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| Metropolitan Council | | The plan meets the requirements for a watershed management plan and is consistent with Council policies and the Council's <i>Water Resources Policy Plan</i> . | Noted. |
| Metropolitan Council | Appendix K, (Standards), numbers 4.2.2, 10.2.2, and 10.3.2; HVRA Overlay District | These sections seem to be saying that the District will regulate groundwater appropriations of less than 10,000 gallons per day or 1 million gallons per year in High Value Resource Area overlay districts. It is unclear how this standard will be implemented, specifically: a) Will the District or the local government enforce it? b) the estimated cost for implementation, c) which line item in Table 4.1 (Implementation Project Budget 2018-2027) funding is unclear. | The District plans to implement and enforce the regulation. The cost for implementation is captured in the administrative and managerial line item in Table 4-1. |
| Metropolitan Council | Modified Bluff Standard | Council staff have concerns over the proposed standards. Minnesota Department of Natural Resources (MDNR) has guidance for Bluff and Steep Slopes that can be found at: (http://files.dnr.state.mn.us/publications/waters/shoreland_rules_fact_sheet_bluff_management.pdf). While the District's definition of 'bluff' appears to be the same, but the definition of 'steep slopes' appears to be less restrictive than the MDNR's. MDNR considers steep slope lands as "having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs" according to the fact sheet, while LMRWD's definition is "a natural topographic feature having a slope that rises at least 25 feet above the ordinary high water level, or toe of the slope to the top of the slope, and the grade of the slope averages 18 percent or greater, measured over a horizontal distance of 25 feet". These two definitions are markedly different. We strongly encourage the District to use the MDNR's guidance as they set new bluff and steep slope standards. | Noted. The District modified the definition of steep slopes as follows: A natural topographic feature having average slopes of 18 percent or greater that is measured over a horizontal distance of 25 feet or more. The revised definition provides more protection for steep slopes than the Minnesota Department of Natural Resources' definition. |
| Minnesota Board of Water and Soil Resources | General Comment | BWSR would like to recognize the positive strides the District has made in recent years in its commitment to the implementation of programs and projects as well as taking a greater leadership role in the management of water resources in the Minnesota River watershed. We also support the increased role in the identification of necessary rules/standards to prevent further degradation and protect sensitive areas. | Thank you for your continued partnership and support. |
| Minnesota Board of Water and Soil Resources | Executive Summary: Page vi. | The District should consider resource outcomes/changes in behavior when measuring Public Education and Outreach. | To address the behavior comment, the District intends to post event survey feedback online to gauge whether the District's education and outreach efforts are generating the intended outcomes. |
| Minnesota Board of Water and Soil Resources | Introduction: Table I-2 | Table I-2 provides a list of accomplishments from 2010 to present. The table lacks resource outcomes for many of the items. For example, when the District contributes funding to a project, it should also note the water resource benefits from that project in a measurable way. The metrics could be referenced in the Appendix or on the District's website on a project page. | Section I5. 2010 – Present Accomplishments has been modified to include the following: All of the projects and activities the District participates in are prioritized as follows: Benefited resources, outcomes, urgency, partnering opportunities, and readiness. Projects with quantifiable and/or qualitative outcomes associated with the District's high value resources (e.g., fens, trout lakes, and trout streams) received priority funding. Also, the District has a new website, and the project information mentioned will be added to the website. |
| Minnesota Board of Water and Soil Resources | Introduction, Page I-8 | Page I-8 has typographical errors in the box for the Dakota County Fens Project. | The project description has been modified to read: <i>The District reviewed 2011–2015 monitoring data collected on fens in the Dakota County. The review . . .</i> |
| Minnesota Board of Water and Soil Resources | Goals, Policies, and Management Strategies | The District is using the number of studies and projects implemented as its short term metric for water quality progress, but it does not account for the effectiveness of each project. The District should consider intermediate goals based on reduction of or protection from nutrients specifically targeted for those resources. | The suggested inclusion of intermediate goals based on nutrient reduction/protection is addressed in the long-term metric. Evidence of change(s) resulting from a project or program often takes several years to manifest. Nevertheless, monitoring information will be collected annually, and evidence of nutrient reductions and resources protections resulting from projects and programs will be documented. |
| Minnesota Board of Water and Soil Resources | Implementation Program, Table 4-3 | We support the decision for the District to expand its existing programming specifically the Water Resources Restoration Fund. | Thank you for your continued partnership and support. |
| Minnesota Board of Water and Soil Resources | Implementation Program, Table 4-3 | Table 4-3 lists the Capital Improvement Projects. Will the District be the project lead on all of these projects and are there other projects the District will be participating on led by others? | The projects listed in Table 4-3 represent a mix of projects to be led by the District and by partners. |
| Minnesota Board of Water and Soil Resources | Impact of Implementation: 5.1.3 Administration and Enforcement of LWPs. | We appreciate that the District is maintaining consistency with MN Rule 8410 in the avoidance of duplication of permitting programs. | Noted. |
| Minnesota Board of Water and Soil Resources | Administration: 6.1.1 Major Amendments. | The Departments of Agriculture and Health are also included in the State Review Agencies and must receive plan submittals. | The Departments of Agriculture and Health will be included on the list of State Review Agencies in Section 6.1.1. |
| Minnesota Department of Agriculture | | MDA has no comments. | Noted. Thank you for your continued partnership and support. |

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| Minnesota Department of Natural Resources | General Comment | There was quite a bit of talk about being informed of and weighing in on projects that the DNR permits or that others are undertaking. I don't see this being reflected in the goals or outcomes. Is this a priority for the District, to have a say, be proactive in reviewing projects, and if so, is there a strategy? | Reviewing projects that require DNR permits is very important to the District and is a priority. Strategies reflective of this priority will be added to Goals 2, 3, 4, and 7. |
| Minnesota Department of Natural Resources | Section 1 | Needs to show tribs to Eagle Creek that are protected. | The updates to Section 1 requested will be addressed as part of District's Corridor Management project slated for 2020 and 2021. |
| Minnesota Department of Natural Resources | Figures 1.16 and 1.17 | The District might want to use our most updated PWI layer, which is a better reflection of the extent of public waters. For example, Dean Lake appears quite a bit smaller on the map than our PWI layer and my experience reflect. https://gisdata.mn.gov/dataset/water-mn-public-waters | The updates to Section 1 requested will be addressed as part of District's Corridor Management project slated for 2020 and 2021. |
| Minnesota Department of Natural Resources | Figures 1.16 and 1.17 | a) The PLOC extends from Dean to Quarry Lake and should be shown on Fig 1-17. Also, as mentioned above, the Dean Lake PWI boundary more accurately reflects that there is wetland located between Dean and Quarry. | The updates to Section 1 requested will be addressed as part of District's Corridor Management project slated for 2020 and 2021. |
| Minnesota Department of Natural Resources | Figures 1.16 and 1.17 | b) The District might also consider placing springs on this map, there's the boiling spring near Eagle Creek. https://gisdata.mn.gov/dataset/env-mn-springs-inventory | The updates to Section 1 requested will be addressed as part of District's Corridor Management project slated for 2020 and 2021. |
| Minnesota Department of Natural Resources | Figure 1.4.2 | I wonder if you could take a quick look at the last 10 years and comment on our changing precip trends compared to historic. | The updates to Section 1 requested will be addressed as part of District's Corridor Management project slated for 2020 and 2021. |
| Minnesota Department of Natural Resources | Figure 1.22 | Figure 1.22 is not an accurate boundary for Savage Fen SNA. Again, please update from the data deli with our SNA boundaries. | The updates to Section 1 requested will be addressed as part of District's Corridor Management project slated for 2020 and 2021. |
| Minnesota Department of Natural Resources | 2.2.1 | There isn't any mention of regulatory oversight here and how that also may dictate the District's role or at least what must be in the District's plan. This may be helpful info here since there are perceptions of roles but also required roles. Or cite MN Rules 8410 and how that plays into guiding the District perhaps? While there are perceptions of roles, where does perception intersect with responsibility? | This section is intended to present the unique nature of this District and how that resulted in an unclear understanding of its role by stakeholders. The District's mission and purpose are presented in Section 3 and reference will be made to it in this section (2.2.1). |
| Minnesota Department of Natural Resources | 2.2.3.3.3 | Worth citing extra protection for fens and trout streams in statute though I do see it under 2.3.2.2. | Sections 2.2.3.3.2 and 2.2.3.3.3 will be updated to include statutory protections. |
| Minnesota Department of Natural Resources | 2.2.5.2 | Could add Savage Fen Ravine project as well. | Savage Fen Ravine project included. |
| Minnesota Department of Natural Resources | 2.3.1.6 | I think this should say "regulates surface and groundwater appropriations". Just says surface now, but groundwater in the next sentence. | The sentence has been revised to read: "The DNR regulates surface and groundwater appropriation by requiring a permit for all withdrawal more than 10,000 gallons of surface or groundwater per day or 1 million gallons annually." |
| Minnesota Department of Natural Resources | | In discussion with monitoring wells, SWCD reading them and the District analyzing data, it would probably be good to cite that these are DNR installed wells and the online data warehouse. http://www.dnr.state.mn.us/waters/cgm/index.html | The DNR will be included as requested. |
| Minnesota Department of Natural Resources | Page 1-44, last paragraph | Last paragraph of page 1-44 needs updating as it says "In 2011, the MCES plans to..." has this happened? | In 2012, MCES completed its annual stream water quality assessment report. Here is a link to the summary report: https://eims.metc.state.mn.us/Documents/GetDocument/596 |
| Minnesota Department of Natural Resources | Page 1-56 | This is not quite right. DNR provides preliminary review and assessment of new well proposals. Approval is not required prior to drilling the well, but rather, is required prior to use. Further, it would be fair to say that we examine both new appropriations and amendments to existing permits. "This is just one reason all new groundwater appropriation requests must be approved by the DNR prior to constructing pumping wells. During the approval process, and prior to making judgments on the sustainability of a new appropriation, the DNR reviews potentiometric surface levels, effects of..." | The sentences have been modified as follows: Because of these relationships, all requests for new groundwater appropriations and amendments to existing permits must be reviewed and approved by the DNR. During the review process, and prior to making judgments on the sustainability of an appropriation application (new or existing), the DNR reviews potentiometric surface levels, effects of . . . |
| Minnesota Department of Natural Resources | 1.10 (page 1-62) | End of paragraph 1, please add SNAs. | SNAs (Scientific and Natural Areas) will be added. |
| Minnesota Department of Natural Resources | 1.7 Surface water appropriations | We're (DNR) happy to update this for you. You can contact Joe Richter (651-259-5877, joe.richter@state.mn.us). With the Xcel change from coal to gas, I believe their appropriations will be greatly reduced. It would probably be worth noting that here since they were by far the biggest user in Table 1-10. It would probably also be noting the switch for Savage to use Quarry water, to protect the Savage Fen and I think that change would result in lower volume for the Quarry in Table 1-10. | The District will contact Joe Richter for assistance in updating Table 1-10, and we will update the associated narratives as suggested. |
| Minnesota Department of Natural Resources | 1.7 Surface water appropriations | Pull out the entire part starting with The 2007 Minnesota State Legislature...This effort was not successful. You could just list statute or rule here. https://www.revisor.mn.gov/rules/?id=6120 . Municipalities and counties adopt and enforce ordinances that are compliant with state rules. | The last two sentences will be removed from the first paragraph of Section 1.7.1. |

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| Minnesota Department of Natural Resources | Table 2-1 | Is Table 2-1 new with this iteration of the plan? I wonder if Hwy 101 could be taken out of the table now. It might be worth mentioning that it used to be an area for River flooding but a FEMA funded project has now elevated the highway out of the floodplain and provided better floodplain connection as well. | Table 2-1 was not updated with recent modifications. Table 2-1 will be revised to removed Hwy 101 (Old 169) and Shakopee River Crossing. |
| Minnesota Department of Natural Resources | 2.2.5.3 (last paragraph) | Last paragraph on of 2.2.5.3 is great. I think it would be worth mentioning how upland storage can help since it states that the District has focused on controlling flooding. It would be worth mentioning that the SWCD in Scott and Carver have both worked with landowners on upland practices. | The suggested information about upland storage and the work underway in both Scott and Carver counties will be incorporated into strategies within Goals 6 and 7. |
| Minnesota Department of Natural Resources | Strategy 3.2.1 | For those of us who don't know as much about how infiltration standards are used and how the district plays a role, could you incorporate some mention of how this works? Is it just that all cities in the boundaries of the district have to incorporate your standards? Does the District also review any developments or trust that the cities will handle this? | An introductory summary will be added to Strategies 2.2.1 and 3.2.1. All LGUs within the District boundaries are required to incorporate these or equivalent standards (if adopted) into their official controls. Administration and enforcement of the District's standards are the responsibility of the LGUs. Exceptions are Minnesota Department of Transportation projects, unincorporated areas, and the water appropriation standard, which will be administered and enforced by the District. |
| Minnesota Department of Natural Resources | 4.4 in the Appendix K | Could you provide more information about the way the District reviews and approves variances rather than or in cooperation with the LGU? An applicant submits the application to both? | The Board intends to revise the variance provisions contained in Section 4.4 of Appendix K of the draft plan amendment. The language will be changed to follow the practical difficulties test to be consistent with existing municipal variance standards. The Board's intent is to allow local governments to issue variances pursuant to the variance processes and standards contained in its existing official controls. In most cases, this will not require dual applications because the municipality is the permitting entity and the Board only reviews them. The Board may require some additional performance standards in considering such variances to ensure the intent of the proposed standards is met. The District's variance and enforcement process, including the schedule for program audits, reporting requirements, warnings, and responses, will be developed in partnership with LGUs and posted on the District's website. |
| Minnesota Department of Natural Resources | 8.3.3 | The District may need to provide more information about how the credit system in 8.3.3 would work. | The Minnesota Stormwater Manual, referenced in Section 8.3.3, presents a comprehensive view for how the credit system should be used, if needed, to meet volume and water quality requirements. |
| Minnesota Department of Natural Resources | Appendix K part 9. | The District should state whether this applies only to waters on the PWI or additional waters as well. | Appendix K, Section 9 refers to all water resources within the District boundary, including PWI (public waters inventory) resources. |
| Minnesota Department of Natural Resources | 9.3 | Would the District please consider adding a statement that a determination by the District for a project meeting standards 9.3 does not preclude a project from needing a DNR public waters work permit. For example, while the district might approve a retaining wall under f. that doesn't mean that a public waters work permit would be granted. The project may be denied by the DNR or modifications made to place a retaining wall above the OHW. While 6115.0211 would imply the need for a DNR permit, we believe it would be helpful to state as much. | The requested statement will be added to Section 9.3. |
| Minnesota Department of Natural Resources | 10.2.2, 10.3.2 | 10.2.2 states that appropriations less than 10,000 gpd or 1 MGY would be regulated within the HVRA. Should 10.3.2 state no net change in groundwater levels adjacent to trout streams as well or only fen? Should 10.3.2 include submittal of an application that could mimic our MPARS application and which includes item a. and b. or only items a. and b.? | Section 10.3.2 correctly refers only to fens. However, a sentence will be added acknowledging recent amendments to Minnesota Statute 103G.223, which allows the commissioner of the DNR to authorize temporary reductions in groundwater resources on a seasonal basis. Section 10.3.2 will be modified to include language requirement information similar to what is required by the MPARS or MN DNR Permitting and Reporting System. |
| Minnesota Department of Natural Resources | Page 1-53 | I'm pleased to see that the Lower Minnesota River Watershed is interested in Groundwater within the District. We urge the District to continue to seek to educate the people within the district concerning groundwater use and sustainability. | Noted. Thank you for your continued partnership and support. |
| Minnesota Department of Natural Resources | Page 1-76 | I'm also pleased to see that the District is aware of the concerns posed by unsealed wells to groundwater sustainability. | Noted. Thank you for your continued partnership and support. |
| Minnesota Department of Natural Resources | Page 2-20 | A small but important change in language is that "the DNR can limit appropriations from <u>surface</u> waters under certain low flow conditions". | Section 2.3.1.6, page 2-20 will be updated as requested. |
| Minnesota Department of Natural Resources | Page 3-32 | I'm pleased to see that the Watershed District is planning educational efforts to promote the wise use of groundwater. The District should make full use of the materials that are provided for education by the Metropolitan Council and the Minnesota Rural Water Association. | Strategy 3.2.2, page 3-32 will be updated to reference education materials developed by agencies and organizations such as the Metropolitan Council and the Minnesota Rural Water Association. |
| Minnesota Department of Natural Resources | Page 4-17 | Should a District Capital Improvement Project require dewatering in volumes that exceed 1.0 million gallons of water per year, or 10,000 gallons per day, then a DNR Water Appropriation Permit will be required for the project. | Noted. |
| Minnesota Department of Natural Resources | Page 5-1 | The District should encourage the local governmental units to require applicants for local permits to obtain DNR Water Appropriation Permit whenever the projects will require dewatering in volumes that exceed 10,000 gallons per day or one million gallons per year. | Appendix K, Section 10.1 will be modified to include: It is the District's policy to encourage local governmental units to require applicants for local permits to obtain DNR Water Appropriation Permits whenever the projects will require dewatering in volumes that exceed 10,000 gallons per day or 1 million gallons per year. |

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| Minnesota Department of Natural Resources | Modified Bluff Standard | Aren't slopes between 18-30% that are within shoreland still captured by the "steep slopes" definition? Perhaps you could use the 18% slope definition and call it all "steep slope" if there is some concern from the communities about using the word "bluff"? | Agreed. The Bluff Standard or Bluff and Steep Slopes Standard will henceforth be called the Steep Slopes Standard. |
| Minnesota Department of Natural Resources | Modified Bluff Standard | There are a number of areas in this draft where we feel that the standards will be less protective than those provided by the previous version. For example, we do believe some resource protection will be lost by going from the originally proposed standards to the new requirement where an engineer may just certify "suitability". As written, simply requiring an engineer to state suitability allows quite a bit of discretion to cities and engineers. Would it be possible to just incorporate the size and volume triggers that are included in the new standard into the previous version, thus eliminating the worry that "firepits" and other small scale activities would trigger a permit, but preserving other protective features of the first draft version? This would provide some structure and consistency for LG Us. We have seen firsthand how impactful sediment delivery from ravines can be within sensitive areas. For example, consider the Seminary Fen and Savage Fen Ravine restoration projects which cost millions of legacy fund dollars. The erosion in the ravine above seminary fen was surely exacerbated by the developments at the top of those bluff areas. | The proposed standard provides steep slopes and water resource protections desired by the District. Over the next 3–5 years, the District will evaluate its standards through resource health assessments. The outcome of those assessments will determine the next phase of resource protection standards. |
| Minnesota Department of Natural Resources | Modified Bluff Standard | Further, we are very disappointed that minimum setback criteria were removed from the revised bluff standard. We strongly encourage a minimum setback for structures and stormwater features in this overlay. There will undoubtedly be cases where land might be found suitable for development now, but with the high erodibility of steep slopes and the natural meander patterns of rivers and streams, that "suitable" land could turn "unsuitable" very quickly. The cities of Eden Prairie and Bloomington have seen first-hand how much land can be lost in a single year of intense rainfall. | Over the next 3–5 years, the District will evaluate its standards through resource health assessments. The outcome of those assessments will determine the next phase of resource protection standards. |
| Minnesota Department of Natural Resources | Modified Bluff Standard | Structure setbacks that provide a margin of error for future conditions are a reasonable and important protection. The land does not become unusable, it simply restricts the placement of structures. We strongly feel that resources and infrastructure will suffer by completely removing setbacks. Perhaps the District could run a few scenarios by a certified engineer to determine whether a structure setback would influence their determination of "suitability". Or perhaps the District could incorporate some "consideration of setback" in the required suitability analysis. As written, we feel that the suitability determination is too open to interpretation. | The proposed standard provides steep slopes and water resource protections desired by the District. Over the next 3–5 years, the District will evaluate its standards through resource health assessments. The outcome of those assessments will determine the next phase of resource protection standards. |
| Minnesota Department of Natural Resources | Modified Bluff Standard | We do want to commend the District for the continuing work on protective standards that did not previously exist in the District's Plan. We are especially appreciative of the extra protections proposed for fens and trout streams through the High Value Resource Area overlay, as outlined in Appendix K. The importance of these special resources has been noted in statute and we are glad to see that the District has recognized this. | Noted. Thank you for your continued partnership and support. |
| Minnesota Department of Transportation | Page 15 and 27 | Page 15, lines 32 and 33, sets the threshold for development, redevelopment and drainage alterations at 10,000 square feet for High Value Resource Areas. This includes linear projects. This threshold is very small. For linear projects, MnDOT requests that this threshold be 1 acre. We would have the same comment on Page 27, lines 27-29. | The preservation and protection of the High Value Resources necessitate the threshold(s) set for projects proposed within the High Value Resource Areas Overlay District. |
| Minnesota Department of Transportation | Page 17, Section 4.5 | Page 17, Section 4.5, specifies the enforcement of the rules through the LGUs. Mn DOT does not obtain permits from LG Us. Mn DOT will work with the watershed district to ensure our projects conform to the district's standards. | The preservation and protection of the high value resources necessitate the threshold(s) set for projects proposed within the High Value Resource Areas Overlay District. |
| Minnesota Department of Transportation | Page 27 | Page 27, lines 10 and 11, states no project will have a net increase from existing conditions in total phosphorus and total suspended solids to receiving water. This may not always be possible. Infiltration is not always possible to install. Nor is it possible to infiltrate all rain events. High intensity storms will overwhelm these systems. | Noted. Section 4.5 will be revised to address the District's regulatory oversight on MnDOT projects and projects within unincorporated areas, like Fort Snelling. |
| Minnesota Department of Transportation | Page 27, Section 8.3.2.2 | Page 27, Section 8.3.2.2, adopts the MIDs goals for High Value Resource Areas into the watershed district standards. It will be very difficult to meet the standards specified for linear projects under item 3. MnDOT requests that the threshold be 1 acre and the 1-inch of runoff. | Infiltration, although effective, is not the only best management practice available to project proposers for addressing nutrient and sediment removal from stormwater. For the volume requirement, if infiltration is impossible or undesirable because of site conditions, filtration may be acceptable. |
| Minnesota Department of Transportation | Page 28 | Page 28, lines 28-30, require a net decrease in total phosphorus and total suspended solids from predevelopment conditions. Predevelopment conditions are hard to establish. We ask that this standard be set for High Value Resource Areas to existing conditions. These conditions can be more accurately measured. | Noted. The District has modified the requirement to say "existing" instead of "predevelopment" conditions, as requested. |
| Minnesota Department of Transportation | Modified Bluff Standard | Can a sentence be added to page 4 of the Bluff and Steep Slope Standard under the Standard section, part B that <u>lined</u> storm water ponds approved by a licensed engineer in the State of MN are acceptable within the Bluff and Steep Slopes Overlay District. | The District will evaluate modifications/exceptions to the proposed standard on a case-by-case basis. |

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| United States Department of the Interior, US Fish and Wildlife Service (USFWS), Minnesota Valley National Wildlife Refuge (Refuge) | Modified Bluff Standard | We believe the District did a thorough job of identifying areas that are in need of protection, and we support the direction of the District. However, we do not feel the Revised Standard is going to provide the same resource protection as the initial draft Bluff Standard. | The proposed standard provides steep slopes and water resource protections desired by the District. |
| United States Department of the Interior, US Fish and Wildlife Service (USFWS), Minnesota Valley National Wildlife Refuge (Refuge) | Modified Bluff Standard | We are concerned that Structure Setback criteria was not included in the Revised Standard. Due to the high erodibility of the bluff and steep slopes, we feel a Structure Setback is necessary for resource protection. We believe a Structure Setback could allow smaller land uses, but still restrict the placement of larger structures. We suggest the District consider returning the Structure Setback to the Standard, to maintain important protection of the bluff and steep slopes within the District. | The proposed standard provides steep slopes and water resource protections desired by the District. Over the next 3–5 years, the District will evaluate its standards through resource health assessments. The outcome of those assessments will determine the next phase of resource protection standards. |
| United States Department of the Interior, US Fish and Wildlife Service (USFWS), Minnesota Valley National Wildlife Refuge (Refuge) | Modified Bluff Standard | We are also concerned about the change from the original proposed Standard to the Revised Standard that allows an engineer to determine suitability of a site to land disturbance activities at their discretion. We agree that having an engineer certify the suitability of the project is a step in the right direction. However, we believe the determination should be provided by a certified Civil Engineer and that guidelines are added that could help strengthen this approach. We suggest laying out size and volume triggers so that small residential projects (i.e. fire pits) would be exempt activities, but that larger projects should be required to submit plans, certified by a Civil Engineer. | The proposed standard provides the steep slopes and water resources protections desired by the District, taking into account the District's responsibility and the level of effort required by the municipalities to implement. The District believes the triggers in the modified standard are both necessary and reasonable. |
| United States Department of the Interior, US Fish and Wildlife Service (USFWS), Minnesota Valley National Wildlife Refuge (Refuge) | Modified Bluff Standard | We recommend that the District maintain the ability to have input and review the submitted plans. | Thank you for your continued partnership and support. |
| United States Department of the Interior, US Fish and Wildlife Service (USFWS), Minnesota Valley National Wildlife Refuge (Refuge) | Modified Bluff Standard | We also suggest that the District implement a way to track the success of the Standard. Perhaps there should be a period after which an assessment may be made to see if the Standard is working as intended. | Over the next 3–5 years, the District will evaluate its standards through resource health assessments. The outcome of those assessments will determine the next phase of resource protection standards. |
| United States Department of the Interior, US Fish and Wildlife Service (USFWS), Minnesota Valley National Wildlife Refuge (Refuge) | Modified Bluff Standard | Again, the Refuge supports the efforts of the District to protect bluffs and steep slopes. We are hopeful that you will consider our suggestions. | Noted. Thank you for your partnership and continued support. |

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| City of Bloomington | Draft State of Need and Reasonableness (SONAR) | To assist with the review of Appendix K that was included with the Draft SONAR please highlight the changes from what was previously proposed in July, 2017. | Because Appendix K is completely new with this amendment to the Plan, maintaining the underline changes was confusing and unnecessary, per discussions with Board of Water and Soil Resources (BWSR). Thus, a summary of the changes was placed at front of the appendix noting the changes. |
| City of Bloomington | Draft State of Need and Reasonableness (SONAR) | Within the Draft SONAR Figure L2 5 of 5 illustrates a proposed High Value Resource Area over an unnamed creek in Hennepin County, commonly referred to as "Ikes Creek". In 2016 and 2017 the City worked with representatives from the MnDNR regarding a proposed designation of the stream as a trout stream. In the end the DNR decided not to pursue a trout designation based on the following: * Adequate evidence of suitable conditions in this stream for trout based on water temperature monitoring, dissolved oxygen levels, and the presence of a self-sustaining brook trout population. * A trout designation would not materially add to the protections for this stream. * Impacts on trout as a result of groundwater appropriation permitting decisions are already being accounted for. The City of Bloomington recognizes the uniqueness of this area and has multiple protections already in place. The most significant of which is that there are no storm sewer inlets to the creek and no increase of runoff may be directed to the creek. The city already has infiltration requirements for developments based on the MPCA NPDES construction and MS4 permit requirements. The City requests the District remove the HVRA for the "Ikes Creek" area for the same reasons the DNR decided not to pursue a trout designation. | We understand that one of the reasons the DNR concluded that "A trout designation would not materially add to the protections for this stream" was its understanding that, in addition to the City's protections, the LMRWD would also apply its stormwater, sediment control, and other standards in the area. Designation of Ike's Creek as a high value resource complements the City's protection, and, if the City's protections are as you describe, the standards proposed with the Ike's Creek HVRA would likely not significantly increase requirements. Rather, such a designation would serve as a basis and justification for technical and financial assistance as development occurs within and adjacent to the HVRA. |
| City of Bloomington | Modified Bluff Standard | The modified Bluff and Steep Slope Standard contains definitions for both a Bluff and a Steep Slope. This causes confusion as a Bluff can also be considered a steep slope. If the District's intent is to manage Steep Slopes and Bluff areas in the same manner the District should consider removing the Bluff definition and simply having a Steep Slope Standard. | The Bluff Standard has been modified. It will be called the Steep Slopes Standard and no longer references bluffs. |
| City of Bloomington | Modified Bluff Standard | Figure 1: Bluff, Bluff Impact Zone, and Steep Slope Diagram illustrates a Bluff Impact Zone (BIZ) that extends 20 feet beyond the top of the bluff/steep slope and 20 feet beyond the bottom of the bluff/steep slope. However there is no mention of the BIZ in the remaining portions of the modified Bluff and Steep Slope Standard. It is unclear if the BIZ applies to the modified standard or if disturbance is prohibited or allowed within the BIZ. | The Bluff Standard has been modified. It will be called the Steep Slopes Standard and will no longer require setbacks. Figure 1 will be modified to reflect the revised standard. |
| City of Bloomington | Modified Bluff Standard | If it is the District's intent to manage individual properties based on the maps provided in Figure K1 there needs to be significantly more detail provided. The scale at which the maps are created does not provide enough detail to make decisions about whether a parcel is included or not in the proposed Bluff and Steep Slope Overlay District. | Figure K1 provides an overview of the Steep Slopes Overlay District; higher-resolution maps will be included in the Plan. |
| City of Bloomington | Modified Bluff Standard | Under the regulated activities the District proposes to regulate any activities requiring municipal permits that result in a net increase in impervious surface or stormwater runoff within the Bluff and Steep Slope Overlay District. Under this proposed regulation there are many relatively small projects such as widening a driveway by a few feet or the construction of a small shed or patio which would require a municipal permit, but having these small projects certified by an engineer would make these projects cost prohibitive. The City requests the District remove the regulated activity for projects under the 5,000 sq. ft. or 50 cu. yd. threshold and allow municipalities the needed flexibility to regulate these small projects on a case by case basis in order to protect the bluff/steep slope areas. | The preservation and protection of the steep slopes necessitate the threshold(s) set for projects proposed within the Steep Slopes Overlay District. |
| City of Bloomington | Modified Bluff Standard | City staff will be requesting another meeting with District staff to discuss additional concerns and how the City's existing official controls meet or do not meet the District's intent. The City will prepare a proposal or items for discussion for District staff to review at the time the request for a meeting is made. | Noted. Please contact the District's administrator to schedule the meeting before the end of April. |
| City of Bloomington | 8. Appendix K; Page 17- Enforcement | Indemnification. The proposed standards are likely to trigger legal challenges from impacted landowners. The burden of defending against those challenges should fall on the District and not on individual cities that in many cases may not agree with the standards they are required to enforce. Any shifting of the burden to cities to enforce and legally defend the standards must come with a corresponding indemnification for cities from the District. | There is no shifting of burdens being imposed by the watershed district. Rather, the burden of local government to adopt official controls necessary to bring local water management and land use in line with watershed district plan standards is imposed by the legislature in statutes Section 103B.235, subd. 1. It is the local government's obligation to adopt defensible controls and to defend those controls. Local government purchases insurance for such purposes. Additionally, the standards, specifically the Steep Slopes Standard, have been modified so they are no longer restrictive. Rather, these standards are permissive in nature and only require an engineering review to ensure the proposed activity can be responsibly and safely conducted on the property. |

