



NOVEMBER						
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DECEMBER						
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## RCWD BOARD OF MANAGERS REGULAR MEETING AGENDA

Wednesday, November 13, 2024, 9:00 a.m.

Shoreview City Hall Council Chambers  
4600 North Victoria Street, Shoreview, Minnesota

or via Zoom Meeting:

<https://us06web.zoom.us/j/86811692268?pwd=Gq5QD3taj7xaACWZ242ZUbUZRPCSN1.1>

Meeting ID: 868 1169 2268

Passcode: 765323

+1 312 626 6799 US (Chicago)

Meeting ID: 868 1169 2268

Passcode: 765323

## Agenda

### CALL TO ORDER

### ROLL CALL

### SETTING OF THE AGENDA

### APPROVAL OF MINUTES: OCTOBER 23, 2024, REGULAR MEETING; NOVEMBER 4, 2024, WORKSHOP

### OPEN MIC/PUBLIC COMMENT

*Any RCWD resident may address the Board in his or her individual capacity, for up to three minutes, on any matter not on the agenda. Speakers are requested to come to the podium, state their name and address for the record. Additional comments may be solicited and accepted in writing. Generally, the Board of Managers will not take official action on items discussed at this time, but may refer the matter to staff for a future report or direct that the matter be scheduled on an upcoming agenda.*

### ITEMS REQUIRING BOARD ACTION

1. RCWD Rule Adoption (Patrick Hughes)
2. RCWD Employee Handbook Updates (Nick Tomczik)
3. MN Watersheds Annual Meeting Delegates & Voting (Kendra Sommerfeld)
4. Ramsey County Ditch 4 Repair – Phase 2 (Tom Schmidt)
5. Consider League of MN Cities Liability Coverage Waiver Form (Nick Tomczik)
6. Professional Services Contracts (Nick Tomczik)
7. November 27, 2024 Check register – Resolution Authorizing Treasurer Approval (Nick Tomczik)

4325 Pheasant Ridge Drive NE #611 | Blaine, MN 55449 | T: 763-398-3070 | F: 763-398-3088 | [www.ricecreek.org](http://www.ricecreek.org)

BOARD OF  
MANAGERS

Jess Robertson  
Anoka County

Steven P. Wagamon  
Anoka County

Michael J. Bradley  
Ramsey County

Marcie Weinandt  
Ramsey County

John J. Waller  
Washington County

8. Check Register Dated November 13, 2024, in the Amount of \$160,618.02 Prepared by Redpath and Company

### **ITEMS FOR DISCUSSION AND INFORMATION**

1. District Engineer Updates and Timeline
2. November/December Calendar
3. Administrator Updates
4. Manager Updates

**APPROVAL OF MINUTES: OCTOBER 23, 2024, REGULAR  
MEETING; NOVEMBER 4, 2024, WORKSHOP**

# DRAFT

For Consideration of Approval at the November 13, 2024 Board Meeting.  
Use these minutes only for reference until that time.

## REGULAR MEETING OF THE RCWD BOARD OF MANAGERS

Wednesday, October 23, 2024

Shoreview City Hall Council Chambers  
4600 North Victoria Street, Shoreview, Minnesota  
and

Meeting also conducted by alternative means  
(teleconference or video-teleconference) from remote locations

## Minutes

### CALL TO ORDER

President Michael Bradley called the meeting to order, a quorum being present, at 9:00 a.m.

### ROLL CALL

Present: President Michael Bradley, 1<sup>st</sup> Vice-Pres. John Waller, 2<sup>nd</sup> Vice-Pres. Steve Wagamon, Secretary Jess Robertson, and Treasurer Marcie Weinandt

Absent: None

Staff Present: Regulatory Manager Patrick Hughes, Drainage and Facilities Manager Tom Schmidt, Project Manager David Petry (video-conference), Office Manager Theresa Stasica, Program Support Technician Emmet Hurley (video-conference)

Consultants: District Engineer Chris Otterness from Houston Engineering, Inc. (HEI); District Attorney Chuck Holtman from Smith Partners

Visitors: Luke Appert, Chris Stowe, Catherine Decker

### SETTING OF THE AGENDA

District Administrator Tomczik noted that there were materials handed out to augment packet materials, including a revised proposed Notice of Decision for WCA application 24-040 under the Consent Agenda.

***Motion by Manager Weinandt, seconded by Manager Bradley, to approve the agenda. as presented.  
Motion carried 5-0.***

### READING OF THE MINUTES AND THEIR APPROVAL

Minutes of the October 7, 2024 Workshop and October 9, 2024, Board of Managers Regular Meeting.

***Motion by Manager Robertson, seconded by Manager Wagamon, to approve the minutes, as presented.  
Motion carried 5-0.***



## CONSENT AGENDA

The following items will be acted upon without discussion in accordance with the staff recommendation and associated documentation unless a Manager or another interested person requests opportunity for discussion:

### Table of Contents-Permit Applications Requiring Board Action

No.	Applicant	Location	Plan Type	Recommendation
24-072	Clearscape Holdings, LLC	New Brighton	Final Site Drainage Plan Public/Private Drainage System Floodplain Alteration	CAPROC 12 items

*It was moved by Manager Weinandt and seconded by Manager Bradley, to approve the consent agenda as outlined in the above Table of Contents in accordance with RCWD District Engineer's Findings and Recommendations, dated October 15, 2024. Motion carried 5-0.*

## WCA APPLICATION REQUIRING BOARD ACTION

No.	Applicant	Location	Plan Type	Recommendation
24-040	Contour Land, LLC Menomonie Land 11, LLC Rechner, LLC JSN Properties, LLC BlaineSpec IRA, LLC	Blaine	Wetland Alteration	Approval

Regulatory Manager Hughes stated that on page 32 of the packet there was a memo explaining the situation at the time of packet development. He stated that the sequencing application had originally been on the October 9, 2024 agenda and had been removed at the request of the applicant and the 15.99 decision deadline extended until today. He explained that staff had initially recommended denial but had received updated materials from the applicant and were now recommending approval of the sequencing application, with conditions. He stated that those materials were what he had distributed to the Board this morning.

President Bradley asked for a brief explanation of what changes the applicant had made.

Regulatory Manager Hughes stated that his understanding of it is that the applicants went back to their anticipated tenants and talked with them about their needs as far as building size and layout. He stated that they had also met with the City of Blaine to discuss setback requirements and site access. He explained that the updated plans show two site accesses which allowed some of the parking to be realigned and the overall development shifted more to the northwest, which has reduced the wetland impact.

Manager Robertson stated that this frustrated her because when they got the first item from the last meeting, she got a call from a member of the applicants group asking why the City of Blaine was trying to deny this project. She stated that she told them she did not know what they were talking about because

76 she didn't know anything about this project. She explained that she had gone to the District packet and  
77 found an item related to this project and when she read the information she got upset because what she  
78 was interpreting from what they normally see is very specific wetland related things, but what she read was  
79 more land use authority language rather than watershed language. She stated that she had actually called  
80 Manager Waller as she was going through the packet to share her interpretation in order to find out if he  
81 thought she was interpreting it wrong. She explained that she has a lot of frustration with how this process  
82 went and noted that there were a lot of things in there that she did not know why the watershed would  
83 have an opinion on, such as where a retail site should be located on the property or how many garage stalls  
84 they can have because that should be the City of Blaine or a land use scenario. She wondered how many of  
85 these happen that the Board doesn't know about. She stated that the only reason she ended up paying  
86 extra attention to the packet is because she got a call from someone that was related to the project.

87  
88 Manager Wagamon stated that he agreed with everything that Manager Robertson had shared. He stated  
89 that he felt this item should come back to a workshop so they can take a closer look at it. He noted that he  
90 thought someone had recently asked a question about how many of these they see and believes they were  
91 told that there are about 10-12/year, which he feels is a lot. He stated that he felt that the District definitely  
92 needed to look at the process or look upstream to see what is causing these to trigger. He stated that he  
93 also felt the language was way off base for a watershed to be involved in.

94  
95 President Bradley stated that he was also very upset and explained that his primary dispute was when they  
96 said, 'well couldn't you do it on a different piece of property'. He stated that under that standard, if that  
97 were actually the standard and was allowed to stand, that would mean that they would never give wetland  
98 credits because you could always say 'go build it somewhere else on dry land'. He stated that he didn't think  
99 that the Board actually wanted to take this application back to a workshop because they want it to proceed.  
100 He noted that in his 10 years serving on the Board he believed that this was the very first time he had seen  
101 a recommendation of denial.

102  
103 District Attorney Holtman noted that at a staff level it is a problematic aspect of the analysis and explained  
104 that it originates within the rules adopted by BWSR that lay out the framework that every unit of  
105 government has to apply when it is implementing the Wetland Conservation Act. He stated that the explicit  
106 rules for the avoidance analysis, which is a mandatory part of the analysis, enumerates very carefully what  
107 the District staff are required to look at. He read excerpts of the requirements that put the implementing  
108 authority in the position of evaluating the location and design of the proposal, and whether the project  
109 goals may be met by means of an alternative location or design.

110  
111 President Bradley explained that his grievance was that they answered each of those questions with a  
112 negative and then the District proceeded to say that they didn't believe them or agree. He stated that he  
113 didn't know what the basis was, which is where he believes they went off the rails.

114  
115 District Attorney Holtman stated that it is a challenge for staff to determine to what extent the District  
116 simply accepts an applicant's submittal, and to what extent the District performs its own investigation.

President Bradley stated that he was pleased that level heads were able to sit down and realign the building to the northwest, had added an access, changed the distance requirements from the road, and have been able to reach a solution that was acceptable to the parties and he felt that they should just move on, at this point.

Manager Waller stated that during a recent workshop all three managers that were in attendance had similar feelings. He stated that he agreed with everything that he has heard expressed by the other managers today. He stated that he realized that the subjective judgement of the administrative staff at BWSR writing rules for the legislation was passed by the legislature and can often be confusing. He noted that in the packet it stated that he had to make a decision that this was feasible and prudent. He reviewed the definitions of feasible and prudent and noted that the District was the local unit of government, in this instance, because the city has not taken over the Wetland Conservation Act yet. He stated that he thinks this was way overboard and explained that he was not opposed to having an inventory of the natural resources provided to the local unit of government that is in land planning, which would be the city. He stated that he appreciated the information shared by District Attorney Holtman but one of the words he used was 'reasonable' and he did not find that this was reasonable until possibly today. He stated that he went out and visited the site and got a look at the oak trees and was really questioning the delineation out there and would like to see what the soils were. He stated that he understands that what a wetland is can sometimes be subjective, but he would agree with the sentiment that has been shared about wanting to look at this process more closely.

Manager Robertson asked if the applicant was present at the meeting. She noted that they just got the information this morning and asked if the applicant found it acceptable and if they felt this would accomplish their goals and met the needs of their project. She explained that she wanted them to be able to have long-term success for their project in the City of Blaine.

Luke Appert, applicant, stated that it may not be as ideal as their original plans, but after going back with the tenants and the city, they worked hard at reconfiguring their plans, in order to pull some additional building area out of the wetlands. He clarified that they are comfortable, at this point, with what is proposed.

***It was moved by Manager Robertson, seconded by Manager Wagamon, to approve WCA sequencing application 24-040 as outlined in the above Table of Contents in accordance with RCWD Regulatory Manager's Findings and Recommendations and on the basis that the sequencing application does meet the impact avoidance requirements of sequencing 8420.0520, dated October 23, 2024. Motion carried 5-0.***

**OPEN MIC/PUBLIC COMMENT**

155 Chris Stowe, 426 Pine Street, stated that he was here to share what he felt were important concerns that  
156 would affect the integrity of the District and the water management system in the area. He explained that  
157 he felt the District had illegally lowered the pipe that crosses Pine Street which has improved the flooding  
158 conditions in the City of Columbus, but has increased the flooding for the City of Lino Lakes. He noted that  
159 he felt it was unsafe and unnatural because it increased the water flowing in the opposite direction of the  
160 elevation of the road. He stated that he felt that there was also a dereliction of duties with regard to the  
161 culverts at Andall Street, 4<sup>th</sup> Avenue, and the Robinson sod farm. He suggested that the District go further  
162 downstream and take a closer look at this topic and noted that he felt bringing in pumper truck when it was  
163 already at flood stage, was too late. He stated that he felt that proactive management of the drainage  
164 system and its components play a crucial role in the overall flow of the system and noted that he felt that  
165 there were multiple culverts downstream of his property that had problems. He shared examples of the  
166 problems that he felt were present with the Andall culvert and the Pine Street culvert and explained that  
167 he felt the District should revisit these issues with fresh eyes and take into account the current reality. He  
168 noted that he did not feel the culvert issue was new, because he had been voicing concerns for years and  
169 the situation is worse now due to the lowering of the culverts upstream, which was frustrating for him  
170 because his concerns have essentially fallen on deaf ears. He clarified that the new lowering of the pipe  
171 refers to West Pine Street, not Pine Street and asked that the District get those references correct. He noted  
172 that recently he found out the District was having a meeting where one of the topics was to be ACD 10-22-  
173 32, however the minutes reflect that it was on the agenda because he had brought it up which was not  
174 true. He stated that he felt the minutes gave a false impression of his role in this matter and explained that  
175 this issue had already been on the District's radar for decades, so it was not just coming from him. He stated  
176 that he thought there was discussion about having the engineers look at the entire system, but it appears  
177 that any system-wide issues were being ignored and an outside engineering firm had been hired to  
178 investigate only his concerns. He stated that the engineering report only talks about 4 issues, but he had  
179 brought up more than those 4 issues. He explained that he did not feel all of his concerns were being  
180 addressed and noted that the engineering report includes references to 'historic berm piles' for something  
181 that is actually poorly handled soil and sediment. He stated that he felt it was clear that the Andall pipe  
182 needs significant attention but improvements to the system require cost recovery, but noted that he had  
183 not asked for any improvements, and what the District had done was just made his flooding problems  
184 significantly worse. He asked who had paid for the improvement upstream and noted that management of  
185 the downstream effects should not have to be a burden for himself or his neighbors. He stated that felt that  
186 the way the District has managed the water flow in the ACD 10-22-32, specifically Branch 4, has completely  
187 deviated from the original flowage, so he felt that they were not following the laws of the DNR or the  
188 Wetlands Act and had caused a significant loss in elevation. He explained that he knew about this because  
189 he is a licensed plumber in the State and also has a background in engineering along with a degree in  
190 computer animated designed (CAD). He stated that he felt that the District needed to take immediate action  
191 in order to restore the integrity of the water management system, which, in his opinion, meant going  
192 downstream to address the pipe at the sod farms, revisiting the Andall pipe with an updated engineering  
193 analysis, and enforcing the laws that should have already been guiding this process. He gave a brief  
194 summary of some of the discussion from the meeting he had attended regarding ACD 10-22-32. He stated  
195 that he did not like that the District seemed to be telling him that he needed an improvement and that he

196 would have to pay for it when it was the result of something that the District did. He stated that he did not  
197 think that Alternate 4 was a good solution until they take the time to look at the whole system. He expressed  
198 concern about potential future development on the sod farm which is in a flood plain as well as a new  
199 development in the area called Nature's Refuge which is all being done on wetlands. He stated that he felt  
200 that Coon Creek was also messed up because Blaine had been doing a lot of development and reiterated  
201 that because this is all messed up he felt that they should have an engineer come in and look at the whole  
202 thing. He stated that he felt like he has been sharing the same information about pipes being screwed up  
203 for years and nobody has listened.

204 President Bradley asked if there was any update on the city's efforts regarding the collapsed culvert.

205 District Engineer Otterness stated that he did not have an update but explained that they were planning to  
206 meet with the city next week to talk about a variety of things related to the system and the collaboration  
207 between them and the District.

208 Drainage and Facilities Manager Schmidt stated that he believed the Public Works Director for the city was  
209 still out of town so he has not heard an update on removal of the sediment, but noted that the catch basin  
210 has been repaired.

211 District Administrator Tomczik stated that the District has had long discussions about ACD 10-22-32 and the  
212 language of the Statute 103E can be challenging with its use of terminology. He stated that the District  
213 Engineer has looked at the system in its entirety and has identified items at Pine Street and north that they  
214 are looking at with Alternative 4. He noted that the District always retains the ability to undertake interim  
215 measures, such as the pumping truck. He explained that in that situation, there was some debris stuck in  
216 the culvert and noted that there was not a need to immediately replace the culvert. He stated that another  
217 situation where the District needs to move as quickly as possible to address the issue was when there were  
218 beaver dams. He stated that the language in the packet related to 'Pine Street' references the public  
219 drainage system, so today they are talking about the main trunk which is the western culvert and the other  
220 culvert to the east is on a different branch of the system and that is how they reference the system. He  
221 stated that upstream work was not an improvement but rather was work to bring it into alignment with the  
222 ACSIC. He noted that Lino Lakes has a moratorium on development in the area, are undertaking an  
223 alternative urban area review, and have been in contact with District staff about working with their  
224 consultant on that matter. He stated that they are looking forward to the upcoming meeting and their  
225 continued work to address the system.

226 Manager Waller asked Mr. Stowe to e-mail a copy of the statement he made to Office Manager Stasica, so  
227 he could have it as a future checklist.

228 Manager Wagamon stated that he agreed that the system did need to be looked at from top to bottom. He  
229 noted that something that he believes everyone may have forgotten is that upstream of everything Mr.  
230 Stowe was talking about, they still have a road that covers a complete cattail swamp with one outlet. He

stated that they know that the city is going to fix it and has had water running through it forever, so downstream has to be able to manage it.

Manager Weinandt asked to see a map of ACD 10-22-32.

Regulatory Manager Hughes displayed a map of ACD 10-22-32 that he planned to use for the next agenda item and pointed out the location of West Pine Street and Mr. Stowe's property.

### **ITEMS REQUIRING BOARD ACTION**

#### **1. Anoka County Ditch 10-22-32 Main Trunk – Pine Street Culvert**

District Administrator Tomczik stated that the Board has had discussions about Pine Street which is the first element of Alternative 4. He noted that they were subject to the Wetland Conservation Act and the required wetland impact replacement from the proposed culvert lowering.

Regulatory Manager Hughes noted that there were two cover memos included in the packet one from the drainage authority side and the other is at it relates to the District as drainage authority submitting a WCA application to itself as the local government unit administering WCA. He reviewed the items that had been included in the packet. He explained that this would be to lower the culvert to 897 on the upstream end and 896.9 on the downstream end which would result in 5.253 acres of wetland impact but noted that the majority of the impact was exempt, so there would be 1.018 acres of impact to Type 3 wetland which required replacement. He explained that this item was asking for approval of the replacement plan and noted that the impacts would be replaced at a 2:1 ratio and would utilize credits out of Brown's Preserve, which is the District's wetland bank. He stated that the DNR commented about the potential of threatened and endangered plant species in the project area, but the District, with the assistance of Houston Engineering, and following its adopted guidance for implementing 8420.0515, found that the work would not have an impact on such species.

Manager Waller stated that Anoka County used to be 1:1 and asked if they were now at 2:1.

Regulatory Manager Hughes stated that the 2:1 ratio would be consistent with the Wetland Conservation Act, but the project is also within the Columbus and Lino Lakes CWPMPs. Assessing the quality of the wetland and using Table F.1 within the rule, the replacement ratio is 2:1.

Manager Waller stated that meant that it was the District's rule that made it 2:1.

Regulatory Manager Hughes stated that the 2:1 ratio would be consistent with the Wetland Conservation Act.

President Bradley stated that the Board had discussed this item at great length and he was in favor of the Board taking this action because it is something that they know will be of significant benefit.

270 ***Motion by Manager Bradley, seconded by Manager Weinandt, to Adopt Resolution 2024-08***  
271 ***Replacement, Exemption and No-Loss Determination for ACD 10-22-32 Culvert Replacement***  
272 ***(Pine Street).***  
273

274 **THEREFORE BE IT RESOLVED** that the Board approves the Notice of Decision as presented by  
275 District staff, and authorizes the District administrator to issue the Notice of Decision, with any  
276 final non-material changes, and distribute it, all in accordance with WCA and its implementing  
277 rules.

278 Manager Wagamon stated that this one was giving him heartburn. He stated that he had voted for  
279 Alternative 4, but at the time, he said that he didn't agree with the elevation. He stated that this will  
280 help people, but he understands people downstream having problems with it also.

281 President Bradley stated that, in his opinion, that was a separate issue. He clarified that he did not  
282 disagree with the notion of the District making sure that they don't actually do more harm than  
283 good.

284 Manager Wagamon stated that was his exact concern and reiterated that he felt the District needed  
285 to look at the system.

286 President Bradley reminded Manager Wagamon that they had talked about how they were  
287 proposing to do that.

288 District Engineer Otterness stated that the lowering of the culvert will have no significant effect for  
289 anybody downstream. He explained that it would not change the volume of water getting  
290 downstream, but would just have the effect of lowering water levels for the folks that were  
291 upstream during rainfall events. He reiterated that it will not have a significant effect on any of the  
292 area downstream.

293 Manager Waller stated that this is about 2 acres of replacement credits necessary. He noted that  
294 they had gotten an inventory of the acreage and expected usage forecast from the engineers. He  
295 stated that he was not against this action, but wanted to be very guarded because he was surprised  
296 to read that the expectation for use over in Blaine on 53-62 had a much lower estimated  
297 replacement. He stated that he wanted to once again verify this with the engineer that they would  
298 be safe here with the use of their credits.

299 District Administrator Tomczik stated that the table to which Manager Waller was referring shows  
300 the anticipated use of wetland credit based on the best information they have available. He noted  
301 that some of the projects have not been developed sufficiently so they can accurately estimate  
302 definitive credit amounts.

303 District Engineer Otterness stated that he concurred with District Administrator Tomczik. He stated  
304 that the figures they had given projecting into the future, outside of this specific example, were  
305 based on their best information and could vary significantly in likely accuracy. He noted that he  
306 would not put a lot of stock into any of the individual numbers in the tables for future projections  
307 because they are all subject to change.

308 Manager Wagamon asked if the Board could get an update on the credit projections at a workshop.

309 President Bradley stated that they had done that and suggested that it may have been a meeting  
310 that Manager Wagamon had missed.

311 Manager Wagamon clarified that he was not talking about the credits but more about where they  
312 were in the discussions with them on the Metro Gun Club.

313 Manager Robertson stated that it was her understanding that new wetland delineations were being  
314 done and should be completed sometime this week because the Metro Gun Club property in its  
315 totality would be listed on the commercial market.

316 District Administrator Tomczik stated that the table and the wetland credit usage was projected into  
317 the future based on the best information they had available, but it also applied to the changes that  
318 the legislature made to the Wetland Conservation Act in which this application was under the wire  
319 to be done on the existing rule. He noted that in the future, drainage may be applicable to all  
320 wetland types. He stated that one more important item for this action being considered is on page  
321 149 of the packet, within the resolution, where there is a reference to the threatened and  
322 endangered species matter referenced earlier by Regulatory Manager Hughes. He stated that the  
323 District had reviewed the DNR Natural Heritage Database, through its engineer who is licensed to  
324 do so.

325 District Engineer Otterness stated that Houston Engineering had reviewed the likely effects of  
326 lowering the culvert and found that there was no potential for the work to affect upstream plant  
327 species that could potentially be found in this area and therefore there was no rational reason to  
328 take the additional expense for the public of doing a survey where it was not warranted.

329 Manager Waller stated that he would like an update on some of the legislative actions that will affect  
330 the District.

331 District Administrator Tomczik stated that BWSR has projected a future meeting where they will  
332 disclose how the rules are intended to be revised , but the District has not yet seen it.

333 **ROLL CALL:**

334 ***Manager Bradley – Aye***

335 ***Manager Robertson – Nay***

336 ***Manager Wagamon – Nay***

337 ***Manager Waller – Nay***

338 ***Manager Weinandt – Aye***

339 ***Motion failed 2-3.***

340  
341 President Bradley stated this would just continue to flood their land.

342  
343 Manager Robertson stated that when this came before the Board earlier this year, in looking at the  
344 options, she did not vote in favor of those options. She stated that she also did not have dialogue  
345 with the other managers and was just trying to be consistent because she didn't feel that Alternative



346 4 was a broad fix for a myriad of issues, which was why she voted 'no'. She explained that she was  
347 unaware that the other two Managers would also be voting 'no'.  
348

349 Manager Wagamon stated that he thought this was going to pass and felt it should. He explained  
350 that he was willing to change his vote to 'yes'. He stated that if the District was making the promise  
351 that they will look at the downstream and not forget it, then he felt it was okay, as long as they don't  
352 drop the ball.  
353

354 District Administrator Tomczik stated that this was part of the District's systematic review of all the  
355 public drainage systems and had defined an ACSIC and from that, the direction of the Board has  
356 been to bring the systems to that functioning level. He stated that Alternative 4 is the first step to  
357 bring it to that functioning level and would restore to the landowners what was originally envisioned  
358 and adopted by the counties in order to create this system.  
359

360 President Bradley stated that to address the concerns raised by Manager Robertson, there are limits  
361 to what the District can do because they have a specific mandate to clean their ditches to the ACSIC.  
362 He noted that they have the ability to work with the cities of Lino Lakes and Columbus to try to come  
363 up with a systematic solution, if there is one. He stated that the Board had directed staff to pull  
364 together a meeting that will eventually include the District and those two cities to brainstorm  
365 opportunities in order to get their arms around too much water, which is the problem.  
366

367 Manager Robertson stated that she understood that President Bradley did not appreciate her 'no'  
368 vote, just like it wasn't appreciated when she voted 'no' the first time. She noted at that time there  
369 was some dialogue that there was some political undertone, but stated that was not true. She stated  
370 that did not feel like a permanent solution. She stated that what she has experienced is that every  
371 time they talk about ACSIC, there is some resident that comes in to tell them that the District's  
372 interpretation of it was incorrect. She explained that Alternative 4 never felt like a long-term,  
373 realistic fix to what has been years and years of flooding. She stated that her 'no' vote was not  
374 personal.  
375

376 Manager Weinandt asked if the motion had failed.  
377

378 Manager Wagamon stated that it had failed unless he changed his vote.  
379

380 President Bradley asked Manager Wagamon if he was asking the Board to reconsider the vote.  
381

382 Manager Wagamon stated that the more he thinks about this, the more angry he gets. He stated  
383 that doing this piecemeal in his opinion, would be getting to the point where they cannot do the  
384 whole thing right. He stated that he did not understand why they were doing this one little chunk at  
385 a time.  
386

387 Manager Waller stated that this was a difficult situation because the Board thought they were going  
388 down one path and have now made a strategic change in how they are going to solve this problem.  
389

390 President Bradley stated that he would disagree that the Board had made a change, because he felt  
391 that they had stopped a change.  
392

393 Manager Waller reiterated that, in his opinion, the Board had made a strategic change to include  
394 and work with the cities for a larger, more comprehensive solution to this. He stated that he did not  
395 think today's delay would make too much of a difference until they sit down with those cities to see  
396 how they can increase the amount of drainage for a comprehensive solution.  
397

398 President Bradley stated that he felt that may take 20 years.  
399

400 Manager Waller stated that he did not feel it would take 20 years.  
401

402 President Bradley stated that he did not feel that there was any way that any solution they come up  
403 with that is global, that provides for storage, would not also include the need to fix this Pine Street.  
404

405 Manager Robertson called a point of order because the Board had already voted on this issue.  
406

407 Manager Wagamon stated that he had made a statement earlier that he was willing to change his  
408 vote, but clarified that he was no longer willing to change his vote.  
409

410 President Bradley acknowledged the point of order called by Manager Robertson and asking District  
411 Administrator Tomczik to move onto the next agenda item.  
412

413 Regulatory Manager Hughes asked if they had to do a formal denial.  
414

415 District Attorney Holtman stated that the vote was not about whether to proceed with the culvert  
416 replacement work, but was simply a vote on the WCA application that was a precondition for doing  
417 the work. He stated that under WCA, if the Board votes to deny, it does need to state on the record  
418 the reasons for the denial but he felt the rationale could be drawn from their discussion.  
419

## 420 **2. District Records Retention Schedule**

421 District Administrator Tomczik explained that the District was obligated to preserve records of their  
422 official activities. He gave a brief overview of how the District had fulfilled this obligation through  
423 the applicable sections of the General Records Retention Schedule for Minnesota Cities.  
424

425 ***Motion by Manager Weinandt, seconded by Manager Waller, to adopt Resolution 2024-09***  
426 ***Adopting Revised Minnesota City General Records Retention Schedule.***  
427

428 **THEREFORE BE IT RESOLVED** that the Board of Managers hereby adopts the March 2021  
429 Minnesota City Schedule; and

430 **BE IT FURTHER RESOLVED** that the District administrator is to amend the Policy Manual, and the  
431 staff policies and procedures by which the District manages its records, to reflect this action.

432 **ROLL CALL:**

433 ***Manager Bradley – Aye***

434 ***Manager Robertson – Aye***

435 ***Manager Wagamon – Aye***

436 ***Manager Waller – Aye***

437 ***Manager Weinandt – Aye***

438 ***Motion carried 5-0.***

439  
440 **3. Washington Conservation District 2025 Inspection Services Contract**

441 Regulatory Manager Hughes noted that since September of 2022, the District had been in an  
442 agreement with the Washington Conservation District for inspection services. He stated that the  
443 agreement would expire on December 31, 2024, and in order to extend it through 2025, it required  
444 an amendment to the agreement. He noted that the District had seen great value from this  
445 partnership in helping to manage all the open permits. He explained that staff was proposing to  
446 increase the total hours of service from 750 to 1,100 and also increase the 'not to exceed' amount  
447 to \$66,000.

448  
449 Manager Waller asked if they always use the top figure of \$66,000 or if it would sometimes come in  
450 at the lower level. He asked if this action was based on demand, so if there was not demand, then  
451 the District would not use their inspection services.

452  
453 Regulatory Manager Hughes confirmed that it is demand based and explained that the agreement  
454 sets the cumulative maximum expenditure under the contract so the \$66,000 is a 'not to exceed'  
455 amount. He clarified that the \$66,000 would be a total from September of 2022 to the end of 2025.

456  
457 Manager Waller asked what was happening that they required such a large increase.

458  
459 Regulatory Manager Hughes stated that there were no changes in the inspection area and explained  
460 that the increase was estimated based on actual inspection work that the District receives. He stated  
461 that the District receives monthly invoices from the Washington Conservation District that show  
462 exactly what permits had been inspected so they can keep track of the total hours and the total cost.  
463 He reiterated that he felt that the increases were pretty consistent but noted that the service rates  
464 had increased.  
465

District Administrator Tomczik reiterated that this was for the extension of the term and noted that the \$66,000 is applied across the entire term and stated that the District would spend this, as needed, and have budgeted accordingly.

Manager Wagamon stated that he felt that staff was saying that this is what they were budgeting from but were not necessarily saying that this is what it will be.

District Administrator Tomczik stated that the District would be entering into a contract with that entity to do inspections based on the work the team would distribute to them as development comes in.

***Motion by Manager Waller, seconded by Manager Weinandt, to authorize the Administrator to amend the Washington Conservation District Inspection Services Agreement for a term extension through December 31, 2025, with an aggregate spending authority not-to-exceed \$66,000.***

Manager Waller stated that he felt the increase to \$66,000 was a tremendous increase for this budget item.

***Motion carried 5-0.***

#### **4. Professional Services Proposals**

District Administrator Tomczik reminded the Board that this item had been on the October 7, 2024 workshop agenda and the consensus was to bring it to today's meeting for full Board consideration.

President Bradley stated that there was significant discussion at the workshop meeting and noted that one of their discussion conclusions was that replacing Houston Engineering as the District's engineer would be a major cost for the District.

Manager Wagamon explained that he had planned to abstain from the engineering selection because of the personal nature of the issue.

President Bradley stated that in the discussion at the workshop regarding legal the thought was that the District was blessed to have the two best law firms in the State and the thought was also to continue with those firms as well. He stated that there was not a choice to make for the Accountant duties. He noted that the District has been pleased with the Information Technology services that have been provided by RYMARK. He explained that for Human Resource services, Pitch HR, LLC was out of Georgia and explained that the Board's thought was that they would not hire anyone at this time, but would reserve the right, on a case-by-case basis, to hire help as needed.

505 Manager Robertson stated that this was something that the District does every 2 years and asked if  
506 the terms for the current selections ended at the end of 2024. She asked that when the District goes  
507 through an RFP process where the information is published and announced.

508  
509 District Administrator Tomczik stated that the RFP is posted in the District's paper of record, the  
510 League of Minnesota Cities, and is provided to the entities that currently hold relationships with the  
511 District. He stated that it may be helpful to know that there were different additional inquiries, but  
512 they were about the District's pool. He gave the example of an engineering firm contacting the  
513 District with the message that they do not want to be their day-to-day engineer, but if a project  
514 comes up, they would like to be considered.

515  
516 Manager Robertson asked why the District had two law firms.

517  
518 President Bradley explained that Rinke Noonan is the recognized expert on drainage but were  
519 located in St. Cloud, which is a 2-hour drive from the District. He stated that it has been more  
520 convenient to have Smith Partners who is based in Minneapolis, and are the recognized general  
521 expert on general regulations and believes that they have been hired by many of the watershed  
522 districts in the State. He stated that he saw it as having the opportunity to have the District  
523 represented by the best firms in their respective areas.

524  
525 District Administrator Tomczik stated that he joined the District in 2008 and the administrator at  
526 that time, Doug Thomas, was challenged with the task of what they would do about public drainage.  
527 He explained that they ended up looking for a solution in how the District, being a metro watershed  
528 with public drainage systems, would navigate 103E along with its other authorities, 103B and 103D,  
529 which is one reason Rinke Noonan, John Kolb, came on board.

530  
531 Manager Robertson asked if she was interpreting the answers correctly that one law firm cannot do  
532 both things.

533  
534 President Bradley stated that one law firm could do both things. He explained that when he was in  
535 the practice, he had been a regulatory attorney, but noted that people would not have wanted to  
536 hire him as a business attorney. He stated that Smith Partners and Rinke Noonan were both highly  
537 qualified firms in their lanes and he felt that the District benefited by having them both.

538  
539 Manager Weinandt stated that she was not at the workshop discussion but wanted to indicate that  
540 she agreed with the consensus that had been laid out.

541  
542 Manager Waller stated that he wanted to point out the price increase with the Houston Engineering  
543 application was smaller than the others. He noted that over the years he has never voted for Smith  
544 Partners and would not today because he has a philosophical disagreement with them. He stated  
545 that he was a proponent of hiring Rinke Noonan because they have a long history in Minnesota of

546 water and drainage law and are a broad-based firm that have plenty of business lawyers. He stated  
547 that the issue with them being 2 hours away, since Covid, has given them the ability to do more  
548 things over the internet with video conference, so he would prefer to see the District go with just  
549 one attorney and select Rinke Noonan. He stated that Rinke Noonan was involved in the  
550 development of the District's recent plan and has also been involved in the development of the  
551 drainage system. He stated that he felt that Rinke Noonan would be just as competent, have a wide  
552 range, and have far more legal expertise.

553  
554 President Bradley suggested that the Board take a separate vote for the legal services.

555  
556 Manager Weinandt noted that this item just needed consensus of the Board and not a vote.

557  
558 Manager Wagamon stated that for the legal services, he felt it wasn't a secret that he felt the District  
559 had spent way too much since he began on the Board. He noted that Smith Partners has been  
560 fabulous with him when he has called them and have provided fantastic service including District  
561 Attorney Smith actually stepping out of meetings in order to answer the phone when he has called.  
562 He stated that he felt that Smith Partners was top notch but he had received several phone calls  
563 from entities in Anoka County that have concerns because they have a completely different point of  
564 view on things and did not want the District to use Smith Partners. He explained that it was not  
565 because they thought Smith Partners was a bad firm, but just because they viewed things through  
566 a different lens than they did, which was exactly the same way he felt. He reiterated that he felt  
567 they were a fantastic firm and would recommend them to someone who looked through their same  
568 lens. He stated that the people he was representing want to see a change. He explained that he  
569 would vote in favor of Rinke Noonan. He reiterated that he would say that Smith Partners has done  
570 a fantastic job for the District, but philosophically, he completely disagreed with them.

571  
572 Manager Robertson stated that her question was actually prompted by the County Board because  
573 they had asked her whether there was an openness to explore other options. She noted that it was  
574 not a targeted effort and explained that she did not have a personal opinion for one way or the  
575 other.

576  
577 Manager Weinandt stated that it appears as though they have an issue on the legal side. She stated  
578 that she would recommend that they do not change anything over the next year because she didn't  
579 feel it was the right time. She stated that if it was an issue from the folks that Manager Wagamon  
580 and Manager Robertson represent, she would like to hear more about that at another time. She  
581 noted that, for now, as they move into 2025, she thinks that the District needed to continue with  
582 the current firms because changing legal representation would be a huge transition. She explained  
583 that this was the first time she was hearing some of the comments shared by Managers Wagamon  
584 and Robertson from Anoka County.

585  
586 President Bradley noted that he had also not heard about any concerns.

587  
588 Manager Robertson stated that she could go back to Anoka County and ask what their specific  
589 concerns were. She asked if the District could re-open the RFP process for legal services.  
590

591 Manager Wagamon asked if the District would have enough time to re-open the RFP process.  
592

593 District Administrator Tomczik stated that they are nearing the end of the year and felt that re-  
594 opening the RFP process would not really be necessary because they have two firms for  
595 consideration. He stated that if there were details in the approach or the work that these entities  
596 are doing, the Board can dialogue with their representatives. He stated that 'switching horses' right  
597 now would require a significant amount of staff time, but that should not deter the Board from  
598 something that they felt needed to be addressed.  
599

600 President Bradley suggested that, in November, the District ask each of the two law firms to come  
601 and make a presentation to the Board. He stated it would also give him the opportunity to take a  
602 look at the potential cost differences between the two firms.  
603

604 Manager Wagamon stated that he would support that action.  
605

606 Manager Waller stated that the District's main 'business' was ditches which is why they have Rinke  
607 Noonan, but noted that he felt that they were more than competent to also handle permitting. He  
608 stated that he wanted to make it clear that his issue with Smith Partners was more than just personal  
609 because his constituents have also been unhappy with some of the stances that Smith Partners have  
610 taken. He stated that he had received requests over a period of many years for the District not to  
611 renew their legal services with Smith Partners.  
612

613 Manager Robertson asked for a ballpark figure of what the District pays annually for legal services.  
614 She explained that she felt that that it was most likely a significant dollar amount and because of  
615 that, she felt it would warrant an additional conversation. She reiterated that she would be happy  
616 to get additional context or talking points from Anoka County.  
617

618 Manager Wagamon stated that he would also be happy to reach out to people and bring that  
619 information back to the Board.  
620

621 District Attorney Holtman stated that as a professional matter, they do not approach anything they  
622 do for the District through an ideological lens. He explained that they look at the District's goals,  
623 priorities, policies, and how it wants to proceed with its business, and then give the best advice on  
624 the law and practical considerations. He stated that it would be unprofessional to approach the  
625 counsel role in any other way. He noted that he was not aware of the perception that Smith Partners  
626 brings an ideological bent, as has been suggested today, and would be interested in hearing more  
627 about that in order to see if they could work through that.

District Administrator Tomczik stated that based on the Board discussion, he believes there was consensus of the Board for him to proceed to develop contracts with: Houston Engineering, Inc.; Redpath and Company; and RYMARK. He stated that, in November, the Board has asked that representatives of Rinke Noonan and Smith Partners speak to the Board. He explained that what the Board was actually looking for would be important for their responses. He noted that the November workshop calendar was already quite full and suggested that the Board may want to consider scheduling an additional meeting.

Manager Waller stated that the Board typically does not hold a second meeting during the month of November because of Thanksgiving.

President Bradley noted that he felt that they could also have the presentations in December if they were unable to get them scheduled for November.

***District Administrator Tomczik reiterated that he had consensus direction from the Board to develop contracts with: Houston Engineering, Inc.; Redpath and Company; and RYMARK, and will look for a future date where the Board can speak with representatives of Rinke Noonan and Smith Partners regarding legal services.***

**5. Check Register Dated October 23, 2024, in the Amount of \$347,918.80 and October Interim Financial Statements Prepared by Redpath and Company**

Manager Weinandt stated on the advice of the former Treasurer, she often asks to pull particular invoices and often the largest ones are from Houston Engineering, Rinke Noonan, and Smith Partners, in order to see what the charges are for and where they were going. She stated that she has been tracking this information and noted that it seemed to be very consistent. She noted that she felt the record keeping on the invoices was excellent and commended Office Manager Stasica and Redpath for this work.

***Motion by Manager Weinandt, seconded by Manager Robertson, to approve check register dated October 23, 2024, in the Amount of \$347,918.80 and October Interim Financial Statements prepared by Redpath and Company. Motion carried 5-0.***

**ITEMS FOR DISCUSSION AND INFORMATION**

**1. Staff Reports**

Manager Weinandt stated that she thought that the Paddle Day sounded like it was fun and noted that it was amazing what can be seen when you are out on the water. She stated that it also looked like the District was now fully staffed.

District Administrator Tomczik confirmed that the District was fully staffed and noted that he would be presenting an organizational chart with updated information to the managers.



669  
670 **2. November Calendar**

671 District Administrator Tomczik confirmed that the City-County Partner meeting has been scheduled  
672 for November 13, 2024, at Moore Lake Park Community Building from 1:00 to 3:00 p.m. He stated  
673 that he would not be in attendance to welcome everyone because he would be at floodplain  
674 manager continuing education, so Communications and Outreach Manager Sommerfeld would be  
675 speaking on his behalf. He noted that there was a Board workshop meeting scheduled for Tuesday,  
676 November 12, 2024, but there was also a Washington County Board meeting scheduled for that day  
677 that included an agenda item for their annual watershed budget review. He noted that there was  
678 not a definitive time for it on their agenda but believes it usually happens around the lunch hour.  
679 He stated that the District could notice that for a quorum of the District Board. He explained that  
680 these two meetings coinciding was because of Veteran's Day and suggested that they could try to  
681 move the workshop meeting to the afternoon. He reminded the Board that they currently have a  
682 lot of policy matters that are intended to be covered at the workshop and the Board had also asked  
683 that the professional services discussion also take place at that meeting. He suggested moving the  
684 meeting to the afternoon and they could also consider scheduling their workshop for Monday,  
685 November 18, 2024, or move ahead with a combination of those two dates.  
686

687 Manager Weinandt asked if the Board may be able to remotely hear or present to the Washington  
688 County Board, while they were holding their workshop meeting.  
689

690 District Administrator Tomczik clarified that the Washington County annual watershed budget  
691 meeting is one where the District had provided them with a project and corresponding budget  
692 information so they can see watershed work and ask questions. He stated that he believes that  
693 Washington County would like the District to ensure that a staff person would be made available to  
694 answer any questions that they may have. He stated that Manager Waller, Manager Bradley, and  
695 former Manager Preiner had attended this meeting in the past. He explained that he has been  
696 informed that a better time estimate of where this item may fall during their agenda would not be  
697 available until the Friday before the meeting.  
698

699 Manager Waller explained that the annual presentation at Washington County takes place as a  
700 workshop after the County Board meeting, which is why it is difficult to estimate what time it would  
701 happen. He stated that he intended to attend the Washington County meeting.  
702

703 The Board discussed possible alternative workshop meeting dates that may work in their schedules.  
704

705 District Administrator Tomczik stated that based on the volume of information that the Board would  
706 need to cover, he felt the best approach would be to hold two workshop meetings. He clarified that  
707 he would suggest that they hold the November 12, 2024 meeting in the afternoon so they do not  
708 conflict with the Washington County Board meeting. He stated that he felt that the Board could

709 have their discussions with the legal firms on November 12, 2024 and the other business items could  
710 be moved to November 18, 2024 for a half-day workshop.

711  
712 The Board discussed additional options for dates and meeting times.

713  
714 Manager Robertson suggested that staff send out an e-mail with meeting options that they could  
715 respond to after they look at their separate calendars.

716  
717 District Administrator Tomczik stated that staff could send that out as suggested by Manager  
718 Robertson, but noted that he would like them to address the meeting that was already scheduled  
719 for November 12, 2024 which collides with possible attendance at the Washington County Board  
720 meeting. He stated that he felt that they should go ahead and move their workshop meeting to the  
721 afternoon, as he had suggested.

722  
723 Manager Waller stated that he felt the best approach was to send out possible meeting dates/times  
724 through e-mail and let the Board respond with their availability.

725  
726 District Administrator Tomczik stated that he would work with Office Manager Stasica to send out a  
727 poll for the Board to answer outlining their availability.

728  
729 **3. Administrator Updates**

730 District Administrator Tomczik stated that he and Manager Waller met with Washington County  
731 Commissioners Miron and Karwoski about various District activities. He noted that Commissioner  
732 Miron seemed pleased with the District's .7% levy increase and percentage of administrative costs.  
733 He noted that stabilization efforts for ACD 53-62 were completed. He stated that the delisting  
734 celebration for Bald Eagle Lake went well and had good attendance. He explained that the District  
735 was reviewing and investigating their various insurance coverage options and noted that there have  
736 been cost increases, but they have landed within the budget estimates. He stated that Clear Lake  
737 has found zebra mussels in multiple locations which means a rapid response chemical treatment  
738 would not be possible and District staff would administer support per the AIS policy. He stated that  
739 there had also been a lot of beaver activity throughout the District in ditch systems and remote  
740 locations. He explained that the boundary petition was received by BWSR and they were beginning  
741 their review of the materials that were submitted.

742  
743 **4. Managers Update**

744 Manager Waller stated that he also felt that the meeting with the Washington County  
745 Commissioners had gone well and gave a brief overview of some of their topics of discussion. He  
746 stated that he had also attended City Council meetings for Forest Lake, Mahtomedi, and Hugo over  
747 the last few weeks. He stated that one of the topics raised at Mahtomedi was about working with  
748 the Met Council to do something to increase the water quality for fishing for Lost Lake, and noted  
749 that he felt that the District may also be able to work with them. He stated that there were 40 non-

750 staff members at the delisting celebration for Bald Eagle Lake which he felt was marvelous. He stated  
751 that he would agree that beaver control has been a big problem.

752  
753 President Bradley stated that he attended the Bald Eagle Lake delisting celebration and noted that  
754 he felt it was a good public relations effort.

755  
756 **ADJOURNMENT**

757 ***Motion by Manager Robertson, seconded by Manager Wagamon, to adjourn the meeting. Motion carried***  
758 ***5-0, and the meeting adjourned at 11:12 a.m.***

# Draft

## RCWD BOARD OF MANAGERS SPECIAL WORKSHOP

Monday, November 4, 2024

Rice Creek Watershed District Conference Room  
4325 Pheasant Ridge Drive NE, Suite 611, Blaine, Minnesota  
and

Meeting also conducted by alternative means  
(teleconference or video-teleconference) from remote locations.

1 The Board convened the workshop at 9:00 a.m.

2 Attendance: Board members Mike Bradley, John Waller, Steve Wagamon, Jess Robertson, Marcie  
3 Weinandt

4 Absent:

5 Staff: Drainage & Facilities Manager Tom Schmidt, Regulatory Manager Patrick Hughes, Program  
6 Support Technician Emmet Hurley (video-conference), Office Manager Theresa Stasica

7 Consultants: District Engineer Chris Otterness -Houston Engineering, Inc. (HEI), District Attorney Louis  
8 Smith-Smith Partners, Attorney John Kolb-Rinke Noonan

9 Visitors: Chris Stowe

### 10 **2025/26 Legal Professional Services Interviews**

11 The Board separately interviewed the two law firms (Smith Partners & Rinke Noonan) that submitted  
12 proposals as part of the District 2025-26 Professionals Services RFP. The Board by consensus directed staff  
13 to prepare contracts to consider at a future meeting. The contracts will be for each legal firm as the sole  
14 District Attorney or a combination of legal firms. The Board requested confirmation that Professional  
15 Services Contracts language include an early termination provision.

16

### 17 **Anoka County Ditch 10-22-32**

18 As directed by the Board, staff met last week with the cities of Columbus and Lino Lakes to discuss  
19 management of stormwater along and near the ACD 10-22-32 public drainage issues including the  
20 relationship of potential future developments on stormwater management in this area. Staff reviewed the  
21 2010-11 ACD 10-22-32 Repair Report content regarding the entire system and reviewed several culvert  
22 locations on the drainage system. Staff also provided information such as cost-sharing ideas to the cities  
23 on studies or potential collaborations to work together on these issues. At this time, the District is providing  
24 information to the City of Lino Lakes to assist with their AUAR.

25 The Board discussed their 10/23/2024 failed action to approve the WCA replacement plan. Staff informed  
26 the Board that the WCA NOD was one step that needed to be approved before further consideration could  
27 be made to lowering upstream culverts along the public drainage system.

28

29 Jess Robertson left the meeting at 11:44 a.m. due to a prior commitment.

30

31 The Board discussed reconsideration of their decision and the importance of the District continuing to work  
32 with cities on these issues.

33

34 **Administrator Updates**

35 • 2024 Master Water Steward Project has been delayed due to contract logistics. This project and  
36 expense may occur in 2025.

37 • Update on the Rice Creek water flow being above neighboring watersheds which are in 'low flow'.

38 • Tuesday, November 12<sup>th</sup> workshop will start at 1:30 p.m.

39

40 The workshop was adjourned at 11:46 a.m.

## **ITEMS REQUIRING BOARD ACTION**

1. RCWD Rule Adoption (Patrick Hughes)

# MEMORANDUM

## Rice Creek Watershed District



**Date:** November 5<sup>th</sup>, 2024  
**To:** RCWD Board of Managers  
**From:** Patrick Hughes, Regulatory Manager  
**Subject:** 2024 Rule Revision

---

### **Introduction**

RCWD staff are requesting that the Board of Managers consider adopting the revised rule.

### **Background**

Per the 2020 RCWD Watershed Management Plan (WMP), the District reviews the need for rule modification every 2 to 3 years. The current rule set was adopted in 2020 and took effect on January 1, 2021. At the June Workshop, staff presented the proposed rule modifications, and compared the District rules with the minimum state standards ("minimum control measures") in the general permit issued to "municipal separate storm sewer systems" (MS4s) by the Minnesota Pollution Control Agency. In addition, before the District commenced a formal rulemaking, it offered an informal opportunity for public partners to provide feedback on the rules. The Board discussed staff's response to comments received at the June 26<sup>th</sup> Board Meeting, and after that meeting, staff provided written responses to the commenters and invited them to meet and discuss further.

As required by Minnesota Statute §103D.341, the proposed revised rules were transmitted to and made available for review by the District's municipal and agency partners and by the public on July 24<sup>th</sup> for a comment period ending on September 20<sup>th</sup>. In addition, on September 11<sup>th</sup>, the Board held a noticed public hearing to afford interested parties the opportunity to address the Board directly. All comments received from the informal opportunity in the spring and the formal review period have been compiled into a single document that includes the District's response to each comment, and whether it resulted in a change in the rule language.

Staff has worked with the District Engineer and legal counsel to address the received comments and finalize the rule language. Resolution 2024-10 is included in the packet for Board consideration. The resolution: 1) adopts the proposed revisions to the District rule with seven changes made based on public and Board comment; 2) directs the Administrator to publish legal notice of the adoption of the revised rule and transmit the rules to the District's municipalities and road authorities, and to the Minnesota Board of Water and Soil Resources, all in accordance with statute; 3) directs the Administrator to transmit the response to comments to each commenting party and make the response to comments part of the public rulemaking record; and 4) provides for the revised rules to be effective as of January 1, 2025.

### **Staff Recommendation**

Staff recommends that the Board of Managers consider the enclosed resolution to adopt the revised rules effective January 1, 2025.

### **Proposed Motion**

Manager \_\_\_\_\_ moves to adopt Resolution 2024-10, seconded by Manager \_\_\_\_\_.

### **Attachments (all to be provided for public review)**

- Proposed rule with tracked ("redline") changes
- Proposed rule with changes accepted ("clean")
- Public comments on proposed rule with RCWD responses
- Resolution 2024-10

# RICE CREEK WATERSHED DISTRICT RULES

BOARD APPROVED: ~~DECEMBER 9, 2020~~XXXX, 2024

EFFECTIVE DATE: JANUARY 1, ~~2024~~2025

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CERTIFICATION OF  
REVISED WATERSHED DISTRICT RULES

I, ~~Marcia A. Weinandt~~Jessica Robertson, Secretary of the Rice Creek Watershed District Board of Managers, certify that the attached is a true and correct copy of the Rules of the Rice Creek Watershed District as revised and adopted by the Board of Managers on ~~December 9XXXX~~, 20202024, and effective January 1, 20242025.

Dated: \_\_\_\_\_

Secretary

~~Marcia A. Weinandt~~Jessica Robertson,

ACKNOWLEDGEMENT

State of Minnesota  
County of Anoka

This instrument was acknowledged before me on ~~December 9XXXXX~~, 20202024, by ~~Marcia A. Weinandt~~Jessica Robertson, as secretary of the Rice Creek Watershed District Board of Managers.

\_\_\_\_\_  
Notary Public



## GENERAL POLICY STATEMENT

The Rice Creek Watershed District (District) is a political subdivision of the State of Minnesota, established under the Minnesota Watershed Law. The District is also a watershed management organization as defined under the Minnesota Metropolitan Surface Water Management Act, and is subject to the directives and authorizations in that Act. Under the Watershed Law and the Metropolitan Surface Water Management Act, the District exercises a series of powers to accomplish its statutory purposes. The District's general statutory purpose is to conserve natural resources through development planning, flood control, and other conservation projects, based upon sound scientific principles.

As required under the Metropolitan Surface Water Management Act, the District has adopted a Watershed Management Plan, which contains the framework and guiding principles for the District in carrying out its statutory purposes. It is the District's intent to implement the Plan's principles and objectives in these rules.

Land alteration affects the rate, volume, and quality of surface water runoff which ultimately must be accommodated by the existing surface water systems within the District. The watershed is large, 186 square miles, and its outlet, Rice Creek, has limited capacity to carry flows. Flooding problems already occur in urbanized areas along Lower Rice Creek and other localized areas.

Land alteration and utilization also can degrade the quality of runoff entering the streams and waterbodies of the District due to non-point source pollution. Lake and stream sedimentation from ongoing erosion processes and construction activities reduces the hydraulic capacity of waterbodies and degrades water quality. Water quality problems already exist in many of the lakes and streams throughout the District.

Projects which increase the rate or volume of stormwater runoff can aggravate existing flooding problems and contribute to new ones. Projects which degrade runoff quality can aggravate existing water quality problems and contribute to new ones. Projects which fill floodplain or wetland areas can aggravate existing flooding by reducing flood storage and hydraulic capacity of waterbodies, and can degrade water quality by eliminating the filtering capacity of those areas.

In these rules the District seeks to protect the public health and welfare and the natural resources of the District by providing reasonable regulation of the modification or alteration of the District's lands and waters to reduce the severity and frequency of flooding and high water, to preserve floodplain and wetland storage capacity, to improve the chemical, physical and biological quality of surface water, to reduce sedimentation, to preserve waterbodies' hydraulic and navigational capacity, to preserve natural wetland and shoreland features, and to minimize public expenditures to avoid or correct these problems in the future.

The District rules include certain rules adopted to implement area-specific Comprehensive Wetland Protection and Management Plans (CWMP) as provided under the Wetland Conservation Act (WCA). CWMPs are designed to achieve identified wetland resource management needs within specific drainage areas of the watershed. These rules (within Rule F) apply to a delineated geographic area. Accordingly, a property owner intending an activity subject to District permitting requirements first should determine whether the activity will be governed by the CWMP rule.

## **RELATIONSHIP OF RICE CREEK WATERSHED DISTRICT TO MUNICIPALITIES**

The District recognizes that the primary control and determination of appropriate land uses is the responsibility of the municipalities. Accordingly, the District will coordinate permit application reviews involving land development with the municipality where the land is located.

The District intends to be active in the regulatory process to ensure that its water resources are managed in accordance with District goals and policies. Municipalities have the option of assuming a more active role in the permitting process after adoption of a local water management plan approved by the District and adoption and implementation of local ordinances consistent with the approved plan.

The District will also review projects sponsored or undertaken by municipalities and other governmental units, and generally will require permits for governmental projects impacting water resources of the District. These projects include but are not limited to, land development, road, trail, and utility construction and reconstruction.

The District desires to serve as technical advisor to the municipalities in their preparation of local surface water management plans and the review of individual development proposals prior to investment of significant public or private funds. To promote a coordinated review process between the District and the municipalities, the District encourages the municipalities or townships to contact the District early in the planning process.

## RULE A: DEFINITIONS

For the purposes of these rules, the following words have the meanings set forth below.

References in these rules to specific sections of the Minnesota Statutes include any amendments, revisions or recodification of those sections.

**As Constructed and Subsequently Improved Condition (ACSIC):** the legally established geometry of the public drainage system as constructed and subsequently modified through drainage code procedures.

**Beds of Protected Waters:** all portions of public waters and public waters wetlands located below the ordinary high water level.

**Best Management Practices (BMPs):** measures taken to minimize the negative effects on water resources and systems as referenced in the Minnesota Construction Site Erosion and Sediment Control Planning Handbook (BWSR, 1988), Protecting Water Quality in Urban Areas (MPCA, 1989) and the Minnesota Stormwater Manual (MPCA, 2006) or similar guidance documents.

**Better Site Design (BSD):** an approach to managing runoff that seeks to attain post development hydrology which mimics the undeveloped condition in terms of volume, rate and timing of runoff. The goals of Better Site Design include reducing the amount of impervious cover, increasing the amount of natural lands set aside for conservation, using pervious areas for more effective stormwater treatment, innovative grading and drainage techniques and through the review of every aspect of the project site planning process. Better Site Design involves techniques applied early in the design process to reduce impervious cover, conserve natural areas and use pervious areas to more effectively treat stormwater runoff and promote a treatment train approach to runoff management.

**Bridge:** a road, path, railroad or utility crossing over a waterbody, wetland, ditch, ravine, road, railroad, or other obstacle.

**Bridge Span:** the clear span between the inside surfaces of a bridge's terminal supports.

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

**Common Plan of Development:** A contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.

**Comprehensive Wetland Protection and Management Plan (CWPMP):** a locally developed comprehensive wetland protection and management plan approved by the Minnesota Board of Soil and Water Resources, pursuant to Minnesota Rules 8420.0830.

**Conditional Approval Pending Receipt of Changes (CAPROC):** approval of a District permit application that requires the applicant to provide further information or plan changes, or meet other stated conditions, prior to District issuance of the permit, See Rule B.5.

**Conveyance System:** Open channel, pipe or tile that is not a Public Drainage System. A portion of a conveyance system is defined as "regional" if it carries flows from a drainage area of greater than 200 acres.

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

**Critical Duration Flood Event:** the 100-year precipitation or snow melt event with a duration resulting in the maximum 100-year return period water surface elevation. The critical duration flood event is generally either the 100-year, 24-hour rainfall event as found in NOAA Atlas 14 or the ten-day snow melt event assumed to be 7.2 inches of runoff occurring on frozen ground (CN=100); however, other durations (e.g., 6-hour) may result in the maximum 100 year return period water surface elevation.

**CWPMP Contributing Drainage Area:** the areas tributary to CWPMP jurisdictional areas from which banked or off-site wetland replacement credits may be used to replace wetland impacts under Rule F.6(c). Figure 4 illustrates the Contributing Drainage Area; however, the precise boundary will be determined on a hydrologic basis at the time of permitting.

**Detention Basin:** any natural or man-made depression that stores stormwater runoff temporarily.

**Development:** any land-disturbing activity resulting in creation or reconstruction of impervious surface including, but not limited to, municipal road construction. Normal farming practices part of an ongoing farming operation shall not be considered development.

**District:** the Rice Creek Watershed District established under the Minnesota Watershed Law, Minnesota Statutes Chapter 103D.

**Effectively Drained Wetland:** an area whose natural hydrology has been altered to the point that it is no longer considered wetland.

**Emergency Overflow (EOF):** a primary overflow to pass flows above the design capacity around the principal outlet safely downstream without causing flooding.

**Excavation:** the displacement or removal of soil, sediment or other material.

**Floodplain:** the areas adjoining a waterbody that are inundated by the 100-year flood elevation.

**Floodway:** the channel of a watercourse, the bed of waterbasins and those portions of adjoining floodplains that must be kept free of encroachment to accommodate the 100-year flood.

**Floodway Fringe:** the area between the floodway and the boundary of the 100-year flood.

**Flood Management Zone:** land within the Rice Creek Watershed District draining to and entering Rice Creek downstream from the outlets of Baldwin Lake and Golden Lake.

**Freeboard:** vertical distance between the 100-year flood elevation or emergency overflow elevation of a waterbasin or watercourse and the elevation of the regulatory elevation of a structure.

**Governmental Project:** projects sponsored or paid for by a governmental agency.

**High Quality Wetland:** an existing wetland reflecting a score of “high/high” for the functional indicators “outlet condition” and “vegetative quality”, respectively, using MnRAM 3.4 (or most recent version) or other state approved wetland functional model.

**Impervious Surface:** a compacted surface or a surface covered with material (i.e., gravel, asphalt, concrete, Class 5, etc.) that increases the depth of runoff compared to natural soils and land cover. Including but not limited to roads, driveways, parking areas, sidewalks and trails, patios, tennis courts, basketball courts, swimming pools, building roofs, covered decks, and other structures.

**Infiltration:** water entering the ground through the soil.

**Land-Disturbing Activity:** any disturbance to the ground surface that, through the action of wind or water, may result in soil erosion or the movement of sediment into waters, wetlands or storm sewers or onto adjacent property. Land-disturbing activity includes but is not limited to the demolition of a structure or surface, soil stripping, clearing, grubbing, grading, excavating, filling and the storage of soil or earth materials. The term does not include normal farming practices as part of an ongoing farming operation.

**Landlocked Basin:** a waterbasin lacking an outlet at an elevation at or below the water level produced by the critical duration flood event, generally the 10-day snowmelt event.

**Local Government Unit (LGU):** the public body responsible for implementing the Minnesota Wetland Conservation Act, as defined at Minnesota Statutes §103G.005, subdivision 10e.

**Low Entry Elevation:** the elevation of the lowest opening in a structure.

**Low Floor Elevation:** the elevation of the lowest floor of a habitable or uninhabitable structure, which is often the elevation of the basement floor or walk-out level.

**Major Watercourse:** any watercourse having a tributary area of 200 acres or more.

**Marginally Degraded Wetland:** an existing wetland reflecting a score of “high/low” or “low/high” for the functional indicators “outlet condition” and “vegetative quality”, respectively, using MnRAM 3.4 (or most recent version) or other state approved wetland functional model.

**Mill, Reclamation and Overlay:** removal of the top layer(s) of an impervious surface (e.g. roadway, parking lot, sport court) by mechanical means, followed by the placement of a new layer of impervious surface, without exposure of the underlying native soil.

**Moderately Degraded Wetland:** an existing wetland reflecting a score of “medium/medium” or “low/medium” for the functional indicators “outlet condition” and “vegetative quality”, respectively, using MnRAM 3.4 (or most recent version) or other state approved wetland functional model.

**Municipal Separate Storm Sewer System (MS4):** the system of conveyances owned or operated by the District and designed or used to collect or convey storm water, and that is not used to collect or convey sewage.

**Municipality:** any city or township wholly or partly within the Rice Creek Watershed District.

**Native Vegetation:** plant species that are indigenous to Minnesota or that expand their range into Minnesota without being intentionally or unintentionally introduced by human activity and that are classified as native in the Minnesota Plant Database.

**NPDES Permit:** general permit authorization to discharge storm water associated with construction activity under the National Pollutant Discharge Elimination System (NPDES), issued by the Minnesota Pollution Control Agency.

**Non-Degraded Wetland:** an existing wetland reflecting a score of “high/medium” or “medium/high” for the functional indicators “outlet condition” and “vegetative quality”, respectively, using MnRAM 3.4 (or most recent version) or other state approved wetland functional model.

**Non-Invasive Vegetation:** plant species that do not typically invade or rapidly colonize existing, stable plant communities.



**NURP:** Nationwide Urban Runoff Program.

**100-Year Flood Elevation:** the elevation of water resulting from the critical duration flood event, as mapped under the RCWD District Wide Model and as the RCWD may refine on the basis of site-specific data.

**Ordinary High Water Level (OHW):** the highest water level elevation that has been maintained for a sufficiently long period of time to leave evidence upon the landscape. The OHW is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. If an OHW has been established for a waterbody by the Minnesota Department of Natural Resources, it will constitute the OHW under this definition.

**Outlet Control Structure:** a permanent structure with rigid overflow designed to control peak flow rates for the two-, 10-, and 100-year events. A riprap-covered berm is not considered a rigid overflow.

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

**Person:** any natural person, partnership, unincorporated association, corporation, limited liability company, municipal corporation, state agency, or political subdivision of the State of Minnesota.

**Political Subdivision:** a municipality, county, town, school district, metropolitan or regional agency, or other special purpose district of Minnesota.

**Pollutant:** Anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind. (This definition is for the purpose of Rule H only and is incorporated from the U.S. EPA model ordinance.)

**Public Drainage System:** Open channel, pipe tile, and appurtenant structures, within a public system as established or delineated under Minnesota Statutes Chapter 103E.

**Public Linear Project:** a project involving a roadway, sidewalk, trail, or utility not part of an industrial, commercial, institutional or residential development.

**Public Waters:** waters identified as public waters under Minnesota Statutes section 103G.005, Subdivision 15.

**Public Waters Wetlands:** all wetlands identified as public waters wetlands under Minnesota Statutes section 103G.005, subdivision 15a.

**Reconstruction:** removal of an impervious surface such that the underlying structural aggregate base is effectively removed and the underlying native soil exposed.

**Resource of Concern (ROC):** lakes identified in Figures C1A through C1E. If an area within the jurisdictional boundary of the District drains to a location outside the District without reaching an ROC, the District will identify the receiving water outside of the District that is the ROC for the purpose of the permit.

**Resource of Concern Drainage Area:** Land draining to a Resource of Concern. The Resource of

Concern drainage area excludes lands draining first to an upstream Resource of Concern.

**Seasonal High Water Table:** The highest known seasonal elevation of groundwater as indicated by redoximorphic features such as mottling within the soil.

**Severely Degraded Wetland:** an existing wetland reflecting a score of “medium/low” or “low/low” for the functional indicators “outlet condition” and “vegetative quality”, respectively, using MnRAM 3.4 (or most recent version) or other state approved wetland functional model.

**Site:** All contiguous lots of record on which activity subject to any District rule is proposed to occur or occurs, as well as all other lots of record contiguous to any such lot under common ownership at the time of the permitted activity. Linear right of way does not disturb contiguity. For public linear projects not occurring in conjunction with land development, the term means the portion of right-of-way defined by the project work limits.

**Single Family Residential ConstructionDevelopment:** Construction of one or more single-family homes on individual lots of record.

**Storm Sewer:** a pipe system for stormwater conveyance.

**Stormwater Pond:** Constructed basins placed in the landscape to capture stormwater runoff.

**Structure:** a building with walls and a roof, excluding structures such as pavilions, playgrounds, gazebos, and garbage enclosures.

**Subdivision, Subdivide:** the legal separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots.

**Technical Evaluation Panel (TEP):** The body described in Minnesota Rules 8420.0240.

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

**Upland Habitat Area:** A non-wetland area that is contiguous with an existing, restored, or created wetland and scores “C” or better using the Natural Heritage Ranking methodology.

**Volume Control Practice:** A stormwater infiltration practice or stormwater reuse system.

**Waterbasin:** an enclosed natural depression with definable banks capable of containing water.

**Waterbody:** a waterbasin, watercourse or wetland as defined in these Rules.

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

**Wetland:** area identified as wetland under Minnesota Statutes section 103G.005, subdivision 19.

**Wetland Management Corridor (WMC):** A contiguous corridor encompassing high priority wetland resources identified at a landscape scale in Figure F1 and refined at the time of individual project permitting at a site level as provided for in Rule F, section 6.

## RULE B: PROCEDURAL REQUIREMENTS

1. **APPLICATION AND NOTICE OF INTENT REQUIRED.** Any person undertaking an activity for which a permit is required by these rules must obtain the required permit prior to commencing the activity that is subject to District regulation. Applications for permit must be submitted to the District in accordance with the procedures described in this rule. Required exhibits are specified for each substantive rule below. Applicants are encouraged to contact District staff before submission of an application to review and discuss application requirements and the applicability of specific rules to a proposed project. When the rules require a criterion to be met, or a technical or other finding to be made, the District makes the determination except where the rule explicitly states otherwise. The landowner or, in the District's judgment, easement holder, must sign the permit application and will be the permittee or a co-permittee. Where a public applicant must acquire land, a signed notice from the landowner acknowledging the application may be provided in lieu of the landowner's signature as a co-applicant.
2. **FORMS.** A District permit application or notice of intent, and District checklist of permit submittal requirements, must be submitted on the forms provided by the District. Applicants may obtain forms from the District office or website at <http://www.ricecreek.org/permits/permit-application/s>.
3. **ACTION BY DISTRICT.** The District shall act on applications in accordance with Minnesota Statutes 15.99. A complete permit application includes all required information, exhibits, and fees. An application will not be ready for Board consideration unless all substantial technical questions have been addressed and all substantial plan revisions resulting from staff review have been accomplished. Permit decisions will be made by the Board except as delegated to the Administrator by written resolution.
4. **ISSUANCE OF PERMITS.** The permit will be issued only after applicant has satisfied all requirements and conditions for the permit, has paid all required District fees, and the District has received any required surety. Any outstanding Water Management District charges are due prior to permit issuance.
5. **CONDITIONAL APPROVAL PENDING RECEIPT OF CHANGES (CAPROC).** The District may conditionally approve an application, but a permit will not issue, and work may not begin, until all conditions precedent to issuance are fulfilled. All conditions must be satisfied within twelve (12) months of the date of conditional approval, but if the work commenced before permit issuance, conditions must be satisfied within the period stated in the conditional approval. If conditions are not satisfied within the specified period, the conditional approval will lapse and the applicant will be required to reapply for a permit and pay applicable permit fees.
6. **PERMIT TERM.** Permits are valid for an eighteen-month period from the date of issuance unless otherwise stated within the permit, suspended or revoked. To extend a permit, the permittee must apply to the District in writing, stating the reasons for the extension. Any plan changes, and related project documents must also be included in the extension application. The District must receive this application at least thirty (30) days prior to the permit expiration date. The District may impose different or additional conditions on a renewal or deny the renewal in the event of a material change in circumstances. On the first renewal, a permit will not be subject to change because of a change in District rules. An extended stormwater management permit for phased development may be issued pursuant to Rule C.13 requested.

7. **PERMIT ASSIGNMENT.** A permittee must be assigned when title to the property is transferred or, if the permittee is an easement holder, in conjunction with an assignment of the easement. The District must approve a permit assignment and will do so if the following conditions have been met:
- (a) The proposed assignee in writing agrees to assume all the terms, conditions and obligations of the permit as originally issued to the permittee;
  - (b) The proposed assignee has the ability to satisfy the terms and conditions of the permit as originally issued;
  - (c) The proposed assignee is not changing the project as originally permitted;
  - (d) There are no violations of the permit conditions as originally issued; and
  - (e) The District has received from the proposed assignee a substitute surety to secure performance of the assigned permit.

Until assignment is approved, the permittee of record as well as the current title owner will be responsible for permit compliance.

8. **PERMIT FEES.** The District will charge applicants permit fees in accordance with a schedule that will be maintained and revised from time to time by the Board of Managers to ensure that permit fees cover the District's actual costs of administering and enforcing permits. The current fee schedule may be obtained from the District office or the District website at <http://www.ricecreek.org/permits/permitting-information>. An applicant must submit the required permit fee to the District at the time it submits its permit application. No permit fee will be charged to the federal government, the State of Minnesota or a political subdivision of the State of Minnesota.

9. **PERFORMANCE SURETY.**

- (a) **POLICY.** It is the policy of the Board of Managers to conserve the District's water resources by assuring compliance with its rules. The District ensures compliance by requiring a bond or other surety to secure performance of permit conditions and compliance with District rules, as well as protection of District water resources in the event of noncompliance with permit conditions and/or rules. A project for which the applicant is the federal government, the State of Minnesota or a political subdivision of the State of Minnesota is exempt from surety requirements.
- (b) **PERFORMANCE SURETY REQUIREMENT.** A surety or sureties, when required, must be submitted in a form acceptable to the District. When a cash escrow is used, it will be accompanied by an escrow agreement bearing the original signature of the permittee and the party providing the escrow, if not the permittee. The District will require applicants to submit a surety or sureties in accordance with a schedule of types and amounts that will be maintained and revised from time to time by the Board of Managers. The current schedule of surety amounts and acceptable forms and sources as well as surety agreement may be obtained from the District office or the District website at <http://www.ricecreek.org/permits/permitting-information>.

An applicant may submit a bond or an irrevocable letter of credit to the District to secure performance of permit conditions for activities for which the required surety amount as determined above is in excess of \$5,000; however, the first \$5,000 of any performance surety must be submitted to the District as a cash escrow. The bond or letter of credit must be submitted before the permit is issued.

(c) **FORM AND CONTENT OF BOND OR LETTER OF CREDIT.**

- (1) The bond or irrevocable letter of credit must be in a form acceptable to the District and from a surety licensed to do business in Minnesota.
- (2) The bond or irrevocable letter of credit must be in favor of the District and conditioned upon the performance of the party obtaining the bond or letter of credit of the activities authorized in the permit, and compliance with all applicable laws, including the District's rules, the terms and conditions of the permit and payment when due of any fees or other charges required by law, including the District's rules. The bond or irrevocable letter of credit must provide that if the bond conditions are not met, the District may make a claim against the bond or letter of credit.

- (d) **RELEASE OF PERFORMANCE SURETY.** Upon written notification from permittee of completion of the permitted project, the District will inspect the project to determine if it is constructed in accordance with the terms of the permit and District rules. If the project is completed in accordance with the terms of the permit and District rules and the party providing the performance surety does not have an outstanding balance of money owed to the District for the project, including but not limited to unpaid permit fees, the District will release the bond or letter of credit, or return the cash surety if applicable. Final inspection compliance includes, but is not limited to, confirmation that all erosion and sediment control BMPs and stormwater management features have been constructed or installed as designed and are functioning properly, and completion of all required monitoring of wetland mitigation areas. The District may return a portion of the surety if it finds that a portion of the surety is no longer warranted to assure compliance with District rules.

## RULE C: STORMWATER MANAGEMENT

1. **POLICY.** It is the policy of the Board of Managers to manage stormwater and snowmelt runoff on a local, regional and watershed basis; to promote natural infiltration of runoff throughout the District to preserve flood storage and enhance water quality; and to address the unique nature of flooding issues within the Flood Management Zone, through the following principles:
  - (a) Maximize water quality and flood control on individual project sites through Better Site Design practices and stormwater management.
  - (b) Minimize land use impacts and improve operational and maintenance efficiency by siting stormwater BMPs, when needed, regionally unless local resources would be adversely affected.
  - (c) Treat stormwater runoff before discharge to surface waterbodies and wetlands, while considering the historic use of District water features.
  - (d) Ensure that future peak rates of runoff are less than or equal to existing rates.
  - (e) Reduce the existing conditions peak rate of discharge along Lower Rice Creek and the rate of discharge and volume of runoff reaching Long Lake, to preserve the remaining floodplain storage volume within Long Lake and mitigate the historic loss of floodplain storage.
  - (f) Preserve remaining floodplain storage volume within the Rice Creek Watershed to minimize flood potential throughout the District.
2. **REGULATION.** A permit incorporating an approved stormwater management plan is required under this rule for development, consistent with the following:
  - (a) A permit is required for subdivision of an area exceeding one acre. This includes subdivision for single-family residential, multi-unit residential, commercial, industrial, or institutional development.
  - (b) A permit is required for development, other than Public Linear Projects, that creates or reconstructs 10,000 square feet or more of impervious surface. This threshold is cumulative of all impervious surface created or reconstructed ~~through multiple phases or connected actions of a single complete project, as defined by the District, on a single parcel or contiguous parcels of land under common ownership, development or use as a part of a Common Plan of Development.~~
  - (c) For Public Linear Projects, a permit is required when ~~one acre or more of impervious surface will be created or reconstructed through multiple phases or connected actions of a single complete project, as defined by the District~~ the sum of new and reconstructed impervious surface equals or exceeds one acre as a part of a Common Plan of Development.
3. **STORMWATER MANAGEMENT PLAN REQUIRED.** A stormwater management plan shall be submitted with the permit application for a project equaling or exceeding the threshold of Section 2. The stormwater management plan shall fully address the design and function of the project proposal and the effects of altering the landscape relative to the direction, rate of discharge, volume of discharge and timing of runoff.
4. **MODELING REQUIREMENTS FOR STORMWATER MANAGEMENT PLANS.**

- (a) A hydrograph method or computer program based on NRCS Technical Release #20 (TR-20) and subsequent guidance must be used to analyze stormwater runoff for the design or analysis of discharge and water levels within and off the project site. The runoff from pervious and impervious areas within the model shall be modeled separately.
- (b) In determining Curve Numbers for the post-development condition, the Hydrologic Soil Group (HSG) of areas within construction limits shall be shifted down one classification for HSG C (Curve Number 80) and HSG B (Curve Number 74) and ½ classification for HSG A (Curve Number 49) to account for the impacts of grading on soil structure unless the project specifications incorporate soil amendments in accordance with District Soil Amendment Guidelines. This requirement only applies to that part of a site that has not been disturbed or compacted prior to the proposed project.
- (c) The analysis of flood levels, storage volumes, and discharge rates for waterbodies and stormwater management basins must include the NOAA Atlas 14 values, as amended, using a nested rainfall distribution (e.g. MSE 3), for the 2 year, 10 year and 100 year return period, 24-hour rainfall events and the 10-day snowmelt event (Curve Number 100), in order to identify the critical duration flood event. The District Engineer may require analysis of additional precipitation durations to determine the critical duration flood event. Analysis of the 10-day snowmelt event is not required for stormwater management detention basins with a defined outlet elevation at or below the 100 year return period, 24-hour rainfall event elevation.

