



LOWER MINNESOTA RIVER WATERSHED DISTRICT

Executive Summary for Action

Lower Minnesota River Watershed District Board of Managers Meeting

Wednesday, October 19, 2022

Agenda Item

Item 7. J. – Permits & Project Reviews

Prepared By

Linda Loomis, Administrator

Summary

i. **City of Burnsville Municipal LGU Permit (Surface Water Management Plan and Ordinance Controls Review)**

This item was on the September 16th meeting agenda, however the City requested that the item be removed from the agenda. Ryan Peterson, Public Works Director, City of Burnsville, will attend the meeting to address the Board.

Technical Memorandum – City of Burnsville Municipal LGU Permit (Surface Water Management Plan and Ordinance Controls Review) dated September 14, 2022, is attached and provides comments and recommendations regarding the approval of the Municipal LGU Permit. As noted in the Technical Memorandum, the City's ordinances for Floodplain Management differs from LMRWD Rule C – Floodplain and Drainage Alteration. The City has asked for a discussion with the LMRWD about LMRWD Rule C.

Attachments

Technical Memorandum – City of Burnsville Municipal LGU Permit (Surface Water Management Plan and Ordinance Controls Review) dated September 14, 2022

Recommended Action

Motion to conditionally approve a Municipal; LGU Permit for the City of Burnsville subject to resolving outstanding items listed in the Technical Memorandum – City of Burnsville Municipal LGU Permit (Surface Water Management Plan and Ordinance Controls Review) dated September 14, 2022

ii. **LMRWD Permit Renewals**

Triple Crown Residences Phase II has requested renewal of its permit. Triple Crown is a multi-family residential housing project located in the City of Shakopee. The area where this project is being constructed is part of a regional plan for stormwater management developed by the City.

Attachments

Technical Memorandum – October 2022 Permit Renewal Requests, dated October 12, 2022

Recommended Action

Motion to renew permits as recommended in the Technical Memorandum – October 2022 Permit Renewal Requests, dated October 12, 2022

iii. Valleyfair Parking Expansion (LMRWD No. 2022-034)

Valleyfair Amusement Park plans to re-configure and expand its parking for employees to allow for expansion of the Amusement Park. The expansion requires work in the floodplain and drainage alterations, therefore a LMRWD is required.

The projects has been reviewed by Young Environmental Consulting Group on behalf of the LMRWD and recommends conditional approval subject to receipt of the name and contact information for all contractors conducting land-disturbing activities, name and contact information for the person(s) responsible for erosion control inspections and maintenance, receipt of final construction plans signed by a professional engineer and documentation the the applicant has received full approval for the project from the City of Shakopee.

Attachments

Technical Memorandum – Valleyfair Parking Expansion (LMRWD No. 2022-034), dated October 12, 2022

Recommended Action

Motion conditionally approve LMRWD Permit No. 2022-034 subject to receipt of name and contact information for all contractors undertaking land-disturbing activities as part of the proposed project, name and contact information for the person(s) responsible for erosion control inspections and maintenance, final construction plans signed by a professional engineer, and documentation that the applicant has received full approval for the project from the City of Shakopee.

iv. 2022 MBL Nicollet River Crossing (LMRWD No. 2022-002) – Project Update

This is an update on a permit that was issued by the LMRWD in April 2022.

Attachments

Technical Memorandum - 2022 MBL Nicollet River Crossing (LMRWD No. 2022-002) | Project Update, dated October 12, 2022

Recommended Action

No action is required – for information only

v. Permit Program Summary

A summary of the status of all outstanding LMRWD permits is attached for the Board’s information

Attachments

LMRWD Permit Program Summary – October 12, 2022

Recommended Action

No action recommended

vi. 535 Lakota Lane, Chanhassen

Legal counsel has prepared draft a complaint and summons for violation of LMRWD rules at 535 Lakota Lane in Chanhassen. Attorney Joh Kolb will explain the actions required of the Board of Managers

Attachments

Draft Complaint
Draft Summons

Recommended Action

Legal Counsel will advise the Board as the meeting.

Technical Memorandum

To: Linda Loomis, Administrator
Lower Minnesota River Watershed District

From: Karina Weelborg, Water Resources Intern
Hannah LeClaire, PE
Della Schall Young, CPESC, PMP

Date: September 14, 2022

Re: LMRWD—City of Burnsville Municipal LGU Permit (Surface Water Management Plan and Ordinance Controls Review)

On August 4, Jen Desrude, with the City of Burnsville (City), applied for the Lower Minnesota River Watershed District (LMRWD) general municipal local government unit (LGU) permit. The documents offered as an exhibit were City Code Chapter 10-8 Environmental Overlay Districts, City Code Chapter 10-10 Flood Plain Regulations, Appendix C—Development Standards from the Water Resources Management Plan (Appendix C), and a document noting LMRWD rules and the City response. The documents present City evidence of compliance with policy, regulation, exceptions, and criteria associated with rules B—Erosion and Sediment Control, C—Floodplain and Drainage Alteration, D—Stormwater Management, and F—Steep Slopes.

Below is a summary of Young Environmental Consulting Group's (Young Environmental) review of the information provided by the City and our recommendations.

Erosion and Sediment Control

Compliance with the LMRWD's Rule B—Erosion and Sediment Control is captured in City Code Chapter 10-8-8 Controlling Erosion and Sediment from Land Disturbing Activities and Appendix C Sections IV.2 Standards—Erosion and Sediment Control, V Design Criteria, and VI.2 Submittals—Grading and Erosion Control Plan. It should also be noted that the City contains high value resource areas (HVRAs) associated with Black Dog Lake Fen and Nicols Meadow Fen.

The City has requested to include trail maintenance in its list of exceptions for City Code Chapter 10-8-8. All maintenance activities of existing roads (which includes trails) is

listed as an exception in LMRWD Rule B Section 2.3. We therefore recommend this exception be accepted. As presented, the City's general regulatory standards and requirements for the erosion and sediment control match or exceed the LMRWD's requirements. Therefore, the City complies with Rule B, and no additional information is required.

Floodplain Management

The City of Burnsville's ordinances adhere to the state-approved floodplain management and shoreland ordinances but differ from LMRWD Rule C—Floodplain and Drainage Alteration. As such, the City has requested the municipal permit be granted except for projects located in the floodplain.

Stormwater Management

Compliance with the LMRWD's Rule D—Stormwater Management is captured in City Code Chapter 10-8-11 Stormwater Management and Overlay District Standards and Appendix C Sections IV.1 Standards—Stormwater Management, V. Design Criteria, and VI.1 Submittals—Stormwater Management Plan. Approval of an LGU Permit for stormwater management is recommended contingent on addressing the following concerns:

- LMRWD Rule D Section 4.4.2c.iii lists areas that receive discharges from industrial facilities that are not authorized to infiltrate industrial stormwater under an NPDES/SDS Industrial Stormwater Permit issued by the MPCA as unfit for infiltration practices. The City addresses this in Appendix C Section IV.1.A.iii.8, stating that "areas that receive industrial stormwater runoff regulated under the NPDES ISW program" are unfit for infiltration practices. As presented, this contradicts the intent of the LMRWD rule. Please provide clarification of the areas described here that are unfit for infiltration.
- LMRWD Rule D Section 4.4.3.b.iii addresses temperature controls for trout waters. The section lists specific measures in order of preference. The City addresses this in Appendix C Section IV.1.B.iii.2 but does not state specific temperature control measures. It is recommended that the City include these specific measures in its criteria before final approval of an LGU permit. Alternatively, the City may request a municipal permit, except for projects located within HVRAs.
- The LMRWD defines semi-pervious surfaces as land cover or surfaces that include both pervious and impervious features that allow for some infiltration but are directed to a conveyance system, such as synthetic turf and capped or lined systems at landfills. With the upcoming Burnsville Freeway landfill project, the LMRWD would like to know how the City will address stormwater management

for semi-pervious surfaces.

Steep Slopes

Compliance with the LMRWD's Rule F—Steep Slopes is captured in City Code 10-8-8 Controlling Erosion and Sediment from Land Disturbing Activities and Appendix C Sections IV.2 Standards—Erosion and Sediment Control, V. Design Standards, and VI.2 Submittals—Grading and Erosion Control Plan. Approval of an LGU Permit for steep slopes is recommended contingent on addressing the following concerns:

- LMRWD Rule F Section 6.2.b requires a permit for any net increase in impervious surfaces or stormwater runoff within the Steep Slopes Overlay District. This is not addressed in the City application documents. It is recommended this requirement be added before final approval of an LGU Permit.
- The City has requested an additional exception to section 6.3 of Rule F. The exception is as follows, "any activity requiring a city permit that includes less than 5,000 square feet or 50 cubic yards of land disturbance and drains to the street where a municipal storm sewer system manages runoff water." Please provide justification for this exception.

Recommendation

The City's application for an LGU Permit generally meets the requirements outlined within the LMRWD rules. We recommend conditional approval of the permit, conditioned on reconciliation of the outstanding items noted below for Rule D—Stormwater Management and Rule F—Steep Slopes. City staff are encouraged to coordinate any updates with the LMRWD's technical consultant.

- Provide clarification of the areas unfit for infiltration listed in Appendix C Section IV.A.iii.8.
- Update Appendix C Section IV.1.B.iii.2 on temperature control for trout streams to include the specific temperature control measures listed in LMRWD Section 4.4.3.b.iii.
- Provide information on how the City plans to address semi-pervious surfaces such as turf and capped or lined systems at landfills.
- Add a permit requirement for any impervious surfaces constructed in the LMRWD's Steep Slopes Overlay District.
- Provide justification for the City's requested exception for Rule F, "any activity requiring a city permit that includes less than 5,000 square feet or 50 cubic yards of land disturbance and drains to the street where a municipal storm sewer system manages runoff water."



