Minnesota Board of Water & Soil Resources

One West Water Street
Suite 200
St. Paul, MN 55107
(651) 296-3767
Fax (651) 297-5615

Field Offices

Northern Region:
394 S. Lake Avenue
Room 403
Duluth, MN 55802
(218) 723-4752
Fax (218) 723-4794

3217 Bemidji Avenue N.
Bemidji, MN 56601
(218) 755-4235
Fax (218) 755-4201

217 S. 7th Street
Suite 202
Brainerd, MN 56401-3660
(218) 828-2383
Fax (218) 828-6036

Southern Region:
261 Highway 15 S.
New Ulm, MN 56073-8915
(507) 359-6074
Fax (507) 359-6018

40--16th Street SE
Suite A
Rochester, MN 55904
(507) 285-7458
Fax (507) 280-2875

Box 267
1400 E. Lyon Street
Marshall, MN 56258
(507) 537-6060
Fax (507) 537-6368

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One West Water Street
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St. Paul, MN 55107
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M E M O R A N D U M

OCT 1999
FILED
(MN) SECRETARY
OF STATE

October 4, 1999

HAND DELIVERED

TO: Mary Kiffmeyer, Secretary Of State

FR: Jim Haertel, Water Management Specialist

PH: (651) 297-2906

RE: Comfort Lake-Forest Lake Watershed District Establishment Order

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Pursuant to Minn. Stat. § 103D.225, Subd. 5, please find enclosed for filing a certified copy of the Minnesota Board of Water and Soil Resources Findings of Fact, Conclusions and Order dated September 23, 1999, which establishes the Comfort Lake-Forest Lake Watershed District in Chisago and Washington Counties.

Please contact me if you have any questions.

Enclosure (to all listed except BWSR staff)

cc: Dennis J. Freed, Chisago County Auditor
Virginia R. Erdahl, Washington County Auditor/Treasurer
Allen Garber, Commissioner, Department of Natural Resources
Kent Lokkesmoe, Director, DNR-Division of Waters
Doug Thomas, BWSR
Steve Woods, BWSR
Phil Belfiori, BWSR

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STATE OF MINNESOTA)
) ss:
COUNTY OF RAMSEY)

CERTIFIED COPY

I, James E. Haertel, Water Management Specialist for the Minnesota Board of Water and Soil Resources, being duly sworn, say the following:

THAT THE attached FINDINGS, CONCLUSIONS AND ORDER including ATTACHMENT A consisting of 11 pages of the Minnesota Board of Water and Soil Resources establishing the Comfort Lake-Forest Lake Watershed District in Chisago and Washington Counties dated September 23, 1999, is a true and correct copy of the original ORDER, adopted by the Board of Water and Soil Resources at its regular meeting on September 23, 1999, and duly signed by Kathleen M. Roer, Its Chair.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

James E. Haertel
Water Management Specialist

Subscribed and sworn to before me

this 4th day of October, 1999.

Mary Jo Anderson
Notary Public

MARY JO ANDERSON
NOTARY PUBLIC MINNESOTA
MY COMMISSION EXPIRES
JANUARY 31, 2000

Minnesota Board of Water and Soil Resources
One West Water Street, Suite 200
St. Paul, Minnesota 55107

In the Matter of the Establishment of the Comfort Lake-Forest Lake Watershed District in Chisago and Washington Counties pursuant to Minnesota Statutes § 103D.225, Subd. 3	ORDER ESTABLISHING COMFORT LAKE-FOREST LAKE WATERSHED DISTRICT

Whereas, more than fifty (50) resident owners residing in the proposed Comfort Lake-Forest Lake Watershed District in Chisago and Washington Counties filed a Petition dated November 18, 1998, with the Board of Water and Soil Resources (Board) on November 20, 1998, to establish a watershed district pursuant to Minn. Stat. § 103D.205, and;

Whereas, the Board has completed its review of the Petition;

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions, and Order.