## 5. **STORMWATER MANAGEMENT PLAN FRAMEWORK.**

- (a) When an existing regional BMP is proposed to manage stormwater runoff, the applicant must demonstrate the BMP is subject to maintenance obligations enforceable by the District. ~~†The project's~~ proposed total impervious surface area must be equal to or less than the impervious surface allocated within the original approved stormwater plan for that site. If an impervious surface area was not specified within the original approved stormwater plan for the site, the applicant shall show that the BMP was designed and constructed to manage the stormwater runoff from the project site and; the applicant has permission to utilize the required portion of BMP any remaining capacity in the BMP. ~~the BMP is subject to maintenance obligations enforceable by the District, and it is being maintained to its original design.~~
- (b) Stormwater management plans, with the exception of those for single family residential developments, must specify the proposed impervious surface area draining to each BMP for each land parcel
- (c) A combination of Stormwater BMPs may be used to meet the requirements of section(s) 6, 7, and 8.
- (d) A local surface water management plan or ordinance of the local land use authority may contain standards or requirements more restrictive than these rules. The stormwater management plan must conform to the local surface water management plan or ordinance of the local land use authority.
- (e) The proposed project must not adversely affect off-site water levels or resources supported by local recharge, or increase the potential for off-site flooding, during or after construction.
- (f) A landlocked basin may be provided an outlet only if ~~it~~:



- (1) ~~It~~ conforms with District Rule F, as applicable.
  - (2) ~~Provides sufficient dead storage volume to retain the runoff resulting from back-to-back 100-year, 24-hour rainfall events. The outlet is above the critical duration flood event~~
  - (3) ~~It~~ does not create adverse downstream flooding or water quality conditions as a result of the change in the rate, volume or timing of runoff or a change in drainage patterns.
- (g) A municipality or public road authority may prepare a comprehensive stormwater management plan setting forth an alternative means of meeting the standards of sections 6 and 7 within a defined subwatershed. Once approved by the District and subject to any stated conditions, the plan will apply in place of those sections.

## 6. WATER QUALITY TREATMENT.

- (a) Development creating or reconstructing impervious surface shall apply Better Site Design (BSD) techniques as outlined in the MPCA Minnesota Stormwater Manual as amended ([www.stormwater.pca.mn.us](http://www.stormwater.pca.mn.us)). A BSD guidance document and checklist is available on the District's website.
- (b) Sediment shall be managed on-site to the maximum extent practicable before runoff resulting from new or reconstructed impervious surface enters a waterbody or flows off-site.



(c) **WATER QUALITY TREATMENT STANDARD.**

- (1) The required water quality treatment volume standard for all projects, except Public Linear Projects, is determined as follows:

$$\begin{array}{l} \text{Required Water Quality} \\ \text{Treatment} \\ \text{Volume (ft}^3\text{)} \end{array} = \begin{array}{l} \text{Area of New or} \\ \text{Reconstructed} \\ \text{Impervious} \\ \text{Surface (ft}^2\text{)} \end{array} \times 1.1 \text{ (in)} \div \begin{array}{l} \text{TP Removal} \\ \text{Factor from} \\ \text{Table C1} \end{array} \div 12 \text{ (in/ft)}$$

- (2) The required water quality treatment volume standard for Public Linear Projects is determined as follows:

$$\begin{array}{l} \text{Required Water} \\ \text{Quality Treatment} \\ \text{Volume (ft}^3\text{)} \end{array} = \begin{array}{l} \text{\{Greater of\}} \\ \\ \text{Area of New Impervious} \\ \text{Surface (ft}^2\text{)} \end{array} \times 1.0 \text{ (in)} \div 12 \text{ (in/ft)}$$

{OR}

$$\begin{array}{l} \text{Sum Area of New and} \\ \text{Reconstructed} \\ \text{Impervious Surface (ft}^2\text{)} \end{array} \times 0.5 \text{ (in)} \div 12 \text{ (in/ft)}$$

- (3) For alternative Stormwater BMPs not found in Table C1 or to deviate from TP Removal Factors found in Table C1, the applicant may submit a TP Removal Factor, expressed as annual percentage removal efficiency, based on supporting technical data, for District approval.
- (4) Stormwater runoff treated by the BMP during a rain event will not be credited towards the treatment requirement.

**TABLE C1. TP REMOVAL FACTORS FOR PROPERLY DESIGNED BMPs.**

BMP	BMP Design Variation	TP Removal Factor *
Infiltration **	Infiltration Feature	1.00
Water Reuse **	Irrigation	1.00
Biofiltration	Underdrain	0.65
Filtration	Sand or Rock Filter	0.50
Stormwater Wetlands	Shallow Wetland	0.40
	Pond/Wetland	0.55
Stormwater Ponds ***	Wet Pond	0.50N/A ***
	Multiple Pond	0.60

Source: Adapted from Table 7.4 from the Minnesota Stormwater Manual, MPCA.

\* Refer to MPCA Stormwater Manual for additional information on BMP performance.

Removal factors shown are average annual TP percentage removal efficiencies intended solely for use in comparing the performance equivalence of various BMPs.

\*\* These BMPs reduce runoff volume.

\*\*\* Stormwater ponds must ~~also~~ provide 2.5" of dead storage as required by Section 9(d)(2).

**(d) BMP TYPE AND LOCATIONAL SITING.**

- (1) ~~For a public linear project, BMPs shall must be located either on-site and the required water quality volume must be achieved to the extent feasible to treat runoff at the point of generation, or regionally within the Resource of Concern Drainage Area. The road authority must obtain right-of-way or adjacent land for treatment, if reasonable. For other projects, the water quality volume must be treated on-site to the extent it is cost-effective, and otherwise may be treated off-site in accordance with subsection 6(d)(3), below.~~
- (2) If infiltration is feasible on site (see Table C2), ~~on-site or regional~~ BMPs, whether on- or off-site, must provide ~~volume control for infiltration~~ to meet the standard of subsections 6(c) and 6(d)(1). ~~If To the extent~~ infiltration is not feasible on-site, any BMP may be used to meet the standard.
- (3) Off-site and/or regional BMPs must be sited in the following priority order:
  - (i) In a downstream location that intercepts the runoff volume leaving the project site prior to the Resource of Concern.
  - (ii) Anywhere within the same Resource of Concern Drainage Area (see Figures

C1A-C1E) that results in no greater mass of Total Phosphorus reaching the resource of concern than on-site BMPs.

**TABLE C2. SPECIFIC CONDITIONS THAT MAY RESTRICT INFILTRATION.**

Type	Specific Project Site Conditions	Required Submittals
Potential Contamination	Potential Stormwater Hotspots (PSH)	PSH Locations and Flow Paths
	Contaminated Soils	Documentation of Contamination Soil Borings
Physical Limitations	Low Permeability Soils (HSG C & D)	Soil Borings
	Bedrock within three vertical feet of bottom of infiltration area	Soil Borings
	Seasonal High Water Table within three vertical feet of bottom of infiltration area	Soil Borings High Water Table
	Karst Areas	Geological Mapping or Report
Land Use Limitations	Utility Locations	Site Map
	Nearby Wells (Private and/or Municipal) *	Well Locations

\* Refer to Minnesota Stormwater Manual or the Minnesota Department of Health for setback requirements.

(e) To the extent feasible, all stormwater runoff from all new and reconstructed impervious surface must be captured and directed to a water quality BMP to the extent feasible. treated for total phosphorus if feasible. Notwithstanding, runoff from undisturbed impervious surface not otherwise being treated prior to the Resource of Concern may be treated in lieu of treating new or reconstructed impervious surface, provided the runoff from that surface drains to the same Resource of Concern as the new/reconstructed surface not being treated. Except for Public Linear projects, the area not treated for phosphorus may not exceed 15 percent of all the new or reconstructed impervious surface. For runoff not captured all untreated surface, TSS must be removed to the maximum extent practicable. Total water quality treatment volume for the project must be provided in aggregate pursuant to subsections 6(c) and 6(d), except that f

For a Public Linear Project:

- Runoff from undisturbed impervious surface within the right-of-way that is not otherwise being treated may be treated in lieu of treating new or reconstructed impervious surface; and
- Water quality treatment volume for reconstructed impervious surface, if required by subsection 2(c), must be provided only to the extent feasible.

For a non-public linear other projects:

- Runoff from undisturbed impervious surface on site may be treated in lieu of treating new or reconstructed impervious surface, provided the runoff from that surface drains to the same Resource of Concern as the new/reconstructed surface not being treated; and
- The area not treated for phosphorus may not exceed 15 percent of all new or reconstructed impervious surface. Total water quality treatment volume for the project must be provided in aggregate pursuant to subsections 6(c) and 6(d).

~~(e)~~(f) For single-family residential development, the runoff from impervious surface other than parking or driving surface that, in the District's judgment, cannot reasonably be routed to a stormwater BMP is considered effectively treated for water quality to meet the standard of subsection 6(c) by infiltration if:

- (1) The length of the flow path across the impervious surface is less than the length of the flow path across the pervious surface to which it discharges; and
- (2) The pervious surface is vegetated and has an average slope of five percent or less; and
- (2)(3) The District finds, on the basis of land use, that loss of the pervious surface is highly unlikely, or the permit is conditioned on a recorded covenant protecting the pervious surface.-

~~(f)~~(g) Banked "volume control" credits and debits established by public entities for Public Linear Projects with the RCWD prior to July 1, 2013 will continue to be recognized and enforced until all credits are used or all debits are fulfilled. Existing credits and debits may be used and fulfilled, respectively, anywhere within the applicant's jurisdiction on any public project.

## 7. PEAK STORMWATER RUNOFF CONTROL.

- (a) Peak stormwater runoff rates for the proposed project at the project site boundary, in aggregate, must not exceed existing peak runoff rates for the 2-year, 10-year and 100-year, 24-hour rainfall events, or a different critical event duration at the discretion of the District Engineer. Notwithstanding, peak runoff may be controlled to this standard in a regional facility consistent with paragraph 7(b). Aggregate compliance for all site boundary discharge will be determined with respect to runoff not managed in a regional facility.
- (b) Any increase in a critical duration flood event rate at a specific point of discharge from the project site must be limited and cause no adverse downstream impact. Table C3 shows the maximum curve numbers that may be utilized for existing condition modeling of those project site areas not covered by impervious surface.
- (c) Within the Flood Management Zone only (see Figure C2), peak runoff rates for the 2, 10 and 100 year 24-hour rainfall events shall be reduced to ≤80% of the existing condition. This requirement does not apply if the project is a Public Linear Project.

**TABLE C3. CURVE NUMBERS FOR EXISTING CONDITION PVIOUS AREAS.**

Hydrologic Soil Group	Runoff Curve Number *
A	39
B	61
C	74

D	80
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\* Curve numbers from NRCS Technical Release #55 (TR-55).

**TABLE C4. HYDROPERIOD STANDARDS.**

Wetland Susceptibility Class	Permitted Storm Bounce for 2-Year and 10-Year Event *	Inundation Period for 2-Year Event *	Inundation Period for 10-Year Event *
Highly susceptible	Existing	Existing	Existing
Moderately susceptible	Existing plus 0.5 ft	Existing plus 1 day	Existing plus 7 days
Slightly susceptible	Existing plus 1.0 ft	Existing plus 2 days	Existing plus 14 days
Least susceptible	No limit	Existing plus 7 days	Existing plus 21 days

Source: Adapted from: Stormwater and Wetlands Planning and Evaluation Guidelines for Addressing Potential Impacts of Urban Stormwater and Snowmelt Runoff on Wetlands.

\* Duration of 24-hours for the return periods utilizing NOAA Atlas 14.

## 8. BOUNCE AND INUNDATION PERIOD.

- (a) The project must meet the hydroperiod standards found in Table C4 with respect to all down-gradient wetlands.
- (b) Wetland Susceptibility Class is determined based on wetland type, as follows:
  - (1) Highly susceptible wetland types include: sedge meadows, bogs, coniferous bogs, open bogs, calcareous fens, low prairies, coniferous swamps, lowland hardwood forests, and seasonally flooded waterbasins.
  - (2) Moderately susceptible wetland types include: shrub-carrs, alder thickets, fresh (wet) meadows, and shallow & deep marshes.
  - (3) Slightly susceptible wetland types include: floodplain forests and fresh wet meadows or shallow marshes dominated by cattail giant reed, reed canary grass or purple loosestrife.
  - (4) Least susceptible wetland includes severely degraded wetlands. Examples of this condition include cultivated hydric soils, dredge/fill disposal sites and some gravel pits.

## 9. DESIGN CRITERIA.

- (a) Infiltration BMPs must be designed to provide:
  - (1) Adequate pretreatment measures to remove sediment before runoff enters the primary infiltration area;
  - (2) Drawdown within 48-hours from the end of a storm event. Soil infiltration rates shall be based on the appropriate HSG classification and associated infiltration rates (see Table C5). The least permeable layer of the soil boring column must be utilized in BMP calculations (see Design Criteria (e)). Alternate infiltration rates based on a recommendation and certified measurement testing from a licensed geotechnical engineer or licensed soil scientist will be considered. Infiltration area will be limited to horizontal areas subject to prolonged wetting;
  - (3) A minimum of three feet of separation from the Seasonal High Water Table; and

- ~~(4)~~ An outlet control structure to convey the 2-year, 10-year & 100-year frequency events if the BMP is intended to provide rate control; and
- ~~(3)~~(5) Consideration of the Minnesota Department of Health guidance document *Evaluating Proposed Stormwater Infiltration Projects in Vulnerable Wellhead Protection Areas*. Documentation shall be submitted to support implementation of this guidance document and will be accepted at the discretion of the District Engineer.
- (b) Water Reuse BMPs must conform to the following:
- (1) Design for no increase in stormwater runoff from the irrigated area or project site.
  - (2) Required design submittal packages for water reuse BMPs must include:
    - (i) An analysis using ~~the RCWD's Stormwater Reuse Spreadsheet~~Metropolitan Council Stormwater Reuse Guide 'Water Balance Tool Irrigation Constant Demand' spreadsheet for irrigation practices or 'Water Balance Tool Non-Irrigation Constant Demand' spreadsheet for non-irrigation practices. The tools are available download at: [http://www.metrocouncil.org/wastewater-water/planning/water-supply-planning/studies-projects-workgroups-\(1\)/completed-studies-projects/stormwater-reuse-guide.aspx](http://www.metrocouncil.org/wastewater-water/planning/water-supply-planning/studies-projects-workgroups-(1)/completed-studies-projects/stormwater-reuse-guide.aspx);
    - (ii) Documentation demonstrating adequacy of soils, storage system, and delivery system; and
    - (iii) Operations plan.
  - (3) Approved capacity of an irrigation practice will be based on:
    - (i) An irrigation rate of 0.5 inches per week over the irrigated pervious area(s) or the rate identified through the completion of the Metropolitan Council Stormwater Reuse Guide 'Water Balance Tool Irrigation Constant Demand' Spreadsheet (whichever is less); or as approved by the District; and
    - (ii) No greater than a 26 week (April 15<sup>th</sup> to October 15<sup>th</sup>) growing season.

An additional water quality treatment capacity beyond 0.5 inches per week may be recognized under a subsection C.5(f) plan or a C.13 phased development permit based on an average of three consecutive years of monitoring records of volume irrigated and pursuant to a monitoring plan approved by the District.
  - (4) Approved capacity of a non-irrigation practice shall be based on the rate identified through the completion of the Metropolitan Council Stormwater Reuse Guide 'Water Balance Tool Non-Irrigation Constant Demand' spreadsheet, or as approved by the District.
- (c) Biofiltration/filtration BMPs must be designed to provide:
- (1) Adequate pretreatment measures to remove sediment before runoff enters the primary biofiltration area;
  - (2) Drawdown within 48-hours from the end of a storm event;
  - (3) A minimum of 12-inches of organic material or sand above the rock trench or drain tile system; and
  - (4) Drain tile system must be designed above the Seasonal High Water Table.
  - ~~(5)~~ An outlet control structure to convey the 2-year, 10-year & 100-year frequency events if the biofiltration/filtration BMP is intended to provide rate control.



**TABLE C5. SOIL TYPE AND INFILTRATION RATES.**

Hydrologic Soil Group	Soil Textures	Corresponding Unified Soil Classification		Infiltration Rate (in/hr)
<b>A</b>	Gravel Sandy Gravel Silty Gravels	<b>GW</b>	Well-graded gravels, sandy gravels	<b>1.63</b>
		<b>GP</b>	Gap-graded or uniform gravels, sandy gravels	
		<b>GM</b>	Silty gravels, silty sandy gravels	
		<b>SW</b>	Well-graded gravelly sands	
	Sand Loamy Sand Sandy Loam	<b>SP</b>	Gap-graded or uniform sands, gravelly sands	<b>0.8</b>
<b>B</b>	Loam Silt Loam	<b>SM</b>	Silty sands, silty gravelly sands	<b>0.45</b>
		<b>MH</b>	Micaceous silts, diatomaceous silts, volcanic ash	<b>0.3</b>
<b>C</b>	Sandy Clay Loam	<b>ML</b>	Silts, very fine sands, silty or clayey fine sands	<b>0.2</b>
<b>D</b>	Clay Loam Silty Clay Loam Sandy Clay Silty Clay Clay	<b>GC</b>	Clayey gravels, clayey sandy gravels	<b>0.06</b>
		<b>SC</b>	Clayey sands, clayey gravelly sands	
		<b>CL</b>	Low plasticity clays, sandy or silty clays	
		<b>OL</b>	Organic silts and clays of low plasticity	
		<b>CH</b>	Highly plastic clays and sandy clays	
		<b>OH</b>	Organic silts and clays of high plasticity	

Source: Adapted from the "Design infiltration rates" table from the Minnesota Stormwater Manual, MPCA, (January 2014).



- (d) Stormwater ponds must be designed to provide:
- (1) Water quality features consistent with NURP criteria and accepted design standards for average and maximum depth;
  - (2) A permanent wet pool with dead storage at least equal to the runoff volume from a 2.5-inch rainfall over the area tributary to the pond;
  - (3) An outlet structure capable of preventing migration of floating debris and oils for at least the one-year storm;
  - (4) An identified emergency overflow spillway sufficiently stabilized to convey flows greater than the 100-year critical storm event; and
  - (5) An outlet control structure to ~~control~~ convey the 2-year, 10-year & 100-year frequency events.

Underground stormsewer systems must be designed to provide:

inspection and access ports sufficient to inspect and maintain the system;

- (e) Soil borings (utilizing ASTM D5921 and D2488, as amended) shall be considered for design purposes, and provided to the District, for each proposed BMP. The soil borings must be taken to a depth of at least 5 feet below the bottom of the proposed feature. For an application proposing an infiltration area, the applicant will identify, describe and delineate group, texture and redoximorphic features of site soils to assess percolation of stormwater runoff from impervious areas. Field evaluation of soil permeability in accordance with ASTM 3385 procedure for double ring infiltrometer testing or other approved method is encouraged.

~~(e)~~ —

- (f) An outfall structure discharging directly to a wetland, public water or public water wetland must incorporate a stilling-basin, surge-basin, energy dissipater, placement of ungrouted natural rock riprap or other feature to minimize disturbance and erosion of natural shoreline and bed resulting from stormwater discharges. Where feasible, outfall structures are to be located outside of the natural feature.

**TABLE C6. LOW FLOOR AND LOW ENTRY FREEBOARD REQUIREMENTS.**

Freeboard	100-Year Flood Elevations		Detention Basins, Wetlands & Stormwater Ponds		Infiltration and Biofiltration Basins			Rain Gardens*
	100-yr	EOF	100-yr	EOF	Bottom	100-yr	EOF	EOF
Low Floor	2.0 ft	1.0 ft	0.0 ft	NA	0.0 ft	NA	NA	NA
Low Entry	NA	NA	2.0 ft	1.0 ft	NA	2.0 ft	1.0 ft	0.5 ft

\* Rain gardens are “off-line” infiltration or bio-filtration basins.

- (g) All new residential, commercial, industrial and other habitable or non-habitable structures, and all stormwater BMPs, must be constructed so that the lowest floor and lowest entry elevations comply with Table C6. A structure on residential property not intended for human habitation and not attached to a habitable structure is exempt from this requirement, if the District finds it impractical and the landowner files a notation on the property title that the structure does not meet the requirement.

The low entry freeboard criterion of Table C6 may be deemed met when the structure does not have the required vertical separation, but is protected from surface flooding to the required elevation by a berm or other natural or constructed topographic feature capable of providing flood protection.

Within a landlocked basin, minimum low floor elevations must be at least one foot above the surveyed basin run out elevation. Where a structure is proposed below the run out elevation of a land-locked basin, the low floor elevation will be a minimum of two feet above the highest water level of either the 10-day snowmelt event or back-to-back 1 00-year, 24-hour rainfalls. Aerial photos, vegetation, soils, and topography may be used to derive a "normal" water elevation for the purpose of computing the basin's 100-year elevation.

- (h) All stormwater management structures and facilities must be designed for maintenance access and be properly operated and maintained in perpetuity to assure that they continue to function as designed. The maintenance responsibility must be memorialized in a document executed by the property owner in a form acceptable to the District and filed for record on the deed. Alternatively, a public permittee may meet its perpetual maintenance obligation by executing a programmatic or project-specific maintenance agreement with the District. Regional ponds owned by public entities that are only used to meet the runoff rate requirements of the District rule do not need a maintenance agreement with the District.
- (i) The permittee must use construction best practices so that the facility as constructed will conform to design specifications and the soil and surrounding conditions are not altered in a way adverse to facility performance.
- (j) Before work under the permit is deemed complete, the permittee must submit as-built plans demonstrating that at the time of final stabilization, stormwater facilities conform to design specifications. If at any time the District finds that the stormwater facility is not performing as designed, on District request the permittee must undertake reasonable investigation to determine the cause of inadequate performance.

## 10. EASEMENTS.

- (a) Before permit issuance, the permittee must, submit a copy of any plat or easement required by the local land use authority establishing drainage or flowage over stormwater management facilities, stormwater conveyances, ponds, wetlands, on-site floodplain up to the 100-year flood elevation, or any other hydrologic feature.
- (b) Before permit issuance, the permittee must convey to the District an easement to the public drainage system specifying a District right of maintenance access over the right of way of the public drainage system as identified within the public drainage system record. If the right of way of the public drainage system is not described within the record, then the easement shall be conveyed with the following widths:
  - For tiled/piped systems, 40 feet wide perpendicular to the direction of flow, centered on the tile line or pipe;
  - For open channel systems, a width that includes the channel and the area on each side of the channel within 20 feet of top of bank. For adequate and safe access, where top of bank is irregular or obstruction exists, the District may specify added width.
- (c) Public Linear Projects and public property are exempt from the public drainage system easement requirement of Section 10(b).
- (d) For projects within the District's Comprehensive Wetland Protection and Management Plan (CWPMP) areas, the Wetland Management Corridor (WMC) boundary delineation, buffer and easement requirements found at Rule F.6 apply. As stated in Rule F.5(e), Public Linear Projects are not subject to the requirements of Rule F.6.

- 11. **REQUIRED EXHIBITS.** The following exhibits must accompany the permit application. The vertical datum must clearly be labeled on each plan set.

- (a) An erosion & sediment control plan and, for projects that require an NPDES permit, a Storm Water Pollution Prevention Plan.
- (b) Property lines and delineation of lands under ownership of the applicant.
- (c) Delineation of the subwatershed contributing runoff from off-site, proposed and existing subwatersheds onsite, emergency overflows, and drainageways.
- (d) Geotechnical analysis including soil borings at all proposed stormwater management facility locations utilizing ASTM D5921 and D2488, as amended.
- (e) Proposed and existing stormwater facilities' location, alignment and elevation.
- (f) Delineation of existing on-site wetland, marshes and floodplain areas.
- (g) Identification of existing and proposed normal, ordinary high and 100-year water elevations on-site.
- (h) Identification of existing and proposed contour elevations within the project site .
- (i) Construction plans and specifications of all proposed stormwater management facilities, including design details for outlet control structures.
- (j) Stormwater runoff volume and rate analyses for the 2- 10- and 100-year critical events, existing and proposed conditions utilizing NOAA Atlas 14.
- (k) All hydrologic, water quality and hydraulic computations completed to design the proposed stormwater management facilities.
- (l) Narrative including a project description, discussion of BMP selection, and revegetation plan for the project site.
- (m) Other project site-specific submittal requirements as may be required by the District.

## 12. EXCEPTIONS.

- (a) A permit is not required for single-family residential construction on an individual lot of record, if the proposed impervious surface of the lot is less than 10,000 square feet, excluding the driveway. If the lot is within a development previously approved by the District, the construction must conform to the previous approval.
- (b) Rule C requirements do not apply to sidewalks and trails 10 feet wide or less that are bordered down-gradient by vegetated open space or vegetated filter strip with a minimum width of 5 feet.
- (c) Rule C requirements do not apply to Bridge Spans and Mill, Reclamation & Overlay projects.
- (d) Rule C.6 and C.7 requirements do not apply to single family residential subdivisions creating seven or fewer lots that:
  - (1) Establish no new public roadway; and
  - (2) Include no private roadway/driveway serving three or more lots.
- ~~(e) — Requirements of subsections 10(b) and 10(d) to not apply to the retained part of a~~

privately owned tract that is subdivided to convey land to a public agency for a public purpose.

~~(f)(e)~~

~~(g)(f)~~ Criteria of Section 7 may be waived if the project site discharges directly to a water body with large storage capacity (such as a public water), the volume discharged from the project site does not contribute to a downstream flood peak, and there are no downstream locations susceptible to flooding.

~~(h)(g)~~ Section 6 and Section 7 are waived for a portion of a project that paves a gravel roadway if the right-of-way ditch is maintained and does not discharge a concentrated flow directly to a wetland or another sensitive water body.

### ~~13. EXTENDED PERMIT TERM AND REGIONAL FACILITIES FOR NON-RESIDENTIAL PHASED DEVELOPMENT.~~

~~(a)~~ The following definitions apply to this section:

~~(1)~~ “Area Development Permit” (ADP) means a District stormwater management permit for non-residential development that includes construction of a stormwater management facility explicitly intended to serve compliance requirements for a parcel other than that on which the facility is located.

~~(2)~~ “Phased Development Permit” (PDP) means a District stormwater management permit for non-residential development that includes construction of a stormwater management facility explicitly intended to serve compliance requirements not just for development under the permit, but also for subsequent development on that parcel or a contiguous parcel under common ownership.

~~(b)~~ If an off-site stormwater management facility approved under a prior ADP cannot be used for compliance due to a rule change occurring since the date of ADP approval, the District nevertheless by permit will approve its use, subject to the following:

~~(1)~~ The applicant must demonstrate that the facility was built in compliance with the ADP, that the ADP identified the development site as one that may use the facility, and that the requirements of subsection 5(a), above, are met.

~~(2)~~ If the current rule requires a level of peak flow or volume control, or of water quality treatment, beyond that provided by the off-site facility, the applicant must provide for the additional treatment. This does not disallow use of an existing facility on the ground that it does not meet a sequencing requirement with respect to the BMP location or type.

The protection against rule change provided by this subsection 13(b) does not apply if the District makes written findings, on the basis of new knowledge or information, that use of the facility would have a material adverse impact on a water quality, flood management or other specific public interest, or if the approval date of the development permit is more than 10 years after the date of ADP approval.

~~(c)~~ The District may issue a PDP with a permit term of up to 10 years:

~~(1)~~ During the permit term, development using the stormwater management facilities approved under the PDP will not be subject to a rule change occurring after the

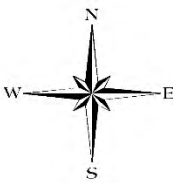
~~date of PDP approval, provided the PDP states the design criteria to which subsequent development will conform and the proposed development meets those criteria.~~

- ~~(2) — If a PDP is in effect as of December 1, 2014, on request the District will extend the permit expiration date in accordance with this subsection 13(c). In such a case, the requirement that the permit state design criteria is relaxed. However, the applicant must demonstrate the design and constructed capacity of the facilities and the capacity allocated to the proposed development.~~
- ~~(3) — If a PDP was approved after December 1, 2004 but has expired, an application for a subsequent development phase may be considered under the terms of subsection 13(b), above.~~

~~(d)(h) — This section does not apply to an ADP or a PDP approved before December 1, 2004.~~



# Rice Creek Watershed District



Flow Direction

RCWD Watercourses

Lakes

RCWD Legal Boundary

Resource of Concern Drainage Area

Transportation System

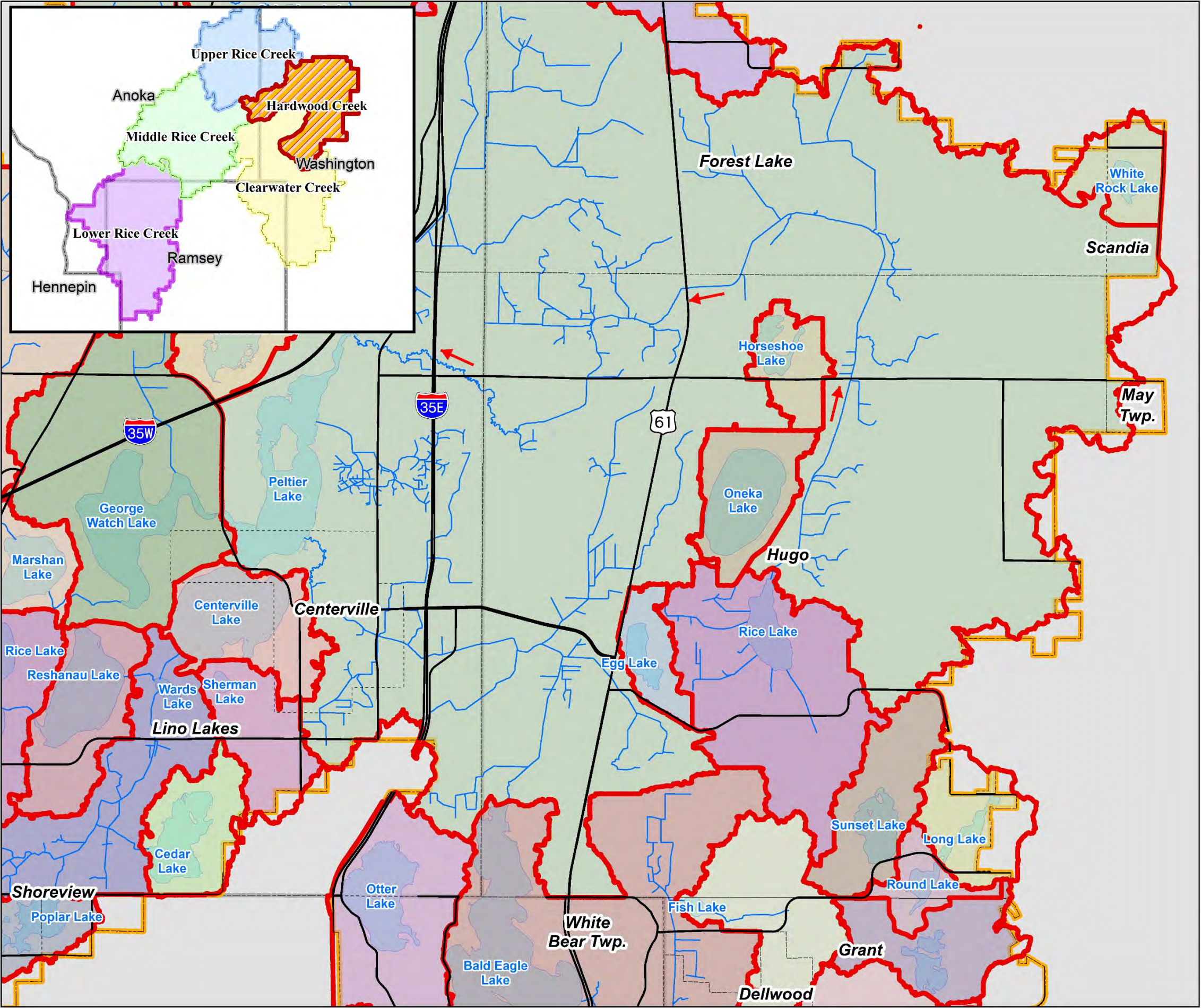
Cities

Counties



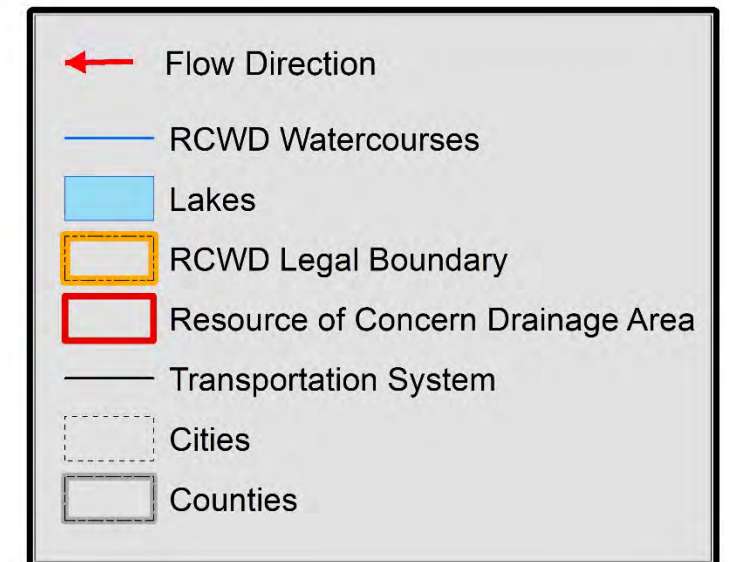
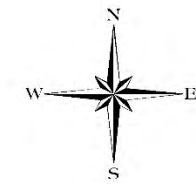
Sources: RCWD, TLG, MN DOT

C1A: Resources of Concern  
Drainage Area of Hardwood Creek



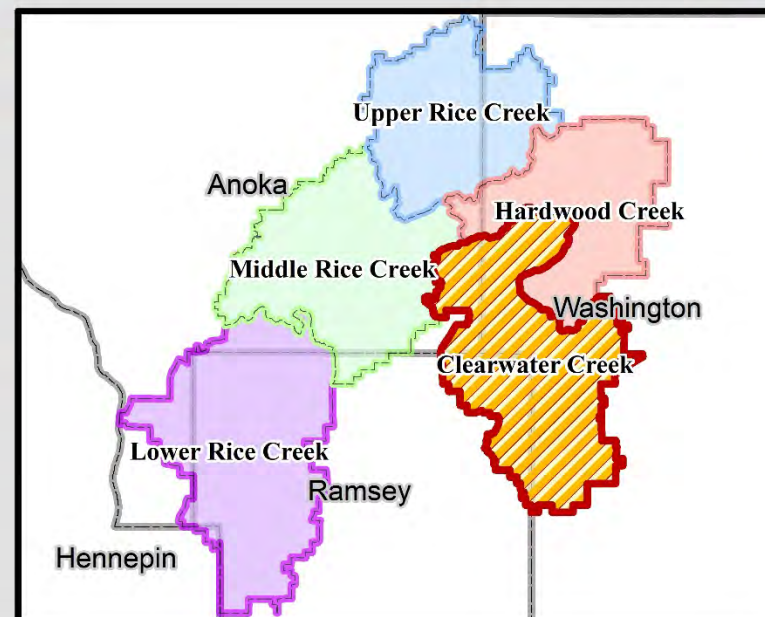


# Rice Creek Watershed District



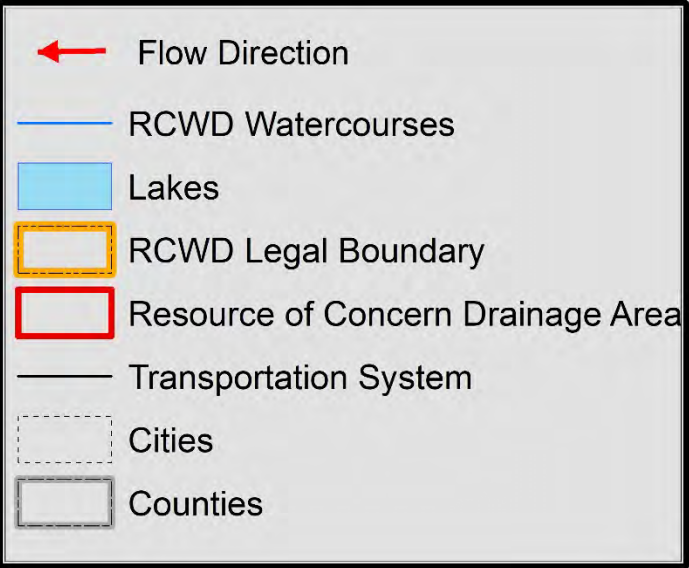
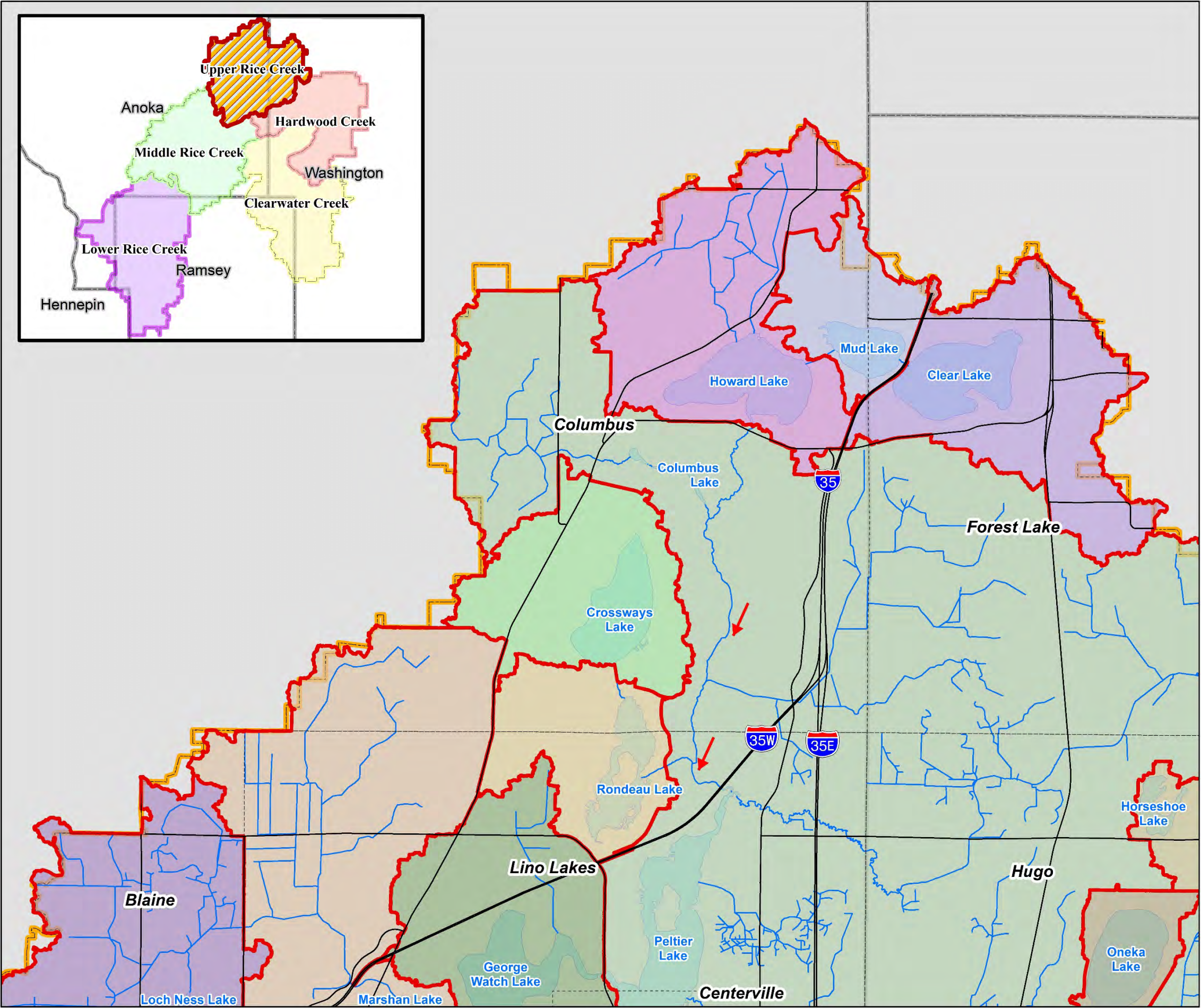
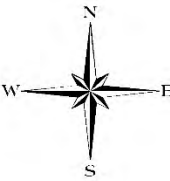
Sources: RCWD, TLG, MN DOT

### C1B: Resources of Concern Drainage Area of Clearwater Creek





# Rice Creek Watershed District

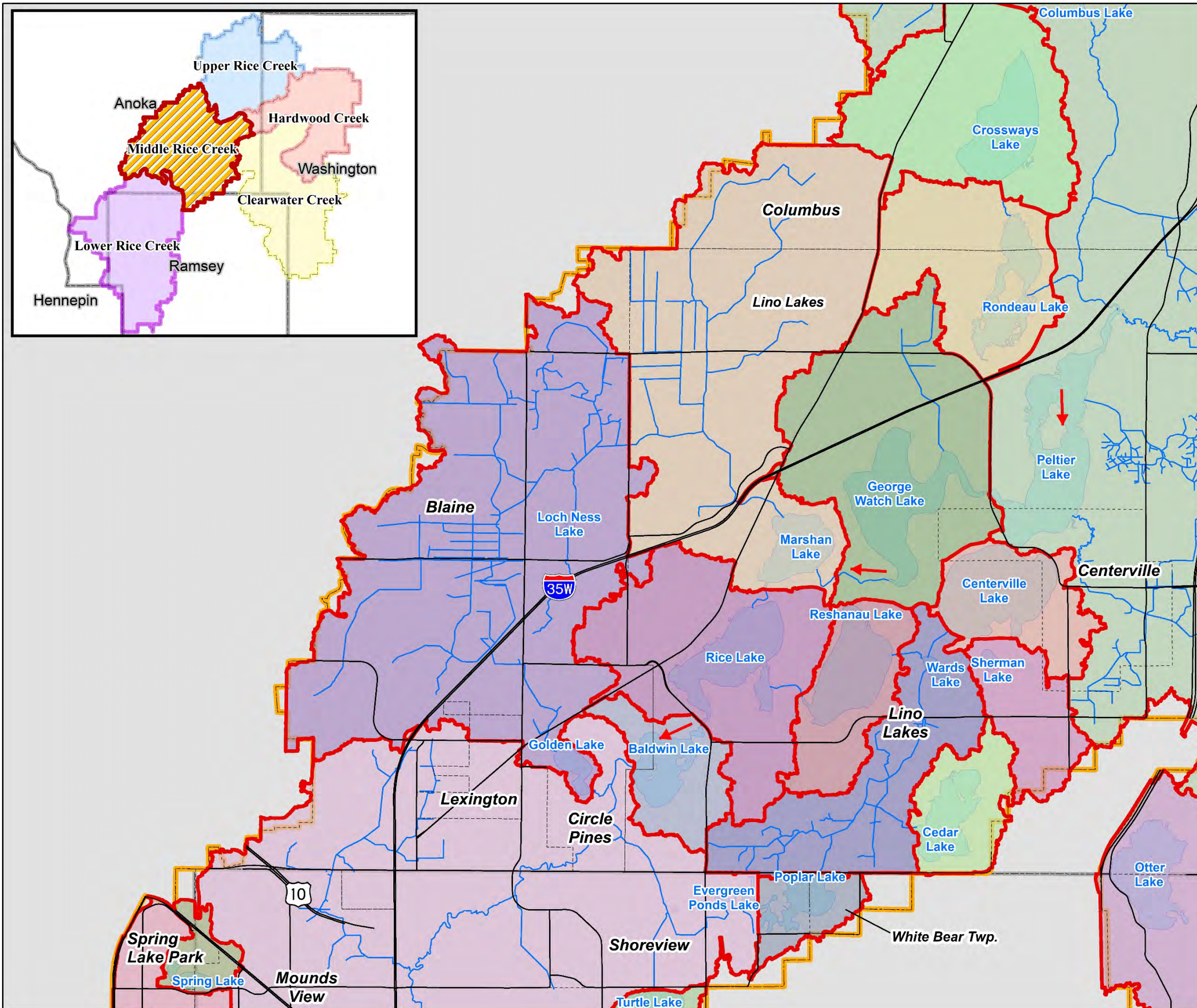


Sources: RCWD, TLG, MN DOT

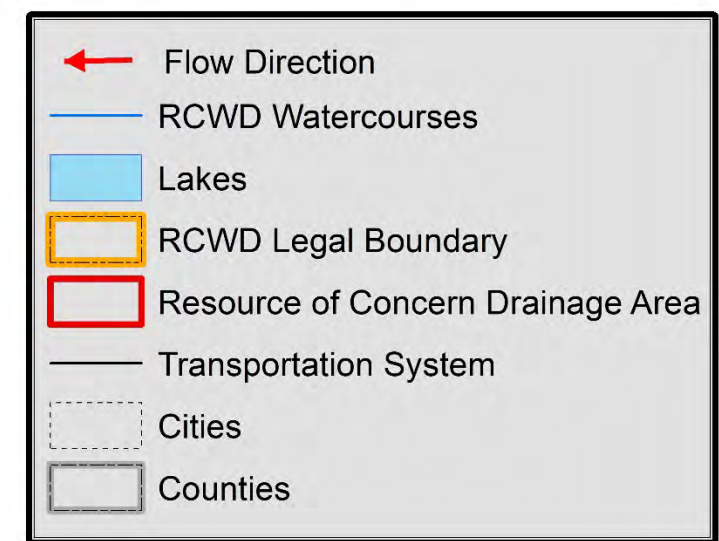
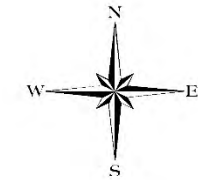
**C1C: Resources of Concern  
Drainage Area of Upper Rice Creek**







# Rice Creek Watershed District



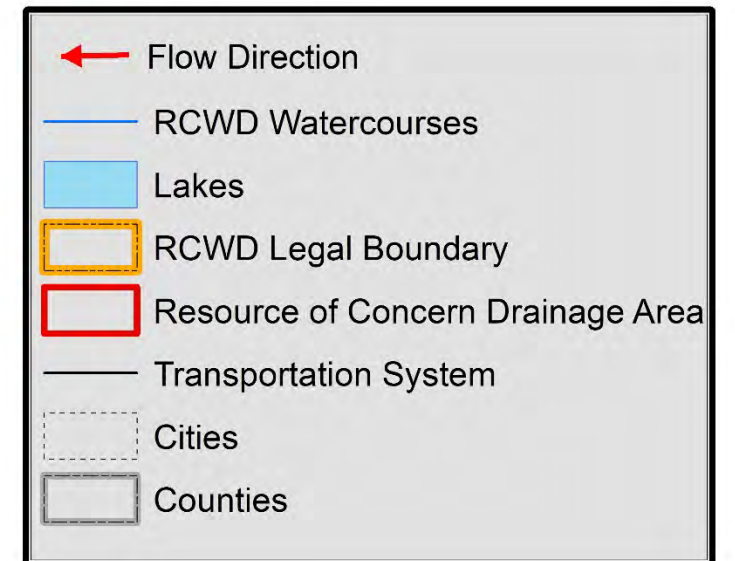
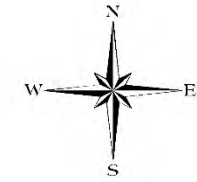
Sources: RCWD, TLG, MN DOT

**C1D: Resources of Concern  
Drainage Area of Middle Rice Creek**



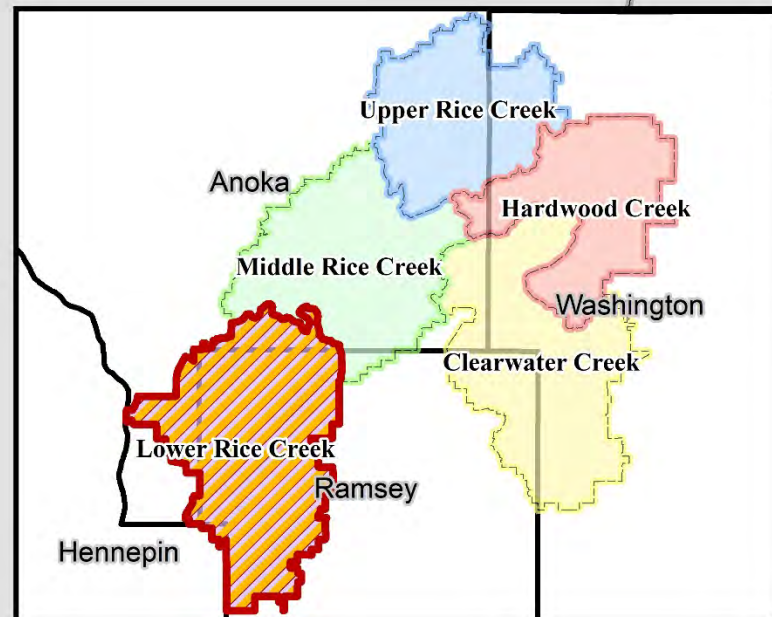
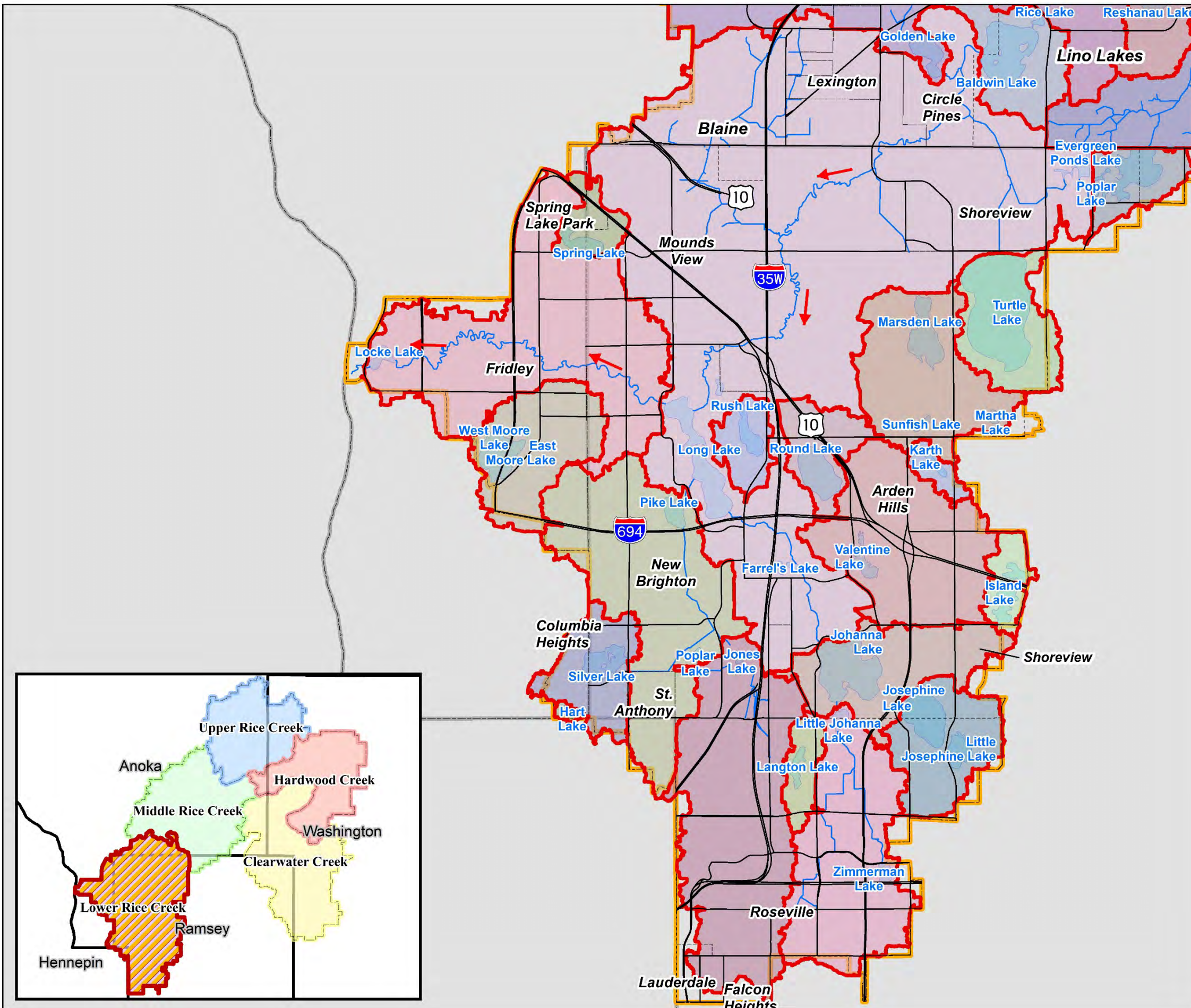


# Rice Creek Watershed District



Sources: RCWD, TLG, MN DOT

**C1E: Resources of Concern  
Drainage Area of Lower Rice Creek**









## RULE D: EROSION AND SEDIMENT CONTROL PLANS

1. **POLICY.** It is the policy of the Board of Managers to prevent erosion of soil into surface water systems by requiring erosion and sediment control for land-disturbing activities.
2. **REGULATION.**
  - (a) A permit under this rule is required for:
    - (1) Surface soil disturbance or removal of vegetative cover on one acre or more of land;
    - (2) Surface soil disturbance or removal of vegetative cover on 10,000 square feet or more of land, if any part of the disturbed area is within 300 feet of and drains to a lake, stream, wetland or public drainage system; or
    - (3) Any land-disturbing activity that requires a District permit under a rule other than Rule D.
  - (b) A person disturbing surface soils or removing vegetative cover on more than 5,000 square feet of land, or stockpiling on-site more than fifty (50) cubic yards of earth or other erodible material, but not requiring a permit under the criteria of this rule, must submit a notice in advance of disturbance on a form provided by the District and conform the activity to standard best practices established by and available from the District.
  - (c) Rule D does not apply to normal farming practices that are part of an ongoing farming operation.
  - ~~(d)~~ Rule D does not apply to milling, reclaiming or overlay of paved surfaces that does not expose underlying soils.
  - ~~(e)~~ A permit is not required under this rule to ~~maintain~~remove sediment from an existing constructed stormwater management basin. However, a ~~Notice of Intent~~ ~~shall~~must be filed with the District prior to initiating the work.
  - ~~(d)(f)~~
3. **DESIGN CRITERIA FOR EROSION CONTROL PLANS.** The applicant must prepare and receive District approval of an Erosion and Sediment Control that meets the following criteria:
  - (a) For projects disturbing more than ten acres, compliance with the standards of Rule C, subsections 7(a) and (b) must be demonstrated.
  - (b) Natural project site topography and soil conditions must be specifically addressed to reduce erosion and sedimentation during construction and after project completion.
  - (c) Site erosion and sediment control practices must be consistent with the Minnesota ~~Stormwater Manual-Pollution Control Agency document "Protecting Water Quality in Urban Areas" (1994), as amended~~, and District-specific written design guidance and be sufficient to retain sediment on-site.
  - (d) The project must be phased to minimize disturbed areas and removal of existing vegetation, until it is necessary for project progress.
  - (e) The District may require additional erosion and sediment control measures on areas with a

slope to a sensitive, impaired or special water body, stream, public drainage system or wetland to assure retention of sediment on-site.

- (f) The plan must include conditions adequate to protect facilities to be used for post-construction stormwater infiltration.

- 4. REQUIRED EXHIBITS.** The following exhibits must accompany the permit application.
- (a) An existing and proposed topographic map which clearly indicates all hydrologic features and areas where grading will expose soils to erosive conditions. The Plan must also indicate the direction of all project site runoff.
  - (b) Tabulation of the construction implementation schedule.
  - (c) Name, address and phone number of party responsible for maintenance of all erosion and sediment control measures.
  - (d) Quantification of the total disturbed area.
  - (e) Clear identification of all temporary erosion and sediment control measures that will remain in place until permanent vegetation is established. Examples of temporary measures include, but are not limited to, seeding, mulching, sodding, silt fence, erosion control blanket, and stormwater inlet protection devices.
  - (f) Clear identification of all permanent erosion control measures such as outfall spillways and riprap shoreline protection, and their locations.
  - (g) Clear Identification of staging areas, as applicable.
  - (h) Documentation that the project applicant has applied for the NPDES Permit from the Minnesota Pollution Control Agency (MPCA), when applicable.
  - (i) A stormwater pollution prevention plan for projects that require an NPDES Permit.
  - (j) Identification and location of any floodplain and/or wetland area. A more precise delineation may be required depending on the proximity of the proposed disturbance to a wetland and/or floodplain.
  - (k) Other project site-specific submittal requirements as may be required by the District.
- 5. CONSTRUCTION ACTIVITY REQUIREMENTS.** Site disturbance must conform to the District-approved erosion and sediment control plan, to any other conditions of the permit, and to the standards of the NPDES construction general permit, as amended, regarding construction-site erosion and sediment control.
- 6. INSPECTIONS.**
- (a) The permittee shall be responsible for inspection, maintenance and effectiveness of all erosion and sediment control measures until final soil stabilization is achieved or the permit is assigned (see Rule B), whichever comes first.
  - (b) The District may inspect the project site and require the permittee to provide additional erosion control measures as it determines conditions warrant.
- 7. FINAL STABILIZATION.**
- (a) Erosion and sediment control measures must be maintained until final vegetation and ground cover is established to a density of 70%.
  - (b) Temporary erosion and sediment control BMPs will be removed after disturbed areas have been permanently stabilized.

## RULE E: FLOODPLAIN ALTERATION

1. **POLICY.** It is the policy of the Board of Managers to:

- (a) Utilize the best information available in determining the 100-year flood elevation.
- (b) Preserve existing water storage capacity within the 100-year floodplain of all waterbodies and wetlands in the watershed to minimize the frequency and severity of high water.
- (c) Enhance floodplain characteristics that promote the natural attenuation of high water, provide for water quality treatment, and promote groundwater recharge.
- (d) Preserve and enhance the natural vegetation existing in floodplain areas for aquatic and wildlife habitat.

2. **REGULATION.** No person may alter or fill land within the floodplain of any lake, stream, wetland, public drainage system, major watercourse, or public waters without first obtaining a permit from the District. Shoreline/streambank restoration or stabilization, approved in writing by the District ~~and/or~~ County Conservation District ~~as necessary~~ to control erosion and designed to minimize encroachment and alteration of hydraulic forces, does not require a permit under this Rule.

3. **CRITERIA FOR FLOODPLAIN ALTERATION.**

~~(a)~~ ~~Fill within a designated floodway is prohibited.~~

~~(b)~~(a) Fill within the floodplain is prohibited unless compensatory floodplain storage volume is provided within the floodplain of the same water body, and within the permit term. The volume within on-site stormwater ponds is not considered compensatory floodplain storage unless that volume is non-coincident with the 100-year flood peak. If offsetting storage volume will be provided off-site, it shall be created before any floodplain filling by the applicant will be allowed.

~~(e)~~(b) Any structure or embankments placed within the floodplain will be capable of passing the 100-year flood without increasing the elevation of the 100-year flood profile.

~~(d)~~(c) Compensatory floodplain storage volume is not required to extend an existing culvert, modify an existing bridge approach associated with a Public Linear Project, or place spoils adjacent to a public or private drainage channel during channel maintenance, if there is no adverse impact to the 100-Year Flood Elevation.

~~(e)~~(d) Compensatory floodplain storage volume is not required for ~~a one-time~~ deposition of up to 100 cubic yards of fill, per parcel, if there is no adverse impact to the 100-Year Flood Elevation. For public road authorities, this exemption applies on a per-project, per floodplain basis.

~~(f)~~(e) Floodplain alteration is subject to the District's Wetland Alteration Rule F, as applicable.

~~(e)~~(i) Structures to be built within the 100-year floodplain will have two feet of freeboard between the lowest floor and the 100-year flood profile. A structure on residential property not intended for human habitation and not attached to a habitable structure is exempt from this requirement if the District finds it impractical and the landowner files a notation on the property title that the structure does not meet the requirement.

~~(g)~~(f)



**4. DRAINAGE EASEMENTS.**

- (a)** Before permit issuance, the permittee must submit a copy of any plat or easement required by the local land use authority establishing drainage or flowage over stormwater

management facilities, stormwater conveyances, ponds, wetlands, on-site floodplain up to the 100-year event, or any other hydrological feature.

- (b) Before permit issuance, the permittee must convey to the District an easement to the public drainage system specifying a District right of maintenance access over the right of way of the public drainage system as identified within the public drainage system record. If the right of way of the public drainage system is not described within the record, then the easement shall be conveyed with the following widths:
- For tiled/piped systems, 40 feet wide perpendicular to the direction of flow, centered on the tile line or pipe;
  - For open channel systems, a width that includes the channel and the area on each side of the channel within 20 feet of top of bank. For adequate and safe access, where top of bank is irregular or obstruction exists, the District may specify added width.
- (c) Public Linear Projects and public property are exempt from the public drainage system easement requirement of Section 4(b).

**5. REQUIRED EXHIBITS.** The following exhibits must accompany the permit application.

- (a) Site plan showing property lines, delineation of the work area, existing elevation contours of the work area, ordinary high water elevations, and 100-year flood elevations. All elevations must be reduced to NAVD 1988 datum. The datum must clearly be labeled on each plan set.
- (b) Grading plan showing any proposed elevation changes.
- (c) Determination by a professional engineer or qualified hydrologist of the 100-year flood elevation before and after the project.
- (d) Computation of change in flood storage capacity resulting from proposed grading.
- (e) Erosion and sediment control plan in accordance with District Rule D.
- (f) Other project site-specific submittal requirements as may be required by the District.

## **RULE F: WETLAND ALTERATION**

1. **POLICY.** It is the policy of the Board of Managers to:
  - (a) Maintain no net loss in the quantity, quality, and biological diversity of Minnesota's existing wetlands.
  - (b) Increase the quantity, quality, and biological diversity of Minnesota's wetlands by restoring or enhancing diminished or drained wetlands.
  - (c) Avoid direct or indirect impacts from activities that destroy or diminish the quantity, quality, and biological diversity of wetlands.
  - (d) Replace wetland values where avoidance of activity is not feasible or prudent.
  - (e) Accomplish goals of the adopted Comprehensive Wetland Protection and Management Plans (CWPMPs).
2. **REGULATION.** No person may fill, drain, excavate or otherwise alter the hydrology of a wetland without first obtaining a permit from the District.
  - (a) The provisions of the Minnesota Wetland Conservation Act (WCA), Minnesota Statutes §§103G.221 through 103G.2372, and its implementing rules, Minnesota Rules 8420, apply under this Rule and govern District implementation of WCA as well as District regulation of non-WCA wetland impacts, except where the Rule provides otherwise.
  - (b) This rule does not regulate alteration of incidental wetlands as defined in Minnesota Rules chapter 8420, as amended. An applicant must demonstrate that the subject wetlands are incidental.
  - (c) An activity for which a No-Loss decision has been issued under Minnesota Rules chapter 8420 is subject to the applicable requirements of chapter 8420 but not otherwise subject to this Rule.
  - (d) Clearing of vegetation, plowing or pasturing in a wetland as part of an existing and ongoing farming operation is not subject to this rule unless the activity results in draining or filling the wetland.
3. **LOCAL GOVERNMENT UNIT.** The District intends to serve as the "Local Government Unit" (LGU) for administration of the Minnesota Wetland Conservation Act (WCA), except where a particular municipality in the District has elected to assume that role in its jurisdictional area or a state agency is serving as the local government unit on state land. Pursuant to its regulatory authority under both WCA and watershed law, when the District is serving as the LGU it will require wetland alteration permits for wetland-altering activities both as required by WCA and otherwise as required by this Rule.
4. **CRITERIA.**
  - (a) When the District is serving as the LGU, it will regulate wetland alterations that are not subject to WCA rules and do not qualify for an exemption at Minnesota Rules 8420.0420 or do not meet the "no-loss" criteria of Minnesota Rules 8420.0415 according to the rules and procedures of WCA, except as specifically provided in this Rule. Alteration under

this paragraph requires replacement at a minimum ratio of 1:1 to ensure no loss of wetland quantity, quality or biological diversity. Replacement activities will be credited consistent with the actions eligible for credit in Minnesota Rules 8420.0526.

- (b) A wetland alteration not subject to WCA that does not change the function of a wetland and results in no net loss of wetland quantity, quality or biological diversity is exempt from the replacement requirement in Section 4(a) of this Rule.
- (c) The wetland replacement exemptions in Minnesota Rules 8420.0420 are applicable under this Rule, except as modified within CWPMP areas under Section 6.
- (d) Alterations in wetlands for the purposes of wildlife enhancement must be certified by the local Soil and Water Conservation District as compliant with the criteria described in Wildlife Habitat Improvements in Wetlands: Guidance for Soil and Water Conservation Districts and Local Government Units.

**5. ADDITIONAL DISTRICT REQUIREMENTS.** In addition to the wetland replacement plan components and procedures in WCA, the following more specific requirements will apply to the District's review of WCA and, except as indicated, non-WCA wetland alterations:

- (a) Applicants must adequately explain and justify each individual contiguous wetland alteration area in terms of impact avoidance and minimization alternatives considered.
- (b) Where the wetland alteration is proposed in the context of land subdivision, on-site replacement wetland and buffer areas, as well as buffers established under section 6(e), must:
  - (1) Be located within a platted outlot.
  - (2) Be protected from future encroachment by a barrier (i.e. stormwater pond, infiltration basin, existing wetland, tree line, fence, trail or other durable physical feature).
  - (3) Have boundaries posted with signage approved by the District identifying the wetland/buffer protected status. On installation, the applicant must submit a GIS shapefile, or CADD file documenting sign locations.
- (c) The upland edge of new wetland creation must have an irregular and uneven slope. The slope must be no steeper than 8:1 over the initial 25 feet upslope from the projected wetland elevation contour along at least 50 percent of the upland/wetland boundary and no steeper than 5:1 along the remaining 50 percent of the boundary.
- ~~(d)~~ The District will not allow excess replacement credits to be used for replacement on a different project unless the credits were designated for wetland banking purposes in the original application in accordance with WCA rules and have been deposited into the WCA wetland banking system.
- ~~(d)(e)~~ Replacement by banking must use credits from banks within the District, unless credits are unavailable or the applicant demonstrates that credit price deviates substantially from a market condition.
- ~~(e)(f)~~ Within the boundary of a District developed and BWSR approved CWPMP (see Figure F1), Rule F and WCA are further modified to include Section 6. Public Linear Projects located in a CWPMP jurisdictional area and not part of an industrial, commercial,

institutional or residential development are not subject to Section 6 of this Rule.

6. **COMPREHENSIVE WETLAND PROTECTION AND MANAGEMENT PLANS.** All District Comprehensive Wetland Protection and Management Plans (CWPMPs) are incorporated into this Rule. The specific terms of Rule F will govern, but if a term of Rule F is susceptible to more than one interpretation, the District will apply the interpretation that best carries out the intent and purposes of the respective CWPMP.

**(a) PRE-APPLICATION REVIEW.**

- (1) In cases where wetland fill, excavation or draining, wholly or partly, is contemplated, the applicant is encouraged to submit a preliminary concept plan for review with District staff and the Technical Evaluation Panel (TEP) before submitting a formal application. The following will be examined during pre-application review:
  - (i) Sequencing (in accordance with WCA and Federal Clean Water Act requirements, reducing the size, scope or density of each individual proposed action, and changing the type of project action to avoid and minimize wetland impacts).
  - (ii) Wetland assessment.
  - (iii) Applying Better Site Design principles as defined in Rule A.
  - (iv) Integrating buffers and other barriers to protect wetland resources from future impacts.
  - (v) Exploring development code flexibility, including conditional use permits, planned unit development, variances and code revisions;
  - (vi) Reviewing wetland stormwater susceptibility (see Rule C.8) and coordinating Wetland Management Corridor (WMC) establishment with existing adjacent WMCs.
- (2) At the pre-application meeting, the applicant shall provide documentation sufficient to assess project alternatives at a concept level and such other information as the District specifically requests.
- (3) On receipt of a complete application, the District will review and act on the application in accordance with its procedural rules and WCA procedures.
- (4) The TEP shall be consulted on decisions related to replacement plans, exemptions, no-loss, wetland boundaries and determination of the WMC.

**(b) WETLAND MANAGEMENT CORRIDORS.**

- (1) At the time of permitting, the preliminary Wetland Management Corridor (WMC) boundary (see Figure F1) will be adjusted in accordance with subsections F(6)(b)(2) and (3), below. Notwithstanding, within the Columbus CWPMP, commercial/Industrial zoned areas within Zone 1 will remain outside of the WMC (see Figure F2).
- (2) The applicant must delineate the site level WMC when wetland impacts are proposed:
  - (i) Within the Preliminary WMC; or
  - (ii) Within 150 feet of the Preliminary WMC and greater than the applicable
  - (iii) *de minimis* exemption amount, per Minnesota Rules 8420.0420;

If the proposed project does not meet criterion (b)(2)(i) or (b)(2)(ii), above, an applicant may accept the Preliminary WMC boundary on the project site, as made more precise on a parcel basis by the use of landscape-scale delineation methods applied or approved by the District and need not comply with Section 6(b)(3) and 6(b)(4).

- (3) The applicant shall complete a wetland functional analysis using MnRAM 3.4 (or most recent version) when defining the site level WMC boundary.
  - (i) The WMC boundary will be expanded to encompass any delineated wetland lying in part within the preliminary WMC and any wetland physically contiguous with (not separated by upland from) the landscape-scale WMC.
  - (ii) The District, in its judgment, may retract the WMC boundary on the basis of site-level information demonstrating that the retraction is consistent with the associated CWPMP and does not measurably diminish the existing or potential water resource functions of the WMC. In making such a decision, the District may consider relevant criteria including wetland delineation, buffer and floodplain location, WMC connectivity, protection of surface waters and groundwater recharge, and whether loss would be reduced by inclusion of compensating area supporting WMC function.
  - (iii) If the site level functional analysis shows the presence of Non-degraded or High Quality wetland within 50 feet of the site level WMC, the WMC will be expanded to the lateral extent of the Non-degraded or High Quality wetland boundary plus the applicable buffer as defined in section 6(e).
  - (iv) If the WMC lies within or contiguous to the parcel boundaries of the project, the lateral extent of the final WMC may be increased by the applicant to include all wetland or other action eligible for credit contiguous with the site level WMC. The extended WMC boundary must connect property to the WMC boundary on adjacent properties and reflect local surface hydrology.
- (4) A map of the final WMC boundary must be prepared and submitted to the District for approval. The map will reflect any change to the boundary as a result of the permitted activity. A GIS shapefile or CADD file of the final WMC boundary shall be submitted to the District.
- (5) A variance from a requirement of Section 6(b) otherwise meeting the criteria of District Rule L may be granted if the TEP concurs that the wetland protection afforded will not be less than that resulting from application of standard WCA criteria.

**(c) WETLAND REPLACEMENT.**

- (1) The wetland replacement exemptions in Minnesota Rules 8420.0420 are not applicable within CWPMP areas, except as follows:
  - (i) The agricultural, wetland restoration, utilities, *de minimis* and wildlife habitat exemptions found at Minnesota Rules 8420.0420, subparts 2, 5, 6, 8 and 9, respectively, are applicable, subject to the scope of the exemption standards found at Minnesota Rules 8420.0420, subpart 1.

- (ii) The drainage exemption, Minnesota Rules 8420.0420, subpart 3, is applicable if the applicant demonstrates, through adequate hydrologic modeling, that the drainage activity will not change the hydrologic regime of a CWPMP-mapped high quality wetland (see Figure F3) within the boundary of a WMC. Wetland and plant community boundaries will be field-verified.
  - (iii) Buffer and easement requirements of Section 6(e) and 6(f) do not apply to wetland alterations that qualify for one of the exemptions listed in Section 6(c)(1)(i), unless the project of which the wetland alteration is a part is subject to Rule C.10(d).
- (2) Replacement plans will be evaluated and implemented in accordance with Minnesota Rules 8420.0325 through 8420.0335, 8420.0500 through 8420.0544 and 8420.0800 through 8420.0820, except that the provisions of this Rule will apply in place of Minnesota Rules 8420.0522, and 8420.0526. The foundation of the CWPMPs is to limit impact to, and encourage enhancement of, high-priority wetlands and direct unavoidable impact to lower-priority wetlands in establishing the WMC. In accordance with Minnesota Rules 8420.0515, subpart 10, this principle will guide sequencing, replacement siting, WMC boundary adjustment and other elements of replacement plan review. The District will use the methodology of Minnesota Rules 8420.0522, subpart 2 to determine wetland replacement requirements for partially drained wetlands.
- (3) A replacement plan must provide at least one replacement credit for each wetland impact acre, as shown in Table F1. The replacement methods must be from the actions listed in Table F2 or an approved wetland bank consistent with Section 6(d)(1).
- (4) Acres of impact and replacement credit are determined by applying the following two steps in order:
  - (i) Multiply actual wetland acres subject to impact by the ratios stated in Table F1.
  - (ii) Calculate the replacement credits by multiplying the acreage for each replacement action by the percentage in Table F2. All replacement areas that are not within the final WMC will receive credit based on a replacement location outside the final WMC. However, when the replacement area is within the parcel boundaries of the project and there is no Preliminary WMC within those boundaries, and there is no opportunity to extend the WMC boundary from adjacent parcels of land, then the mitigation area will be credited as replacement inside the final WMC. If an applicant intends replacement also to fulfill mitigation requirements under Section 404 of the Clean Water Act, then the applicant may elect replacement credit based on a replacement location outside the final WMC.
- (5) The replacement plan must demonstrate that non-exempt impacts will result in no net loss of wetland hydrological regime, water quality, or wildlife habitat function through a wetland assessment methodology approved by BWSR pursuant to the Wetland Conservation Act, Minnesota Statutes §103G.2242.



**TABLE F1. WETLAND REPLACEMENT RATIOS FOR CWPMP AREAS.**

Wetland Degradation Type	Anoka County		Washington County	
	Outside WMC	Inside WMC	Outside WMC	Inside WMC
Moderately or Severely Degraded Wetland	1:1	2:1	2:1	3:1
Marginally or Non-Degraded Wetland	1.5:1	2.5:1	2.5:1	3.5:1
High Quality Wetland and/or hardwood, coniferous swamp, floodplain forest or bog wetland communities of any quality	2:1	3:1	3.5:1	4:1

**TABLE F2. ACTIONS ELIGIBLE FOR CREDIT FOR CWPMP AREAS.**

Actions Eligible for Credit	Inside of the Final WMC	Outside of the Final WMC
<b>Wetland Restoration</b>		
Hydrologic and vegetative restoration of moderately and severely degraded wetland	up to 75% Determined by LGU and TEP	up to 50% Determined by LGU and TEP
Hydrologic and vegetative restoration of effectively drained, former wetland	100%	75%
<b>Wetland Creation</b>		
Upland to wetland conversion	50%	50%
<b>Wetland Protection &amp; Preservation</b>		
Protection via conservation easement of wetland previously restored consistent with MN Rule 8420.0526 subpart 6	up to 75% Determined by LGU and TEP	up to 75% Determined by LGU and TEP
<b>Columbus CWPMP Only:</b> Preservation of wetland or wetland/upland mosaic (requires a 3rd party easement holder and other matching action eligible for credit)	25% Determined by LGU and TEP	12.5% Determined by LGU and TEP
Restoration or protection of wetland of exceptional natural resource value consistent with MN Rule 8420.0526, subpart 8	Up to 100% Determined by LGU and TEP	Up to 100% Determined by LGU and TEP
<b>Buffers</b>		
Non-native, non-invasive dominated buffer around other action eligible for credit, consistent with Section 6(e)	10%	10%
Native, non-invasive dominated buffer around other action eligible for credit, consistent with Section 6(e)	25%	25%
Upland habitat area contiguous with final WMC wetland (2 acre minimum), as limited by Rule F.6(e)(5)	100%	NA
<b>Vegetative Restoration</b>		
Positive shift in MnRAM assessment score for "Vegetative Integrity" from "Low" to "Medium" or "High"	Up to 50% Determined by LGU and TEP	NA

- (6) The location and type of wetland replacement will conform as closely as possible to the following standards:
- (i) No wetland plant community of high or exceptional wildlife habitat function and high or exceptional vegetative integrity, as identified in the required wetland assessment, may be disturbed.
  - (ii) No replacement credit will be given for excavation in an upland natural community with Natural Heritage Program rank B or higher, or with identified Endangered, Threatened or Special Concern species.
- (7) In the Columbus CWPMP only, preservation credit can be used for up to 50% of the wetland replacement required. The remaining 50% must be supplied by a non-preservation replacement action as shown within Table F2. Additionally:
- (i) All other eligible actions for credit within this rule must be considered before preservation is approved as an action eligible for credit.
  - (ii) The Technical Evaluation Panel must find that there is a high probability that, without preservation, the wetland area to be preserved would be degraded or impacted and that the wetland meets the criteria of Minnesota Rules 8420.0526 subpart 9.A through 9.D.
  - (iii) Non-degraded, High Quality, and Moderately Degraded wetland is eligible for Preservation Credit within Zone 1 (see Figure F2).
  - (iv) Non-degraded and High Quality wetland is eligible for Preservation Credit within Zone 2 (see Figure F2).
  - (v) Wetland ranked “Low” for “vegetative integrity” is not eligible for replacement credit through Preservation.
  - (vi) Banked preservation credit may be used only within the Columbus CWPMP area (see Figure F1).
- (8) Replacement credit for Wetland Protection and Preservation (see Table F2) requires that a perpetual Conservation Easement be conveyed to and accepted by the District. The easement must encompass the entire replacement area, and must provide for preservation of the wetland’s functions by the fee owner and applicant. The applicant must provide a title insurance policy acceptable to the District, naming the District as the insured. The fee owner and the applicant also must grant an access easement in favor of the District, the local government unit and any other state, local or federal regulatory authority that has authorized use of credits from the mitigation site for wetland replacement. The fee owner must record or register these easements on the title for the affected property.

