



Citizens League Report

LOSING LAKES:

**Enjoyment of
A Unique Metropolitan
Resource is Threatened**

***Public affairs
research and education
in the Twin Cities
metropolitan area***

CITIZENS LEAGUE REPORT

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**ENJOYMENT OF A UNIQUE METROPOLITAN
RESOURCE IS THREATENED**

Prepared by

Metropolitan Lakes Management Committee

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Approved by the Citizens League Board of Directors

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EXECUTIVE SUMMARY

Up to now, metropolitan residents have been able to take for granted their ability to find a lake to use and enjoy. About 100 large lakes, hundreds of smaller ones, and three rivers provide tremendous opportunities for water-based recreation in the Twin Cities area. But the situation on metropolitan lakes seems to be deteriorating in several important ways:

- surface use of the lakes continues to increase, and the conflicts that have resulted lead some people to feel the lakes are becoming overcrowded and unsafe;
- the water quality of many lakes has degraded and is threatened at other lakes; and
- continuing shoreland development and redevelopment has caused concern about limits on public access to the lakes and their shoreland.

Unfortunately, lake management has been fragmented and mainly oriented towards current issues and interests rather than long-term concerns. Metropolitan lakes are managed in varying degrees by three federal and four state agencies, seven counties, seven soil and water conservation districts, 46 watershed districts, two conservation districts and 138 municipalities. These governmental bodies sometimes have conflicting goals and activities. Conflicts between their short-term and long-term goals are also common.

In this report, we emphasize the importance of comprehensive, long-range planning for the lakes and stress recognition of metropolitan lakes as an interconnected, regional system. Such an approach is needed to ensure that future generations can enjoy the lakes and other surface water.

We recommend:

- ☐ Lakes in the metropolitan area should be viewed as a regional system, with regional coordination of planning and management activities.
- ☐ Local governments should develop plans for the surface waters before lakes deteriorate further.

Lakes in the metropolitan area are a unique regional resource, and improved regional governance and long-term planning are needed.

We recommend:

- ☐ The Legislature should charge the Metropolitan Council with the responsibility for planning and coordinating management of metropolitan surface waters.

In partnership with local governments, the Metropolitan Council should develop a comprehensive policy framework and metropolitan guidelines for shoreland and surface water management. Local governments should be required by a fixed date to develop local surface water plans subject to approval by the Metropolitan Council. The Council should provide grants to cover part of the cost

of developing local surface water plans. It should also coordinate the plans and activities of the various agencies involved in metropolitan lake management.

Good data are essential for good planning, but there is a frustrating lack of information on the use and quality of metropolitan lakes. For example, none of the agencies involved in lake management is collecting information on the extent of conflict between different types of surface uses and different groups of users. Furthermore, while several different agencies test certain measures of water quality in certain lakes, no one is monitoring regularly the presence of pesticides.

We recommend:

- ☐ The Metropolitan Council and Department of Natural Resources should conduct more complete studies of surface use on metropolitan lakes.
- ☐ Water quality monitoring of metropolitan lakes should be more extensive and better coordinated.

In the report, we also make recommendations on specific lake management issues.

User Conflicts and Safety Problems

Without changes in the current system of surface use management, conflicts and safety problems on lakes in the metro area will increase along with user density. Surface use should be managed to minimize user conflicts, ensure safe enjoyment of the lakes, ensure a diversity of uses, and preserve the natural environment.

We recommend:

- ☐ Counties and municipalities should regulate surface use to reduce conflicts among lake users. As often as possible, lakes should accommodate all compatible uses, but a few uses should be excluded from certain types of lakes.

For example, activities like powerboating and waterskiing can disturb lake sediments and waterlife, and are inappropriate for natural environment and shallow lakes.

- ☐ Furthermore, the state should require operators of larger motorboats to be trained in boating safety and should establish a minimum age for operation of jet-skis. Funding should be increased for enforcement of watercraft regulations.

Boating Access

Public boating access to metropolitan lakes meets neither the present nor anticipated demand. However, development of new public access sites leads to conflict between local residents and government agencies.

We recommend:

- ☐ The Legislature should continue to fund efforts to develop public boat launch facilities in the metro area. Furthermore, the Department of Natural Resources should begin planning and acquiring access sites before a lake's shoreland is fully developed

and should work more with local residents and other lake users in the process.

- ☐ Local governments should be compensated for the removal of land from their tax bases and the costs of maintaining access facilities.
- ☐ The Department of Natural Resources should develop better planning guidelines for evaluating access to lakes. These guidelines should account for all sources of access to the lakes, development levels, and restrictions on individual lakes.

Shoreland Access and Development

Pressure to intensify development around lakes continues in many parts of the metro area causing concerns about limited public access to shoreland and degradation of the lakes and their shores. We found that only 30 of 138 metropolitan area municipalities have adopted shoreland management plans and regulations 14 years after they were required to do so by state law.

We recommend:

- ☐ By a fixed date, municipalities should comply with the requirement to adopt shoreland ordinances that meet state standards.
- ☐ The Metropolitan Council should work with local governments and the Department of Natural Resources to explore ways, such as tax incentives and land dedication, to appropriately control shoreland development and encourage municipalities to reserve shoreland for public use.

Water Quality

Non-point source pollution now poses the most serious threat to the water quality of metropolitan lakes. Water quality is difficult and expensive to improve once a lake has been allowed to degrade.

We recommend:

- ☐ Agencies with control over whole-lake watersheds should plan for and manage lake water quality.
- ☐ Water quality goals should be based on proposed recreational uses of the lakes.

INTRODUCTION

In the seven-county Twin Cities metropolitan area, 100 large lakes and hundreds of smaller ones provide tremendous opportunities for water-based recreation.¹ In addition, over 21,000 acres of the Mississippi, Minnesota, and St. Croix rivers in the metropolitan area offer more opportunities for recreation. Up to now, metropolitan residents have been able to take for granted their ability to find a lake to use and enjoy. But the situation on metropolitan lakes seems to be deteriorating.

Surface use of the lakes continues to grow, leading some people to feel the lakes are becoming overcrowded and unsafe. The water quality of many lakes has degraded and others are threatened. Continuing lakeshore development has caused concern about public access to the lakes and their shoreland.

Unfortunately, lake management has been fragmented and mainly oriented towards present issues and interests rather than long-term concerns. Out of the multitude of lake management agencies, none has been charged with overall planning and management responsibility for metropolitan lakes. The map on page 2 shows how waters in the region are organized into 46 watershed management organizations.

The committee's charge was to:

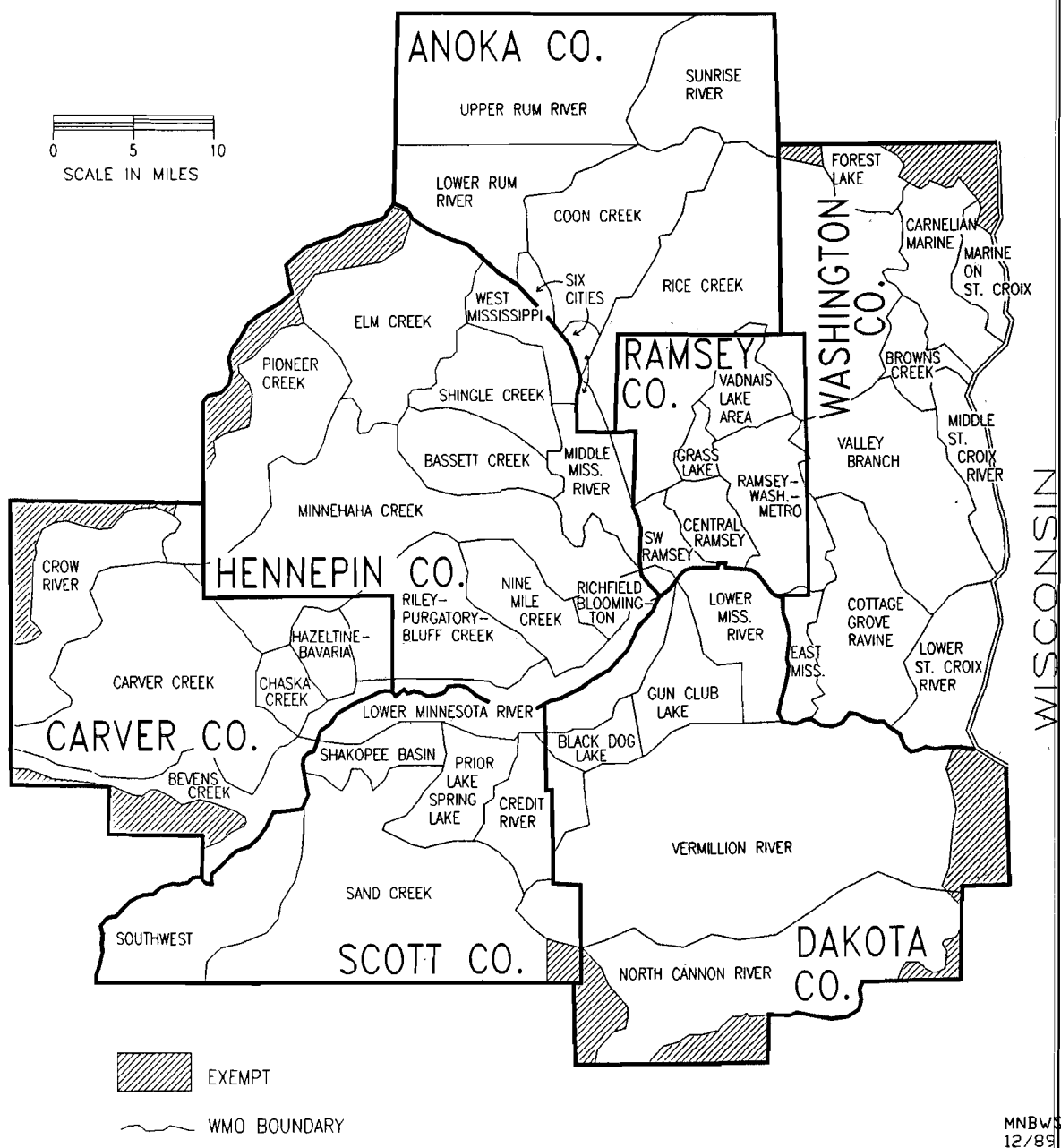
- recommend policies for management of metropolitan lakes that balance lake access, safety, user convenience, and environmental protection.

