



Please note the meeting will be held in person at the Carver County Government Center on the Wednesday, June 15, 2022. The meeting will also be available virtually using this [link](#).

# LOWER MINNESOTA RIVER WATERSHED DISTRICT

Lower Minnesota River Watershed District

7:00 PM

Wednesday, October 19, 2022

Carver County Government Center

602 East Fourth Street, Chaska, MN 55318

Agenda Item	Discussion
1. Call to order	A. Roll Call
2. Approval of agenda	
3. Citizen Forum	<i>Citizens may address the Board of Managers about any item not contained on the regular agenda. A maximum of 15 minutes is allowed for the Forum. If the full 15 So are not needed for the Forum, the Board will continue with the agenda. The Board will take no official action on items discussed at the Forum, with the exception of referral to staff or a Board Committee for a recommendation to be brought back to the Board for discussion or action at a future meeting.</i>
4. Consent Agenda	<p><i>All items listed under the consent agenda are considered to be routine by the Board of Managers and will be enacted by one motion and an affirmative vote of a majority of the members present. There will be no separate discussion of these items unless a Board Member or citizen request, in which event, the items will be removed from the consent agenda and considered as a separate item in its normal sequence on the agenda.</i></p> <p>A. Approve Minutes September 2022 Regular Meetings</p> <p>B. Receive and file September 2022 Financial reports</p> <p>C. Approval of Invoices for payment</p> <ul style="list-style-type: none"> <li>i. Barr Engineering Company – September 2022 services related to Area #3</li> <li>ii. US Bank Equipment Finance – October 2022 payment on copier lease</li> <li>iii. Rinke Noonan, Attorneys at Law – September 2022 legal services</li> <li>iv. Young Environmental Consulting Group, LLC – September 2022 technical, and Education &amp; Outreach services</li> <li>v. Dakota County Soil &amp; Water Conservation District – Q3 2022 monitoring, education &amp; cost share services</li> </ul> <p>D. Receive and file August 2022 Citizen Advisory Committee meeting minutes</p> <p>E. Reimburse Appletree Condominium for 2021 Cost Share project</p>
5. Public Hearings	<p>A. Public Hearing for adoption of rules</p> <p>B. Public Hearing for adoption of minor Plan amendment</p>
6. New Business/ Presentations	A. Cost Share Application for 4562 McColl Drive, Savage, MN

7. Old Business	<p>A. LMRWD Bylaws</p> <p>B. Audit and Financial Accounting Services - no new information to report since <b>the</b> last update</p> <p>C. Cost Share Application - S. Mueller, 10745 Lyndale Bluffs Trail - no new information to report since the last update</p> <p>D. City of Carver Levee – no new information to report since last update</p> <p>E. Dredge Management - no new information to report since the last update</p> <p style="padding-left: 20px;">i. Vernon Avenue Dredge Material Management site</p> <p style="padding-left: 20px;">ii. Private Dredge Material Placement</p> <p>F. Watershed Management Plan – see public hearing items</p> <p>G. 2022 Legislative Action - no new information to report since the last update</p> <p>H. Education &amp; Outreach - no new information to report since the last update</p> <p>I. LMRWD Projects</p> <p style="padding-left: 20px;"><i>(only projects that require Board action will appear on the agenda. Informational updates will appear on the Administrator Report)</i></p> <p>J. Permits &amp; Project Reviews - See Administrator Report for project updates</p> <p style="padding-left: 20px;"><i>(only projects that require Board action will appear on the agenda. Informational updates will appear on the Administrator Report)</i></p> <p style="padding-left: 20px;">i. City of Burnsville Municipal LGU Permit (Surface Water Management Plan and Ordinance Controls Review)</p> <p style="padding-left: 20px;">ii. LMRWD Permit Renewals</p> <p style="padding-left: 20px;">iii. Valleyfair Parking Expansion</p> <p style="padding-left: 20px;">iv. 2022 MBL Nicollet River Crossing</p> <p style="padding-left: 20px;">v. Permit Program Summary</p> <p style="padding-left: 20px;">vi. 535 Lakota Lane, Chanhassen – work without a permit</p> <p>K. MPCA Soil Reference Values</p>
8. Communications	<p>A. Administrator Report</p> <p>B. President</p> <p>C. Managers</p> <p>D. Committees</p> <p>E. Legal Counsel</p> <p>F. Engineer</p>
9. Adjourn	Next meeting of the LMRWD Board of Managers is 7:00 pm Wednesday, November 16, 2022.

Upcoming meetings/Events

*Managers are invited to attend any of these meetings. Most are free of charge and if not the LMRWD will reimburse registration fees.*

- Metro MAWD – Tuesday October 18, 2022, 7:00 pm, [virtual](#), Meeting ID: 867 2258 4796 Passcode: 006271
- UMWA monthly meeting – Annual meeting, Thursday, October 27, 2022, 5:30 pm, Southview Country Club
- [Water Resource Conference](#) – Tuesday, October 18 & Wednesday October 19 St. Paul River Centre
- LMRWD Citizen Advisory Committee meeting – Tuesday, November 1, 2022, 9:00 am, [virtual](#)



## For Information Only

- **WCA Notices**
  - Notice of Application – MN Valley State Trail – Shakopee Campground Segment
  - Notice of Decision – MNDOT I-494 Mill & Overlay and MN River Bridge rehabilitation
  - Notice of Application – City of Eden Prairie, Peterson Wetland Bank
- **DNR Public Waters Work permits**
  - Scott & Dakota Counties – Request for Comments and permits issued to allow removal of materials at barge terminals at Cargill East & West, and Riverland
- **DNR Water Appropriation permits**
  - City of Shakopee – Amended Temporary Permit to allow for Maras Street Utility Extension 13<sup>th</sup> Avenue Eats & Hansen Avenue
  - Hennepin County - Well Assessment – proposed well investigation within 5 miles of Seminary Fen
  - Scott County; City of Savage – MNDOT; C. S. McCrossan – Temporary appropriation permit to allow for construction of overpass at Vernon, Yosemite and Dakota Avenues & TH 13.



# LOWER MINNESOTA RIVER WATERSHED DISTRICT

## Minutes of Regular Meeting

### Board of Managers

Wednesday, September 21, 2022

Carver County Government Center, 602 East 4th Street, Chaska, MN 7:00 p.m.

Approved \_\_\_\_\_

#### 1. CALL TO ORDER AND ROLL CALL

On Wednesday, September 21, 2022, at 7:00 PM CST, in the Board Room of the Carver County Government Center, 602 East 4th Street, Chaska, Minnesota, President Hartmann called to order the meeting of the Board of Managers of the Lower Minnesota River Watershed District (LMRWD).

President Hartmann asked for roll call to be taken. The following Managers were present: Manager Laura Amundson, President Jesse Hartmann, Manager Patricia Mraz, Manager David Raby, and Manager Lauren Salvato. In addition, the following attended the meeting: Linda Loomis, Naiad Consulting, LLC, LMRWD Administrator; Della Schall Young, Young Environmental Consulting Group, LLC, LMRWD Technical Consultant; Ben Burnett, Manager, Prior Lake/Spring Lake Watershed District. Attorney John Kolb, Rinke Noonan Attorneys at Law, LMRWD legal counsel; and Hannah LeClaire joined the meeting virtually.

#### 2. APPROVAL OF THE AGENDA

Administrator Loomis asked to add one item to the Consent Agenda, under 'Approval of invoices for payment', Item 4. C. xiii. – Daniel Hron for October 2022 office rent. She asked to remove Item 6. J. iv. – City of Burnsville Municipal LGU Permit (Surface Water Management Plan and Ordinance Controls Review) at the request of the City.

**Manager Amundson made a motion to approve the agenda with the additions of Item 4. C. xiii – invoice for Daniel Hron and the removal of Item 6. J. iv. - City of Burnsville Municipal LGU Permit (Surface Water Management Plan and Ordinance Controls Review). President Hartmann seconded the motion. Upon a vote being taken motion carried unanimously.**

#### 3. CITIZEN FORUM

Administrator Loomis reported that she had not received communication from anyone that wished to address the Board. No one was present that wished to address the Board.

#### 4. CONSENT AGENDA

President Hartmann introduced the item.

**A. Approve Minutes August 17, 2022, Regular Meeting**

**B. Receive and file August 2022 Financial reports**

**C. Approval of Invoices for payment**

**i. CLA (Clifton Larson Allen, LLP) – August 2022 financial services**

- ii. **Metro Sales, Inc. – payment for maintenance agreement for copier**
- iii. **HDR Engineering – website services through August 27, 2022**
- iv. **Barr Engineering – MPCA Soil Reference Value Policy Review**
- v. **Daniel Hron – September 2022 office rent**
- vi. **Frenette Legislative Advisors – Aug & Sep 2022 Legislative Services**
- vii. **TimeSavers Off-Site Secretarial, Inc. – Preparation of August 2022 meeting minutes**
- viii. **Naiad Consulting, LLC – August 2022 administrative services & expenses**
- ix. **Rinke Noonan – August 2022 legal services**
- x. **US Bank Equipment Finance –September 2022 payment on copier lease**
- xi. **Star Tribune – Publication of 2023 levy certification meeting notice**
- xii. **Young Environmental Consulting Group, LLC – August 2022 technical, and Education & Outreach Services**
- xiii. **Daniel Hron – October 2022 office rent**

**D. Authorize reimbursement for Cost Share Project at 4624 Overlook Drive**

**Manager Raby made a motion to approve the Consent Agenda with the addition of Item 4. C. vii - invoice from TimeSaver Off Site Secretarial. Item 4. C. viii – invoice from Naiad Consulting LLC, and Item 4. J. -2022-2023 Liability Insurance Quote. President Hartmann seconded the motion. Upon a vote being taken the motion carried unanimously.**

**5. NEW BUSINESS/PRESENTATIONS**

**A. Election of Officers**

Administrator Loomis introduced and provided background on this item. She noted the Executive Summary has the current roles listed for the Board review.

**Manager Mrasz made a motion to keep the same slate of current officers. Manager Salvato seconded the motion.**

President Hartmann asked if there was a procedure that needs to be followed. Attorney John Kolb said there is no required formality that must be followed. Manager Amundson noted that with the change over in accounting services and depositories, she and President Hartmann are authorized to manage financial accounts and that if roles changed others would need to be authorized. She noted that it made sense to keep the current slate.

**President Hartmann called the question. Upon a vote being taken the motion carried unanimously.**

**B. Cost Share Application from Sutton Place Two Condo Association**

Administrator Loomis introduced and provided background on this item.

The Board discussed this application and asked questions about the application.

**Manager Mrasz made a motion to approve the Cost Share Grant Application for 50% of the actual expenditures up to \$7,500. Manager Salvato seconded the motion. Upon a vote being taken the motion carried. President Hartmann abstained from the vote.**

## **OLD BUSINESS**

### **A. LMRWD Bylaws**

Administrator Loomis introduced this item and asked Attorney Kolb to explain the suggested revisions to the bylaws.

Attorney Kolb provided background and reviewed the proposed changes on this item. The first change suggested is regarding when Managers claims for expenses must be submitted to the LMRWD for reimbursement. The Board discussed alternate language and suggested that if there were extenuating circumstances that prevents any managers from turning in expense claims, the Board could authorize late submission of expenses. Otherwise they agreed that claims for reimbursement of expenses must be submitted in a timely manner.

Attorney Kolb said he would come up with language to reflect the Board's direction.

The second issue is related to officers and how office appointments are managed if there are less than 5 managers, which has been a challenge for the Board in the past. The Board concurred. Attorney Kolb will determine where in the bylaws a mechanism for adding flexibility to the bylaws for Managers to hold multiple offices.

Ms. Schall Young asked about authorizing payment of claims and if officers holding multiple might create internal control conflicts. Attorney Kolb said that is a possibility and something he will need to consider in suggesting revisions.

Manager Mraz asked about the representation of the counties on the Board and why there are 5 Managers. She also asked if it would be possible for there to be two representatives from other counties rather than Hennepin. Attorney Kolb explained that is not up to the Board of Managers, it is stipulated in statute that there must be five managers. The Board of Water and Soil Resources is given the authority to redistribute the managers if petitioned by the counties and all the counties must concur. Manager Mraz explained she wasn't making any suggestion; she was just curious as to how the distribution came to be. Managers discussed whether Hennepin should maintain two seats, since Scott County seems to be surpassing Scott County in tax base.

Attorney Kolb noted that the financial management language must change, because the LMRWD no longer contracts with Carver County for financial services as identified in the bylaws.

He noted that he will make the language about notice of meetings consistent with the MN open meeting laws. He suggested that the bylaws reflect attendance at meetings remotely, as allowed by open meeting laws and allow the Board the ability to waive the notice of eight days notice to managers.

The next change was in Section 7, where it refers to Roberts Rules of Order. Attorney Kolb suggested the language be revised that Robert Rules of Order can be suspended by the Board as long as all managers agree to the procedures being followed.

Attorney Kolb will revise the bylaws as discussed and agreed upon at this meeting.

Manager Raby asked if Administrator Loomis and Ms. Schall Young had reviewed the bylaws and had any suggested revisions. Both said they had reviewed them and concurred with the revisions suggested by Attorney Kolb and didn't have any others.

### **B. Audit and Financial Accounting Services Proposals**

Administrator Loomis introduced and provided background on this item. She alerted the Board that they may want to look at whether the letter of engagement with the auditor can be terminated.

**C. Cost Share Application - S. Mueller, 10745 Lyndale Bluffs Trail**

No new information to report since last update.

**D. City of Carver Levee**

No new information to report since last update.

**E. Dredge Management**

**i. Vernon Avenue Dredge Material Management site**

Administrator Loomis introduced and provided an overview of this item. She noted Young Environmental has inspected the Vernon Avenue dredge site and summarized their findings. Staff would like the Board to authorize them to move forward with the recommendations in the technical report.

**Manager Raby made a motion to authorize staff to undertake the recommendations in the Technical Memorandum. Manager Salvato seconded the motion. Upon a vote being taken the motion carried unanimously.**

Administrator Loomis noted that she has received notice of work in public waters in all barge slips at private terminals for dredging yet this fall

**ii. Private Dredge Material Placement**

No new information to report since last update.

**F. Watershed Management Plan**

**i. Revisions to LMRWD Rules**

Administrator Loomis introduced and provided an update to the Board on this item.

**President Hartmann made a motion to call a public hearing for the adoption of the proposed revisions to the LMRWD Rules and the proposed amendment to the Watershed Management Plan. Manager Raby seconded the motion. Upon a vote being taken the motion carried unanimously.**

**ii. Update of LMRWD Comprehensive Watershed Management Plan Section 4 – Implementation**

**G. 2022 Legislative Action**

Administrator Loomis introduced and provided an overview of this item. She noted that the contract for legislative liaison is an annual agreement and asked if the Board wished to continue to work with Frenette Legislative Advisors. She noted that she has a good relationship with Ms. Frenette.

She noted that she is still waiting for word from BWSR whether state funds for dredge management can be used for sediment reduction projects.

The Board agreed they should continue with Frenette.

**H. Education and Outreach Plan**

Administrator Loomis introduced and provided an overview of this item.

The Board discussed that the list of schools is not complete and that we should reach out to all the schools that serve the LMRWD.

Ms. Schall Young said that some of the schools that do not appear on the list may be served by other watershed districts rather than the LMRWD. She noted that all the schools can be contacted regardless of whether they are being served by another watershed District.

**Manager Amundson made a motion to approve the Educator Mini-Grant Program and authorize distribution to schools serving the LMRWD. Manager Mraz seconded the motion. Upon a vote being taken the motion carried unanimously.**

**I. LMRWD Projects**

***(Only projects that require Board action will appear on the agenda. Informational updates will appear on the Administrator Report)***

**i. Area #3**

Administrator Loomis introduced and provided an overview on this project. She noted the workplan included in their packets is incorrect, and apologizes for that inconvenience.

Ms. Schall Young explained that when this project began, Barr Engineering did work as a subcontractor to Young Environmental and now it is a direct contract with Barr.

**President Hartmann made a motion to authorize the Administrator to execute the Professional Service Agreement Amendment #1 between Inter-Fluve and the LMRWD and Work Order 2022-02 between Barr Engineering Company and the LMRWD. Manager Raby seconded the motion. Upon a vote being taken the motion carried unanimously.**

**ii. Minnesota River Corridor Management Project**

Administrator Loomis introduced and provided an overview on this item. She noted there isn't a lot of new information on this item at this time but in November they should have a draft for the Board to review.

**iii. Spring Creek**

Administrator Loomis introduced and provided an overview on this item. She noted that letters have been sent to the owners of two properties impacted by erosion did not attend the neighborhood meeting. The LMRWD is awaiting a response from the owner that did attend the meeting.

Manager Raby asked about the city's participation in a restoration project. Administrator Loomis explained that the City remains non-committal.

**J. Project/Plan Reviews**

***(Only projects that require Board action will appear on the agenda. Informational updates will appear on the Administrator Report)***

**i. LMRWD Permit Renewals**

Administrator Loomis introduced and provided an overview on this item. Only one renewal is on the agenda this month and that is for traffic improvements at the signal at Lone Oak Road and TH 13.

**Manager Amundson made a motion to renew permits as provided in Table 1. Summary of September 2022 LMRWD Permit Renewal Requests shown in Technical Memorandum – September 2022 Permit Renewal Requests dated September 14, 2022. Manager Raby seconded the motion. Upon a vote being taken the motion carried unanimously**

**ii. Gedney Treatment Pond Decommissioning (LMRWD No. 2022-024)**

Administrator Loomis introduced and provided an overview of this item. She noted the LMRWD has received the permit review fee for this project, so that condition can be removed.

**Manager Raby made a motion to conditionally approve a permit for Gedney Treatment Pond Decommissioning (LMRWD No. 2022-024) subject to receipt of a copy of the NPDES Construction Stormwater Permit. Manager Salvato seconded the motion. Upon a vote being taken the motion carried unanimously.**

**iii. Freeway Landfill Expansion (LMRWD No. 2020-105)**

Administrator Loomis introduced and provided an overview of this item. She noted the information was shared with Ms. Schall Young and there is no action needed at this time.

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

This item was removed from the agenda.

**v. City of Eden Prairie Code Amendment Review**

Administrator Loomis introduced and provided an overview on this item.

**vi. Permit Program Summary**

Administrator Loomis stated the summary is included in their packets for their review.

**vii. 535 Lakota Lane, Chanhassen – work without a permit**

Administrator Loomis introduced and provided an overview of this item. She noted there is no action needed at this time

Attorney Kolb provided an overview of the legal action progress and next steps on this item.

**K. MPCA Soil Reference Values**

No new information to provide since the last update.

**6. COMMUNICATIONS**

**A. Administrator Report:** Administrator Loomis stated her report is included in the packet for the Board to review. She asked the Board how in-depth it would like the LMRWD to become in the development of the Lower MN River East 1W1P now that its technical advisory group is planning to meet. Does the Board want to have the LMRWD technical consultant advised? The Board said that the Administrator and Manager Amundson should be able to represent the LMRWD's goals and if the need arises to get more involved in the technical aspect then Young Environmental can be consulted.

**B. President:** No report

**C. Managers:** No report

**D. Committees:** No report

**E. Legal Counsel:** No report

**F. Engineer:** Ms. Schall Young asked that the Board look at the floodplain memo prepared by Young Environmental. She said it is her understanding that the reason the City of Burnsville asked for the Municipal Permit for the City to be removed from the agenda this evening, is because they would like the Board to reconsider its position regarding floodplain and drainage alterations. Ms. Schall Young noted the LMRWD's reasoning behind its rules is laid out in that memo.

**7. ADJOURN**

**At 8:22 PM, President Hartmann made a motion to adjourn the meeting. Manager Mraz seconded the motion. Upon a vote being taken the motion carried unanimously.**



LOWER MINNESOTA RIVER WATERSHED DISTRICT  
BOARD OF MANAGERS  
WEDNESDAY, September 21, 2022  
MEETING MINUTES

**The next meeting of the LMRWD Board of Managers meeting will be 7:00, Wednesday, October 19, 2022, and will be held at the Carver County Government Center, 602 East 4th Street, Chaska, MN. Electronic access will also be available.**

Attest:

\_\_\_\_\_  
Lauren Salvato, Secretary

\_\_\_\_\_  
Linda Loomis, Administrator

DRAFT

Item 4.B.  
 LMRWD 10-19-2022

<b>BEGINNING BALANCE</b>	<b>31-Aug-22</b>	<b>\$ 1,436,490.40</b>
<b>ADD:</b>		
<b>General Fund Revenue:</b>		
September Dividend	\$ 2,600.67	
Permit Review Fee - Gedney Pond decommissioning	\$ 1,500.00	
Western National Insurance (refund of premium for total payment of permium)	\$ 5.00	
Payment in Lieu - US Fish & Wildlife Service	\$ 30.30	
<b>Total Revenue and Transfers In</b>		<b>\$ 4,135.97</b>
<b>DEDUCT:</b>		
<b>Debits/Reductions</b>		
Scott SWCD	Q2 2022 monitoring, TACS & education services	\$ 6,077.50
Young Environmental	Invoice 17-6702 - July 2022 permit reviews	\$ 30,747.50
Barr Engineering	Soil Reference Value review	\$ 4,213.00
CliftonLarsonAllen LLP	August 2022 financial services	\$ 2,831.60
Gianna DaGiau	Reimbursement for 2022 Cost Share project	\$ 2,500.00
Daniel Hron	September 2022 office rent	\$ 650.00
Daniel Hron	October 2022 office rent	\$ 650.00
Metro Sales. Inc.	payment on copier maintenance agreement	\$ 91.65
Naiad Consulting, LLC	August 2022 administrative service & expense	\$ 12,135.44
Star Tribune	Publication of budget public hearing notice	\$ 784.00
TimeSaver Off Site Secretarial	Preparation of August 2022 meeting minutes	\$ 227.00
US Bank Equipment Finance	September payment on copier lease	\$ 218.53
Rinke Noonan	August 2022 Legal services	\$ 730.00
Young Environmental	August 2022 Engineering, Technical & Education	\$ 62,006.10
Frenette Legislative Advisors	August/September 2022 legislative services	\$ 3,333.34
Bank redemption fee		\$ 40.00
<b>Total Debits/Reductions</b>		<b>\$ 127,235.66</b>
<b>ENDING BALANCE</b>	<b>30-Sep-22</b>	<b>\$ 1,313,390.71</b>

<b>EXPENDITURES</b>	<b>2022 Budget</b>	<b>September Actuals</b>	<b>YTD 2022</b>	<b>Over (Under) Budget</b>
<b>Administrative expenses</b>	\$ 250,000.00	\$ 45,539.81	\$ 260,171.10	\$ 10,171.10
<b>Cooperative Projects</b>				
Eden Prairie Bank Stabilization Area #3	\$ 100,000.00	\$ 2,244.00	\$ 26,403.55	\$ (73,596.45)
Gully Erosion Contingency Fund	\$ -	\$ -	\$ -	\$ -
USGS Sediment & Flow Monitoring	\$ -	\$ -	\$ -	\$ -
Ravine Stabilization at Seminary Fen in Chaska	\$ -	\$ -	\$ -	\$ -
Seminary Fen Ravine Restoration site A	\$ -	\$ -	\$ -	\$ -
Seminary Fen Ravine Restoration site C-2	\$ -	\$ -	\$ 20,000.00	\$ 20,000.00
<b>509 Plan Budget</b>				
<i>Resource Plan Implementation</i>				
Watershed Resource Restoration Fund	\$ 120,000.00	\$ -	\$ 142,500.00	\$ 22,500.00
Gully Inventory	\$ -	\$ -	\$ 5,830.50	\$ 5,830.50
MN River Corridor Management Project	\$ -	\$ 6,203.20	\$ 23,788.17	\$ 23,788.17
Gun Club Fen Intrusion investigation	\$ -	\$ 2,896.60	\$ 6,393.45	\$ 6,393.45
Assumption Creek Hydrology Restoration	\$ -	\$ 3,216.85	\$ 32,447.03	\$ 32,447.03
Carver Creek Restoration	\$ -	\$ -	\$ -	\$ -
Groundwater Screening Tool Model	\$ -	\$ -	\$ -	\$ -
MN River Floodplain Model Feasibility Study	\$ -	\$ -	\$ 13,301.32	\$ 13,301.32
Schroeder Acres Park SW Mgmt Project	\$ -	\$ -	\$ -	\$ -
Downtown Shakopee Stormwater BMPs	\$ 50,000.00	\$ -	\$ 25,000.00	\$ (25,000.00)
PLOC Realignment/Wetland Restoration	\$ 30,000.00	\$ -	\$ -	\$ (30,000.00)
Spring Creek Project	\$ -	\$ 728.34	\$ 12,336.30	\$ 12,336.30
West Chaska Creek	\$ -	\$ -	\$ 27,441.00	\$ 27,441.00
Sustainable Lakes Mgmt. Plan (Trout Lakes)	\$ 50,000.00	\$ -	\$ -	\$ (50,000.00)
Geomorphic Assessments (Trout Streams)	\$ -	\$ 1,867.50	\$ 9,913.85	\$ 9,913.85
Fen Stewardship Program	\$ 25,000.00	\$ 516.50	\$ 39,303.03	\$ 14,303.03
District Boundary Modification	\$ -	\$ -	\$ -	\$ -
E. Chaska Creek Bank Stabilization Project	\$ -	\$ -	\$ -	\$ -
E. Chaska Creek Treatment Wetland Project	\$ -	\$ -	\$ -	\$ -
MN River Sediment Reduction Strategy	\$ -	\$ -	\$ -	\$ -
Local Water Management Plan reviews	\$ 5,000.00	\$ 2,890.25	\$ 3,904.25	\$ (1,095.75)
Project Reviews	\$ 75,000.00	\$ 39,069.20	\$ 190,761.20	\$ 115,761.20
<i>Monitoring</i>	\$ 75,000.00	\$ 6,077.50	\$ 17,866.50	\$ (57,133.50)
<i>Watershed Management Plan</i>	\$ -	\$ 2,519.25	\$ 18,429.25	\$ 18,429.25
<i>Public Education/CAC/Outreach Program</i>	\$ 75,000.00	\$ 4,743.16	\$ 42,804.88	\$ (32,195.12)
<i>Cost Share Program</i>	\$ 20,000.00	\$ 2,500.00	\$ 10,000.00	\$ (10,000.00)
<b>Nine Foot Channel</b>				
Transfer from General Fund	\$ -	\$ -	\$ -	\$ -
Dredge Site Improvements	\$ 240,000.00	\$ 6,183.50	\$ 6,258.50	\$ (233,741.50)
<b>Total:</b>	<b>\$ 1,115,000.00</b>	<b>\$ 127,195.66</b>	<b>\$ 934,853.88</b>	<b>\$ (180,146.12)</b>



# LOWER MINNESOTA RIVER WATERSHED DISTRICT

## Minutes

Citizen Advisory Committee (CAC)

Tuesday, August 2, 2022

Nine Mile Creek Watershed District—12800 Gerard Drive, Eden Prairie

### 1. Order and Roll Call

The following members were present: Craig Diederichs, Judy Berglund, and Theresa Kuplic. The following individuals also attended the meeting: Linda Loomis, Naiad Consulting LLC and Lower Minnesota River Watershed District (LMRWD) administrator; and Jen Dullum, Young Environmental Consulting Group LLC education outreach coordinator.

### 2. Consent Agenda

- a. Approval of the August Agenda
- b. Approval of the June Minutes

Berglund moved to approve the consent agenda, and Kuplic seconded the motion. Upon a vote being taken, the motion carried unanimously.

### 3. Citizen Input on Non-Agenda Items

There was no input.

### 4. New Business

- a. Create a poster for tabling events

It was decided that salt management, rain barrels, and rain garden information will be developed for a tri-fold table display.

Kuplic suggested creating a handout on maintaining a low-maintenance lawn after seeing several lawns in her neighborhood going to weeds and leaving exposed soil. Dullum will bring back a draft to the group for review.

### 5. Old Business

- a. Review tabling events

In 2022, the CAC will have representatives at both the Dakota and Carver County Fairs. It was decided that the CAC should plan to attend farmers markets in 2023.

The group hopes to have either hats or T-shirts created for outreach events. Dullum will investigate options. Dullum will also reach out to neighboring watershed districts and watershed management organizations for 2023 tabling event planning.

6. Communications

- a. Loomis stated that a public hearing on the 2023 LMRWD budget will be held at the August board meeting. The Watershed Management Plan helps develop the budget. The capital improvement projects (CIPs) document is currently being updated and will go to a public hearing at the September board meeting. This document lays out projects for the next five years. Both the budget and the CIPs document will be available for a 30-day public comment period.

7. Adjournment

Berglund moved to adjourn the meeting, and Kuplic seconded the motion. Upon a vote being taken, the motion carried unanimously.



# 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 4. E. – Reimburse Appletree Condominiums for 2021 Cost Share Project

#### Prepared By

Linda Loomis, Administrator

#### Summary

At the September 2021 the Board of Managers approved a cost share application from Appletree Condominiums. The project proposed restoration of an area of the Condominium property on the bluff side of the building. The project proposed removal of a temporary roadway that was used when maintenance was done to the Condominium building and restoring the area to prevent erosion of the steep slope. Young Environmental reviewed the cost share application because of the proximity of the project to the LMRWD steep slope zone.

The project is complete, and the condo association is requesting reimbursement. Appletree Condominium Association has submitted its final report and receipts. On September 27<sup>th</sup>, I visited the site. Hantho Outdoor Services was hired for the project. Hantho had difficulty completing the project because they were unable to hire staff necessary to complete the project in a timely manner. The contract was terminated by mutual agreement and the Condominium Association completed the work. Appletree applied for and received a grading drainage and erosion control permit from the City of Bloomington. The City has inspected the project and is satisfied with the project. The contractor recommended that some of the erosion control fence stay in place until vegetation is more established. Young Environmental was asked to visit the site, since they had reviewed the plans on behalf of the LMRWD. Its report is attached.

Appletree is continuing work to stabilize the steep slope. Monitoring their efforts to stabilize the slope will be a good test case for what kind of practices can be used to stabilize steep slopes.

#### Attachments

Excerpt from September 15, 2021, meeting minutes

Cost Share grant agreement between LMRWD and Appletree Condominium Association.

Email from Appletree requesting reimbursement

Final Report from Appletree Condominium Association

Hantho Erosion Invoice

Grass Seed Receipt

Grading permit receipt and communication record

Project expense receipts

Technical Memorandum – Appletree Condominium Association Cost Share Project inspection dates October 14, 2022

[Agreement between Appletree Condominium Association and Hantho Outdoor Services](#)

#### Recommended Action

Motion to receive and file Cost Share report from Appletree Condominium Association and authorize reimbursement of \$7,500

**B. Request from Coalition for a Clean Minnesota River**

Administrator Loomis reminded the Board that Scott Sparlin requested \$10,000 over the course of two years to help get legislation passed at the State level for funding of water storage projects in the Upper Minnesota River Basin. Mr. Sparlin was successful this legislative session, but the legislature diluted it as it is not just specific to the Minnesota River and the amount of funding allocated was not what had been hoped for. Now Mr. Sparlin would like to ask the federal government for assistance with the same task because much of the sediment and nutrients from the erosion in the Minnesota River are contributing to the anoxic zone in the Gulf of Mexico.

Manager Raby would like to know what the overall effort over the next two years will be and the funding effort for that.

Mr. Sparlin clarified they got the program established, it is for the Minnesota River basin and the Upper Mississippi River. The legislature did not include the kinds of funds needed to bring this to scale which is what they will be working on over the next couple of years. The money he is asking the LMRWD for is to continue down the path of seeking a federal partnership. The overall budget is dependent upon the work that other organizations are doing so he cannot give a good answer to the question at this time. They are looking at a \$30,000 per year (total of \$60,000) overall budget and will seek a match for the funds.

**President Hartmann made a motion to approve the fund request as a match per the previous time. The motion was seconded by Manager Mraz. Upon a vote being taken the motion carried unanimously.**

**C. Appletree Condominium Cost Share Application**

Administrator Loomis stated this is a condominium building in Bloomington; they are in a steep slope overlay zone and have been having issues with erosion behind the building. They have done quite a bit of work to put in drain tile and drain water away from the building to the City storm water system and are looking at landscaping to further ameliorate the erosion issues. They sent in an application for a cost-share project and Young Environmental reviewed the application and made some recommendations.

Ms. Schall-Young noted it is a good application and they are recommending approval. The Board should keep in mind that the project will need a permit so perhaps a portion of the money should go towards that permit application to ensure that they come back and do due diligence.

Administrator Loomis noted \$7,500 is the maximum amount for a condominium-type of request.

**Manager Raby made a motion to approve the cost-share application subject to the applicant applying for and obtaining a permit from the LMRWD. The motion was seconded by Manager Mraz. Upon a vote being taken the motion carried unanimously.**

**D. Modification to LMRWD Board of Managers meeting schedule**

Administrator Loomis noted in April, Staff asked that the Board consider adding a second meeting every month to the schedule to make it a regular meeting and eliminate emergency meeting notices, and now that Ms. Schall-Young's team has a better handle on applications they no longer feel they need the second meeting. They are asking to modify that meeting schedule and eliminate the first Wednesday meeting.



LOWER MINNESOTA RIVER WATERSHED DISTRICT  
2021 COST SHARE INCENTIVE AND WATER QUALITY RESTORATION PROGRAM  
Cost Share Grant Agreement

The parties to this Agreement, made this 14 day of October 2022, are the Lower Minnesota River Watershed District, a Minnesota Watershed District ("LMRWD") a public body with purposes and powers set forth in Minnesota Statutes Chapters 103B and 103D and Appletree Condominium Association ("APPLICANT"). The purpose of this Agreement is to provide for the installation and maintenance of a project designed to protect and improve natural resources within the District. by managing storm water and said project to be located at: 8121 34<sup>th</sup> Avenue South, Bloomington, MN 55425.

1. Scope of Work. APPLICANT will install the Project in accordance with the Application submitted to the LMRWD, attached as Exhibit A. A final report must be presented to the LMRWD at the time a request is made for reimbursement of expenses as specified in Section 2 of this Agreement.
2. Reimbursement. When the installation of the project is complete in accordance with Exhibit A, the LMRWD, on receipt of adequate documentation, will reimburse the APPLICANT up to 50% of the APPLICANT's cost to install the Project, including materials, equipment rental, delivery of materials and labor, in an amount not to exceed \$7,500. APPLICANT will document with receipts all direct expenditures. At the time reimbursement is requested, APPLICANT will provide the LMRWD copies of all documents concerning the work.
3. Public Access. LMRWD may enter APPLICANT's property at reasonable times to inspect the work to ensure compliance with this Agreement and monitor or take samples for the purpose of assessing the performance of the Project. APPLICANT will permit the LMRWD, at its cost and discretion, to place reasonable signage on APPLICANT's property informing the general public about the Project and the LMRWD's Cost Share Incentive and Water Quality Restoration Program. The LMRWD may request APPLICANT's permission to allow members of the public periodically to enter APPLICANT's property to view the Project in the company of a LMRWD representative. This paragraph does not create any right of public entry onto APPLICANT's property except as coordinated with APPLICANT and accompanied by a LMRWD representative.
4. Maintenance. APPLICANT will maintain the Project for at least ten **(10)** years from the date installation is complete. If APPLICANT does not do so, the LMRWD will have a right to reimbursement of all amounts paid to APPLICANT, unless:
  - a. The LMRWD determines that the failure to maintain the Project was caused by reasons beyond the APPLICANT's control; or
  - b. APPLICANT has conveyed the underlying property, provided APPLICANT notifies the LMRWD at least 30 days before the property is conveyed and facilitates communication between the LMRWD and the prospective owner regarding continued maintenance of the project.
5. Agreement Void. This Agreement is void if the project installation is not complete by November 30, 2022. This Agreement may not be modified in any way except in writing and signed by both parties.

- 6. Indemnification. The LMRWD will be held harmless against all liability and loss in connection with the installation of the Project.
- 7. Compliance with Laws. APPLICANT is responsible to comply with any permits or other legal requirements applicable to the work.
- 8. Notices. Any notice or demand, authorized or required under this Agreement shall be in writing and shall be addressed to the other party as follows:

To LMRWD:

Administrator  
 Lower Minnesota River Watershed District  
 112 East Fifth Street, Suite 102 Chaska, MN 55318

To APPLICANT:

Tom Fahey, Primary Contact  
 Appletree Condominium Association  
 8121 34<sup>th</sup> Avenue South, Unit 201  
 Bloomington, MN 55425

The parties being in agreement to be signed as follows:

APPLICANT: **APPLETREE CONDOMINIUM ASSOC.**

LOWER MINNESOTA RIVER WATERSHED DISTRICT:

By: Tom Fahey

By: \_\_\_\_\_

Its: Vice-President

Its: President

Date: 14 October 2022

Date: \_\_\_\_\_

---

**Final Report/Reimbursement Request to LMRWD for Erosion Control & Maintenance Project**

---

thfahey@comcast.net <thfahey@comcast.net>  
To: Linda Loomis <naiadconsulting@gmail.com>  
Cc: distribution <thfahey@comcast.net>

Mon, Oct 3, 2022 at 11:54 AM

Linda,

Attached is the completed Final Report regarding the Appletree Condominium Association Erosion Control & Maintenance Project. The File Name is:

*Final-Report-to\_LMRWD\_by Appletree rep T.Fahey-03Oct2022*

A reimbursement of \$7500 is being requested.

There are also 4 additional files containing receipts and paid invoices documentation:

\$14,907.58	File Name: <i>Hantho Erosion Invoice 9.22.22pdf</i>
\$ 714.39	File Name: <i>Erosion Control Project-Expenses 29July-11Aug2022_for LMRWD</i>
\$ 126.50	File Name: <i>Grading Permit Receipt_and CommunicationsRecord_July2022</i>
\$ 101.86	File Name: <i>Grass Seed Receipt_Comms_and_reimbursement_Sep2022</i>
<b>\$15,850.33</b>	<b>TOTAL</b>

Tom






Mobile: 651-503-8903

[thfahey@comcast.net](mailto:thfahey@comcast.net)

PS: I talked with Jack Distel at City of Bloomington this morning and notified him that the majority of the silt fence was removed this last weekend as he and I had agreed.

---

**5 attachments**

-  **Final-Report-to\_LMRWD\_by Appletree rep T.Fahey-03Oct2022.pdf**  
5563K
-  **Hantho Erosion Invoice 9.22.22pdf.pdf**  
61K
-  **Erosion Control Project-Expenses 29July-11Aug2022\_for LMRWD.xlsx**  
3148K
-  **Grading Permit Receipt\_and CommunicationsRecord\_July2022.docx**  
415K
-  **Grass Seed Receipt\_Comms\_and\_reimbursement\_Sep2022.docx**  
1171K



LOWER MINNESOTA RIVER  
WATERSHED DISTRICT

## Lower Minnesota River Watershed District

112 East Fifth Street, Suite #102

Chaska, MN 55318

(763) 545-4659

[lowermnriverwd.org](http://lowermnriverwd.org)

## Cost Share Final Report

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### Overview

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The Final Report documents the entire grant period and must be within 30 days of project completion. The report should be no longer than six pages. Upon staff approval of the report, you will receive the final reimbursement for your grant. Please note, checks are only issued once per month by the District.

Email your report to Linda Loomis, District Administrator, at [naiadconsulting@gmail.com](mailto:naiadconsulting@gmail.com). Contact Linda with questions at 763-545-4659 or by email.

### Cost Share Grant Final Report

---

Project title:

Year grant was awarded:

Project location:

Project manager's name:

Project manager's contact information:

Time period addressed in the final report:

How much is the reimbursement request?

Who should the reimbursement check be made out to?

Where should reimbursement check be mailed?

## **1. Summary of Major Activities**

Provide a short overview of Cost Share activities. Include dates and time periods during which activities were completed and who was involved.

## **2. Project Goals**

Describe how the project addressed one or more of the goals of the Cost Share Program:

- Improve water quality or increase the capacity of the watershed to store water
- Preserve, protect, and restore native plant and wildlife habitats
- Protect and preserve groundwater quality and quantity

### **3. Educational Value**

Describe how the project provided education value regarding the project's environmental benefits. What education and outreach was done about the project and what were the impacts? How were the results of the project shared and with whom?

### **4. Project Outcomes**

- Describe the outcomes of the project.
- Describe what makes you most proud about the project.

## **5. Project Challenges**

- Describe any changes that had to be made to original plans due to site conditions, regulatory processes, etc. and any challenges with implementing the project.
- Indicate any ways in which Nine Mile Creek staff could have better assisted you in addressing the challenges.

## **6. Project Longevity**

- What will the long-term impact of the project be?
- Describe any follow-up projects that will occur because of the Cost Share grant.



## 7. Photos

- Provide at least three high resolution photos of the project. If you include the pictures in the document file, **also** email the photos as separate jpg files.
- Include a photo of each phase of the project, if applicable (before, during, after).

## 8. Reimbursement

- How much is the reimbursement request?
  
- What is the total amount of match?

Submit receipts and/or paid invoices for the reimbursement request and match documentation. Project expenditures without receipts will not be eligible for reimbursement. Copies of paid checks may be asked for with reimbursement requests.

**HANTHO OUTDOOR SERVICES**

2230 Edgewood Ave S Ste 4  
St Louis Park, MN 55426  
763-477-5011  
robyn@hanthofarms.com

**Invoice**



BILL TO
AppleTree Square Condos 8121 34th Avenue South Bloomington, MN 55425

SHIP TO
AppleTree Square Condos First Service Residential PO Box 35627 Charlotte, NC 28235

INVOICE #	DATE	TOTAL DUE	DUE DATE	TERMS	ENCLOSED
17001	09/09/2022	\$14,907.58	09/24/2022	Net 15	

DATE	DESCRIPTION	ACTIVITY	QTY	RATE	AMOUNT
09/09/2022	Debris Removal - Remove Gravel and apply Herbicide as agreed	<b>Debris Removal</b>	1	4,253.00	4,253.00T
09/09/2022	Brush Removal	<b>Brush Removal</b>	1	6,832.00	6,832.00T
09/09/2022	Irrigation Services -Quote as approved and completed	<b>Irrigation Services</b>	1	2,988.43	2,988.43

SUBTOTAL	14,073.43
TAX (7.525%)	834.15
TOTAL	14,907.58
BALANCE DUE	<b>\$14,907.58</b>

## Grading Permit Receipt



### Grading Permit

Permit No: PRGR202112356  
Date Issued: July 19, 2022

**Applicant:**  
Tom Fahey  
8121 34th Ave. S., Unit 201  
Bloomington, MN 55425  
Appletree Condo Association  
<NO STREET ADDRESS>  
MN

**Contractor:**

**Property Address: 8121 34TH AVE S, Unit:102, BLOOMINGTON, MN 55425**

Tenant: Appletree Condo	Suite: N/A
Work Description: A grading permit is being requested for the Appletree Condominium Association's Erosion Control and Maintenance Project located at 8121 34th Ave. S., Bloomington 55425.	
The Project area is also located within the LMRWD Steep Slopes Overlay District (SSOD). This Project proposes to remove an existing gravel surface that surrounds the back of the condominium and plant the area with a mesic prairie seed mix on the south side and a shade-tolerant fescue seed on the east side.	

Grading Permit Fee	\$89.50
Grading Plan Check Fee	\$37.00
<b>Total Paid</b>	<b>\$126.50</b>

**Conditions of Issuance:**

- 1) Erosion control and site access must be maintained until restoration is complete.
- 2) All construction and post-construction parking and storage of equipment and materials must be on-site. Use of public streets for private construction parking, loading/unloading, and storage will not be allowed.
- 3) Call for all required inspections
- 4) Permit card and any approved plans must be printed out and on site prior to starting any work. Failure to have the card on site may result in a re-inspection and additional fees.

Plan Approved by: Kelly Beyer

**When ready for inspection, call (952) 563-8930 at least 48 hours in advance.**

This permit is conditioned upon compliance with: (1) specific conditions mentioned elsewhere on this permit; (2) the approved plans and specifications; (3) the applicable City approvals, Ordinances and Codes; and (4) the Minnesota State Building/Health Codes.



Manage your account online at:  
[www.chase.com/mcardhelp](http://www.chase.com/mcardhelp)

Customer Service:  
1-800-945-2028

Mobile: Download the  
Chase Mobile® app today

### ACCOUNT ACTIVITY

Date of Transaction	Merchant Name or Transaction Description	\$ Amount
---------------------	--	-----------

07/19


COB BUILDING AND INSPEC 952-5638930 MN






126.50

## Record of Communications regarding Grading Permit Inspection with Bloomington in July 2022

Thursday 28 July Jack Distel inspected & signed-off on the Grading Permit. I called & confirmed with Dick Fri 29 July.

RE: Grading Permit: # PRGR202112356

 Gruidl, Bryan <bgruidl@BloomingtonMN.gov>  
To thfahey  
Cc Distel, Jack

  Reply  Reply All  Forward 


Wed 7/27/2022 11:18 AM

Hello Tom:

Jack Distel (copied on this email) is the erosion inspector for your area, he can also be reached by phone at 952.563.8748. You can work with Jack regarding erosion control related needs.

I will send Linda the approved permit and copy you on that email.

On another note, did anyone from the city's communications group contact you about featuring your project and the Landscape Committee in the Earth Action Hero section of the Bloomington Briefing? We had thrown that idea around back in April, but I'm not sure if it went anywhere.

 **BRYAN GRUIDL**  
Water Resources Manager  
PH: 952-563-4557

**From:** thfahey <thfahey@comcast.net>  
**Sent:** Wednesday, July 27, 2022 9:29 AM  
**To:** Gruidl, Bryan <bgruidl@BloomingtonMN.gov>  
**Cc:** Tom Fahey <thfahey@comcast.net>  
**Subject:** Re: Grading Permit: # PRGR202112356


Hi Bryan,  
Hope all going well for you.






Do you know if there is someone at City of Bloomington I should contact to find out whether or not I have to schedule an inspection for the grading permit?

Also, do you know who at City of Bloomington will be contacting Linda Loomis at Lower MN River Watershed District (LMRWD) to let her know that Grading Permit had been finalized. This was one of the requirements before our Appletree Condominium Association could receive the LMRWD grant funds for our erosion control work.

Tom  
Mobile: 651-503-8903  
[thfahey@comcast.net](mailto:thfahey@comcast.net)

RE: Grading Permit: # PRGR202112356

 Gruidl, Bryan <bgruidl@BloomingtonMN.gov>  
To thfahey  
Cc Distel, Jack

7/27/2022

On Jul 27, 2022, at 8:57 AM, Gruidl, Bryan <bgruidl@bloomingtonmn.gov> wrote:

Thanks for letting me know Tom. Good Luck with your project!! ~Bryan

---

**From:** thfahey@comcast.net <thfahey@comcast.net>  
**Sent:** Tuesday, July 19, 2022 2:49 PM  
**To:** Gruidl, Bryan <bgruidl@BloomingtonMN.gov>  
**Cc:** distribution <thfahey@comcast.net>  
**Subject:** Grading Permit: # PRGR202112356

Hi Bryan,  
The work on the Appletree Condo Association Erosion Control Project is underway.

And I just paid for the Grading Permit today.  
Please feel free to let me know if you have any questions about the work.  
Tom

Tom Fahey, Appletree Condo Association  
Mobile: 651-503-8903  
Email: [thfahey@comcast.net](mailto:thfahey@comcast.net)

**Record of Communications with Andy Marchant on 26 April 2022 including Grading Permit issue**

**RE: Appletree Condo Association, Erosion Control Project**



thfahey@comcast.net

To 'Andy Marchant'

Cc 'Jarrod Lien'; 'Maureen Olstad'; distribution



Reply

Reply All

Forward



Tue 4/26/2022 1:52 PM

You replied to this message on 5/12/2022 8:54 AM.

Andy,

Good to talk with you on the phone again this morning.

I was happy to report: scaffolding that had been erected on the flat surface of the south side of the building was removed late last week. We look forward to having Hantho remove the gravel, whenever you determine the weather conditions are favorable.

