

# Clean Water Legacy Act Chapter 114.05

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Purpose:  
protect,  
restore, and  
preserve the  
quality of  
Minnesota's  
surface waters

# Why is this a big issue?

Minnesota is not meeting federal water quality standards.

Pollution blocks economic growth and erodes our quality of life.

In August 2005, the Minnesota Court of Appeals blocked the permit MPCA issued for the proposed Annandale-Maple Lake wastewater facility.

Until Minnesota has a long-term solution to impaired waters Many projects may be delayed

## Clean Water Legacy Act

After four years of work Minnesota Legislature adopted the Clean Water Legacy Act to provide the authority, direction and funding needed

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The Legislature appropriated \$15 million from the General Fund and \$9.95 million in bonding to begin implementation of the Act.

# Strategy Document

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- n BWSR, MPCA, MDA, DNR agree to coordinate
- n CWC funds targeted to restoration and protection
- n Restoration projects in watersheds with approved TMDL plans by end 2006
- n Protection targeted to priority projects in CWMP

# Strategy (cont)

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- n Interagency team reviews funding decisions
- n eLink to report
- n Mix and match agency funds

# Strategy (cont)

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## n BWSR

Targeted c-s \$1.5 mil

Targeted tech assist \$2.0 mil

Lake/river Protection \$1.41 mil

SLR \$1.0 mil bonding

## n MDA

Ag BMP Loan \$1.2 mil

## n DNR

Forest Stewardship \$200,000

Acquisition/easements \$1.14mil

## n MPCA

EPA 319 funds

# TMDL

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n The Maximum Daily Load

Or

n The Most Dysfunctional Legislation

n Three Martinis During Lunch

n Too Many Damn Lawyers

n Try Making Decisions Locally

# Impaired Waters

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- n “Impaired” if it fails to meet one or more of the federal Clean Water Act’s water-quality standards.
- n Sediment, bacteria, nutrients, mercury etc.
- n Clean Water Act requires the MPCA to identify and restore impaired waters.

# What is a TMDL?

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- n Primary tool for addressing impaired waters
- n Maximum amount of a pollutant a water body can receive without violating water quality standards.
- n The TMDL process identifies all sources of the pollutant and how much each source must reduce its contribution in order to meet the quality standard.
- n The source reduction strategies form the basis of an implementation plan.
- n Implementation begins once the EPA approves a completed TMDL.



# The TMDL Process

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Assess the state's waters



List those that do not meet standard



Identify sources and  
reductions needed  
(TMDL Study)



Implement restoration activities  
(Implementation Plan)



Evaluate water quality

# Cleanwater Legacy and TMDLs

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- n How Will Clean Water Legacy Address the Impaired Waters/TMDL Issue?
- n Through Restoration and Protection

# Surface Water Restoration and Protection

Restoration

Protection

TMDL Plan

Comprehensive Water  
Management Plan

Proposals For  
**Land Treatment | Technical Assistance | Monitoring**

Interagency Review

Agency Grants & Funding

Local Implementation

Reporting & Effectiveness Monitoring

Reports to Clean Water Council

# CWL Surface Water Restoration and Protection

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## Implementation Policies

- n Maximize opportunities for restoration by prioritizing and targeting
- n Use existing regulatory authorizes and promote the development of non-regulatory measures
- n Use restoration methods that have a demonstrated effectiveness and provide the greatest long-term positive impact

# Restoration

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Restoration: Actions taken to achieve and maintain water quality standards for impaired waters in accordance with an approved TMDL.

