

**EXECUTIVE ORDER 91-3
DIRECTING STATE DEPARTMENTS AND AGENCIES
TO FOLLOW A "NO-NET LOSS" POLICY
IN REGARD TO WETLANDS**

I, Arne H. Carlson, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, wetlands provide economic as well as ecological benefits to the state by protecting and preserving water supplies; by providing for natural storage and retention of flood waters; by serving as transition zones between dry land and lakes and rivers, thereby retarding soil erosion; by functioning as nature's biological filters, assimilating nutrients; by providing essential habitats for fish and wildlife; by providing for groundwater recharge; by providing low flow augmentation for rivers and streams; by providing aesthetic and recreational opportunities; by providing outdoor educational resources; and by adding to Minnesota's ecological diversity; and

WHEREAS, over eighty percent of the state's original prairie pothole wetlands has been drained and over sixty percent of the state's total original wetland base has been drained, filled or otherwise diminished; and

WHEREAS, the loss of wetlands in the state, both urban and rural, is continuing in excess of 5,000 acres per year; and

WHEREAS, the continued loss of wetlands harms the economic and environmental welfare of the state; and

WHEREAS, it is in the public interest to protect the functions and values of wetlands; and

WHEREAS, the state, through public agencies and units of government, must provide leadership in the stewardship of wetlands for all projects on the lands and waters entrusted to the state by the public;

NOW, THEREFORE, I hereby order that:

- A. All responsible departments and agencies of the State of Minnesota shall protect, enhance, and restore Minnesota's wetlands to the fullest extent of their authority;
- B. All responsible departments and agencies of the State of Minnesota shall operate to the fullest extent of their authority under the strict concept of "NO-NET LOSS" of wetlands of the state in regard to projects under their jurisdiction;
- C. All responsible departments and agencies of the State of Minnesota shall survey and categorize all wetlands on land being acquired by or donated to the state and on public lands threatened by development activities. Acquisition decisions and subsequent management plans shall mitigate ecological impacts as a result of development activities;

D. All responsible departments and agencies of the State of Minnesota shall be guided by the following prioritized criteria in the implementation of this "NO-NET LOSS" executive order;

- 1) AVOID the impact altogether by not taking a certain action or actions;
- 2) MINIMIZE the impact by limiting the degree or magnitude of the action by using appropriate technologies or by taking affirmative steps to avoid or reduce the impact;
- 3) MITIGATE all functional values of the wetlands that have been diminished.

Mitigation must, in order of importance, be accomplished by: first, restoration of drained or diminished wetlands; second, enhancement of existing wetlands; and last, creation of new wetlands;

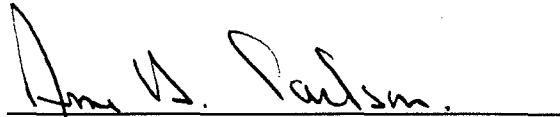
E. The head of each department or agency shall, by appropriate means, ensure that all staff are advised of this order and shall by January 1 of each year report to the Commissioner of Natural Resources on efforts to comply with this order; and

F. The Commissioner of Natural Resources shall, by March 1 of each year, report to the Governor and the chairs of the Senate and House environment committees a composite report on implementation of the order and the status of Minnesota's wetlands.

In addition, I hereby encourage all local units of government to adopt "NO-NET LOSS" wetlands resolutions guiding public actions within their jurisdiction.

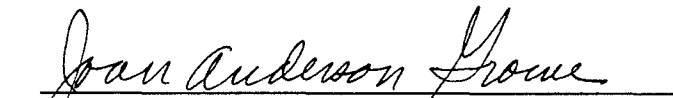
Pursuant to Minnesota Statutes 1990, Section 4.035, this Order shall be effective fifteen (15) days after publication in the State Register and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with Minnesota Statutes 1990, Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF I have set my hand this 17th day of January, 1991.




ARNE H. CARLSON
Governor

Filed According to Law:


JOAN ANDERSON GROWE
Secretary of State

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

JAN 17 1991


Secretary of State



Minnesota Department of Natural Resources

OFFICE OF THE COMMISSIONER

500 Lafayette Road

St. Paul, Minnesota 55155-4037

DATE: March 29, 1994
TO: All Agency Heads
FROM: Rodney W. Sando
Commissioner
SUBJECT: Implementation of Executive Order 91-3

This memorandum provides additional information, guidance and procedures to implement the Governor's Executive Order 91-3. This guidance clarifies the October 1, 1991, memo regarding implementation of Executive Order 91-3 in light of passage of the 1991 Wetland Conservation Act.

Public debate over wetland protection legislation was initiated in 1989, with bills being introduced and debated in both the 1989 and 1990 legislative sessions. Governor Carlson's Executive Order 91-3 on January 17, 1991, encouraged passage of legislation to protect the present and future economic and ecological benefits of wetlands for the citizens of the State of Minnesota. These developments all contributed to the passage of the Wetland Conservation Act.

The Wetland Conservation Act and subsequent rules provide the most recent directive by the Governor and Legislature to all state agencies for no-net-loss of wetlands in the conduct of agency activities. Full and complete implementation of the Wetland Conservation Act and rules will ensure compliance with the intent of Executive Order 91-3.

The Wetland Conservation Act rules contain specific language regarding implementation of the Act and the concepts of avoidance, minimization and mitigation of unavoidable wetland impacts. Provisions of the Wetland Conservation Act define state agencies as the local government units for state lands and for state projects and are required to follow the Act and rules. State agency jurisdictions and existing laws and rules are unchanged by the Order.

Within this framework, agencies are expected to fully implement the provisions of the Wetland Conservation Act and rules in the conduct of their activities. It should be noted that while state agencies are not required to seek local government unit authorization for state agency projects, they are required to consult with these units to facilitate sharing of project information. Additional guidance in the following areas is provided to merge Executive Order and Wetland Conservation Act language:

DNR Information: 612-296-6157, 1-800-766-6000 • TTY: 612-296-5484, 1-800-657-3929 • FAX: 612-296-4799



WETLAND DELINEATIONS. The reference for wetland delineations is the Federal Manual for Identification and Delineation of Jurisdictional Wetlands (January, 1989). The National Wetlands Inventory (NWI) maps, produced by the U.S. Fish and Wildlife Service, are available at local Soil and Water Conservation District offices, regional Department of Natural Resources' offices and Minnesota's Bookstore (612-297-3000 and 1-800-657-3757). Questions concerning wetland identification and delineation can be referred to DNR, BWSR, MPCA and MnDOT staff trained in the use of the above-mentioned manual.

WETLAND AVOIDANCE AND COMPENSATORY MITIGATION. Direction for wetland avoidance and compensatory mitigation is contained in the sequencing and replacement sections of the Wetland Conservation Act rules (Minnesota Rules, part 8420.0520 - .0550).

ANNUAL REPORTS. A fiscal year annual report to the Commissioner of Natural Resources on the implementation of the Order is due the following November 1. The commissioner will prepare a composite report summarizing the state agency reports and submit this report to the Governor by January 1 of each year in accordance with the Order. The commissioner and the Board of Water and Soil Resources shall jointly report to the legislature in accordance with provisions of the Wetland Conservation Act.

c: Office of the Governor
Unit Heads