revenue allotted to the Indian Business Loan fund as per Minn. Stat. § 362.40, subd. 14.~~

## Department of Natural Resources Minerals Division

### Adopted Rules for Mineland Reclamation

The rules proposed and published at *State Register*, Volume 4, Number 10, pp. 302-317, September 10, 1979 (4 S.R. 302) are adopted with the following amendments:

#### Rules as Adopted

**6 MCAR § 1.0401 A.1.** The purpose of these rules is to implement Minn. Stat. §§ 93.44-51 ~~thereby ensuring progressive, reclamation of metallic minelands in order to: control possible adverse environmental effects of mining, to preserve the natural resources and to encourage the planning of future land utilization, while at the same time promoting the orderly development of mining, the encouragement of good mining practices, and the recognition and identification of the beneficial aspects of mining.~~

- a. ~~Protect the public health, safety and welfare;~~
- b. ~~Control possible adverse environmental effects of mining;~~
- c. ~~Protect, preserve and use natural resources wisely by:~~
  - (1) ~~Encouraging multiple resource management;~~
  - (2) ~~Controlling erosion, land slides, and air and water pollution;~~

**KEY: 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." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

## ADOPTED RULES

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(3) Creating land forms water patterns and vegetative communities which complement and harmonize with the surrounding environment; and

(4) Identifying and prohibiting mining in areas not reclaimable with existing technology and fostering the development of improved technology through research:

d. Encourage the planning of future land use by:

(1) Recognizing the potential value of land for mineral resource development;

(2) Minimizing the amount of land used for mining purposes; and

(3) Requiring conversion to minelands to an acceptable subsequent use upon completion of mining.

2. These rules give consideration to:

a. The orderly development of mining;

b. Good mining practices;

c. The beneficial economic and employment impacts of mining;

d. Practical problems of mine operators and mineral owners;

e. Meeting or exceeding minimum mineland reclamation requirements which may be established pursuant to a federal mineland reclamation act, to the extent possible within the authority of the commissioner; and

f. Conforming with state or local land use planning programs.

B.1. "Acceptable research" means research that is approved by the commissioner, is site related, is reasonably designed for the purpose of demonstrating that the goals contained in 6 MCAR § 1.0402 D. 1. can be achieved, is no larger than necessary to adequately demonstrate the proposed measures, and includes, for comparison, the standards described in the rules as a control specified in 6 MCAR § 1.0402 D. 2. d. (1), e. g. (1), and i.(1) which the proposed measures are intended to replace.

B.2. "Auxiliary facilities" means all permittee-owned stationary physical property used in a mining operation, including: power plants and associated facilities; transmission lines; pipelines; roads; railroads; docks and associated facilities; borrow areas and leased borrow areas and associated facilities; blasting agent and fuel production or preparation facilities; and parking areas, shops, offices, buildings, structures, and storage facilities located within the area where mining is conducted. This does not include common carrier transportation facilities.

B.5. "Completion" or "completed" means the conclusion of construction or development of a surface, structure, facility or element of a mining operation. It occurs when, according to the mining permit, a surface, structure, facility or element is no longer scheduled to be disturbed or used in a manner that would interfere with the establishment and maintenance of vegetation or other reclamation or deactivation measures required by these rules.

B.5. 6. "Deactivation" means the process of finally terminating and reclaiming any specific portion of a mining operation. Deactivation begins when, as prescribed in the permit to mine, all mining activities and uses have ceased and there will be no renewed use or activity by the permittee.

B.7. "Good mining practice" means activities which use the best available technology and which are consistent with these rules.

B.6. 8. "Hereafter" means after the effective date of these rules.

B.9. "Lands previously affected by mining" means lands from which material has been removed in connection with the production or extraction of metallic minerals and lands upon which mine waste has been deposited.

[B.10. through B.12. are renumbered as B.7. through B.9.]

B.10. 13. "Mining operation" means all of a unified mining project without regard to political, administrative or ownership boundaries, which includes all of the facilities used in "mining" as defined in 6 MCAR § 1.0401 B. 11. 8.

[B.14. through B.17. are renumbered as B.11. through B.14.]

B.15. 18. "Reference area" means a vegetated land unit which is designated for comparatively measuring reclamation vegetation success. The vegetation on a reference area may be either planted or naturally occurring. For the purpose of controlling erosion, it shall be self-sustaining, regenerating, or a stage in a recognized vegetation succession which provides wildlife habitat or other uses such as pasture or timber land. Reference areas must be representative of the site conditions and possible uses which might exist on mining landforms.

B.16. 19. "Scram mining operation" means a mining operation which produces natural iron ore or natural iron ore concentrates as defined by Minn. Stat. § 93.20, subs. 12-17, from previously developed stockpiles, tailings basins, underground mine workings, or open pits, which involves no more than 40 80 acres of land not previously affected by mining.



Greater areas shall be allowed if the operator can demonstrate that impacts would be substantially the same as other scam operations. Lands not previously affected by mining means lands upon which mine wastes have not been deposited and lands from which materials have not been removed in connection with the production or extraction of metallic minerals.

B.17.20. "Stockpile" means an accumulation of mine waste. It does not include tailings basins, fossil fuel, finished product, or surge piles.

C.5.b.(1) Any portion of such operation which is hereafter created or used, provided that the siting requirements shall not apply to that portion already constructed;

~~C.5.b.(3) Any portion of such operation which will adversely affect reclamation conducted hereafter; provided that such portion shall be reclaimed, removed, restored or modified to the extent necessary to prevent such adverse effects.~~

C.5.b.(3) All existing permittee-owned power plants and associated facilities, transmission lines, pipelines, docks and associated facilities, and railroads shall comply only with the deactivation, reporting, and procedural requirements of 6 MCAR § 1.0402 I, 6 MCAR §1.0403, and 6 MCAR § 1.0404 G.

~~C.6.a. Subsequent disturbance by another operator is scheduled to occur within 15 years following completion by the first operator; according to such operator's permit to mine;~~

C.9. Subject to Minn. Stat. §93.47, subd., 3 these rules shall be subject to any rights existing pursuant to any permit, license, lease, or other valid existing authorization issued by the commissioner, the Pollution Control Agency or any other governmental entity or their predecessor's office.

**6 MCAR § 1.0402 A.1.** Goals. Mining shall be conducted on sites that minimize adverse impacts on the environment and the public. Separations shall be maintained between mining areas and adjacent conflicting land uses. All sites shall incorporate setbacks or separations which are needed to comply with air, water, and noise pollution standards; local land use regulations; and requirements of other appropriate authorities.

A.2.b.(1) On and within ¼ mile of the Boundary Waters Canoe Area, as defined in NR 1000 (6 MCAR § 1.1000), state or National Wilderness areas, state or National parks and National monuments, except where such areas are established as a result of their association with mining.

A.2.b.(6) Within any lake greater than 80 acres in size (~~Minn. Stat. § 93.13~~) and any stream trout lake designated by the commissioner.

A.2.b.(7) Within that area adjacent to the North Shore of Lake Superior classified as the "Lake Orientation Zone" in the DNR report "North Shore Characterization Study." However, within this zone existing processing and by-product disposal shall be allowed at Silver Bay. The storage and transshipment of product and fuel, and docks and associated facilities shall be permitted allowed at Duluth, Two Harbors, Silver Bay, and Taconite Harbor. The removal of ore by underground mining within this zone may be permitted subject to conditions prescribed by the commissioner when such mining can be conducted in a manner consistent with these rules.

A.2.b.(8)(b) 100 feet of the outside right-of-way line of any public roadway, except where mine access or haul roads ~~join~~ cross such right-of-way line.

A.2.b.(9) Within any area except federal areas added to the categories listed in 6 MCAR § 1.0402 A.2.b. which is designated hereafter but prior to the issuance of a permit to mine involving such area provided that such designation is made by a process which includes a public hearing.

A.2.c. Avoidance areas for mining. When there is a feasible and prudent alternative, no mining shall be conducted within the following areas: (~~Minn. Stat. § 116.D.04, subd. 6~~)

B.2.b. Mining methods and schedules shall be used which provide ~~mined out~~ areas for waste disposal at the earliest opportunity.

B.2.c.(4) Natural resource preservation; ~~and~~

B.2.c.(5) Land use demands; ;

B.2.c.(6) Ownership of the minerals;

B.2.c.(7) Mineral resource values; and

**KEY: 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." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language.

## ADOPTED RULES

B.2.c.(8) Physical and economic feasibility.

C.2.c. Buffers may be constructed within the setback areas described in 6 MCAR § 1.0402 A.2.b. (8) provided:

C.2.c.(1) their primary purpose fulfills 6 MCAR § 1.0402 C.2.a.; and

~~C.2.c.(2) the applicant produces written consent from affected adjacent landowners for such construction.~~

D.1. Goals. Landforms shall be designed and constructed to complement nearby natural terrain, minimize adverse water quality and quantity effects on receiving waters, enhance the survival and propagation of vegetation, be structurally sound, control erosion, promote early completion and progressive reclamation, and encourage the prompt conversion from mining to an approved subsequent use.

D.2.a.(1) Existing stockpiles shall be incorporated or extended or improved to the extent possible;

D.2.a.(3) All runoff and drainage control measures shall be capable of handling designed to withstand a 100 year frequency, 24 hour duration storm as developed using good hydraulic and hydrologic practices;

D.2.a.(4) ~~If applicable water quality standards for discharge are not met all runoff from stockpile shall be collected and held in a settling basin until it meets such standards. If runoff from stockpiles has caused or is likely to cause violations of water quality standards, the runoff shall be collected and held in a settling basin until it meets, or is treated to meet, effluent limitations;~~

D.2.a.(6) ~~When stockpiles consist of materials which may become a water quality problem due to leaching, has occurred or is likely to result from leaching of stockpiled material, the commissioner may shall require require measures such as the following: one or more of the following based on the type of material and the nature and location of the problem:~~

D.2.b. Mining areas shall be managed so that watershed modifications are minimized. Runoff from these areas shall be discharged without injury to life, property and natural resources. Upon deactivation, any runoff from drainage areas altered by mining shall be discharged into receiving waters within the same watershed as existed before mining. When conditions do not allow discharge into the pre-mining watershed, runoff shall be discharged at locations, and in volumes and rates which can be accepted by the receiving waters without injury to life, property, and natural resources.

D.2.c. ~~When Mine mine waste shall not be is deposited on areas with unstable foundations such as peat, muskeg, bedded lacustrine deposits, fault zones, and areas above underground mine workings, unless such areas cannot be reasonably avoided. In such cases the shall be examined, and the landform designed by a qualified engineer subject to approval by the commissioner. an engineer shall examine the foundations and design the landforms to be stable.~~

D.2.d.(1)(e) When vegetation is required pursuant to 6 MCAR § 1.0402 E.2.b. (4), the sloped areas between benches shall be prepared to support vegetation; and

D.2.d.(1)(f) When the sloped area between benches is covered with surface overburden and vegetated, lifts may be raised to a maximum of 40 feet.

D.2.d.(2) Based upon acceptable research the commissioner ~~may shall~~ approve other ~~standards measures~~ which satisfy 6 MCAR § 1.0402 D.1.

D.2.e. A minimum of 2 feet of ~~soil~~ surface overburden shall be placed upon the completed portions of each bench and top of any rock, lean ore, or coarse tailing stockpile and upon other portions of such stockpiles for which vegetation has been required or approved. Based upon acceptable research the commissioner shall approve other measures which satisfy 6 MCAR § 1.0402 D.1.

