

WCA and Watershed Planning/Implementation

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MACPZA

October 14, 2022



Wetland Conservation Act Rulemaking MN Rules Chapter 8420

Wetland Conservation Act Rulemaking

MN Rules Chapter 8420

- WCA is primarily implemented by local governments with BWSR assistance and oversight.
- BWSR is responsible for promulgating the WCA rule.
- Several statute changes have occurred since the last rulemaking (2009).

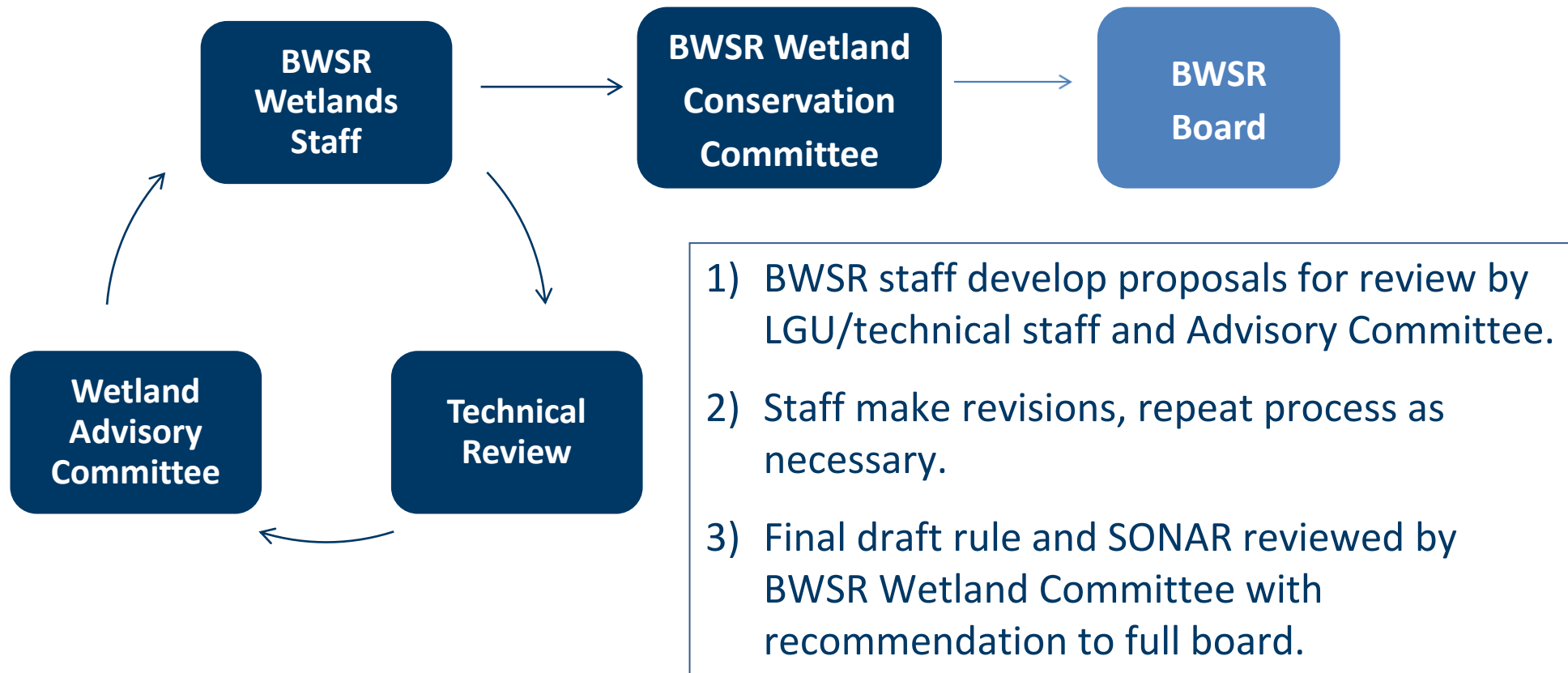


Guiding Principles of Rulemaking

BWSR will adhere to the following principles as we consider input and develop rule language:

- Consistency with statutory intent and the purpose of WCA
- Simplification and clarification
- Implementable
- Have a tangible result or outcome
- Improve accountability
- Minimize negative impacts to LGU workload
- Limit unintended consequences
- Balance public costs and benefits
- Seek stakeholder support
- Fairness and consistency

Wetland Conservation Act Rulemaking



Note: All information will be shared publicly and other stakeholders & interested individuals will be provided ongoing opportunity throughout the rule development process to provide input.

- Amber Hanson Glaeser MN Farm Bureau
- Beth Brown MN Department of Transportation
- Brian Martinson Association of MN Counties
- Brian Watson SWCD Staff (Dakota SWCD)
- Craig Johnson League of MN Cities
- Dan Larson MN Rural Counties Caucus
- Julie Lucas Mining MN
- Grace Keliher Builders Association of MN
- Jim Foldesi MN County Engineers Association
- John Cunningham Aggregate Ready-Mix Association of MN
- John Linc Stine Freshwater
- Josh Stromlund County Staff (Lake of the Woods)
- Kathryn Hoffman MN Center for Environmental Advocacy
- Kristen Vake Iron Mining Association of MN
- Margaret Levin Sierra Club
- Matt Massman MN Intercounty Association
- Ray Bohn MN Association of Watershed Districts
- Rob Sip Red River Watershed Management Board
- Rebecca Beduhn MN Wetland Professionals Association
- Sheila Vanney MN Association of SWCDs
- Steve Morse MN Environmental Partnership
- Stu Lourey MN Farmers Union
- Tony Kwilas MN Chamber of Commerce
- Warren Formo MN Agricultural Water Resource Center

BWSR Wetlands Advisory Committee

Organizations & Primary Participants

Additional Opportunities for Input

- All rulemaking info will be posted on the BWSR website, incl. recordings of the advisory committee meetings.
- Staff will be available meet directly with any interested organization or group.
- Any interested individual can be added to the BWSR wetlands stakeholder e-mail list, which will be used to keep people informed.
- BWSR staff are available to answer questions or have one-on-one discussions via phone and e-mail.

Scope of WCA Rulemaking

2011, 2012, 2015, & 2017 statute changes:

- Some of the statute changes can be incorporated into rule as-is, or with a realistic amount of work.
- Several of the statute changes require substantial additional program development work to implement – these items will be held for a future rulemaking.

Other misc. changes to improve the efficiency, effectiveness, and/or outcomes of the rule, particularly relating to replacement wetlands.

- Such changes will be assessed on a case-by-case basis.



Notable Potential Rulemaking Topics

- Revised Bank Service Areas & Mitigation Siting
- New Wetland & Credit Classification System
- Wetland Replacement Buffers
- Bank Plan Decision Process Alternatives
- Actions Eligible for Wetland Mitigation Credit
- In-Lieu Fee Program and Compensation Planning Frameworks (High Priority Areas)
- Misc. changes to improve clarity and outcomes.

Approximate Timeframe	Action(s)
Summer/Fall 2022	Outreach to stakeholders, Wetland Advisory Committee meetings, and interagency coordination. Develop draft rule amendments and SONAR.
Winter 2023	Wetland Advisory Committee Meetings to review final draft rule and SONAR.
Winter/Spring 2023	Finalize draft rule and SONAR.
May-June 2023	Seek Board authorization to adopt draft rule & SONAR, and issue Dual Notice of Intent to Adopt Rules.
Summer 2023	Publish notice and draft rules in the State Register.
Late Summer 2023	Hearings held if 25 or more requests are received.
Fall 2023	<p>If no hearing, schedule Wetland Conservation Committee and Board consideration of final rule and SONAR. Submit Governor's Final Form.</p> <p>If hearing, post hearing comment period, agency response, and report to Administrative Law Judge (ALJ).</p>
Fall 2023	<p>If no hearing, sign Order Adopting Rules (executive director) and submit to OAH. OAH files rules with Secretary of State. Publish Notice of Adoption in St. Register.</p> <p>If hearing, ALJ report completed within 30 days unless extended by Chief ALJ.</p>
Winter 2023/2024	If hearing , BWSR Wetland Committee review and Board authorization to adopt rules. Submit Governor's Final Form.
Winter/Spring 2024	If hearing , sign Order Adopting Rules (executive director) and submit to OAH. OAH files rules with Secretary of State. Publish Notice of Adoption in State Register.