- (9) Replacement credit for Vegetative Restoration (see Table F2) may be granted only for wetland communities scoring “Low” for Vegetative Integrity. The TEP must find that there is a reasonable probability for restoration success.
  - (10) Unless a different standard is stated in the approved replacement or banking plan, the performance standard for upland and wetland restored or created to generate credit is establishment, by the end of the WCA monitoring period, of a medium or high quality plant community ranking with 80% vegetative coverage consisting of a native, non-invasive species composition.
  - (11) Notwithstanding any provision in this rule to the contrary, for wetland impacts resulting from public drainage system repairs undertaken by the Rice Creek Watershed District that are exempt from Clean Water Act Section 404 permit requirements but are not exempt from replacement under Section 6(c)(1) of this Rule, replacement may occur subject to the following priority of replacement site sequencing:
    - (i) Within bank service areas 6 or 7 or with the concurrence of governing board of the local county or watershed district, within any county or watershed district whose county water plan, watershed management plan, or other water resource implementation plan contains wetland restoration as a means of implementation.
    - (ii) Throughout the state in areas determined to possess less than 80% of pre-settlement wetland acres.
  - (12) A variance from a requirement of Section 6(c) otherwise meeting the criteria of District Rule L may be granted if the TEP concurs that the wetland protection afforded will not be less than that resulting from application of standard WCA criteria.
- (d) **WETLAND BANKING.**
- (1) Replacement requirements under Section 6(c) of this Rule may be satisfied in whole or part by replacement credits generated off-site within any CWPMP area, but not by credits generated outside of a CWPMP area except as provided in Section 6(d)(5).
  - (2) The deposit of replacement credits created within a CWPMP area for banking purposes and credit transactions for replacement will occur in accordance with Minnesota Rules 8420.0700 through 8420.0745. Credits generated within a CWPMP area may be used for replacement within or outside of a CWPMP area.
    - (i) The District will calculate the amount of credit in accordance with the standard terms of WCA. This measure of credit will appear in the BWSR wetland banking account.

- (ii) The District also will calculate the amount of credit in accordance with Section 6(c) of this rule. The District will record this measure of credit internally within the CWPMP's wetland bank accounting. The District will adjust this internal account if the BWSR account is later debited for replacement outside of a CWPMP area. Where credits are used for replacement within a CWPMP area, the District will convert credits used into standard WCA credits so that the BWSR account is accurately debited.
- (3) To be recognized, bank credit from Preservation in the Columbus CWPMP (see Table F2) must be matched by an equal amount of credit from a non-Preservation replacement action.
  - (i) Credit derived from Preservation as the replacement action may be used only within the Columbus CWPMP boundary.
  - (ii) If the matching non-Preservation credit is used outside of the Columbus CWPMP area, the Preservation credit within the Columbus CWPMP wetland bank account will be debited in the amount of the matching non-Preservation credit.
- (5) Banked wetland credit created outside of the CWPMP areas, but within the CWPMP Contributing Drainage Area, may be used to replace impact within the CWPMP areas. An applicant proposing to use credits under this paragraph must field verify at the time of application that the banked wetlands are located within the CWPMP Contributing Drainage Area.
- (6) Credits generated under an approved wetland banking plan, inside a CWPMP or its contributing drainage area (See Figure F4), utilized to replace impact within a CWPMP area will be recognized in accordance with the approved banking plan.
- (e) **VEGETATED BUFFERS.** Vegetated buffers are required to be established adjacent to wetlands within CWPMP areas as described below.
  - (1) Wetland buffer will consist of non-invasive vegetated land; that is not cultivated, cropped, pastured, mowed, fertilized, used as a location for depositing snow removed from roads, driveways or parking lots, subject to the placement of mulch or yard waste, or otherwise disturbed except for periodic cutting or burning that promotes the health of the buffer, actions to address disease or invasive species, or other actions to maintain or improve buffer or habitat area quality, each as approved in writing by District staff. The application must include a vegetation management plan for District approval. For public road authorities, the terms of this subsection will be modified as necessary to accommodate safety and maintenance feasibility needs.
  - (2) Buffer adjacent to wetland within the final WMC must average at least 50 feet in width, and measure at least 25 feet in width at all points of inflow. The buffer requirement may be reduced based on compelling need and a TEP recommendation to the District in support that the wetland protection afforded is reasonable given the circumstances.

- (3) Buffer adjacent to wetland restored, created or preserved for replacement credit, not within the final WMC, must meet the minimum width standards as described in MN Rule 8420.0522, subpart 6.
- (4) Buffer adjacent to High Quality Wetland, or to replacement wetland adjacent to High Quality Wetland, must be at least 50 feet wide at all points. For private projects dedicating public right of way, the minimum width may be reduced based on compelling need and a District finding that the wetland protection afforded is reasonable given the circumstances. In making this finding, the District will give substantial weight to the TEP recommendation.
- (5) The area of buffer for which replacement credit is granted must not exceed the area of the replacement wetland except and specific to when the buffer is to meet the 50-foot requirement of Sections 6(e)(2) and 6(e)(4) and is further limited to the buffer area required to encapsulate another action eligible for credit.
- (6) Buffer receiving replacement credit as upland habitat area contiguous with the final WMC must be at least two acres in size.
- (7) No above- or below-ground structure or impervious surface may be placed within a buffer area permanently or temporarily, except as follows:
  - (i) A structure may extend or be suspended above the buffer if the impact of any supports within the buffer or habitat area is negligible, the design allows sufficient light to maintain the species shaded by the structure, and the structure does not otherwise interfere with the function afforded by the buffer.
  - (ii) A public utility, or a structure associated with a public utility, may be located within a buffer on a demonstration that there is no reasonable alternative that avoids or reduces the proposed buffer intrusion. The utility or structure shall minimize the area of permanent vegetative disturbance.
  - (iii) Buffer may enclose a linear surface for non-motorized travel no more than 10 feet in width. The linear surface must be at least 25 feet from the wetland edge. The area of the linear surface will not be eligible for replacement credit. For projects proposing non-motorized travel no more than 10 feet in width, the linear surface may be reduced to less than 25 feet from the wetland edge based on compelling need and a TEP recommendation to the District in support that the wetland protection afforded is reasonable given the circumstances.

- (iv) A stormwater features that is vegetated consistent with Section 6(e)(1), including NURP ponds, may be located within buffer and count toward buffer width on site-specific approval.
- (8) Buffer area is to be indicated by permanent, freestanding markers at the buffer edge, with a design and text approved by District staff in writing. A marker shall be placed at each lot line, with additional markers placed at an interval of no more than 200 feet and as necessary to define variation in a meandering boundary. If a District permit is sought for a subdivision, the monumentation requirement will apply to each lot of record to be created. On public land or right-of-way, the monumentation requirement may be satisfied by the use of markers flush to the ground, breakaway markers of durable material, or a vegetation maintenance plan approved by District staff in writing.
- (9) As a condition of permit issuance under this Rule, a property owner must file on the deed a declaration in a form approved by the District establishing a vegetated buffer area adjacent to the delineated wetland edge within the final WMC and other wetland buffers approved as part of a permit under this Rule. The declaration must state that on further subdivision of the property, each subdivided lot of record shall meet the monumentation requirement of Section 6(e)(8). On public land or right-of-way, in place of a recorded declaration, the public owner may execute a written maintenance agreement with the District. The agreement will state that if the land containing the buffer area is conveyed to a private party, the seller must file on the deed a declaration for maintenance in a form approved by the District.
- (10) Buffer may be disturbed to alter land contours or improve buffer function if the following criteria are met:
  - (i) An erosion control plan is submitted under which alterations are designed and conducted to expose the smallest amount of disturbed ground for the shortest time possible, fill or excavated material is not placed to create an unstable slope, mulches or similar materials are used for temporary soil coverage, and permanent vegetation is established as soon as possible after disturbance is completed.
  - (ii) Wooded buffer and native riparian canopy trees are left intact;
  - (iii) When disturbance is completed, sheet flow characteristics within the buffer are improved; average slope is not steeper than preexisting average slope or 5:1 (horizontal: vertical), whichever is less steep; preexisting slopes steeper than 5:1 containing dense native vegetation will not require regrading; the top 18 inches of the soil profile is not compacted, has a permeability at least equal to the permeability of the preexisting soil in an uncompacted state and has organic matter content of between five and 15 percent; and habitat diversity and riparian shading are maintained or improved. Any stormwater feature within the buffer will not have exterior slopes greater than 5:1.

- (iv) A re-vegetation plan is submitted specifying removal of invasive species and establishment of native vegetation suited to the location.
  - (v) A recorded Declaration or, for a public entity, maintenance agreement is submitted stating that, for three years after the project site is stabilized, the property owner will correct erosion, maintain and replace vegetation, and remove invasive species to establish permanent native vegetation according to the re-vegetation plan.
  - (vi) Disturbance is not likely to result in erosion, slope failure or a failure to establish vegetation due to existing or proposed slope, soil type, root structure or construction methods.
- (11) Material may not be excavated from or placed in a buffer, except for temporary placement of fill or excavated material pursuant to duly-permitted work in the associated wetland, or pursuant to paragraph 6(e)(10) of this Rule.
- (f) **EASEMENT.** The property owner must convey to the District and record or register, in a form acceptable to the District, a perpetual, assignable easement granting the District the authority to monitor, modify and maintain hydrologic and vegetative conditions within the WMC wetland and buffer adjacent to WMC wetland, including the authority to install and maintain structural elements within those areas and reasonable access to those areas to perform authorized activities. The WMC shall be identified and delineated as part of the recorded easement.
- (g) **PARTIAL ABANDONMENT.** As a condition of permit issuance, the District may require a property owner to petition the District for partial abandonment of a public drainage system pursuant to Minnesota Statutes §103E.805. A partial abandonment under this Section may not diminish a benefited property owner's right to drainage without the owner's agreement.
7. **REQUIRED EXHIBITS.** The following exhibits must accompany a permit application for both WCA and non-WCA wetland alterations.
- (a) **SITE PLAN.** An applicant must submit a site plan showing:
- (1) Property lines and delineation of lands under ownership of the applicant.
  - (2) On-site location of all public and private ditch systems
  - (3) Existing and proposed elevation contours, including the existing run out elevation and flow capacity of the wetland outlet, and spoil disposal areas.
  - (4) Area of wetland to be filled, drained, excavated or otherwise altered.

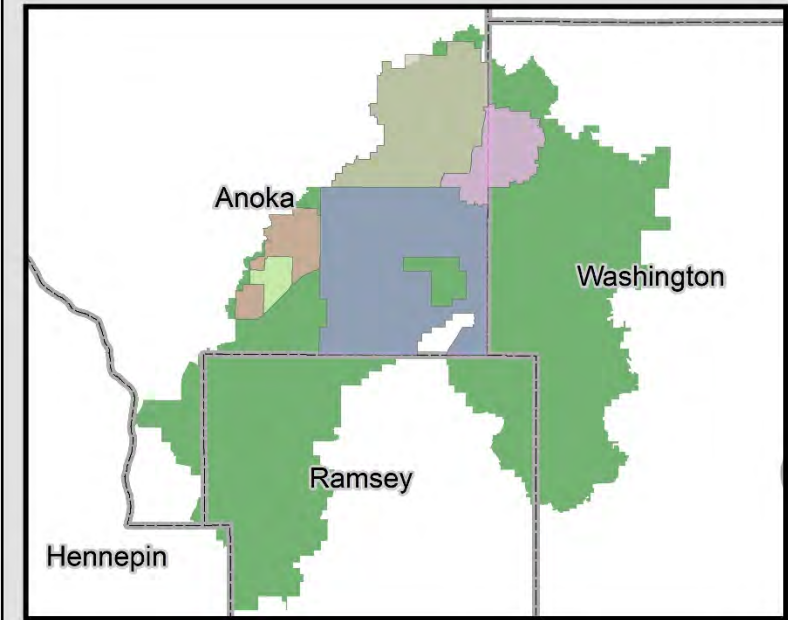
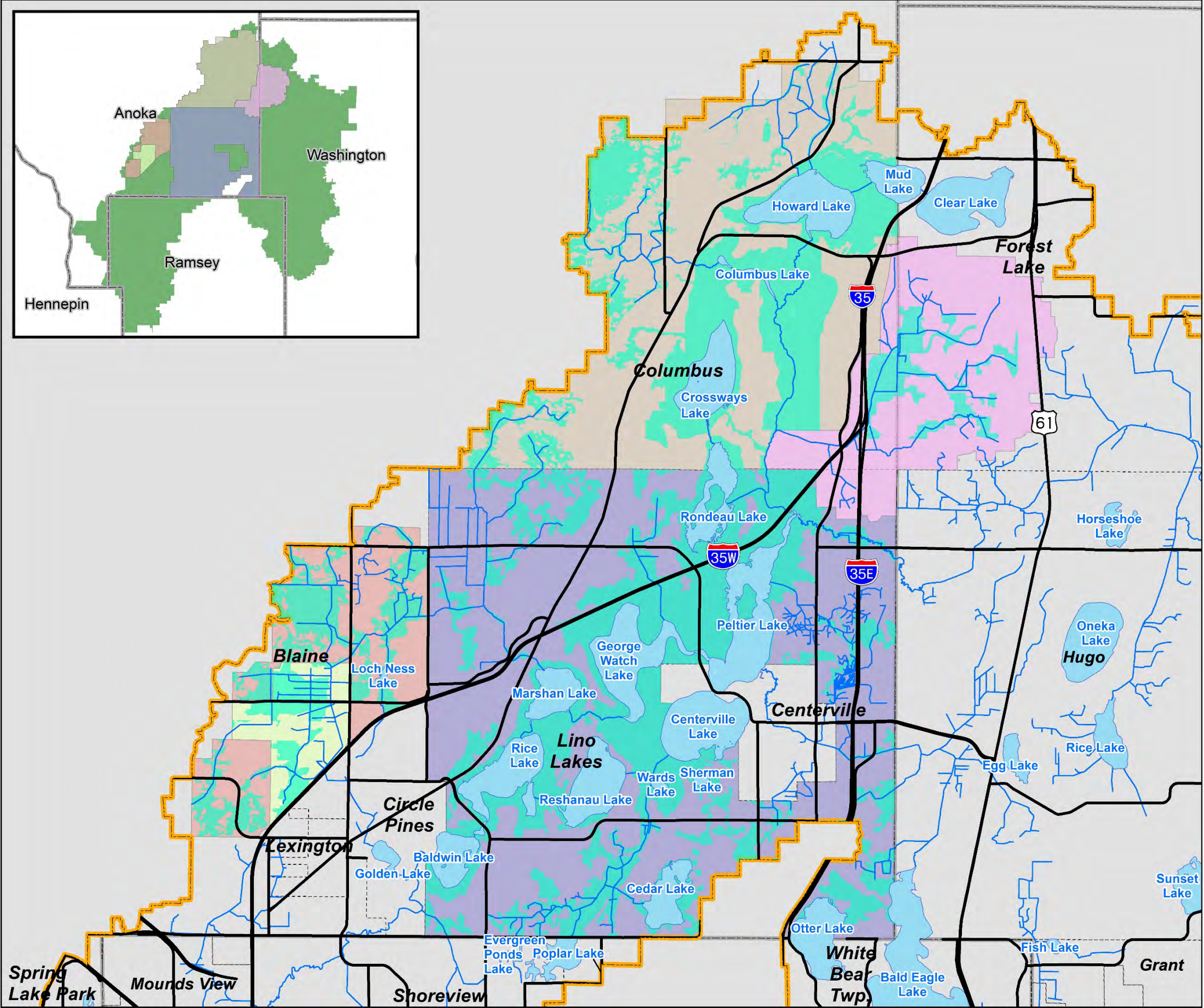
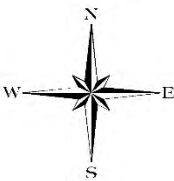
- (b) **WETLAND DELINEATION REPORT.** An applicant must submit a copy of a wetland delineation report conforming to a methodology authorized for WCA use and otherwise consistent with Minnesota Board of Water & Soil Resources guidance. The following requirements and clarifications apply to submittals of wetland delineation reports to the District and supplement the approved methodology and guidance:
- (1) Wetland delineations should be conducted and reviewed during the ~~period of May 1—October 15~~ growing season. The District may accept delineations performed outside this time frame on a case-by-case basis. The District will determine if there is sufficient information in the report and visible in the field at the time to assess the three wetland parameters (hydrophytic vegetation, hydric soils, hydrology) in relation to the placement of the wetland delineation line. If proper assessment of the delineation is not possible, the District may consider the application incomplete until appropriate field verification is possible.
  - (2) An applicant conducting short- or long-term wetland hydrology monitoring for the purpose of wetland delineation/determination must coordinate with the District prior to initiating the study.
  - (3) For a project site with row-cropped agricultural areas, the wetland delineation report must include a review of Farm Service Agency aerial slides (if available) for wetland signatures per Guidance for Offsite Hydrology/Wetland Determinations (July 1, 2016), as amended, and Section 404 Clean Water Act or subsequent State-approved guidance. This review is to be considered along with field data and other pertinent information, and is not necessarily the only or primary basis for a wetland determination in an agricultural row-cropped area.
  - (4) The wetland delineation report must follow current BWSR/ACOE Guidance for Submittal of Delineation Reports, and include:
    - (i) Documentation consistent with the 1987 Corps of Engineers Wetlands Delineation Manual and Northcentral and Northeast Regional Supplement.
    - (ii) National Wetland Inventory (NWI) map, Soil Survey Map, and Department of Natural Resources (DNR) Protected Waters Map of the area being delineated.
    - (iii) Results of a field investigation of all areas indicated as potential wetland by mapping sources including: NWI wetlands, hydric soil units, poorly drained or depressional areas on the Soil Survey Map, and DNR Protected Waters or Wetlands.
    - (iv) Classifications of each delineated wetland using the following systems:
      - Classification of Wetlands and Deep Water Habitats of the United States (Cowardin et al. 1979)
      - Fish and Wildlife Service Circular 39 (Shaw and Fredine 1971)
      - Wetland Plants and Plant Communities of Minnesota and Wisconsin (Eggers & Reed, 3rd Edition, 2011)



- (v) A survey map (standard land survey methods or DGPS) of delineated wetland boundaries.
- (5) As a condition of District approval of any wetland delineation, applicants shall submit X/Y coordinates (NAD 83 state plane south coordinate system) and a GIS shapefile of the delineated wetland boundaries. All data shall be collected with a Trimble Geoexplorer or equivalent instrument with sub-meter accuracy.
- (c) **WETLAND REPLACEMENT PLAN APPLICATION.** An applicant submitting a plan involving a wetland alteration requiring replacement must submit five copies of a replacement plan application and supporting materials conforming to WCA replacement plan application submittal requirements and including the following additional documents:
  - (1) Plan sheet(s) clearly identifying, delineating, and denoting the location and size of each wetland impact area and all replacement actions for credit.
  - (2) Plan sheet(s) with profile views and construction specifications of each replacement wetland including proposed/estimated normal water level, proposed/estimated boundary of replacement wetland, topsoiling specifications (if any), grading specifications, and wetland/buffer seeding specifications.
- (d) **FUNCTIONS AND VALUES ASSESSMENT.** An applicant must submit a before-and-after wetland functions and values assessment using a WCA-accepted methodology for a project in a CWPMP area or otherwise involving at least one acre of wetland impact requiring replacement.
- (e) Erosion and sediment control plan in accordance with District Rule D.
- (f) On District request, the applicant will conduct an assessment of protected plant or animal species within the project site, where such assessment is not available from existing sources.
- (g) Other project site-specific submittal requirements as may be required by the District.



# Rice Creek Watershed District



— Major Roads

— RCWD Watercourses

Lakes

Wetland Management Corridor

RCWD Legal Boundary

Cities

Counties

**CWPMPs**

Village Meadows

Anoka County Ditch 53-62

Anoka/Washington Judicial Ditch 4

Lino Lakes CWPMP

Columbus CWPMP



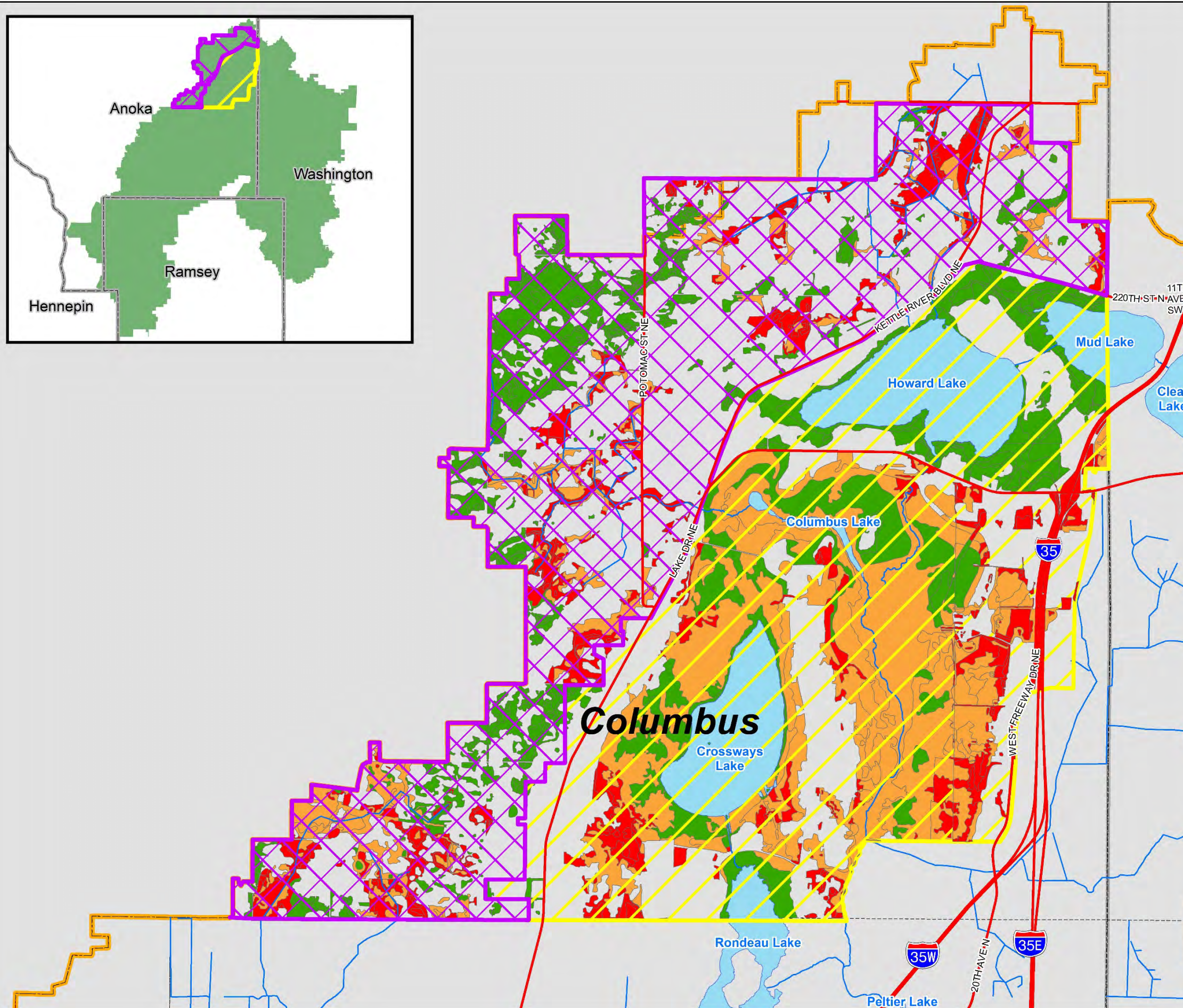
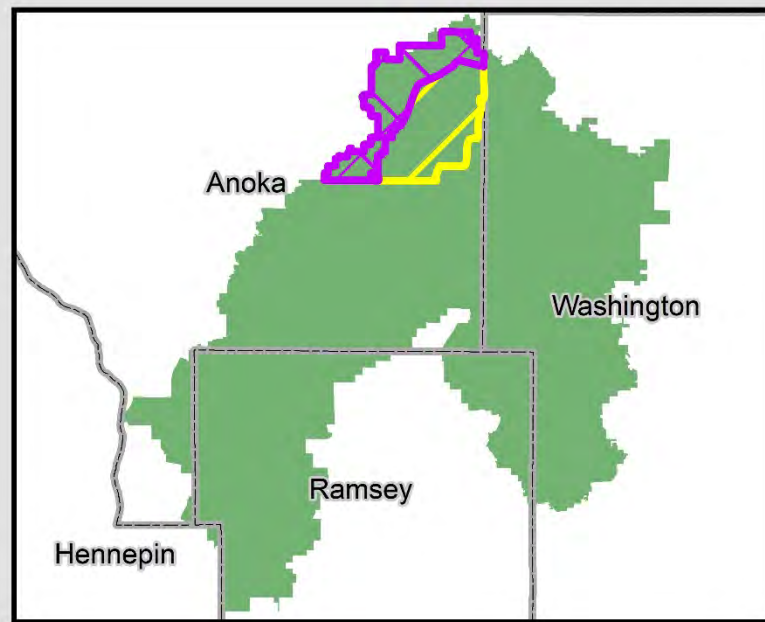
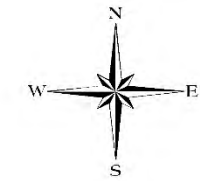
Sources: RCWD, TLG, MN DOT

F1: Comprehensive Wetland Protection and Management Plan Boundaries and Wetland Management Corridor





# Rice Creek Watershed District



- Transportation System
- RCWD Watercourses
- Lakes
- RCWD Legal Boundary
- Cities
- Counties

**WMC Adjustment Zones**

- Zone I
- Zone II

**Wetland Degredation Status**

- Non-Degraded
- Moderately
- Severely

0 0.25 0.5 1 Miles

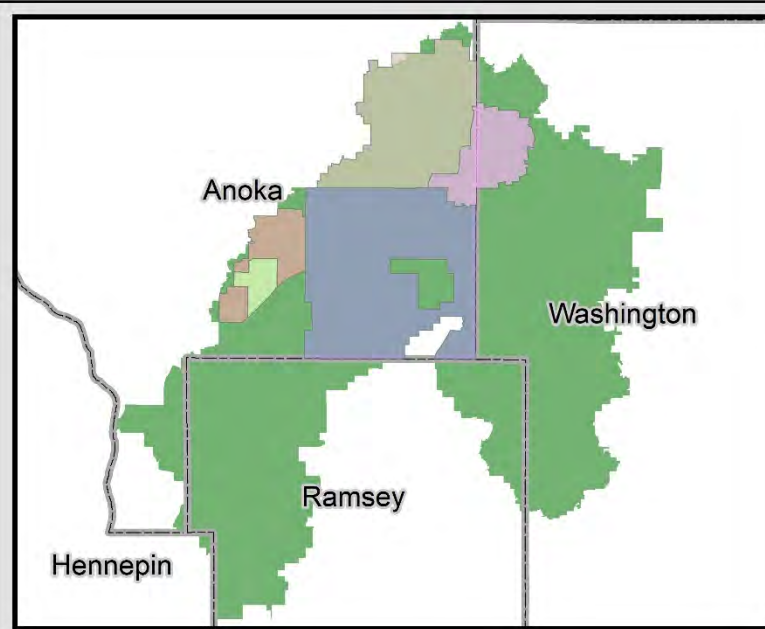
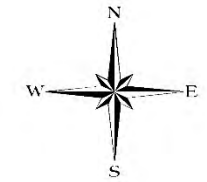
Sources: RCWD, TLG, MN DOT

**F2: Columbus Commerical/Industrial Zoned Areas and Wetland Degredation Status**





# Rice Creek Watershed District



Notes:  
Wetland quality has been determined utilizing data from the Minnesota Land Cover Classification System, or as defined within the CWPMPs. This data has been shown to be generally accurate, however the majority of the data presented here has not been field verified.

RCWD Watercourses

Lakes

High Quality Wetland (see Notes)

RCWD Legal Boundary

Transportation System

Cities

Counties

CWPMPs

Village Meadows

Anoka County Ditch 53-62

Anoka/Washington Judicial Ditch 4

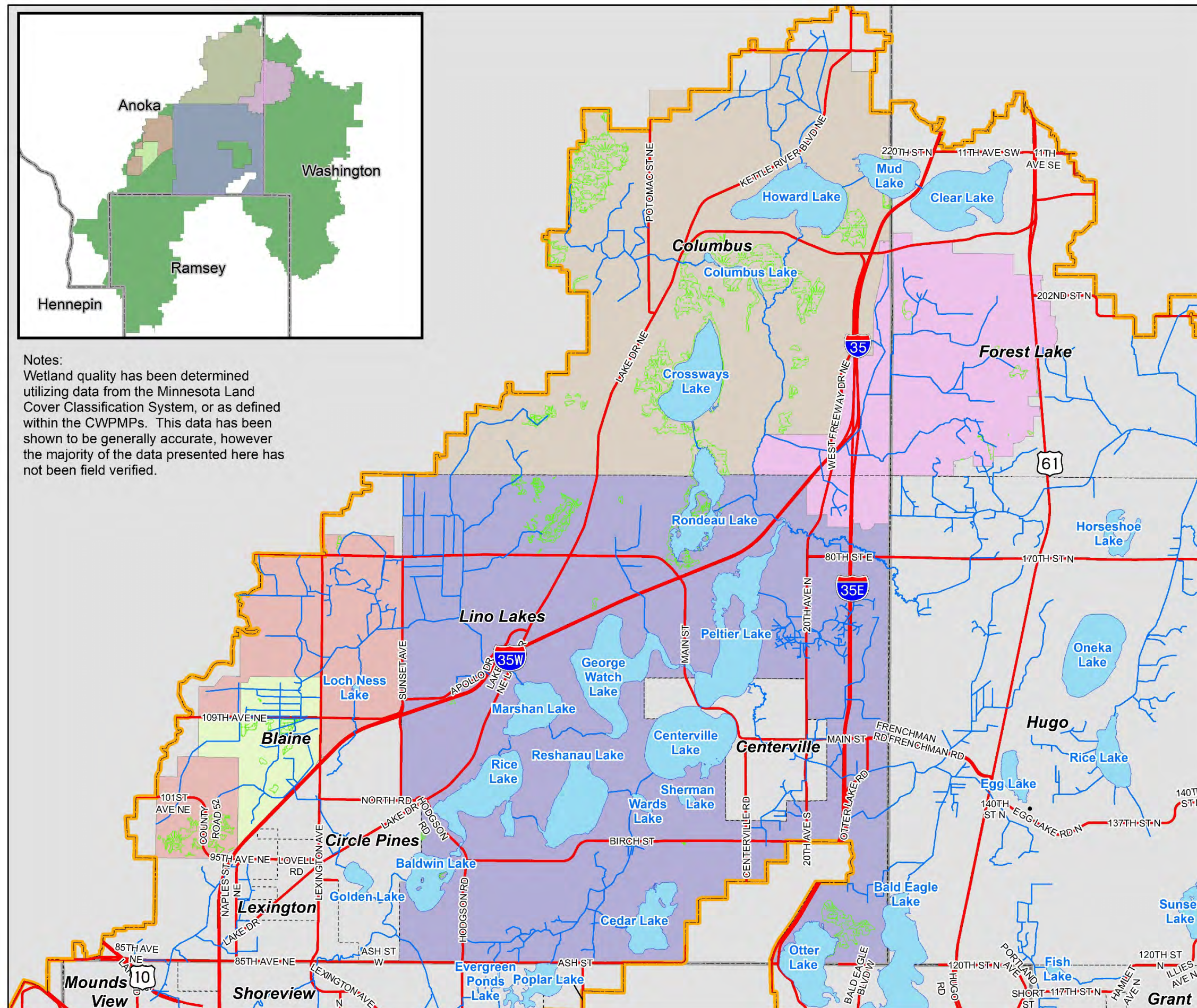
Lino Lakes CWPMP

Columbus CWPMP

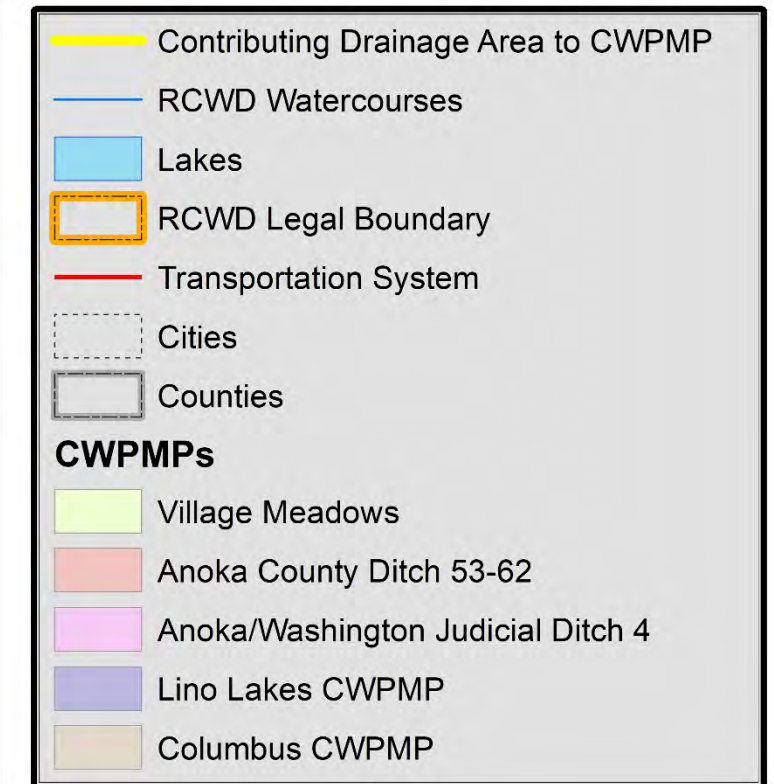


Sources: RCWD, TLG, MN DOT

## F3: High Quality Wetlands Within CWPMPs







A horizontal scale bar with tick marks at 0, 1, 2, and 4. The word "Miles" is written at the right end of the bar.

Sources: RCWD, TLG, MN DOT

#### F4: Contributing Drainage Area to CWPMPs





## RULE G: REGIONAL CONVEYANCE SYSTEMS

1. **POLICY.** It is the policy of the Board of Managers to preserve regional conveyance systems within the District, including its natural streams and watercourses, as well as artificial channels and piped systems. Rule G applies to surface water conveyance systems other than public drainage systems. The purpose of Rule G is to maintain regional conveyance capacity, prevent flooding, preserve water quality and ecological condition, and provide an outlet for drainage for the beneficial use of the public as a whole now and into the future. Rule G does not apply to public drainage systems, as defined in these rules, which the District manages and maintains through the exercise of its authority under the drainage code (Minnesota Statutes Chapter 103E) and the application of Rule I. It is not the intent of this rule to decide drainage rights or resolve drainage disputes between private landowners.
2. **REGULATION.** No person may construct, improve, repair or alter the hydraulic characteristics of a regional conveyance system that extends across two or more parcels of record not under common ownership, including by placing or altering a utility, bridge or culvert structure within **or under** such a system, without first obtaining a permit from the District. No permit is required to repair or replace an element of a regional conveyance system owned by a government entity when the hydraulic capacity of the system will not change.
3. **CRITERIA.**

The landowner or conveyance system owner receiving a permit under this rule and/or the landowner causing the disturbance or otherwise altering a utility, bridge or culvert structure is responsible for maintenance to maintain the permitted alteration in the design condition. In addition, modification of the conveyance system must:

  - (a) Preserve existing design hydraulic capacity.
  - (b) Retain existing navigational capacity.
  - (c) Not adversely affect water quality or downstream flooding characteristics.
  - (d) Be designed to allow for future erosion, scour, and sedimentation considerations.
  - (e) Be designed for maintenance access and be maintained in perpetuity to continue to meet the criteria of Section 3. The maintenance responsibility must be memorialized in a document executed by the property owner in a form acceptable to the District and filed for record on the deed. Alternatively, a public permittee may meet its perpetual maintenance obligation by executing a programmatic or project-specific maintenance agreement with the District.
4. **SUBSURFACE CROSSINGS.** A crossing beneath a regional conveyance system must maintain adequate vertical separation from the bed of the conveyance system. The District will determine adequate separation by reference to applicable guidance and in view of relevant considerations such as soil condition, the potential for upward migration of the utility, and the likelihood that the bed elevation may decrease due to natural processes or human activities. The District also will consider the feasibility of providing separation and the risks if cover diminishes. Nothing in this paragraph diminishes the crossing owner's responsibility under Section 3, above. The applicant must submit a record drawing of the installed utility.
5. **REQUIRED EXHIBITS.** The following exhibits must accompany the permit application.
  - (a) Construction details showing:

- (1) Size and description of conveyance system modification including existing and proposed flow line (invert) elevations. All elevations must be provided in NAVD 88 datum.
  - (2) Existing and proposed elevations of utility, bridge, culvert, or other structure.
  - (3) End details with flared end sections or other appropriate energy dissipaters.
  - (4) Emergency overflow elevation and route.
  - (b) Narrative describing construction methods and schedule
  - (c) Erosion and sediment control plan in accordance with District Rule D.
  - (d) Computations of watershed area, peak flow rates and elevations, and discussion of potential effects on water levels above and below the project site.
6. **EXCEPTION.** Criterion 3(a) may be waived if the applicant can demonstrate with supporting hydrologic calculations the need for an increase in discharge rate in order to provide for reasonable surface water management in the upstream area and that the downstream impacts of the increased discharge rate can be reasonably accommodated and will not exceed the existing rate at the municipal boundary.

## **RULE H: ILLICIT DISCHARGE AND CONNECTION**

1. **POLICY.** It is the policy of the Board of Managers to:
  - (a) Regulate the contribution of pollutants to the District's Municipal Separate Storm Sewer System (MS4) by any user;
  - (b) Prohibit Illicit Connections and Discharges to the District's MS4;
  - (c) Carry out inspection and monitoring procedures necessary to ensure compliance with this Rule under statutory and related authority.
2. **PROHIBITION.** No person shall discharge or cause to be discharged into a public drainage system within the District any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.
3. **EXCEPTIONS.** The commencement, conduct or continuance of any illegal discharge to the waters of the District is prohibited except as described as follows:
  - (a) The following discharges are exempt from discharge prohibitions established by this rule:
    - (1) Water line flushing or other potable water sources
    - (2) Landscape irrigation or lawn watering
    - (3) Diverted stream flows
    - (4) Rising ground water
    - (5) Ground water infiltration to storm drains
    - (6) Uncontaminated pumped ground water
    - (7) Foundation and footing drains
    - (8) Firefighting activities
  - (b) Discharges specified in writing by the District, or other federal, state or local agency as being necessary to protect the public health and safety.
  - (c) Dye testing is an allowable discharge, but requires a verbal notification to the District prior to the time of the test.
  - (d) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.
4. **ILLICIT CONNECTIONS PROHIBITED**
  - (a) The construction, use, maintenance or continued existence of illicit connections to the public drainage system is prohibited.
  - (b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
  - (c) A person is considered to be in violation of this rule if the person connects a line conveying sewage to the public drainage system, or allows such a connection to continue.



## RULE I: PUBLIC DRAINAGE SYSTEMS

1. **POLICY.** Rule I applies to work within public drainage systems, as that term is defined in these rules. The District regulates work in surface water conveyance systems other than public drainage system through the application of Rule G. It is the policy of the Board of Managers to regulate any work within the right-of-way of a public drainage system that has the potential to affect the capacity or function of the public drainage system, or ability to inspect and maintain the system. The purpose of Rule I is to protect the integrity and capacity of public drainage systems consistent with Minnesota Statutes Chapter 103E to prevent regional or localized flooding, preserve water quality, and maintain an outlet for drainage for the beneficial use of the public and benefitted lands now and into the future. .
2. **REGULATION.**
  - (a) ~~No temporary or permanent work in or over, or modification to, may be completed on the public drainage system, including connecting to a public drainage system any modification of the system, may occur without first obtaining~~ requires a permit under this rule from the District. The permit is in addition to any formal procedures or District approvals that may be required under Minnesota Statutes Chapter 103E or other drainage law.
  - (b) A utility may not be placed under a public drainage system without a permit under this rule. The design must provide at least five feet of separation between the utility and the as-constructed and subsequently improved grade of the public drainage system, unless the District determines that a separation of less than five feet is adequate to protect and manage the system at that location. ~~The applicant must submit a record drawing of the installed utility. The crossing owner will remain responsible should the crossing at any time be found to be an obstruction or subject to future modification or replacement under the drainage law.~~
  - (c) A pumped dewatering operation may not outlet within 200 feet of a public drainage system without a permit under this rule. A permit application must include a dewatering plan indicating discharge location, maximum flow rates, and outlet stabilization practices. Rate of discharge into the system may not exceed the system's available capacity.
3. **CRITERIA.** A project proposing to work subject to Paragraph 2 (a) must:
  - (a) Comply with applicable orders or findings of the Drainage Authority.
  - (b) Comply with all Federal, State and District wetland protection rules and regulations.
  - (c) Demonstrate that such activity will not adversely impact the capacity or function of the public drainage system, or ability to inspect and maintain the system.
  - (d) Not create or establish wetlands within the public drainage system right of way without an order to impound the public drainage system under Minnesota Statute 103E.227.
  - (e) Provide conveyance at the grade of the ACSIC where work is being completed. If the ACSIC has not been determined, the applicant may request that the District duly determine the ACSIC before acting on the application, or may accept conditions that the District determines adequate to limit the risk that the applicant's work will not be an obstruction, within the meaning of Minnesota Statutes chapter 103E, when the ACSIC is determined. An applicant that proceeds without determination of the ACSIC bears the risk that the work later is determined to be an obstruction.
  - (f) Maintain hydraulic capacity and grade under interim project conditions, except where the District, in its judgement, determines that potential interim impacts are adequately mitigated.

- (g) Where the open channel is being realigned, provide an access corridor that the District deems adequate at the top of bank of the drainage system, with the following characteristics:
- A minimum 20-feet in width
  - Cross-slope (perpendicular to direction of flow) no more than 5% grade.
  - Longitudinal slope (parallel to the direction of flow) no more than 1:5 (Vertical to Horizontal).
- (h) Provide Adequate supporting soils to facilitate equipment access for inspection and maintenance. Provide stable channel and outfall.
- ~~(i) Before permit issuance, the permittee must convey to the District an easement to the public drainage system specifying a District right of maintenance access over the right of way of the public drainage system as identified within the public drainage system record. If the right of way of the public drainage system is not described within the record, then the easement shall be conveyed with the following widths:~~
- ~~• For tiled/piped systems, 40 feet wide perpendicular to the direction of flow, centered on the tile line or pipe;~~
  - ~~• For open channel systems, a width that includes the channel and the area on each side of the channel within 20 feet of top of bank. For adequate and safe access, where top of bank is irregular or obstruction exists, the District may specify added width.~~
- (i) Be designed for maintenance access and be maintained in perpetuity to avoid constituting an obstruction and otherwise to continue to meet the criteria of Section 3. The maintenance responsibility must be memorialized in a document executed by the property owner in a form acceptable to the District and filed for record on the deed. Alternatively, a public permittee may meet its perpetual maintenance obligation by executing a programmatic or project-specific maintenance agreement with the District. Public Linear Projects are exempt from the public drainage system easement requirement of Section 3(i).
- (j) Identify proposed temporary obstruction or crossings of the public drainage system and specify operational controls to enable unobstructed conveyance of a rainfall or flow condition.
4. **REQUIRED EXHIBITS.** The following exhibits must accompany the permit application. All elevations must be provided in NAVD 88 datum.
- (a) Map showing location of project, tributary area, and location and name of the public drainage system branches within the project area
  - (b) Existing and proposed cross sections and profile of affected area.
  - (c) Description of bridges or culverts proposed.
  - (d) Location and sizes of proposed connections to the public drainage system
  - (e) Narrative and calculations describing effects on water levels above and below the project site.
  - (f) Erosion and sediment control plan.

- (g) Hydrologic and hydraulic analysis of the proposed project.
- (h) Local benchmark in NAVD 88 datum.

## **RULE J: APPROPRIATION OF PUBLIC WATERS**

1. **POLICY.** It is the policy of the Board of Managers to regulate the appropriation of public waters as follows.
2. **REGULATION.** A permit from the District is required for the appropriation of water from:
  - (a) A public water basin or wetland that is less than 500 acres and is wholly within Hennepin or Ramsey County.
  - (b) A protected watercourse within Hennepin or Ramsey County that has a drainage area of less than 50 square miles.
3. **CRITERIA.** A permit applicant for appropriation of public waters as described above must complete and submit to the District an appropriation checklist. The appropriation checklist form may be obtained from the District office.

## RULE K: ENFORCEMENT

1. **VIOLATION OF RULES IS A MISDEMEANOR.** Violation of these rules, ~~a stipulation agreement made,~~ or a permit issued ~~by the Board of Managers~~ under these rules, is a misdemeanor subject to a penalty as provided by law.
2. **DISTRICT COURT ACTION.** The District may exercise all powers conferred upon it by Minnesota Statutes Chapter 103D ~~to enforce in enforcing~~ these rules, including criminal prosecution, injunction, or action to compel performance, restoration or abatement.
3. **ADMINISTRATIVE ORDER.** The District may issue a cease and desist or compliance order when it finds that a proposed or initiated project presents a serious threat of soil erosion, sedimentation, or an adverse effect ~~up~~on water quality or quantity, or violates any rule or permit of the District.
4. **OTHER ADMINISTRATIVE AUTHORITIES.** The District may use all other authorities that it possesses under ~~law~~statute to address a violation of these rules, or a permit issued under these rules. This includes, but is not limited to, permit suspension or termination; the right to enter to inspect for and correct violations; and the right to be reimbursed for costs incurred to do so by use of financial assurance funds, civil action or joint-powers municipal assessment.

## RULE L: VARIANCES

1. **VARIANCES AUTHORIZED.** The Board of Managers may hear a request for variance from a literal provision of these rules where strict enforcement would cause ~~undue hardship or~~ practical difficulty because of circumstances unique to the property under consideration. The Board of Managers may grant a variance if an applicant demonstrates that such action will be in keeping with the spirit and intent of these rules and in doing so may impose conditions on the variance as necessary to find that it meets the standards of section 2, below. A variance request must be addressed to the Board of Managers as part of a permit application and must address each of the four criteria listed in the standard.
2. **STANDARD.** In order to grant a variance, the Board of Managers must determine that:
  - (a) Special conditions apply to the structures or lands under consideration that do not apply generally to other land or structures in the District.
  - (b) Because of the unique conditions of the property involved, ~~undue hardship or~~ practical difficulty to the applicant would result, as distinguished from mere inconvenience, if the strict letter of the rules were applied. ~~Economic considerations alone do not constitute undue hardship or practical difficulty if any reasonable use of the property exists under the terms of the District's rules.~~
  - (c) The proposed activity for which the variance is sought will not adversely affect the public health, safety or welfare; will not create extraordinary public expense; and will not adversely affect water quality, water control or drainage in the District.
  - (d) The intent of the District's rules is met.
3. **PRACTICAL DIFFICULTY DEFINED.** In evaluating practical difficulty, the Board of Managers will consider the following factors:
  - (a) How substantial the variation is from the rule provision;
  - (b) ~~The effect of the variance on government~~ Whether the variance would shift cost to adjacent property owners or the public;
  - (c) Whether the variance will substantially change the character of watershed resources or be a substantial detriment to neighboring properties;
  - (d) Whether the practical difficulty can be alleviated by a technically and economically feasible method other than a variance;
  - (e) How the practical difficulty occurred, including whether the landowner created the need for the variance; and
  - (f) In light of all of the above factors, whether allowing the variance will serve the interests of justice.
4. **TERM.** A variance expires on expiration of the CAPROC approval or permit associated with the variance request.
5. **VIOLATION.** A violation of any condition set forth in a variance is a violation of the District permit that it accompanies and automatically terminates the variance.

# RICE CREEK WATERSHED DISTRICT RULES

BOARD APPROVED: XXXX, 2024  
EFFECTIVE DATE: JANUARY 1, 2025

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CERTIFICATION OF  
REVISED WATERSHED DISTRICT RULES

I, Jessica Robertson, Secretary of the Rice Creek Watershed District Board of Managers, certify that the attached is a true and correct copy of the Rules of the Rice Creek Watershed District as revised and adopted by the Board of Managers on XXXX, 2024, and effective January 1, 2025.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Jessica Robertson, Secretary

ACKNOWLEDGEMENT

State of Minnesota  
County of Anoka

This instrument was acknowledged before me on XXXXX, 2024, by Jessica Robertson, as secretary of the Rice Creek Watershed District Board of Managers.

\_\_\_\_\_  
Notary Public

## GENERAL POLICY STATEMENT

The Rice Creek Watershed District (District) is a political subdivision of the State of Minnesota, established under the Minnesota Watershed Law. The District is also a watershed management organization as defined under the Minnesota Metropolitan Surface Water Management Act, and is subject to the directives and authorizations in that Act. Under the Watershed Law and the Metropolitan Surface Water Management Act, the District exercises a series of powers to accomplish its statutory purposes. The District's general statutory purpose is to conserve natural resources through development planning, flood control, and other conservation projects, based upon sound scientific principles.

As required under the Metropolitan Surface Water Management Act, the District has adopted a Watershed Management Plan, which contains the framework and guiding principles for the District in carrying out its statutory purposes. It is the District's intent to implement the Plan's principles and objectives in these rules.

Land alteration affects the rate, volume, and quality of surface water runoff which ultimately must be accommodated by the existing surface water systems within the District. The watershed is large, 186 square miles, and its outlet, Rice Creek, has limited capacity to carry flows. Flooding problems already occur in urbanized areas along Lower Rice Creek and other localized areas.

Land alteration and utilization also can degrade the quality of runoff entering the streams and waterbodies of the District due to non-point source pollution. Lake and stream sedimentation from ongoing erosion processes and construction activities reduces the hydraulic capacity of waterbodies and degrades water quality. Water quality problems already exist in many of the lakes and streams throughout the District.

Projects which increase the rate or volume of stormwater runoff can aggravate existing flooding problems and contribute to new ones. Projects which degrade runoff quality can aggravate existing water quality problems and contribute to new ones. Projects which fill floodplain or wetland areas can aggravate existing flooding by reducing flood storage and hydraulic capacity of waterbodies, and can degrade water quality by eliminating the filtering capacity of those areas.

In these rules the District seeks to protect the public health and welfare and the natural resources of the District by providing reasonable regulation of the modification or alteration of the District's lands and waters to reduce the severity and frequency of flooding and high water, to preserve floodplain and wetland storage capacity, to improve the chemical, physical and biological quality of surface water, to reduce sedimentation, to preserve waterbodies' hydraulic and navigational capacity, to preserve natural wetland and shoreland features, and to minimize public expenditures to avoid or correct these problems in the future.

The District rules include certain rules adopted to implement area-specific Comprehensive Wetland Protection and Management Plans (CWMP) as provided under the Wetland Conservation Act (WCA). CWMPs are designed to achieve identified wetland resource management needs within specific drainage areas of the watershed. These rules (within Rule F) apply to a delineated geographic area. Accordingly, a property owner intending an activity subject to District permitting requirements first should determine whether the activity will be governed by the CWMP rule.

## **RELATIONSHIP OF RICE CREEK WATERSHED DISTRICT TO MUNICIPALITIES**

The District recognizes that the primary control and determination of appropriate land uses is the responsibility of the municipalities. Accordingly, the District will coordinate permit application reviews involving land development with the municipality where the land is located.

The District intends to be active in the regulatory process to ensure that its water resources are managed in accordance with District goals and policies. Municipalities have the option of assuming a more active role in the permitting process after adoption of a local water management plan approved by the District and adoption and implementation of local ordinances consistent with the approved plan.

The District will also review projects sponsored or undertaken by municipalities and other governmental units, and generally will require permits for governmental projects impacting water resources of the District. These projects include but are not limited to, land development, road, trail, and utility construction and reconstruction.

The District desires to serve as technical advisor to the municipalities in their preparation of local surface water management plans and the review of individual development proposals prior to investment of significant public or private funds. To promote a coordinated review process between the District and the municipalities, the District encourages the municipalities or townships to contact the District early in the planning process.

## RULE A: DEFINITIONS

For the purposes of these rules, the following words have the meanings set forth below.

References in these rules to specific sections of the Minnesota Statutes include any amendments, revisions or recodification of those sections.

**As Constructed and Subsequently Improved Condition (ACSIC):** the legally established geometry of the public drainage system as constructed and subsequently modified through drainage code procedures.

**Beds of Protected Waters:** all portions of public waters and public waters wetlands located below the ordinary high water level.

**Best Management Practices (BMPs):** measures taken to minimize the negative effects on water resources and systems as referenced in the Minnesota Construction Site Erosion and Sediment Control Planning Handbook (BWSR, 1988), Protecting Water Quality in Urban Areas (MPCA, 1989) and the Minnesota Stormwater Manual (MPCA, 2006) or similar guidance documents.

**Better Site Design (BSD):** an approach to managing runoff that seeks to attain post development hydrology which mimics the undeveloped condition in terms of volume, rate and timing of runoff. The goals of Better Site Design include reducing the amount of impervious cover, increasing the amount of natural lands set aside for conservation, using pervious areas for more effective stormwater treatment, innovative grading and drainage techniques and through the review of every aspect of the project site planning process. Better Site Design involves techniques applied early in the design process to reduce impervious cover, conserve natural areas and use pervious areas to more effectively treat stormwater runoff and promote a treatment train approach to runoff management.

**Bridge:** a road, path, railroad or utility crossing over a waterbody, wetland, ditch, ravine, road, railroad, or other obstacle.

**Bridge Span:** the clear span between the inside surfaces of a bridge's terminal supports.

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

**Common Plan of Development:** A contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.

**Comprehensive Wetland Protection and Management Plan (CWPMP):** a locally developed comprehensive wetland protection and management plan approved by the Minnesota Board of Soil and Water Resources, pursuant to Minnesota Rules 8420.0830.

**Conditional Approval Pending Receipt of Changes (CAPROC):** approval of a District permit application that requires the applicant to provide further information or plan changes, or meet other stated conditions, prior to District issuance of the permit, See Rule B.5.

**Conveyance System:** Open channel, pipe or tile that is not a Public Drainage System. A portion of a conveyance system is defined as "regional" if it carries flows from a drainage area of greater than 200 acres.

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

**Critical Duration Flood Event:** the 100-year precipitation or snow melt event with a duration resulting in the maximum 100-year return period water surface elevation. The critical duration flood event is generally either the 100-year, 24-hour rainfall event as found in NOAA Atlas 14 or the ten-day snow melt event assumed to be 7.2 inches of runoff occurring on frozen ground (CN=100); however, other durations (e.g., 6-hour) may result in the maximum 100 year return period water surface elevation.

**CWPMP Contributing Drainage Area:** the areas tributary to CWPMP jurisdictional areas from which banked or off-site wetland replacement credits may be used to replace wetland impacts under Rule F.6(c). Figure 4 illustrates the Contributing Drainage Area; however, the precise boundary will be determined on a hydrologic basis at the time of permitting.

**Detention Basin:** any natural or man-made depression that stores stormwater runoff temporarily.

**Development:** any land-disturbing activity resulting in creation or reconstruction of impervious surface including, but not limited to, municipal road construction. Normal farming practices part of an ongoing farming operation shall not be considered development.

**District:** the Rice Creek Watershed District established under the Minnesota Watershed Law, Minnesota Statutes Chapter 103D.

**Effectively Drained Wetland:** an area whose natural hydrology has been altered to the point that it is no longer considered wetland.

**Emergency Overflow (EOF):** a primary overflow to pass flows above the design capacity around the principal outlet safely downstream without causing flooding.

**Excavation:** the displacement or removal of soil, sediment or other material.

**Floodplain:** the areas adjoining a waterbody that are inundated by the 100-year flood elevation.

**Floodway:** the channel of a watercourse, the bed of waterbasins and those portions of adjoining floodplains that must be kept free of encroachment to accommodate the 100-year flood.

**Floodway Fringe:** the area between the floodway and the boundary of the 100-year flood.

**Flood Management Zone:** land within the Rice Creek Watershed District draining to and entering Rice Creek downstream from the outlets of Baldwin Lake and Golden Lake.

**Freeboard:** vertical distance between the 100-year flood elevation or emergency overflow elevation of a waterbasin or watercourse and the elevation of the regulatory elevation of a structure.

**Governmental Project:** projects sponsored or paid for by a governmental agency.

**High Quality Wetland:** an existing wetland reflecting a score of “high/high” for the functional indicators “outlet condition” and “vegetative quality”, respectively, using MnRAM 3.4 (or most recent version) or other state approved wetland functional model.

**Impervious Surface:** a compacted surface or a surface covered with material (i.e., gravel, asphalt, concrete, Class 5, etc.) that increases the depth of runoff compared to natural soils and land cover. Including but not limited to roads, driveways, parking areas, sidewalks and trails, patios, tennis courts, basketball courts, swimming pools, building roofs, covered decks, and other structures.

**Infiltration:** water entering the ground through the soil.

**Land-Disturbing Activity:** any disturbance to the ground surface that, through the action of wind or water, may result in soil erosion or the movement of sediment into waters, wetlands or storm sewers or onto adjacent property. Land-disturbing activity includes but is not limited to the demolition of a structure or surface, soil stripping, clearing, grubbing, grading, excavating, filling and the storage of soil or earth materials. The term does not include normal farming practices as part of an ongoing farming operation.

**Landlocked Basin:** a waterbasin lacking an outlet at an elevation at or below the water level produced by the critical duration flood event, generally the 10-day snowmelt event.

**Local Government Unit (LGU):** the public body responsible for implementing the Minnesota Wetland Conservation Act, as defined at Minnesota Statutes §103G.005, subdivision 10e.

**Low Entry Elevation:** the elevation of the lowest opening in a structure.

**Low Floor Elevation:** the elevation of the lowest floor of a habitable or uninhabitable structure, which is often the elevation of the basement floor or walk-out level.

**Major Watercourse:** any watercourse having a tributary area of 200 acres or more.

**Marginally Degraded Wetland:** an existing wetland reflecting a score of “high/low” or “low/high” for the functional indicators “outlet condition” and “vegetative quality”, respectively, using MnRAM 3.4 (or most recent version) or other state approved wetland functional model.

**Mill, Reclamation and Overlay:** removal of the top layer(s) of an impervious surface (e.g. roadway, parking lot, sport court) by mechanical means, followed by the placement of a new layer of impervious surface, without exposure of the underlying native soil.

**Moderately Degraded Wetland:** an existing wetland reflecting a score of “medium/medium” or “low/medium” for the functional indicators “outlet condition” and “vegetative quality”, respectively, using MnRAM 3.4 (or most recent version) or other state approved wetland functional model.

**Municipal Separate Storm Sewer System (MS4):** the system of conveyances owned or operated by the District and designed or used to collect or convey storm water, and that is not used to collect or convey sewage.

**Municipality:** any city or township wholly or partly within the Rice Creek Watershed District.

**Native Vegetation:** plant species that are indigenous to Minnesota or that expand their range into Minnesota without being intentionally or unintentionally introduced by human activity and that are classified as native in the Minnesota Plant Database.

**NPDES Permit:** general permit authorization to discharge storm water associated with construction activity under the National Pollutant Discharge Elimination System (NPDES), issued by the Minnesota Pollution Control Agency.

**Non-Degraded Wetland:** an existing wetland reflecting a score of “high/medium” or “medium/high” for the functional indicators “outlet condition” and “vegetative quality”, respectively, using MnRAM 3.4 (or most recent version) or other state approved wetland functional model.

**Non-Invasive Vegetation:** plant species that do not typically invade or rapidly colonize existing, stable plant communities.

**NURP:** Nationwide Urban Runoff Program.

**100-Year Flood Elevation:** the elevation of water resulting from the critical duration flood event, as mapped under the RCWD District Wide Model and as the RCWD may refine on the basis of site-specific data.

**Ordinary High Water Level (OHW):** the highest water level elevation that has been maintained for a sufficiently long period of time to leave evidence upon the landscape. The OHW is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. If an OHW has been established for a waterbody by the Minnesota Department of Natural Resources, it will constitute the OHW under this definition.

**Outlet Control Structure:** a permanent structure with rigid overflow designed to control peak flow rates for the two-, 10-, and 100-year events. A riprap-covered berm is not considered a rigid overflow.

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

**Person:** any natural person, partnership, unincorporated association, corporation, limited liability company, municipal corporation, state agency, or political subdivision of the State of Minnesota.

**Political Subdivision:** a municipality, county, town, school district, metropolitan or regional agency, or other special purpose district of Minnesota.

**Pollutant:** Anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind. (This definition is for the purpose of Rule H only and is incorporated from the U.S. EPA model ordinance.)

**Public Drainage System:** Open channel, pipe tile, and appurtenant structures, within a public system as established or delineated under Minnesota Statutes Chapter 103E.

**Public Linear Project:** a project involving a roadway, sidewalk, trail, or utility not part of an industrial, commercial, institutional or residential development.

**Public Waters:** waters identified as public waters under Minnesota Statutes section 103G.005, Subdivision 15.

**Public Waters Wetlands:** all wetlands identified as public waters wetlands under Minnesota Statutes section 103G.005, subdivision 15a.

**Reconstruction:** removal of an impervious surface such that the underlying structural aggregate base is effectively removed and the underlying native soil exposed.

**Resource of Concern (ROC):** lakes identified in Figures C1A through C1E. If an area within the jurisdictional boundary of the District drains to a location outside the District without reaching an ROC, the District will identify the receiving water outside of the District that is the ROC for the purpose of the permit.

**Resource of Concern Drainage Area:** Land draining to a Resource of Concern. The Resource of

Concern drainage area excludes lands draining first to an upstream Resource of Concern.

**Seasonal High Water Table:** The highest known seasonal elevation of groundwater as indicated by redoximorphic features such as mottling within the soil.

**Severely Degraded Wetland:** an existing wetland reflecting a score of “medium/low” or “low/low” for the functional indicators “outlet condition” and “vegetative quality”, respectively, using MnRAM 3.4 (or most recent version) or other state approved wetland functional model.

**Site:** All contiguous lots of record on which activity subject to any District rule is proposed to occur or occurs, as well as all other lots of record contiguous to any such lot under common ownership at the time of the permitted activity. Linear right of way does not disturb contiguity. For public linear projects not occurring in conjunction with land development, the term means the portion of right-of-way defined by the project work limits.

**Single Family Residential Construction:** Construction of one or more single-family homes on individual lots of record.

**Storm Sewer:** a pipe system for stormwater conveyance.

**Stormwater Pond:** Constructed basins placed in the landscape to capture stormwater runoff.

**Structure:** a building with walls and a roof, excluding structures such as pavilions, playgrounds, gazebos, and garbage enclosures.

**Subdivision, Subdivide:** the legal separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots.

**Technical Evaluation Panel (TEP):** The body described in Minnesota Rules 8420.0240.

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

**Upland Habitat Area:** A non-wetland area that is contiguous with an existing, restored, or created wetland and scores “C” or better using the Natural Heritage Ranking methodology.

**Volume Control Practice:** A stormwater infiltration practice or stormwater reuse system.

**Waterbasin:** an enclosed natural depression with definable banks capable of containing water.

**Waterbody:** a waterbasin, watercourse or wetland as defined in these Rules.

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

**Wetland:** area identified as wetland under Minnesota Statutes section 103G.005, subdivision 19.

**Wetland Management Corridor (WMC):** A contiguous corridor encompassing high priority wetland resources identified at a landscape scale in Figure F1 and refined at the time of individual project permitting at a site level as provided for in Rule F, section 6.



## **RULE B: PROCEDURAL REQUIREMENTS**

1. **APPLICATION AND NOTICE OF INTENT REQUIRED.** Any person undertaking an activity for which a permit is required by these rules must obtain the required permit prior to commencing the activity that is subject to District regulation. Applications for permit must be submitted to the District in accordance with the procedures described in this rule. Required exhibits are specified for each substantive rule below. Applicants are encouraged to contact District staff before submission of an application to review and discuss application requirements and the applicability of specific rules to a proposed project. When the rules require a criterion to be met, or a technical or other finding to be made, the District makes the determination except where the rule explicitly states otherwise. The landowner or, in the District's judgment, easement holder, must sign the permit application and will be the permittee or a co-permittee. Where a public applicant must acquire land, a signed notice from the landowner acknowledging the application may be provided in lieu of the landowner's signature as a co-applicant.
2. **FORMS.** A District permit application or notice of intent, and District checklist of permit submittal requirements, must be submitted on the forms provided by the District. Applicants may obtain forms from the District office or website at <http://www.ricecreek.org/permits/permit-application/>.
3. **ACTION BY DISTRICT.** The District shall act on applications in accordance with Minnesota Statutes 15.99. A complete permit application includes all required information, exhibits, and fees. An application will not be ready for Board consideration unless all substantial technical questions have been addressed and all substantial plan revisions resulting from staff review have been accomplished. Permit decisions will be made by the Board except as delegated to the Administrator by written resolution.
4. **ISSUANCE OF PERMITS.** The permit will be issued only after applicant has satisfied all requirements and conditions for the permit, has paid all required District fees, and the District has received any required surety. Any outstanding Water Management District charges are due prior to permit issuance.
5. **CONDITIONAL APPROVAL PENDING RECEIPT OF CHANGES (CAPROC).** The District may conditionally approve an application, but a permit will not issue, and work may not begin, until all conditions precedent to issuance are fulfilled. All conditions must be satisfied within twelve (12) months of the date of conditional approval, but if the work commenced before permit issuance, conditions must be satisfied within the period stated in the conditional approval. If conditions are not satisfied within the specified period, the conditional approval will lapse and the applicant will be required to reapply for a permit and pay applicable permit fees.
6. **PERMIT TERM.** Permits are valid for an eighteen-month period from the date of issuance unless otherwise stated within the permit, suspended or revoked. To extend a permit, the permittee must apply to the District in writing, stating the reasons for the extension. Any plan changes, and related project documents must also be included in the extension application. The District must receive this application at least thirty (30) days prior to the permit expiration date. The District may impose different or additional conditions on a renewal or deny the renewal in the event of a material change in circumstances. On the first renewal, a permit will not be subject to change because of a change in District rules. An extended stormwater management permit for phased development may be requested.

7. **PERMIT ASSIGNMENT.** A permittee must be assigned when title to the property is transferred or, if the permittee is an easement holder, in conjunction with an assignment of the easement. The District must approve a permit assignment and will do so if the following conditions have been met:
- (a) The proposed assignee in writing agrees to assume all the terms, conditions and obligations of the permit as originally issued to the permittee;
  - (b) The proposed assignee has the ability to satisfy the terms and conditions of the permit as originally issued;
  - (c) The proposed assignee is not changing the project as originally permitted;
  - (d) There are no violations of the permit conditions as originally issued; and
  - (e) The District has received from the proposed assignee a substitute surety to secure performance of the assigned permit.

Until assignment is approved, the permittee of record as well as the current title owner will be responsible for permit compliance.

8. **PERMIT FEES.** The District will charge applicants permit fees in accordance with a schedule that will be maintained and revised from time to time by the Board of Managers to ensure that permit fees cover the District's actual costs of administering and enforcing permits. The current fee schedule may be obtained from the District office or the District website at <http://www.ricecreek.org/permits/permitting-information>. An applicant must submit the required permit fee to the District at the time it submits its permit application. No permit fee will be charged to the federal government, the State of Minnesota or a political subdivision of the State of Minnesota.

9. **PERFORMANCE SURETY.**

- (a) **POLICY.** It is the policy of the Board of Managers to conserve the District's water resources by assuring compliance with its rules. The District ensures compliance by requiring a bond or other surety to secure performance of permit conditions and compliance with District rules, as well as protection of District water resources in the event of noncompliance with permit conditions and/or rules. A project for which the applicant is the federal government, the State of Minnesota or a political subdivision of the State of Minnesota is exempt from surety requirements.
- (b) **PERFORMANCE SURETY REQUIREMENT.** A surety or sureties, when required, must be submitted in a form acceptable to the District. When a cash escrow is used, it will be accompanied by an escrow agreement bearing the original signature of the permittee and the party providing the escrow, if not the permittee. The District will require applicants to submit a surety or sureties in accordance with a schedule of types and amounts that will be maintained and revised from time to time by the Board of Managers. The current schedule of surety amounts and acceptable forms and sources as well as surety agreement may be obtained from the District office or the District website at <http://www.ricecreek.org/permits/permitting-information>.

An applicant may submit a bond or an irrevocable letter of credit to the District to secure performance of permit conditions for activities for which the required surety amount as determined above is in excess of \$5,000; however, the first \$5,000 of any performance surety must be submitted to the District as a cash escrow. The bond or letter of credit must be submitted before the permit is issued.

(c) **FORM AND CONTENT OF BOND OR LETTER OF CREDIT.**

- (1) The bond or irrevocable letter of credit must be in a form acceptable to the District and from a surety licensed to do business in Minnesota.
- (2) The bond or irrevocable letter of credit must be in favor of the District and conditioned upon the performance of the party obtaining the bond or letter of credit of the activities authorized in the permit, and compliance with all applicable laws, including the District's rules, the terms and conditions of the permit and payment when due of any fees or other charges required by law, including the District's rules. The bond or irrevocable letter of credit must provide that if the bond conditions are not met, the District may make a claim against the bond or letter of credit.

- (d) **RELEASE OF PERFORMANCE SURETY.** Upon written notification from permittee of completion of the permitted project, the District will inspect the project to determine if it is constructed in accordance with the terms of the permit and District rules. If the project is completed in accordance with the terms of the permit and District rules and the party providing the performance surety does not have an outstanding balance of money owed to the District for the project, including but not limited to unpaid permit fees, the District will release the bond or letter of credit, or return the cash surety if applicable. Final inspection compliance includes, but is not limited to, confirmation that all erosion and sediment control BMPs and stormwater management features have been constructed or installed as designed and are functioning properly, and completion of all required monitoring of wetland mitigation areas. The District may return a portion of the surety if it finds that a portion of the surety is no longer warranted to assure compliance with District rules.

## **RULE C: STORMWATER MANAGEMENT**

1. **POLICY.** It is the policy of the Board of Managers to manage stormwater and snowmelt runoff on a local, regional and watershed basis; to promote natural infiltration of runoff throughout the District to preserve flood storage and enhance water quality; and to address the unique nature of flooding issues within the Flood Management Zone, through the following principles:
  - (a) Maximize water quality and flood control on individual project sites through Better Site Design practices and stormwater management.
  - (b) Minimize land use impacts and improve operational and maintenance efficiency by siting stormwater BMPs, when needed, regionally unless local resources would be adversely affected.
  - (c) Treat stormwater runoff before discharge to surface waterbodies and wetlands, while considering the historic use of District water features.
  - (d) Ensure that future peak rates of runoff are less than or equal to existing rates.
  - (e) Reduce the existing conditions peak rate of discharge along Lower Rice Creek and the rate of discharge and volume of runoff reaching Long Lake, to preserve the remaining floodplain storage volume within Long Lake and mitigate the historic loss of floodplain storage.
  - (f) Preserve remaining floodplain storage volume within the Rice Creek Watershed to minimize flood potential throughout the District.
2. **REGULATION.** A permit incorporating an approved stormwater management plan is required under this rule for development, consistent with the following:
  - (a) A permit is required for subdivision of an area exceeding one acre. This includes subdivision for single-family residential, multi-unit residential, commercial, industrial, or institutional development.
  - (b) A permit is required for development, other than Public Linear Projects, that creates or reconstructs 10,000 square feet or more of impervious surface. This threshold is cumulative of all impervious surface created or reconstructed as a part of a Common Plan of Development.
  - (c) For Public Linear Projects, a permit is required when the sum of new and reconstructed impervious surface equals or exceeds one acre as a part of a Common Plan of Development.
3. **STORMWATER MANAGEMENT PLAN REQUIRED.** A stormwater management plan shall be submitted with the permit application for a project equaling or exceeding the threshold of Section 2. The stormwater management plan shall fully address the design and function of the project proposal and the effects of altering the landscape relative to the direction, rate of discharge, volume of discharge and timing of runoff.
4. **MODELING REQUIREMENTS FOR STORMWATER MANAGEMENT PLANS.**
  - (a) A hydrograph method or computer program based on NRCS Technical Release #20 (TR-20) and subsequent guidance must be used to analyze stormwater runoff for the design or analysis of discharge and water levels within and off the project site. The runoff from pervious and impervious areas within the model shall be modeled separately.

- (b) In determining Curve Numbers for the post-development condition, the Hydrologic Soil Group (HSG) of areas within construction limits shall be shifted down one classification for HSG C (Curve Number 80) and HSG B (Curve Number 74) and ½ classification for HSG A (Curve Number 49) to account for the impacts of grading on soil structure unless the project specifications incorporate soil amendments in accordance with District Soil Amendment Guidelines. This requirement only applies to that part of a site that has not been disturbed or compacted prior to the proposed project.
- (c) The analysis of flood levels, storage volumes, and discharge rates for waterbodies and stormwater management basins must include the NOAA Atlas 14 values, as amended, using a nested rainfall distribution (e.g. MSE 3), for the 2 year, 10 year and 100 year return period, 24-hour rainfall events and the 10-day snowmelt event (Curve Number 100), in order to identify the critical duration flood event. The District Engineer may require analysis of additional precipitation durations to determine the critical duration flood event. Analysis of the 10-day snowmelt event is not required for stormwater management detention basins with a defined outlet elevation at or below the 100 year return period, 24-hour rainfall event elevation.

## **5. STORMWATER MANAGEMENT PLAN FRAMEWORK.**

- (a) When an existing regional BMP is proposed to manage stormwater runoff, the applicant must demonstrate the BMP is subject to maintenance obligations enforceable by the District. The project's proposed total impervious surface area must be equal to or less than the impervious surface allocated within the original approved stormwater plan for that site. If an impervious surface area was not specified within the original approved stormwater plan for the site, the applicant shall show that the BMP was designed and constructed to manage the stormwater runoff from the project site and the applicant has permission to utilize the required portion of BMP capacity.
- (b) Stormwater management plans, with the exception of those for single family residential developments, must specify the proposed impervious surface area draining to each BMP for each land parcel
- (c) A combination of Stormwater BMPs may be used to meet the requirements of section(s) 6, 7, and 8.
- (d) A local surface water management plan or ordinance of the local land use authority may contain standards or requirements more restrictive than these rules. The stormwater management plan must conform to the local surface water management plan or ordinance of the local land use authority.
- (e) The proposed project must not adversely affect off-site water levels or resources supported by local recharge, or increase the potential for off-site flooding, during or after construction.
- (f) A landlocked basin may be provided an outlet only if:
  - (1) It conforms with District Rule F, as applicable.
  - (2) The outlet is above the critical duration flood event
  - (3) It does not create adverse downstream flooding or water quality conditions as a result of the change in the rate, volume or timing of runoff or a change in drainage

patterns.

- (g) A municipality or public road authority may prepare a comprehensive stormwater management plan setting forth an alternative means of meeting the standards of sections 6 and 7 within a defined subwatershed. Once approved by the District and subject to any stated conditions, the plan will apply in place of those sections.

## 6. WATER QUALITY TREATMENT.

- (a) Development creating or reconstructing impervious surface shall apply Better Site Design (BSD) techniques as outlined in the MPCA Minnesota Stormwater Manual as amended ([www.stormwater.pca.mn.us](http://www.stormwater.pca.mn.us)). A BSD guidance document and checklist is available on the District's website.
- (b) Sediment shall be managed on-site to the maximum extent practicable before runoff resulting from new or reconstructed impervious surface enters a waterbody or flows off-site.