Technical Memorandum

To: Linda Loomis, Administrator
Lower Minnesota River Watershed District

From: Karina Weelborg
Hannah LeClaire, PE

Date: October 12, 2022

Re: October 2022 Permit Renewal Requests

Per Lower Minnesota River Watershed District (LMRWD) Rule A, it is the permittee's responsibility to request permit renewals when necessary. However, LMRWD staff has taken a proactive approach by sending out monthly reminders to current permit holders with upcoming permit expirations.

Table 1 summarizes the permittees who have responded to the permit expiration reminder, confirmed that no significant changes to the proposed project have occurred since the original permit was issued, and requested a permit extension to complete their projects.

Table 1. Summary of July 2022 LMRWD permit renewal request.

LMRWD No.	Project Name	City	Previous Expiration Date	Recommended Expiration Date
2021-045	Triple Crown Residences Phase II	Shakopee	11/17/22	11/17/2023
<u>Reason for Extension:</u> The project will take at least 20 months to complete.				

Recommendation

Staff recommends renewing the permits provided in Table 1.



Technical Memorandum

To: Linda Loomis, Administrator
Lower Minnesota River Watershed District

From: Erica Bock
Hannah LeClaire, PE

Date: October 12, 2022

Re: Valleyfair Parking Expansion (LMWRD 2022-034)

Valleyfair (the applicant) has applied for an individual project permit from the Lower Minnesota River Watershed District (LMRWD) to develop a new parking area with a storage building in the northern part of its property at 1 Valleyfair Drive, Shakopee, Minnesota 55379, as shown in Figure 1. The applicant's engineer, Barr Engineering, has provided site plans for the Valleyfair Parking Expansion (Project) along with the permit application and No-Rise Certification.

The Project involves filling an existing low area and constructing a 25,300 square-foot building, gravel parking lot, and on-site stormwater management. The Project would disturb 9.50 acres and create 1.63 acres of new impervious surfaces. The Project is not located in the High Value Resource Area or Steep Slopes Overlay District; however, the Project is in the Minnesota River floodplain, triggering Rule C—Floodplain Drainage and Alteration.

The City of Shakopee has obtained a Municipal Permit from the LMRWD and is therefore considered the primary permitting authority for Rule B—Erosion and Sediment control and Rule D—Stormwater Management. However, the LMRWD has retained permitting authority for Rule C—Floodplain and Drainage Alteration, and therefore, the Project requires an LMRWD individual permit and is subject to an LMRWD permitting review.

Summary

Project Name: Valleyfair Parking Expansion

Purpose: New storage building and parking area for staff

Project Size:

Disturbed Area	Existing Impervious	Proposed Impervious	Net Increase Impervious
9.50 acres	0.49 acres	2.12 acres	1.63 acres

Location: 1 Valleyfair Drive, Shakopee, MN 55379

LMRWD Rules: Rule C—Floodplain and Drainage Alteration

Recommended Board Action: Conditional approval

Discussion

The LMRWD received the following documents for review:

- LMRWD online permit application, received September 26, 2022
- Stormwater Management Plan by Barr Engineering, dated September 26, 2022, received September 26, 2022
- Valleyfair Parking Lot Construction No-Rise Certificate, signed October 11, 2022, received September 26, 2022
- Valleyfair Parking Lot Expansion HEC—RAS model, dated October 11, 2022, received September 26, 2022
- Construction quantities of cut and fill occurring below the existing 100-year flood elevation, received September 29, 2022
- Lowest floor elevation of the new building, received September 29, 2022
- Permit application fee of \$1,000, received October 5, 2022

The application was deemed complete on October 11, 2022, and the documents received provide the minimum information necessary for permit review.

Rule C—Floodplain and Drainage Alteration

As discussed, the project is located in the Minnesota River floodplain, shown on the pending Scott County Flood Insurance Rate Map (FIRM) Panel 27139C0037E (effective February 12, 2021). The effective FIRM shows the project in FEMA Zone AE (or the 100-year floodplain), with a 100-year elevation of 720.1 NAVD88 at cross-section Y.

The project proposes 39,800 cubic yards of cut and 34,400 cubic yards of fill below the 100-year flood elevation. Barr Engineering provided a No-Rise Certificate and updated hydraulic modeling based on the FEMA effective model to support the No-Rise Certificate. The 100-year flood elevation at the project site is 720.1, and the proposed grading plan is not expected to raise the 100-year flood elevation. Although compensatory storage is not required for this project, a borrow site located east of the proposed fill area will create additional floodplain storage (Figure 1). The lowest floor elevation of the proposed building is at least two feet above the 100-year flood elevation.

An erosion control plan is required to comply with Rule C. The applicant provided an Erosion Control Plan and a Stormwater Pollution Prevention Plan, but contact information for the contractor(s) and person(s) responsible for the inspection and maintenance of all erosion and sediment control features is required before the LMRWD can issue a permit.

Recommendations

Based on our review of the project, we recommend conditional approval contingent on receipt of the following:

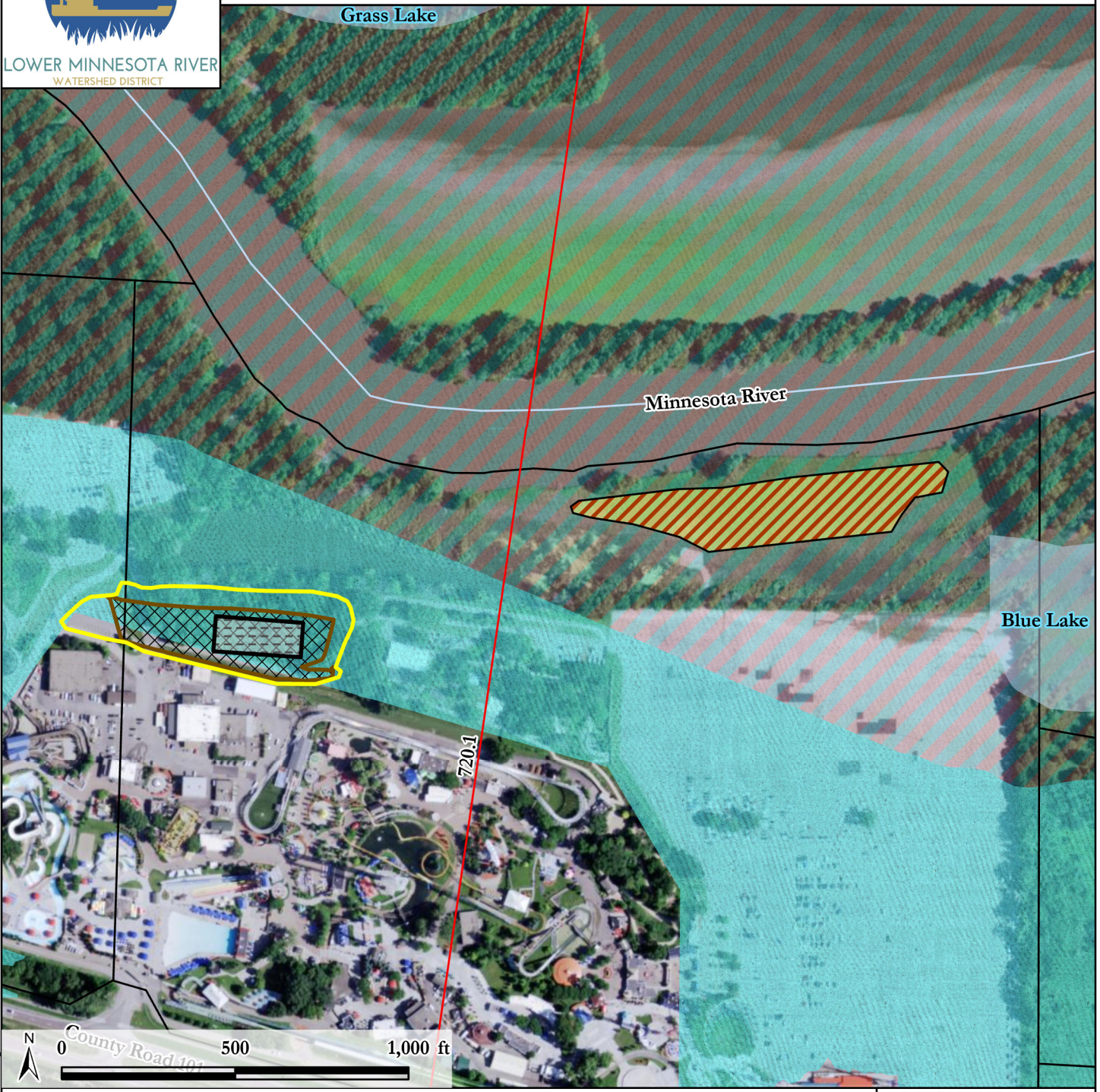
- Name and contact information for all contractors undertaking land-disturbing activities as part of the proposed project
- Name and contact information for the person(s) responsible for erosion control inspections and maintenance
- Final construction plans signed by a professional engineer
- Documentation that the applicant has received full approval for the project from the City of Shakopee.

Attachments

- Figure 1—Valleyfair Parking Lot Expansion Project Location Map



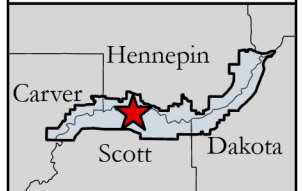
Figure I: Valleyfair Parking Project Location
LMRWD 2022-034



Legend

- Valleyfair Parking Project Location
- Proposed Building Footprint
- Proposed Gravel Parking
- Public Waters
- Public Waterbodies
- Parcels
- 100-yr Floodplain
- Floodway
- Cross Section Y

LMRWD Watershed Location Map



Projects\LMRWD\Project Reviews\02 In Process\Valleyfair Parking\04 GIS



Technical Memorandum

To: Linda Loomis, Administrator
Lower Minnesota River Watershed District

From: Erica Bock, Water Resources Scientist
Hannah LeClaire, PE

Date: October 12, 2022

Re: 2022 MBL Nicollet River Crossing (LMRWD No. 2022-002) | Project Update

Summary

On April 25th, 2022, CenterPoint Energy (CenterPoint) was granted an individual project permit from the Lower Minnesota River Watershed District (LMRWD) to replace the Nicollet and Lyndale steel natural gas pipelines by constructing a 24-inch gas line parallel to the existing pipeline and abandoning the existing pipeline in-place.