Also, FYI, the grading permit (Application # PRGR202112356) that Hantho applied for at the City of Bloomington on 16 September 2021 must be issued before grading can start.

As we discussed on the 7<sup>th</sup> and again today:

1. All trees and brush will be cut on the embankment down to the level where the berm of cut brush has already been laid down.
2. No need to haul the brush & cut trees out. Laying brush and manageable sized sections of the cut trees on or near the existing berm of brush that runs most of the embankment will be sufficient.
3. I will be your primary Appletree Condo Association contact for the project.
4. You will notify me (via text to my Mobile: 651-503-8903) at least the day before the crew is scheduled to come out, & then confirm early the morning of, so all 45 owners can be notified.

As we discussed today, and because I will be out of town until 11 May:

5. Please also notify Jarrod Lien (Property Manager via text to his Mobile: 843-422-8531) at least a day before crew is scheduled to come out, at the same time when you text me.

Lastly as we discussed today:

6. Trunks of all cut trees and brush on the southside will be will be left in the ground to reduce chance of erosion.
7. Stumps of all cut brush and trees on the southside will be painted with herbicide after a fresh cut has been made on the stumps.
8. The branches trimmed from the 2 Maples of east side of the building can also be left on site to extend the berm on the south embankment eastward.
9. Seeding will be done with mesic prairie seed mix on the southside of the building along the flat surface and seeding will extend down the embankment to the berm of cut brush.


Thanks again & hoping the weather cooperates so you can start the project,  
Tom

Tom Fahey, Appletree Condominium Association Board & Chair Landscape Committee.

[thfahey@comcast.net](mailto:thfahey@comcast.net)

Mobile: 651-503-8903

## Grass Seed Receipt, Communication and reimbursement Sept 2022



**Bloomington  
Garden Center  
Landscape Co.**  
9407 Old Cedar Avenue South  
Bloomington, MN 55425  
(952) 854-8148 Fax (952) 854-9272

Order No. \_\_\_\_\_

SOLD TO: Five Appletree Sq 9/13/22  
Date

ADDRESS: \_\_\_\_\_

---

SALESMAN	SHIP VIA	WHEN	TERMS: NET DUE ON FINAL BILL	MATERIAL	LABOR
<u>Brad Pederson</u>					
				<u>7 lbs Shady Grass Seed</u>	<u>6.00 54.00</u>
				<u>10 lbs Sunny Grass Seed</u>	<u>40.95</u>
					<u>94.95</u>
				<u>Tax</u>	<u>6.91</u>
					<u>\$101.86</u>

PAID BY: \_\_\_\_\_

### Reimbursement Request



Tom's Personal <thfahey@comcast.net>

To Jarrod Lien; Maureen Olstad

Cc Tom Fahey

👍
↩ Reply
↩ Reply All
➔ Forward
⋮

Sun 9/18/2022 9:02 AM

- 
IMG\_4960.jpg  
802 KB
- 
Untitled attachment 00143.txt  
129 bytes

Jarrold & Maureen,  
Good News. The Erosion Control project is now completed.

Attached is a photo of the receipt for the total costs incurred for Landscape Committee completion of all task not completed by Hantho for the Erosion Control Project: \$101.86

I have paid Brad Pederson and am requesting Reimbursement.  
Tom

FOR SECURITY PURPOSES, THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK

**Please post payment for:**  
Appletree Condominium Association  
FirstService Residential - North  
Payment ID: 21126  
Payment delivered by AvidPay Bill Payment

AvidXchange, Inc.  
PO BOX 36250  
CHARLOTTE, NC 28236  
704-908-7891

CHECK NO. **0205361139**  
KeyBank National Association 6-103/410

MEMO Please review check stub for payment application

PAY **One Hundred One And 86/100 Dollars**

DATE	AMOUNT
<b>09/26/2022</b>	<b>\$*****101.86</b>

VOID AFTER 90 DAYS

TO THE ORDER OF **TOM FAHEY**  
8121 34TH AVE S UNIT 408  
BLOOMINGTON, MN 55425-1648

1534



AUTHORIZED SIGNATURE

SIGNATURE HAS A BLUE BACKGROUND & BORDER CONTAINS MICROPRINTING

⑆0205361139⑆ ⑆0410010391⑆ 3596815842151⑆



Erosion Control Project Test Area #1 & #2 expenses

Vendor	Date	Amount	Description
Home Depot	29-Jul-22	\$ 3.42	Wood strips 2" X 2" - 8 ft (3 for silt fence repair stakes - 70% off). Straw erosion blankets (4); Biodegradeable stakes (12); Mycorrhizal Fungi (for roots); Short Prairie seed (for under 4 of
Gerten's	5-Aug-22	\$ 210.95	the erosion blankets - 2 in each test area). Prairie Grass & Flowers (5 flats, 160 plants 3"X3" containers - 2 of
Natural Shore	10-Aug-22	\$ 344.08	5 flats, 27% off).
Spike's	10-Aug-22	\$ 10.74	Straw (1 cubic ft, loose for filing in near erosion blanket). Perenials (5 one gallon containers, 3 Prairie Dropseed & 2 Liatris
Garden City	11-Aug-22	\$ 48.81	Blazingstar, 30% off) - needed for very steep test area #2. Straw Erosion blankets (2); Sideoats Grama (25 plants, needed for
Gerten's	11-Aug-22	\$ 96.39	very steep test area #2, 20% off).
		<b>\$ 714.39</b>	<b>Total Reimbursement requested</b>

THANK YOU FOR SHOPPING AT  
Gertens  
5500 Blaine Avenue  
Inver Grove Heights, MN 55076  
(651) 450-1501

08/05/22 7:08PM 310 302 SALE

34363306	4 EA	\$24.99 EA	
ONE-SIDED STRAW BLANKET 4'X50		\$99.96	
83250008	2 EA	\$5.99 EA	
AMTURF BIODEGRADABLE STAKES		\$11.98	
70048977	1 EA	\$44.99 EA	
MYKE 39OZ TREE/SHRUB MYCORRHI		\$44.99	
T400600	1 EA	\$39.99 EA	
JRK SHORT NATIVE WILDFLOWER M		\$39.99	

SUB-TOTAL:\$ 196.92 TAX:\$ 14.03  
TOTAL:\$ 210.95  
BC AMT:\$ 210.95

BK CARD#: XXXXXXXXXXXX4453  
MID:\*\*\*\*\*0886 TID:\*\*\*3622  
AUTH: 05070G AMT:\$ 210.95  
Host reference #:086586 Bat#

Authorizing Network: VISA

Chip Read  
CARD TYPE:VISA EXPR: XXXX  
AID : A0000000031010  
TVR : 0080008000  
IAD : 06010A03602002  
TSI : F800  
ARC : 00  
MODE : Issuer  
CVM :  
Name : CHASE VISA  
ATC :043A  
AC : A5A991FD956534DD  
TxnID/ValCode: 488389

THANK YOU FOR SHOPPING AT  
Spike's - Maple Plain  
5135 Oak Street  
Maple Plain, MN 55359  
( ) -

08/10/22 10:33AM 2826 70 SALE

184255	1 EA	\$9.99 EA	
EZ STRAW W/ TACK 1CU FT		\$9.99	

SUB-TOTAL:\$ 9.99 TAX:\$ .75  
TOTAL:\$ 10.74  
BC AMT:\$ 10.74

BK CARD#: XXXXXXXXXXXX4453  
MID:\*\*\*\*\*2883 TID:\*\*\*7452  
AUTH: 09198G AMT:\$ 10.74  
Host reference #:080269 Bat#

Authorizing Network: VISA

Chip Read  
CARD TYPE:VISA EXPR: XXXX  
AID : A0000000031010  
TVR : 0080008000  
IAD : 06010A0360A002  
TSI : F800  
ARC : 00  
MODE : Issuer  
CVM :  
Name : CHASE VISA  
ATC :043F  
AC : 10B88964198DEB48  
TxnID/ValCode: 494069

Bank card USD\$ 10.74





# Garden City

The Garden Experts

\*\*\*\*\*

**GARDEN CITY LLC  
ROSEVILLE**

**PHONE # 612-363-2084**

\*\*\*\*\*

DATE 08/11/2022 THU

5 X @ 12.99

1 GAL PEREN \$12.99 T1 \$64.95

30% ITEM DISC -19.49

7.625% TAX \$3.35

**TOTAL \$48.81**

**CREDIT CARD \$48.81**

NO.015490 REG01 BARB J TIME 12:27



## How doers get more done.

THE HOME DEPOT #2813, 651-452-2323  
3220 DENMARK AVE, EAGAN MN 55121

2813 00001 66090 07/29/22 12:49 PM  
SALE CASHIER LORI

098945070769 2X2-8 WW <A>  
2X2-8FT STRIP 10.65  
3@3.55  
MAX REFUND VALUE \$3.19/3

10.65 70.00 Percent Off -7.46  
DAMAGED  
MUST RETURN ALL ITEMS FOR A FULL REFUND

SUBTOTAL	3.19
SALES TAX	0.23
TOTAL	\$3.42
CASH	20.00
CHANGE DUE	16.58

2813 07/29/22 12:49 PM



2813 01 66090 07/29/2022 5248/

THANK YOU FOR SHOPPING AT  
Gertens  
5500 Blaine Avenue  
Inver Grove Heights, MN 55076  
(651) 450-1501

08/11/22 4:15PM 1868 202 SALE

NR3105 1 EA \$19.99EA D

BOU TE GRA BLUE GRAMA 3.5"/18T \$20.00

Regular Price: 39.99

You Saved : 20.00

NR3105 1 EA \$19.99EA D

BOU TE GRA BLUE GRAMA 3.5"/18T \$20.00

Regular Price: 39.99

You Saved : 20.00

34363306 2 EA \$24.99 EA

ONE-SIDED STRAW BLANKET 4'X50 \$49.98

SUB-TOTAL:\$ 89.98 TAX:\$ 6.41

TOTAL:\$ 96.39

BC AMT:\$ 96.39

BK CARD#: XXXXXXXXXXXX4453

MID:\*\*\*\*\*0886 TID:\*\*\*3622

AUTH: 05316G AMT:\$ 96.39

Host reference #:027914 Bat#

Aug 10, 2022	GOPHER ACE	(...4453)	Repair & maintenance ▼	\$63.41
	SPIKE'S - MAPLE PLAIN	(...4453)	Repair & maintenance ▼	\$10.74
	SQ *NATURAL SHORE TECH. I	(...4453)	Merchandise & inventory ▼	\$344.08

**Tools I bought but will keep & not requesting reimbursement**

Home Depot      4-Aug-22    \$ 37.61    5 lbs Pick Matlock (1 for removing roots).

Gopher Ace Hdwr    10-Aug-22    \$ 63.41    Earth Augers (2 for digging planting holes). Hand trowl (1).

\$ 101.02

# Technical Memorandum

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

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

**Date:** October 14, 2022

**Re:** Appletree Condominium Association Project Cost Share | Project Inspection

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## Background

In August 2021, the Appletree Condominium Association (Association) requested a cost-share grant from the Lower Minnesota River Watershed District (LMRWD) for an erosion control and maintenance project (Project) in the amount of \$7,500.

The Project is located at 8121 34th Avenue South Bloomington, Minnesota; the condominium building is built on the top of the Minnesota River bluff, and runoff from the Project site enters Long Meadow Lake and ultimately the Minnesota River. The Project area is also located within the LMRWD Steep Slopes Overlay District. The \$21,673 Project proposed to remove an existing gravel surface that surrounds the back of the condominium and plant the area with a mesic prairie seed mix on the south side and a shade-tolerant fescue seed on the east side (Figure 1).

The Association has been working to manage surface water runoff and erosion on the south side of the building since 1997. The goals of this project are to maintain the stability of the steep slope behind the building and protect the water quality downstream in Long Meadow Lake and the Minnesota River by reducing erosion and sediment inputs. The Project will improve vegetation and infiltration, which will reduce peak stormwater runoff rates and therefore prevent further erosion of the steep slope on the south side of the building. The cost-share review from 2021 is included as Attachment 1.

Because the Project proposed to address issues and goals outlined in the District's

Watershed Management Plan, the cost-share project was approved at the September 15, 2021, board meeting. Linda Loomis asked Young Environmental to complete a site inspection for the completed cost-share project at Appletree Condominiums. Young Environmental notified the grantee Tom Fahey of the upcoming inspection and requested the construction plans, which were received on October 7, 2022, and are included in Attachment 2. Following a review of the application documents and construction plans, Erica Bock and Karina Weelborg inspected the site on October 12, 2022.

## Summary

<u>Project Name:</u>	Appletree Condominium Association Project Cost Share
<u>Project Purpose:</u>	Maintain the stability of the steep slope behind the building and protect the water quality downstream of the Minnesota River
<u>Project Size:</u>	8,600 square feet
<u>Location:</u>	8121 34th Avenue, Bloomington, MN 55425
<u>Applicable LMRWD Rules:</u>	Rule F—Steep Slopes Rule (Permitted by the City of Bloomington)
<u>Grantee:</u>	Name: Tom Fahey Email: <a href="mailto:thfahey@comcast.net">thfahey@comcast.net</a> Phone: 651-503-8903
<u>Project Manager:</u>	Hantho Outdoor Services Name: Andy Marchant Email: <a href="mailto:andy@hanthofarms.com">andy@hanthofarms.com</a> Phone: 763-477-5011

## Inspection Summary

No steep slope or erosion issues were found at the Project site. The gravel area that surrounds the back of the condominium was removed and replaced with prairie grasses, shown in Image 1. Because of the timing of stabilization, the steep slope on the south side was planted with mesic prairie seed mix as well as a Canadian oat cover crop. The prairie mix showed some evidence of growth but is not expected to be fully established until next summer. In the meantime, the Canadian oat cover crop is at 90 percent vegetative cover, as shown in Image 1, and will provide proper stabilization throughout the winter and spring. The east side of the property was seeded with fescue and shows 70 percent vegetative cover (Image 2). The Project had properly maintained erosion

and sediment control BMPs in place including a silt fence and log berm at the bottom of the proposed project location (Image 3). The Project complies with Rule F. Based on the Project inspection, a follow-up inspection is recommended for summer 2023 to confirm that the mesic prairie vegetation and fescue are fully established.

### **Attachments**

- Images 1, 2, and 3
- Figure 1— Project Location Map
- Attachment 1—Appletree Condominium Association Project Cost-Share Review
- Attachment 2—Appletree Erosion Control & Maintenance Project Agreement





Image 1: South side of building with mesic prairie seeding and Canadian oat cover crop





Image 2: Fescue seeding on east side of building



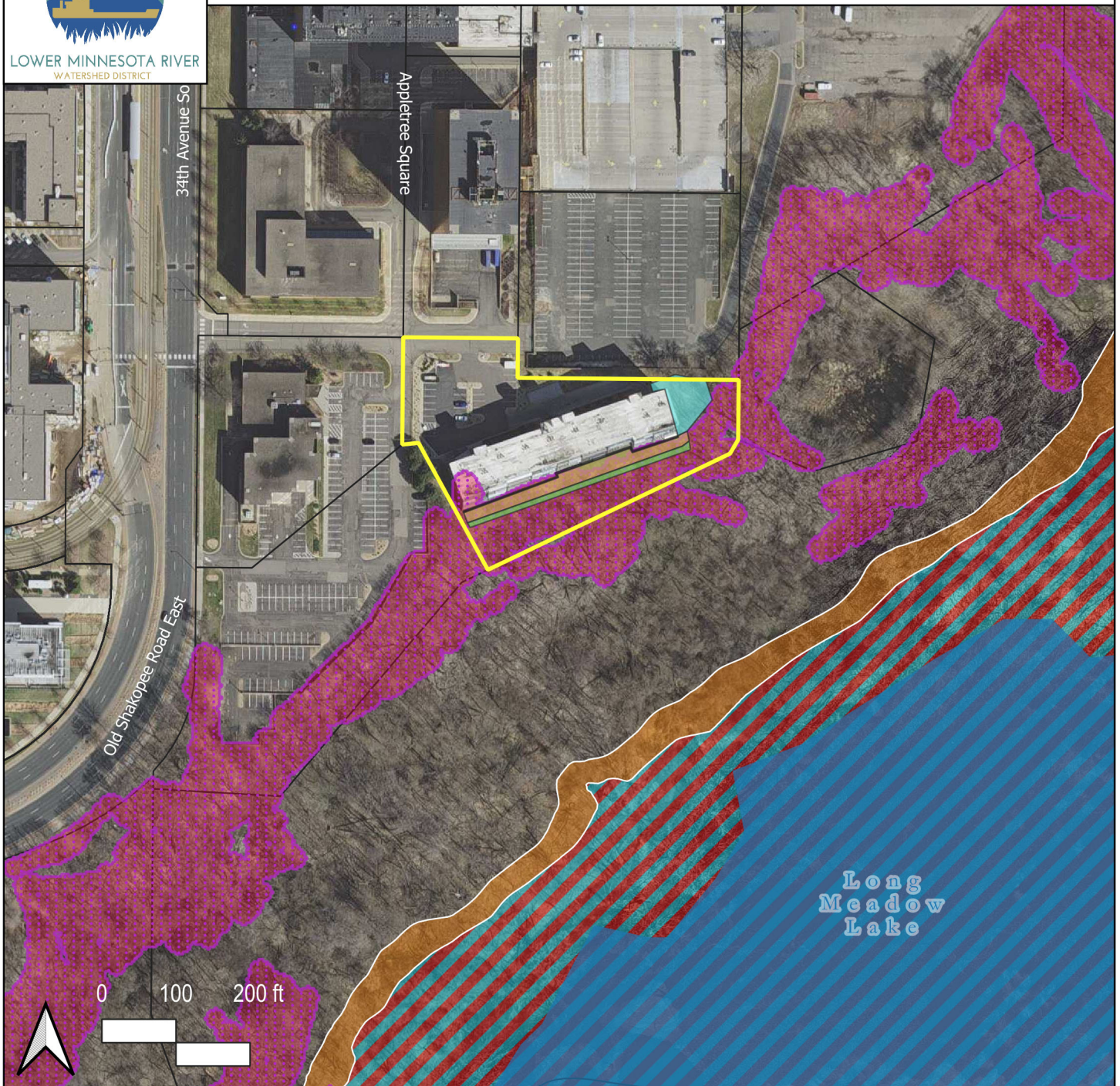


Image 3: Silt fence below Canadian oat cover crop and log berm behind silt fence.















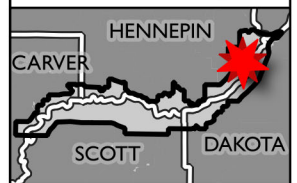
Figure 1: Appletree Condo Association Project Location



**LEGEND**

-  Project Location
-  Appletree Condo Association
- Proposed Project Features
  -  Fescue Seeding
  -  Mesic Prairie Seeding
  -  Vegetation Management
-  Steep Slopes Overlay District
- Hennepin Co. Floodplain
  -  Floodway
  -  100-yr Floodplain
  -  500-yr Floodplain
  -  Public Waterbodies

**LMRW District Watershed Location Map**





# Technical Memorandum

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

**From:** Katy Thompson, PE, CFM  
Della Schall Young, CPESC

**Date:** September 13, 2021

**Re:** Appletree Condominium Association Project Cost-Share Review

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The Appletree Condominium Association (Association) is requesting a cost-share grant from the Lower Minnesota River Watershed District (LMRWD) for an erosion control and maintenance project (Project) in the amount of \$7,500. A summary of the Project and Young Environmental Consulting Group's (Young Environmental) recommendation is presented below.

## Project Background

The proposed Project is located at 8121 34th Avenue in Bloomington; the condominium building is built on the top of the Minnesota River bluff, and runoff from the Project site enters Long Meadow Lake and ultimately the Minnesota River. The Project area is also located within the LMRWD Steep Slopes Overlay District (SSOD). The \$21,673 Project proposes to remove an existing gravel surface that surrounds the back of the condominium and plant the area with a mesic prairie seed mix on the south side and a shade-tolerant fescue seed on the east side (Figure 1).

The Association has been working to manage surface water runoff and erosion on the south side of the building since 1997. The goals of this project are to maintain the stability of the steep slope behind the building and protect the water quality downstream in Long Meadow Lake and the Minnesota River by reducing erosion and sediment inputs. The Project will improve vegetation and infiltration in an area of approximately 8,600 square feet and is assumed to reduce stormwater runoff by 50 percent. The Association also intends to develop an outreach plan for the project to

- identify similar projects that could be initiated within the SSOD and in partnership with the LMRWD,
- foster water resource stewardship,
- increase awareness of the vulnerability of watershed resources, and
- increase familiarity with and acceptance of solutions to improve water quality.

The Association proposes to reach out to the Minnesota Valley National Wildlife Refuge, the US Fish and Wildlife Service, the City of Bloomington, and Roers Companies to inform them of this Project and preventative work as well as other restoration opportunities the Association has identified.

## Discussion

### Design Evaluation

In review of the proposed Project, Young Environmental performed a simple analysis to evaluate the applicant's claims in the change in stormwater runoff and developed a HydroCAD model of the Project area to consider the runoff from existing and proposed conditions from the condominium rooftop and surrounding areas shown in Figure 1. The results of this preliminary analysis indicate that for the smaller, more frequent events, such as the two-year design storm, the project will likely exceed the assumed 50 percent reduction in peak runoff rates. In fact, for a one-inch rainfall event, the change in landcover may allow 94 percent of the rainfall to infiltrate. However, for the larger and more infrequent events, such as a 100-year design storm, the peak reduction is reduced to approximately 20 percent. It should be noted that the change in runoff is negligible for spring snowmelt events because the ground is frozen, which prevents infiltration.

The Association expects the Project to help protect the steep slope and prevent erosion within the SSOD. Because the Project will reduce peak stormwater runoff rates, it is reasonable to assume it would also prevent further erosion of the steep slope on the south side of the building.

We also reviewed the change in landcover to quantify the water quality benefits that may result from the project. Replacing the existing gravel surfaces with prairie and turf is estimated to provide approximately 28 percent reduction in both total phosphorus and total suspended solids leaving the Association property and entering Long Meadow Lake and the Minnesota River.

From our analysis, it appears that the Project would provide rate control, volume reduction, water quality, and erosion prevention benefits to the District.

### Cost Summary

The Association has requested \$7,500 from the LMRWD to help fund the total Project. In the cost-share grant application, the Association presents quotes obtained from Hantho

Outdoor Services, a landscaping and ground maintenance company located in St. Louis Park, Minnesota. The total cost for the Project is expected to be \$21,673, which includes three years of professional maintenance services. The Project is expected to be constructed in late fall 2021 through spring 2022.

### District Permit Requirement

The Project is located within the SSOD and will likely disturb more than 5,000 square feet of surface area and include more than 50 cubic yards of earthwork, triggering LMRWD Rule F—Steep Slopes Rule. A LMRWD permit will be required for the Project before construction activities may commence.

### **Summary and Recommendations**

The Project addresses the following issues and goals outlined in the District's Watershed Management Plan:

- Issue 3: Water Quality
- Issue 5: Erosion and Sediment Control
- Issue 8: Public Education and Outreach
- Goal 2: Surface Water Management—to protect, improve, and restore surface water quality
- Goal 7: Erosion and Sediment Control—to manage erosion and control sediment discharge
- Goal 9: Public Education and Outreach—to increase public participation and awareness of the Minnesota River and its unique natural resources.

The Project embodies the District's strategy to provide educational, technical, and financial assistance to landowners to implement projects that have water quality and water quantity benefits to the District and help the District achieve the goals of its Watershed Management Plan.

Because the Project goals align with those of the District and the construction will be completed by a qualified contractor, Hantho Outdoor Services, Young Environmental recommends approving the Appletree Condominium Association's request for \$7,500. The project will require a permit from the LMRWD before any construction activities may commence. We recommend the Association apply for the permit as soon as possible to reduce the risk of construction delays.

### **Attachments**

- Figure 1 – Appletree Condominium Association Project Location Map



# 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 5. A. Public Hearing for adoption of Rules

#### Prepared By

Linda Loomis, Administrator

#### Summary

The LMRWD adopted rules in 2020. After implementation LMRWD staff and consultants documented where clarification was needed to make the requirements of the LMRWD clearer to partners and the public. In February 2022, the LMRWD begin the process to updates its rules. The Board of Managers should convene a public hearing to receive comments from the public. Notice of the public hearing was published in the October 9, 2022, and the October 16, 2022 Editions of the Minneapolis Star Tribune. A copy of the Notice that was published is attached.

In addition, a Technical Memorandum prepared by Young Environmental Consulting Group dated October 14, 2022, is attached, along with a red-lined version of the rules and a log that summarizes all the comments received and the LMRWD's response to those comments.

At the close of the public hearing the LMRWD Board of Managers, may adopt the Resolution 22-10 – Adopting Revisions to the Lower Minnesota River Watershed District Rules

#### Attachments

Technical memorandum – LMRWD Rule Revision Process Completion dated October 14, 2022

Red-lined revised draft October 19, 2022

LMRWD Rule Comment & response Log

Resolution 22-10 – Adopting revisions to the LMRWD Rules

#### Recommended Action

Open Public Hearing, accept comments, close Public Hearing and motion to adopt Resolution 22-10 – Adopting revisions to the LMRWD Rules

# Technical Memorandum

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

**From:** Meghan Litsey, CPESC  
Della Schall Young, CPESC, PMP

**Date:** October 14, 2022

**Re:** Lower Minnesota River Watershed District (LMRWD) Rule Revision  
Process Completion

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In February 2022, with the consent of the Board of Managers, Young Environmental Consulting Group (Young Environmental) initiated a rule revision process to complete administrative changes to the District's permitting program. The proposed rule changes are critical to eliminating potential confusion and streamlining the District's permitting process for applicants, managers, and staff.

Below are the suggested modifications for consideration, the rule revision process, and Young Environmental's recommended next steps.

## **Suggested Modifications**

Attached is the redlined version of the rules highlighting the suggested changes (Attachment 1).

## **Rule Revision Process**

The draft rules were submitted in writing on August 11, 2022, to the Board of Water and Soil Resources (BWSR) and all public transportation authorities for review and comment. All comments received during the comment period and a corresponding response from Young Environmental are summarized in Attachment 2. There were no recurring comments received during this period, and the comments generally requested clarification of various scenarios within High Value Resource Areas and the floodplain.

The LMRWD has completed the necessary notice requirements to amend the rules as outlined in MS 103D.341. The notification process completed by the LMRWD is summarized as follows:

- The draft rules were submitted to the LMRWD's Technical Advisory Committee (TAC) on June 15, 2022, for review and comment. All comments received from the TAC and a corresponding response from Young Environmental were summarized at the board meeting on July 15, 2022.
- The draft rules were submitted in writing to managers, the BWSR, and all public transportation authorities for review and comment on August 11, 2022, allowing a minimum of 45 days for review.
- The comments received during the public notice and 45-day review period were collected and summarized (Attachment 2).
- The draft rules and public hearing were noticed in at least one newspaper within each county in advance of the public hearing meeting scheduled on October 19, 2022.

### **Recommendations**

Following completion of the public hearing, we recommend the adoption of the rules pending the outcome of the public hearing.

Attachments:

1. Draft Rules
2. 45-Day Review Period Comment/Response Log

1

2

3

4

# Lower Minnesota River Watershed District

6

## Rules

7

February 19, 2020

8

Revised Draft ~~July 15~~ October 19, 2022

9



10 [Table of Contents](#)

11 **1 Rule A: Administrative and Procedural Requirements Rule**..... ~~2-12-11-1~~

12 1.1 Municipal (LGU) Permit..... ~~2-12-11-1~~

13 1.2 Individual Permit..... ~~2-52-51-3~~

14 **2 Rule B: Erosion and Sediment Control Rule** ..... ~~3-13-12-1~~

15 2.1 Policy..... ~~3-13-12-1~~

16 2.2 Regulation ..... ~~3-13-12-1~~

17 2.3 Exceptions ..... ~~3-13-12-1~~

18 2.4 Criteria..... ~~3-13-12-1~~

19 2.5 Required Information and Exhibits..... ~~3-43-42-4~~

20 **3 Rule C: Floodplain and Drainage Alteration Rule** ..... ~~4-14-13-1~~

21 3.1 Policy..... ~~4-14-13-1~~

22 3.2 Regulation ..... ~~4-14-13-1~~

23 3.3 Exceptions ..... ~~4-14-13-1~~

24 3.4 Criteria..... ~~4-14-13-1~~

25 3.5 Required Information and Exhibits..... ~~4-24-23-2~~

26 **4 Rule D: Stormwater Management Rule** ..... ~~5-15-14-1~~

27 4.1 Policy..... ~~5-15-14-1~~

28 4.2 Regulation ..... ~~5-15-14-1~~

29 4.3 Exceptions ..... ~~5-15-14-1~~

30 4.4 Criteria..... ~~5-25-24-2~~

31 4.5 Required Information and Exhibits..... ~~5-55-54-5~~

32 **5 Rule E: Shoreline and Streambank Alteration Rule (Reserved)**..... ~~6-16-15-1~~

33 **6 Rule F: Steep Slopes Rule**..... ~~7-17-16-1~~

34 6.1 Policy..... ~~7-17-16-1~~

35 6.2 Regulation ..... ~~7-17-16-1~~

36 6.3 Exceptions ..... ~~7-17-16-1~~

37 6.4 Criteria..... ~~7-27-26-2~~

38 6.5 Required Information and Exhibits..... ~~7-37-36-2~~

39 **7 Rule G: Water Appropriations Rule (Reserved)** ..... ~~8-18-17-1~~

40 **8 Rule H: Water Crossing Rule (Reserved)..... ~~9-19-18-2~~**

41 **Table of Figures**

42 **Figure 1 Lower Minnesota River Watershed District—High Value Resources Area Overlay**

43 **District Map**

44 **Figure 2 Lower Minnesota River Watershed District—Steep Slopes Overlay District Map**

## 45 1 Definitions

46 Regarding these Rules, unless the context otherwise requires, the following terms are defined below.  
47 References in these Rules to specific sections of the Minnesota Statutes or Minnesota Rules include  
48 amendments, revisions, or recodifications of such sections. The words “shall” and “must” indicate a  
49 mandatory rule, and the word “may” indicates a permissive rule. The following definitions and  
50 acronyms apply to the District rules and accompanying guidance materials.

51 **Abstractions:** Removal of stormwater from runoff by such methods as infiltration; evaporation;  
52 transpiration by vegetation; and capture and reuse, such as capturing runoff for use as irrigation water.

53 **Agricultural Activity:** The use of land for the growing and/or production of agronomic, horticultural, or  
54 silvicultural crops, including nursery stock, sod, fruits, vegetables, flowers, cover crops, grains, forestry  
55 activities~~Christmas trees~~, and grazing.

56 **Alteration or Alter:** When used in connection with public waters or wetlands, is any activity that will  
57 change or diminish the supply, course, current, or cross section of an existing drainage way, -public  
58 waters or wetlands, or a District overlay district.

59 Appropriations: For the purposes of these Rules, “appropriations” means the withdrawal, removal, or  
60 transfer of water from its source, regardless of how the water will be used.

61 **Atlas 14:** Precipitation frequency estimates released by the National Oceanic and Atmospheric  
62 Administration’s National Weather Service Hydrometeorological Design Studies Center. The  
63 information supersedes precipitation frequency estimates in Technical Paper No. 40 (1961), National  
64 Weather Service HYDRO-35 (1977), and Technical Paper No. 49 (1964).

65 **Base Flood Elevation:** The computed elevation to which floodwater is anticipated to rise during the  
66 base flood. Base flood elevations are shown on flood insurance rate maps (FIRMs) and on the flood  
67 profiles.

68 **Best Management Practices, ~~or~~ (BMPs):** Structural or nonstructural methods used to treat runoff,  
69 including, but not limited to, such diverse measures as ponding, street sweeping, filtration through a rain  
70 garden, and infiltration to a gravel trench.

71 **Bioengineering:** Various shoreline and stream bank stabilization techniques using aquatic vegetation  
72 and native upland plants along with techniques such as willow wattling, brush layering, and willow  
73 posts.

74 **Buffer Zone:** An area consisting of perennial vegetation, excluding invasive plants and noxious weeds,  
75 adjacent to a waterbody that protects water resources from runoff pollution; stabilizes soils, shores, and  
76 banks; and protects or provides riparian corridors.

77 Channel: A perceptible natural or artificial depression, with a defined bed and banks that confines and  
78 conducts water flowing either continuously or periodically.

79 **Compensatory Storage:** Excavated volume of material below the 100-year floodplain elevation  
80 required to offset floodplain fill.

81 **Conditional Approval:** Approval of a District permit application that requires the applicant to provide  
82 further information or plan changes, or meet other stated conditions, prior to the District issuance of the  
83 permit. See Rule A.

84 **Construction Activity:** Disturbance to the land that results in a change in the topography, existing soil  
85 cover (both vegetative and nonvegetative), or existing soil topography that may result in accelerated  
86 stormwater runoff, leading to soil erosion and the movement of sediment into surface waters or drainage  
87 systems.

88 **Conveyance System:** The drainage facilities, both natural and manmade, which collect, contain, and  
89 provide for the flow and treatment of surface and stormwater from multiple properties the highest points  
90 on the land down to a receiving water. The natural elements of the conveyance system include swales  
91 and small drainage courses, streams, rivers, lakes, and wetlands. The humanmade elements of the  
92 conveyance system include gutters, ditches, pipes, channels, and retention/detention facilities.

93 **Criteria:** Specific details, methods and specifications that apply to all permits and reviews and that  
94 guide implementation of the District's goals and policies.

95 **Crossing:** Any crossing over a water conveyance either supported by a structural span or culvert.

96 **Development:** The construction of any public or private improvement project, infrastructure, structure,  
97 street, or road or the subdivision of land. Normal farming practices part of an ongoing farming operation  
98 shall not be considered development.

99 **Dewatering:** The removal of water for construction activity.

100 **Diffuse or Diffusion:** To spread out or disperse stormwater or runoff over a larger area to reduce the  
101 concentration of flow.

102 **District:** The Lower Minnesota River Watershed District (LMRWD) established under the Minnesota  
103 Watershed Law, Minnesota Statutes Chapter 103D.

104 **Drain or Drainage:** Any method for removing or diverting water from waterbodies, including  
105 excavation of an open ditch and installation of subsurface drainage tile, filling, diking, or pumping.

106 **Dredging:** The removal of sediment or other materials from the beds, banks, or shores of a waterbody  
107 by means of hydraulic suction, mechanical excavation or any other means.

108 **Easement:** The perpetual right to use another owner's land for a specified use, which may be granted  
109 for the purpose of constructing and maintaining walkways, roadways, subsurface sewage treatment  
110 systems, utilities, drainage, driveways, and other uses.

111 **Erosion:** The wearing away of the ground surface as a result of wind, flowing water, ice movement, or  
112 land-disturbing activities.

113 **Erosion and Sediment Control Plan:** A plan of BMPs or equivalent measures designed to control  
114 runoff and erosion and to retain or control sediment on land during the period of land-disturbing  
115 activities in accordance with the applicable Rule.

116 **Excavation:** The intentional removal or displacement of soil, sediment, vegetation, or other earth  
117 material.

118 **Existing Conditions:** Site conditions at the time of application consideration by the LGU or District  
119 before any of the work has commenced, except that, when impervious surfaces have been fully or  
120 partially removed from a previously developed parcel but no intervening use has been legally or  
121 practically established, “existing conditions” denotes the parcel’s previously established developed use  
122 and condition.

123 **FEMA:** Federal Emergency Management Agency.

124 **Fen or Calcareous Fens:** Rare and distinctive wetlands characterized by a substrate of nonacidic peat  
125 and dependent on a constant supply of cold, oxygen-poor groundwater rich in calcium and magnesium  
126 bicarbonates.

127 **Fill:** Any rock, soil, gravel, sand, debris, plant cuttings, or other material placed onto land or into water.

128 **Filtration:** A series of processes that physically removes constituents from stormwater.

129 **Floodplain:** The area adjacent to a waterbody that is inundated ~~during by the a~~ 100-year flood elevation.

130 **Floodway:** The channel of ~~the river or stream a~~ watercourse, the bed of waterbasins and the adjacent  
131 land that must remain free from obstruction so that the 100-year flood can be conveyed downstream.

132 **Fully Reconstructed:** The reconstruction of an existing impervious surface that involves site grading  
133 and subsurface excavation so that soil is exposed. Mill and overlay and other resurfacing activities are  
134 not considered fully reconstructed.

135 **Groundwater-Dependent Natural Resource (GDNR):** A feature with surface emergence of  
136 groundwater at a spring or seepage area, ~~sufficiently mineral rich~~ to support a plant community or  
137 aquatic ecosystem.

138 **Groundwater Recharge:** The replenishment of groundwater storage through infiltration of surface  
139 runoff into subsurface aquifers.

140 **High Value Resources Area, ~~or~~ (HVRA):** Portion of land (or a watershed) that contributes direct  
141 surface runoff to a trout water and/or fen within the ~~Lower Minnesota River Watershed District~~ District.  
142 Those areas within the District but not contained within the HVRA are referred to as General areas.

143 **Hot Spot:** A point source or potential pollution-generating land use, such as a gas station or chemical  
144 storage facility.

145 **H:V:** horizontal:vertical.

146 **Impervious Surface:** A constructed or compacted hard surface that either prevents or retards the entry  
147 of water into the soil and causes water to run off the surface in greater quantities and at an increased rate  
148 of flow than before development. Examples include rooftops, sidewalks, patios, driveways, parking lots,  
149 storage areas, concrete, asphalt, and gravel roads or other areas of compacted gravel surfaces.

150 **Infiltration:** A passage of water into the ground through the soils.

151 **Infrastructure:** The system of public works for a county, state, or municipality, including but not  
152 limited to structures, roads, bridges, culverts, and sidewalks; stormwater management facilities,  
153 conveyance systems, and pipes; pump stations, sanitary sewers, and interceptors; hydraulic structures,  
154 permanent erosion control, and stream bank protection measures; water lines, gas lines, electrical lines,  
155 and associated facilities; and phone lines and supporting facilities.

156 **Land-Disturbing Activity:** Any change of the land surface ~~to including but not limited to:~~ removing  
157 vegetative cover, excavating, fill, grading, stockpiling soil, and constructing any structure that may  
158 cause or contribute to increases in the flow of water off of a property, eroding erosion downstream, or  
159 moving sediment into water bodies. Land use for new and continuing agricultural activities shall not  
160 constitute a land-disturbing activity under these Rules.

161 **Landlocked Basin:** A water basin~~localized depression~~ that does not have a natural outlet at or below  
162 the its 100-year flood elevation.

163 **Linear Project:** Construction or reconstruction of a public road, sidewalk, or trail or construction,  
164 repair, or reconstruction of a utility or utilities that is not a component of a larger contemporaneous  
165 development or redevelopment project. A linear project does not include ancillary structures or facilities.

166 **Local Government Unit (LGU):** The municipality or other public body within the Lower Minnesota  
167 River Watershed District and subject to these Rules~~Entity such as a city or county.~~

168 **Local Water Plan (LWP):** A plan adopted by each municipality pursuant to Minnesota Statutes  
169 103B.235.

170 ~~**MNDOT:** Minnesota Department of Transportation.~~

171 ~~**MPCA:** Minnesota Pollution Control Agency.~~

172 ~~**MPCA General Construction Permit**~~**Construction Stormwater General Permit:** The Ggeneral  
173 Permit Authorization to Discharge Storm~~w~~-Water Associated with Construction Activity under the  
174 National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS)Permit  
175 Program, ~~Permit MN-R100001 (also known as the~~ NPDES General Construction Permit or NPDES  
176 Permit), issued by the Minnesota Pollution Control Agency (MPCA) ~~on~~, August 1, 2018, and as  
177 amended.

178 **Municipality:** Any city or township wholly or partly within the Lower Minnesota River Watershed  
179 District.

180 **Natural Vegetation:** Any combination of ground cover, understory, and tree canopy that, although  
181 human activity may have altered it, continues to stabilize soils, retain and filter runoff, provide habitat,  
182 and recharge groundwater.

183 ~~**NAVD:** North American Vertical Datum.~~

184 ~~**Nested:** A hypothetical precipitation distribution whereby the precipitation depths for various durations~~  
185 ~~within a storm have the same exceedance probabilities. This distribution maximizes the rainfall~~  
186 ~~intensities by incorporating selected short-duration intensities within those needed for longer durations~~

187 ~~at the same probability level. As a result, the various storm durations are “nested” within a single~~  
188 ~~hypothetical distribution. Nested storm distribution (or frequency-based hyetograph) development must~~  
189 ~~be completed using the most recent applicable National Weather Service reference data (e.g., Atlas 14),~~  
190 ~~in accordance with~~

- 191 ~~a. the alternating block methodology, as outlined in Chapter 4 of the *HEC-HMS (Hydrologic*~~  
192 ~~*Engineering Center Hydrologic Modeling System) Technical Reference Manual (USACE,*~~  
193 ~~2000);~~
- 194 ~~b. methods in HydroCAD;~~
- 195 ~~c. methods established by the Natural Resources Conservation Service; or~~
- 196 ~~d. otherwise as approved by the District.~~

197 ~~Reference: US Army Corps of Engineers. 2000. *Hydrologic Modeling System: HEC-HMS Technical*~~  
198 ~~*Reference Manual.*~~

199 ~~**Nondegradation:** For purposes of these rules, nondegradation refers to the regulatory policy stated in~~  
200 ~~Minnesota Administrative Rules 7050.0185, and as amended.~~

201 ~~**NOT:** Notice of Termination.~~

202 ~~**NPDES:** National Pollutant Discharge Elimination System.~~

203 ~~**Official Controls:** Defined and enacted policies, standards, maps and other criteria which control the~~  
204 ~~physical development of the LGU and are the means of translating into ordinances all or any part of the~~  
205 ~~general objectives of the comprehensive plan.~~

206 ~~**Ordinary High Water Level (OHWL):** Ordinary high water level, as defined by the Minnesota~~  
207 ~~Department of Natural Resources, mMeans the boundary of water basins, watercourses, public waters,~~  
208 ~~and publicor waters-wetlands, and ~~the~~OHWL is an elevation delineating-indicating the highest water~~  
209 ~~level maintained for a sufficient period of time to leave evidence upon the landscape, commonly the~~  
210 ~~point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.;~~  
211 ~~fFor watercourses, the OHWL is the elevation of the top of bank of the channel bank. ; and Ffor~~  
212 ~~reservoirs-basins and flowages, the OHWL is the operating elevation of the normal summer pool.~~

213 ~~**Outfall:** A constructed point source where water discharges to a receiving water.~~

214 ~~**Overlay District:** A district established by Lower Minnesota River Watershed District rules/regulations~~  
215 ~~that may be more or less restrictive than the primary District’s rules/regulations. Where a property is~~  
216 ~~located within an overlay district, it is subject to the provisions of both the primary rules/regulations and~~  
217 ~~those of the overlay district.~~

218 ~~**Owner:** Any individual, firm, association, partnership, corporation, trust, or other legal entity having~~  
219 ~~proprietary interest in the land.~~

220 ~~**Parcel:** A lot of record in the office of the county recorder or registrar or that otherwise has a defined~~  
221 ~~legal existence.~~



222 **Person:** Any individual, trustee, partnership, unincorporated association, limited liability company, or  
223 corporation.

224 **Pervious:** Surfaces that are readily penetrated or permeated by rainfall or runoff resulting in infiltration  
225 of surface water to the groundwater.

226  
227 **Pollutant:** A pollutant is a substance or energy introduced that has undesired effects, or adversely  
228 affects the usefulness of a resource. Pollutants may include, but are not limited to: paints, varnishes, and  
229 solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse,  
230 rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that  
231 same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous  
232 substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal  
233 wastes; wastes and residues that result from constructing a building or structure; and noxious or  
234 offensive matter of any kind.

235 ~~**Practical Difficulties:** As defined in Minnesota Statutes section 462.357, subdivision 6.~~

236 **Professional Engineer:** a licensed engineer registered under the laws of the state of Minnesota.

237 **Public Drainage System:** Any drainage system as defined in Minnesota Statutes 103E.005, subdivision  
238 12.

239  
240 **Public Project:** Land development or redevelopment or other land-disturbing activity conducted or  
241 sponsored by a federal, state, or local governmental entity, for which a permit from the Lower  
242 Minnesota River Watershed District, or its designee is required.

243 **Public Waters:** Waters as defined in Minnesota Statutes 103G.005, subdivision 15, and included in the  
244 public waters inventory.

245 **Qualified Professional:** A person, compensated for her/his service, possessing the education, training,  
246 experience, or credential to competently perform or deliver the service provided.

247 **Reconstruction:** Removal of an impervious surface such that the underlying structural aggregate base is  
248 effectively removed and the underlying native soil exposed. The following do not constitute  
249 “reconstruction” for the purposes of these rules: impervious surface mill, reclamation, overlay, or paving  
250 of an existing rural section gravel road.

251 **Redevelopment:** Any construction or improvement performed on sites where the existing land use is  
252 commercial, industrial, institutional, or residential.

253 **Regional System:** A surface water storage or conveyance system used at a regional scale.

254 **Runoff:** Rainfall, snowmelt, or irrigation water flowing over the ground surface.

255 **Seasonally Saturated Soils:** The highest known seasonal elevation of groundwater, or seasonal high  
256 water table, as indicated by redoximorphic features such as mottling within the soil.



257 **Sediment:** The solid mineral or organic material that is in suspension, is being transported, or has been  
258 moved from its original location by erosion and deposited at another location.

259 ~~**Sedimentation:** The process or action of depositing sediment.~~

260 ~~**Semi-Pervious:** Land cover or surfaces which include both pervious and impervious features that allow  
261 for some infiltration, but are directed to a conveyance system, such as synthetic turf and capped or lined  
262 systems at landfills.~~

263 ~~**Shoreland District:** Shoreland a~~ Areas regulated by a local municipal or county shoreland ordinance or  
264 by Minnesota Statutes 103F. Generally, a shoreland district consists of land located within a floodplain,  
265 within 1,000 feet of the ordinary high-water level of a public water or public waters wetland, or within  
266 300 feet of a stream or river.

267 **Shoreline:** The lateral measurement along the contour of the ordinary high water level of waterbodies  
268 other than watercourses, the top of the bank of the channel of watercourses, and the area waterward  
269 thereof.

270 ~~**Single-Family Home:** A free-standing residential building designed for and to be occupied as a single-  
271 dwelling unit on its own land.~~

272 **Site:** A contiguous area of land under common ownership, designated and described in official public  
273 records and separated from other lands, see Parcel.

274 **Standard:** A preferred or desired level of quantity, quality, or value.

275 **Steep Slope:** A natural topographic feature having average slopes of 18 percent or greater measured  
276 over a horizontal distance of 25 feet or more.

277 ~~**Steep Slopes Overlay District (SSOD):** A district subarea within the District containing steep slopes  
278 areas established by Lower Minnesota River Watershed District ~~rules/regulations~~ Watershed  
279 Management Plan that is subject to the provisions of ~~both the primary rules/ regulations and those of the~~  
280 ~~overlay district~~ these Rules.~~

281 ~~**Storage System:** The drainage facilities, both natural and manmade, which collect, contain, and provide  
282 for the flow and treatment of surface and stormwater from multiple properties the highest points on the  
283 land down to a receiving water. The natural elements of the storage system include lakes and wetlands.  
284 The humanmade elements of the storage system include retention or detention facilities.~~

285 **Stormwater:** Water discharged to natural and artificial conveyance or holding systems resulting from  
286 precipitation, including rainfall and snowmelt.

287 **Structure:** Anything manufactured, constructed, or erected that is normally attached to or positioned on  
288 land, including portable structures, earthen structures, water and storage systems, drainage facilities, and  
289 parking lots.

290 ~~**Subsurface Sewage Treatment System, or SSTS:** A sewage treatment system or part thereof serving a  
291 dwelling, other establishment, or group thereof and using sewage tanks followed by soil treatment and~~

292 ~~disposal or using advanced treatment devices that discharge below final grade. A subsurface sewage~~  
293 ~~treatment system includes holding tanks and privies.~~

294 **Subwatershed:** A portion of land (or a watershed) contributing runoff to a particular point ~~of discharge.~~

295 **Surface Water:** All streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage  
296 systems, ~~waterways~~ water basins, watercourses, and irrigation systems regardless of whether natural or  
297 artificial, public or private.