### (c) WATER QUALITY TREATMENT STANDARD.

- (1) The required water quality treatment volume standard for all projects, except Public Linear Projects, is determined as follows:

$$\text{Required Water Quality Treatment Volume (ft}^3\text{)} = \text{Area of New or Reconstructed Impervious Surface (ft}^2\text{)} \times 1.1 \text{ (in)} \div \text{TP Removal Factor from Table C1} \div 12 \text{ (in/ft)}$$

- (2) The required water quality treatment volume standard for Public Linear Projects is determined as follows:

$$\begin{aligned} \text{Required Water Quality Treatment Volume (ft}^3\text{)} &= \text{\{Greater of\}} \\ &\quad \text{Area of New Impervious Surface (ft}^2\text{)} \times 1.0 \text{ (in)} \div 12 \text{ (in/ft)} \\ &\quad \text{\{OR\}} \\ &\quad \text{Sum Area of New and Reconstructed Impervious Surface (ft}^2\text{)} \times 0.5 \text{ (in)} \div 12 \text{ (in/ft)} \end{aligned}$$

- (3) For alternative Stormwater BMPs not found in Table C1 or to deviate from TP Removal Factors found in Table C1, the applicant may submit a TP Removal Factor, expressed as annual percentage removal efficiency, based on supporting technical data, for District approval.
- (4) Stormwater runoff treated by the BMP during a rain event will not be credited towards the treatment requirement.

**TABLE C1. TP REMOVAL FACTORS FOR PROPERLY DESIGNED BMPs.**

BMP	BMP Design Variation	TP Removal Factor *
Infiltration **	Infiltration Feature	1.00
Water Reuse **	Irrigation	1.00
Biofiltration	Underdrain	0.65
Filtration	Sand or Rock Filter	0.50
Stormwater Ponds ***	Wet Pond	N/A***

Source: Adapted from Table 7.4 from the Minnesota Stormwater Manual, MPCA.

\* Refer to MPCA Stormwater Manual for additional information on BMP performance.

Removal factors shown are average annual TP percentage removal efficiencies intended solely for use in comparing the performance equivalence of various BMPs.

\*\* These BMPs reduce runoff volume.

\*\*\* Stormwater ponds must provide 2.5" of dead storage as required by Section 9(d)

**(d) BMP TYPE AND LOCATION.**

- (1) For a public linear project, BMPs must be located on-site and the required water quality volume must be achieved to the extent feasible. The road authority must obtain right-of-way or adjacent land for treatment, if reasonable. For other projects, the water quality volume must be treated on-site to the extent it is cost-effective, and otherwise may be treated off-site in accordance with subsection 6(d)(3), below.
- (2) If infiltration is feasible on site (see Table C2), BMPs, whether on- or off-site, must provide for infiltration to meet the standard of subsections 6(c) and 6(d)(1). To the extent infiltration is not feasible on-site, any BMP may be used to meet the standard.
- (3) Off-site and/or regional BMPs must be sited in the following priority order:
  - (i) In a downstream location that intercepts the runoff volume leaving the project site prior to the Resource of Concern.
  - (ii) Anywhere within the same Resource of Concern Drainage Area (see Figures C1A-C1E) that results in no greater mass of Total Phosphorus reaching the resource of concern than on-site BMPs.

**TABLE C2. SPECIFIC CONDITIONS THAT MAY RESTRICT INFILTRATION.**



Type	Specific Project Site Conditions	Required Submittals
Potential Contamination	Potential Stormwater Hotspots (PSH)	PSH Locations and Flow Paths
	Contaminated Soils	Documentation of Contamination Soil Borings
Physical Limitations	Low Permeability Soils (HSG C & D)	Soil Borings
	Bedrock within three vertical feet of bottom of infiltration area	Soil Borings
	Seasonal High Water Table within three vertical feet of bottom of infiltration area	Soil Borings High Water Table
	Karst Areas	Geological Mapping or Report
Land Use Limitations	Utility Locations	Site Map
	Nearby Wells (Private and/or Municipal) *	Well Locations

\* Refer to Minnesota Stormwater Manual or the Minnesota Department of Health for setback requirements.

- (e) To the extent feasible, all stormwater runoff from new and reconstructed impervious surface must be captured and directed to a water quality BMP. For runoff not captured, TSS must be removed to the maximum extent practicable.

For a public linear project:

- Runoff from undisturbed impervious surface within the right-of-way that is not otherwise being treated may be treated in lieu of treating new or reconstructed impervious surface; and
- Water quality treatment volume for reconstructed impervious surface, if required by subsection 2(c), must be provided only to the extent feasible.

For other projects:

- Runoff from undisturbed impervious surface on site may be treated in lieu of treating new or reconstructed impervious surface, provided the runoff from that surface drains to the same Resource of Concern as the new/reconstructed surface not being treated; and
- The area not treated for phosphorus may not exceed 15 percent of all new or reconstructed impervious surface. Total water quality treatment volume for the project must be provided in aggregate pursuant to subsections 6(c) and 6(d).

- (f) For single family residential development, the runoff from impervious surface other than parking or driving surface that, in the District's judgment, cannot reasonably be routed to a stormwater BMP is considered to meet the standard of subsection 6(c) by infiltration if:

- (1) The length of the flow path across the impervious surface is less than the length of

- the flow path across the pervious surface to which it discharges; and
  - (2) The pervious surface is vegetated and has an average slope of five percent or less; and
  - (3) The District finds, on the basis of land use, that loss of the pervious surface is highly unlikely, or the permit is conditioned on a recorded covenant protecting the pervious surface.
- (g) Banked “volume control” credits and debits established by public entities for Public Linear Projects with the RCWD prior to July 1, 2013 will continue to be recognized and enforced until all credits are used or all debits are fulfilled. Existing credits and debits may be used and fulfilled, respectively, anywhere within the applicant’s jurisdiction on any public project.

## 7. PEAK STORMWATER RUNOFF CONTROL.

- (a) Peak stormwater runoff rates for the proposed project at the project site boundary, in aggregate, must not exceed existing peak runoff rates for the 2-year, 10-year and 100-year, 24-hour rainfall events, or a different critical event duration at the discretion of the District Engineer. Notwithstanding, peak runoff may be controlled to this standard in a regional facility consistent with paragraph 7(b). Aggregate compliance for all site boundary discharge will be determined with respect to runoff not managed in a regional facility.
- (b) Any increase in a critical duration flood event rate at a specific point of discharge from the project site must be limited and cause no adverse downstream impact. Table C3 shows the maximum curve numbers that may be utilized for existing condition modeling of those project site areas not covered by impervious surface.
- (c) Within the Flood Management Zone only (see Figure C2), peak runoff rates for the 2, 10 and 100 year 24-hour rainfall events shall be reduced to ≤80% of the existing condition. This requirement does not apply if the project is a Public Linear Project.

**TABLE C3. CURVE NUMBERS FOR EXISTING CONDITION PERVIOUS AREAS.**

Hydrologic Soil Group	Runoff Curve Number *
A	39
B	61
C	74
D	80

\* Curve numbers from NRCS Technical Release #55 (TR-55).

**TABLE C4. HYDROPERIOD STANDARDS.**

Wetland Susceptibility Class	Permitted Storm Bounce for 2-Year and 10-Year Event *	Inundation Period for 2-Year Event *	Inundation Period for 10-Year Event *
Highly susceptible	Existing	Existing	Existing
Moderately susceptible	Existing plus 0.5 ft	Existing plus 1 day	Existing plus 7 days
Slightly susceptible	Existing plus 1.0 ft	Existing plus 2 days	Existing plus 14 days
Least susceptible	No limit	Existing plus 7 days	Existing plus 21 days

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Source: Adapted from: Stormwater and Wetlands Planning and Evaluation Guidelines for Addressing Potential Impacts of Urban Stormwater and Snowmelt Runoff on Wetlands.

\* Duration of 24-hours for the return periods utilizing NOAA Atlas 14.

## **8. BOUNCE AND INUNDATION PERIOD.**

- (a) The project must meet the hydroperiod standards found in Table C4 with respect to all down-gradient wetlands.
- (b) Wetland Susceptibility Class is determined based on wetland type, as follows:
  - (1) Highly susceptible wetland types include: sedge meadows, bogs, coniferous bogs, open bogs, calcareous fens, low prairies, coniferous swamps, lowland hardwood forests, and seasonally flooded waterbasins.
  - (2) Moderately susceptible wetland types include: shrub-carrs, alder thickets, fresh (wet) meadows, and shallow & deep marshes.
  - (3) Slightly susceptible wetland types include: floodplain forests and fresh wet meadows or shallow marshes dominated by cattail giant reed, reed canary grass or purple loosestrife.
  - (4) Least susceptible wetland includes severely degraded wetlands. Examples of this condition include cultivated hydric soils, dredge/fill disposal sites and some gravel pits.

## **9. DESIGN CRITERIA.**

- (a) Infiltration BMPs must be designed to provide:
  - (1) Adequate pretreatment measures to remove sediment before runoff enters the primary infiltration area;
  - (2) Drawdown within 48-hours from the end of a storm event. Soil infiltration rates shall be based on the appropriate HSG classification and associated infiltration rates (see Table C5). The least permeable layer of the soil boring column must be utilized in BMP calculations (see Design Criteria (e)). Alternate infiltration rates based on a recommendation and certified measurement testing from a licensed geotechnical engineer or licensed soil scientist will be considered. Infiltration area will be limited to horizontal areas subject to prolonged wetting;
  - (3) A minimum of three feet of separation from the Seasonal High Water Table;
  - (4) An outlet control structure to convey the 2-year, 10-year & 100-year frequency events if the BMP is intended to provide rate control; and
  - (5) Consideration of the Minnesota Department of Health guidance document Evaluating Proposed Stormwater Infiltration Projects in Vulnerable Wellhead Protection Areas. Documentation shall be submitted to support implementation of this guidance document and will be accepted at the discretion of the District Engineer.
- (b) Water Reuse BMPs must conform to the following:
  - (1) Design for no increase in stormwater runoff from the irrigated area or project site.
  - (2) Required design submittal packages for water reuse BMPs must include:
    - (i) An analysis using the RCWD's Stormwater Reuse Spreadsheet;
    - (ii) Documentation demonstrating adequacy of soils, storage system, and delivery

system; and

(iii) Operations plan.

(3) Approved capacity of an irrigation practice will be based on:

- (i) An irrigation rate of 0.5 inches per week over the irrigated pervious area(s) or the rate identified through the completion of the Metropolitan Council Stormwater Reuse Guide 'Water Balance Tool Irrigation Constant Demand' Spreadsheet (whichever is less); or as approved by the District; and
- (ii) No greater than a 26 week (April 15<sup>th</sup> to October 15<sup>th</sup>) growing season.

An additional water quality treatment capacity beyond 0.5 inches per week may be recognized under a subsection C.5(f) plan or a C.13 phased development permit based on an average of three consecutive years of monitoring records of volume irrigated and pursuant to a monitoring plan approved by the District.

(4) Approved capacity of a non-irrigation practice shall be based on the rate identified through the completion of the Metropolitan Council Stormwater Reuse Guide 'Water Balance Tool Non-Irrigation Constant Demand' spreadsheet, or as approved by the District.

(c) Biofiltration/filtration BMPs must be designed to provide:

- (1) Adequate pretreatment measures to remove sediment before runoff enters the primary biofiltration area;
- (2) Drawdown within 48-hours from the end of a storm event;
- (3) A minimum of 12-inches of organic material or sand above the rock trench or drain tile system; and
- (4) Drain tile system must be designed above the Seasonal High Water Table.
- (5) An outlet control structure to convey the 2-year, 10-year & 100-year frequency events if the biofiltration/filtration BMP is intended to provide rate control.

**TABLE C5. SOIL TYPE AND INFILTRATION RATES.**

Hydrologic Soil Group	Soil Textures	Corresponding Unified Soil Classification		Infiltration Rate (in/hr)
<b>A</b>	Gravel Sandy Gravel Silty Gravels	<b>GW</b>	Well-graded gravels, sandy gravels	<b>1.63</b>
		<b>GP</b>	Gap-graded or uniform gravels, sandy gravels	
		<b>GM</b>	Silty gravels, silty sandy gravels	
		<b>SW</b>	Well-graded gravelly sands	
	Sand Loamy Sand Sandy Loam	<b>SP</b>	Gap-graded or uniform sands, gravelly sands	<b>0.8</b>
<b>B</b>	Loam Silt Loam	<b>SM</b>	Silty sands, silty gravelly sands	<b>0.45</b>
		<b>MH</b>	Micaceous silts, diatomaceous silts, volcanic ash	<b>0.3</b>
<b>C</b>	Sandy Clay Loam	<b>ML</b>	Silts, very fine sands, silty or clayey fine sands	<b>0.2</b>
<b>D</b>	Clay Loam Silty Clay Loam Sandy Clay Silty Clay Clay	<b>GC</b>	Clayey gravels, clayey sandy gravels	<b>0.06</b>
		<b>SC</b>	Clayey sands, clayey gravelly sands	
		<b>CL</b>	Low plasticity clays, sandy or silty clays	
		<b>OL</b>	Organic silts and clays of low plasticity	
		<b>CH</b>	Highly plastic clays and sandy clays	
		<b>OH</b>	Organic silts and clays of high plasticity	

Source: Adapted from the "Design infiltration rates" table from the Minnesota Stormwater Manual, MPCA, (January 2014).

- (d) Stormwater ponds must be designed to provide:
- (1) Water quality features consistent with NURP criteria and accepted design standards for average and maximum depth;
  - (2) A permanent wet pool with dead storage at least equal to the runoff volume from a 2.5-inch rainfall over the area tributary to the pond;
  - (3) An outlet structure capable of preventing migration of floating debris and oils for at least the one-year storm;
  - (4) An identified emergency overflow spillway sufficiently stabilized to convey flows greater than the 100-year critical storm event; and
  - (5) An outlet control structure to convey the 2-year, 10-year & 100-year frequency events.
- (e) Underground stormsewer systems must be designed to provide inspection and access ports sufficient to inspect and maintain the system.
- (f) Soil borings (utilizing ASTM D5921 and D2488, as amended) shall be considered for design purposes, and provided to the District, for each proposed BMP. The soil borings must be taken to a depth of at least 5 feet below the bottom of the proposed feature. For an application proposing an infiltration area, the applicant will identify, describe and delineate group, texture and redoximorphic features of site soils to assess percolation of stormwater runoff from impervious areas. Field evaluation of soil permeability in accordance with ASTM 3385 procedure for double ring infiltrometer testing or other approved method is encouraged.
- (g) An outfall structure discharging directly to a wetland, public water or public water wetland must incorporate a stilling-basin, surge-basin, energy dissipater, placement of ungrouted natural rock riprap or other feature to minimize disturbance and erosion of natural shoreline and bed resulting from stormwater discharges. Where feasible, outfall structures are to be located outside of the natural feature.

**TABLE C6. LOW FLOOR AND LOW ENTRY FREEBOARD REQUIREMENTS.**

Freeboard	100-Year Flood Elevations		Detention Basins, Wetlands & Stormwater Ponds		Infiltration and Biofiltration Basins			Rain Gardens*
	100-yr	EOF	100-yr	EOF	Bottom	100-yr	EOF	EOF
<b>Low Floor</b>	2.0 ft	1.0 ft	0.0 ft	NA	0.0 ft	NA	NA	NA
<b>Low Entry</b>	NA	NA	2.0 ft	1.0 ft	NA	2.0 ft	1.0 ft	0.5 ft

\* Rain gardens are "off-line" infiltration or bio-filtration basins.

- (h) All new residential, commercial, industrial and other habitable or non-habitable structures, and all stormwater BMPs, must be constructed so that the lowest floor and lowest entry elevations comply with Table C6. A structure on residential property not intended for human habitation and not attached to a habitable structure is exempt from this requirement, if the District finds it impractical and the landowner files a notation on the property title that the structure does not meet the requirement.

The low entry freeboard criterion of Table C6 may be deemed met when the structure does not have the required vertical separation, but is protected from surface flooding to the required elevation by a berm or other natural or constructed topographic feature capable of providing flood protection.

Within a landlocked basin, minimum low floor elevations must be at least one foot above the surveyed basin run out elevation. Where a structure is proposed below the run out elevation of a landlocked basin, the low floor elevation will be a minimum of two feet above the highest water level of either the 10-day snowmelt event or back-to-back 1 00-year, 24-hour rainfalls. Aerial photos, vegetation, soils, and topography may be used to derive a "normal" water elevation for the purpose of computing the basin's 100-year elevation.

- (i) All stormwater management structures and facilities must be designed for maintenance access and be properly operated and maintained in perpetuity to assure that they continue to function as designed. The maintenance responsibility must be memorialized in a document executed by the property owner in a form acceptable to the District and filed for record on the deed. Alternatively, a public permittee may meet its perpetual maintenance obligation by executing a programmatic or project-specific maintenance agreement with the District. Regional ponds owned by public entities that are only used to meet the runoff rate requirements of the District rule do not need a maintenance agreement with the District.
- (j) The permittee must use construction best practices so that the facility as constructed will conform to design specifications and the soil and surrounding conditions are not altered in a way adverse to facility performance.
- (k) Before work under the permit is deemed complete, the permittee must submit as-built plans demonstrating that at the time of final stabilization, stormwater facilities conform to design specifications. If at any time the District finds that the stormwater facility is not performing as designed, on District request the permittee must undertake reasonable investigation to determine the cause of inadequate performance.

## **10. EASEMENTS.**

- (a) Before permit issuance, the permittee must, submit a copy of any plat or easement required by the local land use authority establishing drainage or flowage over stormwater management facilities, stormwater conveyances, ponds, wetlands, on-site floodplain up to the 100-year flood elevation, or any other hydrologic feature.
- (b) Before permit issuance, the permittee must convey to the District an easement to the public drainage system specifying a District right of maintenance access over the right of way of the public drainage system as identified within the public drainage system record. If the right of way of the public drainage system is not described within the record, then the easement shall be conveyed with the following widths:
- For tiled/piped systems, 40 feet wide perpendicular to the direction of flow, centered on the tile line or pipe;



- For open channel systems, a width that includes the channel and the area on each side of the channel within 20 feet of top of bank. For adequate and safe access, where top of bank is irregular or obstruction exists, the District may specify added width.

- (c) Public Linear Projects and public property are exempt from the public drainage system easement requirement of Section 10(b).
- (d) For projects within the District's Comprehensive Wetland Protection and Management Plan (CWMPMP) areas, the Wetland Management Corridor (WMC) boundary delineation, buffer and easement requirements found at Rule F.6 apply. As stated in Rule F.5(e), Public Linear Projects are not subject to the requirements of Rule F.6.

**11. REQUIRED EXHIBITS.** The following exhibits must accompany the permit application. The vertical datum must clearly be labeled on each plan set.

- (a) An erosion & sediment control plan and, for projects that require an NPDES permit, a Storm Water Pollution Prevention Plan.
- (b) Property lines and delineation of lands under ownership of the applicant.
- (c) Delineation of the subwatershed contributing runoff from off-site, proposed and existing subwatersheds onsite, emergency overflows, and drainageways.
- (d) Geotechnical analysis including soil borings at all proposed stormwater management facility locations utilizing ASTM D5921 and D2488, as amended.
- (e) Proposed and existing stormwater facilities' location, alignment and elevation.
- (f) Delineation of existing on-site wetland, marshes and floodplain areas.
- (g) Identification of existing and proposed normal, ordinary high and 100-year water elevations on-site.
- (h) Identification of existing and proposed contour elevations within the project site .
- (i) Construction plans and specifications of all proposed stormwater management facilities, including design details for outlet control structures.
- (j) Stormwater runoff volume and rate analyses for the 2- 10- and 100-year critical events, existing and proposed conditions utilizing NOAA Atlas 14.
- (k) All hydrologic, water quality and hydraulic computations completed to design the proposed stormwater management facilities.
- (l) Narrative including a project description, discussion of BMP selection, and revegetation plan for the project site.
- (m) Other project site-specific submittal requirements as may be required by the District.

**12. EXCEPTIONS.**

- (a) A permit is not required for single family residential construction on an individual lot of record, if the proposed impervious surface of the lot is less than 10,000 square feet, excluding

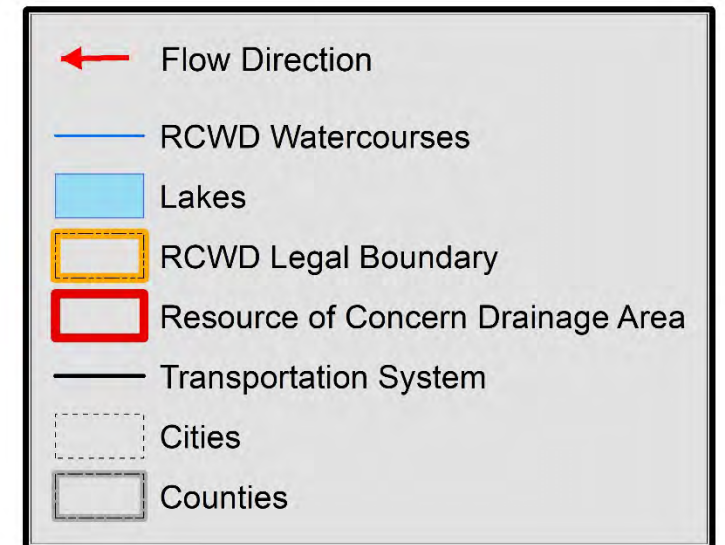
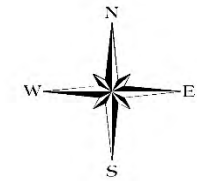
the driveway. If the lot is within a development previously approved by the District, the construction must conform to the previous approval.

- (b)** Rule C requirements do not apply to sidewalks and trails 10 feet wide or less that are bordered down-gradient by vegetated open space or vegetated filter strip with a minimum width of 5 feet.
- (c)** Rule C requirements do not apply to Bridge Spans and Mill, Reclamation & Overlay projects.
- (d)** Rule C.6 and C.7 requirements do not apply to single family residential subdivisions creating seven or fewer lots that:

  - (1)** Establish no new public roadway; and
  - (2)** Include no private roadway/driveway serving three or more lots.
- (e)** Requirements of subsections 10(b) and 10(d) to not apply to the retained part of a privately owned tract that is subdivided to convey land to a public agency for a public purpose.
- (f)** Criteria of Section 7 may be waived if the project site discharges directly to a water body with large storage capacity (such as a public water), the volume discharged from the project site does not contribute to a downstream flood peak, and there are no downstream locations susceptible to flooding.
- (g)** Section 6 and Section 7 are waived for a portion of a project that paves a gravel roadway if the right-of-way ditch is maintained and does not discharge a concentrated flow directly to a wetland or another sensitive water body.

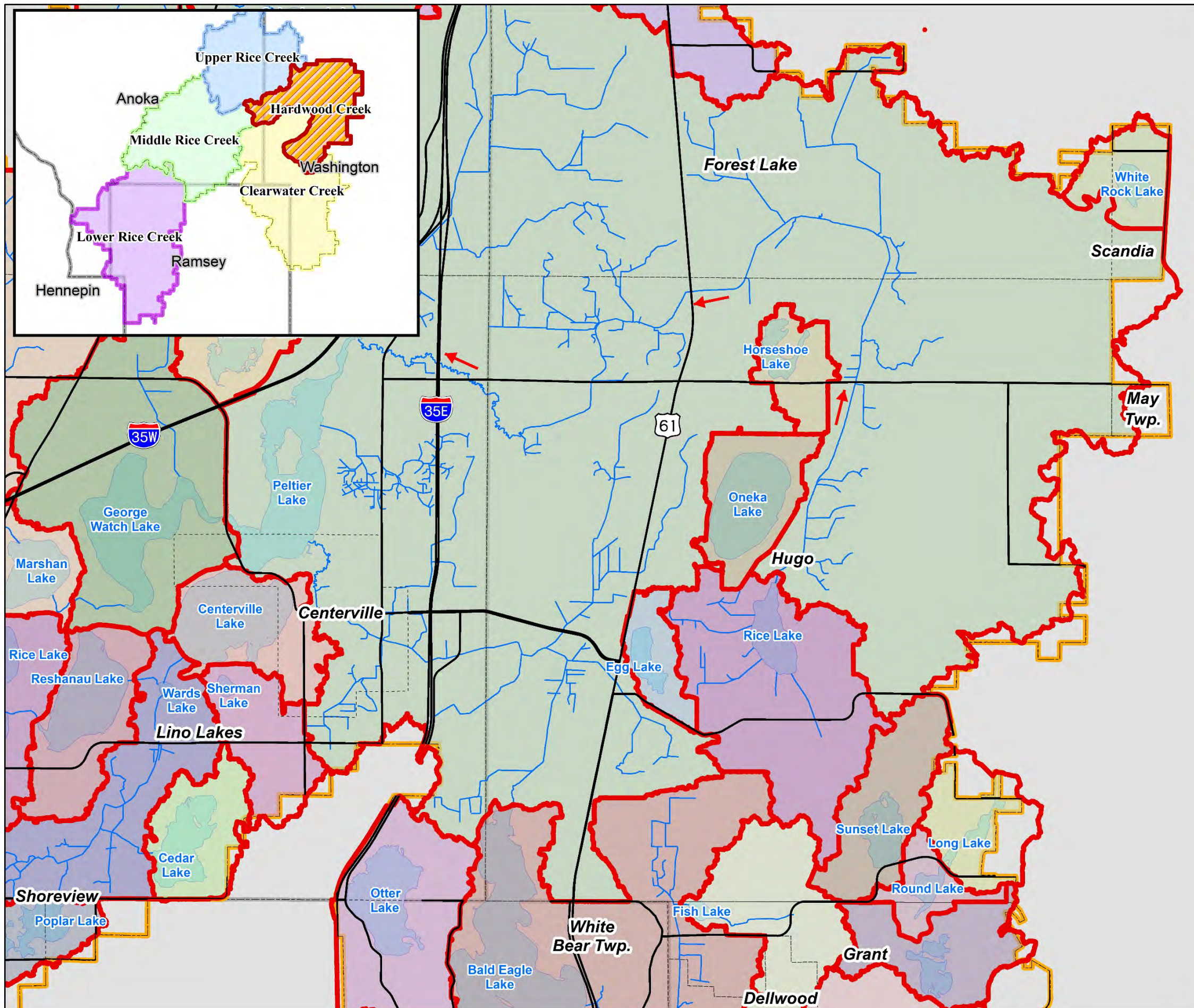


# Rice Creek Watershed District



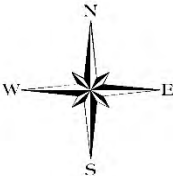
Sources: RCWD, TLG, MN DOT

**C1A: Resources of Concern  
Drainage Area of Hardwood Creek**





# Rice Creek Watershed District



Flow Direction

RCWD Watercourses

Lakes

RCWD Legal Boundary

Resource of Concern Drainage Area

Transportation System

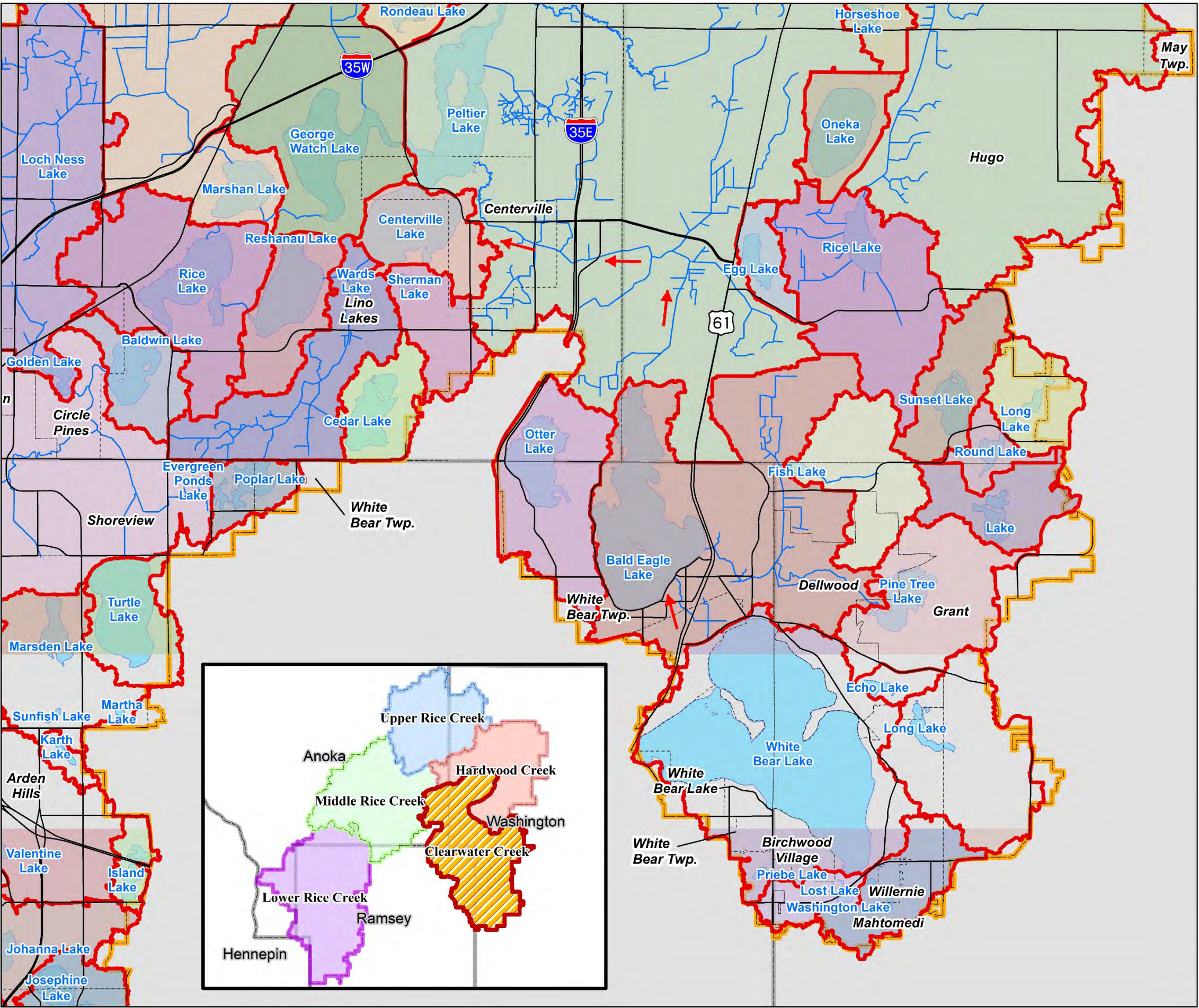
Cities

Counties



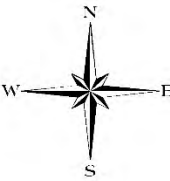
Sources: RCWD, TLG, MN DOT

**C1B: Resources of Concern  
Drainage Area of Clearwater Creek**





# Rice Creek Watershed District



Flow Direction

RCWD Watercourses

Lakes

RCWD Legal Boundary

Resource of Concern Drainage Area

Transportation System

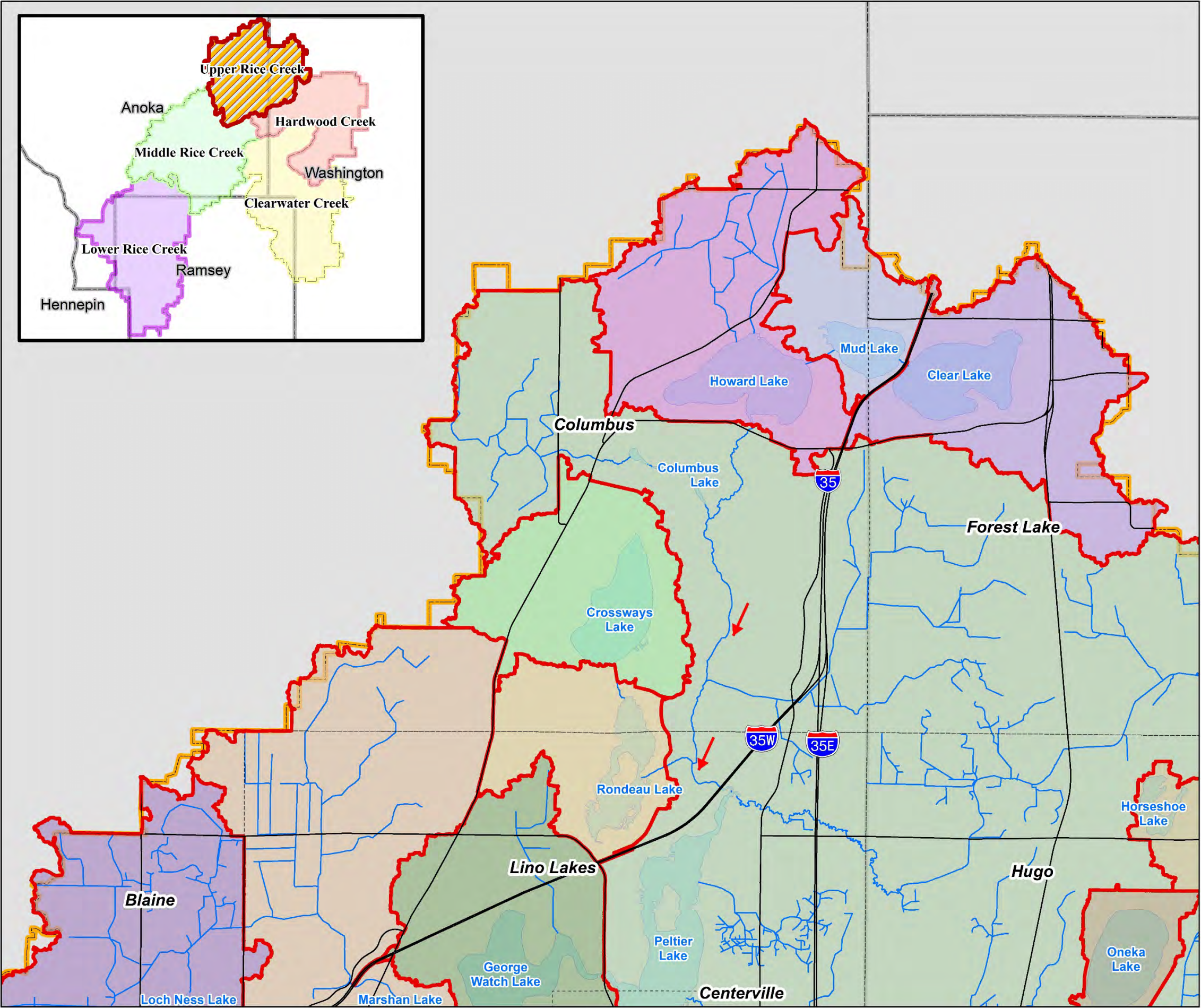
Cities

Counties

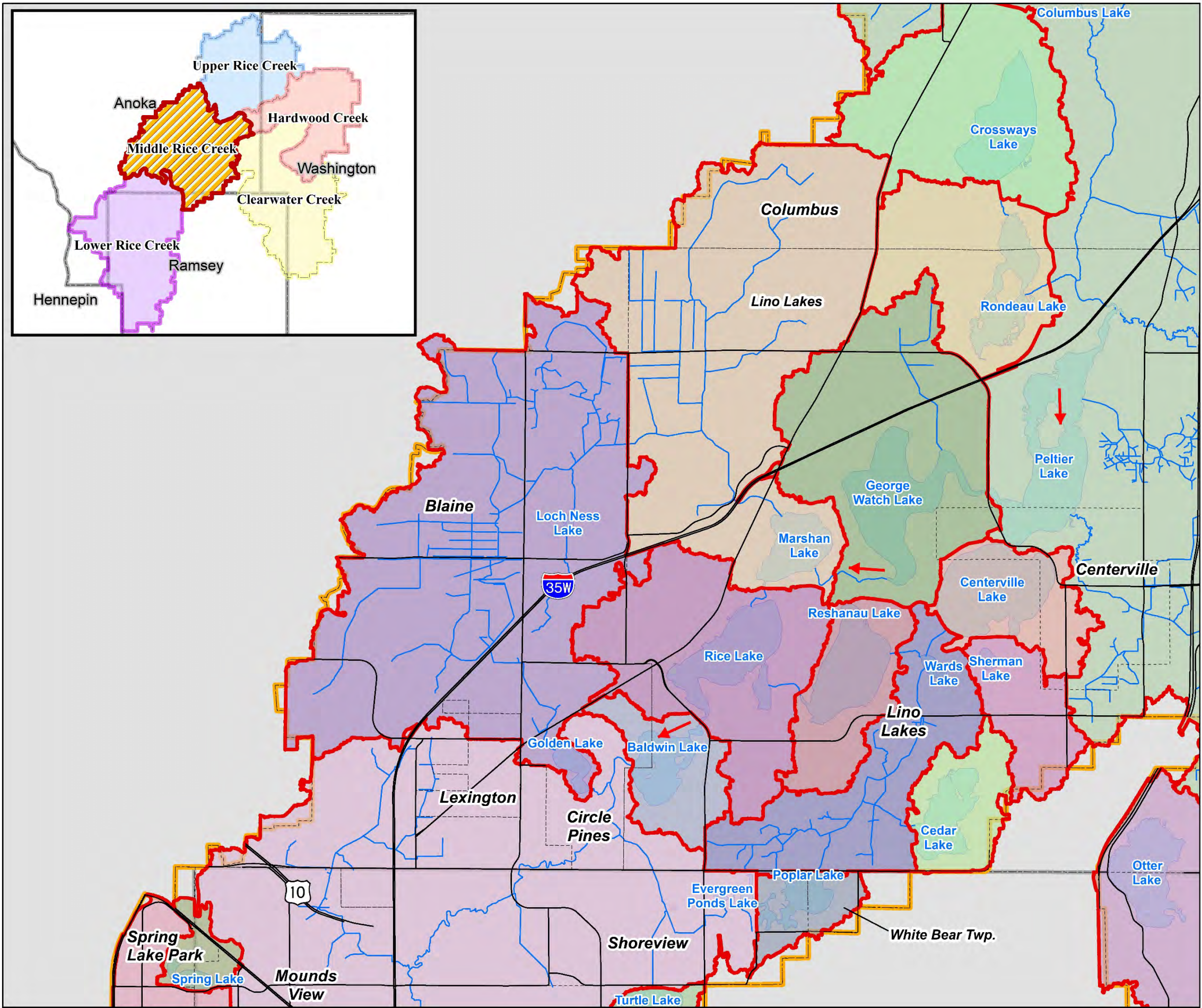


Sources: RCWD, TLG, MN DOT

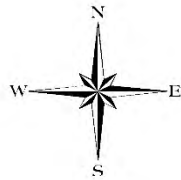
**C1C: Resources of Concern  
Drainage Area of Upper Rice Creek**







# Rice Creek Watershed District



Flow Direction

RCWD Watercourses

Lakes

RCWD Legal Boundary

Resource of Concern Drainage Area

Transportation System

Cities

Counties



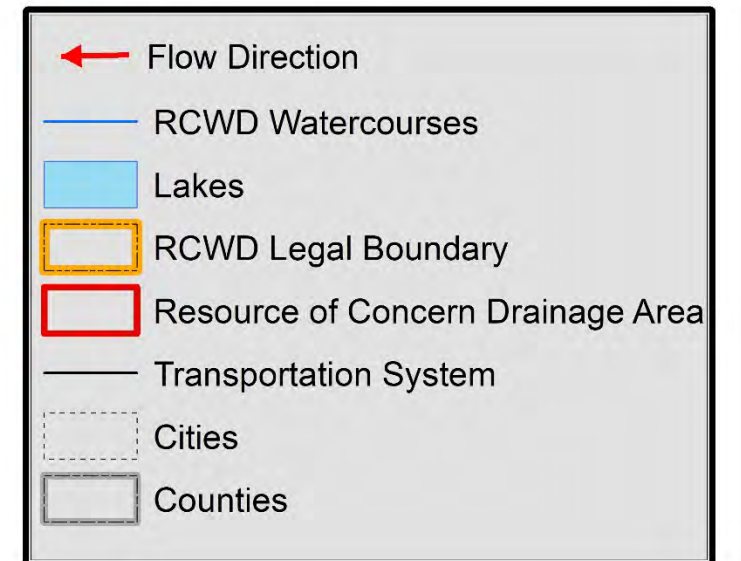
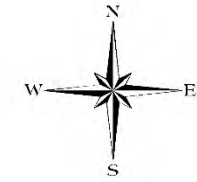
Sources: RCWD, TLG, MN DOT

**C1D: Resources of Concern  
Drainage Area of Middle Rice Creek**



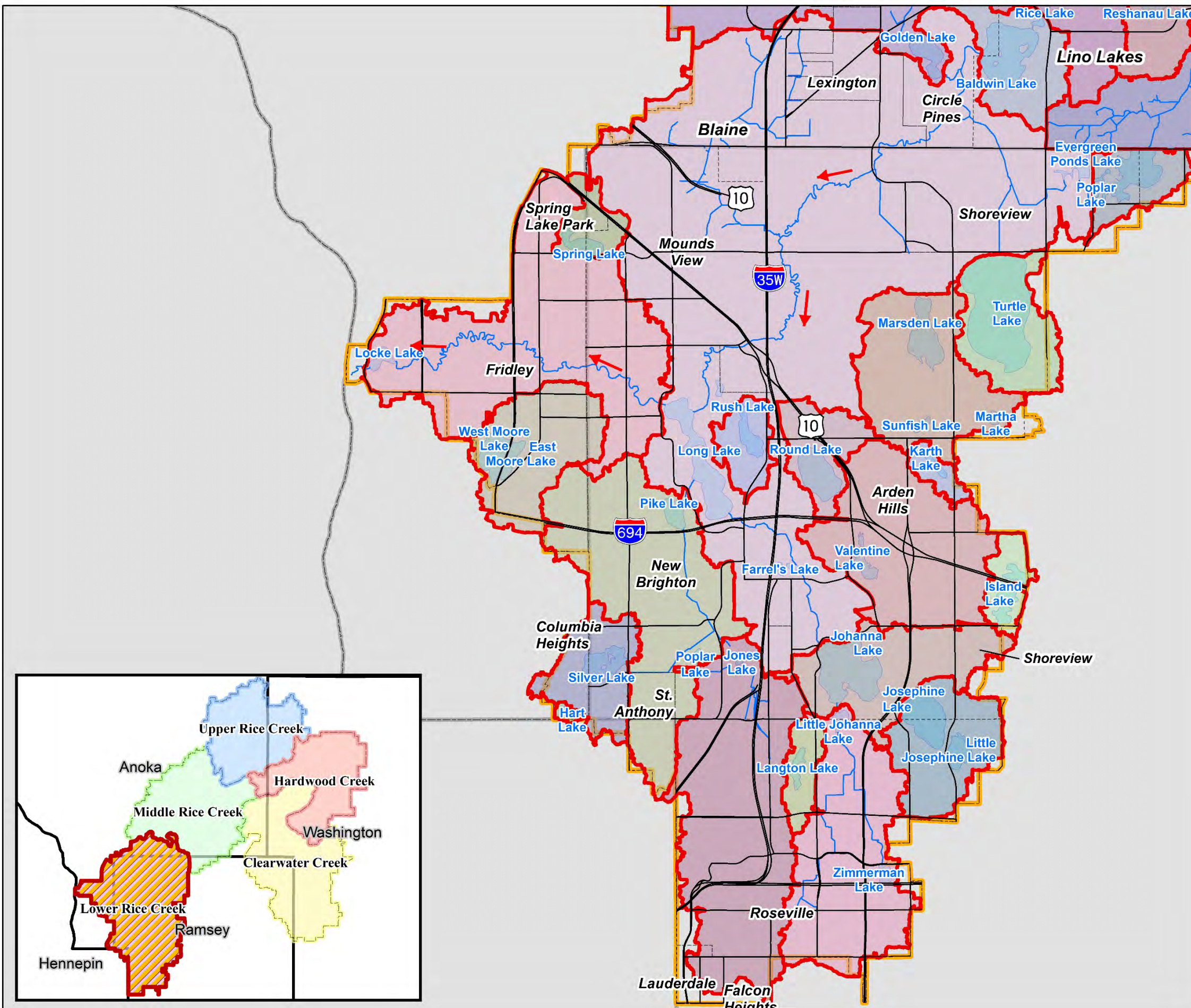


# Rice Creek Watershed District

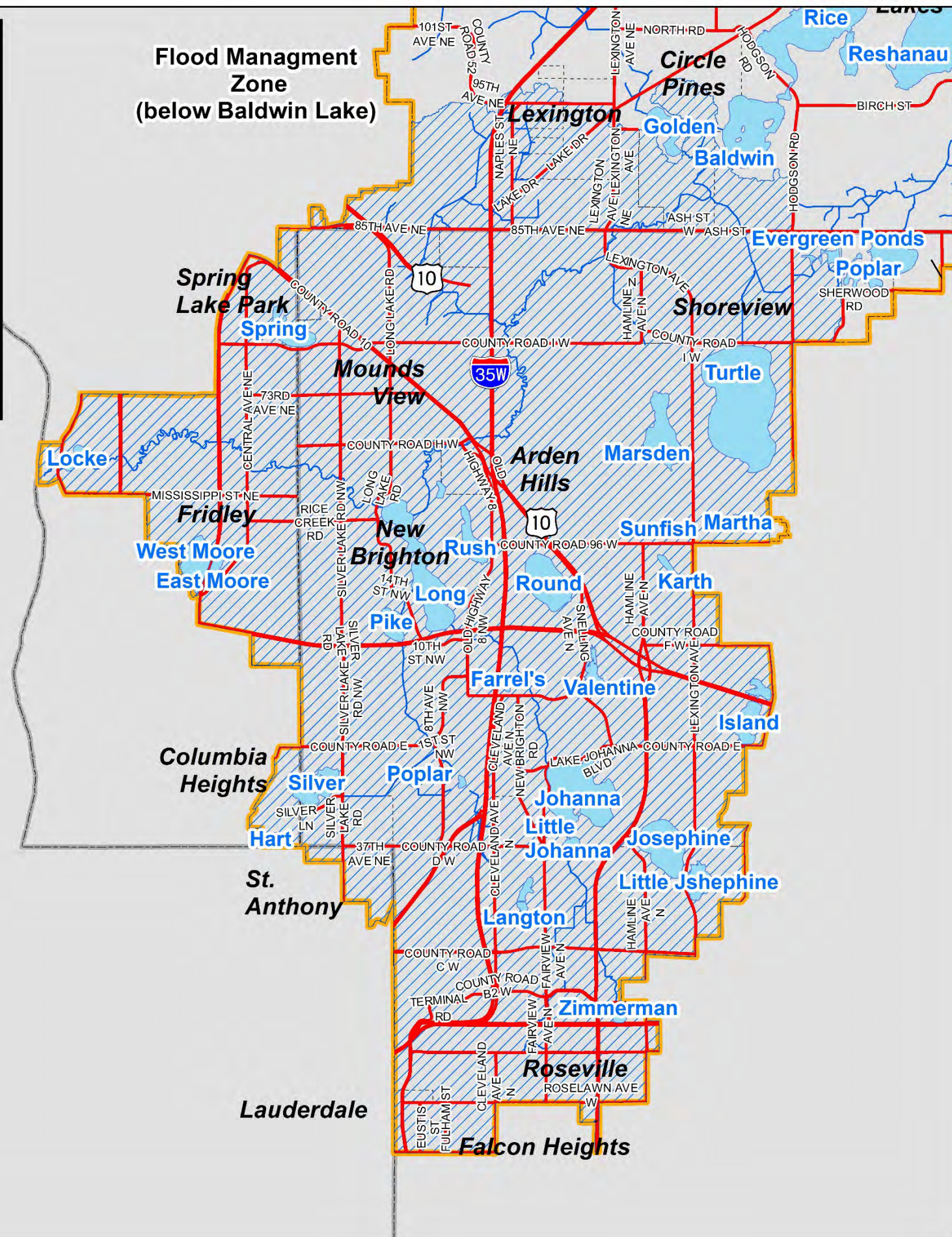
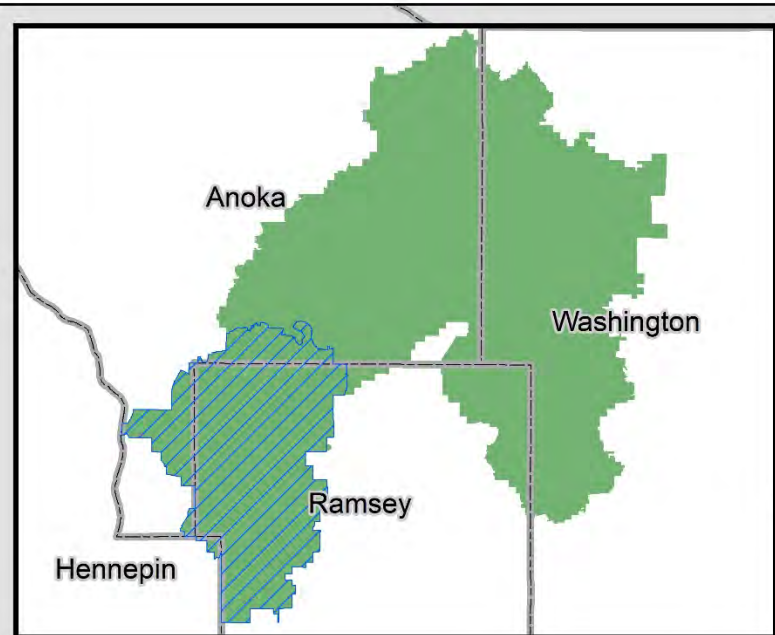


Sources: RCWD, TLG, MN DOT

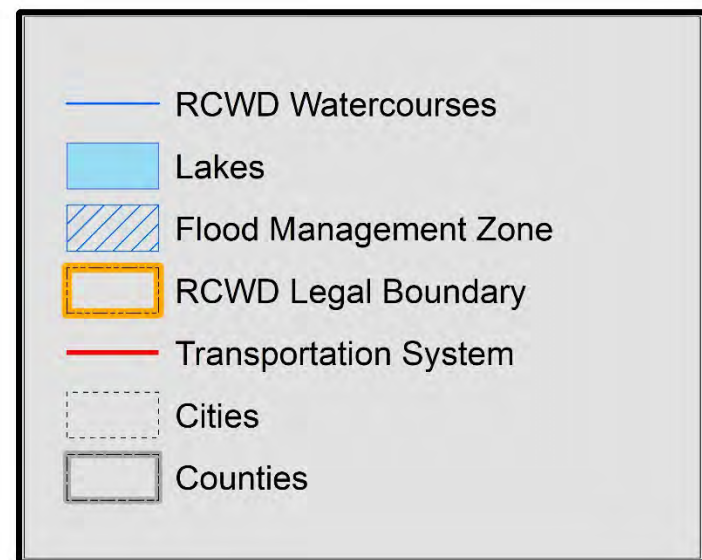
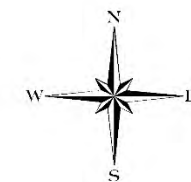
## C1E: Resources of Concern Drainage Area of Lower Rice Creek







# Rice Creek Watershed District



Sources: RCWD, TLG, MN DOT

**C2: Flood Management Zone**





## **RULE D: EROSION AND SEDIMENT CONTROL PLANS**

1. **POLICY.** It is the policy of the Board of Managers to prevent erosion of soil into surface water systems by requiring erosion and sediment control for land-disturbing activities.
2. **REGULATION.**
  - (a) A permit under this rule is required for:
    - (1) Surface soil disturbance or removal of vegetative cover on one acre or more of land;
    - (2) Surface soil disturbance or removal of vegetative cover on 10,000 square feet or more of land, if any part of the disturbed area is within 300 feet of and drains to a lake, stream, wetland or public drainage system; or
    - (3) Any land-disturbing activity that requires a District permit under a rule other than Rule D.
  - (b) A person disturbing surface soils or removing vegetative cover on more than 5,000 square feet of land, or stockpiling on-site more than fifty (50) cubic yards of earth or other erodible material, but not requiring a permit under the criteria of this rule, must submit a notice in advance of disturbance on a form provided by the District and conform the activity to standard best practices established by and available from the District.
  - (c) Rule D does not apply to normal farming practices that are part of an ongoing farming operation.
  - (d) Rule D does not apply to milling, reclaiming or overlay of paved surfaces that does not expose underlying soils.
  - (e) A permit is not required under this rule to remove sediment from an existing constructed stormwater management basin. However, a notice of intent must be filed with the District prior to initiating the work.
3. **DESIGN CRITERIA FOR EROSION CONTROL PLANS.** The applicant must prepare and receive District approval of an Erosion and Sediment Control that meets the following criteria:
  - (a) For projects disturbing more than ten acres, compliance with the standards of Rule C, subsections 7(a) and (b) must be demonstrated.
  - (b) Natural project site topography and soil conditions must be specifically addressed to reduce erosion and sedimentation during construction and after project completion.
  - (c) Site erosion and sediment control practices must be consistent with the Minnesota Stormwater Manual, and District-specific written design guidance and be sufficient to retain sediment on-site.
  - (d) The project must be phased to minimize disturbed areas and removal of existing vegetation, until it is necessary for project progress.
  - (e) The District may require additional erosion and sediment control measures on areas with a slope to a sensitive, impaired or special water body, stream, public drainage system or wetland to assure retention of sediment on-site.

- (f) The plan must include conditions adequate to protect facilities to be used for post-construction stormwater infiltration.

- 4. REQUIRED EXHIBITS.** The following exhibits must accompany the permit application.
- (a) An existing and proposed topographic map which clearly indicates all hydrologic features and areas where grading will expose soils to erosive conditions. The Plan must also indicate the direction of all project site runoff.
  - (b) Tabulation of the construction implementation schedule.
  - (c) Name, address and phone number of party responsible for maintenance of all erosion and sediment control measures.
  - (d) Quantification of the total disturbed area.
  - (e) Clear identification of all temporary erosion and sediment control measures that will remain in place until permanent vegetation is established. Examples of temporary measures include, but are not limited to, seeding, mulching, sodding, silt fence, erosion control blanket, and stormwater inlet protection devices.
  - (f) Clear identification of all permanent erosion control measures such as outfall spillways and riprap shoreline protection, and their locations.
  - (g) Clear Identification of staging areas, as applicable.
  - (h) Documentation that the project applicant has applied for the NPDES Permit from the Minnesota Pollution Control Agency (MPCA), when applicable.
  - (i) A stormwater pollution prevention plan for projects that require an NPDES Permit.
  - (j) Identification and location of any floodplain and/or wetland area. A more precise delineation may be required depending on the proximity of the proposed disturbance to a wetland and/or floodplain.
  - (k) Other project site-specific submittal requirements as may be required by the District.
- 5. CONSTRUCTION ACTIVITY REQUIREMENTS.** Site disturbance must conform to the District-approved erosion and sediment control plan, to any other conditions of the permit, and to the standards of the NPDES construction general permit, as amended, regarding construction-site erosion and sediment control.
- 6. INSPECTIONS.**
- (a) The permittee shall be responsible for inspection, maintenance and effectiveness of all erosion and sediment control measures until final soil stabilization is achieved or the permit is assigned (see Rule B), whichever comes first.
  - (b) The District may inspect the project site and require the permittee to provide additional erosion control measures as it determines conditions warrant.
- 7. FINAL STABILIZATION.**
- (a) Erosion and sediment control measures must be maintained until final vegetation and ground cover is established to a density of 70%.
  - (b) Temporary erosion and sediment control BMPs will be removed after disturbed areas have been permanently stabilized.



## **RULE E: FLOODPLAIN ALTERATION**

1. **POLICY.** It is the policy of the Board of Managers to:
  - (a) Utilize the best information available in determining the 100-year flood elevation.
  - (b) Preserve existing water storage capacity within the 100-year floodplain of all waterbodies and wetlands in the watershed to minimize the frequency and severity of high water.
  - (c) Enhance floodplain characteristics that promote the natural attenuation of high water, provide for water quality treatment, and promote groundwater recharge.
  - (d) Preserve and enhance the natural vegetation existing in floodplain areas for aquatic and wildlife habitat.
2. **REGULATION.** No person may alter or fill land within the floodplain of any lake, stream, wetland, public drainage system, major watercourse, or public waters without first obtaining a permit from the District. Shoreline/streambank restoration or stabilization, approved in writing by the District or County Conservation District to control erosion and designed to minimize encroachment and alteration of hydraulic forces, does not require a permit under this Rule.
3. **CRITERIA FOR FLOODPLAIN ALTERATION.**
  - (a) Fill within the floodplain is prohibited unless compensatory floodplain storage volume is provided within the floodplain of the same water body, and within the permit term. The volume within on-site stormwater ponds is not considered compensatory floodplain storage unless that volume is non-coincident with the 100-year flood peak. If offsetting storage volume will be provided off-site, it shall be created before any floodplain filling by the applicant will be allowed.
  - (b) Any structure or embankments placed within the floodplain will be capable of passing the 100-year flood without increasing the elevation of the 100-year flood profile.
  - (c) Compensatory floodplain storage volume is not required to extend an existing culvert, modify an existing bridge approach associated with a Public Linear Project, or place spoils adjacent to a public or private drainage channel during channel maintenance, if there is no adverse impact to the 100-Year Flood Elevation.
  - (d) Compensatory floodplain storage volume is not required for deposition of up to 100 cubic yards of fill per parcel, if there is no adverse impact to the 100-Year Flood Elevation. For public road authorities, this exemption applies on a per-project, per floodplain basis.
  - (e) Floodplain alteration is subject to the District's Wetland Alteration Rule F, as applicable.
  - (f) Structures to be built within the 100-year floodplain will have two feet of freeboard between the lowest floor and the 100-year flood profile. A structure on residential property not intended for human habitation and not attached to a habitable structure is exempt from this requirement if the District finds it impractical and the landowner files a notation on the property title that the structure does not meet the requirement.
4. **DRAINAGE EASEMENTS.**
  - (a) Before permit issuance, the permittee must submit a copy of any plat or easement

required by the local land use authority establishing drainage or flowage over stormwater management facilities, stormwater conveyances, ponds, wetlands, on-site floodplain up to the 100-year event, or any other hydrological feature.

- (b) Before permit issuance, the permittee must convey to the District an easement to the public drainage system specifying a District right of maintenance access over the right of way of the public drainage system as identified within the public drainage system record. If the right of way of the public drainage system is not described within the record, then the easement shall be conveyed with the following widths:
- For tiled/piped systems, 40 feet wide perpendicular to the direction of flow, centered on the tile line or pipe;
  - For open channel systems, a width that includes the channel and the area on each side of the channel within 20 feet of top of bank. For adequate and safe access, where top of bank is irregular or obstruction exists, the District may specify added width.
- (c) Public Linear Projects and public property are exempt from the public drainage system easement requirement of Section 4(b).

**5. REQUIRED EXHIBITS.** The following exhibits must accompany the permit application.

- (a) Site plan showing property lines, delineation of the work area, existing elevation contours of the work area, ordinary high water elevations, and 100-year flood elevations. All elevations must be reduced to NAVD 1988 datum. The datum must clearly be labeled on each plan set.
- (b) Grading plan showing any proposed elevation changes.
- (c) Determination by a professional engineer or qualified hydrologist of the 100-year flood elevation before and after the project.
- (d) Computation of change in flood storage capacity resulting from proposed grading.
- (e) Erosion and sediment control plan in accordance with District Rule D.
- (f) Other project site-specific submittal requirements as may be required by the District.

## **RULE F: WETLAND ALTERATION**

1. **POLICY.** It is the policy of the Board of Managers to:
  - (a) Maintain no net loss in the quantity, quality, and biological diversity of Minnesota's existing wetlands.
  - (b) Increase the quantity, quality, and biological diversity of Minnesota's wetlands by restoring or enhancing diminished or drained wetlands.
  - (c) Avoid direct or indirect impacts from activities that destroy or diminish the quantity, quality, and biological diversity of wetlands.
  - (d) Replace wetland values where avoidance of activity is not feasible or prudent.
  - (e) Accomplish goals of the adopted Comprehensive Wetland Protection and Management Plans (CWPMPs).
2. **REGULATION.** No person may fill, drain, excavate or otherwise alter the hydrology of a wetland without first obtaining a permit from the District.
  - (a) The provisions of the Minnesota Wetland Conservation Act (WCA), Minnesota Statutes §§103G.221 through 103G.2372, and its implementing rules, Minnesota Rules 8420, apply under this Rule and govern District implementation of WCA as well as District regulation of non-WCA wetland impacts, except where the Rule provides otherwise.
  - (b) This rule does not regulate alteration of incidental wetlands as defined in Minnesota Rules chapter 8420, as amended. An applicant must demonstrate that the subject wetlands are incidental.
  - (c) An activity for which a No-Loss decision has been issued under Minnesota Rules chapter 8420 is subject to the applicable requirements of chapter 8420 but not otherwise subject to this Rule.
  - (d) Clearing of vegetation, plowing or pasturing in a wetland as part of an existing and ongoing farming operation is not subject to this rule unless the activity results in draining or filling the wetland.
3. **LOCAL GOVERNMENT UNIT.** The District intends to serve as the "Local Government Unit" (LGU) for administration of the Minnesota Wetland Conservation Act (WCA), except where a particular municipality in the District has elected to assume that role in its jurisdictional area or a state agency is serving as the local government unit on state land. Pursuant to its regulatory authority under both WCA and watershed law, when the District is serving as the LGU it will require wetland alteration permits for wetland-altering activities both as required by WCA and otherwise as required by this Rule.
4. **CRITERIA.**
  - (a) When the District is serving as the LGU, it will regulate wetland alterations that are not subject to WCA rules and do not qualify for an exemption at Minnesota Rules 8420.0420 or do not meet the "no-loss" criteria of Minnesota Rules 8420.0415 according to the rules and procedures of WCA, except as specifically provided in this Rule. Alteration under

this paragraph requires replacement at a minimum ratio of 1:1 to ensure no loss of wetland quantity, quality or biological diversity. Replacement activities will be credited consistent with the actions eligible for credit in Minnesota Rules 8420.0526.

- (b) A wetland alteration not subject to WCA that does not change the function of a wetland and results in no net loss of wetland quantity, quality or biological diversity is exempt from the replacement requirement in Section 4(a) of this Rule.
- (c) The wetland replacement exemptions in Minnesota Rules 8420.0420 are applicable under this Rule, except as modified within CWPMP areas under Section 6.
- (d) Alterations in wetlands for the purposes of wildlife enhancement must be certified by the local Soil and Water Conservation District as compliant with the criteria described in Wildlife Habitat Improvements in Wetlands: Guidance for Soil and Water Conservation Districts and Local Government Units.

**5. ADDITIONAL DISTRICT REQUIREMENTS.** In addition to the wetland replacement plan components and procedures in WCA, the following more specific requirements will apply to the District's review of WCA and, except as indicated, non-WCA wetland alterations:

- (a) Applicants must adequately explain and justify each individual contiguous wetland alteration area in terms of impact avoidance and minimization alternatives considered.
- (b) Where the wetland alteration is proposed in the context of land subdivision, on-site replacement wetland and buffer areas, as well as buffers established under section 6(e), must:
  - (1) Be located within a platted outlot.
  - (2) Be protected from future encroachment by a barrier (i.e. stormwater pond, infiltration basin, existing wetland, tree line, fence, trail or other durable physical feature).
  - (3) Have boundaries posted with signage approved by the District identifying the wetland/buffer protected status. On installation, the applicant must submit a GIS shapefile, or CADD file documenting sign locations.
- (c) The upland edge of new wetland creation must have an irregular and uneven slope. The slope must be no steeper than 8:1 over the initial 25 feet upslope from the projected wetland elevation contour along at least 50 percent of the upland/wetland boundary and no steeper than 5:1 along the remaining 50 percent of the boundary.
- (d) The District will not allow excess replacement credits to be used for replacement on a different project unless the credits were designated for wetland banking purposes in the original application in accordance with WCA rules and have been deposited into the WCA wetland banking system.
- (e) Replacement by banking must use credits from banks within the District, unless credits are unavailable or the applicant demonstrates that credit price deviates substantially from a market condition.
- (f) Within the boundary of a District developed and BWSR approved CWPMP (see Figure F1), Rule F and WCA are further modified to include Section 6. Public Linear Projects located in a CWPMP jurisdictional area and not part of an industrial, commercial,

institutional or residential development are not subject to Section 6 of this Rule.

- 6. COMPREHENSIVE WETLAND PROTECTION AND MANAGEMENT PLANS.** All District Comprehensive Wetland Protection and Management Plans (CWPMPs) are incorporated into this Rule. The specific terms of Rule F will govern, but if a term of Rule F is susceptible to more than one interpretation, the District will apply the interpretation that best carries out the intent and purposes of the respective CWPMP.

**(a) PRE-APPLICATION REVIEW.**

- (1)** In cases where wetland fill, excavation or draining, wholly or partly, is contemplated, the applicant is encouraged to submit a preliminary concept plan for review with District staff and the Technical Evaluation Panel (TEP) before submitting a formal application. The following will be examined during pre-application review:
  - (i)** Sequencing (in accordance with WCA and Federal Clean Water Act requirements, reducing the size, scope or density of each individual proposed action, and changing the type of project action to avoid and minimize wetland impacts).
  - (ii)** Wetland assessment.
  - (iii)** Applying Better Site Design principles as defined in Rule A.
  - (iv)** Integrating buffers and other barriers to protect wetland resources from future impacts.
  - (v)** Exploring development code flexibility, including conditional use permits, planned unit development, variances and code revisions;
  - (vi)** Reviewing wetland stormwater susceptibility (see Rule C.8) and coordinating Wetland Management Corridor (WMC) establishment with existing adjacent WMCs.
- (2)** At the pre-application meeting, the applicant shall provide documentation sufficient to assess project alternatives at a concept level and such other information as the District specifically requests.
- (3)** On receipt of a complete application, the District will review and act on the application in accordance with its procedural rules and WCA procedures.
- (4)** The TEP shall be consulted on decisions related to replacement plans, exemptions, no-loss, wetland boundaries and determination of the WMC.

**(b) WETLAND MANAGEMENT CORRIDORS.**

- (1)** At the time of permitting, the preliminary Wetland Management Corridor (WMC) boundary (see Figure F1) will be adjusted in accordance with subsections F(6)(b)(2) and (3), below. Notwithstanding, within the Columbus CWPMP, commercial/Industrial zoned areas within Zone 1 will remain outside of the WMC (see Figure F2).
- (2)** The applicant must delineate the site level WMC when wetland impacts are proposed:
  - (i)** Within the Preliminary WMC; or
  - (ii)** Within 150 feet of the Preliminary WMC and greater than the applicable



*de minimis* exemption amount, per Minnesota Rules 8420.0420;

If the proposed project does not meet criterion (b)(2)(i) or (b)(2)(ii), above, an applicant may accept the Preliminary WMC boundary on the project site, as made more precise on a parcel basis by the use of landscape-scale delineation methods applied or approved by the District and need not comply with Section 6(b)(3) and 6(b)(4).

- (3) The applicant shall complete a wetland functional analysis using MnRAM 3.4 (or most recent version) when defining the site level WMC boundary.
  - (i) The WMC boundary will be expanded to encompass any delineated wetland lying in part within the preliminary WMC and any wetland physically contiguous with (not separated by upland from) the landscape-scale WMC.
  - (ii) The District, in its judgment, may retract the WMC boundary on the basis of site-level information demonstrating that the retraction is consistent with the associated CWPMP and does not measurably diminish the existing or potential water resource functions of the WMC. In making such a decision, the District may consider relevant criteria including wetland delineation, buffer and floodplain location, WMC connectivity, protection of surface waters and groundwater recharge, and whether loss would be reduced by inclusion of compensating area supporting WMC function.
  - (iii) If the site level functional analysis shows the presence of Non-degraded or High Quality wetland within 50 feet of the site level WMC, the WMC will be expanded to the lateral extent of the Non-degraded or High Quality wetland boundary plus the applicable buffer as defined in section 6(e).
  - (iv) If the WMC lies within or contiguous to the parcel boundaries of the project, the lateral extent of the final WMC may be increased by the applicant to include all wetland or other action eligible for credit contiguous with the site level WMC. The extended WMC boundary must connect property to the WMC boundary on adjacent properties and reflect local surface hydrology.
- (4) A map of the final WMC boundary must be prepared and submitted to the District for approval. The map will reflect any change to the boundary as a result of the permitted activity. A GIS shapefile or CADD file of the final WMC boundary shall be submitted to the District.
- (5) A variance from a requirement of Section 6(b) otherwise meeting the criteria of District Rule L may be granted if the TEP concurs that the wetland protection afforded will not be less than that resulting from application of standard WCA criteria.

**(c) WETLAND REPLACEMENT.**

- (1) The wetland replacement exemptions in Minnesota Rules 8420.0420 are not applicable within CWPMP areas, except as follows:
  - (i) The agricultural, wetland restoration, utilities, *de minimis* and wildlife habitat exemptions found at Minnesota Rules 8420.0420, subparts 2, 5, 6, 8 and 9, respectively, are applicable, subject to the scope of the exemption standards found at Minnesota Rules 8420.0420, subpart 1.

- (ii) The drainage exemption, Minnesota Rules 8420.0420, subpart 3, is applicable if the applicant demonstrates, through adequate hydrologic modeling, that the drainage activity will not change the hydrologic regime of a CWPMP-mapped high quality wetland (see Figure F3) within the boundary of a WMC. Wetland and plant community boundaries will be field-verified.
  - (iii) Buffer and easement requirements of Section 6(e) and 6(f) do not apply to wetland alterations that qualify for one of the exemptions listed in Section 6(c)(1)(i), unless the project of which the wetland alteration is a part is subject to Rule C.10(d).
- (2) Replacement plans will be evaluated and implemented in accordance with Minnesota Rules 8420.0325 through 8420.0335, 8420.0500 through 8420.0544 and 8420.0800 through 8420.0820, except that the provisions of this Rule will apply in place of Minnesota Rules 8420.0522, and 8420.0526. The foundation of the CWPMPs is to limit impact to, and encourage enhancement of, high-priority wetlands and direct unavoidable impact to lower-priority wetlands in establishing the WMC. In accordance with Minnesota Rules 8420.0515, subpart 10, this principle will guide sequencing, replacement siting, WMC boundary adjustment and other elements of replacement plan review. The District will use the methodology of Minnesota Rules 8420.0522, subpart 2 to determine wetland replacement requirements for partially drained wetlands.
- (3) A replacement plan must provide at least one replacement credit for each wetland impact acre, as shown in Table F1. The replacement methods must be from the actions listed in Table F2 or an approved wetland bank consistent with Section 6(d)(1).
- (4) Acres of impact and replacement credit are determined by applying the following two steps in order:
  - (i) Multiply actual wetland acres subject to impact by the ratios stated in Table F1.
  - (ii) Calculate the replacement credits by multiplying the acreage for each replacement action by the percentage in Table F2. All replacement areas that are not within the final WMC will receive credit based on a replacement location outside the final WMC. However, when the replacement area is within the parcel boundaries of the project and there is no Preliminary WMC within those boundaries, and there is no opportunity to extend the WMC boundary from adjacent parcels of land, then the mitigation area will be credited as replacement inside the final WMC. If an applicant intends replacement also to fulfill mitigation requirements under Section 404 of the Clean Water Act, then the applicant may elect replacement credit based on a replacement location outside the final WMC.
- (5) The replacement plan must demonstrate that non-exempt impacts will result in no net loss of wetland hydrological regime, water quality, or wildlife habitat function through a wetland assessment methodology approved by BWSR pursuant to the Wetland Conservation Act, Minnesota Statutes §103G.2242.

**TABLE F1. WETLAND REPLACEMENT RATIOS FOR CWPMP AREAS.**

Wetland Degradation Type	Anoka County		Washington County	
	Outside WMC	Inside WMC	Outside WMC	Inside WMC
Moderately or Severely Degraded Wetland	1:1	2:1	2:1	3:1
Marginally or Non-Degraded Wetland	1.5:1	2.5:1	2.5:1	3.5:1
High Quality Wetland and/or hardwood, coniferous swamp, floodplain forest or bog wetland communities of any quality	2:1	3:1	3.5:1	4:1

**TABLE F2. ACTIONS ELIGIBLE FOR CREDIT FOR CWPMP AREAS.**

Actions Eligible for Credit	Inside of the Final WMC	Outside of the Final WMC
<b>Wetland Restoration</b>		
Hydrologic and vegetative restoration of moderately and severely degraded wetland	up to 75% Determined by LGU and TEP	up to 50% Determined by LGU and TEP
Hydrologic and vegetative restoration of effectively drained, former wetland	100%	75%
<b>Wetland Creation</b>		
Upland to wetland conversion	50%	50%
<b>Wetland Protection &amp; Preservation</b>		
Protection via conservation easement of wetland previously restored consistent with MN Rule 8420.0526 subpart 6	up to 75% Determined by LGU and TEP	up to 75% Determined by LGU and TEP
<b>Columbus CWPMP Only:</b> Preservation of wetland or wetland/upland mosaic (requires a 3rd party easement holder and other matching action eligible for credit)	25% Determined by LGU and TEP	12.5% Determined by LGU and TEP
Restoration or protection of wetland of exceptional natural resource value consistent with MN Rule 8420.0526, subpart 8	Up to 100% Determined by LGU and TEP	Up to 100% Determined by LGU and TEP
<b>Buffers</b>		
Non-native, non-invasive dominated buffer around other action eligible for credit, consistent with Section 6(e)	10%	10%
Native, non-invasive dominated buffer around other action eligible for credit, consistent with Section 6(e)	25%	25%
Upland habitat area contiguous with final WMC wetland (2 acre minimum), as limited by Rule F.6(e)(5)	100%	NA
<b>Vegetative Restoration</b>		
Positive shift in MnRAM assessment score for "Vegetative Integrity" from "Low" to "Medium" or "High"	Up to 50% Determined by LGU and TEP	NA

- (6) The location and type of wetland replacement will conform as closely as possible to the following standards:
- (i) No wetland plant community of high or exceptional wildlife habitat function and high or exceptional vegetative integrity, as identified in the required wetland assessment, may be disturbed.
  - (ii) No replacement credit will be given for excavation in an upland natural community with Natural Heritage Program rank B or higher, or with identified Endangered, Threatened or Special Concern species.
- (7) In the Columbus CWPMP only, preservation credit can be used for up to 50% of the wetland replacement required. The remaining 50% must be supplied by a non-preservation replacement action as shown within Table F2. Additionally:
- (i) All other eligible actions for credit within this rule must be considered before preservation is approved as an action eligible for credit.
  - (ii) The Technical Evaluation Panel must find that there is a high probability that, without preservation, the wetland area to be preserved would be degraded or impacted and that the wetland meets the criteria of Minnesota Rules 8420.0526 subpart 9.A through 9.D.
  - (iii) Non-degraded, High Quality, and Moderately Degraded wetland is eligible for Preservation Credit within Zone 1 (see Figure F2).
  - (iv) Non-degraded and High Quality wetland is eligible for Preservation Credit within Zone 2 (see Figure F2).
  - (v) Wetland ranked “Low” for “vegetative integrity” is not eligible for replacement credit through Preservation.
  - (vi) Banked preservation credit may be used only within the Columbus CWPMP area (see Figure F1).
- (8) Replacement credit for Wetland Protection and Preservation (see Table F2) requires that a perpetual Conservation Easement be conveyed to and accepted by the District. The easement must encompass the entire replacement area, and must provide for preservation of the wetland’s functions by the fee owner and applicant. The applicant must provide a title insurance policy acceptable to the District, naming the District as the insured. The fee owner and the applicant also must grant an access easement in favor of the District, the local government unit and any other state, local or federal regulatory authority that has authorized use of credits from the mitigation site for wetland replacement. The fee owner must record or register these easements on the title for the affected property.

- (9) Replacement credit for Vegetative Restoration (see Table F2) may be granted only for wetland communities scoring “Low” for Vegetative Integrity. The TEP must find that there is a reasonable probability for restoration success.
- (10) Unless a different standard is stated in the approved replacement or banking plan, the performance standard for upland and wetland restored or created to generate credit is establishment, by the end of the WCA monitoring period, of a medium or high quality plant community ranking with 80% vegetative coverage consisting of a native, non-invasive species composition.
- (11) Notwithstanding any provision in this rule to the contrary, for wetland impacts resulting from public drainage system repairs undertaken by the Rice Creek Watershed District that are exempt from Clean Water Act Section 404 permit requirements but are not exempt from replacement under Section 6(c)(1) of this Rule, replacement may occur subject to the following priority of replacement site sequencing:
  - (i) Within bank service areas 6 or 7 or with the concurrence of governing board of the local county or watershed district, within any county or watershed district whose county water plan, watershed management plan, or other water resource implementation plan contains wetland restoration as a means of implementation.
  - (ii) Throughout the state in areas determined to possess less than 80% of pre-settlement wetland acres.
- (12) A variance from a requirement of Section 6(c) otherwise meeting the criteria of District Rule L may be granted if the TEP concurs that the wetland protection afforded will not be less than that resulting from application of standard WCA criteria.