D.2.g.(1)(a) No lift shall exceed ~~80~~ 40 feet in height;

D.2.g.(1)(c) The sloped area between benches shall be no steeper than ~~3:1~~ 2.5:1;

D.2.g.(1)(e) Rock, lean ore, or coarse tailings shall not be used to cover surface overburden stockpiles in order to avoid compliance with sloping and vegetation requirements. This shall not preclude the abutting of rock, lean ore, or coarse tailings stockpiles with surface overburden stockpiles, or the placement of rock, lean ore, or coarse tailing lifts atop surface overburden pads or lifts.

D.2.g.(2) Based upon acceptable research the commissioner ~~may shall~~ approve other ~~standards measures~~ which satisfy 6 MCAR § 1.0402 D.1.

D.2.h. Mineralized Iron formation and Duluth complex formation materials of varying grades and types shall be segregated within the same stockpile or placed in separate stockpiles. Materials which require different means of beneficiation shall not be commingled.

D.2.i.(1)(b) ~~No lift shall exceed 80 feet in height~~ Lift heights shall range from 40 to 60 feet and shall be selected based on:

D.2.i.(1)(b)(i) The need to protect public safety;

D.2.i.(1)(b)(ii) The location of the pit wall in relation to the surrounding land uses;

D.2.i.(1)(b)(iii) The soil types and their erosion characteristics;

D.2.i.(1)(b)(iv) The variability of overburden thickness; and

D.2.i.(1)(b)(v) The potential uses of the pit following mining.

D.2.i.(1)(c) The sloped area between benches shall be no steeper than ~~3:1~~ 2.5:1; and

D.2.i.(2) Based upon acceptable research the commissioner ~~may~~ shall approve other ~~standards~~ measures which satisfy 6 MCAR § 1.0402 D.1.

D.2.j.(3) During the mining operation dust generation shall be minimized by maximizing the area of permanently reclaimed tailings. The remaining active tailings areas shall be covered with water to the maximum extent possible and beach areas shall be temporarily stabilized consistent with 6 MCAR § 1.0402 F.; and

D.2.j.(4) ~~Maximize topographic relief within the reclaimed basin; and~~

D.2.j.(4) ~~(5) They~~ Tailings basins shall be designed; ~~constructed operated; and maintained~~ by registered professional engineers proficient in geotechnical and other aspects of design, construction, operation, and maintenance of tailings basins. The construction, operation, and maintenance of basins shall be periodically reviewed by such engineers to ensure compliance with the design.

E.2.b. ~~Other measures may be required by the commissioner such as:~~

E.2.b.(1) ~~The placement of vegetative barriers around pits or other hazardous areas to control access;~~

E.2.b.(2) ~~The development of vegetative communities with specific density and composition for the purpose of controlling wind erosion; providing buffers or for specific subsequent uses;~~

E.2.b.(3) ~~The temporary establishment of vegetation on tailings basins exposed for one or more growing seasons;~~

E.2.b.(4) ~~The establishment of vegetation on visible rock lean ore, and coarse tailings stockpile slopes within ¼ mile of residential and designated public use areas;~~

E.2.b.(5) ~~The establishment of vegetation on rock, lean ore, and coarse tailings stockpile slopes which consist of rapidly decomposable material and material subject to leaching.~~

E.2.b. Other vegetative measures shall be undertaken, as necessary, to:

E.2.b.(1) Control access to pits and other hazardous areas, for safety purposes;

E.2.b.(2) Control wind erosion, provide buffering and enhance the establishment of approved specific subsequent uses, through the development plant communities with specific density and composition;

E.2.b.(3) Control dust on temporarily inactive tailings basins to which the non-vegetative methods prescribed pursuant to 6 MCAR § 1.0402 F. are not being applied;

E.2.b.(4) Provide aesthetic and compatible areas on rock, lean ore, and coarse tailings stockpile slopes, within ¼ mile of residential and designated public use areas, except designated trails; and

E.2.b.(5) Control the quality of water which would otherwise contact rapidly decomposable material or material subject to leaching.

E.2.c. The establishment of vegetation shall be initiated during the first normal planting period following ~~completion~~ the point when according to the permit to mine, a surface, structure, facility, or element is no longer scheduled to be disturbed or used in a manner that would interfere with the establishment and maintenance of vegetation, or after it has otherwise been required, using techniques such as:

E.2.d. ~~Within 3 growing seasons after completion at least 90% of the area where vegetation is required must be covered with living vegetation.~~

E.2.d. The following standards apply to the areas listed in 6 MCAR § 1.0402 E.2.a.

E.2.d.(1) After 3 growing seasons following the point when according to the permit to mine, a surface, structure, facility, or element is no longer scheduled to be disturbed or used in a manner that would interfere with establishment and maintenance of vegetation, a 90% ground cover, consisting of living vegetation and its litter, shall exist on all areas, except slopes which primarily

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## ADOPTED RULES

face south and west. Such sloped areas shall attain the 90% ground cover requirement within 5 growing seasons following the point when initiation of vegetation is required. Where this standard is not met, or where unvegetated rills or gullies more than 9 inches deep form and erosion is occurring, the surface shall be repaired and replanted during the next normal planting period.

E.2.d.(2)e. Within 10 growing seasons after ~~completion, the point when according to the permit to mine, a surface, structure, facility, or element is no longer scheduled to be disturbed or used in a manner that would interfere with the establishment and maintenance of vegetation,~~ an area shall have a vegetative community with characteristics similar to those in an approved reference area. The vegetation on a reference area may be either planted or naturally occurring. For the purpose of controlling erosion, it shall be self-sustaining, regenerating, or a stage in a recognized vegetation succession which provides wildlife habitat or other uses such as pasture or timber land. Reference areas must be representative of the site conditions and possible uses which might exist on mining landforms. No release pursuant to 6 MCAR § ~~1.0405 F.~~ 1.0404 G. shall be granted until the areas has such characteristics.

~~E.2.f. Where rills and gullies more than 9" deep form or where vegetation success standards are not met, the surface shall be repaired and replanted during the next normal planting period after such conditions occur.~~

F.1. Goal. Mining shall be managed to control avoidable dust (APC 6).

G.1. Goal. Effects of air overpressure and ground vibrations from ~~mining operations production blasts~~ shall be kept at levels which will not be injurious to human health or welfare and ~~animal life property~~ outside mining areas.

G.2.a.(1) Air overpressure ~~outside the mining area on lands not owned or controlled by the permittee shall not exceed~~ 130 decibels as measured on a linear peak scale, sensitive to a frequency band ranging from 6 cycles per second to 200 cycles per second.

G.2.a.(2) All open pit blasts shall be monitored by the operator. Monitoring stations shall be located adjacent to the nearest ~~structure located on lands not owned or controlled by the permittee, and where the commissioner deems necessary to investigate complaints. Scram operators are not required to conduct air overpressure monitoring except as required for complaint investigation.~~

G.2.a.(3)(g) Monitoring locations and results of monitoring when conducted:

G.2.a.(3)(j) Other information ~~as which the commissioner may require~~ finds necessary to determine if the standards of 6 MCAR § 1.0402 G. are achieved.

G.2.b.(1) The maximum peak particle velocity from blasting shall not exceed one inch per second at the location of any structure located on lands not owned or controlled by the permittee.

G.2.b.(2)(b) Utilize the scale distance formula  $W=(d/60)^2$ , where: W=the charge weight per delay (8 milli-seconds or more), and d=the distance (in feet) from the blast to the nearest structure located on lands not owned or controlled by the permittee to determine the weight of allowable explosive per delay.

G.2.b.(2)(c) When the monitoring is chosen, or complaints are received, seismic measurements shall be conducted adjacent to the nearest structure located on lands not owned or controlled by the permittee and where the commissioner deems necessary to investigate complaints.

G.2.b.(3) ~~The~~ In the event of a complaint or when ground vibrations have or are likely to exceed the one inch per second standard, the commissioner may shall require permittees using underground mining methods to maintain a blaster's log for the purpose of assessing ground vibration control.

H.2.b. ~~When requested by the commissioner~~ In the event of actual or likely subsidence the permittee shall establish ground control survey locations and conduct surveys to document the extent of ground movement.

H.2.c. After subsidence has ceased, affected areas shall be contoured or filled to remove hazards and ~~when required by the commissioner where necessary to protect public health and safety or natural resources,~~ a drainage system shall be established in a manner consistent with 6 MCAR § 1.0402 D.2.b.

I.2.a.(7) ~~Written approvals from surface owners and the local zoning authority~~ Compatibility with local land use plans and plans of the surface owners.

I.2.c. Within 1 year after deactivation begins, or within such longer period which may reasonably be necessary to accomplish these activities, debris and mobil equipment which will not be used for reclamation shall be removed from the area being deactivated.

I.2.d. Within 3 years after deactivation begins, or within ~~a such~~ longer period approved by the commissioner which may reasonably be necessary to accomplish these activities the following shall be accomplished.

I.2.d.(1) Removal of roads, parking areas, and storage pads except those the commissioner deems necessary for access; ~~and~~

I.2.d.(2) Permittee-owned power plants and associated facilities (except public utilities), transmission lines, pipelines, docks and associated facilities, and railroads (except common carrier transportation facilities) shall be removed or provisions made for continued subsequent use in accordance with an approved deactivation plan pursuant to 6 MCAR § 1.0404 G.; and

I.2.d.(3)(2) All other equipment, facilities, and structures shall be removed and foundations razed ~~below ground level~~ and covered with a minimum of 2 feet of soil.

I.2.f.(3) Where open pits contain materials which may become a water quality problem due to leaching, the commissioner ~~may~~ shall require one or more of the following:

I.2.g. Within 3 years after deactivation of a tailings or settling basin begins, or within such longer period which may reasonably be necessary for the accomplishment of these activities, the following ~~permittee shall be accomplished in a manner consistent with 6 MCAR § 1.0402 d.2.b.:~~

I.2.g.(2) Shape and contour the surface to ensure permanent drainage away from the interior of the basin in a manner which will not result in erosion or adversely affect structural stability; and to maximize topographic relief; and

I.2.h. Within 3 years after the commencement of deactivation of a reservoir, or within such longer period which may reasonably be necessary to accomplish these activities, the permittee shall ~~with the approval of the commissioner~~ in a manner consistent with 6 MCAR § 1.0402 D. 2. b.:

I.2.h.(1) Drain the reservoir and reintegrate the area into the natural watershed, pursuant to 6 MCAR § 1.0402 I.2.g.; or 6 MCAR § 1.0403 A.3.g. Biennial plan for the first two years of operation; Operating plan covering the current or immediate upcoming planning period.

A.5.a. ~~Biennial~~ Operating plans for succeeding years of operation;

A.6. When the submittal dates for annual reports and ~~biennial operating~~ plans correspond, they may be combined into one document.

B.1.d. Financial and income statements from all applicants for the previous 3 years, consisting of annual reports or, if annual reports are not available, a similar statement describing ~~solvency and profitability~~ financial capability to perform reclamation obligations.