State Assumption of Section 404 of Federal Clean Water Act

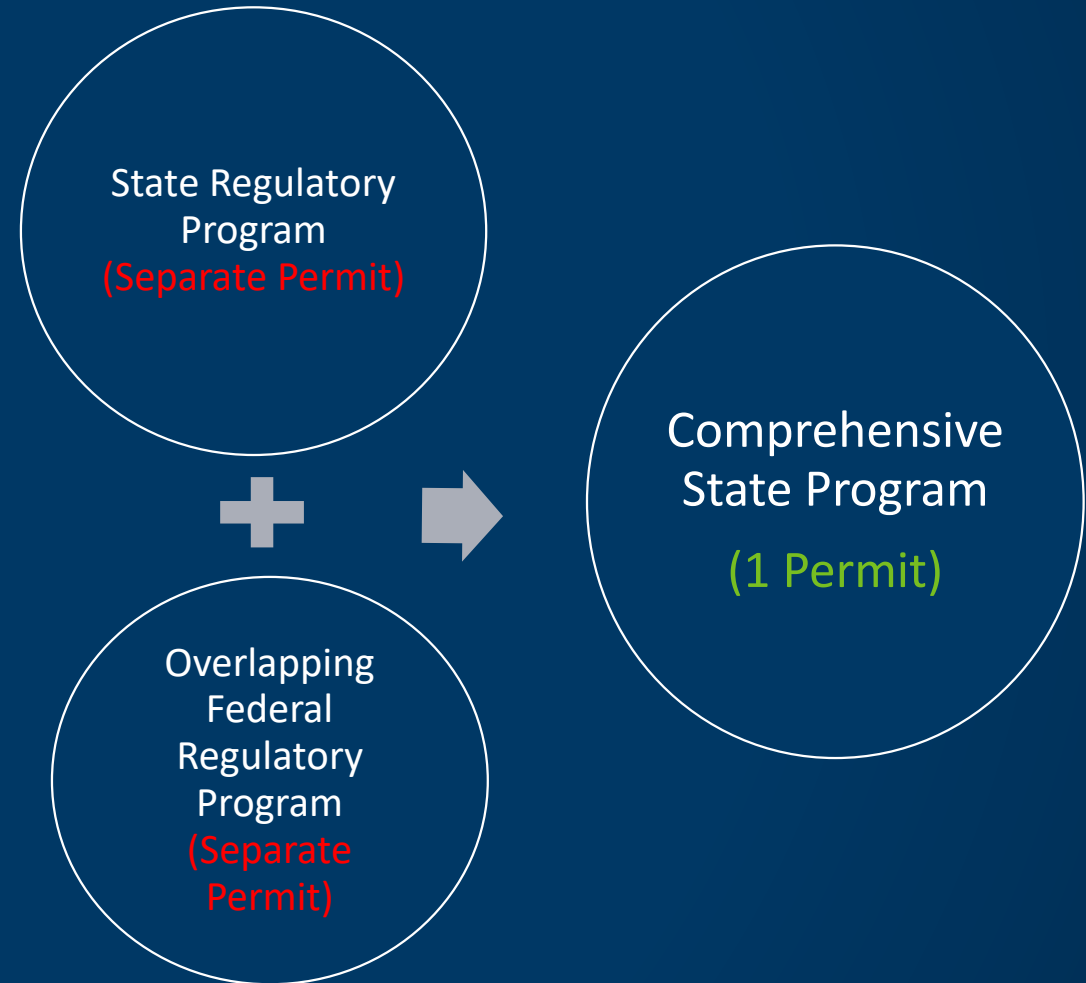
- The US Army Corps of Engineers currently implements Section 404 of the Clean Water Act.
- It regulates activities in lakes, streams, and wetlands.



What is “404 Assumption?”

Section 404 of the Federal Clean Water Act:

- Regulates activities in lakes, streams, and wetlands.
- Currently implemented by U.S. Army Corps of Engineers.
- **Allows state implementation of equivalent program, eliminating the need for separate federal permits - AKA “404 Assumption.”**
- 33 U.S.C. § 1251(b): “It is the policy of Congress that the States... implement the permit programs under sections 1342 and 1344 of this title.” (1977)



Recent Efforts to Explore 404 Assumption in Minnesota

- 1) Minnesota Federal Clean Water Act Section 404 Permit Program Feasibility Study (January 2017).
- 2) Analysis of Retained and Assumable Waters in Minnesota (May 2018).
- 3) 2022 Federal Clean Water Act Section 404 Permit Program Report on Funding Estimates (January 2022).
 - ❖ This effort included program development work and initial efforts to begin to assemble the State's application materials.

Why is Minnesota considering 404 assumption?

Those interested in assumption have cited the following:

- ✓ Improved permitting timelines, faster processing, and more responsive regulatory authorities (local/state vs. federal).
 - ✓ Reduced regulatory duplication and redundancy.
 - ✓ Clarity and certainty on regulatory jurisdiction (vs. federal WOTUS).
 - ✓ Reduced costs for permit applicants.
 - ✓ More effective resource management drawing on localized expertise and better incorporation of watershed planning.
- ❖ It is Congressional policy that the states implement the Section 404 permitting program (33 U.S.C. § 1251b).

Current Status of 404 Assumption

- Some work occurring on assembling draft application materials under EPA grant.
- Completion of a full draft application that is necessary for a decision by the legislature and Governor's office - will require legislative directive and funding.
- Legislation in 2023 session??

Natural Resource Block Grant

- THANKS! To all of you that provided feedback to your association
- Brian Martinson has been working with you to inventory the NRBG shortfalls
- BWSR is using the feedback from AMC to support our request to Governors office



