

# Technical Memorandum

**To:** Linda Loomis, Administrator  
Lower Minnesota River Watershed District

**From:** Katy Thompson, PM  
Della Schall Young, CPESC, PMP  
Madison Jeseritz, QCIS

**Date:** November 13, 2020

**Re:** Shakopee Mix Use Permit Amendment (LMRWD No. 2020-123)

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Advanced Engineering and Environmental Services, Inc. (AE2S or applicant), has previously applied for an Individual Project Permit from the Lower Minnesota River Watershed District (LMRWD or District) on behalf of Gaughan Companies (the project owner and project contractor), to develop the site located on 339 1st Avenue West, Shakopee in Scott County (**Figure 1**). This project was previously reviewed and approved by the Board at the September 16, 2020, meeting for demolition of existing buildings, asphalt and concrete pavement, and associated infrastructure (see attached September 11, 2020, project review).

On November 2, 2020, the applicant applied for an Individual Project Permit from the District to start construction of the building foundations and site development. Timing is a concern to the applicant because the project footings require a specialized contractor for installation. The foundation work is scheduled for November and December 2020 for the Shakopee Mixed Use project.

The City of Shakopee is separately completing the design of a road reconstruction adjacent to the Shakopee Mixed Use project, which will create an additional 0.23 acres of new impervious surface. An underground stormwater best management practice (BMP) will be constructed within the City's right-of-way that will provide stormwater treatment for both the city street project and the private Shakopee Mixed Use project.

As discussed with the City, the city street project will likely begin during the summer of 2021 and will include the construction of the regional stormwater BMP. The applicant does not currently have a building permit from the City to develop the site or to construct new impervious surfaces. The City has issued a foundation permit in the interim, while the stormwater design and phasing plan of the private and public projects are prepared. The City also said that the building permit will not be issued until the project has obtained City approval of the Stormwater Management Plan and a LMRWD permit for stormwater management.

### **Project Summary**

|                                  |  |
|----------------------------------|--|
| <u>Project Name:</u>             | Shakopee Mixed Use                           |
| <u>Purpose:</u>                  | Deep footing and foundation construction     |
| <u>Project Size:</u>             | 3.35 acres total                             |
| <u>Location:</u>                 | 339 1st Ave. W., Shakopee, MN, 55739         |
| <u>Applicable LMRWD Rules:</u>   | Rule B—Erosion and Sediment Control          |
| <u>Recommended Board Action:</u> | Approval of amendment to Permit No. 2020-123 |

### **Discussion**

The District has received the following documents for review:

- LMRWD Individual Permit Application dated November 2, 2020
- Cover Memo for Full Submittal dated October 30, 2020; received November 2, 2020
- Stormwater Pollution Prevention Plan Submittal Sheets prepared by AE2S; dated October 2020; received November 2, 2020
- Stormwater Management Plan prepared by AE2S; dated October 2020; received November 2, 2020
- Stormwater Management Plan P8 models received November 2, 2020
- Stormwater Schematic Plan and Chamber Detail dated October 14, 2020; received November 10, 2020

The documents provided include the minimum information necessary for review.

#### **Rule B—Erosion and Sediment Control**

The applicant had previously provided an erosion and sediment control plan,

Stormwater Pollution Prevention Plan (SWPPP), and National Pollutant Discharge Elimination System (NPDES) permit coverage for the Shakopee Mixed Use development under LMRWD No. 2020-123. The applicant has amended its NPDES permit previously granted by the Minnesota Pollution Control Agency for the site demolition to include foundation excavation and site development. This amended NPDES permit and the revised erosion control plan and SWPPP have been provided to the District for review.

As discussed above, the City of Shakopee has issued this project a foundation permit that allows the applicant to begin work on the construction of the building foundation but does not allow the construction of new impervious surface. Construction of new impervious surface will require a building permit from the City and a new LMRWD permit for stormwater management.

### **Recommendations**

The applicant has made it clear that time is of the essence for the project. We recommend approving an amendment of the existing permit (LMRWD No. 2020-123) to include site grading and foundation excavation, consistent with City of Shakopee and Minnesota Pollution Control Agency approvals.

We also recommend the applicant and City of Shakopee continue to work together with the District as both projects refine the regional stormwater BMP design.