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| City of Bloomington | 8. Appendix K; Page 17- Enforcement | Unfunded Mandate. As proposed, the District requires all review and enforcement of the proposed standards to be performed by cities. Such enforcement will place new financial burdens on cities and on landowners, especially to process the many variance requests the standards will likely trigger on an ongoing, going forward basis. If standards are adopted over the objections of locally elected officials, city staff, and landowners, it should be incumbent upon the District to develop a permitting program and assume the responsibility of reviewing and enforcing its proposed Standards. | The watershed district is not imposing an unfunded mandate on local government. Rather, the obligations and associated costs of local government are articulated by the legislature. There is no authority for the watershed district to adopt a permitting program to control land use except under limited circumstances that are not currently present within the district. Additionally, with recent modification of the proposed standards, there is no longer a need for variances. Because the Steep Slopes Standard is permissive and only requires an engineering review, there is no zoning standard for which a variance would be required. Other processes are consistent with current City practices for review of land use applications. |
| City of Bloomington | Appendix K, Definition | Spell out HVRA prior to using the acronym. | Appendix K will be updated as requested. |
| City of Bloomington | Appendix K, Page 11; line 9 - Figure 1 | Figure 1 indicates that the structure setback ranges from 40-100 feet. The City of Bloomington understands the proposed setback is 40 from top of bluff. Therefore the setback range of 40-100 feet indicated in Figure 1 is confusing and should be removed. | The Bluff Standard has been modified. It will be called the Steep Slopes Standard and will no longer require setbacks. Figure 1 will be modified to reflect the revised standard. |
| City of Bloomington | Appendix K, Page 17 - Variances | Avoid Variances Where Possible. District staff has offered the variance process as a mechanism for landowners to find relief from the proposed standards. However, the variance process is expensive and time consuming for landowners and for the cities or watershed districts that must process those variances. The City of Bloomington requests that the District review the many scenarios that may result in variances that could be supported and then revise the proposed standards to allow those certain common circumstances that would not require a variance, and thereby reduce the number of variances that would be requested by land owners. | The District will review comments from residents and modify Appendix K to address reoccurring themes. |
| City of Bloomington | Appendix K, Page 17 - Variances | Strict Variance Findings. The District proposes using an "undue hardship" variance findings that will result in little practical ability to issue variances. AS proposed, a variance cannot be issued if the property in question can be put to a reasonable use without the variance. In 2011, following the Krummenacher case, the Minnesota State Legislature amended the required variance findings for city-issued variances to replace the "undue hardship" test with the "practical difficulty" test. Many Minnesota cities, including Bloomington, amended their respective City Codes to conform to this standard. Bloomington requests that the District revise the required variance findings to match the findings set forth in State law and city codes. Conflicting legal standards will cause confusion and increase the potential for lawsuits. | The Board intends to revise the variance provisions contained in Section 4.4 of Appendix K of the draft plan amendment. The language will be changed to follow the practical difficulties test to be consistent with existing municipal variance standards. The Board's intent is to allow local governments to issue variances pursuant to the variance processes and standards contained in its existing official controls. The Board may require some additional performance standards in considering such variances to ensure the intent of the proposed standards is met. |
| City of Bloomington | Appendix K; Page 11, lines 13-15 - Definition of Structure | The proposed bluff standards require all structures to be set back a minimum of 40 feet from the top of bluff. The proposed District definition of "structure" is too expansive. As written, it would include many "manufactured" items "normally positioned on land," such as dog houses, tents, fire pits, and rain barrels. Arguably it includes such common household features as folding chairs and garden hoses. The City of Bloomington requests the District revise the definition of structure to be more specific and also to include only significant features such as large buildings. | The Bluff Standard has been modified. It will be called the Steep Slopes Standard and will no longer incorporate structures or a structure setback. |
| City of Bloomington | Appendix K; Page 11; line 16 | Remove "or" from Subsurface Sewage Treatment System (SSTS) | Revised as requested. |
| City of Bloomington | Appendix K; Page 11; lines 1-12 - Definition of Bluff | The District is proposing to significantly expand the area considered as a bluff to include areas that are well away from the Minnesota River bluff and away from any shoreline areas completely. Most bluff areas border a river, beach, or other shoreline area; in fact a bluff line often defines the outer limits of a river's floodplain or is synonymous with other terms such as valley wall. Under the proposed definition the District is actually creating a steep slope standard across all areas of the District rather than a bluff standard. The City of Bloomington requests the District revise its bluff definition to be more consistent with the State definition that requires part or all of the feature to be located in a shoreland area. | The Bluff Standard has been modified. It will be called the Steep Slopes Standard and regulate slopes greater than or equal to 18 percent. References to bluff will be removed. |
| City of Bloomington | Appendix K; Page 18-Bluff Standard | a) Predominantly developed bluff. Unlike some areas within the District's jurisdiction, Bloomington's bluff land is predominantly developed. Under the proposed definition of structure there are over 1,000 existing structures in Bloomington on over 650 parcels that are impacted by the proposed regulations. Bluffside development issues in Bloomington relate less to new subdivisions and more to smaller property improvements that are customarily incidental to existing homes and reasonable home improvement projects. In numerous cases, the proposed standards will prohibit decks, patios, sheds and additions that would today be allowed and that the City views as fully reasonable, even in a bluffside context. While well intentioned, the proposed District standards do not adequately recognize and protect the property rights of landowners. | The Bluff Standard has been modified. It will be called the Steep Slopes Standard and will no longer incorporate structures or a structure setback. |

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| City of Bloomington | Appendix K; Page 18-Bluff Standard | Lack of Comparative Information. The District is proposing to significantly change the definition of "bluff". Among other changes, the slope threshold to qualify as a bluff has been reduced from 30% to 18%. While the District has provided a map of the area that meets the 18% definition, it has not provided a map of the area that meets the 30% definition. We believe the proposed 18% threshold significantly expands the reach of the standards, but without a map of the previous "bluff", we have no way to verify or to quantify the impact. Bloomington requests that the District prepare a map of the "bluff" using the current 30% definition, post it on their website and provide a shapefile to cities. Please also provide a combined comparison graphic that visually depicts the two "bluff" designations overlaid on one another along with metadata that compares the impacted area by acre in each community for the existing and proposed standard. | Comparative maps showing the existing 30 percent and proposed 18 percent standards were provided to the LGUs and the information posted on the District's website. |
| City of Bloomington | Appendix K; Page 18-Bluff Standard | Need for Exemptions. As discussed in a recent meeting between City and District staff, much of Bloomington should be exempt from the proposed bluff standards due to either the success of existing standards or the nature of steep slope areas far away from the river bluff. Full discussion of any exemptions should occur prior to adoption of the standards. | As discussed in the February and March 2017 Technical Advisory Commission meetings and subsequent meetings with cities, the District recognizes that there are different ways of implementing programs that necessitate varying approaches to the standards presented. To effectively evaluate the City's request for exemption, the District requests equivalency/adequacy documentation for all official controls that propose to deviate from the standards presented. |
| City of Bloomington | Appendix K; Page 18-Bluff Standard | No Review for small structures. The City of Bloomington does not require permits or plan review for small structures such as patios or retaining walls under 4 feet as long as the disturbance is less than 5,000 square feet or 50 cubic yards of material. The City of Bloomington requests the District revise the definition of structure to include only significant features such as significant features such as large buildings. | The Bluff Standard has been modified. It will be called the Steep Slopes Standard and will no longer incorporate structures or a structure setback. |
| City of Bloomington | Appendix K; Page 18-Bluff Standard | Standards Must Better Respect Property Rights. The City of Bloomington has adopted several standards over the years that protect the bluff while presenting less negative impacts on the property rights of landowners. These standards include bluff overlay zoning districts, limitations on grading and tree removal, prohibitions on increasing over the bluff water discharge, and reducing impervious surface allowances as slopes increase. Our experience is that the City's standards have been effective while allowing landowners reasonable opportunities to use and improve homes that often predated the standards. Bloomington requests that the District adopt standards similar to Bloomington's to apply in developed communities and consider stricter standards only in communities that are largely yet to be developed and therefore better able to be flexible in meeting the standards while not negatively impacting existing property rights. | The District recognizes that there are different ways of implementing programs that necessitate varying approaches to the standards presented. To effectively evaluate the City of Bloomington's request for exemption, the District requests equivalency/adequacy documentation for all official controls that propose to deviate from the standards presented. With the current modification of Appendix K, and especially the Steep Slopes Standard, there is no longer an issue of creating nonconforming uses or structures as a result of the standard. To the extent variances are required from other portions of the standards, such actions may occur according to existing variance processes adopted by the City. |
| City of Bloomington | Appendix K; Page 18-Bluff Standard | Survey Requirement Onerous. The proposed bluff standards require a topographic survey for "any land disturbing activity, vegetation removal, development or redevelopment" of land in a bluff overlay district (Appendix K, Page 19). Such a survey will be expensive for the landowner and will be time consuming to obtain. The City of Bloomington requests that the District reevaluate where and for what activities a Survey is truly needed and revise the Survey requirements to reduce the financial impact on landowners to a reasonable and necessary level. | The Bluff Standard has been modified. It will be called the Steep Slopes Standard and no longer requires a survey. |
| City of Bloomington | Appendix K; Page 18-Bluff Standard | Vegetation Management. The proposed bluff standard prohibits removal of vegetation within the Bluff impact Zone (BIZ). In Bloomington there are many cases where the BIZ incorporates entire private parcels and the standard has no exceptions for landowners to manage vegetation and landscaping. Arguably a landowner would be in violation of the standard by replacing existing turfgrass or ornamental shrubbery around their house. The City of Bloomington requests the District reconsider the impact of the proposed bluff standard and revise the standards to provide landowners a reasonable ability to manage vegetation. | The proposed standard includes the following exception: Plantings that enhance the natural vegetation or the selective clearing of noxious, exotic, or invasive vegetation or the pruning of trees or vegetation that are dead, diseased, or pose a public hazard. The following additional exceptions will be included: maintenance of existing lawns, landscaping, and gardens; removal of vegetation in emergency situations; right-of-way maintenance for public facilities; and agricultural and forestry activities. |
| City of Bloomington | Appendix K; Page 26; Line 22-Stormwater Management Standard | The regulated activity indicates that it includes roads. It is unclear whether this means mean linear projects is a trail a road? The City of Bloomington requests the District define what is considered a road. | The regulated activity has been modified to say, "linear projects" instead of "roads." Linear projects are defined in Section 3. |

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| City of Bloomington | Appendix K; Page 33; Lines 8-10- Water Appropriations Standard | In Bloomington the majority of bluff properties have been connected to sewer and water service. Many of the properties that remain are limited by various constraints preventing a connection to the municipal System without significant infrastructure investment or a desire for redevelopment. This requirement seems duplicative to the existing Minnesota Rule. The City of Bloomington requests the District delete this requirement in deference to the existing Minnesota Rule and the City's Wellhead Protection Plan that was approved in 2014 that already adequately addresses this. | Appendix K, Section 10.3.1 b will be removed. |
| City of Bloomington | Appendix K; Page 33; Lines 8-10- Water Appropriations Standard (Legally Non-conforming parcels) | Legally nonconforming parcels. The proposed Standards will create hundreds of legally nonconforming lots. The City requests that District revise its proposed rules to address the certain typical, regular landowner activities would not increase the non-conformity or otherwise expressly grant such authority to cities to address in their official controls. | This portion of the standards applies to water appropriations only. It does not create nonconformities because it is not applying a land use standard. Rather, it is designating an area within which groundwater appropriation, which is already subject to regulation and is not a property right, is further regulated to protect recognized valuable resources. |
| City of Bloomington | General Comment | a. Lack of Notice. The District represents that it has complied with the requirements of MS 103D.341 regarding providing notice. However given the significant impact, particularly with the proposed Bluff Standards, the City believes the District should have also mailed notice to landowners regarding the proposed significant changes. Instead, the City of Bloomington, at its great expense, provided the mailed notice that the District should have done. The City of Bloomington requests the District provide full mailed notice, with sufficient time to review the standards and provide written comment, to all impacted landowners within the watershed district for these amendments and for any future amendments. | The City's request was presented to the Board of Managers for consideration. The City's request seeks a level of notice well in excess of statutory requirements even for watershed district rules. Nevertheless, continuation of the public hearing was considered and granted by the Board. The public hearing opened on October 25, 2017 and will close on April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| City of Bloomington | General Comment | More Time Needed for Review. Given that the District did not provide mailed notice to landowners, and that those impacted landowners that are aware of the changes were only recently informed due to the efforts of a few cities, impacted landowners have not had sufficient time to review and understand the proposed standards. The City of Bloomington requests that the District provide impacted landowners with 60 days to review and comment on the proposed standards after the receipt of a mailed notice and also post information on existing and proposed standards on the District website. | Landowners and other interested stakeholders can provide comments up to the closed the public hearing. A continuation of the public hearing was considered and granted by the Board. The public hearing opened on October 25, 2017 and will close on April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| City of Bloomington | General Comment | The City commends the District in identifying the High Resources Value Areas within the District and working to protect their unique value to the District, the surrounding communities, and the State. The City shares those interests and generally supports the District in its efforts to work with LG Us to manage and protect the Minnesota River, lakes, streams, wetlands, and groundwater. With great success, Bloomington has adopted multiple official controls over the years to protect the river and the bluff, while balancing environmental protection with property rights. | Noted. Thank you for your continued partnership and support. |
| City of Bloomington - Sustainability Commission | Appendix K: Draft Standards (definitions) | The Sustainability Commission recommends revising "Predevelopment Condition" definition to land use on a site that existed prior to addition of any impervious surface (rather than exists immediately prior to a proposed alteration) for redevelopment sites. | Noted. The District has modified the requirement to say "existing" instead of "predevelopment" conditions, as requested. |
| City of Bloomington - Sustainability Commission | 2.2.4 Issue 4 2.2.4.1 Flooding | The Sustainability Commission recommends adding a section to the plan about climate change. Beyond the factors mentioned that lead to increased local and regional flooding, climate change is another. The District could address the impact of climate change and extreme weather events and erosion on the Minnesota River and the District in this section and discuss the adaptation strategies that will be necessary for the future. | 2.2.4 Issue 4 2.2.4.1 Flooding will be modified as suggested to include the 2014 sustained rain, flooding, and slope failures. |
| City of Bloomington - Sustainability Commission | 2.2.7.3 Financing | In this section, it mentions that a resolution was introduced in 2010, but it does not say what the outcome was from passing the resolution. It would be helpful to add a sentence saying if anything has happened since 2010 and the passing of this resolution. | 2.2.7.3 Financing will be updated to reflect the introduced resolution outcome and subsequent legislative activities. |
| City of Bloomington - Sustainability Commission | 2.4.8 Issue 8- Public Education and Outreach | The Commission further recommends engaging local youth through public education endeavors. | The District will continue to solicit volunteers from youth groups and programs as a means to engage them in water resource management activities. |
| City of Bloomington - Sustainability Commission | 2.4.8 Issue 8- Public Education and Outreach | The Sustainability Commission recommends that the District consider participating in the Master Water Stewards program and expanding local programming to expand educational reach. | The District has funded Master Stewards and other education and outreach programs. Goal 3.9 will be updated to reflect the District's current and planned education and outreach activities. |
| City of Bloomington - Sustainability Commission | 2.4.8 Issue 8- Public Education and Outreach | The Sustainability Commission recommends that the District consider updating its website if it is going to be the primary outreach tool. | The District has a new website and web address: www.lowermriverwd.org. |
| City of Bloomington - Sustainability Commission | 4.1 Administrative and Managerial | The Sustainability Commission recommends assessing current staffing levels to determine if current levels are able to achieve the goals of the plan and, if not, include a description and budget of what will need to be done to remediate. | The District assessed current staffing levels to achieve goals of the plan and compiled activity estimates accordingly. |
| City of Bloomington - Sustainability Commission | 6.2 Annual Reporting | Financial and Audit reports are not done until the close of the fiscal year. Please clarify: "within 120 days before the fiscal year." | The section will be modified to reflect the updated information in Minnesota Administrative Rules 8410.0150: within 120 days of the end of the calendar year, submit to the Board an activity/annual report for the previous calendar year. |

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| City of Bloomington - Sustainability Commission | Administration: 6.1.1 Major Amendments to the Plan | After the first 60 day review/comment period for Agencies and others has passed and received comments have been addressed, is another 90 day comment period for the public and Agencies to review the drafted Plan Amendment required? | The initial 60-day review is followed by the 90-day comment period. The information associated with the 90-day review is referenced in Section 6.1.1, page 6-2 (Minnesota Statute 103B.231, Subparts 7, 9, and 11). |
| City of Bloomington - Sustainability Commission | Appendix K: Draft Standards Section 4 – Implementation Program, within “Studies & Programs Budget Total” | The Sustainability Commission recommends including/incorporating “Springshed Mapping” collaboration with DNR and others to expedite, and revise as needed, Springshed Maps for the District’s streams (including intermittent/perennial streams and designated and undesignated trout streams). | The inclusion of springshed mapping will be considered during the District’s Corridor Management project, which is slated for 2020 and 2021. |
| City of Bloomington - Sustainability Commission | Executive Summary | The Executive Summary succinctly states the purpose of the Plan “to protect, preserve, and manage the surface water resources (Minnesota River, lakes, streams and wetlands) and groundwater within the District.” It summarizes the Plan Organization, the Watershed Issues and Management Framework identified in the stakeholder process, the Watershed District’s Purpose, Goals, Implementation Plan and Capital Improvement Projects as well as the short- and long-term metrics for measuring the 9 Goals. Since the Lower Minnesota Watershed District depends on the Counties and Municipalities to address land use decisions and impacts, the Summary indicates that the “Plan includes management standards and procedures for addressing surface water, wetland and groundwater issues, as well as navigation issues along the Minnesota River.” This strengthens the District’s ability to make resource preservation a higher priority and addresses this concern raised by the TAC in the 2011 planning process. | Noted. |
| City of Bloomington - Sustainability Commission | General Comment | The Sustainability Commission commends District staff, the Board of Managers, the Technical Advisory Committee, plan writers, reviewers, the public and others that have played a role in the drafting of the plan. The plan addresses many issues relating to our shared water resources and our environment. The Sustainability Commission looks forward to working with you on many of these issues. | Noted. Thank you for your support. |
| City of Bloomington - Sustainability Commission | Goal 2. Surface Water Management Strategy 1.3.1 | The Sustainability Commission recommends creating a prioritization process for comparing and evaluating various strategic resources/programs for meeting water quality goals under the Strategic Resource Evaluation. | The Strategic Resource Evaluation (SRE) includes a prioritization process. The SRE is posted on the District’s website. |
| City of Bloomington - Sustainability Commission | Goal 3. Groundwater Management (Strategies 3.1.1, 3.2.1, 3.2.2, 3.3.1, and 3.3.2) | Strategies 3.1.1, 3.2.1, 3.2.2, 3.3.1, and 3.3.2 are beneficial for protecting groundwater and developing regional models to yield better information on groundwater quantity and quality. This goal implementation has the potential to build on and leverage Carver County’s Groundwater Conservation Plan management and groundwater management within other counties, cities and water management organizations. That portion of Bloomington’s drinking water will benefit from efforts to protect the source aquifer. | Noted. |
| City of Bloomington - Sustainability Commission | Goal 5. Wetland Management & Strategy 1.3.1: Provide strategic resource evaluation and management | The Sustainability Commission recommends that the District or others consider facilitating the FQA of each of the fens for vegetation-based ecological assessments by hiring University interns or others with relevant qualifications to identify issues, develop consistent baseline vegetation data, and prioritize next steps to address fen and wetland degradation. | The District is working with the DNR on a comprehensive fen stewardship plan that includes completion of ecological assessments by the DNR Minnesota Biological Survey team. |
| City of Bloomington - Sustainability Commission | Page 1-2, Section I1. History | General comment/please clarify: It is stated that LMRWD was the second WD formed in the state in 1960. Wasn’t the Nine Mile Creek Watershed District the second watershed district formed, in 1959? | The District petitioned and was supposed to be the first watershed district formed. However, because of the 9-foot channel local sponsor need, the District was formed later. As the Board of Water and Soil Resources notes, the District was the third to be formed in March 1960, behind Coon Creek and Nine Mile Creek watershed districts. |
| City of Bloomington - Sustainability Commission | Page 1-4, Section I1: District Management | General comment/please clarify: It states here that the watershed district expects to have a CAC. Elsewhere in the plan it says the District has a CAC. State law says that a watershed district must have a CAC. The Sustainability Commission recommends adding a statement in the executive summary or elsewhere further describing the history of the make-up of the CAC and whether members of the community have been asked to participate. | The District had an active citizen advisory commission (CAC) during the development of the Plan in 2010 and 2011. Since then, the CAC dissolved, and the District continues to solicit volunteers to restart the CAC. |
| City of Bloomington - Sustainability Commission | Section 1 – Land and Water Resources Inventory | The Sustainability Commission recommends including all “Trout Waters” in District mapping inventory and protection efforts (whether designated or undesignated by DNR). - “Trout waters” (as defined in Appendix K): Trout lakes or streams that support a population of stocked or naturally produced trout - include “Ike’s Creek” as a “Trout water” -If needed, include sub-categories/definitions for “Trout stream, MndNR designated” and “Trout stream, undesignated by DNR (but capable of supporting trout)” | The updates to Section 1 requested will be addressed as part of District’s Corridor Management project slated for 2020 and 2021. |

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| City of Bloomington - Sustainability Commission | Section 2- Issues and Problems Assessments | The Sustainability Commission recommends adding an Invasive Species section to the plan. Although invasive plants are mentioned in the fen protection sections, there is very little information on the effects that invasive species (plants, animals, and other organisms) can have on water quality, fish and wildlife habitat, and water recreation. Terrestrial invasive plants are especially important to consider when discussing bluff land quality and erosion issues. Aquatic invasive species are also important when considering the District's boundaries. The District could play an important role in addressing these effects through its cost share program, ecological restoration, education and outreach, and other programs and initiatives. | As suggested, a section on invasive species will be included. The District was recently notified about the presence of zebra mussels in the Minnesota River. |
| City of Bloomington - Sustainability Commission | Section 3- Goals, Policies, Management Strategies | The Plan sets forth a proactive role for the District in evaluating Local Water Management Plans for consistency with the District's goals and the District's Watershed Standards as well as a strong partnership role working collaboratively with local government units to identify projects and studies that will meet District goals. Since Bloomington is required to meet non-degradation requirements, this collaborative program will positively support Bloomington's ability to partner on projects that will reduce its storm water volume as part of the NPDES MS4 permit requirements and develop water reuse and other volume reduction practices. Allowing Bloomington to recommend projects gives the City the ability to advance high priority projects that meet City and District goals. | The District values its partnership with the LGUs and solicits project recommendations regularly. |
| City of Bloomington - Sustainability Commission | Strategies 2.3.1, 2.3.2, and 2.3.4 | The Sustainability Commission recommends setting annual evaluation targets to interpret the year's data into information fact sheets. Evaluations done on 3 to 5 year cycles may not be adequate. Assessments of the water quality within the watershed need to be timely. This information could be used for more meaningful education and planning. | The proposed evaluation cycle of three to five years is the most practical. |
| City of Bloomington - Sustainability Commission | Strategy 2.2.3 | Cost share incentive program funding is valuable to attract citizen/city engagement as well as achieving more Low Impact Development practices in the ground. | Noted. |
| City of Bloomington - Sustainability Commission | Table E-2: Lower Minnesota River Watershed District Short-term and Long-term Metrics | The Sustainability Commission recommends adding more detail to the items listed as "Completion of scheduled activities" and "Number of targeted studies and projects completed" to indicate the targeted stakeholder or river reaches. | The detail requested for activities proposed to move each strategy forward is presented in Sections 3 and 4. |
| City of Bloomington - Sustainability Commission | Table E-2: Lower Minnesota River Watershed District Short-term and Long-term Metrics | Recognizing that Bloomington is one of several cities within the District, it would be helpful to know if the scheduled activities would be targeted toward city or county projects or the type of work or study to be done in a particular reach of the river. As written in the Executive Summary, it is difficult to determine if this Plan identifies any priority areas in Bloomington. | Sections E3.4 – Studies and Programs and Table E-1 will be modified for the project; program; or study description, targeted benefit, and location. |
| City of Bloomington - Sustainability Commission | Table E-2: Lower Minnesota River Watershed District Short-term and Long-term Metrics; Table 3-2 in Section 3 | The same would be helpful for "Number and types of projects completed as part of the Cost Share Incentive Program and Water Quality Restoration Program." Any changes should be reflected in Table 3-2 in Section 3 also. | Section E3.4 and 3 will be updated to include the District's criteria for funding Cost Share Incentive Projects and Water Quality Restoration Projects. |
| City of Burnsville | | 1. The District is taking a more active role in implementing projects that it initiates internally and inventorying projects throughout the District. The District will also be more active in looking for opportunities to partner with local government units (LGUs) to identify projects such as ravine erosion repairs that could fit within the District's cost share program. This Partnership and cooperation with LGUs is discussed in many areas of the plan, however, there are some gaps. We recommend that the plan directly reference all areas where the District intends to cooperate with the local partners. | Noted. Thank you for your continued partnership and support. |
| City of Burnsville | | The plan should include the following definitions and provisions to address existing businesses and uses permitted by the Minnesota Pollution Control Agency in Burnsville: Fill - Fill, dredge spoils, excavation sites, salt storage, Minnesota pollution control agency authorized landfills or other similar materials deposited or stored in the floodplain shall be protected against erosion by vegetative cover, mulching, riprap or other acceptable method. Dredge spoil sites, sand and gravel operations, salt storage and Minnesota pollution control agency authorized landfills shall not be allowed in the floodway unless a long term site development plan which includes an erosion/ sedimentation prevention. Dredge spoils disposal, salt storage, Minnesota pollution control agency authorized landfills and sand and gravel operations may allow temporary, on site storage of fill or other material which would have caused an increase to the stage of the 100-year or regional flood, but only after the city council has received and approved an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. | The District will consider the recommended language. |