B.3. Environmental setting maps. The commissioner shall make available to the applicant, at the applicant's expense, copies of all relevant publication information in his possession for the applicant's use in preparing environmental setting submissions. The applicant shall submit the following information on overlays to 7½ minute U.S.G.S. quadrangle or ~~equivalently sealed other~~ maps of the same scale delineating the mining area. Maps shall include such adjacent lands as required by the commissioner, to show the areas directly or indirectly affected by the mining operation. Overlays shall include:

B.3.i. ~~Surface and mineral ownership within the mining area~~ Surface ownership of record within the mining area, and severed mineral ownership asset forth in verified statements pursuant to Minn. Stat. § 93.52 or in an order or decree pursuant to Minn. Stat. § 93.55, subd. 2, filed in the county recorder's office with respect to severed mineral interests in parts of the mining area which will be excavated or covered with mine wastes. An owner's agent may be identified in place of the owner. No error in the designation of surface or mineral ownership shall affect the validity of the application. This requirement shall not apply to lands occupied by existing railroads not located in mine or plant areas; and

B.5. Mining and reclamation maps. The applicant shall submit maps and; ~~as appropriate,~~ cross sections containing all features normally found on a U.S.G.S. quadrangle map, at a scale ~~required by the commissioner,~~ which is normally used by the operator for mine planning purposes, which:

B.5.e.(3) Construction (including shape, extent, and content) and reclamation (including contouring, dust control, temporary stabilization, vegetation, and deactivation) of each: stockpile, tailings basin, mine reservoir, dam, diversion channel, drainage control, settling basin, ~~and semi-permanent mine roads and railroads located outside the mine pit, plant facilities, shops, offices, parking lots, borrow pits,~~ and auxiliary facilities.

C. Biennial Operating plan.

C.1. The permittee shall submit ~~for the upcoming 2 years a biennial plan~~ to the commissioner in duplicate, ~~on or before January 31 of every other year. The plan shall detail: an operating plan covering a forthcoming period, which does not exceed 5 years in length. The operating plan shall consist of the plans normally prepared for the mining operation which shall include the following:~~

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## ADOPTED RULES

~~C.1.a.1.~~ Any changes in the rate of mining or minable reserves pursuant to 6 MCAR § 1.0403 B.6.a.;

~~C.1.b.2.~~ The mining activities pursuant to 6 MCAR § 1.0403 B.6.b.;

~~C.1.c.3.~~ The reclamation activities pursuant to 6 MCAR § 1.0403 B.6.c.; and

~~C.1.d.4.~~ A map in the form prescribed by 6 MCAR § 1.0403 B.5., which depicts the status of mining, construction, reclamation, and watershed modifications pursuant to 6 MCAR § 1.0403 B.5.e.

C.2. Subsequent plans shall be submitted 90 days before the end of the prior plan.

D.1. Annual financial and income statements for the ~~most recent~~ preceeding fiscal year pursuant to 6 MCAR § 1.0403 B.1.d.;

D.4. The actual reclamation activities pursuant to 6 MCAR § 1.0405 ~~3~~ B.6.c. and consistent with 6 MCAR § 1.0403 C.3.

E. Plan for deactivation. The permittee shall submit to the commissioner in duplicate, a deactivation plan at least 2 years prior to beginning deactivation for any portion of the mining area. This plan shall replace the ~~biennial~~ operating plan for the portion to be deactivated and shall contain:

F.4.g. The areal extent and (as applicable) the height, depth, and physical and chemical characteristics of each stockpile, tailings basin, mine, reservoir, dam, diversion channel, drainage control, structure settling basin, and the location of all ~~mine roads and railroads, borrow pits, plant facilities, shops, offices, parking lots, and~~ auxiliary facilities within the mining area.

6 MCAR § 1.0404 A.1. The process for requesting a permit to mine is commenced by submitting an application to the commissioner pursuant to 6 MCAR §§ 1.0402 and 1.0403. After the commissioner determines the application is ~~adequate complete~~, the applicant shall publish an advertisement as required by 6 MCAR § 1.0405. Within 7 days after the last date of publication, the applicant shall submit to the commissioner a copy of the advertisement and an affidavit from the printer verifying publication. The application shall then be considered filed.

A.2.b.(1)(b) Serve an order for hearing in the form and manner required by the provisions of 9 MCAR § 2.204, except those in 9 MCAR § 2.204 B. which shall not apply. (In no event shall such an order be served less than ~~10~~ 20 days prior to the hearing);

A.2.d. Within 120 days after the close of the hearing record, or 90 days after receipt service of the hearing officer's ~~examiner's~~ report pursuant to Minn. Stat. § 93.481, subd. 2, whichever comes later, the commissioner shall:

A.2.d.(2) Deny the permit to mine stating reasons therefore.

A.3.a. If, within 30 days after the last publication required by 6 MCAR § 1.0405, no objections to an application are received from persons entitled to object, the commissioner ~~may~~, within 120 days, may without hearing process the application in accordance with the following:

A.3.a.(2) Deny the permit to mine stating reasons therefore; or

A.3.b.(2) Deny the permit to mine stating reasons therefore.

A.4.b. Within 120 days after the close of the hearing record, or 90 days after receipt service of the hearing officer's ~~examiner's~~ report pursuant to Minn. Stat. § 93.481, subd. 2, whichever comes later, the commissioner shall:

A.4.b.(2) Deny the permit to mine stating reasons therefore.

A.5. Review of ~~biennial~~ operating plan. After granting the permit to mine, the commissioner shall review the ~~biennial~~ operating plan required by 6 MCAR § 1.0403 C., to determine if it complies with the provisions of the permit to mine and these rules. Upon completion of this review, the commissioner shall inform the permittee regarding compliance of the plan with the permit to mine and these rules.

B. Variance from these rules pursuant to Minn. Stat. § 93.48 (see 6 MCAR § 1.0406 A.).

B.1. A proceeding for requesting a variance from these rules is commenced when the permit applicant or permittee files an ~~adequate~~ application for a variance with the commissioner. The application shall include information necessary for the commissioner to determine that the proposed variance is consistent with the general welfare and the goals of these rules.

B.2.b.(2) Deny the application stating reasons therefore.

C.1. A proceeding for requesting an amendment of a permit to mine is commenced with the permittee files an ~~adequate~~ application for an amendment with the commissioner. The application shall include information necessary for the commissioner to determine that the proposed amendment meets the lawful requirements and these rules.

C.2.b.(2) Deny the application stating reasons therefore.

E.1.b. If conditions that provided the grounds for such an action are corrected to the commissioner's satisfaction, within a period, established by the commissioner, of not less than 15 days after the notice, or as appropriate, approved measures are taken to ensure that such conditions do not reoccur, the proceedings shall be cancelled.

G.2.c.(2) Deny the request stating reasons therefore.

H. ~~The commissioner may hold a hearing, pursuant to Minn. Stat. § 93.44-93.51 and these rules, provided that the commissioner issue an order for hearing, pursuant to 9 MCAR § 2.204.~~

H. Assignment. Pursuant to Minn. Stat. § 93.481, subd. 5, the commissioner shall allow the assignment of a permit to mine only if the commissioner determines that the assignee will perform all outstanding obligations of the Act, these rules, and the permit to mine.

**6 MCAR § 1.0405 B.** The names of all surface owners of record of the surface and mineral rights to each parcel of land within the mining area, and severed mineral ownership as set forth in verified statements pursuant to Minn. Stat. § 93.52 or in an order or decree pursuant to Minn. Stat. § 93.55, subd. 2, filed in the county recorder's office with respect to severed mineral interests in parts of the mining area which will be excavated or covered with mine wastes. An owner's agent may be identified in place of the owner. No error in the designation of surface or mineral ownership shall affect the validity of the publication. This requirement shall not apply to except lands occupied by existing railroads not located outside the in mine or plant areas.

**6 MCAR § 1.0406 A.** Variance (see 6 MCAR § 1.0404 B.)

A.1. Granting of a variance. The commissioner ~~may~~ shall grant a variance from the requirements of these rules upon application by a permit applicant or permittee, if it is determined that:

A.2. Conditional granting. The commissioner ~~may~~ shall grant a variance upon such conditions as ~~may~~ shall be necessary for the prevention, control, or correction of adverse environmental effects, consistent with the requirements of these rules and Minnesota statutes.

C.5. When it is determined during the annual bond review that such security is no longer necessary, any bonds, notes, lien or other security or assurance deposited pursuant to ~~this paragraph 6 MCAR § 1.0406 C.4.~~ shall be returned to the permittee.

C.6. 5. Upon forfeiture of a bond the permittee shall allow access to the commissioner and his designated contractors into all mining areas for the purpose of reclaiming all lands disturbed and unreclaimed.

E. Suspension. The commissioner may suspend all or any part of a permit to mine pursuant to Minn. Stat. § 93.481, subd. 4. Any suspension ordered pursuant to this section ~~may~~ shall be for such period and upon such terms as the commissioner deems appropriate to correct the conditions which necessitated suspension.

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## SUPREME COURT

### Decisions Filed Friday, August 8, 1980

Compiled by John McCarthy, Clerk

**50430/Sp.** State of Minnesota vs. Jody Thomas Goar, Appellant. St. Louis County.

Evidence of defendant's guilt held sufficient.

Trial court did not abuse its discretion in admitting act of police photographs from which eyewitness identified defendant's photograph.

Where defense counsel, on cross-examination of state's witness, elicited evidence that defendant had denied his guilt to the police and had fully cooperated with the police in their investigation, prosecutor was not justified in eliciting on redirect that defendant, while denying his guilt, had refused to give a written statement.

Affirmed. Sheran, C.J.

**50989, 51016/Sp.** In the Matter of the Special Instruction and Services for Heidi Pautz for the School Year 1978-1979. Independent School District No. 277, petitioner, vs. Gerald Pautz, and Cecile Pautz, as Parents and Natural Guardians of Heidi Pautz, Respondents (50989), Appellants (51016), Department of Education of the State of Minnesota, Appellant (50989), Respondent (51016). Hennepin County.

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# SUPREME COURT

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Examination of the record and the presumption of correctness to agency decisions supports the decision of the Commissioner of Education that a proposed individual education program for a Downs Syndrome child authorized under Minn. Stat. § 120.17 (1978) was inadequate and incomplete.

Reversed and remanded with this opinion. Sheran, C.J.

**51121/Sp. Delphine M. Heath, Relator, vs. Airtex Industries, et al. Workers' Compensation Court of Appeals.**

The refusal of the Workers' Compensation Court of Appeals to set aside an award on stipulation was an abuse of the discretion vested in that court by Minn. Stat. §§ 176.461 and 176.521 (1978), in the circumstances of this case, where both the award and the underlying settlement were based upon a mutual mistake of fact with respect to the date on which the employee sustained compensable disability, the unforeseen consequence of which was that the award prevents employee from seeking compensation for permanent partial disability to the lungs pursuant to Minn. Stat. § 176.101, subd. 2 (40) (1978).

Reversed. Sheran, C. J.

**49688/7 Jerome Cornfeldt, as trustee for the next of kin of Phyllis Cornfeldt, deceased, vs. Lyle Tongen, Appellant. Ramsey County.**

Trial court erred by denying motion for judgment notwithstanding the verdict where finding that nondisclosure of risk of medical treatment proximately caused death was manifestly contrary to the evidence.

Reversed. Rogosheske, J. Took no part, Otis, J. and Amdahl, J.

**50136/182 George Edward Hauwiler, petitioner, Appellant, vs. State of Minnesota. Ramsey County.**

Postconviction court erred in denying petitioner new trial where (a) record established that petitioner might have testified if his counsel had fully informed him of all relevant facts bearing on his decision to testify, and (b) trial court erroneously instructed jury that as a matter of law petitioner had not acted in self-defense.

Reversed and remanded for new trial. Rogosbeske, J.

**504701 477?213 In the Matter of the Welfare of S. V. Ramsey County.**

A person who commits an offense while a juvenile, but who eludes authorities until over age 21, may be tried as an adult in district court without a referral by juvenile court.

Affirmed. Yetka, J. Took no part, Amdahl, J.

**50426/Sp. State of Minnesota vs. Gregory Lee Melina, Appellant. Wright County.**

Held, record made at time of entry of negotiated guilty pleas adequately established factual basis for pleas.