On September 26th, 2022, during trenching activities on the north slope, groundwater flow was observed by the environmental inspector on site (Figure 1). The contractor backfilled the trench with native soils and compacted the material to prevent further seepage. There is no further evidence of groundwater seepage at this time and the contractor will continue to monitor the location throughout the duration of the project, specifically after significant rainfall events. Per the LMRWD Permit, CenterPoint notified the LMRWD of the groundwater flow on September 27, 2022. A detailed report of the incident is attached.

Recommendations

No board action is required. CenterPoint will contact the LMRWD if active groundwater flow is encountered again at the existing location or elsewhere.

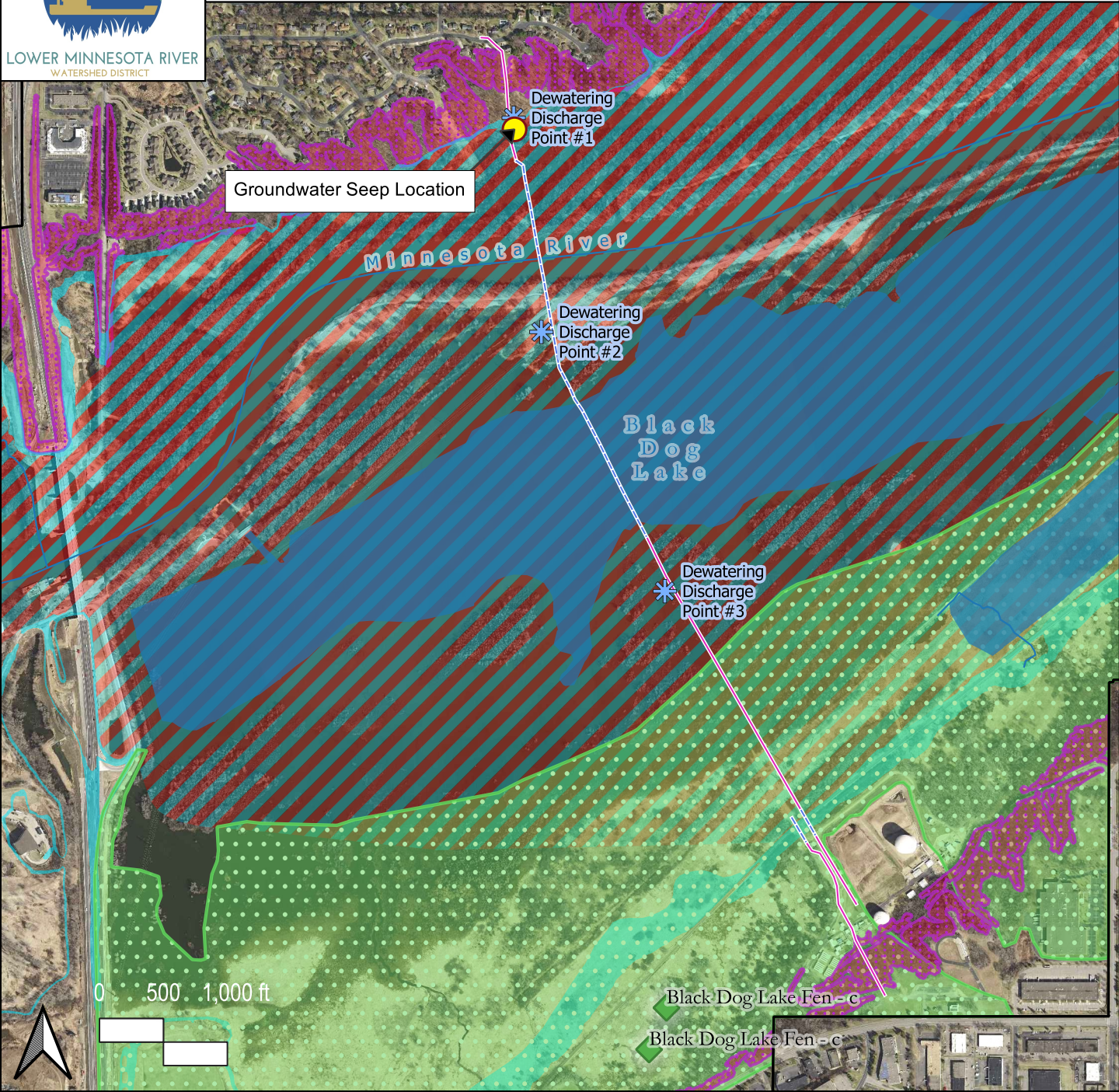
Attachments:

- Figure 1: Map of Project and Incident Location

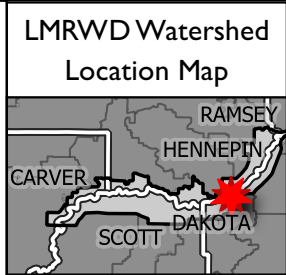
- Attachment 1—Groundwater Encounter Summary Report, dated September 26 & 27, 2022, received October 5, 2022.
- Attachment 2—2022 MBL Nicollet River Crossing Project Review Memo, dated March 8, 2022



Figure 1: 2022 MBL Nicollet River Crossing



- Project Location
- LMRWD Calcareous Fens
- Groundwater Seep
- Dewatering Discharge Points
- Public Watercourses
- New Gas Pipeline (Boring Method)
- New Gas Pipeline (Trench Method)
- High Value Resource Area
- Steep Slopes Overlay District
- LMRWD Boundary
- 100-yr Floodplain
- Floodway
- Public Waterbodies





Date: September 26, 2022

Weather: Clear, no rain, high of 63°F

Activity/Communication Description:

September 26

08:00

- Trenching activities on the north slope were anticipated to proceed throughout the day. MN Limited crews actively dewatered an excavation located at the toe of the slope, at the northern terminus of the newly installed pipe. A dewatering filter bag was used to filter the pumped water prior to discharge.
- Excavation of the trench continued throughout the morning.

11:00

- Groundwater flow was observed by the Environmental Inspector, originating from the up-gradient end of the trench excavation for the first segment of pipe that was installed during the day.
- MN Limited crews continued to dewater the excavation located at the toe of the slope. A 2-inch-diameter electric pipe was used at a rate of about 50 gallons per minute (GPM) to dewater the trench. The water level remained stable within the trench while using this method. As such, the anticipated flow of groundwater was approximately 50 GPM.

16:00

- Groundwater flow continued within the trench excavation at the toe of the slope at a rate of approximately 50 GPM throughout the afternoon. MN Limited continued to dewater using a dewatering filter bag, and monitored the bag for deficiencies. When the bag was full of sediment, it was replaced.
- ERM notified CenterPoint Energy, and discussed the issue with field personnel. Per the Lower Minnesota River Watershed District (LMRWD) Permit No. 2022-002, if an event occurs that has the potential to disturb groundwater flow patterns, CenterPoint Energy will notify the LMRWD.

17:00 – 18:30 (photo 8 through 14)

- MN Limited crews began backfilling the trench with native soil material. When backfilling was completed, crews compacted the soil to minimize void space between soil particles and potential for further active groundwater flow.

September 27

11:00

- ERM called and notified Katy Thompson with the LMRWD of the active groundwater flow on September 26. Per correspondence with Ms. Thompson, the LMRWD determined that the MN Limited actions were acceptable, and the location of the formerly active groundwater flow should be monitored throughout the duration of the project, specifically after significant rainfall events.

Follow-up Actions Required:

- ERM will continue to monitor the location of the groundwater encounter throughout the duration of the project, specifically after significant rainfall events.
- If future active groundwater flow is encountered elsewhere, or issues (i.e., erosion, blowout) are observed at the existing formerly active groundwater flow location, CenterPoint Energy will contact LMRWD and other applicable agencies to discuss mitigation measures.

Photo Log

Photo 1 (Lat: 44.80959 Long: -93.27642)

Site Status: Dewatering was observed in preparation for pipe installation at approximately 8:00. The pump was reported to be a 2-inch-diameter electric pump with a 50 gallon per minute flow rate and was connected to a filter bag upslope on the eastern edge of the workspace.



Photo 2 (Lat: 44.80926 Long: -93.27646)

Site Status: Groundwater flow observed flowing from the up-gradient area of the workspace downslope at approximately 11:00.



Photo 3 (Lat: 44.80926 Long: -93.27646)

Site Status: Groundwater flow observed flowing from the up-gradient area of the workspace downslope at approximately 11:00.



Photo 4 (Lat: 44.80926 Long: -93.2764)

Site Status: Excavation upslope for the second segment progressed and groundwater flow was still observed. At the time of this photo, the dewatering pump was having difficulties with the flow rate and integrity deficiencies were observed. The EI requested that the crew empty and re-attach the filter bag.



Photo 5 (Lat: 44.80947 Long: -93.27652)

Site Status: Groundwater flow observed flowing from the up-gradient area of the workspace down the slope toward the dewatering pump.



Photo 6 (Lat: 44.80951 Long: -93.27631)

Site Status: A replacement dewatering bag was installed after the MN Limited crew emptied the previous filter bag and found that the original filter bag was not filtering the water efficiently.



Photo 7 (Lat: 44.80933 Long: -93.27643)

Site Status: The MN Limited crew began backfilling the trench starting at 16:00.