FINDINGS

1. **Establishment Petition.** The Petition (Exhibit 1) to establish the Comfort Lake-Forest Lake Watershed District dated November 18, 1998, was filed with the Board on November 20, 1998. The Petition was signed by more than fifty (50) resident owners in the proposed watershed district pursuant to Minn. Stat. § 103D.205, Subd. 3 (4). On January 20, 1999, Dennis J. Freed, Chisago County Auditor, pursuant to Minn. Stat. § 103D.211, certified that more than fifty (50) petitioners were resident owners within the proposed watershed district. (Exhibit 3) The proposed watershed district lies within Chisago and Washington Counties. Filed with the establishment petition were the required proofs of service on the Chisago County Auditor, the Washington County Auditor, the Commissioner of the Department of Natural Resources, and the Director of the Division of Waters of the Department of Natural Resources. (Exhibit 2)

2. **Property Description.** The territory to be included in the watershed district is approximately 49.2 square miles in the Cities of Forest Lake and Wyoming, and the Towns of Chisago Lakes, Wyoming, Forest Lake and New Scandia, which generally includes the area in the Forest Lake Watershed Management Organization and the Comfort Lake drainage area in Chisago County, generally the drainage area previously managed by the Joint Washington and Chisago County Ditch Board No. 1, per the map attached as "Attachment A" and made a part of this Order hereof.

3. **District Name.** The name of the proposed district is the "Comfort Lake-Forest Lake Watershed District".

4. **Number of Managers.** The number of managers for the proposed watershed district is five (5) with three (3) from Washington County and two (2) from Chisago County.

5. **Necessity for Watershed District.** Minn. Stat.§ 103B.231, Subd. 1(a) requires a watershed management plan for all watersheds within the metropolitan area.

6. **Contemplated Improvements.**

   A. Conduct necessary studies to obtain pertinent data for evaluation and design of comprehensive water management projects within the proposed watershed district.

   B. Provide a means to control pollution and to control the growth of nuisance algae and other undesirable organic matter in the lakes and watercourses within the proposed watershed district.

   C. Prevent flooding of private property within the proposed watershed district,.

   D. Provide comprehensive enforcement of regulations across political jurisdictions within the proposed watershed district.

   E. Assist local governments in planning surface water management efforts.

7. **Hearing Order.** At its regular meeting on February 24, 1999, the Board determined that the establishment petition met the requirements of Minn. Stat.§ 103D.221, Subd. 1, and consequently ordered a hearing to be held on the establishment petition for the Comfort Lake-Forest Lake Watershed District at a time and place to be scheduled by the Board's

Executive Director in accordance with the timely completion of the Washington County Water Management Governance Study, but not later than June 30, 1999. Further, the Board ordered that the Metropolitan Water Planning Subcommittee, which is comprised of Kathleen Roer, Barbara Cobb, and Dwain Otte, to serve as the hearing panel on behalf of the Board. (Exhibit 11)

8. **Hearing Notice.** Legal notices of the public hearing on the proposed watershed district establishment, pursuant to Minn. Stat. § 103D.221, Subd. 2, were published in the Chisago County Press on June 3 and 10, 1999, (Exhibit 15), in the Oakdale/Lake Elmo Review on June 2 and 9, 1999, (Exhibit 16), and in the Forest Lake Times on June 3 and 10, 1999, (Exhibit 17). Further, a copy of the notice was mailed to approximately 45 addressees including the mayor and administrator for each of the cities within the proposed watershed district, the clerk/administrator for each township within the proposed watershed district, the Chisago and Washington County Boards, auditors, and administrators, adjoining watershed management organizations and watershed districts, the Chisago and Washington County Soil and Water Conservation Districts, the state review agencies, various environmental groups and others. (Exhibit 14)

9. **Director's Report.** The Director of the Division of Waters of the Department of Natural Resources filed a written report pursuant to Minn. Stat. § 103D.215 on June 18, 1999, (Exhibit 25) generally recommending a larger watershed district be formed that would encompass the entire Sunrise River Watershed.

10. **Public Hearing.** A public hearing was held on the establishment of the Comfort Lake-Forest Lake Watershed District on June 21, 1999, at the Forest Lake City Hall Council Chambers. The proceedings were tape recorded. The Board's Metropolitan Water Planning Subcommittee presided over the hearing with Barbara Cobb as chair.

Jim Haertel, Board staff, entered Exhibits 1 through 17 into the record by reading a brief description of each exhibit.

Exhibit 1. Comfort Lake-Forest Lake Watershed District Establishment Petition dated November 18, 1998, submitted by Jackie Anderson together with 74 signatures.

Exhibit 2. Affidavits of receipt of Establishment Petition by DNR Commissioner, DNR Director of Waters, Chisago County Auditor and Washington County Auditor.

Exhibit 3. Letter from Dennis J. Freed, Chisago County Auditor, dated January 20, 1999, with certification that at least 70 petitioner signatories are resident owners.