**(d) WETLAND BANKING.**

- (1) Replacement requirements under Section 6(c) of this Rule may be satisfied in whole or part by replacement credits generated off-site within any CWPMP area, but not by credits generated outside of a CWPMP area except as provided in Section 6(d)(5).
- (2) The deposit of replacement credits created within a CWPMP area for banking purposes and credit transactions for replacement will occur in accordance with Minnesota Rules 8420.0700 through 8420.0745. Credits generated within a CWPMP area may be used for replacement within or outside of a CWPMP area.
  - (i) The District will calculate the amount of credit in accordance with the standard terms of WCA. This measure of credit will appear in the BWSR wetland banking account.



- (ii) The District also will calculate the amount of credit in accordance with Section 6(c) of this rule. The District will record this measure of credit internally within the CWPMP's wetland bank accounting. The District will adjust this internal account if the BWSR account is later debited for replacement outside of a CWPMP area. Where credits are used for replacement within a CWPMP area, the District will convert credits used into standard WCA credits so that the BWSR account is accurately debited.
- (3) To be recognized, bank credit from Preservation in the Columbus CWPMP (see Table F2) must be matched by an equal amount of credit from a non-Preservation replacement action.
  - (i) Credit derived from Preservation as the replacement action may be used only within the Columbus CWPMP boundary.
  - (ii) If the matching non-Preservation credit is used outside of the Columbus CWPMP area, the Preservation credit within the Columbus CWPMP wetland bank account will be debited in the amount of the matching non-Preservation credit.
- (5) Banked wetland credit created outside of the CWPMP areas, but within the CWPMP Contributing Drainage Area, may be used to replace impact within the CWPMP areas. An applicant proposing to use credits under this paragraph must field verify at the time of application that the banked wetlands are located within the CWPMP Contributing Drainage Area.
- (6) Credits generated under an approved wetland banking plan, inside a CWPMP or its contributing drainage area (See Figure F4), utilized to replace impact within a CWPMP area will be recognized in accordance with the approved banking plan.
- (e) **VEGETATED BUFFERS.** Vegetated buffers are required to be established adjacent to wetlands within CWPMP areas as described below.
  - (1) Wetland buffer will consist of non-invasive vegetated land; that is not cultivated, cropped, pastured, mowed, fertilized, used as a location for depositing snow removed from roads, driveways or parking lots, subject to the placement of mulch or yard waste, or otherwise disturbed except for periodic cutting or burning that promotes the health of the buffer, actions to address disease or invasive species, or other actions to maintain or improve buffer or habitat area quality, each as approved in writing by District staff. The application must include a vegetation management plan for District approval. For public road authorities, the terms of this subsection will be modified as necessary to accommodate safety and maintenance feasibility needs.
  - (2) Buffer adjacent to wetland within the final WMC must average at least 50 feet in width, and measure at least 25 feet in width at all points of inflow. The buffer requirement may be reduced based on compelling need and a TEP recommendation to the District in support that the wetland protection afforded is reasonable given the circumstances.

- (3) Buffer adjacent to wetland restored, created or preserved for replacement credit, not within the final WMC, must meet the minimum width standards as described in MN Rule 8420.0522, subpart 6.
- (4) Buffer adjacent to High Quality Wetland, or to replacement wetland adjacent to High Quality Wetland, must be at least 50 feet wide at all points. For private projects dedicating public right of way, the minimum width may be reduced based on compelling need and a District finding that the wetland protection afforded is reasonable given the circumstances. In making this finding, the District will give substantial weight to the TEP recommendation.
- (5) The area of buffer for which replacement credit is granted must not exceed the area of the replacement wetland except and specific to when the buffer is to meet the 50-foot requirement of Sections 6(e)(2) and 6(e)(4) and is further limited to the buffer area required to encapsulate another action eligible for credit.
- (6) Buffer receiving replacement credit as upland habitat area contiguous with the final WMC must be at least two acres in size.
- (7) No above- or below-ground structure or impervious surface may be placed within a buffer area permanently or temporarily, except as follows:
  - (i) A structure may extend or be suspended above the buffer if the impact of any supports within the buffer or habitat area is negligible, the design allows sufficient light to maintain the species shaded by the structure, and the structure does not otherwise interfere with the function afforded by the buffer.
  - (ii) A public utility, or a structure associated with a public utility, may be located within a buffer on a demonstration that there is no reasonable alternative that avoids or reduces the proposed buffer intrusion. The utility or structure shall minimize the area of permanent vegetative disturbance.
  - (iii) Buffer may enclose a linear surface for non-motorized travel no more than 10 feet in width. The linear surface must be at least 25 feet from the wetland edge. The area of the linear surface will not be eligible for replacement credit. For projects proposing non-motorized travel no more than 10 feet in width, the linear surface may be reduced to less than 25 feet from the wetland edge based on compelling need and a TEP recommendation to the District in support that the wetland protection afforded is reasonable given the circumstances.

- (iv) A stormwater features that is vegetated consistent with Section 6(e)(1), including NURP ponds, may be located within buffer and count toward buffer width on site-specific approval.
- (8) Buffer area is to be indicated by permanent, freestanding markers at the buffer edge, with a design and text approved by District staff in writing. A marker shall be placed at each lot line, with additional markers placed at an interval of no more than 200 feet and as necessary to define variation in a meandering boundary. If a District permit is sought for a subdivision, the monumentation requirement will apply to each lot of record to be created. On public land or right-of-way, the monumentation requirement may be satisfied by the use of markers flush to the ground, breakaway markers of durable material, or a vegetation maintenance plan approved by District staff in writing.
- (9) As a condition of permit issuance under this Rule, a property owner must file on the deed a declaration in a form approved by the District establishing a vegetated buffer area adjacent to the delineated wetland edge within the final WMC and other wetland buffers approved as part of a permit under this Rule. The declaration must state that on further subdivision of the property, each subdivided lot of record shall meet the monumentation requirement of Section 6(e)(8). On public land or right-of-way, in place of a recorded declaration, the public owner may execute a written maintenance agreement with the District. The agreement will state that if the land containing the buffer area is conveyed to a private party, the seller must file on the deed a declaration for maintenance in a form approved by the District.
- (10) Buffer may be disturbed to alter land contours or improve buffer function if the following criteria are met:
  - (i) An erosion control plan is submitted under which alterations are designed and conducted to expose the smallest amount of disturbed ground for the shortest time possible, fill or excavated material is not placed to create an unstable slope, mulches or similar materials are used for temporary soil coverage, and permanent vegetation is established as soon as possible after disturbance is completed.
  - (ii) Wooded buffer and native riparian canopy trees are left intact;
  - (iii) When disturbance is completed, sheet flow characteristics within the buffer are improved; average slope is not steeper than preexisting average slope or 5:1 (horizontal: vertical), whichever is less steep; preexisting slopes steeper than 5:1 containing dense native vegetation will not require regrading; the top 18 inches of the soil profile is not compacted, has a permeability at least equal to the permeability of the preexisting soil in an uncompacted state and has organic matter content of between five and 15 percent; and habitat diversity and riparian shading are maintained or improved. Any stormwater feature within the buffer will not have exterior slopes greater than 5:1.

- (iv) A re-vegetation plan is submitted specifying removal of invasive species and establishment of native vegetation suited to the location.
  - (v) A recorded Declaration or, for a public entity, maintenance agreement is submitted stating that, for three years after the project site is stabilized, the property owner will correct erosion, maintain and replace vegetation, and remove invasive species to establish permanent native vegetation according to the re-vegetation plan.
  - (vi) Disturbance is not likely to result in erosion, slope failure or a failure to establish vegetation due to existing or proposed slope, soil type, root structure or construction methods.
- (11) Material may not be excavated from or placed in a buffer, except for temporary placement of fill or excavated material pursuant to duly-permitted work in the associated wetland, or pursuant to paragraph 6(e)(10) of this Rule.
- (f) **EASEMENT.** The property owner must convey to the District and record or register, in a form acceptable to the District, a perpetual, assignable easement granting the District the authority to monitor, modify and maintain hydrologic and vegetative conditions within the WMC wetland and buffer adjacent to WMC wetland, including the authority to install and maintain structural elements within those areas and reasonable access to those areas to perform authorized activities. The WMC shall be identified and delineated as part of the recorded easement.
- (g) **PARTIAL ABANDONMENT.** As a condition of permit issuance, the District may require a property owner to petition the District for partial abandonment of a public drainage system pursuant to Minnesota Statutes §103E.805. A partial abandonment under this Section may not diminish a benefited property owner's right to drainage without the owner's agreement.
7. **REQUIRED EXHIBITS.** The following exhibits must accompany a permit application for both WCA and non-WCA wetland alterations.
- (a) **SITE PLAN.** An applicant must submit a site plan showing:
- (1) Property lines and delineation of lands under ownership of the applicant.
  - (2) On-site location of all public and private ditch systems
  - (3) Existing and proposed elevation contours, including the existing run out elevation and flow capacity of the wetland outlet, and spoil disposal areas.
  - (4) Area of wetland to be filled, drained, excavated or otherwise altered.

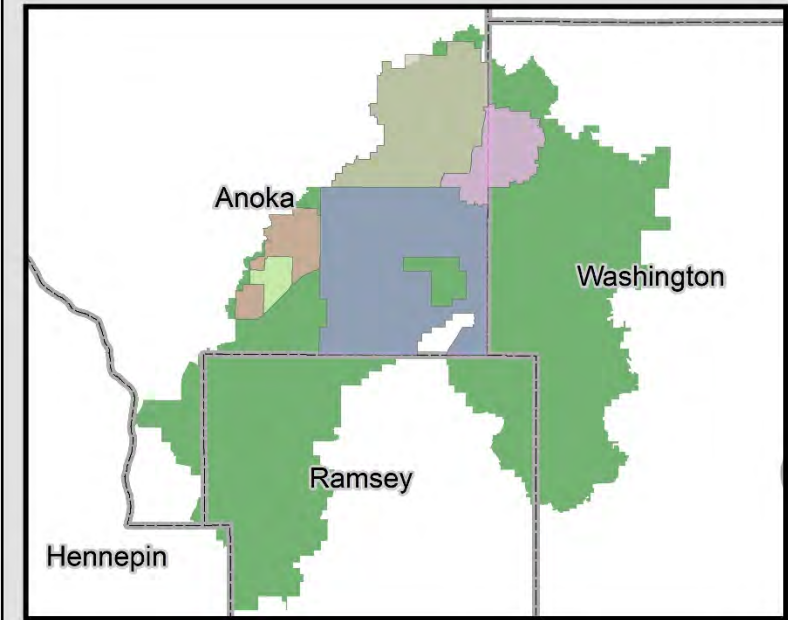
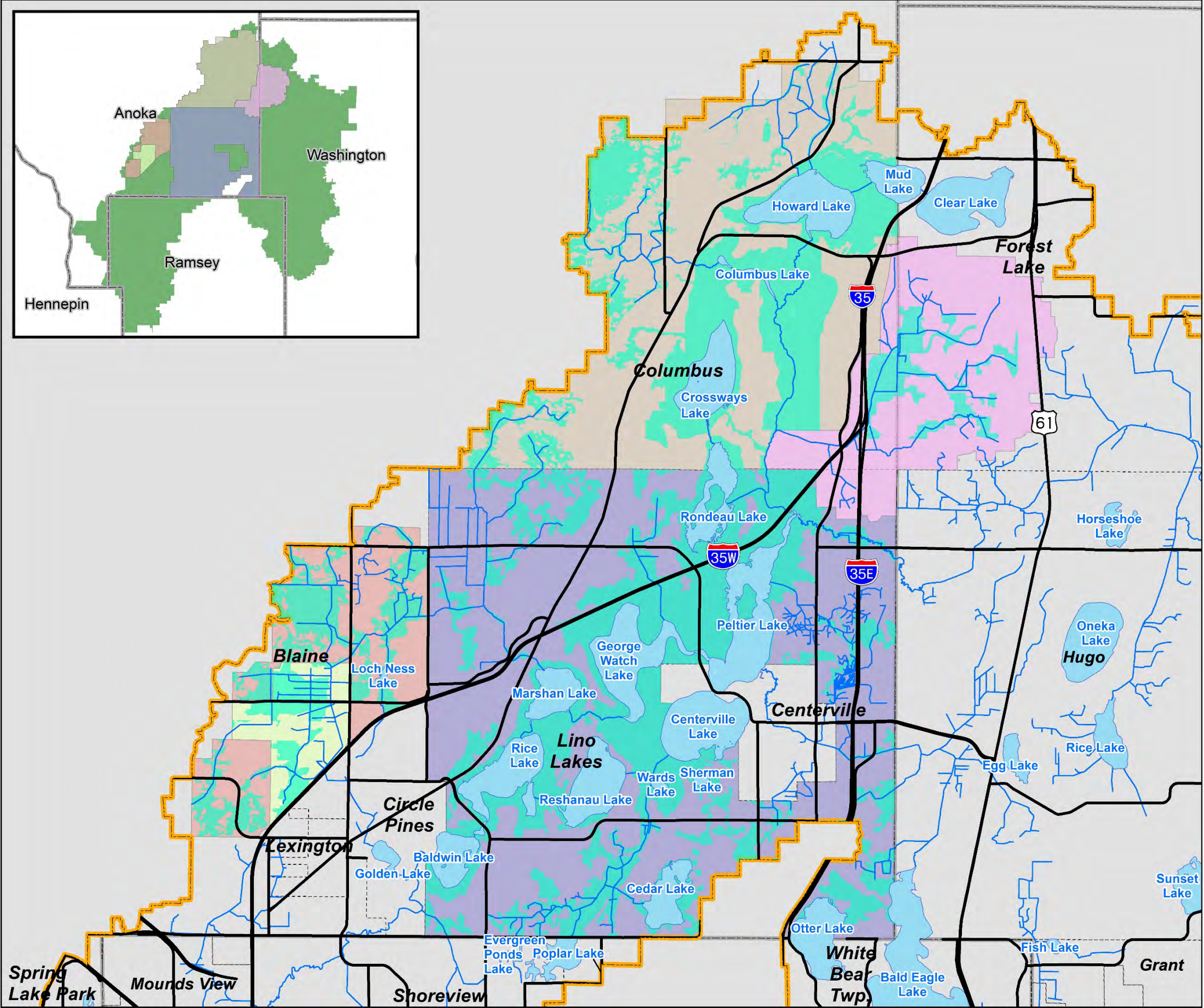
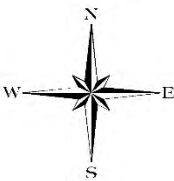
- (b) **WETLAND DELINEATION REPORT.** An applicant must submit a copy of a wetland delineation report conforming to a methodology authorized for WCA use and otherwise consistent with Minnesota Board of Water & Soil Resources guidance. The following requirements and clarifications apply to submittals of wetland delineation reports to the District and supplement the approved methodology and guidance:
- (1) Wetland delineations should be conducted and reviewed during the growing season. The District may accept delineations performed outside this time frame on a case-by-case basis. The District will determine if there is sufficient information in the report and visible in the field at the time to assess the three wetland parameters (hydrophytic vegetation, hydric soils, hydrology) in relation to the placement of the wetland delineation line. If proper assessment of the delineation is not possible, the District may consider the application incomplete until appropriate field verification is possible.
  - (2) An applicant conducting short- or long-term wetland hydrology monitoring for the purpose of wetland delineation/determination must coordinate with the District prior to initiating the study.
  - (3) For a project site with row-cropped agricultural areas, the wetland delineation report must include a review of Farm Service Agency aerial slides (if available) for wetland signatures per Guidance for Offsite Hydrology/Wetland Determinations (July 1, 2016), as amended, and Section 404 Clean Water Act or subsequent State-approved guidance. This review is to be considered along with field data and other pertinent information, and is not necessarily the only or primary basis for a wetland determination in an agricultural row-cropped area.
  - (4) The wetland delineation report must follow current BWSR/ACOE Guidance for Submittal of Delineation Reports, and include:
    - (i) Documentation consistent with the 1987 Corps of Engineers Wetlands Delineation Manual and Northcentral and Northeast Regional Supplement.
    - (ii) National Wetland Inventory (NWI) map, Soil Survey Map, and Department of Natural Resources (DNR) Protected Waters Map of the area being delineated.
    - (iii) Results of a field investigation of all areas indicated as potential wetland by mapping sources including: NWI wetlands, hydric soil units, poorly drained or depressional areas on the Soil Survey Map, and DNR Protected Waters or Wetlands.
    - (iv) Classifications of each delineated wetland using the following systems:
      - Classification of Wetlands and Deep Water Habitats of the United States (Cowardin et al. 1979)
      - Fish and Wildlife Service Circular 39 (Shaw and Fredine 1971)
      - Wetland Plants and Plant Communities of Minnesota and Wisconsin (Eggers & Reed, 3rd Edition, 2011)



- (v) A survey map (standard land survey methods or DGPS) of delineated wetland boundaries.
- (5) As a condition of District approval of any wetland delineation, applicants shall submit X/Y coordinates (NAD 83 state plane south coordinate system) and a GIS shapefile of the delineated wetland boundaries. All data shall be collected with a Trimble Geoexplorer or equivalent instrument with sub-meter accuracy.
- (c) **WETLAND REPLACEMENT PLAN APPLICATION.** An applicant submitting a plan involving a wetland alteration requiring replacement must submit five copies of a replacement plan application and supporting materials conforming to WCA replacement plan application submittal requirements and including the following additional documents:
  - (1) Plan sheet(s) clearly identifying, delineating, and denoting the location and size of each wetland impact area and all replacement actions for credit.
  - (2) Plan sheet(s) with profile views and construction specifications of each replacement wetland including proposed/estimated normal water level, proposed/estimated boundary of replacement wetland, topsoiling specifications (if any), grading specifications, and wetland/buffer seeding specifications.
- (d) **FUNCTIONS AND VALUES ASSESSMENT.** An applicant must submit a before-and-after wetland functions and values assessment using a WCA-accepted methodology for a project in a CWPMP area or otherwise involving at least one acre of wetland impact requiring replacement.
- (e) Erosion and sediment control plan in accordance with District Rule D.
- (f) On District request, the applicant will conduct an assessment of protected plant or animal species within the project site, where such assessment is not available from existing sources.
- (g) Other project site-specific submittal requirements as may be required by the District.



# Rice Creek Watershed District



— Major Roads

— RCWD Watercourses

Lakes

Wetland Management Corridor

RCWD Legal Boundary

Cities

Counties

**CWPMPs**

Village Meadows

Anoka County Ditch 53-62

Anoka/Washington Judicial Ditch 4

Lino Lakes CWPMP

Columbus CWPMP



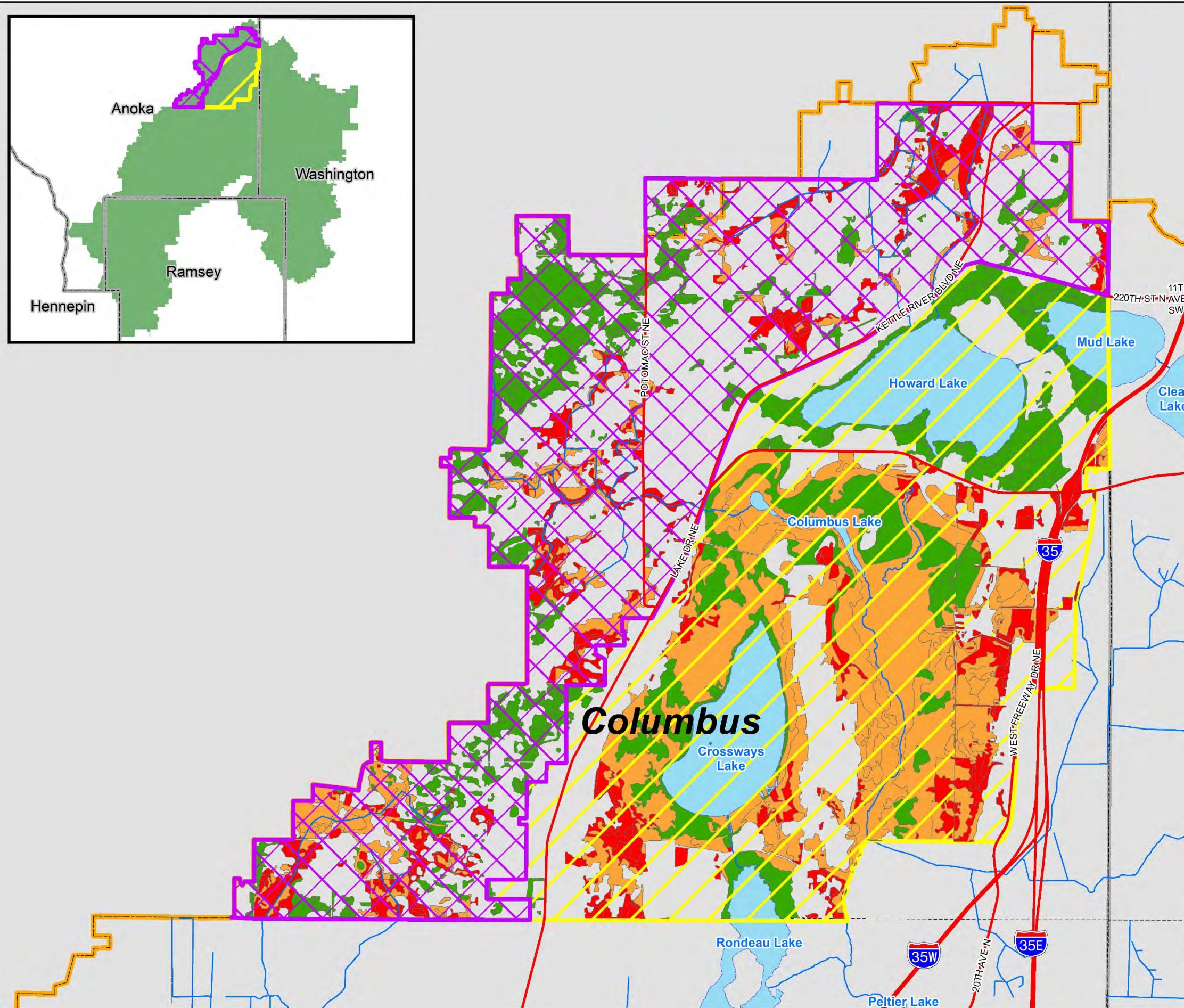
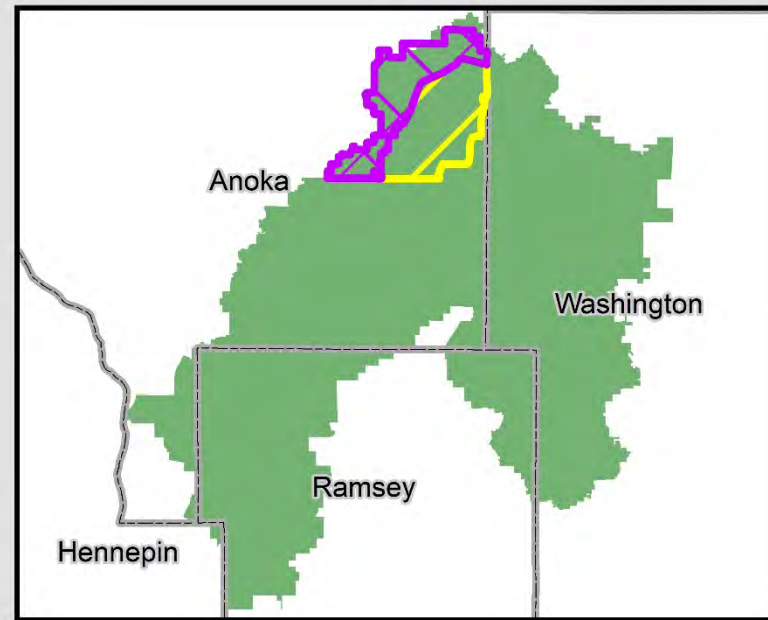
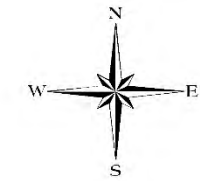
Sources: RCWD, TLG, MN DOT

F1: Comprehensive Wetland Protection and Management Plan Boundaries and Wetland Management Corridor





# Rice Creek Watershed District



- Transportation System
- RCWD Watercourses
- Lakes
- RCWD Legal Boundary
- Cities
- Counties

**WMC Adjustment Zones**

- Zone I
- Zone II

**Wetland Degredation Status**

- Non-Degraded
- Moderately
- Severely

0 0.25 0.5 1 Miles

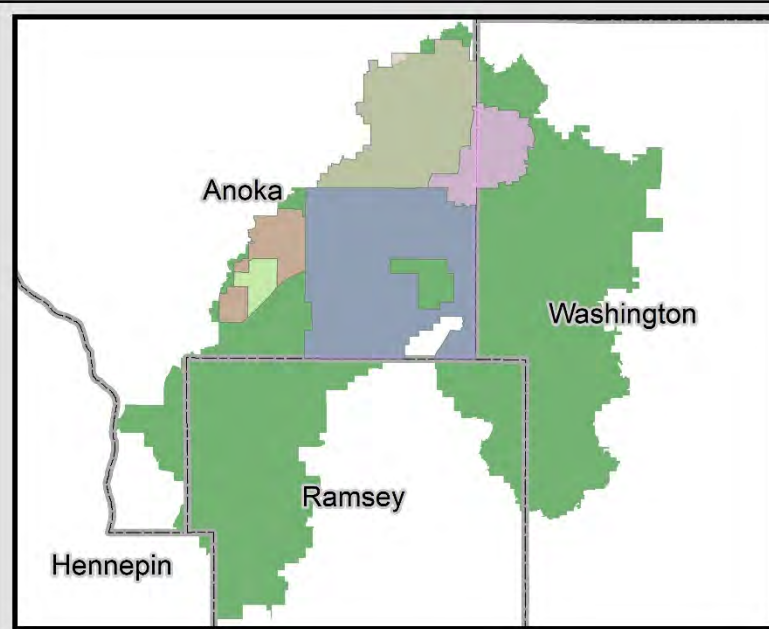
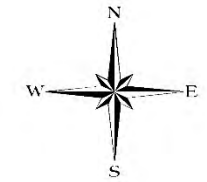
Sources: RCWD, TLG, MN DOT

**F2: Columbus Commerical/Industrial Zoned Areas and Wetland Degredation Status**





# Rice Creek Watershed District



Notes:  
Wetland quality has been determined utilizing data from the Minnesota Land Cover Classification System, or as defined within the CWPMPs. This data has been shown to be generally accurate, however the majority of the data presented here has not been field verified.

RCWD Watercourses

Lakes

High Quality Wetland (see Notes)

RCWD Legal Boundary

Transportation System

Cities

Counties

CWPMPs

Village Meadows

Anoka County Ditch 53-62

Anoka/Washington Judicial Ditch 4

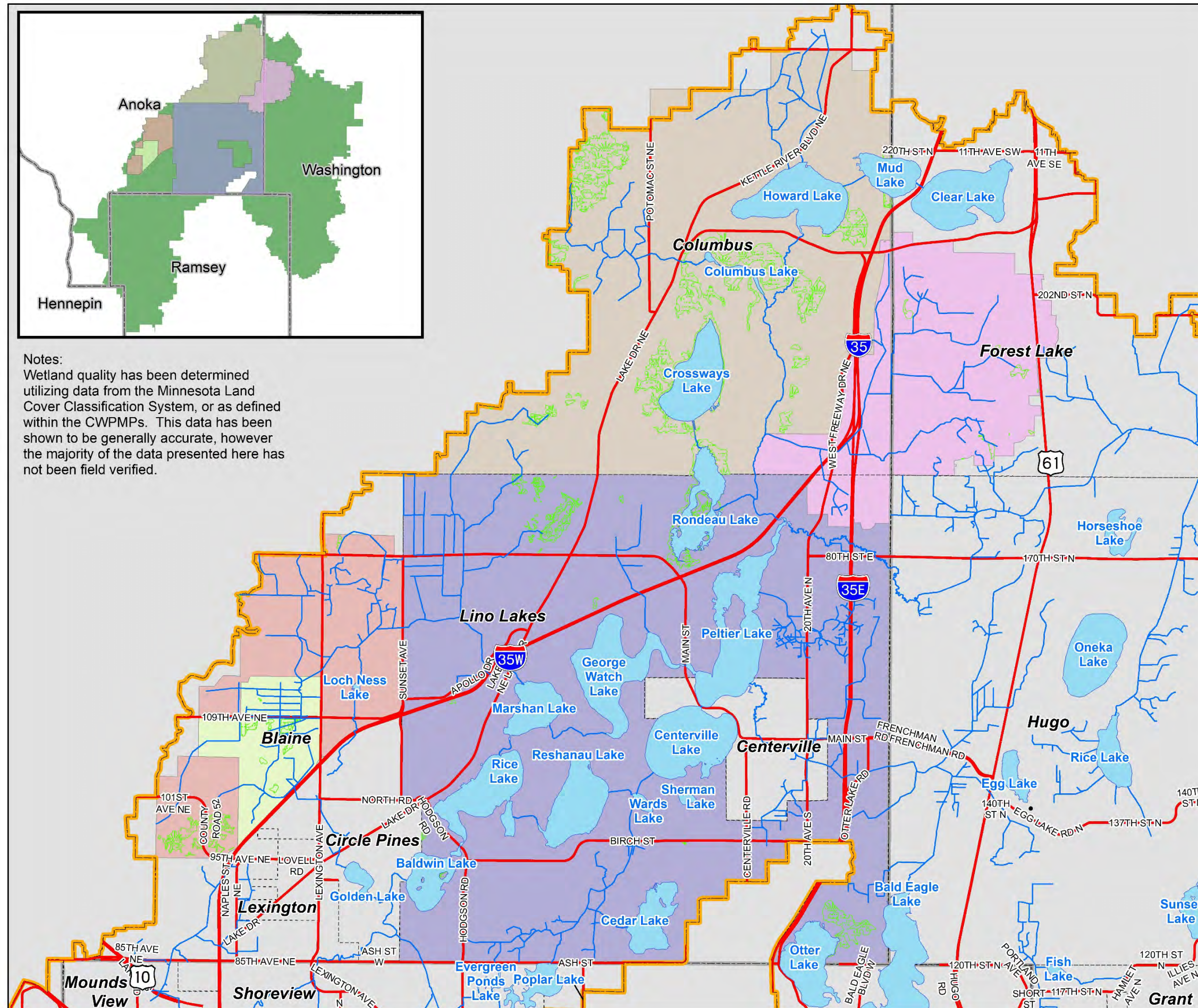
Lino Lakes CWPMP

Columbus CWPMP



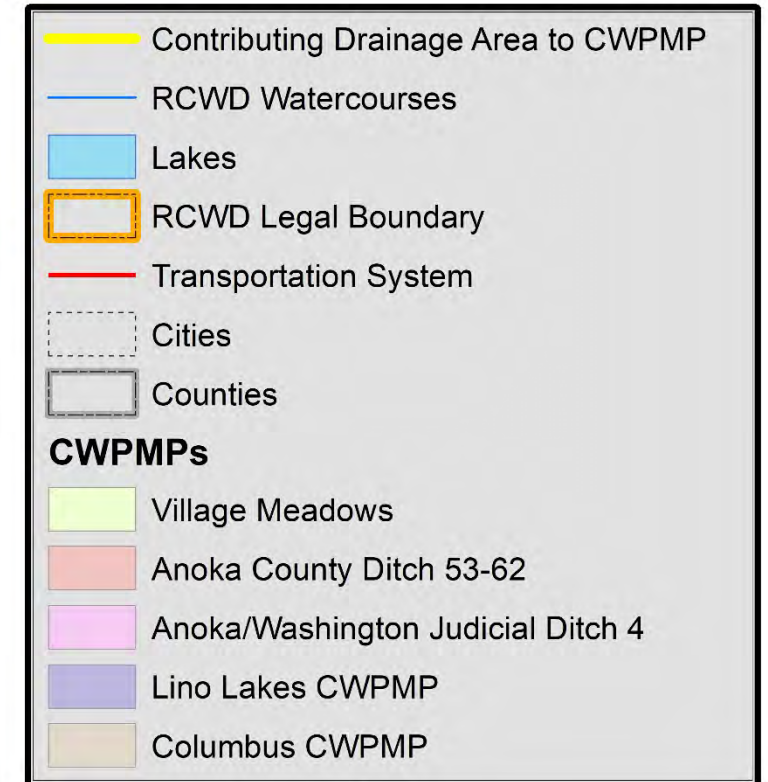
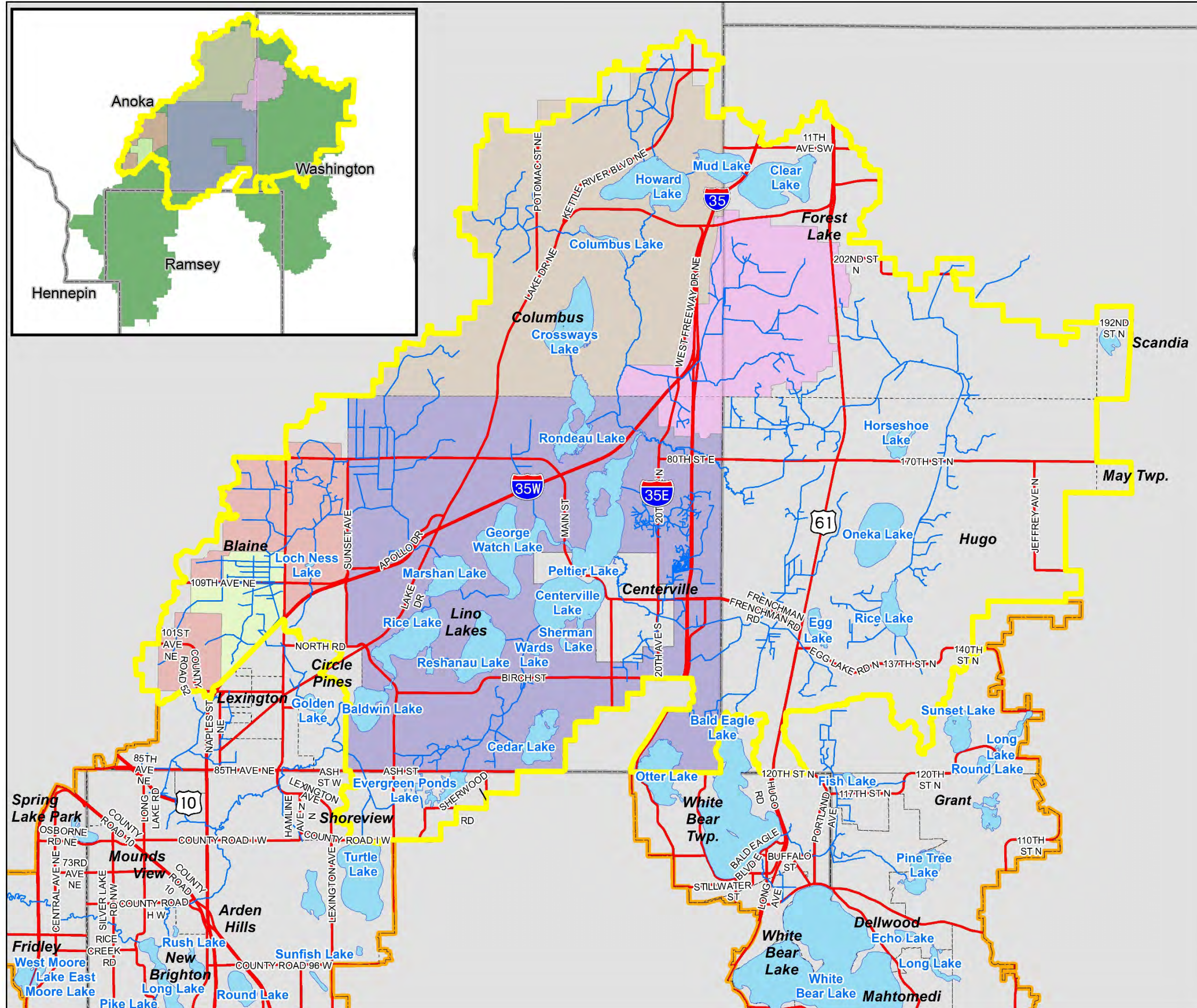
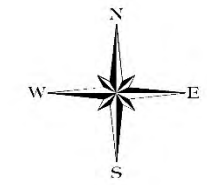
Sources: RCWD, TLG, MN DOT

## F3: High Quality Wetlands Within CWPMPs





# Rice Creek Watershed District



Sources: RCWD, TLG, MN DOT

## F4: Contributing Drainage Area to CWPMPs





## **RULE G: REGIONAL CONVEYANCE SYSTEMS**

1. **POLICY.** It is the policy of the Board of Managers to preserve regional conveyance systems within the District, including its natural streams and watercourses, as well as artificial channels and piped systems. Rule G applies to surface water conveyance systems other than public drainage systems. The purpose of Rule G is to maintain regional conveyance capacity, prevent flooding, preserve water quality and ecological condition, and provide an outlet for drainage for the beneficial use of the public as a whole now and into the future. Rule G does not apply to public drainage systems, as defined in these rules, which the District manages and maintains through the exercise of its authority under the drainage code (Minnesota Statutes Chapter 103E) and the application of Rule I. It is not the intent of this rule to decide drainage rights or resolve drainage disputes between private landowners.
2. **REGULATION.** No person may construct, improve, repair or alter the hydraulic characteristics of a regional conveyance system that extends across two or more parcels of record not under common ownership, including by placing or altering a utility, bridge or culvert structure within or under such a system, without first obtaining a permit from the District. No permit is required to repair or replace an element of a regional conveyance system owned by a government entity when the hydraulic capacity of the system will not change.
3. **CRITERIA.**

The landowner or conveyance system owner receiving a permit under this rule is responsible to maintain the permitted alteration in the design condition. In addition, modification of the conveyance system must:

  - (a) Preserve existing design hydraulic capacity.
  - (b) Retain existing navigational capacity.
  - (c) Not adversely affect water quality or downstream flooding characteristics.
  - (d) Be designed to allow for future erosion, scour, and sedimentation considerations.
  - (e) Be designed for maintenance access and be maintained in perpetuity to continue to meet the criteria of Section 3. The maintenance responsibility must be memorialized in a document executed by the property owner in a form acceptable to the District and filed for record on the deed. Alternatively, a public permittee may meet its perpetual maintenance obligation by executing a programmatic or project-specific maintenance agreement with the District.
4. **SUBSURFACE CROSSINGS.** A crossing beneath a regional conveyance system must maintain adequate vertical separation from the bed of the conveyance system. The District will determine adequate separation by reference to applicable guidance and in view of relevant considerations such as soil condition, the potential for upward migration of the utility, and the likelihood that the bed elevation may decrease due to natural processes or human activities. The District also will consider the feasibility of providing separation and the risks if cover diminishes. Nothing in this paragraph diminishes the crossing owner's responsibility under Section 3, above. The applicant must submit a record drawing of the installed utility.
5. **REQUIRED EXHIBITS.** The following exhibits must accompany the permit application.
  - (a) Construction details showing:

- (1) Size and description of conveyance system modification including existing and proposed flow line (invert) elevations. All elevations must be provided in NAVD 88 datum.
  - (2) Existing and proposed elevations of utility, bridge, culvert, or other structure.
  - (3) End details with flared end sections or other appropriate energy dissipaters.
  - (4) Emergency overflow elevation and route.
  - (b) Narrative describing construction methods and schedule
  - (c) Erosion and sediment control plan in accordance with District Rule D.
  - (d) Computations of watershed area, peak flow rates and elevations, and discussion of potential effects on water levels above and below the project site.
6. **EXCEPTION.** Criterion 3(a) may be waived if the applicant can demonstrate with supporting hydrologic calculations the need for an increase in discharge rate in order to provide for reasonable surface water management in the upstream area and that the downstream impacts of the increased discharge rate can be reasonably accommodated and will not exceed the existing rate at the municipal boundary.

## **RULE H: ILLICIT DISCHARGE AND CONNECTION**

1. **POLICY.** It is the policy of the Board of Managers to:
  - (a) Regulate the contribution of pollutants to the District's Municipal Separate Storm Sewer System (MS4) by any user;
  - (b) Prohibit Illicit Connections and Discharges to the District's MS4;
  - (c) Carry out inspection and monitoring procedures necessary to ensure compliance with this Rule under statutory and related authority.
2. **PROHIBITION.** No person shall discharge or cause to be discharged into a public drainage system within the District any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.
3. **EXCEPTIONS.** The commencement, conduct or continuance of any illegal discharge to the waters of the District is prohibited except as described as follows:
  - (a) The following discharges are exempt from discharge prohibitions established by this rule:
    - (1) Water line flushing or other potable water sources
    - (2) Landscape irrigation or lawn watering
    - (3) Diverted stream flows
    - (4) Rising ground water
    - (5) Ground water infiltration to storm drains
    - (6) Uncontaminated pumped ground water
    - (7) Foundation and footing drains
    - (8) Firefighting activities
  - (b) Discharges specified in writing by the District, or other federal, state or local agency as being necessary to protect the public health and safety.
  - (c) Dye testing is an allowable discharge, but requires a verbal notification to the District prior to the time of the test.
  - (d) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.
4. **ILLICIT CONNECTIONS PROHIBITED**
  - (a) The construction, use, maintenance or continued existence of illicit connections to the public drainage system is prohibited.
  - (b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
  - (c) A person is considered to be in violation of this rule if the person connects a line conveying sewage to the public drainage system, or allows such a connection to continue.

## **RULE I: PUBLIC DRAINAGE SYSTEMS**

1. **POLICY.** Rule I applies to work within public drainage systems, as that term is defined in these rules. The District regulates work in surface water conveyance systems other than public drainage system through the application of Rule G. It is the policy of the Board of Managers to regulate any work within the right-of-way of a public drainage system that has the potential to affect the capacity or function of the public drainage system, or ability to inspect and maintain the system. The purpose of Rule I is to protect the integrity and capacity of public drainage systems consistent with Minnesota Statutes Chapter 103E to prevent regional or localized flooding, preserve water quality, and maintain an outlet for drainage for the beneficial use of the public and benefitted lands now and into the future. .
2. **REGULATION.**
  - (a) Temporary or permanent work in or over a public drainage system, including any modification of the system, requires a permit under this rule. The permit is in addition to any formal procedures or District approvals that may be required under Minnesota Statutes Chapter 103E or other drainage law.
  - (b) A utility may not be placed under a public drainage system without a permit under this rule. The design must provide at least five feet of separation between the utility and the as-constructed and subsequently improved grade of the public drainage system, unless the District determines that a separation of less than five feet is adequate to protect and manage the system at that location. The applicant must submit a record drawing of the installed utility. The crossing owner will remain responsible should the crossing at any time be found to be an obstruction or subject to future modification or replacement under the drainage law.
  - (c) A pumped dewatering operation may not outlet within 200 feet of a public drainage system without a permit under this rule. A permit application must include a dewatering plan indicating discharge location, maximum flow rates, and outlet stabilization practices. Rate of discharge into the system may not exceed the system's available capacity.
3. **CRITERIA..** A project proposing to work subject to Paragraph 2 (a) must:
  - (a) Comply with applicable orders or findings of the Drainage Authority.
  - (b) Comply with all Federal, State and District wetland protection rules and regulations.
  - (c) Demonstrate that such activity will not adversely impact the capacity or function of the public drainage system, or ability to inspect and maintain the system.
  - (d) Not create or establish wetlands within the public drainage system right of way without an order to impound the public drainage system under Minnesota Statute 103E.227.
  - (e) Provide conveyance at the grade of the ACSIC where work is being completed. If the ACSIC has not been determined, the applicant may request that the District duly determine the ACSIC before acting on the application, or may accept conditions that the District determines adequate to limit the risk that the applicant's work will not be an obstruction, within the meaning of Minnesota Statutes chapter 103E, when the ACSIC is determined. An applicant that proceeds without determination of the ACSIC bears the risk that the work later is determined to be an obstruction.
  - (f) Maintain hydraulic capacity and grade under interim project conditions, except where the District, in its judgement, determines that potential interim impacts are adequately mitigated.
  - (g) Where the open channel is being realigned, provide an access corridor that the District



deems adequate at the top of bank of the drainage system, with the following characteristics:

- A minimum 20-feet in width
- Cross-slope (perpendicular to direction of flow) no more than 5% grade.
- Longitudinal slope (parallel to the direction of flow) no more than 1:5 (Vertical to Horizontal).

- (h) Provide adequate supporting soils to facilitate equipment access for inspection and maintenance. Provide stable channel and outfall.
- (i) Be designed for maintenance access and be maintained in perpetuity to avoid constituting an obstruction and otherwise to continue to meet the criteria of Section 3. The maintenance responsibility must be memorialized in a document executed by the property owner in a form acceptable to the District and filed for record on the deed. Alternatively, a public permittee may meet its perpetual maintenance obligation by executing a programmatic or project-specific maintenance agreement with the District. Public Linear Projects are exempt from the public drainage system easement requirement of Section 3(i).
- (j) Identify proposed temporary obstruction or crossings of the public drainage system and specify operational controls to enable unobstructed conveyance of a rainfall or flow condition.

**4. REQUIRED EXHIBITS.** The following exhibits must accompany the permit application. All elevations must be provided in NAVD 88 datum.

- (a) Map showing location of project, tributary area, and location and name of the public drainage system branches within the project area
- (b) Existing and proposed cross sections and profile of affected area.
- (c) Description of bridges or culverts proposed.
- (d) Location and sizes of proposed connections to the public drainage system
- (e) Narrative and calculations describing effects on water levels above and below the project site.
- (f) Erosion and sediment control plan.
- (g) Hydrologic and hydraulic analysis of the proposed project.
- (h) Local benchmark in NAVD 88 datum.

## **RULE J: APPROPRIATION OF PUBLIC WATERS**

1. **POLICY.** It is the policy of the Board of Managers to regulate the appropriation of public waters as follows.
2. **REGULATION.** A permit from the District is required for the appropriation of water from:
  - (a) A public water basin or wetland that is less than 500 acres and is wholly within Hennepin or Ramsey County.
  - (b) A protected watercourse within Hennepin or Ramsey County that has a drainage area of less than 50 square miles.
3. **CRITERIA.** A permit applicant for appropriation of public waters as described above must complete and submit to the District an appropriation checklist. The appropriation checklist form may be obtained from the District office.

## **RULE K: ENFORCEMENT**

1. **VIOLATION OF RULES IS A MISDEMEANOR.** Violation of these rules or a permit issued under these rules, is a misdemeanor subject to a penalty as provided by law.
2. **DISTRICT COURT ACTION.** The District may exercise all powers conferred upon it by Minnesota Statutes Chapter 103D to enforce these rules, including criminal prosecution, injunction, or action to compel performance, restoration or abatement.
3. **ADMINISTRATIVE ORDER.** The District may issue a cease and desist or compliance order when it finds that a proposed or initiated project presents a serious threat of soil erosion, sedimentation, or an adverse effect on water quality or quantity, or violates any rule or permit of the District.
4. **OTHER ADMINISTRATIVE AUTHORITIES.** The District may use all other authorities that it possesses under law to address a violation of these rules, or a permit issued under these rules. This includes, but is not limited to, permit suspension or termination; the right to enter to inspect for and correct violations; and the right to be reimbursed for costs incurred to do so by use of financial assurance funds, civil action or joint-powers municipal assessment.

## **RULE L: VARIANCES**

1. **VARIANCES AUTHORIZED.** The Board of Managers may hear a request for variance from a literal provision of these rules where strict enforcement would cause practical difficulty because of circumstances unique to the property under consideration. The Board of Managers may grant a variance if an applicant demonstrates that such action will be in keeping with the spirit and intent of these rules and in doing so may impose conditions on the variance as necessary to find that it meets the standards of section 2, below. A variance request must be addressed to the Board of Managers as part of a permit application and must address each of the four criteria listed in the standard.
2. **STANDARD.** In order to grant a variance, the Board of Managers must determine that:
  - (a) Special conditions apply to the structures or lands under consideration that do not apply generally to other land or structures in the District.
  - (b) Because of the unique conditions of the property involved, practical difficulty to the applicant would result, as distinguished from mere inconvenience, if the strict letter of the rule were applied.
  - (c) The proposed activity for which the variance is sought will not adversely affect the public health, safety or welfare; will not create extraordinary public expense; and will not adversely affect water quality, water control or drainage in the District.
  - (d) The intent of the District's rules is met.
3. **PRACTICAL DIFFICULTY DEFINED.** In evaluating practical difficulty, the Board of Managers will consider the following factors:
  - (a) How substantial the variation is from the rule provision;
  - (b) Whether the variance would shift cost to adjacent property owners or the public;
  - (c) Whether the variance will substantially change the character of watershed resources or be a substantial detriment to neighboring properties;
  - (d) Whether the practical difficulty can be alleviated by a technically and economically feasible method other than a variance;
  - (e) How the practical difficulty occurred, including whether the landowner created the need for the variance; and
  - (f) In light of all of the above factors, whether allowing the variance will serve the interests of justice.
4. **TERM.** A variance expires on expiration of the CAPROC approval or permit associated with the variance request.
5. **VIOLATION.** A violation of any condition set forth in a variance is a violation of the District permit that it accompanies and automatically terminates the variance.



COMMENT RESPONSES - EARLY COORDINATION COMMENTS  
Rice Creek Watershed District 2024 Rule revisions

Date: June 26, 2024

Commenting Agency / Entity	Comment No.	Rule	Comment	Change in Rule (Y/N)	Comment Response
City of Forest Lake	FL-1	Multiple	Metropolitan communities face numerous regulatory requirements of varying magnitude across multiple jurisdictions. This leads to costly redundancies, multiple review periods of varying lengths, and excessive documentation management. The Minnesota Pollution Control Agency already provides construction stormwater regulatory standards that govern the entire state, and the City's Municipal Separate Storm Sewer System (MS4) permit also provide regulatory standards. To reduce redundancies, incompatible review periods, and bureaucratic red tape, as well as minimize taxpayer costs, RCWD should incorporate rules that better align with state regulatory triggers for permitting. RCWD and Comfort Lake Forest Lake Watershed District (CLFLWD) have general development and redevelopment triggers that are much lower than the State's standard of 1 acre. RCWD's trigger of 10,000 square feet creates a significant hardship to future economic growth for our community.	N	MPCA standards including MS4 permit requirements are designed to provide the minimum regulation to achieve federal NPDES requirements while considering the protection of water quality in aggregate across the state. They are not intended to address watershed-specific needs. RCWD, like many other metro WMOs, recognizes that project sites between 10,000 sf and 1 acre in size have the potential to negatively affect the District's resources without adequate stormwater controls. We have not experienced RCWD permit applications withdrawn due to expressed hardship in meeting stormwater management requirements.
City of Forest Lake	FL-2	C	Consider a stormwater quality "payment for credit" system. If developers and/or communities can pay into a fund that provides regional projects throughout the watershed district with higher benefits relating to flood value and/or water quality for lower cost, then more of RCWD goals can be accomplished while getting better stewards of our finite land resources.	N	The RCWD engages in regional projects to accomplish its goals of improving water quality and reducing the risk/frequency of water quantity issues, and regional planning is a priority of the RCWD [Rule C.1(b)]. However, developing regional projects solely for the purposes of facilitating development is not in alignment with these goals, particularly since there are a limited number of feasible sites for regional storage within the District. Also, the MS4 General Permit places constraints on using regional facilities to meet permit requirements, particularly those not yet built at the time of permitting.
City of Forest Lake	FL-3	Multiple	RCWD does not currently participate in any cost share regulatory projects that just meets RCWD rules. Instead, RCWD's policy has been to only participate in projects that go above and beyond the minimum permit requirements. RCWD's current position fails to consider that RCWD rules already have standards that are greater than the State's standards for MS4 communities. In addition, RCWD's participation in regional projects that provide a benefit to the community would help demonstrate RCWD's genuine intention to put its permit revenue and taxing dollars back to work for the local community.	N	RCWD supports regional projects that address flooding and water quality through its own direct projects, funded with ad valorem taxes and local water management taxing districts. It also supports these projects using its existing grant programs, e.g. Stormwater Management Grant Program, and by providing technical and financial support to external grant programs, e.g. Clean Water Funds. Annually, the RCWD sets its budget to reflect its best judgment on the amount of funding it can support for these projects without placing an excessive burden on its taxpayers. With respect to its regulatory program, RCWD has determined that it should recover 60% of the private permit review cost and 40% from ad valorem taxes. That cost-sharing recognizes the benefits of the program to parties beyond the permit holder; and reflects the best judgment of the RCWD Board on the appropriate burden to place on ad valorem taxpayers versus the directly benefitted property. Because the regulatory program is subsidized, the permit revenues provide no funds to support additional grants. To increase permit fees to support additional cost-share grants would be contrary to the RCWD Watershed Management Plan and in the view of the RCWD Board would be contrary to the public interest.
City of Forest Lake	FL-4	Multiple	Under RCWD's current rules a site that wants to redevelop does not receive any acknowledgement of pre-existing water use rights. Specifically, a site's current impervious surface coverage is not considered and instead RCWD requires redevelopment to use "pre-settlement conditions." This has had and will continue to have a debilitating effect on development in the City's downtown area and will continue to prevent redevelopment in other commercial corridors.	N	RCWD rules do not in any way reference "pre-settlement conditions." Existing water use rights are recognized in many different ways via the rule.
City of Forest Lake	FL-5	C.2(b)	<p>Rule C.2.(b) – A 10,000 square foot threshold for development and redevelopment projects is incredibly difficult to accommodate on small sites. The result is that development does not happen because the rules have made it cost prohibitive or development sites must construct private underground storage facilities that have a history of failure and other problems.</p> <p>The City of Forest Lake recommends alignment of the development and redevelopment project threshold with the federal and state MS4 permit of 1 acre. This will not impact large subdivision projects whose total disturbance and impervious area creation are often much larger than 1 acre.</p>	N	RCWD has processed many permits for development and redevelopment on sites between 10,000 sf and 1 acre. We are unaware of any examples of permit applications in this range of impervious surface that did not proceed to permit approval due to challenges with RCWD stormwater rule compliance. Note that RCWD rules do not require the use of underground storage BMPs, but rather provide standards for their use as a treatment option. See also the response to Comment FL-1.

Commenting Agency / Entity	Comment No.	Rule	Comment	Change in Rule (Y/N)	Comment Response
City of Forest Lake	FL-6	C.6	<p>Rule C.6 – Compliance for volume control and sediment reduction are identified as needing to be to the “maximum extent practicable”. However, phosphorus removal often requires expanded facility volumes (and likely footprints) in Forest Lake, where the water table elevation and clayey soils often prohibit infiltration. While the total phosphorus (TP) removal factor (Table C1) helps mitigate the treatment effectiveness of certain best management practices (BMPs), total site area available for practices are the limiting factor which can be viewed as a taking of land and/or incur economic hardship.</p> <p>It may be prudent to consider the impacts of excess nutrients on the receiving waters as compared to the benefit of flood control to identify areas within RCWD jurisdiction that would benefit more from expanded facility volumes for the purpose of meeting a TP removal factor.</p>	N	<p>It is a well established tenet of water quality management that treating water close to the source results in more efficient and effective treatment. As such, it is critical for permittees to treat on-site to the maximum extent practicable. Failure to do so will result in the need for significantly more costly treatment downstream, or make treatment infeasible altogether.</p>
City of Forest Lake	FL-7	F	<p>Rule F.6(e) – The Southwest area of Forest Lake is regulated by wetland buffer standards defined by the JD4 CWPMP and associated WMC. This is the fastest growing area in Forest Lake and development will be impacted by extended buffer standards. The restrictions on development caused by the significant buffer standards has historically been in conflict with Met Council’s development density standards for Forest Lake and has either forced a reduction in total lots and/or lot size. RCWD should enact wetland buffer requirements only to the length necessary to meet required water quality and provide option to meet reduced buffer length if the City and/or develops can demonstrate that regional wetland protection, flood storage capacity, and water quality improvement standards are met.</p>	N	<p>One of the goals of the CWPMP was to provide flexibility for land developments to meet wetland protection requirements. These wetland protection requirements exist not only to preserve water quality, but to achieve multiple other goals as well including habitat and wetland corridor preservation. Under the approved CWPMP, the RCWD has the ability to modify its wetland rules (Rule F) only to the extent that the goals of the CWPMP and WCA can be met. Providing a broad alternative to mandatory buffers would fail to achieve these goal.</p> <p>The previous rule revision (2020) revised Rule F.6(e)(2) to enable the required buffer to be reduced based on compelling need and a TEP recommendation to the District in support that the wetland protection afforded is reasonable given the circumstances. Note that guidance from Met Council indicates that wetlands, buffers, trails, and open space can all be excluded from net acreage for density calculations.</p> <p>As it has been nearly 15 years since the CWPMP was established, there may be merit in reviewing the practical implementation of the plan. The RCWD would welcome input from the Cities of Forest Lake and Columbus regarding this implementation, in particular provide specific examples of challenges faced by developers in meeting the associated rules, including the buffer standard. RCWD in collaboration with the Cities can then consider more targeted modifications of the CWPMP including the buffer requirement.</p>
City of Hugo	H-1	C.5(a)	<p>If Public stormwater facilities were not originally permitted as regional basins but can be demonstrated as having sufficient excess treatment capacity and meeting the other requirements set forth in rule C.5.a, the excess capacity should be available for Public entities for use in demonstrating compliance with Watershed rules.</p>	N	<p>The rule already allows for applicants to use excess treatment capacity from constructed BMPs, whether they were designated originally as regional basins or not.</p>
City of Hugo	H-2	C.2(a), C.10(e), and F.6	<p>Provide an exemption for Public entities triggering rule C.2.a, and subsequently the requirements of rule C.10.e. and F.6, for creation and dedication of buffer easements on offsite parcels. As Public entities do not acquire land for projects that provide a municipal benefit with the intent to further develop or subdivide parcels, the spirit of the rule is upheld in that parcels will not be further subdivided until they are no longer governed by Watershed requirements. Additionally, it places an undue burden on landowners subdividing their property with Public entities to dedicate buffer easements on their remaining private property.</p>	Y	<p>A new Rule C.12(e) is currently proposed that will provide an exemption from C.10(b) (easement over drainage system) and C.10(d) (buffer and easement requirements) for portions of a privately owned tract that has been subdivided to convey land to a public agency.</p>
City of Hugo	H-3	F.7(b)	<p>Full Level 2 wetland delineations should not be necessary for proposed de minimus wetland impacts. National Wetland Inventory or existing Watershed wetland boundaries should be permissible for the determination of wetland impact area.</p>	N	<p>A Level 2 wetland delineation is not required for every Wetland Conservation Act (WCA) application. However, NWI or other watershed scale boundaries often lack the precision to be able to reliably determine relatively small de minimus impact areas. The data submittals required for evaluating de minimus exemptions must be assessed based on individual project/site characteristics.</p>

Commenting Agency / Entity	Comment No.	Rule	Comment	Change in Rule (Y/N)	Comment Response
City of Hugo	H-4	C.2(b)	While the threshold for requiring stormwater management on public linear projects is in line with MPCA permit requirements (one of new/fully reconstructed impervious), the threshold for non-public linear projects is about a fourth of the state's standards (10,000 sf versus on acres of new/fully reconstructed impervious) which can place an unfair burden on smaller development projects within the District when compared to other development within the area outside of RCWD. Stormwater permit thresholds for non-public linear projects should be updated to be in line with MPCA state standards.	N	Several other watershed districts in the north metro have similar or more restrictive permit thresholds. See response to comment FL-1.
City of Hugo	H-5	C.9(b)	WSB is currently completing a water reuse evaluation study in partnership with RCWD and additional recommendations for rule revisions on water reuse systems are anticipated with the completion of the study. These recommendations should be incorporated into this round of RCWD rule revisions.	N	The RCWD can consider recommendations in the WSB report when it is completed. The recommendations likely cannot be considered until a future rule revision cycle as the recommendations must be vetted by RCWD staff ahead of the noticing of proposed rule changes (which is imminent).
City of Lino Lakes	LL-1	B.1	Due to the more complex and drawn-out timelines of public land acquisitions, the Watershed should review municipal project plans for compliance with its rules without the need to first demonstrate ownership over the land upon which the project is proposed. This requirements can be a condition of being voted on by the Board or a CAPROC item, but preliminary review and engineering comments would allow for design to progress without first needing to complete the full land acquisition process.	N	RCWD has been flexible with public agencies in demonstrating proof that acquisition will occur ahead of permit review.
City of Lino Lakes	LL-2	C.2(a), C.10(e), and F.6	Provide an exemption for Public entities triggering rule C.2.a, and subsequently the requirements of rule C.10.e and F.6, for creation and dedication of buffer easements on offsite parcels. As Public entities do not acquire land for projects that provide a municipal benefit with the intent to further develop or subdivide parcels, the spirit of the rule is upheld in that parcels will not be further subdivided until they are no longer governed by Watershed requirements. Additionally, it places an undue burden on landowners subdividing their property with Public entities to dedicate buffer easements on their remaining private property.	Y	See response to comment H-2.
City of Lino Lakes	LL-3	F.7(b)	Full Level 2 wetland delineations should not be necessary for proposed de minimus wetland impacts. National Wetland Inventory or existing Watershed wetland boundaries should be permissible for the determination of wetland impact area.	N	See response to comment H-3.
City of Lino Lakes	LL-4	C.5(a)	If Public stormwater facilities were not originally permitted as regional basins but can be demonstrated as having sufficient excess treatment capacity and meeting the other requirements set forth in rule C.5.a, the excess capacity should be available for Public entities for use in demonstrating compliance with Watershed rules.	N	See response to comment H-1.
City of Lino Lakes	LL-5	A	Site parcel extents should be defined by the same standards of "Development" outlined in the Watershed definitions. If there is part of a project taking place on another parcel outside of the right of way, it should only be considered part of the site and therefore beholden to Watershed rules if impervious is proposed to be created or reconstructed. Underground or grading work would then not trigger a secondary parcel to be considered part of the broader site.	N	The definition of "development" (Rule A) considers all parts of a project to be part of a development regardless of whether the work extends across multiple parcels. Proposed rule language (which will be modified to refer to a "common plan of development or sale) is in alignment with MS4 requirements. Administering the District rules by parcel would create an added burden to applicants (as multiple permits may be required with multiple permit fees), create significant challenges in administration, and be inconsistent with MS4 requirements.

Commenting Agency / Entity	Comment No.	Rule	Comment	Change in Rule (Y/N)	Comment Response
City of White Bear Lake	WBL-1	Table C6	Table C6 (freeboard requirements): I like the format of the table, but consider adding freeboard requirements for high groundwater and underground stormwater BMPs. Also, are there situations where rule C is not triggered by freeboard requirements are? If so, should table C6 be moved to a different rule? How do you address low floor freeboard requirements for underground parking structures adjacent to above ground stormwater BMPs?	N	<p>RCWD's freeboard requirements are intending to address risks to structures from surface water. While groundwater can pose risks to subsurface portions of structures, RCWD does not have the data or expertise to develop a well-informed standard related to groundwater interaction with structures.</p> <p>Rule E.3(g) triggers a freeboard requirement for work that alters a floodplain. However, as this rule applies only to LFE's for structures built within the floodplain, referencing the Table C.6 is unnecessary.</p> <p>Underground parking structures must not be located such that either the primary or secondary overflows from a pond are directed toward the parking structure. Freeboard requirements do not apply.</p>
City of White Bear Lake	WBL-2	C.2(b)	Rule C.2b: Is there a timeframe or cutoff in determining cumulative impervious surfaces? For example, are impervious surfaces on a property cumulative indefinitely? Consider defining a timeline for 'multiple phases'.	Y	<p>Proposed rule language is being modified from "multiple phases" to "common plan of development or sale" to be consistent with MS4. Neither in the proposed rule nor in MS4 is there a defined timeline for considering the cumulative additions of impervious surface. However, the MPCA has published guidance on how "common plan of development or sale" is to be applied to separate development activities that occur on distinct but related tracts of land, or on a particular tract of land in phases or otherwise over time. The RCWD would intend to follow this guidance in order to apply its SW rule in the same way as its municipalities that also are implementing the MS4 GP.</p>



COMMENT RESPONSES - Public Review Period  
Rice Creek Watershed District 2024 Rule revisions

Date: October 30, 2024

Commenting Agency / Entity	Comment No.	Rule	Comment	Change in Rule (Y/N)	Comment Response
City of Hugo	H-4	Multiple	While the threshold for requiring stormwater management on public linear projects is in line with MPCA permit requirements (one of new/fully reconstructed impervious), the threshold for non-public linear projects is about a fourth of the state's standards (10,000 sf versus on acres of new/fully reconstructed impervious) which can place an unfair burden on smaller development projects within the District when compared to other development within the area outside of RCWD. Stormwater permit thresholds for non-public linear projects should be updated to be in line with MPCA state standards.	N	<p>Although the MPCA Stormwater Permit standard uses a 1 acre threshold, this is a minimum control measure that does not account for the unique topography and land use existing within each watershed. Utilizing a 1 acre threshold would allow site discharges of 30,000 gallons of untreated stormwater for the water quality event (1.1") or 195,000 gallons (97 dump truck loads) of water for the 100-year event. A single discharge of this magnitude may not necessarily be problematic; however, multiple discharges to a single watercourse or ditch could create significant water quantity and/or quality problems downstream. Further, substantial portions of the RCWD were developed prior to modern stormwater management rules and have little or no water quantity or quality management in entire neighborhoods. One of the few means the RCWD has to address serious flooding issues in these areas is to require stormwater management for redevelopment sites. Many commercial sites have footprints under 1 acre and would not trigger stormwater management controls if the permitting trigger was changed to 1 acre.</p> <p>For these and/or other reasons, several other watershed districts in the north metro have similar or more restrictive permit thresholds. Thus, the 10,000 square foot rule trigger does not impart a unique or unfair burden on development sites. We likewise have not experienced RCWD permit applications withdrawn due to expressed hardship in meeting stormwater management requirements.</p>
City of Hugo	H-5	C.9(b)	WSB is currently completing a water reuse evaluation study in partnership with RCWD and additional recommendations for rule revisions on water reuse systems are anticipated with the completion of the study. These recommendations should be incorporated into this round of RCWD rule revisions.	N/Y	The proposed rule language references the RCWD Stormwater Reuse Spreadsheet. Technical findings/recommendations from the study may be incorporated into this spreadsheet to guide the consideration of reuse systems to meet rule requirements. RCWD will consider future revision to the rules if needed.
City of Hugo	H-6	F.5(e)	With regards to the proposed change laid out in Rule F.5(d), we fully support this concept however the City feels that some sort of price control is needed on wetland credits if available banks are to be limited to those within the Watershed. Limitation of available banks could result in price gouging due to the restricted options available for banked credits. Some sort of price-parity requirement with other metro banks would ensure permit applicants are not burdened with undue costs.	Y	RCWD recognizes this concern, which was also raised by Washington County. Our expectation is that wetland bank owners are financially motivated to sell their credits in a timely manner and the competitive nature with other banks in the watershed will likely keep the cost per credit reasonable. In BWSR's current bank administration, the cost per credit across the different Bank Service Areas (BSA) of the state vary. We have adjusted the proposed rule language to provide flexibility where the applicant can demonstrate to the District that credit price within the watershed does not reasonably reflect the market.
City of Lino Lakes	LL-1	B.1	Due to the more complex and drawn-out timelines of public land acquisitions, the Watershed should review municipal project plans for compliance with its rules without the need to first demonstrate ownership over the land upon which the project is proposed. This requirements can be a condition of being voted on by the Board or a CAPROC item, but preliminary review and engineering comments would allow for design to progress without first needing to complete the full land acquisition process.	Y	A signed notice from landowner(s) acknowledging the permit application by a public entity to the District will suffice. This provides flexibility for the initial application review. The proof of land acquisition would then be a conditional approval item which needs to be submitted prior to permit issuance. We have adjusted the language of Rule B.1.
City of Lino Lakes	LL-3	F.7(b)	Full Level 2 wetland delineations should not be necessary for proposed de minimus wetland impacts. National Wetland Inventory or existing Watershed wetland boundaries should be permissible for the determination of wetland impact area.	N	A Level 2 wetland delineation is not required for every Wetland Conservation Act (WCA) application. However, NWI or other watershed scale boundaries often lack the precision to be able to reliably determine relatively small de minimis impact areas. The data submittals required for evaluating de minimus exemptions must be assessed based on individual project/site characteristics.
Washington County	WC-1	C.6(d)(1)	It is not clear what a "reasonable" level of effort is for a public entity to obtain additional right of way for stormwater treatment. This will be of additional concern where runoff drains to multiple locations, which is common for linear projects. Other Watersheds provide language for a cost cap per acre, for linear projects for stormwater management. This may be easier to understand and enforce, rather than determining what a reasonable effort is on a project-by-project basis, especially as right-of-way acquisition often needs to be completed in advance of permitting and final design.	N	The inclusion of "reasonable" is to adopt the language in section 20.7 of the MS4 general permit. It is RCWD's intent to conform to MS4 text in order to contribute to consistent standards. In utilizing the MS4 term, RCWD would follow MPCA guidance on applying the term. RCWD strongly encourages early pre-application coordination to review and discuss stormwater location opportunities.
Washington County	WC-2	C.6(e)	Requiring water quality treatment to the "extent feasible" seems more appropriate for evaluating linear projects on a case-by-case basis, whereas C.6.D.1's right of way acquisition language seems more open ended.	N	As identified in the response to comment WC-1, RCWD is adopting MS4 standards. Section 20.7 says that water quality volume needs to be "maximized". We have changed the language to "to the extent feasible" as "maximized" doesn't make precise sense and feasibility seems the best standard for what the MPCA appears to intend.

Washington County	WC-3	C.9(f)	Expanded requirements for soils investigation, specifically regarding redoximorphic features, will result in documenting seasonal high-water levels at elevations higher than field measuring the groundwater table, for some, if not most projects. In addition to additional field-testing expenses, higher groundwater levels can make treatment via infiltration more challenging and costly.	N	Current RCWD practice requires applicants to identify the seasonal high water elevation; it is just not explicitly in the rule. Thus, the intent and effect of C.9(f) is to clarify the existing practice rather than change policy.  The purpose of the requirement to characterize redoximorphic features is to identify if infiltration is feasible and avoid the construction of infiltration basins that are destined to fail. When infiltration is determined to be infeasible, an alternative stormwater design method may be proposed. Having this upfront knowledge about the on-site soils ultimately will save the applicant cost in fixing non-functioning BMPs.
Washington County	WC-4	C.9(h)	Changes to freeboard/high water level and structure low floors are a positive change.	N	Noted; thank you
Washington County	WC-5	D.2(e)	The removal of permit requirements for stormwater BMP maintenance is a positive change.	N	Noted; thank you
Washington County	WC-6	F.5(e)	Requiring wetland credits from within Watershed boundaries will likely make (what available) credits more expensive. This will likely make credits more expensive, and/or wetland banking more lucrative within Watershed boundaries. Historically BWSR has required that when purchasing wetland credits for mitigation, they had to be within the same area/watershed. As we understand it, BWSR is going away from this standard.	N	A similar comment (H-6) was made by the City of Hugo and RCWD recognizes this concern. Our expectation is that wetland bank owners are financially motivated to sell their credits in a timely manner and the competitive nature with other banks in the watershed will likely keep the cost per credit reasonable. In BWSR's current bank administration, the cost per credit across the different Bank Service Areas (BSA) of the state vary. We have adjusted the proposed rule language to provide flexibility where the applicant can demonstrate to the District that credit price within the watershed does not reasonably reflect the market.
City of White Bear Lake	WBL-3	C.6(d)(2)	The new language adds 'whether off-site or on-site'. If this is the intent, then we recommend deleting the 'on-site' text that is in the current language.	N	The intent is to first identify if infiltration is feasible on the developing site. If it is, the rule allows for use of regional or off-site infiltration practices (in lieu of on-site infiltration practices) when that is a more cost-effective opportunity. Infiltration is critical in reducing the volume of runoff discharging to surface waters.
City of White Bear Lake	WBL-4	C.6(d)(2)	Consider adding 'in accordance with subsection 6(d)1 after the proposed text 'whether on-site or off-site'.	Y	RCWD is revising the text of C.6(d)(2) to be, "if infiltration is feasible on site (see Table C2), BMPs, whether on- or off-site, must provide for infiltration to meet the standards of subsection 6(c) and 6(d)(1)."
City of White Bear Lake	WBL-5	C.6(d)(2)	If the intent is also off-site per the first sentence, then delete the 'on-site' text, and consider replacing that text with a reference to table C2	N	Similar to the response to WBL-3, the intent is to first identify if infiltration is feasible on site.
City of White Bear Lake	WBL-6	C.6(d)(1)	The City has successfully incorporated water quality BMP's in many past public linear projects; however there are some instances where water quality treatment options are extremely limited due to a variety of factors including high groundwater, lack of right-of-way, and utility and/or tree conflicts to name a few. For clarification of this subsection, if the City provides documentation that on-site treatment is not feasible, and obtaining additional ROW or adjacent land is cost prohibitive, then the RCWD water quality volume requirement may be waived for the project?	N	That is correct, with one further clarification. Rule C.6(e) identifies for public linear projects that runoff from undisturbed impervious surface within the ROW that is not otherwise being treated may be treated in lieu of treating new or reconstructed impervious surface. This would also need to be considered as part of the "feasible" determination.
Manager Bradley	MB-1	K.4	Change the word "statute" to "law" within Rule K	Y	Change made.
Manager Bradley	MB-2	C.9(e)	Page 78 of the packet, under item e, where he thinks the word 'be' needs to be added.	Y	Change made.
Manager Bradley	MB-3	E.3(e)	Manager Bradley commented at the August 28, 2024 regular meeting to see if a change could be made to Rule E.3(e) to minimize the need for landowners to have to go through the variance process.	N	The floodplain alteration rule identifies that fill within the floodplain is prohibited unless compensatory floodplain storage volume is provided. Rule E.3(e) and a 10 cubic yard exemption was later added to provide flexibility to landowners and public road authorities. This 10 cubic yard exemption was later expanded to a 100 cubic yard amount based on Houston Engineering's assessment of the District-Wide Model and the anticipated cumulative effect of multiple landowners utilizing the exemption. Because there are so many different ROCs and floodplains throughout the District, it is difficult, if not infeasible, to write a rule that covers all situations/waterbodies. The current 100 cubic yard exemption provides a balance between diminishing the number of variance requests while providing a low risk of substantive impacts due to exempted floodplain fill.
Chris Stowe	CS-1	E.3(f)	At public hearing: Structures in the wetland plain would affect him in relation to something he is already allowed to do in erecting temporary structures where they are needed.	N	The change in the floodplain alteration rule identifies that structures not intended for human habitation do not need to meet the 2-foot freeboard requirements. No changes were made to the floodplain alteration rule or wetland alteration rule regarding temporary structures. WCA does allow for a temporary impact under 8420.0415 Subpart H.
Chris Stowe	CS-2	Multiple	At public hearing: Statement made about access to the drainage system and noted that it confused him because the City of Lino Lakes just passed an ordinance change to basically have easements on all the drainage systems.	N	Regulatory Manager Hughes clarified at the public hearing that RCWD has an implied right-of-way of the public drainage systems through 103E and a formal easement is required through Rules C, E, and I of the regulatory program. The City of Lino Lakes may require a separate drainage & utility easement through property development and platting.
Catherine Decker	CD-1	K.4	At public hearing: Advised against the change under the enforcement rule from 'statute' to 'law' as it would expand the umbrella and reduce clarity	N	Manager Bradley explained at the public hearing that the law includes the statute and the rules that have been adopted explain the statute. He clarified that the District's obligation is to enforce the 'law', which includes statutes.

