

SF-00006-03

STATE MINNESOTA

DEPARTMENT MDNR-Div. of Waters

Office Memorandum

TO: File - Kettle River

DATE: 2/26/87

FROM: Bill Zachmann, Hydrologist
Wild and Scenic Rivers Program

PHONE: 6-9224

SUBJECT: STATEMENT OF NEED AND REASONABLENESS - KETTLE RIVER RULE AMENDMENTS

This memo is intended to serve as the file document for fulfilling the Statement of Need and Reasonableness for the above referenced rule amendments.

Amendments to the rule were developed after an extensive evaluation of the Kettle River rule by Bill Zachmann, Division of Waters during the period November, 1984 ending April, 1986. River landowners and community administrators have actively participated in the evaluation. Comments were solicited from the public through notices seeking Outside Opinion concerning Kettle River Rule amendments. The notices were published in the state register and in 4 local Pine County Newspapers. No outside opinions were submitted during the time period.

Attached to this memo are the proposed amendments followed by "EXPLANATION " paragraphs which serve as the specific statements of need. In general, the proposed changes clarify and simplify the existing rule. No amendments are being proposed that will either materially affect the manner in which the state or local units of government manage land uses within the designated land use districts or require any new procedures.

Additional documents pertaining to the Kettle River evaluation are on file at the Division of Waters, Minnesota Department of Natural Resources, 500 Lafayette Road, St. Paul, MN. 55155-4032.

BZ:fw

Attachment

~~Bill Zachmann, Hydrologist, Wild and Scenic Rivers Program, Minnesota Department of Natural Resources, 500 Lafayette Road, St. Paul, MN. 55155-4032.~~

STATEMENTS OF NEED AND REASONABLENESS 2/26/87

2/19/87

[REVISOR] PER/AT RD1066

1 Department of Natural Resources

2

3 Proposed Permanent Rules Relating to the Kettle River Wild and
4 Scenic River Designation

5

6 Rules as Proposed

7 6105.0605 DESIGNATION OF RIVER.

8 That portion of the Kettle River from the Carlton-Pine
9 county line to its confluence with the Saint Croix River is
10 designated a component of the Minnesota wild and scenic rivers
11 system.

6105.0605 Explanation: A clear, straightforward designation statement does not currently appear anywhere in the rule text. Numerous references throughout the rule substantiate the area designated, but do so within text addressing other topics. (See 6105.0640 subp. 1., 6105.0650 subp. 1. and subp. 2., 6105.0720 (river mile 51 is at Pine-Carlton County line), and 6105.0730 (T45N-R20W is most northerly township in Pine County).

12 6105.0610 SCOPE.

13 Parts 6105.0600 to 6105.0760 apply to those portions of the
14 river and its ~~shorelands~~ designated wild and scenic river land
15 use districts indicated by the ~~attached-maps-and~~ land use
16 district legal descriptions of part 6105.0730.

6105.0610 Explanation: The existing rule text refers to "shorelands", a term that is used in the state shoreland management act and associated rules. The "designated wild and scenic river land use districts" is a more accurate reference and is language consistent with the preceding statewide rules, 6105.0010 - 6105.0250. Additionally, reference to the maps should be deleted. The published maps in Parts 6105.0700 are difficult to read in the published rule, and subsequent to change by amendments to the written land use district legal descriptions. In later adopted wild and scenic river rules, maps were not published to avoid confusion. Therefore, the maps published in part 6105.0700 should also be deleted since the land use district legal descriptions accurately and adequately define the area being managed by the rule.

17 6105.0620 PURPOSE.

18 Parts 6105.0600 to 6105.0760 provide standards and criteria
19 for state and local management of the ~~waters-and-shores~~
20 designated land use districts of the Kettle River component-of
21 ~~the-Minnesota wild and scenic rivers-system~~ river. They
22 establish the manner in which public recreational use of the
23 river and ~~its-shores-will-be-provided-for-and-controlled-and~~
24 ~~the-manner-in-which~~ public and private development of the river
25 ~~shorelands~~ land use districts may take place.

6105.0620 Explanation: The proposed rewording of this part is consistent with previous terminology referencing the designated land use district and eliminating confusing or vague references to "shores", "waters and shores" and "shorelands".

26 6105.0625 CLASSIFICATION OF RIVER.

27 The Kettle River from the Carlton-Pine county line
28 downstream to the Kettle River dam site at Sandstone is
29 classified as scenic. The Kettle River from the dam downstream
30 to its confluence with the Saint Croix River is classified as
31 wild.

6105.0625 Explanation: This information was inadvertently omitted from the final rule when published in 1975. Similar classification language is included in the other 5 state designated wild and scenic rivers. The above classification is the way in which the river was described it would be classified in public hearings in 1975, and subsequently, is the way in which the river has been managed for 10 years. Inclusion of this language in rule text is needed so that rule reference to the appropriate classification can be made during routine aspects of rule administration. Staff feels this does not constitute a controversial addition, since this reflects the agreed upon and status quo management of the river.

32 6105.0640 LAND MANAGEMENT.

33 Subpart 1. Permitted utility crossings. No permit will be

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1 issued for a utility crossing of the designated portion land use
2 districts of the Kettle River, ~~from the Carlton-Pine county line~~
3 ~~to the Saint-Croix River~~, except for those utility crossings
4 identified below:

- 5 A. County State Aid Highway (CSAH) 46 crossing;
6 B. CSAH 52 crossing;
7 C. CSAH 41 crossing;
8 D. ~~U.S. Highway~~ CSAH 61 crossing;
9 E. CSAH 33 crossing; and
10 F. Section 14-15, Township 40N, Range 20W power line
11 crossing; and
12 G. Township road bridge crossing in SW 1/4 Section
13 10, T44N-R20W.