Exhibit 4. Letter from Douglas J. Thomas, BWSR, dated November 30, 1998, to Jackie Anderson notifying of receipt of petition.

Exhibit 5. Letter from Jim Haertel, BWSR, dated December 15, 1998, to Jackie Anderson notifying of procedures for processing establishment petition.

Exhibit 6. Letter from Jim Haertel, BWSR, dated December 30, 1998, to 17 addressees notifying them of the petition and the procedures for processing the petition.

Exhibit 7. Letter from Jim Haertel, BWSR, dated January 25, 1999, to Jackie Anderson notifying of Auditor's certification of petitioner signatures.

Exhibit 8. Letter from Gene Patrin, Wyoming Town Board Chair, dated February 3, 1999, inquiring about the requirement for Water Management Organizations and Watershed Districts.

Exhibit 9. Letter from Jim Haertel, BWSR, dated February 11, 1999, to Jackie Anderson concerning BWSR Board meeting ordering establishment hearing.

Exhibit 10. Letter from Jim Haertel, BWSR, dated February 11, 1999, to Gene Patrin regarding requirement for Watershed Management Organizations and Watershed Districts.

Exhibit 11. BWSR Order dated February 24, 1999, ordering Establishment Hearing.

Exhibit 12. Letter from Jim Haertel, BWSR, dated February 24, 1999, notifying 17 addressees of the BWSR Order for the Establishment Hearing.

Exhibit 13. Public notice of Establishment Hearing signed by Jim Haertel on May 24, 1999.

Exhibit 14. Letter from Jim Haertel, BWSR, dated May 26, 1999, to several addressees notifying of Establishment Hearing.

Exhibit 15. Affidavit of publication of public notice in Chisago County Press on June 3 and 10, 1999.

Exhibit 16. Affidavit of publication of public notice in Oakdale/Lake Elmo Review on June 2 and 9, 1999.

Exhibit 17. Affidavit of publication of public notice in Forest Lake Times on June 3 and 10, 1999.

Exhibit 18. Written statement of Roger Johnson on behalf of the Forest Lake Watershed Management Organization (FLWMO) generally opposed to the proposed watershed district establishment, along with a brief history of the FLWMO.

Exhibit 19. June 14, 1999, minutes of Forest Lake City Council meeting showing passage of a motion in support of establishing the proposed watershed district. Presented by City Administrator Chip Robinson who also gave a brief history of the FLWMO.

Exhibit 20. Chisago County Board of Commissioners Resolution No. 990616-4, adopted June 16, 1999, in support of establishing the proposed watershed district. Presented by County Commissioner Ben Montzka.

Exhibit 21. New Scandia Township Resolution No. 3-16-99-2 ratifying dissolution of the NEWMO. Presented by David Hebert.

Exhibit 22. New Scandia Town Board meeting minutes dated July 7, 1998, in support of establishing a watershed district. Presented by David Hebert.

Exhibit 23. Washington County Board of Commissioners Resolution No. 99-070, adopted June 15, 1999, in support of establishing the proposed watershed district. Presented by County Administrator Jim Shug.

Exhibit 24. Comfort Lake Association letter dated June 18, 1999, signed by Lou Sibik, Chairman, in support of establishing the proposed watershed district. Presented by Lou Sibik.

Exhibit 25. DNR-Division of Waters Directors Report dated June 18, 1999, generally opposed to the proposed watershed district establishment.

Exhibit 26. Map, approximately 36" x 52", depicting boundaries of proposed watershed district based on the establishment petition. *(Note: different from "Attachment A" which is based on the DNR subwatershed boundaries, the BWSR Metro Region Staff Report and the Washington County Water Management Governance Study)*

Exhibit 27. Map, approximately 36" x 36", depicting boundaries of proposed watershed district and boundaries of the entire Sunrise River Watershed.

After all people present at the public hearing were given an opportunity to speak, the hearing record was left open for three weeks until July 12, 1999, for receipt of written comments. The following exhibits were received while the record was open.

Exhibit 28. Letter from Ken Banta dated June 22, 1999, in support of establishing the proposed watershed district.

Exhibit 29. Letter from Archie and Jackie DuCharme received July 8, 1999, in opposition to establishing a watershed district and other concerns of high water on their property.

Exhibit 30. Letter from Donald Waller dated July 11, 1999, in opposition to establishing the proposed watershed district.

Exhibit 31. E-mail from Jackie Anderson, petitioner, dated July 12, 1999, with a list of 13 manager nominees.