One Watershed, One Plan Minnesota's Approach to Water Management

FIFTY CENTS

AUGUST 18, 1953

TIME

The Good Life In Minnesota

Gov. Wendell Anderson



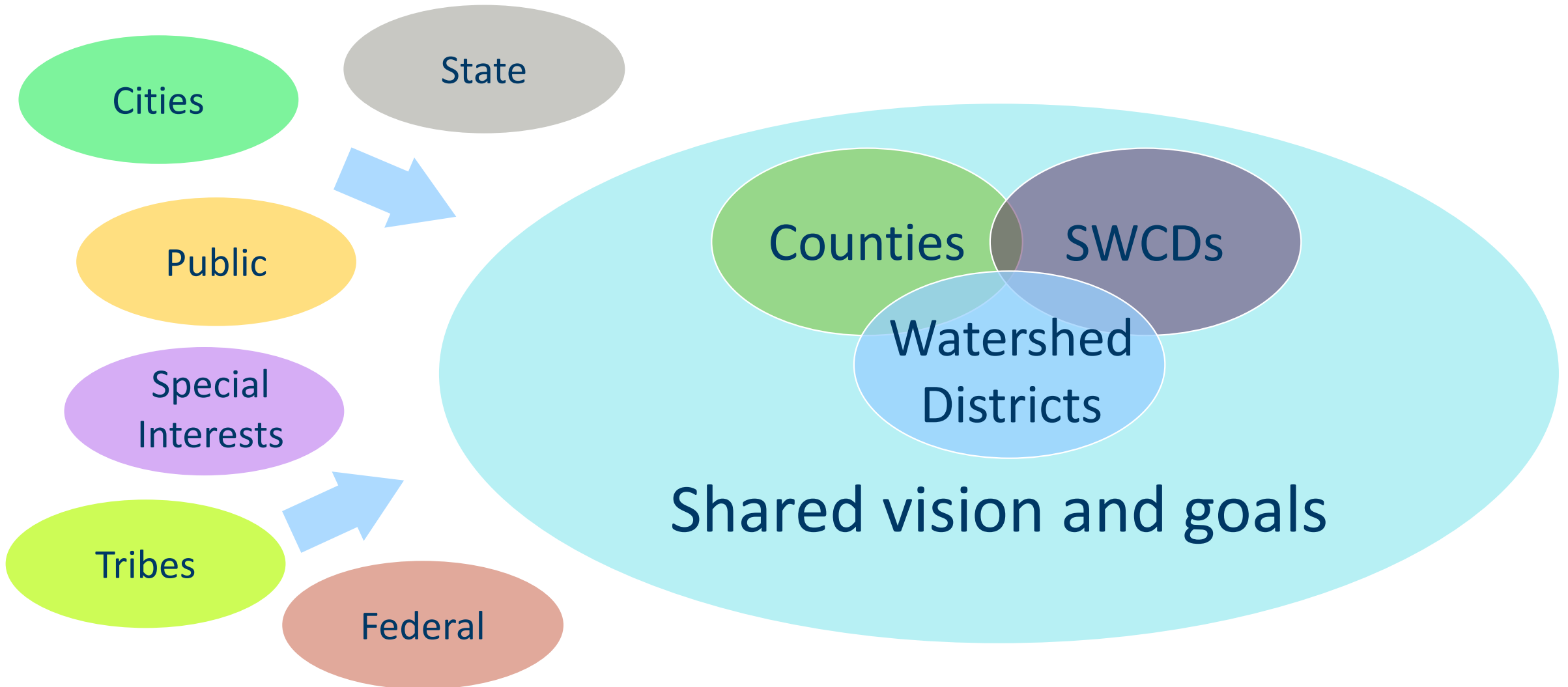
**ONE
WATERSHED
ONE PLAN
EVENT HERE**



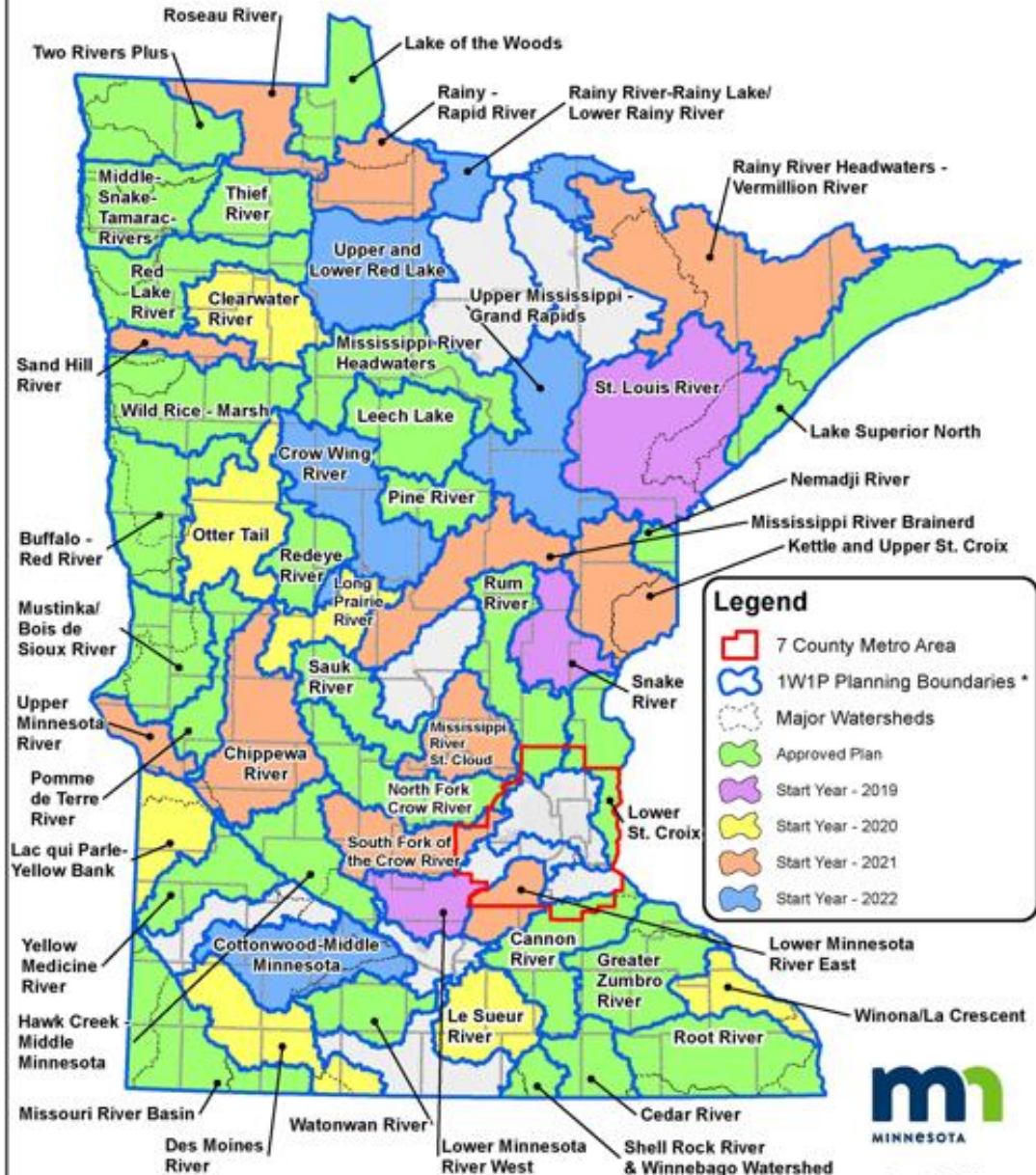
**WORKING
TOGETHER
TO IMPROVE
WATER
QUALITY**



Working Together on Local Issues



One Watershed, One Plan Participating Watersheds



*Not legal boundaries; intended for planning purposes through One Watershed, One Plan only.