## CWLA Priorities:

- n Coordinate with and use existing local authorities
- n Provide support for existing and ongoing restoration efforts
- n Leverage other sources of restoration funding
- n Projects that show a high potential for early restoration
- n Projects that show a high potential for long-term water quality and related conservation benefits

# TMDL Implementation Plan

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- n Approved by PCA
- n Measurable water quality goals
- n Identifies point and non-point source management measures
- n Schedule for implementing identified pollution reduction measures
- n Description of interim measurable milestones
- n Description of the local management process and criteria that will be used to determine success
- n Effectiveness monitoring plan

# 2006 Projects

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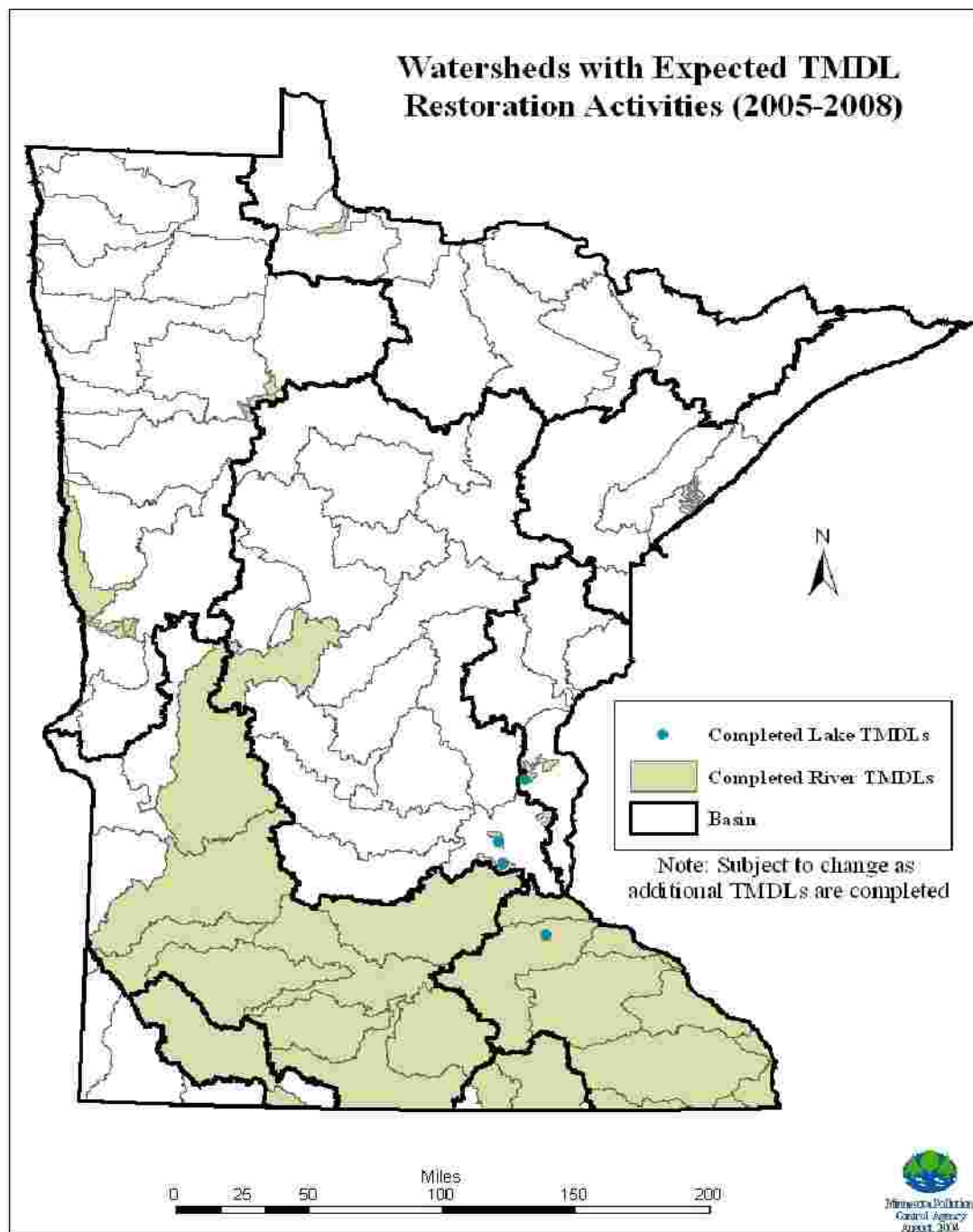
## **Already completed TMDLs:**