11. **Board Staff Report.** The Board's Metro Region staff report dated July 14, 1999, (Exhibit 32), recommended establishment of the Comfort Lake-Forest Lake Watershed District and made further recommendations regarding the boundary, citizen involvement, financing, and roles and responsibilities.

12. **Metropolitan Water Planning Subcommittee.** The Metropolitan Water Planning Subcommittee met on July 15, 1999, and, based on the oral and written record in this matter, decided the following:

A. The watershed district should be established with the boundary being as depicted on "Attachment A", which is the same as (1) the DNR subwatershed boundaries on Exhibit 26, (2) the BWSR Metro Region staff report recommendation, and (3) the Washington County Water Management Governance Study.

B. The name should be the "Comfort Lake-Forest Lake Watershed District".

C. The principal place of business should be the Forest Lake Town Hall at 21350 Forest Boulevard, Forest Lake, Minnesota.

D. The board of managers should consist of five (5) with three (3) from Washington County and two (2) from Chisago County.

E. The interview panel members for manager nominees should consist of one or two county commissioners from the respective county of the manager nominee, a Soil and Water Conservation District representative from the respective county of the manager nominee, Board member Dwain Otte for all the manager nominees, and Board staff Jim Haertel for all the manager nominees.

F. The managers should be chosen from the list of thirteen (13) manager nominees submitted by Jackie Anderson, contact for the petitioners, (Exhibit 31) pursuant to Minn. Stat. § 103D.225, Subd. 4 (a).

12. **Board of Managers.** On August 19, 1999, interviews of nominees for the first board of managers were conducted. The interview panel consisted of Dwain Otte, Board Member and Jim Haertel, Board staff, along with Chisago County Commissoner Ben Montzka and Chisago County SWCD Administrator Craig Mell for the Chisago County nominees, and Washington County Commissioner Dennis Hegberg and Washington SWCD Manager Konrad Koosmann for the Washington County nominees. All nominees were voting residents within the proposed watershed district and none were public officers of county, state or federal governments. The panel considered Lou Sibik, Ken Banta, Ken Tolzmann, Bruce Anderson, Russell Mansmith, Warren Moody, Walter Husnick, Carolyn Ferrazzi, John Lynch, Mick Donovan, Donald Holl, Donald Hult, and Dennis Larson. Mr. Mansmith, Mr. Moody and Ms. Ferrazzi did not interview.

CONCLUSIONS

1. The petition for establishment of the Comfort Lake-Forest Lake Watershed District is valid in accordance with Minn. Stat. § 103D.205.

2. Proper notice of hearing was given and the public hearing was held in accordance with applicable laws.

3. The establishment of the Comfort Lake-Forest Lake Watershed District would promote the public welfare and public interest, and would advance the purpose of Minn. Stat. Chapters 103B and 103D.

4. The boundary of the Comfort Lake-Forest Lake Watershed District shall be as set forth in "Attachment A".

5. All relevant substantive and procedural requirements of law and rule have been fulfilled.

6. The Board has proper jurisdiction in the matter of ordering a watershed district establishment.

ORDER

1. The proposed watershed district is hereby established and is named the "Comfort Lake-Forest Lake Watershed District" by which name it shall hereafter be known, and it shall have all the power, authority, and duties provided by law.

2. The principal place of business of the Comfort Lake-Forest Lake Watershed District is the Forest Lake City Hall, located at 220 North Lake Street, Forest Lake, Minnesota.

3. The territory to be included in the Comfort Lake-Forest Lake Watershed District encompasses a total area of approximately 49.2 square miles in the Cities of Forest Lake and Wyoming, and the Towns of Chisago Lakes, Wyoming, Forest Lake and New Scandia, which generally includes the area in the Forest Lake Watershed Management Organization and the Comfort Lake drainage area in Chisago County, which is generally the drainage area previously managed by the Joint Washington and Chisago County Ditch Board No. 1, per the map attached as "Attachment A" and made a part of this Order hereof.

4. The boundary of the Comfort Lake-Forest Lake Watershed District shall be as set forth on "Attachment A", a map showing the watershed district boundaries together with the data set the map was printed from, incorporated by reference herein.