Plowe Engineering	P-1	Table C6	Table C6 has an asterisk after "rain gardens", but the asterisk isn't explained. Also, "rain garden" is not in the list of definitions. Is that by design?	Y	A notation to accompany the asterisk appears to have been inadvertently deleted in a prior revision of the rule. The following notation will be added following Table C6: *rain gardens are off-line infiltration or bio-filtration basins.
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**RESOLUTION NO. 2024-10**  
**RICE CREEK WATERSHED DISTRICT**  
**BOARD OF MANAGERS**

**ADOPTING RULE REVISIONS**

Manager \_\_\_\_\_ offered the following Resolution and moved its adoption, seconded by Manager \_\_\_\_\_:

**WHEREAS** pursuant to Minnesota Statutes §103D.341, the Rice Creek Watershed District (“District”) duly adopted and implements rules to protect water resources throughout the watershed;

**WHEREAS** on the basis of District experience, and the experience of its public partners, in implementing its present rules, and to meet certain minimum stormwater management standards imposed by the Minnesota Pollution Control Agency, the District proposes to revise its stormwater management, erosion and sediment control, floodplain alteration, wetland alteration, regional conveyance systems, public drainage systems, enforcement, variances, definitions and procedural rules;

**WHEREAS** the Board has worked with staff to ensure that the proposed changes, as they have been developed, are consistent with the Board’s regulatory and broader watershed management plan policies;

**WHEREAS** on July 24, 2024, by Resolution 2024-05, the Board directed that the proposed revisions, along with a memorandum describing the proposed changes and the rationale for them, be distributed for public comment in accordance with Minnesota Statutes §103D.341;

**WHEREAS** on July 26, 2024, District staff distributed the proposed revisions and accompanying memorandum to all municipalities and public transportation authorities within the District and the Minnesota Board of Water and Soil Resources, and to other interested parties, and provided notice of public hearing, all in accordance with the Board’s directive;

**WHEREAS** the Board provided for submittal of public comment until September 20, 2024, and on September 11, 2024, held a duly noticed public hearing on the proposed rules;

**WHEREAS** the Board has carefully reviewed and duly considered all submitted comments in preparing the final revised rules, and has reviewed proposed responses to comments prepared by District staff and the District engineer;

**WHEREAS** on the basis of public comment, the District finds it appropriate to make the following changes to the proposed rules, which are within the scope of the rulemaking:

- Paragraph B.1: The following text will be added, “Where a public applicant must acquire land, a signed notice from the landowner acknowledging the application may be provided in lieu of the landowner’s signature as a co-applicant.”
- Paragraph C.6(d)(2): The following text will be added, “...and 6(d)(1).”
- Paragraph C.9(e): The following text will be added, “be”
- Table C6: The following text will be added as an asterisk under the table, “Rain gardens are ‘off-line’ infiltration or bio-filtration basins.”
- Paragraph F.5(e): The following text will be added, “...unless credits are unavailable or the applicant demonstrates that credit price deviates substantially from a market condition.”
- Paragraph G.3: The text will be modified to, “The landowner or conveyance system owner receiving a permit under this rule is responsible to maintain the permitted alteration in the design condition.”
- Paragraph K.4: The word “statute” will be replaced with “law”

**WHEREAS** the Board finds the proposed revised rules to be sound, reasonable and fair; to protect, conserve and manage the beneficial use of the water resources of the watershed; and generally to promote the public welfare;

**THEREFORE BE IT RESOLVED** that the Board hereby adopts the proposed revisions to the District Rules, as amended above;

**BE IT FURTHER RESOLVED** that the District Administrator, on certification of the revised rules by the Board Secretary, is to publish legal notice of the adoption of the revised rules; file the certified revised rules with each county recorder and the Minnesota Board of Water and Soil Resources; provide notice of adopted rules to each public transportation authority within the District; mail a copy of the certified revised rules by January 1, 2025, to the governing body of each city and township within the District; and file a certified copy of the revised rules in the official minute book of the District;

**BE IT FURTHER RESOLVED** that the District Administrator is to supply a copy of the District’s written response to comments to each commenting party and otherwise make the response to comments available as a part of the public rulemaking record; and

**BE IT FINALLY RESOLVED** that the revised rules are effective as of January 1, 2025, and will apply to all applications for permits that have not been submitted to the District and deemed complete, within the meaning of Minnesota Statutes §15.99, by December 31, 2024.

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



	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
BRADLEY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ROBERTSON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WAGAMON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WALLER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WEINANDT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the President declared the Resolution \_\_\_\_\_.

\_\_\_\_\_  
 Dated: \_\_\_\_\_, 2024  
 Jessica Robertson, Secretary

\* \* \* \* \*

I, Jessica Robertson, 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 \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
 Jessica Robertson, Secretary

## **ITEMS REQUIRING BOARD ACTION**

2. RCWD Employee Handbook Updates (Nick Tomczik)

# MEMORANDUM

## Rice Creek Watershed District



**Date:** November 6, 2024  
**To:** RCWD Board of Managers  
**From:** Nick Tomczik, Administrator  
**Subject:** Employee Handbook - Updates

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### **Introduction**

The Board of Managers is being asked to consider updates to the RCWD Employee Handbook to align with some agency changes and for efficiency in administration.

### **Background**

The District maintains an employee handbook. The handbook is modified from time to time as conditions and needs evolve. The handbook is proposed to be updated in the following four sections.

- Section 4.2 Employment Classification – staff propose revised language to align with Department of Labor changes to the Fair Labor Standards Act (FLSA) in the definition of exempt and non-exempt employment positions.
- Section 4.4 Time Records – The revised language clarifies that an employee and that position's supervisor is to sign the timecard and submit it to the Office Manager.
- Section 7.2 Vacation – The revised language provides that the Administrator may approve leave ahead of accrual amounts and that an employee's request for leave may be scheduled in ½ hour increments.
- Section 7.3.1 Earned Sick and Safe Time Leave – The revised language incorporates additions to State law on funeral and financial matters to be reflected in employee handbook.

When approved staff will finalize the Employee Handbook language and the Administrator will review all changes with staff for administration.

### **Staff Recommendation**

Staff recommends that the Board of Managers consider approval of the amendments to the RCWD Employee Handbook sections as identified above at its November 13, 2024 Board Meeting.

### **Proposed Motion**

Manager \_\_\_\_\_ moves to approve District Employee Handbook amendments to Section 4.2 Employment Classification, Section 4.4 Time Records, 7.2 Vacation, and Section 7.3.1 Earned Sick and Safe Time Leave.

### **Attachments**

- RCWD Employee Handbook Sections:
  - 4.2 Employment Classification
  - 4.4 Time Records
  - 7.2 Vacation
  - 7.3.1 Earned Sick and Safe Time Leave

## 4 EMPLOYMENT RELATIONSHIP

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### 4.1 EMPLOYEE PRIVACY

It is the District's goal to respect the individual privacy of its employees and at the same time maintain a safe and secure workplace. When issues of safety and security arise, you may be requested to cooperate with an investigation. The investigation may include procedures to safeguard the District and its employees, such as searches of personal belongings. Failure to cooperate with an investigation is grounds for termination. Providing false information during any investigation may lead to discipline, including termination.

Employees are expected to make use of District facilities and equipment only for the business purposes of the District. Accordingly, materials that appear on District hardware or networks are presumed to be for business purposes, and all such materials are subject to review by the District at any time without notice to the employees. Employees do not have any expectation of privacy with respect to any material on District property. The District may monitor its communications systems and networks as allowed by law. Monitored activity may include voice, e-mail, and text communications, as well as Internet search and browsing history. Employees who make excessive use of the communications system for personal matters are subject to discipline. Employees are expected to keep personal communication to a minimum and to emergency situations.

**Video surveillance.** As part of its security measures and to help ensure a safe workplace, the District may position video cameras to monitor various areas of its facilities. Video cameras will not be used in private areas, such as break rooms, restrooms, locker/dressing rooms, etc. Videotapes will not include an audio component.

### 4.2 EMPLOYMENT CLASSIFICATION

Written job descriptions will be prepared for all District employment positions. The descriptions will consist of a title, a description of the responsibilities and typical examples of work performed, and other information on the required qualifications and abilities necessary to perform the duties of the position. Job descriptions should be reviewed annually between the employee and the supervisor, and adjustments made as needed.

All employee positions will be classified pursuant to applicable Fair Labor Standards Act (FLSA) as either Non-~~e~~Exempt (employees who are entitled to overtime compensation) or Exempt (employees who are not entitled to overtime compensation.)

In order to determine eligibility for benefits and overtime status and to ensure compliance with federal and state laws and regulations, the District classifies its employees as shown below. The District will maintain up-to-date information regarding the proper classification for each job per FLSA definitions for executive, administrative and professional exemptions, and other requirements. The District may review or change employee~~mentee~~ classifications at any time.

**Exempt.** Exempt employees are typically paid on a salary basis and are not eligible to receive overtime pay.

**Non-exempt.** Non-exempt employees are paid on an hourly or salary basis and are eligible to receive overtime pay for overtime hours worked.

**Regular, full time.** Employees who are not in a temporary status and work a minimum of 40 hours weekly and maintain continuous employment status. Generally, these employees are eligible for the full-time benefits package and are subject to the terms, conditions, and limitations of each benefits program.

**Regular, part time.** Employees who are not in a temporary status and who are regularly scheduled to work less than 40 hours weekly and who maintain continuous employment status. Part-time employees are eligible for some of the benefits offered by the District and are subject to the terms, conditions, and limitations of each benefits program.

**Temporary, full time.** Employees who are hired as interim replacements to temporarily supplement the workforce or to assist in the completion of a specific project and who are temporarily scheduled to work the District's full-time schedule for a limited duration. Employment beyond any initially stated period does not in any way imply a change in employment status. These employees are not eligible for the full-time benefits package.

**Temporary, part time.** Employees who are hired as interim replacements to temporarily supplement the workforce or to assist in the completion of a specific project and who are temporarily scheduled to work less than 40 hours weekly for a limited duration. Employment beyond any initially stated period does not in any way imply a change in employment status. These employees are not eligible for the full-time benefits package.

#### 4.3 WORKWEEK AND HOURS OF WORK

The standard workweek is from Sunday 12:00 a.m. until Saturday 11:59 p.m. and generally consists of 40 work hours. Office hours are 8:00 a.m. to 4:30 p.m., Monday through Friday. Individual work schedules may vary depending on the needs of each department, including occasional evening and weekend work. Employees are required to work according to the schedule for their assigned position. Working more than 40 hours in a week may occasionally be required to meet deadlines or to accomplish objectives. Non-exempt employees will receive overtime pay at 1.5 times their hourly rate.

**Meals and Rest Breaks.** Employees are entitled to a 30-minute unpaid meal break each day. Any non-exempt employee who is required to work through a meal break will be paid for the 30-minute period. Employees are also entitled to two 15-minute rest periods each day.

#### 4.4 TIME RECORDS

All non-exempt employees are required to complete accurate weekly time reports showing all time actually worked, and other time that comprises a 40-hour workweek. These records are required by governmental regulations and are used to calculate regular and overtime pay. ~~At~~



~~the end of each week, you and your supervisor must sign the time sheet attesting to its correctness before forwarding it to the Administrator within the designated time.~~

Exempt employees shall also log their time for purposes of tracking expenses for various work activities and for tracking accrued leave and flex time.

Both exempt and non-exempt employees at the end of each two-week period, sign and your supervisor must sign the timesheet attesting to its correctness and submit it to the Office Manager within the designated time for District processing and records.

## 4.5 OVERTIME

When required due to the needs of the business, you may be asked to work overtime. Overtime is actual hours worked in excess of 40 in a single workweek. Non-exempt employees will be paid overtime compensation at the rate of one and one-half their regular rate of pay for all hours over 40 actually worked in a single workweek. Paid leave, such as holiday, vacation, sick time, bereavement time, and jury duty, does not apply toward work time. All overtime work must be approved in advance by a supervisor.

## 4.6 FLEX TIME

Exempt employees may accumulate flex time for any work time beyond a 40-hour workweek. For purposes of calculating flex time, holidays, vacation and personal leave days do not count; only hours actually worked will be used in the calculation. The supervisor is expected to work with employees, within reason, so that flex time accumulated in a timesheet pay-period is used within the following timesheet pay period. There is no carryover beyond that timeframe, and flex time will be zeroed out, as it is not intended to be a stockpile alternative leave. If unforeseen circumstances prohibit the use of accrued flex time, it must be approved by the Administrator to be used at a later time. Flex time is not to be used during “in office” days. Furthermore, upon giving notice of termination, any accrued flex time will be zeroed out.

If flex time becomes routine for any employee, the Administrator needs to be notified to ensure a balance of work.

Neither the Administrator nor supervisors are eligible to accumulate flex time.

## 4.7 DEDUCTIONS FROM PAY/SAFE HARBOR EXEMPT EMPLOYEES

The District does not make improper deductions from the salaries of exempt employees and complies with the salary basis requirements of the Fair Labor Standards Act (FLSA). Employees classified as exempt from the overtime pay requirements of the FLSA will be notified of this classification at the time of hire or change in position.

**Permitted deductions.** The FLSA limits the types of deductions that may be made from the pay of an exempt employee. Deductions that are permitted include:

- Deductions that are required by law, e.g., income taxes;
- SDI (State Disability Insurance);

leave. If an employee is absent on one or both of these days because of an illness or injury, the District may require verification of the reason for the absence before approving holiday pay.

**Religious observances.** Employees who need time off to observe religious practices or holidays not already scheduled by the District should speak with their supervisor. Depending upon business needs, the employee may be able to work on a day that is normally observed as a holiday and then take time off for another religious day. Employees may also be able to switch a scheduled day with another employee, take vacation time, or take off unpaid days. The District will seek to reasonably accommodate individuals' religious observances.

## 7.2 VACATION

The District recognizes the importance of time off from work to relax, spend time with family, and enjoy leisure activities. The District provides paid vacation time to full-time employees for this purpose, and employees are encouraged to take vacation during the year. Part-time employees who are regularly scheduled to work 24 or more hours per week will be eligible for paid vacation on a pro rata schedule.

Full-time employees will accrue paid vacation according to the following schedule:

<u>Years of Service</u>	<u>Accrual Rate</u>	<u>Annual Leave</u>
Years 1-2	3.33 hours/pay period	80 hours/10 days
Years 3-4	4.00 hours/pay period	96 hours/12 days
Years 5-10	5.00 hours/pay period	120 hours/15 days
Years 11-15	5.66 hours/pay period	136 hours/17 days
Years 16 and over	6.65 hours/pay period	160 hours/20 days

Temporary employees are not eligible to accrue vacation. Request vacation time from your supervisor as soon as possible to help ensure approval. However, the District reserves the right to alter the dates of your vacation if it is in the best interest of the District, as determined by the Administrator. All requests for vacations of five or more days in length must be approved at least 30 days in advance by the Administrator (or the Board President, in the case of the Administrator).

Employees may not take paid vacation until they actually have earned or accrued the vacation time, unless approved by the Administrator. New employees accrue paid vacation immediately upon employment.

Vacation may be scheduled in increments of half hours~~workdays~~ up to a maximum of two weeks in a row.

Vacation time can be accumulated by the employee with a maximum of 260 hours that can be carried forward from one year into the next. It is the responsibility of the employee to schedule vacation time in order to avoid the potential of losing vacation days. Upon termination, a maximum of 260 hours may be included with your last paycheck, at the employee's rate of pay at the time of termination.

### **7.3.1 Earned Sick and Safe Time Leave (effective 1/1/2024)**

“Earned Sick and Safe Time” (ESST) leave is paid time off earned at one hour of ESST leave for every 30 hours worked by an employee, up to a maximum of 48 hours of sick and safe leave per year. The hourly rate of exercised ESST leave is the same hourly rate an employee earns from employment with the District. This specific leave applies to all employees (including temporary and part-time employees) performing work for at least 80 hours in a year for the District. Section 7.3.1 interpretation and administration will be in accordance with the MN Statutes chapter 181.

#### **Earned Sick and Safe Time Leave Use**

The leave may be used as it is accrued in the smallest increment of time tracked by the District payroll system for the following circumstances:

- An employee’s own:
  - Mental or physical illness, injury or other health condition
  - Need for medical diagnosis, care or treatment, of a mental or physical illness
  - injury or health condition
  - Need for preventative care
  - Closure of the employee's place of business due to weather or other public emergency
  - The employee's inability to work or telework because the employee is prohibited from working by the District due to health concerns related to the potential transmission of a communicable illness related to a public emergency, or seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, a communicable disease related to a public emergency and the employee has been exposed to a communicable disease or the District has requested a test or diagnosis.
  - Absence due to domestic abuse, sexual assault, or stalking of the employee provided the absence is to:
    - Seek medical attention related to physical or psychological injury or disability caused by domestic abuse, sexual assault, or stalking
    - Obtain services from a victim services organization
    - Obtain psychological or other counseling
    - Seek relocation or take steps to secure an existing home due to domestic abuse, sexual assault or stalking
    - Seek legal advice or take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from domestic abuse, sexual assault, or stalking
  - Care of a family member:
    - With mental or physical illness

- injury or other health condition
- Who needs medical diagnosis, care or treatment of a mental or physical illness, injury or other health condition
- Who needs preventative medical or health care
- Whose school or place of care has been closed due to weather or other public emergency
- When it has been determined by health authority or a health care professional that the presence of the family member of the employee in the community would jeopardize the health of others because of the exposure of the family member of the employee to a communicable disease, whether or not the family member has actually contracted the communicable disease
- Absence due to domestic abuse, sexual assault or stalking of the employee's family member provided the absence is to:
  - Seek medical attention related to physical or psychological injury or disability caused by domestic abuse, sexual assault, or stalking
  - Obtain services from a victim services organization
  - Obtain psychological or other counseling
  - Seek relocation or take steps to secure an existing home due to domestic abuse, sexual assault or stalking
- Seek legal advice or take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from domestic abuse, sexual assault, or stalking
- To make funeral arrangements, attend a funeral service or memorial, or address financial or legal matters that arise after the death of a family member (effective 5/25/2024)

## **ITEMS REQUIRING BOARD ACTION**

3. MN Watersheds Annual Meeting Delegates & Voting (Kendra Sommerfeld)





## MEMORANDUM

### Rice Creek Watershed District

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**Date:** November 1, 2024  
**To:** RCWD Board of Managers  
**From:** Kendra Sommerfeld, Communications/Outreach Manager  
**Subject:** 2024 MN Watersheds Resolutions – RCWD Voting and Delegation Decision  
**Action**

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#### **Introduction**

The District is a member of the MN Watersheds. MN Watersheds considers resolutions from membership for consideration and potential adoption at its annual meeting as policy positions. RCWD Board November 12, 2024, workshop agenda included discussion on the MN Watersheds resolution and voting delegates. The RCWD Board at the subsequent Board meeting formalizes its voting delegates and voting position on the MN Watersheds resolutions and this year a bylaw change.

#### **Background**

The 2024 annual business MN Watersheds meeting will take place in conjunction with their annual conference/tradeshow. The entire MN Watersheds 2024 packet of member meeting materials including the resolutions is attached. The resolutions will be under consideration at this year's annual meeting, starting at 9:00 a.m. on Friday, December 1, 2024.

The Board will have discussed the resolutions and member meeting packet at November 12, 2024, workshop and worked to understand manager positions on resolutions. At the November 13, 2024, meeting, the Board should consider two actions: 1) designation of two RCWD delegates and an alternate 2) RCWD voting positions for resolutions, budget, and bylaw under consideration at the annual MN Watersheds business meeting.

#### **Proposed Motions**

Manager \_\_\_\_\_, to designate Manager \_\_\_\_\_ and Manager \_\_\_\_\_ as the delegates to the 2024 MN Watersheds business meeting, with Manager \_\_\_\_\_ as the alternate.

Manager \_\_\_\_\_, to instruct the delegates to vote in accordance with the stated RCWD positions related to the seven resolutions, budget, and bylaw on the agenda at the 2024 MN Watersheds business meeting.

#### **Attachments**

- 2024 MN Watersheds member packet meeting materials

**Minnesota Watersheds  
2024 Annual Conference  
December 3 - 6  
Grand View Lodge, Nisswa, Minnesota**

## **Member Meeting Materials**

Enclosed are the following items:

1. Notice of Annual Meeting
2. Delegate Appointment Form
3. Annual Business Meeting Agenda
4. 2023 Annual Business Meeting Minutes
5. Proposed Fiscal Year 2025 Budget
6. Proposed Strategic Plan Revisions
7. Proposed Legislative Platform Updates
8. Proposed Bylaws Changes
9. Resolutions Packet
10. Active Resolutions

Please note that the Delegate Appointment Forms are **REQUIRED**. For the annual business meeting to be held, **a quorum of 44 delegates MUST be present**. Please return your Delegate Appointment Forms to Maddy Bohn at [mnwatershed@gmail.com](mailto:mnwatershed@gmail.com) at your earliest convenience.

This packet has been distributed to administrators and managers via email. No paper copies of this packet will be sent via the U.S. Postal Service.

**We are looking forward to seeing you at this year's conference!**

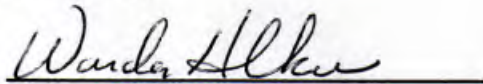
**PLEASE BRING THIS INFORMATION PACKET WITH YOU TO THE CONVENTION.  
EXTRA COPIES WILL NOT BE AVAILABLE ON SITE. THANK YOU!!**

## Minnesota Watersheds 2024 Annual Meeting Notice

NOTICE IS HEREBY GIVEN that the 2024 Annual Meeting of Minnesota Watersheds will be held at the Grand View Lodge, Nisswa, Minnesota beginning at 9:00 a.m. on Friday, December 6, 2024 for the following purposes:

1. To receive and accept the reports of the President, Secretary, and Treasurer regarding the business of the association of the past year;
2. To receive the report of the auditor;
3. To consider and act upon the Fiscal Year 2025 budget;
4. To consider and act upon proposed Strategic Plan revisions;
5. To consider and act upon proposed Legislative Platform updates;
6. To consider and act upon proposed Bylaws changes;
7. To consider and act upon proposed Resolutions;
8. To elect three directors, one from each region, for terms ending in 2027; and
9. To consider and act upon any other business that may properly come before the membership.

Sincerely,



Wanda Holker  
Secretary

## Minnesota Watersheds 2024 Delegate Appointment Form

The \_\_\_\_\_ hereby certifies that it is

*name of watershed organization*

a watershed district or watershed management organization duly established and in good standing pursuant to Minnesota Statutes 103B or 103D and is a member of Minnesota Watersheds for the year 2024.

The \_\_\_\_\_ hereby further certifies

*name of watershed organization*

the following individuals have been appointed as delegates, or as an alternate delegate, all of whom are managers in good standing with their respective watershed district or watershed management organization.

**Delegate #1:** \_\_\_\_\_

**Delegate #2:** \_\_\_\_\_

**Alternate:** \_\_\_\_\_

Authorized by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\*\* Please return this form to [mnwatershed@gmail.com](mailto:mnwatershed@gmail.com) at your earliest convenience. \*\*



**Minnesota Watersheds**  
**2024 Annual Conference**  
Grand View Lodge, Nisswa, MN

**Annual Business Meeting**  
**AGENDA**  
**Friday, December 6, 2024 | 9 a.m.**

**GENERAL BUSINESS**

- 9:00 a.m. Call to Order
- 9:01 a.m. Approval of Agenda (Action)
- 9:02 a.m. Approval of 2023 Annual Business Meeting Minutes (Action) – Linda Vavra
- 9:05 a.m. Treasurer’s Reports – Linda Vavra
  - 2024 Year End Financial Report (Action)
  - 2024 Review of Financial Procedure Report (Action)
  - 2025 Proposed Budget (Action)

**REPORTS**

- 9:30 a.m. President’s Report – Linda Vavra
- 9:40 a.m. Caucus Election Results Report – Linda Vavra
- 9:45 a.m. Executive Director’s Report – Jan Voit
- 10:05 a.m. Board of Water and Soil Resources Report – Assistant Director Justin Hanson

**ACTION ITEMS**

- 10:20 a.m. **STRATEGIC PLAN** (Action) – Linda Vavra
- 10:35 a.m. **LEGISLATIVE PLATFORM** (Action) – Linda Vavra
- 10:50 a.m. **BYLAWS HEARING** (Action) – Linda Vavra
- 11:05 a.m. **RESOLUTIONS HEARING** (Action) – Linda Vavra

*Note: There will be two microphones in the room – One to use if you are “FOR” an amendment and one if you are “AGAINST” an amendment. If you wish to testify on a resolution, please proceed to the appropriate microphone and limit your comments to 2 minutes.*

**Resolution 1** – Regulatory Approaches to Reducing Chloride Contamination

**Resolution 2** – Allowing Alternative Notice of Watershed District Proceedings by Publication on District’s Website

**Resolution 3** – Providing for Watershed Management Organization Representation on Wetland Technical Evaluation Panels in Seven-County Metropolitan Area

**Resolution 4** – Seeking the Ability to Allow Resale of Acquisition Buyout Property

**Resolution 5** – Seeking the DNR to Establish a “Comprehensive Guideline for Calcareous Fen Management”

**Resolution 6** – Seeking Clarification of Minn. Rule 8420.0935, Subp. 1

**Resolution 7** – Seeking the DNR to Adopt a Program to Incentive Calcareous Fen Management on Private Lands

**Resolution 8** – Seeking the Removal of the Water Resource Enforcement Officer

**Resolution 9** – Seeking the Amendment of Minn. Rule 8420.0935, Subp. 3.A.

**Resolution 10** – Seeking a Formal Process to Distribute a Complete List of Calcareous Fens Annually

**Resolution 11** – Seeking Regular Reevaluation of the Designated Species List

**Resolution 12** – Seeking the Development of a Calcareous Fen Work Group

**Resolution 13** – Requesting Minnesota Watersheds Support to Request New Legislation to Set Permit Review Time Limits upon the Department of Natural Resources

12:00 p.m. **ADJOURNMENT**



**Minnesota Watersheds**  
**Annual Business Meeting**  
December 1, 2023



**1. CALL TO ORDER**

The 2023 Minnesota Watersheds Annual Business Meeting was convened at 9:00 a.m. by President Linda Vavra, Bois de Sioux Watershed District (WD).

**2. GENERAL HOUSEKEEPING**

***Agenda***

David Ziegler, Riley Purgatory Bluff Creek WD made a motion to approve the agenda. Jill Crafton, Riley Purgatory Bluff Creek WD seconded the motion. The motion passed by voice vote.

***Secretary's Report***

President Vavra presented the minutes of the 2022 Annual Business Meeting. Bill Petersen, Middle Snake Tamarac Rivers WD moved to approve the Secretary's Report. Jackie Anderson, Comfort Lake Forest Lake WD seconded the motion. The motion passed by voice vote.

***Treasurer's Report***

President Vavra presented the following reports:

- 2023 Year End Financial Report and Statement of Financial Position. David Ziegler, Riley Purgatory Bluff Creek WD moved to approve the 2023 Year End Financial Report. Don Pereira, Valley Branch WD seconded the motion. The motion passed by voice vote.
- Independent Accountant's Report on Applying Agreed upon Financial Procedures. The report dated November 21, 2023 was prepared by Redpath and Company, Ltd. David Ziegler, Riley Purgatory Bluff Creek WD made a motion to accept the Report on Applying Agreed upon Financial Procedures. Dennis Kral, Pelican River WD seconded the motion. The motion passed by voice vote.
- 2024 Proposed Budget. David Ziegler, Riley Purgatory Bluff Creek WD moved to approve the 2023 Proposed Budget. Bill Petersen, Middle Snake Tamarac Rivers WD seconded the motion. The motion passed by voice vote.

**3. REPORTS**

Reports were given by President Vavra and Executive Director Voit.

**4. M.S. Chapter 103D Proposed Fixes**

Executive Director Voit provided an overview of the proposed update to M.S. Chapter 103D. These changes are proposed to modernize the language and make the project process more transparent. The changes are purely housekeeping. No funding will be necessary. When the final version is complete, it will be distributed to members, along with talking points to use in discussions with legislators for the upcoming legislative session.

**5. BYLAWS HEARING**

Grace Butler, Nine Mile Creek WD made a motion to open the Bylaws Hearing. David Ziegler, Riley Purgatory Bluff Creek WD seconded the motion. The motion passed by voice vote.

President Vavra turned the meeting over to Bylaws Committee Co-chair Jamie Beyer, Bois de Sioux WD. Ms. Beyer reported on the proposed changes to the Bylaws. A motion was made by Mike Bradley, Rice Creek WD to approve the proposed changes to the Bylaws. The motion was seconded by Joe Collins, Capitol Region WD. The motion passed by voice vote.

A motion was made by Mike Lee, Shell Rock River WD to close the Bylaws Hearing. Bill Petersen, Middle Snake Tamarac Rivers WD seconded the motion. The motion passed by voice vote.

## **6. RESOLUTIONS HEARING**

A motion was made by Grace Butler, Nine Mile Creek WD to open the Resolutions Hearing. The motion was seconded by Shaun Kennedy, Bassett Creek Watershed Management Commission and passed by voice vote. Jamie Beyer, Resolutions Committee Co-chair presided over the Resolutions Hearing.

### **Resolution #1 Resolution to Require Watershed District Permits for all State Agencies**

Tara Jensen, Wild Rice WD presented the resolution. David Ziegler, Riley Purgatory Bluff Creek WD moved to adopt Resolution #1. Dennis Kral, Pelican River WD seconded the motion. It was brought to everyone's attention that the resolution in the packet had been amended by the Minnesota Watersheds Board of Directors at their meeting on November 28. Once noted, the motion and second were withdrawn.

David Ziegler, Riley Purgatory Bluff Creek WD moved to adopt Resolution #1 as amended. Dennis Kral, Pelican River WD seconded the motion. Following discussion, Brian Johnson, South Washington WD made a motion to call the question. Don Pereira, Valley Branch WD seconded the motion, which passed by voice vote.

The vote on the motion to adopt Resolution #1 was passed by voice vote.

- **Adopted Resolution 2023-1: NOW, THEREFORE, BE IT RESOLVED** that Minnesota Watersheds supports amending Minnesota Statutes § 103D.345, Subd. 5 to read as follows: Subd. 5. Applicability of permit requirements to state. A rule adopted by the managers that requires a permit for an activity applies to all state agencies, including the Department of Transportation.

### **Resolution #2 Resolution Seeking to Clarify Budget Adoption Deadlines and Certification Types for Watershed Districts**

Dan Coughlin, Middle Fork Crow River WD presented the resolution. Dennis Kral made a motion to table Resolution #2 indefinitely. Don Pereira, Valley Branch WD seconded the motion.

Following discussion, Brian Johnson, South Washington WD made a motion to call the question. Don Pereira, Valley Branch WD seconded the motion, which passed by voice vote.

The vote on the motion to table Resolution #2 indefinitely passed by voice vote.

### **Resolution #3 Resolution to Support New Legislation Modeled After HF2687 and SF2419 (2018) Regarding DNR Regulatory Authority over Public Drainage Maintenance and Repairs**

Nick Tomczik, Rice Creek WD presented the resolution. Mike Bradley, Rice Creek WD moved to adopt Resolution #3. Jill Crafton, Riley Purgatory Bluff Creek WD seconded the motion. The motion passed by voice vote.

- **Adopted Resolution 2023-3: NOW, THEREFORE, BE IT RESOLVED** that Minnesota Watersheds supports the introduction of new legislation modeled after HF2687 and SF2419 and commits its lobbying efforts toward promoting the passage of the bills in subsequent sessions.

### **Resolution #4 Resolution Seeking Action for Streamlining the DNR Flood Hazard Mitigation Grant Program**

Dan Money, Two Rivers WD presented the resolution. Andrew Weber, Lac qui Parle-Yellow Bank WD moved to adopt Resolution #4. Benjamin Carp, Ramsey Washington Metro WD seconded the motion. The motion passed by voice vote.

- **Adopted Resolution 2023-4: NOW, THEREFORE, BE IT RESOLVED** that Minnesota Watersheds adopt a resolution seeking action requiring the DNR to establish transparent scoring, ranking, and funding criteria for the Flood Hazard Mitigation Program (M.S. Chapter 103F) and asking the Minnesota Legislature to fully fund the state's share of eligible projects that are on the DNR's list within each two-year bonding cycle. Information regarding scoring, ranking, and funding should be provided annually to project applicants.

**Resolution #5 Resolution Seeking Increased Flexibility in the Open Meeting Law to Utilize Interactive Technology**

David Ziegler, Riley-Purgatory-Bluff Creek WD presented the resolution. Don Pereira, Valley Branch WD moved to adopt Resolution #5. Celia Wirth, Brown's Creek WD seconded the motion.

Following discussion, David Ziegler, Riley Purgatory Bluff Creek WD made a motion to call the question. Dennis Kral, Pelican River WD seconded the motion, which passed by voice vote.

The motion to adopt Resolution #5 was passed by voice vote.

- **Adopted Resolution 2023-5: NOW, THEREFORE, BE IT RESOLVED** that Minnesota Watersheds hereby supports changes to the Open Meeting Law to provide greater flexibility in the use of interactive technology by allowing members to participate remotely in a nonpublic location that is not noticed, without limit on the number of times such remote participation may occur; and allowing public participation from a remote location by interactive technology, or alternatively from the regular meeting location where interactive technology will be made available for each meeting, unless otherwise noticed under Minnesota Statutes Section 13D.021; **BE IT FURTHER RESOLVED** that Minnesota Watersheds supports changes to the Open Meeting Law requiring watershed district to prepare and publish procedures for conducting public meetings using interactive technology.

**Resolution #6 Resolution Seeking Minnesota Watersheds Education and Outreach to Encourage Formation of Watershed Districts in Unserved Areas**

Jackie Anderson and David Bakke, Comfort Lake Forest Lake WD presented the resolution. Jeff Gertgen, Middle Fork Crow River WD moved to adopt Resolution #6. Shawn Mazanec, Capitol Region WD seconded the motion. The motion was passed by voice vote.

- **Adopted Resolution 2023-6: NOW, THEREFORE, BE IT RESOLVED** that Minnesota Watersheds, in consultation with its membership, develop a framework for education and outreach intended to encourage petition and advocacy for the formation of watershed districts in areas of the state not presently served by watershed-based public agencies.

## **7. LEGISLATIVE PLATFORM**

President Vavra and Executive Director Voit presented the Legislative Platform. David Ziegler, Riley Purgatory Bluff Creek WD made a motion to adopt the Legislative Platform. Dennis Kral, Pelican River WD seconded the motion. The motion passed by voice vote.

## **8. ADJOURNMENT**

President Vavra thanked the members for their participation in the business meeting and the annual conference. She adjourned the meeting at 11:01 a.m.

Wanda Holker  
Secretary



## Memorandum

DATE: October 31, 2024  
TO: Minnesota Watersheds Members  
FROM: Finance Committee Co-chairs David Ziegler, Riley Purgatory Bluff Creek WD and Tera Guetter, Pelican River WD  
RE: **Draft FY24 Financial Statement, Review of Financial Procedure Report, and Proposed FY25 Budget**

---

**It is important to note that most of Minnesota Watersheds revenue is generated through payment of dues.**

### **INCOME FY24 ACTUAL**

- The FY24 dues were based on the dues structure adopted by the membership at the 2022 annual business meeting. We also had increased income from regaining the membership of Buffalo Creek and Heron Lake WDs.
- The income for the Legislative event, Summer Tour, and Annual Conference remained steady.

### **EXPENSES FY24 ACTUAL**

#### *Administrative and Program Management*

- Administrative and Communications Support – Contract: funds paid to the Executive Director.
- Event and Communication Management – Contract: funds paid to the Program Manager for managing Minnesota Watersheds events.
- Newsletter formatting, Website, social media, etc. – Contract: funds paid to the Program Manager for these tasks.

#### *Government Relations*

- Lobbying – Contracted Services: funds paid to lobbyists Ray Bohn and Lockridge Grindal Nauen.

#### *Professional Services*

- Legal Fees: funds paid for general legal services.
- Legal Fees – Drainage Work Group: funds paid to represent members at the DWG.
- Legal Fees – M.S. Chapter 103D modernization: funds paid to assist with statutory language changes and testifying at the legislature.
- Legal Fees – Amicus Brief JD 39: funds paid to draft and submit a brief to the Minnesota Supreme Court regarding Red Lake JD 39.
- Accounting and Audit Fees: funds paid to Obremski Ltd. for monthly accounting and bookkeeping services, and to Redpath Ltd. for the agreed upon procedures report.
- Insurance: funds paid for insurance coverage for errors and omissions insurance for the Minnesota Watersheds Board of Directors, and for general coverage for office, records, and office equipment.

#### *Office Expenses*

- Rent: funds paid to Capitol Region WD for storage and office rent.
- Mileage and General Office Expenses: for directors and contractors, as well as office supplies.

#### *Board and Committee Meetings*

- Per Diems and Expenses - Directors: funds paid to directors for serving on the Board of Directors and Minnesota Watersheds Committees.

#### *Education and Events*

- The actual costs incurred for implementing the Legislative Briefing and Day at the Capitol, Summer Tour, and Annual Conference.

### **2024 REVIEW OF FINANCIAL PROCEDURE REPORT**

The report from Redpath Ltd. for the agreed upon procedures has not been submitted. It will be distributed to members as soon as it is available.

### **INCOME PROPOSED FY25 BUDGET**

- The estimated dues for FY25 are based upon payment in full by current members with the dues structure that was approved by the membership in 2022.
- The estimated income for the annual conference in FY25 is based on actual revenue received in FY24.
- The estimated costs for the Legislative Day at the Capitol and Summer Tour are based on actual costs for FY24.

### **EXPENSES PROPOSED FY24 BUDGET**

#### *Administrative and Communications Support*

- Administrative and Communications Support: projected expense for the Executive Director.
- Event and Communication Management: projected expense for Program Manager for managing Minnesota Watersheds events (Legislative Briefing and Day at the Capitol; Summer Tour; and Annual Conference).
- Newsletter formatting, website, social media, etc. - Contract: projected expense for Program Manager.

#### *Government Relations*

- Lobbyist Contract: for lobbyist Ray Bohn through December 31, 2024.
- Lobbyist Contract: for the Lockridge Grindal Nauen lobbying team.

#### *Professional Services*

- Legal Fees: costs incurred by Smith Partners for general legal work.
- Legal Fees – Drainage Work Group (DWG): costs incurred for Smith Partners to represent members at the DWG on an as-needed basis.
- Drainage Work Group – Contract: costs for Myron Jesme to represent Minnesota Watersheds at DWG meetings and subcommittee meetings.
- Accounting and auditing funds paid to Obremski Ltd. for monthly accounting and bookkeeping services, and to Redpath Ltd. for the agreed upon procedures report.
- Insurance coverage for errors and omissions insurance for the Minnesota Watersheds Board of Directors, and for general coverage for office, records, and office equipment.

#### *Office Expenses*

- Rent: funds paid to Capitol Region WD for storage and office rent.
- Mileage and General Office Expenses: for directors and contractors, as well as office supplies.

#### *Board and Committee Meetings*

- Per Diems and Expenses - Directors: Funds paid to directors for serving on the Board of Directors and Minnesota Watersheds Committees.

#### *Special projects*

- Funds for anticipated costs incurred with the Watershed Handbook, surveys, or promotional items.

#### *Education and Events*

- Estimated costs for implementing the Annual Conference, Legislative Briefing and Day at the Capitol, Summer Tour, credit card processing fees, and special workshops.

Even with the additional projected expenses, we are projecting a modest increase in available capital at the end of FY25.

Questions regarding the FY25 proposed budget and/or the FY24 financial information should be directed to David Ziegler, Treasurer ([david\\_ziegler@outlook.com](mailto:david_ziegler@outlook.com) or 952-905-1889) or Jan Voit ([jvoit@mnwatersheds.com](mailto:jvoit@mnwatersheds.com) or 507-822-0921).



Minnesota Watersheds			Prepared	10/9/2024
<b>DRAFT</b> FY24 Financial Report and Proposed FY25 Budget				
October 1, 2024 through September 30, 2025				
	FY2025**	FY2024*	FY2024	FY2023*
			Oct'23-Sep'24	Oct'22-Sep'23
<b>INCOME</b>	<b>BUDGET</b>	<b>BUDGET</b>	<b>FY 2024 ACTUAL</b>	<b>FY 2023 ACTUAL</b>
Dues - Watershed District Members	262,421	251,008	255,986	227,065
Dues - Watershed Management Organization Members	22,500	22,500	22,500	22,500
Annual Conference Registrations	91,000	87,000	120,885	114,563
Annual Conference Trade Show and sponsorships	42,300	43,500	13,000	-
Legislative Day at the Capitol	5,500	4,000	5,339	6,913
Summer Tour	20,000	20,000	28,250	18,658
Minnesota Watersheds Workshops	2,500	2,500	-	-
Interest	25	25	563	481
<b>TOTAL REVENUES</b>	<b>446,246</b>	<b>430,533</b>	<b>446,523</b>	<b>390,180</b>
<b>EXPENSES</b>				
<b>Administration &amp; Program Management</b>				
Administrative and Communications Support - Contract	105,000	111,600	95,532	89,708
Event and Communication Management - Contract	45,000	43,200	43,200	40,719
Newsletters, Website, Social Media, etc. - Contract	4,500	7,000	3,354	6,027
<b>Government Relations</b>				
Lobbying - Contracted Services - Ray Bohn, MGA	11,250	45,000	45,000	33,122
Lobbying - Contracted Services - Lockridge Grindal Nauen	56,244	30,000	22,500	-
Lobbyist Expenses	1,000	1,000	450	353
<b>Professional Services</b>				
Legal Fees	25,000	25,000	5,327	17,118
Legal Fees - Drainage Work Group	7,500	7,500	8,115	5,289
Legal Fees - M.S. Chapter 103D modernization	-	-	28,161	-
Legal Fees - Amicus Brief JD 39	-	-	7,005	-
Drainage Work Group - Myron Jesme contract	5,000	5,000	2,217	-
Accounting and Audit Fees	14,400	15,000	13,100	14,100
Insurance	1,700	1,700	734	2,407
<b>Office Expenses</b>				
Rent	2,400	4,800	2,400	3,000
Mileage and General Office Expenses	15,000	10,000	12,965	10,783
Dues, Other Organizations	-	-	-	-
Other Special Items	3,700	2,500	1,700	510
Memorials	250	250	-	-
<b>Board and Committee Meetings</b>				
Per Diems and Expenses - Directors	25,000	25,000	19,915	23,724
Board and Committee Meeting Expenses	1,000	1,000	-	-
<b>Special Projects</b>				
Watershed Handbook, Surveys, etc.	5,000	5,000	44	4,466
<b>Education and Events</b>				
Annual Conference	75,000	54,500	74,778	60,046
Legislative Day at the Capitol	5,500	5,500	5,778	4,508
Summer Tour	20,000	20,000	22,840	14,379
Credit Card Processing Fees	4,100	4,100	1,534	939
Special Workshops	3,700	2,500	-	-
<b>TOTAL EXPENSES</b>	<b>437,244</b>	<b>427,150</b>	<b>416,649</b>	<b>331,197</b>
<b>REVENUES OVER (LESS THAN) EXPENSES</b>	<b>9,002</b>	<b>3,383</b>	<b>29,874</b>	<b>58,983</b>
<b>STATEMENT OF NET POSITION</b>				
Assets, Cash and Equivalents, actual			293,210	270,378
Dues receivable			-	-
Deposits received - deferred, prepaid expenses			1,347	(4,313)
Liabilities, accounts payable, taxes payable			(19,726)	(21,108)
<b>ENDING NET ASSETS</b>			<b>274,831</b>	<b>244,957</b>

\*These are final numbers. \*\*FY25 Budget approved by Finance Committee on 10/09/2024 and the MW BOD on 10/28/2024.



## Memorandum

DATE: October 31, 2024  
TO: Minnesota Watersheds Members  
FROM: Committee Co-Chairs David Ziegler, Riley Purgatory Bluff Creek WD and Andy Henschel, Shell Rock River WD  
RE: **Proposed Strategic Plan Updates**

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In December of 2022, the Minnesota Watersheds membership adopted the 10-Year Strategic Plan. Over the course of the last two years, many of the strategies and tactics have begun and some have been completed. With those accomplishments in mind, the Strategic Plan Committee met to review the plan.

### Proposed revisions

- Many of the proposed changes are minor wordsmithing. The 10-year plan was also updated to reflect plan accomplishments.
- The introduction was revised to include the Annual Work Plan for the Minnesota Watersheds Board of Directors (Board).
- Revisions to the committee's section were made to reflect the committee makeup and processes described in the Manual of Policy and Procedures.
- It is necessary for Minnesota Watersheds to engage with members and non-members. Revisions in this section were made to reflect those needs.
- Clarifying language was added to the section regarding streamlining the resolutions and legislative priorities processes.
- Acknowledging the Legislative Coordination and Communication Plan was added to the lobbying section, as well as addressing the need for members to develop personal relationships with their legislators.
- An annual work plan for the Board was added.
- Expectations for support and advocacy from the Minnesota Watersheds representatives on the Board of Water and Soil Resources and Clean Water Council were incorporated.
- The tactics timetable was updated to include the executive director's work plan for 2025 and 2026.

Questions regarding the Strategic Plan and/or the proposed revisions should be directed to David Ziegler ([david\\_ziegler@outlook.com](mailto:david_ziegler@outlook.com)), Andy Henschel ([andy.henschel@co.freeborn.mn.us](mailto:andy.henschel@co.freeborn.mn.us)), or Jan Voit ([jvoit@mnwatersheds.org](mailto:jvoit@mnwatersheds.org)).



**MINNESOTA  
WATERSHEDS**  
*Connecting People. Protecting Water.*

# 10-YEAR STRATEGIC PLAN

December 2, 2022

Updated: December 6, 2024

## Abstract

This document defines Minnesota Watersheds' mission and vision for the future and identifies goals, objectives, strategies, and tactics.

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# MINNESOTA WATERSHEDS

## STRATEGIC PLAN GOALS AND OBJECTIVES

**MISSION:** To support and advocate for leaders in watershed management.

**VISION:** To establish excellence and innovation in all watershed-based organizations.

### GOALS AND OBJECTIVES:



Fortify the infrastructure of Minnesota Watersheds to ensure reliable delivery of services.

- Ensure Minnesota Watersheds governance and management are aligned with the Strategic Plan.
- Develop concentrated communication efforts.
- Empower Minnesota Watersheds to accomplish its goals and objectives.
- Invest in technological resources to accommodate access to information.
- Better utilize member and executive committees for healthy and sustainable Minnesota Watersheds' operations.



Build a watershed community that supports one another.

- Enhance member engagement through inclusivity.
- Grow membership.
- Expand participation at Minnesota Watersheds' events.
- Increase member involvement on committees and the Minnesota Watersheds Board of Directors to assure member needs are met.



Serve as a liaison to collaborate with statewide agencies and associations.

- Increase collaborative efforts between the Board of Water and Soil Resources and Minnesota Watersheds.
- Increase partnership activities with statewide entities.



Ensure strong legislative policies are in place for watershed management.

- Streamline the resolutions and legislative platform processes.
- Articulate clearly defined legislative policies so members and Minnesota Watersheds' representatives can accurately state our positions.
- Focus and prioritize lobbying efforts.
- Increase member engagement in the legislative process.



Enhance the skills of watershed district and watershed management organization boards.

- Provide guidance and direction for efficient and effective member board operations.



## Introduction

This document is intended to be a **long-range, 10-year Strategic Plan**. Each year the Strategic Plan Committee will make recommendations to the Minnesota Watersheds Board of Directors on the organization's top priorities. The Annual Work Plan for the Minnesota Watersheds Board of Directors will be developed based on the goals, objectives, strategies, and tactics described in this plan, as well as the day-to-day operations described in the Manual of Policy and Procedures. The Tactics Timetable will be developed based upon priorities determined by the Strategic Plan Committee and recommended to the Minnesota Watersheds Board of Directors as follows: ~~annual work plan for the Minnesota Watersheds Board of Directors~~; two-year work plan for the Executive Director; ~~and five- and 10-year work plans~~ based on Strategic Plan Committee priorities and work accomplished. This process will be done to better ensure accomplishing the goals and setting expectations for member watershed districts, watershed management organizations, the Minnesota Watersheds Board of Directors, and the Executive Director.

## Definitions

Members – dues paying Watershed districts and Watershed management organizations

Non-members – Watershed districts and Watershed management organizations that have chosen not to pay dues

## Strategic Plan

### Mission

To support and advocate for leaders in watershed management.

### Vision

To establish excellence and innovation in all watershed-based organizations.

### Values

**Collaborate:** work with partners to enhance members' watershed management skills and initiatives.

**Efficient:** provide services to maximize effective science-based principles for watershed management.

**Support:** promote and assist members' efforts in watershed management.

**Member-driven:** seek and consider input to ensure the organization's decisions reflect members' voices.

**Transparent:** communicate information about the performance, financial position, and governance of the organization in an open and honest manner.

## Goals, Objectives, Strategies, and Tactics

Goal 1: Fortify the infrastructure of Minnesota Watersheds to ensure reliable delivery of services.

### Objectives, Strategies, and Tactics to Achieve Goal 1

1. Ensure Minnesota Watersheds' governance and management are aligned with the Strategic Plan.
  - Focus the organization's efforts on defined goals, strategies, objectives, and tactics.
    - i. Confirm, each month, that Board of Directors' actions reflect the Strategic Plan.
    - ii. If new issues arise that require significant resources, seek member support before pursuing.

- iii. Do not adopt major policies or expenditures without staff review and recommendations that consider pros and cons, alternatives, costs, and member perspectives.
2. Develop concentrated communication efforts.
  - Communication plan.
    - i. ~~Develop~~ Maintain the adopted communication plan that brings structure and consistency to all Minnesota Watersheds' communication efforts.
  - Newsletters.
    - i. Adhere to a consistent process for newsletter development and distribution, as well as a process for posting newsletters on the website.
    - ii. Ensure newsletters are distributed to members and non-members.
  - Minnesota Watersheds Board of Directors agendas and meeting packets.
    - i. Distribute agendas and meeting packets directly to each member organization ahead of each meeting and post agendas on the website.
3. Empower Minnesota Watersheds to accomplish its goals and objectives.
  - Sufficient staffing.
    - i. Invest in sufficient staff to complete identified strategies and tactics.
  - Suitable policies.
    - i. Set policies that ensure adequate funding for staffing and technological resources.
    - ii. Develop an annual work plan for the Minnesota Watersheds Board of Directors.
4. Invest in technological resources to accommodate access to information.
  - Robust website.
    - i. ~~Update~~ Maintain the website to be an up-to-date website that is a and complete resource for boards and administrators.
  - Efficient internal communication tool.
    - i. Work with Minnesota Association of Watershed Administrators to launch and house a platform for data sharing and networking.
    - ii. Transition electronic files to the cloud for reliable backup and document sharing among staff.
5. Better utilize member and executive committees for healthy and sustainable Minnesota Watersheds' operations.
  - Member committees.
    - i. Maintain four member committees: Awards, Events/Education, Legislative, and Resolutions/Policy.
    - ii. Adjust Support committee leadership ~~to of~~ one manager and one administrator who serve as co-chairs. Continue to populate ~~the committees~~ with one manager and one administrator from each region.
    - iii. Refine Review committee scopes of work annually.
    - iv. ~~Develop annual work plans for committees.~~
  - Executive committees.
    - i. ~~Form~~ Retain three executive committees: Governance, Personnel, and Finance.
    - ii. Governance Committee: Members include ~~one Minnesota Watersheds Board member from each region~~ the Minnesota Watersheds President, Vice President, Secretary, and except for the Personnel Committee, the Executive Director.
      1. ~~Combine the bylaws, Manual of Policy and Procedures, and Committee into one executive governance committee.~~ This committee ~~would~~ will handle ~~minor day-to-day~~ issues and make recommendations to the board of directors. When ~~major~~ reviews or revisions to the Bylaws, Manual of Policy and Procedures, and/or the Strategic Plan are

- warranted, ~~form the appropriate~~ member committee will meet, as defined above, to perform the assigned work.
- iii. Personnel Committee: Members include the Minnesota Watersheds President, Vice President, Secretary, and Treasurer.
  - iv. Finance Committee: Members include the President, Vice President, Secretary, Treasurer, and Executive Director.
    - 1. The Executive Finance Committee will prepare a budget, with the assistance of the member finance committee and the accountant, and make the annual recommendation to the board of directors on regarding dues. Form a member committee, as defined above, when major projects are warranted, such as proposing a new dues structure.
  - v. Refine-Review committee scopes of work annually.
  - vi. Develop annual work plans for committees.

Goal 2: Build a watershed community that supports one another.

Objectives, Strategies, and Tactics to Achieve Goal 2

1. Enhance member engagement through inclusivity.
  - ~~Change-Retain Minnesota Watersheds~~ the name of the organization to accurately represent membership.
    - i. ~~Adopt Minnesota Watersheds as the new name of the organization.~~
2. Grow and sustain membership.
  - Develop and share membership benefits information.
  - Meet individually with members to understand their needs, address concerns, and strengthen the partnership with Minnesota Watersheds.
  - Meet individually with non-members to address concerns and increase the number of watershed districts and watershed management organizations as Minnesota Watersheds members.
    - i. Start-Continue discussions with the ~~10-five~~ non-member watershed districts and 15 non-member watershed management organizations on the benefits of membership.
    - ii. Use the Minnesota Watersheds Regional Board of Directors and/or Administrators to advocate for Minnesota Watersheds around the state.
3. Expand participation at Minnesota Watersheds events.
  - Increase the number of members that attend Minnesota Watersheds events.
    - i. Be inclusive of members and non-members for Minnesota Watersheds events and meetings ~~to maintain a sense of fairness, apply discounts to members.~~
    - ii. Hold regional caucuses in conjunction with all Minnesota Watersheds events.
    - iii. Increase the current average attendance of members at Minnesota Watersheds events: ~~Legislative Meeting (75), Summer Tour (130), and Annual Conference (500).~~
4. Increase member involvement on committees and the Minnesota Watersheds Board of Directors to assure member needs are met.
  - Promote the importance of member involvement in the Minnesota Watersheds Board of Directors and on the committees to provide direction and guidance for the organization.
    - i. Ensure members have opportunities to voice concerns and provide input at board and committee meetings.
    - ii. Advocate for Minnesota Watersheds activities through newsletters and the website.

Goal 3: Serve as a liaison to collaborate with statewide agencies and associations.

#### Objectives, Strategies, and Tactics to Achieve Goal 3

1. Increase collaborative efforts between the Board of Water and Soil Resources and Minnesota Watersheds.
  - Work with the Board of Water and Soil Resources leadership to address member concerns.
    - i. Strengthen the working relationship with the Board of Water and Soil Resources by ~~Identify~~ identifying points of contention, developing ing a ~~work~~ plan to address issues, and improve ~~develop~~ opportunities for reducing concerns.
2. Increase partnership activities with statewide entities.
  - Identify opportunities to work with the Minnesota Association of Watershed Administrators, Minnesota Association of Soil and Water Conservation Districts, the Association of Minnesota Counties, the League of Minnesota Cities, Local Government Water Roundtable, Drainage Work Group, Clean Water Council, Red River Watershed Management Board, Department of Natural Resources, Minnesota Pollution Control Agency, and others as deemed appropriate to promote watershed management.
    - i. Ensure Minnesota Watersheds staff attend Board of Water and Soil Resources, Clean Water Council, and Drainage Work Group meetings and provide updates for members.
    - ii. Strengthen the partnership with the Minnesota Association of Watershed Administrators through the Executive Director's attendance at Minnesota Association of Watershed Administrators meetings and collaboration on education opportunities at Minnesota Watersheds events.
    - iii. Increase opportunities to partner and track collaboration with Minnesota Association of Soil and Water Conservation Districts, League of Minnesota Cities, Local Government Water Roundtable, and Association of Minnesota Counties.
    - iv. Advocate for the appointment of effective watershed district board members with the Board of Water and Soil Resources and the Association of Minnesota Counties.

Goal 4: Ensure strong legislative policies are in place for watershed management.

#### Objectives, Strategies, and Tactics to Achieve Goal 4

1. Streamline the resolutions and legislative ~~platform~~ priorities processes.
  - Evaluate the current resolutions and legislative ~~platform~~ priorities process.
    - i. Identify alternative methods to achieve concurrence on resolutions, adopt a revised process, or reaffirm that the current process works for the membership.
    - ii. Identify alternative methods to achieve concurrence on the legislative priorities, adopt a revised process, or reaffirm that the current process works for the membership.
2. Articulate clearly defined legislative policies so members and Minnesota Watersheds representatives can accurately state our positions and priorities.
  - ~~Develop~~ Maintain a comprehensive legislative platform of clearly defined policies.
    - i. Work with Minnesota Association of Watershed Administrators and the Legislative Committee, and the Resolutions Committee to annually review ~~develop a full~~ the Legislative policy document ~~Platform~~ that is inclusive of ~~includes~~ policies and priorities that can remain on the books indefinitely or until members approve changes to those positions, including a process to handle emerging issues at the legislature.

- ii. Draft expectations for support and advocacy for Minnesota Watersheds representatives that serve on the Board of Water and Soil Resources Board, Clean Water Council, and the Local Government Water Roundtable.
3. Focus and prioritize lobbying efforts.
  - Identify legislative issues impacting the most members.
    - i. Support legislation that promotes watershed management.
    - ii. Fend off legislation that limits member abilities to protect and restore water resources.
    - iii. Ensure the Minnesota Watersheds lobbyist(s) have clear direction on Minnesota Watersheds legislative priorities.
    - iv. ~~Align workload with the resources set aside for lobbying and m~~Manage member expectations regarding the Minnesota Watersheds legislative program.
    - v. Serve as a legislative point of contact for members to answer questions and provide direction.
    - vi. Maintain the adopted Legislative Coordination and Communication Plan that describes how Minnesota Watersheds and the Red River Watershed Management Board coordinate and communicate before, during, and after the Minnesota legislative sessions.
4. Increase member engagement in the legislative process.
  - Encourage member involvement on the ~~resolutions and legislative committees~~Resolutions and Legislative Committees.
    - i. Solicit more direct input from members when setting legislative priorities by surveying members or provide another avenue for members to get feedback to the committee before they make a recommendation to the board.
    - ii. Promote committee membership to ensure members' voices are reflected in the legislative platform and legislative priorities.
    - iii. Encourage members to develop personal relationships with legislators.
  - Increase communication with members about legislative activity.
    - i. Provide timely and useful reminders to members about how and when engagement with legislators is needed.
    - ii. Present members with information that describes how they can assist the Minnesota Watersheds ~~lobbyist-lobbying team~~ during and outside of the legislative session.
    - iii. Host an annual event for members to learn about Minnesota Watersheds' legislative platform and priorities and to receive guidance on how to discuss and interact with legislators on issues.
    - iv. Urge members to Personally personally call contact and invite legislators to attend their local events as well as Minnesota Watersheds events.
    - v. Set up appointments with members and legislators.

Goal 5: Enhance the skills of watershed district and watershed management organization boards.

Objectives, Strategies, and Tactics to Achieve Goal 5

1. Provide guidance and direction for efficient and effective member watershed district and watershed management organizations board operations.
  - Offer comprehensive training for watershed district and watershed management organizations boards.
    - i. Provide training sessions at all Minnesota Watersheds events.
    - ii. Increase opportunities for the sharing of knowledge between members at Minnesota Watersheds events.



- iii. Maintain an up-to-date watershed handbook by reviewing the handbook annually and revising it as warranted.
- iv. Work collaboratively with ~~BWSR~~ [the Board of Water and Soil Resources](#) to provide regional training.
- v. Utilize the expertise, knowledge, and experience of Minnesota Watersheds staff and the Minnesota Association of Watershed Administrators in the development of education and training for watershed district and watershed management organization boards.

## Supporting Resources

In addition to the Strategic Plan, Minnesota Watersheds has developed supporting resources for its governance and management. The Bylaws and Manual of Policy and Procedures will be reviewed annually and updated as necessary. The Minnesota Watersheds Board of Directors can update all documents except the bylaws which require adoption by the membership. For the most up-to-date versions of these documents, visit [Minnesota Watersheds \(mnwatersheds.com\)](#) [www.mnwatershed.org](#).

### Bylaws

Bylaws are the written rules for conduct of the organization. The Bylaws can be found [here](#).

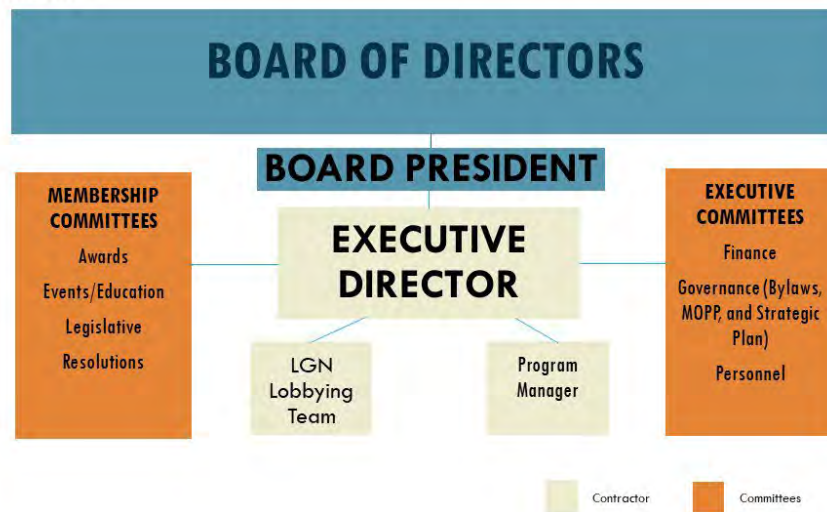
### Manual of Policy and Procedures

The Manual of Policy and Procedures is designed to regulate all major decisions, actions, and principles of Minnesota Watersheds. The Manual of Policy and Procedures can be found [here](#).

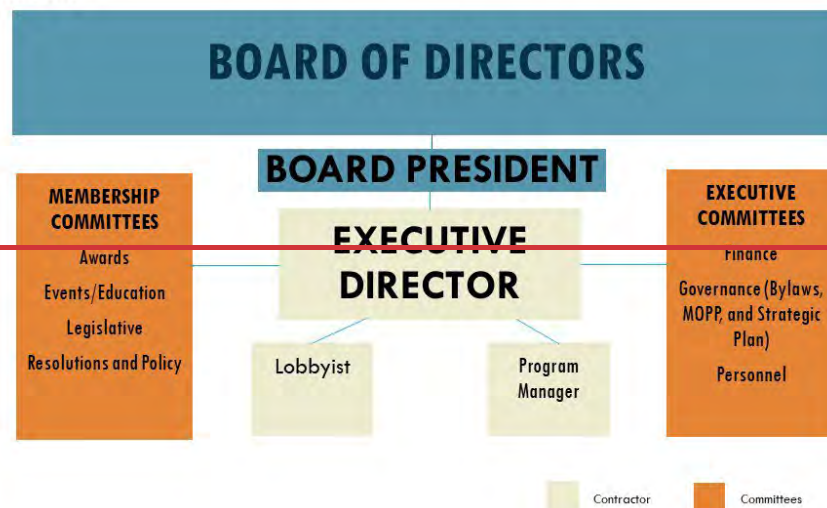
### Organizational Chart

An organizational chart shows the chain of command within an organization and can be found below.

## ORGANIZATION CHART



## ORGANIZATION CHART



### Board of Directors Annual Work Plan

The Board of Directors Annual Work Plan was developed based on the goals, objectives, strategies, and tactics identified in the Strategic Plan, as well as the day-to-day operations described in the Manual of Policy and Procedures.



## Minnesota Watersheds Board of Directors 2025 Work Plan

Purpose	The Minnesota Watersheds Board of Directors will work with the Executive Director to ensure the Bylaws, Manual of Policies and Procedures (MOPP), and Strategic Plan of the organization are kept up to date and adequately guide the organization.
Tasks	<p><b>Goal 1. Fortify the infrastructure to ensure reliable delivery of services</b></p> <ul style="list-style-type: none"> <li>• Work together to ensure daily operations align with the Bylaws, MOPP, and Strategic Plan.</li> <li>• Review the Communication Plan annually</li> <li>• Provide funding for website maintenance</li> <li>• Provide funding for a platform for data sharing</li> <li>• Support the committee framework as described in the Strategic Plan</li> <li>• Read weekly communication</li> <li>• Review recommendations from committees</li> </ul> <p><b>Goal 2. Build a watershed community that supports one another</b></p> <ul style="list-style-type: none"> <li>• When requested, meet individually with non-members to address concerns with the goal of increasing membership</li> <li>• Provide for and participate in the Legislative meeting, Summer Tour, and Annual Conference</li> </ul> <p><b>Goal 3. Serve as a liaison to collaborate with statewide agencies and associations</b></p> <ul style="list-style-type: none"> <li>• Support the work of the executive director to strengthen the working relationship with the Board of Water and Soil Resources and the Minnesota Association of Watershed Administrators</li> <li>• Support the executive director's attendance at Board of Water and Soil Resources, Clean Water Council, and Drainage Work Group meetings</li> <li>• Support opportunities to partner with the Local Government Water Roundtable, Red River Watershed Management Board, and other entities</li> </ul> <p><b>Goal 4. Ensure strong legislative policies are in place for watershed management</b></p> <ul style="list-style-type: none"> <li>• Ensure the legislative platform is provided to all member organizations</li> <li>• Support the executive director's work with representatives on the Board of Water and Soil Resources and Clean Water Council</li> <li>• Provide for lobbying services</li> </ul> <p><b>Goal 5. Enhance the skills of watershed district and watershed management organization boards</b></p> <ul style="list-style-type: none"> <li>• Provide for watershed handbook maintenance</li> <li>• Provide funding for training opportunities at Minnesota Watersheds events</li> </ul>
Meeting Logistics	The Minnesota Watersheds Board of Directors will meet in person at the Legislative event, Summer Tour, and Annual Conference. They will meet as needed throughout the remainder of the year.

## Minnesota Watersheds Representatives Expectations for Support and Advocacy

Goal 4 of the Minnesota Watersheds Strategic Plan is to ensure strong legislative policies are in place for watershed management. Objective 2 under this goal is to articulate clearly defined legislative policies so members and Minnesota Watersheds representatives can accurately state our positions.

At the 2023 Annual Business Meeting, the membership adopted a comprehensive platform of clearly defined policies that was developed in partnership with the Minnesota Association of Watershed Administrators and the Resolutions Committee. Tactic 2 under this objective is to draft expectations for support and advocacy for Minnesota Watersheds representatives that serve on the Board of Water and Soil Resources (BWSR) Board, Clean Water Council (CWC), and Local Government Water Roundtable (LGWRT).

Review of the BWSR and CWC websites indicates that each entity is supported by several committees. These committees meet at least annually. However, there is little or no interaction between the watershed representatives on these committees and the Minnesota Watersheds Executive Director.

To improve communication, watershed representatives on the BWSR Board, CWC, and LGWRT are asked to inform the Minnesota Watersheds Executive Director in advance of each committee and monthly board meeting. If necessary, the representative(s) and Minnesota Watersheds Executive Director will meet to discuss agenda items to ensure our position(s) on a topic or topics is accurately presented. The watershed representative will take meeting notes and follow up with the Minnesota Watersheds Executive Director after each meeting. Updates will be provided to the Minnesota Watersheds Board of Directors when requested.

BWSR Committees	Watershed Representative
Administrative Advisory	
	Joe Collins
	Jill Crafton
	LeRoy Ose
Audit and Oversight	
	Joe Collins
Buffers, Soils, and Drainage	
	LeRoy Ose
Dispute Resolution	
	Joe Collins
Grants Program and Policy	
	Jill Crafton
	LeRoy Ose
RIM Reserve	
	LeRoy Ose
Water Management and Strategic Plan	
	Joe Collins
Wetland Conservation	
	Jill Crafton
Drainage Work Group	
	None

Clean Water Council Committees	Watershed Representative
Budget and Outcomes	
	None
Policy	
	Marcie Weinandt
Steering	
	None

## Tactics Timetable

The Tactics Timetable<sup>1</sup> was developed based upon priorities determined by the Strategic Plan Committee and recommended to the Minnesota Watersheds Board of Directors as follows: ~~annual work plan for the Minnesota Watersheds Board of Directors;~~ two-year work plan for the Executive Director<sup>2</sup>; ~~and five- and 10-year work plans~~ based on work accomplished. This is done to better ensure accomplishing the goals and setting expectations for member watershed districts, watershed management organizations, the Minnesota Watersheds Board of Directors, and the Executive Director.

Goal 1. Fortify the infrastructure to ensure reliable delivery of services	Start Date	Completed	Process	2025 Hours	2026 Hours
<b>Tactics</b>					
<i>Governance and Management</i>					
Confirm, each month, that Board of Directors actions reflect the Strategic Plan (#8 priority)	1/1/2023		Staff review	5	5
Staff review and recommendations for major policies or expenditures	1/1/2023		Staff review	12	12
<i>Communication</i>					
Maintain a communication plan (#3 priority)	3/7/2023	5/22/2023	Staff development Board approval	8	8
Adhere to a consistent process for newsletter development and distribution	1/1/2023		Staff development	75	75
Distribute meeting packets directly to members	1/1/2023		Board approval	2	2
Post agendas on website	1/1/2023		Board approval	2	2
<i>Technological Resources</i>					
Maintain website	1/1/2023		Board approval Staff development	15	15
Work with Minnesota Association of Watershed Administrators to launch a platform for data sharing (#6 priority)	2/15/2023		Board approval Staff development	20	20
<i>Committees</i>					
Events-Education	1/1/2023		Co-chairs and staff	15	15
Resolutions	4/12/2023		Co-chairs and staff	19	19
Awards	8/1/2023		Co-chairs and staff	1	1
Legislative	6/7/2023		Co-chairs and staff	9	9
Finance	8/5/2023		Co-chairs and staff	6	6
Governance (Bylaws-MOPP and Strategic Plan)	1/1/2023		Co-chairs and staff	19	19
Personnel			Executive Committee	0	0

<sup>1</sup> Hours in the Tactics Timetable are ESTIMATED.

<sup>2</sup> In addition to the information contained in the Tactics Timetable, the Executive Director also carries out the daily operations of Minnesota Watersheds as shown in the table on page 10. The Tactics Timetable and Daily Operations tables together form the two-year Work Plan for the Executive Director. All hours are ESTIMATED and based on an average time commitment of 1,750 hours per year ~~40-hour work week containing 2,088 work hours.~~



Goal 2. Build a watershed community that supports one another	Start Date	Completed	Process	2025 Hours	2026 Hours
<b>Tactics</b>					
<i>Enhance member engagement through inclusivity</i>					
Retain Minnesota Watersheds as the name of the organization (#7 priority)	1/1/2023	3/14/2023	Membership approval	0	0
<i>Grow membership (#5 priority)</i>					
Develop and share membership services information	2/2/2023		Staff development	2	2
Meet individually with non-members to address concerns and increase membership	12/23/2022		Staff development Partnership with MW BOD & MAWA	10	10
<i>Expand participation at Minnesota Watersheds events</i>					
Legislative Meeting	1/4/2023		Staff and committee	25	25
Summer Tour	2/2/2023		Staff and committee	60	60
Annual Conference	4/12/2023		Staff and committee	120	120

Goal 3. Serve as a liaison to collaborate with statewide agencies and associations	Start Date	Completed	Process	2025 Hours	2026 Hours
<b>Tactics</b>					
<i>Increase collaborative efforts between Board of Water and Soil Resources and Minnesota Watersheds (#4 priority)</i>					
Strengthen the working relationship with BWSR by identifying points of contention, developing a plan to address, and reduce concerns	1/1/2023		Staff development	50	50
<i>Identify Opportunities to Partner to Promote Watershed Management</i>					
Attend Board of Water and Soil Resources, Clean Water Council, and Drainage Work Group meetings and provide updates (#10 priority)	1/1/2023		Staff attendance	200	200
Strengthen partnership with Minnesota Association of Watershed Administrators through the Executive Director's attendance at Minnesota Association of Watershed Administrators meetings and collaboration on education opportunities at Minnesota Watersheds' events	1/1/2023		Staff attendance	60	60
Increase opportunities to partner and track collaboration with Minnesota Association of Soil and Water Conservation Districts, League of Minnesota Cities, Local Government Water Roundtable, Association of Minnesota Counties, and Red River Watershed Management Board	1/1/2023		Staff development	65	65

Goal 4. Ensure strong legislative policies are in place for watershed management	Start Date	Completed	Process	2025 Hours	2026 Hours
<b>Tactics</b>					
<i>Develop Comprehensive Platform of Policies</i>					
Maintain a comprehensive legislative platform (#1 priority)	3/9/2023	12/1/2023	Staff development Partnership with MW BOD & MAWA	5	5
Draft expectations for representatives on BWSR board, CWC, LGWRT			Staff development Partnership with MW BOD & MAWA	25	25
<i>Identify Legislative Issue Impacting Members (#2 priority)</i>					
Support legislation that promotes watershed management	1/1/2023		Staff time	40	40
Fend off legislation that limits abilities to protect and restore water resources	1/1/2023		Staff time	40	40
Ensure lobbyist(s) have clear direction on legislative priorities	1/1/2023		Staff time	75	75
Align workload with the resources set aside for lobbying and manage member expectations			Staff time	20	20
<i>Evaluate Current Resolutions and Legislative Platform Process (#2 priority)</i>					
Identify alternative methods, adopt revised process, or reaffirm current process			Staff development Partnership with MW BOD & MAWA	5	5

Goal 5. Enhance the skills of watershed district and watershed management organization boards	Start Date	Completed	Process	2025 Hours	2026 Hours
<b>Tactics</b>					
<i>Offer comprehensive training for watershed district and watershed management organization boards</i>					
Maintain an up-to-date watershed handbook by reviewing it annually and revising it as warranted (#9 priority)	1/1/2023	10/2/2023	Staff development Partnership with MW BOD & MAWA	65	65
Work with BWSR on regional training				25	25
Utilize the expertise of staff and Minnesota Association of Watershed Administrators in the development of education and training for watershed officials (#11 priority)	3/7/2023		Staff development in partnership with MAWA	10	10

				2025 Hours	2026 Hours
				1110	1110
Administration	1/1/2023			259	259
General Communication	1/1/2023			300	300
MW Board Meetings	1/13/2023			68	68
Meetings with Program Manager	1/3/2023			13	13
<b>TOTAL HOURS</b>				<b>1750</b>	<b>1750</b>



## Memorandum

DATE: October 31, 2024  
TO: Minnesota Watersheds Members  
FROM: Legislative Committee Co-Chairs Gene Tiedemann, Red Lake WD and Michelle Overholser, Yellow Medicine River WD  
RE: **Proposed Legislative Platform Changes**

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At the 2024 Annual Conference, the membership adopted its first Legislative Platform that outlines positions on legislative matters and serves as the foundation for our organization to support or oppose various local, state, and federal legislation. The membership requested that this document be reviewed annually.

With that directive, the Minnesota Association of Watershed Administrators (MAWA) Legislative Platform Committee met in May, reviewed the document, and made recommendations for consideration at the joint meeting of the Legislative and Resolutions Committees. The Legislative and Resolutions Committees met jointly on June 21 to review the changes suggested by the MAWA Legislative Platform Committee and to discuss changes they believed to be necessary. The following proposed revisions are recommended by the three committees referenced previously.

### Proposed Revisions

- Many of the proposed changes are minor wordsmithing.
- Clarification of what the legislative platform is based upon was added.
- An “Emerging Issues” section was incorporated.
- Committee members made several recommendations for additional issues under the Drainage, Water Quality, Agency Relations, and Natural Resources categories.
- A results section was added to the document.

Questions regarding the Legislative Platform and/or the proposed revisions should be directed to Gene Tiedemann ([gtiedemann@rrv.net](mailto:gtiedemann@rrv.net)), Michelle Overholser ([michelle.overholser@ymrwd.com](mailto:michelle.overholser@ymrwd.com)), or Jan Voit ([jvoit@mnwatersheds.org](mailto:jvoit@mnwatersheds.org)).



**MINNESOTA  
WATERSHEDS**  
*Connecting People. Protecting Water.*

# ~~2024 LEGISLATIVE PLATFORM~~ 2025 LEGISLATIVE PLATFORM

## Abstract

This document articulates clearly defined legislative policies so members and Minnesota Watersheds representatives on the Board of Water and Soil Resources Board, Clean Water Council, and Local Government Water Roundtable can accurately state our positions.

Adopted December ~~1, 2023~~ 6, 2024

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## Purpose

Minnesota Watersheds represents both watershed districts and watershed management organizations (collectively referred to as Watersheds). That representation underscores the necessity of protecting Watershed powers, duties, and planning responsibilities on a watershed basis.

This legislative platform outlines Minnesota Watersheds positions on legislative matters and serves as the foundation for our organization to support or oppose various local, state, and federal legislation. The legislative platform is based on adopted resolutions and emerging issues as identified by the MAWA Legislative Platform Committee and the Minnesota Watersheds Resolutions and Legislative Committees and adopted by the membership. It also ~~is designed to articulate~~ clearly articulate defined legislative policies so members and Minnesota Watersheds representatives on the Board of Water and Soil Resources Board, Clean Water Council, and Local Government Water Roundtable can accurately state our positions.

## Emerging Issues

New or developing problems or concerns may arise that require attention before or during the legislative session. Those problems or concerns likely have not been addressed through the resolutions process, may or may not be identified in the legislative platform, but will need to be addressed by the lobbying team and executive director through attendance and meetings, written comments, testifying at hearings, or legislation. Flexibility is necessary so that the lobbying team and executive director can be proactive on behalf of Minnesota Watersheds with state agencies, non-governmental organizations, and at the legislature.

The Minnesota Watersheds Manual of Policy and Procedures states: In the event legislation or state agency policy is introduced that may cause harm to Minnesota Watersheds members and there is no policy adopted by Minnesota Watersheds on the issue, the Minnesota Watersheds Board of Directors may review the legislation or policy and adopt a temporary position on the issue on behalf of the organization. The policy position will be in effect until the next annual resolutions hearing. At that time, the membership must review the policy position and vote on whether it should become a permanent policy position or should expire.

## Finance

Watershed ~~organization~~s are tasked with many responsibilities by Minnesota statute and ~~the~~ local priorities are set by their boards. To effectively perform those duties, adequate funding is necessary. Although some Watersheds have levy authority, there are many other avenues of funding that are important for achieving local water management, as well as water quality and quantity goals.