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| City of Burnsville | Appendix K, Section 5.2. Page 18. Regulated Activity and Threshold | Please clarify that these requirements are only applicable to land and waterbodies that are in the Bluff Impact Zone or Structure Setback from the Bluffline. To help clarify this point, it appears that somewhere in the definitions section of Appendix K, the terms Bluff Impact Zone and Bluff Overlay District need to be connected (i.e., the Bluff Overlay District is the graphical representation of the BIZ). | The Bluff Standard has been modified. It will be called the Steep Slopes Standard and will no longer incorporate structures or a structure setback. |
| City of Burnsville | Appendix K, Page 7, Line 27. Floodplains; Appendix K, Page 15, Line 1, Definition of Floodplain, and Appendix K, Section 7, starting on Page 24 | The intent of these provisions appears to specifically relate to FEMA mapped floodplains (including the Minnesota River) and not to areas that may have a local 100-year flood elevation estimated for them. However, the terms floodplain and 100-year elevation are both used in several areas of Appendix K. | Appendix K will be amended to clarify the District's intent of managing mapped and unmapped FEMA floodplain areas and provide definition for all the terms noted. |
| City of Burnsville | Appendix K, Section 4.4. Page 17. Variances | We understand that the District has had discussions with other LGUs relating to the variance process and that the District is open to allowing a Condition Use Permit process by the LGU as an alternative to a variance from the LMRWD for projects that are not able to fully meet the standards. We strongly encourage and support this approach, especially for the bluff overlay district standards. | The Board intends to revise the variance provisions contained in Section 4.4 of Appendix K of the draft plan amendment. The Board's intent is to allow local governments to issue variances pursuant to the variance processes and standards contained in its existing official controls. Additional consideration will be given to modifying Appendix K for future development or modification of lots or uses considered nonconforming by the proposed standards to occur as conditional uses with baseline performance standards that ensure the intents of the proposed standards are addressed. |
| City of Burnsville | Appendix K: Bluff and Bluff Overlay District Standards: Section 3, Page 6. Bluff definition | The City previously provided comments relating to the bluff standards in a letter dated March 13, 2017 (attached). Comments shown in italic are repeated from previous comments. The definition of Bluff should be changed to the state DNR standard definition (measure the horizontal distance over 50' as opposed to 25'). DNR definition established to protect significant natural slopes as opposed to excavated and fill areas created over time by landfills, construction of levees, salt and other storage piles, dredge materials etc. | The Bluff Standard has been modified. It will be called the Steep Slopes Standard. References to bluffs will be removed. |
| City of Burnsville | Modified Bluff Standard | Please provide some examples of how LMRWD is proposing that the City implement the regulations. Concerns regarding this are: 1) If a landowner builds a swingset into a slope, there is no permit for this in the City of Burnsville and therefore no ability to administer these regulations. 2) If a property owner builds a fire pit/patio, with less than 5,000 square feet of new impervious surface, there is no permitting required for the City of Burnsville. 3) A non-structural shed does not require a permit from the City. | The District appreciates the City's concern and welcomes the opportunity to discuss them. The scenarios presented would not require action if the land-disturbing (5,000 sq. ft) or excavation (50 cu. yd.) triggers are not met and a City permit is not required. Please contact the District's administrator to schedule a meeting before the end of April. |
| City of Burnsville | Modified Bluff Standard | The City of Burnsville does not desire to regulate these types of activities to the proposed standards of the LMRWD and does not feel that it should have to as it would be overly burdensome. We have a steep slope ordinance that we feel is adequate and wish to continue with upholding, but feel that monitoring even 1 square foot of new impervious surface into a bluff is too onerous for us to manage. Would you consider discussing what would be manageable for us to enforce as we are interested in not losing slopes to erosion similarly to the LMRWD? | The District welcomes the idea of having additional meetings with the City about the proposed standards. Please contact the District's administrator to schedule the meeting before the end of April. |
| City of Burnsville | Modified Bluff Standard | Regarding Variances vs Conditional Use Permits for activities that vary from the proposed standards: The City of Burnsville strongly recommends the LMRWD incorporate a Conditional Use Permit (CUP) process instead of, or in addition to, the proposed variance standards. Based on state statutes, a variance may be granted from the literal provisions of the ordinance in instances where their strict enforcement would cause "practical difficulties" in complying with the official control because of circumstances unique to the individual property under consideration, and to grant variances only when it is demonstrated that the variance will be in harmony with the general purposes and intent of the ordinance and the variances are consistent with the Comprehensive Plan. | The Steep Slopes Standard, as currently modified, no longer creates use restrictions or nonconformities. Rather, the current standard only adds an engineering review requirement to an otherwise permitted use, structure, or activity. The engineering review requirement is established to ensure responsible, safe, and sustainable uses, structures and activities on steep slopes. Because it is now permissive rather than restrictive, neither variances nor conditional uses are required. |

| Commenting entity/resident | Section and page number | Comment | Response |
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| City of Burnsville | Section 2.3.2 | 4. Section 2.3.2. contains development standards for Public Facilities. In Burnsville the City, MnDOT, US Fish & Wildlife, Dakota County, DNR and other public entities have public infrastructure in place and planned to service local and regional residents, businesses and utilities. There are rail lines located within shore and perhaps bluff impact zones that will need to continue to operate, expand and be maintained. Some infrastructure includes roads, bridges, sewer, water, boat launch, paved regional trails, parks, parking lots, etc. Some of these facilities need to be located within shore impact zones because they provide direct access to the river and facilities associated with the river. The City, along with other partners plans to continue the trail system that was recently installed along Black Dog Road, to the west, along the river to connect to existing and future trail systems planned by Dakota County, Scott County and Metropolitan Council. This trail system also will connect to state trail systems to Fort Snelling and beyond. The trails need to meet ADA requirements and there will also be trailheads, rest areas, bathroom and other facilities for the people using the trail system. We do not want to eliminate the ability to provide resources that have been planned for many years. | Appendix K does not include Section 2.3.2. |
| City of Burnsville | Section 4.3.2. Page 4-16. Geomorphic Assessment | Some examples include: e) Consult with LGUs prior to initiating work. | Information regarding coordination with LGUs during project initiation will be added to Section 3.2, Strategy 1.1.1. |
| City of Burnsville | Section 7.2, Item A and Section 7.4 Standards, Item b | Describe the requirement for compensatory storage to be created to offset fill. We recommend that the requirement be to have a registered professional engineer complete a No-Rise Certification based on a hydraulic analysis of the watercourse using the official model for the watercourse, HEC-RAS or other acceptable modeling software. | The District will consider the recommended language, and if it is included, additional requirements will be included as well. |
| City of Burnsville | Strategy 2.2.4. Page 3-30. Water Quality Restoration Program / Section 4.3.5. Page 4-16. Water Resources Restoration Fund | The added language suggests that program effectiveness will be measured by comparing water quality trends before and after projects are implemented. Long term water quality trends are often based on a wide range of factors, well beyond the incremental improvements made through a program such as this. This statement should be modified to acknowledge that trends may not show change within the 10-year term of the plan. In addition, the number of projects implemented may or may not be a true measure of effectiveness. We suggest providing some additional clarity in what is measured. For example, requiring an estimated load reduction for each project as part of the grant agreement would provide a quantifiable measurement of the benefits of the program. | The water quality restoration program and fund were generalized in the Plan. Detailed description of the program, including the evaluation and success metric and desired outcomes, will be posted on the District's website. |
| City of Burnsville | Strategy 8.3.1. Goal 8. Page 3-41. Funding for Dredge Material Management | Some examples include: c) Add a bullet to make sure local partners/LGUs are involved as the District begins this strategic planning process. | This project is underway. |
| City of Burnsville | Table 3-2, Page 3-10. Goal 4 Line | Some examples include: a) Table 3-2, Page 3-10. Goal 4 Line. Please add a fourth bullet to contact LGUs/local partners prior to initiating work on these unique natural resources. In Burnsville, for example, the City has valuable knowledge and insight relating to the Black Dog Fen and has been in contact with the Department of Natural Resources and Trout Unlimited regarding trout streams within the city. | Information regarding coordination with LGUs during project initiation will be added to Section 3.2, Strategy 1.1.1. |
| City of Burnsville | Table 3-2, Page 3-10. Goal 7 Line | Some examples include: b) Is this item intended to address only work completed by LMRWD? It seems that knowing and understanding what each LGU/local partner has done or has planned would be helpful to demonstrate the extent of work done in the short and long term. | The effectiveness of the projects and programs completed by the District or in partnership with LGU will be measured by using the short- and long-term metrics proposed in Table 3-2. However, if metrics are uncovered during discussions with LGU, they will be recorded. |
| City of Burnsville | Table 4-2, Page 4-8 | Some examples include: d) Add LGUs as a Coordination Partner (middle column) to the following rows/strategies: Strategy 3.1.3 (note that the document does not include this number – 3.3.1?), Strategy 7.1.1, and Strategies 8.2.1, 8.2.2, 8.3.1 | Table 4-2, Page 4-8 will be revised as requested. |
| City of Burnsville | Table 4-3. Page 4-18 to 4-19. Boundary Assessment Project. | Some examples include: f) Involve LGUs and add them as partners in column 3. | LGUs were added to the Boundary Assessment Project, Dredge Site Restoration Project, and Riley Creek Projects. The other projects included LGUs. |
| City of Burnsville | Table 4-3. Page 4-18 to 4-19. Minnesota River Corridor Management Project | Some examples include: h) This seems like a good effort although considering that LGUs will have completed their Comprehensive Plan updates in 2018, this item should reference those local visions as a starting point. | Noted. |
| City of Burnsville | Table 4-3. Page 4-18 to 4-19. Minnesota River Sediment Reduction Strategy | Some examples include: g) What is the scope of this study? Sources within the district, sources outside the district, both? If it will impact the LGUs, add them as a partner. | The Minnesota Pollution Control Agency leads and facilitates this project. It will include discussions on strategies within and outside of the District. |
| City of Burnsville | Water Appropriations. Appendix K, Page 33, Line 7 | The District includes a statement that the DNR submitted application be submitted to the District "for review." We request deletion of "for review" as it implies that the District may have some regulatory authority over the DNR Permit Program. | The District reviews DNR appropriations permits and provides comments. |

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| City of Burnsville | | 3. There is a definition for "Water Quality Impact Zone" which is land within the shore impact zone or within 50 feet of the boundary of the public water, wetland, or natural drainage way, whichever is greater. This is a completely new district and the City requests time to further investigate the implications, site and administrative issues of application of the new zone. Also not sure the source of the regulatory authority and if there will be takings issues etc., if use of the land is further restricted. | Appendix K does not include the term Water Quality Impact Zone. |
| City of Burnsville | | At minimum, the plan should allow local units of government to process development applications through the Conditional Use Permit process as opposed to outright prohibitions, generalized land use restrictions or variance process. A fundamental issue with the variance process is that the applicant needs to show that there is a practical difficulty associated with the development that is not created by the applicant. | Some of the justifications for the standards proposed in the amendments, most specifically the steep slope/bluff standards, suggest that there should be a prohibition on development on slopes greater than 18 percent. However, the District acknowledges that the proposed standards, once reduced to official controls, will result in a number of nonconforming lots, structures, and parcels. To alleviate various concerns related to nonconformities, the District intends to better articulate the continuation and, under some circumstances, the expansion or development of nonconforming structures, lots, and parcels. The District believes it can find a balance by using conditions and performance standards that will give municipalities greater flexibility to allow uses after either an application for variance or through a conditional use process. |
| City of Burnsville | | Burnsville has barge related businesses along the river front (US Salt) and there are several utilities including the CenterPoint Dakota Station and Xcel Black Dog Electrical Generating Plant. Waste Management operates an active landfill and the Federal EPA is involved with the old Freeway Landfill site. Burnsville works with the Kraemer Quarry for drinking water. We need to make sure that all of these facilities can continue to function in addition to future redevelopment in the Minnesota River Quadrant area. It would be helpful to identify in the standards exemptions for facilities that operate subject to the MNPCA, DNR and Public Utility Commission. | The District will work with the City of Burnsville to identify and evaluate activities/operations for exemption. |
| City of Burnsville | | Burnsville suggests the plan be modified to allow cities to continue to enforce local shoreland management ordinances that have been approved by the MN Department of Natural Resources and floodplain ordinances approved by FEMA as opposed to creating another layer of inconsistent regulations. | The District's standard is what the City noted in a previous comment and applies to both FEMA-mapped and locally modeled elevations. This standard is required to address non-FEMA mapped areas. |
| City of Burnsville | | Burnsville would like to see language included in the plan indicating that the no-rise certification process satisfies the District's floodplain standard. | The District will consider the recommended language, and if it is included, additional requirements will be included as well. |
| City of Burnsville | | Given the severity of the implications to the City, we are requesting the LMRWD modify the Floodplain Standards to encourage, but not require, compensatory storage for all fill within the flood fringe and require a no-rise certification by a registered engineer for all floodway fill. | Although already captured in Section 7.2, A., the District will include additional information stating that compensatory storage is only required if there is a rise in 100-year water surface elevation. |
| City of Burnsville | | In Burnsville, the City has a separate policy for evaluating variances and there are very few variances granted due to the difficulty of meeting the practical difficulty standard. The Conditional Use Permit process allows all agencies the opportunity to review and comment on the project and apply performance standards to protect natural resources and other public health, safety and welfare considerations. | The standards allow municipalities to grant variances or conditional use permits according to their already-established procedures. The language in Appendix K will be modified to make this clear. As it pertains to the Steep Slopes Standard, the standard has been modified to make it permissive rather than restrictive. The standard only adds a requirement for engineering review for certain land uses, structures, and activities. |
| City of Burnsville | | Please clarify if these provisions apply only to mapped FEMA flood hazard zones. If the intent is to cover areas outside the FEMA mapped floodplain, then provide a distinction between what provisions apply to FEMA mapped area and what provisions apply outside of these areas. These provisions reference a state approved floodplain management ordinance which in Burnsville addresses only the FEMA mapped floodplain areas. | This provision applies to the 100-year elevation that includes the mapped FEMA flood hazard zones. |
| City of Burnsville | | Several provisions indicate an activity is to be avoided "unless no alternatives exist." This is a difficult finding to administer because it does not provide for "reasonable" alternatives. We suggest instead to allow for alternatives that meet the spirit and intent of the provision through a review process such as a conditional use permit or other public process. This allows a legitimate process for alternatives to be reviewed and considered. Many of the standards can remain but should be reworded to remove the "no alternatives" language. | "Unless no alternatives exist" cannot be found in the Draft Plan. Please provide specific areas where the proposed language would be difficult to implement for District review and consideration. |
| City of Burnsville | | The compensatory storage requirement would greatly inhibit the ability to allow for current and planned future development within the flood fringe areas of the floodplain. | See Section 7.2, A: No filling is allowed within the 100-year floodplain that causes a rise in the 100-year flood elevation without providing compensatory floodplain storage equal to or greater than the volume of fill. |

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| City of Burnsville | | We do not believe the City should be penalized with more restrictive standards related to floodplain, shoreland steep slopes, grading and restoration management when our current regulations and practices work. | As discussed in the February and March 2017 Technical Advisory Commission meetings and subsequent meetings with cities, the District recognizes that there are different ways of implementing programs that necessitate varying approaches to the standards presented. To effectively evaluate the City's request for exemption, the District requests equivalency/adequacy documentation for all official controls that propose to deviate from the standards presented. |
| City of Burnsville | | We have been successful allowing development within steep slope areas greater than 12% via requiring the projects to go through the Conditional Use Permit process and meet specific performance standards of our ordinance. | As discussed in the February and March 2017 Technical Advisory Commission meetings and subsequent meetings with cities, the District recognizes that there are different ways of implementing programs that necessitate varying approaches to the standards presented. To effectively evaluate the City's request for exemption, the District requests equivalency/adequacy documentation for all official controls that propose to deviate from the standards presented. |
| City of Burnsville | | We understand there are issues in some areas of the watershed however, the plan should address the specific issues and areas of the watershed where there have been problems related to bluff impacts, erosion of steep slopes etc., and then target those areas accordingly. | Noted. |
| City of Burnsville | | With regard to grading Burnsville suggests that the plan be modified to remove references to 50 cubic yards of material and instead be consistent with existing Shoreland Rules and MPCA Permitting: In shoreland areas grading involving 10 or more cubic yards of material requires a grading permit. For other areas, grading involving 90 or more cubic yards of material requires a grading permit. | The regulatory threshold of 5,000 square feet land disturbance and 50 cubic yards of excavation applies only to HVRAs. If there is a stricter requirement in some areas that are also HRVAs, the District expects the stricter standard will be applied. |
| City of Carver | Appendix K . LMRWD Draft Standards | Page 15: A High Value Resources Area (HVRA) Overlay District is defined and shown on Figure L2. For Carver, there are no areas identified in the HVRA Overlay District, and thus HVRA should not impact Carver. | Noted. |
| City of Carver | Appendix K . LMRWD Draft Standards | Pages 20+: Erosion and Sediment Control standards are defined. These are largely consistent with the NPDES Construction Stormwater Permit. They require weekly and rain event ESC inspections and documentation for active construction sites, and the City of Carver has these requirements included in their MS4 Permit Activities. | Noted. |
| City of Carver | Appendix K . LMRWD Draft Standards | Pages 24+: Floodplain standards are defined. Freeboard is set at 2' above the 100-year HWL and 1' above the emergency overflow, which is consistent with City requirements. They do call for compensatory storage for any fill within the floodplain, and they define floodplain as the 100-year flood elevation of any wetland, public water, or subwatershed (as opposed to only FEMA floodplains). This is a problem, as it restricts the City's ability to adjust its stormwater ponding system (e.g., filling two smaller ponds and replacing them with a more efficient regional pond may require compensatory storage that is unnecessary). We ask for an exception for facilities within a planned and approved municipal stormwater system or otherwise regulated by local controls. | The District will consider the requested expectation. |
| City of Carver | Appendix K . LMRWD Draft Standards | Pages 30+: Shoreline and Streambank standards generally place some requirements on the use of riprap and encourage bioengineered stabilization approaches. These are generally consistent with the City's philosophy. | Noted. |
| City of Carver | Appendix K . LMRWD Draft Standards | Pages 32+: Water Appropriations standards are defined. We consider these items the purview of the MndNR and do not have any comments. | Noted. |
| City of Carver | Appendix K . LMRWD Draft Standards | Pages 33+: Water Crossing standards (e.g., stream crossings) are defined. No comment since the definition is not inconsistent with City standards. | Noted. |
| City of Carver | Appendix K . LMRWD Draft Standards | Pages 4,5: The LMRWD expresses the desire that LGUs continue to act as the permitting authority for their rules, with the standards incorporated into LSWMPs and/or local controls. | Noted. |
| City of Carver | Appendix K . LMRWD Draft Standards | Rate Control calls for no increase from existing conditions for the 1- or 2-, 10-, and 100-year, 24- hour rain events using Atlas 14 rainfall. The City's current standards require the use of TP-40 rainfall depths as well as requiring a parallel analysis using Atlas 14 rainfall depths. The City will be updating their LSWMP to be consistent with the Atlas 14 rainfall depth requirements of the LMRWD and the Carver County Watershed Management Organization (CCWMO) as part of its next plan update. | Noted. |
| City of Carver | Appendix K . LMRWD Draft Standards | Temperature Controls provide requirements for areas that discharge to trout streams. For Carver, there are no designated trout streams and there is no area within the City that drains directly to a trout stream, so this should have minimal to no impacts. | Noted. |
| City of Carver | Appendix K . LMRWD Draft Standards | Volume Control calls for retaining 1" of runoff over impervious area on site, for projects that create one or more acres of new impervious. The City has adopted CCWMO's water quality standards city-wide, which is currently consistent with LMRWD proposed rule. | Noted. |

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| City of Carver | Appendix K . LMRWD Draft Standards | Water Quality calls for no net increase from existing conditions for total phosphorus (TP) and total suspended solids (TSS). The City has adopted CCWMO's water quality standards city-wide. Current CCWMO standards require 90% removal of both Total Phosphorus (TP) and Total Suspended Solids (TSS). CCWMO also requires water quality treatment of 1.0 inches of rainfall from the new impervious surfaces. This is not necessarily equivalent to LMRWD's proposed rules, and may be more restrictive based on site conditions. We recommend the LMRWD allow the City to continue to follow the current water quality standards being used by the CCWMO since they may be more restrictive than the LMRWD's requirements based on site conditions. | The District recognizes that there are different ways of implementing programs, which necessitates varying approaches to the standards presented. The District requests equivalency/adequacy documentation for all official controls that proposes to deviate from the standards presented. |
| City of Carver | Appendix K. LMRWD Draft Standards | Pages 6, 18: Bluff and Bluff Impact Zone (BIZ) are defined and shown with a diagram. The BIZ is defined as the bluff plus any land within 20'. Figure L1.2 identify bluffs in Carver, which include along Spring Creek, Carver Creek, and a portion along the Minnesota River. Bluff standards are provided and include no grading or clearing in the BIZ and a 40' setback for structures and stormwater ponds from the top of the bluff. The City of Carver has been proactive in defining and protecting bluffs in both developing as well as existing areas as plats and permits come in for review and approval. The City has concerns with changing the City's current bluff definition and ordinance and how this may affect a property owner's use of their land. We recommend the City be allowed to continue to use its current definition of a bluff and ordinance in areas of the LMRWD. | The Bluff Standard has been modified. It will be called the Steep Slopes Standard, and it regulates slopes greater than or equal to 18 percent. References to bluffs will be removed. However, the District recognizes that there are different ways of implementing programs, which necessitates varying approaches to the standards presented. The District requests equivalency/adequacy documentation for all official controls that proposes to deviate from the standards presented. |
| City of Carver | Section 2. Issues and Problem Assessments | Page 2-27: The Plan references signed memoranda of understanding (MOUs) with local governmental units (LGUs). We recommend the LMRWD forward a copy for the City's files since City Staff have changed in the last few years and the City's copy may not be readily available. | Prior to the 2011 Approved Plan, the District's practice was to have signed Memoranda of Understanding (MOU) with LGUs. That is no longer the District's practice. |
| City of Carver | Section 3. Goals, Policies, and Management Strategies | Page 3-29: Strategy 2.2.2 cites a number of practices that can be used to meet volume control requirements. The Minnesota Stormwater Manual is referenced for the amount of credit to be allocated to each practice. Practices include: • Buffers, • Forest/prairie restoration, • Grassed channels, • Green roofs, • Natural area conservation, • Permeable paver, • Stormwater reuse, • Rooftop disconnection, • Soil amendments. The City will have the option whether to include all these or to limit them. We'll need to discuss, as part of an overall discussion about regulating stormwater volume (see below). | This District welcomes the opportunity to discuss this further with the City. Please contact the District Administrator to have the meeting before the end of April 2018. |
| City of Carver | Section 3. Goals, Policies, and Management Strategies | Page 3-30: Strategy 2.2.4 discusses a Water Quality Restoration Program to provide funding assistance to LGUs to reduce urban nonpoint source pollution. It is stated that more information can be found in Appendix L. Please forward a copy of Appendix L since this is not included in the plan amendment information. | As requested, a copy of Appendix L will be forwarded. |
| City of Carver | Section 3. Goals, Policies, and Management Strategies | Page 3-35: Strategy 5.1.1 continues to delegate Wetland Conservation Act authority to LGUs. Strategy 25.1.2 requires LGUs to conduct wetland inventories and complete management plans. The City of Carver has completed a wetland management plan. | Noted. |
| City of Carver | Section 4. Implementation Plan | Pages 4-3 and 4-18: Tables 4-1 and 4-3 provide the implementation program budget and describe various capital improvement projects. The Carver projects listed are a Carver Creek Restoration Project (\$93,500) and a Spring Creek Project (\$45,000). The Spring Creek Project has retrofit of storm sewer structures as part of the 2019 Capital Improvement Plan. The City would like to continue to have these projects included in the implementation project, and will review other potential projects with the update to their Local Surface Water Management Plan. | Noted. |
| City of Carver | General Comments | 1. Can the City construct trails in bluff areas under the proposed LMRWD plan amendment? 2. Does the LMRWD help with local surface water management plan updates to their plans to address the LMRWD plan amendments? 3. Confirming your next update be in 2027 and not sooner. | 1. Trails and other public projects may be constructed with overlay district provided they do not adversely impact adjacent or downstream properties or water bodies; destabilize slope conditions; or degrade water quality due to erosion, sedimentation, flooding, and other damages. 2. The District provides technical support to cities during the local surface water management plan update process to make certain the updates are in line with the District's standards. 3. The next Plan update would be in 2027, although there may be amendments to the Implementation Program that will not require updates to local surface water management plans. |
| City of Chaska | Appendix K . LMRWD Draft Standards | Pages 24+: Floodplain standards are defined. The standards call for compensatory storage for any fill within the floodplain, and they define floodplain as the 100-year flood elevation of any wetland, public water, or subwatershed (as opposed to only FEMA floodplains). Chaska would like to see an exception for facilities that are within a planned and approved municipal stormwater system or otherwise regulated by local controls. Requiring compensatory storage within the City's stormwater ponding system will greatly restrict the City's ability to effectively and efficiently manage its system. | The Floodplain and Drainage Alteration Standard states no filling is allowed within the 100-year floodplain that causes a rise in the 100-year elevation without providing compensatory floodplain storage equal to or greater than the volume of fill. As presented, compensatory storage is only required if the 100-year elevation will be affected negatively as a result of the proposed project(s). Note: the Floodplain and Drainage Alteration Standard language has been in place since the 2011 Plan. Nevertheless, the District will consider the requested exception. |

| Commenting entity/resident | Section and page number | Comment | Response |
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| City of Chaska | Modified Bluff Standard | The City of Chaska request the removal of four man-made sloped areas from the Bluff and Steep Slopes Overlay District. | The District has reviewed the areas, and they will be removed as requested. |
| City of Chaska | Section 3. Goals, Policies, and Management Strategies | Page 3-30: Strategy 2.2.4 discusses a Water Quality Restoration Program to provide funding assistance to LGUs to reduce urban nonpoint source pollution. Can we get details on this program, including project criteria and proposed budget? | The water quality restoration program is funded though the Water Resources Restoration Fund, as presented in the Table 4-1 and in Section 4.3.5. The program will be built on the existing water quality restoration information in Appendix L. Additionally, information including success metric and desired outcomes will be posted on the District's website. |
| City of Chaska | Section 4. Implementation Plan | We previously submitted a number of Seminary Fen projects for partnering to the LMRWD in a 3/17/2017 email to Linda Loomis. Chaska would like the LMRWD to include these in the Plan Amendment for support and potential funding consideration. This would also indicate support to BWSR and the MnDNR in the event of future grant applications to those agencies. The 3/17/2017 email with the proposed projects is attached. | Collaboration with municipalities and other partners on water and natural resources restoration, preservation, and protection projects is the cornerstone of the District's implementation philosophy. The projects submitted were reviewed and will be added to the Plan. |
| City of Eden Prairie | | b. The City of Eden Prairie as well as other members of the TAC have requested a Statement of Need and Reasonableness (SONAR) to accompany any newly proposed standards. During the TAC process, we were told that document would be provided. Releasing that document after the standards have been drafted and the public comment period has lapsed seems to devalue the usefulness of that document. Please comment on when the public will have access to that document. | A SONAR is not a Water Management Plan development requirement. The issues in Section 2 present the need for the proposed changes. Nevertheless, the District completed a draft SONAR/Statement of Need and reasonableness report, emailed it to LGUs, and posted it on the District's website. |
| City of Eden Prairie | | b. Unlike some areas within the District's jurisdiction, Eden Prairie's bluff land is predominantly developed. Bluff side development issues in Eden Prairie relate less to new subdivisions and more to smaller property improvements that are customarily incidental to existing homes and reasonable home improvement projects. In numerous cases, the proposed standards will prohibit decks, patios, sheds and additions that would today be allowed and that the City views as fully reasonable, even in a bluff side context. While well intentioned, the proposed District standards do not adequately recognize and protect the property rights of landowners. | With modification of the Steep Slopes Standard, there is no longer a prohibition or restriction on bluff side development, as noted in this comment. Rather, such development, if it triggers the standard, will only require an engineering review and certification that it can be done safely, responsibly, and sustainably given the site conditions. This standard actually protects the landowner's investment in the property. |
| City of Eden Prairie | | c. The City remains committed to providing high quality customer service. Streamlining the permit process and reducing the duplication of authority is a priority. The City would prefer to limit the redundancy of review and reach out to the District only when technical assistance or clarification of standards is required. The City may also prefer that the District be the permitting agency if proper indemnification is not afforded by District to the City for rules that are likely to be legally challenged by property owners. This issue warrants further discussion between the City and District. | Unlike several other metropolitan watershed districts, the LMRWD has chosen to eliminate permitting redundancy by sticking to the clear requirements of statutes such as Section 103B.235, which requires local governments to prepare a local water management plan, capital improvement program, and official controls as necessary to bring local water management into conformance with the watershed plan. The District welcomes discussion with the City regarding development of a standalone permitting program. |
| City of Eden Prairie | | c. The District is proposing to significantly change the definition of "bluff". Among other changes, the slope threshold to qualify as a bluff has been reduced from 30% to 18%. While the District has provided a map of the area that meets the 18% definition, it has not provided a map of the area that meets the 30% definition. We believe the proposed 18% threshold significantly expands the reach of the standards, but without a map of the previous "bluff", we have no way to verify or to quantify the impact. Eden Prairie requests that the District prepare a map of the "bluff" using the current 30% definition, post it on their website and provide a shapefile to cities. Please also provide a combined comparison graphic that visually depicts the two "bluff" designations overlaid on one another along with metadata that compares the impacted area by acre in each community for the existing and proposed standard. | Comparative maps showing the existing 30 percent and proposed 18 percent standards were provided to the LGUs and the information posted on the District's website. |
| City of Eden Prairie | | d. Explain the reasoning for expanding the structure setback from 30' to 40'. Many of the existing homes that are setback the required 30' from top of bluff would be pushed into non-conforming status due to this change. | The Bluff Standard has been modified. It will be called the Steep Slopes Standard and will no longer require setbacks. Figure 1 will be modified to reflect the revised standard. |
| City of Eden Prairie | | d. The numbering in the revised plan is difficult to follow and finding references between the tables and text is difficult. This is partially a function of the additions and deletions for the plan amendment and should be checked prior to finalizing the plan. | Noted. |
| City of Eden Prairie | | e. Clarification on how non-conformities will be addressed should be included the plan. Consider that RPBCWD and NMCWD both have slope and wetland buffer exemptions and/or separate rules for existing single family lots that are only triggered at the time of development. This greatly reduces the creation of non-conformities. More detail regarding review standards and exemptions for existing single family homes, gardens, lawns, and structures such as sheds, pools, etc. is needed. | The District will consider the recommendation and provide additional information regarding vegetation maintenance and structure definition. |

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| City of Eden Prairie | Appendix K Section 5 - Bluff Standard | f. Clarification is needed on what type of vegetation alteration is allowed under the current proposed standard. A large amount of properties have mowed and maintained lawns and gardens that extend into the proposed bluff and bluff impact zones. | The proposed standard includes the following exception: Plantings that enhance the natural vegetation or the selective clearing of noxious, exotic, or invasive vegetation or the pruning of trees or vegetation that are dead, diseased, or pose a public hazard. The following additional exceptions will be included: maintenance of existing lawns, landscaping, and gardens; removal of vegetation in emergency situations; right-of-way maintenance for public facilities; and agricultural and forestry activities. |
| City of Eden Prairie | Appendix K Section 8 - Stormwater Management Standard | a. The City has no comments regarding the proposed stormwater management standards as the proposed standards are generally similar to or less stringent than our current ordinances and practices. However, since the proposed standard references the MS4 and NPDES requirements, is this necessary outside of the HRV areas? | Noted. |
| City of Eden Prairie | Appendix K Section 8 - Stormwater Management Standard | b. Section 8.3.2.3.1 states that "for new development projects, the decrease in TP and TSS shall be 60 percent and 80 percent from predevelopment conditions, respectively". Is this intended to be proposed development conditions? | 8.3.2.3.1 is intended to state, "from existing pre-project condition." |
| City of Eden Prairie | Appendix K Section 8 - Stormwater Management Standard | c. The threshold for linear requirements is unclear. Please clarify. | We are unsure of what is unclear. |
| City of Eden Prairie | Section 3.3 - Surface Water Management | a. Policy 2.1 introduces the concept of High Value Resources (HVRA) Overlay Districts. More details on what is defined as a HVRA as well as reference to the relevant maps should be provided. Details on how HVRA areas are newly identified should also be addressed to eliminate vagueness, confusion, and future disputes. | The section will be modified to include more detail about HVRA and how areas can be included to the list. |
| City of Eden Prairie | Section 3.3 - Surface Water Management | b. Language in the needs to be modified (it states To Use of... and should be For Use of...) | Policy 2.1 will be modified as follows: Policy 2.1: Use of High Value Resource Area Overlay District to Management Water Resources. |
| City of Eden Prairie | Section 3.5 - Wetland Management, Strategy 5.1.2 | a. Strategy 5.1.2 requires development of a Comprehensive Management Plan. The City completed a Comprehensive Wetland Protection and Management Plan in November 1999 that included a database to track the information (MnRAM and associated data) that was collected at that time. Since that time, the City has merged that database with our stormwater pond inventory database to assist the city in determining wetland buffer requirements. As development projects are submitted, the database is updated with current information. In addition, the City does require the use of the most recent version of MnRAM for all delineations. Please comment on the intent of this strategy and if the City's current management of the management plan fits with the District's goals. | We are unsure of the question. The City's statement shows it is complying with the District's requirement. |
| City of Eden Prairie | Appendix K Section 2 – Relationship with Municipalities | a. In discussions with LMRWD administrative, engineering and attorney staff, it was explained that following adoption of the plan by the district, the Cities would have 18 months to amend their official controls to regulate the proposed standards. There is no language in Section 6 or Appendix K to support or clarify this. Timeline of implementation needs to be addressed in the plan. | Section 5.1 and Appendix K, Section 4.5 will be updated to reflect the 18-month requirement to implement the District's standards. |
| City of Eden Prairie | Appendix K Section 2 – Relationship with Municipalities | b. In discussions at the TAC meeting and in meetings with City staff, the drafting of a model ordinance for the new standards was discussed. Appendix K or Section 5 should discuss the timing of this document and the expectations for the usage of this model. | Model ordinance will be developed for standards in the approved Plan. |
| City of Eden Prairie | Appendix K Section 2 – Relationship with Municipalities | c. This section discusses enforcement actions against an LGU for non-compliance with the proposed standards. This procedure (warnings, timeline, etc.) needs to be clearly defined in the plan. | As presented in Section 5.1.3, the District will complete spot checks on projects and programs approved by the City to confirm compliance with District standards. The process, including notification, staff interviews, and project/program review, will be formalized following approval of the Plan. |
| City of Eden Prairie | Appendix K Section 4 – Administrative Procedures | a. Section 4.2 is difficult to clearly decipher. Multiple bullets proceed section 4.2.1 "general" so it is not clear what activities or thresholds apply to the different standards. Consider deleting this section since the exceptions appears to be repeated in the text of the individual standards they apply to. | The District will consider deleting Sections 4.1, 4.2, and 4.3 or modifying them to reflect applicable standards. |
| City of Eden Prairie | Appendix K Section 4 – Administrative Procedures | b. Section 4.2.2 should include a process for how new HVRA and their corresponding overlay districts are established. | The process for modifying HVRA will be added to Strategy 2.1.1. |
| City of Eden Prairie | Appendix K Section 4 – Administrative Procedures | c. Similar to section 4.2, consider separating the exceptions from 4.3 into only the standard they apply to rather than one large section. | The District will consider deleting Sections 4.1, 4.2, and 4.3 or modifying them to reflect applicable standards. |

