

## **The Problem:**

While Minnesota has made great strides in some areas of water management, our governance system is not well designed to facilitate progress in the most important challenges we face today.

Minnesota's system of water governance is fragmented. It has been developed piecemeal, without an overarching picture of how all the pieces fit together. While some of the pieces are doing great work, we do not as a state sufficiently look at the overall picture and evaluate what must be done to protect our water resources today and in the future.

The result is multiple and often unclear lines of responsibility, unclear and at times overlapping authority, and gaps in responsibilities for important issues, like the prevention and cleanup of nonpoint source pollution.

The roles and responsibilities of various levels of government and government agencies can be difficult for even water professionals to understand, making it even harder for citizens to see how they contribute to water management. Water management is primarily seen as government's responsibility.

Our tendency is to react to water-related problems after they arise, with restrictions and mandates that often meet resistance from water users, who may not have been significantly involved in water management up to that point.

We need to change the way we think about water management in order to meet the coming challenges. The responsibilities for important priorities – such as preventing and correcting nonpoint source pollution and planning for future water supply – must be clearly assigned so that we are certain that these priorities are being covered, and all water users – including government, communities, businesses nonprofits, and individuals – need to be able to see their roles within the water management system.

The approval of the Clean Water Land and Legacy Amendment in the 2008 election brings new urgency to this challenge. One third of the revenues from a sales tax to begin in July 2009 – an estimated \$100 million per year – will now go to a Clean Water Fund. Managed well, this funding could greatly benefit the health of waters in Minnesota. It is important, however, that this funding be distributed in prioritized and coordinated manner, rather than on a project-by-project basis.

## **Findings**

The system of governance for nonpoint source pollution is fragmented.

- The water governance system has been developed piecemeal, without an overarching picture of how all the pieces fit together. The system is not organized by an overall set of goals nor through consistent coordination among executive agencies, resulting in multiple and often unclear lines of responsibility and unclear and at times overlapping authority. However, there are benefits to this system at well, **as the various agencies can be seen as providing checks and balances to one another.** Competing agencies can act as advocates for their areas of responsibility, balancing the various interests at play. Bottom line: there's no evidence that drastically overhauling the system to make it more streamlined would lead to better results.
- Governance is generally program-oriented. Most funding goes toward specific programs, and most inter-agency coordination is done on a program basis.
- Many organizations are often involved different aspects of in managing water in a single location. One consequence of this is that projects undertaken often require immense collaboration. (Use the Chain of Lakes Clean Water Partnership example.)
- Governance is not consistent across the state. Both the type of government charged with monitoring nonpoint source pollution (some have WDs, some have joint-powers water management organizations, much has none) and the resources available to that government unit (e.g. urban WD vs. Greater MN WD), meaning that large-scale projects to reduce nonpoint source pollution are not possible in many areas.

Many aspects of our governance system are built upon a regulatory model. Regulation has been effective in meeting some water policy goals (for example, reducing point source pollution) but today's challenges do not lend themselves as readily to regulatory answers. With much of today's water pollution coming from non-point sources, reducing pollution will likely depend on the voluntary actions of thousands. Our governance system is less equipped to handle challenges with other than regulatory solutions.

Resources for cleaning up and preventing nonpoint source pollution are not distributed evenly around the state. Where watershed districts exist, they have the authority to tax residents. Watershed district resources depend greatly on the tax base available **[get examples of metro vs Greater MN WDs]**. In areas without watershed districts, the funding responsibility largely falls to cities and counties – in this case, funding for water must compete with the other responsibilities of local government (and often falls low on the list).

- A consequence of limited funding is that, where major projects have been built, it can be very difficult to keep up with the costs of ongoing maintenance, especially where no unit of government is devoted primarily to water management.
- The projects that have most successful in controlling nonpoint source pollution were very expensive. It will not be possible to replicate these projects across Minnesota (or even across the metro area). Minnesota will need to find more efficient ways to deal with pollution if we are to be effective beyond select projects.

More attention and resources are focused on cleaning up nonpoint source pollution where it exists than on preventing pollution in the first place. However, not only is it better for the environment to maintain water quality rather than to restore a water body that has been polluted, it is much less costly. **[can we get \$\$ figures of money spent and efficiency of prevention vs. cleanup?]**

- The Pollution Control Agency is responsible for cleaning up nonpoint source pollution in Minnesota's water bodies. No organization is responsible for preventing nonpoint source pollution from entering water bodies.

Plans for pollution reduction do not always get translated into action. **[TMDL example. Identify reasons as much as possible]**

The state has limited data on water quality and the extent and effects of nonpoint source pollution – about 18% of our lakes and 14% of our rivers have been evaluated for contamination as required by the federal Clean Water Act<sup>1</sup>. This can make it difficult to tell when practices and policies are working.

Of the lakes, streams, and rivers that have been tested, 40% do not meet water quality standards and have been listed as "impaired."<sup>2</sup>

Nonpoint sources are estimated to contribute 86% of water pollution in Minnesota.<sup>3</sup> This is a major change from 30 years ago. Since the passage of the Clean Water Act in 1972, Minnesota and the nation have made great progress in reducing pollution from point sources **[is it fair to say: through regulation – make the point that we've set up a system that worked for point source pollution but is not working for today's challenge]**

Sources of nonpoint source pollution:

- Agriculture 60-70% - **[talk about to what extent this is regulated]**
- Urban/urban development (?) 10-15%
- Shoreland development
- Wetland loss
- Septic Systems
- Forestry

Nonpoint source pollution management is moving towards a more hydrologic basis. It can be difficult for typical political units to effectively control nonpoint source pollution, because their borders do not usually fall along watershed lines. A downstream county, for example, has little control over what is happening upstream. Watershed-based management can help deal with challenges such as these. **[talk about PCA plan to look at all of state on basin-by-basin schedule]**

<sup>1</sup> Freshwater Society. *Water is Life: Protecting a Critical Resource for Future Generations*. 2008. 30.