Over a period of eight months, this committee examined current lake issues in the seven-county area and looked ahead to the future of our lakes.

We have emphasized the importance of comprehensive, long-range planning for the lakes and stress recognition of metropolitan lakes as an interconnected, regional system. While we have focused on lakes in the seven-county area, other regions of the state face similar pressures on their lakes. Some of our recommendations may apply to these regions as well.

The first chapter of this report examines surface use issues, such as crowding and safety problems. Chapter 2 looks at questions of boat access to the lakes, while Chapter 3 discusses shoreland access and development. Chapter 4 examines water quality issues. The final chapter discusses governance of the lakes.

¹ There are about 100 lakes of 100 acres or more in size in the seven-county region. The largest is Lake Minnetonka, which is the state's tenth largest inland lake with more than 14,000 acres. Counts vary, but there are about 1,400 more lakes of between 10 and 100 acres in the region.



MNBWSR
12/89

SOURCE: Minnesota Board of Water & Soil Resources, 1989

CHAPTER 1

SURFACE USE OF METROPOLITAN LAKES

The increasing use of metropolitan lakes has led to concerns about safety problems and user conflicts. This chapter examines patterns and trends in recreational use of metropolitan lakes, surface use conflicts and their consequences, and controls on surface use.

LAKE SURFACE USE

Patterns of lake use

A few metropolitan lakes are heavily used at particular times. According to a survey by the Minnesota Department of Natural Resources (DNR), boating densities on metropolitan lakes are, on average, four times those in other popular recreational regions of the state. Densities are greatest on weekends and holidays.¹

By number of users, Lake Minnetonka is the most heavily used lake in the seven-county area. On busy weekends, the user density exceeds one boat per 10 acres (an average of about 1,400 boats).² Similar densities are sometimes reached on portions of the St. Croix River, White Bear Lake, and Prior Lake. On the other hand, many lakes do not approach this level of use.

Planners expect lake use will continue to increase. The Department of Natural Resources has projected significant increases in fishing and boating in the metropolitan area between 1980 and 1995.³ For example, average surface use of Lake Minnetonka is currently growing at a rate of about 45 boats per year. Purchases of boats are expected to increase in the 1990s and early 2000s as members of the baby-boom generation reach middle-age and spend their additional earnings on recreational equipment and activities.

Powerboating is the most popular activity on metropolitan lakes. A DNR survey of boating use found that powerboating accounts for about half of all boating activity on metro lakes between Memorial Day and Labor Day.⁴ Other uses include fishing (the most popular use on a three-season basis), swimming, canoeing, scuba-diving, sailing, and water-skiing.

Some metro area lakes are preferred for particular activities. Scuba-divers prefer clear lakes, such as Square Lake in Washington County and Christmas Lake in Shorewood, and use these lakes for teaching diving classes. Large boats need expanses of open water and have few desirable alternatives to

- 1 Wayne Barstad and Deborah Karasov, *Lake Development: How Much is Too Much?* Minnesota Department of Natural Resources, 1987, p. 4.
- 2 However, if lakes are compared by density of users per acre, many lakes (including some of the Minneapolis city lakes) are even more heavily used than Lake Minnetonka.
- 3 Minnesota Department of Natural Resources, "Minnesota Statewide Comprehensive Outdoor Recreation Plan 1984-1989," 1985.
- 4 Barstad and Karasov, p. 7.

large bodies of water such as Lake Minnetonka, White Bear Lake, and the St. Croix and Mississippi Rivers. Anglers prefer lakes that support large gamefish populations.

Perceptions of crowding

People's perception of crowding on lakes largely depends on personal expectations and tolerances. A canoeist in the Boundary Waters expects a solitary experience and might feel crowded by seeing just one other boat. On the other hand, boaters in the metro area generally expect to share the lakes with others but tolerate different levels and types of use. Some activities, such as powerboating or waterskiing, take up large areas of lake surface and make a lake seem more crowded than uses such as still-fishing.

Since crowding is largely a matter of personal perception, setting standards for acceptable boating densities is difficult. Most management agencies have based boating capacity standards on safety concerns rather than perceptions of crowding. These standards vary widely among agencies and often do not consider factors like the shape of the lake or the way it is used. When developing public access sites, the Minnesota DNR plans for a maximum density of one boat per 10 acres, regardless of the type of boat or use. The Wisconsin DNR uses a standard of one boat per 20 acres. On the Allegheny Reservoir in New York, different uses are considered to require different amounts of lake surface, ranging from one acre for anchored fishing boats to 20 acres for water-skiers.⁵

A significant percentage of boaters in the metro area feel the lake they use is crowded. From 1984 to 1986, the DNR surveyed boaters on 23 metropolitan lakes about their perception of crowding on the lakes. On weekends and holidays, about 30 percent of metropolitan boaters surveyed rated the lake they used as "crowded" or "too crowded."⁶ By comparison, fewer than 10 percent of boaters in other regions of the state judged their lake to be crowded. The DNR conducted its metro area boater survey at public and private access points and only included people who were actually using metropolitan lakes. DNR researchers did not interview any boaters who had given up trying to use these lakes.

Conflicts and accidents

Certain combinations of activities on lakes can lead to conflict. Powerboaters and water-skiers are most frequently involved in conflicts with other lake users. Powerboat noise disturbs people, and small boat users and people fishing feel frustrated or scared when their activities are disrupted by the speed and wake size of passing powerboats. Fast-moving boats frighten swimmers and scuba-divers. In winter, high-speed snowmobiles alarm cross-country skiers on the ice.

Personal watercraft, such as jet-skis, are becoming a source of conflict as they increase in popularity. According to DNR Boating Safety Coordinator, Kim Elverum, jet-skiers often behave discourteously or even dangerously, by jumping wakes and coming too close to swimmers, people fishing, and the shoreline. Conflicting uses also come out of the sky. Seaplanes are allowed to land on some metropolitan lakes, and they can annoy, frighten, and sometimes endanger boaters.

Larger motorboats are involved in most reported boating accidents in the metro area. These accidents are usually collisions between boats or with other objects. Fatal accidents usually are caused by canoes, small motorboats capsizing, or people falling overboard.

A few metropolitan lakes are "hot spots" for boating accidents. In 1988, more than half of the 70 non-fatal boating accidents reported in the metro area occurred on Lake Minnetonka. Excelsior Bay and Spring Park Bay have been identified as particularly dangerous parts of the lake. When surveyed about their last trip on Lake Minnetonka, a large majority of lake users reported seeing potentially dangerous

5 *Ibid.*

6 *Ibid.*

situations, such as failures to yield the right-of-way, high wakes, excessive speeds, and alcohol misuse.

White Bear Lake and Lake St. Croix have also been mentioned as accident "hot spots" in the metro area, although fewer reported accidents occur on them than on Lake Minnetonka. These three lakes are all heavily used, especially by the larger motorboats that are most often involved in accidents.

The frequency of boating accidents is connected to many factors. Although accident frequency is commonly believed to be correlated with user density, the actual relationship between these factors is unclear. While boating use has increased, boating fatalities have decreased in Minnesota and across the country as a result of better watercraft enforcement, boating safety education, more stable boats, and more extensive use of flotation devices.