Photo 8 (Lat: 44.80973 Long: -93.27655)

Site Status: At the conclusion of the day, the entire workspace was backfilled and compacted. No addition groundwater flow was observed after backfilling.





Active Groundwater Flow Encountered

Minnesota

Photo Locations

◆ Active Groundwater Flow Encountered

CNP Pipelines

— Proposed 24" Pipeline



Active Groundwater Flow Encountered on September 26, 2022

2022 MBL Nicollet River Crossing
 Burnsville and Bloomington, Dakota and Hennepin County, MN
 September 26, 2022



Technical Memorandum

To: Linda Loomis, Administrator
Lower Minnesota River Watershed District

From: Hannah LeClaire, PE
Katy Thompson, PE, CFM

Date: March 8, 2022

Re: 2022 MBL Nicollet River Crossing (LMRWD No. 2022-002)

CenterPoint Energy (the applicant) has applied for an individual project permit from the Lower Minnesota River Watershed District (LMRWD) to replace two steel natural gas pipelines, the Nicollet and Lyndale lines, by constructing a 24-inch gas line parallel to the existing pipeline then abandoning the old pipeline in place, as shown in Figure 1. The applicant's engineer, Environmental Resources Management (ERM), has provided site plans for the 2022 MBL Nicollet River Crossing (Project) along with the permit application.

The proposed project consists of replacing approximately 7,539 feet of its existing Nicollet Line steel natural gas pipeline and approximately 1,593 feet of its existing Lyndale Line steel natural gas pipeline at the Minnesota River and Black Dog Lake to maintain the integrity of the existing CenterPoint Energy natural gas transmission pipeline system. The project area (Figure 1) crosses the Minnesota River and Black Dog Lake from Bloomington in Hennepin County to the CenterPoint facility in Burnsville in Dakota County. In addition, the project is located within the Minnesota Valley National Wildlife Refuge. The pipeline will be installed using a combination of the horizontal bore and open trench methods. The total area of disturbance is estimated to be approximately 12.91 acres. The project does not involve the construction or replacement of impervious surfaces, and all project areas will be returned to preconstruction conditions upon completion of the construction activities.

The project is located within the High Value Resource Area, Steep Slopes Overlay District, and Minnesota River floodplain in both Hennepin and Dakota Counties. The applicant proposes to commence construction on April 1, 2022.

Because the city of Burnsville does not have its LMRWD municipal LGU permit and the city of Bloomington has waived authority for floodplain work, this project requires an LMRWD individual permit and, as such, is subject to an LMRWD permitting review.

Summary

<u>Project Name:</u>	2022 MBL Nicollet River Crossing
<u>Purpose:</u>	Replace steel natural gas pipeline to maintain integrity of existing CenterPoint Energy natural gas transmission pipeline system
<u>Project Size:</u>	12.91 acres disturbed; 0.00 acres existing impervious; 0.00 acres proposed impervious
<u>Location:</u>	Approximately 107th St Circle E Bloomington, MN to 1400 Black Dog Road, Burnsville, MN 55337
<u>LMRWD Rules:</u>	Rule B—Erosion and Sediment Control Rule C—Floodplain and Drainage Alteration Rule F—Steep Slopes
<u>Recommended Board Action:</u>	Conditional approval

Discussion

The District received the following documents for review:

- LMRWD online permit application, received January 18, 2022
- Project Letter Narrative, dated January 18, 2022, received January 18, 2022
- Authorization of Agent, dated January 17, 2022, received January 18, 2022
- Project Map, dated January 5, 2022, received January 18, 2022
- Site Plan Figures, dated January 14, 2022, received January 18, 2022, revised February 16, 2022
- Typical BMP figures, various dates, received January 18, 2022
- Permit application fee of \$1,500, received January 18, 2022
- Minnesota “No-Rise” Certification, dated December 8, 2021, received January 18, 2022
- Floodplain maps, dated December 8, 2021, received January 18, 2022
- Construction plans, dated January 7, 2022, received February 16, 2022
- Minnesota River Crossing (Nicollet Line)—HDD Plan and Profile, dated January 7, 2022, received February 16, 2022
- Response letter to LMRWD comments, dated February 16, 2022, received February 16, 2022

- National Flood Hazard Layer FIRMette, dated February 1, 2022, received February 16, 2022
- Slope Restoration Plan—North, dated February 16, 2022, received February 16, 2022
- Slope Restoration Plan—South, dated February 16, 2022, received February 16, 2022
- Easement site map, dated January 19, 2022, received February 16, 2022
- Certificate of titles and easements, various dates, received February 16, 2022
- Application supplement, no date, received February 16, 2022
- Email correspondence with MnDNR, dated January 21, 2021, received February 16, 2022
- Email correspondence with ERM, dated and received March 8, 2022

The application was deemed complete on February 18, 2022, and the documents received provide the minimum information necessary for permit review.

Background

The new 24-inch diameter steel natural gas pipeline will be installed using a combination of a horizontal directional drill (HDD) and open trench methods. Approximately 3,804 feet of new pipeline will be installed under the Minnesota River, Black Dog Lake, and adjacent wetlands using the HDD method. Approximately 773 feet of new pipeline will be installed in wetlands and uplands north of the Minnesota River, and 4,452 feet of new pipeline will be installed south of Black Dog Lake using the open trench method. In addition, approximately 920 feet of new pipeline will be installed via the HDD method to complete the crossing of the Union Pacific rail line south of Black Dog Lake. Approximately 3,813 feet of existing pipeline located under the Minnesota River, Black Dog Lake, and wetlands adjacent to the banks of the river will be abandoned in place. Where the new and existing pipeline alignments overlap, the existing pipeline will be removed using the open trench method, and the new pipeline will be installed within the same trench.

Rule B—Erosion and Sediment Control

The District regulates land-disturbing activities that affect one acre or more under Rule B or involve the displacement or removal of 5,000 square feet or more of surface area or vegetation or the excavation of 50 cubic yards or more of earth within the HVRA Overlay District. The proposed project would disturb approximately 12.91 acres within the LMRWD boundary, of which 4.5 acres are within the HVRA. The applicant has provided an erosion and sediment control plan and a Stormwater Pollution Prevention Plan. The project generally complies with Rule B, but a copy of the NPDES permit and contact information for the contractor and person(s) responsible for the inspection and maintenance of erosion and sediment control features is needed before the District can issue a permit.

Rule C—Floodplain and Drainage Alteration

As discussed, the project is located in the Minnesota River floodplain, shown on the Dakota County Flood Insurance Rate Map (FIRM) Panel 27037C0070E (effective December 2, 2011). The base flood elevation at the project site is 715.1 (NAVD 1988). The project does not propose any permanent fill or excavation or drainage alterations within the floodplain. All disturbed project areas will be returned to preconstruction conditions upon completion of the construction activities. The project meets the minimum requirements of Rule C.

Rule F—Steep Slopes Rule

The District regulates land-disturbing activities within the SSOD and requires a permit for activities that involve the excavation of 50 cubic yards or more of earth or the displacement or removal of 5,000 square feet or more of surface area or vegetation within the overlay area. The project proposes to excavate approximately 3 feet in depth to lay the new natural gas lines on the slope, then backfill and restore the slope with native vegetation. Drainage patterns within the SSOD will not be affected by construction. A slope restoration plan for the project has been developed and signed by a professional engineer in the state of Minnesota and includes restoration sequence and erosion control BMPs.

The discharge sites for the dewatering activities are not currently located within the SSOD; however, this should be added as a special stipulation for the final permit. The project complies with Rule F.

Additional Considerations

Considering the past issue encountered on the Cedar Avenue Line, the LMRWD is increasingly concerned about the potential negative impacts of deep excavations on groundwater. The applicant has confirmed that the Cedar Avenue Line Project occurred in a different location that had historical evidence of groundwater and springs. The 2022 MBL Project area does not have the same historical indications and the previous disturbances in the Project corridor did not encounter any springs or groundwater flow. The new Lyndale and Nicollet pipelines will be installed at similar depths to the existing lines, approximately three feet below grade, and will not require deep excavations. While the Project is not anticipated to disturb groundwater patterns, if an event does occur, CenterPoint Energy will contact LMRWD, the local city jurisdiction, and any relevant state agencies immediately upon discovery.

Threatened and endangered species were identified in the area. The project implementation plan has taken these species into consideration and has identified methods for minimizing disturbance. Additionally, a significant cultural resources review was completed. In coordination with the Shakopee Mdewakanton Sioux Tribal Historic

Preservation Office, ERM has recommended measures to protect the historical resources that may be encountered on the project site.