<sup>2</sup> Freshwater Society. *Water is Life: Protecting a Critical Resource for Future Generations*. 2008. 30.

<sup>3</sup> Minnesota Pollution Control Agency. "Minnesota's Impaired Waters: A Report to the Legislature." March 2003. 2.

~~Evaluations of Minnesota's water management system are most often focused on the executive agencies involved. We should also consider how the Legislature is organized to deal with these issues and what effects that has on statutes and budgets, as well as the roles of businesses, nonprofits, communities, and citizens.~~

~~There seems to be general agreement that the most effective way to manage water is on a watershed basis. Political units are restricted to their borders, which do not usually fall along watershed lines -- a downstream county, for example, has little control over what is happening upstream. Watershed-based management, on the other hand, can help deal with upstream/downstream conflicts. Watershed units can also engage people meaningfully, because they can (and should) work on a local level.~~

### **Evaluative criteria/principles:**

To address, this, our current system of water management should be evaluated against the following principles/criteria:

- Transparency: The management framework should be understandable to both governors and the public. Regulatory overlap and duplication should be minimized. It should be clear what is being done by whom and why the responsibility lies with that party – as well as what is not being done.
- Outcomes-based: Protection and prevention should be stressed before costly and environmentally harmful problems arise. Rules and regulations should be meaningful, resulting in positive environmental outcomes. We should minimize situations where money is spent on useless management practices simply to meet regulatory requirements. Instead, actions should be effective in terms of outcomes and cost.
- Equity: All individuals, entities, and sectors should carry their appropriate share of the responsibility to achieve water management improvements, and we should not place unreasonable burdens, financial or otherwise, on the regulated parties. All individuals, entities, and sectors should share in equitable access to safe water to meet their basic needs.
- Accountability: All water users should be held accountable for the impact of their water use, land use, and other actions that impact the quality and quantity of our water resources. With respect to public entities, it should be clear who is responsible for outcomes on priority areas. Those responsible for policy goals should be held accountable to measurable goals, and funding, staff, and other resources should match responsibility.
- Watershed-based: Policy should be based on the direction that water flows rather than according to political boundaries. Laws must be flexible enough to recognize that one-size will not fit all at the local level, yet flexibility must be balanced with the need for clarity in regulations, and local control must be balanced with the need to ensure that certain standards are upheld statewide.

### **Questions:**

- Transparency:
  - What are the roles of the various organizations involved in reducing nonpoint source pollution?
  - Are nonpoint source pollution reduction goals covered by these organizations? How difficult is it to tell?
  - Are nonpoint source pollution management programs understandable and communicated to governing bodies, the public, and parties who are regulated?
  - Do governing bodies and the public understand how their programs fit into larger goals to improve water quality?
  - Do governing bodies and the public understand what is being done and by whom and why? Do they understand what may not be being done?
- Outcomes-based:
  - How are prevention and protection encouraged? Is attention given to maintaining water quality/supply even before problems arise?
  - Are goals for reduction of nonpoint source pollution clearly defined? Are they measurable?
  - Who decides what the goals are? How are the people who contribute to and are affected by the problem (citizens, businesses, etc.) involved in defining goals?
  - Which practices and policies are effective at reducing nonpoint source pollution? Do we know?
  - To what extent do regulations, incentives, etc. result in positive environmental outcomes (not just positive plans)?

- To what extent do regulations, incentives, etc. encourage practices and policies that have not been demonstrated to reduce nonpoint source pollution? Are there good reasons for these regulations/etc. anyway?
- Are management strategies based on up-to-date data? Are strategies adapted as new data is available?
- Equity:
  - Where does nonpoint source pollution come from? Which parties are affected by regulations, incentives, etc., and how? Does this align with the sources of pollution?
  - Are businesses, local governments, etc. able to meet the requirements of regulations and statutes? If no, why not?
- Accountability:
  - Are the sources of impacts on water quality/quantity clear? Are these parties held accountable for their effects on water resources? If so, how? If not, why not?
  - Is it clear which public entity is responsible for each goal for nonpoint source pollution reduction?
  - What checks ensure that those responsible are meeting the established goals?
  - Do responsible organizations have the funding, staff, and other resources to meet these responsibilities?
  - Where overlap exists between the roles of various organizations, does it make it more difficult to ensure someone is accountable for outcomes?
- Watershed-based:
  - How is water policy directed? Along political lines, or along the flow of water?
  - Do policies from the national and state levels allow for local flexibility?
  - Are certain priorities being met in all localities regardless of the form local governance takes?
  - Is the local government unit (or joint powers group) responsible for managing nonpoint source pollution the right size to meaningfully engage residents?
  - How difficult is it for the various units of government that cover a watershed to collaborate? Why?
  - Does the management system consider the way that the variety of water uses and users interact and the effects of each on the others? Are particular water uses considered as individual actions or as part of an integrated whole?