Affirmed. Scott, J.

**50412, 50605/140 Merlen P. Ahrenholz and Donna L. Ahrenholz, Trustees on behalf of the Heirs and Next to Kin of Nicholas John Ahrenholz, Decedent, Appellants (50412) Respondents (50605) vs. Hennepin County, Respondent (50412) Appellant (50605). State of Minnesota, Intervenor. Hennepin County.**

Plaintiffs are not estopped from obtaining more than the amount of damages requested in their complaint because defendant has not shown that it was prejudiced by the failure to amend.

The \$428,000 verdict was excessive for the death of a one-month-old infant, and the trial court's reduction of the verdict to \$100,000 was not an abuse of discretion.

Affirmed. Wahl, J. Took no part, Sheran, C. J. and Amdahl, J.

**50531/197 Minnesota Fifth Congressional District Independent Republican Party, et al., vs. State of Minnesota, ex rel. Warren Spannaus, Attorney General, Appellant, and City of Minneapolis, ex rel. Lyall A. Schwarzkopf, City Clerk. Hennepin County.**

Minnesota Statutes 202A.22, subd. 1(m) (1978), which requires that any candidate filing for a municipal partisan office as an "Independent" state in his affidavit of candidacy "that he did not seek, does not intend to seek and will not accept any party's support for his candidacy," violates First Amendment rights of political association and expression.

Affirmed. Wahl, J. Dissenting, Yetka, J. Took no part, Amdahl, J.

**48104/420 State of Minnesota vs. Roy Eric Wahlberg, Appellant. St. Louis County.**

Evidence was sufficient to sustain defendant's conviction for first-degree murder.

The trial court did not err in refusing to submit the lesser charge of third-degree murder to the jury, where the act was intentional and directed toward one person.

Any error in the trial court's instruction on voluntary intoxication was harmless.



Because the state must prove intent to commit the crime beyond a reasonable doubt, putting the burden on defendant to present evidence of voluntary intoxication does not violate due process.

Improper contents made by the prosecutor during his closing argument did not constitute reversible error.

The trial court's allowance of impeachment evidence without giving a limiting instruction to the jury was not reversible error, where defendant did not request such an instruction.

Defendant has waived his right to claim on appeal that newspaper articles published during the trial denied him a fair trial.

Affirmed. Wahl, J. Took no part, Amdahl, J.

**50904/Sp. State of Minnesota vs. John Joslin, Appellant. Almsted County.**

Evidence of defendant's guilt held sufficient.

Affirmed. Per Curiam.

**49951/75 Neil Stuemppes vs. Parke, Davis & Company, Appellant. Hennepin County.**

Statements made by an employer regarding the work record of a former employee to one with a legitimate interest in the subject are conditionally privileged as long as they are made in good faith.

In order to protect the legitimate interests of the employee, such statements lose their conditional privilege if they are demonstrated to be false or to have been uttered with malice.

In an employment recommendation contest, the common law malice standard better protects the legitimate interests of employer and employee than the standard enunciated in *New York Times Co. v. Sullivan* 376 U.S. 254 (1964), which is more appropriate for defamation actions against media defendants.

The damage award was neither improper nor excessive, and punitive damages may properly be awarded to punish an employer for abusing its privilege to discuss the work record of a former employee.

Affirmed. Sheran, C. J.

**49493/95 Cardinal Consulting Company vs. Circo Resorts, Inc., Appellant. Dakota County.**

There is sufficient evidence in the record to support an award of lost profits resulting from a breach by defendant of a contract to reserve rooms at its Las Vegas hotel, which contract permitted plaintiff to cancel on 30-days written or oral notice without according an equal cancellation right to defendant.

That plaintiff was an unestablished business at the time of the breach of contract does not preclude its recovery of lost profits as long as it can demonstrate with reasonable certainty both their occurrence and their amount. Any other rule would permit a wrongdoer to evade its responsibility simply because its breach involved a new, rather than an established, enterprise.

Affirmed. Sheran, C. J. Took no part, Otis, J.

**50754/Sp. Lucille Gaston, Relator, vs. North Star Lanes, et al. Workers' Compensation court of Appeals.**

The record as a whole does not contain substantial credible evidence to support a finding that the injured employee has not been temporarily totally disabled from and after June 18, 1977. The finding is reversed and the case is remanded to permit the parties to furnish additional evidence on the issue of whether the employee had voluntarily retired on or before that date.

Affirmed in part, reversed in part, and remanded. Yetka, J.

**50287/204 County of Ramsey, Appellant, vs. S. M. F. Ramsey County.**

In a paternity action, interrogatories from the putative father asking the mother whom she had sexual intercourse with over a 5-year period and whether she had a steady boyfriend 4 years after the birth of the child are overbroad.

Under the Uniform Parentage Act as adopted by the Minnesota legislature, 1980, Minn. Laws ch. 589, plaintiffs in paternity actions should always request the court to order that sophisticated blood tests be taken. The costs of such tests should ordinarily be charged to the county when the county brings the action.

Since the Uniform Parentage Act provides that sophisticated blood tests must be ordered if requested by a party and that test results are admissible at trial, it would be preferable for the county to request putative fathers to take such tests prior to litigation at the county's expense. Such a procedure would promote settlements without litigation to the benefit of all parties.

Reversed and remanded with directions. Yetka, J.

**49717/220 Leisure Dynamics, Inc., Plaintiff, vs. Falstaff Brewing Corporation. United Court.**

In answer to five questions certified from the United States District Court for the District of Minnesota, we hold that:

The 6-year statute of limitations contained in Minn. Stat. § 541.05, subd. 1(2) (1978) applies to a seller's cause of action to collect sales tax

## SUPREME COURT

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from a buyer pursuant to Minn. Stat. § 297A.03, subd. 1 (1978).

The seller's cause of action under Minn. Stat. § 297A.03, subd. 1 (1978) accrues at the time of sale.

The 4-year statute of limitations contained in Minn. Stat. § 336.2-725(1) (1978) applies to a seller's claim for collection of sales tax from a buyer brought under a breach of contract theory.

The cause of action for breach of a contract to pay sales tax accrues at the time of the sale.

Under the stipulated facts, the causes of action asserted by the plaintiff are barred by the applicable statutes of limitations.

Certified questions answered. Yetka, J.

**50251/272 L. N. Lundstrom vs. S. R. Navickas, Appellant, and S. R. Navickas, Appellant, vs. L. N. Lundstrom. Hennepin County.**

The trial court made reasonable rulings on the three issues stipulated as unresolved by the parties to this partnership dissolution.

Affirmed. Yetka, J.

**50756/302 State of Minnesota vs. Bruce Kevin Buchholtz, Appellant. Houston County.**

*Held*, affidavit in support of application for search warrant contained sufficient showing of unidentified informant's veracity and the basis of his knowledge to satisfy requirements of *Aguilar v. Texas*, 378 U.S. 108 (1964), for issuance of search warrant based on hearsay information.

*Held*, trial court, as finder of fact on issue of guilt or innocence in case in which defendant waived jury, did not clearly err in finding that the substance defendant possessed with intent to distribute was marijuana.

Affirmed. Yetka, J.

## STATE CONTRACTS

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Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, 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 Economic Security Vocational Rehabilitation Division

#### Notice of Availability of Funds to Establish Centers for Independent Living

Subject to the availability of federal funds, the division announces the availability of project funding for the purpose of establishing Centers for Independent Living. A Center for Independent Living is a community-based, public or private non-profit, non-residential program that provides directly or indirectly through coordination, contract, and referral those services necessary for a severely disabled individual to achieve and maintain an independent lifestyle within the community. A public or private non-profit organization wishing to apply for project funds must be run by a board of directors comprised of a majority of severely disabled individuals or the parents of severely disabled individuals. Additionally, the project must plan to employ a staff comprised of at least 60% severely disabled.

Under this grant program, three Centers for Independent Living will receive funding:

- One Metro area grant at about \$150,000; metro area refers to the seven county metropolitan area.
- Two non-Metro area grants at about \$75,000; non-Metro areas refers to any area of the state of Minnesota beyond the seven county metropolitan area.

Projects will be approved for a maximum of 12 months at one time. Renewal applications may be submitted for additional 12 month periods, up to a maximum of 24 additional months. Total project periods may not, by law, exceed this 3 year (36 month) maximum.

These funds are authorized and made available as the result of Title VII, Part B, Section 711 of Public Law 95-602 and state appropriations to provide independent living services. The responsibility for coordinating and administering these new program initiatives rests with the Independent Living Program Manager within the Rehabilitation Resources section of the Division of Vocational Rehabilitation. A Request for Proposal (RFP) package is now available and a Bidder's Conference is planned for September 24, 1980 from 1:00 to 4:00 p.m. The deadline for all applications will be 4:00 p.m. on Friday, October 31, 1980.

Any questions concerning these projects, the R.F.P., or the Bidders Conference should be directed to: Independent Living Program Manager, Division of Vocational Rehabilitation, 3rd Floor, Space Center Building, 444 Lafayette Road, St. Paul, MN 55101, or at (612) 297-3383.

## **State Board of Investment**

### **Notice of Request for Proposals for Development of An Investment Management/Accounting System**

The State Board of Investment is requesting proposals from software suppliers to be used in a time-sharing environment who can provide us with software and software maintenance that will offer a solution that will satisfy the requirements contained in the request for proposal.

The new system will be required to maintain complete asset inventory for all invested assets as well as establish income accounting systems for investments that will include the ability to accrue income, post receipt of income, and produce reports of past due items, income collected, and accrued income. The system must also be able to market value all investments in the various portfolios.

The procedure which the State Board of Investment will utilize in selecting a vendor for this task is set forth in Minnesota Statute § 16.098.

All interested vendors should contact the person named below by telephone to request a copy of the Request for Proposal and if desired, a copy of Minn. Stat. § 16.098.

Deborah F. Temple  
Mn. State Board of Investment  
Room 105, MEA Building  
55 Sherburne Avenue  
St. Paul, MN 55155 (612) 296-3328

All responses must be received no later than 4:30 p.m. on September 18, 1980. The contract will be awarded from the responses received from this Request for Proposal by October 15, 1980.

## **Department of Public Welfare Board on Aging**

### **Notice of Availability of State Funds for New Retired Senior Volunteer Programs (RSVP)**

#### **Amount, Purpose and Eligibility**

\$75,000 in state funds is available to develop three new Retired Senior Volunteer Programs (RSVP) in areas of the state not now covered under federally funded RSVP programs. Grants would be used to develop and administer RSVP programs, which provide meaningful retirement roles for persons 60 and over through community and volunteer services, providing needed volunteer help to non-profit or public agencies and organizations.

Three grants of up to \$25,000 each will be made to private non-private or public agencies or organizations with proven capability to operate and administer programs for older people, social services, or volunteer programs geared to assisting community organizations. Grants will be for a twelve month period beginning January 1, 1981.

#### **Letter of Intent**

Letters of intent to apply for one of the three grants must be submitted by September 2, 1980 to Minnesota Board on Aging, 204 Metro Square, St. Paul, Minnesota 55101. Letters must identify the amount of funds to be requested and the specific areas to be served.

#### **Application Process**

Application materials and technical assistance will be provided to organizations submitting letters of intent. The application materials will be similar to that required for federal RSVP funds. The federal ACTION agency will be asked to provide up to \$5000 in federal funds to each state funded project. Grantees are expected to provide 10% first year local match. The local match may be waived prior to funding if unusual and mitigating circumstances arise.

