RESOLUTION 2017-23
RICE CREEK WATERSHED DISTRICT
BOARD OF MANAGERS

DELEGATING PERMITTING AUTHORITY to the ADMINISTRATOR
(Superseding Resolution 2009-09)

Manager Haake offered the following resolution and moved its adoption, seconded by Manager Preimes:

WHEREAS the Rice Creek Watershed District ("District"), pursuant to Minnesota Statutes §103D.341, has adopted and implements rules governing permits for work within the watershed that may affect water resources;

WHEREAS Rule B, paragraph 3, of the adopted rules provides that the Board, by resolution, may delegate permitting authority to the Administrator;

WHEREAS as the body ultimately responsible for the water resource management decisions of the District and accountable to District constituents and stakeholders for those decisions, the Board finds that it should retain permitting authority for projects that have the potential for significant water resource impacts, are of significant public interest or raise significant policy questions;

WHEREAS, conversely, it is beneficial to the District, its constituents and its stakeholders, including regulated property owners, that the regulatory program be implemented efficiently and that permit decisions be made without undue delay when circumstances cited in the preceding paragraph are not present;

WHEREAS this resolution replaces and supersedes Resolution 2009-09, previously adopted to delegate permitting authority to the Administrator.

THEREFORE BE IT RESOLVED that the District Board of Managers hereby delegates to the District Administrator the authority to make permit decisions on behalf of the Board under the following circumstances:

1. **Rule C**: An application for construction of a single-family detached dwelling, in any case where a permit or approval is required; or single-family residential subdivision meeting the criteria of Rule C.2(g). This delegation includes the authority to administer Rule F requirements as imposed by Rule C.10(d).

2. **Rule D**: All applications for an erosion and sediment control permit.

3. **Rule E**: All applications for a floodplain alteration permit.
4. **Rule G**: All applications for subsurface crossing of: (a) a public drainage system when the District has established an as-constructed and subsequently improved condition (ACSIC) elevation at that location, or (b) a creek or major watercourse.

5. **Rule I**: Applications for a permit for work affecting an existing public or artificial private drainage system (open and tiled elements) that does not alter design hydraulic capacity; risk significant wetland or water quality impact; or require an individual permit from the DNR or the U.S. Army Corps of Engineers, or wetland replacement under the Wetland Conservation Act.

6. Application for a previously approved but expired CAPROC or permit, if project scope and applicable rules have not changed substantially (as defined in item 8).

7. Application to assign a CAPROC, or assign or renew a permit.

8. Amendment of an outstanding CAPROC or permit that does not exceed any of the following (these items define “no substantial change”):
   - Changes in the on-site drainage patterns or stormwater network (private) on site, provided there is no change in what is treated by the BMPs and no change in what leaves the site.
   - Changes to proposed buildings (locations, layouts, alignments, dimensions and footprint) provided drainage patterns are not affected and stormwater treatment is not diminished (i.e. do not diminish volume control or water quality treatment and do not increase peak runoff rates).
   - Changes to proposed BMPs (locations, layouts, alignments, dimensions and footprint) provided stormwater treatment is not diminished (i.e. do not diminish volume control or water quality treatment and do not increase peak runoff rates).
   - Changes to proposed BMP pretreatments (locations, layouts, alignments, dimensions and footprint) provided stormwater pre-treatment is not diminished.
   - Changes to proposed BMP proprietary brand provided that stormwater treatment is not diminished.
   - Changes to erosion control plan components (e.g. type, location, dimension, etc) provided that overall function is not diminished.
   - Changes to proposed project feature locations, alignments and dimensions provided there is no net increase in floodplain fill and no increase in water surface elevations.
   - Amendments to Board-approved wetland replacement plans adjusting wetland replacement design (layouts, alignments, dimensions and footprint) provided replacement requirements are met.
   - Amendments to Board-approved wetland replacement plans reflecting changes to wetland impact (layouts, alignments, dimensions and footprint) provided that there is no increase in wetland impact or change to type of wetland impacted.

**Therefore be it further resolved** that permitting delegations 1 through 6, above, will be subject to the following procedures:
1. The delegation does not apply if a variance is required.

2. Staff should provide public notice for staff-issued permits to the same extent as for Board-issued permits.

3. On determining that an application is complete and subject to a delegated Administrator decision, staff will provide email notice (applicant’s name, project location, and general proposed project) to the Board. A Board member will have 48 hours in which to comment on the application. The Administrator will make no decision on the application until the expiration of the 48-hour time frame.

4. On timely written request of an interested party, a permit application otherwise suitable for staff determination will be brought before the Board. In advance of Board consideration, staff will make reasonable attempts to determine and address the concerns of the requesting party.

5. On request of a Board member, or on the Administrator’s determination that an application raises a technical, policy or legal question that should be considered by the Board, a permit application otherwise subject to the Administrator’s delegated authority will be brought before the Board.

6. On written request of an interested party addressed to District staff and received by staff within seven days after the date of a final staff determination on a permit application, the determination shall be brought before the Board for reconsideration, unless the timing of the next regular Board meeting would not allow Board reconsideration within the deadline established by Minnesota Statutes §15.99.

7. The Administrator quarterly shall present to the Board a report on District permitting activity describing permit applications submitted, disposition of applications, types of permits issued, locations of permitted activities, significant policy and programmatic issues arising under the permit program and constituent satisfaction with staff-issued permit procedures.

8. In implementing staff permitting authority, the Administrator will identify policy issues that arise and periodically bring those issues to the Board for consideration.

THEREFORE BE IT FINALLY RESOLVED that the Administrator is delegated the following additional authorities to implement the District regulatory program on behalf of the Board:

1. Authority to sign maintenance agreements, maintenance declarations, easements, escrow agreements and amendments to these.

2. Issuance of compliance orders (including stop work orders) with a duration of up to 15 calendar days or the next scheduled regular RCWD Board meeting, whichever greater. The delegation is limited to cases where:
a. Substantial harm to the environment, public safety or property is occurring or threatened;
b. The harm is or will result from the violation of a District statute, rule, permit, order or stipulation; and
c. If the harm is threatened, it is likely to occur before the Board can meet to deliberate and issue an order.

The Administrator may subdelegate this authority to staff but is responsible to the Board to ensure it is used in accordance with the delegation.

The question was to adopt the Resolution and there were ___ yeas and ___ nays as follows:

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Upon vote, the Chair declared the Resolution passed.

Dated: September 13, 2017

Michael Bradley, Secretary

I, Michael Bradley, Secretary of the Rice Creek Watershed District, hereby certify that I have compared the above resolution with the original thereof as the same appears of record and on file with the District and find it to be a true and correct transcript thereof.

IN TESTIMONY WHEREOF, I set my hand this 13th day of September, 2017.

Michael Bradley, Secretary