While the relationship between user density and accidents is uncertain, some behavioral factors are connected to accident frequency. The Lake Minnetonka Conservation District (LMCD) has found that accidents there often result from ignorance of the lake or its surface use rules.⁷ The DNR has found that lack of training in boating safety and alcohol use are also linked to accidents. In 1986, the Minnesota Legislature passed a Boating While Intoxicated law to try to deter alcohol misuse by boaters.

Consequences of user conflicts

People who feel too crowded or unsafe on a lake move elsewhere or change the timing of their activities. Lake managers sometimes describe this phenomenon as self-regulation in a positive sense; however, owners of small boats are believed to be displaced from lakes more frequently than those with large boats. Lake users in small, especially non-motorized, boats are likely to be disturbed by wakes and noise from larger boats and to feel their safety is threatened. Riparians (lakeshore property owners) and others who cannot easily move their boats to avoid conflicts often change the time of day they go out on the lakes.

No agency has systematically studied the extent of displacement from metropolitan lakes or its effects on lake use patterns; therefore, the consequences of user conflicts are largely unknown. Although some level of displacement is assumed to occur on metro lakes, little is known about which lake users are displaced or where they go. Surveys of lake use and user satisfaction have been conducted in a way that precludes the involvement of any metropolitan residents who now entirely avoid the lakes because of crowding. By only interviewing riparians and boaters who still go to the lakes, the DNR's research method includes only people who still go to the lakes and may tend to overstate public satisfaction with them. Comments from people who are displaced and frustrated have not been obtained.

Controls on surface use

Both local governments and the DNR influence lake surface use by exercising direct and indirect controls.⁸ Surface use restrictions directly control lake use. Counties and municipalities may pass ordinances, in accordance with DNR rules, regulating surface use of lakes within their jurisdiction. Ordinances can include restrictions on the types and sizes of watercraft, the types and horsepower of motors, the speed of watercraft, and the times and areas of use. Winter regulations may include restrictions on snowmobile use close to shore.

The DNR does not request local governments to adopt surface use ordinances, but it has some control over their content when they are developed. Counties and municipalities must choose the restrictions included in ordinances from those listed in the DNR rules, and all surface use ordinances must be approved by the Commissioner of Natural Resources. The DNR requires that surface use ordinances

⁷ *Ibid.*

⁸ By local governments, we include counties, municipalities, and special purpose units such as watershed and lake conservation districts.

accommodate all compatible uses when feasible, minimize adverse effects on the lake, minimize user conflicts, and conform to state statutes and rules. When assessing an ordinance, the DNR considers factors such as a lake's physical characteristics, existing management plans and development, accident history, and the control preferences of lake users.

Several factors can indirectly control lake surface use. User density can be indirectly regulated by the number of mooring buoys, docks, public and private boat ramps, marinas, and available parking spaces for boat trailers. Types of use can also be regulated by these facilities. For example, boat ramps can be designed so they cannot be used by larger boats.⁹ Both the DNR and local governments have some authority over these indirect controls on surface use (see Table 5.1 in Chapter 5).

Counties and municipalities often do not restrict surface use on lakes in their jurisdictions. Only about 100 lakes in the seven-county area have surface use ordinances. Half of these are located in Hennepin County. Surface use ordinances are least common in the outer suburbs. Restrictions in the ordinances vary in degree from relatively small zones regulating speed to entire lakes where motors are prohibited.

Many boaters in the metropolitan area favor increased surface use regulations. In 1984, a survey commissioned by the DNR asked boaters on 23 metropolitan lakes what, if any, special boating restrictions they felt were needed on the lake they used. Fifty-two percent of boaters favored use restrictions on their lake.¹⁰ By comparison, 38 percent of boaters in north central Minnesota and 10 percent of boaters in west central Minnesota requested surface use restrictions.

Boaters who considered their lake to be crowded most frequently asked for restrictions. However, about half of those who felt their lake was uncrowded still requested surface use restrictions. Riparians (persons owning land on the banks of the water body) and marina users asked for restrictions more frequently than did public access users.

Metropolitan boaters who requested surface use restrictions asked for wake or speed regulations most frequently. Restrictions on boat type, size, and horsepower were also commonly mentioned, as was greater enforcement of existing rules.

Enforcement agencies lightly patrol most lakes. By statute, counties and the DNR are responsible for enforcement of watercraft regulations in Minnesota. The U.S. Park Service also patrols the Lower St. Croix Riverway. Municipalities, with the exception of Minneapolis and its Park and Recreation Board, generally play a minor role in patrolling lakes.

As a result of limited funds and staffing, counties concentrate on patrolling the most heavily used lakes in their jurisdictions. Enforcement is greatest on Lake Minnetonka, White Bear Lake, Prior Lake, Lake Waconia, and the Mississippi and St. Croix Rivers. Many other lakes are patrolled only two or three times each summer. Some lakes in outlying areas are never patrolled by county officers because they are so lightly used. The 13 Department of Natural Resources conservation officers assigned to the metropolitan area also have responsibilities for overseeing the lakes, and may be more likely to visit the smaller lakes during the year.

Effectiveness of surface use restrictions

Surface use restrictions can be effective lake management tools. Surface use restrictions fall into three general categories: type of use, time zoning, and area zoning. Certain types of restrictions are most effective on certain types of lakes. Area zoning, for example, works best for small bays that can be marked off by buoys.

⁹ The Department of Natural Resources does not favor such indirect approaches to regulating surface use because they may effectively discriminate against some persons. Instead, the department favors direct measures, such as surface use zoning.

¹⁰ Barstad and Karasov.

Surface use ordinances are believed to help reduce user conflicts on many lakes in the seven-county area. The restrictions on motorized boats on Minneapolis and St. Paul lakes (Calhoun, Como, etc.) are frequently praised as examples of good management practices appropriate to their urban settings. Outside of the central cities, Lake Johanna has been cited as an example of a lake where zoning by time of day and common direction of travel rules have been used effectively.

Effectiveness of surface use restrictions is limited because lake users are often unaware of the regulations. In a 1984 DNR survey, only about half of the boaters interviewed on metropolitan lakes with surface use restrictions knew about them.¹¹ Boaters entering from public, private, and riparian accesses were equally unaware of the restrictions. Ignorance of surface use restrictions has been found to be a contributing factor to boating accidents on Lake Minnetonka.

CONCLUSIONS

Without changes in the present system of surface use management, conflicts and safety problems on metro lakes will increase along with user density. While severe crowding and safety problems are relatively rare at present, we strongly believe that pressures on the lakes will increase. More and more people have the time for recreation and the income to indulge themselves in expensive watercraft. Boating densities on many area lakes continues to increase. Planning agencies, such as the Metropolitan Council, stress the need for more recreational facilities to accommodate members of the "baby-boom" generation and their families. In particular, the popularity of boating and fishing is expected to grow as the baby-boomers age.

A few user groups are increasingly being pushed onto less preferred lakes. While little information is available on the phenomenon of user displacement, managers seem to depend heavily on displacement to regulate levels of lake use. This leads to a pecking order of lake user groups. Left unrestricted, powerboaters and water-skiers effectively control the surface of a lake because other user groups can be displaced by them.

Some uses are inappropriate for certain lakes. Activities like powerboating and water-skiing can disturb lake sediments and wildlife. They are obviously inappropriate for natural environment and shallow lakes. They may also be undesirable in densely-populated areas where they can bother other lake users and riparians.

Regulation of surface use must be consistent with the planning and management of lake use. Regulations aimed at maintaining natural conditions would be difficult to enforce if access, shoreland facilities, and channel dredging favor large, fast powerboats. Likewise, intensive fish-stocking on a lake managed for water-skiing and jet skis will tend to increase conflict.¹²

RECOMMENDATIONS

We recommend:

- ☐ **Surface use on metropolitan lakes should be managed and regulated with the following goals in mind:**
 - minimizing conflicts among lake users;
 - ensuring safe enjoyment of the lakes;

¹¹ Barstad and Karasov.

¹² Note that it would be possible and perhaps desirable to stock a water-skiing lake with fish even if fishing was limited to the spring and fall months when few people water ski.

- ensuring a diversity of uses; and
- preserving natural environment lakes.

We recognize that these goals are occasionally incompatible on some lakes. For example, allowing diverse uses would be inappropriate on a lake designated as a natural area. In such cases, good management might mean setting priorities among the goals. It should be noted, however, that all four goals can be met if lakes are considered on a regional scale. Regional lake management is discussed in the recommendations section of Chapter 5.

- ☐ **Counties and municipalities should regulate surface use to reduce conflicts among lake users.**

Surface use ordinances should be developed with the above goals as guiding principles. While we do not recommend regulation for regulation's sake on all lakes, it is important that local governments take a view that is comprehensive in both its geographic scope and in looking toward the future.