- **Lower Mississippi River Basin Fecal Coliform**
- **Lower Minnesota River – Dissolved Oxygen**
- **South Branch Yellow Medicine River – Fecal Coliform**
- **Long Prairie River – Fecal Coliform**

## **Nearly Completed TMDLs**

- **Chippewa River – Fecal Coliform**
- **Shingle Creek, Upper Mississippi River Basin – Chloride**
- **Baudette River – Dissolved Oxygen**
- **North Branch Sunrise River – Fecal Coliform**
- **Otter Tail River - Turbidity**
- **Cannon River - Turbidity**
- **Blue Earth River - Fecal Coliform**
- **Bevens and Silver Creeks - Fecal Coliform**
- **Martin/Typo Lakes - Nutrients**

# The Playing Field





# Protection/Prevention

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Protection: implementation of measures to prevent waters from becoming impaired and to improve waters that are listed as impaired but have no approved TMDL addressing the impairment.

CWLA priorities:

- n Coordinate with and use existing local authorities
- n Provide support for existing and ongoing prevention efforts
- n Leverage other sources of prevention funding
- n Projects that show a high potential for early prevention and/or restoration
- n Projects that show a high potential for long-term water quality and related conservation benefits

# Comprehensive Water Management Plans

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- n They already exist
- n Provide for a watershed context
- n Identify priority surface waters
- n Required to demonstrate how the plan is coordinated with others
- n Require public notice, involvement, and hearing
- n Implementation overseen by a local water plan taskforce/committee
- n Has a process for agency involvement

# Who's Eligible

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- n WD's, Cities, Counties, SWCD's (including JPA's)
- n There must be an approved water plan
- n Others must work through an LGU (lake associations, Cannon River Partnership, etc.)

# Project Types

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- n Surface water focus
- n Identified as a priority in a water plan/s
- n Implementation that can be supported by:
  - n Cost-Share & Incentives
  - n Technical Assistance
  - n Loans
  - n SLR & Fee title Acquisition

# Interagency Review & Agency Commitments

## Agency Programs & Resources

<b><u>BWSR</u></b>	<b><u>MDA</u></b>	<b><u>DNR</u></b>	<b><u>MPCA</u></b>
CWLA – Cost-share & incentives CWLA – Local technical assistance CWLA – Local surface water management & protection CWLA – Streambank, lakeshore, and roadside water quality protection and restoration BWSR – cost-share rollover	CWLA – AgBMP loans	CWLA – Forest stewardship CWLA – Acquire high priority sensitive riparian lands	MPCA 319 – federal non-point restoration program

**Mix & match programs and resources to proposals**

**Letter of commitment to applicant**

# Agency Grants & Funding

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- n Agencies use existing grant and loan authorities and administrative procedures

# Clean Water Council

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- n 23 members will serve staggered four-year terms
  - n 19 citizens appointed by the Governor
  - n 4 agency representatives

# CWC Membership

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- n Statewide farm organizations (2)
- n Business organizations (2)
- n Environmental organizations (2)
- n SWCDs (1)
- n WD's (1)
- n Nonprofit organizations focused on improvement of MN lakes or streams (1)
- n Organizations of county governments – interests of rural counties (1) and interests of seven-county metro area (1)
- n City governments (2)
- n Metropolitan council (1)
- n Township officer (1)
- n Interests of tribal governments (1)
- n Statewide hunting organizations (1)
- n University of Minnesota or a Minnesota state university (1)
- n Statewide fishing organization (1)
- n Agencies
  - n DNR (1), PCA (1), BWSR (1), MDA (1)



# CWC

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- n Recommend an Implementation Plan by Dec. 1<sup>st</sup> of each year
- n Make recommendation to Governor on appropriations from the Clean Water Legacy Acct.
- n Biennial Report by Dec. 1<sup>st</sup> of each even-numbered year