## STATE CONTRACTS

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Draft applications must be submitted to the Minnesota Board on Aging at the above address by October 1, 1980. Final applications must be submitted by November 1, 1980 for action by the Minnesota Board on Aging on November 21, 1980. Where joint state/federal participation in funding the new projects is proposed the concurrence of the federal ACTION agency will be required prior to issuance of grant awards.

### Funding Criteria

Grants will be made to the applicants which, in the judgement of the Minnesota Board on Aging, will most effectively and efficiently meet the needs of the older population in the counties to be served through the RSVP program. The ability of the applicant agency to meet all state and federal requirements for operation of the program will be considered primary. Preference will be given to proposals for multi-county areas.

In order to assure coordination with existing volunteer, social service, and aging programs all applicants will be required to have letters of support from the Community Social Services Act authorities and the Area Agencies on Aging of the counties and regions to be served.

### For Information

Contact Arthur Weflen, Minnesota Board on Aging, 204 Metro Square Building, St. Paul, Minnesota 55101, (612) 296-3217.

## Department of Public Welfare Chemical Dependency Division

### Notice of Request for Proposal for Initiation of Board and Lodging Facility Or Other Alternative Program

Notice is hereby given that the Chemical Dependency Division, Department of Public Welfare, is letting a request for proposals for initiation of up to 3 board and lodging or other alternative programs for the housing and service of chronic alcoholics. Funds may be used for staff costs or operating expenses during the period January 1, 1981 to June 30, 1981.

The estimated amount of each contract in this area will not exceed \$17,500. Responses must be received by October 10, 1980.

Direct inquiries to:

Wayne Raske or Dorrie Hennagir  
Chemical Dependency Division  
4th Floor, Centennial Office Building  
St. Paul, Minnesota 55155

## OFFICIAL NOTICES

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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, announcements of meetings, and matters of public interest.

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## Department of Economic Security Office of Economic Opportunity

### Summary of Proposed State Plan for Low Income Energy Assistance Program

#### Notice of Public Comment Period and Hearing

Notice is hereby given that a public comment period on the above-entitled matter will begin upon publication of this notice and close after 20 days at 4:30 p.m. on Monday, September 8, 1980.

All interested or affected persons will have an opportunity to comment concerning the major provisions of the proposed State Plan for the Low Income Energy Assistance Program, 1980-1981. Written comments must be submitted to Jane Brown, Energy Assistance Director, Department of Economic Security, Office of Economic Opportunity, 690 American Center Building, 150 East Kellogg, St. Paul, Minnesota 55101, during the 20 day comment period. All comments will be considered by the Department of Economic Security, Office of Economic Opportunity.

Copies of the entire State Plan for LIEAP are now available at Public Libraries, and a copy may be obtained by writing to the above address.

Notice is hereby given that a Public Hearing on the above-entitled matter will be held in Room 123 at the Minnesota State Capitol Wednesday, August 27, 1980, commencing at 10:30 a.m. The hearing will be conducted by Peter C. Erickson, Hearing Officer, State Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota 55104.

Oral and written testimony may be submitted at the hearing. In addition, written testimony will be accepted at the above address until 4:30 p.m., Monday, September 8, 1980.

August 18, 1980

Rolf Middleton  
Commissioner  
Department of Economic Security

### **Summary of Proposed State Plan for Low Income Energy Assistance Program**

The Home Energy Assistance Act of 1980 (Title III of Pub. L. 96-223) authorizes grants to states "to provide assistance to eligible households to offset the rising costs of home energy that are excessive in relation to household income." The funds for this program will come from revenue produced by the windfall profits tax.

Under the Act, responsibility for federal administration of Low Income Energy Assistance Program funds for FY 1981 is assigned to the Department of Health, Education, and Welfare (now the Department of Health and Human Services). At the state level, Governor Quie has designated the Department of Economic Security, Office of Economic Opportunity (DES/OEO) as the single state administering agency. Each county in Minnesota had the option to designate the local delivery agency by resolution of the County Board of Commissioners. A list of local deliverers, by county and Indian Reservation, is included in the proposed State Plan.

**A. Coordination with Weatherization Programs and Energy Conservation Efforts.** The state shall, to the maximum extent possible, assure that there will be referral of individuals to, and coordination with existing federal, state, and local weatherization and conservation efforts.

**B. Outreach Activities.** All local agencies contracting with the state for LIEAP funds must submit an Outreach/Public Relations Plan to the state for approval. The plan must at least include:

1. Home visits for the elderly, handicapped, and persons unable to leave their homes due to infirmity or fear of victimization.
2. Decentralized intake sites throughout the service area to provide access in isolated or rural areas.
8. Direct mailings, newspaper releases, radio and television announcements, notices in area church bulletins and appropriate newsletters, posters, brochures, and public speaking.

**C. Procedures for Identifying and Certifying Eligible Households.** An application process will be used to identify and certify all eligible households.

**D. Reserve Funds for Emergencies.** The state will reserve three percent of its allocation for weather related and supply shortage emergencies. Emergency funds will be used for reallocation throughout the duration of the program. When a local agency spends down the original LIEAP allocation, a contract will be issued immediately releasing funds.

**E. Administrative Costs.** Allocations to Local agencies will be based on factors including heating degree days, low income population, and energy costs by fuel type. A portion of the total state allocation will be set aside for reallocation upon the determination that population data for one area of the State is inaccurate, thus making the original allocation of funds to the area insufficient. Local agencies may use up to eight percent of their total allocation for administrative costs.

**F. Eligibility.** Households which will be eligible for home energy assistance are those which have an income less than or equal to the Bureau of Labor Statistics Lower Living Standard or which contain at least one or more individuals eligible for AFDC (Other than Foster Care or Emergency Assistance to needy families with children); SSI, Food Stamps, and certain Veteran's Benefits.

These households constitute an eligibility poor, but will not automatically receive assistance. It is possible, under the regulations, that a categorically eligible household may not be vulnerable to rising energy costs and therefore, will not receive assistance. (See payments).

**G. Payments.** Payments for home energy assistance may be made to home energy suppliers on behalf of eligible households and/or directly to eligible households.

## OFFICIAL NOTICES

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1. Direct payments to households will only be made under the following circumstances: (a.) When a vendor will not cooperate with an agency by signing a vendor agreement. (b.) When a household has been forced to pay an energy bill during the period following initial contact with the LIEAP delivery agency and before actual payment is made to a vendor. The local agency may use the following forms of payment: cash, vouchers, stamps, coupons, certificates, or in-kind payments (delivery of fuel or prepaid utility bills).

2. Payments will only be made to or on behalf of households that are vulnerable to energy cost increases. A household that is at least partially responsible for their own energy costs is considered vulnerable.

3. Payments will be made to operators of specified public or subsidized housing projects on behalf of eligible non-vulnerable tenants.

4. Rental households that pay energy costs as undesignated portions of their rent payments will be assisted in the same manner described above when an agreement has been obtained from the landlord stating that portion of the rent that is considered payment for energy costs. The landlord must agree not to raise the rent as a direct result of the household receiving assistance. When an agreement cannot be obtained, a direct payment may be made to the household.

**H. Payment Amount.** Assistance payments may range from \$50 to \$900 and will be based on the household's vulnerability to energy cost increases to be determined by comparing household income in relation to average costs by fuel type and heating degree days in the region. The proposed range of payments (\$50 to \$900) may change dependent on the actual funding allocation to the State. Households with the lowest incomes and highest energy costs in relation to income will receive the highest levels of assistance.

**I. Priority for Households with Elderly or Handicapped Persons.** Priority will be given to elderly and/or handicapped persons through the Outreach effort as previously outlined. Payments to these households will be made in accordance with the policy stated in Section H. Payment Amount.

**J. Payments to Building Operators.** Payments will be made directly to building operators of public or subsidized housing on behalf of tenants that meet the requirements for an eligible household under this plan and that are not vulnerable to energy cost increases. Payments will be made during the month of April and will be based on non-subsidized heating costs for the building for the months of December, January and February. In order for a building operator to receive payment, the following information must be provided:

1. Documentation of actual residential heating costs for December, January and February that remain unsubsidized by any other program.
2. Documentation of the specific location of each building for which payments are requested.
3. Documentation of the number of dwelling units in each building.
4. Documentation of the number of eligible tenants in each building by name and income, if eligible because of income below the Lower Living Standard; or by name and type of aid received if categorically eligible.

**K. Payments to Home Energy Suppliers.** Local agencies will make payments to home energy suppliers using a line of credit for the eligible household with the applicant-designated vendor. (If a line of credit with a vendor is not allowable by determination of HHS, local agencies will maintain the line of credit or will use dual signed checks for payment upon delivery).

Local agencies will make payments to a home energy supplier only if the supplier agrees:

1. To charge the household in the suppliers normal billing process and no more than the difference between the actual cost of the energy delivered and the payments the supplier has received or can expect to receive from the local agency under this plan.
2. Not to discriminate against any eligible household in regard to terms and conditions of sale, credit, delivery, or price.
3. That unless exempted under the definition of a "small supplier", not to stop supplying energy to any eligible household.

**L. Fair Hearing for Dissatisfied Households.** Local agencies are responsible for providing an appeal process for households experiencing the denials listed below. The state agrees to provide for a fair hearing to any household not satisfied with the local appeal determination.

1. Application is denied.
2. Application is neither denied nor approved within 30 days.
3. Payment is less than the household believes it should be.
4. Payment to be made is a lesser amount or duration than the household was notified earlier.

# Energy Agency

## Current and Projected Residential Energy Costs, by Region and State

In fulfillment of Minnesota Statutes, ch. 116H, § 129, subd. 1, the Director of the Energy Agency hereby certifies the following current and projected average residential energy costs. For any residence, the evaluator may use the actual unit energy price for that residence, as documented by the most recent bill, in lieu of these average costs.

**Table 1.**

**Average Residential Energy Prices, By Region and State  
Winter 1978-79 and 1979-80**

Region	Natural Gas <sup>a</sup> \$/1000 cubic feet		Electricity <sup>a</sup> ¢/kwh				Fuel Oil <sup>b</sup> ¢/gallon		Propane <sup>b</sup> ¢/gallon	
	1978-79R	1979-80	1978-79R		1979-80		1978-79	1979-80	1978-79	1979-80
			NSH	SH	NSH	SH				
1	2.92	4.67	3.91	2.35	4.83	2.43	50.5	98.2	41.6	58.3
2	3.16	4.55	4.66	2.41	4.55	2.50	53.1	98.0	40.6	59.3
3	2.85	3.26	4.35	2.88	5.40	4.04	55.4	99.2	41.5	63.2
4	3.27	4.45	4.37	2.52	5.10	3.31	51.5	98.1	42.2	61.6
5	2.60	2.91	4.96	3.39	5.99	4.41	51.5	96.9	43.7	62.1
6E	2.62	2.83	4.98	2.93	5.47	3.66	51.0	96.2	40.8	60.7
6W	2.69	3.06	4.78	2.83	4.83	2.95	49.3	97.5	38.4	58.0
7E	2.95	3.31	5.16	3.65	5.26	3.85	51.3	95.7	41.8	63.1
7W	2.60	2.97	4.74	2.93	5.30	3.44	51.6	94.4	40.3	60.8
8	2.73	3.34	4.14	2.32	4.97	3.21	51.4	95.3	36.8	58.5
9	2.40	2.72	4.38	2.59	6.05	3.98	50.2	97.0	40.7	57.2
10	2.11	2.74	4.47	3.02	5.47	3.34	51.3	94.0	39.2	59.8
11	2.47	2.81	4.49	2.54	4.91	2.81	53.0	95.6	42.1	62.4
State	2.49	2.94	4.49	2.69	5.14	3.19	51.6	96.8	40.7	60.9

R = Revised Figure

SH = Space Heating

NSH = Non-Space Heating

<sup>a</sup>/ Winter prices calculated from rate schedules submitted by utilities to the Public Service Commission; space heating requirements bias prices towards the lowest rate block of residential customers. Non-space heating consumption from the NSP Residential Electricity Use Study, Minnesota 1979.