August 2022

Planning Boundaries



Implementation Grants

FY 22-23: \$41M

Lake of the Woods

\$621,173

Red Lake River

\$1,071,149

Leech Lake River

\$598,115

Lake Superior North

\$559,767

North Fork Crow River

\$1,120,477

Pine River

\$482,142

Yellow Medicine River

\$814,603

7-County Metro Area

\$6,000,000

Missouri River Basin

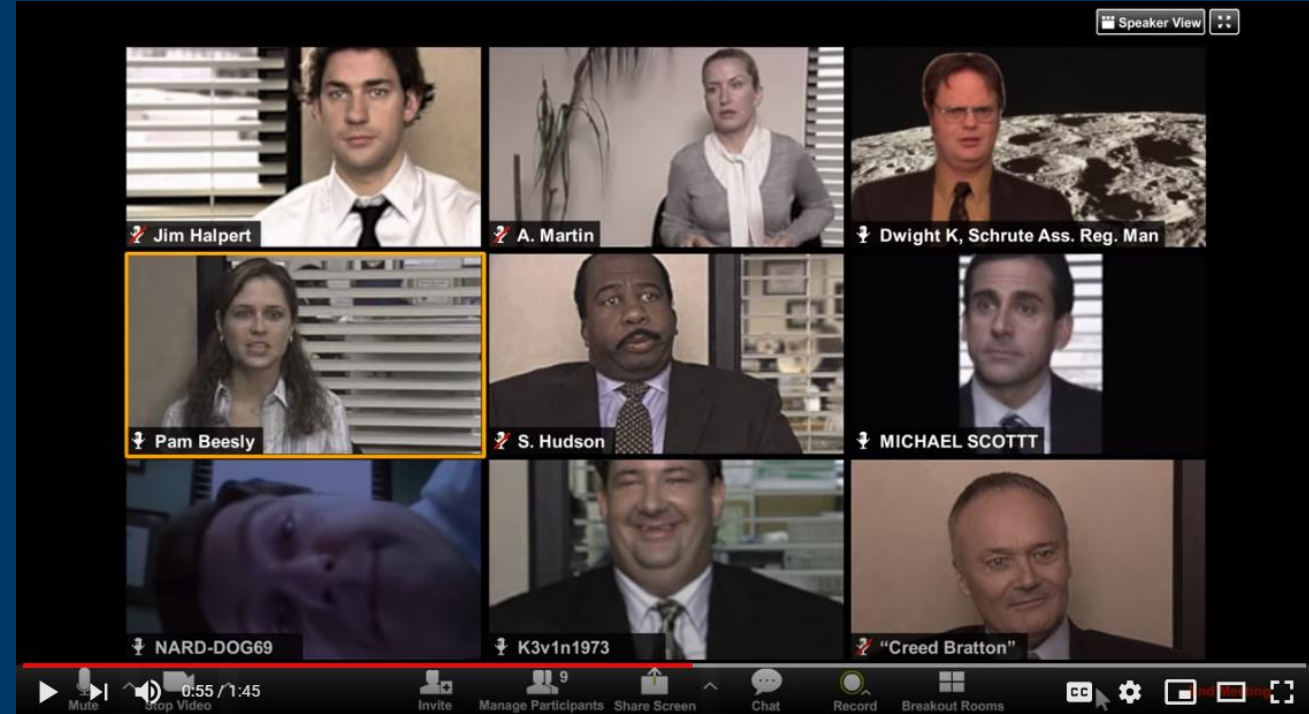
\$1,320,445

Cedar River

\$593,987

Root River

\$1,469,595



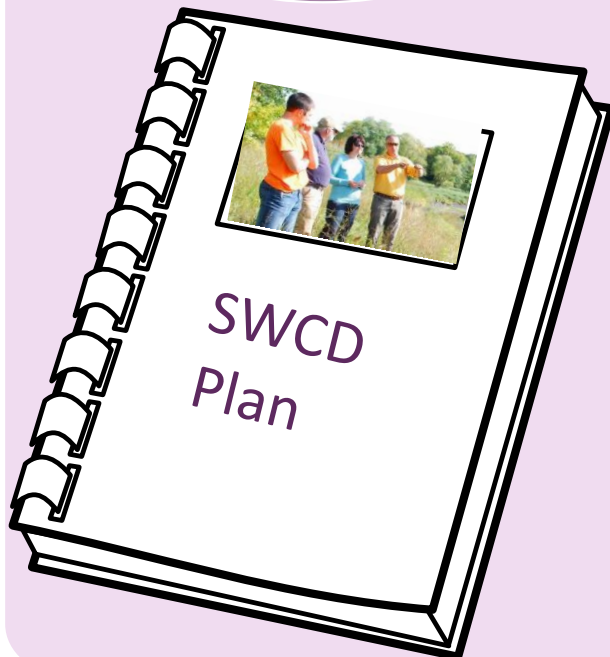
Old



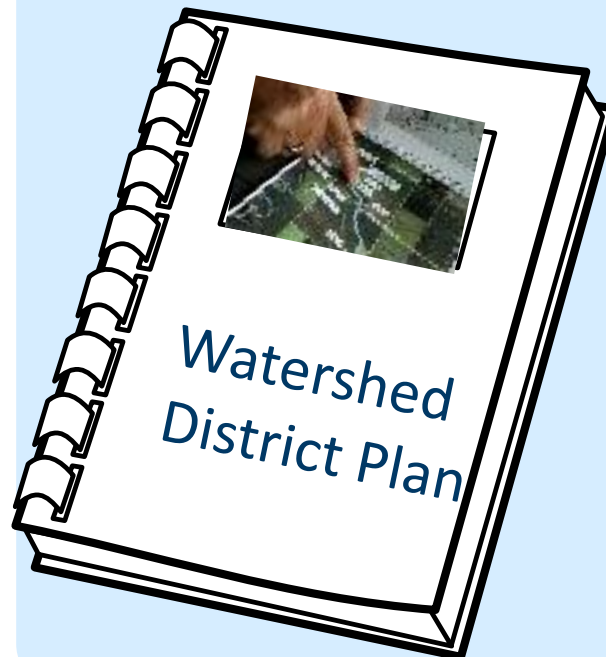
New

Local Plans

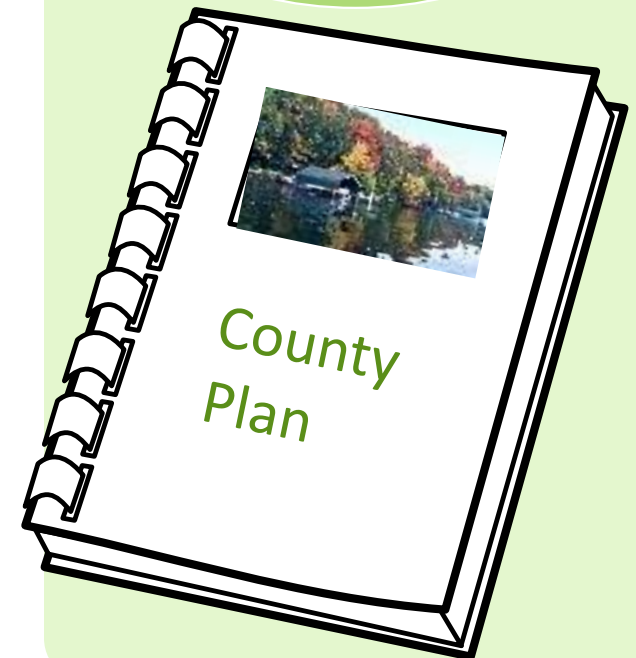
SWCDs

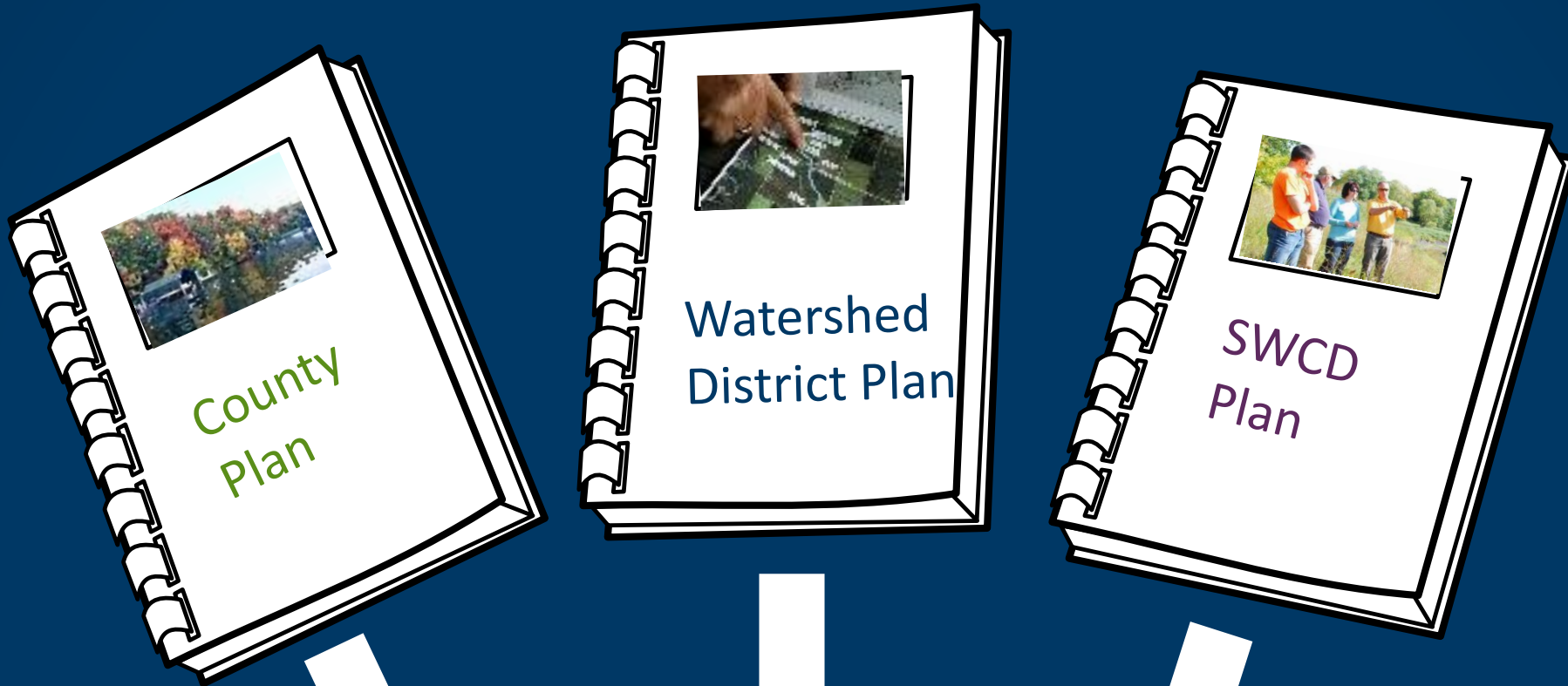


Watershed
Districts



Counties





**Comprehensive
Watershed
Management
Plan**

**Comprehensive
Watershed
Management
Plan**

Wetland
Restoration

Surface
Water Quality

Natural
Storage and
Retention

Riparian
Buffers

Habitat

Drinking
Water
Sources

Flooding