# Other Items

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- n Money is one-time
  - n \$15.64 mill general fund
  - n \$9.31 bonding
  - n \$.640 ETF
- n G16 – priority is stable funding
- n Need to show success
  - n Good projects
  - n Money encumbered before Dec.
  - n Estimates of potential effectiveness

# Clean Water Legacy Grants Proposal Process

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# Potential Resources

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## **BWSR**

- Targeted non-point restoration **cost-share** and incentive payments in impaired watersheds and lake basins (**\$1.5 million**)
- Targeted non-point restoration **technical**, compliance, and engineering **assistance** activities. 75% for restoration activities and 25% for protection activities (**\$2.0 million**)
- Support local non-point source **protection** activities related to lake and river protection and management (**\$ 1.41 million**)
- Streambank, stream channel, lakeshore, and roadside protection and restoration projects (**\$1.0 million, bonding**).

# Potential Resources

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## **DNR**

Forest stewardship (\$200,000)

Acquisition or easements on sensitive riparian lands that provide a high value for watershed protection (\$1.14 million)

## **PCA (non Clean Water Legacy Funds)**

EPA Section 319 funds for non-point source restoration (approx. \$1.0 million)

## **MDA**

Targeted financial assistance - Ag BMP Loan Program (\$1.2 million)

# Timeline

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July 1 to August 30 – Agency outreach to potential participants

July 1 to August 30 – Development of request for proposal and review procedures

September 1 – Request for proposal sent out to all potential participants

September 30 – Request for proposals due to State

October 10 – Interagency review & recommendations completed

November 1 – Agency administrative procedures or notification of funding begins

# Surface Water Restoration and Protection Proposals

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- n Two page proposals
- n 2-year commitments
- n Driven by TMDL & CLWM Plans
- n Collaborative
- n Who, What & How Much for:
  - n Land & water treatment practices
  - n Technical assistance
  - n Effectiveness monitoring & reporting
- n Signature page – to assure local coordination



Minnesota  
Pollution  
Control  
Agency

Public  
Information  
Office

**Related Information**

**Impaired Waters  
Background Paper**  
available or find it  
[www.pca.state.mn.us/waters/water/impair.html](http://www.pca.state.mn.us/waters/water/impair.html)

Minnesota's  
**Impaired Waters**  
list available at  
[www.pca.state.mn.us/waters/impair.html](http://www.pca.state.mn.us/waters/impair.html)

View the list of  
**TMDLs Underway**  
in Minnesota at  
[www.pca.state.mn.us/waters/tmdl.html](http://www.pca.state.mn.us/waters/tmdl.html)

## Background on: Total Maximum Daily Loads

General Public: gpd-13, January 2006

### Introduction

A water body is "impaired" or polluted if it fails to meet one or more of the federal Clean Water Act's water quality standards. Federal standards exist for basic pollutants such as sediment, metals, nutrients and toxicity. The Clean Water Act requires the Minnesota Pollution Control Agency to identify and restore impaired waters.

Minnesota's Impaired Waters list — updated every two years — identifies impaired waters that do not meet water quality standards. The 2006 list, currently in draft form, includes 1,274 impairments on 174 water bodies in Minnesota. Listed waters include 1,408 miles and 296 rivers and creeks, many with multiple impairments. The 2006 list remains in draft form until approval by the U.S. Environmental Protection Agency (EPA). Assessments are complete on 10 percent of Minnesota's stream miles and 16 percent of the state's lakes. The list will expand as assessments continue throughout the state.

### What is a TMDL?

The primary tool for addressing impaired waters is a pollution reduction plan called a Total Maximum Daily Load, or TMDL. A TMDL is the maximum amount of a pollutant a water body can receive without violating water quality standards. The TMDL process identifies all sources of the pollutant and determines how much each source must reduce its contribution in order to meet the quality standard. The sum of all contributions may be less than the maximum daily load. The source reduction strategies form the basis of an implementation plan. Implementation begins once the EPA approves a completed TMDL.