Recommendations

Staff recommends conditional approval of the Project, contingent upon the receipt of the following:

- Copy of NPDES permit
- Contact information of the contractor
- Contact information for the person(s) responsible for erosion and sediment control
- A special stipulation in the final permit that prohibits dewatering discharges within the SSOD

Attachments

- Figure 1—2022 MBL Nicollet River Crossing

Permit No.	Project Name	City	Status	Pre-Permit Meeting	Date Received	Date Applicant Considered Complete	Board Actions			On Hold / Cancelled	Permit Issued	Permit Expiration Date	Renewed	Inspection Date	Date Permit Closed
							Information Only	Conditional Approval	Approval						
2019-085	Minnesota Bluffs LRT Regional Trail Repair	Chanhassen	Closed	-	12/12/2019		-			-	5/20/2020	June 2023	-	7/6/2022	-
2019-065	Trunk Highway 101 Improvements	Chanhassen	Active Permit		11/8/2019				11/20/2019		11/20/2019			7/6/2022	
2020-100	Peterson Farms Road Maintenance	Chanhassen	Closed	-	5/6/2020	5/6/2020	-	-	5/20/2020	-	5/21/2020	5/21/2021	-	7/19/2022	-
2020-103	Prairie Heights Development	Eden Prairie	Expired	-	5/27/2020	6/5/2020	-	6/17/2020	-	-	10/23/2020	10/23/2021	-	7/6/2022	-
2020-105	Freeway Landfill Expansion	Burnsville	Pre-Permit	-	8/19/2022		9/21/2022								
2020-108	Hawthorne Ridge (2019-066)	Carver	Incomplete	-	6/23/2020	-	7/15/2020	-	-	-	-	-	-	-	-
2020-110	CSAH 11 Reconstruction	Carver	Active Permit	-	9/28/2020	11/3/2020	-	12/16/2020	-	-	4/13/2021	4/13/2022	4/20/2022	7/26/2022	-
2020-112	Vierling Industrial Project	Shakopee	Expired	-	6/25/2020	6/29/2020	-	7/15/2020	-	-	Not Issued		-	7/19/2022	-
2020-113	Fort Snelling Redevelopment (2019-057)	Fort Snelling	Active Permit	-	7/20/2020	8/12/2020	-	8/19/2020	-	-	9/11/2020	8/19/2022	7/20/2022	7/20/2022	-
2020-115	Quarry Lake Park Improvements and Mountain Bike Trail	Shakopee	Closed	-	7/23/2020	9/8/2020	-	9/16/2020	-	-	9/16/2020	9/16/2021	-	7/26/2022	3/17/2022
2020-116	Shakopee Memorial Park Pedestrian Bridge	Shakopee	Closed	-	8/24/2020	10/5/2020	-	10/21/2020	-	-	10/23/2020	10/23/2021	-	7/6/2022	10/5/2021
2020-117	Greystone Headquarters	Shakopee	Closed	-	7/24/2020	9/10/2020	-	-	9/16/2020	-	9/16/2020	9/16/2021	-	7/19/2022	-
2020-118	10117 1st Ave Demolition	Bloomington	No Permit Required	-	8/18/2020	-	-	-	-	-	-	-	-	-	-
2020-122	Cargo Van-Go	Shakopee	No Permit Required	-	8/20/2020	-	-	-	-	-	-	-	-	-	-
2020-123	Gaughan Companies Demolition	Shakopee	Closed	-	8/27/2020	8/27/2020	-	-	9/16/2020	-	9/17/2020	9/17/2021	-	7/6/2022	10/15/2021
2020-123 (amended)	Shakopee Flats	Shakopee	Closed								2/17/2021	9/17/2021		7/6/2022	
2020-124	Southbridge Crossings 6th Addition	Shakopee	Cancelled by Applicant	-	8/24/2020	-	-	-	-	3/5/2021	-	-	-	-	-
2020-126	Texas Roadhouse	Shakopee	Closed	-	9/17/2020	11/5/2020	-	-	11/18/2020	-	11/19/2020	11/18/2021	-	7/1/2022	10/14/2021
2020-131	Watermark at Savage	Savage	Cancelled by Applicant	10/7/2020	9/25/2020	-	-	-	-	-	-	-	-	-	-
2020-132	77th Street Underpass	Bloomington	Active Permit	10/18/2020	10/21/2020	11/12/2020	11/18/2020	12/16/2020	-	-	7/27/2021	7/27/2022	7/20/2022	7/28/2022	-
2020-133	Shakopee Mix Use	Shakopee	Closed	10/29/2020	11/2/2020	11/2/2020	-	-	11/18/2020	-	Not Issued				-
2020-135	Canterbury Crossings	Shakopee	Active Permit	-	11/19/2020	12/3/2020	-	12/16/2020	-	-	5/11/2021	5/11/2022	4/20/2022	7/26/2022	-

Permit No.	Project Name	City	Status	Pre-Permit Meeting	Date Received	Date Applicant Considered Complete	Board Actions			On Hold / Cancelled	Permit Issued	Permit Expiration Date	Renewed	Inspection Date	Date Permit Closed
							Information Only	Conditional Approval	Approval						
2020-137	5501 Warehouse South Improvements	Bloomington	No Permit Required	-	12/9/2020	-	-	-	-	-	-	-	-	-	-
2020-140	10029 Trails End Rd	Chanhassen	No Permit Required	-	12/29/2020	-	-	-	-	-	-	-	-	-	-
2021-001	Mallard Farms	Eden Prairie	No Permit Required	-	1/30/2021	-	-	-	-	-	-	-	-	-	-
2021-002	CSAH 61 Drainage Ditch	Chanhassen	Active Permit	-	2/1/2021	10/11/2021	-	-	10/20/2021	-	10/21/2021	5/31/2022	5/18/2022	-	-
2021-003	Southwest Logistics Center	Shakopee	Active Permit	-	2/11/2021	3/12/2021	-	3/17/2021	-	-	4/21/2021	4/21/2022	4/20/2022	7/1/2022	-
2021-005	Jefferson Chiller Project	Bloomington	No Permit Required	-	3/2/2021	-	-	-	-	-	-	-	-	-	-
2021-007	Burnsville Cemetery Expansion	Burnsville	Active Permit	3/5/2021	9/2/2021	9/17/2021	-	10/20/2021	-	-	11/17/2021	10/20/2022	-	7/28/2022	-
2021-009	Burnsville Industrial IV	Burnsville	Closed	4/2/2021	3/22/2021	3/31/2021	-	4/21/2021	-	-	4/23/2021	4/21/2022	-	7/28/2022	3/9/2022
2021-011	2021 Street & Utility Reconstruction	Shakopee	Closed	3/30/2021	3/30/2021	4/16/2021	-	4/21/2021	-	-	4/28/2021	4/28/2022	-	7/6/2022	3/28/2022
2021-012	Canterbury Park Parking Lots Phase 2	Shakopee	Closed	4/1/2021	4/2/2021	4/10/2021	-	4/21/2021	-	-	5/11/2021	5/11/2022	-	7/19/2022	5/11/2022
2021-013	Summerland Place	Shakopee	Closed	-	4/8/2021	5/27/2021	-	4/21/2021	-	-	4/26/2021	4/22/2022	-	6/20/2022	3/22/2022
2021-014	Quarry Lake Outlet	Shakopee	Cancelled by Applicant	6/7/2021	4/9/2021	9/29/2021	-	10/22/2021	-	11/19/2021	-	-	-	-	-
2021-015	Stagecoach Rd Improvements	Shakopee	Closed	4/16/2021	4/12/2021	4/30/2021	-	5/5/2021	-	-	5/7/2021	5/5/2022	-	7/1/2022	3/23/2022
2021-016	Whispering Waters	Shakopee	Active Permit	-	4/14/2021	6/4/2021	-	6/16/2021	-	-	7/13/2021	7/13/2022	7/20/2022	7/13/2022	-
2021-017	Capstone 35	Burnsville	Active Permit	-	4/20/2021	5/12/2021	-	5/19/2021	-	-	8/19/2021	8/17/2022	7/20/2022	7/13/2022	-
2021-018	Jefferson Court	Shakopee	Active Permit	-	4/22/2021	5/17/2021	-	6/2/2021	-	-	6/3/2021	6/2/2023	7/20/2022	7/6/2022	-
2021-019	Cretex Site	Shakopee	Expired	4/23/2021	4/26/2021	4/30/2021	-	5/5/2021	-	-	5/7/2021	5/5/2022	-	7/1/2022	5/5/2022
2021-020	Core Crossings Apartments (Prev. Southbridge)	Shakopee	Active Permit	-	6/14/2021	7/13/2021	-	7/21/2021	-	-	8/5/2021	6/15/2023	6/17/2022	7/26/2022	-
2021-021	Spirit of Truth Church	Burnsville	Cancelled by Applicant	5/13/2021	6/16/2021	-	-	-	-	7/16/2021	-	-	-	-	-
2021-022	2021 Safety and Security Center	Fort Snelling	Active Permit	-	5/18/2021	10/29/2021	-	11/17/2021	-	-	3/18/2022	3/18/2023	-	7/20/2022	-
2021-023	106th St Improvements	Bloomington	Active Permit	-	5/25/2021	5/28/2021	-	6/2/2021	-	-	6/17/2022	6/17/2022	4/20/2022	7/28/2022	-
2021-025	TH 13	Savage	Active Permit	-	6/11/2021	6/15/2021	-	2/16/2022	-	-	5/20/2022	5/20/2023	-	7/13/2022	-