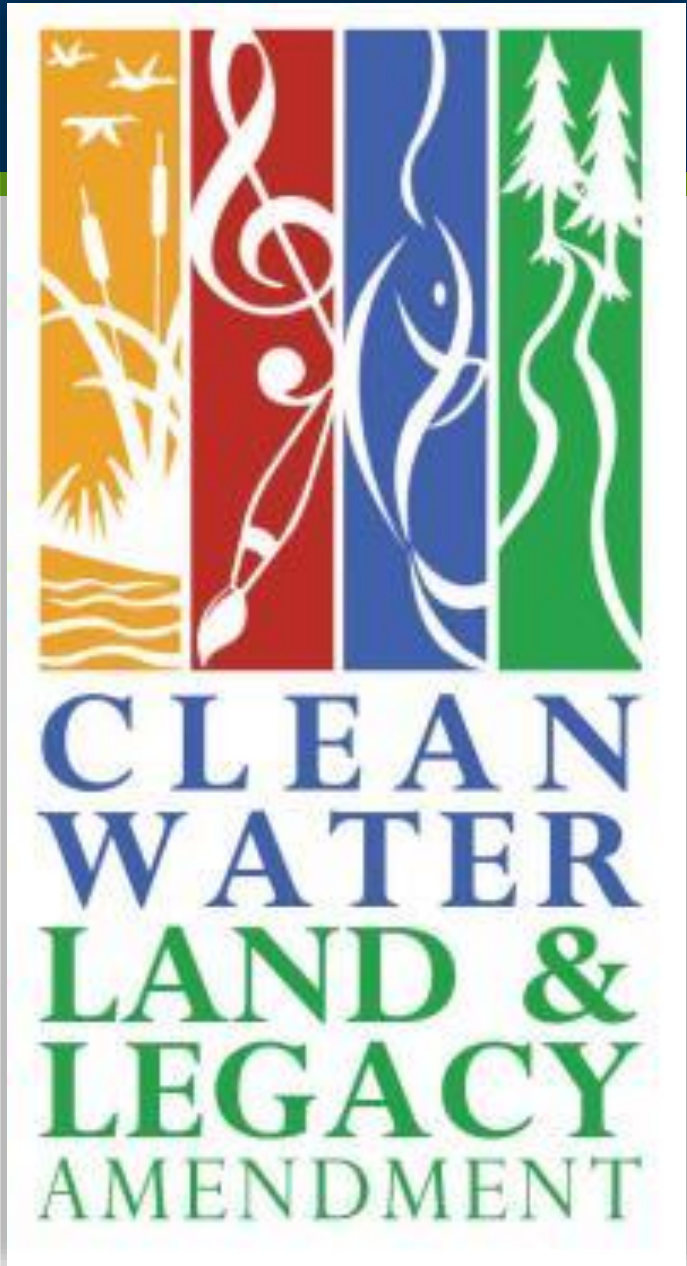
Recreation

Groundwater
Quality

Groundwater
Recharge

- Land and Water Resources Narrative
- Priority Resources and Issues
- Measurable Goals
- Targeted Implementation Schedule
- Plan Implementation Programs
- Plan Administration and Coordination

An Opportunity to Transform



The Clean Water Legacy Act (2006)

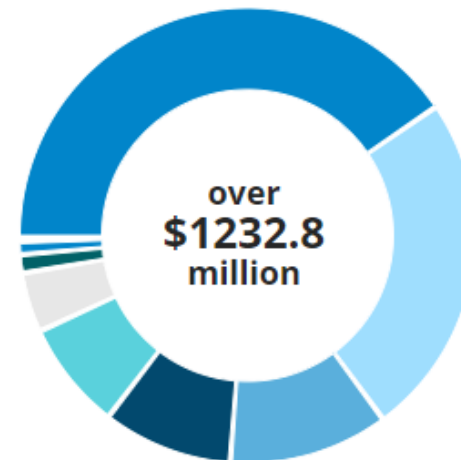
- CWA requirements (Assessment, TMDL)
- Accelerate Implementation
- Protection; Groundwater



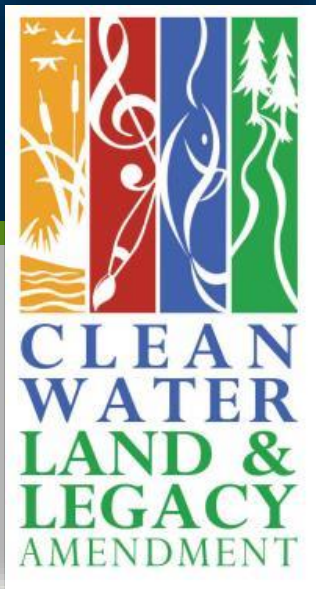
Clean Water Fund

Thirty-three percent of the sales tax revenue from the Legacy amendment is allocated to the Clean Water Fund. Those funds may only be spent to protect, enhance, and restore water quality in lakes, rivers, and streams and to protect groundwater from degradation. At least five percent of the clean water fund must be spent to protect drinking water sources.

