

**STATE OF MINNESOTA
BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD NORTH
SAINT PAUL, MINNESOTA 55155
(651) 296-3767**

PROCEDURE FOR ESTABLISHING A WATERSHED DISTRICT

I. Contacting Local Authorities and Examining Alternatives

A concerned person or group seeking action on a water resource problem or issue should contact existing local water management authorities. These are primarily counties, cities, and soil and water conservation districts. Local water management authorities are listed on the Board of Water and Soil Resources website, www.bwsr.state.mn.us. Most counties in Minnesota have prepared comprehensive county water plans. A county's water plan coordinator is a good person to contact initially to find out what local water management programs are in effect. The problem or issue should also be discussed with staff persons in field offices of the Department of Natural Resources, Minnesota Pollution Control Agency, and Board of Water & Soil Resources to take advantage of their expertise and knowledge of area resource problems and available programs.

If the problem or issue relates strictly to a single public ditch system, lake, or other localized area, options other than a watershed district should be considered. Concerns over a particular ditch system should be brought to the local drainage authority (county board or joint county ditch authority) for resolution. If the concern is about flooding or water quality problems on a lake with a small contributing drainage area, the options of forming a Lake Improvement District or Sanitary Sewer District should be considered. Establishment of a special taxing district within a county, or a joint powers agreement among affected local units of government, are other alternatives for dealing with a localized problem that should be considered.

A watershed district should be looked at as a vehicle for a) addressing water resource issues that transcend county boundaries, and b) managing water and related land resource problems in a comprehensive, basin-wide manner. A watershed district should not be sought to implement a single project, study, or other single-purpose initiative.

II. Determining the General Boundary of the Proposed Watershed District

If it appears that establishment of a watershed district would be the best approach for addressing identified problems or issues, the general area to be included in the proposed district must be determined.

A watershed is an area of land that contributes runoff to a particular stream or body of water. On a stream, the contributing drainage area increases as one moves downstream. Usually, the point where the stream outlets into a larger watercourse is used to define the downstream end of the stream's watershed. From that outlet point, a line is drawn upstream around all of the lands that drain into the stream. This line defines the stream's watershed boundary. Topographic maps, often from the United States Geological Survey, are used to determine an approximate watershed boundary.

Existing watershed districts in Minnesota vary in size from less than 60 square miles to nearly 6,000 square miles. The area of a proposed district should include the entire contributing watershed of the problem area. The area's tax base should also be estimated and carefully considered. State law currently allows a watershed district to establish an annual general fund of up to \$250,000. However, the ad valorem tax levy for the general fund cannot exceed 0.048% of the watershed's taxable market value. A small watershed district with a small tax base will be able to raise only a small general fund. This can severely hamper a district's ability to function effectively.

If the area is adjacent to an existing watershed district, the option of enlarging the existing district is available under the law and should be discussed with the district's board of managers.

III. Building Local Understanding and Support

A common method of organizing support is the establishment of a steering committee. The steering committee should include local leaders; people known and respected in their communities who will be able to build understanding and support for action on the problem or issue. In some cases a local organization already exists that can take the lead role, such as a lake association or sportsmen's club.

The Board of Water and Soil Resources strongly encourages local efforts to build as much local understanding and support for the proposed watershed district as possible prior to submitting a petition. The lead group should meet with each affected county board and soil and water conservation district to explain the group's water management goals and reasons for seeking the establishment of a watershed district.

Informational meetings should be held for other local officials and the public to explain the purposes for seeking establishment of a watershed district.

From the beginning, it is important for local leaders to gain a good understanding of the Watershed Law (Minnesota Statutes Chapter 103D) and to be able to provide accurate information about watershed district operation. Inaccurate information about the potential effects of a watershed district on local property taxes and land use regulations can cause confusion and erode public support. Questions about the Watershed Law should be directed to the Board of Water and Soil Resources. The Board's staff is available to attend local meetings to provide information about the Watershed Law and watershed district authorities and responsibilities.

The Board of Water and Soil Resources encourages the lead group to obtain information from county auditors on the approximate tax base within the proposed watershed district before any informational meetings are held. It is important for watershed district proponents to be able to provide answers to residents on the potential impact a watershed district levy could have on local taxpayers.

