

You may have noticed the article in the Star Tribune this morning about buffer strips-
<http://www.startribune.com/local/256920531.html>.

The article is obviously very slanted. It also contains many inaccuracies and some things that are true but presented in a very confusing way.

Here are some relevant key facts-

- The MN Shoreland Rule is a DNR rule (Chapter 6120) that generally requires a 50 foot buffer along all lakes greater than 25 acres (10 acres if located within a municipality) and streams “of the size and physical limits of drainage areas” as determined by the commissioner (which means essentially all permanent streams).
- Specifically, here is what 6120 says about agriculture. The agricultural use standards (6120.3300 subpart 7) state that “general farming, grazing, nurseries, horticulture, truck farming, sod farming and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan consistent with field office technical guides of the local soil and water conservation districts or the U.S. Soil Conservation Service” (now NRCS).
- Enforcement of rule 6120 is by local governments (6120.2800 subpart 1 and 6120.3900 subpart 1) which is usually the county.
- Counties have some flexibility to deviate from the 50 foot requirement such as “topography or vegetation characteristics that would make use of particular minimum state standards impractical” or when shorelands are managed under other related resource management programs authorized by state or federal legislation with goals compatible with Minnesota statutes”. In other words, counties can adopt something more or less than 50 feet, or can allow farming when an NRCS-approved conservation plan is in place.
- Anti-ag activists are attempting to force an effective change in the state rule by omitting the agricultural clause and simply stating over and over and over that state law requires a 50 foot perennial buffer (which we have already established is not the whole truth).
- Anti-ag activists have been encouraging county boards to deny any conservation plan that includes annual crops.
- As noted in the article- the presence of 50 foot buffers along waterways is highly variable across the state (“inexplicable” according to the EWG) but there is some logic behind this. The counties that border Wisconsin and counties that border the lower Minnesota River have relatively higher percentage of the 50 foot shoreland area in perennial cover, primarily because the steepness of most streams does not allow (and never has allowed) farming. The example quoted in the article from Blue Earth County could have included this fact, from a Blue Earth County SWCD analysis done in 2010 that showed that 94.3% of the 6,970 acres located within 50 feet of streams were already in perennial vegetation, noting that “just 398 acres” need to be buffered. That’s about 1.2 acres per landowner (if the 336 landowners noted in the article is correct).
- A similar analysis done in 2010 by the Cannon River Watershed Partnership of 9 counties in Southeast MN found just 4.3% of the area within 50 feet of streams was in cropland, although they used stream centerline, which would slightly underestimate crop land, but not significantly. However, as this anti-ag effort moves north and west, it is important that farmers and county commissioners understand that they have options. It will also be important for those counties

who choose to allow farming under an NRCS- approved conservation plan to work with their local NRCS officials. Because the rule was not often enforced until now, many farmers have not update and maintained a conservation plan for these areas. In northwest Minnesota, perhaps something less than 50 feet would be adequately protective of water quality. Farmers, talk to your county officials.

- As long as the option for farming under a conservation plan exists, these areas are eligible for enrollment in the Continuous Sign-up CRP program (CCRP). Most counties are still allowing these acres into the program. In the future, if the option for farming under a conservation plan is taken away, then these areas are no longer eligible for federal programs because acres that are not allowed to be farmed are not eligible for CRP.

Primary messages on the shoreland rule-

- Where buffers are needed, they are effective and farmers should work toward implementation.
- Counties are best positioned to determine their local land use policies.

Now onto the drainage buffer rule (which was not the subject of the article but was pictured).

- State law (103E) requires that “a permanent strip of perennial vegetation” “be established on each side” of any “public drainage system” following any proceeding to “establish, construct, improve or do any work affecting” the ditch system, including the redetermination of benefits. This law does not apply to private drainage systems.
- The law does allow the drainage authority to order the establishment of required buffers and assign the costs back to the parties benefiting from the drainage system (103E.021 subdivision 6).
- There is much confusion about the concept of “public” ditches, including among farmers. “Public” does not mean the public has invested money in or has any control over a public drainage system- it only means that the benefited landowners chose to have the local government (usually the county) do the accounting for them. When a public ditch system is built, repaired or improved, all costs are divided among the benefited land owners, and the county assesses these costs along with property taxes.
- By contrast, a “private” ditch is managed by the landowners. All construction, maintenance and improvement costs divided among them, but they either do the paperwork themselves or hire someone to do it.
- In both cases, buffer areas can be included in the total cost of the ditch system and thus divided among all benefited landowners, so that the farmland owner adjacent to the ditch is not the only one affected.
- The overall effectiveness of ditch buffers to reduce water pollution can be debated. Regardless, there is potential “public relations” value in having buffers in place.