5. The Board of Managers for the Comfort Lake-Forest Lake Watershed District shall consist of five (5) managers.

6 The first Board of Managers of voting residents within the Comfort Lake-Forest Lake Watershed District shall be as follows:

NAME

Kenneth M. Banta
24625 North Forest Boulevard
Forest Lake, MN 55025

Donald M. Holl
20390 Ingersoll Avenue North
Forest Lake, MN 55025

Dennis G. Larson
20750 Kirby Avenue North
Scandia, MN 55073

John T. Lynch
667 West Broadway Avenue
Forest Lake, MN 55025

Louis L. Sibik
25321 West Comfort Drive
Forest Lake, MN 55025

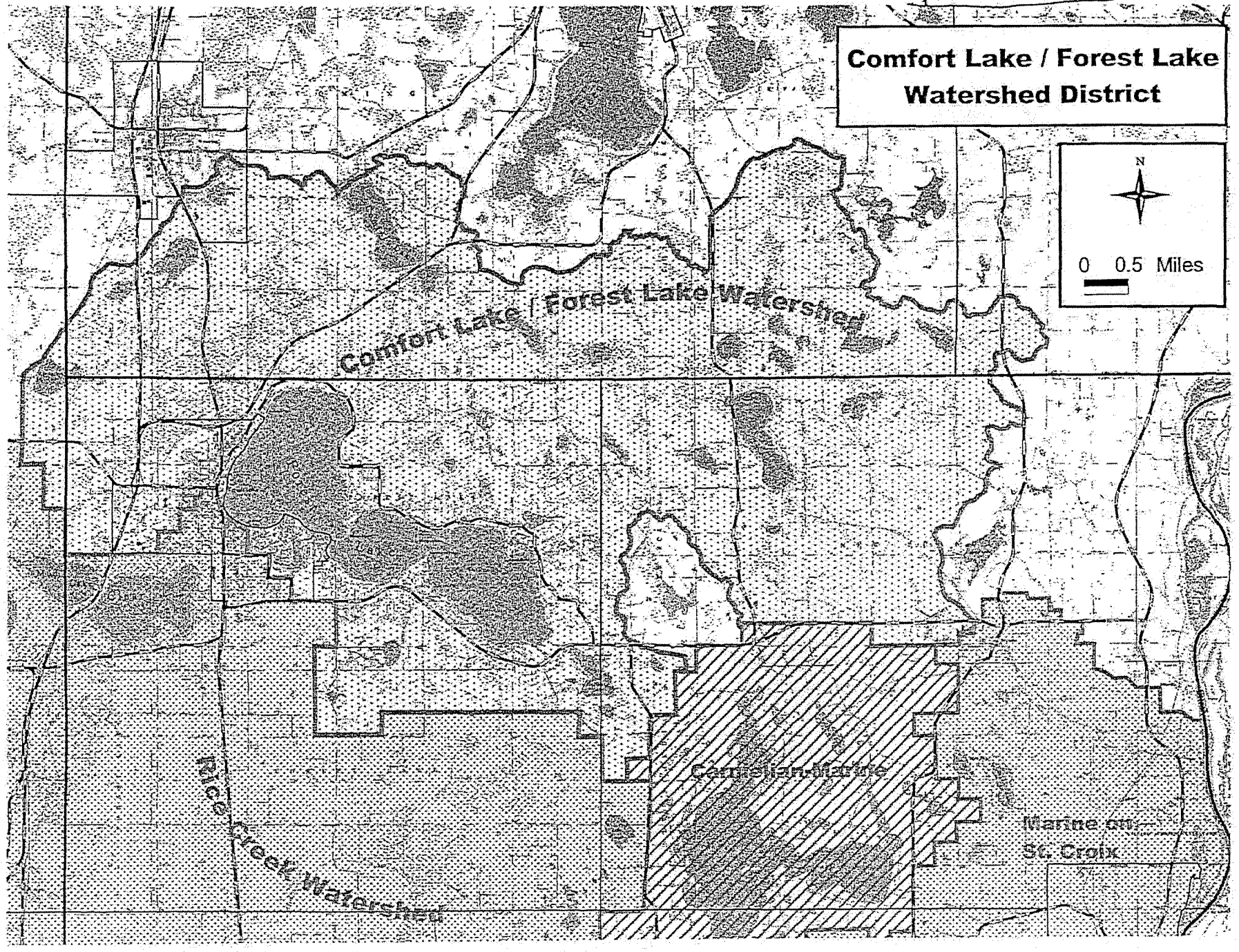
7. **Manager Terms of Office.** The term for the first Board of Managers appointed by the Board of Water and Soil Resources is one year and until the successors can be appointed and qualified, and the terms of office for the first Board of Managers appointed by the Chisago County Board is one for a term of two years and one for a term of three years, and the terms of office for the first Board of Managers appointed by the Washington County Board is one for a term of one year, one for a term of two years, and one for a term of three years.