IV. Validating the Petition

A nominating petition for the establishment of a watershed district must be signed by:

- 1)** At least one-half of the counties within the proposed district; or
- 2)** By a county or counties having at least 50 percent of the area within the proposed district; or
- 3)** By a majority of the cities within the proposed district; or
- 4)** By at least 50 resident owners residing in the proposed district, excluding resident owners within the corporate limits of a city if the city has signed the petition.

It is preferable to have the petition signed by the affected county or counties, if possible. County board support usually indicates broad public support for the proposed district, and can help during the remainder of the establishment process by securing county staff assistance. If affected counties support the idea of a watershed district, but do not wish to sign the petition, they should be asked to pass resolutions of support. Support should also be sought from affected cities, townships, and soil and water conservation districts. No state financial help is currently available to the petitioners to defray the costs associated with validating a petition and supporting it through the establishment process.

If the petition is validated by signatures of resident owners, it is recommended that it contain several times the minimum number of 50 signatures, and include signers from all parts of the watershed.

V. Filing the Establishment Petition

An establishment petition must include:

- 1)** The name of the proposed district and a statement in general terms setting forth the territory to be included in the district;
- 2)** The necessity for the district, the contemplated improvements within the district, and the reasons why the district and the contemplated improvements would be conducive to public health and public welfare, or accomplish any of the purposes of the Watershed Law;
- 3)** The number of managers proposed for the district and a list of manager nominees containing at least twice the number of managers to be selected [at least three but not more than nine manager positions must be proposed, and no manager can be a public officer of the county, state, or federal government, except that a soil and water conservation district supervisor may be a manager];
- 4)** A map of the proposed district; and
- 5)** A request for the establishment of the district as proposed.

A copy of the petition must be served upon the auditor of each affected county, the Commissioner of the Department of Natural Resources, and the Director of the Division of Ecological and Water Resources of the Minnesota Department of Natural Resources. The original petition must be served on the Board of Water and Soil Resources along with an affidavit of service on the other parties.

Upon receipt of the petition, the Director of the Division of Ecological and Water Resources is required to prepare a preliminary watershed boundary map and a written report to the Board of Water and Soil Resources containing the Director's recommendations concerning the proposed watershed district.

VI. Holding the Public Hearing

The Board of Water and Soil Resources must hold a public hearing on the petition within the area of the proposed district. At the hearing, the petitioners must present their petition and provide evidence on the need for the proposed district. Oftentimes petitioners will hire legal and technical experts to help them present the petition and exhibits, and explain the resource problems that exist in the watershed. Again, if the county or counties are the petitioners, their staff can generally perform this function. All interested persons are given an opportunity to speak for or against establishment of the proposed watershed district at the hearing.

VII. Board of Water and Soil Resources Decision

The Board of Water and Soil Resources must consider the entire hearing record before deciding whether establishment of the proposed district would be for the public welfare and public interest, and advance the purpose of the Watershed Law.

If the Board of Water and Soil Resources approves establishment of the proposed watershed district, its Order establishing the district must:

- 1)** Name the district;
- 2)** Define the number of district managers;
- 3)** Appoint the initial board of managers;
- 4)** Distribute the power to appoint subsequent managers among affected counties;
- 5)** Define the legal boundary of the district; and
- 6)** Designate the district's principal place of business.

Upon the filing of the establishment Order with the Secretary of State, the watershed district is officially established as a special purpose local unit of government.

VIII. Organizational Meeting

Within ten days of being served with a copy of the establishment order the managers must hold an organizational meeting. The Board of Water and Soil Resources makes arrangements for this initial meeting as a service to the new district. Board of Water and Soil Resources staff are present to help orient the managers to their duties and authorities under the Watershed Law. The managers are also provided with a number of informational materials. It is important to understand that while the Board of Water and Soil Resources staff is available to offer general guidance, they cannot provide direct, on-going staff support to watershed districts. Watershed districts must provide for their own staff support.

More information:

For more information, contact the Minnesota Board of Water and Soil Resources at 520 Lafayette Road North St. Paul, MN 55155, (651) 296-3767, www.bwsr.state.mn.us

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