<sup>b</sup>/ Prices from the MEA Residential Fuel Price Surveys.

# OFFICIAL NOTICES

Table 2.

**Projected State Average Residential Prices for Winter  
Fuel Oil, Propane, Natural Gas, and Electric, Including Inflation 1980-1986**

	Average Prices in Current Dollars						
	1979-80	1980-81	1981-82	1982-83	1983-84	1984-85	1985-86
#2 Fuel Oil <sup>a</sup> ¢/gallon	96.8	110	128	146	164	184	206
Propane <sup>b</sup> ¢/gallon	60.9	73	85	97	109	123	137
Natural Gas <sup>c</sup>							
Domestic	2.77	3.32	3.83	4.28	4.72	5.25	5.94
Canadian	5.08	6.62	7.79	8.96	10.11	11.24	12.34
\$/1000 cubic feet							
Electric <sup>d</sup>							
(Metro)							
Space Htg.	2.81	2.97	3.11	3.27	3.58	3.77	4.08
Non-space Htg.	4.91	5.18	5.43	5.72	6.25	6.58	7.13
¢/kwh							
Inflation—GNP implicit price deflator <sup>e</sup> (Annual rates)	9.0	9.3	9.6	9.0	8.2	8.0	8.0

<sup>a</sup> Includes OPEC price increases, decontrol of domestic crude oil and inflation.

<sup>b</sup> Assumes price equivalency with #2 fuel oil on a per million BTU basis.

<sup>c</sup> Includes deregulation of domestic natural gas, and price equivalency of gas to world crude oil prices.

<sup>d</sup> Projections for other regions are prepared using individual utility data (Table 3). These include increased costs from additional capacity and new facilities planned to come on line between 1980-1986.

<sup>e</sup> Data Resources, Inc., *U.S. Long Term Review*, Summer 1980, Lexington, Trendlong 0680, p. 1.19; determined for the winter season by taking the average between two years.



**Table 3.**  
**Projected Residential Electricity Prices By Region, Including Inflation**

Region	Type of Heating	Actual	Projected					
		1980	1981	1982	1983	1984	1985	1986
			¢/kwh					
1	Non-Space	4.83	5.56	5.91	6.27	6.65	7.32	8.08
	Space	2.43	2.80	2.98	3.15	3.35	3.68	4.06
2	Non-Space	4.55	5.19	5.48	5.77	6.17	6.72	7.35
	Space	2.50	2.86	3.01	3.17	3.39	3.69	4.04
3	Non-Space	5.40	5.85	6.34	6.93	7.97	8.55	9.17
	Space	4.04	4.38	4.74	5.19	5.96	6.40	6.86
4	Non-Space	5.10	5.63	5.94	6.28	6.69	7.37	7.90
	Space	3.31	3.66	3.86	4.07	4.35	4.78	5.21
5	Non-Space	4.96	5.33	5.70	6.17	7.00	7.49	7.98
	Space	4.41	47.4	5.07	5.48	6.23	6.66	7.10
6E	Non-Space	5.47	5.93	6.38	6.89	7.52	8.14	8.82
	Space	3.66	3.97	4.26	4.61	5.03	5.44	5.90
6W	Non-Space	4.83	5.38	5.70	6.05	6.51	7.19	7.90
	Space	2.95	3.29	3.49	3.70	3.98	4.40	4.83
7E	Non-Space	5.26	5.77	6.01	6.40	6.89	7.30	7.77
	Space	3.85	4.22	4.40	4.68	5.04	5.34	5.69
7W	Non-Space	5.30	5.68	5.96	6.31	6.84	7.25	7.80
	Space	3.44	3.68	3.87	4.09	4.43	4.71	5.06
8	Non-Space	4.97	5.36	5.74	6.15	6.66	7.25	7.84
	Space	3.21	3.46	3.71	3.97	4.31	4.69	5.07
9	Non-Space	6.05	6.46	6.91	7.39	8.03	8.67	9.35
	Space	3.98	4.25	4.55	4.87	5.29	5.71	6.16
10	Non-Space	5.47	5.87	6.32	6.80	7.38	8.01	8.68
	Space	3.34	3.58	3.86	4.15	4.51	4.89	5.30
11	Non-Space	4.91	5.18	5.43	5.72	6.25	6.58	7.13
	Space	2.81	2.97	3.11	3.27	3.58	3.77	4.08

## Energy Agency Alternative Energy Division

### Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Concerning Grants for Research and Development of Renewable Energy Resources

Notice is hereby given that the Alternative Energy Division of the Minnesota Energy Agency is seeking information and opinions from sources outside the Agency in preparing to draft proposed rules for a grant program for renewable energy resource research and development pursuant to Laws of 1980, ch. 579, § 32, subd. 4(e). The Energy Agency is presently considering proposing a program with two main components, one directed towards small grantees to develop innovative ideas and demonstration projects concerning renewable energy resources and a second component directed towards individuals and small businesses to develop product models or prototypes for commercial production. The Energy Agency would place priorities on certain areas of alternative energy development and establish criteria to use in evaluating proposed projects and in monitoring the progress of funded projects.

The Energy Agency invites interested persons or organizations to provide information, comments and advice on this subject. All statements of information and comment should be submitted in writing by November 1, 1980, and may be addressed to:

Mr. Ron Greenley  
720 American Center Building  
150 East Kellogg Boulevard  
Saint Paul, Minnesota 55101

All written material received by the Minnesota Energy Agency concerning this subject shall become part of the public hearing record in the event rules governing this subject are promulgated.

# OFFICIAL NOTICES

## State Board of Investment

### Notice of Regular Meeting

The next regular meeting of the State Board of Investment will be held Friday, August 22, 1980 at 9:30 a.m., Room 130, State Capitol, St. Paul, MN.

## Department of Natural Resources

### Petition(s) Concerning the Designation of Certain Public Waters and Wetlands in Chippewa County

#### Notice of and Order for Hearing

It is hereby ordered and notice is hereby given that a public hearing in the above-entitled matter pursuant to Minnesota Statutes, § 105.391, subd. 1 (1979) will be held in the Court House, Assembly Room, Montevideo, Minnesota, on September 2, 1980 commencing at 10:00 a.m. and continuing until all persons have had an opportunity to be heard. The hearing will be conducted by a three-person hearings unit consisting of County representative Thomas Johnson, Route 1, Box 183, Milan, MN 56262, Department of Natural Resources representative Paul Hansen, and Chippewa Soil and Water Conservation District representative Axel Larson, 1118 North 6th Street, Montevideo, MN 56265.

Each of the waters listed in this notice is the subject of a petition for a hearing. The issue to be determined at the hearing is whether the following waters shall be designated public waters or wetlands pursuant to Minnesota Statutes, § 105.391 (1979) and the criteria contained in Minnesota Statutes, § 105.37, subs. 14 and 15 (1979):

#### A. Public Waters

##### 1. Basins

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
12-36: Unnamed	5; 32, 33	116; 117	39
12-67: Unnamed	5; 31, 32	118, 119	40
12-97: Unnamed	17-20	117	40

##### 2. Watercourses

<u>Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>TO</u>		
				<u>Section</u>	<u>Township</u>	<u>Range</u>
Unnamed tributary C.D. #13 is not designated as public watercourse	1	119	42	18	119	41

#### B. Wetlands

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
12-60: Long Slough	SW 29	117	40
12-71: Unnamed	9, 10	117	41
12-77: Unnamed	11	119	42
12-83: Unnamed	2	116	39
12-94: Unnamed	19	119	41
12-99: Unnamed	19; 24	118	41; 42

Within 60 days following completion of the hearing, the hearings unit shall issue its findings of fact, conclusions and an order, which shall be considered the decision of an agency in a contested case for purposes of judicial review pursuant to Minnesota Statutes, §§ 15.0424 and 15.0425.

Any activity that would change the course, current or cross-section of public waters or wetlands requires a permit from the Commissioner of Natural Resources. Minnesota Statutes, § 105.42, subd. 1 (1979). Designation as public waters or wetlands does not transfer ownership of the bed or shore, does not grant the public any greater right of access to those waters than was available prior to designation and does not prevent a landowner from utilizing the bed of those waters for pasture or cropland during periods of drought. Minnesota Statutes, § 105.391, subs. 10 and 12 (1979).

All petitioners may be represented by counsel or anyone else of their choosing and shall be given an opportunity to be heard orally, to present and cross-examine witnesses and to submit written data, statements or arguments. Petitioners should bring all evidence bearing on these matters including maps, records or other documents.

Failure to attend may result in the challenged waters being designated public waters or wetlands and may prejudice your rights in this and subsequent proceedings.

Questions concerning this Notice and Order may be directed to any member of the hearings unit or to:

David B. Milles  
 DNR — Division of Waters  
 Third Floor, Space Center Building  
 444 Lafayette Road  
 Saint Paul, MN 55101  
 Telephone: 612/297-2835

By: Steven G. Thorne, Deputy Commissioner

August 7, 1980

**Petitions(s) Concerning the Designation of Certain Public Waters and Wetlands in Grant County**

**Notice of and Order for Hearing**

It is hereby ordered and notice is hereby given that a public hearing in the above-entitled matter pursuant to Minnesota Statutes, § 105.391, subd. 1 (1979) will be held in The Community Building, South Room, Central Avenue North, Elbow Lake, Minnesota on September 5, 1980, commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard. The hearing will be conducted by a three-person hearings unit consisting of county representative Sidney Bordson, Rural Route, Elbow Lake, MN 56531, Department of Natural Resources representative Merlyn Wesloh, and Grant County Soil and Water Conservation District representative Richard Woessner, Elbow Lake, MN 56531.

Each of the waters listed in this notice is the subject of a petition for a hearing. The issue to be determined at the hearing is whether the following waters shall be designated public waters or wetlands pursuant to Minnesota Statutes, § 105.391 (1979) and the criteria contained in Minnesota Statutes, § 105.37, subds. 14 and 15 (1979):

A. Public Waters

1. Basins

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
26-39 : Olson Lake	23, 26	128	41
26-58 : Malgren Lake	26, 27	129	41
26-75 : Mellay Lake	9, 10	130	41
26-136: Eide Lake	4, 5; 33	128; 129	42
26-158: Unnamed	8	130	42
26-182: Jones Lake	30; 25	128	42; 43
26-199: Unnamed	15, 16, 21, 22	127	43
26-238: Moses Lake	21, 22	128	43
26-245: Schram Lake	27	128	43
26-306: Unnamed	13, 14, 23, 24	130	44
26-373: Unnamed	10, 11	127	41

2. Watercourses

<u>Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>TO</u>		
				<u>Section</u>	<u>Township</u>	<u>Range</u>
Rabbit River	5	130	44	18	130	44
Unnamed	23 (Basin 306)	130	44	23	130	44
Unnamed	8	129	43	14	129	44
Unnamed	33	129	43	21	129	44
Unnamed tributary	34 (Basin 179)	130	42	10	130	43
Unnamed tributary	19	129	42	11 (Basin 290)	129	43
Five Mile Creek	23 (Basin 299)	127	44	19	127	44

# OFFICIAL NOTICES

<u>Number and Name</u>	<u>Section</u>			<u>Township</u>		<u>Range</u>
Unnamed trib. to CD #8	24	127	43	22(Basin 299)	127	44
Unnamed	4	129	42	3(Basin 290)	129	43

## B. Wetlands

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
26-11 : Unnamed	34	127	41
26-19 : Unnamed	16	128	41
26-41 : Unnamed	28	128	41
26-45 : Unnamed	33	128	41
26-90 : Unnamed	32	130	41
26-143: Unnamed	9, 10	129	42
26-150: Unnamed	31	129	42
26-152: Unnamed	1	130	42
26-181: Unnamed	31; 36	127	42; 43
26-196: Unnamed	11, 12	127	43
26-210: Unnamed	25, 36	127	43
26-220: Unnamed	2, 3; 34, 35	127; 128	43
26-225: Unnamed	8	128	43
26-254: Unnamed	10	129	43
26-257: Unnamed	25	129	43
26-281: Unnamed	NE 15	130	43
26-288: Unnamed	25	130	43
26-297: Unnamed	1, 12	127	44
26-309: Unnamed	15	129	41
26-312: Swift Lake	6, 7	130	43
26-317: Unnamed	16	129	42
26-322: Unnamed	27	129	42
26-335: Unnamed	15, 16	128	41
26-344: Unnamed	29	127	43
26-386: Unnamed	33	128	43
26-400: Unnamed	15, 16	129	41

Within 60 days following completion of the hearing, the hearings unit shall issue its findings of fact, conclusions and an order, which shall be considered the decision of an agency in a contested case for purposes of judicial review pursuant to Minnesota Statutes, § 15.0424 and 15.0425.

