

Watershed Management

Major Findings:

- Minnesota's watershed management structure is a complex network of multiple federal, state, and local agencies and organizations. At least 14 federal and state agencies provide a wide range of watershed management services, including technical assistance, funding, permits, and some oversight. In addition, 11 different types of local entities carry out "on-the-ground" watershed management activities.
- The performance of local water management entities has been mixed. Some entities are performing well by improving water quality and reducing the risk of flooding. In contrast, other entities are struggling to implement their management plans and move beyond general administration and planning tasks.
- State oversight of local entities is inadequate. The Minnesota Board of Water and Soil Resources (BWSR), which has primary responsibility for overseeing the local entities, has not (1) established standards for the performance of the local water management entities, (2) systematically monitored their performance, or (3) adequately held them accountable for their performance. This reflects BWSR's limited authority but also its reluctance to fully use the authority it has.

Recommendations:

- The Legislature should require BWSR to provide greater oversight. Specifically, the Legislature should require BWSR to (1) establish performance and operational standards for local water management entities; (2) collect performance, financial, and activity data from each entity; (3) monitor the performance and activities of these entities; and (4) release public assessments of their performance.
- The Legislature should give BWSR a wider range of tools to encourage and compel consistently low-performing local entities to improve their operations and performance.
- To ensure that BWSR's actions reflect state goals and priorities, the Legislature should require that its executive director be appointed by the Governor and confirmed by the Senate (rather than appointed by the BWSR board). In addition, the board should become an advisory commission.
- The Legislature should ensure that BWSR has adequate resources to perform its new oversight responsibilities.

Minnesota needs a more results-oriented approach to watershed management.

Report Summary

Water is one of Minnesota's most valuable resources. Governor Pawlenty recognized this when he said, "More so than any other state, the quality and quantity of water in Minnesota is central to our way of life. It helps define who we are and what we value."¹ In 2006, the Minnesota Legislature showed its concern for Minnesota's water quality by enacting the Clean Water Legacy Act, an effort to clean up the state's polluted waters. In addition, the periodic flooding that occurs in the Red River Valley and other parts of the state demonstrates the need to prevent and control flooding.

To address these water issues, Minnesota needs to effectively manage its watersheds. A watershed is the area of land from which water flows into a lake, river, or stream. Human activity within a watershed affects the quality and quantity of the water. As water flows over the land, it picks up pollutants. If water is allowed to run off the land too quickly, flooding can occur.

We examined efforts to reduce nonpoint source pollution, which comes from diffuse sources (such as farms or parking lots). We did not examine issues related to point source pollution, which is discharged from specific sources (such as factories or sewage treatment plants). In addition, we did not examine groundwater issues or activities that local units of government conduct to purify water for their drinking water supplies. With respect to flooding, we examined efforts that federal, state, and local government entities have taken to prevent and control it.

Governmental entities use a wide range of tools to manage watersheds. For example, they build levees and sediment ponds and restore wetlands to control flood waters and collect pollutants. They also provide financial incentives to farmers to implement "best management practices" that help keep sediment and

pollutants out of lakes, rivers, and streams. These practices include such things as planting permanent vegetation (primarily grass) along the banks of agricultural drainage ditches.

Governmental entities also educate the public about good conservation practices and regulate such things as septic systems and feedlots.

Minnesota's watershed management structure is a complex network of government entities.

There are at least 7 federal agencies, 7 state agencies, and 11 different types of local entities involved in managing Minnesota's watersheds. The federal and state agencies provide guidance, technical assistance, funding, permits, and some oversight; and the local entities carry out many of the water management projects and programs "on-the-ground." The key state agencies are the Pollution Control Agency (which addresses water quality issues), the Department of Natural Resources (which manages public lands and waters), and the Board of Water and Soil Resources (which reviews water management plans and provides grants). The local entities include counties, watershed districts, watershed management organizations (WMOs), soil and water conservation districts (SWCDs), and others.

The roles and responsibilities of the local entities are confusing and potentially overlapping. Watershed districts and WMOs manage water within watersheds and have the authority to address most water quality and quantity issues. Under state law, all areas of the seven-county metropolitan area must have either a watershed district or a WMO. In contrast, watershed districts operate in only some parts of outstate Minnesota. Overall, watershed districts and WMOs manage water in about 30 percent of the state.

In contrast with watershed districts and WMOs, counties and SWCDs operate everywhere in the state on a county basis, rather than a watershed basis. Counties prepare comprehensive water plans, regulate, and carry out a wide range of

Local units of government have important responsibilities in managing Minnesota's watersheds.

¹ Office of the Governor, "Clean Water Cabinet," <http://www.governor.state.mn.us/priorities/initiatives/cleanwatercabinet/index.htm>, accessed October 25, 2006.

other activities. SWCDs have more limited responsibilities. They primarily encourage private landowners to implement best management practices.