14 Further, utility crossings are particularly inappropriate
15 within the wild river land use district. However, additional
16 crossings would be allowed at the existing line crossing
17 (Section 14-15, Township 40N, Range 20W) only if the preferred
18 alternative of using a crossing above the designated area or
19 using one of the corridors in the scenic portion of the river
20 would generate even greater adverse environmental effects and if
21 the crossings can be installed without significant additional
22 right-of-way clearing within the land use district.

23 Subp. 2. [Unchanged.]

6105.0640
Subp. 1

Explanation: As currently written, the text could be interpreted to mean "road crossings" and/or "utility crossings". Since several other road crossings of State Highways and an interstate highway crossed the river prior to rule adoption it is obvious and logical that "road crossings" is not the intent here. Discussion of utility crossings in the draft Kettle River Management is consistent to the list in A. to F. below, with the exception of the recommended change. Therefore, inserting "utility" crossing is justified and would aid in routine administrative reference to this subpart.

24 Subp. 3. Management maps area. The commissioner of
25 natural resources adopts the land management-maps-in-part
26 6105-07007-subparts-1-to-8-to-the-area-identified-in-the use
27 district legal description-and descriptions of part 6105.0730
28 according to part 6105.0070, subpart 2 for the protection and
29 management of lands within the wild and scenic river land use
30 districts.
31 A. to E. [Unchanged.]

6105.0640 Explanation: Consistent with previous recommended changes, reference to
SUBP.3. the management maps should be deleted in preference for the more accurate
listed legal descriptions.

32 6105.0650 ADMINISTRATION OF PLAN.

33 Subpart 1. Pine County. Pine County shall enact or amend
34 such ordinances and maps as necessary to:

35 A. establish the wild river and scenic river land use
1 districts identified on-the-land-management-maps-and in the land
2 use district property legal descriptions of part 6105.0730
3 within Pine County; and

4 B. [Unchanged.]

6105.0650 Explanation: The above changes would be consistent with clarifications II,
SUBP.1. III and VI as previously discussed.

5 Subp. 2. Willow River, Rutledge, and Sandstone. The
6 municipalities of Willow River, Rutledge, and Sandstone shall
7 enact or amend ordinances as necessary to:

8 A. Establish the scenic river land use districts as
9 delineated for their jurisdictions on in the land management
10 maps; use district legal descriptions.

11 B. Conform to the provisions of parts 6120-2600-to
12 6120-3900-and-administer-these-provisions-according-to-parts
13 6105-0220 6105.0010 to 6105-0250,-as-applicable; 6105.0090 and
14 6105.0110 to 6105.0250 with the following exceptions to the
15 dimensional standards and provisions of these parts:

- 16 (1) Minimum lot size, 20,000 square feet;
17 (2) Minimum structure setback, 75 feet;
18 (3) Minimum lot width at OHW and structure
19 setback, 100 feet; and
20 (4) Minimum on-site sewage treatment system
21 setback, 50 feet.
22 No clearcutting of trees within 75 feet of the OHW of the
23 river and designated tributaries.

24 C. [Unchanged.]

6105.0650
SUBP. 2

Explanation: The above proposed amendment deletes all references to the state shoreland management regulations, yet clearly establishes the required dimensional standards and provisions that are only referenced in the original rule. Due to proposed amendments to the current state shoreland management regulations, the reordering of shoreland chapter subparts would require amendment to this subpart. It is more preferable to have the requirements for these cities listed in the rule, rather than rely on the provisions of another program.

25 **Subp. 3. More protective rules.** Nothing in parts
26 6105.0010 to 6105.0250 or this management plan shall preclude
27 ~~Pine or Carlton counties~~ county or their its subdivisions or
28 the municipalities of Willow River, Rutledge, or Sandstone from
29 adopting regulations more protective than those ~~promulgated~~
30 adopted in this management plan, subject to approval by the
31 commissioner of Natural Resources.

32 Subp. 4. [Unchanged.]

33

6105.6650
SUBP. 3

Explanation: The above revisions delete references to Carlton County from rule text as previously discussed and provide for inclusion of the 3 municipalities. Reference to the municipalities does not change any aspects of rule required management, but clearly states the municipalities can be more restrictive if they choose.

34 **REPEALER.** Minnesota Rules, part 6105.0700 is repealed.

6105.0700

Explanation: These maps should be deleted from the rules. The maps in the rule were photocopied from a set of draft management maps that do not accurately match the written land use district legal descriptions. Because of similar conflicts between land use district depictions on maps and the final adopted set of legal descriptions, most of the subsequent wild and scenic river rules publications opted to not publish land use district maps. In sum, deletion of the maps deletion will make the rules easier to read and administer. Rule users would immediately refer to the listed legal descriptions of Part 6105.0730 and then consult U.S.G.S. topographical maps or county plat maps for accurate physical location of the land use districts.

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MAY 06 1987

Addition to Kettle River Rule Amendment

Statement of Need and Reasonableness

ATTORNEY GENERAL'S OFFICE
SUITE 200
520 LAFAYETTE ROAD
ST. PAUL, MN 55155

To provide additional information in justifying an addition to Part 6105.0640 subpart 1. Item G. as reads:

G. Township road bridge crossing in SW $\frac{1}{4}$ Section 10, T44N-R20W.

This addition is needed and reasonable it adds a bridge crossing for utility crossing purposes in a semi-developed, rural area of the land use district. Both upstream and downstream of this crossing, the CSAH 41 and the C.S.A.H. 61 crossings distribute utility to areas similar to the areas adjacent to the subject crossing.

A past request to locate a phone cable crossing at the subject location had to be denied to comply with the rule, even though such a crossing would not have had any adverse impact on the district.

Bill Zachmann
5/1/87

Kettle Rule change file
c. Bill Claff