298 ~~**Thalweg:** A line following the lowest points of a valley, river, stream, or creek bed.~~

299 ~~**Total Phosphorus (TP):** Total phosphorus~~ A measure of all forms of phosphorus, dissolved or  
300 particulate, in a given water sample or flow.

301 **Trout Waters:** Lakes or streams that currently support or historically have supported a population of  
302 stocked or naturally ~~produced~~ occurring trout.

303 ~~**Total Suspended Solids (TSS):** Total suspended solids~~ Refers to the dry-weight of waterborne particles,  
304 that are not dissolved and can be trapped by a filter, in a given water sample or flow.

305 **Waterbody:** All surface waters, watercourses, and wetlands as defined in these ~~Policies~~ Rules.

306 **Water Basin:** An enclosed depression with definable banks capable of containing water.

307 **Watercourse:** A channel that has definable beds and banks capable of conducting confined runoff from  
308 adjacent land.

309 **Watershed:** A region draining to a specific watercourse or water basin.

310 **Wellhead Protection Plan:** A document that provides for the protection of a public water supply,  
311 submitted to the Minnesota Department of Health, that is implemented by the public water supplier and  
312 complies with (a) the wellhead protection elements specified in the 1986 amendments to the Federal  
313 Safe Drinking Water Act, United States Code, title 42, chapter 6A, subchapter XII, part C, section 300h-  
314 7 (1986 and as subsequently amended) and (b) Minnesota Rules parts 4720.5200 to 4720.5290.

315 **Wetland:** Any land as defined in Minnesota Statutes 103G.005, subdivision 19.

316 **2 Rule A: Administrative and Procedural Requirements Rule**

317 Minnesota Statutes 103D.341 requires the Lower Minnesota River Watershed District (District) to adopt  
318 rules. Pursuant to Minnesota Statutes chapter 103D, on October 24, 2018, the District adopted its Board  
319 of Water and Soil Resources–approved watershed management plan (Plan). The Plan establishes  
320 management standards that form the foundation of these ~~R~~rules.

321 These ~~r~~Rules are primarily applied by a local governmental unit (LGU) under a Municipal (~~LGU~~)  
322 Permit (Section 1.1) or by the District through an Individual Permit (Section 1.2)

323 Implementation by municipalities or LGUs of these ~~R~~rules is required on all projects within their  
324 jurisdiction and by the District on projects within unincorporated and ungoverned areas of the Fort  
325 Snelling Historic District, ~~and~~ on Minnesota Department of Transportation (MnDOT) right-of-way, ~~and~~  
326 within municipalities that have not obtained a Municipal Permit.

327 **2.1 MUNICIPAL (~~LGU~~) PERMIT**

328 The ~~M~~municipal (~~LGU~~) ~~p~~Permit allows local municipalities to issue permits and manage actions as the  
329 primary permitting authority and allows the District to act in the event the LGUs are unable to permit.

330 2.1.1 Policy

331 It is the policy of the District to:

- 332 A. ~~R~~ecognize that control and determination of appropriate land use is the responsibility of LGUs;
- 333 B. ~~H~~old LGUs to the requirement of Minnesota Statutes section 103G.235, subdivision 1, that each  
334 adopt the official controls necessary to bring local water management into conformance with the  
335 Plan;
- 336 C. ~~P~~resent minimum threshold requirements and allow LGUs to adopt more restrictive  
337 requirements;
- 338 D. ~~R~~ecognize that the authorities and procedures that LGUs use in implementing these ~~R~~rules will  
339 not be identical and that, therefore, some LGUs may occasionally need language and procedures  
340 that vary from the language and procedures outlined herein; and
- 341 E. ~~C~~oordinate with and provide a ~~m~~Municipal ~~p~~Permit to all LGUs with compliant local controls.

342 2.1.2 Regulation

343 ~~All Those~~ LGUs ~~that wish to~~ must obtain a municipal permit ~~must~~ highlighting how they intend to  
344 implement and enforce these ~~r~~Rules through official controls, in accordance with Minnesota Statutes  
345 103B.235, ~~on or before May 1, 2020.~~

346 2.1.3 Application

347 The District established these Rules on February 2020 and all LGUs were required to submit their ~~An~~  
348 LGU ~~must submit an~~ application packets to the District to obtain a ~~M~~municipal ~~p~~Permit under these  
349 ~~r~~Rules on or before February 7, 2020, with the intent of LGUs receiving their Municipal Permits before  
350 the implementation deadline of May 1, 2020. All Municipal Permit applications thereafter will follow

351 the timeline below. The submitted permit application must address how the LGU's official controls  
352 adhere to these ~~Rules~~. LGUs are encouraged to contact the District ~~on or before January 1, 2020, to~~  
353 ~~begin beginning~~ this process; this allows for nonbinding, informal review of the official controls  
354 ~~conform with the District's rules before the May 1, 2020, implementation deadline.~~

- 355 A. ~~The municipal permit application packets are due on or before February 7, 2020.~~ The District has  
356 up to 60 business days to take action on a submitted permit application that is considered  
357 complete.
- 358 B. The ~~municipal permit~~ may be applied for using application forms can be obtained from the  
359 ~~District office or downloaded on~~ the District website at [www.lowermnrivewd.org/](http://www.lowermnrivewd.org/).
- 360 C. The ~~municipal permit~~ applications must be signed by the City Administrator, a licensed  
361 professional engineer under the laws of the state of Minnesota (professional engineer), or  
362 designated City staff upon authorizing action of the LGU's governing board or council.
- 363 D. All ~~municipal permit~~ application packets must include a completed application form and all  
364 required exhibits. These documents must be electronically submitted to the District in .pdf  
365 format. Compliance with these specifications will be used to determine whether the municipal  
366 permit application is complete. The District will not act on an incomplete ~~municipal permit~~  
367 application and will notify LGUs within 15 business days of receiving the application if it is not  
368 complete.

369 2.1.4 Municipal Permit Approval, Renewal and Assignment

- 370 A. Approval. Municipal ~~P~~permit approval is valid for five calendar years from the approval date,  
371 with or without conditions, unless otherwise specified. This does not include suspended or  
372 revoked municipal permits. Substantive changes, such as updates to these Rules and LGU  
373 official controls that affect the specific standards identified in the Plan, require a new municipal  
374 permit application.
- 375 B. Renewal. To renew ~~or assign~~ a municipal permit, the original permittee must notify and provide  
376 an explanation to the District, in writing, at least 60 days before the expiration date.
- 377 C. Assignment. When approved by the District, the permittee may assign a municipal permit to  
378 another LGU; ~~however the assignment of a permit does not extend the term.~~ Approval may be  
379 granted if:
- 380 i. ~~The proposed assignee~~ current permittee first notifies and provides and explanation to the  
381 District, in writing, before the permit expiration date.
- 382 ~~ii.~~ The proposed assignee agrees in writing to assume responsibility for compliance of all  
383 terms and conditions of the municipal permit as issued; and
- 384 ~~iii.~~ aAt the time of the request, there are no pending violations of the municipal permit or  
385 conditions of approval.

386 iv. If the District finds that the proposed assignee has not demonstrated the ability to fulfill  
387 the municipal permit terms, it may impose new or additional conditions or deny the  
388 permit renewal or assignment. ~~The assignment of a permit does not extend the term.~~

389 D. Amendments. When approved by the District, the permittee may modify its municipal permit,  
390 however amendment of a permit does not extend the term. Approval may be granted if:

391 i. The current permittee first notifies and provides an explanation to the District, in writing,  
392 before the permit expiration date.

393 ii. The proposed assignee agrees in writing to assume responsibility for compliance of all  
394 terms and conditions of the municipal permit as issued; and

395 iii. At the time of the request, there are no pending violations of the municipal permit or  
396 conditions of approval.

397 iv. If the District finds that the proposed assignee has not demonstrated the ability to fulfill  
398 the municipal permit terms, it may impose new or additional conditions or deny the  
399 permit renewal or amendment.

#### 400 2.1.5 Audit Process

401 The District reserves the right to conduct periodic audits and/or inspections of LGU programs, project  
402 approvals, issued municipal permits, and other processes to assess conformance with the municipal  
403 permit, the standards identified in the Plan, and these Rules.

#### 404 2.1.6 Enforcement

405 LGUs are responsible for implementing and enforcing local water plans (~~LWPs~~) covering their  
406 jurisdictions. To avoid unnecessary duplication of permitted programs, the District anticipates providing  
407 oversight to confirm that LWPs, including these Rules and local controls, are properly implemented and  
408 enforced. Oversight will include spot checks of municipal projects and program audits. If the LGU is  
409 found noncompliant, the District will work with the LGU to correct the issue. However, if problems  
410 persist, the District may revoke or suspend the municipal permit and require individual permits, issued  
411 by the District, for all activities covered by these Rules. The District may also pursue remedies as  
412 provided by law to ensure compliance with these Rules.

413 The District will not be responsible for liabilities, costs, and damages caused by the LGU's lack of  
414 proper implementation.

#### 415 2.1.7 Suspension or Revocation

416 The District may revoke or suspend an issued municipal permit if it was issued based upon inaccurate  
417 information provided by the permittee, the permittee has not demonstrated the ability to fulfill the terms,  
418 or the permittee fails an audit.

#### 419 2.1.8 Variance

420 It is the District's policy to allow LGUs to grant variances and issue conditional use permits according  
421 to processes for such actions contained in existing local controls, except for the professional certification

422 requirement for steep slopes. At least thirty days before municipal consideration of a variance or  
423 conditional use permit request, the District shall be notified of the requested action and be allowed to  
424 provide comment on the requested action. Variances that would circumvent the intent and purposes of  
425 these ~~R~~Rules shall not be granted.

426 2.1.9 Permits Subject to Rule F: Steep Slope Rule

427 Upon showing, to the satisfaction of the District, that the LGU has enacted and is following official  
428 controls necessary to meet the intent of these ~~R~~rules, the District may issue an exception to the rule for  
429 projects with land-disturbing activities that require a municipal grading, building, parking lot, or  
430 foundation permit that impact less than 50 cubic yards or less than 5,000 square feet of surface area or  
431 vegetation. The exception, if issued, will be documented in the ~~M~~municipal ~~p~~Permit, wherein the LGU  
432 must agree: (1) that it will enforce its official controls; (2) that the exception will terminate if the LGU  
433 amends its official controls such that they no longer meet the intent of these ~~R~~rules; and (3) that the  
434 LGU will provide notice to the District of all permits issued under the exception.

436 **2.2 INDIVIDUAL PERMIT**

437 The Individual Permit allows the District to act as regulatory body in those areas not regulated by a  
438 municipality with an approved Municipal Permit. These generally include unincorporated and  
439 ungoverned areas of the Fort Snelling Historic District, Minneapolis-St. Paul International Airport, and  
440 on MnDOT right-of-way.

441 2.2.1 Policy

442 An individual permit is required for projects proposed by the MnDOT and all projects occurring in the  
443 Fort Snelling Historic District unincorporated area of the District (i.e., where there is no LGU exercising  
444 official controls).

445 Except where a ~~m~~Municipal pPermit has been issued and remains in effect (i.e., has not been revoked or  
446 suspended), a person undertaking an activity for which these Rrules require a permit must obtain the  
447 required permit from the District before commencing the regulated activity.

448 2.2.2 Application

449 An application must be submitted to the District to obtain a permit for all projects subject to these  
450 Rrules. Applicants are strongly advised to contact the District early in the project development process.  
451 This will allow for a nonbinding, informal review to assess conformity with District rules.

452 Complete pPermit applications are due 20 business days before the monthly board meeting to be  
453 considered at that board meeting. The District will act on permit applications in a manner consistent  
454 with Minnesota Statutes section 15.99.

455 A. Application forms can be obtained from the District office or downloaded on the District website  
456 at [www.lowermnrivewd.org/](http://www.lowermnrivewd.org/).

457 B. The project/property owner must sign all permit applications.

458 C. All permit application packets must include a completed application form, all required exhibits,  
459 and a check (if applicable). These documents can be electronically submitted to the District in  
460 .pdf format. Applicable fees should be mailed to the District office. See the District website for  
461 the most current fee schedule. Compliance with these required exhibits outlined in the  
462 applicable Rules specifications will be used to determine whether an application is complete.

463 C.D. The District will not act on an incomplete permit application. If the application is not  
464 complete, the District will notify applicants within 15 business days of receiving it.

465 D.E. Any entity undertaking emergency activity immediately necessary to protect life or  
466 prevent substantial physical harm to persons or property must submit an application within 30  
467 days of commencing the work. The emergency activity must be brought into compliance with  
468 District rules in a timely manner.

469 2.2.3 Administrative Review and Approval

470 It is administratively burdensome for the Board to review every Individual Permit application.  
471 Therefore, the District Administrator and Engineering/Technical Consultant shall review all applications



472 and make recommendations for approval or denial, including proposed conditions. Certain Individual  
473 Permit applications may be reviewed and approved administratively by the District Administrator with  
474 concurrence of the Engineering/Technical Consultant.

475 A. The following Individual Permit applications may be approved administratively, provided all  
476 required, local permits have been secured:

477 v. Rule B: Erosion control permit applications under Rule B that involve the disturbance of  
478 less than 10,000 square feet of surface area or vegetation or the excavation of less than  
479 100 cubic yards of earth within the HVRA or SSOD Overlay Districts, as shown on the  
480 Lower Minnesota River Watershed District Overlay District Maps (Figures 1 and 2).

481 vi. Rule C: No administrative approval authorized.

482 vii. Rule D: Stormwater permit applications under Rule D, including development,  
483 redevelopment, and drainage alternations (including roads) creating new impervious  
484 areas of less than 20,000 square feet ~~within the HVRA Overlay District, as shown on the~~  
485 Lower Minnesota River Watershed District—High Value Resources Area Overlay  
486 District Map (Figure 1).

487 viii. Rule F: Steep Slope area permit applications under Rule F, including land-disturbing  
488 activities that involve the excavation of less than 100 cubic yards of earth or displacement  
489 or removal of less than 10,000 square feet of surface area or vegetation within the Steep  
490 Slopes Overlay District, as shown on the Lower Minnesota River Watershed District—  
491 Steep Slopes Overlay District Map (Figure 2)

492 B. The District Administrator may work with consultants on the administrative review of a permit.

493 C. If a permit meets the administrative approval requirements but the District Administrator  
494 determines that administrative approval is inappropriate due to an unusual circumstance, the  
495 permit application shall be brought before the Board for approval.

496 D. All administratively approved permits shall be deemed issued when signed by the District  
497 Administrator, or other Board-designated staff or consultant, and all conditions of the permit  
498 have been satisfied.

499 E. The District Administrator shall provide reports to the Board of all administratively approved  
500 permits.

501 F. District Staff may not deny a permit. District Staff must instead bring the permit application  
502 before the Board with a recommendation to deny the permit application including proposed  
503 written reasons for denial.

#### 504 2.2.32.2.4 Conditional Approval

505 The District may conditionally approve an application; however, it will not issue the permit until the  
506 applicant has met all approval conditions. The applicant must demonstrate clear intent to comply with  
507 these Rules and all conditional approval requirements that the District has outlined. All conditions must



508 be met within twelve (12) months from the date conditional approval was granted. If conditions are not  
509 satisfied within the specified period~~After this timeframe~~, the conditional approval will expire and the  
510 applicant will be required to reapply for a permit and pay applicable permit fees. For conditionally  
511 approved permits, the permit term does not begin until all conditions have been met and the permit has  
512 been issued.

513 2.2.42.2.5 Reconsideration

514 An applicant aggrieved by the District's decision regarding a permit application may file a notice of  
515 reconsideration.

- 516 A. A notice of reconsideration must be filed with the District within 10 business days of the board  
517 meeting at which the original decision was made. The notice must include a statement  
518 identifying the specific conditions and findings to be reconsidered.
- 519 B. The District will schedule a reconsideration of the matter by the Board of Managers. The  
520 applicant will receive a notice of the reconsideration date at least 20 business days in advance.
- 521 C. The applicant may supplement existing permit exhibits with additional documentation and  
522 submit all additional exhibits to the District no later than 10 business days before the date of the  
523 reconsideration.
- 524 D. In accordance with Minnesota Statutes section 103D.345, subdivision 2, an applicant will  
525 assume the analytical costs incurred by the District while conducting a reconsideration. Costs  
526 will not be recovered when the applicant is a local, state, or federal governmental body.
- 527 E. Once an applicant has filed a notice for reconsideration, the underlying permit decision will be  
528 suspended until the Board of Managers issues a final decision on the reconsideration.
- 529 F. The District's decision on the reconsideration constitutes the final decision on the application.

530 2.2.52.2.6 Appeal

531 Pursuant to Minnesota Statutes section 103D.537, an applicant may appeal a permit decision or order  
532 made by the Board of Mmanagers by a declaratory judgment action brought under Minnesota Statutes  
533 chapter 555. An applicant must file an appeal of a permit decision or order within 30 days of the Board  
534 of Mmanagers' decision. An applicant may request a meeting with the dispute resolution committee of  
535 the Board of Water and Soil Resources to informally resolve a dispute before initiating a declaratory  
536 judgment action.

537 2.2.62.2.7 Permit Renewal and Assignment

538 Permit approval is valid for one calendar year from the date the permit was approved, with or without  
539 conditions, unless otherwise specified. This does not include suspended or revoked permits. To renew or  
540 assign permit approval, the original permittee must notify and provide notification, an explanation of the  
541 requested action, documentdocumentation of plan changes, and provide supporting information to the  
542 District, in writing, at least sixty (60) days prior to~~before~~ the permit expiration date. The District may  
543 impose different or additional conditions on the permit renewal or deny the renewal in the event of a

544 ~~material change in circumstances if there is a significant change in the work proposed.~~ The first renewal  
545 request will not be subject to new or additional requirements solely because of a change in the District's  
546 rules where substantial progress has been made toward the completion of the permitted project.

547 Applicants wishing to continue projects for which permit approval has expired must reapply for a permit  
548 and pay associated fees. All District rules in effect at the time of the reapplication will apply.

#### 549 2.2.8 Permit Assignment

550 When approved by the District, the permittee may assign a permit to another party. Approval may be  
551 granted if, all of the following conditions are met:

552 ~~A. The proposed assignee agrees in writing to assume responsibility for compliance with all terms,~~  
553 ~~and conditions and obligations of the permit as originally issued to the permittee; and~~

554 ~~A. The proposed assignee has the ability to satisfy the terms and conditions of the permit as~~  
555 ~~originally issued;~~

556 ~~B.~~

557 ~~B.C.~~ ~~A~~ at the time of the request, there are no current or pending violations of the permit or  
558 conditions of approval as originally issued; and

559 ~~C.D.~~ ~~The~~ proposed assignee has provided any required financial assurance necessary to  
560 complete the permitted project.

561 If the District finds that the proposed assignee has not demonstrated the ability to fulfill the permit  
562 terms, it may impose new or additional conditions or deny the permit assignment. The assignment of a  
563 permit does not extend the term of the permit.

#### 564 2.2.9 Permit Amendments

565 Permits may be amended after approval but before the initiation of work or construction activities. The  
566 permittee must notify the District of proposed amendments as soon as possible. The District reserves the  
567 right to review and adjust any financial sureties as part of the amendment process. Permits may not be  
568 amended after the initiation of work, in this case applicants must reapply for a District permit.

#### 569 2.2.72.2.10 Suspension or Revocation

570 ~~The~~ District staff may ~~revoke or~~ suspend an issued permit if the permit was issued based upon  
571 inaccurate information provided by the permittee, or the permittee has failed to meet the requirements of  
572 a conditional approval. A special meeting of the Board of Managers may be called to revoke an issued  
573 permit or recommend other enforcement actions under section 2.2.15.

#### 575 2.2.82.2.11 Variance

576 The Board of Managers may consider a request for a variance from compliance with these Rrules. To  
577 grant a variance, the applicant must demonstrate the following:

578 ~~A. Practical Difficulties.~~

579 A. “Practical difficulties” is a legal standard set forth in ~~law~~ [Minnesota Statutes Section 462.357,](#)  
580 [Subdivision 6](#) that regulatory authorities must apply when considering applications for variances.  
581 It is a three-factor test and applies to all requests for variances. To constitute practical  
582 difficulties, all three factors of the test must be satisfied:-

- 583 i. The applicant proposes to use the property in a reasonable manner. This factor means that  
584 the applicant would like to use the property in a particular reasonable way but cannot do  
585 so under the regulatory rule. It does not mean that the land cannot be put to any  
586 reasonable use whatsoever without the variance. Activities causing environmental  
587 degradation, creating increased risk of damage to property or public or private  
588 infrastructure, or unable to be certified as suitable for site conditions may not be  
589 considered reasonable.
- 590 ii. The applicant’s problem is caused by circumstances unique to the property and are not  
591 caused by the applicant. The uniqueness generally relates to the physical characteristics  
592 of the particular piece of property, that is, to the land and not to personal characteristics  
593 or preferences of the landowner.
- 594 iii. The variance, if granted, will not alter the locality’s essential character. Under this factor,  
595 consider whether the resulting structure or land modification will be out of scale, out of  
596 place, or otherwise inconsistent with the surrounding area.

597 B. Additional Considerations

- 598 i. The activity for which the variance is sought will not adversely affect water resources,  
599 flood levels, or drainage in the District.
- 600 ii. A better natural resource protection or enhancement can be achieved by the proposed  
601 project if a variance is approved.

602 C. Term and Revocation. A variance granted by the District remains valid as long as the activity for  
603 which the variance was granted remains consistent with the conditions of the underlying permit.  
604 A variance may be revoked if the activity for which the variance was granted is abandoned.

605 ~~2.2.92.2.12~~ [After-the-Fact Permits](#)

606 Any work requiring a permit that is performed without a permit is subject to enforcement and restoration  
607 under Minnesota Statutes 103D. The District may grant an after-the-fact permit in certain situations. The  
608 work sought to be permitted by an after-the-fact permit must have been capable of receiving a permit  
609 before the work was performed or must be capable of correction to meet the intent or performance  
610 standards of these Rules. Because an after-the-fact permit will require increased investigation of the  
611 conditions of the unauthorized work, an increased inspection fee may be required before processing the  
612 after-the-fact permit. After-the-fact inspection fees [may be incurred and will be the sole responsibility of](#)  
613 [the applicantare found District website at www.lowermnriverwd.org/](#).

614 If the work does not qualify for a permit, no after-the-fact permit shall be issued, and corrective actions  
615 may be sought pursuant to Minnesota Statutes 103D.545 and 103D.551. Before considering an after-the-  
616 fact permit application, the District may require that the property be returned to the condition that  
617 existed before the unpermitted work was performed.

618 A. Completed Work

619 If, after inspection, the unauthorized work is found to comply with these Rules or the performance  
620 standards herein, the after-the-fact permit shall be issued to the applicant without further cost. If,  
621 after inspection, the unauthorized work is found not to comply with these Rules or the performance  
622 standards herein, further inspection and permit processing may be required, including additional  
623 inspection fees. An after-the-fact permit may require correction work and be subject to additional  
624 conditions.

625 B. Incomplete Work

626 For work in progress, work must cease and the work site must be stabilized until a permit is issued.  
627 Standard administrative procedures shall apply to the application, except for increased inspection  
628 fees as described above. For any portion of work completed that does not meet performance  
629 standards herein, deficiencies must be corrected as a condition of permit issuance.

630 C. Emergency Work

631 An after-the-fact permit may be required after emergency work. If the work is deemed an emergency  
632 and otherwise performed in compliance with these Rules or the performance standards herein, the  
633 after-the-fact permit shall be issued to the applicant without cost. If the work is deemed an  
634 emergency but is not otherwise performed in compliance with these Rules or the performance  
635 standards herein, the after-the-fact permit shall be issued to the applicant without any increased cost,  
636 rather than that required for a before-the-fact permit. If the work is not deemed an emergency, the  
637 standard after-the-fact permit requirements will apply. In all cases, an after-the-fact permit may  
638 include conditions to correct any damage caused by the emergency work.

639 D. Enforcement

640 The District may pursue remedies as provided by law to ensure compliance with an issued permit,  
641 variance, or permit condition.

642 ~~2.2.10~~ 2.13 Permit and Inspection Fees

643 A. Policy

644 It is the determination of the Board of Managers that:

- 645 i. charging a minimal permit application fee will increase public awareness of and  
646 compliance with District permitting requirements and will reduce enforcement and  
647 inspection costs;
- 648 ii. the public interest will benefit from inspection by District staff of certain large-scale  
649 projects in locations presenting particular risk to water resources to provide the Board of

650 Managers with sufficient information to evaluate compliance with District rules and  
651 applicable law; and

- 652 iii. from time to time, persons perform work requiring a permit from the District without a  
653 permit, and persons perform work in violation of an issued District permit. The Board of  
654 Managers determines that its costs of inspection and analysis in such cases will exceed  
655 costs incurred where an applicant has complied with District requirements.

656 B. Requirement

657 The District will charge applicants permit and inspection fees in accordance with a schedule that will  
658 be maintained and revised from time to time by resolution of the Board of Managers to ensure that  
659 permit fees cover the District’s actual costs of administrating and enforcing permits and the actual  
660 costs related to field inspections of permitted projects, such as investigation of the area affected by  
661 the proposed activity, analysis of the proposed activity, services of a consultant, and any required  
662 subsequent monitoring of the proposed activity. Costs of monitoring an activity authorized by permit  
663 may be charged and collected as necessary after permit issuance. The fee schedule may be obtained  
664 from the District office or the District’s website at <http://lowermnriverwd.org/>. A permit applicant  
665 must submit the required permit fee to the District at the time it submits the relevant permit  
666 application. The fee provided by this rule will not be charged to any agency of the United States or  
667 any governmental unit or political subdivision of the State of Minnesota.

668 ~~2.2.11~~ 2.2.14 Financial Assurances

669 A. Policy

670 It is the District’s policy to protect and preserve the water resources within the District by requiring  
671 financial performance assurances with a permit application. Such assurances will ensure adequate  
672 adherence to District rules when performing authorized activities.

673 B. Requirement

674 The District may require a performance bond, letter of credit, or other financial assurance in a form  
675 approved by the District for an activity permitted under these ~~R~~rules. A financial assurance will not  
676 be required of any agency of the United States or any governmental unit of the State of Minnesota.

677 C. Criteria

678 Financial assurances required pursuant to this rule must be issued in compliance with the following  
679 District criteria:

- 680 i. The financial assurance must be a performance bond, letter of credit, cash deposit, or  
681 other form acceptable to the District. Commercial financial assurances must be from an  
682 issuer licensed and doing business in the State of Minnesota.
- 683 ii. Any bond issued under this section shall be executed by such sureties as are named in the  
684 list of “Companies Holding Certificates of Authority as Acceptable Sureties on Federal  
685 Bonds and as Acceptable Reinsuring Companies,” as published in Circular 570

(amended) by the Financial Management Service, Surety Bond Branch, US Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.

- iii. Financial assurances must be issued in favor of the District and are contingent upon the applicant's compliance with the issued permit and payment of District fees. The financial assurance must state that, in the event of financial assurance conditions not being met, the District may make a claim against it. If the District makes a claim against a financial assurance, the full amount of the financial assurance required must be restored within 20 business days.
- iv. The financial assurance must be effective for a minimum of three years from the date it was issued. The District may require the financial assurance to be extended or remain in place until all project components are stabilized and verified to be functioning to permitted specifications. The financial assurance must contain a provision that it may not be released without the District's consent.
- v. The permit applicant must submit the financial assurance. The financial assurance principal may be the landowner or the individual or entity undertaking the proposed activity.
- vi. Financial assurance will be released only under the terms of section ~~2.2.13.D.2.H.4~~
- vii. No interest will be paid on financial assurances held by the District.
- viii. The District Board of Managers will set the amount of financial assurances by resolution. Financial assurance amounts are set to cover potential liabilities to the District, including but not limited to the following:
  - a. Field inspections and monitoring
  - b. Maintaining and implementing erosion and sediment control and other protections as the permit requires
  - c. Planting and establishing buffer area
  - d. Remediation of damages resulting from noncompliance with the permit or for which the permittee is otherwise responsible

#### D. Financial Assurance Release

Once the District has received written notification of project completion, it will promptly inspect the project to determine whether the project was constructed in accordance with the issued permit and District rules. If the project is found in compliance, all practices and project components are stabilized, all practices and project components are verified to be functioning to permitted specifications, all required documentation has been submitted and approved by the District, and all permit fees have been paid, the District Board of Managers will authorize the release of the financial assurance.



Further, upon written notice, a portion of the assurance may be released if the District finds that the entire amount is not needed to ensure compliance. After inspection, the District will determine what portion, if any, of the financial assurance can be released. If a portion of the financial assurance is not released, the District will notify the permittee of the outstanding compliance matters to address.

#### E. Financial Assurances by Rule

Financial assurance required for a particular permit will include a 10 percent contingency and a 30 percent administrative costs in addition to the amounts calculated according to the criteria found in section ~~1.2.11.3.h.2.2.14.C.viii~~ . No financial assurance is required for a project undertaken by or for a resident owner on a single-family home site requiring only a permit under Erosion and Sediment Control, unless the Board of Managers determines that the project presents a significant risk of damage to water resources from erosion. See the fee schedule policy on the District's website for additional information.

### 2.2.15 Enforcement

#### A. Investigation of Noncompliance

District staff, agents, and contractors may enter and inspect a property within the watershed to determine if a violation of permit conditions or District rules has occurred.

#### B. Informal Resolution of Noncompliance

Before initiating formal proceedings (see below), the District and its staff shall attempt to informally resolve incidences of noncompliance (i.e., by voluntary corrective actions or after-the-fact permitting).

#### C. Board Hearing; Administrative Compliance Order

The District will provide the permittee or landowner with reasonable notice when a compliance hearing will take place. An opportunity to be heard by the Board of Managers will be allotted at the compliance hearing, during which the permittee or landowner can address the finding of probable violation. At the hearing's conclusion, the District may issue a compliance order.

#### D. District Court Enforcement

The District Board of Managers may seek judicial enforcement of an order and recovery of associated legal costs and fees, as provided by Minnesota Statutes chapter 103D.

#### E. Liability for Enforcement Costs

The permittee or owner of a property subject to the District's enforcement action will be liable for associated costs incurred by the District. Such costs include but are not limited to inspection and monitoring, engineering, technical analysis, and legal and administrative expenses.

### 2.2.16 Permit Close-Out

Upon written notification from permittee of the completion of the permitted project and submittal of actual "as-built" plans for any stormwater management practices or improvements located on site after

758 final construction is completed, the District will inspect the project to determine if it is constructed in  
759 accordance with the terms of the permit and District Rules. Final inspection compliance includes, but is  
760 not limited to, confirmation that all erosion and sediment control BMPs and stormwater management  
761 features have been constructed or installed as designed and are functioning properly. The District may  
762 return a portion of the surety if it finds that a portion of the surety is no longer warranted to assure  
763 compliance with District Rules per section 2.2.14.D. Upon determination that the project is complete,  
764 the District will notify the permittee, surety, and municipality that the individual permit has been closed  
765 out.

766 **3 Rule B: Erosion and Sediment Control Rule**

767 **3.1 POLICY**

768 It is the District's policy to

- 769 A. minimize erosion and sediment transport to lakes, streams, fens, and the Minnesota River;
- 770 B. retain or control sediment on land and during land-disturbing activities;
- 771 C. prevent resource degradation and loss or damage to property from erosion and sedimentation;
- 772 D. protect receiving water bodies, wetlands, and storm sewer inlets; and
- 773 E. require the preparation and implementation of erosion and sediment control plans to control
- 774 runoff and erosion.

775 **3.2 REGULATION**

776 A ~~m~~Municipal or Individual Project District erosion and sediment control permit must be obtained for  
777 any land-disturbing work in overlay districts or other areas within the watershed as defined below:

- 778 A. General: Land-disturbing activities of one (1) acre or more
- 779 B. HVRA: Land-disturbing activities that involve the displacement or removal of 5,000 square feet  
780 or more of surface area or vegetation or the excavation of 50 cubic yards or more of earth within  
781 the HVRA Overlay District, as shown on the Lower Minnesota River Watershed District—High  
782 Value Resources Area Overlay District Map (Figure 1)

783 **3.3 EXCEPTIONS**

784 An erosion and sediment control permit is not required for the following land-disturbing activities:

- 785 A. Minor land-disturbing activities, such as home gardens contained within a residential lot,  
786 landscape repairs, and maintenance work
- 787 B. Installation of any fence, sign, telephone or electric poles, or other kinds of posts or poles
- 788 C. Emergency activity necessary to protect life or prevent substantial harm to persons or property
- 789 D. All maintenance, repair, resurfacing, and reconditioning activities of existing road, bridge, and  
790 highway systems that do not involve land-disturbing activities outside of the existing surfaced  
791 roadway
- 792 E. Agricultural activity

793 **3.4 CRITERIA**

794 Permit approval for activities that meet the general threshold must demonstrate that the implementation  
795 of their erosion and sediment control will meet the following criteria:

796 3.4.1 Erosion and Sediment Control

797 Erosion and sediment control ~~plan during and after the proposed activities~~ that provides the following:

- 798 A. Protection of natural topography and soil conditions
- 799 B. Temporary erosion and sediment control practices consistent with the Minnesota Pollution  
800 Control Agency’s “Protecting Water Quality in Urban Areas,” as amended or updated, and the  
801 “Minnesota Stormwater Manual,” as amended or updated
- 802 C. Minimization of the disturbance’s intensity and duration
- 803 D. Provide adequate stabilization measures on slopes of 3:1 (H:V) or steeper
- 804 E. Protection of all stormwater conveyance systems during construction activities
- 805 F. Final site stabilization measures

806 3.4.2 Waste Management

807 All waste generated by project activities will be properly managed and disposed of to avoid adverse  
808 impacts on water quality.

809 3.4.13.4.3 Site Stabilization

- 810 A. Establish sediment control BMPs on all downgradient perimeters of the site and downgradient  
811 areas of the site that drain to any surface water, including curb and gutter systems, locate  
812 sediment control practices upgradient of any buffer zones, install sediment control practices  
813 before any upgradient land-disturbing activities begin and must keep the sediment control  
814 practices in place until permanent vegetative cover is established.
- 815 B. All soil surfaces that are compacted during construction and remain compacted upon  
816 construction completion must be decompacted. Decompaction can be achieved through soil  
817 amendment and/or ripping to a depth of 18 inches. All decompaction measures should be  
818 completed before final stabilization.
- 819 C. All temporary erosion and sediment control BMPs must be maintained until construction is  
820 completed and permanent vegetative cover is established, where appropriate, to a consistent,  
821 uniform density of 70 percent of its expected final growth.
- 822 D. When final stabilization is achieved, all temporary erosion and sediment control BMPs must be  
823 removed from the project site.
- 824 E. All disturbed areas must be finally stabilized within 14 days of completing land-altering  
825 activities.

826 3.4.23.4.4 Inspection and Maintenance during Construction

827 The permit holder is responsible for inspecting and maintaining the project site until final stabilization is  
828 complete, ~~including ensuring to ensure~~ that all erosion and sediment control measures are effective.

829 F. Inspection

- 830 A. Routine inspections shall be conducted at least once every seven (7) days during active  
831 construction and within 24 hours after a rainfall event greater than 0.5 inch in 24 hours by the  
832 owner or the owner’s representative. Following a rainfall inspection, the next inspection shall be

833 conducted within seven (7) days. The inspection schedule will be modified for the following  
834 conditions:

- 835 i. Where parts of the construction site have permanent cover, but work remains on other  
836 parts of the site, inspections shall be reduced to once per month.
- 837 ii. Where construction sites have permanent cover on all exposed soil areas and no  
838 construction activity is occurring anywhere on the site, monthly inspections shall be  
839 performed for 12 months (except during frozen ground conditions). After the 12th month  
840 of permanent cover and no construction activity, inspections may cease until construction  
841 activity resumes or sooner if notified by the District or the LGU.
- 842 iii. Where frozen ground conditions have resulted in suspension of work, the inspection and  
843 maintenance schedule shall resume within 24 hours after runoff occurs at the site or upon  
844 resuming construction, whichever comes first.

845 B. Routine inspections shall include the following:

- 846 i. All areas disturbed by construction activity and areas used for storage of materials  
847 exposed to precipitation
- 848 ii. Discharge locations, inaccessible locations, and nearby downstream locations where  
849 inspections are practicable
- 850 iii. Locations where vehicles enter or exit the site for evidence of off-site sediment tracking

851 C. Records for each inspection and maintenance activity shall be kept on file with the owner and  
852 shall contain the following information:

- 853 i. Date and time of inspection
- 854 ii. Name, title, and qualifications of person(s) conducting inspection
- 855 iii. Date, duration, and amount of all rainfall events that produce more than 0.5 inch of rain  
856 in a 24-hour period and whether any discharges occurred
- 857 iv. Inspection findings, including corrective action recommendations and implementation  
858 dates
- 859 v. Locations of the following:
  - 860 a. Sediment discharges or other pollutants from the site
  - 861 b. BMPs that need to be maintained
  - 862 c. BMPs that have failed to operate as designed or have proven inadequate for a  
863 particular location
  - 864 d. Needed BMPs that did not exist at the time of inspection
- 865 vi. Documented changes to the erosion and sediment control plan
- 866 vii. Inspector's signature

867 D. The owner shall keep an inspection log with the erosion and sediment control plan for a period of  
868 three (3) years following the completion of the project and filing of the Notice of Termination  
869 (NOT).

870 3.4.33.4.5 Maintenance

871 All maintenance conducted during construction must be recorded in writing, and these records must be  
872 kept. All nonfunctional BMPs must be repaired, replaced, or supplemented with functional BMPs within  
873 24 hours after discovery or as soon as field conditions allow access, unless another period is specified  
874 below. Maintenance will include the following:

- 875 A. Excess sediment behind silt fences and biorolls shall be removed and properly disposed of when  
876 sediments reach one third the height of the structure. Such sedimentation shall be corrected by  
877 the next business day following discovery.
- 878 B. Construction site vehicle exit locations shall be inspected for evidence of off-site sediment  
879 tracking onto paved surfaces. Tracked sediment will be removed from all paved surfaces within  
880 24 hours of discovery or, if applicable, within a shorter time.
- 881 C. Surface waters, including drainage ditches and conveyance systems, shall be inspected for  
882 evidence of erosion and sediment deposition. Evidence of erosion and/or sediment deposition  
883 will be addressed within seven (7) calendar days.
- 884 D. Infiltration areas shall be maintained to ensure that no compaction or sedimentation occurs.
- 885 E. Construction entrances shall be maintained daily.
- 886 F. Turf shall be maintained until final stabilization is established.

887 The maintenance of temporary erosion and sediment controls and implementation of additional controls  
888 shall be performed as soon as possible and before the next storm event, whenever practicable. All  
889 remaining temporary erosion and sediment controls and accumulated sediments from silt fences will be  
890 removed within 30 days of achieving final stabilization at the site.

891 **3.5 REQUIRED INFORMATION AND EXHIBITS**

892 The following exhibits must accompany the permit application (one hardcopy set of plans [11 inches by  
893 17 inches] and one set as electronic files in a format acceptable to the District):

894 3.5.1 Narrative

895 A cover letter and narrative that includes the following:

896 A. Total project area and area of proposed disturbance. If within the HVRA, the narrative must  
897 include the excavated volume, in addition to the total area disturbed.

898 B. An explanation of existing and proposed conditions

899 ~~G.C.~~        The name, address, and telephone number(s) of all property owners

900 ~~H.D.~~        The name, address, and telephone number(s) for all contractors undertaking land-  
901 disturbing activities as part of the proposed project



902 ~~I.E.~~ The property owner's signature

903 ~~J.F.~~ A statement granting the District and its authorized representatives' access to the site for  
904 inspection purposes

905 ~~K.G.~~ Designation of an individual who will remain liable to the District for performance under  
906 this Rule from the time the permitted activities commence until vegetative cover is established  
907 and the District has certified satisfaction with erosion and sediment control requirements

908 3.5.2 Erosion and Sediment Control Plan

909 An erosion and sediment control plan that includes the following:

- 910 A. Topographic maps of existing and proposed conditions that clearly indicate all hydrologic  
911 features and areas where grading will expose soils to erosive conditions as well as the flow  
912 direction of all runoff (single-family home construction or reconstruction projects may comply  
913 with this provision by providing satellite imagery or an oblique map acceptable to the District)
- 914 B. Tabulation of the construction implementation schedule for all projects except construction or  
915 reconstruction of a single-family home
- 916 C. Name, address, and phone number of the individual responsible for inspection and maintenance  
917 of all erosion and sediment control measures
- 918 D. Temporary erosion and sediment control measures that will remain in place until vegetation is  
919 established
- 920 E. All final erosion control measures and their locations
- 921 F. Staging areas, as applicable
- 922 G. Delineation of any floodplain and/or wetland area changes
- 923 H. Documentation of the project's NPDES Construction Stormwater Permit status, if applicable

924 **4 Rule C: Floodplain and Drainage Alteration Rule**

925 **4.1 POLICY**

926 It is the District's policy to

- 927 A. regulate alterations within the floodplain and drainageways within the watershed to provide flood  
928 protection to natural resources, permanent structures, and private lands, in accordance with  
929 Minnesota Statutes 103F;
- 930 B. preserve existing water storage capacity below the 100-year high-water elevation of all public  
931 waters, wetlands subject to the Wetland Conservation Act, and public drainage systems subject  
932 to Minnesota's buffer law in the watershed to minimize the frequency and severity of high water;  
933 and
- 934 C. minimize development below the Federal Emergency Management Agency (FEMA) 100-year  
935 flood elevation that will unduly restrict flood flows or aggravate known high water problems.

936 **4.2 REGULATION**

937 A ~~m~~Municipal or ~~District~~Individual Project permit is required for any alteration to or filling of land  
938 below the 100-year flood elevation of any wetland, public water, or landlocked subwatershed (as  
939 identified by municipalities) in accordance with state-approved floodplain management and shoreland  
940 ordinances.

941 **4.3 EXCEPTIONS**

942 A floodplain and drainage alternation permit is not required if all of the following conditions exist:

- 943 A. The 100-year flood elevation of a waterbody is entirely within a municipality.
- 944 B. The water basin is landlocked.
- 945 C. The municipality has adopted a floodplain ordinance regulating floodplain encroachment.
- 946 D. The proposed project is entirely within the water basin drainage area.

947 **4.4 CRITERIA**

948 All permitted projects under this rule shall be subject to the following criteria and shall be completed in  
949 accordance with state-approved floodplain management and shoreland ordinances:

- 950 A. Placement of fill below the 100-year flood elevation is prohibited unless documentation prepared  
951 by a professional engineer shows that the proposed fill will not cause a rise in the 100-year flood  
952 elevation of the waterbody.
- 953 i. A no rise certification to the 0.00-foot by a professional engineer satisfies this  
954 requirement.
- 955 ii. Compensatory storage may be used to offset proposed fill in the floodplain, but does not  
956 take the place of a no rise certification for watercourses that convey water. If used, the  
957 compensatory storage shall be created before the proposed fill is placed in the floodplain,

958 unless the permit applicant demonstrates that doing so is impractical and that placement  
959 of fill and creation of compensatory storage can be achieved concurrently.

- 960 B. All new residential, commercial, industrial, and institutional structures shall be constructed such  
961 that the lowest floor of the lowest enclosed area (including basement or crawl space) is at a  
962 minimum of two (2) feet above the 100-year high water elevation, unless they have protection  
963 through floodproofing or by another approved construction technique.
- 964 C. No permanent structure, except for FEMA and National Flood Insurance Program approved  
965 structures and uses, may be constructed in the floodway.
- 966 D. No person shall install or remove a culvert crossing, or other artificial means to remove or drain  
967 surface water, create artificial pond areas, or obstruct the natural flow of waters without  
968 demonstrating that the activity has no adverse impact on upstream or downstream landowners or  
969 water quality, habitat, or fisheries.
- 970 E. Temporary placement of fill within the floodway for river dredge, including facilities for such  
971 activity, shall be allowed when it is conducted in agreement with the United States under the  
972 Rivers and Harbors Act and it meets requirements of the LGU.

973 Temporary placement of fill, other than in Section 4.4.E, is not allowed without prior approval by the  
974 District.

#### 975 **4.5 REQUIRED INFORMATION AND EXHIBITS**

976 The following exhibits must accompany the permit application (one hardcopy set of plans [11 inches by  
977 17 inches] and one set as electronic files in a format acceptable to the District):

##### 978 4.5.1 Narrative

979 A cover letter and narrative that includes the following:

- 980 A. Total project area and locations of proposed floodplain or drainage alterations.
- 981 B. An explanation of existing and proposed conditions
- 982 C. The name, address, and telephone number(s) of all property owners
- 983 D. The name, address, and telephone number(s) for all contractors undertaking land-disturbing  
984 activities as part of the proposed project
- 985 E. The property owner's signature
- 986 E-F. A statement granting the District and its authorized representatives' access to the site for  
987 inspection purposes

##### 988 4.5.2 Site Plan:

989 A site plan showing the following information:

- 990 A. Property lines
- 991 B. Delineation of the work area

992 C. Existing elevation contours of the work area

993 ~~C.D. Proposed elevation contours~~

994 ~~D.E. Ordinary high water level or normal water elevation and existing and proposed 100-year~~  
995 ~~flood elevations determined by a professional engineer. (All elevations must reference the~~  
996 ~~North American Vertical Datum of NAVD 1988 (NAVD88) datum).~~

997 ~~4.5.1 Grading plan showing proposed elevation changes~~

998 ~~4.5.2 Preliminary plat of proposed land development~~

999 ~~4.5.3 Determination by professional engineer of the 100-year flood elevations for the parcel before and~~  
1000 ~~after the project~~

1001 4.5.3 Floodplain Fill Calculations

1002 Determination by a professional engineer of the 100-year flood elevations for the parcel before and after  
1003 the project, including:

1004 A. Tabulation Computation by a professional engineer of cut, fill, and compensatory storage  
1005 resulting from the proposed activity.

1006 B. eTabulation and documentation of the change in water storage capacity and conveyance resulting  
1007 from proposed activity in a format acceptable to the District.

1008 E.C. A no-rise certification, including supporting hydraulic modeling files or calculations,  
1009 workmaps, and reports.

1010 4.5.4 Erosion and Sediment Ceontrol pPlan

1011 An erosion and sediment control plan including the following:

1012 A. Topographic maps of existing and proposed conditions that clearly indicate all hydrologic  
1013 features and areas where grading will expose soils to erosive conditions as well as the flow  
1014 direction of all runoff (single-family home construction or reconstruction projects may comply  
1015 with this provision by providing satellite imagery or an oblique map acceptable to the District)

1016 B. Tabulation of the construction implementation schedule for all projects, except construction or  
1017 reconstruction of a single-family home

1018 C. Name, address, and phone number of the individual responsible for inspection and maintenance  
1019 of all erosion and sediment control measures

1020 D. Temporary erosion and sediment control measures that will remain in place until vegetation is  
1021 established

1022 E. All final erosion control measures and their locations

1023 F. Staging areas, as applicable

1024 G. Delineation of any floodplain and/or wetland area changes

1025 H. Documentation of the project’s NPDES Construction Stormwater Permit status, if applicable

1026 ~~4.5.4 Soil boring information, if requested by the municipal or District engineer~~

1027 4.5.5 Easements

1028 Documentation that drainage and flowage easements over all land and facilities below the 100-year  
1029 flood elevation, if required by the municipality with jurisdiction, have been conveyed and recorded. For  
1030 public entities, this requirement may be satisfied by a written agreement executed with the District in  
1031 lieu of a recorded document. The agreement must state that, if the land within the 100-year floodplain is  
1032 conveyed, the public body will require the buyer to comply with this subsection.