### **Attachments**

- Figure 1. Shakopee Mixed Use Project Location Map
- September 11, 2020, Project Review Memo for LMRWD No. 2020-123
- Amended Permit No. 2020-123



Figure I: Shakopee Mix Use Project Location



**LEGEND**

- Project Location
- Project Area
- Proposed Stormwater BMP
- LMRWD Boundary
- Steep Slopes Overlay District
- 100-yr Floodplain
- Floodway
- 500-yr Floodplain

**LMRWD Watershed Location Map**



# Technical Memorandum

**To:** Linda Loomis, Administrator  
Lower Minnesota River Watershed District

**From:** Madison Jeseritz, QCIS  
Della Schall Young, CPESC, PMP

**Date:** September 11, 2020

**Re:** Shakopee Gaughan Removal Plan Permit Review (LMRWD No. 2020-0123)

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Advanced Engineering and Environmental Services, Inc., (AE2S) has applied for an Individual Project Permit from the Lower Minnesota River Watershed District (LMRWD or District). Together with Gaughan Companies (the project owner), AE2S is proposing to prepare the site at located on 339 1st Ave W, Shakopee, Minnesota, 55379, in Scott County (**Figure 1**) for future development. This phase of the project consists of demolishing existing buildings and removing asphalt and concrete pavement and associated infrastructure. Future development will be permitted under a separate permit application.

The proposed project site is located in the City of Shakopee (City) and because the City does not have its LMRWD municipal LGU permit, this project is subject to LMRWD permitting review. As presented, the project is neither within FEMA recognized floodplain areas nor located within either of the LMRWD special districts, but it does trigger the District's Rule B—Erosion and Sediment Control, resulting in the applicant's obligation to obtain a District permit before the start of land disturbing activities.

## Project Summary

Project Name: Shakopee Gaughan Removal Plan

Purpose: Demolition and Clearing

|                                  |  |
|----------------------------------|--|
| <u>Project Size:</u>             | 3.40 acres, 3.40 acres disturbed, 1.60 acres of existing impervious, 0 acres of proposed impervious, and 0 acres of new impervious created |
| <u>Location:</u>                 | 339 1 <sup>st</sup> Ave W, Shakopee, MN, 55379   |
| <u>Applicable LMRWD Rules:</u>   | Rule B—Erosion and Sediment Control  |
| <u>Recommended Board Action:</u> | Permit Approval  |

## Discussion

The District has received the following documents for review:

- LMRWD Individual Permit Application by AE2S dated August 27, 2020
- 11x17 Full Civil Plan Set by AE2S dated August 2020

The documents provided includes the information necessary for review.

### Rule B—Erosion and Sediment Control

The District regulates land-disturbing activities that affect one acre or more under Rule B. The proposed project would disturb approximately 3.40 acres within the LMRWD boundary. The applicant has provided an erosion and sediment control plan, Stormwater Pollution Prevention Plan, and a copy of the NPDES permit. The Project complies with Rule B.