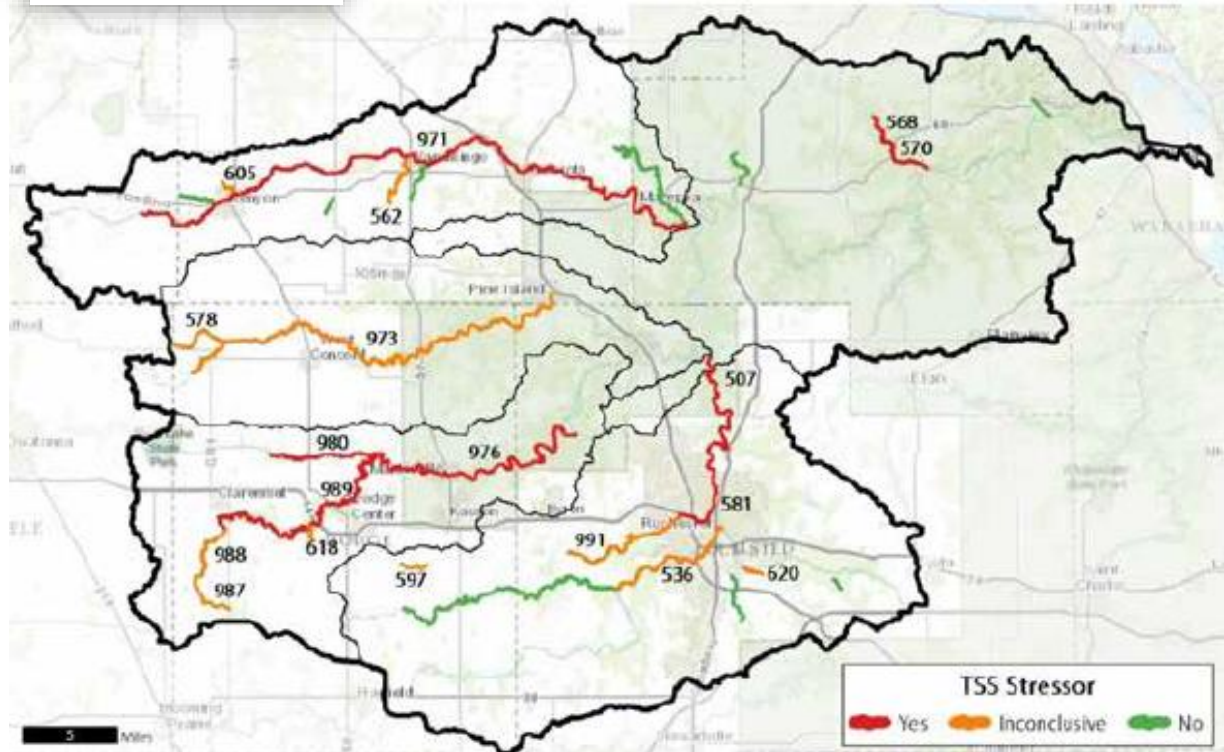
Protecting Minnesota's waters is a joint effort between seven partner agencies, who collaborate and partner on Minnesota's water resource management activities under the Clean Water Fund.

[Browse Clean Water Fund Projects](#)

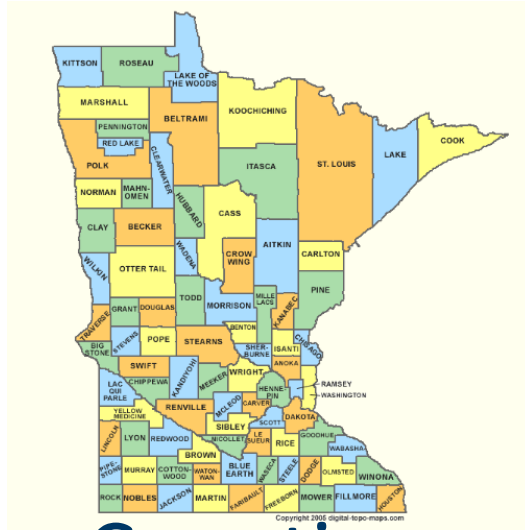
Clean Water Legacy Appropriations
from All (2010-Present)



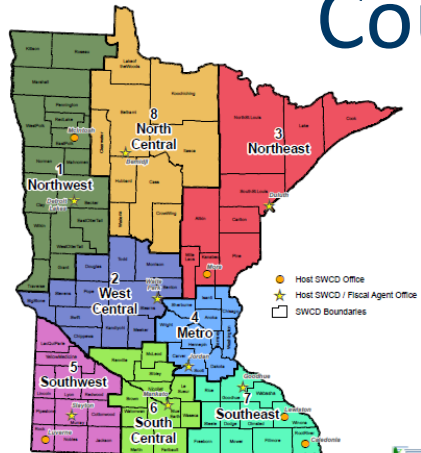
Accelerated, Prioritized, Targeted, Measurable



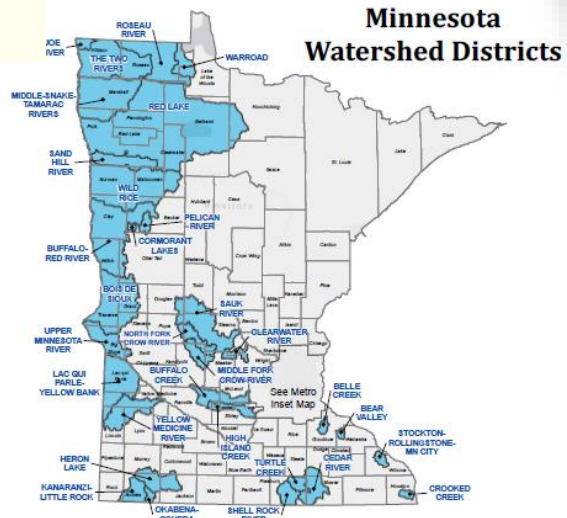
Local Government Water Roundtable



Counties



SWCDs



Watershed Districts















Goals

Implementation + Execution

- Set realistic expectations
- Outline roadmap for how each goal gets accomplished
- Prioritization that supports all stakeholders' desires + goals
- User friendly plan for implementation
- Priorities are flexible and realistic

Stakeholder Impact

Implementation + Execution

Goals

Goals

FARMERS INDEPENDENT

State's 'One Watershed, One Plan' is topic before County Board

By Karen Edelbach
Changes in staff position at the Sheriff's Office weed control, water

Department
Improvement
to hospital
50 beds. The
of \$167,000
match of
the focus
bathrooms
showing

County works to protect watersheds

ALANEA WHITE
EDITOR@PINECOUNTYCOURIER.COM

There are five different watersheds in Pine County and 80 total watersheds in Minnesota. County Commissioners sit on three open state-mandated watersheds.

Date: Thursday, February 13, 2020
Location: CAMBRIDGE, MN
Circulation (DMA): 14,500 (15)
Type (Frequency): Newspaper (W)
Page: 11
Section: Main
Keyword: Minnesota Board of Water & Soil Resources

STAR

Feedback sought on St. Croix watershed plan

Public can see plans and offer input at Feb. 20 meeting at North Branch Library

Page: 1,7
Section: Main
Keyword: Minnesota Board of Water & Soil Resources

Why is a One Watershed One Plan (1W1P) good for the Pine River Watershed?

Located in northern Crow Wing County and southern Cass County, the Pine River watershed contains over 500 lakes, including some of

cess in mitigating the present decline in the quality of water in the Pine River Watershed. The plan has been completed and has been

attendees that the Pine River 1W1P provides 10.7 million dollars over the next ten years to enhance and protect water quality in this

Austin Daily Herald

Public hearing set for Cedar River 1W1P plan

Austin Daily Herald
newsroom@austindailyherald.com

After two years in the works, a draft plan for managing water

to vote
adopt.
Under
aims to
based on
boundaries
smaller,
aries. The
that there
threats to
water res
ing surfa
water, a
with pra
ing the
ronment
plan will
layer of

Local watershed planning efforts get shot in the arm

Local watershed planning efforts recently received a shot in the arm from the Minnesota Board

tion from state and federal agencies, nonprofit organizations and community stakeholders. The resulting

We had excellent professional guidance, a plentiful amount of research-based information, and a knowledgeable, articulate group of individuals working together to develop what is, in my opinion, a great plan. It was a privilege to participate.