- ☐ **As often as possible, lakes should accommodate all compatible uses.**

Allowing all uses is especially important on lakes, such as Lake Minnetonka and White Bear Lake, that draw users from the entire region. Time and area zoning can allow all groups to use a lake while separating conflicting uses.

- ☐ **A few uses should be excluded from certain types of lakes.**

Water-skiing and powerboating use large areas of lake surface and conflict with most other uses. These two activities should be excluded from some lakes for safety, aesthetic, and preservation purposes. For example, powerboats should not be allowed on almost all natural environment lakes because they disturb wildlife.¹³ In densely-populated areas, their exclusion would allow the lakes to be used more by everyone else.

- ☐ **The state should require operators of larger motorboats to be trained in boating safety.**

At the present time, only teenage boaters are required to have any formal education in boating safety. Operator licenses, while politically unpopular, would be one means of improving boater education and reducing boater accidents. A minimum age should also be established for operation of jet-skis.

- ☐ **Funding should be increased for enforcement of watercraft regulations.**
- ☐ **The Metropolitan Council or DNR should conduct more complete studies of surface use on metropolitan lakes.**

During the course of this study, we were often frustrated by the lack of good data on surface use. More information on surface use is essential for successful planning and management in the future. In particular, the phenomenon of user displacement deserves study. Future studies should be designed so they do not merely survey those who are actually on the lakes at a particular time.

¹³ To our knowledge, the Department of Natural Resources does not classify boats in any useful way based on our their "power," only on their length. It would be useful for the department to develop such a definition for use in regulating surface use. The department has pointed out that large boats are permitted to use some natural environment lakes with small electric motors.

CHAPTER 2

BOATING ACCESS

As more people buy boats, the demand for access to the lakes will continue to increase. Yet the development of new public access facilities is often impeded by conflicts between local residents and government agencies. (The sidebar below discusses some of the legal issues involved in developing new sites.) This chapter examines the supply of access to metropolitan lakes and the process of developing new boat launch sites.

PROVIDING PUBLIC BOAT ACCESS

Many metropolitan lakes are inaccessible to the public. There are about 1,500 lakes of more than 10 acres in the metro area. Many of these lakes are unsuitable for much recreational use. Public boat ramps are provided on about 110 of them.² However, more than 20 prime recreational lakes identified by the Metropolitan Water Access Committee (see below) are inaccessible to the public.

Surface use of metropolitan lakes increases dramatically when public boat launch sites are provided. According to a 1984 DNR survey, about 80 percent of the parking spaces at public boat launch facilities in the metro area are occupied on weekends and holidays; 40 percent are occupied on weekdays.³ When public boat ramps are built at a lake in the urbanized parts of the metro area, boating density increases by an average of 100 percent.⁴ In rural areas of the region, the provision of public access leads to increases of about 50 percent. Until late 1989, no information was available on who these new access users are, why they chose that site, or

WHOSE LAKE IS IT, ANYWAY?

A difficult question. According to a 1981 ruling by the Minnesota Supreme Court, "Water in its natural state *is not capable of being owned*."¹ (emphasis added) Minnesota lakes classified as "public waters" are subject to control by the state for the public good.

So, who has the right to use the lakes and their shores? *Riparian* property owners have rights to the use and enjoyment of the body of water adjoining their land. (Riparian refers to the bank of a natural course of water and to owners of property on the bank.) If any land adjoining a lake is publicly owned, then the public has the right to use the lake. The public has no right to trespass on private land to obtain access to public waters. If the bed of a lake is publicly owned, the public has the right to walk along the lakeshore below the normal and ordinary high water level of the lake.

¹ *Pratt v. State, Department of Natural Resources*, 309 NW2d 767 (1981). The Supreme Court's ruling was in a case about mechanical harvesting of wild rice.

² Metropolitan Water Access Committee, "Twin Cities Metropolitan Area Public Boat Launch Guide," 1988.

³ Wayne Barstad and Deborah Karasov, *Lake Development: How Much is Too Much?* Department of Natural Resources, 1987, p. 7. The survey dealt with the period between Memorial Day and Labor Day.

⁴ *Ibid.*

which lakes they used before. Private access facilities are also available to metropolitan boaters. About one-third of the boats on metropolitan lakes are launched from private marinas or resorts.⁵ Many marinas permit the public to launch boats for a fee.

The DNR is mandated by the Legislature to acquire, develop, and manage public access sites. Access facilities are provided if a lake is suitable for recreation, both the lake and the surrounding lands can withstand additional recreational use, and public access to the lake is inadequate or nonexistent. The DNR can only acquire land for access sites from willing sellers unless the State Executive Council (made up of the six constitutional officers) agrees to let the DNR use the power of eminent domain to condemn land. In many cases, local governments or conservation districts enter into cooperative agreements to maintain public access facilities once the DNR develops them.

In 1979, based on a recommendation by the Legislative Commission on Minnesota Resources, the Metropolitan Water Access Committee was formed to coordinate, plan, finance, and promote public boat launch facilities in the seven-county area. The committee consists of members from the DNR, Metropolitan Council, and Minnesota Department of Trade and Economic Development. By the end of 1988, the committee had helped the DNR and local governments acquire, develop, and upgrade 95 access sites.⁶ The committee had also produced a map showing all 160 access sites now open on metropolitan lakes and rivers.⁷

The Metropolitan Water Access Committee identified 95 prime recreational lakes that are 100 acres or larger where access sites could be developed. These lakes have been ranked by their size, shape, types of fish, and clarity. In 1987, 43 of these lakes were judged to have adequate access based on DNR planning assumptions.⁸ However, more than 20 of these lakes had no public access facilities at all.

In developing public accesses, the DNR plans for a total boating density of one boat per 10 acres of lake surface. Non-riparians and riparians are each assumed to contribute half of the total lake use; therefore, a lake is considered to have adequate public access facilities if one parking space is provided per 20 acres of lake surface. The number of parking spaces for boat trailers at access points theoretically limits the number of boats that can be launched.

The DNR's planning assumption of one boat per 10 acres does not consider the varying amounts of lake surface needed for different uses. DNR staff say that it assumes an "unregulated mix" of uses, such as water skiing, fishing, and canoeing. Planning by the DNR also does not consider the amount of development around a lake or the presence of private launch sites.

Conflicts can occur when government agencies try to develop new public access sites. Local residents often object when government agencies develop access sites nearby. Public accesses remove land from a municipality's tax rolls, increase lake use, and often require municipal maintenance. It should be noted that the department and the local and regional agencies it works with have assigned priority to identifying and using lands that are already in public hands.

The DNR's current process for planning access facilities contributes to tensions with local residents because the public is not involved in the siting process until potential sites are already identified. When the DNR makes public these potential sites, it often runs into problems.

Many new public access proposals have resulted in lengthy battles. For example, the DNR has worked for nine years to get an access site on Turtle Lake in Shoreview. In another case, a boat ramp on Long

5 *Ibid.*

6 Metropolitan Water Access Committee, "Public Water Access on Twin Cities Metropolitan Area Lakes and Rivers, 1988 Annual Report," p. 3.

7 Metropolitan Water Access Committee, "Twin Cities Metropolitan Area Public Boat Launch Guide."

8 Metropolitan Water Access Committee, "A Cooperative Program for Providing Public-Access Sites on Metropolitan Area Lakes," 1988, pp. 18-20.

Lake in New Brighton finally opened this year after a 20-year struggle involving the DNR, the city, and local homeowners.⁹

Conflicts can occur when local governments try to restrict access to lakes from public boat ramps. This year, the DNR filed suit against the city of Maple Grove because the city restricted the number of boats launched at a public access site on Weaver Lake. Boaters who do not have a parking space that meets city regulations must wait until a space opens up to launch their boat. When a boater leaves the lake, the next person in line may launch a boat. The DNR says the city is violating its agreement to keep the boat ramp open to the public without restriction. Maple Grove objects that without a monitor to control launchings, the lake becomes overcrowded, with densities exceeding the one boat per 10 acres planning assumption.

Although the DNR stated policy is to ensure equal access for riparian boaters and the public, it has, on occasion, allowed some limitations on boat launchings at other public access sites. For example, the DNR-sponsored public access at Christmas Lake in Hennepin County does not allow launching of boats whose engines are larger than 25 horsepower. That restriction is one result of the extensive negotiations that preceded opening of the public access site; it will sunset in 1991.

CONCLUSIONS

The supply of public access to metropolitan lakes meets neither the present nor anticipated demand. Several of the best recreational lakes in the area have no public boat ramps, possibly contributing to conflicts and safety problems on those that are more accessible. When new public access facilities are built, they are used.

The DNR's planning process for new public access sites is flawed. When planning for public access facilities, the DNR assumes that riparians and public access users each have the right to half of the lake surface without considering the amount of lakeshore development, including marinas and private launch sites. The planning assumption also fails to consider the varying amounts of lake surface needed for different uses and could contribute to unsafe, crowded conditions on the lakes.