## Recommendations

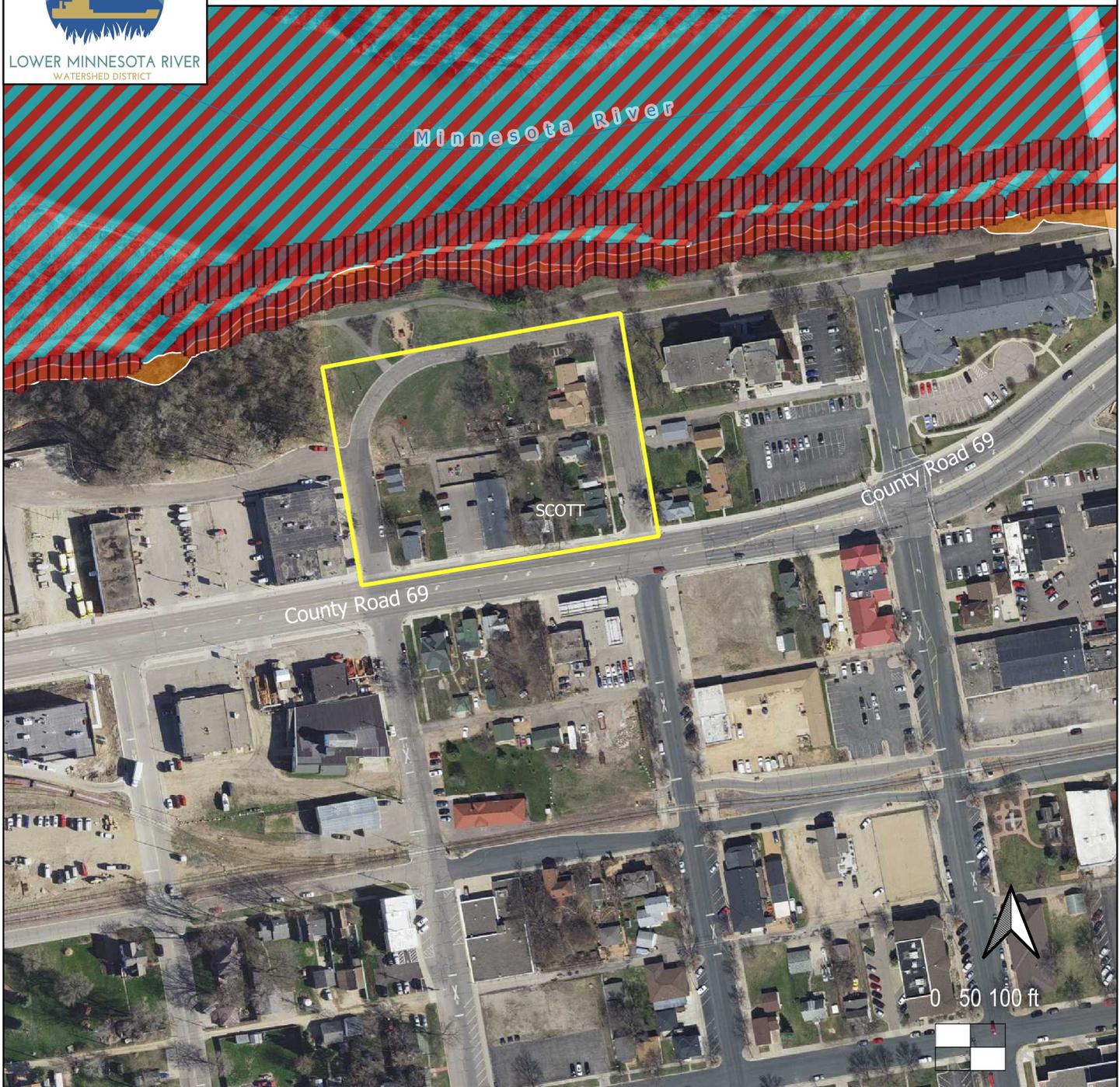
The Project meets the requirements outlined in the District Rules. We recommend Board approval and issuance of the attached permit (LMRWD Individual Permit 2020-0123).

### Attachments:

- Figure 1. Project Location
- LMRWD Individual Permit 2020-0123



Figure 1: 339 1st Ave W, Shakopee, MN, 55379



LEGEND

Project Location



Public Waterways

Public Waterbodies

Steep Slopes Overlay District





## Individual Project Permit

Pursuant to Minnesota Statutes, Chapters 103B and 103D, consistent with the rules of the Lower Minnesota River Watershed District (LMRWD), and on the basis of statements and information contained in the permit application, plans and supporting information provided by the applicant, all of which are made part hereof by reference, **permission is hereby granted** to the applicant to perform actions as authorized below.

By granting this permit, the LMRWD does not direct the activity authorized herein or warrant the soundness of the applicant's design or methods in any respect. The LMRWD waives no immunity or protection applicable to itself, an officer, an agent or an employee pursuant to this approval.

|   |   |   |
|---|---|---|
| <b>Project Name</b><br>Shakopee Gaughan Removal Plan  | <b>Project Location</b><br>339 1st Ave W, Shakopee, MN, 55379                                     |   |
| <b>Type of Development</b><br>Commercial  | <b>City</b><br>Shakopee   | <b>County</b><br>Scott                      |
| <b>Permittee/Property Owner's Name and Title</b><br>Dan Hebert  | <b>Permittee Mailing Address</b><br>56 East Broadway Ave, Suite 200, Forest Lake, MN,<br>55025    |   |
| <b>Authorized Agent Name and Title</b><br>Laura Wehr  | <b>Agent Email Address</b><br>laura.wehr@ae2s.com   | <b>Agent Phone Number</b><br>(612)-364-5509 |
| <b>Purpose of Permit:</b><br>Demolition of existing buildings including building pads, removal of existing pavement, and trash remediation and removal. | <b>Authorized Action(s):</b><br>Grading, erosion, and sediment control.                           |   |
| <b>Affected Rule(s):</b> Rule B: Erosion and Sediment Control Rule  |   |   |
| <b>Issued Date:</b><br>9/16/2020  | <b>Effective Date:</b><br>9/16/2020   | <b>Expiration Date:</b><br>9/16/2021        |
| <b>Authorized Issuer Name and Title</b><br>Linda Loomis, Administrator  | <b>Email Address:</b><br><a href="mailto:naiadconsulting@gmail.com">naiadconsulting@gmail.com</a> | <b>Phone Number:</b><br>(763) 545-4659      |

This permit is granted **subject to** the following **general conditions**:

All erosion and sediment control measures must be effectively installed and maintained according to LMRWD guidelines and MPCA NPDES Permit guidelines as laid out by current District Rules and Policies until all disturbed soils have been permanently stabilized.