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| City of Eden Prairie | Appendix K Section 4 – Administrative Procedures | d. Section 4.4 contains procedures for consideration of variances and the District's role in reviewing and granting variances. Conflicts of timing of variances between the City and Watershed would lead to development delays and uncertainty. The City also looks at variances through a wider lens and can further protect natural resources by granting variances in exchange for other benefits. To meet our customer service goals we strongly feel the City should maintain the primary variance authority. | The Board intends to revise the variance provisions contained in Section 4.4 of Appendix K of the draft plan amendment. The Board's intent is to allow local governments to issue variances pursuant to the variance processes and standards contained in its existing official controls. Additional consideration will be given to modifying Appendix K for future development or modification of lots or uses considered nonconforming by the proposed standards to occur as conditional uses with baseline performance standards that ensure the intents of the proposed standards are addressed. |
| City of Eden Prairie | Appendix K Section 4 – Administrative Procedures | e. District staff has offered the variance process as a mechanism for landowners to find relief from the proposed standards. However, the variance process is expensive and time consuming for landowners and for the cities or watershed districts that must process those variances. The City of Eden Prairie requests that the District review the many scenarios that may result in variances that could be supported and then revise the proposed standards to allow those certain common circumstances that would not require a variance, and thereby reduce the number of variances that would be requested by land owners | With the substantial modification to the Steep Slopes Standard, the standards no longer create nonconformities or restrictions requiring variances. The Board is reviewing other scenarios where such concerns might arise. It would be helpful if the City were to provide common scenarios it believes will be encountered so the District can evaluate whether adjustments may be made to the proposed standards or exemptions developed. |
| City of Eden Prairie | Appendix K Section 4 – Administrative Procedures | f. The District proposes using an "undue hardship" variance finding that will result in little practical ability to issue variances. As proposed, a variance cannot be issued if the property in question can be put to a reasonable use without the variance. The Minnesota State Legislature recently amended the required variance findings for city-issued variances to replace the "undue hardship" test with the "practical difficulty" test. Many Minnesota cities, including Eden Prairie, amended their respective City Codes to conform to this standard. Eden Prairie requests that the District revise the required variance findings to match the findings set forth in State law and city codes. Conflicting legal standards will cause confusion and increase the potential for lawsuits. | The Board intends to revise the variance provisions contained in Section 4.4 of Appendix K of the draft plan amendment. The language will be changed to follow the practical difficulties test to be consistent with existing municipal variance standards. The Board's intent is to allow local governments to issue variances pursuant to the variance processes and standards contained in its existing official controls. The Board may require some additional performance standards in considering such variances to ensure the intent of the proposed standards is met. |
| City of Eden Prairie | Appendix K Section 4 – Administrative Procedures | g. Similar to previous comments, Section 4.5 needs to clearly lay out the process for enforcement including schedules for warnings and responses. | The District's variance and enforcement process, including the schedule for program audits, reporting requirements, warnings and responses, will be developed in partnership with LGUs and posted on the District's new website (www.lowermriverwd.org). |
| City of Eden Prairie | Appendix K Section 4 – Administrative Procedures | h. Section 4.5, or elsewhere in the document, should reference how long the City has to implement these standards in their official controls. As discussed with LMRWD staff, the City was told they would have 18 months to adopt official controls to enforce these standards. | Section 5.1 and Appendix K, Section 4.5 will be updated to reflect the 18-month requirement to implement the District's standards. |
| City of Eden Prairie | Appendix K Section 4 – Administrative Procedures | i. The proposed standards are likely to trigger legal challenges from impacted landowners. The burden of defending against those challenges should fall on the District and not on individual cities that in many cases may not agree with the standards they are required to enforce. Any shifting of the burden to cities to enforce and legally defend the standards must come with a corresponding indemnification for cities from the District. | There is no shifting of burdens being imposed by the watershed district. Rather, the burden of local government to adopt official controls necessary to bring local water management and land use in line with watershed district plan standards is imposed by the legislature in statutes Section 103B.235, subd. 1. It is the local government's obligation to adopt defensible controls and to defend those controls. Local government purchases insurance for such purposes. Additionally, the standards, specifically the Steep Slopes Standard, have been modified so they are no longer restrictive. Rather, these standards are permissive in nature and only require an engineering review to ensure the proposed activity can be responsibly and safely conducted on the property. |

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| City of Eden Prairie | Appendix K Section 5 - Bluff Standard | <p>a. Given the level of anticipated impacts to existing property and developable land, please provide a Statement Of Need And Reasonableness (SONAR) or a similar form of documentation that demonstrates the need to establish an 18 percent bluff threshold and the corresponding regulations. The TAC was told that the standards were modeled after the MRCCA rules that recently went into effect. A great deal of consideration was put into the definition with respect to the MRCCA rules that may not fit with the Lower Minnesota River corridor. A thorough SONAR was completed for the MRCCA rules that spoke to many specifics that detailed the need and process for developing the updated rules (as referenced on the following website). http://files.dnr.state.mn.us/input/rules/rulemaking/mrcca/sonar.pdf Specifically, the original Executive Order 79-19 that regulates the MRCCA had already provided special protection for “bluffs with a slope greater than 18 percent”, but did not specifically define a bluff. It did, however, define the bluffline as “a line delineating the top of a slope connecting the points at which the slope becomes less than 18 percent”. There was also a 40’ structure setback already in place as part of the original executive order. With the recent MRCCA updates, there was clarification of the existing bluff definition, but not a large departure from what was already in place. From the MRCCA Sonar: “...the 18 percent slope parameter was retained from Executive Order 79-19 because it was a standard widely adopted by local governments and accepted by environmental organizations.” In this case, the 18% slope and the additional 40’ setback is a new addition to the standard and is not currently widely adopted by the Local Governments. The development of the recent MRCCA rules had a “dual goal of protecting sensitive bluff features while minimizing the creation of new nonconforming structures within areas of significant existing development”. There were many analytical iterations and field verifications of the proposed MRCCA standard throughout the corridor before advancing the definition for inclusion. The MRCCA SONAR included many photos and examples of what was considered a bluff at different iterations of the rules. In addition to the creation of additional non-conformities, a desktop analysis of properties impacted in Eden Prairie by the proposed standard showed the creation of multiple undevelopable parcels and unbuildable platted lots.</p> | <p>A SONAR is not a Water Management Plan development requirement. The issues in Section 2 present the need for the proposed changes. Nevertheless, the District completed a draft SONAR/Statement of Need and reasonableness report, emailed it to LGUs, and posted it on the District’s website.</p> |
| City of Eden Prairie | General Comment | <p>a. Changes to a water management plan of this magnitude need a more involved public engagement process. The proposed Bluff Standards alone will create significant restrictions on hundreds of properties within the District. These property owners were mostly unaware of the conversation happening until a few days ago when cities felt it incumbent upon themselves to mail them notice of the impending District action. Now these property owners are feverishly calling cities to inquire how this discussion happened without them being notified, and how they can participate in the process. The City of Eden Prairie requests the District provide full mailed notice to these property owners, host an open house to explain the proposed standards, provide a higher degree of information on the District’s website concerning the proposed changes, and allow sufficient time for the public to review and provide written comment. Because these proposed standards represent a possible deprivation of protected interests there should be a higher level of due process afforded.</p> | <p>The Board may consider whether additional notice or hearing is necessary and will decide whether to accomplish such additional hearing on a regional or community basis. The City’s comment contemplates a level of notice well in excess of statutory requirements even for watershed district rules. Nevertheless, a continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District’s website, and emailed information to all with email addresses in the District’s system. The board will have to weigh the burden of the notice requirement against the value of additional public comments it might receive. The preservation and protection of the high value resources necessitate the threshold(s) set for projects proposed within the High Value Resource Areas Overlay District.</p> |
| City of Eden Prairie | Section 3.2 – Organizational Management | <p>a. The section which discusses Policy 1.2 and Policy 1.3 needs to be revised as the numbering does not line up. This section could be deleted entirely and merged with Sections 3.9 and 3.10.</p> | <p>Section numbering will be reviewed and (if necessary) revised.</p> |
| City of Eden Prairie | Section 4.2 – Coordination with Local, State and Federal Governments and Non-Government Organizations | <p>Table 4-2 appears to include a Strategy (1.2.1) that may have been deleted.</p> | <p>Noted.</p> |
| City of Eden Prairie | Section 4.4 Capital Improvement Projects | <p>A line item for the Minnesota River Study Area 3 Bluff Stabilization Project has been added to the CIP for 2022-2023 for \$350,000. This in addition to the amount that the City has committed to the project is not sufficient to cover the estimated cost of the project. More information on how the additional funding required to design and implement this project is needed. The City feels that additional partnerships with the State and counties should be involved.</p> | <p>Contact the District’s managers to discuss funding concerns for stabilizing bluffs and the City’s bluff protection strategies to prevent future problems.</p> |

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| City of Eden Prairie | Section 5.0 – Impact of Implementation | a. The City adopted its most recent LWP on September 6, 2016 and it was approved by the LMRWD via resolution on September 21, 2016. The City submitted this LWP with minor amendments to its CIP to the Met Council for comments regarding the requirements of the 2017-2018 local water management plan under Minnesota Rules Chapter 8410. The City received a letter of approval to include this LWP with our comprehensive plan. Clarification on the expectations for future LWP amendments based on this plan amendment are needed. | Upon completion and approval by BWSR of the District's Plan, cities are required to update their LWP and official controls to reflect updates. The timeline for the modification will be 18 months after approval of the Plan. |
| City of Eden Prairie | Section 5.0 – Impact of Implementation | b. Section 5.1.3 Administration and Enforcement of LWPs includes standards for finding an LGU non-compliant with the assumption of permitting authority as the final step in ensuring compliance with the District's Plan. More information on how a LWP could be considered non-compliant is requested. | As presented in Section 5.1.3, the District will complete spot checks on projects and programs approved by the City to confirm compliance with District standards. The process, including notification, staff interviews, and project/program review, will be formalized following approval of the Plan. |
| City of Eden Prairie | Section 5.0 – Impact of Implementation | c. In discussions with LMRWD administrative, engineering and attorney staff, it was explained that following adoption of the plan by the district, the LGU would have 18 months to amend their official controls to regulate the proposed standards. There is no language in Section 5 to support or clarify this. Timeline of implementation needs to be addressed in the plan. | Section 5.1 and Appendix K, Section 4.5 will be updated to reflect the 18-month requirement to implement the District's standards. |
| City of Eden Prairie | Section 6.0 – Administration (Section 6.1.1) | Section 6.1.1 includes provisions on determination of whether a proposed plan amendment would be considered a minor amendment. The provisions include submittal of the proposed amendment to the review authorities. The City would request that this include all cities that would potentially be impacted by the plan amendment. | Minnesota Statute 103B.231, Subpart 11 reference in the Plan includes a requirement for review by cities. |
| City of Savage | Appendix K | The definition for fully reconstructs should be revised to be consistent with the definition proposed by the Prior Lake Spring Lake Watershed District. The definition is as follows: Area where impervious surface is removed down to the underlying native soil and the underlying native soils, as distinguished from roadway subgrade material, is disturbed. The following are among those that do not constitute impervious surface reconstruction: structure renovation, impervious surface mill, reclamation and overlay; and minor maintenance activities such as catch basin and pipe repair/replacement with same hydraulic capacity. | The preservation and protection of high value resources (such as Savage Fen and Eagle Creek) as highlighted in the SONAR/Statement of Need and Reasonableness report necessitate the definition for fully reconstructs. |
| City of Savage | Appendix K - Stormwater Management Standard | Currently, the City requires volume reduction equal to 0.5 inches of runoff from all newly created impervious surfaces for development from sites that exceed 5,000 square feet of new impervious and less than 1 acre of total project area. For sites that exceed 5,000 square feet of new impervious and 1 acre of total project area the volume control criteria is 1.0 inch over the new impervious. The City believes their current standard is appropriate for sites that are smaller in size and have less room to incorporate stormwater BMPs. The City requests the LMRWD that for sites with less than 1 acre of new impervious and down to the City's permitting threshold that the volume control be equal to 0.55 of inches for new or full reconstructed impervious surfaces vs. 1.1 inches of runoff from the new and/or fully reconstructed impervious surfaces. | The preservation and protection of the high value resources necessitate the threshold(s) set for projects proposed within the High Value Resource Areas Overlay District. |
| City of Savage | Appendix K - Stormwater Management Standard | The District (draft) volume reduction standard would include reconstructed streets and/or other public linear projects. Consideration for alternative sequencing options, such as giving credit for existing BMPs, implementing a trading/banking policy, or factoring in the existing TSS/TP removal rates in the project area, should be allowed or accommodated in the standards. | The District will consider alternative sequencing options not specified in the MPCA Stormwater Manual on a case-by-case basis. Alternative sequencing options from the MPCA Stormwater Manual will be accepted if all of the design specifications are met. |
| City of Savage | Appendix K - Stormwater Management Standard | As discussed during our meeting on February 7, 2018, the City would like to pursue alternatives to the straight volume standard as proposed by the rule. It is likely due to constraints within the HVRA that implementing volume reduction BMPs will be infeasible. The City would like to partner with the LMRWD to develop an Eagle Creek Stormwater Management Plan that identifies BMPs that will maximize the potential for treatment in lieu of providing treatment for each street reconstruction project. | The District welcomes the opportunity to partner with the City on developing an Eagle Creek Stormwater Management Plan and has included it in its CIP (Capital Improvement Projects). |
| City of Savage | Modified Bluff Standard | The City requests an informational meeting be held in the City of Savage. The information meeting should include an invite to all potentially impacted landowners within the City of Savage. The meeting should clearly identify how this will impact existing homeowners. For instance, in reading the rule it appears any structure, such as retaining walls greater than 4 feet would require a geotechnical engineer to sign off on any design. Is this the case? This may be cumbersome for a homeowner and for the City to implement. | Noted. The City of Savage's informational meeting has been scheduled for April 3, 2018. At the meeting, the District will explain how the proposed standard might affect residents. A four-foot tall retaining wall proposed within the overlay district that triggers the Stormwater Management Standard would require compliance with the standard, as proposed. |
| City of Savage | Modified Bluff Standard | The definition for steep slope is confusing. It appears when reading the definition it is tied to having to be above the ordinary high water level. Do items 1 and 2 need to be included in the definition. It seems as though they are repeating the previous statement. | Noted. The District modified the definition of steep slopes as follows: A natural topographic feature having average slopes of 18 percent or greater that is measured over a horizontal distance of 25 feet or more. |
| City of Savage | Modified Bluff Standard | The City requests three areas in the City formerly mined to be exempted from the requirements of the proposed rules. The areas are as follows: 1. Rose Hill, 2. Trout Run Preserve, and 3. Cherrywood Pointe of Savage. | The District has reviewed the areas, and they will be removed as requested. |

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| City of Savage | Page 10, Lines 16 through 18 | The definition for public project mentions obtaining a District permit. It is unclear what the permit and/or permitting process is for the District. The City requests definition of this process and it should be included in the District's plan. | Minnesota Department of Transportation projects are not required to comply with LGU project requirements. For those projects and projects within unincorporated areas, a permitting program will be developed. Details of the program will be on the District's new website (www.lowermnriverwd.org). |
| City of Savage | Page 17, Lines 26 through 31 | This section includes language regarding the proposed District auditing process. This is new to the plan and will impact the City's budget and operations. A better definition and understanding of the audit process is needed to understand what efforts are required of the City. | This use of audit language is not a change to the District's current Plan. The language was moved to Appendix K. Nevertheless, the schedule for program audits, reporting requirements, warnings, and responses will be developed in partnership with LGUs and posted on the District's new website, www.lowermnriverwd.org . |
| City of Savage | Page 31, Lines 16 through 25 | This section summarizes restrictions to rip rap use within the District boundaries. The District is proposing that limestone and dolomite shall not be used for shoreline or stream bank stabilization. It is our belief that this will greatly increase the cost of projects. Additionally, limestone rip rap is widely accepted and meets MNDOT and Corps of Engineers Standards. Finally, limestone is native to the area and is in-line with the character of the Minnesota River Valley. | The section does not prohibit riprap but requests use of bioengineering to the maximum extent possible. Revisit Section 9.3. |
| City of Savage | Page 5, Lines 6 and 7 | The language in this section refers to failure of implementation of the plan, "...as determined solely by the District, the District may revoke the LWP approval" is too narrow and suggests that only the District will be involved. In 2018 the City will adopt a plan that will be in conformance with the District, and other regulatory bodies within the district. This language is vague and should not include the word 'solely'. | Minnesota Statute section 103B.235 requires local government units having land use planning and regulatory responsibility for territory within the watershed to prepare a local water management plan, capital improvement program, and official controls as necessary to bring local water management into conformance with the watershed plan within the time period prescribed in the implementation program of the watershed plan and, as necessary, shall prepare or cause to be prepared amendments to the local comprehensive plan. Before adoption of its local water management plan, capital improvement plan, and official controls as required above, each local unit must submit its water management plan to the watershed management organization for review for consistency with the watershed. The organization shall approve or disapprove the local plan or parts of the plan. The organization shall have 60 days to complete its review, provided, however, that the watershed management organization shall, as part of its review, take into account the comments submitted to it by the Metropolitan Council or others entitled to comment on the local plan. While it is true that the local plan must also be reviewed by others, the other review is for different purposes (i.e., Metropolitan Council review is done for consistency with the Council's plan, county review may be for consistency with groundwater plans, etc.). The Watershed District possesses sole authority to determine whether the local water management plan, capital improvement plan, and official controls are consistent with its Watershed Management Plan. The Watershed District's decision is subject to appeal pursuant to Statute Chapters 103B and 103D. |
| City of Savage | Page 6, Line 13 | "The bluff and land within 20 feet of the bluff." This should read, "The bluff and land within 20 feet of the bluffline/top of bluff". | The Bluff Standard has been modified. It will be called the Steep Slopes Standard and will regulate slopes greater than or equal to 18 percent. References to bluffs will be removed. |
| City of Savage | Page 6, Line 16 | By definition sod would fall into the definition for buffer zone; we believe that is not the intent. | The language as presented in the plan is correct. |
| City of Savage | Page 6, Lines 1 through 9 | The definition and graphic of a bluff is unclear and appears to be too restrictive, revising the bluff definition from 30% slopes to 18% slopes. This is a significant change to the plan and requires better definition. It is unclear if "where the slope begins below the ordinary high water level" also includes the area below the water level. The City requests the District provide additional material and justification for the change in moving to the 18% standards. The City has provided an exhibit that shows the impact to a parcel that is currently being proposed for development. The proposed change would potentially result in this parcel becoming undevelopable, which is inconsistent with the City's comprehensive plan. | The issues in Section 2 present the need for the proposed changes. A SONAR is not a Water Management Plan development requirement. Nevertheless, the District completed a draft SONAR/Statement of Need and reasonableness report, emailed it to LGUs, and posted it on the District's website. In addition, a comparative map of the existing 30 percent standard and the proposed 18 percent standard was included in the SONAR and posted the District's website. |
| City of Savage | Page 7, Line 3 | This definition should include both public and private improvement projects. | The definition will be revised to include private. |
| City of Savage | Page 9, Lines 11 through 22 | The definition lists stormwater models accepted by the District. If there are other models used by the City, those should be noted and Submitted as a request to include. | We are unsure of the question or comment. |
| City of Savage | Page 9, Lines 8 through 10 | The definition for natural vegetation, similar to buffer zone, would also include sod; we believe that is not the intent. | The language as presented in the plan is correct. |

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| City of Savage | Section 1 - Land and Water Resources inventory | Several of the figures in this section are from 2009 and may not represent the most current data. For example, Figure 1-10 shows a data set for impaired waters that is dated 2009. All figures and graphics in this section should be updated and/or verified that the most current dataset is presented in the plan. | The updates to Section 1 requested will be addressed as part of District's Corridor Management project slated for 2020 and 2021. |
| City of Savage | Section 2-issues and Problems Assessments | I have no comments regarding the content of this section; however, it is worth noting that the District plan states that the City will continue to implement a water quality monitoring program that includes the Savage Fen and Eagle Creek. It is important to note that this activity is supported by the City of Savage, but is not being done by the City. The plan should be updated to properly reflect how this program is being implemented. | The Plan mentioned in Section 1.6.3 MCES and Scott SWCD operates the monitoring station on Eagle Creek in the City of Savage. It does not include any information about Savage conducting the monitoring activities. |
| City of Savage | Section 3 - Goals, Policies, and Management Strategies | Savage has a large area that is designated as a HVRA, primarily around the Savage Fen and Eagle Creek. The stormwater management standards in this area are more stringent than other areas of the City. The trigger for stormwater management is lower in these areas and volume reduction requirements are higher. Considering this, along with the District's change in the definition of a bluff and bluffsetback requirements, this could significantly impact future development in the City in these areas. Volume reduction standards for the District are higher than what the City currently has in your plan. Currently the City requires volume reduction equal to 0.5 inches of runoff from all newly created impervious surfaces for development from site that are exceed 5,000 square feet of new impervious and less than 1 acre of total project area. For site that exceed 5,000 square feet of new impervious and 1 acres of total project area the volume control criteria is 1.0 inches over the new impervious. | Noted. |
| City of Savage | Section 3 - Goals, Policies, and Management Strategies | <i>The City believes their current standard is appropriate for sites that are smaller in size and have less room to incorporate stormwater BMPs. The City request the LMRWD evaluate if there is a need to adjust the permitting thresholds on smaller sites (sites less than 1 acre) and leave the permitting to the local authority. In addition, the District (draft) volume reduction standard would include reconstructed streets and/or other public linear projects. Consideration for alternative sequencing options, such as giving credit for existing BMPs, implementing a trading/banking policy, or factoring in the existing TSS/TP removal rates in the project area, should be allowed or accommodated in the standards. We request further discussion on this topic.</i> | This District welcomes the opportunity to discuss this further with the City. Please contact the District Administrator to have the meeting before the end of April 2018. |
| City of Savage | Section 4 - Implementation Program | The City supports providing a list for the district to be included in the District's Capital Improvement Project (CIP) list. The City can supply the proposed CIP projects annually to the LMRWD. | Noted. Thank you for your continued partnership and support. |
| City of Savage | Section 5 - Impact of Implementation | As this section outlines, the City is required to develop a local water plan with a System for managing the watershed that is consistent with the District's plan. The City will be preparing an updated watershed management plan in 2018. The plan will cover the years 2018 through 2027 and will need to be consistent with the District's plan. | Section 5, paragraph 1 will be modified to require LWP completion within 18-month after the Plan has been approved by BWSR. |
| City of Savage | Section 5 - Impact of Implementation - 5.1.3 Program Audits | <i>The City would like further understanding and discussion on what program audits will look like. Will it be an audit that is regulatory in nature and require program improvements or more of a collaboration to discuss potential areas that could be improved or where the two agencies could support each other's objectives towards water resources management?</i> | The audit, although being revised, will be a collaborative process. |
| City of Savage | Section 6 - Administration | The City the supports the District's statement that says regulations are more properly performed at the local level. | Noted. Thank you for your continued partnership and support. |
| City of Shakopee | Appendix K – LMRWD Draft Standards | The definition for natural vegetation, similar to buffer zone, would also include sod. The City does not believe that is the intent. | The language as presented in the plan is correct. |
| City of Shakopee | Appendix K – LMRWD Draft Standards | The definition lists stormwater models accepted by the District. The City of Shakopee has a large area that is modeled using XPSWMM and requests adding to the list of accepted models. Additionally, we would request that accepted water quality models be included. | We are unsure of the question or comment. |

| Commenting entity/resident | Section and page number | Comment | Response |
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| City of Shakopee | Appendix K – LMRWD Draft Standards - Page 31, Lines 16 through 25 | This section summarizes restrictions to rip rap use within the District boundaries. The District is proposing that limestone and dolomite shall not be used for shoreline or stream bank stabilization. It is our belief that this will greatly increase the cost of projects. Additionally, limestone rip rap is widely accepted and meets MNDOT and Corps of Engineers standards. Finally, limestone is native to the Shakopee area and in line with the character of the Minnesota River Valley. | The section does not prohibit riprap but requests use of bioengineering to the maximum extent possible. Revisit Section 9.3. |
| City of Shakopee | Appendix K – LMRWD Draft Standards - Page 5, Lines 6 and 7 | The language in this section refers to failure of implementation of the plan, “...as determined solely by the District, the District may revoke the LWP approval” is too narrow and suggests that only the District will be involved. In 2018 the City will adopt a plan that will be in conformance with the District and with other regulatory bodies within the district. This language is vague and should not include the word ‘solely’. | Minnesota Statute section 103B.235 requires local government units having land use planning and regulatory responsibility for territory within the watershed to prepare a local water management plan, capital improvement program, and official controls as necessary to bring local water management into conformance with the watershed plan within the time period prescribed in the implementation program of the watershed plan and, as necessary, shall prepare or cause to be prepared amendments to the local comprehensive plan. Before adoption of its local water management plan, capital improvement plan, and official controls as required above, each local unit must submit its water management plan to the watershed management organization for review for consistency with the watershed. The organization shall approve or disapprove the local plan or parts of the plan. The organization shall have 60 days to complete its review, provided, however, that the watershed management organization shall, as part of its review, take into account the comments submitted to it by the Metropolitan Council or others entitled to comment on the local plan. While it is true that the local plan must also be reviewed by others, the other review is for different purposes (i.e., Metropolitan Council review is done for consistency with the Council’s plan, county review may be for consistency with groundwater plans, etc.). The Watershed District possesses sole authority to determine whether the local water management plan, capital improvement plan, and official controls are consistent with its Watershed Management Plan. The Watershed District’s decision is subject to appeal pursuant to Statute Chapters 103B and 103D. |
| City of Shakopee | Appendix K – LMRWD Draft Standards - Page 6, Lines 1 through 9 | The definition and graphic of a bluff is unclear and appears to be too restrictive, revising the bluff definition from 30% slopes to 18% slopes. This is a significant change to the plan and requires better definition. It is unclear if “where the slope begins below the ordinary high water level” also includes the area below the water level. The City would like to discuss or receive additional material from the District regarding bluffs in Shakopee. | A SONAR is not a Water Management Plan development requirement. The issues in Section 2 present the need for the proposed changes. Nevertheless, the District completed a SONAR/Statement of Need and reasonableness report, emailed it to LGUs and posted it on the District’s website. In addition, a comparative map of the existing 30% standard and the proposed 18% standard was included in the SONAR and posted on the District’s website. |
| City of Shakopee | Appendix K – LMRWD Draft Standards (con’t): Page 10, Lines 16 through 18 | The definition for public project mentions obtaining a District permit. It is unclear what the permit and/or permitting process is for the District. The city needs further definition of this process and it should be included in the District’s plan. | Minnesota Department of Transportation projects are not required to comply with LGU project requirements. For those projects and projects within unincorporated areas, a permitting program will be developed. Details of the program will be on the District’s new website (www.lowermnrriverwd.org). |
| City of Shakopee | Appendix K – LMRWD Draft Standards (con’t): Page 17, Lines 26 through 31 | This section includes language regarding the proposed District auditing process. This is new to the plan and will impact the City’s budget and operations. A better definition and understanding of the audit process is needed to understand what efforts are required of the City. | This use of audit language is not a change to the District’s current Plan. The language was moved to Appendix K. Nevertheless, the schedule for program audits, reporting requirements, warnings and responses will be developed in partnership with LGUs and posted on the District’s new website (www.lowermnrriverwd.org). |
| City of Shakopee | Appendix K – LMRWD Draft Standards (con’t): Page 21, Lines 9 through 21 | It is the city’s understanding and practice that the city has not obtained erosion and sediment control permits for ‘linear projects’ from the watershed under current or past practice. The city requests another bullet point be added, including an exemption for public ‘linear projects’. | Section 6.3 will remain as proposed. The standard as presented is the NPDES construction stormwater permit. The revised/ more strict standards refer to High Value Resources Areas. The preservation and protection of the high value resources necessitate the threshold(s) set for projects proposed within the High Value Resource Areas Overlay District. |
| City of Shakopee | Appendix K – LMRWD Draft Standards (con’t): Page 6, Line 13 | “The bluff and land within 20 feet of the bluff.” This should read, “The bluff and land within 20 feet of the bluffline/top of bluff”. | The Bluff Standard has been modified. It will be called the Steep Slopes Standard. References to bluffs will be removed. |
| City of Shakopee | Appendix K – LMRWD Draft Standards (con’t): Page 6, Line 16 | By definition, sod would fall into the definition for buffer zone and the City does not believe that is the intent. | The language as presented in the plan is correct. |
| City of Shakopee | Appendix K – LMRWD Draft Standards (con’t): Page 7, Line 3 | This definition should include both public and private improvement projects. | The definition will be revised to include private. |