Value to Planning Participants: Prioritization

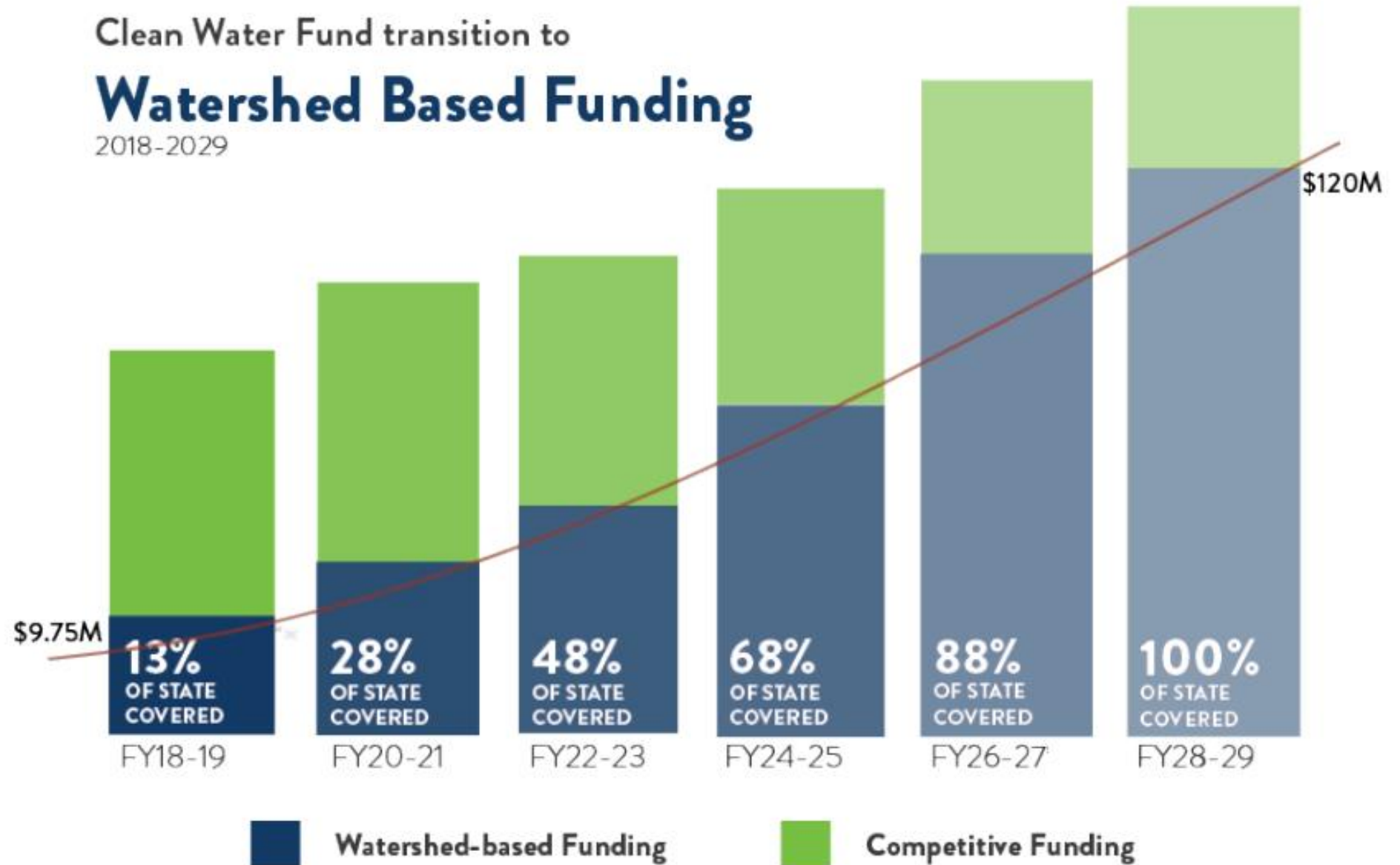
And a real-life example is, there was a project that came up that one elected official thought would be greatest project ever. The group went to drawing board, referenced their plan and said this isn't a priority and we don't want to spend money and held themselves accountable. They had a plan that was prioritized, targeted, with measurable outcomes and dictated where they are going to do these things and without that they wouldn't have the leg to stand on.

Recommended "Po

1. Recommend a i
groundwater ar
to drinking wat
activities as des
2. Recommend sp
priorities in app
Watershed One
the following sc
 - a. 30
 - b. 40
 - c. 50
 - d. 55
 - e. 60
 - f. 60
 - g. 60

Clean Water Fund transition to Watershed Based Funding

2018-2029



Percentage increases are approximate

WBIF – Grants & Dollars

FY22/23

5 + 17 + 13 + Metro

~\$41M

Winona/La Crescent
Le Sueur River
Des Moines River
Lac qui Parle/Yellow Bank
Long Prairie River
Otter Tail River
Clearwater River
Middle Snake Tamarac Rivers
Snake River
Lower MN River West
St. Louis River
Rum River
Shell Rock River/Winnebago
Hawk Creek-Middle Minnesota
Greater Zumbro River
Mississippi Headwaters

Leech Lake River
Lake of the Woods
Pine River
Cedar River
Thief River
Pomme de Terre River
Cannon River
Missouri River Basin
Mustinka/Bois de Sioux
Sauk River
Buffalo-Red River
Lower St. Croix River
Watonwan River
Redeye River
Marsh and Wild Rice
Two Rivers Plus
Nemadji River

FY20/21

5 + 17 + Metro

~\$24M

Lake Superior North
North Fork Crow River
Root River
Red Lake River
Yellow Medicine River
Metro

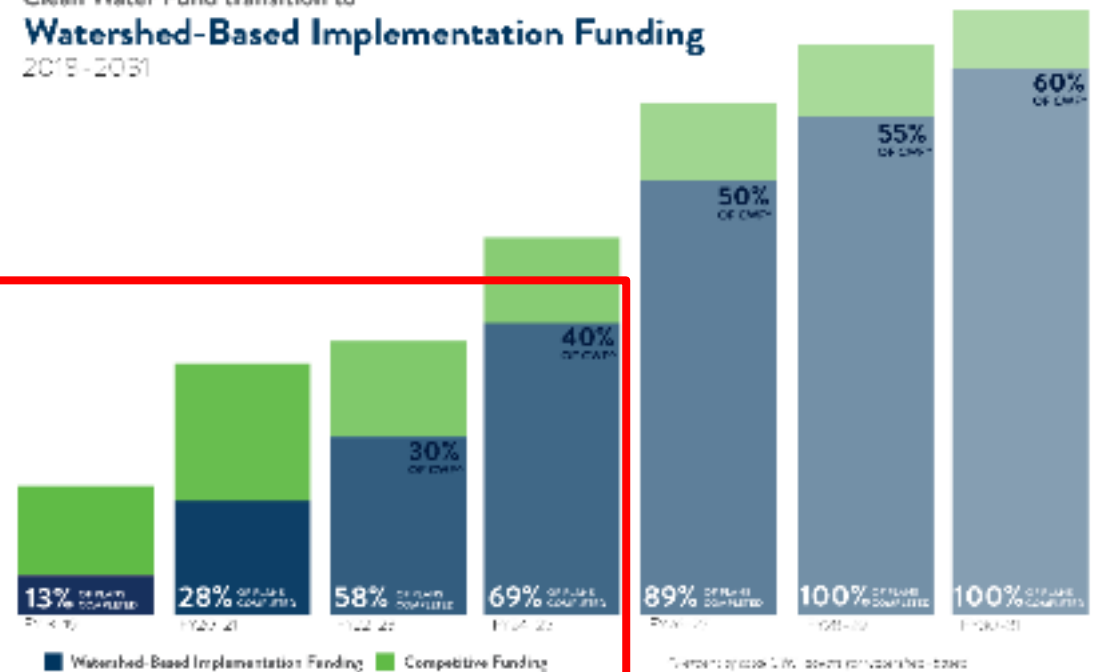
Lake Superior North
North Fork Crow River
Root River
Red Lake River
Yellow Medicine River
Metro