Grading and excavating must not begin until the applicant has been noticed that a permit has been issued and required erosion control measures are in place. Working without a permit where required is in violation of LMRWD Rules and is a misdemeanor subject to penalty by law.

**Applicable federal, state, or local regulations:** The permittee is responsible for the action(s) of their representative, contractor and employees and compliance with all rules, regulations, requirements, or standards of any applicable federal, state, or local agencies; including, but not limited to, the U.S. Army Corps of Engineers, Board of Water and Soil Resources, MN Pollution Control Agency, watershed districts, water management organizations, county, city and township zoning.

**Site access:** In accepting this permit, the owner recognizes and agrees that LMRWD representatives may enter the site at reasonable times to inspect the activities authorized hereunder and compliance with the requirements of this permit, the LMRWD Rules and applicable statutes. This includes routine site inspections as well as inspections during or immediately following installation of best management practices, following storms/critical events, prior to seeding deadlines, for the purpose of permit closeout, or on report of issue or complaint. This right of access is in addition to the access authority of the LMRWD under existing law.

**Completion date:** Construction work authorized under this permit shall be completed on or before the date specified above. No construction is authorized beyond the expiration date. The permittee may request an extension of the time to complete the project by submitting a written request, stating the reason thereof, to the LMRWD, no later than two weeks before this permit expiration.

**Written consent:** In all cases where the permittee by performing the work authorized by this permit shall involve the taking, using, or damaging of any property rights or interests of any other person or persons, or of any publicly owned lands or improvements thereon or interests therein, the permittee, before proceeding, shall obtain the written consent of all persons, agencies, or authorities concerned, and shall acquire all property, rights, and interests needed for the work.

**Not assignable:** This permit is not assignable nor transferable by the permittee except with the written consent of the LMRWD.

**No changes:** The permittee shall make no changes, without written permission or amendment previously obtained from the LMRWD, in the dimensions, capacity or location of any items of work authorized hereunder.

**Permission only/ no liability:** This permit is permissive only. No liability shall be imposed by the LMRWD or any of its officers, agents or employees, officially or personally, on account of the granting hereof or on account of any damage to any person or property resulting from any act or omission of the permittee or any of its agents, employees, or contractors. This permit shall not be construed as estopping or limiting any legal claims or right of action of any person other than the state against the permittee, its agents, employees, or contractors, for any damage or injury resulting from any such act or omission, or as estopping or limiting any legal claim or right of action of the state against the permittee, its agents, employees, or contractors for violation of or failure to comply with the permit or applicable conditions.

**Contractor responsibility:** The permittee shall ensure the contractor has received and thoroughly understands all conditions of this permit.

**Termination:** This permit may be terminated by the LMRWD at any time deemed necessary for the conservation of water resources, or in the interest of public health and welfare, or for violation of any of the conditions or applicable laws, unless otherwise provided in the permit.



LOWER MINNESOTA RIVER  
WATERSHED DISTRICT

Permit Number

2020-123

Amended:  
November 18, 2020

## Individual Project Permit

Pursuant to Minnesota Statutes, Chapters 103B and 103D, consistent with the rules of the Lower Minnesota River Watershed District (LMRWD), and on the basis of statements and information contained in the permit application, plans and supporting information provided by the applicant, all of which are made part hereof by reference, **permission is hereby granted** to the applicant to perform actions as authorized below.