1033 **5 Rule D: Stormwater Management Rule**

1034 **5.1 POLICY**

1035 It is the District's policy to

- 1036 A. manage new development, redevelopment, and drainage alternations by requiring each  
1037 development or land-disturbing activity to manage its stormwater effectively, either on- or off-  
1038 site;
- 1039 B. promote and encourage a reduction in runoff rates to encourage infiltration and to promote  
1040 groundwater recharge;
- 1041 C. encourage infiltration and stormwater storage in the District's upland areas;
- 1042 D. maximize groundwater recharge as a means of maintaining drinking water supplies, preserving  
1043 base flows in streams and water levels in fens, and limiting discharges of stormwater to  
1044 downstream receiving waters;
- 1045 E. protect and maintain existing groundwater flow, promote groundwater recharge, and improve  
1046 groundwater quality and aquifer protection;
- 1047 F. require that property owners control the rate and volume of stormwater runoff originating from  
1048 their property so that surface water and groundwater quantity and quality is protected or  
1049 improved, soil erosion is minimized, and flooding potential is reduced; and
- 1050 G. protect and improve natural resources within the watershed to prevent further degradation.

1051 **5.2 REGULATION**

1052 A ~~Municipal or District~~ Permit that incorporates an approved stormwater management plan or an  
1053 Individual Project Permit is required under this rule prior to the commencement of any activities to  
1054 which this rule applies. The District may review a stormwater management plan at any point in the  
1055 development of a regulated project and encourages project proposers to seek the District's early review  
1056 of plans.

1057 The requirements of this rule apply to any land-disturbing activity that will involve the following:

- 1058 A. General: Development, redevelopment, reconstruction, and drainage alterations (~~including roads~~)  
1059 creating new impervious areas greater than one (1) acre
- 1060 B. HVRA: Development, redevelopment, reconstruction, and drainage alternations (~~including~~  
1061 ~~roads~~) creating new impervious areas greater than 10,000 square feet in an HVRA Overlay  
1062 District, as shown on the Lower Minnesota River Watershed District—High Value Resources  
1063 Area Overlay District Map (Figure 1)

1064 **5.3 EXCEPTIONS**

1065 A stormwater management permit is not required for ~~The requirements of this rule do not apply to the~~  
1066 following activities:



- A. Construction or remodeling on a single-family homesite consistent with a subdivision, development, or redevelopment plan implemented in accordance with a District permit issued after May 1, 2020, and an approved erosion control prevention and sediment control plan
- B. Rehabilitation of paved surfaces, such as impervious surface mill, reclamation, overlay, or paving of an existing rural section gravel road, where the underlying structural aggregate base is not removed.
- B.C. Maintenance activities or in-kind replacements, such as catch basin repair and replacement, utility repair and replacement, pipe repair and replacement, lighting, and pedestrian ramp improvements.
- C.D. Trails, sidewalks, and retaining walls that do not exceed 10 feet in width and are bordered down gradient by a pervious area extending at least half the trail width
- D.E. Land-disturbing activities that do not involve creation of new impervious surface, reconstruction of existing impervious surface, or grading that materially alter stormwater flow at a site boundary

#### 5.4 CRITERIA

Permit approval for activities that meet the general regulation thresholds must demonstrate that the implementation of their stormwater management plan will meet the following criteria:

##### 5.4.1 Rate Control

Stormwater runoff rate from development, redevelopment, and drainage alterations shall not exceed the existing runoff rates for the 1 or 2-year, 10-year, and 100-year 24-hour events using NOAA Atlas 14 values, as amended, and using a nested rainfall distribution (e.g. MSE 3).

##### 5.4.2 Volume Reduction

To the maximum extent practicable, volume control shall be fully met on-site. Site conditions may make infiltration undesirable or impossible. Determining the feasibility of infiltration on the site shall be in accordance with this Rule and the “Minnesota Stormwater Manual”, as updated or amended. The owner must make soil corrections and/or investigate other locations on the site for feasible infiltration locations. Infiltration of stormwater must avoid areas of contaminated soil.

If the permittee claims that infiltration is not feasible or allowed on-site, sufficient supporting documentation must be provided with the permit application. Filtration technologies are an acceptable alternative for types C and D soils and other sites where infiltration is infeasible given the criteria above in section 5.4.2.C below.

- A. General: For projects that create one (1) acre or more of new impervious surface on sites without restrictions (such as factors that prevent attainment of the performance goal, like shallow depth to bedrock, presence of contaminated soils, and lack of access because utilities are present [*Minnesota Stormwater Manual*, 2019]), the post-construction stormwater runoff volume retained on-site shall be equivalent to one (1) inch of runoff from the new and/or reconstructed

1103 impervious surfaces or the MPCA’s Construction General Permit ~~abstraction~~ volume reduction  
1104 requirements (as amended), whichever is greater.

1105 B. HVRA: Projects that create new impervious areas greater than 10,000 square feet in an HVRA  
1106 Overlay District have the following volume requirements:

- 1107 i. New development: For new, nonlinear developments that create 10,000 square feet or  
1108 more of new impervious surface on sites without restrictions, the post-construction  
1109 stormwater runoff volume retained on-site shall be equivalent to 1.0 inch of runoff from  
1110 new and/or reconstructed impervious surfaces.
- 1111 ii. Redevelopment: Nonlinear redevelopment projects on sites without restrictions that  
1112 create 10,000 square feet or more of new and/or fully reconstructed impervious surfaces  
1113 shall capture and retain on-site 1.1 inches of runoff from the new and/or fully  
1114 reconstructed impervious surfaces.
- 1115 iii. Linear projects: Linear projects on sites without restrictions that create 10,000 square feet  
1116 or greater of new and/or fully reconstructed impervious surfaces shall capture and retain  
1117 the larger of the following:
  - 1118 a. 0.55 inch of runoff from the new and fully reconstructed impervious surfaces
  - 1119 b. 1.1 inches of runoff from the net increase in impervious area

1120 ~~To the maximum extent practicable, volume control shall be fully met on-site. Site conditions may make~~  
1121 ~~infiltration undesirable or impossible. The owner must make soil corrections and/or investigate other~~  
1122 ~~locations on the site for feasible infiltration locations. Infiltration of stormwater must avoid areas of~~  
1123 ~~contaminated soil.~~

1124 C. Infiltration practices are not allowed in the following areas:

- 1125 i. Areas that receive discharges from vehicle fueling and maintenance facilities
- 1126 ii. Areas with less than three (3) feet of separation distance from the bottom of the  
1127 infiltration system to the elevation of the seasonally saturated soils or the top of bedrock
- 1128 iii. Areas that receive discharges from industrial facilities that are not authorized to infiltrate  
1129 industrial stormwater under an NPDES/SDS Industrial Stormwater Permit issued by the  
1130 MPCA
- 1131 iv. Areas where infiltrating stormwater will mobilize high levels of contaminants in soil or  
1132 groundwater
- 1133 v. Areas of predominately Hydrologic Soil Group D (clay) soils, unless allowed by an LGU  
1134 with a current NPDES/SDS Municipal Separate Storm Sewer Systems (MS4) permit
- 1135 vi. Areas within 1,000 feet up gradient or 100 feet down gradient of active karst features,  
1136 unless allowed by an LGU with a current MS4 permit

- vii. Areas within a Drinking Water Supply Management Area (DWSMA), as defined in Minnesota Administrative Rules 4720.5100, subpart 13., unless allowed by an LGU with a current MS4 permit
- viii. Areas where soil infiltration rates are more than 8.3 inches per hour, unless soils are amended to slow the infiltration rate below 8.3 inches per hour or as allowed by an LGU with a current MS4 permit
- ix. Areas within the ~~LMRWD-District~~ Steep Slopes Overlay District (See Rule F)

~~If the permittee claims that infiltration is not feasible or allowed on-site, sufficient supporting documentation must be provided with the permit application. Filtration technologies are an acceptable alternative for types C and D soils and other sites where infiltration is infeasible given the criteria above.~~

5.4.25.4.3 Water Quality

- A. General: Projects that create one (1) acre or more of new impervious surface shall have no net increase from existing conditions in total phosphorus (TP) and total suspended solids (TSS) to receiving waterbodies.
- B. HVRA: Projects that create new impervious areas greater than 10,000 square feet in an HVRA Overlay District have the following water quality requirements:
  - i. Total phosphorus and total suspended solids: All projects shall have a net decrease TP and TSS to receiving waterbodies from existing conditions. For new development projects, the decrease in TP and TSS shall be 60 percent and 80 percent, respectively, from existing conditions.
  - ii. Buffer zone: An undisturbed buffer zone of 100 linear feet from trout waters shall be maintained at all times, both during construction and as a permanent feature after construction, except where a water crossing, or other encroachment is necessary to complete the project.
    - a. Exceptions: The replacement of existing impervious surfaces within the buffer zone is allowed provided that the use of additional or redundant BMPs minimizes all potential water quality, scenic, and other environmental impacts of the activity. Buffer encroachments (circumstance and reason) and minimization activities must be documented.
  - iii. Temperature controls: Permanent stormwater management facilities shall be designed to minimize any increase in the temperature of trout waters receiving waters resulting from the 1 and 2-year 24-hour precipitation events. This includes all tributaries of designated trout streams within the Public Land Survey System (PLSS) section where a trout water is located. Projects that discharge to trout waters must minimize the impact using one or more of the following measures, in order of preference:

- b. Minimize new impervious surfaces
  - c. Minimize the discharge from connected impervious surfaces by discharging to vegetated areas or grass swales and using other nonstructural controls
  - d. Use infiltration or other volume reduction practices to reduce stormwater runoff in excess of pre-project conditions (up to the 2-year, 24-hour precipitation event)
  - e. Design an appropriate combination of measures, such as shading, filtered bottom withdrawal, vegetated swale discharges, or constructed wetland treatment cells, that will limit temperature increases when incorporating ponding. Also, design the pond to be drawn down in 24 hours or less.
  - f. Use other methods that will minimize any increase in trout water temperature
- iv. Diffusion of runoff: stormwater discharge points in the HVRA shall incorporate BMPs to diffuse stormwater entering the HVRA and avoid concentrated discharges.

5.4.35.4.4 Maintenance and Easement

The permittee is responsible for developing and adhering to a maintenance plan for the permitted project, including the acquisition of all necessary easements.

- A. All stormwater management structures and facilities must be designed for maintenance access and properly maintained in perpetuity so that they continue to function as designed.
- B. A maintenance plan shall identify and protect the design, capacity, and functionality of on-site and off-site stormwater management facilities; specify the methods; and schedule responsible parties for maintenance for every stormwater management facility.
- C. The maintenance agreement shall be recorded with the applicable county (Carver, Dakota, Hennepin, Scott, or Ramsey) as part of the LGU or other development approval process. The District may require that stormwater management structures and facilities be publicly dedicated or placed in a conservation easement, giving rights of enforcement to an LGU, the District, or other appropriate public authority.
- D. A public entity assuming a maintenance obligation may submit a written executed agreement in lieu of the recorded maintenance agreement.

5.4.45.4.5 Alternative Measures

At sites where infiltration is infeasible, an applicant must comply with the NPDES General Construction Permit, issued by the MPCA, August 1, 2018, as amended.

**5.5 REQUIRED INFORMATION AND EXHIBITS**

The following exhibits must accompany the permit application (one hardcopy set of plans [11 inches by 17 inches] and one set as electronic files in a format acceptable to the District):

5.5.1 Narrative

A cover letter and narrative that includes the following:

1207 A. An explanation of existing and proposed conditions including:

1208 i. Total amount of disturbance proposed by project, both in terms of surface area (square  
1209 feet) and volume (cubic feet)

1210 ii. Total amount of existing impervious surfaces, proposed new impervious surfaces, and  
1211 fully-reconstructed impervious surfaces proposed by the project.

1212 B. The name, address, and telephone number(s) of all property owners

1213 C. The name, address, and telephone number(s) for all contractors undertaking land-disturbing  
1214 activities as part of the proposed project

1215 D. The signature of the property owner

1216 E. A statement granting the District and its authorized representative's access to the site for  
1217 inspection purposes

1218 F. Designation of an individual who will remain liable to the District for performance under this  
1219 rule from the time the permitted activities commence until vegetative cover is established and the  
1220 District has certified its satisfaction with erosion and sediment control requirements.

1221 5.5.2 Stormwater Modeling

1222 Stormwater management system modeling in a form acceptable to the District that utilizes the most  
1223 recent applicable precipitation reference data (e.g., Atlas 14), for example, HydroCAD, SWMM, MIDS  
1224 calculator, or P8.

1225 5.5.3 Site Plan

1226 A site plan showing the following:

1227 A. Property lines and delineation of lands under ownership of the applicant

1228 B. Existing and proposed elevation contours

1229 C. Identification of existing and proposed normal and ordinary high- and 100-year water elevations  
1230 on-site.

1231 5.5.4 Stormwater Management Plan

1232 A stormwater management plan that includes, at a minimum, the following:

1233 A. Proposed and existing stormwater facility locations, alignment, and elevation

1234 B. Delineation of existing wetlands, marshes, shoreland, and/or floodplain areas on-site or to which  
1235 any portion of the project parcel drains; except where a project will not alter or change the  
1236 hydrology of a wetland, the plan need only identify the wetland.

1237 C. Geotechnical analysis, including soil borings, at all proposed stormwater management facility  
1238 locations

1239 D. If infiltration of runoff is proposed, data must be submitted showing the following:

- 1240 i. No evidence of groundwater or redoximorphic soil conditions within three (3) feet of the  
1241 bottom of the facility, practice, or system
- 1242 ii. Soil conditions within five (5) feet of the bottom of any stormwater treatment facility,  
1243 practice, or system
- 1244 iii. If requested by the engineer, site-specific infiltration capacity of soils at the bottom of the  
1245 facility, practice, or system. In addition, the District engineer may require submission of a  
1246 phase I environmental site assessment and/or other documentation to facilitate analysis  
1247 by the District of the suitability of the site for infiltration.

1248 E. If filtration of runoff is proposed due to site constraints listed in Section 5.4.2.C, the application  
1249 must include a discussion why filtration was selected and provide an exhibit documenting all  
1250 active karst features, DWSMA, contamination, soils, and any other infiltration-limiting features.

1251 E.F. \_\_\_\_\_ Construction plans and specifications for all proposed stormwater management facilities,  
1252 including design details for outlet control structures

1253 F.G. \_\_\_\_\_ Stormwater runoff volume and rate analyses for the 2-, 10-, and 100-year 24-hour critical  
1254 events, existing and proposed conditions, using Atlas 14 nested distribution

1255 G.H. \_\_\_\_\_ All hydrologic, water quality, and hydraulic computations completed to design the  
1256 proposed stormwater management facilities

1257 H.I. \_\_\_\_\_ Narrative addressing incorporation of retention BMPs

1258 I.J. \_\_\_\_\_ Platting or easement documents showing sufficient drainage and ponding/flowage easements  
1259 over hydrologic features, such as floodplains, storm sewers, ponds, ditches, swales, wetlands,  
1260 and waterways, if required by the municipality with jurisdiction

1261 J.K. \_\_\_\_\_ Documentation of the project's NPDES Construction Stormwater Permit status, if  
1262 applicable

1263 K.L. \_\_\_\_\_ If a stormwater harvest and reuse practice is proposed to meet applicable requirements,  
1264 the following materials must be submitted:

- 1265 i. An analysis using a stormwater reuse calculator or equivalent methodology approved by  
1266 the District engineer
- 1267 ii. Documentation of the adequacy of soils, storage capacity, and delivery systems
- 1268 iii. Delineation of green space area to be irrigated, if applicable
- 1269 iv. A detailed irrigation or usage plan showing compliance with the District's volume-  
1270 retention requirements.

### 1271 5.5.5 Off-Site Stormwater Facilities

1272 If off-site stormwater or regional conveyance systems are proposed, the applicant must provide  
1273 documentation demonstrating that the applicant holds the legal rights necessary to discharge to any  
1274 off-site stormwater facility/facilities used for compliance, that the proposed design is in compliance with



1275 the original off-site stormwater facility design assumptions and capacity, and that the facility/facilities  
1276 are subject to a maintenance document satisfying the requirements of this ~~¶~~Rule

1277 5.5.6 Erosion and Sediment Control Plan

1278 An erosion and sediment control plan complying with the District's Erosion and Sediment Control Rule,  
1279 including the following:

- 1280 A. Topographic maps of existing and proposed conditions that clearly indicate all hydrologic  
1281 features and areas where grading will expose soils to erosive conditions as well as the flow  
1282 direction of all runoff (single-family home construction or reconstruction projects may comply  
1283 with this provision by providing satellite imagery or an oblique map acceptable to the District)
- 1284 B. Tabulation of the construction implementation schedule for all projects, except construction or  
1285 reconstruction of a single-family home
- 1286 C. Name, address, and phone number of the individual responsible for inspection and maintenance  
1287 of all erosion and sediment control measures
- 1288 D. Temporary erosion and sediment control measures that will remain in place until vegetation is  
1289 established
- 1290 E. All final erosion control measures and their locations
- 1291 F. Staging areas, as applicable
- 1292 G. Delineation of any floodplain and/or wetland area changes

1293 5.5.7 Maintenance

1294 A maintenance plan and applicable maintenance agreements (note that in many cases a municipal  
1295 stormwater agreement may be acceptable in lieu of a separate agreement with the District).

1296

**6 Rule E: Shoreline and Streambank Alteration Rule (Reserved)**

Adopted February 19, 2020

[Revised July 15, 2022](#)

1297 **7 Rule F: Steep Slopes Rule**

1298 **7.1 POLICY**

1299 It is the District's policy to

- 1300 A. protect water quality down gradient of steep slopes from sediment, nutrients, bacteria, and other  
1301 contaminant pollutant loadings;
- 1302 B. maintain stability of steep slopes, shorelines, and other areas prone to erosion;
- 1303 C. sustain and enhance the biological and ecological functions of noninvasive vegetation on steep  
1304 slopes as outlined in the Lower Minnesota River Watershed District Vegetation Management  
1305 Plan;
- 1306 D. minimize impacts to and preserve the natural character and topography of steep slopes;
- 1307 E. protect properties and waterbodies adjacent to steep slopes from erosion, sedimentation,  
1308 flooding, and other damage; and
- 1309 F. promote public safety by requiring certification from qualified individuals before land-disturbing  
1310 activities and other changes to land on steep slopes.

1311 **7.2 REGULATION**

1312 A ~~Municipal or Individual Project District~~ permit must be obtained for the following activities within  
1313 the Steep Slopes Overlay District, as shown on the Lower Minnesota River Watershed District—Steep  
1314 Slopes Overlay District Map (Figure 2):

- 1315 A. Land-disturbing activities that involve the excavation of 50 cubic yards or more of earth or  
1316 displacement or removal of 5,000 square feet or more of surface area or vegetation ~~within the~~  
1317 ~~Steep Slopes Overlay District, as shown on the Lower Minnesota River Watershed District—~~  
1318 ~~Steep Slopes Overlay District Map (Figure 2)~~
- 1319 B. Activities requiring municipal/LGU permits for grading, building, parking lot, and foundations  
1320 permits-construction that result in a net increase in impervious surface within or stormwater  
1321 runoff within to the Steep Slopes Overlay District, as illustrated on Figure 2

1322 **7.3 EXCEPTIONS**

1323 A steep slopes permit is not required for the following activities:

- 1324 A. New impervious areas associated with driveway widenings that drain to the street where a  
1325 municipal storm sewer system manages runoff water
- 1326 B. Maintenance, repair, or in-kind replacement of existing structures, public roads, utilities, and  
1327 drainage systems within the Steep Slopes Overlay District
- 1328 C. Disturbances that are part of an approved LWP-local water plan to repair, grade, or reslope  
1329 existing steep slopes that are eroding or unstable to establish stable slopes and vegetation
- 1330 D. Native plantings that enhance natural vegetation of steep slopes

- 1331 E. Selective removal of noxious, exotic, or invasive vegetation, using locally recognized methods to  
1332 control and/or minimize their spread
- 1333 F. Pruning of trees or vegetation that are dead or diseased or pose a public hazard and removal of  
1334 vegetation in emergency situations from steep slopes
- 1335 G. Maintenance of existing lawns, landscaping, and gardens
- 1336 H. Agricultural and forestry activities

#### 1337 **7.4 CRITERIA**

1338 All permitted projects under the Steep Slopes Rule must comply with the following regulations:

##### 1339 7.4.1 Land-Disturbing Activities

1340 Land-disturbing activities as regulated in this section may occur within the Steep Slopes Overlay District  
1341 provided that a qualified professional/professional engineer registered in the state of Minnesota certifies  
1342 the area's suitability for the proposed activities, structures, or uses resulting from the proposed activities  
1343 and that the following requirements are addressed:

- 1344 A. Minimum erosion and sediment control BMPs include site stabilization and slope restoration  
1345 measures to ensure the proposed activity will not result in:
  - 1346 i. adverse impacts to adjacent and/or downstream properties or water bodies;
  - 1347 ii. unstable slope conditions; and
  - 1348 iii. degradation of water quality from erosion, sedimentation, flooding, and other damage.
- 1349 B. Preservation of existing hydrology and drainage patterns.
- 1350 C. Land-disturbing activities may not result in any new water discharge points on steep slopes or  
1351 along the bluff.

##### 1352 7.4.2 Soil Saturation-Type Features

1353 Stormwater ponds, swales, infiltration basins, or other soil saturation-type features shall not be  
1354 constructed within a Steep Slopes Overlay District.

##### 1355 7.4.3 Maintenance and Easement

1356 The permittee is responsible for developing and adhering to a maintenance plan for the permitted  
1357 project, including the acquisition of all necessary easements.

- 1358 A. All stormwater management structures and facilities must be designed for maintenance access  
1359 and properly maintained in perpetuity so that they continue to function as designed.
- 1360 B. A maintenance plan shall identify and protect the design, capacity, and functionality of on-site  
1361 and off-site stormwater management facilities; specify the methods; and schedule responsible  
1362 parties for maintenance for every stormwater management facility.

1363 C. The maintenance agreement shall be recorded with the applicable county (Carver, Dakota,  
1364 Hennepin, Scott, or Ramsey) as part of the LGU or other development approval process. The  
1365 District may require that stormwater management structures and facilities be publicly dedicated  
1366 or placed in a conservation easement, giving rights of enforcement to an LGU, the District, or  
1367 other appropriate public authority.

1368 D. A public entity assuming a maintenance obligation may submit a written executed agreement in  
1369 lieu of the recorded maintenance agreement.

1370 **7.5 REQUIRED INFORMATION AND EXHIBITS**

1371 The following exhibits must accompany the permit application (one hardcopy set of plans [11 inches by  
1372 17 inches] and one set as electronic files in a format acceptable to the District):

1373 7.5.1 Narrative

1374 A cover letter and narrative that includes the following:

1375 A. Total amount of disturbance proposed by project, both in terms of surface area (SF) and volume  
1376 (CY)

1377 B. An explanation of existing and proposed conditions

1378 ~~D.C.~~ \_\_\_\_\_ The name, address, and telephone number(s) of all property owners

1379 ~~E.D.~~ \_\_\_\_\_ The name, address, and telephone number(s) for all contractors undertaking land-  
1380 disturbing activities as part of the proposed project

1381 ~~F.E.~~ \_\_\_\_\_ The signature of the property owner

1382 ~~G.F.~~ \_\_\_\_\_ A statement granting the District and its authorized representatives' access to the site for  
1383 inspection purposes

1384 ~~H.G.~~ \_\_\_\_\_ Designation of an individual who will remain liable to the District for performance under  
1385 this rule from the time the permitted activities commence until vegetative cover is established  
1386 and the District has certified its satisfaction with erosion and sediment control requirements

1387 ~~I.~~ An explanation of existing and proposed conditions

1388 7.5.2 Erosion and Sediment Control Plan

1389 An erosion and sediment control plan including the following:

1390 A. Topographic maps of existing and proposed conditions that clearly indicate all hydrologic  
1391 features and areas where grading will expose soils to erosive conditions as well as the flow  
1392 direction of all runoff (single-family home construction or reconstruction projects may comply  
1393 with this provision by providing satellite imagery or an oblique map acceptable to the District)

1394 B. Tabulation of the construction implementation schedule for all projects, except construction or  
1395 reconstruction of a single-family home

- 1396 C. Name, address, and phone number of the individual responsible for inspection and maintenance  
1397 of all erosion and sediment control measures
- 1398 D. Temporary erosion and sediment control measures that will remain in place until vegetation is  
1399 established
- 1400 E. All final erosion control measures and their locations
- 1401 F. Staging areas, as applicable
- 1402 G. Delineation of any floodplain and/or wetland area changes
- 1403 H. Documentation of the project's NPDES Construction Stormwater Permit status, if applicable

### 1404 7.5.3 Stormwater Modeling

1405 Stormwater management system modeling in a form acceptable to the District and that uses the most  
1406 recent applicable precipitation reference data (e.g., Atlas 14), for example, HydroCAD, SWMM, MIDS  
1407 calculator, or P8 for all discharge locations and clearly demonstrates no changes to existing drainage  
1408 patterns, rates, and volumes.

### 1409 7.5.4 Site Plan

1410 A site plan showing the following:

- 1411 A. Property lines and delineation of lands under ownership of the applicant
- 1412 B. Existing and proposed elevation contours
- 1413 C. Identification of existing and proposed normal and ordinary 100-year and high water elevations  
1414 on-site

### 1415 7.5.5 Stormwater Management Plan

1416 A stormwater management plan, including, at a minimum:

- 1417 A. Proposed and existing stormwater facilities location, alignment, and elevation
- 1418 B. Delineation of existing wetlands, marshes, shoreland, and/or floodplain areas on-site or to which  
1419 any portion of the project parcel drains; except that where a project will not alter or change the  
1420 hydrology of a wetland, the wetland need only be identified on the plan.
- 1421 C. Geotechnical analysis, including soil borings, at all proposed stormwater management facility  
1422 locations
- 1423 D. If infiltration of runoff is proposed, data must be submitted showing the following:
  - 1424 i. No evidence of groundwater or redoximorphic soil conditions within three (3) feet of the  
1425 bottom of the facility, practice, or system
  - 1426 ii. Soil conditions within five (5) feet of the bottom of any stormwater treatment facility,  
1427 practice, or system



- iii. If requested by the engineer, site-specific infiltration capacity of soils at the bottom of the facility, practice, or system. In addition, the District engineer may require submission of a phase I environmental site assessment and/or other documentation to facilitate analysis by the District of the suitability of the site for infiltration.
- E. Construction plans and specifications for all proposed stormwater management facilities, including design details for outlet control structures
- F. Stormwater runoff volume and rate analyses for the 2-, 10-, and 100-year 24-hour critical events, existing and proposed conditions, using Atlas 14 nested distribution
- G. All hydrologic, water quality, and hydraulic computations completed to design the proposed stormwater management facilities
- H. Narrative addressing incorporation of retention BMPs
- I. Platting or easement documents showing sufficient drainage and ponding/flowage easements over hydrologic features, such as floodplains, storm sewers, ponds, ditches, swales, wetlands, and waterways, if required by the municipality with jurisdiction
- J. Documentation of the project’s NPDES Construction Stormwater Permit status, if applicable
- K. If a stormwater harvest and reuse practice is proposed to meet applicable requirements, submission of:
  - i. ~~a~~An analysis using a stormwater reuse calculator or equivalent methodology approved by the District engineer;
  - ii. ~~D~~ocumentation of the adequacy of soils, storage capacity, and delivery systems;
  - iii. ~~D~~elineation of green space area to be irrigated, if applicable; and
  - iv. ~~A~~a detailed irrigation or usage plan showing compliance with the District volume-retention requirements.

7.5.6 Off-Site Stormwater Facilities

If off-site stormwater or regional conveyance systems are proposed, the applicant must provide documentation that the applicant holds the legal rights necessary to discharge to any off-site stormwater facility/facilities used for compliance, that the proposed design is in compliance with the original off-site stormwater facility design assumptions and capacity constraints, and that the facility/facilities are subject to a maintenance document satisfying the requirements of this Rule

7.5.7 Maintenance

For any structural stormwater BMPs that may be constructed as part of the proposed activities, the applicant must provide a maintenance plan and applicable maintenance agreements (note that in many cases a municipal stormwater agreement may be acceptable in lieu of a separate agreement with the District).

7.5.8 Certification

Adopted February 19, 2020

Revised July 15 October 19, 2022

1463 Construction plans and specifications certifying construction on the steep slope by a registered  
1464 professional engineer. The certification must indicate that the slope is suitable to withstand proposed  
1465 construction.

1466

Adopted February 19, 2020

Revised July 15 October 19, 2022

1467

**8 Rule G: Water Appropriations Rule (Reserved)**

Adopted February 19, 2020

Revised July 15 October 19, 2022

1468

**9 Rule H: Water Crossing Rule (Reserved)**

Adopted February 19, 2020

Revised July 15 October 19, 2022

**Figure 1 Lower Minnesota River Watershed District—High Value Resources Area Overlay  
District Map**

1469  
1470

Adopted February 19, 2020

Revised July 15 October 19, 2022

**Figure 2 Lower Minnesota River Watershed District—Steep Slopes Overlay District Map**



## LMRWD Rule Comment & Response Log

Comment No.	Date Received	Organization	Contact Name	Rule	Section & Page No.	Comment	Response
1	8/11/2022	Metropolitan Council	Judy Sventek	-	-	From the Water Planning perspective/group, we have no further comments on this. Joe Mulcahy provided our comments/input earlier this year.	Noted.
2	8/12/2022	City of Shakopee	Kirby Templin	C	4.4.A.ii	City of Shakopee previously provided a comment for Rule C. 4.4.A.ii. The response to Comment No. 8 from the watershed district dated 7-15-2022 provides clarification of the scenarios of when a no-rise analysis is needed versus when it is not. The current Rule C. 4.4.A.ii does not clarify the scenarios when it is needed versus when it is not. It instead requires it for all scenarios. Update Rule 4.4 so a no rise is not needed for compensatory storage in scenarios where compensatory storage is provided in storage/detention scenarios (wetland, pond/basin, lake, etc).	For additional clarity, the text will be updated as follows: “Compensatory storage may be used to offset proposed fill in the floodplain, but does not take the place of a no rise certification <b>for watercourses that convey water.</b> ”
3	9/27/2022	City of Chaska	Brent Alcott	-	Definitions	Definition of “Appropriations”: Is it the intent of the LMRWD to regulate water appropriations? Typically, this is regulated by the MN DNR rather than Watershed Districts.	The LMRWD does not currently regulate water appropriations. It may regulate water appropriations, as per Minnesota Statute 103B.211, Subd.4 (b), and incorporate the requirements in Rule G: Water Appropriations Rule (Reserved).
4	9/27/2022	City of Chaska	Brent Alcott	-	Definitions	Definition of “Semi-pervious”: This is an unusual definition and is not used elsewhere in the document. Is there a reason this was included?	This definition was included to provide some credit to nontraditional stormwater practices, such as synthetic turf systems.
5	9/27/2022	City of Chaska	Brent Alcott	A	2.2.3.A.vii	Administrative Approval: Can you provide clarification if all stormwater permits under Rule D are approved administratively, or only permits within the HVRA?	The intent was to provide administrative approval for small projects under the specified thresholds. For additional clarity, the text will be updated as follows: “Stormwater permit applications under Rule D, including development, redevelopment, and drainage alternations (including roads) creating new impervious areas of less than 20,000 square feet. <del>within the HVRA Overlay District, as shown on the Lower Minnesota River Watershed District – High Value Resources Area Overlay District Map (Figure 1).</del> ”
6	9/27/2022	City of Chaska	Brent Alcott	A	2.2.4	Conditional Approval: Under conditional permit approval, is construction allowed to proceed?	Construction activities are not allowed to proceed until all conditional approval items have been fulfilled. As stated in Section 2.2.1 Line 444, “a person undertaking an activity for which these Rules require a permit, must obtain the required permit from the District before commencing the regulated activity.”
7	9/27/2022	City of Chaska	Brent Alcott	D	5.4.2.C.v.	Volume Reduction Criteria: Infiltration practices are not allowed in HSG D soils; however, the above section (5.4.2) states that filtration is practices are allowed on HSG C and D soils. Is it the intent of this standard to allow infiltration in HSG C soils, but also allow filtration as an option?	The intent is that infiltration is allowed and encouraged in HSG soils A, B, and C. A soil that is considered HSG C will not be accepted as adequate reasoning as to why infiltration is not allowed. However, if there are other restrictions on-site that do not allow for infiltration (5.4.2.C), then filtration is allowed.
8	9/27/2022	City of Chaska	Brent Alcott	D	5.4.3.B.iv.	Water Quality: A specific definition of “diffusion” would be helpful.	We will add the following definition:  Diffuse/Diffusion: To spread out or disperse stormwater or runoff over a larger area to reduce the concentration of flow.
9	9/27/2022	City of Chaska	Brent Alcott	F	7.5.3.	It is a nearly impossible criterion to achieve “no changes to existing drainage patterns, rates, and volumes”. It would be more reasonable to state “no increase in rates and volumes”. Further, changes in drainage patterns should be more clearly defined as development will most likely result in some degree of change.	We will modify the text as follows: “Stormwater management system modeling in a form acceptable to the District and that uses the most recent applicable precipitation reference data (e.g., Atlas 14), for example, HydroCAD, SWMM, MIDS calculator, or P8 for all discharge locations. <del>and clearly demonstrates no changes to existing drainage patterns, rates, and volumes.</del> ”

Manager \_\_\_\_\_ introduced the following resolution and moved its adoption, seconded by Manager \_\_\_\_\_:

## RESOLUTION 22-10

### LOWER MINNESOTA RIVER WATERSHED DISTRICT

#### ADOPTING REVISIONS TO THE LOWER MINNESOTA RIVER WATERSHED DISTRICT RULES

WHEREAS, the Lower Minnesota River Watershed District ("LMRWD") a governmental subdivision with powers set forth in Minnesota Statutes chapters 103B and 103D, is authorized to act to achieve the purposes set forth in those chapters for the protection, conservation and beneficial use of the water resources of the Lower Minnesota River watershed;

WHEREAS, Minnesota Statutes section 103D.341 states that a watershed district board of managers must adopt rules to accomplish the purposes of chapter 103D and implement the powers of the managers as specified by Minnesota Statutes section 103D.335, and LMRWD first adopted rules in accordance with this requirement in 2020 and has had rules in effect since;

WHEREAS, the LMRWD drafted a preliminary set of proposed revisions, most of which were mechanical, "housekeeping" changes that improved operation and clarity of the rules, while others implemented regulatory-policy decisions endorsed by the LMRWD Board of Managers, which were submitted to the LMRWD's Technical Advisory Committee for initial review, leading to only a couple of minor adjustments to the rule revisions;

WHEREAS, on August 11, 2022, the LMRWD posted to its website and issued proposed the revisions to its rules for review and comment in accordance with Minnesota Statutes section 103D.341, and sent a copy of the materials to state review agencies, public transportation authorities that have jurisdiction within the Lower Minnesota River watershed, and all cities within the watershed and several written comments were submitted before the comment period closed September 26, 2022;

WHEREAS, the LMRWD issued notice of a public hearing on the proposed revisions in accordance with section 103D.341 on October 9, 2022, and October 16, 2022;

WHEREAS, the LMRWD Board of Managers has reviewed and given due consideration to the comments received and changes to the rules in response to comments, as well draft responses to the comments; and

WHEREAS, the LMRWD Board of Managers finds that the rules as revised to be sound, reasonable and fair and to protect, conserve and manage the beneficial use of the water resources in the Lower Minnesota River watershed, and generally to promote the public welfare.

NOW, THEREFORE, BE IT RESOLVED, that the LMRWD Board of Managers approves the responses to comments, and adopts the attached revised rules of the Lower Minnesota River Watershed District, with such non-substantive revisions as the administrator, on advice of counsel, deems necessary to finalize the revised rules;

BE IT FURTHER RESOLVED that that any and all permit applications completed on or after October 19, 2022, will be subject to the rules as amended, and an applicant who has filed

an application prior to October 19, 2022, may affirmatively elect, in writing, to have an application analyzed and permit decision rendered under the rules as amended hereby, so long as LMRWD has not already rendered a decision on the application;

BE IT FURTHER RESOLVED that the LMRWD Board of Managers directs the administrator to post the revised rules, and responses to the comments received on the LMRWD website, and provide the responses to commenters; and

BE IT FINALLY RESOLVED, that LMRWD administrator is directed to publish notice of the adoption of the amended rules, mail a copy of the revised rules to the governing body of each city affected by the revised rules and public transportation authorities with jurisdiction in the watershed, and file a copy of the revised rules in the Office of the Carver County, Dakota County, Hennepin County and Scott County Recorders.

The question was on the adoption of the Resolution and there were \_\_\_ yeas and \_\_\_ nays as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
AMUNDSON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HARTMANN	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MRAZ	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RABY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SALVATO	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the President declared the Resolution adopted.

\_\_\_\_\_  
Jesse Hartmann, President

ATTEST:

\_\_\_\_\_  
Lauren Salvato, Secretary

I, Lauren Salvato, Secretary of the Lower Minnesota River Watershed District, do hereby certify that I have compared the above Resolution with the original thereof as the same appears of record and on file with the District and find the same to be a true and correct transcript thereof.

IN TESTIMONY WHEREOF, I hereunto set my hand this 19<sup>th</sup> day of October 2022.

\_\_\_\_\_  
Lauren Salvato, Secretary



# 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 5. B. – Public Hearing for adoption of minor Plan amendment**

### **Prepared By**

Linda Loomis, Administrator

### **Summary**

In 2018, the LMRWD updated its Comprehensive Watershed Management Plan (Plan). At the time of adoption, the LMRWD anticipated that Section 4 – Implementation Program would require an amendment at the mid-point of the life of the Plan.

In May 2022, the LMRWD began the processing of amending its Plan. A Technical Memorandum dated October 14, 2022 is attached with more detail regarding the LMRWD's Plan amendment process.

The draft Plan amendment was sent to the MN Board of Water and Soil Resources, the Metropolitan Council, state agencies and cities and counties within the LMRWD according to MN Statutes. The deadline for reviewers to submit comments was October 10, 2022.

The Board of Managers should convene a public hearing to receive comments on the draft Plan amendment. At the end of the public hearing the Board may adopt Resolution 22-11 – Adopting Watershed Management Plan Amendment.

### **Attachments**

Technical Memorandum – LMRWD Watershed Management Plan Implementation Plan Update

Proposed amended Section 4 – Implementation Program

LMRWD Minor Plan Amendment Comment & Response Log

Resolution 22-11 – Adopting Watershed Management Plan Amendment

### **Recommended Action**

Open Public Hearing, accept comments, close Public Hearing, and motion to adopt Resolution 22-11 – Adopting Watershed Management Plan Amendment

# Technical Memorandum

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

**From:** Meghan Litsey, CPESC  
Della Schall Young, CPESC, PMP

**Date:** October 14, 2022

**Re:** Lower Minnesota River Watershed District (LMRWD) Watershed  
Management Plan Implementation Plan Update

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In 2018, the Implementation Program section of the Watershed Management Plan (Plan) was updated with an emphasis on the activities associated with the first five years (2018–2022). In addition, at this time, it was acknowledged that the remaining years (2023–2027) would require an update in 2022 to effectively plan the second half of the Implementation Program. The Implementation Program section now requires a minor plan amendment to emphasize activities for the years 2023–2027.

Below are the suggested amendments for consideration, the Plan amendment process, and Young Environmental’s recommended next steps.

## **Suggested Modifications**

Attached is the draft Implementation Program (Attachment 1) summarizing the proposed modifications.

## **Plan Amendment Process**

The draft Plan amendment was submitted to the Board of Water and Soil Resources, affected units of government, Metropolitan Council, and state agencies in writing for review and comment on August 26, 2022, and September 9, 2022. All comments received during this period and a corresponding response from Young Environmental are summarized in Attachment 2. No recurring comments were received during this period, and the comments generally requested clarification for budget amounts and methods to track completed projects within the Plan.

The LMRWD has completed the necessary requirements to amend the Plan as outlined in 103B.231. The notification process completed by the LMRWD is summarized as follows:

- The draft Plan amendment was submitted to the LMRWD's Technical Advisory Committee (TAC) on June 15, 2022, for review and comment. All comments received from the TAC and a corresponding response from Young Environmental were summarized at the July 15, 2022, board meeting.
- The Plan amendment was submitted to the Board of Water and Soil Resources, Metropolitan Council, and state agencies, in writing, for review and comment on August 26, 2022, allowing a minimum of 30 days for review.
- The Plan amendment was submitted to affected units of government, in writing, for review and comment on September 9, 2022, allowing a minimum of 30 days for review.
- The comments received during the 30-day review periods were collected and summarized (Attachment 2).
- The Plan amendment was noticed in at least one newspaper within each county in advance of the public hearing meeting scheduled on October 19, 2022.

### **Recommendations**

Following the completion of the public hearing, we recommend the adoption of the Plan pending the outcome of the public hearing.

### **Attachments**

1. Watershed Management Plan Implementation Program Amendment
2. Comment/Response Log



1 **TABLE OF CONTENTS**

2 **4 IMPLEMENTATION PROGRAM .....4-2**

3 4.1 Administrative and managerial.....4-2

4 4.2 Coordination with local, state, and federal governments and non-government

5 organizations.....4-5

6 4.3 Studies and Programs .....4-5

7 4.3.1 Cost-Share Incentive and Water Quality Restoration Program ..... 4-6

8 4.3.2 Dredge Management ..... 4-6

9 4.3.3 Eagle Creek Bank Restoration at Town & Country RV Park Feasibility Study ..... 4-6

10 4.3.4 Education and Outreach Program ..... 4-6

11 4.3.5 Fen Private Land Acquisition Study ..... 4-6

12 4.3.6 Fen Stewardship and Management Program..... 4-7

13 4.3.7 Gully Inventory and Assessment Program ..... 4-7

14 4.3.8 Implementation of the Sustainable Lake Management Plans ..... 4-7

15 4.3.9 Monitoring Program and Detailed Data Assessments..... 4-7

16 4.3.10 Project and Permit Reviews ..... 4-8

17 4.3.11 Seminary Fen Restoration Site C-2 Study ..... 4-8

18 4.3.12 Spring Creek Site 3 Design Feasibility Study..... 4-8

19 4.3.13 Trout Streams Geomorphic Assessments ..... 4-8

20 4.3.14 Watershed Management Plan..... 4-9

21 4.3.15 Water Resources Restoration Fund ..... 4-9

22 4.4 Capital Improvement Projects .....4-9

23 4.5 Funding Mechanisms ..... 4-14

24 4.5.1 Funding Statutes Available to Watershed District..... 4-14

25 4.5.2 Emergency Projects..... 4-16

26 4.5.3 Proposed Funding Mechanisms ..... 4-16

27 4.5.4 Petitioned Projects..... 4-17

28

29

30

31 **4 IMPLEMENTATION PROGRAM**

32 This section presents the Implementation Program (Program) for the Plan. The District’s Program  
33 addresses water resources and programmatic issues discussed in Section 2 and applies the goals,  
34 policies, and strategies addressed in Section 3. The District’s Program consists of administrative and  
35 managerial efforts, coordination, studies, programs, capital improvement projects (CIPs), and  
36 funding mechanisms to successfully execute the Plan. Each element is described below. The  
37 Program schedule and budget are presented in Table 4-1. This Program was updated in 2022 after  
38 several studies and CIPs were completed, and the amended Program comprises the years 2023  
39 through 2027. The Program’s estimated impacts on residents and local government are presented in  
40 the next section. The District will review the implementation program every two years, at minimum.

41 **4.1 ADMINISTRATIVE AND MANAGERIAL**

42 Administrative and managerial efforts will be carried out by the District’s administrator. The  
43 administrator, and consultants will perform the District’s day-to-day operations and implement  
44 other elements of the Program, as discussed below. Administrative services also include legal, audit,  
45 and bookkeeping services, office space, office equipment, office rental, information management  
46 systems (e.g., computers, copiers, website, etc.), training, and general engineering services. The  
47 District’s general levy finances these efforts.

48

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**Table 4-1: Lower Minnesota River Watershed District - Implementation Program Budget for 2023 - 2027**

ACTION	Year				
	2023	2024	2025	2026	2027
<b>EXPENDITURE</b>					
<b>Administrative and Managerial</b>					
General Administrative Services, Conferences, Coordination with LGUs, Stakeholders and other Project Partners, LGU Program Reviews, 9-Foot Channel, and Advisory Committees (Technical and Citizen)	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000
<b>Administrative/Managerial Budget Total</b>	<b>\$250,000</b>	<b>\$250,000</b>	<b>\$250,000</b>	<b>\$250,000</b>	<b>\$250,000</b>
<b>Studies and Programs</b>					
Cost Share Incentive and Water Quality Restoration Program	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000
Dredge Management	\$240,000	\$240,000	\$240,000	\$126,000	\$240,000
Eagle Creek Bank Restoration at Town & Country RV Park Feasibility Study		\$30,000			
Education and Outreach Program	\$75,000	\$75,000	\$75,000	\$75,000	\$75,000
Fen Private Land Acquisition Study		\$50,000	\$25,000		
Fen Stewardship and Management Program	\$75,000	\$75,000	\$75,000	\$75,000	\$75,000
Gully Inventory and Assessment Program	\$90,500	\$150,000	\$150,000	\$150,000	\$150,000
Trout Streams Geomorphic Assessments		\$100,000			\$100,000
Monitoring Program and Detailed Data Assessments	\$75,000	\$75,000	\$75,000	\$75,000	\$75,000
Project and Permit Reviews	\$50,000	\$50,000	\$50,000	\$50,000	\$50,000
Implementation of the Sustainable Lake Management Plans		\$50,000	\$50,000		\$50,000
Seminary Fen Ravines Site C-2 Feasibility Study	\$20,000	\$40,000			
Spring Creek Site 3 Design Feasibility Study	\$50,000				
Watershed Management Plan				\$50,000	\$100,000
Water Resources Restoration Fund	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000
<b>Studies and Programs Budget Total</b>	<b>\$795,500</b>	<b>\$1,055,000</b>	<b>\$860,000</b>	<b>\$721,000</b>	<b>\$1,035,000</b>
<b>Capital Improvements</b>					
Minnesota River Study Area 3 – Bluff Stabilization Project		\$100,000	\$100,000		
Seminary Fen Restoration Site B		\$50,000	\$25,000		
Seminary Fen Ravines Site C-2 and C-3 Design and Construction			\$55,000	\$50,000	\$65,000
Dredge Site Culvert Replacement				\$51,500	
Eagle Creek Bank Restoration at Town & Country RV Park Project			\$69,800	\$90,200	
Eagle Creek Brown Trout Habitat Improvements Project					\$70,000
Minnesota River Floodplain Modeling	\$75,000				
Shakopee Riverbank Stabilization Project		\$50,000	\$50,000		
Spring Creek Sites 1 and 2 Design and Construction Stabilization Project	47,100	\$100,000	\$100,000	\$70,000	
Spring Creek Vegetation Management Project	\$40,000				
Stormwater BMP at Parking Lot near Lewis Street West and Second Avenue West Project	\$50,000	\$50,000			
Vernon Avenue Upgrade at the Dredge Site				\$62,500	
<b>Capital Improvements Budget Total</b>	<b>\$212,100</b>	<b>\$350,000</b>	<b>\$399,800</b>	<b>\$324,200</b>	<b>\$135,000</b>
<b>TOTAL EXPENDITURES</b>	<b>\$1,257,600</b>	<b>\$1,655,000</b>	<b>\$1,509,800</b>	<b>\$1,295,200</b>	<b>\$1,420,000</b>
<b>Revenue</b>					
General Levy	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000
Planning and Implementation Levy	\$525,000	\$625,000	\$650,000	\$675,000	\$700,000
Metropolitan Council Grant	\$5,500	\$5,500	\$5,500	\$5,500	\$5,500
Dredge Material Management Grant	\$240,000	\$240,000	\$240,000	\$240,000	\$240,000
Grants	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000
Closed or Unrealized Projects	\$137,100	\$434,500	\$264,300	\$24,700	\$124,500
<b>TOTAL REVENUE</b>	<b>\$1,257,600</b>	<b>\$1,655,000</b>	<b>\$1,509,800</b>	<b>\$1,295,200</b>	<b>\$1,420,000</b>

52 **4.2 COORDINATION WITH LOCAL, STATE, AND FEDERAL GOVERNMENTS AND**  
 53 **NON-GOVERNMENT ORGANIZATIONS**

54 This sub section implements the District’s role as a facilitator. It involves staff coordination with  
 55 local, state, and federal government and non-government organizations, participation in issues  
 56 discussed during the State of Minnesota Legislative session, and collaboration with the COE to  
 57 secure federal funds for the Minnesota River 9-Foot Channel.