Any activity that would change the course, current or cross-section of public waters or wetlands requires a permit from the Commissioner of Natural Resources, Minnesota Statutes, § 105.42, subd. 1 (1979). Designation as public waters or wetlands does not transfer ownership of the bed or shore, does not grant the public any greater right of access to those waters than was available prior to designation and does not prevent a landowner from utilizing the bed of those waters for pasture or cropland during periods of drought. Minnesota Statutes, § 105.391, subs. 10 and 12 (1979).

All petitioners may be represented by counsel or anyone else of their choosing and shall be given an opportunity to be heard orally, to present and cross-examine witnesses and to submit written data, statements or arguments. Petitioners should bring all evidence bearing on these matters including maps, records or other documents.

Failure to attend may result in the challenged waters being designated public waters or wetlands and may prejudice your rights in this and subsequent proceedings.

Questions concerning this Notice and Order may be directed to any member of the hearings unit or to:

David B. Milles  
 DNR—Division of Waters  
 Third Floor, Space Center Building  
 444 Lafayette Road  
 St. Paul, MN 55101  
 Telephone: 612/297-2835

August 7, 1980

By: Steven G. Thorne, Deputy Commissioner

**Petition(s) Concerning the Designation of Certain Public Waters and Wetlands in Lac Qui Parle County.**

**Notice of and order for hearing**

It is hereby ordered and notice is hereby given that a public hearing in the above-entitled matter pursuant to Minnesota Statutes, § 105.391, Subd. 1 (1979) will be held in the City Hall, Madison, Minnesota, on September 3, 1980, commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard. The hearing will be conducted by a three-person hearings unit consisting of county representative Lyle Hanson, R.R. 3, Madison, MN 56256, Department of Natural Resources representative Maynard Nelson, and Lac Qui Parle County Soil and Water Conservation District representative Irvin Adelman, Route 1, Bellingham, MN 56212.

Each of the waters listed in this notice is the subject of a petition for a hearing. The issue to be determined at the hearing is whether the following waters shall be designated public waters or wetlands pursuant to Minnesota Statutes, § 105.391 (1979) and the criteria contained in Minnesota Statutes, § 105.37, subs. 14 and 15 (1979):

**A. Public Waters**

**1. Basins**

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
37-75 : Unnamed	8	118	43
37-92 : Unnamed	4; 33	118; 119	43
37-107: Unnamed	7, 18	118	44
37-112: Unnamed	26, 27	118	44
37-141: Unnamed	3, 4	117	45
37-156: Unnamed	31	118	45
37-159: Unnamed	33	118	45
37-206: Unnamed	SC 2	116	46
37-207: Unnamed	NC 2	116	46
37-208: Unnamed	2	116	46
37-209: Unnamed	2, 3	116	46
37-212: Unnamed	10, 11	116	46
<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
37-217: Unnamed	2; 36	116; 117	46
37-224: Pegg Lake	4	118	46
37-242: Unnamed	1; 36	116; 117	46
37-245: Unnamed	21, 22	120	45
37-246: Unnamed	21	120	45
37-259: Unnamed	27	118	45
37-263: Unnamed	20, 21	118	46
37-264: Unnamed	20	118	46
37-275: Unnamed	4, 9, 10	116	45
37-287: Unnamed	31; 36	117	45; 46
37-299: Unnamed	29	118	44
37-310: Unnamed	35, 36	117	46

**2. Watercourses**

TO

<u>Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
NONE						

**B. Wetlands**

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
37-25 : Unnamed	5	117	42
37-73 : Unnamed	3	118	43
37-76 : Unnamed	10	118	43
37-87 : Unnamed	NE 16	118	43

# OFFICIAL NOTICES

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
37-89 : Unnamed	31	118	43
37-90 : Unnamed	32	118	43
37-94 : Unnamed	28, 33	119	43
37-102: Unnamed	NW 3	117	44
37-109: Unnamed	19, 20	118	44
37-111: Unnamed	24	118	44
37-131: Unnamed	NW 35	120	44
37-132: Unnamed	35	120	44
37-133: Unnamed	36	120	44
37-143: Unnamed	5	117	45
37-145: Unnamed	2, 11	118	45
37-149: Unnamed	13, 14	118	45
37-152: Unnamed	25, 26, 35, 36	118	45
37-158: Unnamed	32	118	45
37-161: Unnamed	1	119	45
37-170: Unnamed	5	119	45
37-179: Unnamed	16	119	45
37-182: Unnamed	18	119	45
37-187: Unnamed	27	119	45
37-188: Unnamed	28	119	45
37-201: Unnamed	28, 29, 33	120	45
37-213: Unnamed	11	116	46
37-218: Unnamed	14	117	46
37-221: Unnamed	20, 29	117	46
37-226: Unnamed	10, 11	119	46
37-230: Unnamed	19, 20	119	45
37-233: Unnamed	8, 9	116	43
37-235: Unnamed	10, 15	117	43
37-240: Unnamed	16, 21	116	45
37-243: Unnamed	3	117	45
37-249: Unnamed	29	120	45
37-256: Unnamed	24	118	45
37-261: Unnamed	34	118	45
37-268: Unnamed	5	118	43
37-269: Unnamed	4, 9	118	43
37-270: Unnamed	9	118	43
37-271: Unnamed	9	118	43
37-273: Unnamed	4	116	45
37-274: Unnamed	e	116	45
37-278: Unnamed	1, 2	117	45
37-280: Unnamed	23	117	45
37-283: Unnamed	27, 28	117	45
37-284: Unnamed	28, 33	117	45
37-286: Unnamed	31	117	45
37-288: Unnamed	2, 3	117	45
37-289: Unnamed	3, 4	117	44
37-291: Unnamed	30	117	44
37-296: Unnamed	25	118	42
37-298: Unnamed	35, 36	119	44
37-301: Unnamed	3	116	46
37-302: Unnamed	10	116	46
37-308: Unnamed	28	117	46
37-311: Unnamed	35, 36	117	46
37-313: Unnamed	7	116	43
37-317: Unnamed	20	119	45
37-318: Unnamed	27	119	45

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
37-319: Unnamed	33	119	45
37-320: Unnamed	34	119	45
37-321: Unnamed	20	119	45
37-323: Unnamed	2	116	44
37-324: Unnamed	1, 2	116	44
37-326: Unnamed	25	116	44
37-327: Unnamed	11	117	43
37-328: Unnamed	26	117	43
37-329: Unnamed	2, 3	119	46
37-330: Unnamed	16	119	46
37-332: Unnamed	24	119	46
37-334: Unnamed	33	119	46
37-335: Unnamed	16, 21	118	46
37-336: Unnamed	33	118	43
37-337: Unnamed	20, 21	117	46
37-338: Unnamed	26	118	45
37-339: Unnamed	18	118	45
37-340: Unnamed	8	118	43

Within 60 days following completion of the hearing, the hearings unit shall issue its findings of fact, conclusions and an order, which shall be considered the decision of an agency in a contested case for purposes of judicial review pursuant to Minnesota Statutes, §§ 15.0424 and 15.0425.

Any activity that would change the course, current or cross-section of public waters or wetlands requires a permit from the Commissioner of Natural Resources. Minnesota Statutes, § 105.42, subd. 1 (1979). Designation as public waters or wetlands does not transfer ownership of the bed or shore, does not grant the public any greater right of access to those waters than was available prior to designation and does not prevent a landowner from utilizing the bed of those waters for pasture or cropland during periods of drought. Minnesota Statutes, § 105.391, subds. 10 and 12 (1979).

All petitioners may be represented by counsel or anyone else of their choosing and shall be given an opportunity to be heard orally, to present and cross-examine witnesses and to submit written data, statements or arguments. Petitioners should bring all evidence bearing on these matters including maps, records or other documents.

Failure to attend may result in the challenged waters being designated public waters or wetlands and may prejudice your rights in this and subsequent proceedings.

Questions concerning this Notice and Order may be directed to any member of the hearings unit or to:

David B. Milles  
 DNR—Division of Waters  
 Third Floor, Space Center Building  
 444 Lafayette Road  
 Saint Paul, MN 55101  
 Telephone: 612/297-2835

August 7, 1980

By: Steven G. Thorne, Deputy Commissioner

**Petition(s) Concerning the Designation of Certain Public Waters and Wetlands in Otter Tail County**

**Notice of and order for hearing**

It is hereby ordered and notice is hereby given that a public hearing in the above-entitled matter pursuant to Minnesota Statutes, § 105.391, subd. 1 (1979) will be held in the Court House, District Court Room, Fergus Falls, Minnesota on September 11, 1980, commencing at 1:00 p.m. and continuing until all persons have had an opportunity to be heard. The hearing will be conducted by a three-person hearings unit consisting of county representative Richard Berge, 1410 Terrace Drive, Fergus Falls, MN 56537, Department of Natural Resources representative Merlyn Wesloh, and East Otter Tail County Soil and Water Conservation District representative Rodney Flatau, Rural Route, Frazee, MN 56544.

# OFFICIAL NOTICES

Each of the waters listed in this notice is the subject of a petition for a hearing. The issue to be determined at the hearing is whether the following waters shall be designated public waters or wetlands pursuant to Minnesota Statutes, § 105.391 (1979) and the criteria contained in Minnesota Statutes, § 105.37, subs. 14 and 15 (1979):

## A. Public Waters

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
56-1046: Unnamed	34	136	44

### 2. Watercourses

<u>Name</u>	<u>Section</u>	<u>Township</u>	<u>TO</u>			
			<u>Range</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>

NONE

## B. Wetlands

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
56-249 : Unnamed	5, 8	131	40
56-1172: Unnamed	24	136	44
56-1305: Unnamed	29	133	38
56-1589: Unnamed	3; 34	135; 136	44

Within 60 days following completion of the hearing, the hearings unit shall issue its findings of fact, conclusions and an order, which shall be considered the decision of an agency in a contested case for purposes of judicial review pursuant to Minnesota Statutes, §§ 15.0424 and 15.0425.