Permit No.	Project Name	City	Status	Pre-Permit Meeting	Date Received	Date Application Considered Complete	Board Actions			On Hold / Cancelled	Permit Issued	Permit Expiration Date	Renewed	Inspection Date	Date Permit Closed
							Information Only	Conditional Approval	Approval						
2021-026	TH 55	Ft Snelling, Mendota, Mendota Heights	No Permit Required	-	6/30/2021	-	-	-	-	-	-	-	-	-	-
2021-027	Minnesota River Greenway Trail	Eagan	Conditional Approval	-	8/17/2021	11/2/2021	-	11/17/2021	-	-	-	-	-	-	-
2021-029	Northland Paving	Burnsville	No Permit Required	6/29/2021	7/6/2021	-	-	-	-	-	-	-	-	-	-
2021-030	Building Renovation Park Jeep	Burnsville	Active Permit	-	7/9/2021	7/16/2021	-	9/15/2021	-	-	6/21/2022	6/21/2023	-	-	-
2021-031	Caribou Coffee	Savage	Closed	6/1/2021	7/9/2021	8/10/2021	-	8/18/2021	-	-	8/19/2021	-	-	7/13/2022	6/11/2022
2021-032	I-35W Auxiliary Lane	Bloomington	Pre-Permit	5/24/2021; 8/31/21	-	-	-	-	-	-	-	-	-	-	-
2021-033	Minnesota MASH & 130th St Extension	Savage	Active Permit	6/23/2021	9/17/2021	-	-	-	6/15/2022	-	6/17/2022	6/17/2023	-	-	-
2021-034	Circle K Holiday Station Stores	Savage	Closed	8/25/2021	7/26/2021	9/10/2021	-	9/15/2021	-	-	10/19/2021	9/15/2022	-	7/13/2022	7/12/2022
2021-035	I35W Frontage Trail	Burnsville	Conditional Approval	-	12/15/2021	12/22/2021	-	1/19/2022	-	-	-	-	-	-	-
2021-039	River Bluffs Improvements	Shakopee	Active Permit	-	7/23/2021	8/12/2021	-	8/18/2021	-	-	10/1/2021	8/18/2022	-	7/6/2022	-
2021-040	Canterbury Independent Senior Living	Shakopee	Active Permit	-	8/11/2021	8/19/2021	-	9/15/2021	9/15/2022	-	8/19/2022	10/1/2023	-	7/26/2022	-
2021-041	Line 0832	Burnsville	Closed	-	9/7/2021	9/7/2021	-	9/15/2021	-	-	9/17/2021	9/15/2022	-	7/28/2022	6/27/2022
2021-042	Hwy 13 & Lone Oak	Eagan	Active Permit	-	8/27/2021	9/16/2021	-	10/20/2021	-	-	10/22/2021	6/30/2023	9/21/2022	-	-
2021-043	Junction 35W & 13, LLC	Burnsville	No Permit Required	-	9/2/2021	-	-	-	-	-	-	-	-	-	-
2021-044	Storage Mart Phase 4 (1900 Stoughton Ave)	Chanhassen	No Permit Required	-	9/7/2021	-	-	-	-	-	-	-	-	-	-
2021-045	Triple Crown Residences Phase II	Shakopee	Active Permit	-	9/22/2021	10/27/2021	-	11/17/2021	-	-	11/19/2021	11/17/2023*	10/19/2022*	7/26/2022	-
2021-046	CenterPoint Dakota Station Facility	Burnsville	Closed	-	9/21/2021	10/15/2021	-	10/20/2021	-	-	10/22/2021	10/22/2022	-	7/28/2022	6/24/2022
2021-047	River Valley Industrial Center	Chanhassen	On Hold	-	9/21/2021	-	-	-	-	10/1/2021	-	-	-	-	-
2021-048	Minnesota River Greenway Railroad Bridge	Eagan	Pre-Permit	9/28/2021	-	-	-	-	-	-	-	-	-	-	-
2021-049	Stump Road Maintenance	Bloomington	Closed	10/20/2021	10/22/2021	10/29/2021	-	11/17/2021	-	-	11/19/2021	11/17/2022	-	7/28/2022	-
2021-050	Spring Valley Cir & Wentworth Ave S	Bloomington	No Permit Required	10/27/2021	-	-	-	-	-	-	-	-	-	-	-
2021-051	Blue Lake Siphon Landscape Restoration	Eden Prairie	No Permit Required	10/5/2021	10/28/2021	-	-	-	-	-	-	-	-	-	-

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2021-052	Shakopee Dental Office	Shakopee	Active Permit	-	11/3/2021	12/14/2021	-	12/15/2021	-	-	12/17/2021	12/15/2022	-	7/13/2022	-
2021-056	Twin Overlook	Bloomington	No Permit Required	-	12/7/2021	-	-	-	-	-	-	-	-	-	-
2021-057	Cliff Road Ramp	Burnsville	Active Permit	-	12/14/2021	1/4/2022	-	1/19/2022	-	-	6/8/2022	6/8/2023	-	7/13/2022	-
2021-058	MAC Gate Security Improvements	Fort Snelling	Active Permit	-	12/15/2021	12/16/2021	-	1/19/2022	-	-	4/27/2022	4/27/2023	-	7/28/2022	-
2021-061	Merriam Junction Trail	Burnsville	Pre-Permit	1/31/2022	-	-	-	-	-	-	-	-	-	-	-
2022-001	Centerpoint Shakopee Piggings	Shakopee	No Permit Required	-	1/12/2022	-	-	-	-	-	-	-	-	-	-
2022-002	2022 MBL Nicollet River Crossing	Bloomington, Burnsville	Active Permit	-	1/18/2022	-	-	3/16/2022	-	-	4/25/2022	4/25/2023	-	-	-
2022-003	Ivy Brook Parking East	Burnsville	Active Permit	-	1/19/2022	2/25/2022	-	3/16/2022	-	-	5/16/2022	5/16/2023	-	-	-
2022-004	CHS Savage Terminal	Savage	Incomplete	-	1/27/2022	-	-	-	-	-	-	-	-	-	-
2022-005	Chaska West Creek Apartments	Chaska	Incomplete	-	2/8/2022	-	-	-	-	-	-	-	-	-	-
2022-006	Quality Forklift	Shakopee	No Permit Required	-	2/10/2022	-	-	-	-	-	-	-	-	-	-
2022-007	Engineered Hillside	Eden Prairie	Active Permit	-	2/15/2022	3/14/2022	-	-	4/20/2022	-	4/21/2022	4/21/2023	-	-	-
2022-008	Ivy Brook Parking West	Burnsville	Active Permit	-	2/16/2022	2/25/2022	-	3/16/2022	-	-	5/31/2022	5/31/2023	-	-	-
2022-010	Quarry Lake Pedestrian Bridge and Trail	Shakopee	Conditional Approval	-	2/24/2022	-	-	4/20/2022	-	-	-	-	-	-	-
2022-011	Biffs Inc.	Burnsville	Active Permit	-	2/28/2022	3/29/2022	-	4/20/2022	-	-	8/16/2022	8/16/2023	-	-	-
2022-012	Quarry Lake Park Improvements - Roadway and Boat Launch	Shakopee	Cancelled by Applicant	-	3/17/2022	-	-	-	-	5/24/2022	-	-	-	-	-
2022-013	Normandale & 98th Intersection Improvements	Bloomington	Active Permit	-	3/22/2022	4/1/2022	-	4/20/2022	-	-	4/22/2022	4/22/2023	-	-	-
2022-014	TH 41/CSAH 61 Improvements	Chaska	Conditional Approval	2/16/2021; 1/6/2022	3/23/2022	5/11/2022	-	5/18/2022	-	-	-	-	-	-	-
2022-015	Xcel Driveway	Shakopee	Incomplete	-	4/20/2022	-	-	-	-	-	-	-	-	-	-
2022-016	Organice Recycling Facility Relocation	Louisville Township	Incomplete	-	4/20/2022	-	-	-	-	-	-	-	-	-	-
2022-017	PLOC Channel Stabilization	Shakopee	Active Permit	-	6/30/2022	7/5/2022	-	-	7/20/2022	-	7/21/2022	7/21/2023	-	-	-
2022-018	Lakota Lane	Chanhausen	Under Review	-	4/19/2022	-	5/18/2022	-	-	-	-	-	-	-	-

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							Information Only	Conditional Approval	Approval						
2022-019	TH 494 SP 2785-433	Eagan and Bloomington	Conditional Approval	-	4/21/2022	6/24/2022	-	7/20/2022	-	-	-	-	-	-	-
2022-020	New Century School	Bloomington	No Permit Required	-	4/28/2022	-	-	-	-	-	-	-	-	-	-
2022-021	Oak St N (CenterPoint Energy)	Chaska	Active Permit	-	4/29/2022	-	-	-	6/15/2022	-	6/17/2022	6/17/2023	-	-	-
2022-022	Ace Rent A Car	Fort Snelling	Incomplete	-	5/10/2022	-	-	-	-	-	-	-	-	-	-
2022-023	494 Corridors of Commerce	Fort Snelling	Pre-Permit	5/3/2022	5/19/2022	-	7/20/2022	-	-	-	-	-	-	-	-
2022-024	Gedney Pickles Holding Pond Restoration	Chanhassen	Conditional Approval	6/16/2022	8/10/2022	-	-	9/21/2022	-	-	-	-	-	-	-
2022-025	10561 E Riverview Drive	Eden Prairie	No Permit Required	-	6/22/2022	-	-	-	-	-	-	-	-	-	-
2022-026	10521 Spyglass Drive	Eden Prairie	Active Permit	5/31/2022	7/13/2022	8/8/2022	-	-	7/20/2022	-	8/8/2022	8/8/2023	-	-	-
2022-027	Ivy Brook Parking Northeast	Burnsville	Active Permit	-	7/5/2022	-	-	8/17/2022	-	-	8/31/2022	8/31/2023	-	-	-
2022-028	Quarry Lake Park Restroom	Fort Snelling	Active Permit	-	7/6/2022	7/8/2022	-	7/20/2022	-	-	7/22/2022	7/22/2023	-	-	-
2022-029	Reliakor	Shakopee	Active Permit	-	7/20/2022	-	-	8/17/2022	-	-	9/19/2022	9/19/2023	-	-	-
2022-030	Frenchies Metals	Chaska	Incomplete	-	7/22/2022	-	-	-	-	-	-	-	-	-	-
2022-031	RSI Marine (Great Plains Blvd)	Chanhassen	Pre-Permit	-	7/18/2022	-	8/17/2022	-	-	-	-	-	-	-	-
2022-032	PMP Street Maintenance	Bloomington	No Permit Required	-	8/31/2022	-	-	-	-	-	-	-	-	-	-
2022-033	Dred Scott Fields Area	Bloomington	No Permit Required	-	8/31/2022	-	-	-	-	-	-	-	-	-	-
2022-034	Valleyfair Parking Lot Expansion	Shakopee	Conditional Approval*	-	9/26/2022	10/11/2022	-	10/19/2022*	-	-	-	-	-	-	-
2022-035	Concourse G Infill Pods 2-3 EAW Review	Fort Snelling	Under Review	-	9/30/2022	-	-	-	-	-	-	-	-	-	-
2022-036	Structures, Inc.	Chaska	Under Review	-	10/6/2022	-	-	-	-	-	-	-	-	-	-

Permit No.	Project Name	City	Status	Pre-Permit Meeting	Date Received	Date Application Considered Complete	Board Actions			On Hold / Cancelled	Permit Issued	Permit Expiration Date	Renewed	Inspection Date	Date Permit Closed
							Information Only	Conditional Approval	Approval						

STATUS DEFINITIONS:

-
- Active Permit:** Applicant has a valid permit issued by LMRWD
 - Cancelled by Applicant:** Applicant withdrew their application for a LMRWD permit
 - Closed:** Applicant has indicated the project has completed construction and that the permit file may be closed
 - Conditional Approval:** LMRWD managers conditionally approved the permit application, pending receipt of additional information from applicant
 - Expired:** Applicant either obtained conditional approval, approval, and/or was issued a permit and the expiration date has passed
 - Incomplete:** Applicant applied for a permit, but the application is incomplete
 - No Permit Required:** Applicant applied for a permit, but during the completeness review, it was determined that the project did not trigger the regulatory thresholds
 - On Hold:** Applicant requested their application be placed on hold
 - Pre-Permit:** Applicant has requested pre-permit application reviews or meetings, but has not yet applied for a permit from LMRWD
 - Under Review:** Permit application is complete and under review by LMRWD staff
- * Staff recommendation only, has not yet been presented to the Board for action*

STATE OF MINNESOTA

Case Type: Civil - Other
DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT

Lower Minnesota River Watershed District,

Plaintiff,

Court File No.

vs.