FY18/19

5 + Metro

~\$9M

Clean Water Fund transition to Watershed-Based Implementation Funding 2019-2031



5

22

37

49

61



Cass County; Ulteig Engineering



Pennington SWCD



BWSR



Steve Snyder



BWSR

Water Management Transformation

Collaborative
planning

Coordinated
implementation

Measurable
results

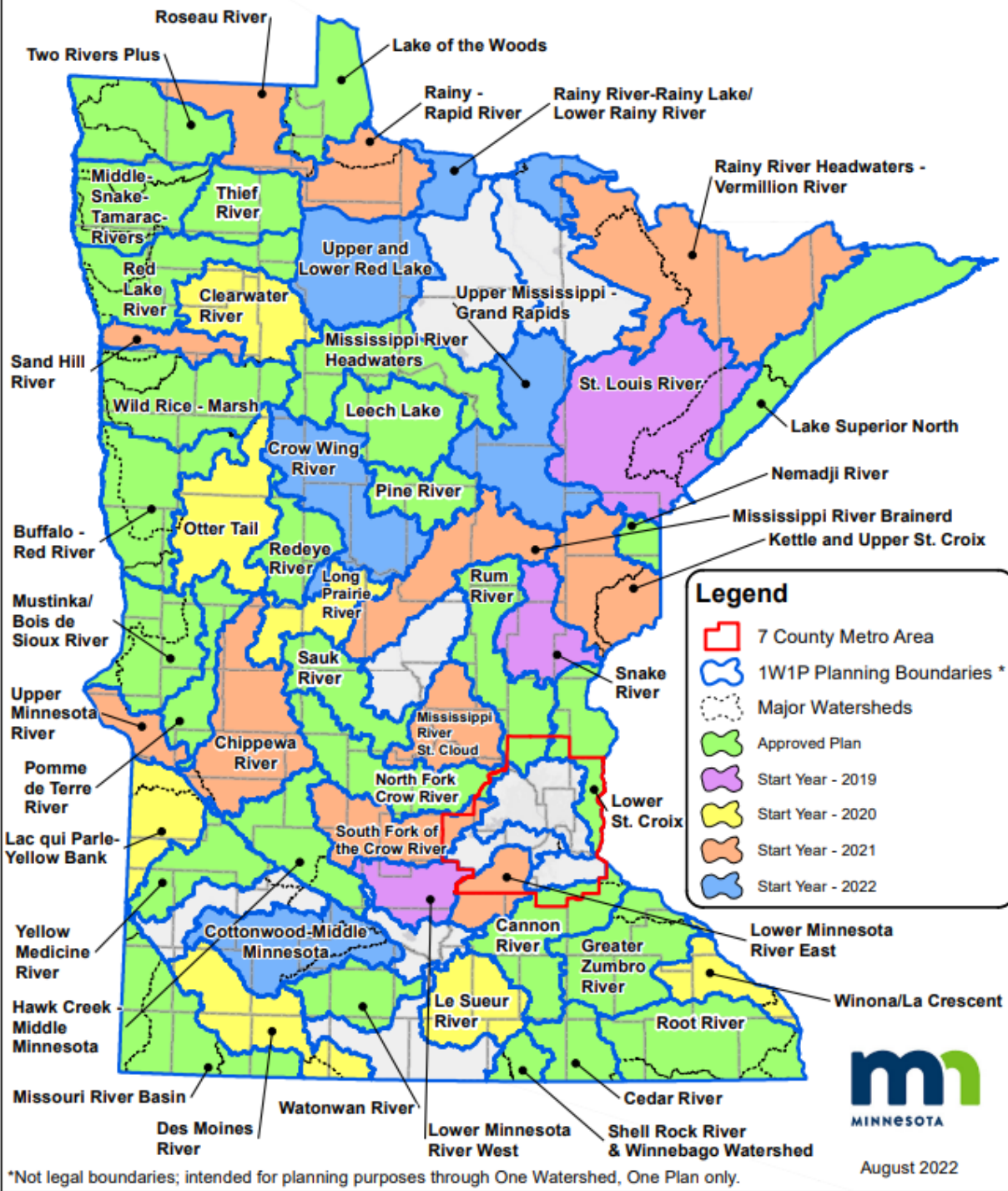
Shared vision and
priorities

Resource – focused,
data driven

Multiple funding
sources

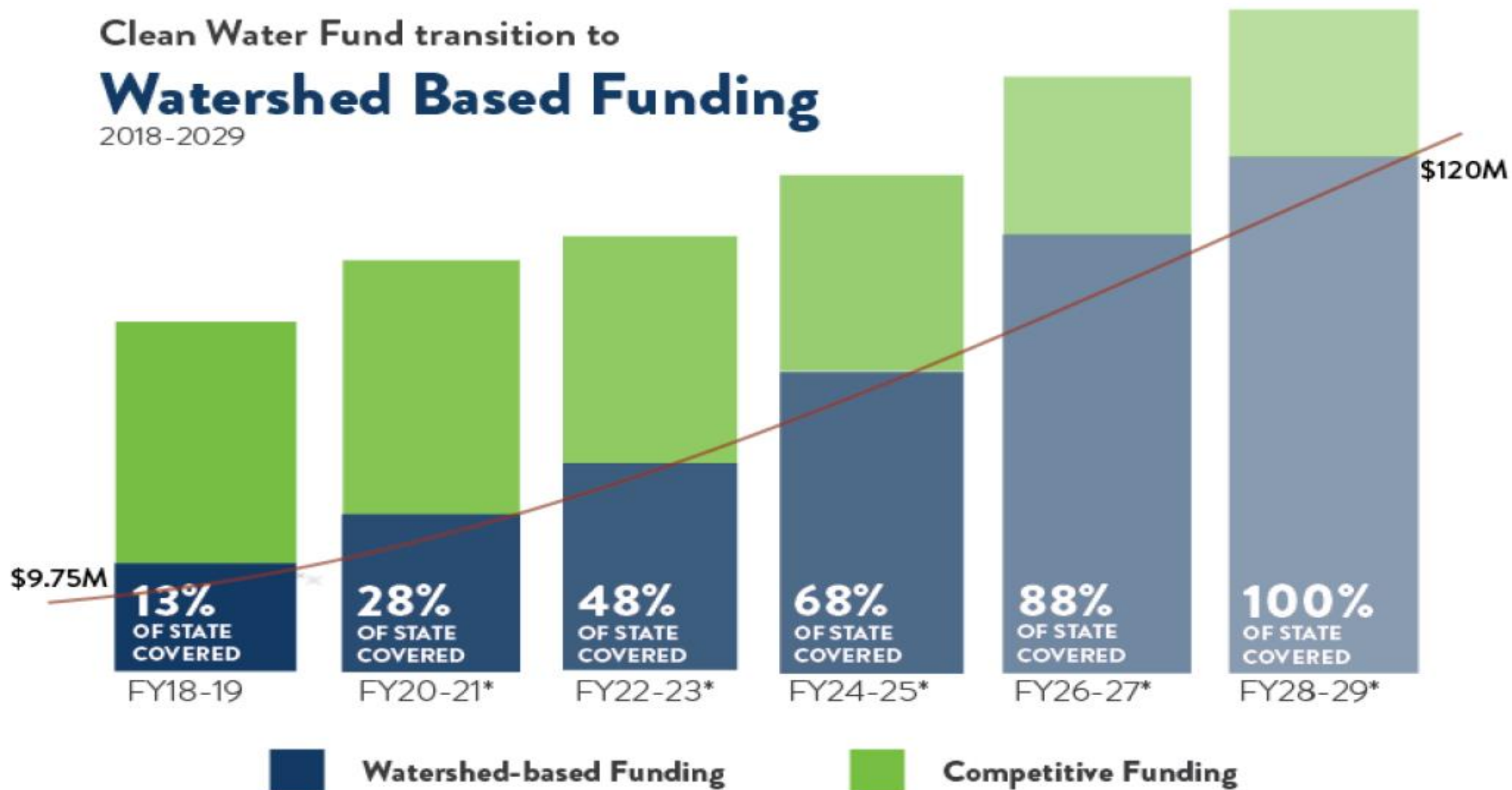
One Watershed, One Plan

- Progress to this point
- All plans started by 2025
- Implementation following



Clean Water Fund transition to **Watershed Based Funding**

2018-2029



**Projected amounts*