58 **Table 4-2: Coordination Strategies with District Partners**

Strategy	Coordination Partner(s)	Schedule
Strategy 1.1.1, 1.2.1, 2.3.1, 2.3.4	LGUs, BWSR, MPCA, Metropolitan Council, SWCDs and neighboring WDs and WMOs	Quarterly at a minimum
Strategy 1.3.3, 2.2.1, 6.1.1-2	LGUs	Annually
Strategy 2.2.3, 2.2.4	LGUs and SWCDs	Annually
Strategy 2.3.1-3, 3.2.1, 4.2.1-3	LGUs, BWSR, MPCA, Metropolitan Council, SWCDs, and neighboring WDs and WMOs	Annually
Strategy 3.3.1	DOH	Annually
Strategy 5.1.2 - 3	LGUs and BWSR	Annually
Strategy 7.1.1	MPCA, LGUs	Annually
Strategy 7.4.1	LGUs, SWCDs and shoreland property owners	Annually
Strategies 8.2.1, 8.2.2, 8.3.1	COE, LGUs	On-going
Strategies 9.1.1-4 and 9.2.1-3	LGUs, TAC, CAC, and SWCDs	On-going, Quarterly

59

60 **4.3 STUDIES AND PROGRAMS**

61 Studies and programs for the 2023-2027 Implementation Program include the following:

- 62 ● Cost Share Incentive and Water Quality Restoration Program (All strategies)
- 63 ● Dredge Management (Strategies 1.1.1, 8.1.2, 8.2.2, and 8.3.1)
- 64 ● Eagle Creek Bank Restoration at Town & Country RV Park Feasibility Study (Strategies 4.2.1 and  
65 7.4.1)
- 66 ● Education and Outreach Program (Strategies 1.2.1, 4.2.3, 8.1.1, 9.1.1-4 and 9.2.1-3)
- 67 ● Fen Private Land Acquisition Study (Strategy 4.3.1)
- 68 ● Fen Stewardship Program (Strategies 1.1.1 and 2.3.3)
- 69 ● Gully Inventory and Assessment Program (Strategy 7.3.1)
- 70 ● Implementation of the Sustainable Lake Management Plans (Strategies 3.2.1-2 and 3.3.1)
- 71 ● Monitoring Program and Detailed Data Assessments (Strategies 2.3.1-2 and 3.3.1)
- 72 ● Project and Permit Reviews (Strategies 1.1.1, 1.3.1., 3.2.2, 4.2.2, and 5.1.3)
- 73 ● Seminary Fen Restoration Site C-2 Study (Strategies 4.1.1 and 7.4.1)

- 74 ● Spring Creek Site 3 Design Feasibility Study (Strategy 7.4.1)
- 75 ● Trout Streams Geomorphic Assessments (Strategies 4.2.1)
- 76 ● Watershed Management Plan (All Strategies)
- 77 ● Water Resources Restoration Fund (Strategies 1.1.1, 3.2.1-2, and 3.3.1)

78 Budgets for each study and program, with expenses beyond staff time, are shown in Table 4-1.  
79 These preliminary budgets are reviewed and approved annually. Revenue for the operation and  
80 management of the District is primarily through the District’s planning and implementation levy.

#### 81 **4.3.1 Cost-Share Incentive and Water Quality Restoration Program**

82 The District values and supports efforts made by residents to help achieve its goals. Through  
83 the Cost Share Incentive and Water Quality Restoration Program, the District hopes to  
84 engage citizens in community actions that protect local lakes, rivers, streams, wetlands, and  
85 fens. Eligible applicants must meet eligibility criteria and apply to and be approved by the  
86 Board of Managers. The cost share and incentives will be reviewed annually. Program  
87 effectiveness will be measured in two ways: 1) by comparing water quality trends before and  
88 after projects are implemented, and 2) by how many projects are funded through the  
89 program.

#### 90 **4.3.2 Dredge Management**

91 The District will continue its role as the local sponsor responsible for providing placement sites for  
92 the Army Corps of Engineers. The purpose is to place dredge material from the Minnesota River  
93 and maintain a 9-foot-deep river channel. This program includes the identification of locations to  
94 temporarily store dredge material from the river, private dredge spoil disposal and transfer, and  
95 other beneficial uses of the dredge material.

#### 96 **4.3.3 Eagle Creek Bank Restoration at Town & Country RV Park Feasibility Study**

97 Signs of hillslope failure have been observed near the campground on Main Branch of Eagle Creek  
98 which is an added environmental stressor on the stream. The District will assess the eroding banks  
99 at the campground and determine the urgency for stabilization on Eagle Creek.

#### 100 **4.3.4 Education and Outreach Program**

101 The District’s education and outreach program consists of maintaining a Citizen Advisory  
102 Committee, various social media accounts, and outreach to schools, partners, and non-governmental  
103 organizations. Editing and updating the District’s website is an on-going function.

#### 104 **4.3.5 Fen Private Land Acquisition Study**

105 To preserve and protect fens in the District in perpetuity, the District will map and assess the values  
106 of adjacent private properties to each fen and work with corresponding municipalities, to consider  
107 opportunities to purchase private fen land for conservation. If land acquisition is not feasible, the

108 District will consider opportunities to develop agreements with private property owners to ensure  
109 management of each fen is consistent and comprehensive.

#### 110 **4.3.6 Fen Stewardship and Management Program**

111 The District, in partnership with the DNR and Metropolitan Council, will develop a fen stewardship  
112 program for the District's fens. The effort will review historical data, assess current conditions, and  
113 develop a road map for restoration, preservation, and protection of the District's fens. Management  
114 plans or sustainability reports will be developed for all fens (starting with Seminary Fen and Savage  
115 Fen) to effectively manage and protect these groundwater-dependent resources.

#### 116 **4.3.7 Gully Inventory and Assessment Program**

117 The District performs routine gully inventories to provide information to municipalities within the  
118 watershed district on the current conditions of gullies and pipe outfalls; it also identifies new  
119 locations that may be contributing sediment into the Minnesota River. Once each gully inventory is  
120 complete, the District will coordinate collaboration sessions with city partners and other potential  
121 stakeholders to review findings, discuss high-priority sites, and strategize ways to stabilize gullies,  
122 repair outfalls, and prevent sediment from entering the Minnesota River.

#### 123 **4.3.8 Implementation of the Sustainable Lake Management Plans**

124 In 2019, the District developed Sustainable Lake Management Plans (SLMPs) for trout lakes  
125 within its boundary. Going forward, the District plans to implement the recommended  
126 management strategies from the SLMPs, such as routine vegetation surveys and temperature  
127 profiling.

#### 128 **4.3.9 Monitoring Program and Detailed Data Assessments**

129 The District will continue to perform water quantity and quality monitoring of resources  
130 within the boundaries of the District. The District's Monitoring Plan will be updated to  
131 include the geochemistry recommendations from the Fens Sustainability Gaps Analysis  
132 report and the monitoring parameter recommendations from the Quarry Lake Sustainable  
133 Lake Management Plan report.

134 Over the past few years, the District has collected a large quantity of water quality data. The  
135 Plan includes a preliminary assessment of lake water quality data. However, the last  
136 comprehensive data evaluation was completed in 2000. Periodic data evaluations are  
137 necessary to convert data into information that decision makers can use. Data collected for  
138 each water resource will be evaluated on a 3-year or 5-year cycle. As part of Strategy 1.3.1, all  
139 water resources within the watershed will be evaluated. An outcome of Strategy 1.3.1 will be



140 groupings of water resources into High, Medium, and Low categories for detailed data  
141 assessments and timetables formulated for each category.

#### 142 **4.3.10 Project and Permit Reviews**

143 Through this permitting process, the District works with property owners and local governments to  
144 manage and regulate activities related to soil erosion and sediment control, floodplain and drainage  
145 alteration, stormwater management, and development on steep slopes within the boundaries of the  
146 District. Project and permit reviews will be performed to determine compliance with the District's  
147 rules and to protect the public's health and welfare, as well as the natural resources of the District.

#### 148 **4.3.11 Seminary Fen Restoration Site C-2 Study**

149 Seminary Fen Ravine Site C-2 is actively discharging sediment into the Seminary Fen Wetland  
150 Complex. This project will conduct a ravine study to estimate the sediment contribution to the  
151 Seminary Fen from the C-2 site and provide approaches and cost estimates for correcting the  
152 erosion problems.

#### 153 **4.3.12 Spring Creek Site 3 Design Feasibility Study**

154 Site 3 at Spring Creek is prioritized as a top at-risk site for erosion; however, a stabilization design  
155 has not been developed. The District will work with the landowner and the Carver Soil and Water  
156 Conservation District to conduct a feasibility study to determine the best approach to stabilize the  
157 area.

#### 158 **4.3.13 Trout Streams Geomorphic Assessments**

159 The trout streams geomorphic assessments will consider changes in trout stream alignment,  
160 baseflow, geometry, and selected stream reaches. Stream width-to-depth ratios, stream bed slope,  
161 meander pattern, and other bed features shall be modeled according to a stable reference reach.  
162 Reference reaches are nearby, hydrologically, and geomorphically stable stream segments. A  
163 reference reach could be upstream or downstream, or in a nearby watershed. This assessment is  
164 generally considered twice during the Plan cycle.

165 **4.3.14 Watershed Management Plan**

166 The District’s Watershed Management Plan describes how the District will address water resources  
167 management over a period of 10 years. The District’s current plan will expire in 2027 and will  
168 require updates to plan the next 10 years of water resources management within the watershed  
169 district’s boundaries.

170 **4.3.15 Water Resources Restoration Fund**

171 This broad-based fund implements Goals 2 and 3, which are to protect, improve, and restore surface  
172 water and groundwater quality within the District. This program will fund projects sponsored by  
173 LGUs that reduce urban nonpoint source pollution, improve, and protect groundwater quality, and  
174 promote surveys and studies of wetland (fen) health and management. Program effectiveness will be  
175 measured in two ways: 1) by comparing water quality trends before and after projects are  
176 implemented, and 2) by how many projects are funded through the program.

177 **4.4 CAPITAL IMPROVEMENT PROJECTS**

178 Water management organizations that have adopted a watershed management plan, in accordance  
179 with M.S. 103B.231, may certify for payment by the counties all or any part of the cost of capital  
180 improvement projects (CIPs) contained in the capital improvement program of the Plan. A copy of  
181 the Plan shall be forwarded to the county boards.

182 The District is required to hold a public hearing on the proposed CIP. The public hearing details  
183 must be published in a legal newspaper once a week for two successive weeks in counties that have  
184 affected waters and lands. The last publication shall occur not more than 30 days, or less than 10  
185 days before the hearing. The notice shall state the hearing’s time and place, the general nature of the  
186 proposed improvement, the estimated cost, and the cost improvement’s payment method, including  
187 the cost allocated to each county. At least 10 days before the hearing, the District shall send notices  
188 by mail to the counties, to each home rule charter, or to each statutory city or town located wholly  
189 or partly within the District’s territory. The District recognizes that failure to mail a notice (or failure  
190 to provide a notice without defects) shall not invalidate the proceedings. After the proceedings and  
191 assessment statements have been filed with the auditor, each affected county shall pay its  
192 apportioned share of the project’s total cost based on the engineer’s reports or managers’ order.

193 Table 4-3 contains descriptions and planning level cost estimates for the CIP identified for the  
194 period between the Plan amendment completed in 2022 and the biennial Plan review.

Table 4-3: Lower Minnesota River Watershed District – Capital Improvement Projects

Project Name	Project Descriptions	Project Partner	Estimated Cost	Estimated Timeline
<i>Capital Improvement Projects</i>				
Minnesota River Study Area 3 – Bluff Stabilization Project	To address riverbank erosion, we will analyze the design and construction of the Minnesota River at Study Area 3 project in Eden Prairie. A study was completed in October 2008 for the City of Eden Prairie in cooperation with the district. Our project will expand the 2008 study by collecting and analyzing additional data that will extend to the final design, permitting, and construction.	City of Eden Prairie	\$200,000	2022 - 2025
Minnesota River Floodplain Modeling	The Lower Minnesota River Floodplain Model Feasibility Study determined that the hydrologic and hydraulic modeling commonly used to regulate development in the floodplain and evaluate Rule C permits are out of date. The hydrologic statistical analysis, based on the USGS streamgage at Jordan, has not been updated in 20 years, missed four of the top ten recorded floods on the Minnesota River and must be re-evaluated to determine the flood flows within the LMRWD reach. Following the hydrologic update, the hydraulic model of the Lower Minnesota River should be comprehensively updated to incorporate recent developments in the floodplain, the revised flow data, and better data were available to evaluate the flood risk within the Lower Minnesota River floodplain. The initial capital investment of updating the hydrology and hydraulic model will be followed by annual updates to maintain the hydraulic model and incorporate the most recent data from municipalities and LMRWD permits.	Army Corps of Engineers	\$75,000	2023
Spring Creek Vegetation Management Project	The creek will be prone to further erosion without the added protection of adequate vegetation. Vegetation management (e.g., removal of invasives, native plantings, etc.), particularly in the floodplain and channel banks, will be explored with the property owners.	Carver SWCD	\$40,000	2023
Stormwater BMP at Parking Lot near Lewis Street West and Second Avenue West Project	This stormwater best management practice project will be coordinated with the parking lot rehabilitation near Lewis Street West and Second Avenue West near Pablo's restaurant in Shakopee. The project focuses on providing water quality treatment to untreated stormwater runoff that is routed directly to the Minnesota River.	City of Shakopee	\$750,000 (District's Contribution: \$100,000)	2023 - 2024
Seminary Fen Restoration Site B	A partially drained 17-acre wetland from Falls Curve Road to Old Highway 12, which is predominantly growing reed canary grass, will be restored. The restoration involves disabling the drainage system and restoring vegetation.	City of Chaska and MNDNR	\$75,000	2024 - 2025
Shakopee Riverbank Stabilization Project	This project will include stabilizing sections of the Minnesota River riverbank that are eroding along the City of Shakopee's parallel trunk sanitary sewer line that flows to L-16 and other storm sewer outlets.	City of Shakopee	\$5,280,000 (District's contribution: \$100,000)	2024 – 2025
Spring Creek Site 1 and 2 Stabilization Project	After the vegetation management project is complete, Site 1 and Site 2 along Spring Creek will be stabilized using the Carver SWCD's designs (increased riprap size and standard gradation recommended).	Carver SWCD	\$270,000	2024 - 2026
Eagle Creek Bank Restoration at Town & Country RV Park Project	The District will develop a design and stabilize the hillslope failure near the campground on Main Branch of Eagle Creek to reduce sedimentation to the creek.	MNDNR, City of Savage	\$160,000	2025 - 2026
Seminary Fen Ravines Site C-2 and C-3 Design and Construction	The final design and construction will be done for the Ravine Sites C-2 and C-3, which are discharging sediment into the Seminary Fen Wetland Complex.	City of Chaska and DNR	\$170,000	2025 - 2027

Project Name	Project Descriptions	Project Partner	Estimated Cost	Estimated Timeline
Dredge Site Culvert Replacement	A culvert near the site entrance needs to be removed and replaced. The District will work with the Army Corps of Engineers to perform the culvert replacement.	Army Corps of Engineers	\$51,500	2026
Vernon Avenue Upgrade at the Dredge Site	Approximately two-thirds of a mile of Vernon Avenue (from Hwy 13 to the site entrance) requires upgrading to allow for increased truck traffic. The District will coordinate with the Army Corps of Engineers to upgrade Vernon Avenue.	Army Corps of Engineers	\$62,500	2026
Eagle Creek Brown Trout Habitat Improvements Project	Background research indicates the East Branch historically has been able to support a more reliable brown trout population despite having some of the worst habitat conditions in the watershed. The District will complete habitat improvements in the East Branch to support brown trout populations.	MNDNR, USFWS	\$70,000	2027
<b>Potential Projects - Unfunded</b>				
Courthouse Lake Native Restoration	Multiple projects are underway around Courthouse Lake to restore both the shoreline and turfed areas to a native setting.	Carver SWCD, CCWMO	\$75,000	2023 - 2027
Big Woods and Hazeltine Lake Goldfish Management Program	A feasibility study is currently underway to produce a management plan for goldfish control on Big Woods and Hazeltine Lakes. Depending on the outcomes of the study, long term management will follow the outline provided in this study.	MNDNR, CCWMO	\$100,000	2023 - 2027
Chaska Creek Bank Stabilization	Streambank erosion is present along Chaska Creek between Hwy 212 and Creek Road in Chaska contributing TSS and TP to Chaska Creek, especially during period of high flow. Potential project areas will be identified and implemented in coordination with City of Chaska's Creek Rd redevelopment projects.	City of Chaska, CCWMO	\$332,000	2023 - 2027
Stormwater Pollutant Reduction in Untreated and Undertreated Urban Areas - East Chaska Creek Chain of Lakes	The District and Carver WMO will work with City of Chaska to identify areas where additional stormwater treat will provide additional nutrient removal within the East Chaska Creek Chain of Lakes Watershed. Priority will be given to project that provide TP reductions to help meet TMDL goals for impaired waters of Hazeltine, Jonathon, and McKnight Lakes.	City of Chaska, CCWMO	\$100,000	2023 - 2027
East Chaska Creek Chain of Lakes Ravine Stabilizations	Ravines draining to the Chain of Lakes are contributing both sediment and phosphorus to the lake. These projects will stabilize slopes and manage stormwater discharge to reduce the amount of sediment reaching adjacent lakes.	City of Chaska, CCWMO	\$150,000	2023 - 2027
SW Chaska Ravine Stabilizations	Ravines ultimately draining to the Minnesota River are contributing both sediment and phosphorus to the river. These projects will stabilize slopes and manage stormwater discharge to reduce the amount of sediment discharging downstream.	City of Chaska, CCWMO	\$200,000	2023 - 2027
SW Chaska Wetland Preservation and Enhancements	Future development of this area of Chaska may provide opportunities for wetland preservation or enhancements. Priority for project locations will be based upon the Wetland Restoration Assessment of the 2020 Water Plan.	City of Chaska, CCWMO	\$100,000	2023 - 2027
Big Woods Lake Gully Restoration	One ravine has been identified as a potential project site to restore. Restoration will reduce the amount of sediment and phosphorus that will reach Big Woods Lake.	City of Chaska, CCWMO	\$150,000	2023 - 2027
Lower Minnesota River Sediment Analysis	Previous analysis of how sedimentation has changed in the floodplain of the Lower Minnesota River has involved using pollen assemblages to date horizons. However, further analysis is required to confirm that the interpreted horizons are correct. The District will use dating of the stored	Freshwater Society, U of M	\$12,500	2024

Project Name	Project Descriptions	Project Partner	Estimated Cost	Estimated Timeline
	core material to date the sediment to provide a more accurate understanding of sedimentation in the floodplain.			
Minnesota River Assessment of Ecological and Economic Impacts of Sedimentation	<p>This project will examine sedimentation in the Lower Minnesota River Watershed by monitoring, modeling, and analyzing sediment sources, sinks, and pathways in the watershed; summarizing how sources, sinks, and pathways may have changed; and estimating the economic and ecological effects of sedimentation. The project team will look at how sedimentation (1) changes the stage-discharge relationships that may cause flooding, (2) generates costs to maintain a commercial navigation channel on the Minnesota River, and (3) affects the ecological conditions of the watershed. Through these analyses, a new baseline could be established, and an understanding created of how changes in land use alter the watershed baseline and create a new condition.</p> <p>In addition, the District will pursue upstream flow management that is consistent with recommendations of the NCED group using the Management Option Simulation Tool (MOSM) in the Le Sueur watershed and similar approaches in other watersheds to mitigate this issue.</p>	Army Corps of Engineers	\$162,500	2024 - 2027
Minnesota River Assessment of Water Storage Benefits and Opportunities	Using the Agricultural Conservation Planning Framework (ACPF) and the Prioritize, Target, and Measure Application (PTM app), we will determine whether a flow reduction would benefit from the placement of storage measures in key locations throughout the basin. This analysis will help us understand if the threshold for meaningful change can be realized to recommend specific levels of storage in the basin. The analysis is needed to accomplish the desired outcomes: (1) hydrocorrect DEMs for the lower watershed where storage impacts are desired, (2) run ACPF on priority sub-basins to determine where storage opportunities exist, (3) develop a detailed hydrologic model if one does not exist, (4) run existing and storage scenarios to determine whether the amount of the discharges could be lowered for hypothetical rainfall events ranging from 10-year to 100-year events, and (5) summarize the saturation of storage and the maximum change anticipated in the specific agro-ecoregion.	Army Corps of Engineers	\$150,000	2024 - 2027
East Chaska Creek Chain of Lakes SWA Implementation	The District will collaborate with the City of Chaska to implement strategies identified in the East Chaska Creek Chain of Lakes Subwatershed Analysis Feasibility Study. Projects would reduce impervious surfaces and add stormwater treatment for currently untreated areas and improve the quality of stormwater runoff reaching the East Chaska Creek Chain of Lakes. Projects will be completed as time and funding allow.	City of Chaska, Carver County Watershed Management Organization (CCWMO)	\$200,000	2024 - 2027
Schroeder's Acre Park Water Reuse	This project consists of providing irrigation to three baseball diamonds and soccer fields with water supplied by the stormwater pond in the park.	City of Savage	\$370,000	2024 - 2027
Schroeder's Acres Park Alum Treatment	The City of Savage proposes to conduct an alum treatment at Schroeder's Acres. This would prevent 12 to 24 pounds of total phosphorus (TP) from entering Eagle Creek each year.	City of Savage	\$35,600	2024 - 2027
BF Nelson Pond Alum Treatment	The City of Savage proposes to conduct an alum treatment at the BF Nelson Pond. This would prevent 22 to 44 pounds of TP from entering Eagle Creek each year. Each dose is expected to cost \$39,900. Doses need to be applied every five years. Alum treatment here has a total cost of \$199,500 over 25 years.	City of Savage	\$39,900	2024 - 2027

Project Name	Project Descriptions	Project Partner	Estimated Cost	Estimated Timeline
Wyoming Avenue Stormwater Structure	The Wyoming Avenue Stormwater Structure includes the installation of a water quality treatment structure in an untreated industrial land use that discharges directly to Eagle Creek at TH 101.	City of Savage	\$668,600	2024 - 2027
TH 13 Stormwater Structure	This proposed project consists of installing an underground stormwater treatment structure in the right-of-way south of Trunk Highway 13. The structure would work in conjunction with the previously mentioned structure along Wyoming Avenue South to provide treatment to over 13 acres of industrial runoff currently flowing directly into Eagle Creek.	City of Savage	\$240,100	2024 - 2027
Zinran Avenue Stormwater Structure	This proposed project would consist of installing an underground stormwater treatment structure along Zinran Ave. The structure would provide treatment to over 18 acres of commercial runoff currently not being treated by the City of Savage.	City of Savage	\$168,800	2024 - 2027
Eagle Creek Parkway Bank Stabilization	This proposed project would stabilize banks underneath the Eagle Creek Parkway bridge crossing the East Branch of Eagle Creek. The creek is currently estimated to be eroding an average of 2 inches per year, which could deposit approximately 8,600 lbs. of sediment into the creek annually.	City of Savage	\$106,00	2024 - 2027
Covington Pond Filtration Bench	This proposed project consists of an intensive pond restoration plan for the basins on the City-owned parcel at Ensign Ave and 125th St W. A filtration bench would be placed between the existing ponds to provide additional treatment to a large portion of residential and upstream drainage areas.	City of Savage	\$315,200	2024 - 2027
Preserve Trail Stormwater Structure	This proposed project would install an underground stormwater treatment structure on the western portion of a parcel owned by the Savage Economic Development Authority. The structure would provide treatment to over 17 acres of residential runoff prior to it entering the large storm basin in the business park.	City of Savage	\$558,300	2024 - 2027
Carver Creek Gully Stabilization	The District will collaborate with the Carver WMO to stabilize a large gully on Carver Creek in Dahlgren Township (Section 26).	Carver SWCD, NRCS, CCWMO	\$40,000	2025
Dahlgren Road Stormwater Retrofit	The District will collaborate with the Carver WMO to address stormwater issues along Dahlgren Road west of County Road 11. Stormwater from the road surface currently drains untreated to Timber Creek, a tributary of Carver Creek.	Dahlgren Township, City of Carver, CCWMO	\$40,000	2025
Grace Lake Ravine Stabilizations	Ravines on the northwest side of Lake Grace are contributing both sediment and phosphorus to the lake. These projects will stabilize and reduce the amount of sediment reaching Lake Grace.	City of Chaska, CCWMO	\$300,000	2025 - 2027
East Chaska Creek Chain of Lakes Reclamation - Phase 2	The District will collaborate with the Carver WMO to implement methods to control carp populations and improve water quality in the East Creek Chain of Lakes as identified in the Drawdown Feasibility Study. This phase would focus on Big Woods, McKnight, Jonathan and Grace Lakes.	City of Chaska, CCWMO	\$225,000	2027

197 **4.5 FUNDING MECHANISMS**

198 Laws regarding project funding are different between metropolitan WDs and WMOs, and out-  
199 state watershed districts. M.S. Chapter 103D applies to all watershed districts, while Chapter  
200 103B applies only to the Minneapolis/St. Paul metropolitan area watershed districts and WMOs.  
201 Because the District is both a watershed district and in the metropolitan area, both sets of  
202 statutes apply. This section provides a summary of the funding sources available to the District,  
203 followed by a discussion of the District’s proposed funding method(s).

204 **4.5.1 Funding Statutes Available to Watershed District**

205 **4.5.1.1 Special Assessments**

206 **M.S. 103D.601** allows a project to be instituted by resolution by a majority of the watershed  
207 district managers. The project must be financed by grants totaling at least 50 percent of the  
208 estimated cost, and the engineer's estimate of costs to parties (including assessments against  
209 benefited properties but excluding state, federal, or other grants) must not be more than  
210 \$750,000. Initiated projects using this procedure must be paid for by special assessments against  
211 benefitting properties. Benefitted properties are defined in M.S. 103D.725.

212 **M.S. 103D.701** requires that to initiate projects, watershed districts must first have a BWSR-  
213 approved watershed management plan. Projects that are to be paid for by assessment of  
214 benefited property must be initiated by a petition, by unanimous resolution of the managers, or  
215 by some other method prescribed in statute.

216 **M.S. 103D.705** provides for cities or residents to petition a watershed district for a project that  
217 generally conforms to the watershed management plan. The petitioners must guarantee the  
218 funds used to pay for the project’s preliminary feasibility studies.

219 **4.5.1.2 Ad Valorem Taxes**

220 **M.S. 103D.905** allows watershed district managers to use a portion of their administrative fund  
221 for project construction and maintenance beneficial to the watershed district. The upper limit of  
222 this fund is \$250,000 per year for the District. This also authorizes watershed district managers  
223 to levy a tax over the entire watershed district (an ad valorem tax) to pay the cost attributable to  
224 the basic water management features of projects initiated by petition of a municipality or  
225 political subdivision, or at least 50 resident owners whose property lies within the watershed.  
226 The levy may not exceed 0.00798 percent of the taxable market value for a period not to exceed  
227 15 consecutive years.

228 *Procedure for Projects to be Funded Using M.S. 103D.905, Subd. 3*  
229 *(Basic Water Management Features Projects)*

230 Formal minor plan amendments are not required for projects funded using the additional levy  
231 allowed under M.S. 103D.905, Subd. 3. Therefore, the District will follow an informal proposed



232 project information process to inform the LGUs about these proposed projects. The District  
233 will distribute the proposed project information to the affected LGUs for review and comment,  
234 but not to the state review agencies or the Metropolitan Council. The BWSR will not take formal  
235 action, because it is not a formal amendment.

236 **M.S. 103B.231** requires watershed districts within the Twin Cities metropolitan area to prepare a  
237 water management plan. The statute requires that a capital improvement project be part of the  
238 Plan. For those improvements included in the plan M.S. 103B.231, Subd.10 and M.S. 103D.605,  
239 allow watershed districts to implement projects without a petition. According to these statutes,  
240 watershed districts may levy ad valorem taxes to pay for capital improvements (including  
241 maintenance of improvements) either over the entire watershed district (M.S. 103B.241), or over  
242 all property within a portion or subwatershed of the watershed district (M.S. 103B.251). M.S.  
243 103B.241, like M.S. 103D.729, also allows watershed districts to accumulate funds to finance  
244 improvements as an alternative to issuing bonds. For the District to use either funding  
245 mechanism, the District must adequately describe the projects, studies, and project maintenance  
246 in the Plan. The Plan must also specify that the source of funding will be in accordance with  
247 these statutes. Currently there is no levy limit.

248 The advantage of using M.S. 103B.231 (Subd. 10) and 103B.241 is that a hearing is not required  
249 for each project. If the capital improvement project is specified in the Plan, the watershed  
250 district need only conduct an annual hearing on the entire capital improvement program, in  
251 accordance with M.S. 103B.241. Under M.S. 103B.241, projects are paid for by an ad valorem  
252 tax over the entire watershed district.

253 **M.S. 103B.251**, on the other hand, allows the watershed district to set up a special taxing district  
254 or subwatershed over which funds are raised by an ad valorem tax. M.S. 103B.251 requires that  
255 (a) a copy of the Plan be filed with the county, (b) a special improvement hearing be held for the  
256 capital improvement projects, and (c) the county raises the funds by selling bonds paid for by an  
257 ad valorem tax over the subwatershed/special tax district.*4.5.1.2.1 Procedure for Projects to be*  
258 *Funded Using M.S. 103B.241 or M.S. 103B.251*

259 Formal minor plan amendments will be required for projects funded under M.S. 103B.241 or  
260 M.S. 103B.251 that are not described in sufficient detail in the Plan. The District will follow the  
261 formal minor plan amendment process of MN Rules 8410.0140 for these types of projects. The  
262 formal process requires that the District distribute the plan amendment to the affected local  
263 units of government, the Metropolitan Council, and the state review agencies (including BWSR)  
264 for review and comment. The counties will have 90 days from receipt of the minor plan  
265 amendment to either approve or disapprove the amendment, and to hold any public hearings  
266 regarding the amendment. Unless the District agrees to an extension, if a county fails to  
267 complete its review within the prescribed period, the amendment will be deemed approved by  
268 that county. The proposed amendment will be deemed as a minor amendment if either BWSR

269 agrees that the amendment is a minor amendment, or BWSR fails to act within 45 days of  
270 receipt of the minor plan amendment.

#### 271 *4.5.1.2.2 Procedure Following Approval of Proposed Project Information or Minor Amendment*

272 Following approval of the proposed project information or minor amendment, and prior to  
273 advertising for project bids, the District will hold at least one additional public hearing to review  
274 the final design of the proposed project. At this point, the District shall have completed the final  
275 design plans and specifications necessary for the contract bidding process and construction.  
276 Although this last stage of public hearings is not required by statute, the public and other  
277 interested parties will have an additional opportunity to review and comment on the details of  
278 the proposed project.

#### 279 **4.5.1.3 Utilities and Fees**

280 Like stormwater utilities for cities, M.S. 103D.729 allows watershed districts to establish a water  
281 management district, or a subwatershed within the District, for collecting revenues and paying  
282 project costs initiated under M.S. 103B.231, M.S. 103D.601, 605, 611, or 730. For the District to  
283 use this funding mechanism, it must be included in its Plan, or the Plan must be amended to  
284 include this funding mechanism in accordance with 103D.411 or 103D.231 and in compliance  
285 with subdivisions 3 and 4.

#### 286 **4.5.2 Emergency Projects**

287 **M.S. 103D.615** allows watershed district managers to declare an emergency and order work to  
288 be done without a contract. The cost of work can be paid for either by special assessment  
289 against benefitted properties or an ad valorem tax levy, if the cost is not more than 25 percent of  
290 the most recent administrative ad valorem levy.

291 **M.S. 103B.252** allows watershed districts to declare an emergency and order work to be done  
292 without a contract. M.S. 103B.252 is like M.S. 103D.615, except it does not contain levy limits.  
293 In addition to the abovementioned funding sources, the District could receive funding from  
294 various state, federal, and private sources, such as grant and loan programs. This affords the  
295 District the opportunity to use grants and loans for projects instead of county-issued bonds.

#### 296 **4.5.3 Proposed Funding Mechanisms**

297 The District has financed its past administrative, program, and project costs through its annual  
298 administrative fund ad valorem tax levies under the authority of the Watershed Act (M.S.  
299 103D.905). The District's administrative fund levy limit is \$250,000. The District's administrative  
300 fund is used only for initiatives that benefit the water resources of the District; it is not used for  
301 projects that benefit commercial navigation. Many of the District's efforts and funding have  
302 been put toward activities that address water quality, runoff management, or flood control  
303 problems and issues. In the past, the District has maintained a capital reserve fund consisting of  
304 any unused portions of previous administrative levies.

305 Both the Watershed Act, referenced above, and the Metropolitan Surface Water Management  
306 Act (M.S. 103B.201 *et seq.*) provide additional revenue generating authority to the District. For  
307 projects creating a unique benefit to individual properties, the District may adopt and levy  
308 benefits assessments against project-benefitted properties. For projects and programs of  
309 District-wide benefit, that are included in the District’s CIP, the District may impose an  
310 additional ad valorem tax levy to generate the revenue necessary to implement programs and  
311 projects on its CIP. For special water or resource management projects, the District may  
312 establish a water management district within which it may impose a water management charge to  
313 pay for basic water management activities made necessary by land uses with in the Water  
314 Management District.

315 Other than the administrative fund, all revenue generating authorities of the District require  
316 strict compliance with administrative proceeding requirements found in the Watershed Act and  
317 Metropolitan Surface Water Management Act.

#### 318 **4.5.4 Petitioned Projects**

319 The District will place a priority on petitioned projects that are identified as implementation  
320 projects in future resource plans. The advantages of a petition process are: 1) the statute sets  
321 forth a definite process for the petition and subsequent actions; 2) the managers are required to  
322 decide whether to order the project; and 3) if additional funding is needed, the statute allows for  
323 ad valorem funding of these petitioned projects. The disadvantage of the petition process is that  
324 it may require more lead time to approve a project than the current District process.

325 M.S.103D.905, subd.3 allows the District to levy an additional ad valorem tax over the entire  
326 District to pay for the basic water management features of projects that have been initiated by a  
327 petition of a municipality within the watershed. The managers anticipate funding projects using  
328 this authority, except projects that benefit navigation. If no city petitions the District for a  
329 project which the District believes is a priority, the District may consider initiating the project  
330 under the provisions of Chapter 103.

## LMRWD Minor Plan Amendment Comment & Response Log

Comment No.	Date Received	Organization	Contact Name	Plan Section	Comment	Response
1	09/21/2022	City of Shakopee	Kirby Templin	Table 4-1 and Table 4-3	In reviewing the Implementation program document dated July 15, 2022, it appears there is a discrepancy on the district's contribution when comparing Table 4-1 and Table 4-3 for the Stormwater BMP at Parking Lot Near Lewis Street West and Second Avenue West project. The total contribution appears to be \$100,000 in Table 4-1, however the contribution stated in Table 4-3 is \$50,000. It is not clear if these should be the same amount or if they should be different. Can you provide clarification on why these are different or revise as needed.	There was an error when recording the contribution amounts for the tables. Table 4-3 will be updated, to match Table 4-1, to show \$100,000 for the Stormwater BMP at Parking Lot Near Lewis Street West and Second Avenue West project.
2	9/22/2022	Minnesota Pollution Control Agency	Brittany Faust	N/A	The Minnesota Pollution Control Agency (MPCA) has reviewed the proposed amendments to the 2018 –2027 Lower Minnesota River Watershed District Watershed Management Plan (Plan)Section 4 Implementation Program List and we are providing no comments as part of the official 30-day review and comment period	Noted.
3	9/23/2022	Minnesota Department of Agriculture	Jeff Berg	N/A	Minnesota Department of Agriculture has no comments on the LMRWD Watershed Management Plan amendment.	Noted.
4	9/23/2022	Board of Water and Soil Resources	Steve Christopher	General	<p>We recommend keeping projects that have been completed within the Plan and not stricken from the CIP. Rather than removing the projects from the list, consider adding a notation of 'completed'. Retaining completed projects within the Plan will allow BWSR and other stakeholders to gauge the success of plan accomplishments. As we complete Performance Review and Assistance Program (PRAP) reviews, we utilize progress on plan actions to determine effectiveness and implementation.</p> <p>We commend the LMRWD for maintaining a current watershed management plan and would like to recognize the approach the LMRWD has taken with updating its Hydrologic and Hydraulics model which will better guide staff and the Board in making decisions. The number of changes and content proposed demonstrates the growth that the LMRWD has undergone in the past 10 years further benefitting the Minnesota River. Lastly, it is notable the number and variety of partners the LMRWD has established for implementation and water resource management.</p>	Noted.

Manager \_\_\_\_\_ introduced the following resolution and moved its adoption, seconded by Manager \_\_\_\_\_:

RESOLUTION 22-11

LOWER MINNESOTA RIVER WATERSHED DISTRICT

ADOPTING WATERSHED MANAGEMENT PLAN AMENDMENT

WHEREAS, the Lower Minnesota River Watershed District ("LMRWD") a governmental subdivision with powers set forth in Minnesota Statutes chapters 103B and 103D, is authorized to act to achieve the purposes set forth in those chapters for the protection, conservation and beneficial use of the water resources of the Lower Minnesota River watershed;

WHEREAS, pursuant to Minnesota Statutes Chapters 103B and 103D, and Minnesota Rules §8410, the Lower Minnesota River Watershed District (LMRWD) has approved and adopted a comprehensive Watershed Management Plan ("Plan") dated October 2018;

WHEREAS, Minnesota Statutes §103B.231 requires the Plan to be updated every 10 years;

WHEREAS, the LMRWD identified a need to amend its Plan ahead of the 10-year statutory requirement in order to effectively plan the second half of the Implementation Program and updating the Implementation Program requires a minor plan amendment;

WHEREAS, the LMRWD has prepared a draft Plan amendment which was shared with the LMRWD's Technical advisory Committee on June 15, 2022, and all comments received, and corresponding responses were summarized and presented to the Board of Managers at its July 20, 2022, meeting;

WHEREAS, on August 26, 2022, the draft Plan amendment was submitted to the Minnesota Board of Water and Soil resources, Metropolitan Council, state review agencies and all cities within the LMRWD according to Minnesota Statutes §103B.231 for 30-day review and several written comments were received before the comment period closed October 10, 2022;

WHEREAS, the LMRWD issued notice of a public hearing on the draft Plan amendment in accordance with section 103D.341 on October 9, 2022, and October 16, 2022;

WHEREAS, the LMRWD held a public hearing on the draft Plan amendment to discuss the Plan amendment and receive additional comment, pursuant to Minnesota Statutes;

WHEREAS, the LMRWD finds that the adoption of the draft Plan amendment is in accordance with the requirement of law and in the best interests of the public.

NOW, THEREFORE, BE IT RESOLVED that the Lower Minnesota River Watershed District Board of Managers approves the responses to comments and adopts Plan amendment in accordance with MN Statutes §103B.231, subd. 10, and directs the Secretary to transmit a copy of the Plan amendment to the county board of each county affected by the watershed district, the commissioner of natural resources, the director of the division of ecological services and waters (DNR), the Metropolitan Council, the governing body of each municipality affected

by the watershed district, and soil and water conservation districts affected by the watershed district; and

FURTHER, the Lower Minnesota River Watershed District Board of Managers authorizes implementation of the Plan Implementation Program, as necessary, to accomplish the purposes of the Watershed Management Plan, Statutes Chapters 103B and 103D and to implement the powers of the managers.

The question was on the adoption of the Resolution and there were \_\_\_ yeas and \_\_\_ nays as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
AMUNDSON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HARTMANN	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MRAZ	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RABY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SALVATO	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the President declared the Resolution adopted.

\_\_\_\_\_  
Jesse Hartmann, President

ATTEST:

\_\_\_\_\_  
Lauren Salvato, Secretary

I, Lauren Salvato, Secretary of the Lower Minnesota River Watershed District, do hereby certify that I have compared the above Resolution with the original thereof as the same appears of record and on file with the District and find the same to be a true and correct transcript thereof.

IN TESTIMONY WHEREOF, I hereunto set my hand this 19<sup>th</sup> day of October 2022.

\_\_\_\_\_  
Lauren Salvato, Secretary



# 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 6. A. – Cost Share Application for 4562 McColl Drive

#### Prepared By

Linda Loomis, Administrator

#### Summary

In May 2022, the owner of the property at 4562 McColl Drive in Savage contacted the LMRWD about the possibility of a cost share project to address stormwater concerns they have. The property is a farmstead with a house, several outbuildings, including a large barn, a riding ring and several large garden plots. I visited the site in May and spoke with one of the owners, Bonnie Laabs (Applicant). The Applicant explained that she and her husband purchased the property with the intention of setting the farms up as a demonstration site to feature sustainable urban agriculture. They planned to establish a non-profit to operate the farm. The Applicant is an educator and plans to eventually run educational camps for youth and more.

The Applicant would like to collect rainwater from the buildings for reuse and manage water from impervious services to reduce erosion. Since May, the Applicant has attended a session of Dakota County's Landscaping for Clean Water and been in touch with the Scott and Dakota Counties Soil & Water Conservation Districts. After discussing some possible options with the Applicant, she decided to have a stormwater management plan prepared for the entire site and has completed an application requesting funds to develop the plan.

The application received requests funding to assist with the preparation of the plan. Once the Applicant has a plan, she intends to apply for grants in the future to implement the plan.

#### Attachments

2022 Cost Share Application for 4562 McColl  
Property Information Report  
Plat map; Scott County GIS  
Location Map  
Draft Cost Share Grant Agreement

#### Recommended Action

Motion to approve Cost Share application for 4562 McColl Drive for 50% of the cost to prepare a stormwater management plan up to a maximum of \$2,500 and authorize execution of a Cost Share Grant Agreement.





LOWER MINNESOTA RIVER  
WATERSHED DISTRICT

# Cost Share Grant Application 2022

## Application type (check one)

Homeowner

Non-profit - 501(c)(3)

School

Business or corporation

Public agency or local government unit

## Project type (check all that apply)

Raingarden

Vegetated Swale

Infiltration Basin

Wetland restoration

Buffer/shoreline restoration

Conservation practice

Habitat restoration

Pervious hard surface

Other \_\_\_\_\_

## Applicant Information

Name of organization or individual applying for grant (to be named as grantee):

Address (street, city and ZIP code):

Phone:

Email address:

## Primary Contact (if different from above)

Name of organization or individual applying for grant (to be named as grantee):

Address (street, city and ZIP code):

Phone:

Email address:

## Project location

Address (street, city and ZIP code):

Property Identification Number (PID)

Property owners:

## Project Summary

Title

Total project cost

Grant amount requested

Estimated start date

Estimated completion date

Is project tributary to a water body?

No, water remains on site

Yes, indirectly

Yes, directly adjacent

Is this work required as part of a permit?            No            Yes  
(If yes; describe how the project provides water quality treatment beyond permit requirement on a separate page.)

## Project Details

**Checklist** To be considered complete the following must be included with the application.

- |                              |   |
|------------------------------|---|
| location map                 | project timeline  |
| site plan & design schematic | proof of property ownership                             |
| contracted items             | plant list & planting plan (if project includes plants) |

**Project description** Describe the project, current site conditions, as well as site history, and past management. Note any potential impacts to neighboring properties.

What are the project objectives and expected outcomes? Give any additional project details.

Which cost share goals does the project support? (check all that apply)

- |   |                                   |
|---|-----------------------------------|
| improve watershed resources   | foster water resource stewardship |
| increase awareness of the vulnerability of watershed resources          |                                   |
| increase familiarity with and acceptance of solutions to improve waters |                                   |

How does the project support the goals you checked?

## Project Details (continued)

**Project benefits** Estimate the project benefits in terms of restoration and/or annual pollution reduction. If you are working with a designer or contractor, they can provide these numbers. If you need help contact the district administrator. Computations should be attached.

Benefit	Amount
Water captures	gal/year
Water infiltrated	gal/year
Phosphorus removed	lbs/year
Sediment removed	lbs/year
Land restored	sq. ft.

How will you share the project results with your community and work to inform others about your projects environmental benefit?

Please note that by obtaining cost share funding from the Lower Minnesota River Watershed District, your project may be shared with the community through our website, social media, or other media. Your project may also be highlighted on a tour or training event, with prior notice and agreement.

**Maintenance** Describe the anticipated maintenance and maintenance schedule for your project.

I acknowledge that receipt of a grant is contingent upon agreeing to maintain the project for the number of years outlined in the cost share guidelines. Yes

### Authorization

Name of landowner or responsible party

Signature

Date

Type or handwrite your answers on this form. Attached additional pages as needed.

For questions, contact Linda Loomis at [Naiad Consulting@gmail.com](mailto:NaiadConsulting@gmail.com) or call 763-545-4659.