Furthermore, by not including local residents in the early stages of planning for new public access sites, the DNR sets itself up for conflicts. Local residents feel the DNR is imposing new access sites on them without concern for their interests.

RECOMMENDATIONS

We recommend:

- ☐ The Legislature should continue to fund efforts to develop public boat launch facilities in the metro area.

We strongly believe more access facilities are needed and commend the DNR's goal of increasing public access.

- ☐ The DNR should begin planning and acquiring access sites before a lake's shoreland is fully developed and should work more with local residents and other lake users in the process.

⁹ The boating access at Long Lake in New Brighton was funded through the Metropolitan Council, not the DNR. At Long Lake, the number of boats with motors over 25 horsepower has been restricted. Five of these boats from the public access are allowed on the lake at any time. After five of these boats have launched, owners of similar boats must wait in line until one of the five boats leaves the lake.

- ☐ Local governments should be compensated for the removal of land from their tax bases and the costs of maintaining access facilities.

User fees are an obvious way to address local economic concerns about access sites. However, other region- or statewide methods of collecting funds (such as a surcharge on boat licenses) and redistributing them to compensate local governments should also be explored.

- ☐ The Department of Natural Resources should make strong, immediate efforts to develop better planning guidelines for access to the lakes. These new standards should account for all sources of access to the lakes, development levels, and the predominant surface uses and restrictions on individual lakes.

CHAPTER 3

SHORELAND ACCESS AND DEVELOPMENT

Shoreland is being developed and redeveloped throughout the metropolitan area, causing concerns about public access to the lakeshores and degradation of the lakes and their shores. This chapter discusses the availability of shoreland access, trends in recreational use and development of the shoreland, and current shoreland management.

FINDINGS

Shoreland access

People use shoreland for many recreational activities. Swimming, shore-fishing, and walking are enjoyed by many people, including those who are older, younger, handicapped, or unable to afford a boat. In winter, shoreland is used for cross-country skiing, snowmobiling, and snowshoeing.

The DNR and the Metropolitan Council anticipate changes in overall participation for many recreational activities as the baby-boom generation ages.¹ Significant increases in participation are expected for fishing, hiking, boating, cross-country skiing, and snowshoeing.

Local governments generally are responsible for providing access to shoreland in the metro area. Counties and municipalities can purchase shoreland for parks, but many do not because they lack funds or favor development of valuable lakefront property to generate tax revenues.

In 1974, the Legislature mandated a regional recreation open space system for the metropolitan area. The Metropolitan Council plans for the regional park system and obtains state funding. Counties, cities, or park districts plan, own, and operate individual regional parks. Of the 54 existing and proposed regional parks and park reserves, all but three provide access to the shores of lakes or rivers.²

Some counties and cities have purchased large areas of lakeshore. For example, Minneapolis acquired most of the shoreland of the Chain of Lakes in the late 1800s and has preserved these areas as public parks. The Minneapolis Park and Recreation Board is now studying the possibility of acquiring more property on the north shore of Cedar Lake. Other cities, such as Woodbury, are also trying to purchase shoreland for parks or have it set aside as a condition of development projects.

Regional parks are heavily used. The Metropolitan Council estimated the parks were visited over 13 million times in 1988.³ Use of the regional parks has increased about seven percent annually from

- 1 Minnesota Department of Natural Resources, "Minnesota Statewide Comprehensive Outdoor Recreation Plan 1984-1989," 1985.
- 2 Metropolitan Council, "Regional Recreation Open Space Needs in the Twin Cities Metropolitan Area," 1988.
- 3 Grant Scholen and Arne Stefferud, "Regional Recreation Open Space System: 1988 Facility Inventory, Capacity Estimate, and System Infrastructure," Metropolitan Council, 1989.

1974 to 1987. The Minneapolis Chain of Lakes are the most heavily used parks, with 1.8 million visits in 1988. Eleven regional parks were used at or above their estimated capacity on summer weekends and holidays in 1988.

Shoreland Development

Pressures to intensify development around lakes continues in many parts of the metro area, including those that are already heavily developed. Because people like to live by lakes, shoreland throughout the metro area is now being developed and redeveloped to meet the increasing demand for lakefront property. In the outer suburbs, new homes are being built on undeveloped shoreland, while in developed areas, small family cabins are being replaced by larger, more expensive homes. High-rise apartment buildings have been proposed several times for the already fully-developed shoreland of Lake Calhoun in Minneapolis.

In 1969, the Minnesota Legislature adopted the Shoreland Management Act to protect shoreland. The DNR promulgated rules setting minimum standards for setback size, height of buildings, and amount of impervious surface allowed within 1,000 feet of a lakeshore. The shoreland rules originally were directed to counties and applied only to land outside incorporated areas. The statute was amended in 1974 to extend the requirement to shoreland within municipalities so cities could not attract developers by having less stringent standards than neighboring communities.

Municipalities were required to adopt shoreland ordinances by 1975 in compliance with the DNR's shoreland rules. Most have not done so, and the DNR has avoided forcing municipalities to comply. If municipalities did not adopt shoreland ordinances, the DNR was empowered to adopt ordinances for them. This has never been done in the metro area, although it has been done for Pine County.

Today, only 30 of 138 municipalities in the metro area have shoreland ordinances consistent with DNR standards. The DNR believes about 100 cities in the area need ordinances, and in 50 of these the need is great.

Political and economic constraints have limited shoreland planning and zoning in the metro area. The original DNR shoreland rules were entirely regulatory and did not require municipalities to comprehensively plan for their shoreland. Some municipalities have hesitated to impose restrictive controls on development of shoreland because of its property tax value. Other cities have been concerned about the effects of new shoreland ordinances on existing plans and development.

Representatives of the DNR say it has lacked funds and staffing for implementation of the shoreland rules. Two DNR staff members have worked part-time on shoreland ordinances for the metro area. The agency set priorities among metropolitan cities, because it did not have the money or staff to get all the ordinances reviewed. Priorities were assigned based on miles of shoreland, density of development, projected use and development, and existing ordinances in neighboring cities.

At least once, the DNR apparently approved a shoreland ordinance that did not comply with its own rules. In 1984, Minneapolis adopted a shoreland ordinance that dealt only with building height in certain parts of the city. The ordinance said no maximum height limit existed for buildings on substantial portions of the city's shoreland, although the DNR shoreland rules set a maximum height of 35 feet. Three years after the Minneapolis ordinance was submitted to the DNR, it was approved.

Recently, the DNR received an appropriation of \$1.5 million to assist local governments throughout the state in developing shoreland ordinances. The DNR will give \$5,000 in matching grants to municipalities for comprehensive planning for shorelands and adoption of shoreland ordinances.

The DNR recently adopted new shoreland rules; opinions differ on their implications for metropolitan lakes. The DNR believes the new rules give greater flexibility for developing and approving shoreland ordinances. Standards can be based on a lake's existing development and cities' comprehensive planning. Local governments can establish standards that are more strict than the state's but must get

DNR approval for less strict standards. The new rules also require planning for sensitive and critical shoreland habitats, which most cities did not do in their comprehensive plans.

An attorney representing a Minneapolis citizens group has criticized the new rules. Because of vague language, exemptions, and lack of a deadline for compliance, the new rules might provide opportunities for local governments to avoid state standards.

CONCLUSIONS

Additional shoreland in the metro area needs to be reserved for public use and enjoyment now and in the future. The demand for public shoreland open spaces is expected to increase steadily into the future. Shoreland must be purchased or reserved for public use now, before further development proceeds. Otherwise, prohibitive costs and other obstacles will make shoreland acquisition next to impossible.

Long-range plans and controls on shoreland development are essential to protect metropolitan lakes and shoreland now and in the future. Development that degrades a lake, the view from it, or adjacent land areas must be prevented. The DNR has failed to implement and enforce its existing shoreland rules effectively in the metro area. We were unable to reach a conclusion on the implications of the new shoreland rules because of a lack of time and information.

RECOMMENDATIONS

We recommend:

- ☐ **Local governments should make long-range plans for shoreland development and redevelopment. The Metropolitan Council and DNR should assist in this planning. Planning should be based on the following principles:**
 - balancing the present interests of riparians, developers, and the public with future concerns;
 - preserving a reasonable amount of shoreland for public use; and
 - preserving the natural terrain and vegetation of the shoreland.
- ☐ **By a fixed date, municipalities should be required to adopt shoreland ordinances in compliance with state rules.**

Although the requirement to enact shoreland ordinances has been ineffective in the past, we believe regulations are absolutely necessary to ensure appropriate shoreland development and must be made to work. We are pleased that the Legislature has appropriated money to the DNR to help local governments plan for their shoreland and develop ordinances. The DNR must also assign adequate funds and staff to oversee enactment and enforcement of shoreland ordinances.