### 1. Capacity

- a. Support Clean Water Funds for implementation, not capacity (Resolution 2021-01A and B)
- b. Support capacity funding for watershed districts (Resolution 2021-02)
- c. Support General Fund repayment of Soil and Water Conservation District capacity funds to the Clean Water Fund

### 2. Grant Funding

- a. Support metro watershed-based implementation funding for approved 103B plans only (Resolution 2021-07)

- b. Support a more equitable formula for watershed-based implementation funding in the metro
- c. Lobby for watershed-specific grant funding

## Urban Stormwater

Watersheds and land use management partners work to reduce polluted stormwater runoff and/or increase infiltration from urbanization and hard surfaces. Many Watersheds in the state have adopted regulatory standards and/or official controls to successfully manage urban stormwater when land alterations occur. Watersheds also implement a variety of urban stormwater management practices to treat runoff before it enters our lakes, streams, and wetlands.

### 1. Stormwater Quality Treatment

- a. Support limited liability for certified commercial salt applicators (Resolution 2022-02)
- b. Support, partner/collaborate with a municipal separate storm sewer system (MS4s ~~–~~ municipal separate storm sewer system) (if/where appropriate) in permit compliance activities
- c. Support the use of green infrastructure and minimizing impervious surfaces, where practical, in urban development and planning
- d. Where it may exist, support removing duplication of urban stormwater regulatory standards and controls
- e. Support the rescission of the Department of Labor and Industry/Plumbing Board Final Interpretation of Inquiry PB0159, storm drainage surcharge to return to common engineering practice for stormwater pond design

### 2. Water Reuse

- a. Support ~~creation of a the~~ Stormwater Reuse Task Force and for the Minnesota Department of Health to complete a review process (Resolution 2022-01)
- b. Support efforts to clarify and simplify State Plumbing Board rulings and requirements to facilitate more reuse of rainwater/stormwater

## Water Quantity

Watersheds are directed by statute to conserve the natural resources of the state by land use planning, flood control, and other conservation projects. Specific purposes refer to flood damage reduction, stream flows, water supply, and drainage ~~ditch~~systems, as well as to identify and plan for effective protection and improvement of surface water and groundwater, and to protect and enhance fish and wildlife habitat and water recreational facilities. Numerous past, present, and future legislative initiatives have affected how water quantity issues are managed at the local level. This very broad-based topic includes management of the volume of water (drought, flooding, water supply), the flow of water (drainage, storm water, channel restoration, habitat), and recreational (lakes, rivers, wetlands) activities like fishing, boating, and hunting.

### 1. Drainage

- a. Support the current statutory requirements for notification and coordination in the development of petitioned repairs, drainage improvement projects, and new drainage systems

- b. Support the addition of a classification for public drainage systems that are artificial watercourses ~~(Resolution 2019-02)~~
- c. Seek increased support for and participation in the Drainage Work Group (Resolution 2022-03)
- d. Oppose the drainage registry information portal
- e. Oppose incorporating increased environmental, land use, and multipurpose water management criteria (M.S. 103E.015 requirements)
- f. ~~Comply with the legislative mandate to review outlet adequacy and notification requirements in the Drainage Work Group~~
- g. Support new legislation modeled after HF2687 and SF2419 (2018) regarding ~~DNR~~ Department of Natural Resources regulatory authority over public drainage maintenance and repairs (Resolution 2023-03)
- h. Oppose mandatory Environmental Assessment Worksheets for drainage projects
- i. Investigate ways of maintaining water flow during periods of drought and to explore opportunities for aquifer recharge.

## 2. Funding

- a. Obtain stable funding for flood damage reduction and natural resources enhancement projects (Resolution 2022-05)
- b. Clarify county financing obligations and/or authorize watershed district general obligation bonding for public drainage projects ~~(Resolution 2019-04)~~

## 3. Flood Control

- a. Support crop insurance to include crop losses within impoundment areas (Resolution 2021-05)
- b. Seek action for streamlining the ~~DNR~~ Department of Natural Resources Flood Hazard Mitigation Grant Program (Resolution 2023-04)

## 4. Regulation

- a. Support temporary water storage on Department of Natural Resources wetlands during major flood events (Resolution 2020-04)
- b. Support managing water flows in the Minnesota River Basin (statewide) through increased water storage and other strategies and practices ~~(Resolution 2019-03)~~
- c. Work with Minnesota Department of Transportation to support flood control and how to handle increased water volume issues along state and federal highway systems (example from Bemidji district of ~~MnDOT~~ the Minnesota Department of Transportation)

## 5. Policy

- a. Support funding for watershed-based climate resiliency projects and studies
- b. Support funding for best management practices that protect and enhance groundwater supply

## Water Quality

Protecting and improving the quality of surface and ground water in our Watersheds is an essential component of managing water resources on a watershed basis.

## 1. Lakes

- a. Support limiting wake boat activities (Resolution 2022-06)
- b. Support designation change and research needs for the Chinese Mystery Snail (~~Resolution 2019-07~~)
- c. Support temporary lake quarantine authorization to control the spread of aquatic invasive species (~~Resolution 2017-02~~)
- d. Support streamlining permit applications for rough fish management
- e. Support dredging as a best management practice to manage internal phosphorus loads in lakes

## 2. Wetlands

- a. Support a statutory requirement for water level control structures in wetland restorations and wetland banks
- b. Support federal, state, and local funding for wetland restoration and protection activities
- c. Seek clarification of the statutorily modified definition of wetlands and the effects on watershed implementation of the Wetland Conservation Act (Minnesota Laws 2024, Chapter 90, Article 3, section 77)

## 3. Rivers and Streams

- a. Support a statutory deadline for Department of Natural Resources Public Waters Work Permits (45-60 days)
- b. Support automatic transfer of public waters work permits to Watersheds (M.S. Chapter 103G.245 Subd.5)

## 4. Policy

- a. Support funding for watershed-based climate resiliency projects and studies
- b. Support funding for best management practices that protect groundwater quality

# Watershed Management and Operations

Protecting, enhancing, defending, and supporting existing Watershed statutory powers, duties, and planning responsibilities is necessary for effective and efficient watershed management and operations. Specific Watershed powers, duties, and planning responsibilities are contained in Minnesota Statutes [Chapter 103B](#) and [Chapter 103D](#).

## 1. Watershed Powers

- a. Support and defend eminent domain powers for watershed districts
- b. Support Watershed powers to levy property taxes and collect special assessments
- c. Support a watershed district's power to accept the transfer of drainage systems in the watershed; to repair, improve, and maintain the transferred drainage systems; and to construct all new drainage systems and improvements of existing drainage systems in the watershed
- d. Support a Watershed's power to regulate the use and development of land within its boundaries

## 2. Watershed Duties

- a. Support a Watershed's duty to initiate projects
- b. Support a Watershed's duty to maintain and operate existing projects



- c. Support increased flexibility in the open meeting law (Resolution 2023-05)

### 3. Watershed Planning

- a. Support a Watershed's ability to jointly or cooperatively manage and/or plan for the management of surface and ground water
- b. ~~Support watershed autonomy during and following a One Watershed, One Plan development process~~
- c. Support the connection between watershed-based implementation and funding
- d. Support development of a soil health goal for metropolitan watershed management plans (Resolution 2020-03)
- e. ~~Support Education education~~ and outreach to encourage formation of watershed districts in unserved areas (Resolution 2023-06)

## Agency Relations

Watershed organizations work with many federal and state agencies to accomplish their mission. While relationships vary from administrative to funding and regulatory, agency policies and procedures can have a major impact on Watershed operations and projects. Maintaining strong, positive relations and ensuring Watersheds have a role in policy making is key to successful watershed management and operations.

### 1. Advocacy

- a. Require a 60-day review periods before state agencies adopt new policies related to water and watershed management (Resolution 2021-06)
- b. Increase collaborative efforts between Minnesota Watersheds and all state agencies involved in water management

### 2. Representation

- a. Support watershed district managers being appointed, not allowing county commissioners to serve as managers

### 3. Regulation

- a. Streamline the Department of Natural Resources permitting process by increasing responsiveness, decreasing the amount of time it takes to approve permits, providing a detailed fee schedule prior to application, and conducting water level management practices that result in their reaction more quickly to serious, changing climate conditions (~~Resolution 2019-01~~)
- b. Require watershed district permits for all state agencies (Resolution 2023-01)
- c. Oppose mandatory Environmental Assessment Worksheets for drainage projects

## Regulations

Watershed representation on state and local panels and committees and the ability for Watersheds to regulate development and use of land within the organization's boundaries without prohibitive regulatory restrictions is necessary.

- a. Oppose legislation that forces spending on political boundaries (~~Resolution 2019-06~~)
- b. Support the ability to appeal public water designations (Resolution 2020-01)
- c. Seek Watershed membership on Wetland Technical Evaluation Panels (~~Resolution 2019-05~~)

## Natural Resources

Minnesota Statutes direct Watersheds to conserve the natural resources of the state. Some of the purposes listed in statute are to conserve water in streams and water supply, alleviate soil erosion and siltation of water courses or water basins, regulate improvements by riparian property owners of the beds, banks, and shores of lakes, streams, and wetlands for preservation and beneficial public use; protect or enhance the water quality in water courses or water basins; and protect and preserve groundwater resources.

### 1. Planning

- a. Ensure timely updates to Wildlife Management Area plans (~~Resolution 2018-06~~)
- b. Support Watershed inclusion in development of state plans (i.e., Prairie Plan, State Water Plan, etc.) related to water and watershed management

### 2. Policy

- a. Support funding for climate resiliency
- b. Seek clarification in the statutory language regarding funding for and updating the public waters inventory (Minnesota Laws 2024, Chapter 116, Article 3, section 47)

### 3. Habitat

- a. Clarify buffer rule issues
- b. Support funding to reduce erosion and sedimentation
- c. Support funding for the enhancement, establishment, and protection of stream corridors and riparian areas
- d. Support funding for the enhancement and protection of habitats

## 2024 Results

This section will document when an issue is resolved.

### Water Quantity

#### Drainage

- Comply with the legislative mandate to review outlet adequacy and notification requirements in the Drainage Work Group
  - During the 2023 legislative session (Minnesota Laws 2023, Chapter 60, Article 5, section 21), BWSR and the DWG were directed by the legislature to evaluate and develop recommendations on the definition and application of outlet adequacy as provided in M.S. Chapter 103E.261 and public notice requirements for drainage activities, including a drainage registry portal. The report was developed during DWG meetings following the 2023 legislative session. The report was submitted to the legislature on February 1, 2024 as required by the statutory language.

### Watershed Management and Operations

#### Watershed Planning

- Support watershed autonomy during and following a One Watershed, One Plan development process
  - Changes were made to clarify and modernize M.S. Chapter 103D during the 2024 legislative session (Minnesota Laws 2024, Chapter 90, Article 3, section 42). M.S. Chapter 103D.401 was clarified that a watershed district maintains the authority to adopt a plan even when participating in a comprehensive watershed management planning program under section 103B.801 (One Watershed, One Plan/1W1P).



## Memorandum

DATE: October 31, 2024  
TO: Minnesota Watersheds Members  
FROM: Bylaws-MOPP Committee Co-chairs Linda Vavra and Jamie Beyer, Bois de Sioux WD  
RE: **Proposed Bylaws Changes**

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The Bylaws Committee met on October 14 to discuss proposed Bylaws changes. The proposed changes were also discussed at the Minnesota Watersheds Board of Directors (Board) meeting on October 28. The proposed changes are shown in track changes throughout the document.

- Several small additions and corrections are recommended for clarification.
- The date on the document is updated.
- The language in the quorum section was revised to provide clarification for the number of delegates each member organization appoints, as well as how a quorum is established.
- Article VI regarding committees is added so the Bylaws are in line with the change in committee makeup that was made through the Strategic Plan.

Questions regarding these proposed changes should be directed to Linda Vavra at [lvavra@fedtel.net](mailto:lvavra@fedtel.net), Jamie Beyer at <mailto:bdswd@runestone.net>, or Jan Voit [jvoit@mnwatersheds.com](mailto:jvoit@mnwatersheds.com).

# BYLAWS

## MINNESOTA ASSOCIATION OF WATERSHED DISTRICTS, INC.

### Doing business as Minnesota Watersheds

St. Paul, Minnesota

#### ARTICLE I.

##### Offices and Corporate Seal

- 1.1 Official Name. The official name of the corporation is the Minnesota Association of Watershed Districts, Inc., which conducts business under the registered assumed name of, and is hereinafter referred to as, Minnesota Watersheds.
- 1.2 Purpose. The purpose of Minnesota Watersheds is to provide educational opportunities, access to information resources, interface with other agencies, facilitate tours, meetings, and lobby on behalf of members. Additionally, Minnesota Watersheds will facilitate the exchange of information to help members better comply with governmental regulations and laws while offering an informed interface with the community or communities being served. Minnesota Watersheds will work to secure the capacity of its members to implement their statutory powers and purposes.
- 1.3 Organized. The corporation is organized as a 501(c)(4) organization. Notwithstanding any provision of the Articles of Incorporation or Bylaws which may be interpreted to the contrary, Minnesota Watersheds shall not authorize or undertake any actions which jeopardize its status as a 501(c)(4) organization.
- 1.4 Office. The registered office of the corporation shall be designated by the Board of Directors.
- 1.5 Corporate Seal. The corporation shall have no corporate seal.
- 1.6 Manual of Policy and Procedures. The Board of Directors has established a management document identified as the Manual of Policy and Procedures to support the orderly and timely details of regular operation. It may be revised at any time by a majority vote of the Board of Directors.

#### ARTICLE II.

##### Membership

- 2.1 Membership. Each dues-paying watershed district or watershed management organization duly established and in good standing pursuant to Minnesota Statutes, Chapter 103B or 103D, shall be entitled to membership in this corporation.
- 2.2 Delegates. Alternates. When a watershed district or watershed management organization becomes a member of this corporation, it shall designate from among its board members two delegates to represent it in this corporation. In addition, each member may designate alternate delegates to represent such member in the absence of any originally designated delegate. Thereafter, each member shall annually designate its delegates and alternate delegates so long as it remains a member in good standing of this corporation.



- 2.3 Termination of Membership. Any member that has failed to pay its dues is not in good standing and shall be stricken from the membership roll.
- 2.4 Resignation of Member. Any member may withdraw from this corporation effective immediately by notifying the secretary in writing. Regardless of the date of termination, there shall be no refund of the annual dues paid by the member.

### ARTICLE III. Meetings of Membership

- 3.1 Annual Business Meeting. An annual meeting of this corporation shall be held to transact such business as shall properly come before them. Notice of the time and place of such annual meeting shall be mailed, either physically or electronically, by the secretary to all members at least thirty (30) days in advance thereof.
- 3.2 Special Meeting. Special meetings of the members of the corporation shall be called by the president upon request of a majority of directors of the Board of Directors or upon the written request of one-third of the members of the corporation in good standing. This request shall be in writing addressed to the president or the secretary of the corporation. Within thirty days of receipt of said request, the Board of Directors ~~shall, shall~~ mail (either physically or electronically) notice of said special meeting to all members. This notice shall state the objective of the meeting and the subjects to be considered.
- 3.3 Quorum. ~~A majority of Each dues-paying watershed district or watershed management organization may appoint the up to two delegates (two per member). shall constitute a quorum for the transaction of business. A quorum consists of the majority of the delegates registered at the annual conference and in attendance irrespective of whether some have departed. Once a quorum has been established there shall be no further question as to the quorum.~~
- 3.4 Voting. Any action taken by the members shall be by majority vote of the delegates present unless otherwise specifically provided by these Bylaws. Each member shall be entitled to one (1) vote for each delegate present.

### ARTICLE IV. Board of Directors

- 4.1 General Powers. The business activities of the corporation shall be directed and managed by the Board of Directors. The Board of Directors shall be authorized to pay officers and directors of the corporation per diem allowances and expenses as may from time to time be submitted to the Board of Directors, and such other expenses as may from time to time be necessary for the furtherance of the corporation's business, consistent with the rate and provisions of watershed board member per diem allowances and expense reimbursement provided in state law. The Board of Directors is authorized to hire and/or contract for services needed.
- 4.2 Directors to be Elected by Regions. For the purpose of election of the Board of Directors, members are grouped into three regions; three Directors shall be elected from each region, with staggered three-year terms. Members from each region shall elect one director for a three-year term at the annual business meeting of ~~the Association~~ Minnesota Watersheds. No watershed district or watershed management organization shall have more than one board member elected to be a Director on the Board of Directors of the ~~Corporation~~ corporation. In the event of a vacancy on the Board of Directors, the Board of Directors may appoint a member for the remaining term from a watershed district or watershed management organization with an existing representative on the

Board of Directors if there are no other candidates from the region requesting appointment to the position. In the event a vacancy is filled by the Board of Directors, such appointment shall be submitted to the regional caucus for approval at the next regional caucus meeting. Regional caucuses shall elect a Chairman and Recording Secretary report the election results to the Convention at a designated time. The member watershed districts and watershed management organizations present at the Regional Caucus meeting shall have full authority to elect a Chairman, Recording Secretary, and representatives to the Board of Directors.

- 4.3 Regions. The Board of Directors may re-align the regions or the members contained therein, it being the intent and purpose that each region contain the approximate same number of members. Any watershed district or watershed management organization in Minnesota not presently a member of this corporation, upon admission to membership, will be assigned to a region by the Board of Directors. Regional membership shall be listed in the Manual of Policy and Procedures.
- 4.4 Number, Qualification, and Term of Office. The number of directors constituting the ~~board~~Board of Directors shall be nine. Each director elected at the annual meeting shall be elected for a three-year term. Directors shall be on the board of a watershed district or watershed management organization that is a member in good standing of this corporation.
- 4.5 Vacancies. If there be a vacancy among the officers of the corporation or among the directors by reason of death, resignation, termination of membership, or removal as provided by law, the Articles of Incorporation, or these Bylaws, or otherwise or for non-excused absences for three consecutive meetings, such vacancy shall be filled by the Board of Directors until the next Annual Meeting of ~~the Association~~Minnesota Watersheds.
- 4.6 Removal of Directors ~~by Members~~. At a special meeting of the Board of Directors called solely for that reason, the notice of which meeting shall have been given in writing to members of ~~this board~~the Board of Directors at least thirty days prior thereto and not more than fifty days prior thereto, a super majority of seven members of ~~this board~~the Board of Directors may remove one or more directors from their term of office without cause.
- 4.7 Meetings, Actions. The Board of Directors shall hold the annual meeting of the Board of Directors immediately after the annual meeting of the members of this corporation, and at such annual meeting shall elect the officers as above provided. Regular meetings of the Board of Directors shall be held at a time and place to be fixed by resolution or adopted by the majority of the Board of Directors.

The majority of the Board of Directors shall constitute a quorum. Directors may participate and vote in Board of Directors meetings by telephone or other electronic means approved by the Board in the Manual of Policy and Procedures.

Actions may be taken by a majority vote of those Directors present or participating by telephone or other electronic means approved by the Board in the Manual of Policy and Procedures. The ~~secretary~~Secretary of the ~~board~~Board of Directors, with the assistance of the executive director, shall give written or electronic notice to each director at least ~~ten (10)~~seven calendar days in advance of any regular or special directors' meeting. Special meetings may be called at the discretion of the President of the ~~board~~Board of Directors or upon demand in writing to the ~~secretary~~Secretary by three (3) directors of the Board of Directors.

- 4.8 Conflicts of Interest. Members of the Board of Directors shall act at all times in the best interests of the corporation. This means setting aside personal self-interest and performing their duties in

transacting the affairs of the corporation in such a manner that promotes public confidence and trust in the integrity, objectivity, and impartiality of the Board. No Director shall directly or indirectly receive any profit from his/her position as such, and Directors shall serve without remuneration other than as provided in Section 4.1 of these Bylaws for the payment for reasonable expenses incurred by them in the performance of their duties. The pecuniary interests of immediate family members or close personal or business associates of a director are considered to also be the pecuniary interest of the director.

- 4.9 Indemnification. All directors and officers of the corporation shall be indemnified against any and all claims that may be brought against them as a result of action taken by them on behalf of the corporation as provided for and subject to the requirements of Chapter 317A of Minnesota Statutes as amended.

## **ARTICLE V. Board Officers**

- 5.1 Officers and Duties. There shall be four officers of the ~~board~~Board of Directors, consisting of a ~~president~~President, ~~vice~~Vice president, ~~secretary~~Secretary, and ~~treasurer~~Treasurer. All officers shall be directors of the corporation. Their terms and duties are as follows:
- 5.2 President. The ~~president~~President shall serve a term of office of one year and may, upon re-election, succeed himself/herself for two additional successive terms. The ~~president~~President shall have the following duties:
- Convene and preside over regularly scheduled ~~and special board~~meetings of the Board of Directors and annual or special Minnesota Watersheds membership meetings.
  - Have general powers and duties of supervision and management as directed by the Manual of Policy and Procedures.
  - Appoint such committees as he/she shall deem necessary with the advice and consent of the Board of Directors.
- 5.3 Vice President. The Vice President shall serve a term of office of one year and may, upon re-election, succeed himself/herself for two additional successive terms. The Vice President shall have the following duties:
- Assume and perform the duties of the ~~president~~President in case of his/her absence or incapacity; and shall chair committees on special subjects as designated by the President.
  - Have general powers and duties of supervision and management as directed by the Manual of Policy and Procedures.
- 5.4 Secretary. The Secretary shall serve a term of office of one year and may, upon re-election, succeed himself/herself for two additional successive terms.
- The Secretary shall be responsible for preparing and keeping all records of board actions, including overseeing the taking of minutes at all board meetings, sending out meeting announcements, distributing copies of minutes and the agenda to each ~~board member~~director, and assuring that corporate records are maintained.
- 5.5 Treasurer. The Treasurer shall serve a term of office of one year and may, upon re-election, succeed himself/herself for two additional successive terms.

The ~~treasurer~~Treasurer shall Co-chair the finance committee, maintain account of all funds deposited and disbursed, disburse corporate funds as designated by the Board of Directors, assist in the preparation of the budget, collect membership dues, and make financial information available to board members and the public.

#### **ARTICLE VI.**

##### **Committees**

6.1 Committees. Committee co-chairs shall be appointed by the Board of Directors. All committees shall have co-chairs.

#### **ARTICLE VII.**

##### **Fiscal Year, Dues and Annual Review of Financial Procedures**

6.17.1 Fiscal Year. The fiscal year of the corporation shall end on September 30 each year.

6.27.2 Membership Dues. Dues will be determined annually by the Board of Directors as specified in the Manual of Policy and Procedures.

6.37.3 Annual Dues. Annual dues shall be payable in January of each year. If a member's dues are not paid on or before April 30 of each year, such member's name shall be stricken from the membership roll. Reinstatement shall be upon such terms and conditions as prescribed by the Board of Directors.

The Board of Directors shall have the authority to suspend or defer dues of any newly organized watershed district or watershed management organization that joins this association until such member watershed district or watershed management organization is in actual receipt of its first authorized fund. The Board shall send out the annual dues statement with payment directed to the Minnesota Watersheds accounting firm. The Board of Directors may consider deferring, suspending, or reducing dues to new members or on an individual case basis when an appeal is made by a member because of hardship or funding problems.

6.47.4 Annual Review of Financial Procedures. The Board of Directors of this corporation shall provide for an annual review of financial procedures of all its resources and expenditures. A full report of such review and financial status shall be furnished at each annual meeting of the members. This review will be conducted by an auditing firm selected by the Board of Directors with experience in the field of government and water management. The review results shall be furnished to all members within forty-five days after receipt thereof by the Treasurer.

#### **ARTICLE VIII.**

##### **Employees**

7.18.1 Employees. At the discretion of and under the direction of the Board of Directors, Minnesota Watersheds may choose to hire and administer various employees. Their positions and job expectations shall be individually developed and included in the Manual of Policy and Procedures.

#### **ARTICLE ~~VIII~~IX.**

##### **Resolutions and Petitions**

8.19.1 Resolutions: The Co-Chairs of the Minnesota Watersheds Resolutions Committee will send a request for resolutions, along with a form for submission, to the membership at least three months prior to the annual Minnesota Watersheds membership meeting. Resolutions and their justification

must be submitted to the Minnesota Watersheds Resolutions Committee in the required format at least two months prior to the annual Minnesota Watersheds membership meeting for committee review and recommendation. The committee will present these resolutions and their recommendations to the Board of Directors and the Minnesota Watersheds membership at least one month prior to the start of the annual Minnesota Watersheds membership meeting. The Board of Directors may make additional recommendations on each proposed resolution through its board meeting process. This same procedure will be used when policy issues are to be considered at any special Minnesota Watersheds membership meeting.

8.29.2 Petitions: Any member or group of members may submit to the Board of Directors at any time a petition requesting action, support for, rejection of, or additional information on any issue of potential importance to the members. Such petitions require signed resolutions from at least 15 members before a special meeting of the membership will be convened.

## **ARTICLE IX.**

### **Chapters**

9.110.1 Chapters. Members may form chapters to further the purposes stated in Article II of the Articles of Incorporation, to carry out policies of the Board of Directors, and to suggest policies for consideration by the Board of Directors.

## **ARTICLE X.**

### **Rules of Order**

10.111.1 Rules. When consistent with its Articles of Incorporation and these Bylaws, the ~~12<sup>th</sup>~~-current edition of Robert's Rules of Order Newly Revised shall ~~govern~~provide guidance to the proceedings of this corporation. For consistency in operation, a copy shall be available for consultation if requested at every scheduled meeting of the Board of Directors and Membership meetings.

## **ARTICLE XII.**

### **Amendments**

11.112.1 Amendments. These Bylaws may be amended by a majority vote of the members of this corporation only as provided below.

11.212.2 Annual Meeting. At the annual meeting of the members of this corporation, the Bylaws may be amended by the majority of the members present if there is a quorum at said annual meeting and due notice has been given to the membership of the changes 30 days in advance of the meeting.

11.312.3 Special Meeting. These Bylaws may be amended by the members at a special meeting called for that reason but only by a majority vote of the entire membership of the corporation, and only if there has been thirty days' written notice to all members of such special meeting. Such special meeting may be called upon the request of one-third of the members of this corporation by notice in writing to the secretary or president, which notice shall ask for said special meeting and shall state the proposed Bylaws changes, and upon receipt of such request, the ~~secretary~~Secretary or ~~president~~President must send written, either by mail or electronically, notice of the meeting to the members of this corporation within thirty days of receipt of such request, which shall be not less than thirty days nor more than fifty days of the date of the written notice.



# Resolutions Committee Meeting



**MINNESOTA  
WATERSHEDS**  
*Connecting People. Protecting Water.*

DATE: October 8, 2024  
TO: Minnesota Watersheds Board of Directors  
FROM: Linda Vavra and Jamie Beyer, Resolutions Committee Co-Chairs  
RE: Resolutions Committee Recommendations

The Resolutions Committee met on October 8 to review and discuss the resolutions submitted by Minnesota Watersheds members. Their recommendations are as follows.

## Resolutions Committee Recommendations

#	Resolution Title	Committee Recommendation
1	Regulatory Approaches to Reducing Chloride Contamination	Recommends adoption
2	Allowing Alternative Notice of Watershed District Proceedings by Publication on District's Website	Recommends adoption
3	Providing for Watershed Management Organization Representative on Wetland Technical Evaluation Panels in Seven-County Metropolitan Area	Recommends adoption as amended
4	Seeking the Ability to Allow Resale of Acquisition Buyout Property	Recommends adoption
5	Seeking the DNR to Establish a "Comprehensive Guideline for Calcareous Fen Management"	Recommends adoption
6	Seeking Clarification of the Statutory and Rule Language Regarding the Alteration of Calcareous Fens	No recommendation, more research needed
7	Seeking the DNR to Adopt a Program to Incentivize Calcareous Fen Management on Private Lands	Recommends adoption
8	Seeking the Removal of the Water Resource Enforcement Officer	No recommendation, more research needed
9	Seeking Identification of Calcareous Fens on All State Wetlands by December 31, 2030	No recommendation, more research needed
10	Seeking a Formal Process to Distribute a Complete List of Calcareous Fens Annually	Recommends adoption
11	Seeking Regular Reevaluation of the Designated Species List	No recommendation, more research needed
12	Seeking the Development of a Calcareous Fen Work Group	No recommendation, more research needed
13	Requesting Minnesota Watersheds Support to Request New Legislation to Set Permit Review Time Limits upon the Department of Natural Resources	Recommends adoption

# BACKGROUND INFORMATION ON MINNESOTA WATERSHEDS

## RESOLUTION 2024-01

### Resolution to Develop Regulatory Approaches to Reducing Chloride Contamination

**Proposing District:** Nine Mile Creek Watershed District  
**Contact Name:** Erica Sniegowski, Administrator  
**Phone Number:** 952-358-2276  
**Email Address:** [esniegowski@ninemilecreek.org](mailto:esniegowski@ninemilecreek.org)

#### Background that led to submission of this resolution:

Overuse of chloride compounds (primarily for removal of snow and ice from roads, parking lots and sidewalks) is degrading lakes, creeks, and wetlands in the metropolitan Twin Cities area and throughout Minnesota. The Minnesota Pollution Control Agency has designated 68 impairments in 42 waterbodies in the state – numbers that are steadily increasing. Salt persists in the environment, making chloride contamination one of the most pressing concerns in watershed management; reduction in the amount used is critical.

#### Ideas for how this issue could be solved:

For several years, Minnesota Watersheds and others have pursued an incentive-based approach to reducing chloride use by supporting legislation that would provide a liability limitation for property owners and maintenance companies who are certified by the Minnesota Pollution Control Agency as applicators trained to apply the correct amount of salt to achieve safe surface conditions and who document their practice of protective low-salt maintenance techniques. During the 2024 session, Minnesota Watersheds worked with several metro-area watersheds to secure the endorsement of the Minnesota Center for Environmental Advocacy, Freshwater Society, Minnesota Association for Justice (which represents trial lawyers) and Stop Over Salting on a legislative approach that provided owners and applicators with protection to the extent of negligence. The Minnesota Nursery and Landscape Association, which represents property-maintenance providers, would not join the coalition, arguing for a bill that provided more extensive liability protection, less frequent training and certification, and looser trainer controls. The trial lawyers' lobbyist has indicated they would strongly oppose the more extensive liability protection; in addition, allowing for protection when a provider is in fact negligent is contrary to sound public policy.

Nine Mile Creek Watershed District (NMCWD) reasons that regulatory approaches to reducing salt use must be developed. The proper vehicle for such an approach – state, county, city, watershed organization – has yet to be determined; multiple options can and should be explored.

#### Efforts to solve the problem:

NMCWD and other watershed organizations have conducted and sponsored training in smart-salting practices and other efforts to reduce chloride use (and resultant contamination). NMCWD and others have actively supported the incentive-based legislative approach discussed above, and have communicated with legislators, county commissioners, city staff, and numerous others on the impacts of chlorides on water resources. In addition, NMCWD and a few others have already adopted rule provisions that require permit applicants to include chloride best practices in stormwater-management plans. Initial conversations about chloride have taken place, but concerted efforts have yet to commence.

#### Anticipated support or opposition:

Minnesota Nursery and Landscape Association is likely to oppose any regulatory approach. Property owners likely will oppose any approach that applies directly to them. Many cities and counties will likely support a regulatory approach, but some may argue that they lack the resources to implement regulatory approaches such as licensing salt applicators if that is the approach taken.

#### This issue (check all that apply):

Applies only to our district:	_____	Requires legislative action:	_____
Applies only to 1 or 2 regions:	_____	Requires state agency advocacy:	_____ X _____
Applies to the entire state:	_____ X _____	Impacts MW bylaws or MOPP:	_____

# MINNESOTA WATERSHEDS RESOLUTION 2024-01

## Resolution to Develop Regulatory Approaches to Reducing Chloride Contamination

**WHEREAS**, chloride contamination of the state’s water resources has been identified not only in urban waters, but in waters throughout the state; and

**WHEREAS**, the Minnesota Pollution Control Agency has designated 68 impairments for chlorides in 42 waterbodies in the state; and

**WHEREAS**, the Twin Cities Metro Area Chloride Management Plan and Total Maximum Daily Load studies on Nine Mile Creek and Shingle Creek have indicated that the largest chloride source to our lakes and streams is the application of chloride compounds on roads, parking lots, sidewalks, and other hard surfaces for winter maintenance practices; and

**WHEREAS**, Minnesota Watersheds and its allies have advocated for and continue to support enactment of state law that provides limited liability protection to commercial salt applicators and property owners using salt applicators who are certified through the established state salt-applicator certification program and follow best management practices, but such efforts have failed so far to result in adoption of new law; and

**WHEREAS**, chlorides are a metal, and once deposited in a water body do not degrade, making prevention critical; and

**WHEREAS**, a few watershed organizations in Minnesota have developed, adopted, and implemented regulatory approaches to reduce chloride use and contamination, charting one path forward for such efforts.

**NOW, THEREFORE, BE IT RESOLVED** that Minnesota Watersheds supports development, adoption, and implementation of regulatory approaches to reducing chloride contamination in waters of the state.

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**Notes:** Committee recommends adoption.

# BACKGROUND INFORMATION ON MINNESOTA WATERSHEDS

## RESOLUTION 2024-02

### Resolution Allowing Alternative Notice of Watershed District Proceedings by Publication on the District's Website

**Proposing District:** Riley Purgatory Bluff Creek Watershed District  
**Contact Name:** Terry Jeffery, Administrator  
**Phone Number:** 952-607-6512  
**Email Address:** [tjeffery@rpbcwd.org](mailto:tjeffery@rpbcwd.org)

#### Background that led to submission of this resolution:

Minnesota Statutes chapter 103D, known as the Watershed Law, requires notice by publication in a local newspaper for various watershed district proceedings, specifically publication in a legal newspaper published in the counties affected by the watershed district; such proceedings include boundary changes, changing the district's principal place of business, consideration of ordering projects, and annual budget and tax levy. Notice by publication is one notice requirement in addition to mailed notice requirements. Some watershed districts are finding it increasingly difficult to publish notice in local newspapers because many have ceased publication. In an age of search engines and electronic communications, more citizens are likely to learn about watershed district proceedings through the internet than through publication in a legal newspaper.

#### Ideas for how this issue could be solved:

An alternative to publication in a newspaper is publication on the watershed district's web site. For example, Minnesota Statutes section 103E.806, subdivision 3 provides that notice of a hearing on partial abandonment of a drainage system by mail to the owners of all property benefited by the drainage system, and either in a newspaper of general circulation within the affected drainage area or by publication on a website of the drainage authority.

#### Efforts to solve the problem:

Until there is a legal alternative, the only option is to publish in the newspapers that are still in business, often at increased prices.

#### Anticipated support or opposition:

This is an issue that may find growing support among other local units of government with publication requirements. Newspapers will likely not be supportive of decreased revenue from legal notice publications.

#### This issue (check all that apply):

Applies only to our district:	_____	Requires legislative action:	_____X_____
Applies only to 1 or 2 regions:	_____	Requires state agency advocacy:	_____
Applies to the entire state:	_____X_____	Impacts MW bylaws or MOPP:	_____

# MINNESOTA WATERSHEDS RESOLUTION 2024-02

## Resolution Allowing Alternative Notice of Watershed District Proceedings by Publication on the District's Website

**WHEREAS**, Minnesota Statutes chapter 103D, known as the Watershed Law, requires notice by publication in a local newspaper for various watershed district proceedings, specifically publication in a legal newspaper published in the counties affected by the watershed district; such proceedings include boundary changes, changing the district's principal place of business, consideration of ordering projects, and public hearings on the district's annual budget and tax levy; and

**WHEREAS**, notice by publication is one notice requirement in addition to mailed notice requirements; and

**WHEREAS**, some watershed districts are finding it increasingly difficult to publish notice in local newspapers because many have ceased publication; and

**WHEREAS**, an alternative to publication in a newspaper is publication on the watershed district's web site; for example, Minnesota Statutes section 103E.806, subdivision 3 provides that notice of a hearing on partial abandonment of a drainage system by mail to the owners of all property benefited by the drainage system, and *either* in a newspaper of general circulation within the affected drainage area *or* by publication on a website of the drainage authority.

**NOW, THEREFORE, BE IT RESOLVED** that Minnesota Watersheds supports amending the Watershed Law to provide for publication on a watershed district's website as an alternative to publication in a legal newspaper.

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**Notes:** Committee recommends adoption.



# BACKGROUND INFORMATION ON MINNESOTA WATERSHEDS

## RESOLUTION 2024-03

### Resolution Providing for Watershed Management Organization Representative on Wetland Technical Evaluation Panels ~~in Seven-County Metropolitan Area~~

**Proposing District:** Riley Purgatory Bluff Creek Watershed District  
**Contact Name:** Terry Jeffery, Administrator  
**Phone Number:** 952-607-6512  
**Email Address:** [tjeffery@rpbcwd.org](mailto:tjeffery@rpbcwd.org)

#### Background that led to submission of this resolution:

Minnesota Statutes section 103G.2242, subdivision 2 provides for Technical Evaluation Panels to address questions concerning the public value, location, size, or type of a wetland under the Wetland Conservation Act (WCA). Pursuant to this statute, a Technical Evaluation Panel (TEP) "shall be composed of a technical professional employee of the board, a technical professional employee of the local soil and water conservation district or districts, a technical professional with expertise in water resources management appointed by the local government unit (LGU), and a technical professional employee of the Department of Natural Resources for projects affecting public waters or wetlands adjacent to public waters." Watershed management organizations may serve as the "local government unit" under WCA, but in many cases local municipalities elect to serve as the WCA LGU, which means there is no watershed management organization representation on the TEP.

#### Ideas for how this issue could be solved:

Amend Minnesota Statutes section 103G.2242, subdivision 2 to include a watershed management organization representative on TEPs that are convened within the seven-county metropolitan area. (This provision could easily be expanded to cover the entire state if watershed districts outside the metropolitan area so desire.)\*

#### Efforts to solve the problem:

TEPs will often contact the watershed management organization for comments, but they are not required to do so, and the watershed management organization is not currently a voting member of the TEP when the municipality is the WCA LGU.

#### Anticipated support or opposition from other governmental units?

Support will vary depending upon the audience. Numerous LGUs appreciate having a member that represents the watershed district while many may feel this is an attempt to usurp WCA administration from them. Metropolitan area watershed districts typically have someone knowledgeable in WCA but may feel this is added responsibility.

#### This issue (check all that apply):

Applies only to our district:	_____	Requires legislative action:	_____ X _____
Applies only to 1 or 2 regions:	_____ X* _____	Requires state agency advocacy:	_____
Applies to the entire state:	_____ X* _____	Impacts MW bylaws or MOPP:	_____

# MINNESOTA WATERSHEDS RESOLUTION 2024-03

## Resolution Providing for Watershed Management Organization Representative on Wetland Technical Evaluation Panels ~~in Seven-County Metropolitan Area~~

**WHEREAS**, Minnesota Statutes section 103G.2242, subdivision 2 provides for Technical Evaluation Panels to address questions concerning the public value, location, size, or type of a wetland under the Wetland Conservation Act (WCA); and

**WHEREAS**, pursuant to this statute, a Technical Evaluation Panel (TEP) “shall be composed of a technical professional employee of the board, a technical professional employee of the local soil and water conservation district or districts, a technical professional with expertise in water resources management appointed by the local government unit (LGU), and a technical professional employee of the Department of Natural Resources for projects affecting public waters or wetlands adjacent to public waters;” and

**WHEREAS**, watershed management organizations may serve as the “local government unit” under WCA, but in many cases local municipalities elect to serve as the WCA LGU, which means there is no watershed management organization representation on the TEP; and

**WHEREAS**, watershed management organizations in the seven-county metropolitan area are required to develop watershed management plans that include an inventory of surface water resources including wetlands, establish goals for wetland management that recognize the fundamental relationship between wetland management and land use, and many metropolitan watershed management organizations have undertaken detailed wetland inventories and assessments of their function and value to develop local wetland management controls with maps or inventories of wetlands, existing comprehensive wetland protection and management plans, descriptions of existing local wetland banking programs, and procedures used in determining replacement of wetland functions and values for evaluating wetland replacement proposals; and

**WHEREAS**, metropolitan watershed management organizations typically have technical professionals with expertise in water resources management generally and wetlands management specifically.

**NOW, THEREFORE, BE IT RESOLVED** that Minnesota Watersheds supports amendment of Minnesota Statutes section 103G.2242, subdivision 2 to include a watershed management organization representative on TEPs that are convened ~~within the seven-county metropolitan area~~ in cases where the organization is not the WCA LGU.

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**Notes:** Committee recommends adoption as amended.

# BACKGROUND INFORMATION ON MINNESOTA WATERSHEDS

## RESOLUTION 2024-04

### Resolution Seeking the Ability to Allow Resale of Acquisition Buyout Property

**Proposing District:** Wild Rice Watershed District  
**Contact Name:** Tara Jensen, Administrator  
**Phone Number:** 218-784-5501  
**Email Address:** [tara@wildricewatershed.org](mailto:tara@wildricewatershed.org)

#### Background that led to the submission of this resolution:

Buyout properties are allowed to be gifted to another government entity but not allowed to be sold to private individuals and put back on the tax rolls and into private ownership with restriction of future construction on the property.

When real property is acquired by a Local Governmental Unit (LGU) regarding a flood buyout, the property goes off the tax rolls for the county and, per FEMA requirements, cannot be resold except to a public entity or to a qualified conservation organization. See "The Stafford Act, 42 U.S.C. 5121 et seq., Hazard Mitigation Grant Program, and FEMA Model Deed Restrictions at Exhibit A. WRWD desires the FEMA requirements/model deed restrictions be amended to permit either the conveyance to a public entity or to a qualified conservation organization of the acquired interest, or alternatively a resale by an LGU of acquired real property to private taxpayers - subject to the FEMA Model Deed Restrictions (excepting re: a sale to a private party).

#### Ideas for how this issue could be solved:

Changes in FEMA regulations to allow property to be transferred back into private ownership, lessening government expense long term for maintenance of the property. Although it cannot be constructed on, it is a good open space for parties interested.

If LGUs were allowed to sell the flood buyout property(ies) to private taxpayers, the property would go back on the local tax rolls, thereby benefiting the local (especially) county. Any sale by the LGU could provide for the net sale proceeds to be paid back to FEMA and any sale would remain subject to the FEMA Model Deed Restrictions at Exhibit A. All the remaining restrictions/covenants contained in the FEMA Model Deed Restrictions would continue to apply to the private party.

#### Efforts to solve the problem:

The Wild Rice Watershed District has requested federal legislators address this issue in the past, but to date nothing has come of those requests.

#### Anticipated support or opposition:

Most LGUs would likely support being allowed to sell flood buyout property to private taxpayers, subject to the FEMA Model Deed Restrictions. It is unknown whether FEMA would oppose.

#### This issue (check all that apply):

Applies only to our district:	_____	Requires legislative action:	_____ X _____
Applies only to 1 or 2 regions:	_____	Requires state agency advocacy:	_____
Applies to the entire state:	_____ X _____	Impacts MW bylaws or MOPP:	_____

# MINNESOTA WATERSHEDS RESOLUTION 2024-04

## Resolution Seeking the Ability to Allow Resale of Acquisition Buyout Property

**WHEREAS**, when a LGU acquires real property as part of a flood buyout, such property goes off the county tax rolls and per FEMA deed restrictions, can be resold only to a public entity or qualified conservation organization (See Exhibit A attached re: FEMA Model Deed Restrictions); and

**WHEREAS**, flooding also has severe and repeated impacts to water quality from erosion, sedimentation, nutrient loading, raw sewage discharges, and chemical spillage; and

**WHEREAS**, real property acquired by a flood buyout, but resold to a private taxpayer subject to the FEMA Model Deed Restrictions would be beneficial to the county as such property would be back on the tax rolls, and such resale would reduce maintenance obligations by the LGU re the flood buyout property, plus the property would continue to be subject to the remaining FEMA restrictions/covenants as stated in Exhibit A; and

**WHEREAS**, the Wild Rice Watershed District Board of Managers desires Minnesota Watersheds pass a resolution supporting federal legislation to allow either the conveyance of flood acquisition property by an LGU to a public entity or to a qualified conservation organization, or alternatively allow resale of flood acquisition buyout real estate by an LGU to a private party, subject to the remaining FEMA Model Deed Restrictions as stated in Exhibit A.

**NOW, THEREFORE, BE IT RESOLVED** that Minnesota Watersheds seeks federal legislation to allow the conveyance by an LGU of flood acquisition buyout real estate to a public entity or to a qualified conservation organization, or alternatively a resale to a private taxpayer, subject to the FEMA Model Deed Restrictions as stated in Exhibit A.

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**Notes:** Committee recommends adoption.

**Exhibit "A"**  
**FEMA Model Deed Restrictions**

In reference to the property or properties ("Property") conveyed by the Deed between \_\_\_\_\_  
(marital status), participating in the federally-assisted acquisition  
project ("the Grantor") and \_\_\_\_\_, ("the Grantee"), its successors  
and assigns:

WHEREAS, The Robert T. Stafford Disaster Relief and Emergency Assistance Act, ("The Stafford Act"), 42 U.S.C. § 5121 et seq., identifies the use of disaster relief funds under § 5170c, Hazard Mitigation Grant Program, including the acquisition and relocation of structures in the floodplain;

WHEREAS, the mitigation grant program provides a process for a local government, through the State, to apply for federal funds for mitigation assistance to acquire interests in property, including the purchase of structures in the floodplain, to demolish and/or remove the structures, and to maintain the use of the Property as open space in perpetuity;

WHEREAS, the \_\_\_\_\_ has applied for and been awarded such funding from the Department of Homeland Security, Federal Emergency Management Agency and has entered into a mitigation grant program Grant Agreement dated \_\_\_\_\_ with FEMA and herein incorporated by reference; making it a mitigation grant program grantee.

WHEREAS, the Property is located in \_\_\_\_\_ County, and \_\_\_\_\_ County participates in the National Flood Insurance Program and is in good standing with NFIP as of the date of the Deed;

WHEREAS, the \_\_\_\_\_, acting by and through the \_\_\_\_\_, has applied for and been awarded federal funds pursuant to an agreement with Minnesota dated \_\_\_\_\_ ("State-Local Agreement"), and herein incorporated by reference, making it a mitigation grant program subgrantee;

WHEREAS, the terms of the mitigation grant program statutory authorities, Federal program requirements consistent with 44 C.F.R. Part 80, the Grant Agreement, and the State-local Agreement require that the Grantee agree to conditions that restrict the use of the land to open space in perpetuity in order to protect and preserve natural floodplain values.

**NOW, THEREFORE**, the grant is made subject to the following terms and conditions:



1. Terms. Pursuant to the terms of the “Stafford Act” program statutory authorities, Federal program requirements consistent with 44 C.F.R. Part 80, the Grant Agreement, and the State Local Agreement, the following conditions and restrictions shall apply in perpetuity to the Property described in the attached deed and acquired by the Grantee pursuant to FEMA program requirements concerning the acquisition of property for open space:

a. Compatible uses. The Property shall be dedicated and maintained in perpetuity as open space for the conservation of natural floodplain functions. Such uses may include: parks for outdoor recreational activities; wetlands management; nature reserves; cultivation; grazing; camping (except where adequate warning time is not available to allow evacuation); unimproved, unpaved parking lots; buffer zones; and other uses consistent with FEMA guidance for open space acquisition, Hazard Mitigation Assistance, Requirements for Property Acquisition and Relocation for Open Space.

b. Structures. No new structures or improvements shall be erected on the Property other than:

- i. A public facility that is open on all sides and functionally related to a designated open space or recreational use;
- ii. A public rest room; or
- iii. A structure that is compatible with open space and conserves the natural function of the floodplain, including the uses described in Paragraph 1.a., above, and approved by the FEMA Administrator in writing before construction of the structure begins.

Any improvements on the Property shall be in accordance with proper floodplain management policies and practices. Structures built on the Property according to paragraph b. of this section shall be floodproofed or elevated to at least the base flood level plus 1 foot of freeboard, or greater, if required by FEMA, or if required by any State, Tribal, or local ordinance, and in accordance with criteria established by the FEMA Administrator.

c. Disaster Assistance and Flood Insurance. No Federal entity or source may provide disaster assistance for any purpose with respect to the Property, nor may any application for such assistance be made to any Federal entity or source. The Property is not eligible for coverage under the NFIP for damage to structures on the property occurring after the date of the property settlement, except for pre-existing structures being relocated off the property as a result of the project.

d. Transfer. The Grantee, including successors in interest, shall convey any interest in the Property only if the FEMA Regional Administrator, through the State, gives prior written approval of the transferee in accordance with this paragraph:

- i. The request by the Grantee, through the State, to the FEMA Regional Administrator must include a signed statement from the proposed transferee that it acknowledges and agrees to be bound by the terms of this section, and documentation of its status as a qualified conservation organization if applicable.
- ii. The Grantee may convey a property interest only to a public entity or to a qualified conservation organization. However, the Grantee may convey an easement or lease to a private individual or entity for purposes compatible with the uses described in paragraph (a), of this section, with the prior approval of the FEMA Regional Administrator, and so long as the conveyance does not include authority to control and enforce the terms and conditions of this section.
- iii. If title to the Property is transferred to a public entity other than one with a conservation mission, it must be conveyed subject to a conservation easement that shall be recorded with the deed and shall incorporate all terms and conditions set forth in this section, including

the easement holder's responsibility to enforce the easement. This shall be accomplished by one of the following means:

- a) The Grantee shall convey, in accordance with this paragraph, a conservation easement to an entity other than the title holder, which shall be recorded with the deed, or
  - b) At the time of title transfer, the Grantee shall retain such conservation easement, and record it with the deed.
- iv. Conveyance of any property interest must reference and incorporate the original deed restrictions providing notice of the conditions in this section and must incorporate a provision for the property interest to revert to the State, Tribe, or local government in the event that the transferee ceases to exist or loses its eligible status under this section.

2. Inspection. FEMA, its representatives and assigns including the state or tribe shall have the right to enter upon the Property, at reasonable times and with reasonable notice, for the purpose of inspecting the Property to ensure compliance with the terms of this part, the Property conveyance and of the grant award.

3. Monitoring and Reporting. Every three years on July 1, the Grantee (\_\_\_\_\_), in coordination with any current successor in interest, shall submit through the State to the FEMA Regional Administrator a report certifying that the Grantee has inspected the Property within the month preceding the report, and that the Property continues to be maintained consistent with the provisions of 44 C.F.R. Part 80, the property conveyance, and the grant award.

4. Enforcement. The Grantee (\_\_\_\_\_), the State, FEMA, and their respective representatives, successors and assigns, are responsible for taking measures to bring the Property back into compliance if the Property is not maintained according to the terms of 44 C.F.R. Part 80, the property conveyance, and the grant award. The relative rights and responsibilities of FEMA, the State, the Grantee, and subsequent holders of the property interest at the time of enforcement, shall include the following:

- a. The State will notify the Grantee and any current holder of the property interest in writing and advise them that they have 60 days to correct the violation:
  - i. If the Grantee or any current holder of the property interest fails to demonstrate a good faith effort to come into compliance with the terms of the grant within the 60-day period, the State shall enforce the terms of the grant by taking any measures it deems appropriate, including but not limited to bringing an action at law or in equity in a court of competent jurisdiction.
  - ii. FEMA, its representatives, and assignees may enforce the terms of the grant by taking any measures it deems appropriate, including but not limited to 1 or more of the following:
    - a) Withholding FEMA mitigation awards or assistance from the State or Tribe, and Grantee; and current holder of the property interest.
    - b) Requiring transfer of title. The Grantee or the current holder of the property interest shall bear the costs of bringing the Property back into compliance with the terms of the grant; or
    - c) Bringing an action at law or in equity in a court of competent jurisdiction against any or all of the following parties: the State, the Tribe, the local community, and their respective successors.

5. Amendment. This agreement may be amended upon signatures of FEMA, the state, and the Grantee only to the extent that such amendment does not affect the fundamental and statutory purposes underlying the agreement.

6. Severability. Should any provision of this grant or the application thereof to any person or circumstance be found to be invalid or unenforceable, the rest and remainder of the provisions of this grant and their application shall not be affected and shall remain valid and enforceable.

Signed by Grantors and Grantee, witnesses and notarization in accordance with local law.

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

\_\_\_\_\_  
Grantor,

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

\_\_\_\_\_  
Grantor,

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by  
\_\_\_\_\_  
(marital status), Grantor(s).

(NOTARIAL STAMP/SEAL)

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

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

\_\_\_\_\_  
Grantee,

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

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by  
\_\_\_\_\_, the \_\_\_\_\_ of the \_\_\_\_\_  
\_\_\_\_\_, Grantee.

(NOTARIAL STAMP/SEAL)

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

This instrument drafted by:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



# BACKGROUND INFORMATION ON MINNESOTA WATERSHEDS

## RESOLUTION 2024-05

### Resolution Seeking the DNR to Establish a “Comprehensive Guideline for Calcareous Fen Management”

**Proposing District:** Middle Snake Tamarac Rivers Watershed District  
**Contact Name:** Morteza Maher, District Administrator  
**Phone Number:** 218-230-5703  
**Email Address:** [morteza.maher@mstrwd.org](mailto:morteza.maher@mstrwd.org)

#### **Background that led to the submission of this resolution:**

Middle-Snake-Tamarac Rivers Watershed District (MSTRWD) proposes that the rare natural communities/Calcareous Fen-related statutes and rules be streamlined so that early RNC screening can eliminate waste of public funds.

In 2016, MSTRWD began the project work team (PWT) process (a process under the 1998 Mediation agreement) on a capital project that was eventually referred to as Lilac Ridge. From the outset, the project’s PWT involved representatives from the DNR. During the process, the DNR indirectly stated some concerns about the wetlands in the area but did not mention anything about the presence of Calcareous Fen (which is protected under Minn. Stat. § 103G.223). In December of 2020, USACE under Concurrence Point 3, reviewed alternatives analysis and accepted that the selected alternative was the “Least Environmentally Damaging Practicable Alternative” (LEDPA). By then, the preliminary engineering was mostly done, the PWT process was wrapping up, and the USACE’s LEDPA determination triggered the project to move to the EAW process.

In response to the initiation of the EAW process, in July of 2021 the DNR provided a writing that suggested the potential of the existence of Calcareous Fen within the project footprint. (The document did not mention the Calcareous Fen by name, but instead referred to the potential for various types of fens, and only indirectly mentioned the ground water and minerals that feed some kinds of Calcareous Fens).

Knowing the designation of Calcareous Fen as protected, at this point MSTRWD started direct communication with DNR. In subsequent contacts, it was revealed that the DNR believed there was a high likelihood that Calcareous Fen would be found within the footprint of the planned project. Therefore, MSTRWD requested that the DNR make a prompt, solid determination regarding the existence of Calcareous Fen on the site before the district expended further funds and time on the project. In response, the DNR informed the district that it lacked staff to perform such a determination and could not accommodate the district’s request but suggested that the district could hire an outside consultant to perform the same.

In response, the district retained a consultant to investigate the site and through coordination with DNR the consultant provided a report. Following submission of the report to the DNR, the agency insisted that it needed to send its experts to the site and confirm the findings of the report. This confirmation process took three more site visits (close to a whole year) due to snow on the ground and staff shortage. Eventually DNR provided a formal letter stating that the area has Calcareous Fen.

The report from the district’s consultant did note that the quality of the Calcareous Fen on the site was not high. Since the Calcareous Fen quality based on the third party’s report was not high, with the help of relevant professionals, MSTRWD developed solutions and proposed them to the DNR. In response, the DNR questioned the solutions by offering hypothetical risks. The agency’s type of reaction caused MSTRWD to halt the project officially in 2024.

*As of this writing, over \$800,000 in taxpayer funds was wasted on this proposed project.*

MSTRWD is attempting to collect lessons learned from this project to share with the other interested parties and to apply in future projects. In the past, representatives from the DNR have declared an interest in any chance for improvement of the DNR’s processes. MSTRWD has started a review of the statutes and rules related to RNC’s, Calcareous Fens, and the disclosure of the existence and location of the same.

**Ideas for how this issue could be solved:**

In each of the resolutions 2024-05 to 2024-12, suggestions are provided.

**Efforts to solve the problem:**

MSTRWD has tried to utilize the Flood Damage Reduction Work Group processes to work with DNR on the Lilac Ridge Project specifically. However, after the project stoppage and through the collection of lessons learned process, MSTRWD figured the issue stems from deeper roots and perhaps is not project specific nor it relates to one specific group or Commissioner’s time. The issue roots back into incremental either statutory changes through “Rules” that happened in the past perhaps on a good faith, lack of clarity of some, or time effect on getting by on things that can be addressed otherwise. Due to its importance and with the hope that this doesn’t happen to any other project again, MSTRWD believes this should be addressed in the Statute with a reporting/ accountability creation to it. So, it will not become routine again. In small scale, some concerns were shared with the DNR’s NW Region authorities and steps were taken to address them within DNR internally.

**Anticipated support or opposition:**

In general, all Calcareous Fen Related Stakeholders including the DNR, project Sponsors, and landowners should be onboard with the proposed resolutions as they are meant to be fair, balanced and inclusive. Even the Environmental group should get onboard as the suggested solutions to safeguard the RNCs is more reliable and sustainable than the current method of enforcement and use of coercive power only.

**This issue (check all that apply):**

Applies only to our district:	_____	Requires legislative action:	_____X_____
Applies only to 1 or 2 regions:	_____	Requires state agency advocacy:	_____
Applies to the entire state:	_____X_____	Impacts MW bylaws or MOPP:	_____



# MINNESOTA WATERSHEDS RESOLUTION 2024-05

## Resolution Seeking the DNR to Establish a “Comprehensive Guideline for Calcareous Fen Management”

**WHEREAS**, some of the stated purposes of government pursuant to Minn. Stat. § 14.001 are to:

- “(2) to increase public accountability of administrative agencies;
- (3) to ensure a uniform minimum procedure;
- (4) to increase public access to governmental information;
- (5) to increase public participation in the formulation of administrative rules;
- (6) to increase the fairness of agencies in their conduct of contested case proceedings; and
- (7) to simplify the process of judicial review of agency action as well as increase its ease and availability,”

and to “strike a fair balance between these purposes and the need for efficient, economical, and effective government administration;” and,

**WHEREAS**, it is apparent that the DNR does not have any plan to improve the identified Calcareous Fens as currently identified, but rather intends to leave them to nature, which is essentially leaving this state asset to chance for its survival to degrade or improve naturally; and,

**WHEREAS**, under Minn. Stat. § 84.027, Subd. 14, it is part of the DNR’s mission that “within the department’s resources the commissioner shall endeavor to: (1) prevent the waste or unnecessary spending of public money;” and,

**WHEREAS**, under Minn. Rule 8420.0935, the commissioner “must provide technical assistance to landowners or project sponsors in the development of management plans;” and

**WHEREAS**, under Minn. Stat. § 84.0895, Subd. 5. (a), “[N]otwithstanding any other law, the commissioner may undertake management programs, issue orders, and adopt rules necessary to bring a resident species of wild animal or plant that has been designated as threatened or endangered to a point at which it is no longer threatened or endangered;” and,

**WHEREAS**, based upon the DNR’s involvement in the Lilac Ridge project, it is clear that the agency sees its role to be that of the reviewer of the plan rather than technically assisting with development of the plan.

**NOW, THEREFORE, BE IT RESOLVED** that Minnesota Watersheds supports DNR establishing a “Comprehensive Guide for Calcareous Fen Management” as a tool for project proposers to analyze a project’s feasibility or cost effectiveness.

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**Notes:** Committee recommends adoption.

# BACKGROUND INFORMATION ON MINNESOTA WATERSHEDS

## RESOLUTION 2024-06

### Resolution Seeking Clarification of the Statutory and Rule Language Regarding the Alteration of Calcareous Fens

**Proposing District:** Middle Snake Tamarac Rivers Watershed District  
**Contact Name:** Morteza Maher, District Administrator  
**Phone Number:** 218-230-5703  
**Email Address:** [morteza.maher@mstrwd.org](mailto:morteza.maher@mstrwd.org)

#### Background that led to the submission of this resolution:

Middle-Snake-Tamarac Rivers Watershed District (MSTRWD) proposes that the rare natural communities/Calcareous Fen-related statutes and rules be streamlined so that early RNC screening can eliminate waste of public funds.

In 2016, MSTRWD began the project work team (PWT) process (a process under the 1998 Mediation agreement) on a capital project that was eventually referred to as Lilac Ridge. From the outset, the project's PWT involved representatives from the DNR. During the process, the DNR indirectly stated some concerns about the wetlands in the area but did not mention anything about the presence of Calcareous Fen (which is protected under Minn. Stat. § 103G.223). In December of 2020, USACE under Concurrence Point 3, reviewed alternatives analysis and accepted that the selected alternative was the "Least Environmentally Damaging Practicable Alternative" (LEDPA). By then, the preliminary engineering was mostly done, the PWT process was wrapping up, and the USACE's LEDPA determination triggered the project to move to the EAW process.

In response to the initiation of the EAW process, in July of 2021 the DNR provided a writing that suggested the potential of the existence of Calcareous Fen within the project footprint. (The document did not mention the Calcareous Fen by name, but instead referred to the potential for various types of fens, and only indirectly mentioned the ground water and minerals that feed some kinds of Calcareous Fens).

Knowing the designation of Calcareous Fen as protected, at this point MSTRWD started direct communication with DNR. In subsequent contacts, it was revealed that the DNR believed there was a high likelihood that Calcareous Fen would be found within the footprint of the planned project. Therefore, MSTRWD requested that the DNR make a prompt, solid determination regarding the existence of Calcareous Fen on the site before the district expended further funds and time on the project. In response, the DNR informed the district that it lacked staff to perform such a determination and could not accommodate the district's request but suggested that the district could hire an outside consultant to perform the same.

In response, the district retained a consultant to investigate the site and through coordination with DNR the consultant provided a report. Following submission of the report to the DNR, the agency insisted that it needed to send its experts to the site and confirm the findings of the report. This confirmation process took three more site visits (close to a whole year) due to snow on the ground and staff shortage. Eventually DNR provided a formal letter stating that the area has Calcareous Fen.

The report from the district's consultant did note that the quality of the Calcareous Fen on the site was not high. Since the Calcareous Fen quality based on the third party's report was not high, with the help of relevant professionals, MSTRWD developed solutions and proposed them to the DNR. In response, the DNR questioned the solutions by offering hypothetical risks. The agency's type of reaction caused MSTRWD to halt the project officially in 2024.

As of this writing, over \$800,000 in taxpayer funds was wasted on this proposed project.

MSTRWD is attempting to collect lessons learned from this project to share with the other interested parties and to apply in future projects. In the past, representatives from the DNR have declared an interest in any chance for improvement of the DNR's processes. MSTRWD has started a review of the statutes and rules related to RNC's, Calcareous Fens, and the disclosure of the existence and location of the same.

**Ideas for how this issue could be solved:**

In each of the resolutions 2024-05 to 2024-12, suggestions are provided.

**Efforts to solve the problem:**

MSTRWD has tried to utilize the Flood Damage Reduction Work Group processes to work with DNR on the Lilac Ridge Project specifically. However, after the project stoppage and through the collection of lessons learned process, MSTRWD figured the issue stems from deeper roots and perhaps is not project specific nor it relates to one specific group or Commissioner’s time. The issue roots back into incremental either statutory changes through “Rules” that happened in the past perhaps on a good faith, lack of clarity of some or time effect on getting by on things that can be addressed otherwise. Due to its importance and with the hope that this doesn’t happen to any other project again, MSTRWD believes this should be addressed in the Statute with a reporting/ accountability creation to it. So, it will not become routine again. In small scale, some concerns were shared with the DNR’s NW Region authorities and steps were taken to address them within DNR internally.

**Anticipated support or opposition:**

In general, all Calcareous Fen Related Stakeholders including the DNR, project Sponsors and landowners should be onboard with the proposed resolutions as they are meant to be fair, balanced and inclusive. Even the Environmental group should get onboard as the suggested solutions to safeguard the RNCs is more reliable and sustainable than the current method of enforcement and use of coercive power only.

**This issue (check all that apply):**

Applies only to our district:	_____	Requires legislative action:	_____X_____
Applies only to 1 or 2 regions:	_____	Requires state agency advocacy:	_____
Applies to the entire state:	_____X_____	Impacts MW bylaws or MOPP:	_____

# MINNESOTA WATERSHEDS RESOLUTION 2024-06

## Resolution Seeking Clarification of the Statutory and Rule Language Regarding the Alteration of Calcareous Fens

**WHEREAS**, Minn. Stat. § 103G.223 authorizes the Commissioner to approve projects that may seasonally impact Calcareous Fens under an approved management plan; and

**WHEREAS**, under Minn. Rule 8420.0935, Subpart 1., “[C]alcareous fens, as identified by the commissioner, must not be impacted or otherwise altered or degraded, wholly or partially, by any action, unless the commissioner, under an approved management plan, decides some alteration is necessary”; and

**WHEREAS**, Minn. Stat. § 103G.223 could allow projects with minimal impacts to move forward, while Minn. Rule 8420.0935, in contravention of the statute, precludes that option;

**NOW, THEREFORE, BE IT RESOLVED** that Minnesota Watersheds supports Minn. Rule 8420.0935, Subp. 1, be amended as follows: Subpart 1. Purpose. The purpose of this part is to provide minimum standards and criteria for identifying, protecting, and managing calcareous fens as authorized by Minn. Stat. § 103G.223. Calcareous fens, as identified by the commissioner, must not be impacted or otherwise altered or degraded, wholly or partially, by any action, unless the commissioner, under an approved management plan, ~~decides some alteration is necessary.~~ determines that the proposed project may temporarily reduce ground water resources on seasonal basis. The exemptions under part 8420.0420 and the sequencing provisions under part 8420.0520 do not apply to calcareous fens.

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**Notes:** No recommendation, more research needed.

# BACKGROUND INFORMATION ON MINNESOTA WATERSHEDS

## RESOLUTION 2024-07

### Resolution Seeking the DNR to Adopt a Program to Incentive Calcareous Fen Management on Private Lands

**Proposing District:** Middle Snake Tamarac Rivers Watershed District  
**Contact Name:** Morteza Maher, District Administrator  
**Phone Number:** 218-230-5703  
**Email Address:** [morteza.maher@mstrwd.org](mailto:morteza.maher@mstrwd.org)

#### Background that led to the submission of this resolution:

Middle-Snake-Tamarac Rivers Watershed District (MSTRWD) proposes that the rare natural communities/Calcareous Fen-related statutes and rules be streamlined so that early RNC screening can eliminate waste of public funds.

In 2016, MSTRWD began the project work team (PWT) process (a process under the 1998 Mediation agreement) on a capital project that was eventually referred to as Lilac Ridge. From the outset, the project's PWT involved representatives from the DNR. During the process, the DNR indirectly stated some concerns about the wetlands in the area but did not mention anything about the presence of Calcareous Fen (which is protected under Minn. Stat. § 103G.223). In December of 2020, USACE under Concurrence Point 3, reviewed alternatives analysis and accepted that the selected alternative was the "Least Environmentally Damaging Practicable Alternative" (LEDPA). By then, the preliminary engineering was mostly done, the PWT process was wrapping up, and the USACE's LEDPA determination triggered the project to move to the EAW process.

In response to the initiation of the EAW process, in July of 2021 the DNR provided a writing that suggested the potential of the existence of Calcareous Fen within the project footprint. (The document did not mention the Calcareous Fen by name, but instead referred to the potential for various types of fens, and only indirectly mentioned the ground water and minerals that feed some kinds of Calcareous Fens).

Knowing the designation of Calcareous Fen as protected, at this point MSTRWD started direct communication with DNR. In subsequent contacts, it was revealed that the DNR believed there was a high likelihood that Calcareous Fen would be found within the footprint of the planned project. Therefore, MSTRWD requested that the DNR make a prompt, solid determination regarding the existence of Calcareous Fen on the site before the district expended further funds and time on the project. In response, the DNR informed the district that it lacked staff to perform such a determination and could not accommodate the district's request but suggested that the district could hire an outside consultant to perform the same.

In response, the district retained a consultant to investigate the site and through coordination with DNR the consultant provided a report. Following submission of the report to the DNR, the agency insisted that it needed to send its experts to the site and confirm the findings of the report. This confirmation process took three more site visits (close to a whole year) due to snow on the ground and staff shortage. Eventually DNR provided a formal letter stating that the area has Calcareous Fen.

The report from the district's consultant did note that the quality of the Calcareous Fen on the site was not high. Since the Calcareous Fen quality based on the third party's report was not high, with the help of relevant professionals, MSTRWD developed solutions and proposed them to the DNR. In response, the DNR questioned the solutions by offering hypothetical risks. The agency's type of reaction caused MSTRWD to halt the project officially in 2024.

As of this writing, over \$800,000 in taxpayer funds was wasted on this proposed project.

MSTRWD is attempting to collect lessons learned from this project to share with the other interested parties and to apply in future projects. In the past, representatives from the DNR have declared an interest in any chance for improvement of the DNR's processes. MSTRWD has started a review of the statutes and rules related to RNC's, Calcareous Fens, and the disclosure of the existence and location of the same.



**Ideas for how this issue could be solved:**

In each of the resolutions 2024-05 to 2024-12, suggestions are provided.

**Efforts to solve the problem:**

MSTRWD has tried to utilize the Flood Damage Reduction Work Group processes to work with DNR on the Lilac Ridge Project specifically. However, after the project stoppage and through the collection of lessons learned process, MSTRWD figured the issue stems from deeper roots and perhaps is not project specific nor it relates to one specific group or Commissioner’s time. The issue roots back into incremental either statutory changes through “Rules” that happened in the past perhaps on a good faith, lack of clarity of some or time effect on getting by on things that can be addressed otherwise. Due to its importance and with the hope that this doesn’t happen to any other project again, MSTRWD believes this should be addressed in the Statute with a reporting/ accountability creation to it. So, it will not become routine again. In small scale, some concerns were shared with the DNR’s NW Region authorities and steps were taken to address them within DNR internally.

**Anticipated support or opposition:**

In general, all Calcareous Fen Related Stakeholders including the DNR, project Sponsors and landowners should be onboard with the proposed resolutions as they are meant to be fair, balanced and inclusive. Even the Environmental group should get onboard as the suggested solutions to safeguard the RNCs is more reliable and sustainable than the current method of enforcement and use of coercive power only.

**This issue (check all that apply):**

Applies only to our district:	_____	Requires legislative action:	_____X_____
Applies only to 1 or 2 regions:	_____	Requires state agency advocacy:	_____
Applies to the entire state:	_____X_____	Impacts MW bylaws or MOPP:	_____

# MINNESOTA WATERSHEDS RESOLUTION 2024-07

## Resolution Seeking the DNR to Adopt a Program to Incentivize Calcareous Fen Management on Private Lands

**WHEREAS**, Minn. Stat. § 103G.223 lacks any direction on how to maintain and protect the identified and listed Calcareous Fens; and

**WHEREAS**, Minn. Rule 8420.0935, does not set forth a process to maintain or improve the listed Calcareous Fens, but rather approaches the issue of maintaining and improving the fen from an enforcement and coercive power position; and

**WHEREAS**, under the same rule, the list is a growing list, meaning that in many cases neither landowners nor DNR employees know about the existence of Calcareous Fen on specific lands. In cases where Calcareous Fen has been identified by the agency but not made public, landowners are likely ignorant of the same; and

**WHEREAS**, it appears that the DNR does not have an effective incentive program to safeguard the Calcareous Fen communities which are located on private lands, but instead employs Water Resource Enforcement Officers (WREOs) to enforce fen preservation compliance; and

**WHEREAS**, it appears that the DNR lacks an established plan to pay landowners to maintain the Calcareous Fen on their land;

**NOW, THEREFORE, BE IT RESOLVED** that Minnesota Watersheds supports the Minnesota Department of Natural Resources adopting a program through which a fee is paid to landowners to incentivize them to manage the quantity and quality of the Calcareous Fens on private lands, which program is made similar to the USDA Conservation Reserve Program or similar to a perpetual easement through the Board of Water and Soil Resources Reinvest In Minnesota.

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**Notes:** Committee recommends adoption.

# BACKGROUND INFORMATION ON MINNESOTA WATERSHEDS

## RESOLUTION 2024-08

### Resolution Seeking the Removal of the Water Resource Enforcement Officer

**Proposing District:** Middle Snake Tamarac Rivers Watershed District  
**Contact Name:** Morteza Maher, District Administrator  
**Phone Number:** 218-230-5703  
**Email Address:** [morteza.maher@mstrwd.org](mailto:morteza.maher@mstrwd.org)

#### **Background that led to the submission of this resolution:**

Middle-Snake-Tamarac Rivers Watershed District (MSTRWD) proposes that the rare natural communities/Calcareous Fen-related statutes and rules be streamlined so that early RNC screening can eliminate waste of public funds.

In 2016, MSTRWD began the project work team (PWT) process (a process under the 1998 Mediation agreement) on a capital project that was eventually referred to as Lilac Ridge. From the outset, the project's PWT involved representatives from the DNR. During the process, the DNR indirectly stated some concerns about the wetlands in the area but did not mention anything about the presence of Calcareous Fen (which is protected under Minn. Stat. § 103G.223). In December of 2020, USACE under Concurrence Point 3, reviewed alternatives analysis and accepted that the selected alternative was the "Least Environmentally Damaging Practicable Alternative" (LEDPA). By then, the preliminary engineering was mostly done, the PWT process was wrapping up, and the USACE's LEDPA determination triggered the project to move to the EAW process.

In response to the initiation of the EAW process, in July of 2021 the DNR provided a writing that suggested the potential of the existence of Calcareous Fen within the project footprint. (The document did not mention the Calcareous Fen by name, but instead referred to the potential for various types of fens, and only indirectly mentioned the ground water and minerals that feed some kinds of Calcareous Fens).

Knowing the designation of Calcareous Fen as protected, at this point MSTRWD started direct communication with DNR. In subsequent contacts, it was revealed that the DNR believed there was a high likelihood that Calcareous Fen would be found within the footprint of the planned project. Therefore, MSTRWD requested that the DNR make a prompt, solid determination regarding the existence of Calcareous Fen on the site before the district expended further funds and time on the project. In response, the DNR informed the district that it lacked staff to perform such a determination and could not accommodate the district's request but suggested that the district could hire an outside consultant to perform the same.

In response, the district retained a consultant to investigate the site and through coordination with DNR the consultant provided a report. Following submission of the report to the DNR, the agency insisted that it needed to send its experts to the site and confirm the findings of the report. This confirmation process took three more site visits (close to a whole year) due to snow on the ground and staff shortage. Eventually DNR provided a formal letter stating that the area has Calcareous Fen.

The report from the district's consultant did note that the quality of the Calcareous Fen on the site was not high. Since the Calcareous Fen quality based on the third party's report was not high, with the help of relevant professionals, MSTRWD developed solutions and proposed them to the DNR. In response, the DNR questioned the solutions by offering hypothetical risks. The agency's type of reaction caused MSTRWD to halt the project officially in 2024.

*As of this writing, over \$800,000 in taxpayer funds was wasted on this proposed project.*

MSTRWD is attempting to collect lessons learned from this project to share with the other interested parties and to apply in future projects. In the past, representatives from the DNR have declared an interest in any chance for improvement of the DNR's processes. MSTRWD has started a review of the statutes and rules related to RNC's, Calcareous Fens, and the disclosure of the existence and location of the same.

**Ideas for how this issue could be solved:**

In each of the resolutions 2024-05 to 2024-12, suggestions are provided.

**Efforts to solve the problem:**

MSTRWD has tried to utilize the Flood Damage Reduction Work Group processes to work with DNR on the Lilac Ridge Project specifically. However, after the project stoppage and through the collection of lessons learned process, MSTRWD figured the issue stems from deeper roots and perhaps is not project specific nor it relates to one specific group or Commissioner’s time. The issue roots back into incremental either statutory changes through “Rules” that happened in the past perhaps on a good faith, lack of clarity of some or time effect on getting by on things that can be addressed otherwise. Due to its importance and with the hope that this doesn’t happen to any other project again, MSTRWD believes this should be addressed in the Statute with a reporting/ accountability creation to it. So, it will not become routine again. In small scale, some concerns were shared with the DNR’s NW Region authorities and steps were taken to address them within DNR internally.

**Anticipated support or opposition:**

In general, all Calcareous Fen Related Stakeholders including the DNR, project Sponsors and landowners should be onboard with the proposed resolutions as they are meant to be fair, balanced and inclusive. Even the Environmental group should get onboard as the suggested solutions to safeguard the RNCs is more reliable and sustainable than the current method of enforcement and use of coercive power only.

**This issue (check all that apply):**

Applies only to our district:	<input type="checkbox"/>	Requires legislative action:	<input checked="" type="checkbox"/>
Applies only to 1 or 2 regions:	<input type="checkbox"/>	Requires state agency advocacy:	<input type="checkbox"/>
Applies to the entire state:	<input checked="" type="checkbox"/>	Impacts MW bylaws or MOPP:	<input type="checkbox"/>

# MINNESOTA WATERSHEDS RESOLUTION 2024-08

## Resolution Seeking the Removal of the Water Resource Enforcement Officer

**WHEREAS**, under Minn. Rule 84.027 Subd. 14, as part of the DNR’s mission “the commissioner shall endeavor to: (3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies”; and

**WHEREAS**, units of local government already employ environmental specialists of all kinds to perform various environmental assessments, including wetland law enforcement;

**NOW, THEREFORE, BE IT RESOLVED** that Minnesota Watersheds supports the Minnesota Department of Natural Resources use of Wetland Conservation Act Local Government Units to manage wetlands including calcareous fens and thereby remove the Water Resource Enforcement Officer position.