Mail the completed application to

or email to:

**Lower Minnesota River Watershed District  
c/o Linda Loomis, Administrator  
112 E. Fifth St., Suite 102  
Chaska, MN 55318**

**Linda Loomis, Administrator  
[naiadconsulting@gmail.com](mailto:naiadconsulting@gmail.com)**

# 2022 Cost Share Worksheet

## Labor Costs (contractors, consultants, in-kind labor)

Service Provider	Task	# Hours	Rate/Hour	Requested Funds from LMRWD	Matching/In-Kind Funds	Total Cost
<b>Total:</b>				\$	\$	\$

## Project Materials

Material Description	Unit Cost	Total # of Units	Requested Funds from LMRWD	Matching/In-Kind Funds	Total Cost
<b>Total:</b>			\$	\$	\$

Total Requested Funds from LMRWD*:	\$	(A)
Total Matchin/In-Kind Funds:	\$	(B)
Project Total:	\$	(C)

\*Please note: total requested funds (A) cannot be more than 50% of the Project Total (C)

<b>Property Card</b>	Parcel ID Number 269150051
----------------------	----------------------------

<b>Taxpayer Information</b>
Taxpayer Name LAABS BONNIE & BIWER JASON
Mailing Address 4562 MCCOLL DR SAVAGE, MN 55378



<b>Property Address</b>
Address 4562 MCCOLL DR
City Savage, MN 55378

<b>Parcel Information</b>	
Uses 201 1a RESIDENTIAL SINGLE UNIT	Calculated Acres 5.96
	Plat
	Lot
	Block
Legal Description	Section 15 Township 115 Range 021   P/O W1/2 SW1/4 NW1/4 COM
Legal Description2	SW COR, N 361.3', E 270', NE 148.3', N 170.3', E TO INT CO

<b>Building Information</b>					
Building Style	Two Story	AGLA (Sq Ft)	2,328	Bedrooms	3
Year Built	1920	Garage Size (Sq Ft)	0	Bathrooms	2.25
Model Desc	Single-Family	Basement Size (Sq Ft)	956	Basement Finish (Sq Ft)	0

<b>Miscellaneous Information</b>				
School District	Taxing District Code	Homestead Status	Green Acres	Ag Preserve
ISD 0191 BURNSVILLE	2101	N	N	N

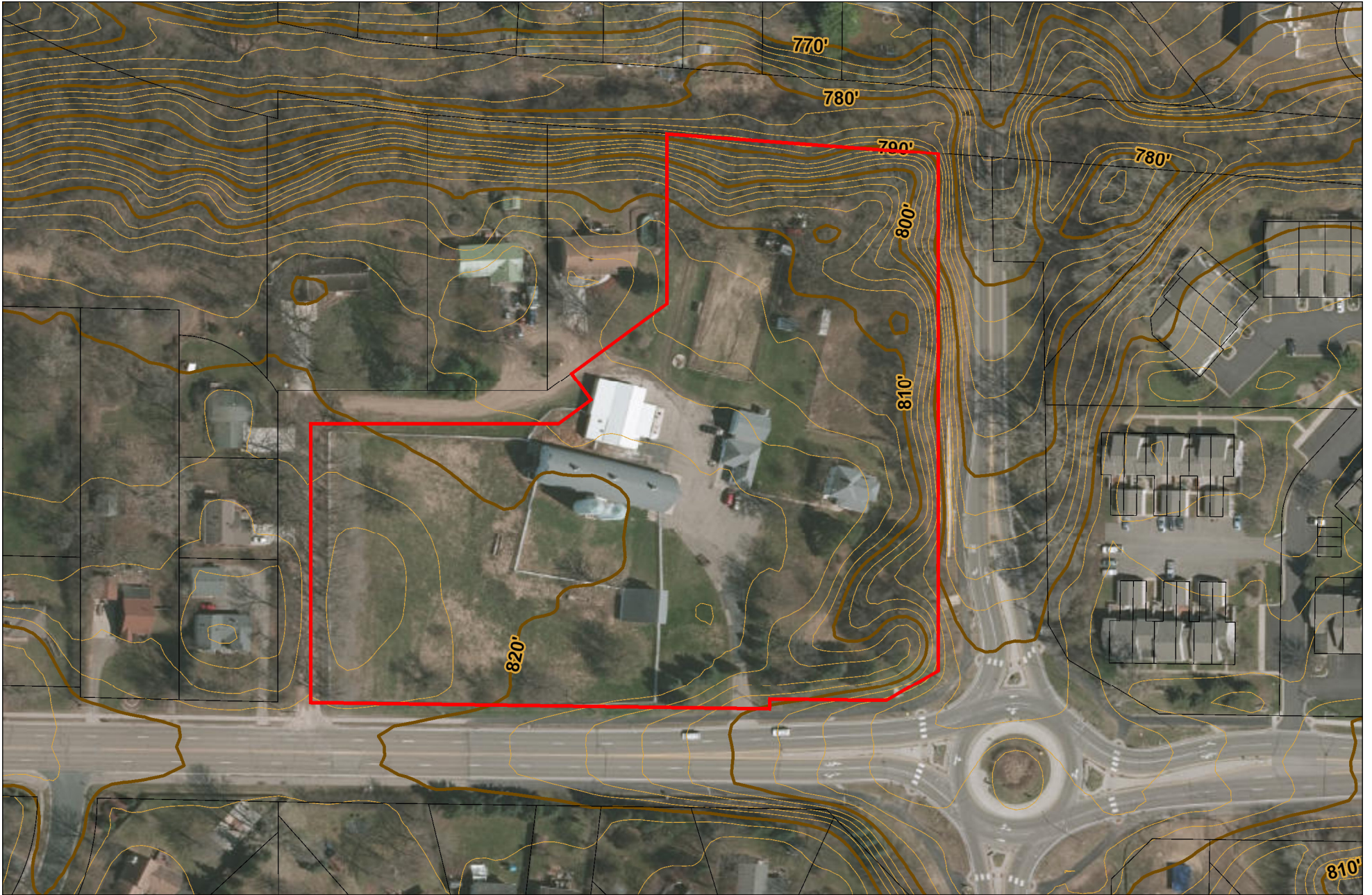
<b>Assessor Information</b>					
Estimated Market Value	2022 Values (Payable 2023)	2021 Values (Payable 2022)	Last Sale		
Land	\$464,900.00	\$464,900.00	Date of Sale	03/10/2017	
Improvement	\$253,800.00	\$214,000.00	Sale Value	\$600,000.00	
Total	\$718,700.00	\$678,900.00			

Disclaimer: This information is to be used for reference purposes only. Scott County does not guarantee accuracy of the material contained herein and is not responsible for misuse or misinterpretation. The preceding disclaimer is provided pursuant to Minnesota Statutes 466.03, Subd. 21 (2000), and the user of this service acknowledges that the County shall not be liable for any damages, and expressly waives all claims, and agrees to defend, indemnify, and hold harmless the County from any and all claims brought by User, its employees or agents, or third parties which arise out of the user's access or use of data provided.





# Scott County



This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is a compilation of records, information, and data located in various city, county, and state offices, and other sources affecting the area shown, and is to be used for reference purposes only. Scott County is not responsible for any inaccuracies herein contained. If discrepancies are found, please contact the Scott County Surveyors Office.

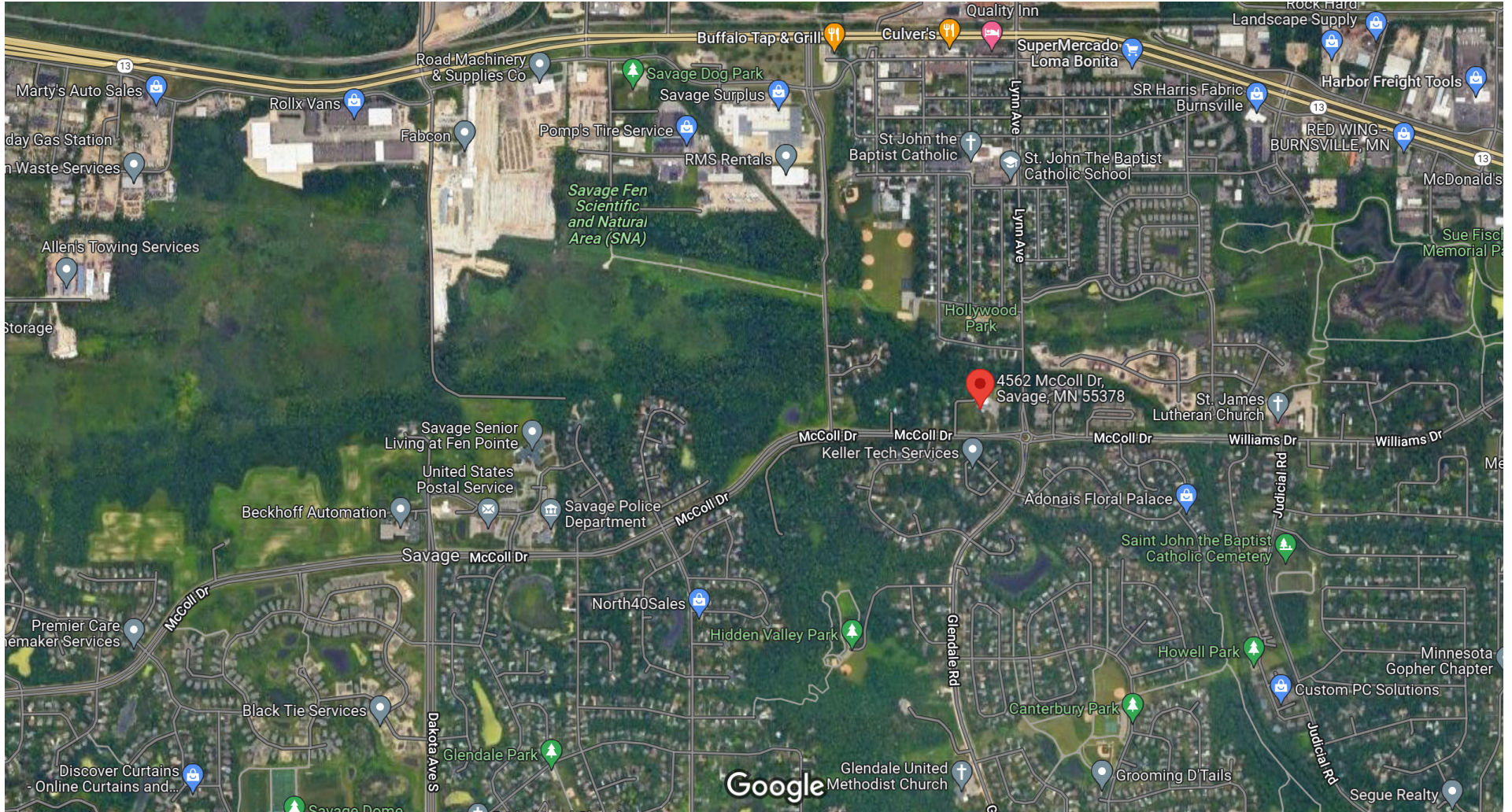


Date: 5/16/2022

1 in = 188 ft







LOWER MINNESOTA RIVER WATERSHED DISTRICT  
2016 COST SHARE INCENTIVE AND WATER QUALITY RESTORATION PROGRAM  
Cost Share Grant Agreement

The parties to this Agreement, made this 21st day of October 2022, are the Lower Minnesota River Watershed District, a Minnesota Watershed District ("LMRWD") a public body with purposes and powers set forth in Minnesota Statutes Chapters 103B and 103D and Bonnie Laabs ("APPLICANT"). The purpose of this Agreement is to provide for the development of a stormwater management plan designed to protect and improve natural resources within the District. by managing stormwater at the property located at: 4562 McColl Drive, Savage, MN 55378.

1. Scope of Plan. APPLICANT will retain the service of a consultant to develop a plan to manage stormwater in accordance with the Application submitted to the LMRWD, attached as Exhibit A. A final report must be presented to the LMRWD at the time a request is made for reimbursement of expenses as specified in Section 2 of this Agreement.
2. Reimbursement. When the plan has been developed in accordance with Exhibit A, the LMRWD, on receipt of adequate documentation, will reimburse the APPLICANT up to 50% of the APPLICANT's cost to install the Project, including materials, equipment rental, delivery of materials and labor, in an amount not to exceed \$2,500.00. APPLICANT will share the plan with the LMRWD. APPLICANT will document with receipts all direct expenditures. At the time reimbursement is requested, APPLICANT will provide the LMRWD copies of all documents concerning the work.
3. Implementation. APPLICANT intends to implement that Best Management Practices (BMPs) identified in the plan developed because of this grant. APPLICANT may apply for subsequent grants to implement said BMPs.
4. Maintenance. APPLICANT will maintain the Project for at least five (5) years from the date installation is complete. If APPLICANT does not do so, the LMRWD will have a right to reimbursement of all amounts paid to APPLICANT, unless:
  - a. The LMRWD determines that the failure to maintain the Project was caused by reasons beyond the APPLICANT's control; or
  - b. APPLICANT has conveyed the underlying property, provided APPLICANT notifies the LMRWD at least 30 days before the property is conveyed and facilitates communication between the LMRWD and the prospective owner regarding continued maintenance of the project.
5. Agreement Void. This Agreement is void if the project installation is not complete by June 30, 2023. This Agreement may not be modified in any way except in writing and signed by both parties.
6. Indemnification. The LMRWD will be held harmless against any and all liability and loss in connection with the installation of the Project.
7. Compliance with Laws. APPLICANT is responsible to comply with any permits or other legal requirements applicable to the work.



8. Notices. Any notice or demand, authorized or required under this Agreement shall be in writing and shall be addressed to the other party as follows:

To LMRWD:

Administrator  
Lower Minnesota River Watershed District  
112 East Fifth Street, Suite 102 Chaska, MN  
55318

To APPLICANT:

Bonnie Laabs  
4562 McColl Drive  
Savage, MN 55378

The parties being in agreement to be signed as follows:

APPLICANT:

LOWER MINNESOTA RIVER WATERSHED DISTRICT:

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: President \_\_\_\_\_

Date: \_\_\_\_\_

Date: October 19, 2022 \_\_\_\_\_



# 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. A. – LMRWD Bylaws**

### **Prepared By**

Linda Loomis, Administrator

### **Summary**

At the August 2022 meeting of the Lower Minnesota River Board of Managers, the Board directed staff to review the bylaws and recommend revisions deemed necessary. At the September Board of Managers meeting, some recommended changes were presented. The Board offered direction to staff on the proposed changes. A red-lined version of the by-laws is attached, as well as a clean copy. If the Board approves of the recommended changes, it can waive the 30 day notice, as allowed by the by-laws, and adopt the revised by-laws.

### **Attachments**

Red-lined by-laws

Clean copy of by-laws

### **Recommended Action**

Motion to waive the 30-day notice of proposed change to by-laws and adopt revised by-laws as presented

**BY-LAWS OF  
LOWER MINNESOTA RIVER WATERSHED DISTRICT**

(By-Laws adopted by Lower Minnesota River Watershed District under Minn. Stat. § 103D.315: Subd. 11. “Administration By-Laws: *“The managers shall adopt bylaws for the administration of the business and affairs of the watershed district.”*”)

**ARTICLE I.**

**NAME**

**Section 1.**     **NAME:** Lower Minnesota River Watershed District.

**Section 2.**     **ABBREVIATIONS:** Throughout these By-Laws whenever it is desirable to abbreviate the name of the Lower Minnesota River Watershed District, the initials “LMRWD” or the word "District" shall be used.

**ARTICLE II.**

**PURPOSE**

Pursuant to Minn. Stat. § 103D.201, the District's General Purpose is as follows:

1.     Protect, preserve, and use natural surface and groundwater storage and retention systems.
2.     Minimize public capital expenditures needed to correct flooding and water quality problems.
3.     Identify and plan for means to effectively protect and improve surface and groundwater quality.
4.     Establish more uniform local policies and official controls for surface and groundwater management.
- 4.5.   Establish, adopt and enforce standards to promote responsible and sustainable land use and development.
- 5.6.   Prevent erosion of soil into surface water systems.
- 6.7.   Promote groundwater recharge.
- 7.8.   Protect and enhance fish and wildlife habitat and water recreational facilities.
- 8.9.   Secure the other benefits associated with the proper management of surface and groundwater.
- 9.10.  Cooperate with, aid and assist the state and/or federal government to provide for commercial river transportation.

## ARTICLE III

### LMRWD OFFICE and WATERSHED DISTRICT'S BOUNDARIES

**Section 1. DISTRICT OFFICE:** LMRWD office is located at 112 East 5th Street, Suite 112, Chaska, MN 55318.

**Section 2. BOUNDARIES of LMRWD:** The LMRWD covers an area of 64 square miles of Carver, Hennepin, Dakota, Scott and Ramsey counties. It also includes the Minnesota River Valley from Fort Snelling at the confluence of the Minnesota and Mississippi rivers, upstream to Carver Minnesota. The width of the District includes the bluffs on both sides of the Minnesota River within this reach of the river. In addition, included in its boundaries are fourteen (14) cities or townships, partially or in their entirety.

## ARTICLE IV

### BOARD OF MANAGERS

**Section 1. DISTRIBUTION of MANAGERS and APPOINTMENT THEREOF:** Pursuant to Minn. Stat. § 103D.301, Distribution of Manager Positions, Subd. 1: More than one affected county. *“If more than one county is affected by a watershed district, the board must provide that managers are distributed by residence among the counties affected by the watershed district.”* Minn. Stat. § 103D.301 Subd. 3: *“...The county board of commissioners of a county affected by the watershed district...”* appoints the manager.

**Section 2. COMPOSITION OF LMRWD BOARD OF MANAGERS:** The LMRWD is composed of five managers appointed by the four counties in the District: Hennepin County, two (2) managers; Dakota County, one (1) manager; Carver County, one (1) manager; and Scott County, one (1) manager. Ramsey County is no longer represented because there is no population from Ramsey County in the District.

**Section 3. TERMS OF OFFICE:** Appointments made by the respective counties' Board of Commissioners to the LMRWD Board of Managers are for three-year terms. Terms of office begin in March of the year they are appointed unless a county delays in the appointment of a manager. Per Minn. Stat. § 103D.315, Subd. 6., a manager's term continues until a successor is appointed and qualified.

**Section 4. BONDING:** Before assuming the duties of ~~the a~~ Board member, each Board member, at District expense, will obtain and file a bond in accordance with Minn. Stat. §103D.315, Subd. 2. The Board, at District expense, will provide for insurance for its members to provide liability protection on such terms and in such amounts as the Board decides.

**Section 5. VACANCIES:** Any manager who is unable to fulfill his/her three-year term of office on LMRWD Board of Managers shall notify his/her respective county Board of Ceommissioners of the fact he/she will leaving his/her position as manager on the LMRWD so

the county he/she represents can appoint another manager as soon as possible to complete the departing manager's term in office.

**Section 6. COMPENSATION:** Minn. Stat. § 103D.315 Subd. 8: *“The compensation of managers for meetings and for performance of other necessary duties may not exceed the amount specified by law. Managers are entitled to reimbursement for traveling and other necessary expenses incurred in the performance of official duties.”*

Managers shall be compensated the statutory maximum per diem for meetings and the performance of other necessary duties authorized by the Board. Managers are entitled to reimbursement for mileage, travel expenses, and ~~lodging~~lodging in accordance with the LMRWD travel policy. Managers cannot be reimbursed for alcoholic beverages.

**Section 7. SUBMISSION OF MANAGER'S EXPENSES:** A claim form shall be filled out by each Manager and submitted to the LMRWD office to be processed and approved in the same manner as other claims in June and December. In order to facilitate proper audit and closure of the fiscal year, all claims for expenses or per diem incurred in a preceding fiscal year, shall be submitted within 60 days of the close of the fiscal year.

**Section 8. DUTIES OF MANAGERS IN STATUTE:** Minn. Stat. § 103D.315 “Managers” defines additional duties of the District’s Managers. In addition to statutory duties, Managers shall abide by the following principles:

- (a) The Board of Managers acts as the unified voice of LMRWD and the president serves as the spokesperson for the Board of Managers..
- (b) No individual Manager may provide direction, instructions or authorization to the Administrator or a District consultant unless specifically authorized to do so by the Board of Managers.
- (c) A Manager’s request for information that would require a significant amount of the Administrator’s time must be approved by the Board of Managers.
- (d) A Manager must notify the Administrator when a request for information is made from consultants to the District.
- (e) A Manager may not request or authorize on behalf of the District performance of services by the Administrator or consultant unless authorized by action of the Board of Managers.
- (f) Individual managers cannot bind the District to agreements or expenditures.

|

## ARTICLE V OFFICERS

**Section 1. ELECTION OF OFFICERS:** The following officers shall be elected each calendar year on or before the first regularly scheduled meeting in September: President, Vice-President, Secretary and Treasurer and Assistant Treasurer. Terms are for one-year unless re-elected.

**Section 2. OFFICER VACANCIES:** Minn. Stat. § 103D.315 Subd. 3: *“The managers must fill vacancies occurring in the officers’ positions.”*

**Section 3. TEMPORARY AND CONCURRENT APPOINTMENTS OF OFFICERS:** The Board may appoint a Board member as officer *pro tem* if an officer is absent or disabled and action by that officer is required. When the composition of the Board is less than five members, a member may hold concurrent offices or the office of Assistant Treasurer may remain vacant.

**Section 4. DUTIES OF OFFICERS:**

- (a) President: The President shall preside at all meetings of the Board of Managers. The President shall serve under the supervision and direction of the Board and shall see that all orders and resolutions of the Board are carried into effect. The President shall execute all contracts or instruments requiring an officer’s signature, unless otherwise directed by the Board, and shall have the general powers and duties usually vested in the office of President of the Board and shall have such other powers and perform such other duties as the Board may from time to time prescribe.
- (b) Vice-President: In the absence of the President at a regularly held LMRWD meeting, the Vice-President shall preside at the meeting. The Vice-President shall exercise and perform the authorities and duties of the President in the event of the latter’s absence, death, disqualification, or incapacity until the LMRWD Board of Managers elects a new President. The Vice-President shall exercise and perform such other authorities and duties as may be prescribed or limited from time to time by the Board of Managers.
- (c) Secretary: The Secretary shall cause to be recorded all votes and the minutes of all proceedings of the Board of Managers in a book to be kept for that purpose. The Secretary shall give, or cause to be given, notice of all meetings of the Board, and shall perform such other duties as may from time to time be prescribed by the Board or by the President. These duties may be delegated to the Administrator as directed by the Board of Managers.
- (d) Treasurer: The Treasurer shall have the care and custody of the funds and securities and shall disburse the funds of the LMRWD as may be ordered from time to time by the Board. The Treasurer shall keep or cause to be kept full and accurate accounts of receipts and disbursements in books belonging to the LMRWD, and shall deposit all monies, securities and other valuable effects of the LMRWD in the name and to the credit of the LMRWD in such depositories as



may be designated from time to time by the Board. Except to the extent that some other person or persons may be specifically authorized by the Board to do so, the Treasurer shall make, execute, and endorse all checks and other commercial paper on behalf of the LMRWD when requested by the Board and shall perform such other duties as may be prescribed by the Board.

- (e) Assistant Treasurer: In the absence of the Treasurer, the Assistant Treasurer shall perform the duties of the Treasurer. The Assistant Treasurer shall exercise and perform the authorities and duties of the Treasurer in the event of the latter's absence, death, disqualification, or incapacity until the LMRWD Board of Managers elects a new Treasurer. The Assistant Treasurer shall exercise and perform such other authorities and duties as may be prescribed or limited from time to time by the Board of Managers.

**Section 5. AUTHORIZED SIGNATORIES BY MANAGERS:** ~~LMRWD has a fiscal agency agreement with Carver County. Payments made by Carver County on behalf of LMRWD must comply with the processes and internal controls contained in the fiscal agency agreement.~~ All ~~other~~ checks, drafts, or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the LMRWD shall be signed by two members of the LMRWD Board of Managers. Checks may be endorsed through electronic signature.

**Section 6. COMMUNICATIONS:** Unless it is a personnel issue, when communicating with the LMWRD consultants Board members should inform the Administrator about the communication to keep her/ him updated about ongoing issues and business of the LMRWD.

**Section 7. HARRASSMENT AND DISCRIMINATION:** Board members and those with whom they work have the right and responsibility to work in an environment free from harassing or discriminating behavior. It is the responsibility of each Board member to refrain from creating a discriminatory or harassing environment. Each Board member is also responsible for treating others with dignity and respect and to report all incidents of harassment immediately so that they can be quickly and fairly resolved.

**Section 7. REMOVAL FROM OFFICE:** Any officer may be removed at any time, with or without cause, upon the affirmative vote of two-thirds (2/3) of the Board of Managers.

## ARTICLE VI. MEETINGS OF LMRWD BOARD OF MANAGERS

**Section 1. MEETINGS OPEN TO THE PUBLIC:** All meetings of the District, whether regular, special or emergency, shall be noticed and held in accordance with the State's Open Meeting Law, Statutes Chapter 13D.

**Section 2. REGULAR SET-MEETINGS:** The Managers shall hold regular meetings at least once a month according to a schedule adopted by the Board and filed with the District. The regular meeting schedule shall be made available to the public by posting on the District's website. The Managers shall have regular meetings to conduct the business of the LMRWD on the third Wednesday of each month and if such day shall fall on a holiday, an alternative date

~~shall be set and noticed.~~—The meetings may be cancelled and rescheduled at any time that the Managers deem necessary.

**Section 23. SPECIAL MEETINGS:** Special meetings to conduct the business of the LMRWD may be called by the President independently or upon the request of a member of the Board. Special meetings shall be noticed as required by the Open Meeting Law. ~~held and shall be legally noticed at any other time that the Managers may deem necessary.~~

**Section 34. PUBLIC HEARINGS:** Public hearings shall be conducted as required by law or, in addition, as directed by the Board of Managers.

**Section 45. MEETING CALLED BY MANAGER:** Minn. Stat. § 103D.315 Subd. 10, states: *“A meeting may be called at any time at the request of any manger. When a manager requests a meeting, the secretary of the watershed district must mail a notice of the meeting to each member at least eight (8) days before the meeting.”* The District’s office administrator shall notify the Managers as soon as possible of the time and place of the pending meeting and shall provide other notice as required by law. Statutory notice may be waived with the consent of all Managers.

**Section 56. QUORUM and ADJOURNED MEETING:** At all meetings of the Managers, a majority of the appointed Managers ~~appointed~~ shall constitute a quorum to do business but a smaller number may adjourn from time to time. Unless otherwise required by law, all decisions must be approved by the affirmative vote of a majority of the Managers present at a meeting where there is a quorum.

**Section 67. CHAIR of MEETINGS:** The President shall preside as chairperson at all meetings of the Managers. In the absence of the President, the Vice-President shall preside. In the absence of both, the Secretary shall serve as temporary President. The President and temporary President shall have the same privileges.

**Section 8. MEETINGS HELD BY REMOTE MEANS:** When necessary, the Board may allow remote participation in meetings by interactive video teleconference or comparable technology. When any member of the Board is participating in a meeting by remote means, the requirements of Statutes Section 13D.02 must be met.

**Section 79. MEETING FORMAT:**

- (a) At the hour appointed for a meeting of the Board of Managers of the LMRWD, upon reaching a quorum, the Managers shall be called to order by the President or in his/her absence, by the acting President. The Managers shall proceed to do business following a set agenda.
- (b) The President shall preserve order. The President may make motions, second motions or speak on any question, provided, however, that in order to do any of these things, upon demand of any Manager, the President shall vacate the chair

and designate a temporary President. The President, or acting President, shall be entitled to vote like other Managers.

- (c) Every Manager, prior to his/her speaking, shall address the President and shall not proceed until he/she has been recognized by the ~~Chair~~President.
- (d) If a Manager has a personal interest in a matter that comes before the LMRWD Board of Managers, to the extent that it creates a conflict of interest as a matter of law, the Manager shall not vote on said issue.
- (e) No person other than a Manager shall address the Board except with the consent of the President or by a vote of the majority of the Managers present.
- (f) The President has the authority to set a time limit that a Manager or a person addressing the Board may speak, except upon vote of the majority of the Board of Managers present.
- (g) All committees shall be appointed by the President unless expressly ordered by the Board. It shall be the duty of committees to act promptly and faithfully in all matters referred to them, to comply with the Open Meeting Law, if applicable, and to make reports at a future set time/date established by the Board.
- (h) Minutes of all meetings of the LMRWD Board of Managers shall be recorded, reviewed by the Board, adopted and kept at the District's office. They shall be signed by the Secretary and shall constitute an official record of the procedure.
- (i) Any Manager may request that the yeas and nays be recorded on any motion voted on by the Board and such request will be granted by the President.

**Section 810. CONFLICTS OF INTEREST:** LMRWD seeks to assure public confidence in the integrity of its proceedings by holding itself to high ethical standards. Ensuring that conflicts of interest do not affect the efforts of LMRWD is an essential element of maintaining high ethical standards. If a Manager has a conflict of interest in a matter, he or she shall state that such an interest exists, which will be noted in the minutes. The Manager must abstain from participating in any discussion, offering any motion, or voting on any matter in which the conflict of interest exists. "Conflict of interest" means a material financial interest of the Board Manager, a family member or a close associate; a relationship that limits the Manager's ability to be objective; or that creates the appearance of impropriety. At the request of the President or by any Board Manager, in a matter in which a Manager has a conflict of interest a roll call vote shall be taken and recorded in the minutes, as well as the abstention of the Manager with the conflict of interest.

**Section 911. APPEAL OF A CHAIR RULING:** A Board Manager may appeal to the Board from a ruling of the President. If the appeal is seconded, the Board Manager may speak once solely on the question involved and the President may explain his or her ruling, but no other Board Manager will participate in the discussion. The appeal will be sustained if it is approved by a majority of the Board Managers present exclusive of the President.

**ARTICLE VII.  
PARLIMENTARY AUTHORITY**

**Section 1. PARLIMENTARY AUTHORITY:** The most current version of Robert’s Rules of Order Newly Revised shall govern the LMRWD’s meetings in all cases to which they are applicable and in which they are not inconsistent with state law, these By-Laws and, or any special rules of order the LMRWD may adopt.

**Section 2. SUSPENSION:** Robert’s Rules of Order may be temporally suspended by consent of the majority of the Board Managers present. [Proceeding in a manner contrary to Robert’s Rules of Order without objection shall be deemed suspension by consent of the Managers.](#)

**ARTICLE VIII.  
ANNUAL REPORT**

**Section 1. ANNUAL REPORT:** Minn. Stat. § 103D.351: “(a) *The managers must prepare a yearly report of the financial conditions of the watershed district, the status of all projects, the business transacted by the watershed district, other matters affecting the interests of the watershed district, and a discussion of the managers plans for the succeeding year.*”

**Section 2. COPIES DISTRIBUTED:** Minn. Stat. § 103D.351: “(b) *Copies of the report must be transmitted to the Board of Water and Soil Resources, the commissioner, and the director within a reasonable time.*”

**ARTICLE IX.  
ANNUAL AUDIT**

**ANNUAL AUDIT:** Minn. Stat. § 103D.355, Subd 1. Requirement: “*The managers must have an annual audit completed of the books and accounts of the watershed district. The annual audit may be made by a public accountant or by the state auditor.*”

**ARTICLE X.  
WATERSHED MANAGEMENT PLAN**

**WATERSHED MANAGEMENT PLAN.** Minn. Stat. § 103D.401, Subd. 1. Contents:

- (a) “*The managers must adopt a watershed management plan for any and all of the purposes for which a watershed district may be established. The watershed management plan must give a narrative description of existing water and water-related problems within the watershed district, possible solutions to the problems, and the general objectives of the watershed district. The watershed management plan must also conform closely with watershed management plan guidelines as adopted and amended from time to time by the Board of Water and Soil Resources.*”

- (b) *“The watershed management plan may include a separate section on proposed projects. If the watershed district is within the metropolitan area, the separate section of proposed projects or petitions for projects to be undertaken according to the watershed management plan is a comprehensive plan of the watershed district for purposes of review by the Metropolitan Council under section 473.165.”*

**ARTICLE XI.  
AMENDMENT TO BY-LAWS**

**Section 1. AMENDMENT TO BY-LAWS.** ~~LMRWD-These~~ by-laws may be amended, repealed, or adopted by a majority of the LMRWD Board of Managers ~~upon thirty (30) days written notice of the proposed change in its entirety~~ during any meeting of the LMRWD Board of Managers upon thirty (30) days written notice of the proposed change in its entirety. Notice may be waived by unanimous consent unless said notice is waived by all of the Managers. Notice of such alteration or amendment ~~is to be contained in the notice of such meetings~~ shall be indicated on the agenda of such meeting. The alteration/s or amendment/s must pass by a majority vote of the LMRWD Board of Managers.

**Section 2. INTERPRETATION** of the By-Laws and any amendment or additions thereto shall rest with the LMRWD Board of Managers.

**Section 3. TEMPORARY SUSPENSION OF BYLAWS:** These rules may be temporarily suspended by consent of a majority of the Managers present.

**ARTICLE XII.  
REVIEW OF BY-LAWS**

**THESE BY-LAWS** shall be reviewed at least every five years and revised if needed. These bylaws govern internal LMRWD matters and do not create rights in any third parties.

Duly adopted on the \_\_\_\_ day of \_\_\_\_\_, ~~2015-2022~~ by the Lower Minnesota River Watershed District Board of Managers and signed by the President and Secretary of the organization.

\_\_\_\_\_  
By: ~~Jesse Hartmann~~ Yvonne Shirk  
Date  
President

\_\_\_\_\_  
By: Lauren Salvato ~~Len Kramer~~  
Date  
Secretary

**BY-LAWS OF  
LOWER MINNESOTA RIVER WATERSHED DISTRICT**

(By-Laws adopted by Lower Minnesota River Watershed District under Minn. Stat. § 103D.315: Subd. 11. “Administration By-Laws: *“The managers shall adopt bylaws for the administration of the business and affairs of the watershed district.”*”)

**ARTICLE I.**

**NAME**

**Section 1.**     **NAME:** Lower Minnesota River Watershed District.

**Section 2.**     **ABBREVIATIONS:** Throughout these By-Laws whenever it is desirable to abbreviate the name of the Lower Minnesota River Watershed District, the initials “LMRWD” or the word "District" shall be used.

**ARTICLE II.**

**PURPOSE**

Pursuant to Minn. Stat. § 103D.201, the District's General Purpose is as follows:

1.     Protect, preserve, and use natural surface and groundwater storage and retention systems.
2.     Minimize public capital expenditures needed to correct flooding and water quality problems.
3.     Identify and plan for means to effectively protect and improve surface and groundwater quality.
4.     Establish more uniform local policies and official controls for surface and groundwater management.
5.     Establish, adopt and enforce standards to promote responsible and sustainable land use and development.
6.     Prevent erosion of soil into surface water systems.
7.     Promote groundwater recharge.
8.     Protect and enhance fish and wildlife habitat and water recreational facilities.
9.     Secure the other benefits associated with the proper management of surface and groundwater.
10.    Cooperate with, aid and assist the state and/or federal government to provide for commercial river transportation.

## ARTICLE III

### LMRWD OFFICE and WATERSHED DISTRICT'S BOUNDARIES

**Section 1. DISTRICT OFFICE:** LMRWD office is located at 112 East 5th Street, Suite 112, Chaska, MN 55318.

**Section 2. BOUNDARIES of LMRWD:** The LMRWD covers an area of 64 square miles of Carver, Hennepin, Dakota, Scott and Ramsey counties. It also includes the Minnesota River Valley from Fort Snelling at the confluence of the Minnesota and Mississippi rivers, upstream to Carver Minnesota. The width of the District includes the bluffs on both sides of the Minnesota River within this reach of the river. In addition, included in its boundaries are fourteen (14) cities or townships, partially or in their entirety.

## ARTICLE IV

### BOARD OF MANAGERS

**Section 1. DISTRIBUTION of MANAGERS and APPOINTMENT THEREOF:** Pursuant to Minn. Stat. § 103D.301, Distribution of Manager Positions, Subd. 1: More than one affected county. *“If more than one county is affected by a watershed district, the board must provide that managers are distributed by residence among the counties affected by the watershed district.”* Minn. Stat. § 103D.301 Subd. 3: *“...The county board of commissioners of a county affected by the watershed district...”* appoints the manager.

**Section 2. COMPOSITION OF LMRWD BOARD OF MANAGERS:** The LMRWD is composed of five managers appointed by the four counties in the District: Hennepin County, two (2) managers; Dakota County, one (1) manager; Carver County, one (1) manager; and Scott County, one (1) manager. Ramsey County is no longer represented because there is no population from Ramsey County in the District.

**Section 3. TERMS OF OFFICE:** Appointments made by the respective counties' Board of Commissioners to the LMRWD Board of Managers are for three-year terms. Terms of office begin in March of the year they are appointed unless a county delays in the appointment of a manager. Per Minn. Stat. § 103D.315, Subd. 6., a manager's term continues until a successor is appointed and qualified.

**Section 4. BONDING:** Before assuming the duties of a Board member, each Board member, at District expense, will obtain and file a bond in accordance with Minn. Stat. §103D.315, Subd. 2. The Board, at District expense, will provide for insurance for its members to provide liability protection on such terms and in such amounts as the Board decides.

**Section 5. VACANCIES:** Any manager who is unable to fulfill his/her three-year term of office on LMRWD Board of Managers shall notify his/her respective county Board of Commissioners of the fact he/she will leaving his/her position as manager on the LMRWD so the



county he/she represents can appoint another manager as soon as possible to complete the departing manager's term in office.

**Section 6. COMPENSATION:** Minn. Stat. § 103D.315 Subd. 8: *“The compensation of managers for meetings and for performance of other necessary duties may not exceed the amount specified by law. Managers are entitled to reimbursement for traveling and other necessary expenses incurred in the performance of official duties.”*

Managers shall be compensated the statutory maximum per diem for meetings and the performance of other necessary duties authorized by the Board. Managers are entitled to reimbursement for mileage, travel expenses, and lodging in accordance with the LMRWD travel policy. Managers cannot be reimbursed for alcoholic beverages.

**Section 7. SUBMISSION OF MANAGER'S EXPENSES:** A claim form shall be filled out by each Manager and submitted to the LMRWD office to be processed and approved in the same manner as other claims in June and December. In order to facilitate proper audit and closure of the fiscal year, all claims for expenses or per diem incurred in a preceding fiscal year, shall be submitted within 60 days of the close of the fiscal year.

**Section 8. DUTIES OF MANAGERS IN STATUTE:** Minn. Stat. § 103D.315  
“Managers” defines additional duties of the District’s Managers.

In addition to statutory duties, Managers shall abide by the following principles:

- (a) The Board of Managers acts as the unified voice of LMRWD and the president serves as the spokesperson for the Board of Managers..
- (b) No individual Manager may provide direction, instructions or authorization to the Administrator or a District consultant unless specifically authorized to do so by the Board of Managers.
- (c) A Manager’s request for information that would require a significant amount of the Administrator’s time must be approved by the Board of Managers.
- (d) A Manager must notify the Administrator when a request for information is made from consultants to the District.
- (e) A Manager may not request or authorize on behalf of the District performance of services by the Administrator or consultant unless authorized by action of the Board of Managers.
- (f) Individual managers cannot bind the District to agreements or expenditures.

## ARTICLE V OFFICERS

**Section 1. ELECTION OF OFFICERS:** The following officers shall be elected each calendar year on or before the first regularly scheduled meeting in September: President, Vice-President, Secretary and Treasurer and Assistant Treasurer. Terms are for one-year unless re-elected.

**Section 2. OFFICER VACANCIES:** Minn. Stat. § 103D.315 Subd. 3: *“The managers must fill vacancies occurring in the officers’ positions.”*

**Section 3. TEMPORARY AND CONCURRENT APPOINTMENTS OF OFFICERS:** The Board may appoint a Board member as officer *pro tem* if an officer is absent or disabled and action by that officer is required. When the composition of the Board is less than five members, a member may hold concurrent offices or the office of Assistant Treasurer may remain vacant.

### **Section 4. DUTIES OF OFFICERS:**

- (a) President: The President shall preside at all meetings of the Board of Managers. The President shall serve under the supervision and direction of the Board and shall see that all orders and resolutions of the Board are carried into effect. The President shall execute all contracts or instruments requiring an officer’s signature, unless otherwise directed by the Board, and shall have the general powers and duties usually vested in the office of President of the Board and shall have such other powers and perform such other duties as the Board may from time to time prescribe.
- (b) Vice-President: In the absence of the President at a regularly held LMRWD meeting, the Vice-President shall preside at the meeting. The Vice-President shall exercise and perform the authorities and duties of the President in the event of the latter’s absence, death, disqualification, or incapacity until the LMRWD Board of Managers elects a new President. The Vice-President shall exercise and perform such other authorities and duties as may be prescribed or limited from time to time by the Board of Managers.
- (c) Secretary: The Secretary shall cause to be recorded all votes and the minutes of all proceedings of the Board of Managers in a book to be kept for that purpose. The Secretary shall give, or cause to be given, notice of all meetings of the Board, and shall perform such other duties as may from time to time be prescribed by the Board or by the President. These duties may be delegated to the Administrator as directed by the Board of Managers.
- (d) Treasurer: The Treasurer shall have the care and custody of the funds and securities and shall disburse the funds of the LMRWD as may be ordered from time to time by the Board. The Treasurer shall keep or cause to be kept full and accurate accounts of receipts and disbursements in books belonging to the LMRWD, and shall deposit all monies, securities and other valuable effects of the LMRWD in the name and to the credit of the LMRWD in such depositories as

may be designated from time to time by the Board. Except to the extent that some other person or persons may be specifically authorized by the Board to do so, the Treasurer shall make, execute, and endorse all checks and other commercial paper on behalf of the LMRWD when requested by the Board and shall perform such other duties as may be prescribed by the Board.

- (e) Assistant Treasurer: In the absence of the Treasurer, the Assistant Treasurer shall perform the duties of the Treasurer. The Assistant Treasurer shall exercise and perform the authorities and duties of the Treasurer in the event of the latter's absence, death, disqualification, or incapacity until the LMRWD Board of Managers elects a new Treasurer. The Assistant Treasurer shall exercise and perform such other authorities and duties as may be prescribed or limited from time to time by the Board of Managers.

**Section 5. AUTHORIZED SIGNATORIES BY MANAGERS:** All checks, drafts, or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the LMRWD shall be signed by two members of the LMRWD Board of Managers. Checks may be endorsed through electronic signature.

**Section 6. COMMUNICATIONS:** Unless it is a personnel issue, when communicating with the LMWRD consultants Board members should inform the Administrator about the communication to keep her/ him updated about ongoing issues and business of the LMRWD.

**Section 7. HARRASSMENT AND DISCRIMINATION:** Board members and those with whom they work have the right and responsibility to work in an environment free from harassing or discriminating behavior. It is the responsibility of each Board member to refrain from creating a discriminatory or harassing environment. Each Board member is also responsible for treating others with dignity and respect and to report all incidents of harassment immediately so that they can be quickly and fairly resolved.

**Section 7. REMOVAL FROM OFFICE:** Any officer may be removed at any time, with or without cause, upon the affirmative vote of two-thirds (2/3) of the Board of Managers.

## **ARTICLE VI. MEETINGS OF LMRWD BOARD OF MANAGERS**

**Section 1. MEETINGS OPEN TO THE PUBLIC:** All meetings of the District, whether regular, special or emergency, shall be noticed and held in accordance with the State's Open Meeting Law, Statutes Chapter 13D.

**Section 2. REGULAR MEETINGS:** The Managers shall hold regular meetings at least once a month according to a schedule adopted by the Board and filed with the District. The regular meeting schedule shall be made available to the public by posting on the District's website. The meetings may be cancelled and rescheduled at any time that the Managers deem necessary.

**Section 3. SPECIAL MEETINGS:** Special meetings to conduct the business of the LMRWD may be called by the President independently or upon the request of a member of the Board. Special meetings shall be noticed as required by the Open Meeting Law.

**Section 4. PUBLIC HEARINGS:** Public hearings shall be conducted as required by law or, in addition, as directed by the Board of Managers.

**Section 5. MEETING CALLED BY MANAGER:** Minn. Stat. § 103D.315 Subd. 10, states: *“A meeting may be called at any time at the request of any manger. When a manager requests a meeting, the secretary of the watershed district must mail a notice of the meeting to each member at least eight (8) days before the meeting.”* The District’s office administrator shall notify the Managers as soon as possible of the time and place of the pending meeting and shall provide other notice as required by law. Statutory notice may be waived with the consent of all Managers.

**Section 6. QUORUM and ADJOURNED MEETING:** At all meetings of the Managers, a majority of the appointed Managers shall constitute a quorum to do business but a smaller number may adjourn from time to time. Unless otherwise required by law, all decisions must be approved by the affirmative vote of a majority of the Managers present at a meeting where there is a quorum.

**Section 7. CHAIR of MEETINGS:** The President shall preside as chairperson at all meetings of the Managers. In the absence of the President, the Vice-President shall preside. In the absence of both, the Secretary shall serve as temporary President. The President and temporary President shall have the same privileges.

**Section 8. MEETINGS HELD BY REMOTE MEANS:** When necessary, the Board may allow remote participation in meetings by interactive video teleconference or comparable technology. When any member of the Board is participating in a meeting by remote means, the requirements of Statutes Section 13D.02 must be met.

**Section 9. MEETING FORMAT:**

- (a) At the hour appointed for a meeting of the Board of Managers of the LMRWD, upon reaching a quorum, the Managers shall be called to order by the President or in his/her absence, by the acting President. The Managers shall proceed to do business following a set agenda.
- (b) The President shall preserve order. The President may make motions, second motions or speak on any question, provided, however, that in order to do any of these things, upon demand of any Manager, the President shall vacate the chair and designate a temporary President. The President, or acting President, shall be entitled to vote like other Managers.
- (c) Every Manager, prior to his/her speaking, shall address the President and shall not proceed until he/she has been recognized by the President.

- (d) If a Manager has a personal interest in a matter that comes before the LMRWD Board of Managers, to the extent that it creates a conflict of interest as a matter of law, the Manager shall not vote on said issue.
- (e) No person other than a Manager shall address the Board except with the consent of the President or by a vote of the majority of the Managers present.
- (f) The President has the authority to set a time limit that a Manager or a person addressing the Board may speak, except upon vote of the majority of the Board of Managers present.
- (g) All committees shall be appointed by the President unless expressly ordered by the Board. It shall be the duty of committees to act promptly and faithfully in all matters referred to them, to comply with the Open Meeting Law, if applicable, and to make reports at a future set time/date established by the Board.
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**Section 11. APPEAL OF A CHAIR RULING:** A Board Manager may appeal to the Board from a ruling of the President. If the appeal is seconded, the Board Manager may speak once solely on the question involved and the President may explain his or her ruling, but no other Board Manager will participate in the discussion. The appeal will be sustained if it is approved by a majority of the Board Managers present exclusive of the President.

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PARLIMENTARY AUTHORITY**

**Section 1. PARLIMENTARY AUTHORITY:** The most current version of Robert’s Rules of Order Newly Revised shall govern the LMRWD’s meetings in all cases to which they are applicable and in which they are not inconsistent with state law, these By-Laws and, or any special rules of order the LMRWD may adopt.

**Section 2. SUSPENSION:** Robert’s Rules of Order may be temporally suspended by consent of the majority of the Board Managers present. Proceeding in a manner contrary to Robert’s Rules of Order without objection shall be deemed suspension by consent of the Managers.

**ARTICLE VIII.  
ANNUAL REPORT**

**Section 1. ANNUAL REPORT:** Minn. Stat. § 103D.351: “(a) *The managers must prepare a yearly report of the financial conditions of the watershed district, the status of all projects, the business transacted by the watershed district, other matters affecting the interests of the watershed district, and a discussion of the managers plans for the succeeding year.*”

**Section 2. COPIES DISTRIBUTED:** Minn. Stat. § 103D.351: “(b) *Copies of the report must be transmitted to the Board of Water and Soil Resources, the commissioner, and the director within a reasonable time.*”

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ANNUAL AUDIT**

**ANNUAL AUDIT:** Minn. Stat. § 103D.355, Subd 1. Requirement: “*The managers must have an annual audit completed of the books and accounts of the watershed district. The annual audit may be made by a public accountant or by the state auditor.*”

**ARTICLE X.  
WATERSHED MANAGEMENT PLAN**

**WATERSHED MANAGEMENT PLAN.** Minn. Stat. § 103D.401, Subd. 1. Contents:

- (a) “*The managers must adopt a watershed management plan for any and all of the purposes for which a watershed district may be established. The watershed management plan must give a narrative description of existing water and water-related problems within the watershed district, possible solutions to the problems, and the general objectives of the watershed district. The watershed management plan must also conform closely with watershed management plan guidelines as adopted and amended from time to time by the Board of Water and Soil Resources.*”

- (b) *“The watershed management plan may include a separate section on proposed projects. If the watershed district is within the metropolitan area, the separate section of proposed projects or petitions for projects to be undertaken according to the watershed management plan is a comprehensive plan of the watershed district for purposes of review by the Metropolitan Council under section 473.165.”*

**ARTICLE XI.  
AMENDMENT TO BY-LAWS**

**Section 1. AMENDMENT TO BY-LAWS.** These by-laws may be amended, repealed, or adopted by a majority of the LMRWD Board of Managers during any meeting of the LMRWD Board of Managers upon thirty (30) days written notice of the proposed change in its entirety. Notice may be waived by unanimous consent of the Managers. Notice of such alteration or amendment shall be indicated on the agenda of such meeting. The alteration/s or amendment/s must pass by a majority vote of the LMRWD Board of Managers.

**Section 2. INTERPRETATION** of the By-Laws and any amendment or additions thereto shall rest with the LMRWD Board of Managers.

**Section 3. TEMPORARY SUSPENSION OF BYLAWS:** These rules may be temporarily suspended by consent of a majority of the Managers present.

**ARTICLE XII.  
REVIEW OF BY-LAWS**

**THESE BY-LAWS** shall be reviewed at least every five years and revised if needed. These bylaws govern internal LMRWD matters and do not create rights in any third parties.

Duly adopted on the \_\_\_\_ day of \_\_\_\_\_, 2022 by the Lower Minnesota River Watershed District Board of Managers and signed by the President and Secretary of the organization.

\_\_\_\_\_  
By: Jesse Hartmann  
President

\_\_\_\_\_  
Date

\_\_\_\_\_  
By: Lauren Salvato  
Secretary

\_\_\_\_\_  
Date





# 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 16<sup>th</sup> 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)

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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)

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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.

