RESOLUTION 2019-13

RICE CREEK WATERSHED DISTRICT
BOARD OF MANAGERS

RESOLUTION DELEGATING AUTHORITY FOR EXEMPTION, NO-LOSS, WETLAND BOUNDARY AND WETLAND TYPE DETERMINATIONS, AND FOR CERTAIN REPLACEMENT PLAN AMENDMENTS, UNDER THE MINNESOTA WETLAND CONSERVATION ACT

Manager [Illegible] offered the following Resolution and moved its adoption, seconded by Manager Bradley:

WHEREAS, the Rice Creek Watershed District (RCWD) Board of Managers acts as the Local Government Unit (LGU) responsible for implementing the Minnesota Wetland Conservation Act (WCA), Minnesota Statutes §§103G.222 et seq., and, as the LGU, makes decisions under the WCA including exemption, no-loss, wetland boundary, wetland type and replacement plan determinations; and

WHEREAS, Minnesota Rules part 8420.0200, subpart 2.C., allows the LGU to delegate WCA decision-making authority to staff according to procedures it establishes, provided that it allows for appeal that includes a public hearing before appointed or elected officials; and

WHEREAS, RCWD staff, with the assistance of the RCWD engineer, is knowledgeable in all matters relating to implementation of the WCA and the delegation of decision-making authority to staff, in most cases, would provide for a more timely and efficient process; and

WHEREAS, on August 25, 2004, the Board adopted Resolution 2004-10, and on February 25, 2009, the Board adopted Resolution 2009-07, both delegating to the RCWD Administrator the authority to make exemption, no-loss, wetland boundary and wetland type determinations, and by Resolution 2009-07, delegating to the Administrator further authority for certain replacement plan determinations; and

WHEREAS, neither Resolution 2004-10 nor 2009-07 explicitly provided the Administrator to refer significant technical, policy or legal matters to the Board, at the Board’s discretion, for consideration and decision; and

WHEREAS, the Board desires to give the Administrator the option to refer such applications to the Board for consideration and decision.

THEREFORE, BE IT RESOLVED, that the Board hereby affirms its prior delegations under Resolutions 2004-10 and 2009-07 as articulated herein: the RCWD Administrator shall have the authority to make exemption, no-loss, wetland boundary and wetland type determinations under and according to the requirements of the WCA, including but not limited to the authority...
to request the assistance of the Technical Evaluation Panel as the WCA provides; and, the RCWD Administrator shall have the authority to make replacement plan determinations meeting the following criteria:

- Amendments to Board-approved replacement plans adjusting wetland replacement design (layouts, alignments, dimensions and footprint) provided replacement requirements are met.

- Amendments to Board-approved 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; and

FURTHER, that the Administrator will exercise the delegated authority in the same manner and according to the same terms, including requirements of public notice, opportunity for comment and consideration of TEP recommendations, as would the Board; and

FURTHER, that an appeal of the Administrator’s decision will be afforded as follows:

- Any person or party authorized to appeal an exemption, no-loss, wetland boundary, wetland type or replacement plan determination under the WCA may, within 30 days of receipt of the Administrator’s determination, submit to the Administrator a written appeal asking that the matter be heard by the RCWD Board.

- On receipt of an appeal, the Administrator will schedule the matter to be heard by the Board at its next regular meeting or the meeting thereafter and provide at least 7 days’ written notice of the hearing to all parties required to receive notice of the Administrator’s determination.

- The Board will consider the matter on the basis of the record compiled before the Administrator and an opportunity for all interested persons, including RCWD staff and engineer, to address the Board at the regular meeting.

- The Board’s decision will be made within 30 days of the filing of appeal, unless an extension is agreed to in accordance with WCA rules, and will replace the decision of the Administrator and may be appealed as the WCA provides for appeal of an LGU decision; and

FURTHER, that the Board retains all authority for replacement plan and wetland banking determinations except as stated herein; and

FURTHER, on the basis of policy, legal or other considerations, the Administrator in his or her judgment may elect not to exercise the authority delegated herein, in which case the Board will act as the decision-making body and its decision will be subject to appeal as the WCA provides; and
FINALLY, this Resolution shall supersede Resolutions 04-10 and 2009-07.

The question was on the adoption of the Resolution and there were 5 yeas and 0 nays as follows:

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Upon vote, the President declared the Resolution passed.

Michael Bradley, Secretary

Dated: April 24, 2019

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

IN TESTIMONY WHEREOF, I hereunto set my hand this 24th day of April, 2019.

Michael Bradley, Secretary