| Commenting entity/resident | Section and page number | Comment | Response |
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| City of Shakopee | Appendix K – LMRWD Draft Standards, Page 4, Lines 32 through 34 | The City would like a definition for under what circumstances the District will be approving a project or issuing a permit. In addition, the City needs a better understanding of the auditing process that the district is adding to their plan. This is a change to the existing plan and the City needs to factor this into budgeting and overall operations. | This use of audit language is not a change to the District's current Plan. The language was moved to Appendix K. Nevertheless, the schedule for program audits, reporting requirements, warnings, and responses will be developed in partnership with LGUs and posted on the District's new website, www.lowermriverwd.com . |
| City of Shakopee | Page 27 of Appendix K | Linear projects on sites without restrictions that create 10,000 square feet or greater of new and/or fully reconstructed impervious surfaces, shall capture and retain....etc....". The City of Shakopee adamantly opposes that the watershed is considering a "fully reconstructed impervious surface" to be considered new impervious and must meet full treatment requirements. This is neither feasible nor reasonable. If I am interpreting something incorrectly, please let me know. Otherwise, this is a strong objection. It is the City's position that "fully reconstructed impervious surfaces" should be struck in its entirety. | The preservation and protection of the high value resources necessitate the threshold(s) set for projects proposed within the High Value Resource Areas Overlay District. |
| City of Shakopee | Section 1 – Land and Water Resources Inventory | Several of the figures in this section are from 2009 and may not represent the most current data. For example, Figure 1-10 shows a data set for impaired waters that is dated 2009. All figures and graphics in this section should be updated and/or verified that the most current dataset is presented in the plan. | The updates to Section 1 requested will be addressed as part of District's Corridor Management project slated for 2020 and 2021. |
| City of Shakopee | Section 2 – Issues and Problems Assessments | We have no comments regarding the content of this section. It is worth mentioning that the City intends to continue to work towards improving the water quality of Dean Lake and will include management strategies for this lake in the next watershed management plan for the City. | Noted. Thank you for your continued partnership and support. |
| City of Shakopee | Section 3 – Goals, Policies, and Management Strategies | The City recognizes the addition of Goal 7, which focuses on erosion and sediment control. Significant changes to this section are the addition of the long-term metric of protection and preservation of the Minnesota River Bluff and also the addition of High Value Resources Area Overlay District (HVRA). | Noted. |
| City of Shakopee | Section 4 – Implementation Program | In addition, the City would like to work with the District to better understand the process for implementing projects in the Water Quality Restoration Program. The City often has projects that may fall into this program and it would benefit both the City and the District to coordinate efforts, whether it is with project initiation or long-term monitoring. | Noted. The District welcomes the opportunity to partner with cities on projects that further its mission. Please contact the District Administrator after the Plan has been approved to schedule a meeting to discuss. |
| City of Shakopee | Section 4 – Implementation Program | 2. Re-routing of Amazon Distribution Center Discharge. The proposed project would re-direct the majority or all of the discharge from the Amazon Distribution Center site away from sensitive cultural resources in the area. The discharge from the subject land has historically drained to this area. With the development of the Amazon Distribution Center, due to proximity to bedrock, volume reduction was not possible and filtration was the method implemented for managing runoff from the developed site. The peak discharge rates from the site meets the stormwater requirements outlined in the city's CSWMP; however, the resulting increased runoff volume from the site has the potential to impact sensitive cultural resources directly in the path of the runoff. The total project cost is estimated at \$500,000. The requested cost participation from the LMRWD is \$100,000. | The District has reviewed the projects submitted, and they will be added to the Plan, though they will not be added to the CIP list. |
| City of Shakopee | Section 4 – Implementation Program | The City has two projects that should be incorporated into the District's Capital Improvement Project (CIP) list. They are: 1. Segment 5 Realignment of Prior Lake Outlet Channel. The proposed project would realign the channel in this location to meander more naturally and improve function and value of existing adjacent monolithic Type 2 wetlands and increase wetland diversity and complexity for improved habitat. The project will reduce flow velocities, reduce TSS, reduce TP and provide increased storage upstream of the impaired Deans Lake and the Lower Minnesota River. The total project cost is estimated at \$350,000. The requested cost participation from the LMRWD is \$100,000. | The District has reviewed the projects submitted, and they will be added to the Plan, though they |
| City of Shakopee | Section 5 – Impact of Implementation | As this section outlines, the City is required to develop a local water plan with a system for managing the watershed that is consistent with the District's plan. The City will be preparing an updated watershed management plan in 2018. The plan will cover the years 2018 through 2027 and is expected to be consistent with the District's plan. | Section 5, paragraph 1 will be modified to require LWP completion within 18-month after the Plan has been approved by BWSR. |
| City of Shakopee | Section 6 – Administration | The City has no comments regarding how the District administers its plan and will continue working with the District in the future, focusing on improving and protecting water resources within the City of Shakopee. The City agrees with the District's statement that says regulations are more properly performed at the local level. | Noted. Thank you for your continued partnership and support. |

| Commenting entity/resident | Section and page number | Comment | Response |
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| City of Shakopee | | <p>On behalf of the City of Shakopee, please accept this request for a continuance of the October 25, 2017 public hearing for the Major Watershed Management Plan Amendment. We would like you to consider the following when deciding to grant a continuance:</p> <ul style="list-style-type: none"> • The Response to Comments document provided by the Watershed was received on October 15, 2017 and includes 59 pages of comments and responses – this is an extremely significant amount of comments and responses. City staff have not had adequate time to fully review and understand the responses and comments. • The Watershed’s responses to some comments are not clear and/or are not fully answered or understood, warranting follow-up with the Watershed. • The Watershed’s proposed new requirements for linear projects (reconstruction projects) are not fully understood and could seemingly result in city rehabilitation projects being postponed due to the new storm water requirements being too onerous. We feel there is enough vagueness in the responses and feel several items were not adequately addressed where acting on the proposed plan amendment would be inappropriate. For these reasons, we are asking the Board of Managers to delay any decision on the proposed plan amendment to allow more time for inclusive and direct discussions between the Watershed and its member cities. We must ensure all plan updates and proposed rule changes are understood and feasible with an inclusive partnership-type relationship to ensure successful and responsible implementation by all. | <p>A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District’s website, and emailed information to all with email addresses in the District’s system. The changes proposed to the Stormwater Management Standard are specific to the High Value Resource Areas (HVRA), as noted. Areas outside of HVRA that do not drain to fens, trout lakes, and trout streams are required to comply with the general requirement, which are primarily the NPDES Construction Stormwater Permit requirements. These more strict requirements are specific to impact areas of high value resources and are necessary and reasonable for the protection and preservation of these unique resources. Within the City of Shakopee, two areas are affected by the proposed changes: the first area is east of Stagecoach Road and County Road 18, and the second area is the portion of the City of Shakopee within the floodplain adjacent to the Minnesota River and the City of Shakopee’s municipal boundary with the City of Chaska. Given the areas affected within the City of Shakopee, the District needs more information on the rehabilitation projects proposed in those areas and why their respective timelines will be affected.</p> |

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| Scott County | | Thank you for including the Dredge Site Restoration Project. We would like to talk with the District about the possibility of working together to include this effort as part of a larger "Port" improvement project and federal grant opportunity. Someone from the county will Call Administrator Loomis and/or Manager Hartman later this week. | Noted. The District Administrator and Manager Hartman look forward to the call. |
| Scott County | Page 6 lines 1 through 12 | 2. Page 6 lines 1 through 12 the Scott WMO definition for bluff is 30% or greater, with our experience over the last 10 years operating a similar standard we do not agree with the need to go down to 18%. | Noted. The District presents the need for the revision in the Plan and the Draft SONAR (Statement of Need and Reasonableness) report. |
| Scott County | Page 10 lines 22 through 24 | 3. Page 10 lines 22 through 24 Definition of Redevelopment with reference to 5,000 sf is inconsistent with references to redevelopment and 10,000 sf in later portions of the Standards - please clarify. | The definition for redevelopment is in Section 3. In Section 8, for redevelopment projects where the new impervious surface generated is 10,000 sf would trigger the stormwater management standard within high value resource areas. |
| Scott County | Page 13 line 31 | 4. Page 13 line 31 policy of "Promote and encourage a reductions in ... infiltration, and groundwater recharge" conflicts with the next three policies covered on lines 33 through 37 of encouraging infiltration, maximizing groundwater recharge and protecting and maintaining groundwater flow, and promoting groundwater discharge. We suspect this is not what you meant to say. | The District will consider deleting Sections 4.1, 4.2, and 4.3. The highlighted section as correctly presented in Section 8.1 will state, "Promote and encourage a reduction in runoff rates, encourage infiltration, and promote groundwater recharge." |
| Scott County | Page 14 line 20 | 5. Page 14 line 20 states policy to "review" appropriation requests, but Standard presented later calls for permitting. Please clarify. | The District is considering deleting Sections 4.1, 4.2, and 4.3. As noted in Section 10, for projects requiring a DNR water appropriations permit, the District will review the application and submit comments to the DNR. |
| Scott County | Page 15 line 1 | 6. Page 15 line 1 Please clarify the extent of areas covered for the 100-year flood elevation activity regulated. As written it says "...any wetland, public water or Subwatershed shall be..." We have the same issue with the Scott WMO standards and are hoping to add clarifying language that focuses this on either larger drainage areas or Flood Insurance Program covered areas where there is greater risk, rather than "any area." | The District intends to cover FEMA regulated water and other public waters. Nevertheless, a representative for the District will contact you to discuss issues Scott WMO has encountered. |
| Scott County | Page 15 line 7 | 7. Page 15 line 7. National Flood Insurance and State programs require 1 foot above the 100-year flood elevation. Please provide the need for requiring 2 feet? Is there documentation of flood damages increasing in the District over time? | This requirement has been in place since the Technical Advisory Commission's consideration of the standards and implementation of the Plan in 2011. |
| Scott County | Page 15 line 12 | 8. Page 15 line 12 there is no definition of floodway in the definitions section, and confirm that this only applies to flood Zones where a regulatory floodway has been determined. | The following floodway definition will be included to Section 3: "Regulatory Floodway" is the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The District is considering deleting sections 4.1, 4.2, and 4.3. Section 7 will be modified to reflect regulatory floodway instead of floodway. |
| Scott County | Page 15 line 13-15 | 9. Page 15 lines 13 through 15. Activities below the OHW are already regulated by the DNR. Scott County does not believe operating duplicative permitting efforts is good public policy, and its confusing to the public. | The District works in conjunction with the DNR to provide additional review. This requirement does not duplicate the DNR's effort but supports it. The District is considering deleting sections 4.1, 4.2, and 4.3. |
| Scott County | Page 15 lines 16 & 17 | 10. Page 15 lines 16 and 17, same as comment 8 above. | See response above. |
| Scott County | Page 15 lines 18-20 | 11. Page 15 lines 18 through 20, same as comment 8 above. | See response above. |
| Scott County | Page 15 lines 25 & 26 | 12. Page 15 lines 25 and 26 these appropriations are already regulated by DNR. Scott County does not believe operating duplicative permitting efforts is good public policy, and its confusing to the public. | The District works in conjunction with the DNR to provide additional review. This requirement does not duplicate the DNR's effort but supports it. The District is considering deleting sections 4.1, 4.2, and 4.3. |

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| Scott County | Page 15 lines 34 & 35 | 13. Page 15 lines 34 and 35 has the District completed an analysis showing the need to regulate appropriations less than 10,000 gallons per day? We suspect that this would not make much difference. The larger appropriations already regulated by DNR are where most of this risk for cumulative drawdown impacts is located. We think the District would be better served by reviewing and commenting on Local Water Supply Master Plans as they are drafted over the next year than by starting a permitting program for small appropriations. Additionally, a de minimus threshold does need to be set here in order to focus efforts on where there is the most risk. How far down does the regulation go? 1, 100 or 1,000 gallons? Finally, well level monitoring in Scott County does not show any kind of systematic decline in ground water levels in recent years. | The District is most concerned about temporary dewatering activities occurring in the District that contribute to declining groundwater levels in Dakota County fens. The District works in conjunction with the DNR to provide additional review around the cumulative effect of permanent and temporary groundwater appropriations on fens. The District is taking a proactive role in assisting with the protection of these rare, high value resources. This requirement does not duplicate the DNR's effort but supports it. The District is considering deleting sections 4.1, 4.2, and 4.3. |
| Scott County | Page 24 lines 16-29 | 14. Page 24 lines 16 through 29 clarify where the standard will apply similar to comment 5 above. There should be some mechanism to focus efforts. | The District will consider deleting Sections 4.1, 4.2, and 4.3. The highlighted section as correctly presented in Section 8.1 will state, "Promote and encourage a reduction in runoff rates, encourage infiltration, and promote groundwater recharge." |
| Scott County | Page 25 lines 1-4 | Page 25 lines 1 through 4 same as comment 6 above. | See response above. |
| Scott County | Page 25 line 5 | Page 25 line 5 please clarify whether a bridge is a drainage conveyance structure. | Bridges are drainage conveyance structures. |
| Scott County | Page 25 line 1 and 23 | Page 25 line 1 and 23 conflict. | The conflict mentioned is not obvious. Additional information is required. |
| Scott County | Page 25 lines 25-28 | Page 25 lines 25 through 28. This is impractical as written. Please provide a threshold or de minimus to focus efforts where risk warrants the permitting effort. Some actions by landowners affecting their neighbors are private civil issues. If there is no public purpose government does not need to be involved. We do not have the resources to permit everything, nor do landowners want us to. | The District will contact the representative from the Scott WMO to fully understand the concern. |
| Scott County | Page 26 & 27 | Page 26 lines 26 and 27. The definition of redevelopment page 10 lines 22 through 24 conflicts with the threshold presented here - please clarify. | See response above. |
| Scott County | Page 26 & 27 (Rate Control) | Pages 26 and 27 section on Rate Control, much of the Cities of Savage and Shakopee, and Scott County developed in recent years using standards for rate control that exceeded the Standard proposed here (not exceed existing runoff rates) can we take credit for these past efforts with redevelopment or road projects if documentation is provided? | This concept will be considered and, if the managers are amenable to the request, the Plan will be updated to reflect it. |
| Scott County | Page 27 lines 10 & 11 | Page 27 lines 10 and 11 this requirement is not possible where the existing condition is a relatively undisturbed condition such as forest. Nor would this be appropriate where the receiving waters are not impaired (i.e., meets applicable water quality standards), or where a TMDL with waste load allocations has been completed. | Proactive stormwater management, the foundation of this requirement, is required to preserve water resource quality and ecosystem health. |
| Scott County | Page 27 lines 20, 23, and 27 | Page 27 lines 20, 23, and 27 please clarify what "without restrictions" means. | Restriction is where attainment of the performance goal is not feasible. |
| Scott County | Page 27 lines 27-31 | Page 27 lines 27 through 31 please provide evidence that this is cost effective, and reasonable. | See the MPCA's Enhancing Stormwater Management in Minnesota, which documents the development of MIDS (minimal impact design standards): https://www.pca.state.mn.us/water/enhancing-stormwater-management-minnesota |
| Scott County | Page 28 lines 28-30 | Page 28 lines 28 through 30 see comment 22 above. | See response above. |
| Scott County | Page 20 line 11 | 25. Page 30 line 11 capitalize "Recorded." | Revised as requested. |
| Scott County | Page 30 line 4, Section 8.3.4 | 26. Page 30 line 4 section 8.3.4. Maintenance and Easement line 4 through 14 consider allowing 5th list item which would be to allow public entity to accept maintenance responsibilities with the acceptance/platting of Drainage and Utility Easements instead of having to create a document with each development/project. | The District will consider adding this option. |

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| Scott County | Page 30 line 31; Page 32 lines 1-5 | 27. Page 30 line 31 and lines 1 through 5 page 32. See comment 8 above. | See response above. |
| Scott County | Page 33 lines 1-14 | 28. Page 33 lines 1 through 14 see comment 12 above. | See response above. |
| Scott County | Page 33 lines 8-10 | Page 33 lines 8, 9 and 10 how does ISTS management fits with a Water Appropriation Standard or the Regulated Activity described in line 28 through 32 on page 32 or lines 1 and 2 page 33 - please clarify? | Appendix K, Section 10.3.1 b will be removed. |
| Scott County | Page 33 lines 8-10 | Page 33 lines 8 through 10. We apologize if the District previously routed this as a preliminary draft Standard, if so we missed it. That said we have significant concerns with what is drafted for the following reasons and ask that we meet to discuss. a. ISTS regulation is specifically named by the legislature as a county and MPCA function in MN Statues 115.55, and Rules Chapters 7080 through 7083 also give permitting authority to counties and the MPCA. b. Scott County, and we suspect other counties overlapping with LMRWD have developed and already have in place ordinances to address ISTS systems including non-compliant Systems. c. Scott County ordinances are worded differently than what is proposed by the LMRWD here, and we believe that county staff has expertise on this issue and our ordinance and approach is working to reduce non-compliant systems. Nonconforming systems in high Susceptibility groundwater areas are required to be replaced in 3 years. In addition, state code requires septic systems in Wellhead protection areas have three feet of separation to pass a compliance inspection. We also have a low interest loan program to assist property owners replace Systems. d. Local communities have completed Wellhead protection plans as well as updates and County ISTS staff review those plans, and to date none of the communities have asked for special consideration. We respectfully suggest that the LMRWD leave this issue to the local communities who are drafting the Wellhead plans and the Counties who administer the ISTS programs. If the LMRWD has evidence that more effort is needed, provide it to us and we will act accordingly. The District needs to ask itself whether it will or can take over local ISTS programs (not just permitting) if you include this in your Standards. This program would need to include a permitting program, access to trained and licensed professionals, an inspection effort, databases and staffing to track system maintenance and compliance inspections. Staff will need to be available on a moment's notice to help applicants and answer questions. | Acknowledged, and Appendix. K, Section 10.3.1 b will be removed. |

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| Upper Mississippi Waterway Association - Taylor Luke, President | page 2-16, Section 2.2.9 Issue 9, paragraph 3 | A troublesome point in our understanding of the LMRWD Management Plan 2018-2027 is the following statement: [The] District may be unable to support navigation if it is not clear who will pay for commercial navigation maintenance.” (Draft Watershed Mgt Plan, page 2-16, Section 2.2.9 Issue 9, paragraph 3). While we surmise this statement reflects the District’s attempt to develop a policy to address ways to sustain the 9-foot channel fund over the next 10 years, the LMRWD is nonetheless required to provide placement sites for the life of the project. | The District understands and will honor its current obligation to maintain the 9-foot channel for navigation. However, a navigable 9-foot channel benefits the entire state of Minnesota and not just the residents within the District, who historically have solely financed the acquisition and maintenance for the dredge site. As discussed in the Plan, it is the District’s desire to secure permanent State funding for operation and maintenance of the 9-foot channel. |
| Upper Mississippi Waterway Association - Taylor Luke, President | General | The State of Minnesota appropriated \$240,000 for each 2017 and 2018 to perform capital improvement projects and on-going O&M projects with a caveat that those funds cannot be used to finance the 9-foot channel fund; they can only be used to manage the dredge placement site. Conversation with District officials revealed that with new State money the deficit in the fund will not continue, and that revenue from the storage of private dredge material and the sale of main channel dredge material can now all be used to reduce the fund’s deficit. We learned that there is also \$80,000 in the 2018 budget for the 9-foot channel fund. What will these funds be used for? | The preliminary draft 2018 budget allocated \$80,000 to the 9-foot Channel Fund. During the Board’s Budget hearing, the amount was revised down to \$50,000. In 2018, the District has a \$50,000 budget for all costs incurred by the District to maintain the Nine Foot Channel. Expenses assigned to the 9-foot Channel Fund do not include the activities identified in the workplan for the Dredge Site Restoration project and operation and maintenance activities. |
| Upper Mississippi Waterway Association - Taylor Luke, President | | Will State recognition of economic value be reflected in future funding? | Yes. The Implementation Program contains the State’s appropriation as a grant that is facilitated by the Minnesota Board of Water and Soil Resources. |
| Upper Mississippi Waterway Association - Taylor Luke, President | | We understand your Board of Managers want to maintain the presence of the District at the capital after 2018 and 2019 funding to allow the District to continue to work with others in the Minnesota River Basin to reduce sediment of upstream flows. Since upstream erosion has been and continues to be an issue, what programs will be established? | As recommended by the legislature, the District intends to work with the Minnesota Pollution Control Agency on the Minnesota River Sediment Reduction Strategy during fiscal years 2018 and 2019. The Implementation Program, in Section 4, budgets \$25,000 per year to contribute to the analysis and evaluation of the Minnesota River Sediment Reduction Strategy. |
| Upper Mississippi Waterway Association - Taylor Luke, President | 9-foot Channel | A narrow view of the beneficiaries of the 9-foot channel argues that non-commercial taxpayers do not benefit from the project and that it is therefore unfair to expect them to be the only ones to pay to support navigation. But they are not the only ones: The District’s FY 2015 annual report covering the Nine Foot Channel Fund indicated that property taxes (commercial terminals included) and dredge site income generated just over \$94 thousand while expenses charged against that fund amounted to over \$40 thousand, resulting in a positive revenue flow of \$54 thousand. Stated another way, by this matrix alone, the fund is self-supporting and is made negative by expenses charged against it which may or may not be appropriate as navigation was one of the primary initiatives driving the establishment of the District in 1960. | The conditions under which the District was able to have positive revenue in FY 2015 have not always existed. To assume the 9-ft channel fund would have been self-supporting purely off the FY2015 information over simplifies a more complex system. Note that some of the revenue received in FY 2015 was actually income that should have been received in FY 2014, but because of the timing of negotiations for the sale of the main channel dredge material for beneficial reuse, the income was received in FY 2015. Additionally, the structure of the agreement for sale of the main channel dredge material called for payment of the last half of the stockpile upfront. The District will endeavor to find markets for the main channel dredge material. |
| Upper Mississippi Waterway Association - Taylor Luke, President | | The 332-mile long Minnesota river, draining over16,000 square miles in Iowa, South Dakota and Minnesota, through urban and rural landscapes deposits its sediment load in the last 14.7 mile navigable channel maintained by the District’s Nine Foot Channel Fund. According to Corps records, sediment flows have increased over the last two decades and wildly fluctuating annual events continue causes UMWA to expect demands in dredging to be at least at the current level of 40-50 thousand cubic yards per year. Given a correlation between river shipments and dredging, our expectation is supported by Clay Todd’s statements that going forward, research suggest that declines in grain shipments from the Minnesota River are unlikely (page 38). | Noted. |

| Commenting entity/resident | Section and page number | Comment | Response |
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| Upper Mississippi Waterway Association - Taylor Luke, President | Dredge Site Probable Cost Analysis | This February 2017 analysis (LMRWD ProForma under Private CIP) contains a negative \$1,648,721 under year 2017 which seems to never be totally offset by Private/COE Revenues. What is the explanation for this? | As explained in the Estimate of Probable Cost, Cargill East River (MN-14.2 RMP) Dredge Material Site Tech Memo, the \$1,648,721 under year 2017 represents capital improvement costs to be paid for by private dredge users for reconfiguring the site and for upgrading Vernon Avenue. How this cost is funded is up to the private dredge users and was not part of the analysis. |
| Upper Mississippi Waterway Association - Taylor Luke, President | | We reserve the right to make changes to our comments to reflect outcome of public hearings. | These comments and modifications to them will be a part of the Plan amendment record. UMWA has until the District closes the public hearing April 18, 2018, to submit comments. Comments will not be accepted after the public hearing closes. |

Final Draft

| Commenting entity/resident | If resident, resident's address | Comment | Response |
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| Adam Buenz | No address provided | Just a quick question. We farm part of the land that this is slated for after reading through the documentation provided on the plan web site. It looks to say we can't affect vegetation, which I suppose obviously means we have to shut down our farm? | Farms/agricultural practices will not be affected by the proposed standard. An exception will be incorporated in upcoming revision to the proposed standard. |
| Andrew Carlson, Representative | No address provided | At the request of several Bloomington residents, I'm contacting you regarding the Lower Minnesota River Watershed District's draft Watershed Management Plan. I am aware that the comment period for the draft document expired on September 20th and that the next step is to hold a public hearing. My constituents' concern is that the hearing is intended to be held in Chaska, MN. However, I was unable to find any information about the public hearing on the website: http://www.watersheddistrict.org/index.html The City estimates that over 600 properties in Bloomington would be impacted by the new regulations proposed in the plan. A hearing in Bloomington would likely increase the number of Bloomington residents able to attend. Thank you for your consideration and I look forward to your response regarding the possibility of hosting a public hearing in the City of Bloomington. | A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| Belinda Caspari | 10785 Hopkins Circle, Bloomington, MN | It would be nice to have a hearing or informational meeting in Bloomington where we all live so we can understand the impact and what we can do about it. | A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| Belinda Caspari | 10785 Hopkins Circle, Bloomington, MN | When I look at the map my house is in the yellow and light blue lined areas along with my neighbors. How will this affect my house and my neighbors? I looked very briefly at the over 1000 page proposal and would like a quick summary in layman's terms how we are affected by this. | Thank you for your continued partnership and support. |
| Belinda Caspari | 10785 Hopkins Circle, Bloomington, MN | How will this affect my property and its value? | The intent of the proposed Steep Slopes Standard is to protect property and property values. The District cannot speculate on the impact the standards may have on the value of a particular property. Because existing uses and structures made nonconforming by the proposed standards may continue, be maintained, and under some circumstances be improved or expanded, it is unlikely there will be a decrease in value. |
| Belinda Caspari | 10785 Hopkins Circle, Bloomington, MN | I know I have asked the city in the past if I can remove the buckthorn and other invasive species of plants and the dead trees that could fall down at anytime and they have said NO. And they were not willing to do this work since it costs too much and it takes too much time. So, with this new amendment how are you going to clean the area up and deal with the maintenance of it? | The proposed standard includes the following exception: Plantings that enhance the natural vegetation or the selective clearing of noxious, exotic, or invasive vegetation or the pruning of trees or vegetation that are dead, diseased, or pose a public hazard. The following additional exceptions will be included: maintenance of existing lawns, landscaping, and gardens; removal of vegetation in emergency situations; right-of-way maintenance for public facilities; and agricultural and forestry activities. The District does not conduct vegetation removal activities. However, the District does have a Cost Share Program that may be applied to invasive vegetation removal. |
| Belinda Caspari | 10785 Hopkins Circle, Bloomington, MN | As for my house and remodeling, updating, and fixing my house and property, How will I be limited in doing this? For example I have a shed that is in that area and it needs to probably be completely redone, will this affect my ability to do this? Or if I have to rebuild up my retaining wall how will this be affected? Or just basic erosion/foundation issues? Or if something happened with an accident/fire damage/tornado/storm/etc. to my house will I be able to rebuild? What if I just want to do basic landscaping to make my house and property look better or to help with water drainage? I'm not sure what other things I could possibly need to do to my house and how will this affect my ability to do what is needed or helpful to it? | The proposed standard will contain an exemption for maintenance or replacement of existing structures so long as accomplished under certain performance standards. |
| Belinda Caspari | 10785 Hopkins Circle, Bloomington, MN | We live right next to the bike trail/walking path and how will this new amendment affect that path? Is part of this proposal to pave the path (which I know is another big topic that has gone in and out of proposals)? Another big cost and almost impossible to maintain with most springs flooding issues. Don't forget the added party goes at night to go down the path, we already get some with out it paved! | The proposed standard will contain an exemption for maintenance or replacement of existing structures so long as accomplished under certain performance standards. |

| Commenting entity/resident | If resident, resident's address | Comment | Response |
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| Bob Schmit | 11001 Girard Curve, Bloomington, MN | I read (or tried to read) the proposed standards, but despite being a practicing lawyer for almost 48 years, found the Watershed Management Plan to be nearly incomprehensible. Nevertheless, I am a long time supporter of land management which brings me to my current dilemma. When we purchased our home some 14 years ago, we found that a steep meadow at the rear of our lot appeared to be weed choked and eroding. As a consequence, we hired Prairie Restorations Inc. in Princeton to convert the meadow to a prairie garden. The garden was successful almost immediately, but prairie gardens need a periodic controlled burn to be successful long term,. Prairie Restorations was able to do one early controlled burn, but unfortunately Bloomington City Code now has an inflexible prohibition of such burns if there is any structure within 200 yards of the burn site. In our case, there are three such properties, but despite the written consent of each, proposed burns have been denied by the Bloomington fire marshal. I am confident that a prairie garden would further your plan, but without being able to do a burn, our meadow is returning to weeds and erosion. My plea to you is to work with Bloomington to amend the Code provision to at least allow such exceptions to the Code that the Bloomington fire marshall may approve, subject to any conditions he may require. I know this is a minor issue in your overall plan, but thank you for anything you can do. | The proposed standard includes the following exception: Plantings that enhance the natural vegetation or the selective clearing of noxious, exotic, or invasive vegetation or the pruning of trees or vegetation that are dead, diseased, or pose a public hazard. The following additional exceptions will be included: maintenance of existing lawns, landscaping, and gardens; removal of vegetation in emergency situations; right-of-way maintenance for public facilities; and agricultural ad forestry activities. |
| Bob VanCleave, PhD | 8920 River Ridge Rd., Bloomington, MN 55425 | I am concerned, but also do understand that certain controls are needed as I have witnessed one of my neighbors take a buzz saw to the trees in their backyard to get their "view." Really terrible what they did. | The District shares your concern, and it is one of the reasons we have proposed this standard. |
| Brian and Kristen Dueber | Bloomington, MN | Second, that you hold a public hearing in Bloomington near to the people impacted. | A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| Brian and Kristen Dueber | Bloomington, MN | First: Has your committee provided any type of lot level assessments to help residents determine impacts to specific properties? | Lot level assessments have not been completed for properties. |
| Brian and Kristen Dueber | Bloomington, MN | We would like to request the following steps. First, that you describe the impact of these proposed changes at an individual property level. | Please attend the District's public hearing and/or contact the District's Administrator to discuss how the future planned improvement may be affected by the proposed Bluff Standard. |
| Brian and Kristen Dueber | Bloomington, MN | --Can I add a firepit inside the proposed 40' buffer? | The Bluff Standard has been modified. It will be called the Steep Slopes Standard and no longer incorporates structures or a structure setback. Fire pits are allowed within the overlay district. |
| Brian and Kristen Dueber | Bloomington, MN | In our opinion, the new plan's restrictions, to the best of our understanding, are unfair and unnecessary. We respectfully request the amendment be rejected. | The mission and the purpose of the Lower Minnesota River Watershed District is to manage and protect the Minnesota River, lakes, streams, wetlands, and groundwater within its jurisdiction. The proposed Steep Slopes Standard is intended to address steep slope erosion, protect downstream water resources from the effects of sediment transport from steep slope erosion, and promote public safety by limiting land-disturbing activities and other land alteration on steep slopes. |
| Brian and Kristen Dueber | Bloomington, MN | Can I remove invasive species (buckthorn, garlic mustard, Chinese elm) inside the proposed 40' buffer? Can I add/modify any landscaping inside the proposed 40' buffer? | The proposed standard includes the following exception: Plantings that enhance the natural vegetation or the selective clearing of noxious, exotic, or invasive vegetation or the pruning of trees or vegetation that are dead, diseased, or pose a public hazard. The following additional exceptions will be included: maintenance of existing lawns, landscaping, and gardens; removal of vegetation in emergency situations; right-of-way maintenance for public facilities; and agricultural ad forestry activities. |
| Brian and Kristen Dueber | Bloomington, MN | --Can I replace an existing patio inside the proposed 40' buffer? | The proposed standard will contain an exemption for maintenance or replacement of existing structures so long as such is accomplished under certain performance standards. The |
| Brian and Kristen Dueber | Bloomington, MN | --Can I make modifications or improvements to my home located inside the proposed 40' buffer? | The proposed standard will contain an exemption for maintenance or replacement of existing structures so long as such is accomplished under certain performance standards. The existing uses and structures made nonconforming by the proposed standards may continue, be maintained, and under some circumstances be improved or expanded. |
| Brian and Kristen Dueber | Bloomington, MN | --If my home is damaged in a storm, can I rebuild it on the existing footprint? | The proposed standard will contain an exemption for maintenance or replacement of existing structures so long as such is accomplished under certain performance standards. The existing uses and structures made nonconforming by the proposed standards may continue, be maintained, and under some circumstances be improved or expanded. |