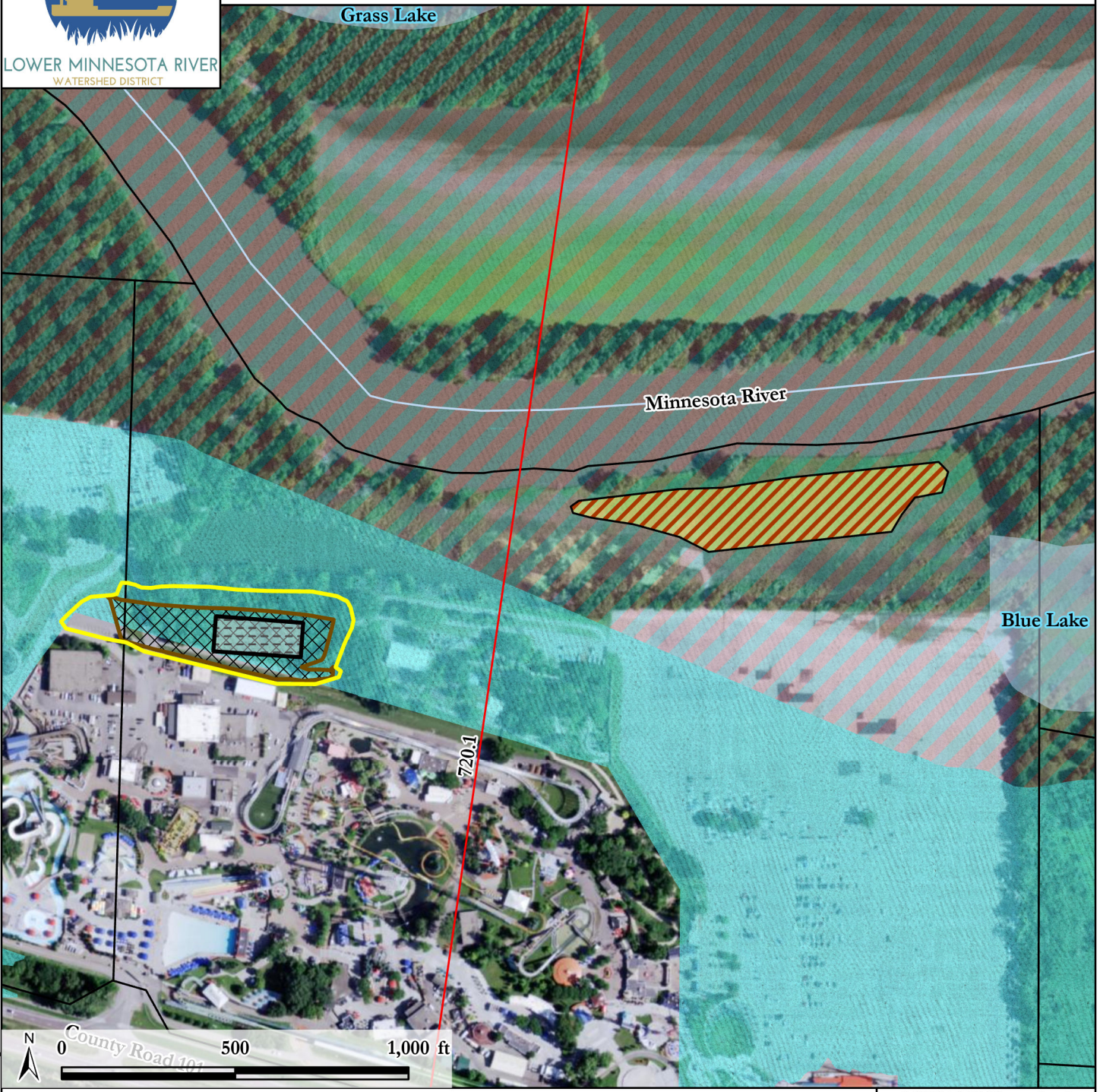
### **Attachments**

- Figure 1—Valleyfair Parking Lot Expansion Project Location Map





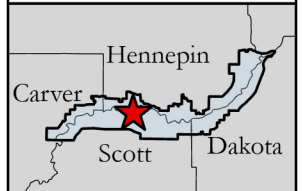
Figure I: Valleyfair Parking Project Location  
LMRWD 2022-034



**Legend**

- Valleyfair Parking Project Location
- Proposed Building Footprint
- Proposed Gravel Parking
- Proposed Borrow Area
- 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

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## Summary

On April 25<sup>th</sup>, 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 26<sup>th</sup>, 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:

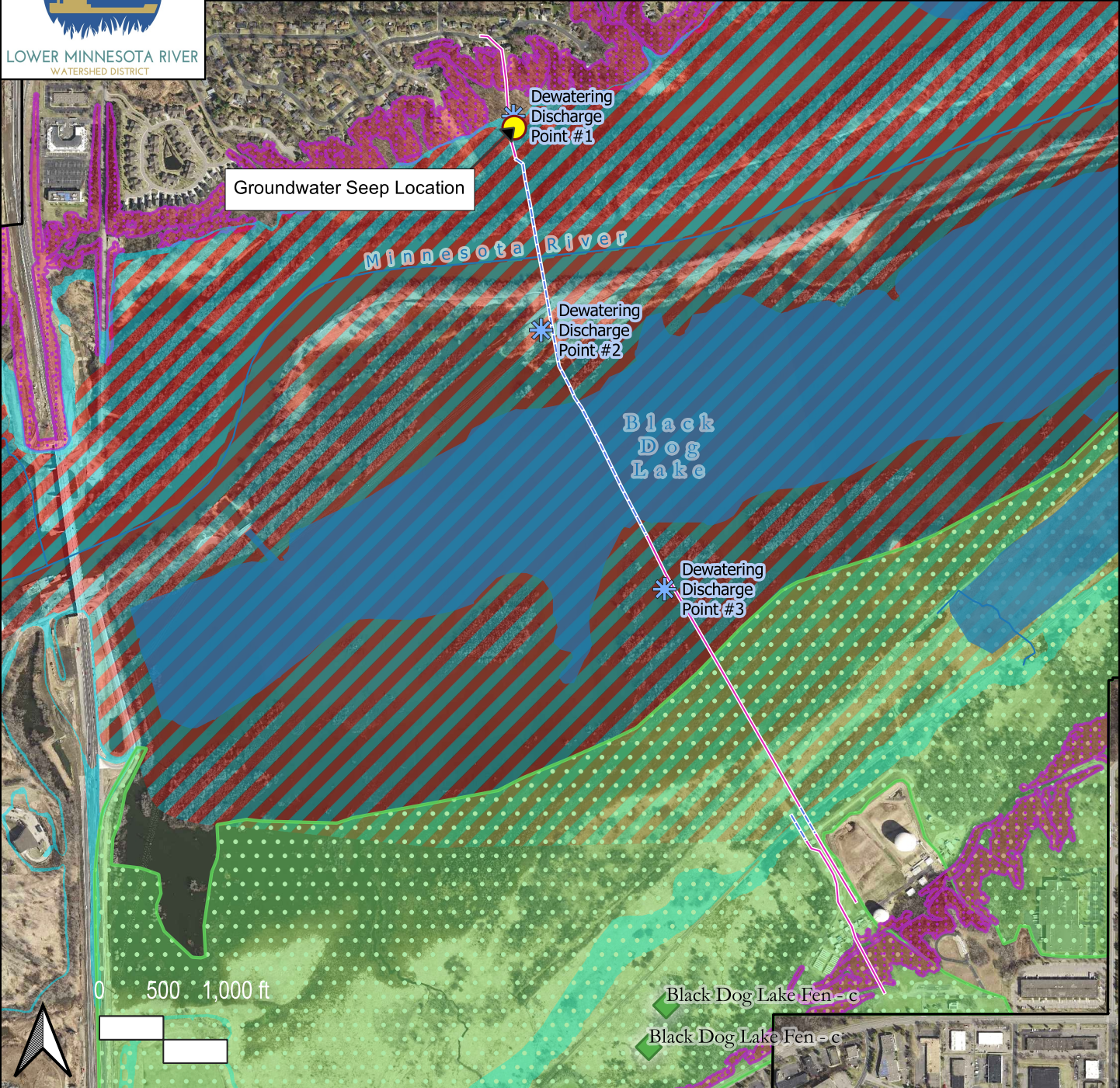
- Figure 1: Map of Project and Incident Location

- 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





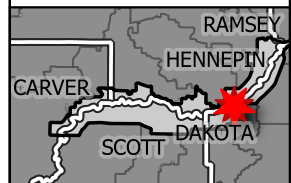
Figure 1: 2022 MBL Nicollet River Crossing



- 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

LMRWD Watershed Location Map



Young Environmental Consulting Group, LLC





**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.

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**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.

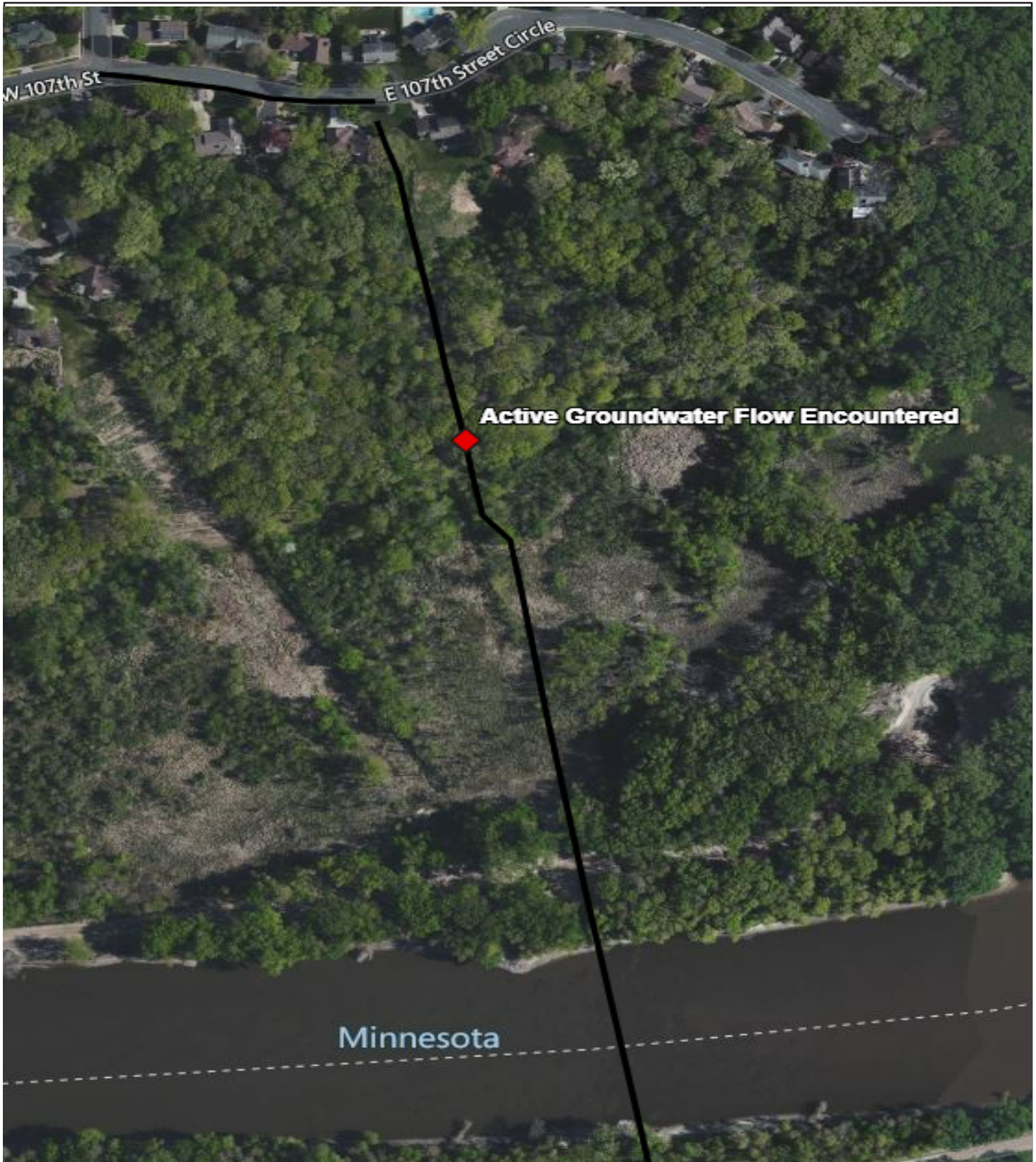


**Photo 8** (Lat: 44.80973 Long: -93.27655)

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







**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)

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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	-

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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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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
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**STATUS DEFINITIONS:**

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- 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

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Lower Minnesota River Watershed District,

Plaintiff,

Court File No.

vs.

**COMPLAINT**

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

Defendants.

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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 301<sup>st</sup> 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 "andrewpolski@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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John C. Kolb (#268938)  
Suite 300 US Bank Plaza Building  
1015 W. St. Germain St.  
P.O. Box 1497  
St. Cloud, MN 56302-1497  
(320) 251-6700  
(320) 656-3500 fax  
Email: JKolb@RinkeNoonan.com

**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

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Lower Minnesota River Watershed District,

Plaintiff,

Court File No.

vs.

**SUMMONS**

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

Defendants.

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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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**ATTORNEYS FOR PLAINTIFF**



# 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. K. – MPCA Soil Reference Values**

### **Prepared By**

Linda Loomis, Administrator

### **Summary**

In May 2022 the MPCA provided an annual update to their Soil Reference Values (SRVs). The LMRWD engaged Barr Engineering to evaluate the impact the SRVs may have on the LMRWD's role as local sponsor to the US Army Coe of Engineers management of the Minnesota River 9-foot navigation channel. In August 2022, the LMRWD received a Technical Memorandum dated August 25, 2022 from Barr Engineering advising the LMRWD of possible impacts.

Based on the guidance in the Barr Memorandum, Young Environmental Consulting Group reviewed the LMRWD's Dredge Material Management Plan (DMMP) and how the DMMP should be revised based on the new pollutant tolerance levels. Young Environmental's Technical Memorandum – Revised Soil Reference Values and the Dredge Material Management Plan dated October 12, 2022, is attached for the Board's information.

Now that the MPCA has determined SRV's, future reports to the Board of Managers on this item will be included under Dredge Management and the Item listed as "MPCA Soil Reference Values" will be removed from the agenda.

### **Attachments**

Technical Memorandum – Revised Soil Reference Values and the Dredge Material Management Plan dated October 12, 2022

### **Recommended Action**

Motion to authorize staff to proceed with recommendations contained in the Technical Memorandum



# Technical Memorandum

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

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

**Date:** October 12, 2022

**Re:** Revised Soil Reference Values and the Dredge Material Management Plan

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As outlined in the Lower Minnesota River Watershed District's (LMRWD's) workplan to the Board of Water and Soil Resources, the LMRWD will implement capital improvement projects and continue the operation and management (O&M) of the Cargill East River (MN—14.2 RMP) Dredge Material Site (Site) located on the Minnesota River in Savage, Minnesota (Figure 1). O&M activities include maintenance of the Site and management of the disposal of the dredged material.

The Minnesota Pollution Control Agency (MPCA) has been in the process of updating its Soil Reference Values (SRVs), which are used as a screening tool to evaluate potential human health risks from exposure to contaminated soil, since 2014 and has recently updated the values in 2021 and 2022. This document provides the history of the dredging activities on the Minnesota River, reviews the impacts of the new SRVs on the LMRWD's current dredged material management, and provides recommendations for updating the LMRWD's Dredged Material Management Plan (DMMP).

## Background

The U.S. Army Corps of Engineers (USACE) is required to maintain a nine-foot-deep by 100-foot-wide channel within the Minnesota River for barge navigation from its confluence with the Mississippi River to 14.7 miles upstream. While the USACE provides the needed channel dredging for navigation, the LMRWD serves as the local sponsor and is responsible for providing dredge material placement sites and disposal. In 2007, the LMRWD acquired land from Cargill, and in 2014, it entered into an

agreement with LS Marine, which also provides dredging services for the private slips at the nearby Ports of Savage, to operate the Site and identify end users for the USACE dredged material on the LMRWD's behalf. In 2020, the Site was improved to reconfigure the containment berms to segregate the sandy USACE dredged material and the more fine-grained and clayey private dredged material, which requires longer drying times. Since this most recent construction was completed, LS Marine has coordinated the placement and removal of approximately 24,000 cubic yards (CY) of USACE dredged material and 93,000 CY of private dredged materials.

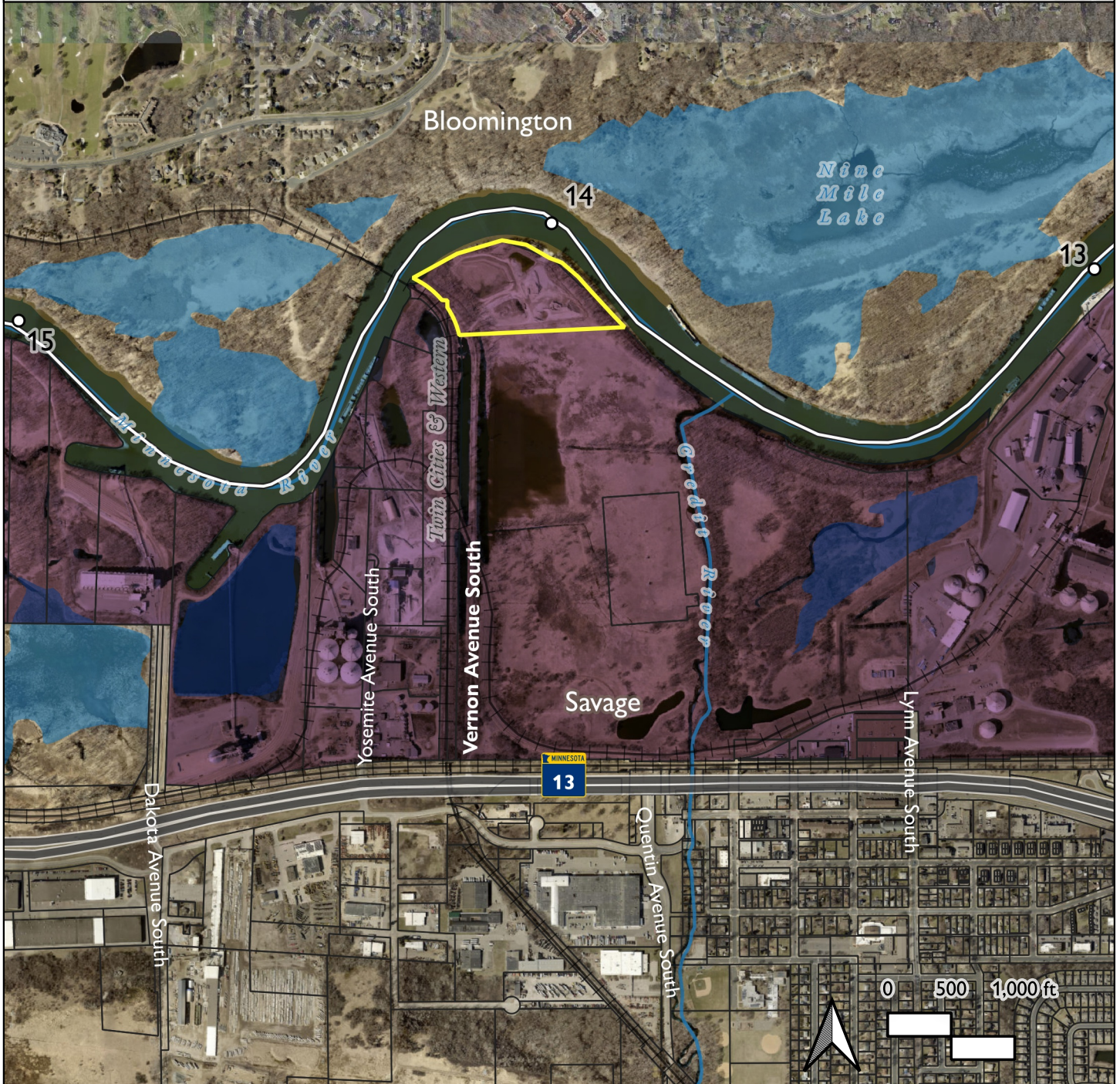
LMRWD's role and responsibilities for dredged material are outlined in the District's *2018–2027 Watershed Management Plan* and its *Cargill East River (MN—14.2 RMP) Dredge Material Site Management Plan (DMMP)* adopted in January 2013. The DMMP included sediment analysis to determine the beneficial reuses available for the dredged material, considering contaminant-specific concentrations from the SRVs. In 2009, samples were screened against the SRVs and determined to be below the MPCA Dredge Material Level 1 values and suitable for residential fill uses around potentially sensitive populations, such as the very young, infirm, and elderly. Contamination below the Level 1 values is considered to represent little to no risk for human exposure (Table 1).

*Table 1. 2009 Sediment Analysis and MPCA SRVs from the 2013 DMMP*











	2009 Sample	Level 1 SRV (Residential)	Level 2 SRV (Industrial)
Arsenic (mg/kg dry)	2.3	9	20
Cadmium (mg/kg dry)	<0.52	25	200
Chromium Total (mg/kg dry)	5.5	87	650
Copper (mg/kg dry)	2.6	100	9,000
Lead (mg/kg dry)	3.4	300	700
Mercury (mg/kg dry)	<0.018	0.5	1.5
Nickel (mg/kg dry)	5.3	560	2,500
Selenium (mg/kg dry)	<1.0	160	1,300
Zinc (mg/kg dry)	15	8,700	75,000
Total PCBs (mg/kg dry)	<0.11	1.2	8.0



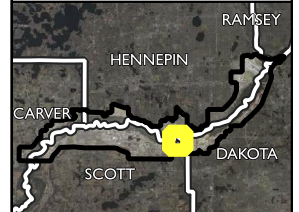
**Figure 1: LMRWD Dredge Site Location Map**



**LEGEND**

- |  |   |
|--|---|
|  LMRWD Dredge Site  |  Major Highways                      |
|  LMRWD Boundary     |  Railroads                           |
|  River Mile Markers |  Scott Co. Parcels                   |
|  Public Waterways   |  Ports of Savage Industrial District |
|  Public Waterbodies |  County Boundaries                   |

**LMRWD Location**





In 2014, the MPCA developed two reference documents for managing dredged materials: *BMPs for the Management of Dredged Materials* and *Managing Dredged Materials in Minnesota*. These documents superseded the SRV values used in 2009 and provide clearer guidance on how and where dredged materials may be used depending on their chemical composition. In 2021 and 2022, *Managing Dredged Materials in Minnesota* was further updated and expanded to include 21 additional metals and chemicals, notably perfluoroalkyl and polyfluoroalkyl substances, commonly known as PFAS, which are an emerging contaminant of concern for groundwater.

A review of the USACE annual dredging summaries available online as part of its *Channel Maintenance Management Plan* (CMMP) provided the quantities of material dredged from each Minnesota River historic dredge cuts (or reaches) from 1970 through 2020 (Table 2, Figure 2). The estimated volumes to be dredged for 2022 are also included in Table 2. From the USACE data, we were able to determine the percentage of routine and nonroutine dredging activities contributing to the total quantity dredged, as well as the average accumulation rate, in terms of CY per year (yr).

*Table 2. Summary of USACE Dredged Quantities, 1970–2022 (CMMP Table 14)*

Reach	Number of Times Dredged	Last Date Dredged	Total Quantity Dredged (CY)	% of Routine Dredging Activities	Avg. Accumulation Rate (CY/yr)
MN-1	2	1993	32,234	89%	1,470
MN-2	1	1987	4,389	100%	-
MN-3A	1	1983	36,612	100%	-
MN-3B	2	1982	14,454	100%	1,610
MN-3C	37	2022	611,038	47%	11,980
MN-4	13	2022	39,370	51%	1,640
MN-5	20	2017	261,578	78%	5,940

Next we compared the USACE dredge records from 1999 to 2022 to the 27-year forecasted quantities from 1999 through 2025 in the 2013 DMMP (Table 3). Cells that exceed the forecasted quantities are highlighted in yellow, while cells that are less than for forecasted quantities are highlighted in green.

*Table 3. DMMP 27-year Forecasted Dredging Quantities (1999–2025) versus USACE Dredge Records (1999–2022)*

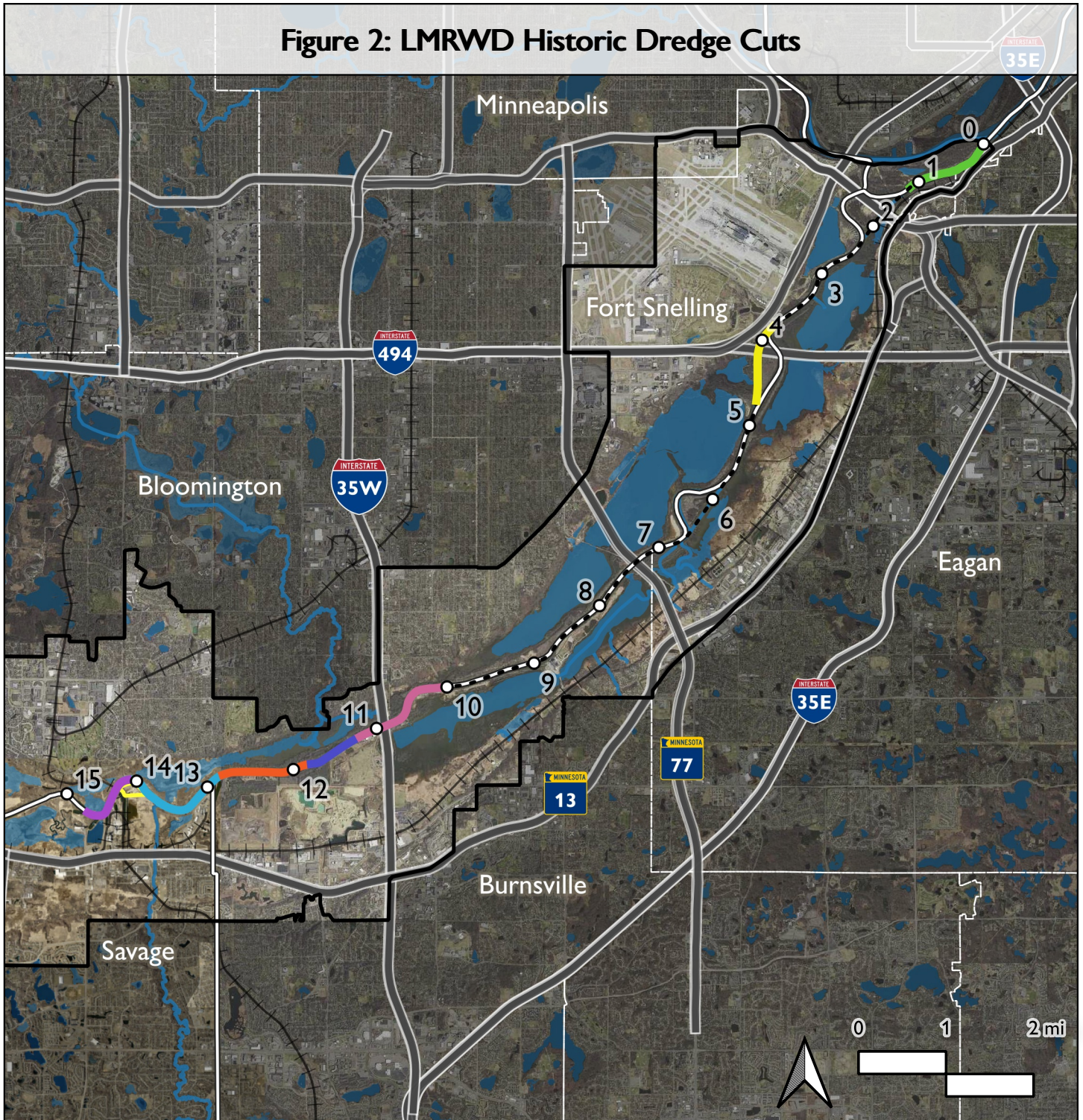
Reach	27-yr Forecasted Number of Dredge Events	27-yr Forecasted Dredged Quantity (CY)	27-yr Forecasted Accumulation Rate (CY/yr)	USACE Number of Dredge Events, 1999–2022	USACE Dredged Quantity, 1999–2022 (CY)	Avg. Accumulation Rate, 1999–2022 (CY/yr)
MN-1	3	54,000	2,000	0	0	0
MN-2	3	27,000	1,000	0	0	0
MN-3	15	405,000	15,000	19	320,484	13,400
MN-4	3	237,600	8,800	12	35,872	1,500
MN-5	8	432,800	16,030	10	89,698	3,700
<b>TOTAL</b>	<b>85</b>	<b>1,156,400</b>	<b>42,830</b>	<b>41</b>	<b>446,054</b>	<b>18,600</b>

The overall analysis of the forecasted DMMP quantities and USACE dredge records shows that the total annual volume dredged has averaged around 18,600 CY, more than 24,000 CY less than the 2013 DMMP forecasted annual total of 42,830 CY. The two-year running average of the total annual dredged volume (Figure 3) appears to support this lower annual average since the 1990s. The dredged volumes by reach shown in Figure 3 also confirms that over the past 52 years, the most frequently dredged reaches of the Minnesota River were MN-3C, MN-4, and MN-5. Updates to the DMMP should include a review of all historic dredge cuts to update the forecasted quantities for the next 30-year period (2022–2052) and confirm the LMRWD Dredge Site will have adequate storage capacity into the future. This update should also include a review of the forecasted operating costs, especially if the forecasted annual dredge quantities are less than the 2013 DMMP estimates, as this may affect the potential beneficial uses and income generated from the sale of dredge spoils.

Figure 3 includes historic flood events for reference however a brief review of flood and drought records (Figure 4) does not appear to show a correlation between dredged volumes and episodic river events. The impact of weather extremes on dredging operations should be further investigated with any update to the DMMP so that the LMRWD can plan accordingly for the future.



**Figure 2: LMRWD Historic Dredge Cuts**



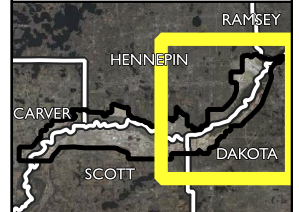
**LEGEND**

USACE Historic Cuts

- MN-1: Mouth of MN River
- MN-2: 4Mile Cut-Off
- MN-3A: Above 35W Bridge
- MN-3B: Below Peterson's Bar
- MN-3C: Peterson's Bar
- MN-4: Cargill Slip
- MN-5: Above Savage RR Bridge

- - - Not Routinely Dredged
- River Mile Markers
- LMRWD Dredge Site
- LMRWD Boundary
- Public Waters
- Major Highways
- Railroads
- County Boundaries

**LMRWD Location**





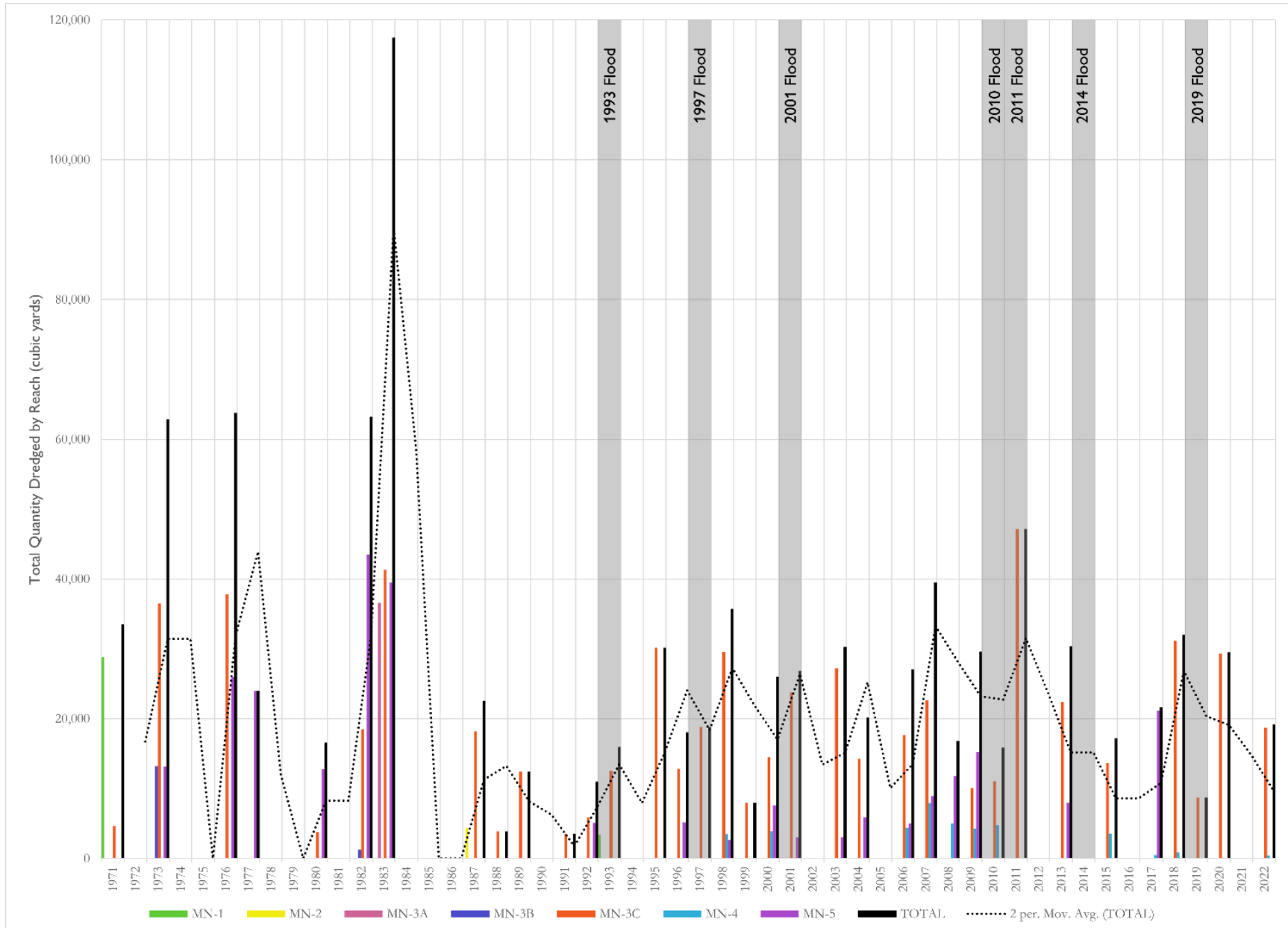
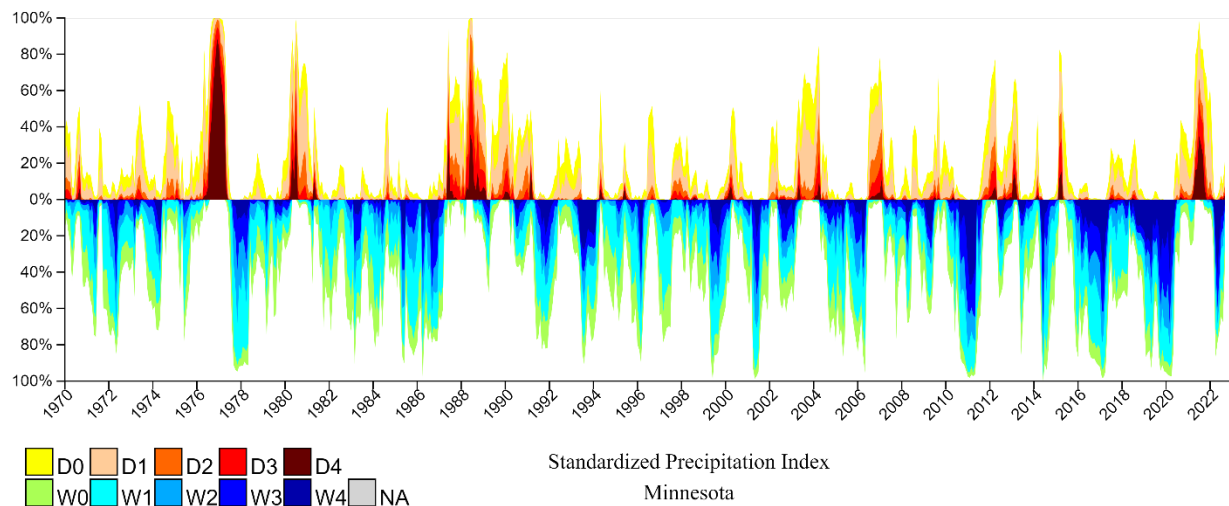


Figure 3. Annual Material Dredged per USACE Minnesota River Reach (USACE 2020); Black dashed line indicates the total dredged volume two-year running average.





*Figure 4. Standardized Precipitation Index from Drought.gov (D0–D4 indicate drought severity, whereas W0–W4 indicate wet conditions over a nine-month average).*

### Impacts to LMRWD Operations

The LMRWD authorized Barr Engineering Co (Barr) to review the latest SRV values and provide an assessment of the changes and impacts to LMRWD activities and operations (Attachment 1). Barr reviewed the historic sampling data from the USACE CMMP and LMLRWD DMMP and identified that the only chemical parameter that would have exceeded the 2022 MCPA Level 1 SRV was manganese. The manganese Level 1 SRV decreased from 3,600 mg/kg in 2009 to 730 in 2022, and the historic Minnesota River samples show manganese concentrations between 56.8 and 931 mg/kg. The highest concentration was found at River Mile (RM) 14.5 (MN-5, Figure 2), whereas the lowest was at RM 13.2 (MN-4, Figure 2). Barr concluded in their analysis that manganese concentrations in the Minnesota River “are consistent with naturally-occurring background levels in the soil and may be due to the geochemical composition of the sediments themselves.” Regardless, the lowered manganese SRV may limit the ability to sell dredged materials to the private market and could significantly increase the LMRWD’s operation costs if dredged material is required to be landfilled rather than sold. Future updates to the DMMP should validate the levels of manganese that could be expected to be found in the dredge spoils from each reach because the historic data shows MN-5 only exceeded the 2022 SRV the single time in 1999.

Though there does not appear to be an immediate requirement for the LMRWD Dredge Site to address PFAS, it could be a requirement in the future should PFAS be found in the dredge material. Barr preliminary identified potential sources of PFAS in the watershed, including airports, landfills, and wastewater treatment plants that may have

historically “used, discharged, emitted, and/or served as conduits for PFAS.” Barr noted that while there is no statewide value for PFAS in surface water, it is expected that there will be decreasing tolerance for PFAS in surface and groundwater in the future. Also, given the presence of PFAS found in Pool 2 of the Mississippi River, Barr anticipates that the new PFAS SRVs will eventually affect the dredge material management, which may further limit the ability to sell the dredged material.

### **Next Steps**

The District DMMP was last updated in 2013 and focuses heavily on material placement options, beneficial uses, and estimated quantities through 2025. Given the changes in SRV values and river conditions, we recommend the DMMP be updated to plan for future management of the site, including contingency plans for if dredge materials exceed the manganese and PFAS criteria. The following are specific items that should be considered as part of the DMMP update:

1. Complete a sediment assessment to aid in forecasting the next 30-years of dredging requirements for the Minnesota River, considering changing climate and flow conditions as well as projected changes in barge traffic or dredging practices.
2. Collect sediment core samples at each of the Minnesota River dredge cuts to supplement the data last collected in 2009 and validate the ability to continue sales of dredged materials, if not already available from the USACE or LS Marine.
3. Review the MPCA PFAS Monitoring Plan and identify future improvements necessary for the LMRWD Dredge Site to prevent runoff and soil leaching of PFAS, should PFAS be found in dredged materials.
4. Meet with the USACE to discuss the Mississippi River Pool 2 dredged material management for PFAS and identify joint disposal opportunities should the Minnesota River dredge material exceed the SRVs for PFAS in the future.
5. Develop an adaptable framework for the next 30-years of dredge site management based on the results from items 1 and 2 above and including alternative options for disposal of dredged material should the sediments exceed current SRV thresholds.

### **Attachments**

Attachment 1—Lower Minnesota River Watershed District Soil Criteria Review  
Technical Memorandum by Barr Engineering, dated August 25, 2022

## Technical Memorandum

**To:** Della Young, Young Environmental Consulting Group  
**From:** Jenni Brekken  
**Subject:** MPCA Soil Criteria Review for LMRWD  
**Date:** August 25, 2022  
**Project:** Lower Minnesota River Watershed District Soil Criteria Review  
**c:** Karen Chandler

The Lower Minnesota River Watershed District (LMRWD) manages dredged sediments from the Minnesota River and from other ponds or surface waters. As part of this activity, an evaluation of the material is needed to determine the appropriate disposal or reuse of the materials based on Minnesota Best Management Practices (BMP) documents and other federal, state or local regulations. Assessment of chemical contamination in dredged sediments is part of the BMPs and impacts whether the material may be reused as fill, may have a restricted reuse, or requires landfill disposal. For this assessment, sediment chemical concentrations are compared to current Minnesota Pollution Control Agency (MPCA) Soil Reference Values (SRVs). The MPCA recently provided a substantive update to their methods for developing SRVs in 2021 and in May 2022 followed with an annual update to their SRVs (MPCA, 2021 and 2022a/b).

The MPCA also recently issued a per- and polyfluoroalkyl substances (PFAS) Monitoring Plan, outlining specific programs and facilities that will incorporate analysis for PFAS as part of the regulatory program. The MPCA's PFAS monitoring programs may also impact decisions regarding reuse of dredged sediments.

This memo describes how the SRVs are typically used in evaluating dredge materials, summarizes the recent SRV updates (in 2021 and 2022), and provides an assessment of how these changes may impact LMRWD activities or operations. In addition, Barr is providing a review of the MPCA PFAS Monitoring Plan including a discussion of whether PFAS analysis of sediments may be required and the potential impacts to LMRWD.

### 1 Soil Reference Values Overview

The SRVs are a screening tool used to evaluate potential human health risks from exposure to contaminated soils by comparing chemical concentrations in soil to the SRVs. They are derived using USEPA methodology for assessing human health risk and are based on conservative assumptions designed to be protective of the most vulnerable receptors and cover multiple soil exposure pathways, including inhalation of dust, ingestion, dermal contact and inhalation of vapors for both cancer and non-cancer risks. SRVs are developed using exposure assumptions based on different land use categories (e.g., the assumed duration and quantity of exposure to the soil is different for a residential use property versus

an industrial use property). Currently, the MPCA has published SRVs for two different land use categories: 1) residential/recreational (e.g., single family homes; multi-family housing; long-term care facilities, hospitals, churches, schools, sports fields, etc.) and 2) commercial/industrial (warehouses, offices, manufacturing facility, restaurants, hotels, etc.)

The MPCA has several programs where SRVs are applied, including brownfields, petroleum leak sites, closed landfills, superfund, management of dredged sediments, management of stormwater pond sediments, and for evaluating offsite reuse of excess fill from a development or construction project. For evaluating whether dredged sediments or soils are suitable for reuse on other sites, the residential/recreations SRVs (formerly referred to as "Tier 1" SRVs), are applied, which are lower and more conservative than commercial/industrial SRVs.

The SRVs are provided by the MPCA in an excel spreadsheet format (<https://www.pca.state.mn.us/document/c-r1-06xlsx>), which includes detailed background information on how each SRV is calculated and the final SRVs for each chemical. This spreadsheet is updated periodically by the MPCA and the revision year for each chemical is noted within the spreadsheet.

## **2 Applications of SRVs to LMRWD Projects**

The following types of projects or activities undertaken by LMRWD may warrant evaluation of chemical concentrations in soils or sediments using MPCA SRVs:

- Stormwater management or flood mitigation projects involving excavation in areas with contaminated soils or sediments.
- Creek or riverbank erosion control or bank stabilization projects in areas with contaminated soils.
- Management of dredge material from the Minnesota River.

### **2.1 Soil Excavation Projects**

For projects involving excavation of soils, if there is no known or suspected source of contamination, sampling and analysis of this excess soil is generally not needed. During the planning stages of an excavation project, an initial assessment can be considered to help determine whether an investigation and chemical analysis of the soils may be warranted. Depending on the site specifics, the initial assessment could involve a desktop review of the site history and uses such as review of MPCA's website What's in My Neighborhood (MPCA, 2022f) and any available historical aerial imagery. If a property transfer is occurring as part of the project, or if there are potential concerns for environmental releases, then more detailed study could be completed that would involve completion of a Phase I Environmental Site Assessment (ASTM, 2021) that includes broader records review, interviews, a site visit, and a preparation of a report.

If there is documented contamination or recognized environmental conditions indicating contamination is likely present in the soils, soil sampling and chemical analysis can be performed, and the results compared to SRVs. The list of chemical contaminants is selected based on the land use history and suspected type of hazardous substance or petroleum release. In the case where contamination is identified at concentrations above MPCA SRVs for a particular land use, plans for appropriately managing and/or disposing of soils

are needed. These projects may be performed under the MPCA's voluntary remediation (Brownfield) program oversight to obtain various MPCA liability assurances or technical review of reports and cleanup plans (MPCA, 2022c).

Offsite reuse of soil is guided by MPCA's Best Management Practices (BMP) for the Off-Site Reuse of Unregulated Fill (MPCA, 2012a) and the BMP for Off-Site Reuse of Regulated Fill (MPCA, 2012b). The classification of Unregulated Fill includes soils that meet MPCA Soil Leaching Values (SLVs; protective of contaminant leaching to groundwater), MPCA Residential SRVs, and are free of debris and other observations of contamination (MPCA, 2012a). Regulated Fill is defined as soil that has chemical concentrations above MPCA residential SRVs but below Industrial SRVs (among other characteristics). However, the BMP for Offsite Reuse of Regulated Fill (MPCA, 2012b) requires identification of a project site to receive the Regulated Fill and approval by local government and MPCA. Because of these restrictions, reuse of Regulated Fill under MPCA's BMP is rare. In most cases, excess soils with chemical concentrations above MPCA residential SRVs are typically disposed of at a landfill.

## **2.2 Stormwater Pond Dredging Projects**

For management of sediments removed from stormwater ponds, work is guided by MPCA's BMP for Managing Stormwater Sediments (MPCA, 2017), typically independent of voluntary brownfield cleanup program review.

Similar to excavated soils, offsite reuse of sediments dredged from stormwater ponds (MPCA, 2017) is based on whether the sediment chemical concentrations meet MPCA's BMP for Unregulated Fill (MPCA, 2012a), which includes residential SRVs and SLVs. The stormwater pond sediment chemical parameter list for laboratory analysis includes analysis of polycyclic aromatic hydrocarbons (PAHs), arsenic and copper, and any other chemicals that would be expected to be present in the sediments based on a known release or site use (e.g., from industrial operations on the site). The same site assessment tools outlined in Section 2.1 could be used to evaluate historical site uses and potential for contamination. Stormwater pond sediments that do not meet Unregulated Fill guidelines are typically drained of free-liquids and disposed at a solid waste landfill.

## **2.3 River Dredge Material Management**

The LMRWD manages Minnesota River sediments dredged by the US Army Corps of Engineers (USACE) to maintain the Minnesota River 9-foot navigation channel from the confluence of the Mississippi River to river mile 14.7 in Savage, Minnesota (LMRWD, 2013). The dredged sediments are stored at the Cargill East River site, located at river mile 14.2 in Shakopee, Minnesota (LMWRD Dredge Facility). The LMRWD Dredge Facility is estimated to potentially store about 190,000 CY of dredged material at one time. An estimated 25,000 CY of sandy material is dredged annually by the USACE and managed at the LMRWD Dredge Facility. The USACE dredged material is dewatered prior to being taken offsite for beneficial reuse. Approximately 18,000 CY of mainly fine grained silty and clay sediments dredged from private terminals in this stretch of the river are also dewatered and managed at the LMRWD Dredge Facility for a fee prior to being taken offsite within the year (Burns & McDonnell and Young Environmental, 2017).

As one of the LMRWD's main activities is to manage dredge materials from the Minnesota River, the remainder of this memo focuses on dredge material management.