COMPLAINT

Eco Real Estate Holdings LLC and its
Registered Agent Andrew Polski,

Defendants.

Plaintiff, Lower Minnesota River Watershed District (the “Watershed District”) for its Complaint against Defendants Eco Real Estate Holdings LLC and its agent, Andrew Polski, states and alleges as follows:

PARTIES

1. The Watershed District is a special purpose unit of government organized and existing under the laws of the State of Minnesota.
2. Eco Real Estate Holdings LLC is a Minnesota Limited Liability Company filed on February 17, 2012 with its principal executive office address listed with the Minnesota Secretary of State as 535 Lakota Lane, Chanhassen, Minnesota 55318 and its registered office address listed as 13940 301st Ave., Princeton, Minnesota 55371. On May 26, 2022, Plaintiff’s attorney, John Kolb, sent correspondence to Defendants by certified mail-return receipt requested using the before-referenced addresses and P.O. Box 451, Excelsior, MN 55317 and P.O. Box 1199, Clark, CO 80428. Three out of the four envelopes were returned to Mr. Kolb’s office and the only letter that was signed for was at the P.O. Box 1199, Clark, CO 80428 address.

3. Andrew L. Polski is the registered agent for Eco Real Estate Holdings LLC.

4. Eco Real Estate Holdings LLC is the owner of the property located at 535 Lakota Lane, Chanhassen, Minnesota 55318 in Carver County.

JURISDICTION AND VENUE

5. This is an action to compel performance and restoration under Minn. Stat. § 103D.545 and an action for injunctive relief under Minn. Stat. §§ 103D.545 and 103D.551.

6. This Court has jurisdiction over this controversy under Minn. Stat. §§ 484.01 and 555.01, which grant this Court original jurisdiction over all civil actions within its district and the power to declare rights.

7. Pursuant to Minn. Stat. § 542.02, venue is proper in this Court because the Property is located in Carver County.

FACTUAL ALLEGATIONS

8. Defendant, Eco Real Estate Holdings LLC, is the owner of record of the property located at 535 Lakota Lane, Chanhassen, Minnesota 55318 in Carver County (herein referred to as the “Property”).

9. On or about April 13, 2022, the City of Chanhassen contacted the Watershed District regarding work completed on the Property, which was within the Watershed District’s Steep Slope Overlay District.

10. The City of Chanhassen became aware of the unpermitted work when the Property was listed for sale, and the information included a list of improvements that required City of Chanhassen permits; however, no permits had been pulled.

11. The Lower Minnesota River Watershed District Board of Managers (the “Board”), at its regular meeting on or about April 16, 2022, became aware of a possible violation of the

Watershed District's administrative rules related to the improvement of the Property without a Watershed District Permit and within the Steep Slope Overlay District established by District rules.

12. On or about April 16, 2022, at the regular meeting, the Board authorized its administrator and engineering consultants to investigate the conditions of the Property and report back to the Board with findings related to compliance with Watershed District administrative rule and permitting requirements, including an assessment of urgency of a response, if any, required by the Watershed District to protect resources of concern to the Watershed District.

13. On or about May 5, 2022, the Property was inspected by the Watershed District's engineering consultants.

14. After conducting an investigation of the Property's conditions, the engineering consultants filed a report of findings dated on or about May 12, 2022.

15. The engineering consultants found the unpermitted work at the Property included the following improvements:

- a. Twelve roof, sump pump, or drain tile discharge points were identified coming from the house and discharging onto the property. Ten of these were discharged into the Steep Slope Overlay District.
- b. Extensive tree-clearing activities occurred on the steep slope, downslope from the property.
- c. Gravel and riprap were placed to create a level surface for the above-ground pool and held in place with a retaining wall.
- d. Gravel was placed on the east hillside and side yard for RV parking.

16. The engineering consultants' report dated on or about May 12, 2022 noted violations of Watershed District administrative rules and permitting requirements.

17. The engineering consultants found the work completed on the Property violated the Watershed District's Rule F-Steep Slopes Rule which requires a permit for activities that involve

the excavation of 50 cubic yards or more of earth or the displacement or removal of 5,000 square feet or more of surface area or vegetation within the Steep Slope Overlay District.

18. The engineering consultants noted the following concerns:
 - a. Encroachments into the bluff setback and impact zone from the deck addition, retaining wall, pool pad, and grading and vegetation removal;
 - b. The removal of trees from the steep slope portion of the Property;
 - c. Drain tile and sump pump installation directing water to the steep slope; and
 - d. Absence of permanent site stabilization to prevent erosion.

19. On or about May 18, 2022, the Board passed Resolution 22-05 finding the Property and Andrew L. Polski in violation of the Watershed District's administrative rules, specifically Rule F.

20. The Property's encroachments into the bluff setback and impact zone from the deck addition, retaining wall, pool pad, and grading and vegetation removal violate the Watershed District's administrative rules, specifically Rule F.

21. The removal of trees from the Property violates the Watershed District's administrative rules, specifically Rule F.

22. The drain tile and sump pump installation directing water to the steep slope violates the Watershed District's administrative rules, specifically Rule F.

23. The absence of permanent site stabilization to prevent erosion violates the Watershed District's administrative rules, specifically Rule F.

24. In Resolution 22-05, the Board found that the conditions existing on the Property threaten the integrity of the steep slope, improvements on the Property, and natural resources and other concerns identified in the Watershed District's Watershed Management Plan and administrative rules.

25. In Resolution 22-05, the Board found the improvements to the Property do violate the Watershed District's Rule F--Steep Slopes Rule and would be required to obtain an after-the-fact permit.

26. The Board directed its staff to work with the City of Chanhassen and the Property's owner to address the identified concerns, including requiring an after-the-fact permit application and full compliance with performance standards set forth in the Watershed District's administrative rules.

27. The Board directed its staff to deliver a copy of Resolution 22-05, the inspection report, and a letter to the Property's owner outlining the Rule F violation and required restoration or corrective action, including a timeline for initiating corrective actions no later than June 15, 2022, and requiring submittals of an application for an after-the-fact Individual Permit and all required inspection fees by the Watershed District's administrative rules, documentation of all activities including tree- and vegetation-clearing activities within the Steep Slope Overlay District, an evaluation by a professional engineer that the slope can support the constructed improvements, and a plan to redirect the water discharges from the house (roof, gutter, and sump pump discharges) away from the Steep Slope.

28. On or about May 26, 2022, the Watershed District's legal counsel sent by certified mail a letter to Defendants with the information directed by the Board in Resolution 22-05.

29. On or about May 31, 2022, the letter was signed for and delivered to Defendants.

30. On or about June 3, 2022, Defendant Andrew L. Polski sent an email, using the email address "andrewlpolski@gmail.com", to the City of Chanhassen asking specifically what the Watershed District needed.

31. On or about June 12, 2022, the Watershed District's administrator sent Defendant Andrew L. Polski an email stating he had not contacted the Watershed District directly nor had he applied for a permit. In that email, the Watershed District's administrator gave the internet hyperlinks for applying for an after-the-fact Permit with the Watershed District and the Watershed District's rules and provided the list of specific items the Watershed District needed as requested by Defendant, including:

- a. A survey of the stormwater-related improvements:
 1. Concrete apron and landscape curbing
 2. Drain tile locations and discharge points
 3. Sump pump discharge points
 4. Pool pump and discharge location
- b. A survey of the recent improvements:
 1. Deck addition
 2. Retaining wall
 3. Pool pad and riprap extents
 4. All grading and vegetation removal associated with limestone around pool and any other vegetation/tree removal
 5. RV parking space and limestone driveway extents
 6. New septic system (tank locations, pipes, and drain field extents) – recognizing this improvement was permitted by the City; however it was not permitted by the Watershed District.

32. On or about June 13, 2022, Defendant Andrew L. Polski responded to the Watershed District administrator's June 12, 2022 email asking when the deadline for applying for the permit was.

33. On or about June 13, 2022, the Watershed District administrator responded to Defendant Andrew L. Polski's June 13, 2022 email stating the deadline was on June 15, 2022.

34. Defendant Andrew L. Polski never contacted the Watershed District with the specific submittals needed nor applied for the required permit.

COUNT I
ACTION TO COMPEL PERFORMANCE TO REMOVE ENCROACHMENTS FROM
THE BLUFF SETBACK AND IMPACT ZONE

35. Plaintiff realleges and incorporates by reference the allegations contained in the preceding paragraphs as more fully set forth therein.