By layering these local entities and responsibilities on top of each other, Minnesota has created a complex and overlapping management structure. In some parts of the state, watershed districts, SWCDs, and counties each play a part in managing water that flows over the same land. Coordination is needed to avoid duplication of effort.

Performance is mixed.

Statewide, the impact of Minnesota's efforts to manage its watersheds is unclear. The state lacks sufficient statewide data on outcomes (such as water quality and flood risk) to fully assess the state's overall performance. For example, only a small portion of the state's waters have been assessed for water quality under the standards of the federal Clean Water Act. However, the waters that have been assessed suggest that approximately 40 percent of the state's waters are polluted enough to be classified as impaired.²

At the local level, some water management entities are significantly improving water quality or reducing the risk of flood damage, while other local entities are struggling to implement their water management plans. For example, the Minnehaha Creek Watershed District in Hennepin County has worked with other local units of government to significantly reduce pollution levels in Lake Minnetonka and the Minneapolis "Chain of Lakes." Levels of phosphorus (a pollutant) in these lakes were 1.5 to 3.5 times higher in the 1970s than they are today.

In contrast, the South Two River Watershed District (mostly in Stearns County) has struggled to implement programs and projects that would address water quality and flooding problems in the district. In fact, the district has completed very few, if any, major

watershed projects in the 20 years of its existence. Local residents became so frustrated with the lack of activity that they petitioned BWSR to terminate the district, which BWSR voted to do in August 2006.

Successful local water management entities have some common characteristics. They devote a large proportion of their funds to implementation activities that improve water quality or reduce the risk of flooding. In contrast, struggling entities have trouble moving beyond general administration and planning tasks.

BWSR's oversight of local water management entities is inadequate.

Water is a statewide resource and ultimately a state responsibility because it flows across local political boundaries. If an upstream local water management entity is not preventing nonpoint source pollution or controlling flood waters, downstream residents will face the consequence of this poor management. To protect downstream residents, the state needs to ensure that all local water management entities are operating effectively.

However, BWSR is providing inadequate oversight of local water management entities. BWSR has not (1) established standards for the performance and operation of local entities, (2) systematically monitored and evaluated the performance and activities of these entities, or (3) adequately held them accountable for their performance. For example, even though the South Two River Watershed District had been quite inactive for nearly 20 years, BWSR did not make a concerted effort to address the situation until 2005.

Lack of authority impedes BWSR's ability to hold local entities accountable. For example, if a poor-performing outstate watershed district does not receive funds from BWSR (which is often the case because watershed districts have independent taxing authority), BWSR has no formal authority to require the district to change its operations.

Some local water management entities have improved water quality or reduced the risk of flood damage, but others have struggled to perform their duties.

² This excludes mercury pollution.

BWSR needs to do a better job of holding local entities accountable.

To improve Minnesota's management of its watersheds, BWSR needs to play a stronger role. The Legislature should require BWSR to establish standards and give BWSR the authority it needs to ensure that these standards are met. To facilitate this stronger oversight, the Legislature should also change BWSR's governing structure. Currently, BWSR is governed by a board that is controlled by representatives of local water management entities.³ The board then appoints an executive director to administer the daily operations of the agency.

To ensure that BWSR's actions reflect state goals and priorities, its executive director should be appointed by the Governor and confirmed by the Senate; and the BWSR board should become an advisory commission. Finally, the Legislature should ensure that BWSR has sufficient resources to effectively perform these additional oversight

responsibilities. BWSR's staffing and funding for internal operations declined by more than 10 percent between 2000 and 2006.

With the Clean Water Legacy Act focusing the state's attention on water quality issues, it is especially important for BWSR to provide effective oversight. If the Legislature continues to fund the Clean Water Legacy Act, a large share of the funds would likely go to local water management entities to address nonpoint source pollution. BWSR needs to ensure that these local entities are operating effectively.

The full evaluation report, *Watershed Management*, includes the agency's response and is available at 651-296-4708 or:

www.auditor.leg.state.mn.us/ped/2007/watersheds.htm

Summary of Agency Response

In a letter dated January 16, 2007, Randy Kramer, Chair of the Minnesota Board of Water and Soil Resources, wrote: "While we do not agree with all of the recommendations in the report, we commend the effort and professionalism of your staff. We hope that the report prompts a productive dialogue between the Legislative and Executive Branch regarding the optimal systems for accomplishing State goals through the efforts of our local units of government." He also said: "We agree there is an interesting policy discussion to hold regarding the balance between local autonomy and state oversight. We believe we have struck an appropriate balance given the resources available." Finally, in response to the report's recommendation that BWSR should be governed by a gubernatorial appointee rather than the BWSR board, Chairman Kramer wrote: "We do not see the evidence in the report—more importantly—we have not seen the evidence that the 20-year structure of the board is broken, unresponsive to the Legislature, or unresponsive to the Administration."

³ The board is appointed by the Governor, but 9 of the 17 members must by law represent watershed districts, WMOs, SWCDs, and counties.