- ☐ **The Metropolitan Council should work with local governments and the DNR to explore ways, such as tax incentives and land dedication, to appropriately control shoreland development and encourage municipalities to reserve shoreland for public use.**

CHAPTER 4

WATER QUALITY

Non-point source pollution and Eurasian water milfoil pose serious threats to the water quality of metropolitan lakes. This chapter examines these threats, their effects on recreational use of the lakes, and their prevention.

FINDINGS

Overall, recreational use of metropolitan lakes generally has not been affected by declining water quality. (The sidebar on the next page describes Eurasian water milfoil, an important threat to Minnesota lakes.) The Metropolitan Council monitors lakes for water quality measures that influence recreational use, including water clarity, abundance of algae, dissolved oxygen content, and water temperature. When water clarity decreases, recreational use sometimes declines. Lakes with poor clarity often have a build-up of algae which leads to green water and unpleasant odors.

According to Dick Osgood, limnologist for the Metropolitan Council, boating on lakes in the region generally has not been affected by changes in water quality. While the water quality of many lakes in the region has degraded as a result of urban development, the variety and sheer number of lakes in the area usually allow people to find a lake that suits their expectations and recreational needs.

Most recreational activities on lakes do not affect water quality. Minor gasoline leaks from boats generally are not a problem except in confined areas of lakes. Boat travel can more greatly affect the water quality of shallow lakes by disturbing the sediments. This causes nutrients to be released from the sediments into the water and reduces water clarity.

Development of lake watersheds inevitably leads to degradation of lake water quality. Since sewage has largely been diverted away from the lakes, non-point source pollution now poses the most serious threat to lake water quality. Construction and development activities increase runoff and nutrient inputs to the lakes, leading to more algae and decreased water clarity. Various watershed treatments, such as stormwater detention ponds, are used to control runoff and nutrient loading.

However, a recent report by the Metropolitan Council suggests that these treatments cannot completely offset the effects of development near the lakes.¹ Nutrient export from a developed watershed, even with appropriate treatment, will probably be greater than from an undeveloped watershed. The Metropolitan Council strongly advocates the continued use of watershed treatment, but suggests that in-lake treatments may be needed in the future to manage nuisances, such as algal growth, associated with nutrient loading from runoff.

1

Richard A. Osgood, *An Evaluation of the Effects of Watershed Treatment Systems on the Summertime Phosphorus Concentration in Metropolitan Area Lakes*, Metropolitan Council, 1989, pp. ii-iii.

In-lake restoration techniques are largely experimental; their success in restoring degraded lakes is limited and uncertain. Several in-lake treatment methods have been tried in the metro area. The DNR has reported some success with efforts to restore degraded lakes by removing rough fish and restocking with other species. It reports improved clarity and better fishing in those cases.

Although limnologists are learning more from each experiment, in-lake management techniques are simply too poorly understood to be relied on for improving water quality at present. For example, calcium nitrate was injected into the sediments of Long Lake in New Brighton to prevent the release of phosphorous (the nutrient most closely associated with algal growth) from the sediments to the water. While the rate of phosphorous release from the sediments seemed to be reduced, lake water quality was unaffected by the treatment because the lake is so deep and phosphorus inputs from runoff greatly exceeded inputs from the sediments.

The DNR, Metropolitan Council, watershed districts, water management organizations, and local governments all manage water quality to varying degrees (see Table 5.1 in Chapter 5). For example, the watershed districts, Metropolitan Council, and DNR all sample metropolitan lakes for various water quality parameters, but their sampling programs are not coordinated. The Metropolitan Council focuses on factors that relate to recreational use. It tests about 120 lakes for nutrient levels, abundance of algae, water clarity, temperature, and oxygen content. The watershed management organizations also study these factors. The DNR primarily samples lakes for factors related to fish habitat.

The Department of Natural Resources, Pollution Control Agency, and Department of Health work together to test fish caught in metro area lakes for the presence of PCBs and mercury. Where levels are high, a fish consumption advisory is issued. No agency samples for chemicals such as pesticides. Both the Metropolitan Council and Minnesota Pollution Control Agency maintain data centers with information on the water quality of metropolitan lakes.

CONCLUSIONS

Far less is known than is needed about the water quality of metropolitan lakes. Programs to monitor water quality in the metro area are limited and uncoordinated. While several agencies monitor various aspects of water quality, they do not coordinate their activities very extensively. Some aspects of water quality are not monitored at all.

EURASIAN WATER MILFOIL

Eurasian water milfoil is a new and severe threat to Minnesota lakes. Eurasian water milfoil is a rapidly-growing, non-native aquatic weed that has recently been introduced to Minnesota lakes. The weed spreads when fragments break off and eventually take root in the sediments. Boat propellers often cut up the weed and facilitate its spread. Because it is not native to this country, Eurasian water milfoil has no natural enemies to control its spread and can form dense mats on the water surface, restricting boating, swimming, and fishing.

Eurasian water milfoil now infests portions of several lakes in the metro area and has reached the critical stage on Lake Minnetonka. In its early stages, the weed can be controlled or eradicated by aquatic herbicides. At advanced stages of infestation, as in Lake Minnetonka, the weed can only be controlled by harvesting and cannot be eradicated. The Lake Minnetonka Conservation District (LMCD) began harvesting the weed this year.

The spread of Eurasian water milfoil can only be prevented if people wash off their boats to keep fragments of the weed from entering new lakes. The DNR and some lake associations have begun to post signs about the weed at lake access facilities, and volunteers now monitor boats leaving access sites on Lake Minnetonka. The Legislature has appropriated \$250,000 to the DNR over the next two years for identification, monitoring, research, education, and control of Eurasian water milfoil.

Water quality is difficult and expensive to improve once a lake has been allowed to degrade. In-lake restoration techniques are costly and often ineffective. While degradation of the lakes might be impossible to stop, it can be minimized by treatments that control runoff and nutrient loading.

RECOMMENDATIONS

We recommend:

- ☐ **Water quality goals should be based on proposed recreational uses of the lakes.**

While it may go without saying, local governments must actively develop recreation goals for lakes. After determining how a lake will be used, its water quality can be managed for that use. A lake used primarily for swimming, for example, must be managed very differently from one used for fishing. At present, different agencies manage for recreational use and water quality (see Chapter 5). We urge these agencies to cooperate more in planning and management activities.

- ☐ **Agencies with control over whole lake watersheds should plan for and manage lake water quality.**

Watershed districts and water management organizations are the best agencies to protect water quality by managing the effects of development in the watersheds. We believe management should turn to in-lake restoration techniques only as a last resort to treat problems after watershed treatments have been installed.

- ☐ **Monitoring of metropolitan lakes should be better coordinated and more extensive at the level of watersheds.**

CHAPTER 5

GOVERNANCE

Metropolitan lakes are managed by a myriad of governmental bodies which often have narrow goals and responsibilities. This chapter discusses the effectiveness of the current method of metropolitan lake management.

FINDINGS

Responsibility for management of metropolitan lakes is fragmented, with all levels of government involved. As illustrated in Table 5.1, metropolitan lakes are managed to some degree by three federal bodies, four state agencies, seven counties, seven Soil and Water Conservation Districts, 46 watershed districts and water management organizations, two lake conservation districts, and 138 municipalities. Agencies' responsibilities overlap considerably for some functions, especially those related to water quality.

The existing governance system has the advantage of allowing management to be customized to a particular lake and those who live around it. Local issues, like the placement of docks, can be dealt with at a local level. On the other hand, the present system can be cumbersome and short-sighted when agencies concentrate only on their narrow responsibilities.

Many public forums are available for citizens to express their views on specific lake issues. All of the agencies listed above hold public meetings or hearings on management issues. Depending on the agency, these issues can range in scope from permits for riparian docks to new shoreland rules for the entire state.

Citizens often do not attend or participate in the numerous public meetings concerning lake management unless there is a severe problem that affects them. This lack of participation has several causes. First, few local residents read official notices of public meetings. Second, lake management decisions are often made by local governments, but lake users often live outside the county or municipality of their preferred lake. People who live outside the affected municipal or county boundaries are less likely to be informed about pending management decisions than those who live near a lake. Third, the fragmentation of management responsibilities confuses people, making it difficult for them to know where to voice their opinions.

However, citizens have few opportunities to become involved in the planning and development of long-term lake management policy. Some lake management agencies have citizen advisory committees, but often the public is asked to react to policy decisions made by management agencies rather than to assist in the planning behind these decisions. As noted in Chapter 2, the DNR often makes decisions about sites for new public boat ramps without help from local citizens. Local residents are offered opportunities for input after a site has been chosen. When lake users' concerns are not considered in planning, managers frequently encounter opposition, leading to frustration and expense by both management agencies and the public.