Any activity that would change the course, current or cross-section of public waters or wetlands requires a permit from the Commissioner of Natural Resources. Minnesota Statutes, § 105.42, subd. 1 (1979). Designation as public waters or wetlands does not transfer ownership of the bed or shore, does not grant the public any greater right of access to those waters than was available prior to designation and does not prevent a landowner from utilizing the bed of those waters for pasture or cropland during periods of drought. Minnesota Statutes, § 105.391, subs. 10 and 12 (1979).

All petitioners may be represented by counsel or anyone else of their choosing and shall be given an opportunity to be heard orally, to present and cross-examine witnesses and to submit written data, statements or arguments. Petitioners should bring all evidence bearing on these matters including maps, records or other documents.

Failure to attend may result in the challenged waters being designated public waters or wetlands and may prejudice your rights in this and subsequent proceedings.

Questions concerning this Notice and Order may be directed to any member of the hearings unit or to:

David B. Milles  
DNR—Division of Waters  
Third Floor, Space Center Building  
444 Lafayette Road  
Saint Paul, MN 55101  
Telephone: 612/297-2835

August 7, 1980

By: Steven G. Thorne, Deputy Commissioner

## **Petition(s) Concerning the Designation of Certain Public Waters and Wetlands in Yellow Medicine County**

### **Notice of and order for hearing**

It is hereby ordered and notice is hereby given that a public hearing in the above-entitled matter pursuant to Minnesota Statutes, § 105.391, subd. 1 (1979) will be held in Granite Falls High School, Little Theatre, 450 9th Avenue, Granite Falls, Minnesota on September 8, 1980 commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard. The hearing will be conducted by a three-person hearings unit consisting of county representative La Grant Velde, R.R. 2, Granite Falls, MN 56241, Department of Natural Resources representative Maynard Nelson, and Yellow Medicine County Soil and Water Conservation District representative Sherwood Knutson, R.R. 2, Canby, MN 56220.



Each of the waters listed in this notice is the subject of a petition for a hearing. The issue to be determined at the hearing is whether the following waters shall be designated as public waters or wetlands pursuant to Minnesota Statutes, § 105.391 (1979) and the criteria contained in Minnesota Statutes, § 105.37, subs. 14 and 15 (1979):

**A. Public Waters**

**1. Basins**

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
87-13 : Lone Tree Lake	8, 9, 17	114	38
87-23 : Unnamed	NW 25	113	39
87-24 : Unnamed	25	113	39
87-58 : Myhre Lake	5	114	41
87-67 : Stokke Lake	20, 29	115	41
87-73 : Unnamed	14	116	41
87-74 : Unnamed	14, 15	116	41
87-88 : Unnamed	SW 16	115	42
87-89 : Unnamed	16, 17	115	42

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
87-93 : Unnamed	19	115	42
87-107: Unnamed	8, 17	115	43
87-149: Unnamed	16	114	46
87-156: Unnamed	17	115	43
87-159: Unnamed	23	115	44
87-175: Unnamed	23	114	44

**2. Watercourses**

<u>Name</u>	<u>Section</u>	<u>Township</u>	<u>TO</u>		<u>Section</u>	<u>Township</u>	<u>Range</u>
			<u>Range</u>	<u>Section</u>			
Unnamed to Lazarus Creek	34	115	46	10	115	45	
Canby Creek	32	114	46	14	115	45	
Unnamed tributary	24	114	46	13	114	46	
Unnamed tributary	18	114	43	28	114	43	
Unnamed to TC	26 (Basin 157)	115	43	25	115	43	
Unnamed to Mn River (MR)	15	116	41	2	116	41	
Stony Run Creek	1	115	42	1	115	42	
	10	116	40	11 (Basin 57)	116	40	
Unnamed to MR	5	115	39	15	115	39	
Hazel Creek	16	115	39	14	115	39	
Unnamed tributary	29	115	42	34	115	42	
Unnamed tributary	12 (Basin 137)	114	43	35	115	43	
Unnamed tributary	18	114	42	18	114	42	

**B. Wetlands**

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
87-11 : Battle Lake	7	114	38
87-12 : Highbank Lake	7, 8, 17	114	38
87-33 : Unnamed	16, 17	114	39
87-59 : Unnamed	14, 23	114	41
87-70 : Unnamed	1	116	41
87-90 : Unnamed	17	115	42
87-119: Bencks Marsh	10	114	46
87-124: Unnamed	27, 34	115	46
87-125: Unnamed	34	115	46

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<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
87-136: Unnamed	NW 12	114	43
87-137: Unnamed	N 7; 12	114	42; 43
87-138: Unnamed	S 7; 12	114	42; 43
87-140: Unnamed	13	114	43
87-141: Unnamed	8	114	43
87-143: Unnamed	26	114	43
87-144: Unnamed	26	114	43
87-147: Unnamed	5	114	46
87-152: Unnamed	34	115	40
87-155: Unnamed	20, 29	114	41
87-163: Unnamed	16	115	42
87-165: Unnamed	21, 28	115	42
87-166: Unnamed	28	115	42
87-167: Unnamed	28	115	42
87-170: Unnamed	21	114	46
87-172: Unnamed	18	114	41
87-173: Unnamed	34	115	42
87-174: Unnamed	34	115	42

Within 60 days following completion of the hearing, the hearings unit shall issue its findings of fact, conclusions and an order, which shall be considered the decision of an agency in a contested case for purposes of judicial review pursuant to Minnesota Statutes, §§ 15.0424 and 15.0425.

Any activity that would change the course, current or cross-section of public waters or wetlands requires a permit from the Commissioner of Natural Resources, Minnesota Statutes, § 105.42, subd. 1 (1979). Designation as public waters or wetlands does not transfer ownership of the bed or shore, does not grant the public any greater right of access to those waters than was available prior to designation and does not prevent a landowner from utilizing the bed of those waters for pasture or cropland during periods of drought. Minnesota Statutes, § 105.391, subds. 10 and 12 (1979).

All petitioners may be represented by counsel or anyone else of their choosing and shall be given an opportunity to be heard orally, to present and cross-examine witnesses and to submit written data, statements or arguments. Petitioners should bring all evidence bearing on these matters including maps, records or other documents.

Failure to attend may result in the challenged waters being designated public waters or wetlands and may prejudice your rights in this and subsequent proceedings.

Questions concerning this Notice and Order may be directed to any member of the hearings unit or to:

David B. Milles  
DNR—Division of Waters  
Third Floor, Space Center Building  
444 Lafayette Road  
Saint Paul, MN 55101  
Telephone: 612/297-2835

August 7, 1980

By: Steven G. Thorne, Deputy Commissioner

## Department of Public Welfare Bureau of Income Maintenance

### Notice of Intent to Solicit Outside Opinion Concerning General Assistance

Notice is hereby given that the Department of Public Welfare is considering amendments to DPW 55 (12 MCAR § 2.055), General Assistance. The General Assistance program provides qualified needy individuals and families with the resources necessary to sustain a reasonable subsistence compatible with decency and health. The department is considering amendments that would expand and clarify policies and procedures of DPW 55. These amendments would include all aspects of the General Assistance program. The department is also proposing amendments to bring several provisions into compliance with changes in state law. Subjects of these amendments include emergency assistance, the earned income disregard, first of the month issuance, the work program, and the treatment of property when need for General Assistance will not exceed 30 days.

All interested or affected persons or groups are invited to participate. Statements of information and comment may be made orally or in writing. Written statements may be addressed to:

Wally Goettl  
Client Eligibility Unit  
Assistance Payments Division  
Minnesota Department of Public Welfare  
Space Center Building, 2nd Floor  
444 Lafayette Road  
St. Paul, Minnesota 55101

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-1387.

All statements of information and comment must be received by November 15, 1980. Any written material related to this solicitation and received by the Department shall become a part of the hearing record.

## **Department of Public Welfare Social Services Division**

### **Notice of Intent to Solicit Outside Opinion Concerning A Proposed Rule Relating to Social Services for Pregnant Women and for Mothers and Their Children**

Notice is hereby given that the Minnesota Department of Public Welfare is considering adoption of a rule which would define the criteria under which services would be provided to pregnant women and also criteria under which services would be provided to these women and their children after the birth of their child.

The proposed rule is required by Minn. Stat. § 257.33. This statute was amended by the 1980 Legislature by repealing the requirement of the commissioner to provide services to children born out of wedlock and by adding a section which requires the Commissioner of Public Welfare to offer appropriate social services to any pregnant women in need of social services under criteria prescribed by rule of the commissioner, and to the woman and her child after the birth of her child.

The proposed rule would define the responsibilities of the local social service agencies, the services that will be offered, and the criteria for determining need for social services.

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

Clayton Hagen  
Division of Social Services  
Department of Public Welfare  
Centennial Office Building  
St. Paul, MN 55155  
Telephone: (612) 296-2279

All statements of information and comment must be received by November 1, 1980. Any written material received by this date will become part of the record of any rules hearing held on this subject.

## **Department of Revenue**

### **Notice of Intent to Prepare Department of Revenue List for Future Rulemaking Hearings**

In accordance with Minnesota Laws of 1980, Ch. 615, the Department of Revenue is establishing a list of persons to receive official notice of its rulemaking proceedings. That law requires each agency or department to establish and maintain such a list to replace the existing secretary of state's list.

If you wish to receive notice of rulemaking proceedings of the Department of Revenue, please so notify this department in writing. You will then receive notice of any rulemaking proceedings initiated after the date your written request for notice was received by this

## OFFICIAL NOTICES

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department. Please note that this procedure will put you only on the list of the Department of Revenue; other agencies and departments will be establishing their own lists. Please send your written request to the following address:

Director of Legal Research  
Commissioner's Staff  
Minnesota Department of Revenue  
2nd Floor, Centennial Building  
658 Cedar Street  
St. Paul, Minnesota 55145

August 8, 1980

## Department of Transportation

### Application of the City of Rochester for Authority to Retire a Side Track from 7th Street N.E., West of 2nd Ave. N.E., Served by the Chicago and North Western Transportation Company in Rochester, MN.

#### Notice of Application and of Opportunity for Hearing

Notice is hereby given that the City of Rochester, Department of Public Services, 1602 4th Street S.E., Rochester, Minnesota has filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. § 219.741 to retire a side track from 7th Street N.E., west of 2nd Ave. N.E., and served by the Chicago and North Western Transportation Company in Rochester, Minnesota.

Any person may file a written objection to the action proposed by the petitioner by means of a letter addressed to the Commissioner of Transportation, Transportation Building, Saint Paul, Minnesota 55155, not later than the date specified below. The objection must be received on or before September 8, 1980. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

The application recites among other matters that:

“The sidetrack is owned by the Rochester Public Utility Department and the Section in 7th Street N.E. has not been used for many years. Fences on the south and north sides of 7th Street N.E. physically prevent usage of the tract.”

Upon receipt of a written objection, the commissioner will, with respect to the named petitioner, set the matter down for hearing. If no objections are received, the commissioner may grant the relief sought by the petitioner.

If this matter is set for hearing, any person who desires to become a party to this matter must submit a timely Petition to Intervene to the Hearing Examiner pursuant to 9 MCAR § 2.210, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. All parties have the right to be represented by legal counsel or any other representative of their choice. In the event the objecting party does not do so, or otherwise does not participate in the hearing, the statements contained in the application filed may be taken as true.

August 11, 1980

Richard P. Braun  
Commissioner

## Water Planning Board

### Notice of Meeting

Notice is hereby given that the Water Planning Board will hold a meeting on Tuesday, August 26, 1980, in Room 22 of the State Office Building, beginning at 10:00 a.m. 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

STATE OF MINNESOTA  
OFFICE OF THE STATE REGISTER

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