By granting this permit, the LMRWD does not direct the activity authorized herein or warrant the soundness of the applicant's design or methods in any respect. The LMRWD waives no immunity or protection applicable to itself, an officer, an agent or an employee pursuant to this approval.

|  |   |   |
|--|---|---|
| <b>Project Name</b><br>Shakopee Gaughan Removal Plan   | <b>Project Location</b><br>339 1st Ave W, Shakopee, MN, 55379   |   |
| <b>Type of Development</b><br>Commercial   | <b>City</b><br>Shakopee   | <b>County</b><br>Scott                      |
| <b>Permittee/Property Owner's Name and Title</b><br>Dan Hebert   | <b>Permittee Mailing Address</b><br>56 East Broadway Ave, Suite 200, Forest Lake, MN, 55025                                       |   |
| <b>Authorized Agent Name and Title</b><br>Laura Wehr   | <b>Agent Email Address</b><br>laura.wehr@ae2s.com   | <b>Agent Phone Number</b><br>(612)-364-5509 |
| <b>Purpose of Permit:</b><br>Demolition of existing buildings including building pads, removal of existing pavement, and trash remediation and removal;<br>excavation for deep footings and foundation construction. | <b>Authorized Action(s):</b><br>Grading, erosion, and sediment control; excavation for deep footings and foundation construction. |   |
| <b>Affected Rule(s):</b> Rule B: Erosion and Sediment Control Rule   |   |   |
| <b>Issued Date:</b><br>9/16/2020; Amended 11/18/2020   | <b>Effective Date:</b><br>9/16/2020; Amended 11/18/2020   | <b>Expiration Date:</b><br>9/16/2021        |
| <b>Authorized Issuer Name and Title</b><br>Linda Loomis, Administrator   | <b>Email Address:</b><br><a href="mailto:naiadconsulting@gmail.com">naiadconsulting@gmail.com</a>                                 | <b>Phone Number:</b><br>(763) 545-4659      |

This permit is granted **subject to** the following **general conditions**:

**NPDES Permit:** Submit a copy of the NPDES construction stormwater general permit to the LMRWD before construction begins.

All erosion and sediment control measures must be effectively installed and maintained according to LMRWD guidelines and MPCA NPDES Permit guidelines as laid out by current District Rules and Policies until all disturbed soils have been permanently stabilized.

Grading and excavating must not begin until the applicant has been noticed that a permit has been issued and required erosion control measures are in place. Working without a permit where required is in violation of LMRWD Rules and is a misdemeanor subject to penalty by law.

**Applicable federal, state, or local regulations:** The permittee is responsible for the action(s) of their representative, contractor and employees and compliance with all rules, regulations, requirements, or standards of any applicable federal, state, or local agencies; including, but not limited to, the U.S. Army Corps of Engineers, Board of Water and Soil Resources, MN Pollution Control Agency, watershed districts, water management organizations, county, city and township zoning.

**Site access:** In accepting this permit, the owner recognizes and agrees that LMRWD representatives may enter the site at reasonable times to inspect the activities authorized hereunder and compliance with the requirements of this permit, the LMRWD Rules and applicable statutes. This includes routine site inspections as well as inspections during or immediately following installation of best management practices, following storms/critical events, prior to seeding deadlines, for the purpose of permit closeout, or on report of issue or complaint. This right of access is in addition to the access authority of the LMRWD under existing law.

**Completion date:** Construction work authorized under this permit shall be completed on or before the date specified above. No construction is authorized beyond the expiration date. The permittee may request an extension of the time to complete the project by submitting a written request, stating the reason thereof, to the LMRWD, no later than two weeks before this permit expiration.

**Written consent:** In all cases where the permittee by performing the work authorized by this permit shall involve the taking, using, or damaging of any property rights or interests of any other person or persons, or of any publicly owned lands or improvements thereon or interests therein, the permittee, before proceeding, shall obtain the written consent of all persons, agencies, or authorities concerned, and shall acquire all property, rights, and interests needed for the work.

**Not assignable:** This permit is not assignable nor transferable by the permittee except with the written consent of the LMRWD.

**No changes:** The permittee shall make no changes, without written permission or amendment previously obtained from the LMRWD, in the dimensions, capacity or location of any items of work authorized hereunder.

**Permission only/ no liability:** This permit is permissive only. No liability shall be imposed by the LMRWD or any of its officers, agents or employees, officially or personally, on account of the granting hereof or on account of any damage to any person or property resulting from any act or omission of the permittee or any of its agents, employees, or contractors. This permit shall not be construed as estopping or limiting any legal claims or right of action of any person other than the state against the permittee, its agents, employees, or contractors, for any damage or injury resulting from any such act or omission, or as estopping or limiting any legal claim or right of action of the state against the permittee, its agents, employees, or contractors for violation of or failure to comply with the permit or applicable conditions.

**Contractor responsibility:** The permittee shall ensure the contractor has received and thoroughly understands all conditions of this permit.

**Termination:** This permit may be terminated by the LMRWD at any time deemed necessary for the conservation of water resources, or in the interest of public health and welfare, or for violation of any of the conditions or applicable laws, unless otherwise provided in the permit.