| Commenting entity/resident | If resident, resident's address | Comment | Response |
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| Brian and Kristen Dueber | Bloomington, MN | Second, we have reviewed the proposed amendment. To the best of my understanding, I will not be able to install so much as a small fire pit within 40' of the bluff edge. Restrictions include fire pits, patios, retaining walls, rain barrels, gazebos, tents, or other structures. Am I allowed to replace the patio presently under the deck in my back yard? What about adding a small retaining wall? It appears we cannot even remove buckthorn ('any removal of vegetation'). | The proposed standard will contain an exemption for maintenance or replacement of existing structures so long as such is accomplished under certain performance standards. The intent of the proposed Steep Slopes Standard is to protect property and property values. The District cannot speculate on the impact the standards may have on the value of a particular property. Because existing uses and structures made nonconforming by the proposed standards may continue, be maintained, and under some circumstances be improved or expanded, it is unlikely there will be a decrease in value. The proposed standard includes the following exception: Plantings that enhance the natural vegetation or the selective clearing of noxious, exotic, or invasive vegetation or the pruning of trees or vegetation that are dead, diseased, or pose a public hazard. The following additional exceptions will be included: maintenance of existing lawns, landscaping, and gardens; removal of vegetation in emergency situations; right-of-way maintenance for public facilities; and agricultural and forestry activities. |
| Brian and Kristen Dueber | Bloomington, MN | The proposed regulations are unnecessary and unfair. They will negatively impact the enjoyment we have from living in the area and our ability to perform basic maintenance and upkeep on our property, let alone making simple improvements, such as adding a fire pit or retaining wall. We have regularly removed invasive species from our property. The new regulations appear to forbid event that simple (and responsible) project. | The proposed standard will contain an exemption for maintenance or replacement of existing structures so long as such is accomplished under certain performance standards. The intent of the proposed Steep Slopes Standard is to protect property and property values. The District cannot speculate on the impact the standards may have on the value of a particular property. Because existing uses and structures made nonconforming by the proposed standards may continue, be maintained, and under some circumstances be improved or expanded, it is unlikely there will be a decrease in value. The proposed standard includes the following exception: Plantings that enhance the natural vegetation or the selective clearing of noxious, exotic, or invasive vegetation or the pruning of trees or vegetation that are dead, diseased, or pose a public hazard. The following additional exceptions will be included: maintenance of existing lawns, landscaping, and gardens; removal of vegetation in emergency situations; right-of-way maintenance for public facilities; and agricultural and forestry activities. |
| Chris Fuller | 8901 River Ridge Circle, Bloomington, MN 55425 | My city, Bloomington, recently made me aware of the new Water Management Plan for the Minnesota River Bluff. I have reviewed Appendix K, but do not see any pages with strike-through text as indicated on the web page. Would you please direct me to the currently in-force standard and a document which includes all changes, including deletions and additions? | The standards presented in Appendix K were removed from Section 3 and consolidated in the Appendix. The strike-outs are in Section 3 of the Plan. |
| Chris Knutson | 575 Lakota Lane, Chanhassen, MN 55318 | Although I support the mission of the Lower Minnesota River Watershed District I urge you to avoid changing the definitions surrounding 'bluffs'. Specifically - the expansion of bluff zones to include areas that are not within State defined Shoreland areas and lowering the minimum average slope from 30% to 18%. I feel that the proposed changes to the definition of a bluff do not provide the specificity to capture the areas that primary drivers in water/ecologic quality. I would recommend that you to consider adapting the definition of a bluff to include areas that are both within the State defined Shoreland area and have an average slope of 18%. I believe that this change would capture the areas of the lower Minnesota River watershed that are primary drivers in both erosion and sediment concentrations within the river. | Noted. The District presents the need for the revision in the Plan and the Draft SONAR. The Bluff Standard has been modified. It will be called the Steep Slopes Standard and will regulate slopes greater than or equal to 18 percent. References to bluffs will be removed. |
| Chris Sanden | 10428 5th Ave. Circle | Both the Phillippi parcel and the Geophysical parcel are consumed by the proposed bluff map delineation. A brief history of each parcel is set forth below. | The mission and the purpose of the Lower Minnesota River Watershed District is to manage and protect the Minnesota River, lakes, streams, wetlands, and groundwater within its jurisdiction. The proposed Steep Slopes Standard is intended to address steep slope erosion, protect downstream water resources from the effects of sediment transport from steep slope erosion, and promote public safety by limiting land-disturbing activities and other land alteration on steep slopes. |
| Christi Duffy | <i>No address provided</i> | I am very concerned about the proposed changes for bluff properties in Bloomington. I have been the proud owner of one of these properties for a bit over two years. We consider this our forever home and bought it in anticipation of a lifetime of enjoyment of the property and the beautiful surrounding area. We enjoy seeing abundant wildlife in our yard and enjoying the many trails in the area. The environment is an important part of the quality of life in this area. (Your restrictions aren't needed.) This proposal cannot be fully understood in such a short period of time. Today, for the first time, I saw a map that outlines the impacted areas. And, our comments are also due today. That does not seem reasonable. Not only will this negatively impact all of the bluff homeowners, it will also negatively impact our neighbors. Frequently the bluff homes have higher values than the other houses on the street. If the bluff homes cannot be improved with additions, remodeling, landscaping, decks, etc., their value will decrease and so will all properties near them. Please reconsider your plans for my HOME. | The proposed standard will contain an exemption for maintenance or replacement of existing structures so long as accomplished under certain performance standards. The intent of the proposed standard is to protect property and property values. The District cannot speculate on the impact the standards may have on the value of a particular property. Because existing uses and structures made nonconforming by the proposed standards may continue, be maintained, and under some circumstances be improved or expanded, it is unlikely there will be a decrease in value. |

| Commenting entity/resident | If resident, resident's address | Comment | Response |
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| Craig Diederichs | 9551 Riverview Road, Eden Prairie, MN 55347 | I contacted Linda Loomis to discuss the mailing that was sent out on the public hearing notice that is scheduled for October 25th in Chaska. All the previous information I received did not explain the grandfather clause as Linda explained to me. That certainly helps land owners with structures on their property. My understanding is that I can still rebuild if the property is damaged or needs replacing for some reason. She also mentioned this goes with the property, not the owner, so as long as the property is fully developed, the current landowner should not see a reduction in value of the property. For others that still have undeveloped lots, the new proposals would take affect. This would drastically reduce the value of that property. I understand the desire to improve the water and local environment to the water, but I don't understand how anyone could justify reducing somebody else's property without some kind of compensation. | The standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to bluffs and steep slopes. Such standards, municipal controls, and conditions do not result in the taking of property. |
| Dan Zwiers, Trustee | 220 Flying Cloud Drive, Chanhassen, MN | Based upon the proposed bluff limits, a substantial portion of the developable land within this parcel will be eliminated. This will result in a substantial diminution in the value of the property with no corresponding benefit. No waterway abuts the property so while there are steep grades on the property, the stated purposes behind the proposed limitations should not apply. We ask that you remove our property from the restricted areas. | The standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to bluffs and steep slopes. Such standards, municipal controls, and conditions do not result in the taking of property. |
| David Dikken | 3701 Overlook Drive, Bloomington, MN 55431 | I have been made aware of your actions regarding the Water Shed District's plan that will likely affect my property. Please consider withdrawing the new plan and taking a more serious effort at determining the individual impact to affected persons. My wife and I have taken seriously being good stewards of our property and have removed invasive species, and worked diligently to be conscientious. I have the specific following concerns: 1. The regulations are overly excessive. Please advise me on how I can give input and what actions you may be taking to serve the concerns listed above. Also please clarify what are the new proposed changes. 2. Input from impacted individuals has not been adequately sought. (only one available meeting in one location??) | A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| David Dikken | 3701 Overlook Drive, Bloomington, MN 55431 | 3. No impact study has been made regarding the effects on individuals, the intent is simply one sided and indicative of statist (we know best). | The District watershed management plan provides justification for the proposed changes. Although not required under Minnesota Rules and Statutes, the District drafted a SONAR for the changes proposed. The draft SONAR is posted on the District's website and notification of its availability emailed to individuals within its database. |
| Don Stiles | Auto Club Road, Bloomington, MN | I am writing you because I received a letter from the City of Bloomington indicating that the Watershed District is proposing a Management Plan Amendment. My wife Leslie and I built on the bluff 20 years ago because we love this location and the animals. We have spent much time and treasure caring for the environment, the trees, and the bluff through managing the prairie and wildflowers, including removing buckthorn and performing periodic prairie burns that are managed appropriately. We want the bluff to continue to flourish and be a safe and inviting place to live and visit for both humans and the wealth of animal life. We cannot grow much or create flower beds because the animals eat just about everything, but that is just fine with us. Nature has a way of doing the right thing, like when too many rabbits appear, so do the hawks, and then the hawks move on and the rabbits re-appear. I looked at the website and the extensive language which is very confusing. I am writing you today to ask that the Watershed continue to properly manage the bluff areas, but not to the extent it prevents homeowners who also care about the environment to manage their individual portions of this magnificent bluff. We do not plan to build any more than currently exists ... the only change we made to our property in the last 20 years was to restructure the deck and supporting hill in order to minimize erosion of the bluff. A 40-foot ban from the bluff seems extensive to me because it may take a retaining wall closer than that in order to prevent further natural erosion. Buckthorn removal and control is an ongoing process. We removed and burned the extensive buckthorn some 15 years ago, but seeds carried by birds and roots that continue to sprout require us to be vigilant and continue to remove this damaging plant that is not indigenous to Minnesota. In fact, I organized all the neighbors around us to join in that effort, and almost everyone did, so continuing maintenance has been controllable. Those are my thoughts, so I hope whatever passes through as an amendment will not prevent us from continuing our efforts to preserve this wonderful bluff area. | The proposed standard includes the following exception: Plantings that enhance the natural vegetation or the selective clearing of noxious, exotic, or invasive vegetation or the pruning of trees or vegetation that are dead, diseased, or pose a public hazard. The following additional exceptions will be included: maintenance of existing lawns, landscaping, and gardens; removal of vegetation in emergency situations; right-of-way maintenance for public facilities; and agricultural and forestry activities. It is also important to note that the proposed standard will contain an exemption for maintenance or replacement of existing structures so long as such is accomplished under certain performance standards. |

| Commenting entity/resident | If resident, resident's address | Comment | Response |
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| Doug Alleman | 18971 Vogel Farm Trail, Eden Prairie, MN | I live at 18971 Vogel Farm Trail and received a notice of public hearing. We moved here in 2016 and the home was built in 2002. I think I am back about 30ft from the bluff. Can you tell me how what is being proposed would impact me? | Without a clear presentation of planned projects on your property, the District cannot speculate on the effects the changes proposed may have on your property. A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| Duane Marcotte | 10233 10th Ave Circle S, Bloomington, MN 55420 | The only way I heard about this program was that Bloomington sent out a notice this month addressing this issue. Why didn't the LMRWD inform us of this plan months ago? | The District is following the requirements of Statute Chapters 103B and 103D as well as Minnesota Administrative Rules part 8410. The District is providing notices as required in statute and rule. The planning process related to the proposed amendments occurred over the course of 12 months and involved representatives of the various cities, counties, and technical organizations within the District. The intention was that the participants in this process would represent the interests of both their communities and residents. A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District, posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| Duane Marcotte | 10233 10th Ave Circle S, Bloomington, MN 55420 | I looked up some info on the internet but that is all a bunch of legalize junk. Do you have a document detailing in simple terms what my rights and legal status are under the circumstances I have listed above? I believe old established residential areas be exempt from this program and only new development required to be in compliance. | The District is proceeding with the amendments and considering revisions and does not intend to provide a summary of changes. It is incumbent on residents within the District to review the proposed amendments and determine their relevance to the individual property or interest. The proposed standards will apply to all property. Existing developed property will retain existing use privileges if made nonconforming by the proposed change. |
| Elizabeth Vogel | <i>No address provided</i> | Phillippi Parcel | Landowners and other interested stakeholders can provide comments up to and during the public hearing on October 25. A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. |
| Harold Duane Saunders | 9901 Riverview Road, Eden Prairie, MN 55347 | I just found out from the city of Eden Prairie about the plan to establish new standards for land near the Minnesota River Bluff. I find it odd that I had to hear about it from the city rather than the LMRWD itself. That aside, I would like to have someone explain to me how this will effect the property I own on the bluff. I own two lots that presently have houses on them and two lots that have not been developed. I purchased these properties assuming that they were valuable and would someday become a good investment for my family. Although I don't understand the proposals fully, I am afraid that they may make one or more of these properties more or less worthless. That's what I need to know and I think it is reasonable to ask that someone from the LMRWD help me understand these proposals. | The District is proceeding with the amendments and considering revisions and does not intend to provide a summary of changes. It is incumbent on residents within the District to review the proposed amendments and determine their relevance to the individual property or interest. The proposed standards will apply to all property. Existing developed property will retain existing use privileges if made nonconforming by the proposed change. |
| Jack and Beverly Miles | 171 Spring Valley Drive, Bloomington, MN 55420 | We respectfully request you hold informational and comment meetings in ALL cities for residents that will be impacted. Why are you quietly holding one meeting, far from the residents of Bloomington where the majority of the property owners subject to your restrictions live? | The District is following the requirements of Statute Chapters 103B and 103D as well as Minnesota Administrative Rules part 8410. The District is providing notices as required in statute and rule. The planning process related to the proposed amendments occurred over the course of 12 months and involved representatives of the various cities, counties, and technical organizations within the District. The intention was that the participants in this process would represent the interests of both their communities and residents. A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District, posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| Jack and Beverly Miles | 171 Spring Valley Drive, Bloomington, MN 55420 | Another informal request was made to reguide Outlot A. A rezoning was no longer necessary since under the existing zoning a single family detached dwelling with accessory structures is a permitted use. Again Mr. Phillippi was rebuffed this time due to the proposed change to the Bluff Standards being considered by the LMRWD. If the proposed Bluff Standards are adopted no economically viable use of Outlot A will remain. | The District is proceeding with the amendments and considering revisions and does not intend to provide a summary of changes. It is incumbent on residents within the District to review the proposed amendments and determine their relevance to the individual property or interest. The proposed standards will apply to all property. Existing developed property will retain existing use privileges if made nonconforming by the proposed change. A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| Jack and Beverly Miles | 171 Spring Valley Drive, Bloomington, MN 55420 | Our City of Bloomington has done a very good job over the years balancing bluff conservation, use and property owner's rights. Why is the Lower MN River Watershed District getting involved now? They weren't concerned when we were spending our own money to protect and improve the bluff but they feel it necessary to impose unfair restrictions? | The mission and the purpose of the Lower Minnesota River Watershed District is to manage and protect the Minnesota River, lakes, streams, wetlands, and groundwater within its jurisdiction. The proposed Steep Slopes Standard is intended to address steep slope erosion, protect downstream water resources from the effects of sediment transport from steep slope erosion, and promote public safety by limiting land-disturbing activities and other land alteration on steep slopes. |

| Commenting entity/resident | If resident, resident's address | Comment | Response |
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| Jack and Beverly Miles | 171 Spring Valley Drive, Bloomington, MN 55420 | We have terraces constructed of what are now rotting railroad ties. Are you restricting us from replacing these with landscaping material that will improve the bluff and maintain it over the years? Will current property owners have the right to upgrade their property, if needed? Who/what will make this determination? | The proposed standard includes the following exception: Plantings that enhance the natural vegetation or the selective clearing of noxious, exotic, or invasive vegetation or the pruning of trees or vegetation that are dead, diseased, or pose a public hazard. The following additional exceptions will be included: maintenance of existing lawns, landscaping, and gardens; removal of vegetation in emergency situations; right-of-way maintenance for public facilities; and agricultural and forestry activities. The proposed standard will contain an exemption for maintenance or replacement of existing structures so long as such is accomplished under certain performance standards. The existing uses and structures made nonconforming by the proposed standards may continue, be maintained, and under some circumstances be improved or expanded. |
| Jack and Beverly Miles | 171 Spring Valley Drive, Bloomington, MN 55420 | If the Lower MN River Watershed District plans to impose restrictions, will they also make and pay for improvements? | The watershed District is not imposing an unfunded mandate on local governments or residents. Rather, the obligations as articulated by the legislature. |
| Jeff Cowan (15-year Eden Prairie resident) | <i>No address provided</i> | I appreciate your consideration to leave the current definitions and descriptions in place. Any modification would only seem to intrude on our rights as land owners and prove to be counter-productive over the long term; not what any of us want. | Noted. The District presents the need for the revision in the Plan and the Draft SONAR. |
| Jeff Cowan (15-year Eden Prairie resident) | <i>No address provided</i> | Your proposed changes to the watershed in my area would not accomplish what I believe to be the long term goals of the LMRWD. | The District respectfully disagrees. The District is required by law to conduct a resource inventory; develop water and resource management issues resulting from that inventory; develop policies, goals, and objectives to address those resource management issues; and consolidate all of those components into a watershed management plan. A component of the plan is the development of standards for resource management that must be incorporated into official controls by local governments within the District. This plan amendment is the culmination of the District's most recent inventory and planning process. The standards being proposed are, in the Board's judgment, appropriately targeted to address the concerns revealed in the most recent resource inventory. |
| Jeff Cowan (15-year Eden Prairie resident) | <i>No address provided</i> | In addition, the proposed changes to definitions and descriptions will harm us economically. It will most certainly devalue the land in areas affected. | The intent of the proposed Steep Slopes Standard is to protect property and property values. The District cannot speculate on the impact the standards may have on the value of a particular property. Because existing uses and structures made nonconforming by the proposed standards may continue, be maintained, and under some circumstances be improved or expanded, it is unlikely there will be a decrease in value. |
| Jeff Cowan (15-year Eden Prairie resident) | <i>No address provided</i> | The Minnesota River is filled with more water moving a much higher velocity than ever before. I believe this to be a direct result of the on-going tiling of farm land in greater Minnesota. The water they are capturing from rain runoff was handled perfectly by the centuries old natural pond system. It is now being dumped into the MN River at unprecedented rates. This increase in volume and velocity is cutting into its banks everywhere. I understand this to be an area of responsibility for the Watershed. It seems like a more efficient and productive issue to focus on as opposed to the few miles of bluff along the river. The amount of river bank we are all losing annually is now measured in feet. | The mission and purpose of the Lower Minnesota River Watershed District is to manage and protect the Minnesota River, lakes, streams, wetlands, and groundwater within its jurisdiction in addition to addressing the potential conditions that may cause steep slope erosion and affect public safety. The District also goes to the legislature annually to request funds and funds projects outside of its jurisdiction that addresses the issues mentioned. |
| Jeff Cowan (15-year Eden Prairie resident) | <i>No address provided</i> | This land (and all the land along the river) requires on-going maintenance by a caring steward. To implement changes to definitions and descriptions would only allow it to be overrun with buckthorn, honey suckle and the other invasive plants and would cause more damage than the careful management most of this ground is experiencing today. The people that have chosen to own land and live along the Minnesota did so because we have a love and respect for this land. We know this comes with responsibility. We need to be able to implement improvements and modifications as is currently the protocol. The neighbors that live along this land, for the most part, are people like me that care for and enjoy the land. We have a love and a respect for it. We know this ownership comes with immense cost and responsibility. We make improvements only when necessary. We identify natural erosion issues and get them taken care of before they get worse. (At our own expense I might add). | The proposed standard includes the following exception: Plantings that enhance the natural vegetation or the selective clearing of noxious, exotic, or invasive vegetation or the pruning of trees or vegetation that are dead, diseased, or pose a public hazard. The following additional exceptions will be included: maintenance of existing lawns, landscaping, and gardens; removal of vegetation in emergency situations; right-of-way maintenance for public facilities; and agricultural and forestry activities. It is also important to note that the proposed standard will contain an exemption for maintenance or replacement of existing structures so long as such is accomplished under certain performance standards. |
| Jim Rohde, Dell EMC | 12473 Riverview Rd. | Will the proposed changes grandfather properties that are non-compliant by the new standards (Appendix k) if they are adopted? | Existing developed property will retain existing use privileges if made nonconforming by the proposed change. |

| Commenting entity/resident | If resident, resident's address | Comment | Response |
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| John Svenkeson / Lisa Greenslit | 3721 Overlook Drive, Bloomington, MN | Is the bluff standard 5.4 in the appendix a new addition to the Management Plan? How were these goals arrived at? It seems entirely too overreaching, restrictive, and unnecessary. It places restrictions on private property that on some lots along the bluffs would effect the majority of the acreage contained of those lots. Taking away the rights of those property owners (ourselves included) to use their land as they see fit. There is more than adequate natural buffer zone and public property between these bluffs and the river to ensure adequate filtration of run off. I spend a considerable amount of time hiking, kayaking, and fishing, in the affected areas and see little or no evidence of land abuse or erosion from such. The south side of the valley is industrial, with shipping ports, quarries, and landfills. | The Bluff Standard (now Steep Slopes Standard) in Appendix K is not new. A bluff standard has been a part of the District management since the 2011 approved Plan and before then. The mission and purpose of the Lower Minnesota River Watershed District is to manage and protect the Minnesota River, lakes, streams, wetlands, and groundwater, within its jurisdiction. The proposed Steep Slopes Standard is intended to address steep slopes erosion, protect downstream water resources from the effects of sediment transport from steep slope erosion, and promote public safety by limiting land-disturbing activities and other land alteration on bluffs. The Steep Slopes Standard, as currently modified, no longer creates use restrictions or nonconformities. Rather, the current standard only adds an engineering review requirement to an otherwise permitted use, structure, or activity. The engineering review requirement is established to ensure responsible, safe, and sustainable uses, structures, and activities on steep slopes. Because it is now permissive rather than restrictive, neither variances nor conditional uses are required. |
| John Svenkeson / Lisa Greenslit | 3721 Overlook Drive, Bloomington, MN | The mission and the purpose of the Lower Minnesota River Watershed District is to manage and protect the Minnesota River, lakes, streams, wetlands and groundwater within its jurisdiction. The proposed Steep Slopes standard is intended to address steep slope erosion, protect downstream water resources from the effects of sediment transport from steep slope erosion, and to promote public safety by limiting land disturbing activities and other land alteration on steep slopes. | The mission and the purpose of the Lower Minnesota River Watershed District is to manage and protect the Minnesota River, lakes, streams, wetlands, and groundwater within its jurisdiction. The proposed Steep Slopes Standard is intended to address steep slope erosion, protect downstream water resources from the effects of sediment transport from steep slope erosion, and promote public safety by limiting land-disturbing activities and other land alteration on steep slopes. |
| Karen Hohertz-Jacobs | 11018 Glen Wilding Lane, Bloomington, MN | c) I cannot make the scheduled public hearing and don't understand why there isn't one in Bloomington prior to this being finalized. I very respectfully request that the District withdraw the current proposal and begin the next phase of revision with resident input. A majority of the people that live along the Bluff absolutely love it and are willing to make changes as long as we have a voice and understand them. | A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| Karen Hohertz-Jacobs | 11018 Glen Wilding Lane, Bloomington, MN | b) I don't feel there is a clear description of the changes that would be required to existing lots if these regulations were in effect. I currently have a fire pit. What happens to that? | The Bluff Standard has been modified. It will be called the Steep Slopes Standard and no longer incorporates structures or a structure setback. |
| Karen Hohertz-Jacobs | 11018 Glen Wilding Lane, Bloomington, MN | I care VERY much about bluff erosion and the watershed district. I understand the need and intent to protect these areas. My comments / concerns are: a) I work very hard to manage invasive species of plants along the area of my lot that I believe is in the bluff-protection zone. I plant and promote native species and try to remove buckthorn and other noxious weeds. It would be an excessive burden for me to have to have pay for a survey of my property and/or have inspections and approvals prior to removing these types of weeds. The wording in the Appendix K leads me to believe that this would be required. | The proposed standard includes the following exception: Plantings that enhance the natural vegetation or the selective clearing of noxious, exotic, or invasive vegetation or the pruning of trees or vegetation that are dead, diseased, or pose a public hazard. The following additional exceptions will be included: maintenance of existing lawns, landscaping, and gardens; removal of vegetation in emergency situations; right-of-way maintenance for public facilities; and agricultural and forestry activities. |
| Katherine Mullen | Glen Wilding Lane, Bloomington, MN | what does the proposed plan specifically mean to us residents here? | Without a clear presentation of planned projects on your property, the District cannot speculate on the effects the changes proposed may have on your property. A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| Katherine Mullen | Glen Wilding Lane, Bloomington, MN | The two below sections in particular raise concerns (Strategy 4.3.1 and 5.4.1 General Bluff Standard). Looking at Figure L1, it looks like Glen Wilding Lane is in the orange area (i.e. the bluffs). As a resident living on Glen Wilding Lane, are we considered "part of an approved local water plan" and not subject to the new bluff standards under 5.4.1, including the 40 foot set back? My husband and I want to continue living here in peace with our natural surroundings. | As the City of Bloomington updates its required local water plan, it may identify certain areas in the LMRWD's proposed Steep Slopes Overlay District where land-disturbing activities, vegetation removal, development, and redevelopment are conditionally allowed. |
| Kurt and Heidi Scheppmann | 40 Settlers Court, Chanhassen, MN 55317 | We've reviewed some of the materials online, but it's still not clear to us whether this would impact us, and whether we should be concerned about it. Can you please tell us what, if any, impact this would have on us? | Without a clear presentation of planned projects on your property, the District cannot speculate on the effects the changes proposed may have on your property. A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |

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| Larkin Hoffman (for Gregory and Kelli Hueler) | 8300 Norman Center Drive, Suite 1000, Minneapolis, MN 55437 | <p>We represent Greg and Kelli Hueler and Hueler Properties, LLC, (together, the "Huelers"), the owners of residential properties located in the City of Eden Prairie with respect to the draft watershed management plan standards ("Draft Plan") promulgated by the Lower Minnesota River Watershed District (LMRWD or "District").</p> <p>The Huelers own two parcels comprising approximately 20.5 acres in Eden Prairie within the District, including an approximately 4.5-acre parcel addressed as 12300 Riverview Road (the "Residence") and a 16.08-acre property (the "Vacant Prope1iy") immediately west of the Residence (together, the "Hueler Property"). The revised Plan shows nearly the entirety of the Vacant Prope1iy and the southwest portion of the Residence as being located in the Bluff Overlay District. As property owners, the Huelers object to the inclusion of the Hueler Property in the Bluff Overlay District, and object to several proposed standards in the Draft Plan, including the following: 1. Section 5 .4.1.a. Section 5 .4.1.a increases the setback for all new structures from the top of a bluff from 30 feet to 40 feet. The increased setback will cause a significant po1iion of the Hueler Property to be precluded from future development, potentially limiting all use of the Hueler Property. This is an unacceptable increase in regulation that will cause substantial decrease in market value of the Property. 2. Section 6.4.1.2.1. Section 6.4.1.2.1 establishes a new requirement for routine inspections at least once every 7 days and within 24 hours of significant rain fall. We object to the inclusion of this language as it is burdensome and unnecessarily prescriptive.</p> | <p>The District has already undertaken revisions to the proposed standard to address this concern. The revised standard is permissive and allows development and redevelopment with conditions to ensure the development occurs responsibly. The standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to steep slopes. Such standards, municipal controls, and conditions do not result in the taking of property.</p> |
| Larkin Hoffman (for Gregory and Kelli Hueler) | 8300 Norman Center Drive, Suite 1000, Minneapolis, MN 55437 | <p>3. Section 8.3.1.2. Section 8.3.1.2 of the Draft increases the requirement for the amount of post-construction stormwater runoff that must be retained onsite from a 0.5 inch rainfall to 1-inch of runoff. This standard should remain 0.5 inches. 4. Section 8.3.1.3. Section 8.3.1.3 of the Draft establishes a new requirement that projects shall have no net increase from existing conditions in total phosphorus and total suspended solids to receiving waterbodies. We object to this standard as it is too broad and does not allow for individualized conditions. The above standards impose unnecessary and excessive constraints on properties in the District, including the Hueler Property, for a purported public purpose. The Minnesota Constitution requires that "[p]rivate property shall not be taken, destroyed or damaged for public use without just compensation therefor, first paid or secured." Minn. Const. Art. 1, Sec. 13. The Minnesota Supreme Court has held that where such land use regulations are imposed "there must be compensation to landowners whose property has suffered a substantial and measurable decline in market value as a result of the regulations." McShane v. Faribault, 292 N.W.2d 253, 258 (Minn. 1980). The additional regulations imposed by the Draft Plan, particularly the Bluff Impact Overlay District and the proposed setbacks, threaten to restrict or outright preclude development in the District, including development on the Hueler Property. The restrictions on reasonable development will cause a substantial and measurable decline in property value as a direct result of the proposed regulations. Accordingly, we strongly request that the District revise the Draft Plan to eliminate the above-referenced regulations.</p> | <p>The District has already undertaken revisions to the proposed standard to address this concern. Of primary concern to the District is the detrimental impact of stormwater discharge from increased impervious surfaces or irresponsible stormwater management to the face of steep slopes. The District has documented numerous instances of slope failure resulting in significant public and private expense to correct environmental and infrastructure damage. It is not unreasonable to expect property owners to use or develop their property in a safe and responsible manner. The proposed standard as revised will ensure such use and development and appropriately place responsibility on landowners. The standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to steep slopes. Such standards, municipal controls and conditions do not result in the taking of property.</p> |
| Larry & Janet Butler | 11600 Palmer Road, Bloomington, MN | <p>4. Finally, we respectfully request that public hearings with resident and owner input be held at the City of Bloomington with respect to properties in Bloomington that will be affected by any future Lower Minnesota River Watershed District – Proposed Standards and Water Management Plans.</p> | <p>A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system.</p> |
| Larry & Janet Butler | 11600 Palmer Road, Bloomington, MN | <p>3a. a. What was the criteria for how and why the Proposed Impact Map was drawn the way it is, and more specifically what are the definitions for the Proposed Impact Setback Area, the Proposed Impact Area, Structures Within the Proposed Impact Setback Area, and Parcels Within Proposed Impact Areas? The proposed impact map appears to have inconsistencies as to equal treatment of all properties? These definitions and impacts need to be discussed in public with resident and owner input.</p> | <p>The Bluff Standard has been modified. It will be called the Steep Slopes Standard and will no longer incorporate structures or a structure setback.</p> |
| Larry & Janet Butler | 11600 Palmer Road, Bloomington, MN | <p>3. With respect to the "Proposed Bluff Standards and Proposed Impact Location Map": The elements of these maps are not defined. We respectfully submit that the LMR Watershed District must be able to describe and define in understandable terms the impact of the changes at the individual property owner's level before moving ahead with any approvals.</p> | <p>The "Proposed Bluff Standards and Proposed Impact Location Map" is not referenced in the District's plan. The District does, however, have an overlay district overview map that highlights areas regulated by the Steep Slopes Standard. A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018.</p> |