### **3 Minnesota Dredge Material Management BMPs**

The MPCA has two relevant guidance documents for managing dredge materials: 1) BMPs for the Management of Dredged Material (MPCA, 2014a) and 2) Managing Dredge\_Materials in Minnesota (MPCA, 2014b). The guidance indicates the following steps for determining the appropriate management method for dredged materials: perform grain size analysis, evaluate past industrial activities and sources of pollutants, and collect samples for analysis of pollutants likely to be present. If the grain size analysis indicates the material is predominantly sand (only 7 percent is finer than sand and passes the #200 sieve), the material is deemed by the guidance to be unlikely to contain contaminants and does not need chemical analysis. USACE dredge materials from the Minnesota River were previously reported to be predominantly sand (7 percent or less fines) with an average of 1 to 4% silt and clays (USACE, 2007), indicating the material and does not warrant chemical analysis based on the Minnesota BMP (MPCA, 2014a/b). The USACE also reported that materials from private dredging typically tested as having 30% silts and clays, which would warrant chemical analysis (USACE, 2007). Barr did not evaluate grain size data sets from the Minnesota River for this assessment, so we assume for the purposes of this memo that dredge materials are tested for chemical analyses as part of the LMRWD dredge material management plans.

Management of dredge materials originating from the Minnesota River downstream of River Mile 27 (which is approximately two miles upstream of the CSAH 101 crossing at Shakopee) requires a permit under the State Disposal System for disposal or reuse of dredged materials (MPCA, 2014b) if the quantity of dredged material is 3,000 cubic yards or more (MPCA, 2014b).

The Dredge Material BMP defines the following management categories for sediment based on chemical concentrations (MPCA, 2014b):

- Level 1 Dredged Material is suitable for reuse on residential or recreational properties and is characterized as being at or below analyte concentrations for all of the Tier 1 SRVs (a.k.a. Residential/Recreational SRVs).
- Level 2 Dredged Material is suitable for use or reuse on properties with an industrial use category and is characterized as being at or below analyte concentrations for Tier 2 SRVs (a.k.a. commercial/industrial SRVs).
- Level 3 Dredged Material is not suitable for use or reuse and is classified as having one or more analyte concentrations being greater than Tier 2 (commercial/industrial) SRVs.

Dredged material, if not excluded from additional analysis as determined using the grain size analysis described above, is to be analyzed for a baseline list of sediment parameters as well as other pollutants with a reasonable likelihood to be present in the dredged material based on an evaluation of past



industrial activities. The lists of baseline sediment parameters and additional sediment parameters for which the MPCA has established SRVs is shown on Table 1.

## 4 SRV Updates

The SRVs established in 2009 were applied for many years, with only minor updates or additions as information developed regarding toxicity for select, limited chemicals. In 2014, MPCA published draft revised methodology and SRVs for public comment. Several iterations of draft SRVs were provided and new SRVs and technical guidance were finalized and published in January 2021. Updates to the MPCA SRVs and associated technical guidance occurred in 2022

The changes in the SRVs, comparing 2009, 2021 and 2022 values are shown in Table 1 (residential/recreational SRVs) and Table 2 (commercial/industrial SRVs) for those chemicals on the sediment parameter lists for dredge materials (MPCA, 2014b). PFAS, while not on the sediment list, are also included, and discussed further below. In general, most of the residential SRVs decreased from 2009 to 2021 due to changes in toxicity information, assumptions and default values used for the risk-based calculations of these screening levels. Fewer SRVs decreased for the industrial/commercial land use, and some, including naphthalene, benzo(a)pyrene equivalents and copper increased significantly from 2009 to 2022. Between 2021 and 2022, fewer SRVs changed, but those that did decreased.

Notable changes to the SRVs and technical guidance in 2021 and 2022 include the following:

- Prior to 2021, individual SRVs were published for these four land use scenarios: residential, recreational, industrial, and short-term worker. In 2020, the categories were reduced to two: residential/recreational and commercial/industrial. The MPCA updated their SRVs and technical guidance again in 2022 and has indicated they plan to provide annual updates to the SRVs.
- Calculation of some SRVs based on the risk-based equations resulted in very low values, below either naturally-occurring levels (e.g. arsenic) or typical urban anthropogenic background levels (e.g. benzo(a)pyrene) in soil. For these chemicals, the SRVs were set at the background levels, as MPCA has recognized that cleaning up soil to levels below background concentrations is not feasible or practicable. It should be noted that some background concentrations in soil are also higher than SLVs (especially for metals); use of SLVs to assess contaminant levels should also consider background concentrations in decision-making.
- Previous SRVs accounted for both acute (short term) and chronic (long term) exposures. The 2021 revision separated acute from chronic SRVs for the residential exposure scenario for chemicals with acute toxicity risk. For the sediment parameter list, these include arsenic, barium, cadmium, copper, cyanide and nickel. It should be noted that the acute SRVs for barium and copper are more than an order of magnitude lower than the chronic SRVs.
- The technical guidance for assessing risk from carcinogenic PAHs (cPAHs) is assessed by calculating a toxic equivalency to benzo(a)pyrene. There are different cPAH parameter lists published for sediments than there are for soils, but after the 2021 update, both the MPCA soil and sediment guidance documents indicate the benzo(a)pyrene equivalents are to be calculated

using Kaplan Meier statistical methods. When analyzing for PAHs, the correct parameter list, and an understanding of the methods for calculating the cPAH equivalents are required.

## **5 Impact of Changes in SRVs to Management of Dredge Material**

To assist in predicting how changes in the SRVs may impact LMRWD management of dredge material, data from the Minnesota River sediments collected between 1978 and 2007 as reported in the Dredge Material Site Management Plan (LMRWD, 2013) was compared to 2022 MPCA Residential/Recreational SRVs and SLVs to assess whether it meets MPCA Unregulated Fill guidelines (MPCA, 2012) and Level 1 category for dredged material management (MPCA, 2014b). The results are shown on Table 3.

The only parameter above SLVs or the Residential/Recreational SRV was manganese. The manganese Residential SRV decreased from 3,600 mg/kg in 2009 to 730 mg/kg in 2022. Nearly all manganese results were also above the SLV of 130 mg/kg. The manganese concentrations in the Minnesota River sediments are consistent with naturally-occurring background levels in soil (USGS, 2013), and may be partially attributed to the geochemical composition of the sediments or a result of inputs to the river through runoff from soils. While The MPCA recognizes that some naturally-occurring levels of metals in soils are above SRVs or SLVs, the presence of chemical concentrations above these Unregulated Fill screening levels may limit the ability to sell the dredged materials in the private market for beneficial reuse.

A comparison of more recent USACE sediment data, if available, would be useful for assessing the potential for cost impacts to LMWRD for managing dredge material and evaluating if it is suitable for beneficial reuse.

The MPCA has indicated they intend to update the SRVs on an annual basis, so LMRWD should consider potential changes to SRVs in the long term management plan for dredged materials. If sediments are sampled and analyzed for chemical analysis, the data should be compared to the most recent SRVs in determining beneficial reuse. If the material is stored on the site for more than a year, re-evaluation of the sediment data using updated SRVs may be warranted prior to removing the material from the site for offsite reuse. It should be anticipated that projects receiving the dredged soil for reuse will be making comparisons to current SRVs.

Barr is not aware of MPCA revisiting past soil management and reuse decisions at off-site locations based on then-current SRVs/SLVs, but as MPCA continues to adjust their values, there is some risk that past reuse of sediments at off-site locations may come under new scrutiny in the future if testing is conducted as part of a construction or remediation project.

## **6 PFAS Monitoring Plan**

On March 22, 2022, the MPCA published the final version of its PFAS Monitoring Plan (MPCA, 2022). The plan addresses issues identified in Minnesota's PFAS Blueprint (MPCA, 2021), released in February 2021, and responds to public comments submitted to the MPCA. Given the wide-spread use of PFAS over the past 70 years and their persistence, they are considered ubiquitous in the environment. Therefore, to

address PFAS broadly and consistently the MPCA is taking a statewide and coordinated approach across their permitting and cleanup programs as document in their PFAS Monitoring Plan.

In general, the MPCA's approach has been to initiate sampling across select industries and sites, and then develop future efforts based on the results. Looking ahead, MPCA's approach is expected to expand PFAS sampling over time and will result in an evolving regulatory approach as more information is developed.

The plan addresses monitoring requirements under five different MPCA programs:

- Air Program. Selected permitted facilities via emissions inventory reporting and stack testing;
- Wastewater Program. Subset of municipal wastewater treatment plants and industrial facilities via influent monitoring;
- Solid Waste/Hazardous Waste Program. Selected facilities via leachate or groundwater sampling;
- Industrial Stormwater Program. Selected airports, chrome plating facilities, and automotive shredding facilities via stormwater sampling; and
- Remediation Program: Phased program with additional specific guidance forthcoming.

The MPCA relied on a set of North American Industry Classification System (NAICS) codes to identify facilities that are likely to have used, emitted or discharged PFAS. The monitoring plan ultimately listed over 400 specific facilities in the "initial" phase of monitoring, including 169 manufacturing/industrial facilities, 8 regional airports, 145 landfills/solid waste management facilities, and 91 municipal wastewater treatment plants. The plan notes a differentiation between facilities that may be a source of PFAS (e.g. industrial facilities that used PFAS) and facilities that are likely "conduits" for PFAS into the environment (e.g., waste management, recycling, etc.)

The MPCA's stated intention is to have the monitoring plan "avoid duplication" for a specific facility (e.g., sampling under multiple MPCA programs or for multiple media). However, the plan clearly states that sampling of other media, under additional programs may be required after the initial phase (e.g., results of stack testing may lead to a request for industrial stormwater sampling). The identified facilities began receiving MPCA letters requesting sampling in mid-2022. While dredge material or sediment sampling for PFAS is not explicitly mentioned in the PFAS Monitoring Plan, such activities may potentially follow findings of PFAS impacts in stormwater or wastewater discharges to the Minnesota River.

The MPCA's PFAS Monitoring Plan leverages existing program and permit structures to require PFAS sampling at facilities. Although there does not appear to be an immediate requirement for LMRWD facilities to sample or address PFAS in the MPCA PFAS Monitoring Plan, this may be a future requirement if, for example, PFAS sources are found to be located near USACE or private dredge sites in the LMRWD. Although Barr has not completed an exhaustive review, the following facilities within the watershed are types of facilities that are likely to have used, discharged, emitted, and/or 'served as conduits' for PFAS: Blue Lake Wastewater Treatment Plant, Seneca Wastewater Treatment Plant, Flying Cloud Airport, Minneapolis/St. Paul International Airport, and numerous dumps and landfills (operating or historical).

Note as precedent, that the MPCA has investigated, and found, PFAS impacts in sediments in the Mississippi River (MPCA, 2013). Additionally, MPCA has listed 25 bodies of water in the state on its impaired waters list due to impacts from PFAS (MPCA, 2022e). While there is currently no statewide value for PFAS chemicals in surface water, MPCA has developed a site-specific water quality criteria (SSWQC) for perfluorooctane sulfonic acid (PFOS) protective of fish consumption in an area around Lake Elmo, Bde Maka Ska, and Pool 2 of the Mississippi River. Specifically, the SSWQC is 0.05 parts per trillion (ppt) PFOS, which is below current laboratory quantitative limits. (<https://www.pca.state.mn.us/waste/water-quality-criteria-development-pfas>). MPCA has acknowledged that such low values (derived from risk-based calculations and modeling) may be challenging to measure and attain in practice, but MPCA has also indicated that permit conditions for facilities that directly discharge to these impaired waterbodies are being evaluated for additional requirements where necessary.

Current SRVs for PFAS are shown on Tables 1 and 2, but future SRV updates are expected to result in lower SRVs for PFAS given evolving understanding of PFAS toxicity and other regulatory trends in other PFAS screening levels.

Another recent development for monitoring PFAS is the emerging concept of world-wide background concentrations of PFAS which is being monitored in rainfall and surface soils across widely distributed areas and land uses. As this concept advances, it may be another factor in distinguishing PFAS sources from specific industries verses baseline or background concentrations that are more ubiquitous. We are not aware that MPCA has developed a current position on this concept, but Barr believes it will emerge as a topic of interest as more PFAS data is collected across the state and beyond.

Given the airports, wastewater treatment plants and solid waste disposal and recycling facilities in the watershed, there is potential for PFAS to have been discharged to the Minnesota River through overland stormwater flow or direct discharges. The PFAS identified in the Mississippi River sediments is also indicative of potential PFAS presence upstream in the Minnesota River sediments. Given the general decreasing trends in PFAS regulatory criteria and screening levels, and the increase in monitoring across various Minnesota programs, it is likely that sampling of Minnesota River sediments for PFAS analysis may follow other monitoring programs. Due to the ubiquitous nature of PFAS and the persistence of these compounds in the environment, sampling of Minnesota River sediments may identify PFAS, and given the general decreasing trend in PFAS criteria, options for beneficial reuse of dredged materials may become more limited due to difficulty in meeting the increasingly lower PFAS SRVs. Presence of PFAS in dredged materials stored at the LMWRD Dredge Facility may also require controls to address runoff from stockpiles and leachate to the surrounding soil and groundwater and river.

**Attachments:**

Table 1 – Summary of MPCA Residential/Recreational Soil Reference Value Changes, 2009 – 2022, Sediment Parameter List and PFAS

Table 2 – Summary of MPCA Commercial/Industrial Soil Reference Value Changes, 2009 – 2022, Sediment Parameter List and PFAS

Table 3 – Minnesota River Sediment Chemical Data

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**To:** Della Young, Young Environmental Consulting Group  
**From:** Jenni Brekken  
**Subject:** MPCA Soil Criteria Review for LMRWD  
**Date:** August 25, 2022  
**Page:** 10

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Table 1  
 Summary of MPCA Residential/Recreational Soil Reference Value Revisions, 2009 - 2022  
 Sediment Parameter List and PFAS

Chemical	Baseline Sediment Parameter List	Additional Sediment Parameter List	CAS No.	Most Recent SRV Revision Year	2021 Res/Rec Acute SRV* (mg/kg)	2022 Res/Rec Acute SRV (mg/kg)	Comparison Acute SRVs: 2022 to 2021 (% change)	2009 Residential SRV (mg/kg)	2021 Res/Rec Chronic SRV (mg/kg)	2022 Res/Rec Chronic SRV (mg/kg)	Comparison: Chronic SRVs 2022 to 2009 (% change)	Comparison: Chronic SRVs 2022 to 2021 (% change)
<b>Inorganics</b>												
Arsenic	X		7440-38-2	2016	9	9	0%	9	9	9	0%	0%
Barium		X	7440-39-3	2022	250	260	4%	1100	3000	3100	182%	3%
Cadmium	X		7440-43-9	2016	8.8	9.1	3%	25	1.6	1.6	-94%	0%
Chromium III	X		16065-83-1	2016				44000	23000	23000	-48%	0%
Chromium VI	X		18540-29-9	2022				87	11	2.3	-97%	-79%
Copper	X		7440-50-8	2016	110	120	9%	100	2200	2200	2100%	0%
Cyanide		X	57-12-5	2016	7.1	7.3	3%	60	13	13	-78%	0%
Lead	X		7439-92-1	2022				300	300	200	-33%	-33%
Manganese		X	7439-96-5	2022				3600	2100	730	-80%	-65%
Mercury (inorganic)	X		7439-97-6	2022				0.5	3.1	2.7	440%	-13%
Nickel	X		various	2016	250	260	4%	560	170	170	-70%	0%
Selenium	X		7782-49-2	2022				160	77	78	-51%	1%
Zinc (except zinc phosphide)	X		7440-66-6	2022				8700	4600	4700	-46%	2%
<b>Per- and Polyfluoroalkyl Substances</b>												
Perfluorobutanesulfonic acid (PFBS)			375-73-5	2022						1.1		
Perfluorobutanoic acid (PFBA)			375-22-4	2022				77		49	-36%	
Perfluorooctanesulfonic acid (PFOS)			1763-23-1	2019				2.1	0.041	0.041	-98%	0%
Perfluorooctanoic acid (PFOA)			335-67-1	2019				2.1	0.24	0.24	-89%	0%
Perfluorohexanesulfonic acid (PFHxS)			355-46-4	2019					0.13	0.13		0%
Perfluorohexanoic acid (PFHxA)			307-24-4	2022						1.9		
<b>Polycyclic Aromatic Hydrocarbons</b>												
Acenaphthene		X	83-32-9	2022				1200	450	460	-62%	2%
Anthracene		X	120-12-7	2021				7880	2800	2800	-64%	0%
Benzo[a]pyrene (BaP equivalents)		X	50-32-8	2019				2	2	2	0%	0%
Fluorene		X	86-73-7	2021				850	390	390	-54%	0%
Naphthalene		X	91-20-3	2016				81	81	710%	0%	
Pyrene		X	129-00-0	2021				890	220	220	-75%	0%
Quinoline		X	91-22-5	2016				4	1.4	1.4	-65%	0%
<b>Polychlorinated Biphenyls</b>												
PCBs (Polychlorinated Biphenyls)	X		1336-36-3	2022				1.2	0.81	0.82	-32%	1%
<b>Pesticides</b>												
Aldrin		X	309-00-2	2016				1	0.45	0.45	-55%	0%
Chlordane		X	12789-03-6	2022				13	9.5	9.6	-26%	1%
4,4-DDD (Dichlorodiphenyldichloroethane)		X	72-54-8	2016				56	19	19	-66%	0%
4,4-DDE		X	72-55-9	2022				40	22	23	-43%	5%
4,4-DDT		X	50-29-3	2022				15	7.3	7.4	-51%	1%
Dieldrin		X	60-57-1	2016				0.8	0.11	0.11	-86%	0%
Endrin		X	72-20-8	2016				8	4	4	-50%	0%
Heptachlor		X	76-44-8	2016				2	1.6	1.6	-20%	0%
gamma-Hexachlorocyclohexane (gamma-BHC, Lindane)		X	58-89-9	2022				9	4.3	0.15	-98%	-97%
Toxaphene		X	8001-35-2	2022				13	4.1	1.2	-91%	-71%
<b>Dioxins and Furans</b>												
TCDD (2,3,7,8-) (2,3,7,8 TCDD equivalents, 2,3,7,8-Tetrachlorodibenzo-p-dioxin)		X	1746-01-6	2021				0.00002	0.000007	0.000007	-65%	0%

\* Acute SRV = Acute SRVs are published for select parameters. No Acute SRVs were established in 2009.

X = Baseline and Additional Sediment Parameter Lists from Managing Dredge Materials in the State of Minnesota. wq-gen2-01. April, 2014. <https://www.pca.state.mn.us/sites/default/files/wq-gen2-01.pdf>

See the MPCA SRV spreadsheet for a complete list of SRVs and detailed footnotes. <https://www.pca.state.mn.us/sites/default/files/c-r1-06.xlsx>

Table 2  
Summary of MPCA Commercial/Industrial Soil Reference Value Revisions, 2009 - 2022  
Sediment Parameter List and PFAS

Chemical	CAS No.	SRV Revision Year	Baseline Sediment Parameter List	Additional Sediment Parameter List	2009 Industrial SRV (mg/kg)	2021 Com/Ind Chronic SRV (mg/kg)	2022 Com/Ind Chronic SRV (mg/kg)	Comparison of 2022 SRV to 2009 SRV (% change)	Comparison of 2022 SRV to 2021 SRV (% change)
<b>Inorganics</b>									
Arsenic	7440-38-2	2016	X		20	9	9	-55%	0%
Barium	7440-39-3	2021		X	18000	41000	41000	128%	0%
Cadmium	7440-43-9	2016	X		200	23	23	-89%	0%
Chromium III	16065-83-1	2016	X		100000	100000	100000	0%	0%
Chromium VI	18540-29-9	2021	X		650	62	62	-90%	0%
Copper	7440-50-8	2016	X		9000	33000	33000	267%	0%
Cyanide	57-12-5	2016		X	5000	190	190	-96%	0%
Lead	7439-92-1	2022	X		700	700	460	-34%	-34%
Manganese	7439-96-5	2022		X	8100	26000	10000	23%	-62%
Mercury (inorganic)	7439-97-6	2016	X		1.5	3.1	3.1	107%	0%
Nickel	various	2016	X		2500	2600	2600	4%	0%
Selenium	7782-49-2	2016	X		1300	1200	1200	-8%	0%
Zinc (except zinc phosphide)	7440-66-6	2016	X		75000	70000	70000	-7%	0%
<b>Per- and Polyfluoroalkyl Substances</b>									
Perfluorobutanesulfonic acid (PFBS)	375-73-5	2022				77	15		-81%
Perfluorobutanoic acid (PFBA)	375-22-4	2022			500	280	250	-50%	-11%
Perfluorooctanesulfonic acid (PFOS)	1763-23-1	2022			14	0.56	0.54	-96%	-4%
Perfluorooctanoic acid (PFOA)	335-67-1	2022			13	3.2	3	-77%	-6%
Perfluorohexanesulfonic acid (PFHxS)	355-46-4	2022				1.7	1.6		-6%
Perfluorohexanoic acid (PFHxA)	307-24-4	2022					24		
<b>Polycyclic Aromatic Hydrocarbons</b>									
Acenaphthene	83-32-9	2021		X	5260	6800	6800	29%	0%
Anthracene	120-12-7	2021		X	45400	42000	42000	-7%	0%
Benzo[a]pyrene (BaP equivalents)	50-32-8	2019		X	3	23	23	667%	0%
Fluorene	86-73-7	2021		X	4120	5800	5800	41%	0%
Naphthalene	91-20-3	2021		X	28	280	280	900%	0%
Pyrene	129-00-0	2021		X	5800	3200	3200	-45%	0%
Quinoline	91-22-5	2016		X	7	7.8	7.8	11%	0%
PCBs (Polychlorinated Biphenyls)	1336-36-3	2016	X		8	10	10	25%	0%
<b>Pesticides</b>									
Aldrin	309-00-2	2021		X	2	2.6	2.6	30%	0%
Carbazole	86-74-8	2016		X	1310	1300	1300	-1%	0%
4,4-DDD (Dichlorodiphenyldichloroethane)	72-54-8	2016		X	125	100	100	-20%	0%
4,4-DDE	72-55-9	2021		X	80	130	130	63%	0%
4,4-DDT	50-29-3	2021		X	88	87	87	-1%	0%
Dieldrin	60-57-1	2016		X	2	1.5	1.5	-25%	0%
Endrin	72-20-8	2016		X	56	54	54	-4%	0%
Heptachlor	76-44-8	2021		X	3.5	8.9	8.9	154%	0%
gamma-Hexachlorocyclohexane (gamma-BHC, Lindane)	58-89-9	2022		X	15	25	2.1	-86%	-92%
Toxaphene	8001-35-2	2022		X		23	16		-30%
<b>Dioxins and Furans</b>									
TCDD (2,3,7,8-) (2,3,7,8 TCDD equivalents, 2,3,7,8-Tetrachlorodibenzo-p-dioxin)	1746-01-6	2021		X	0.000035	0.000028	0.000028	-20%	0%

X = Baseline and Additional Sediment Parameter Lists from Managing Dredge Materials in the State of Minnesota. wq-gen2-01. April, 2014. <https://www.pca.state.mn.us/sites/default/files/wq-gen2-01.pdf>  
See the MPCA SRV spreadsheet for a complete list of SRVs and detailed footnotes. <https://www.pca.state.mn.us/sites/default/files/c-r1-06.xlsx>

Table 2  
Minnesota River Sediment Chemical Data\*  
Lower Minnesota River Watershed District

		Record #	78507	402	301	302	303	78506	401	404			
		River Mile	14.7	14.6	14.52	14.51	14.5	14.5	14.4	13.4			
		Location	Above Savage RR Bridge	Above Savage RR Bridge	Above Savage RR Bridge	Above Savage RR Bridge	Above Savage RR Bridge	Above Savage RR Bridge	Above Savage RR Bridge	AB & BLW CARGILL			
		Year	1999	1989	1982	1982	1978	1999	1989	1989			
		MN Soil Leaching Values (June 2013)											
		MN Acute Residential/Recreational SRVs (April 2022)											
		MN Chronic Residential SRVs (April 2022)											
Criteria Exceedance Key		<b>Bold</b>	No Exceedances	Shaded									
CHC's	ug/kg	a-BHC		700	< 0.08	< 0.01		< 0.08	< 0.08	< 0.07			
	ug/kg	b-BHC		2500	< 0.08	< 0.2		< 0.08	< 0.16	< 0.15			
	ug/kg	BHC			< 0.08	< 0.3		< 0.08	< 0.24	< 0.22			
	ug/kg	2,4'-DDD											
	ug/kg	2,4'-DDE											
	ug/kg	2,4'-DDT											
	ug/kg	g-BHC (lindane)		150	< 0.08	< 0.13		< 0.08	< 0.11	< 0.1			
	ug/kg	Heptachlor		1600	< 0.10	< 0.1		< 0.10	< 0.08	< 0.07			
	ug/kg	Anthracene	1300000	2800000									
	ug/kg	Aldrin		450		< 0.13			< 0.11	< 0.1			
	ug/kg	Acenaphthene	81000	460000									
	ug/kg	Acenaphthylene											
	ug/kg	Benz(a)anthracene											
	ug/kg	Benzo(a)pyrene	1400	2000									
	ug/kg	Heptachlorepoxyde		280	< 0.12	< 0.17		< 0.12	< 0.13	< 0.12			
	ug/kg	Benzo(g,h,i)perylene											
	ug/kg	Benzo(b)fluoranthene											
	ug/kg	Benzo(k)fluoranthene											
	ug/kg	Endosulfan I				< 0.17			< 0.13	< 0.12			
	ug/kg	Dieldrin		110	< 0.04	< 0.17	< 0.1	< 0.1	< 1	< 0.04	< 0.13	< 0.12	
	ug/kg	4,4'-DDE		23000	< 0.04	< 0.13	< 0.1	< 0.1	< 0.1	< 0.04	< 0.11	< 0.1	
	ug/kg	Endrin		4000	< 0.06	< 0.3	< 0.1	< 0.1	< 1	< 0.06	< 0.24	< 0.22	
	ug/kg	Endosulfan II				< 0.33				< 0.26	< 0.25		
	ug/kg	4,4'-DDD		19000	< 0.06	< 0.36	< 0.1	< 0.1	< 0.06	< 0.29	< 0.27		
ug/kg	Endrinoldehyde				< 0.36				< 0.29	< 0.27			
ug/kg	Endosulfan sulfate				< 0.36				< 0.29	< 0.27			
ug/kg	4,4'-DDT		7400	< 0.18	< 0.43	< 0.1	< 0.1	< 4	< 0.18	< 0.34	< 0.32		
ug/kg	Methoxychlor				< 0.73				< 0.58	< 0.55			
ug/kg	Endrinetone				< 0.36				< 0.29	< 0.27			
ug/kg	alpha-Chlordane		9600										
ug/kg	Chlorodane		9600	< 0.20	< 1.98	< 1	< 1	< 0.20	< 1.58	< 1.49			
ug/kg	gamma-Chlordane		9600										
ug/kg	Oxychlordane			< 0.20				< 0.20					
ug/kg	Fluoranthene	670000	210000										
ug/kg	Toxaphene		1200		< 1.98				< 1.58	< 1.49			
ug/kg	Hexachlorobenzene		220										
ug/kg	Pyrene	440000	220000										
METALS	mg/kg	Ag (silver)	7.9	78									
	mg/kg	Al (aluminum)		19000									
	mg/kg	As (arsenic)	5.8	9	9	1.30	< 1.2	1.6	2.2	2.54	1.81	< 1.2	1.6
	mg/kg	B (boron)	62	3100									
	mg/kg	Ba (barium)	1700	260	3100								
	mg/kg	Be (beryllium)	2.7	31									
	mg/kg	Cd (cadmium)	8.8	9.1	1.6	< 0.03	< 1.3	< 0.2	< 0.19	1.18	< 0.03	< 1.3	< 1.3
	mg/kg	Cr (chromium)	36	23000	3.25	3.8	3.9	4.2	28.7	3.82	4.3	5	
	mg/kg	Cu (copper)	700	120	2200	1.72	8.7	2.9	3.3	12	2.04	13.3	4.8
	mg/kg	Fe (iron)		29000			4300	5500	10700				
	mg/kg	Hg (mercury)	3.3	2.7	0.0065	< 0.01	0.015	0.0165	0.031	0.0069	< 0.01	< 0.01	
	mg/kg	Mg (magnesium)											
	mg/kg	Mn (manganese)	130	730	143	254			419	931	263	232	
	mg/kg	Mo (molybdenum)	16	78									
	mg/kg	Ni (nickel)	180	260	170	6.14	7.5	7	7	16.7	8.27	< 6.4	7
	mg/kg	Pb (lead)	2700	200	5.0	4.4	4	4.4	44	6.3	4.6	3.6	
	mg/kg	Sb (antimony)	5.4	6.3									
	mg/kg	Se (selenium)	2.6	78		< 0.92					< 0.93	< 0.93	
	mg/kg	Sn (tin)	20000	4700									
	mg/kg	Sr (strontium)	2800	6700									
mg/kg	Ti (titanium)		40000										
mg/kg	Zn (zinc)	3000	4700	9.47					12.3				
mg/kg	V (vanadium)	4	62										
mg/kg	Chromium, Hexavalent	36	2.3										
PCB's	ug/kg	Aroclor-1016				< 0.24	< 1.98		< 0.24	< 1.58	< 1.49		
	ug/kg	Aroclor-1221				< 0.28	< 1.98		< 0.28	< 1.58	< 1.49		
	ug/kg	Aroclor-1232				< 0.26	< 1.98		< 0.26	< 1.58	< 1.49		
	ug/kg	Aroclor-1242				< 0.32	< 1.98		< 0.32	< 1.58	< 1.49		
	ug/kg	Aroclor-1248				< 0.22	< 1.98		< 0.22	< 1.58	< 1.49		
	ug/kg	Aroclor-1254				< 0.34	< 4.13		< 0.34	< 3.3	< 3.1		
	ug/kg	Aroclor-1260				< 0.32	< 4.13		< 0.32	< 3.3	< 3.1		
	ug/kg	Total PCB's	130	820									
PARTICLE SIZE %FINER	SAND	coarse	3 in						100				
			1 1/2				100	100	100				
			3/4				100	100	100				
			3/8				100	100	100				
		4			100.0	100	100	100	100	100	99.9456	100	
		8					100	100					
		10				99.8					98	99.7595	99.9211
		16				99.5	100	100			94	99.3005	99.3583
	medium	20											
		30			100	98.5	100	100		88	93.9681	92.8675	
		40			98		100	99					
		50				98.5	98	96			93.9681	92.8675	
	fine	60			80					48			
		70					87	79					
		80				84.8					83.0929	68.9342	
		100			16	13.5	58	50		10	10.3533	14.5539	
SILT	clay	140			7	8.5			50	6.36015858	9.9257696		
		200			2	4.8	31	36	34	2	4.39382985	7.1811026	
		270			1	4.5	25	32		1	2.93210559	5.17041208	
		0.20 mm				3.5	11	19			2.14905649	3.62252512	
0.05 mm				2.1	5	8	21		1	2.09050416			
MISC	mg/kg	Total Organic Carbon											
	%	Total Organic Carb		0.04	0.4				0.03	0.91	1.13		
	mg/kg	Chem Oxy Demand				10000	10580	19700					
	mg/kg	Kiedahl Nitrogen				440	520	740					
	mg/kg	Phosphorus (as P)				290	230	561					
	mg/kg	Oil and Grease											
	mg/kg	Cyanide, Total	20	7.3	13	< 0.20			< 0.20				
	mg/kg	Ammonia											
	mg/l	Ammonia Elutriate											
	%	Moisture				0.2				0.2			
	%	Total Solids				99.8				99.8			
	gVS/gTS	Total Volatile Solids											
%	Volatile Solids				0.41				0.54				
mg/kg	Phenolics, Total												

\* Data table reproduced from Cargill East River (MN - 14.2 RMP) Dredge Material Site Management Plan, Lower Minnesota River Watershed District, Appendix A: Chemical Analyses Data for the Minnesota River.

Table 3  
Minnesota River Sediment Chemical Data\*  
Lower Minnesota River Watershed District

		Record #	304	305	403	78505	306	405	78504					
		River Mile	13.21	13.2	13.2	12.9	12.5	12.4	12.3					
		Location	AB & BLW CARGILL	AB & BLW CARGILL	AB & BLW CARGILL	Cargill	AB&BW PETERSON BAR	AB&BW PETERSON BAR	Peterson's Bar					
		Year	1979	1979	1989	10/17/2007	1999	1980	1989					
		MN Soil Leaching Values (June 2013)												
		MN Acute Residential/Recreational SRVs (April 2022)												
		MN Chronic Residential SRVs (April 2022)												
Criteria Exceedance Key		<b>Bold</b>	No Exceedances	Shaded										
CHC's	ug/kg	a-BHC				< 0.11	< 0.08	< 0.07	< 0.08					
	ug/kg	b-BHC				< 0.21	< 0.08	< 0.14	< 0.08					
	ug/kg	BHC				< 0.32	< 0.08	< 0.22	< 0.08					
	ug/kg	2,4'-DDD					< 4							
	ug/kg	2,4'-DDE					< 4							
	ug/kg	2,4'-DDT					< 4							
	ug/kg	g-BHC (lindane)				< 0.14	< 0.08	< 0.1	< 0.08					
	ug/kg	Heptachlor				< 0.11	< 0.10	< 0.07	< 0.10					
	ug/kg	Anthracene	1300000				< 0.79							
	ug/kg	Aldrin				< 0.14		< 0.1						
	ug/kg	Acenaphthene	81000				< 0.71							
	ug/kg	Acenaphthylene					< 1.0							
	ug/kg	Benz(a)anthracene					1.8							
	ug/kg	Benzo(a)pyrene	1400				1.7							
	ug/kg	Heptachlor epoxide				< 0.18	< 0.12	< 0.12	< 0.12					
	ug/kg	Benzo(g,h,i)perylene					1.6							
	ug/kg	Benzo(b)fluoranthene					3.1							
	ug/kg	Benzo(k)fluoranthene					0.94							
	ug/kg	Endosulfan I				< 0.18		< 0.12						
	ug/kg	Dieldrin		110	0	< 0.18	< 3.2	< 0.04	0	< 0.12				
	ug/kg	4,4'-DDE		23000	0	< 0.14	< 3.5	< 0.04	0	< 0.1				
	ug/kg	Endrin		4000	0	< 0.32	< 0.06	< 0.06	0	< 0.22				
	ug/kg	Endosulfan II				< 0.35			< 0.24					
	ug/kg	4,4'-DDD		19000	0	< 0.39	< 3.7	< 0.06	0	< 0.26				
	ug/kg	Endrin aldehyde				< 0.39			< 0.26					
	ug/kg	Endosulfan sulfate				< 0.39			< 0.26					
	ug/kg	4,4'-DDT		7400	0	< 0.46	< 4.2	< 0.18	0	< 4.8				
	ug/kg	Methoxychlor				< 0.77			< 0.53					
	ug/kg	Endrin ketone				< 0.39			< 0.26					
	ug/kg	alpha-Chlordane				9600	< 1.7							
ug/kg	Chlordane				9600	0	< 2.11	< 0.20	0					
ug/kg	gamma-Chlordane				9600	< 1.6		< 1.44	< 0.20					
ug/kg	Oxychlorane						< 0.20		< 0.20					
ug/kg	Fluoranthene	670000			210000	5								
ug/kg	Toxaphene				1200	< 2.11		< 1.44						
ug/kg	Hexachlorobenzene				220	< 2								
ug/kg	Pyrene	440000			220000	4.3								
METALS	mg/kg	Ag (silver)	7.9											
	mg/kg	Al (aluminum)												
	mg/kg	As (arsenic)	5.8	9	9	0	0	2.7	0.97	1.89	0	1.8	1.16	
	mg/kg	B (boron)	62											
	mg/kg	Ba (barium)	1700	260	3100	40	80				40			
	mg/kg	Be (beryllium)	2.7											
	mg/kg	Cd (cadmium)	8.8	9.1	1.6	< 10	< 10	< 1.6	< 1.0	< 0.03	< 10	< 1.2	< 0.03	
	mg/kg	Cr (chromium)	36			< 10	< 10	8.1	4.7	3.81	20	3.4	2.96	
	mg/kg	Cu (copper)	700	120	2200	< 10	< 10	15	1.9	2.18	< 10	3.9	1.24	
	mg/kg	Fe (iron)				29000	3800	9700				2600		
	mg/kg	Hg (mercury)	3.3			2.7	0	0	< 0.02	< 0.10	0.0052	0	< 0.01	
	mg/kg	Mg (magnesium)												
	mg/kg	Mn (manganese)	130			730	160	720	56.8	218	242	170	163	154
	mg/kg	Mo (molybdenum)	16			78								
	mg/kg	Ni (nickel)	180	260	170	< 10	20	9.4	< 0.10	7.92	< 10	< 6.2	6.12	
	mg/kg	Pb (lead)	2700			200	< 10	20	5.8	2.5	6.3	< 10	3	4.7
	mg/kg	Sb (antimony)	5.4			6.3								
	mg/kg	Se (selenium)	2.6			78			< 1.2				< 0.89	
	mg/kg	Sn (tin)	20000			4700								
	mg/kg	Sr (strontium)	2800			6700								
mg/kg	Ti (titanium)				40000									
mg/kg	Zn (zinc)	3000			4700			12.1	11.1			8.12		
mg/kg	V (vanadium)	4			62									
mg/kg	Chromium, Hexavalent	36			2.3			< 5.9						
PCB's	ug/kg	Aroclor-1016				< 2.11	< 50	< 0.24		< 1.44	< 0.24			
	ug/kg	Aroclor-1221				< 2.11	< 50	< 0.28		< 1.44	< 0.28			
	ug/kg	Aroclor-1232				< 2.11	< 50	< 0.26		< 1.44	< 0.26			
	ug/kg	Aroclor-1242				< 2.11	< 50	< 0.32		< 1.44	< 0.32			
	ug/kg	Aroclor-1248				< 2.11	< 40	< 0.22		< 1.44	< 0.22			
	ug/kg	Aroclor-1254				< 4.4	< 50	< 0.34		< 3	< 0.34			
	ug/kg	Aroclor-1260				< 4.4	< 40	< 0.32		< 3	< 0.32			
	ug/kg	Total PCB's	130			820					< 3	< 0.32		
PARTICLE SIZE %FINER	SAND	coarse	3 in			100	100				100			
			1 1/2			100	100				100			
			3/4			100	100				100			
			3/8			100	100				100			
		4			100	100	99.4659	99.14	99	100	99.3761			
		8								100				
		10			100	100	99.339	64.29	97		98.6943			
		16					98.8504		93	100	96.2073	100		
	20			100	100		84.45							
	30					96.6491		95		83.8046	99			
	40			100	100		66.31	71	99		95			
	50					96.6491				83.8046				
	60						33.37	37			39			
	70													
	80			92	80	92.6698	6.97				41.9038			
	100					42.5172	5.26	6	42		17.4719	4		
140					26.39172056		3		10.74500323	2				
SILT	clay	200			12	46	17.37520712	2.87	1	20	6.81403086	1		
		270					11.90172384				4.65926604			
		0.20 mm			5	35	8.54970672			7	3.29043663			
		0.05 mm			2	19	4.54007512			2	2.30048832			
MISC	mg/kg	Total Organic Carbon					< 85							
	%	Total Organic Carb				1.02		0.03		1.11	0.02			
	mg/kg	Chem Oxy Demand		8700	29000				5300					
	mg/kg	Kiedahl Nitrogen		1300	4100		170		1600					
	mg/kg	Phosphorus (as P)		400	510		280							
	mg/kg	Oil and Grease												
	mg/kg	Cyanide, Total	20	7.3	13		< 0.20	< 0.20			< 0.20			
	mg/kg	Ammonia					6.5							
	mg/l	Ammonia Elutriate												
	%	Moisture					25.57	0.2			0.2			
	%	Total Solids					74.43	99.8			99.8			
	gVS/gTS	Total Volatile Solids					0.013							
%	Volatile Solids						0.35			0.25				
mg/kg	Phenolics, Total						1.5							

\* Data table reproduced from Cargill East River (MN - 14.2 RMP) Dredge Material Site Management Plan, Lower Minnesota River Watershed District, Appendix A: Chemical Analyses Data for the Minnesota River.

Table 3  
Minnesota River Sediment Chemical Data\*  
Lower Minnesota River Watershed District

		Record #	307	78503	406	78502	308	78501				
		River Mile	12	12.0	11.7	11.5	11.4	11.0				
		Location	AB&BW PETERSON BAR	Peterson's Bar	AB&BW PETERSON BAR	Blw Peterson's Bar	AB&BW PETERSON BAR	Blw Peterson's Bar				
		Year	1975	1999	1989	1999	1980	10/17/2007				
		MN Soil Leaching Values (June 2013)	MN Acute Residential/Recreational SRVs (April 2022)	MN Chronic Residential SRVs (April 2022)								
Criteria Exceedance Key		<b>Bold</b>	No Exceedances	Shaded								
CHC's	ug/kg	a-BHC		700		< 0.08	< 0.09	< 0.08		< 0.08		
	ug/kg	b-BHC		2500		< 0.08	< 0.18	< 0.08		< 0.08		
	ug/kg	BHC				< 0.08	< 0.27	< 0.08		< 0.08		
	ug/kg	2,4'-DDD							< 4			
	ug/kg	2,4'-DDE							< 4			
	ug/kg	2,4'-DDT							< 4			
	ug/kg	g-BHC (lindane)		150		< 0.08	< 0.12	< 0.08		< 0.08		
	ug/kg	Heptachlor		1600		< 0.10	< 0.09	< 0.10		< 0.10		
	ug/kg	Anthracene	1300000	2800000					1.4			
	ug/kg	Aldrin		450			< 0.12					
	ug/kg	Acenaphthene	81000	460000					< 0.71			
	ug/kg	Acenaphthylene							< 1.0			
	ug/kg	Benz(a)anthracene							8.4			
	ug/kg	Benzo(a)pyrene	1400	2000					9.8			
	ug/kg	Heptachlorepoxyde		280		< 0.12	< 0.15	< 0.12		< 0.12		
	ug/kg	Benzo(g,h,i)perylene							6.2			
	ug/kg	Benzo(b)fluoranthene							19			
	ug/kg	Benzo(k)fluoranthene							5.6			
	ug/kg	Endosulfan I					< 0.15					
	ug/kg	Dieldrin		110		< 0.04	< 0.15	< 0.04	0.5	< 3.2	< 0.04	
	ug/kg	4,4'-DDE		23000		< 0.04	< 0.12	< 0.04	0	< 3.5	< 0.04	
	ug/kg	Endrin		4000		< 0.06	< 0.27	< 0.06	0		< 0.06	
	ug/kg	Endosulfan II					< 0.3					
	ug/kg	4,4'-DDD		19000		< 0.06	< 0.33	< 0.06	0.8	< 3.7	< 0.06	
	ug/kg	Endrinoldehyde					< 0.33					
	ug/kg	Endosulfan sulfate					< 0.33					
	ug/kg	4,4'-DDT		7400		< 0.18	< 0.4	< 0.18	0	< 4.2	< 0.18	
	ug/kg	Methoxychlor					< 0.67					
	ug/kg	Endrinetone					< 0.33					
	ug/kg	alpha-Chlordane		9600						< 1.7		
	ug/kg	Chlordane		9600		< 0.20	< 1.82	< 0.20	1		< 0.20	
	ug/kg	gamma-Chlordane		9600						< 1.6		
ug/kg	Oxychlordane				< 0.20		< 0.20			< 0.20		
ug/kg	Fluoranthene	670000	210000						26			
ug/kg	Toxaphene		1200			< 1.82						
ug/kg	Hexachlorobenzene		220						< 2			
ug/kg	Pyrene	440000	220000						21			
METALS	mg/kg	Ag (silver)	7.9	78								
	mg/kg	Al (aluminum)		19000								
	mg/kg	As (arsenic)	5.8	9	9	0.83	1.43	3.2	1.13	0	1.2	3.44
	mg/kg	B (boron)	62	3100								
	mg/kg	Ba (barium)	1700	260	3100					60		
	mg/kg	Be (beryllium)	2.7	31								
	mg/kg	Cd (cadmium)	8.8	9.1	1.6	< 0.1	< 0.03	< 1.6	< 0.03	< 10	< 1.0	0.17
	mg/kg	Cr (chromium)	36	23000	7	3.30	7.1	3.07	10	5.3	5.60	
	mg/kg	Cu (copper)	700	120	2200	2.8	1.67	12.1	2.17	< 10	2.5	3.97
	mg/kg	Fe (iron)		29000						5200		
	mg/kg	Hg (mercury)	3.3	2.7	0.13	< 0.0048	< 0.02	< 0.0048	0	< 0.10	0.0058	
	mg/kg	Mg (magnesium)										
	mg/kg	Mn (manganese)	130	730			235	59.3	160	660	203	357
	mg/kg	Mo (molybdenum)	16	78								
	mg/kg	Ni (nickel)	180	260	170		7.32	11.5	6.54	10	4.7	12.3
	mg/kg	Pb (lead)	2700	200	< 0.1	5.8	11.6	6.4	10	2.5	9.2	
	mg/kg	Sb (antimony)	5.4	6.3								
	mg/kg	Se (selenium)	2.6	78			2.2					
	mg/kg	Sn (tin)	20000	4700								
	mg/kg	Sr (strontium)	2800	6700								
mg/kg	Ti (titanium)		40000									
mg/kg	Zn (zinc)	3000	4700		9.29		8.53		13.6	19.3		
mg/kg	V (vanadium)	4	62									
mg/kg	Chromium, Hexavalent	36	2.3							< 5.8		
PCB's	ug/kg	Aroclor-1016				< 0.24	< 1.82	< 0.24		< 50	< 0.24	
	ug/kg	Aroclor-1221				< 0.28	< 1.82	< 0.28		< 50	< 0.28	
	ug/kg	Aroclor-1232				< 0.26	< 1.82	< 0.26		< 50	< 0.26	
	ug/kg	Aroclor-1242				< 0.32	< 1.82	< 0.32		< 50	< 0.32	
	ug/kg	Aroclor-1248				< 0.22	< 1.82	< 0.22		< 40	< 0.22	
	ug/kg	Aroclor-1254				< 0.34	< 3.8	< 0.34		< 50	< 0.34	
	ug/kg	Aroclor-1260				< 0.32	< 3.8	< 0.32		< 40	< 0.32	
	ug/kg	Total PCB's	130	820								
PARTICLE SIZE %FINER	SAND	coarse	3 in	100					100			
			1 1/2	100				100				
			3/4	100				100				
			3/8	100				100				
			4	99	100	100		100	100			
		medium	8	95				100				
			10		97	99.9173	100		99.89	100		
			16	84	92	99.6276	99	100		97		
			20						99.04			
			30		84	98.5519	98			84		
	fine	40	41	76		94	98	95.1				
		50			98.5519							
		60		37		38		64.79	54			
		70										
		80			81.6715			27.25				
		100	6	4	52.1307		83	21.89	31			
		140		1	40.47394665	2			21			
SILT	clay	200	2		26.9826311	1	70	13.16	13			
		270			17.59732573				7			
		0.20 mm			13.27129692		33					
		0.05 mm			9.16528674		18					
MISC	mg/kg	Total Organic Carbon							< 84			
	%	Total Organic Carb			0.01	1.2	0.02			0.18		
	mg/kg	Chem Oxy Demand		1950				31000				
	mg/kg	Kiedahl Nitrogen					3700	300				
	mg/kg	Phosphorus (as P)						270				
	mg/kg	Oil and Grease										
	mg/kg	Cyanide, Total	20	7.3	13	< 0.20		< 0.20	< 0.20	< 0.20		
	mg/kg	Ammonia							16			
	mg/l	Ammonia Elutriate										
	%	Moisture				0.2		0.1	24.88	0.7		
	%	Total Solids				99.8		99.9	75.12	99.3		
gVS/gTS	Total Volatile Solids							0.013				
%	Volatile Solids				0.49		0.29		0.95			
mg/kg	Phenolics, Total							6.2				

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