36. Rule F – Steep Slopes is a rule of the Lower Minnesota River Watershed District.

37. The Property’s encroachments into the bluff setback and impact zone from the deck addition, retaining wall, and pool pad violate the Watershed District’s administrative rules, specifically Rule F.

38. Defendants did not apply for a permit from the Watershed District for the encroachments prior to the installation or construction.

39. Defendants did not apply for an after-the-fact permit from the Watershed District for the encroachments after the installation or construction.

40. Defendants have not removed the encroachments from the bluff setback and impact zone.

41. Minn. Stat. § 103D.545, subd. 2 authorizes the enforcement of a rule made by Watershed District managers through an action to compel performance.

COUNT II
ACTION TO COMPEL PERFORMANCE TO REDIRECT DRAIN TILE AND
REMOVE SUMP PUMP

42. Plaintiff realleges and incorporates by reference the allegations contained in the preceding paragraphs as more fully set forth therein.

43. Rule F – Steep Slopes is a rule of the Lower Minnesota River Watershed District.

44. The drain tile and sump pump installation directing water to the steep slope violates the Watershed District's administrative rules, specifically Rule F.

45. Defendants did not apply for a permit from the Watershed District for the drainage to the steep slope.

46. Defendants did not apply for an after-the-fact permit from the Watershed District for drainage to the steep slope.

47. Defendants have not modified the drainage of water away from the steep slopes.

48. Minn. Stat. § 103D.545, subd. 2 authorizes the enforcement of a rule made by Watershed District managers through an action to compel performance.

COUNT III
ACTION TO COMPEL PERFORMANCE OF PERMANENT SITE STABILIZATION

49. Plaintiff realleges and incorporates by reference the allegations contained in the preceding paragraphs as more fully set forth therein.

50. Rule F – Steep Slopes is a rule of the Lower Minnesota River Watershed District.

51. The Property lacks permanent site stabilization which violates the Watershed District's administrative rules, specifically Rule F.

52. Defendants did not apply for a permit from the Watershed District for the lack of site stabilization.

53. Defendants did not apply for an after-the-fact permit from the Watershed District for the lack of site stabilization.

54. Defendants have not modified the Property to meet the Watershed District's requirements for permanent site stabilization.

55. Minn. Stat. § 103D.545, subd. 2 authorizes the enforcement of a rule made by Watershed District managers through an action to compel performance.

COUNT IV
ACTION TO COMPEL RESTORATION OF THE GRADING OF THE PROPERTY

56. Plaintiff realleges and incorporates by reference the allegations contained in the preceding paragraphs as more fully set forth therein.

57. Rule F – Steep Slopes is a rule of the Lower Minnesota River Watershed District.

58. The grading of the Property completed by Defendants violates the Watershed District’s administrative rules, specifically Rule F.

59. Defendants did not apply for a permit from the Watershed District for the grading of the Property.

60. Defendants did not apply for an after-the-fact permit from the Watershed District for the grading of the Property.

61. Defendants have not restored the Property to the original grade complying with the Watershed District’s administrative rules.

62. Minn. Stat. § 103D.545, subd. 2 authorizes the enforcement of a rule made by Watershed District managers through an action to compel restoration.

COUNT V
ACTION TO COMPEL RESTORATION OF THE VEGETATION ON THE PROPERTY

63. Plaintiff realleges and incorporates by reference the allegations contained in the preceding paragraphs as more fully set forth therein.

64. Rule F – Steep Slopes is a rule of the Lower Minnesota River Watershed District.

65. The removal of vegetation from the Property violates the Watershed District’s administrative rules, specifically Rule F.

66. Defendants did not apply for a permit from the Watershed District for the removal of vegetation from the Property.

67. Defendants did not apply for an after-the-fact permit from the Watershed District for the removal of vegetation from the Property.

68. Defendants have not restored the vegetation to comply with the Watershed District's administrative rules.

69. Minn. Stat. § 103D.545, subd. 2 authorizes the enforcement of a rule made by Watershed District managers through an action to compel restoration.

COUNT VI
ACTION TO COMPEL RESTORATION OF TREES REMOVED FROM THE
PROPERTY

70. Plaintiff realleges and incorporates by reference the allegations contained in the preceding paragraphs as more fully set forth therein.

71. Rule F – Steep Slopes is a rule of the Lower Minnesota River Watershed District.

72. The removal of trees from the Property violates the Watershed District's administrative rules, specifically Rule F.

73. Defendants did not apply for a permit from the Watershed District for the removal of trees from the Property.

74. Defendants did not apply for an after-the-fact permit from the Watershed District for the removal of trees from the Property.

75. Defendants have not restored the trees to comply with the Watershed District's administrative rules.

76. Minn. Stat. § 103D.545, subd. 2 authorizes the enforcement of a rule made by Watershed District managers through an action to compel restoration.

COUNT VII
PERMANENT INJUNCTION

77. Plaintiff realleges and incorporates by reference the allegations contained in the preceding paragraphs as more fully set forth therein.

78. The Watershed District has found numerous violations of the Watershed District's administrative rules, specifically Rule F, on the Property.

79. Defendants have failed to apply for an after-the-fact Permit with the Watershed District by June 15, 2022 or after June 15, 2022.

80. Defendants have failed to provide any of the required submittals to the Watershed District.

81. Defendants have failed to correct the unpermitted work on the Property that is in violation of the Watershed District's administrative rules.

82. The ongoing violations of the Watershed District's administrative rules constitute irreparable harm to the Watershed District and the land and water resources it was established to protect, conserve and improve, for which there is no adequate legal remedy.

83. A permanent injunction is necessary to abate Defendant's existing violations and prevent continued or future violations at the Property.

WHEREFORE, Plaintiff prays that the Court grant the following relief:

1. For an Order compelling Defendants to remove encroachments from the bluff setback and impact zone.

2. For an Order compelling Defendants to redirect the drainage of the Property away from the steep slope and in a manner compliant with the Watershed District's administrative rules.

3. For an Order compelling Defendants to comply with Watershed District administrative rules for permanent site stabilization for the Property.
4. For an Order compelling Defendants to restore the grade of the Property in compliance with the Watershed District's administrative rules.
5. For an Order compelling Defendants to restore the vegetation of the Property in compliance with the Watershed District's administrative rules.
6. For an Order compelling Defendants to restore the trees of the Property in compliance with the Watershed District's administrative rules.
7. For the following injunctive relief:
 - a. For a Permanent Injunctive Order requiring Defendants to abate the violations of the Watershed District's administrative rules, permanently enjoining Defendants from completing any work or improvements on the Property without the appropriate Watershed District permit.
8. For Plaintiff's costs, fees, and disbursements.
9. For such other and further relief as deemed just and equitable by the Court.

Dated: October ____, 2022

RINKE NOONAN, LTD.

<DRAFT>

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ATTORNEYS FOR PLAINTIFF

ACKNOWLEDGMENT

The undersigned hereby acknowledges that pursuant to Minnesota Statutes Section 549.211, sanctions may be awarded to the party or parties against whom the allegations of this pleading are asserted.

<DRAFT>

John C. Kolb (#268938)

STATE OF MINNESOTA

Case Type: Civil - Other
DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT

Lower Minnesota River Watershed District,

Plaintiff,

Court File No.

vs.

SUMMONS

Eco Real Estate Holdings LLC and its
Registered Agent Andrew Polski,

Defendants.

THIS SUMMONS IS DIRECTED TO THE ABOVE-NAMED DEFENDANTS.

1. **YOU ARE BEING SUED.** The Plaintiff has started a lawsuit against you. The Plaintiff's Complaint against you is attached to this Summons. Do not throw these papers away. They are official papers that affect your rights. You must respond to this lawsuit even though it may not yet be filed with the Court and there may be no court file number on this Summons.
2. **YOU MUST REPLY WITHIN 21 DAYS TO PROTECT YOUR RIGHTS.** You must give or mail to the person who signed this Summons a written response called an Answer within 21 days of the date on which you received this Summons. You must send a copy of your Answer to the person who signed this Summons located at: Rinke Noonan, Ltd., 1015 West St. Germain Street, Suite 300, P.O. Box 1497, St. Cloud, MN 56302-1497.
3. **YOU MUST RESPOND TO EACH CLAIM.** The Answer is your written response to the Plaintiff's Complaint. In your Answer you must state whether you agree or disagree with each paragraph of the Complaint. If you believe the Plaintiff should not be given everything asked for in the Complaint, you must say so in your Answer.
4. **YOU WILL LOSE YOUR CASE IF YOU DO NOT SEND A WRITTEN RESPONSE TO THE COMPLAINT TO THE PERSON WHO SIGNED THIS SUMMONS.** If you do not Answer within 21 days, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award the Plaintiff everything asked for in the Complaint. If you do not want to contest the claims stated in the Complaint, you do not need to respond. A default judgment can then be entered against you for the relief requested in the Complaint.
5. **LEGAL ASSISTANCE.** You may wish to get legal help from a lawyer. If you do not have a lawyer, the Court Administrator may have information about places where you can get legal assistance. Even if you cannot get legal help, you must still provide a written Answer to protect your rights or you may lose the case.

6. **ALTERNATIVE DISPUTE RESOLUTION.** The parties may agree to or be ordered to participate in an alternative dispute resolution process under Rule 114 of the Minnesota General Rules of Practice. You must still send your written response to the Complaint even if you expect to use alternative means of resolving this dispute.

7. **THIS LAWSUIT MAY AFFECT OR BRING INTO QUESTION TITLE TO REAL PROPERTY** located in Carver County, State of Minnesota, legally described as follows:

Lot 2, Bluffview Addition, Carver County, according to the plat thereof on file and of record in the office of the County Recorder, Carver County, Minnesota.

The object of this action is to obtain a court order directing restoration of the subject property in a manner consistent and compliant with land use performance standards and administrative rules of the Lower Minnesota River Watershed District.

Dated: _____, 2022

RINKE NOONAN, LTD.

<DRAFT>

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