TABLE 5.1

PUBLIC AGENCIES WITH RESPONSIBILITIES FOR METROPOLITAN AREA LAKES

<u>AGENCY</u>	<u>Surface Use Ordinances</u>	<u>Water Patrol</u>	<u>Boat Launch Facilities</u>	<u>Water Quality & Level</u>	<u>Shoreland Development</u>	<u>Lakeshore Parks</u>
FEDERAL						
Army Corps of Engineers				XXX		
Environmental Protection Agency				XXX		
National Park Service		XXX				
STATE						
DNR - Division of Waters	XXX			XXX	XXX	
DNR - Division of Fish & Wildlife				XXX		
DNR - Division of Trails & Waterways			XXX			
DNR Wardens		XXX				
Minnesota Pollution Control Agency				XXX		
Board of Water & Soil Resources				XXX		
Metropolitan Council	XXX		XXX	XXX		XXX
Counties	XXX	XXX	XXX	XXX	XXX	XXX
Soil & Water Conservation Districts				XXX		
Watershed Districts				XXX		
Conservation Districts	XXX	XXX	XXX	XXX	XXX	
Municipalities	XXX	XXX	XXX	XXX	XXX	XXX

Although the situation on one lake affects other lakes, planning and management decisions often are made for individual lakes rather than for the metropolitan area as a whole. Because decisions about one lake can lead to user displacement, they directly influence use of other lakes. For example, restrictions on motorized boats in Minneapolis and St. Paul caused boaters to move to suburban lakes. Boaters displaced from some lakes moved to the St. Croix and Mississippi Rivers. The lack of decisions and restrictions on recreational use on some lakes also leads to user displacement, as discussed in Chapter 1. Small boat users move to lakes where they feel safer and less crowded. Decisions about development and water quality management can also lead to user displacement, if lake users dislike the water quality or view from a lake.

No comprehensive forum exists for lake managers in different organizations to coordinate their goals, policies, and activities. The sheer number of management agencies makes communication among them difficult, and the narrow goals of some agencies can impede overall management of lakes. No agency is responsible for facilitating communication and coordination of lake management.

Interests in lake management frequently conflict. Conflicts between long-term and short-term concerns are common. For example, local governments sometimes have short-term economic interests in development that conflict with long-term interests of protecting the lakes. As discussed above, there may also be conflicts between local and regional interests. Different agencies managing a single lake can even have conflicting goals.

There is a long tradition in Minnesota of viewing the seven county area as an interconnected region, and of seeking metropolitan solutions to its problems. The Metropolitan Council was created in 1967 to guide "orderly and economic" development of the metropolitan Twin Cities area. The Metropolitan Land Planning Act, enacted in 1976, required the Council to oversee a process of comprehensive planning by all local units of government.¹

The Metropolitan Council has organized its regional policy guidelines around "metropolitan system plans" for airports, transportation, waste control, and recreational open space. In turn, local units of governments prepared comprehensive plans that were reviewed by the Council to ensure that they were consistent with those guidelines.

CONCLUSIONS

While many issues are regional in scope, management authority over surface waters is localized. We believe that metropolitan surface waters, both lakes and rivers, truly function as a regional system, yet are largely managed by local governments that may have concerns and interests in conflict with effective long-term management of a regional resource.

The current method of metropolitan surface water management is more oriented towards the demands of the present than the concerns of the future. Currently, management tends to react more to short-term problems than to plan for the future of our lakes and rivers.

Municipalities frequently lack the financial resources and expertise necessary to effectively carry out all of their surface water management responsibilities. Surface water management agencies in the metro area tend to focus narrowly on their own jurisdictions rather than viewing surface waters as ecological and recreational systems. Each governmental body has a small piece of the total surface water management responsibility. While agencies may manage lakes and rivers well within their own narrow goals, no agency takes an overall view of the surface waters. Better regionwide coordination of the goals, policies, and activities of management agencies is essential to improving metropolitan lake management.

¹ *Minn. Stat.* §§473.851-.872.

RECOMMENDATIONS

We recommend:

- ☐ **The Legislature should charge the Metropolitan Council with responsibility for planning and coordinating shoreland, surface use, and water quality management of metropolitan surface waters.**

We believe the Council's extensive experience in planning and coordination makes it the best choice for these responsibilities for metropolitan lakes. The Council also is one of the few agencies which has worked on both recreational use and water quality issues. The Legislature could extend the Council's authority over regional open space to include surface waters or could designate the surface waters as a separate metropolitan system. It should ensure adequate funding for these new responsibilities.

- ☐ **In partnership with local governments, the Metropolitan Council should develop a metropolitan policy framework and system plan for regional shoreland and surface water management.**

The Council should work with local governments to set goals and guidelines for recreational use, shoreland development, and water quality, and should develop mechanisms to fund implementation of these policies. As with the regional parks system, local governments should be responsible for implementing the plans. The Council should aid local governments that need technical expertise or increased enforcement capability.

- ☐ **Local governments should be required by a fixed date to develop local surface water plans subject to approval by the Metropolitan Council.**

Municipalities should be responsible for amending their comprehensive plans to include surface use and long-term shoreland development for surface waters within their borders. Counties should have this responsibility for surface waters that overlap municipal boundaries or are located in unincorporated areas. Local planning for water quality has already been started by watershed districts and water management organizations. While Lake Minnetonka and White Bear Lake should be recognized as regional resources, their respective conservation districts should continue to be in charge of planning for those lakes. The Metropolitan Council should review and approve all local plans to ensure they are compatible with the regional plan.

- ☐ **The Metropolitan Council should make planning grants available to help local governments in the development of their shoreland and surface water plans**

The Council, from its existing property tax levy, should also provide shoreland acquisition grants to municipalities to meet regional management goals.

- ☐ **The Metropolitan Council should coordinate the plans and activities of the various agencies involved in metropolitan lake management.**

Local governments and management agencies within watersheds in the metropolitan area should meet periodically to share their management concerns and issues and to explore ways of working together toward common goals. The Metropolitan Council should oversee management so that local policies and activities fit in with regional management goals.

APPENDIX

MAJOR LAWS AFFECTING LAKE MANAGEMENT

The following are brief descriptions of the major laws regarding management of lakes and other bodies of water.

GENERAL POLICIES

Minn. Stat., Chapter 105: Division of Waters, Soils, and Minerals (first enacted 1969)

To conserve and use the state's water resources and to promote the public health, safety, and welfare -- (a) subject to existing rights, the public waters and wetlands are subject to the control of the state; (b) the state shall control the appropriation and use of surface and groundwaters; and (c) the state shall control any activity that changes the course, current, or cross-section of public waters or wetlands.

Minn. Stat., Chapter 86: "Outdoor Recreational Act of 1975"

Establishes that the state should make its abundant opportunities for outdoor recreation and education available to all citizens of Minnesota. Finds that the outdoor recreational needs of the people of Minnesota will be best served by an outdoor recreational system that preserves Minnesota's natural and historical heritage and provides an adequate supply of scenic, accessible, and usable lands and waters. Includes authorization to establish several units of the system, including water access sites, natural state parks, recreational state parks, wild, scenic, and recreational rivers and wilderness areas.

Minn. Stat. §97A.141: Public Water Access Sites

Allows the commissioner to acquire access sites to public waters by gift, lease, purchase, easement or condemnation, with approval of the Executive Council. Also addresses acquisition of right-of-way for access roads to the access site.

Minn. Stat. §378.321: Public Access Restrictions (enacted 1986)

Provides that the same types and sizes of watercraft and horsepower of motors must be allowed to access and enter water bodies as are generally allowed to be operated on the water body. Special use exceptions that are not dependent on lakeshore or property ownership may be granted by permit.

SURFACE USE

Minn. Rules, Parts 6110.3000-3800

Provides procedures for the development and approval of rules and ordinances for resolving water surface use conflict. Governmental units developing surface use ordinances must select standards from lists provided and must submit proposed ordinances to the commissioner of natural resources for approval or disapproval prior to adoption.

Minn. Stat. §378.32

Provides that a county board may, by ordinance, regulate the surface use of any bodies of water situated wholly or partly within the county boundaries. If the water lies in more than one county, the ordinance must be adopted by all the affected county boards or placed into effect by the commissioner of natural resources. The county board may exercise the powers below with respect to bodies of water lying wholly within a city or lake conservation district only with the authorization of that city or conservation district.

The county board may:

- (1) regulate public facilities for access to the body of water, except when state access or when preempted by municipal ordinance;
- (2) regulate the construction and maintenance of commercial marinas and docks and moorings;
- (3) regulate mechanical and chemical means of deicing the water and removing weeds and algae from the water;
- (4) regulate the type and size of watercraft and motors;
- (5) limit use of water at various times and on various parts;
- (6) regulate the speed of watercraft and other activities to secure the public safety and the most general public use; and
- (7) contract with other law enforcement agencies to police the body of water and its shore.