Dated this 23rd day of September, 1999.

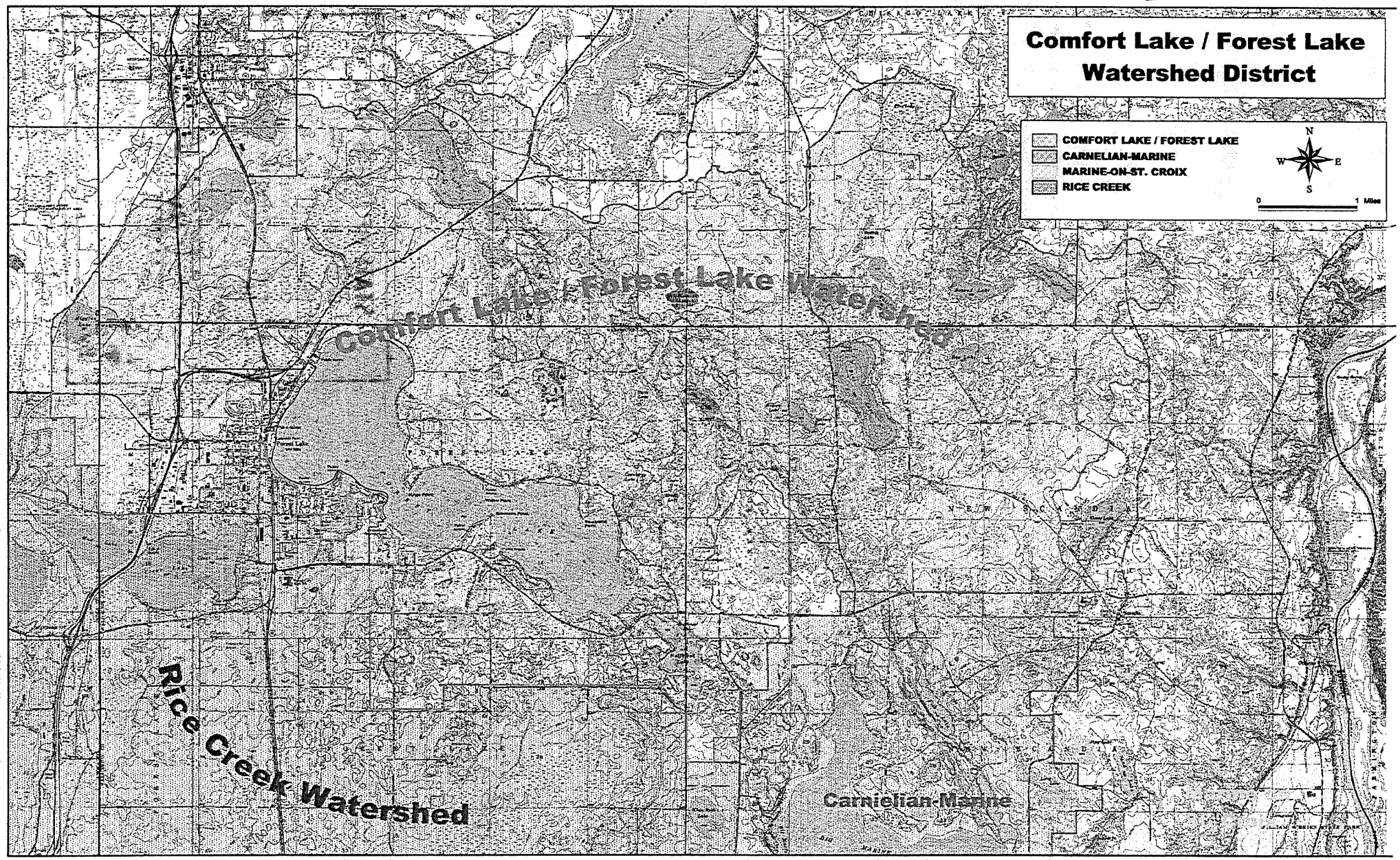
MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: Kathleen M. Roer
Kathleen M. Roer, Chair

Attachment A



Attachment A



STATE OF MINNESOTA
DEPARTMENT OF STATE
I hereby certify that this is a true and complete copy of the document as filed for record in this office.
DATED April 8, 2015
Steve Simon
Secretary of State
By Nancy Brems