The Clean Water Act requires a completed TMDL for each water quality violation

### Impaired waters in Minnesota

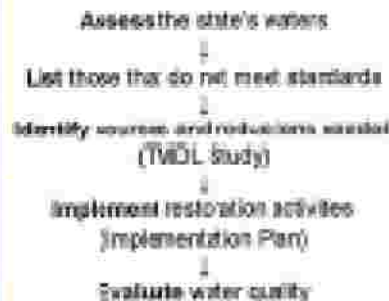


waters identified on a state's Impaired Waters list. Lakes or river reaches with multiple impairments require multiple TMDLs.

### What is the process for completing TMDLs?

States must develop a TMDL within 15 years of listing a specific impairment. Developing a TMDL requires an average of four years.

### The TMDL Process







The process for completing a TMDL study is complex and varies significantly from project to project. Some of the many variables include:

- Number of pollutant sources
- Type of pollutant and size of the watershed
- Amount of existing data
- Relationship of one impairment to others that may exist (anthropogenic or nearby water bodies)
- Extent of stakeholder involvement
- Availability of necessary resources

#### Who is responsible for doing TMDLs?

The Minnesota Pollution Control Agency (MPCA) is ultimately responsible for completing and submitting TMDLs to the EPA. However, stakeholders play a critical role in the development and implementation of TMDLs. In addition, scientific and technical experts provide valuable information and insight. In many cases, consultants assist with data collection, modeling and development of draft reports.

Through contracts with the MPCA, local governments and watershed organizations will likely lead over two-thirds of Minnesota's TMDLs. The MPCA will direct the remaining projects. The contracts cover staffing, equipment, lab costs, and other project expenses. Nearly 95 percent of all the state's TMDL funding passes through the MPCA to local governments and contractors. The MPCA provides oversight, technical assistance, and training to ensure regulatory and technical requirements are met. The MPCA submits final TMDLs for EPA approval.

#### What happens after the TMDL is complete?

After a TMDL is written, a detailed implementation plan is developed to meet the TMDL's pollutant load allocation and achieve the needed reductions to restore water quality. Depending on the severity and scale of the impairment, restoration may require 18-25 years and millions of dollars.

#### What is the current TMDL workload?

The MPCA's current TMDL workload is organized into about 300 projects. At current funding levels, the MPCA

anticipates that the federal deadlines for completing TMDLs will be missed, the backlog of projects will grow, and restoration efforts will be delayed.

Concern over resource needs for impaired waters led to development of the Clean Water Legacy Act. This proposed legislation has been under consideration by Minnesota state lawmakers for the past several legislative sessions. In 2007, the bill was widely supported by a coalition of business, agricultural, local government and environmental organizations, but it failed to pass due to a lack of legislative agreement on funding sources. Legislative consideration of the bill will continue in the 2008 session.

#### What are the consequences of not completing TMDLs?

The Clean Water Act prohibits new or expanded discharge to an impaired water, if the discharge would "cause or contribute to the violation of water quality standards." Until a TMDL is completed, there can be no new or expanded discharge affecting the impairment. Once the study is complete, all proposed discharges must meet the requirements of the TMDL.

If TMDLs do not move ahead, communities and businesses may find themselves unable to expand. The resulting constraints on economic development and growth could be considerable. In addition, if impairments are not addressed, many precious lakes and rivers remain polluted, a detriment to the quality of life in Minnesota.

#### For more information

For more information on TMDLs, contact  
Patti Sleeper 651-297-3345 or  
[pat.sleper@mPCA.mn.gov](mailto:pat.sleper@mPCA.mn.gov)

TMDL information is also available on the Web at  
[www.pca.state.mn.us/amer/tmdl/index.html](http://www.pca.state.mn.us/amer/tmdl/index.html)

Guidance documents for using wastewater discharge permits affecting impaired waters are available under the Permit section on the Web page at  
[www.pca.state.mn.us/water/wastewater.html](http://www.pca.state.mn.us/water/wastewater.html)