Minn. Stat. §459.20 (enacted 1973)

Provides that the governing body of any home rule charter or statutory city or town in the state has all the powers to improve and regulate the use of any body of water situated wholly within its boundaries. The local unit of government has the same powers given to county boards (above) and to establish and administer lake improvement districts (§§378.401-56).

When a body of water is situated within the boundaries of two or more contiguous local units of government, the city councils and town boards may jointly exercise these same powers to improve and regulate the use of the water. The joint board may not, however, establish a lake improvement district or exercise any of its powers if the county board has already done so.

Minn. Stat. §§378.401-57: "Lake Improvement District Act"

Provides that county boards may establish lake improvement districts (by resolution of one county when the district is situated solely within that county or by joint county authority when the district extends into more than one county). If one or more county boards disapprove of the creation of the lake improvement district, the commissioner of natural resources may be petitioned for the creation.

County boards, joint county authorities, statutory, and home rule cities and towns may delegate their powers to the lake improvement district. Any programs and services to be undertaken must be consistent with the statewide water plan. Among the district's powers are acquiring, constructing, and operating water control works; changing the course of current or cross-section; improving navigation; undertaking research to determine the condition and development of the water; implementing a plan to eliminate pollution; conducting a program of improvement and conservation; constructing a water and/or sewer system; maintaining public beaches, docks, and other public facilities for access; and regulating water surface use.

SHORELAND MANAGEMENT

Minn. Stat. §105.485

Requires the commissioner of natural resources to adopt model standards and criteria for subdivision, use, and development of shorelands in municipalities and unincorporated areas. Shorelands are defined as land located within the following distances from the ordinary high water elevation of public waters: (1) land located within 1,000 feet of the normal high water

mark of a lake, pond, or flowage; and (2) land within 300 feet of a river or stream or the landward side of flood plain delineated by ordinance on a river or stream, whichever is greater.

Model standards and criteria must include, but are not limited to, the following:

- (1) the area of a lot and length of water frontage suitable for a building site
- (2) the placement of structures in relation to shorelines and roads
- (3) the placement and construction of sanitary and waste disposal facilities
- (4) designation of types of land uses;
- (5) changes in bottom contours of adjacent public waters;
- (6) preservation of natural shorelands through the restriction of land uses;
- (7) variances from the minimum standards and criteria

The commissioner is also required to adopt a model ordinance for unincorporated areas. If a county failed to adopt an ordinance by July 1, 1972 in compliance with the state minimum standards, the commissioner was ordered to adapt the model to the county. Municipalities having shoreland within their corporate limits were required to adopt ordinances in compliance with state standards by July 1, 1975. The commissioner was given authority to adopt ordinances for municipalities that failed to adopt ordinances by that date.

Minn. Rules, Parts 6120.2500-3900

Gives statewide standards for management of shoreland areas. A new version of the rules was adopted in 1989.

WATERSHEDS AND/OR GROUNDWATER SYSTEMS

Minn. Stat., Chapter 110B: "Comprehensive Local Water Management Act" (enacted 1985)

Encourages counties to develop comprehensive water plans that would address water problems in watershed units and groundwater systems. The plans must be consistent with other plans developed by county organizations or water management organizations. The plans must incorporate any existing plans and rules adopted by water management organizations or intercounty joint powers boards.

The plan would include a description of the existing physical environment, land use, and development, as well as any expected changes; information about the groundwater, surface water, and related land resources; objectives for future use development and conservation of water and related land resources; and descriptions of the possible conflicts between the plan and the plans of other local units of government, counties, or water management organizations.

Minn. Stat., Chapter 112: "Minnesota Watershed Act" (enacted 1955)

Established to conserve the natural resources of the state through land use, flood control, and other needs.

Gives the Board of Water and Soil Resources the authority to establish a watershed district (situated wholly within one county or partly within an outside county). The District's authority includes regulating the supply, quality, and use of waters by controlling flooding; controlling land and soil erosion; regulating riparian improvements; regulating use of waters for waste disposal; regulating drainage systems; improving stream channels and flows; providing for irrigation and hydroelectric power; and providing water supply for public and private uses.

Minn. Stat. §§473.875-883: "Metropolitan Surface Water Management"

Established to protect, preserve, and use natural surface and groundwater storage and retention systems.

Gives joint county boards the authority to (1) manage watersheds if a water management organization does not exist, (2) review and approve local water plans, and (3) regulate use and

development of land in the watershed when the local government with zoning and planning authority does not have a water management plan.

Gives counties the authority to prepare and adopt groundwater plans or to delegate the preparation and adoption of plans to the local soil and water conservation district. The plan must be reviewed by the Metropolitan Council, the Commissioner of Natural Resources, the Commissioner of the Pollution Control Agency, and the Board of Water and Soil Resources.

WORK OF THE COMMITTEE

Charge to the Committee

The Citizens League Board of Directors adopted the following charge to the research committee.

MANAGEMENT OF METROPOLITAN LAKES

Because all types of water recreation and watercraft are allowed on most lakes in the metropolitan area, many are experiencing serious crowding problems. This has led some persons to question whether unrestricted use of lakes should continue.

Proposals for lake zoning are concentrated within each lake. But the state Department of Natural Resources is considering a system of metropolitan lakes, with zoning among area lakes.

The committee should recommend policies for management of metropolitan lakes that balance lake access, safety, user convenience, and environmental protection.

The committee's examination should include:

- current uses of and access to lakes in the metropolitan area;
- current restrictions on metropolitan area lakes;
- crowding and safety on metropolitan area lakes;
- costs of maintaining current uses of metro area lakes, and
- governance of lakes, including whether metro lakes (which are water parks) should become the responsibility of the Metropolitan Parks and Open Space Commission.

Committee Membership

Under the leadership of John Adams, chair, 22 Citizens League members participated actively in the deliberations of the committee. They are:

Sally Anson
Doug Barr
Ralph Brauer
Nicholas Duff
Hugh Faville
Kathryn Harding
Patricia Hart
Ruth Hass
Rudolph Hoagberg
Curt Hubbard
Frank Jewett

Gary Joselyn
Larry Kelley
Janet Kramer
Georganne Krause
Patricia Leary
Frederick Markwardt
John Mullan
Nels Nelson
Dick Nowlin
David Unmacht
Jane Vanderpoel

Committee Meetings

The committee met for the first time on January 26, 1988 and concluded its work on October 5, 1989. A total of 30 meetings were held. During the first stage of the committee's work, it heard presentations from the resource speakers listed below.

Resource Speakers:

The Citizens League and the committee members would like to thank these resource people for the assistance they provided. (Titles reflect the position held by the speaker at the time of the presentation):

Dave Arndorfer, consultant, Lake Minnetonka Conservation District
Bill Becker, Office of Planning, Minnesota Department of Natural Resources
Don Benson, staff coordinator, Prior Lake Spring Lake Watershed District
Ann Burkhart, professor, University of Minnesota Law School, attorney for ELECT
Kim Elverum, boat and water safety coordinator, Minnesota Department of Natural Resources
Horst Graser, director of planning, City of Prior Lake
JoEllen Hurr, chair, Lake Minnetonka Conservation District
Martin Jessen, president and CEO, Freshwater Foundation
Kent Lokkesmoe, Assistant Director, Division of Waters, Minnesota Department of Natural Resources
Mark Nelson, staff representative, for metropolitan area Board of Water and Soil Resources
Bob Nethercut, former staff, Metropolitan Council and Metropolitan Parks and Open Space Commission
Terry Noonan, lakes management specialist, Ramsey County Department of Public Works
Senator Gen Olson, IR-Minnetrista
George Orning, Minnesota Future Resources Commission
Dick Osgood, limnologist and environmental planner, Metropolitan Council
Jack Perkovich, director, Washington County Parks
James Robinette, director of community development, Lakeville, and chair, Board of Credit River Watershed Maintenance Organization
James Spensley, president, Board of Managers, Minnehaha Creek Watershed District
Arne Stefferud, staff, Metropolitan Council and Metropolitan Parks and Open Spaces Commission
John Stine, Division of Waters, Department of Natural Resources
Richard Wedell, mayor, City of Shoreview
Franz Westermeier, member, Washington County Parks and Open Spaces Commission
Al Wittman, director of planning, Board of Parks and Recreation

Assistance to the Committee

Margaret Rader, a contract researcher, prepared this report. Staff assistance for the committee's work was provided by Allan Baumgarten, Philip Jenni, Joann Latulippe, Meredith Poppele, and Dawn Westerman. Deborah Loon provided staff support to the committee in its first two months.

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Volunteer research committees of League members study policy issues in depth and develop informational reports that propose specific workable solutions to public issues. Recommendations in these reports often become law.

Over the years, League reports have been a reliable source of information for governmental officials, community leaders, and citizens concerned with public policy issues of our area.

The League depends upon the support of individual members and contributions from businesses, foundations, and other organizations throughout the metropolitan area.

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