| Commenting entity/resident | If resident, resident's address | Comment | Response |
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| Larry & Janet Butler | 11600 Palmer Road, Bloomington, MN | 1. Why the need for Bluff Standards now after all these years, that would in turn create devastating restrictions on the enjoyment and use of our homes including all other existing structures on our lot and the surrounding lot area itself? | The Bluff Standard (now Steep Slopes Standard) in Appendix K is not new. A bluff standard has been a part of the District management since the 2011-approved Plan and before then. The mission and the purpose of the Lower Minnesota River Watershed District is to manage and protect the Minnesota River, lakes, streams, wetlands, and groundwater within its jurisdiction. The proposed Steep Slopes Standard is intended to address bluff/steep slope erosion, protect downstream water resources from the effects of sediment transport from bluff/steep slope erosion, and promote public safety by limiting land-disturbing activities and other land alteration on steep slopes. |
| Larry & Janet Butler | 11600 Palmer Road, Bloomington, MN | 2. We respectfully request that the Lower Minnesota River Watershed District withdraw the Proposed Bluff Standards and any Proposed Amendments to the Water Management Plan(s), and then start the planning process over with resident and property owner's direct input. | The District is following the requirements of Statute Chapters 103B and 103D as well as Minnesota Administrative Rules part 8410. The District is providing notices as required in statute and rule. The planning process related to the proposed amendments occurred over the course of 12 months and involved representatives of the various cities, counties, and technical organizations within the District. The intention was that the participants in this process would represent the interests of both their communities and residents. A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District, posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| Lisa Mikhail | Bloomington homeowner - No address provided | I am concerned what will happen to our property value, what if any changes will need to be made, and what if any future changes we will be able to do. The information we were referred to was stated in a language that was way above my head so I would like to know specifically in lay mans terms how it effects us. It would also be nice to understand why you are trying to enact these restrictions since myself and my fellow neighbors are very environmentally responsible. I've actually heard rumors that we could not even landscape our own backyards. I may be old school but I was taught that planting trees, bushes, shrubs, flowers etc... is good for the environment and the animals that live there in. Also if a tree is leaning and giving the impression it is likely to blow down and cause damage then I, as a homeowner, would want to be able to cut it down. That brings another question, If we have to now have surveyors give approval who will pay for the surveyors? Replacing a grand fathered in structure would also be a question I have. If our home burns down or is destroyed by a storm what would happen? I am very confused and very anxious about these proposals. Please slow down and have the courtesy to specifically notify each and every homeowner how they will be impacted before going forward. | The intent of the proposed Steep Slopes Standard is to protect property and property values. The District cannot speculate on the impact the standards may have on the value of a particular property. Because existing uses and structures made nonconforming by the proposed standards may continue, be maintained, and under some circumstances be improved or expanded, it is unlikely there will be a decrease in value. The mission and the purpose of the Lower Minnesota River Watershed District is to manage and protect the Minnesota River, lakes, streams, wetlands, and groundwater within its jurisdiction. The proposed Steep Slopes Standard is intended to address bluff/steep slope erosion, protect downstream water resources from the effects of sediment transport from bluff/steep slope erosion, and promote public safety by limiting land-disturbing activities and other land alteration on bluffs. The proposed standard includes the following exception: Plantings that enhance the natural vegetation or the selective clearing of noxious, exotic, or invasive vegetation or the pruning of trees or vegetation that are dead, diseased, or pose a public hazard. The following additional exceptions will be included: maintenance of existing lawns, landscaping, and gardens; removal of vegetation in emergency situations; right-of-way maintenance for public facilities; and agricultural ad forestry activities. The District does not conduct vegetation removal activities. However, the District does have a Cost Share Program that may be applied to invasive vegetation removal. The proposed standard will contain an exemption for maintenance or replacement of existing structures so long as accomplished under certain performance standards. The existing uses and structures made nonconforming by the proposed standards may continue, be maintained, and under some circumstances be improved or expanded. |
| Michelle Monahan | 8857 River Ridge Circle, Bloomington, MN | I was alarmed to recently find out that our property may be affected by the new bluff standards. We just recently moved in and have a lot of plans for landscaping and ways to enjoy our new backyard including a patio. We can sit at night, when the owls (they are a pair) are in our trees, and enjoy the view and wildlife of the refuge. I would like to be involved in all decisions regarding my land, as I know my bluff neighbors would to. Therefore, I want to highly recommend working with us to create new standards, ones that do not limit the usage of our property. I respect the wildlife refuge and the bluffs as I know my neighbors do to. However, my land is outside of that restricted area and should remain free from excessive restrictions as it has for decades. | A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| Mike and Janice Olmstead | 8910 River Ridge Road Bloomington, MN 55425 | Prior to any changes being made that have such dramatic impact on how owners are able to use our properties, it seems we should be able to speak to the matter in an accessible public forum. There also should be clear justification for sweeping restrictions proposed to be applied to neighborhoods that have been established for nearly 70 years. Please do not adopt any standards or regulations without further discussion/debate. We are unable to attend the meeting on September 20, 2017 due to conflicting responsibilities. | A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |

| Commenting entity/resident | If resident, resident's address | Comment | Response |
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| Mike Paradis | 10421 Bluff Circle, Chaska, MN | I'm one of the property owners in the Hess Farm development and had a question about why my property is included in the proposed amendment. More specifically, my land does not have an 18 degree slope on the bluff. Is there some other existing standard which requires the inclusion of my property at 10421 Bluff Circle Chaska, MN now that it's not limited to Shore Land Area? Regardless of my property being classified in this classification area, is there any guidance as to how this regulation might have an effect on me. Specific concerns would be changes related to my septic, well or structures. | According to county records your property is not a part of the District and would not be subject to District requirements (existing or proposed). |
| Millard Neymark | 9347 Cedar Cir Bloomington, MN 55425 | We have a couple of existing structures that would fall in violation of the new restrictions. There is a "playhouse" that existed on the property when we purchased it and our new chicken coop that the City of Bloomington recommended we construct where it is, a place in the proposed restricted area. Based on their recommendation, it appears to me that the City of Bloomington doesn't seem to agree with you that the bluff needs to be restricted as you propose. In fact, it seems to me that the City of Bloomington has done a very good job of protecting the bluff over the years, which also makes this new proposal unnecessary. | The Bluff Standard has been modified. It will be called the Steep Slopes Standard and no longer incorporates structures or a structure setback. Fire pits, playhouses, and so on are allowed within the overlay district. |
| Millard Neymark | 9347 Cedar Cir Bloomington, MN 55425 | Lastly, the proposed new restrictions will certainly decrease the value of our property. Who will pay current market value for a property that they would be so restricted? The new owner wouldn't be able to put in a garden, change the location of the deck, or even cut down some of the brush creeping into the lawn area. The current proposal is bad and way out of line with what is needed for bluff conservation. The impact and restrictions on the current residents is excessive and unfair. It is my opinion that the managers need to scrap this proposal and start a new beginning with resident input describing what they think is needed in a new proposal and how it will impact their property values. | The intent of the proposed Steep Slopes Standard is to protect property and property values. The District cannot speculate on the impact the standards may have on the value of a particular property. Because existing uses and structures made nonconforming by the proposed standards may continue, be maintained, and under some circumstances be improved or expanded, it is unlikely there will be a decrease in value. |
| Millard Neymark | 9347 Cedar Cir Bloomington, MN 55425 | Additionally, we are stewards of the land. We would like to remove the invasive buckthorn that grows on our property, and plant some new trees to replace some of the aging trees that are nearing the end of their growth cycle so the property isn't "naked" when these older trees are gone. We like to have a bigger garden, but with these new restrictions, we can't even put a garden in our backyard, even though it would replace an area of lawn. What other residents can't remove their grass to put in a garden? That is unreasonable. | The proposed standard includes the following exception: Plantings that enhance the natural vegetation or the selective clearing of noxious, exotic, or invasive vegetation or the pruning of trees or vegetation that are dead, diseased, or pose a public hazard. The following additional exceptions will be included: maintenance of existing lawns, landscaping, and gardens; removal of vegetation in emergency situations; right-of-way maintenance for public facilities; and agricultural and forestry activities. |
| Millard Neymark | 9347 Cedar Cir Bloomington, MN 55425 | ...we cherish our bluff property and the surrounding environment and to impress that we want to conserve the bluff. While we are totally in favor of preserving the bluff, but the restrictions of this new proposal are far too restrictive, unjust, unfair, and unnecessary. These new restrictions impact our property in a way that is NOT in step with the restrictions by which other property owners must abide. We have spent some money on this and have arranged financing to make our dream become a reality. With the new proposal, however, we would be prevented from doing most, if not all, of our plan because our house, deck, and garage addition all fall within the bluff restrictions outlined on your published map. This is incredibly unfair because this kind of restriction is not normally put on any other homeowner in our city. | The proposed standard will contain an exemption for maintenance or replacement of existing structures so long as such is accomplished under certain performance standards. The existing uses and structures made nonconforming by the proposed standards may continue, be maintained, and under some circumstances be improved or expanded. |
| Melissa Wiklund, Senator | No address provided | I am getting in touch with you to see if I can find out a little more about how the process was set up and whether there is any opportunity for an additional meeting to be held in Bloomington where so many residents will be affected by the draft plan. From what I have learned, it seems like there will be a significant impact on Bloomington bluff residents and therefore communication to them and opportunities for feedback are important. I'd appreciate information on: what is the timeline for receiving feedback, processing it and then responding to requests for modifications to the draft plan? | The District recessed the October 25, 2017 public hearing and will continue taking comments on the proposal changes until the hearing closed, which is scheduled for April 18, 2018. In the interim, comments received since the official close of the 60-day comment period on September 20 and during the public hearing are being logged. All of the comments received are evaluated, and modifications to the Plan will be proposed to the managers. Once approved by the Board, the information will be shared with the District's technical advisory committee (TAC), posted on the District's website, and emailed to individuals in District's database. |
| Melissa Wiklund, Senator | No address provided | What type of feedback from LMRWD will be available to the public responding to their concerns and input on the plan? | The District maintains a comment/response log of all comments received. It will also evaluate all of the comments, identify themes, and address the concerns through modifications to the standards, presentation of the SONAR report, exceptions, and other appropriate means. |
| Melissa Wiklund, Senator | No address provided | Is there a possibility of having a public comment meeting in Bloomington? | A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| Melissa Wiklund, Senator | No address provided | Is there a website where the process for drafting and finalizing the watershed plan is located? I have the draft plan document, but would be interested in knowing where the public can go to find out more information along with the draft plan. | This District has two websites: www.watersheddistrict.org (the old one being phased out) and www.lowermnrivewd.org (the new one). |

| Commenting entity/resident | If resident, resident's address | Comment | Response |
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| Ruth Robinson, Chemistry Professor | Normandale Community College | [Ruth included a revised bluff map.] The impacted area doesn't just come up to our home, it includes much of our home and nearly all of our backyard and some structures already in place! If this new standard takes affect, my understanding would be that we can't even replace our the deck on the back of our home (which needs replacing). We also would likely not be able to put the addition on the back of our garage that we had been planning. These are unreasonable restrictions on our property (and puts undue hardship on residents, such as us). | The proposed standard will contain an exemption for maintenance or replacement of existing structures so long as such is accomplished under certain performance standards. The existing uses and structures made nonconforming by the proposed standards may continue, be maintained, and under some circumstances be improved or expanded. |
| Ryan Johnson | 11216 Bloomington Ferry Rd, Bloomington, MN 55438 | (from Ryan J.) - I have a few questions. Please call me at 612-801-6004 | Please attend the District's public hearing and/or contact the District's Administrator. |
| Siegel Brill PA (Wendell A. Phillippi and Anita Phillippi and Geophysical Research Society, LLC, the owners of two parcels of land in the City of Eden Prairie) | Siegel Brill PA, 100 Washington Ave. S, Suite 1300, Minneapolis, MN 55401 | Our office represents Wendell A. Phillippi and Anita Phillippi and Geophysical Research Society, LLC, the owners of two parcels of land in the City of Eden Prairie that will be adversely impacted by the Bluff Standard being proposed for adoption by the Lower Minnesota River Watershed District ("LMRWD"). The Phillippi parcel is Outlot A, Bell Oaks Estates 7th Addition (PIO# 36-116-22-32-0027). The Geophysical parcel is legally described on Exhibit A attached (PIO# 36-116- 22-43-0003). Both the Phillippi parcel and the Geophysical parcel are consumed by the proposed bluff map delineation. A brief history of each parcel is set forth below. Phillippi Parcel. Mr. Phillippi was one of four partners who developed Bell Oaks and Bell Oaks Estates. In 1998, Mr. Phillippi received Outlot A as development property from the partnership. Mr. Phillippi intended to subdivide into as many as three additional single family home sites. Mr. Phillippi also owned the property immediately to the east of Outlot A and before selling the neighboring property he reserved utility and other easement across the neighboring property to aid with the development of Outlot A. Outlot A is currently zoned Rural but is guided as Park/Open Space on the City's 2030 Guide Plan Map. When Mr. Phillippi approached the City about the possibility of a rezoning and Guide Plan change to permit the subdivision, it was met with resistance. Mr. Phillippi then revamped his plans and identified a single building pad on Outlot A. An ecological review of the proposed building pad was completed in December 2016 and refutes certain of the objections initially raised by City staff. | This portion of the comment is information only and requires no response. |
| Siegel Brill PA (Wendell A. Phillippi and Anita Phillippi and Geophysical Research Society, LLC, the owners of two parcels of land in the City of Eden Prairie) | Siegel Brill PA, 100 Washington Ave. S, Suite 1300, Minneapolis, MN 55401 | Another informal request was made to reguide Outlot A. A rezoning was no longer necessary since under the existing zoning a single family detached dwelling with accessory structures is a permitted use. Again Mr. Phillippi was rebuffed this time due to the proposed change to the Bluff Standards being considered by the LMRWD. If the proposed Bluff Standards are adopted no economically viable use of Outlot A will remain. Geophysical Parcel. Mr. Phillippi is the sole owner of Geophysical. He purchased the Geophysical parcel in September 2007 with the intent of demolishing the existing structures because of their inferior condition and selling the parcel as an estate homesite with outbuildings and a guest house. The property has been listed for sale with an asking price of \$2,500,000. The Geophysical parcel is subject to a conservation easement in favor of the Minnesota Land Trust. The conservation easement restricts construction of buildings to a limited area. Mr. Phillippi negotiated an area within the permitted area for the construction of new homes. A depiction of the permitted area is attached. After purchasing the property, Geophysical completed the largest private land restoration projects in Eden Prairie history, spending in excess of \$300,000 repairing the erosion along the creek bottom and removing buckthorn and other noxious plants. The property is properly guided to permit the intended use. A rezoning to Low Density Residential zoning classification from Rural may be needed to bring the zoning in conformance with the guide plan. The proposed change to the Bluff Standards, however, eliminates the permitted area in its entirety. | The proposed bluff standard, as revised, is not in effect. The District has not created any moratorium on municipal approvals. Any excuse by the City based on the proposed standard is inappropriate and misplaced. However, when and if adopted, the proposed standard is required to be reduced to official controls of the City. In response to this and similar comments, the District is proposing to revise the standard. The proposed revised standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to bluffs and steep slopes. Such standards, municipal controls, and conditions do not result in the taking of property. The Steep Slopes Standard, as currently modified, no longer creates use restrictions or nonconformities. Rather, the current standard only adds an engineering review requirement to an otherwise permitted use, structure or activity. The engineering review requirement is established to ensure responsible, safe, and sustainable uses, structures, and activities on steep slopes. Because it is now permissive rather than restrictive, neither variances nor conditional uses are required. |

| Commenting entity/resident | If resident, resident's address | Comment | Response |
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| Siegel Brill PA (Wendell A. Phillippi and Anita Phillippi and Geophysical Research Society, LLC, the owners of two parcels of land in the City of Eden Prairie) | Siegel Brill PA, 100 Washington Ave. S, Suite 1300, Minneapolis, MN 55401 | Because of the conservation easement, if the proposed Bluff Standard is adopted no economically viable use can be made of the Geophysical parcel. Proposed LMRWD Bluff Standards. The Philippi's and Geophysical have been advised that the LMRWD is amending its Watershed Management Plan which would expand the current state definition of a bluff to, among other things, lower the minimum average slope threshold of a bluff area from 30% to 18% and increase the bluff structure setback from 30 feet to 40 feet. Under the Bluff Standard, all grading, clear cutting, removal of vegetation and/or other land disturbing activities will be prohibited on the bluff and/or the bluff impact zone. In addition, land disturbing activities that involve the alteration 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 a High Value Resources Area Overlay District will be prohibited. As stated above, if the proposed Bluff Standards are adopted by the LMRWD, no economically viable use of the Philippi's' and Geophysical property will remain. The Proposed Bluff Standards Effect a Regulatory Taking. There are three separate regulatory takings analyses which could apply to the Philippi's' and Geophysical property. The first analysis is under Lucas v. South Carolina Coastal Council, 112 S. Ct. 2886 (1992), in which the United States Supreme Court reaffirmed that "when the owner of real property has been called upon to sacrifice all economically beneficial uses in the name of the common good, that is, to leave his property economically idle, he has suffered a taking." Id. at 2895. Similar to the Bluff Standards, the regulation in Lucas restricted construction from close proximity to the dune area in order to "prevent a great public harm." Id. at 2896. | The District has already undertaken revisions to the proposed standard to address this concern. The proposed revised standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to bluffs and steep slopes. Such standards, municipal controls, and conditions do not result in the taking of property. The Steep Slopes Standard, as currently modified, no longer creates use restrictions or nonconformities. Rather, the current standard only adds an engineering review requirement to an otherwise permitted use, structure or activity. The engineering review requirement is established to ensure responsible, safe, and sustainable uses, structures, and activities on steep slopes. Because it is now permissive rather than restrictive, neither variances nor conditional uses are required. |
| Siegel Brill PA (Wendell A. Phillippi and Anita Phillippi and Geophysical Research Society, LLC, the owners of two parcels of land in the City of Eden Prairie) | Siegel Brill PA, 100 Washington Ave. S, Suite 1300, Minneapolis, MN 55401 | The Supreme Court found noteworthy the fact that a particular use had long been engaged in by similarly situated owners and that such similarly situated land owners were permitted to continue the use denied to the claimant. Id. at 2901. As in Lucas, many owners of property within the Bluff Impact Zone have built single family residences and those uses will be permitted to continue. The second analysis is under Wensmann Realty, Inc. v. City of Eagan, 734 N.W.2d 623 (Minn. 2007), in which the Minnesota Supreme Court held that a taking occurs when a regulation "leaves the property owner with[out] any reasonable use of the property." Id. at 641. As in Wensmann, the burden of the Bluff Standard "falls disproportionately on the property owner [and] the benefits of [an undisturbed bluff] are widely shared through the community but the costs are focused solely on the property owner." Id. at 640-41. The Minnesota Supreme Court in Wensmann applied the three factor test adopted by the United States Supreme Court in Penn Central Transportation Co. v. New York City, 98 S. Ct. 2646 (1978): The economic impact of the regulation on the claimant, the extent to which the regulation has interfered with distinct investment-backed expectations and a character of the governmental action. Id. at 2646. Without question, the economic impact of the Bluff Standard on the Philippi's' and Geophysical property is severe, having deprived them of all economically viable use. As explained above, both Phillippis and Geophysical had distinct investment-backed expectations that the property could be used to construct single-family residences. | The District has already undertaken revisions to the proposed standard to address this concern. The proposed revised standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to bluffs and steep slopes. Such standards, municipal controls, and conditions do not result in the taking of property. The Steep Slopes Standard, as currently modified, no longer creates use restrictions or nonconformities. Rather, the current standard only adds an engineering review requirement to an otherwise permitted use, structure or activity. The engineering review requirement is established to ensure responsible, safe, and sustainable uses, structures, and activities on steep slopes. Because it is now permissive rather than restrictive, neither variances nor conditional uses are required. |

| Commenting entity/resident | If resident, resident's address | Comment | Response |
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| Siegel Brill PA (Wendell A. Phillippi and Anita Phillippi and Geophysical Research Society, LLC, the owners of two parcels of land in the City of Eden Prairie) | Siegel Brill PA, 100 Washington Ave. S, Suite 1300, Minneapolis, MN 55401 | The character of the governmental action is such that the burden of the Bluff Standard "falls disproportionately on relatively few property owners." 734 N.W.2d at 639. The final analysis is under Interstate Companies, Inc. v. City of Bloomington, 790 N.W.2d 409 (Minn. Ct. App. 2010) in which the Minnesota Court of Appeals, after noting that the Minnesota Constitution provides broader protection to property owners than the Federal Constitution, held that when a regulation "benefits a specific public or governmental enterprise, a property owner who suffers a substantial and measurable decline in market value as a result of the regulations must be compensated." Id. at 413 (citation omitted). Interstate Companies applied the same three factor Penn Central analysis as in Wensmann and explained the broader protection afforded by the Minnesota Constitution, i.e., the property owner can establish a regulatory taking claim with a lower diminution in the value of the property than a property owner seeking compensation for a taking under the Federal Constitution. The Phillippis and Geophysical can establish a regulatory taking under any of the three cases above if the proposed amendments to the Bluff Standard are enacted. The LMRWD would be required to compensate them for the difference in value between the property if single family residences can be constructed and property of which no economically viable use can be made. We estimate this difference to be more than three million dollars. The U.S. Supreme Court in Lucas noted that the State of South Carolina "may elect to rescind its regulation and thereby avoid having to pay compensation for a permanent deprivation." 112 S. Ct. at n. 17. The LMRWD can avoid compensating the Phillippis and Geophysical by simply not enacting the proposed amendments. This is, of course, the LMRWD's choice, but it must do one or the other. | Disproportionality is not at issue here. All steep slope properties are treated equally based on the specific and documented concerns resulting from development on or adjacent to steep slope areas. As previously mentioned, the District has already undertaken revisions to the proposed standard to address the takings concern. The proposed revised standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to steep slopes. Such standards, municipal controls, and conditions do not result in the taking of property. |
| Simon and Gillian Barrow | <i>No address provided</i> | Outlot A is currently zoned Rural but is guided as Park/Open Space on the City's 2030 Guide Plan Map. When Mr. Phillippi approached the City about the possibility of a rezoning and Guide Plan change to permit the subdivision, it was met with resistance. | A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| Simon and Gillian Barrow | <i>No address provided</i> | Mr. Phillippi was one of four partners who developed Bell Oaks and Bell Oaks Estates. In 1998, Mr. Phillippi received Outlot A as development property from the partnership. Mr. Phillippi intended to subdivide into as many as three additional single family home sites. Mr. Phillippi also owned the property immediately to the east of Outlot A and before selling the neighboring property he reserved utility and other easement across the neighboring property to aid with the development of Outlot A. | The District is proceeding with the amendments and considering revisions and does not intend to provide a summary of changes. It is incumbent on residents within the District to review the proposed amendments and determine their relevance to the individual property or interest. |
| Simon and Gillian Barrow | <i>No address provided</i> | Mr. Phillippi then revamped his plans and identified a single building pad on Outlot A. An ecological review of the proposed building pad was completed in December 2016 and refutes certain of the objections initially raised by City staff. | The mission and the purpose of the Lower Minnesota River Watershed District is to manage and protect the Minnesota River, lakes, streams, wetlands, and groundwater within its jurisdiction. The proposed Steep Slopes Standard is intended to address steep slope erosion, protect downstream water resources from the effects of sediment transport from steep slope erosion, and promote public safety by limiting land-disturbing activities and other land alteration on steep slopes. The District is following the requirements of Minnesota Statute Chapters 103B and 103D as well as Minnesota Administrative Rules part 8410. The District is providing notices as required in statute and rule. The planning process related to the proposed amendments occurred over the course of 12 months and involved representatives of the various cities, counties, and technical organizations within the District. The intention was that that the participants in this process would represent the interests of both their communities and residents. |
| Steve Peterson, Kalli Bennett | 11036 Glen Wilding Ln, Bloomington, MN 55431 | I would also like to request that a hearing on the Plan be held in Bloomington. I was told by Linda Loomis that the hearing must be held inside of the District, and there was no suitable location in Bloomington for a hearing. Olson Elementary School, Olson Middle School, Jefferson High School, Nativity of Mary Church, Transfiguration Church, and Bethany Global University are all located within the District and have facilities adequate for a hearing. | A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| Steve Peterson, Kalli Bennett | 11036 Glen Wilding Ln, Bloomington, MN 55431 | The survey requirement for common uses on the bluff is costly and unneeded. | The Bluff Standard has been modified. It will be called the Steep Slopes Standard and no longer requires a survey. |
| Steve Peterson, Kalli Bennett | 11036 Glen Wilding Ln, Bloomington, MN 55431 | The Plan fails to identify how inconsistencies in official controls negatively impact water quality. | Additional information is required to adequately address the comment. |
| Steve Peterson, Kalli Bennett | 11036 Glen Wilding Ln, Bloomington, MN 55431 | Section 4 of Appendix K is unclear. | Additional information is required to adequately address the comment. |

| Commenting entity/resident | If resident, resident's address | Comment | Response |
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| Steve Peterson, Kalli Bennett | 11036 Glen Wilding Ln, Bloomington, MN 55431 | The exceptions to the Bluff Standard under an approved LWP are unclear. | Additional information is required to adequately address the comment. |
| Steve Peterson, Kalli Bennett | 11036 Glen Wilding Ln, Bloomington, MN 55431 | The Plan imposes disproportionate costs for pollution mitigation on District property owners. | Additional information is required to adequately address the comment. |
| Steve Peterson, Kalli Bennett | 11036 Glen Wilding Ln, Bloomington, MN 55431 | Policies in the Plan exceed the purposes listed in the enabling legislation. | It is unclear as to what enabling legislation this comment refers. The District's enabling legislation is Statute Chapter 103D. Section 103D.201 lists the purposes of watershed districts generally as: To conserve the natural resources of the state by land use planning, flood control, and other conservation projects by using sound scientific principles for the protection of the public health and welfare and the provident use of the natural resources. Section 103D.201, subd. 2 lists specific purposes: to control or alleviate soil erosion and siltation of watercourses or water basins; to protect or enhance the water quality in watercourses or water basins; and to regulate improvements by riparian property owners of the beds, banks, and shores of lakes, streams, and wetlands for preservation and beneficial public use. The proposed standards are consistent with these purposes. Moreover, the District is required by law to conduct a resource inventory; develop water and resource management issues resulting from that inventory; develop policies, goals, and objectives to address those resource management issues; and consolidate all of those components into a watershed management plan. A component of the plan is the development of standards for resource management that must be incorporated into official controls by local government within the District. This plan amendment is the culmination of the District's most recent inventory and planning process. The standards being proposed are, in the Board's judgment, appropriately targeted to address the concerns revealed in the most recent resource inventory. |
| Steve Peterson, Kalli Bennett | 11036 Glen Wilding Ln, Bloomington, MN 55431 | Finally, I would respectfully ask that the Managers wait to adopt a plan until all positions on the board are filled. I don't believe the Legislature intended for two people to be able to adopt regulations that impact so many homes. | It is the obligation of County Boards to appoint managers. That counties have failed to do so or that residents have failed to apply for vacancies does not relieve the District of its statutory obligations to perform its duties. |
| Steve Peterson, Kalli Bennett | 11036 Glen Wilding Ln, Bloomington, MN 55431 | Many activities that have no water impact are prohibited by the Bluff Standard. | The District has already undertaken revisions to the proposed standard to address this concern. Of primary concern to the District is the detrimental impact of stormwater discharge from increased impervious surfaces or irresponsible stormwater management to the face of steep slopes. The District has documented numerous instances of slope failure, resulting in significant public and private expense to correct environmental and infrastructure damage. It is not unreasonable to expect property owners to use or develop their property in a safe and responsible manner. The proposed standard as revised will ensure such use and development and appropriately place responsibility on landowners. |
| Steve Peterson, Kalli Bennett | 11036 Glen Wilding Ln, Bloomington, MN 55431 | The Plan fails to address sources of sediment directly under the District's control. | The District disagrees. |
| Steve Peterson, Kalli Bennett | 11036 Glen Wilding Ln, Bloomington, MN 55431 | Appendix K of the Plan, however, places significant burdens on Bloomington residents along the bluff without a corresponding water quality improvement. In many cases, it prohibits any modification to existing property, without regard to whether it has an actual impact on water quality. The plan should not be adopted without major modifications to Appendix K. | The mission and the purpose of the Lower Minnesota River Watershed District is to manage and protect the Minnesota River, lakes, streams, wetlands, and groundwater within its jurisdiction. The proposed Steep Slopes Standard is intended to address steep slope erosion, protect downstream water resources from the effects of sediment transport from steep slope erosion, and promote public safety by limiting land-disturbing activities and other land alteration on steep slopes. |
| Suzanne R. Hoppe | 11028 Glen Wilding Ln, Bloomington, MN 55431 | In addition to serious restrictions of the use of residents' land, what about fun time? Can I have a campfire with my kids? Am I able to rebuild my deck? If not, I am not able to use my house for the purpose for which it was built and the City might be dealing with an undue process takings clause issue of constitutional magnitude. | The standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to bluffs and steep slopes. Such standards, municipal controls, and conditions do not result in the taking of property. |
| Suzanne R. Hoppe | 11028 Glen Wilding Ln, Bloomington, MN 55431 | There are many issues at stake raised in this proposal by the Watershed District. I have only had a short period of time to study them, but I hope that there will be much further discussion and consideration of them before they are enacted. Restriction of long-time residents' reasonable, respectful to the environment use of their homes should not one day be considered "ok" and the next day a "violation" - without due process, compensation, lot level assessments and/or much more community discussion, awareness and debate. | A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |

| Commenting entity/resident | If resident, resident's address | Comment | Response |
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| Suzanne R. Hoppe | 11028 Glen Wilding Ln, Bloomington, MN 55431 | Environmental protections should be reasonably and pragmatically balanced against the rights of long-time (and recent) property owners of long-standing residential buildings to freely enjoy their property. The proposal appears to restrict my right to clear my property of buckthorn (something that the City has previously recommended clearing). The proposal appears to restrict my ability to conduct composting or add a rain barrel to my property (environmentally protective actions previously encouraged by the City). In addition, the proposal appears to restrict my ability to build/add-on to my house so that my terminally ill mother could live with me. I am troubled by these overly-broad restrictions on the use and enjoyment of my private property. Is there really a connection between use of a rain barrel and erosion of soil on the bluff? | The proposed standard includes the following exception: Plantings that enhance the natural vegetation or the selective clearing of noxious, exotic, or invasive vegetation or the pruning of trees or vegetation that are dead, diseased, or pose a public hazard. The following additional exceptions will be included: maintenance of existing lawns, landscaping, and gardens; removal of vegetation in emergency situations; right-of-way maintenance for public facilities; and agricultural and forestry activities. The proposed standard will contain an exemption for maintenance or replacement of existing structures so long as such is accomplished under certain performance standards. |
| Thomas & Linda Hulting | 6717 Auto Club Road, Bloomington, MN 55438 | Please know that as a 30-year resident of the MN River Bluffs in Bloomington, I am adamantly opposed to your proposed Amendment. Having lived in Bloomington most of my life, and having been a City Councilman, I am very familiar with the laws and practices of Bloomington. Your UNFOUNDED punishment of my neighbors and me is entirely unwarranted! Bloomington has NEVER experienced problems of the type you are appearing to either anticipate or unilaterally use as an UNWARRANTED PUNISHMENT for ALL of us who have so personally protected our properties! | The mission and the purpose of the Lower Minnesota River Watershed District is to manage and protect the Minnesota River, lakes, streams, wetlands, and groundwater within its jurisdiction. The proposed Steep Slopes Standard is intended to address steep slope erosion, protect downstream water resources from the effects of sediment transport from steep slope erosion, and promote public safety by limiting land-disturbing activities and other land alteration on steep slopes. |
| Todd K. Johnson | 10020 Dell Road, Eden Prairie, MN 55347 | Could you provide me with additional detail of just how these revisions will affect my property? I have an existing structure, of course, but I would like to know how this would affect future uses of the property, etc. | The District is proceeding with the amendments and considering revisions and does not intend to provide a summary of changes. It is incumbent on residents within the District to review the proposed amendments and determine their relevance to the individual property or interest. The proposed standards will apply to all property. Existing developed property will retain existing use privileges if made nonconforming by the proposed change. |
| Todd K. Johnson | 10020 Dell Road, Eden Prairie, MN 55347 | There are other, more formal legal terms for your action, but in my vernacular it is simple theft. Do you intend to compensate every existing owner for the destruction in values that will entail your actions? I sincerely doubt that. Where is your due process? It is beyond discouraging that common citizens and landowners need to be continuously vigilant in order to fend off groups like yours. Until I received notification of this action, (and not, I note, from your organization), I had only a vague idea that you even existed, let alone could claim that extent of rights and powers that you now want over my property and others. Please reverse your course and abandon this proposal. This unilateral and nefarious action should, instead, have been properly offered in an open and fair court of opinion. I believe that if it had been so presented to the owners of property involved, it would have been rejected utterly. | The standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to bluffs and steep slopes. Such standards, municipal controls, and conditions do not result in the taking of property. |
| Tom Nelson (Eden Prairie homeowner) | <i>No address provided</i> | What impact does this letter have if the retaining wall in our back yard needs work in the future and what if any impact will this have on the value of our residence? | The existing uses and structures made nonconforming by the proposed standards may continue, be maintained, and under some circumstances be improved or expanded. The intent of the proposed Steep Slopes Standard is to protect property and property values. The District cannot speculate on the impact the standards may have on the value of a particular property. Because existing uses and structures made nonconforming by the proposed standards may continue, be maintained, and under some circumstances be improved or expanded, it is unlikely there will be a decrease in value. |
| Tom Roberts, BOEHA President | 11015 Bell Oaks Estate Road, Eden Prairie, MN 55347 | Regarding the intention of the Lower Minnesota River Watershed District to install new rules that will impact our homes in the Bell Oaks Estate Homeowners Association (BOEHA), the BOEHA has a concern. Our properties are currently subject to the city of Eden Prairie's conservation easement. We would hope that the Watershed's proposed boundaries neither conflict with nor override those currently established by the city; doing so would present challenges of appropriate jurisdiction as well as initiate confusion on the part of the homeowner. | The District will continue to work with the City of Eden Prairie to address potential conflicts with existing requirements. |
| Tom Schmidt (Eden Prairie homeowner) | <i>No address provided</i> | I am a home owner on a bluff lot in Eden Prairie. The development was built about ten years ago. Two questions, What impact does this letter have if the retaining wall in our back yard needs work in the future and what if any impact will this have on the value of our residence? | The proposed standard will contain an exemption for maintenance or replacement of existing structures so long as accomplished under certain performance standards. The intent of the proposed standard is to protect property and property values. The District cannot speculate on the impact the standards may have on the value of a particular property. Because existing uses and structures made nonconforming by the proposed standards may continue, be maintained, and under some circumstances be improved or expanded, it is unlikely there will be a decrease in value. |

| Commenting entity/resident | If resident, resident's address | Comment | Response |
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| Tony & Audrey Thomas | 10437 5th Ave. Circle, Bloomington, MN 55420 | I've tried to read your Draft Standards document no doubt written by lawyers, for lawyers. My questions and comments below center around current and future maintenance of my property. Nearly all my property lies within the "bluff zone" (my home, garage, driveway) so naturally I'm concerned about my existing structures of our home and lot. Why the changes in restrictions now? Has there been an event of series of events that have precipitated these new standards? | Existing developed property will retain existing use privileges if made nonconforming by the proposed change. The District is considering this change in large part because of landslides/slope failures experienced in the District in 2014. Since then, the District has received calls from residents and local government units requesting funds to help protect property from slope failures. A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District, posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| Tony & Audrey Thomas | 10437 5th Ave. Circle, Bloomington, MN 55420 | How will simple future maintenance and repair of my property be effected, e.g.; repair of my house, garage, driveway, etc.? When my deck needs repair or replacement, will I need an impact study to do this? What if a tree dies on my property, do I need the state's permission to remove it? In general, will these restrictions make simple maintenance of my property cost prohibitive in the future? I'm not building any roads, culverts, bridges or the like. You know the types of simple home maintenance you do on your own property; how will these kinds of projects affect me in the coming years? Will I now have to get permission, survey's, environmental impact studies, etc. just to enjoy my home in the future? | See previous responses. The proposed standard includes the following exception: Plantings that enhance the natural vegetation or the selective clearing of noxious, exotic, or invasive vegetation or the pruning of trees or vegetation that are dead, diseased, or pose a public hazard. The following additional exceptions will be included: maintenance of existing lawns, landscaping, and gardens; removal of vegetation in emergency situations; right-of-way maintenance for public facilities; and agricultural and forestry activities. The proposed changes, if approved, will not take effect for about two years. |
| Tony & Audrey Thomas | 10437 5th Ave. Circle, Bloomington, MN 55420 | How long have the draft restrictions been in place and why not include comments and concerns from the thousands impacted by them before you make this law? | The Draft Plan went out for 60-day review in July. Note: the planning process related to the proposed amendments occurred over the course of 12 months and involved representatives of the various cities, counties, and technical organizations within the District. The intention was that the participants in this process would represent the interests of both their communities and residents. A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| Tony Phillippi (via Helen McDonnell) | No address provided | As a significant land owner in Eden Prairie (over 60 acres), the Lower Minnesota Watershed's proposal rules will have a major negative ecological impact on the management and preservation of these properties. The premise of these proposed rules to eliminate development will have a most negative effect. I can attest that these lands require extensive, consistent maintenance. There is no mechanism for this maintenance in the public sector; nor is there likely to be one in the foreseeable future. The only viable way, presently, is to attract careful, well-engineered, limited development by private owners who will in their own self-interest care for these magnificent lands. I implore each of you to review the potential economic and environment devastation these rules will create. | The mission and the purpose of the Lower Minnesota River Watershed District is to manage and protect the Minnesota River, lakes, streams, wetlands, and groundwater within its jurisdiction. The proposed Steep Slopes Standard is intended to address steep slope erosion, protect downstream water resources from the effects of sediment transport from steep slope erosion, and promote public safety by limiting land-disturbing activities and other land alteration on steep slopes. |
| Tracy Trembley | 5701 Auto Club Road, Bloomington, MN 55437 | Prior to the letter we received from the City of Bloomington a couple weeks ago, I had never heard of the Watershed District Board. I suspect this is true of many of my neighbors, as well. I would ask that the LMR Watershed District Board recognize the value of ensuring that impacted residents fully understand these proposed standards and that the board be respectful of the related implications on our most valued asset, our homes. Please consider providing further education (clarifying and answering open questions), taking additional feedback from impacted homeowners, and seeking appropriate middle ground as you seek to gain buy-in and before you finalize the LMR – Proposed Bluff Standards. Our world is currently extremely divided on many topics, including the environment. My neighborhood is purple in a world of red and blue. If we consider the broader goals and objected for clean water, clean air and fighting global warming, the last thing we need is to further polarize views against these causes. | A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| Unknown resident | Bloomington | However, consideration to the actual homeowner seems to have been a missed opportunity. Appendix K of the Plan, however, places significant burdens on Bloomington residents along the bluff without a corresponding water quality improvement. In many cases, it prohibits any modification to existing property, without regard to whether it has an actual impact on water quality. The plan should not be adopted without major modifications to Appendix K. 1. Many activities that have no water impact are prohibited by the Bluff Standard. The image below, provided by the City of Bloomington, shows the estimated location of the Bluff Impact Zone at my home. (see word doc). As you can see, except for a small area in the front of my home, my entire lot lies in the Overlay District, meaning it is subject to the proposed Bluff Standard. The Standard prohibits any "land-disturbing activity" in the District. | The standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to steep slopes. Such standards, municipal controls, and conditions do not result in the taking of property. All bluff and steep slope properties within the District are treated equally based on the specific and documented concerns resulting from development on or adjacent to steep slope areas. |

| Commenting entity/resident | If resident, resident's address | Comment | Response |
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| Tim Erhart | | Can you tell me what is meant by Minnesota River Corridor Critical Area? Does this proposed change only affect that area? If so is there a map of that area available? How do you define a bluff? Does a 3 ft. elevation change constitute a bluff? Does 30 ft. elevation change? Point being this must be defined to apply a slope and set back standard otherwise it has no meaning. | The Mississippi River Corridor Critical Area (MRCCA) is a joint state, regional, and local program that provides coordinated planning and management for the 72-mile stretch of the Mississippi River through the seven-county metropolitan area and 54,000 acres of surrounding land across 30 local jurisdictions. The proposed changes, initially modeled after the MRCCA rule, affect the steep slopes areas within the Minnesota River Valley. |
| Michael Schley | 5019 Overlook Circle, Bloomington, MN | Please add me to your notice list related to this, or any replacement/substitute, plan. | Noted. |
| Andrew & Cindy Costigan | 9980 Dell Road, Eden Prairie, MN | We are residents at 9980 Dell Rd in Eden Prairie and are wondering how this new "amendment" of the watershed management plan will effect us as home owners living on a designated bluff area. | Without a clear presentation of planned projects on your property, the District cannot speculate on the effects the changes proposed may have on your property. A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| Jessica Frey | | I understand the need to preserve the river and the surrounding bluffs and as a resident who resides in this area I appreciate the effort you are trying to put in place. However, consideration to the actual homeowner seems to have been a missed opportunity. Appendix K of the Plan, however, places significant burdens on Bloomington residents along the bluff without a corresponding water quality improvement. In many cases, it prohibits any modification to existing property, without regard to whether it has an actual impact on water quality. The plan should not be adopted without major modifications to Appendix K. 1. Many activities that have no water impact are prohibited by the Bluff Standard The image below, provided by the City of Bloomington, shows the estimated location of the Bluff Impact Zone at my home. (map shown) As you can see, except for a small area in the front of my home, my entire lot lies in the Overlay District, meaning it is subject to the proposed Bluff Standard. The Standard prohibits any "land-disturbing activity" in the District. The proposed definition of "land-disturbing activity" is: Land-Disturbing Activity: Any change of the land surface to include removing vegetative cover, excavation, fill, grading, stockpiling soil, and the construction of any structure that may cause or contribute to erosion or the movement of sediment into water bodies. The use of land for new and continuing agricultural activities shall not constitute a land-disturbing activity under these standards. | The standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to bluffs and steep slopes. Such standards, municipal controls, and conditions do not result in the taking of property. All steep slope properties within the District are treated equally based on the specific and documented concerns resulting from development on or adjacent to bluff and steep slope areas. The District has already undertaken revisions to the proposed standard to address these concerns. Of primary concern to the District is the detrimental impact of stormwater discharge from increased impervious surfaces or irresponsible stormwater management to the face of steep slopes. The District has documented numerous instances of slope failure resulting in significant public and private expense to correct environmental and infrastructure damage. It is not unreasonable to expect property owners to use or develop their property in a safe and responsible manner. The proposed standard as revised will ensure such use and development and appropriately place responsibility on landowners. |

Final Draft

| Commenting entity/resident | If resident, resident's address | Comment | Response |
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| City of Bloomington | Mayor Gene Winstead | The city of Bloomington has always supported bluff protection. They have very strong standards in place. The proposed rules create some problems and are taking some property rights and are not reasonable or acceptable as drafted. There needs to be more of a balance between environmental protection and property rights. Bloomington asked the board to not adopt the proposed standards without a full board of 5 members. He also asked for improvements to language and definitions in the Draft Plan and was glad to hear the SONAR (<i>statement of needs and reasonableness</i>) report is being developed. | The District agrees that the City of Bloomington has strong standards. However, those standards have not served to protect the resources of concern in all instances. Additionally, the District must look at all resources within its boundary and reconcile various and often inconsistent standards between municipalities. The proposed standards, as intended in Minnesota Statute section 103B.235, are meant to set a base standard across the District. The District has already undertaken revisions to the proposed standard to address property rights concern. Of primary concern to the District is the detrimental impact of stormwater discharge from increased impervious surfaces or irresponsible stormwater management to the face of steep slopes. The District has documented numerous instances of slope failures, resulting in significant public and private expense to correct environmental and infrastructure damage. It is not unreasonable to expect property owners to use or develop their property in a safe and responsible manner. The proposed standard as revised will ensure such use and development and appropriately place responsibility on landowners. The standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to steep slopes. Such standards, municipal controls, and conditions do not result in the taking of property. |
| City of Bloomington | Glen Markegard | There are 795 impacted properties within the city of Bloomington and the standard goes beyond the river bluff. Bloomington has had sufficient standards to protect the bluff. The bluff standard as written would place a big burden on cities. The definition for structure is extremely expansive and could be interpreted as anything. Do not adopt the standard. Provide more information and consider additional public input. | The City of Bloomington has more than 20 plans and policies it must navigate for property use and development within its designated bluff protection area. It is possible that the City can gain an exemption if it can demonstrate an existing equivalent standard or sufficiency of its existing controls. The District agrees that certain definitions must be clarified to eliminate ambiguity and return the proposed standard to its original intent. The District has already undertaken revisions to the proposed standard to address this concern. Also, the District hosted four informational meetings and continued the public hearing from October 25, 2017 to April 18, 2018, allowing additional input throughout. |
| City of Eden Prairie | Dave Modrow | The city of Eden Prairie already has ordinances in place to protect bluffs. Determining bluff per the current definition isn't easy to decipher and is done on a case-by-case basis. Glad to see a sonar is going to be provided and looks forward to reviewing the maps to clarify impacts. | The District agrees that the City of Eden Prairie has strong standards. However, those standards have not served to protect the resources of concern in all instances. Additionally, the District must look at all resources within its boundary and reconcile various and often inconsistent standards between municipalities. The proposed standards, as intended in Statute Section 103B.235, are meant to set a base standard across the District. The District has already undertaken revisions to the proposed standard to address property rights concern. Of primary concern to the District is the detrimental impact of stormwater discharge from increased impervious surfaces or irresponsible stormwater management to the face of bluffs and steep slopes. The District has documented numerous instances of slope failures, resulting in significant public and private expense to correct environmental and infrastructure damage. It is not unreasonable to expect property owners to use or develop their property in a safe and responsible manner. The proposed standard as revised will ensure such use and development and appropriately place responsibility on landowners. The standard will not prevent the safe and responsible use of property. Also, the District's intent is to eliminate the guesswork involved in determining what is or is not a bluff or steep slope by providing a uniform standard with technical predictability for determining steep slope areas covered by the standard. |
| Nora Beall | 2915 Over Drive, Bloomington | 1. How was the bluff impact zone calculated, given the irregularity of slopes on the property? 2. Where is bedrock? 3. Interested in learning more about how this would impact her property. | 1. The bluff impact zone (BIZ) was determined using the Minnesota Department of Natural Resources tool for GIS (geographic information system). The DNR tool and GIS uses state/county furnished LIDAR (light detection and ranging, a remote sensing method that uses light in the form of a pulsed laser to measure ranges to the Earth). However, the Bluff Standard has been modified. It will be called the Steep Slopes Standard and regulate slopes greater than or equal to 18 percent. References to bluffs will be removed. 2. Bedrock is rock that lies under a loose, softer material. The depth and location of bedrock varies geographically. A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| Todd Johnson | 10020 Dell Road, Eden Prairie | Constructed 16 years ago on his property, his home was conforming. Suddenly and unilaterally from what he has heard so far, without substantiation for need or objective scientific evidence, or any evaluation of the economic impact to private property owners, the District has gone ahead and proposed a standard that will make his property non-conforming. | The District is required by law to conduct a resource inventory; develop water and resource management issues resulting from that inventory; develop policies, goals, and objectives to address those resource management issues; and consolidate all of those components into a watershed management plan. A component of the plan is the development of standards for resource management that must be incorporated into official controls by local government within the District. This plan amendment is the culmination of the District's most recent inventory and planning process. The standards being proposed are, in the Board's judgment, appropriately targeted to address the concerns revealed in the most recent resource inventory. The standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to steep slopes. |

| Commenting entity/resident | If resident, resident's address | Comment | Response |
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| Greg Porter | 11601 Palmer Road, Bloomington, | The property will become non-conforming and will affect the value of his property. What improvements will he be allowed to make in the future? What will happen to the proposed DNR trail along the river? How might the proposed DNR project be allowed but adding a patio to his property would not be allowed? | Without a clear presentation of planned projects on your property, the District cannot speculate on the effects the changes proposed may have on your property. A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District (including Bloomington), posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |
| Ron Nelson | 163 Spring Valley Drive, Bloomington | He doesn't understand the objective of the new standard. Who wanted this standard and would it become law? Who has the District talked to about the proposed standard? The property is steep and is prone to erosion and needs to be preserved, protected and in some cases, restored. Who should be responsible for that? If the District has money to distribute to the neighbors so they could build a conforming retaining walls or a creek with a waterfall, then let's pursue this, he is all for it. At this moment it seems to be an overreach. He has 200 feet of land from his back door to the end of his property line and if he wanted to put a fence around his property to protect his family from coyotes would that be a problem? | Some of the standard needs flexibility and better balance. The District has already undertaken revisions to the proposed standard to address this concern. Of primary concern to the District is the detrimental impact of stormwater discharge from increased impervious surfaces or irresponsible stormwater management to the face of steep slopes. The District has documented numerous instances of slope failures, resulting in significant public and private expense to correct environmental and infrastructure damage. It is not unreasonable to expect property owners to use or develop their property in a safe and responsible manner. The proposed standard as revised will ensure such use and development and appropriately place responsibility on landowners. The standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to steep slopes. |
| Tom Roberts | 11015 Bell Oaks Estate Road, Eden Prairie, | 1. Where does the watershed district fits into government process? 2. The mayor (of Bloomington) stated that there should be five people and there are only two on the board. Will it just be two people making the decision? 3. The City of Eden Prairie has already have rules and regulations and Eden Prairie has a watershed district person already; what is your purpose as an entity, that doesn't have enough people, on your board, which people have chosen not to be on, that we think we need to make a big change. 4. Is my state legislator allowed to say he wants to slow it down? 5. Is the LMRWD is transferring all the enforcement to the cities? | 1. The watershed district is a special purpose unit of government created by the legislature. The Minnesota Board of Water and Soil Resources (BWSR), a state agency, oversees the District and all other water management organizations. 2. There are five total seats on the Board, three serving members and two vacancies. According to the bylaws, two members are required for a quorum. 3. The District agrees that the City of Eden has strong standards. However, those standards have not served to protect the resources of concern in all instances. Additionally, the District must look at all resources within its boundary and reconcile various and often inconsistent standards between municipalities. The proposed standards, as intended in Statute Section 103B.235, are meant to set a base standard across the District. The District has already undertaken revisions to the proposed standard to address property rights concern. Of primary concern to the District is the detrimental impact of stormwater discharge from increased impervious surfaces or irresponsible stormwater management to the face of steep slopes. The District has documented numerous instances of slope failures, resulting in significant public and private expense to correct environmental and infrastructure damage. It is not unreasonable to expect property owners to use or develop their property in a safe and responsible manner. The proposed standard as revised will ensure such use and development and appropriately place responsibility on landowners. The standard will not prevent the safe and responsible use of property. Also, the District's intent is to eliminate the guesswork involved in determining what is or is not a steep slope by providing a uniform standard with technical predictability for determining steep slope areas covered by the standard. 4. Members of the legislature cannot tell the District (and other water management organizations) what to do or dictate its agenda or implementation strategies, except by introducing legislation that would change its authorities, its purposes, and the reason it exists. 5. The District is required by law to conduct a resource inventory; develop water and resource management issues resulting from that inventory; develop policies, goals, and objectives to address those resource management issues; and consolidate all of those components into a watershed management plan. A component of the plan is the development of standards for resource management that must be incorporated into official controls by local government within the District. This plan amendment is the culmination of the District's most recent inventory and planning process. The standards being proposed are, in the Board's judgment, appropriately targeted to address the concerns revealed in the most recent resource inventory. |
| Duane Saunders | 9901 Riverview Road, Eden Prairie | Owens 4 properties on the bluff - a 10-acre lot is where the house is, 6 acre lot where there is a small house where his caretaker lives and undeveloped 6-acre and 12-acre lots. As far as he can tell from the somewhat limited specific information he has received, it appears the undeveloped lots will become worthless and there will be substantial limits of what can be done to the two lots with houses on them. This is worse than eminent domain, where at least there would be some payment for taking his property. | The District has already undertaken revisions to the proposed standard to address this concern. Of primary concern to the District is the detrimental impact of stormwater discharge from increased impervious surfaces or irresponsible stormwater management to the face of steep slopes. The District has documented numerous instances of slope failures, resulting in significant public and private expense to correct environmental and infrastructure damage. It is not unreasonable to expect property owners to use or develop their property in a safe and responsible manner. The proposed standard as revised will ensure such use and development and appropriately place responsibility on landowners. The standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to steep slopes. Such standards, municipal controls, and conditions do not result in the taking of property. |
| Michael Heckman | City of Shakopee | Requested a continuance of the public hearing to allow staff adequate time to review the document (<i>response to comment log</i>). He asked for time to work through the comments with staff and said some of the responses are open-ended and vague enough that they don't really address the comment. | A continuation of the public hearing was considered and granted by the managers. The public hearing opened October 25, 2017 and will close April 18, 2018. The District coordinated four community informational meetings at various locations throughout the District, posted logistics about the meetings on the District's website, and emailed information to all with email addresses in the District's system. |

| Commenting entity/resident | If resident, resident's address | Comment | Response |
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| Daniel Miller | 1875 Meadow View Road, Bloomington | One of the main issues is the significant negative impact this could have on his properties. He said his property is almost 4 acres and the majority is down the bluff and down the river valley. If these proposed amendment changes, especially to the definition of the bluff impact zone and setback area, are adopted his entire backyard and portions of his house would be in the bluff impact zone or setback area and he would have a legally nonconforming property. He can't even begin to predict what would happen to his property if and when he decides to sell his property and he has to disclose the property is legally non-conforming. The negative financial impact this would have on his property is unpredictable. He can't do anything with 90% of his lot and he is adamantly opposed to any change that, quite frankly he doesn't understand what the purpose of it is. Why does it have to be changed? He questioned the standard for undue hardship and proving undue hardship is almost impossible. | The District is required by law to conduct a resource inventory; develop water and resource management issues resulting from that inventory; develop policies, goals, and objectives to address those resource management issues; and consolidate all of those components into a watershed management plan. A component of the plan is the development of standards for resource management that must be incorporated into official controls by local government within the District. This plan amendment is the culmination of the District's most recent inventory and planning process. The standards being proposed are, in the Board's judgment, appropriately targeted to address the concerns revealed in the most recent resource inventory. The standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to steep slopes. |
| David Shervey | 1901 Meadow View Road, Bloomington, | David Shervey appreciative of all the city officials that made comments. He noted he has been at the address for 18 years. He was told the back would be a wildlife refuge and he doesn't understand how a park was built on a wildlife refuge. He stated his concern is with his 90-foot drop. He said he was told nothing would be done with the property and now the district is looking to take away more property. There is no proven track on record and the committee doesn't have the experience, background or no scientific data has been shown. Mr. Shervey said there are a lot of commercial properties in Bloomington that would also be in the outlawed area. He questioned why his property would be impacted and not others that are further down the river bluff area. | The proposed standard would apply to all properties lying within the steep slope area. The standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to steep slopes. |
| Adam Buenz | 10100 Eden Prairie Road | Adam Buenz said they have a tree farm they are economically dependent on and asked how this works and if they would have to shut down the farm. He noted there are no structures in place. | Farms/agricultural practices will not be affected by the proposed standard. An exception will be incorporated in upcoming revision to the proposed standard. |
| Tom Moehn | 5025 Overlook Circle, Bloomington | Tom Moehn said they moved in 3 years ago. He questioned who the governing agency is. He commented on the plain language rules and said he would leave the document. He questioned the working session that was had the other day and asked why the public wasn't notified. Mr. Moehn talked about the open meeting law. He said not once were the citizens with the impacted area were informed. His distance from his house to the river is half a mile and questioned how far is too far. Mr. Moehn talked about the terminology in the policy statement and pointed out require is only mentioned once in the policy statement. There is conflicting information in the document. Mr. Moehn said when he moved in to Bloomington they live over a ½ acre and the forested area to the east had a lot of buckthorn and according to the new standard he can't remove it. He stated there are 1,000 of homes in the affected area and said this should be public information and a mass mailing should be done to inform all. He talked about the properties decreasing. He questioned if he has to get permission to paint his house or remodel the inside. Mr. Moehn talked about "Dan's Law". He commented on the 100-year flood and said it should be a 500-1,000 plan. He said to consider this is a publicly funded board and there might be offense. He stated there are a lot of impacts that will affect people. | The Minnesota BWSR oversees the District and all other water management organizations. Work sessions are noticed, and information is posted on the District's website. The District has already undertaken revisions to the proposed standard to address many of the stated concerns. The commenter is mistaken regarding the removal of invasive buckthorn. However, the removal of invasive plants, including buckthorn, with no requirement to revegetate or stabilize a steep slope only creates further risk of bank or slope failure. The standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to steep slopes. |
| Chris Penwall | Suite 1300, Washington Avenue South, Minneapolis | Chris Penwall said he represents a number of homeowners who are affected. He provided some background information. Mr. Penwall commented on a regulatory taking. As to parcels that already have development on them there may also be a regulatory taking claim on them. If the bluff standards take away the ability to develop parcels that is a regulatory taking which will result in millions of dollars. Mr. Penwall referred to the eminent domain and said if the bluff standards are approved the board needs to budget for all the claims. He commented on the amount of time that it will take to enact these standards and the start of development will be grandfathered. | The standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to steep slopes. Such standards, municipal controls, and conditions do not result in the taking of property. The District has already undertaken revisions to the proposed standard to address this concern. Of primary concern to the District is the detrimental impact of stormwater discharge from increased impervious surfaces or irresponsible stormwater management to the face of steep slopes. The District has documented numerous instances of slope failures, resulting in significant public and private expense to correct environmental and infrastructure damage. It is not unreasonable to expect property owners to use or develop their property in a safe and responsible manner. The proposed standard as revised will ensure such use and development and appropriately place responsibility on landowners. |

| Commenting entity/resident | If resident, resident's address | Comment | Response |
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| Laura Bluml | 105040 West Riverview Drive, Eden Prairie | Laura Bluml said she and her husband Kevin have lived there for 23 years. She suggested having an open house where they have the maps and exhibits. She noted she is oblivious to the current rules. She said her property is about 2 ½ acres. Ms. Bluml said she would like to know what has happened and what is trying to be addressed. Agricultural is exempted and said they will all become farmers. She talked about the properties that will be grandfathered in and said disparities are being created. Ms. Bluml talked about the exemptions and how the city doesn't have the final decision. She said she has spent months pulling invasive species to restore natural vegetation. She said there should be new rules for new development only. Ms. Bluml questioned the rules for the flatter areas. Can she put in a fence for horses. | The District is required by law to conduct a resource inventory; develop water and resource management issues resulting from that inventory; develop policies, goals, and objectives to address those resource management issues; and consolidate all of those components into a watershed management plan. A component of the plan is the development of standards for resource management that must be incorporated into official controls by local government within the District. This plan amendment is the culmination of the District's most recent inventory and planning process. The standards being proposed are, in the Board's judgment, appropriately targeted to address the concerns revealed in the most recent resource inventory. The standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to steep slopes. |
| Roger Peters | 3601 Overlook Drive, Eden Prairie | Roger Peters asked if very strict restrictions are proposed and then they are backed off. Mr. Peters proposed not implementing these and non-restricting some of these standards. He questioned the last time when major erosion has happened and asked what the reasoning is. He stated let's put the private back in the property. Mr. Peters said nobody here wants this to happen and said they should be going the other way. He asked why more restrictions would be added | The District admits that its first articulation of the standard was likely more restrictive than necessary to accomplish the resource management goals intended by the standard. However, the initial articulation was beneficial in revealing both deficiencies in the proposed standard and community concerns. The District has already undertaken revisions to the proposed standard to address this concern. The standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to steep slopes. |
| Steve Peterson | 11036 Glen Wilding Way, Bloomington, | Steve Peterson came with a presentation but all his points have been made. The sense he gets is to educate people in the watershed district and this process was a great opportunity for the watershed district to have a conversation of the people around the bluff but instead a strict approach was taken and there are so many questions. Because of the incredible excessive nature that takes away the ability to this is now being set back which he has great disappointment and hopes the district will listen to what the people have said. | The District is required by law to conduct a resource inventory; develop water and resource management issues resulting from that inventory; develop policies, goals, and objectives to address those resource management issues; and consolidate all of those components into a watershed management plan. A component of the plan is the development of standards for resource management that must be incorporated into official controls by local government within the District. This plan amendment is the culmination of the District's most recent inventory and planning process. The standards being proposed are, in the Board's judgment, appropriately targeted to address the concerns revealed in the most recent resource inventory. The District involved its Technical Advisory Committee (TAC) extensively in the standards development process. The TAC includes representatives from all of the municipalities in the District. The public comment process is the appropriate forum for the community dialog mentioned by the commenter. Additionally, the District coordinated four community informational meetings at various locations throughout the District, posted logistics about the meetings on the District's website and emailed information to all with email addresses in the District's system. |
| Doug Bartyzal | 11012 Glen Wilding Lane, | A couple years ago he pulled a permit to put a small addition on the back of his house and the current laws are already very restrictive. He said his house was built in 1956 and it is a privilege to live on the bluff. He noted you can type in your address to see how your property would be affected by the 18% rule. Mr. Bartyzal talked about buckthorn. Mr. Bartyzal said that needs to be made clear. He said the information isn't getting out there and it is the districts responsibility to make sure the 1,000 homes affected are notified. | 1. The proposed standard allows removal of invasive buckthorn and other invasive and noxious plants. However, the removal of invasive plants, including buckthorn, with no requirement to revegetate or stabilize a steep slope only creates further risk of bank or slope failure. 2. The standard will not prevent the safe and responsible use of property, nor will it limit safe and responsible development of property. Rather, the standard, once reduced to municipal controls with performance standards, will place conditions on such use and development to ensure that each occurs responsibly and in a manner that addresses the resource concerns related to steep slopes. |