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**Notes:** No recommendation, more research needed.



# BACKGROUND INFORMATION ON MINNESOTA WATERSHEDS

## RESOLUTION 2024-09

### Resolution Seeking Identification of Calcareous Fens on All State Wetlands by December 31, 2030

**Proposing District:** Middle Snake Tamarac Rivers Watershed District  
**Contact Name:** Morteza Maher, District Administrator  
**Phone Number:** 218-230-5703  
**Email Address:** [morteza.maher@mstrwd.org](mailto:morteza.maher@mstrwd.org)

#### **Background that led to the submission of this resolution:**

Middle-Snake-Tamarac Rivers Watershed District (MSTRWD) proposes that the rare natural communities/Calcareous Fen-related statutes and rules be streamlined so that early RNC screening can eliminate waste of public funds.

In 2016, MSTRWD began the project work team (PWT) process (a process under the 1998 Mediation agreement) on a capital project that was eventually referred to as Lilac Ridge. From the outset, the project's PWT involved representatives from the DNR. During the process, the DNR indirectly stated some concerns about the wetlands in the area but did not mention anything about the presence of Calcareous Fen (which is protected under Minn. Stat. § 103G.223). In December of 2020, USACE under Concurrence Point 3, reviewed alternatives analysis and accepted that the selected alternative was the "Least Environmentally Damaging Practicable Alternative" (LEDPA). By then, the preliminary engineering was mostly done, the PWT process was wrapping up, and the USACE's LEDPA determination triggered the project to move to the EAW process.

In response to the initiation of the EAW process, in July of 2021 the DNR provided a writing that suggested the potential of the existence of Calcareous Fen within the project footprint. (The document did not mention the Calcareous Fen by name, but instead referred to the potential for various types of fens, and only indirectly mentioned the ground water and minerals that feed some kinds of Calcareous Fens).

Knowing the designation of Calcareous Fen as protected, at this point MSTRWD started direct communication with DNR. In subsequent contacts, it was revealed that the DNR believed there was a high likelihood that Calcareous Fen would be found within the footprint of the planned project. Therefore, MSTRWD requested that the DNR make a prompt, solid determination regarding the existence of Calcareous Fen on the site before the district expended further funds and time on the project. In response, the DNR informed the district that it lacked staff to perform such a determination and could not accommodate the district's request but suggested that the district could hire an outside consultant to perform the same.

In response, the district retained a consultant to investigate the site and through coordination with DNR the consultant provided a report. Following submission of the report to the DNR, the agency insisted that it needed to send its experts to the site and confirm the findings of the report. This confirmation process took three more site visits (close to a whole year) due to snow on the ground and staff shortage. Eventually DNR provided a formal letter stating that the area has Calcareous Fen.

The report from the district's consultant did note that the quality of the Calcareous Fen on the site was not high. Since the Calcareous Fen quality based on the third party's report was not high, with the help of relevant professionals, MSTRWD developed solutions and proposed them to the DNR. In response, the DNR questioned the solutions by offering hypothetical risks. The agency's type of reaction caused MSTRWD to halt the project officially in 2024.

As of this writing, over \$800,000 in taxpayer funds was wasted on this proposed project.

MSTRWD is attempting to collect lessons learned from this project to share with the other interested parties and to apply in future projects. In the past, representatives from the DNR have declared an interest in any chance for improvement of the DNR's processes. MSTRWD has started a review of the statutes and rules related to RNC's, Calcareous Fens, and the disclosure of the existence and location of the same.

**Ideas for how this issue could be solved:**

In each of the resolutions 2024-05 to 2024-12, suggestions are provided.

**Efforts to solve the problem:**

MSTRWD has tried to utilize the Flood Damage Reduction Work Group processes to work with DNR on the Lilac Ridge Project specifically. However, after the project stoppage and through the collection of lessons learned process, MSTRWD figured the issue stems from deeper roots and perhaps is not project specific nor it relates to one specific group or Commissioner’s time. The issue roots back into incremental either statutory changes through “Rules” that happened in the past perhaps on a good faith, lack of clarity of some or time effect on getting by on things that can be addressed otherwise. Due to its importance and with the hope that this doesn’t happen to any other project again, MSTRWD believes this should be addressed in the Statute with a reporting/ accountability creation to it. So, it will not become routine again. In small scale, some concerns were shared with the DNR’s NW Region authorities and steps were taken to address them within DNR internally.

**Anticipated support or opposition:**

In general, all Calcareous Fen Related Stakeholders including the DNR, project Sponsors and landowners should be onboard with the proposed resolutions as they are meant to be fair, balanced and inclusive. Even the Environmental group should get onboard as the suggested solutions to safeguard the RNCs is more reliable and sustainable than the current method of enforcement and use of coercive power only.

**This issue (check all that apply):**

Applies only to our district:	_____	Requires legislative action:	_____X_____
Applies only to 1 or 2 regions:	_____	Requires state agency advocacy:	_____
Applies to the entire state:	_____X_____	Impacts MW bylaws or MOPP:	_____

# MINNESOTA WATERSHEDS RESOLUTION 2024-09

## Resolution Seeking Identification of Calcareous Fens on All State Wetlands by December 31, 2030

**WHEREAS**, under Minn. Stat. § 103G.223 the identification of Calcareous Fen is the Commissioners responsibility as it states: ... “(a) Calcareous fens, as identified by the commissioner by written order”; and

**WHEREAS**, Minn. Rule 8420.0935 Subp. 3. A. states that “[T]he commissioner must investigate wetlands to determine if the wetland is properly identified as a calcareous fen”; and

**WHEREAS**, it is apparent that the commissioner has failed to identify and list all of the Calcareous Fen found within the state; and

**WHEREAS**, the root cause of the serious waste of taxpayer dollars on the Lilac Ridge project was the failure of the DNR to accept the charge to identify Calcareous Fen and the policy of the DNR to wait until a project WCA review process or project EAW process commences before conducting exploration or disclosure; and

**WHEREAS**, the current process provides no incentive for the DNR to perform early investigation or disclosure for Calcareous Fen, since the DNR suffers no penalty for failing to investigate or disclose; and

**WHEREAS**, in the example of the Lilac Ridge project, the DNR was involved in the PWT since the beginning yet from 2016 until 2022 the agency did not spend its resources to identify Calcareous Fen in the vicinity of the project; and

**WHEREAS**, it appears that the DNR either does not have resources or do not prioritize the identification of Calcareous Fens in the state, but instead builds its database of Calcareous Fen on a reactive basis (by allowing third-party data to trickle in) instead of on a state-wide proactive basis (by actively searching for and gathering data);

**NOW, THEREFORE, BE IT RESOLVED** that Minnesota Watersheds supports Minn. Rule 8420.0935 Subp. 3. A. be amended as follows: The commissioner must investigate all State wetlands to determine if the wetland is properly and identified all as a calcareous fen within the state by no later than Dec. 31, 2030.

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**Notes:** No recommendation, more research needed.

# BACKGROUND INFORMATION ON MINNESOTA WATERSHEDS

## RESOLUTION 2024-10

### Resolution Seeking a Formal Process to Distribute a Complete List of Calcareous Fens Annually

**Proposing District:** Middle Snake Tamarac Rivers Watershed District  
**Contact Name:** Morteza Maher, District Administrator  
**Phone Number:** 218-230-5703  
**Email Address:** [morteza.maher@mstrwd.org](mailto:morteza.maher@mstrwd.org)

#### Background that led to the submission of this resolution:

Middle-Snake-Tamarac Rivers Watershed District (MSTRWD) proposes that the rare natural communities/Calcareous Fen-related statutes and rules be streamlined so that early RNC screening can eliminate waste of public funds.

In 2016, MSTRWD began the project work team (PWT) process (a process under the 1998 Mediation agreement) on a capital project that was eventually referred to as Lilac Ridge. From the outset, the project's PWT involved representatives from the DNR. During the process, the DNR indirectly stated some concerns about the wetlands in the area but did not mention anything about the presence of Calcareous Fen (which is protected under Minn. Stat. § 103G.223). In December of 2020, USACE under Concurrence Point 3, reviewed alternatives analysis and accepted that the selected alternative was the "Least Environmentally Damaging Practicable Alternative" (LEDPA). By then, the preliminary engineering was mostly done, the PWT process was wrapping up, and the USACE's LEDPA determination triggered the project to move to the EAW process.

In response to the initiation of the EAW process, in July of 2021 the DNR provided a writing that suggested the potential of the existence of Calcareous Fen within the project footprint. (The document did not mention the Calcareous Fen by name, but instead referred to the potential for various types of fens, and only indirectly mentioned the ground water and minerals that feed some kinds of Calcareous Fens).

Knowing the designation of Calcareous Fen as protected, at this point MSTRWD started direct communication with DNR. In subsequent contacts, it was revealed that the DNR believed there was a high likelihood that Calcareous Fen would be found within the footprint of the planned project. Therefore, MSTRWD requested that the DNR make a prompt, solid determination regarding the existence of Calcareous Fen on the site before the district expended further funds and time on the project. In response, the DNR informed the district that it lacked staff to perform such a determination and could not accommodate the district's request but suggested that the district could hire an outside consultant to perform the same.

In response, the district retained a consultant to investigate the site and through coordination with DNR the consultant provided a report. Following submission of the report to the DNR, the agency insisted that it needed to send its experts to the site and confirm the findings of the report. This confirmation process took three more site visits (close to a whole year) due to snow on the ground and staff shortage. Eventually DNR provided a formal letter stating that the area has Calcareous Fen.

The report from the district's consultant did note that the quality of the Calcareous Fen on the site was not high. Since the Calcareous Fen quality based on the third party's report was not high, with the help of relevant professionals, MSTRWD developed solutions and proposed them to the DNR. In response, the DNR questioned the solutions by offering hypothetical risks. The agency's type of reaction caused MSTRWD to halt the project officially in 2024.

As of this writing, over \$800,000 in taxpayer funds was wasted on this proposed project.

MSTRWD is attempting to collect lessons learned from this project to share with the other interested parties and to apply in future projects. In the past, representatives from the DNR have declared an interest in any chance for improvement of the DNR's processes. MSTRWD has started a review of the statutes and rules related to RNC's, Calcareous Fens, and the disclosure of the existence and location of the same.

**Ideas for how this issue could be solved:**

In each of the resolutions 2024-05 to 2024-12, suggestions are provided.

**Efforts to solve the problem:**

MSTRWD has tried to utilize the Flood Damage Reduction Work Group processes to work with DNR on the Lilac Ridge Project specifically. However, after the project stoppage and through the collection of lessons learned process, MSTRWD figured the issue stems from deeper roots and perhaps is not project specific nor it relates to one specific group or Commissioner’s time. The issue roots back into incremental either statutory changes through “Rules” that happened in the past perhaps on a good faith, lack of clarity of some or time effect on getting by on things that can be addressed otherwise. Due to its importance and with the hope that this doesn’t happen to any other project again, MSTRWD believes this should be addressed in the Statute with a reporting/ accountability creation to it. So, it will not become routine again. In small scale, some concerns were shared with the DNR’s NW Region authorities and steps were taken to address them within DNR internally.

**Anticipated support or opposition:**

In general, all Calcareous Fen Related Stakeholders including the DNR, project Sponsors and landowners should be onboard with the proposed resolutions as they are meant to be fair, balanced and inclusive. Even the Environmental group should get onboard as the suggested solutions to safeguard the RNCs is more reliable and sustainable than the current method of enforcement and use of coercive power only.

**This issue (check all that apply):**

Applies only to our district:	_____	Requires legislative action:	_____X_____
Applies only to 1 or 2 regions:	_____	Requires state agency advocacy:	_____
Applies to the entire state:	_____X_____	Impacts MW bylaws or MOPP:	_____



# MINNESOTA WATERSHEDS RESOLUTION 2024-10

## Resolution Seeking a Formal Process to Distribute a Complete List of Calcareous Fens Annually

**WHEREAS**, under Minn. Rule 8420.0935, under Subp. 3. C., “[T]he commissioner must provide an updated list of calcareous fens to the board (BWSR) for further distribution”; and

**WHEREAS**, Whereas DNR publication of “Identification List of Known Calcareous Fens” states “[S]ection legal descriptions in this list are necessarily vague due to the potential for protected species within calcareous fens”; and

**WHEREAS**, it is vital that accurate information regarding the location of Calcareous Fens be provided to units of local government in order to minimize waste and facilitate good planning;

**NOW, THEREFORE, BE IT RESOLVED** that Minnesota Watersheds supports the Board of Water and Soil Resources establishing a formal process to distribute on an annual basis an accurate and complete list identifying Calcareous Fens to all watershed districts, watershed management organizations, and soil and water conservation districts.

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**Notes:** Committee recommends adoption.

# BACKGROUND INFORMATION ON MINNESOTA WATERSHEDS RESOLUTION 2024-11

## Resolution Seeking Regular Reevaluation of the Designated Species List

**Proposing District:** Middle Snake Tamarac Rivers Watershed District  
**Contact Name:** Morteza Maher, District Administrator  
**Phone Number:** 218-230-5703  
**Email Address:** [morteza.maher@mstrwd.org](mailto:morteza.maher@mstrwd.org)

### Background that led to the submission of this resolution:

Middle-Snake-Tamarac Rivers Watershed District (MSTRWD) proposes that the rare natural communities/Calcareous Fen-related statutes and rules be streamlined so that early RNC screening can eliminate waste of public funds.

In 2016, MSTRWD began the project work team (PWT) process (a process under the 1998 Mediation agreement) on a capital project that was eventually referred to as Lilac Ridge. From the outset, the project's PWT involved representatives from the DNR. During the process, the DNR indirectly stated some concerns about the wetlands in the area but did not mention anything about the presence of Calcareous Fen (which is protected under Minn. Stat. § 103G.223). In December of 2020, USACE under Concurrence Point 3, reviewed alternatives analysis and accepted that the selected alternative was the "Least Environmentally Damaging Practicable Alternative" (LEDPA). By then, the preliminary engineering was mostly done, the PWT process was wrapping up, and the USACE's LEDPA determination triggered the project to move to the EAW process.

In response to the initiation of the EAW process, in July of 2021 the DNR provided a writing that suggested the potential of the existence of Calcareous Fen within the project footprint. (The document did not mention the Calcareous Fen by name, but instead referred to the potential for various types of fens, and only indirectly mentioned the ground water and minerals that feed some kinds of Calcareous Fens).

Knowing the designation of Calcareous Fen as protected, at this point MSTRWD started direct communication with DNR. In subsequent contacts, it was revealed that the DNR believed there was a high likelihood that Calcareous Fen would be found within the footprint of the planned project. Therefore, MSTRWD requested that the DNR make a prompt, solid determination regarding the existence of Calcareous Fen on the site before the district expended further funds and time on the project. In response, the DNR informed the district that it lacked staff to perform such a determination and could not accommodate the district's request but suggested that the district could hire an outside consultant to perform the same.

In response, the district retained a consultant to investigate the site and through coordination with DNR the consultant provided a report. Following submission of the report to the DNR, the agency insisted that it needed to send its experts to the site and confirm the findings of the report. This confirmation process took three more site visits (close to a whole year) due to snow on the ground and staff shortage. Eventually DNR provided a formal letter stating that the area has Calcareous Fen.

The report from the district's consultant did note that the quality of the Calcareous Fen on the site was not high. Since the Calcareous Fen quality based on the third party's report was not high, with the help of relevant professionals, MSTRWD developed solutions and proposed them to the DNR. In response, the DNR questioned the solutions by offering hypothetical risks. The agency's type of reaction caused MSTRWD to halt the project officially in 2024.

As of this writing, over \$800,000 in taxpayer funds was wasted on this proposed project.

MSTRWD is attempting to collect lessons learned from this project to share with the other interested parties and to apply in future projects. In the past, representatives from the DNR have declared an interest in any chance for improvement of the DNR's processes. MSTRWD has started a review of the statutes and rules related to RNC's, Calcareous Fens, and the disclosure of the existence and location of the same.

**Ideas for how this issue could be solved:**

In each of the resolutions 2024-05 to 2024-12, suggestions are provided.

**Efforts to solve the problem:**

MSTRWD has tried to utilize the Flood Damage Reduction Work Group processes to work with DNR on the Lilac Ridge Project specifically. However, after the project stoppage and through the collection of lessons learned process, MSTRWD figured the issue stems from deeper roots and perhaps is not project specific nor it relates to one specific group or Commissioner’s time. The issue roots back into incremental either statutory changes through “Rules” that happened in the past perhaps on a good faith, lack of clarity of some or time effect on getting by on things that can be addressed otherwise. Due to its importance and with the hope that this doesn’t happen to any other project again, MSTRWD believes this should be addressed in the Statute with a reporting/ accountability creation to it. So, it will not become routine again. In small scale, some concerns were shared with the DNR’s NW Region authorities and steps were taken to address them within DNR internally.

**Anticipated support or opposition:**

In general, all Calcareous Fen Related Stakeholders including the DNR, project Sponsors and landowners should be onboard with the proposed resolutions as they are meant to be fair, balanced and inclusive. Even the Environmental group should get onboard as the suggested solutions to safeguard the RNCs is more reliable and sustainable than the current method of enforcement and use of coercive power only.

**This issue (check all that apply):**

Applies only to our district:	_____	Requires legislative action:	_____X_____
Applies only to 1 or 2 regions:	_____	Requires state agency advocacy:	_____
Applies to the entire state:	_____X_____	Impacts MW bylaws or MOPP:	_____

# MINNESOTA WATERSHEDS RESOLUTION 2024-11

## Resolution Seeking Regular Reevaluation of the Designated Species List

**WHEREAS**, Calcareous Fen is a Rare Natural Community (RNC)/Threatened or Endangered Plant and; and

**WHEREAS**, under Minn. Rule 84.0895 Subd. 3. (c), “[T]he commissioner shall reevaluate the designated species list every three years after it is first adopted and make appropriate changes. The review must consider the need for further protection of species on the species of special concern list. Species may be withdrawn from designation in the same manner that species are designated”; and

**WHEREAS**, under Minn. Stat. § 103G.223 the commissioner must publish the list of Calcareous Fens in the State Register; and

**WHEREAS**, the updated list of Fens only appears in the State register in the years 2005, 2008, 2009, 2016, and 2019; and

**WHEREAS**, the DNR has failed to abide by the three-year process required under Minn. Rule 84.0895 Subd. 3. (c);

**NOW, THEREFORE, BE IT RESOLVED** that Minnesota Watersheds supports the Commissioner initiating an internal review process to identify the cause of this failure to “reevaluate the designated species list every three years” and to develop a plan to prevent it in the future.

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**Notes:** No recommendation, more research needed.

# BACKGROUND INFORMATION ON MINNESOTA WATERSHEDS RESOLUTION 2024-12

## Resolution Seeking the Development of a Calcareous Fen Work Group

**Proposing District:** Middle Snake Tamarac Rivers Watershed District  
**Contact Name:** Morteza Maher, District Administrator  
**Phone Number:** 218-230-5703  
**Email Address:** [morteza.maher@mstrwd.org](mailto:morteza.maher@mstrwd.org)

### Background that led to the submission of this resolution:

Middle-Snake-Tamarac Rivers Watershed District (MSTRWD) proposes that the rare natural communities/Calcareous Fen-related statutes and rules be streamlined so that early RNC screening can eliminate waste of public funds.

In 2016, MSTRWD began the project work team (PWT) process (a process under the 1998 Mediation agreement) on a capital project that was eventually referred to as Lilac Ridge. From the outset, the project's PWT involved representatives from the DNR. During the process, the DNR indirectly stated some concerns about the wetlands in the area but did not mention anything about the presence of Calcareous Fen (which is protected under Minn. Stat. § 103G.223). In December of 2020, USACE under Concurrence Point 3, reviewed alternatives analysis and accepted that the selected alternative was the "Least Environmentally Damaging Practicable Alternative" (LEDPA). By then, the preliminary engineering was mostly done, the PWT process was wrapping up, and the USACE's LEDPA determination triggered the project to move to the EAW process.

In response to the initiation of the EAW process, in July of 2021 the DNR provided a writing that suggested the potential of the existence of Calcareous Fen within the project footprint. (The document did not mention the Calcareous Fen by name, but instead referred to the potential for various types of fens, and only indirectly mentioned the ground water and minerals that feed some kinds of Calcareous Fens).

Knowing the designation of Calcareous Fen as protected, at this point MSTRWD started direct communication with DNR. In subsequent contacts, it was revealed that the DNR believed there was a high likelihood that Calcareous Fen would be found within the footprint of the planned project. Therefore, MSTRWD requested that the DNR make a prompt, solid determination regarding the existence of Calcareous Fen on the site before the district expended further funds and time on the project. In response, the DNR informed the district that it lacked staff to perform such a determination and could not accommodate the district's request but suggested that the district could hire an outside consultant to perform the same.

In response, the district retained a consultant to investigate the site and through coordination with DNR the consultant provided a report. Following submission of the report to the DNR, the agency insisted that it needed to send its experts to the site and confirm the findings of the report. This confirmation process took three more site visits (close to a whole year) due to snow on the ground and staff shortage. Eventually DNR provided a formal letter stating that the area has Calcareous Fen.

The report from the district's consultant did note that the quality of the Calcareous Fen on the site was not high. Since the Calcareous Fen quality based on the third party's report was not high, with the help of relevant professionals, MSTRWD developed solutions and proposed them to the DNR. In response, the DNR questioned the solutions by offering hypothetical risks. The agency's type of reaction caused MSTRWD to halt the project officially in 2024.

As of this writing, over \$800,000 in taxpayer funds was wasted on this proposed project.

MSTRWD is attempting to collect lessons learned from this project to share with the other interested parties and to apply in future projects. In the past, representatives from the DNR have declared an interest in any chance for improvement of the DNR's processes. MSTRWD has started a review of the statutes and rules related to RNC's, Calcareous Fens, and the disclosure of the existence and location of the same.



**Ideas for how this issue could be solved:**

In each of the resolutions 2024-05 to 2024-12, suggestions are provided.

**Efforts to solve the problem:**

MSTRWD has tried to utilize the Flood Damage Reduction Work Group processes to work with DNR on the Lilac Ridge Project specifically. However, after the project stoppage and through the collection of lessons learned process, MSTRWD figured the issue stems from deeper roots and perhaps is not project specific nor it relates to one specific group or Commissioner’s time. The issue roots back into incremental either statutory changes through “Rules” that happened in the past perhaps on a good faith, lack of clarity of some or time effect on getting by on things that can be addressed otherwise. Due to its importance and with the hope that this doesn’t happen to any other project again, MSTRWD believes this should be addressed in the Statute with a reporting/ accountability creation to it. So, it will not become routine again. In small scale, some concerns were shared with the DNR’s NW Region authorities and steps were taken to address them within DNR internally.

**Anticipated support or opposition:**

In general, all Calcareous Fen Related Stakeholders including the DNR, project Sponsors and landowners should be onboard with the proposed resolutions as they are meant to be fair, balanced and inclusive. Even the Environmental group should get onboard as the suggested solutions to safeguard the RNCs is more reliable and sustainable than the current method of enforcement and use of coercive power only.

**This issue (check all that apply):**

Applies only to our district:	_____	Requires legislative action:	_____X_____
Applies only to 1 or 2 regions:	_____	Requires state agency advocacy:	_____
Applies to the entire state:	_____X_____	Impacts MW bylaws or MOPP:	_____

# MINNESOTA WATERSHEDS RESOLUTION 2024-12

## Resolution Seeking the Development of a Calcareous Fen Work Group

**WHEREAS**, the DNR recently requested (2/22/2024) and received public comments on how to designate threatened or endangered species; and

**WHEREAS**, on the Lilac Ridge project there was a disagreement between the DNR employee and the third-party consultant regarding the quality level of the Calcareous Fen community found within the proposed project footprint; and

**WHEREAS**, clear and measurable criteria for the identification and evaluation of Calcareous Fen would assist all parties in identifying, mapping, locating, avoiding, preserving, protecting, and enhancing the fen, and would help reduce inter-agency and inter-governmental disputes concerning the same;

**NOW, THEREFORE, BE IT RESOLVED** that Minnesota Watersheds supports the relevant state agencies, together with relevant stakeholders (including watershed districts), convene a work group to develop by consensus clear, objective and measurable criteria for determining the presence and quality of Calcareous Fen, which criteria shall thereafter be used by all state and local units of government.

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**Notes:** No recommendation, more research needed.

# BACKGROUND INFORMATION ON MINNESOTA WATERSHEDS

## RESOLUTION 2024-13

### Resolution Requesting Minnesota Watersheds Support to Request New Legislation to Set Permit Review Time Limits upon the Department of Natural Resources

**Proposing District:** Shell Rock River Watershed District  
**Contact Name:** Andy Henschel, District Administrator  
**Phone Number:** 507-391-2795  
**Email Address:** [andy.henschel@co.freeborn.mn.us](mailto:andy.henschel@co.freeborn.mn.us)

#### Background that led to the submission of this resolution:

Watershed districts are local, water-purposed, governmental units that intimately know the local region, waters, and water-related issues. Watershed districts, as political subdivisions of the state, are entrusted to monitor local waters, produce watershed management plans which are reviewed, commented on, and receive state agency approval, and implement projects that conserve the natural resources and protect the public health and welfare consistent with these approved watershed management plans.

Fountain Lake, in the heart of the SRRWD, is on the impaired waters list in large part due to total phosphorus levels. The SRRWD has experienced significant delays in obtaining Department of Natural Resources (DNR) water permits to dredge Fountain Lake, despite years of water monitoring, consistency with watershed management plan and other state agency support, and negative declaration by Responsible Government Unit (RGU) for the need for an Environmental Impact Statement (EIS).

#### Ideas for how this issue could be solved:

Minnesota Statute § 15.992 requires that state agencies have a 60-day deadline to take final action on a written permit request, except the statute excludes an application requiring one or more public hearings or an EIS or EAW. No other statutory timeframe is required in the later situations. The SRRWD seeks support in requesting implementation of a similar 60-day review deadline when the request is made by another political subdivision or governmental unit, specifically including watershed districts, whereby the state agency must issue the permit within 60 days after the public hearings, issuance of negative declaration of the need for an EIS.

#### Efforts to solve the problem:

In each phase of project permitting, the SRWWD has met with DNR staff regarding timing and lack of diligence in issuing permits.

#### Anticipated support or opposition:

We anticipate support from watersheds and opposition from DNR.

#### This issue (check all that apply):

Applies only to our district:	_____	Requires legislative action:	_____ X _____
Applies only to 1 or 2 regions:	_____	Requires state agency advocacy:	_____
Applies to the entire state:	_____ X _____	Impacts MW bylaws or MOPP:	_____

# MINNESOTA WATERSHEDS RESOLUTION 2024-13

## Resolution Requesting Minnesota Watersheds Support to Request New Legislation to Set Permit Review Time Limits upon the Department of Natural Resources

**WHEREAS**, under authority of State statute, Minn. Stat. § 103D.201 Minnesota watershed districts' purpose is "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"; and

**WHEREAS**, watershed districts are charged with implementing Watershed Management Plans (the "Plan"); and

**WHEREAS**, in implementing the Plan, a watershed district Board of Managers (the "Board") initiates projects consistent with the Plan and applicable law ("Projects"), and

**WHEREAS**, watershed districts have authority under state law to:

- (1) sue and be sued;
- (2) incur debts, liabilities, and obligations;
- (3) exercise the power of eminent domain;
- (4) provide for assessments and to issue certificates, warrants, and bonds;
- (5) perform all acts expressly authorized, and all other acts necessary and proper for the watershed district to carry out and exercise the powers expressly vested in it;
- (6) make necessary surveys or use other reliable surveys and data and develop projects and programs to acquire data to accomplish the purposes for which the watershed district is organized;
- (7) establish and maintain devices for acquiring and recording hydrological and water quality data;
- (8) initiate, undertake, and implement projects;
- (9) cooperate or contract with any state or subdivision of a state or federal agency, private corporation, political subdivision, or cooperative association;
- (10) construct, clean, repair, alter, abandon, consolidate, reclaim, or change the course or terminus of any public ditch, drain, sewer, river, watercourse, natural or artificial, within the watershed district;
- (11) acquire, operate, construct, and maintain dams, dikes, reservoirs, water supply systems, and appurtenant works;
- (12) regulate, conserve, and control the use of water within the watershed district;
- (13) acquire by gift, purchase, taking under the procedures of this chapter, or by the power of eminent domain, necessary real and personal property, including property outside the watershed district where necessary for a water supply system;
- (14) contract for or purchase insurance the managers find necessary for the protection of the watershed district;
- (15) enter into contracts of construction or implementation authorized by this chapter;
- (16) enter lands inside or outside the watershed district to make surveys and investigations to accomplish the purposes of the watershed district;
- (17) take over when directed by a drainage authority all joint county or county drainage systems within the watershed district, together with the right to repair, maintain, and improve them;
- (18) provide for sanitation and public health and regulate the use of streams, ditches, or watercourses to dispose of waste and prevent pollution;
- (19) borrow funds from an agency of the federal government, a state agency, a county where the watershed district is located in whole or in part, or a financial institution authorized under chapter 47 to do business in this state;
- (20) prepare a floodplain map of the lands of the watershed district that are in the floodplain of lakes and watercourses;
- (21) prepare an open space and greenbelt map of the lands of the watershed district that should be preserved and included in the open space and greenbelt land areas of the watershed district;
- (22) appropriate necessary funds to provide for membership in a state association of watershed districts whose purpose is to improve watershed governmental operations;

- (23) make contracts or other arrangements with the federal government, persons, railroads or other corporations, political subdivisions, and the state or other states, with drainage authorities, flood control, soil conservation, or other improvement districts in this state or other states, for cooperation or assistance in constructing, maintaining, and operating the projects of the watershed district, or for the control of its waters, or for making surveys and investigations or reports on them;
- (24) purchase, lease, or acquire land or other property in adjoining states to secure outlets, to construct and maintain dikes or dams or other structures for the purposes of this chapter; and
- (25) conduct studies and monitoring of water resources within the watershed district and implement water resource management programs; and

**WHEREAS**, watershed districts in the State are required to prepare Comprehensive Watershed Management Plans every 10 years. These plans are vetted by Board of Water and Soil Resources (BWSR) and provide thorough statement of watershed management priorities; and

**WHEREAS**, watershed districts desire efficient due diligence and progress on Projects; and

**WHEREAS**, under Minnesota Statute § 15.992, state agencies have a 60-day deadline to take final action on a written request, except the statute excludes an application requiring one or more public hearings or an environmental impact statement or environmental assessment worksheet; and

**WHEREAS**, watersheds districts in the State have experienced significant delay in the Minnesota Department of Natural Resources' (DNR) processing of permits; and

**WHEREAS**, under Minnesota Statutes, watershed districts are political subdivisions in the State of Minnesota and have authority to act as the Responsible Governmental Unit (RGU) on projects. As such, watershed districts, like other public entities, including DNR, must follow the rules related to environmental assessment works and environmental impact statements, including soliciting comments from the agencies on the Environmental Quality Board Distribution List, providing responses, and issuing findings; and

**WHEREAS**, watershed districts in the state are created for the purpose of conserving the natural resources and protecting the public health and welfare and does so by implementing best management practices; and

**WHEREAS**, as an authoritative political subdivision within the State of Minnesota with significant legislative authority and routine vetting and approval of comprehensive watershed management plans within a watershed, with similar goals and authority as the state to protect and preserve the natural resources within the watershed district, watershed district permit applications should be provided deference in the review process and be expedited.

**NOW, THEREFORE, BE IT RESOLVED** that Minnesota Watersheds supports amending Minnesota Statutes to implement a 60-day permit review limit following a negative declaration on an EAW.

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**Notes:** Committee recommends adoption.



# Active Minnesota Watersheds Resolutions



December 1, 2023

## FINANCE

### Capacity

#### 2021-01A: Support SWCD Capacity Fund Sources

Minnesota Watersheds supports SWCD capacity funds to come from county and state general funds.

#### 2021-01B: Support Clean Water Funds for Implementation, Not Capacity

Minnesota Watersheds supports Clean Water Funds being used for implementation and not for capacity.

#### 2021-02: Support Capacity Funding for Watershed Districts

Minnesota Watersheds supports capacity base funding resources directed to non-metro watershed district who request this assistance, to implement the activities as outlined in approved watershed district watershed management plans or comprehensive watershed management plans.

### Grant Funding

#### 2021-07: Support Metro Watershed-based Implementation Funding (WBIF) for Approved 103B Plans Only

Minnesota Watersheds supports BWSR distribution of metro WBIF among the 23 watershed management organizations with state-approved comprehensive, multi-year 103B watershed management plans. Those plans implement multijurisdictional priorities at a watershed scale and facilitate funding projects of any eligible local government unit (including soil and water conservation districts, counties, cities, and townships).

## URBAN STORMWATER

### Stormwater Quality Treatment

#### 2022-02 Limited Liability for Certified Commercial Salt Applicators

Minnesota Watersheds supports enactment of state law that provides limited liability protection to commercial salt applicators and property owners using salt applicators who are certified through the established state salt-applicator certification program and follow best management practices.

### Water Reuse

#### 2022-01 Creation of a Stormwater Reuse Task Force

Minnesota Watersheds supports administratively or legislatively including at least one Minnesota Watersheds member on the Minnesota Department of Health's workgroup to move forward, prioritize, and implement the recommendations of the interagency report on reuse of stormwater and rainwater in Minnesota.

## WATER QUANTITY

### Drainage

#### 2022-03: Seek Increased Support and Participation for the Minnesota Drainage Work Group (DWG)

- Minnesota Watersheds communications increase awareness of the DWG (meeting dates and links, topics, minutes, reports) amongst members.

- Minnesota Watersheds training opportunities strongly encourage participation in the DWG by watershed staff and board managers (for watersheds that serve as ditch authorities or work on drainage projects) – for e.g., add agenda space for DWG member updates, host a DWG meeting as part of a regular event.
- In preparation for Minnesota Watersheds member legislative visits, staff add a standing reminder for watershed drainage authorities to inform legislators on the existence, purpose, and outcomes of the DWG, and reinforce the legitimacy of the DWG as a multi-faceted problem-solving body.
- During Minnesota Watersheds staff Board of Water and Soil Resources (BWSR) visits, regularly seek updates on how facilitation of the DWG is leading to improvements for member drainage authorities and convey this information to members.

### **2023-03: Support New Legislation Modeled after HF2687 and SF2419 (2018) Regarding DNR Regulatory Authority over Public Drainage Maintenance and Repairs**

Minnesota Watersheds supports the introduction of new legislation modeled after HF2687 and SF2419 and commits its lobbying efforts toward promoting the passage of the bills in subsequent sessions.

### **Funding**

#### **2022-05: Obtain Stable Funding for Flood Damage Reduction and Natural Resources Enhancement Projects**

Minnesota Watersheds supports collaborating with the Red River Watershed Management Board and state agencies to seek funding from the Minnesota Legislature to provide stable sources of funding through existing or potentially new programs that provide flood damage reduction and/or natural resources enhancements. A suggested sustainable level of funding is \$30 million per year for the next 10 years.

### **Flood Control**

#### **2021-05: Support Crop Insurance to Include Crop Losses Within Impoundment Areas**

Minnesota Watersheds supports expansion of Federal Multi-Peril Crop Insurance to include crop losses within impoundment areas.

#### **2023-04 Seeking Action for Streamlining the DNR Flood Hazard Mitigation Grant Program**

Minnesota Watersheds seeks action requiring the DNR to establish transparent scoring, ranking, and funding criteria for the Flood Hazard Mitigation Program (M.S. Chapter 103F) and asking the Minnesota Legislature to fully fund the state's share of eligible projects that are on the DNR's list within each two-year bonding cycle. Information regarding scoring, ranking, and funding should be provided annually to project applicants.

### **Regulation**

#### **2020-04 Temporary Water Storage on DNR Wetlands during Major Flood Events**

Minnesota Watersheds supports the temporary storage of water on existing DNR-controlled wetlands in the times of major flood events.

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## **WATER QUALITY**

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### **Lakes**

#### **2022-06: Limit Wake Boat Activities**

Minnesota Watersheds supports working with the Minnesota Department of Natural Resources (DNR) to utilize the research findings from the St. Anthony Falls Laboratory and seek legislation to achieve one or more of the following:

- Limit lakes and areas of lakes in which wake boats may operate;
  - Require new and existing wake boats to be able to completely drain and decontaminate their ballast tanks; and
  - Providing funding for additional research on the effects of wake boats on aquatic systems.
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## WATERSHED MANAGEMENT AND OPERATIONS

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### Duties

#### 2023-05: Support Increased Flexibility in Open Meeting Law

Minnesota Watersheds hereby supports changes to the Open Meeting Law to provide greater flexibility in the use of interactive technology by allowing members to participate remotely in a nonpublic location that is not noticed, without limit on the number of times such remote participation may occur; and allowing public participation from a remote location by interactive technology, or alternatively from the regular meeting location where interactive technology will be made available for each meeting, unless otherwise noticed under Minnesota Statutes Section 13D.021; and that Minnesota Watersheds supports changes to the Open Meeting Law requiring watershed district to prepare and publish procedures for conducting public meetings using interactive technology.

### Watershed Planning

#### 2020-03 Soil Health Goal for Metropolitan Watershed Management Plans

Minnesota Watersheds supports amending Minnesota Rule 8410.0080 to include a goal for soil health in watershed management plans and ten-year plan amendments.

#### 2023-06 Education and Outreach to Encourage Formation of Watershed Districts in Unserved Areas

Minnesota Watersheds, in consultation with its membership, develop a framework for education and outreach intended to encourage petition and advocacy for the formation of watershed districts in areas of the state not presently served by watershed-based public agencies.

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## AGENCY RELATIONS

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### Advocacy

#### 2021-06: Support 60-day Review Required for State Agencies on Policy Changes

Minnesota Watersheds supports requiring state agencies to provide a meaningful, not less than 60-day review and comment period from affected local units of government on new or amended water management policies, programs, or initiatives with a response to those comments required prior to adoption.

### Regulation

#### 2023-01 Require Watershed District Permits for all State Agencies

Minnesota Watersheds supports amending Minnesota Statutes § 103D.345, Subd. 5 to read as follows: **Subd. 5. Applicability of permit requirements to state.** A rule adopted by the managers that requires a permit for an activity applies to all state agencies, including the Department of Transportation.

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## REGULATIONS

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#### 2020-01 Appealing Public Water Designations

Minnesota Watersheds supports legislation that would provide landowners with a more formal process to appeal decisions made by the DNR regarding the designation of public waters including the right to fair representation in a process such as a contested case proceeding which would allow landowners an option to give oral arguments or provide expert witnesses for their case.

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## NATURAL RESOURCES

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No current resolutions in this category.

# Resolutions to Sunset

Effective December 31, 2024

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It should be noted that in July the sunseting deadline was extended for resolutions expiring in 2017 by two years due to the pandemic and its influence on lobbying efforts. **All 2017 resolutions have a sunset date of 2024.**

## **2017-02 Temporary Lake Quarantine Authorization to Control the Spread of Aquatic Invasive Species (AIS)**

Minnesota Watersheds supports legislation granting to watershed districts, independently or under DNR oversight, the authority, after public hearing and technical findings, to impose a public access quarantine, for a defined period of time in conjunction with determining and instituting an AIS management response to an infestation.

## **2019-01 Streamline the DNR permitting process**

Minnesota Watersheds supports legislation, rules, and/or agency policies to streamline the DNR permitting process by increasing responsiveness, decreasing the amount of time it takes to approve permits, providing a detailed fee schedule prior to application, and conducting water level management practices that result in the DNR reacting more quickly to serious, changing climate conditions.

## **2019-02: Add a Classification for Public Drainage Systems that are Artificial Watercourses**

Minnesota Watersheds supports removal of the default Class 2 categorization for public drainage systems that are artificial watercourses and supports a default Class 7 categorization for public drainage systems that are artificial watercourses.

## **2019-03 Support for Managing Water Flows in the Minnesota River Basin Through Increased Water Storage and Other Strategies and Practices**

Minnesota Watersheds supports efforts to manage the flow of water in the Minnesota River Basin and the Minnesota River Congress in its efforts to increase water storage on the landscape; and Minnesota Watersheds supports the Minnesota River Congress in its efforts to secure state and federal programs targeted specifically to increase surface water storage in the Minnesota River Watershed.

## **2019-04: Clarify County Financing Obligations and/or Authorize Watershed District General Obligation Bonding for Public Drainage Projects**

Minnesota Watersheds supports legislation to achieve one or both of the following:

- a) To clarify that an affected county must finance a watershed district drainage project on project establishment and request of the watershed district; and
- b) To authorize watershed districts to finance drainage project establishment and construction by issuance of bonds payable from assessments and backed by the full faith and credit of the watershed district; and further provide for adequate tax levy authority to assure the watershed district's credit capacity.

## **2019-05 Watershed District Membership on Wetland Technical Evaluation Panels**

Minnesota Watersheds supports legislation to allow technical representatives of watershed districts to be official members of wetland technical evaluation panels (TEPs).

## **2019-06: Oppose Legislation that Forces Spending on Political Boundaries**

Minnesota Watersheds opposes legislation that establishes spending requirements or restricts watershed district spending by political regions or boundaries.

## **2019-07 Chinese Mystery Snail Designation Change and Research Needs**

Minnesota Watersheds supports Chinese Mystery Snail prevention and control research and to change the Chinese Mystery Snail designated status in Minnesota as a regulated species to a prohibited species.

## **ITEMS REQUIRING BOARD ACTION**

4. Ramsey County Ditch 4 Repair – Phase 2 (Tom Schmidt)



## **MEMORANDUM**

### **Rice Creek Watershed District**

**Date:** November 6, 2024  
**To:** RCWD Board of Managers  
**From:** Tom Schmidt, RCWD Drainage & Facilities Manager  
**Subject:** Ramsey County Ditch #4 Phase #2 Repair – Award Recommendation

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#### **Introduction**

The Board is asked to consider awarding a construction contract based on quotes received for the Ramsey County Ditch#4 (RCD#4) Phase #2 Repair—Channel Stabilization.

#### **Background**

The Board ordered the repair of RCD #4 by adopting resolution 2023–12. The repair project contemplated stabilization work of the channel between Little Lake Johanna and Big Lake Johanna. It was recommended to the Board at the time of the repair that the project's initial phase be focused on tree removal and turf establishment to procure the best and most focused bids for that portion of the work and undertake the channel stabilization as a separate phase of the project. Staff have been working to advance the channel stabilization phase and have solicited quotes from four contractors for the defined work; three were responsive, and the lowest and best quote received was from Dunaway Construction for \$74,600.00.

#### **Staff Recommendation**

District staff recommend that the Board of Managers award a contract to Dunaway Construction at a price of \$74,600.00 to complete channel stabilization repairs as outlined in the engineer's award recommendation memo and further authorize the Administrator to 1) execute contract documents as necessary and on the advice of the engineer and counsel and 2) execute change orders increasing the contract price by an amount not to exceed 30% of the contract price (\$22,380). Staff further recommend that a cost allocation for the work be consistent with the ordered repair project, which will be 60% to the WMD and 40% to ad valorem.

#### **Proposed Motion**

Manager \_\_\_\_\_ moves to award a contract to Dunaway Construction at a price of \$74,600.00 to complete channel stabilization repairs and authorize the Administrator to execute contract documents as necessary and on the advice of the engineer and counsel and to execute change orders increasing the contract price by an amount not to exceed 30% of the contract price (\$22,380).

#### **Attachments**

HEI Memo Award recommendation for RCD 4 channel stabilization.

# Technical Memorandum

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**To:** Nick Tomczik (RCWD)  
**Cc:** Tom Schmidt (RCWD)  
John Kolb (Rinke Noonan)  
**From:** Adam Nies, PE  
**Through:** Chris Otterness, PE  
**Subject:** Award Recommendation for  
RCD 4 Channel Stabilization  
**Date:** November 5, 2024  
**Project #:** 5555-0327 / 0352

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am duly Licensed Professional Engineer under the laws of the State of Minnesota.



Adam N. Nies  
Reg. No. 53358

Date: 11/5/2024

## INTRODUCTION

On December 13, 2023 the Rice Creek Watershed District (RCWD) passed Resolution 2023-12 ordering the repair of Ramsey County Ditch (RCD) 4. The recommended repairs included tree clearing and bank/slope stabilization measures. An initial phase of the repairs that consisted solely of tree clearing was completed in the fall of 2024. Additional channel stabilization measures are needed to complete the RCD 4 Repair and reduce erosion along the channel banks between Little Lake Johanna and Lake Johanna, as displayed in the attached plan and detail sheet.

Since the completion of the tree removal component of the repair in the fall of 2024, the Board has received multiple comments (in-person and virtually) from landowners expressing concern of property loss due to ditch instability, as well as concerns of structural integrity and risk of homes situated in close proximity to the ditch. The Board has previously expressed the intent to actively work to pursue stabilization in this area and has directed District staff to pursue a resolution to the channel erosion issues documented. This memorandum summarizes quotes received for the channel stabilization work required along Ramsey County Ditch 4 (RCD 4) to complete the repair ordered under Resolution 2023-12.

## SUMMARY OF QUOTES RECEIVED

District staff have corresponded with HEI, the landowners, and contractors to determine the optimal solution for this area. Several alternatives were considered for armoring and stabilizing the channel banks including alternatives for soft-armoring techniques such as flexible turf mats and seeding, and hard-armoring techniques using rock riprap. Considerations were given for using rounded field stone

vs. angular quarry stone, as well as different types of rock using limestone vs. granite. The cost of each alternative was weighed against the anticipated longevity of the product, and future maintenance thereof, along with consideration for the desired aesthetics of the residential site when choosing an alternative. The recommended alternative that best balances the criteria for this stabilization repair is hard-armoring using angular quarried Class III granite riprap. This will provide the best visual match to existing riprap on site.

Four (4) contractors were solicited for quotes and three (3) responses have been received. All three contractors that submitted quotes have visited the site and understand the access limitations and challenges associated with completing the work. The following table summarizes the quotes received, ranked according to total amount.

Rank	Contractor	Quote Amount
1	Dunaway Construction	\$74,600.00
2	Valdes Lawn Care and Snow Removal, LLC	\$111,562.50
3	US SiteWork	\$112,750.00

The RCWD has contracted numerous times with the low bidder, Dunaway Construction, and has found the work to meet project requirements. **HEI recommends award of contract for RCD 4 stabilization to Dunaway Construction in the amount of \$74,600.00** We further recommend consideration of an additional 30% of the contract (\$22,380.00) be budgeted for potential change orders resulting from unforeseen conditions or omissions discovered as the project progresses. Portions of this amount would be paid to the contractor only if additional work is required above and beyond the scope of the work stated in the contract.

## FUNDING RECAP

The RCD 4 Repair is being funded as elected by the Board at 60% watershed management district (WMD) charge and 40% ad valorem district wide funds.

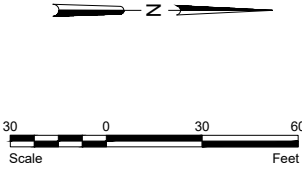
Category	Amount
<b>RCD 4 Tree Removal</b>	
<b>Construction Cost (completed)</b>	\$108,615.00
<b>Channel Stabilization Riprap</b>	\$96,980.00*
<b>Engineering Cost</b>	\$68,000.00
<b>Total Projected Repair Cost</b>	\$273,592.00
Estimated Cost from Repair Report	\$235,315.18

\*With contingency



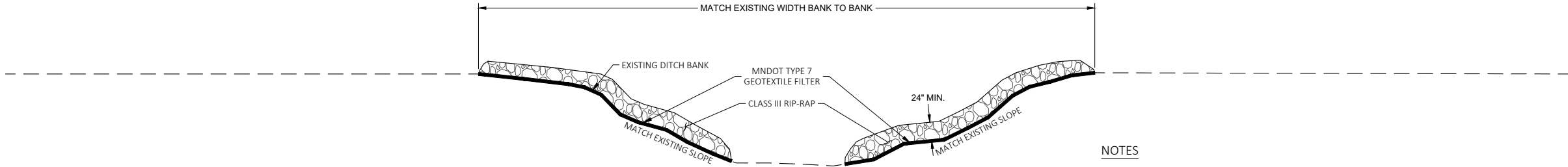
NOTES

1. HORIZONTAL CONTROL: ANY COORDINATES LISTED IN THIS PLAN MINNESOTA STATE PLANE, SOUTH ZONE, US FOOT.
2. VERTICAL CONTROL: ALL ELEVATIONS ARE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88).
3. LANDOWNERS MAY REQUEST KEEPING CUT TREES FOR FIREWOOD.
4. CLEARED TREES, BRUSH, AND WOODY VEGETATION MUST BE HAULED OFFSITE AND LEGALLY DISPOSED OF.



LEGEND

- APPROXIMATE WORK LIMITS — — — — —
- OVERHEAD ELECTRIC — — — — —
- RETAINING WALL — — — — —



NOTES

1. REMOVE ANY STONES, STICKS OR OTHER DEBRIS BEFORE PLACING THE GEOTEXTILE FILTER.
2. PLACE THE TYPE 7 GEOTEXTILE FILTER MEETING MNDOT SPEC 3733. FROM THE WATER LEVEL UP TO THE SPECIFIED LOCATION NEAR THE TOP OF THE BANK.
3. PLACE THE CLASS III RIP RAP MEETING MNDOT SPEC 3601. ALONG THE BANK, 2 FEET DEPTH OF RIP RAP, LAYING IT FROM THE TOE OF THE BANK TO THE TOP, MAKING SURE NOT TO PUNCTURE THE FABRIC, DROPPING THE STONES FROM A HEIGHT NOT EXCEEDING 1-FOOT. AFTER PLACING THE RIP RAP IT SHOULD BE LEVELED TO BE UNIFORM ACROSS THE RIP RAP SURFACE.

RIP-RAP TYPICAL SECTION  
NOT TO SCALE

H:\JBM\5500\5555\5555\_0327 RCD 4 Repair Report\CAD\Plans\5555327\_RipRap Plan.dwg-1 RipRap Plan.dwg-1 2024 11:15 AM-(azlgan)

				I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision, and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota. <i>Adam N. Nies</i> 10/3/2024 Adam N. Nies License No. 53358		Maple Grove		Drawn by AMZ	Date 10/1/2024	RAMSEY COUNTY DITCH 4 RICE CREEK WATERSHED DISTRICT	RIP-RAP PLACEMENT MAIN TRUNK PROJECT NO. 5555-0327 & 5555-0352	SHEET 1 274
No.	Revision	Date	By			P: 763.493.4522 F: 763.493.5572		Checked by ANN	Scale AS SHOWN			

## **ITEMS REQUIRING BOARD ACTION**

5. Consider League of MN Cities Liability Coverage Waiver Form  
(Nick Tomczik)



## MEMORANDUM

### Rice Creek Watershed District



**Date:** November 5, 2024  
**To:** RCWD Board of Managers  
**From:** Nick Tomczik, Administrator  
**Subject:** League of Minnesota Cities (LMC) Liability Coverage-Waiver Form

---

#### **Introduction**

Annually, the District must consider the potential waiver of statutory tort liability limits and report that decision to the League of Minnesota Cities.

#### **Background**

The League of Minnesota Cities requires members obtaining liability coverage through the League of Minnesota Cities Insurance Trust (LMCIT) to consider the waiver of statutory tort liability limits. The limits are established in Minnesota Statutes, Section 466.04.

The Board has voted to waive the statutory monetary limits on municipal tort liability for their LMC coverage renewal, for all years from 2016 through 2024. (See attached form from League of Minnesota Cities. The noted RCWD Board actions are the second bullet of the form.) If the Board wishes to take an alternative direction for the insurance renewal covering 2025, the proposed motion must be adjusted accordingly to reflect that intent.

#### **Proposed Motions**

Manager \_\_\_\_\_ moves that the District *waives* the monetary limits on municipal tort liability established by Minnesota Statutes, Section 466.04 to the extent of the limits of the liability coverage obtained from LMCIT.

#### **Attachments**

LMC Liability Coverage-Waiver Form

## LIABILITY COVERAGE – WAIVER FORM

**Members who obtain liability coverage through the League of Minnesota Cities Insurance Trust (LMCIT) must complete and return this form to LMCIT before the member's effective date of coverage. Return completed form to your underwriter or email to [psstech@lmc.org](mailto:psstech@lmc.org).**

*The decision to waive or not waive the statutory tort limits must be made annually by the member's governing body, in consultation with its attorney if necessary.*

Members who obtain liability coverage from LMCIT must decide whether to waive the statutory tort liability limits to the extent of the coverage purchased. The decision has the following effects:

- *If the member does not waive the statutory tort limits, an individual claimant could recover no more than \$500,000 on any claim to which the statutory tort limits apply. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would be limited to \$1,500,000. These statutory tort limits would apply regardless of whether the member purchases the optional LMCIT excess liability coverage.*
- *If the member waives the statutory tort limits and does not purchase excess liability coverage, a single claimant could recover up to \$2,000,000 for a single occurrence (under the waive option, the tort cap liability limits are only waived to the extent of the member's liability coverage limits, and the LMCIT per occurrence limit is \$2,000,000). The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to \$2,000,000, regardless of the number of claimants.*
- *If the member waives the statutory tort limits and purchases excess liability coverage, a single claimant could potentially recover an amount up to the limit of the coverage purchased. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to the amount of coverage purchased, regardless of the number of claimants.*

Claims to which the statutory municipal tort limits do not apply are not affected by this decision.

---

LMCIT Member Name:

\_\_\_\_\_

*Check one:*

- The member **DOES NOT WAIVE** the monetary limits on municipal tort liability established by [Minn. Stat. § 466.04](#).
- The member **WAIVES** the monetary limits on municipal tort liability established by [Minn. Stat. § 466.04](#), to the extent of the limits of the liability coverage obtained from LMCIT.

Date of member's governing body meeting: \_\_\_\_\_

Signature: \_\_\_\_\_ Position: \_\_\_\_\_

## **ITEMS REQUIRING BOARD ACTION**

6. Professional Services Contracts (Nick Tomczik)

# MEMORANDUM

## Rice Creek Watershed District



**Date:** November 6, 2024  
**To:** RCWD Board of Managers  
**From:** Nick Tomczik, Administrator  
**Subject:** 2025-2026 Professional Services Authorization

---

### **Introduction**

Watershed management organizations, at least every two years, are to solicit interest proposals for its legal, professional and technical consultant services. The next step is for the District to enter into contract extensions with selected firms.

### **Background**

The Board at its July 24, 2024, meeting authorized notice for solicitation of professional services for the District. The deadline for submittal closed on September 13, 2024, the District receiving submittals for Board consideration to address the solicited areas of District professional service needs of engineer, legal, accountant, and information technology. The Board considered submittals at its October 7, 2024 workshop. At the October 23<sup>rd</sup> meeting the Board provided consensus direction to develop or amend contracts with: Houston Engineering, Inc.; Redpath and Company; RYMARK. The Board at its November 4<sup>th</sup> meeting, interviewed representatives of Rinke Noonan and Smith Partners regarding legal services and asked for clarity on future contract terms regarding “provisional components” language so that the District may at its discretion terminate the agreement(s) at an interim timeframe. All professional service contracts include a termination clause providing for either party to immediately terminate the agreement.

### **Staff Recommendation**

Staff recommends that the Board authorize the administrator to enter contract extensions with the Board’s selected firms.

### **Proposed Motion**

*(The proposed motion is repeated each time for the separate professional service area and its proposed firm(s).)*

Manager \_\_\_\_\_ moves Resolution 2024-XX to authorize the District Administrator, on advice of counsel, to execute contract extensions with (Houston Engineering, Inc.; Redpath and Company; RYMARK, Smith Partners, and Rinke Noonan) in accordance with the terms of submitted proposals.

### **Attachments**

Resolution 2024-11 Retention of Engineering Services  
Resolution 2024-12 Retention of Legal Services (3 distinct resolutions – Board selects 1)  
Resolution 2024-13 Retention of Accountant Services  
Resolution 2024-14 Retention of Information Technology Services



**RESOLUTION 2024-11**  
**RICE CREEK WATERSHED DISTRICT**  
**BOARD OF MANAGERS**  
**RETENTION of ENGINEERING**  
**SERVICES**

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

**WHEREAS** Minnesota Statutes Section 103B.227 requires that at least every two years the District solicit proposals for professional services before retaining the services of a consultant or extending a services agreement, and the District has solicited and reviewed proposals in accordance with the statute;

**THEREFORE BE IT RESOLVED** that the Board of Managers elects to extend the services agreement for engineering services with Houston Engineering, Inc. for an additional two-year period (2025-2026);

**BE IT FURTHER RESOLVED** that the Administrator is authorized to enter into an extension of the existing agreement with Houston Engineering, Inc. in accordance with the terms of the proposal received and such other terms as are not inconsistent therewith.

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

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
BRADLEY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ROBERTSON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WAGAMON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WALLER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WEINANDT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the President declared the Resolution \_\_\_\_\_.

\_\_\_\_\_  
Jessica Robertson, Secretary

Dated: November 13, 2024

\* \* \* \* \*

I, Jessica Robertson, 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 13th day of November, 2024.

\_\_\_\_\_  
Jessica Robertson, Secretary

**RESOLUTION 2024-12**  
**RICE CREEK WATERSHED DISTRICT**  
**BOARD OF MANAGERS**  
**RETENTION of LEGAL SERVICES**

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

**WHEREAS** Minnesota Statutes Section 103B.227 requires that at least every two years the District solicit proposals for professional services before retaining the services of a consultant or extending a services agreement, and the District has solicited and reviewed proposals in accordance with the statute;

**THEREFORE BE IT RESOLVED** that the Board of Managers elects to extend the services agreement for legal services with Smith Partners and Rinke Noonan for an additional two-year period (2025-2026);

**BE IT FURTHER RESOLVED** that the Administrator is authorized to enter into extensions of the existing agreements with Smith Partners and Rinke Noonan in accordance with the terms of the proposals received and such other terms as are not inconsistent therewith and consistent with current delineation of duties between the firms which will be clarified further in discussions with firms; and

**BE IT FURTHER RESOLVED** where the scope of a particular project involves subject areas normally handled by both firms, the Administrator has authority to select one of the two firms to provide all legal services associated with that project.

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

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
BRADLEY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ROBERTSON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WAGAMON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WALLER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WEINANDT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the President declared the Resolution \_\_\_\_\_.

\_\_\_\_\_  
Jessica Robertson, Secretary

Dated: November 13, 2024

\* \* \* \* \*

I, Jessica Robertson, 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 13th day of November, 2024.

\_\_\_\_\_  
Jessica Robertson, Secretary

**RESOLUTION 2024-12**  
**RICE CREEK WATERSHED DISTRICT**  
**BOARD OF MANAGERS**  
**RETENTION of LEGAL SERVICES**

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

**WHEREAS** Minnesota Statutes Section 103B.227 requires that at least every two years the District solicit proposals for professional services before retaining the services of a consultant or extending a services agreement, and the District has solicited and reviewed proposals in accordance with the statute;

**THEREFORE BE IT RESOLVED** that the Board of Managers elects to extend the services agreement for legal services with Rinke Noonan for an additional two-year period (2025-2026);

**BE IT FURTHER RESOLVED** that the Administrator is authorized to enter into an extension of the existing agreement with Rinke Noonan in accordance with the terms of the proposal received and such other terms as are not inconsistent therewith.

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

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
BRADLEY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ROBERTSON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WAGAMON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WALLER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WEINANDT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the President declared the Resolution \_\_\_\_\_.

\_\_\_\_\_  
 Jessica Robertson, Secretary

Dated: November 13, 2024

\* \* \* \* \*

I, Jessica Robertson, 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 13th day of November, 2024.

\_\_\_\_\_  
 Jessica Robertson, Secretary

**RESOLUTION 2024-12**  
**RICE CREEK WATERSHED DISTRICT**  
**BOARD OF MANAGERS**  
**RETENTION of LEGAL SERVICES**

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

**WHEREAS** Minnesota Statutes Section 103B.227 requires that at least every two years the District solicit proposals for professional services before retaining the services of a consultant or extending a services agreement, and the District has solicited and reviewed proposals in accordance with the statute;

**THEREFORE BE IT RESOLVED** that the Board of Managers elects to extend the services agreement for legal services with Smith Partners for an additional two-year period (2025-2026);

**BE IT FURTHER RESOLVED** that the Administrator is authorized to enter into an extension of the existing agreement with Smith Partners in accordance with the terms of the proposal received and such other terms as are not inconsistent therewith.

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

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
BRADLEY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ROBERTSON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WAGAMON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WALLER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WEINANDT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the President declared the Resolution \_\_\_\_\_.

\_\_\_\_\_  
Jessica Robertson, Secretary

Dated: November 13, 2024

\* \* \* \* \*

I, Jessica Robertson, 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 13th day of November, 2024.

\_\_\_\_\_  
Jessica Robertson, Secretary

**RESOLUTION 2024-13**  
**RICE CREEK WATERSHED DISTRICT**  
**BOARD OF MANAGERS**  
**RETENTION of ACCOUNTING**  
**SERVICES**

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

**WHEREAS** Minnesota Statutes Section 103B.227 requires that at least every two years the District solicit proposals for professional services before retaining the services of a consultant or extending a services agreement, and the District has solicited and reviewed proposals in accordance with the statute;

**THEREFORE BE IT RESOLVED** that the Board of Managers elects to extend the services agreement for accounting services with Redpath and Company for an additional two-year period (2025-2026);

**BE IT FURTHER RESOLVED** that the Administrator is authorized to enter into an extension of the existing agreement with Redpath and Company in accordance with the terms of the proposal received and such other terms as are not inconsistent therewith.

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

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
BRADLEY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ROBERTSON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WAGAMON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WALLER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WEINANDT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the President declared the Resolution \_\_\_\_\_.

\_\_\_\_\_  
Jessica Robertson, Secretary

Dated: November 13, 2024

\* \* \* \* \*

I, Jessica Robertson, 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 13th day of November, 2024.

\_\_\_\_\_  
Jessica Robertson, Secretary

**RESOLUTION 2024-14**  
**RICE CREEK WATERSHED DISTRICT**  
**BOARD OF MANAGERS**  
**RETENTION of INFORMATION**  
**TECHNOLOGY SERVICES**

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

**WHEREAS** Minnesota Statutes Section 103B.227 requires that at least every two years the District solicit proposals for professional services before retaining the services of a consultant or extending a services agreement, and the District has solicited and reviewed proposals in accordance with the statute;

**THEREFORE BE IT RESOLVED** that the Board of Managers elects to extend the services agreement for information technology services with Rymark for an additional two-year period (2025-2026);

**BE IT FURTHER RESOLVED** that the Administrator is authorized to enter into an extension of the existing agreement with Rymark in accordance with the terms of the proposal received and such other terms as are not inconsistent therewith.

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

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
BRADLEY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ROBERTSON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WAGAMON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WALLER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WEINANDT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the President declared the Resolution \_\_\_\_\_.

\_\_\_\_\_  
Jessica Robertson, Secretary

Dated: November 13, 2024

\* \* \* \* \*

I, Jessica Robertson, 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 13th day of November, 2024.

\_\_\_\_\_  
Jessica Robertson, Secretary



## **ITEMS REQUIRING BOARD ACTION**

7. November 27, 2024 Check register – Resolution Authorizing Treasurer Approval (Nick Tomczik)

**RESOLUTION 2024-15  
RICE CREEK WATERSHED DISTRICT  
BOARD OF MANAGERS**

**AUTHORIZATION FOR PAYMENT OF NOVEMBER 2024 CHECK REGISTER**

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

**WHEREAS** the Rice Creek Watershed District would normally authorize payment of its check register at the second meeting of each month, and

**WHEREAS** the District will not be having a regular meeting on Wednesday, November 27, 2024, and

**WHEREAS** the District will have financial obligations to meet at that time for payment of payroll and benefits, payroll taxes, office operating expenses, manager per-diem, professional services and surety returns.

**WHEREAS**, in addition the District may also have financial obligations to meet at that time for pay requests for District Projects.

**THEREFORE BE IT RESOLVED** that the Board of Managers authorize the District Treasurer to review and approve payment of the November 27, 2024 check register in an amount not to exceed \$400,000 for operating expenses, and \$150,000 surety returns.

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

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
BRADLEY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ROBERTSON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WAGAMON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WALLER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WEINANDT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the President declared the Resolution \_\_\_\_\_.

\_\_\_\_\_  
Jessica Robertson, Secretary

Dated: November 13, 2024

\* \* \* \* \*

I, Jessica Robertson, 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 13th day of November, 2024.

\_\_\_\_\_  
Jessica Robertson, Secretary

## **ITEMS REQUIRING BOARD ACTION**

8. Check Register Dated November 13, 2024, in the Amount of \$160,618.02 Prepared by Redpath and Company

**Rice Creek Watershed District**  
**Check Register**  
**October 24, 2024 - November 13, 2024**  
**To Be Approved at the November 13, 2024 Board Meeting**

Check #	Date	Payee	Description	Amount
25902	11/13/24	Comcast	Telecommunications	\$319.89
25903	11/13/24	Forest Lake Times	Publications	99.40
25904	11/13/24	Joseph Grubbs	Contracted Services	3,262.50
25905	11/13/24	Marchelle Hawkins	Mini-Grant Construction	500.00
25906	11/13/24	Mary Hoff	Mini-Grant Construction	267.09
25907	11/13/24	Hugo's Tree Care, Inc.	Contracted Services	4,800.00
25908	11/13/24	Iron Mountain	Professional Services	1,071.32
25909	11/13/24	Deb Kratz	Mini-Grant Construction	500.00
25910	11/13/24	NineNorth	Professional Services	451.36
25911	11/13/24	Northway Sports	Vehicle Expense	1,603.00
25912	11/13/24	ODP Business Solutions, LLC	Office Supplies	206.08
25913	11/13/24	Print Central	Office Supplies	93.90
25914	11/13/24	Ramsey County	Contracted Services	2,080.00
25915	11/13/24	Rinke Noonan	Legal Expense	3,061.80
25916	11/13/24	RMB Environmental Laboratories, Inc.	Lab Expense	2,014.60
25917	11/13/24	Rymark	Professional Services	3,025.41
25918	11/13/24	Scandia Trucking & Exc.	Contracted Services	5,630.00
25919	11/13/24	Dave Stepan	WQ Cost share-Construction	941.08
25920	11/13/24	Timesaver Off Site Secretarial, Inc.	Professional Services	740.25
25921	11/13/24	US Sitework, Inc.	Construction	24,633.95
25922	11/13/24	Washington Conservation District	Contracted Services	8,819.75
25923	11/13/24	Lynn Wrabek	Mini-Grant Construction	500.00
25924	11/13/24	WSB & Associates, Inc.	Engineering Expense	6,506.75
25925	11/13/24	Iron Mountain	Professional Services	6,283.43
11422	11/13/24	Dr. James H. Barthel	Surety Release - #23-050	1,000.00
11423	11/13/24	Bridgewater Bank	Surety Release - #18-061	5,000.00
11424	11/13/24	CoBeck Construction	Surety Release - #20-109	10,300.00
Payroll	11/15/24	Nov 15th Payroll (estimate)	Nov 15th Payroll (estimate)	37,720.90
EFT	10/02/24	Card Services-Elan	September/October Credit Card	(312.64)
EFT	11/13/24	Card Services-Elan	October/November Credit Card	4,275.95
EFT	11/13/24	Wex Bank	Vehicle Fuel	629.58
EFT	11/13/24	Xcel Energy	Telecommunications	19.30
EFT	11/13/24	Xcel Energy	Telecommunications	13.75
EFT	11/13/24	US Bank Equipment Finance	Equipment Lease	669.32
EFT	11/15/24	Internal Revenue Service	11/15 Federal Withholding (estimate)	12,159.15
EFT	11/15/24	Minnesota Revenue	11/15 State Withholding (estimate)	2,238.00
EFT	11/15/24	Empower Retirement	11/15 Deferred Compensation	895.00
EFT	11/15/24	Empower Retirement	11/15 Roth IRA	305.00
EFT	11/15/24	Further	11/15 HSA	621.47
EFT	11/15/24	PERA	11/15 PERA (estimate)	7,671.68
<b>Total</b>				<b><u>\$160,618.02</u></b>

## **ITEMS FOR DISCUSSION AND INFORMATION**

1. District Engineer Updates and Timeline



## District Engineer - Monthly Project Report October 2024 Rice Creek Watershed District



Date Prepared:  
Prepared by:

5-Nov-24  
C. Grandbois

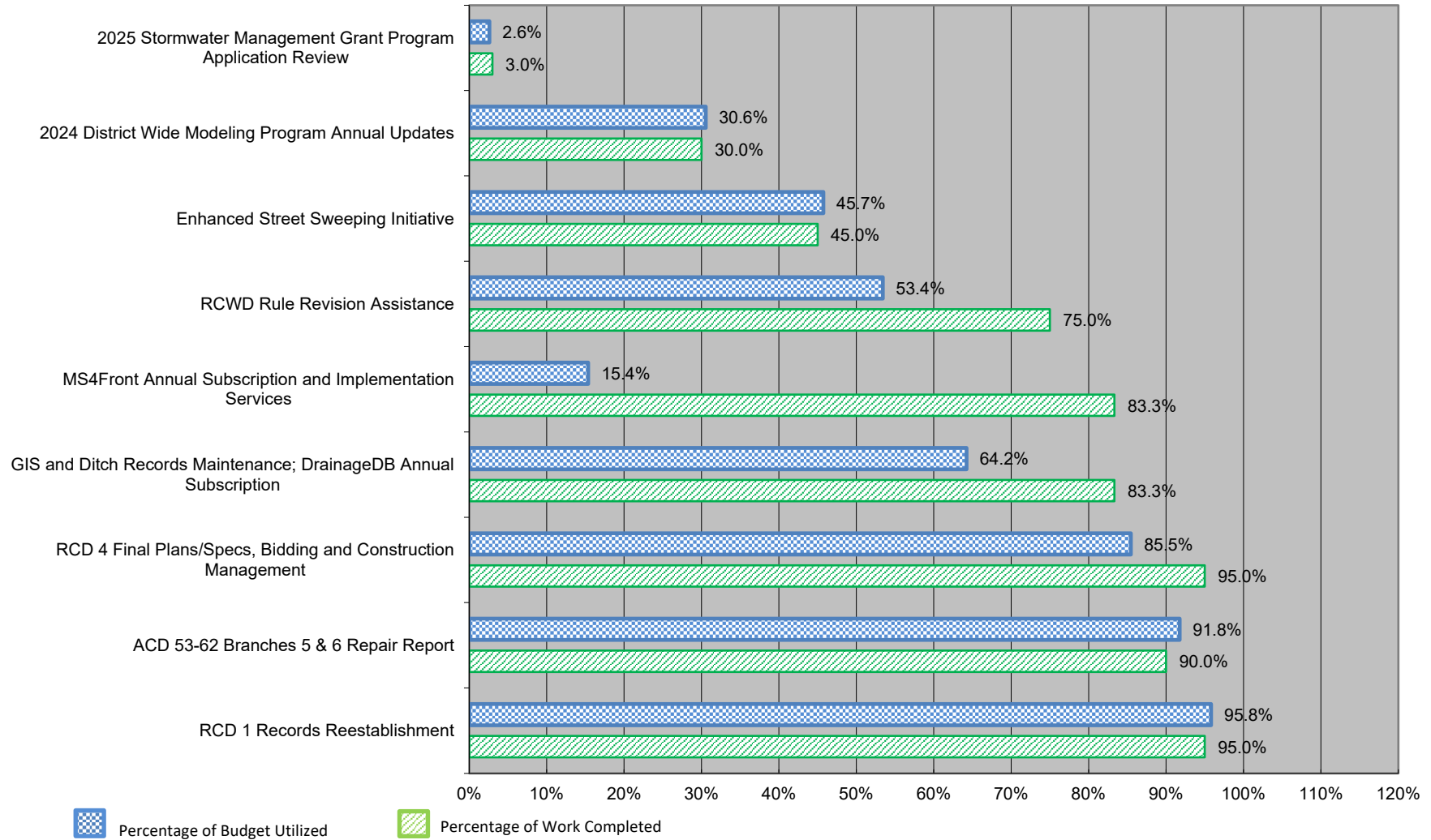
Project Name	Task Order Manager	Estimated Budget	Cost to Date	Remaining Budget	Project Complete / Transfer Funds?	Estimated Progress Based on Work Completed	Percentage of Budget Utilized	Within Budget? (Y/N)	District Billed for Exceedence of Budget? (Y/N)	Initial Target Completion Date	Items of Interest / Concern
RCD 1 Records Reestablishment	Adam Nies	\$27,500	\$26,349	\$1,151	N	95.0%	95.8%	Y	N/A	31-Dec-23	A public information meeting has been held. Next step is to hold a public hearing for consideration of ordering the reestablishment of the public drainage system record.
ACD 53-62 Branches 5 & 6 Repair Report	Adam Nies	\$82,200	\$75,427	\$6,773	N	90.0%	91.8%	Y	N/A	30-Apr-24	A wetland delineation has been completed. A draft report is nearly completion
RCD 4 Final Plans/Specs, Bidding and Construction Management	Adam Nies	\$68,000	\$58,108	\$9,892	N	95.0%	85.5%	Y	N/A	31-Dec-24	The contractor has completed major work items. RCWD has received quotes for a 2nd phase of work to stabilize selected bank
GIS and Ditch Records Maintenance; DrainageDB Annual Subscription	Brian Fischer	\$16,000	\$10,278	\$5,722	N	83.3%	64.2%	Y	N/A	31-Dec-24	Drainage records are being added to DrainageDB on a quarterly basis.
MS4Front Annual Subscription and Implementation Services	Brian Fischer	\$16,000	\$2,461	\$13,540	N	83.3%	15.4%	Y	N/A	31-Dec-24	We continued to make updates on an as-requested basis.
RCWD Rule Revision Assistance	Adam Nies	\$36,000	\$19,233	\$16,767	n	75.0%	53.4%	Y	N/A	31-Dec-24	Public comment period has ended. RCWD Board will consider rule adoption at the November Board Meeting.
Enhanced Street Sweeping Initiative	Rachel Olm	\$29,000	\$13,267	\$15,733	N	45.0%	45.7%	Y	N/A	31-Dec-24	HEI has summarized municipal survey data and is beginning to evaluate prioritization metrics.
2024 District Wide Modeling Program Annual Updates	Bret Zimmerman	\$30,900	\$9,443	\$21,457	N	30.0%	30.6%	Y	N/A	1-Nov-24	Assistance has been provided to City of New Brighton with FEMA resubmittal for RCD 2. Model modifications are being collected.
2025 Stormwater Management Grant Program Application Review	Chris Otterness	\$9,000	\$236	\$8,765	N	3.0%	2.6%	Y	N/A	29-Jan-25	The request for proposals is being posted. We will coordinate with potential applicants on preapplication meetings ahead of the submittal deadline.

Values in red are either potential budget concerns or changes in schedule.

The "overage" for those projects shown as "over budget" is not billed to the District. The cost to date column reflects HEI's actual internal cost. Projects are considered within budget if  $\pm 5\%$ .



**District Engineer  
Monthly Progress Report (Actual & Estimated Progress)  
Through October 2024**



## **ITEMS FOR DISCUSSION AND INFORMATION**

2. November/December Calendar



NOVEMBER						
S	M	T	W	T	F	S
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

DECEMBER						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

## MEMORANDUM

### Rice Creek Watershed District

**Date:** November 7, 2024  
**To:** RCWD Board of Managers  
**From:** Emmet Hurley, Program Support Technician  
**Subject:** November/December Calendar

**Wednesday, November 13, 1-3 p.m.** RCWD City-County Partner Meeting  
 at Moore Lake Park Community Building  
 5890 Central Avenue NE, Fridley, MN

**Thursday, November 14, 4:30 p.m.** Deadline for submission of Expense Report

**Wednesday, November 27, 9 a.m.** **NO Regular Board of Managers Meeting**

**Thursday & Friday, November 28 & 29** Thanksgiving Holiday-Office Closed

**Tuesday-Friday, December 3-6** **MN Watersheds Pre-Conference Workshops  
 & Annual Conference**  
 Grand View Lodge, Nisswa, MN

**Wednesday, December 4, 5:30 p.m.** Citizen Advisory Committee Meeting  
 Board Liaison Manager Marcie Weinandt  
 RCWD District Conference Room and remotely\*

**Monday, December 9, 9 a.m.** Board Workshop  
 RCWD District Conference Room and remotely\*

**Wednesday, December 11, 6:30 p.m.** Regular Board of Managers Meeting and TNT Public  
 Meeting  
 at Shoreview City Hall Council Chambers and remotely\*

**Thursday, December 12, 4:30 p.m.** Deadline for Per Diem & Milage Claim Forms

**Tuesday & Wednesday, December 24 & 25** Christmas Holiday-Office Closed

**Wednesday, December 25, 9 a.m.** **NO Regular Board of Managers Meeting**