



# BROWN'S CREEK WATERSHED DISTRICT

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## Minutes of the Special Meeting of the Brown's Creek Watershed District Board of Managers to Discuss Rule Revisions, June 9, 2003.

WCD Offices, 1380 W. Frontage Road, Hwy. 36  
Stillwater, MN 55082

APPROVED

### ROLL CALL

Present: Craig Leiser, President  
Barbara Medinger, Treasurer  
Tim Freeman, Secretary  
Gerald Johnson (arrived 3:17 P.M.)  
Absent: Karen Kilberg, Vice President

Others Present: Karen Kill, WCD,  
Administrator  
Louis Smith, Legal Counsel  
Smith Parker, P.L.L.P.  
Pat Conrad, EOR  
Camilla Correll, EOR  
Klayton Eckles, City of Stillwater

### 1. Call to Order:

The meeting was called to order at 3:10 P.M.

### 2. Approval of Agenda:

**Manager Leiser moved to approve the agenda, seconded by Manager Freeman.** Vote: 3/0

### 3. Introduction- Manager Leiser:

Manager Leiser discussed the history of the BCWD Rules, as well as the purpose of the special meeting. The BCWD rules were adopted January 1, 2000 but overtime changes become necessary. The Board and staff have created lists of potential changes. A study, "Comparative Review of Watershed District Rules and Recommendations for Standardization," completed by the Washington County Water Consortium in the spring of 2003 was recently distributed to the Managers. This document can be used to determine if BCWD rules are different or lacking in comparison to other watershed districts in Washington County. The purpose of this special meeting to determine possible revisions to the BCWD rules.

### 4. Rule Revision Requirements-Louis Smith

#### a) Legal Process/SONAR

Louis Smith informed the Board of the process to legally revise rules. He informed the Board that the Board must adopt rule in order to apply statutory power. Once the Board has proposed an amendment to the adopted rules, a public hearing must be held and the

proposed amendment must be forwarded to BWSR for advisory comment for 45 days. After receiving the comment, the rule amendment can be adopted by the Board of Managers. A SONAR (“Statement Of Need And Reasonableness”) may be recommended to describe the problem addressed by the rule amendment, the technical approach taken and why.

Manager Johnson arrived 3:17 P.M.

## 5. Proposed Rule Revisions

### a) Managers’ Recommendations

The following topics for rule revisions were addressed:

1. Fen Protections—develop rule to adequately protect these unique groundwater resources
2. Complete permit/closed—develop rule/policy to clearly explain permit closure requirements
3. Transfer of Responsibilities—develop rule to determine who is responsible party when a developer sells property to homeowners
4. Variance/Exceptions/Exemptions—determination of when Board is making one-time exceptions and when a policy has been made that covers a “blanket exception”. Examples of blanket exceptions were given of the City of Stillwater Marketplace and the TSMP. It was unclear regarding the Kern Center area if past Board decisions have been one-time exceptions or if they constitute a blanket exception policy. These types of decisions/exceptions must be specifically defined as to term and limits of exemption from compliance with rules.
5. Administrative—Board give authority to staff to approve erosion control only permits, as well as a new permit fee policy. These policies have been adopted previously by the Board but have not yet been included in the rules.
6. Standardize Rules with Municipalities—discussion of advantages of standardizing rules with municipalities so municipalities could take over permitting program: cost savings, developers already have to get permits from municipalities, allow BCWD to be more available for cross-community projects. City of Stillwater has expressed interest in adopting BCWD rules but the City has technical differences that are difficult to overcome. Board discussed the necessity for a special meeting and/or subcommittee if this goal is desirable. Major differences with the City of Stillwater ordinances are bounce in wetlands, wetland buffers, and wetland classifications.
  - a. Single Family Home Erosion Control Permitting—Klayton Eckles stated that there is a good opportunity for the City of Stillwater to take over the erosion control permitting. Board discussed whether BCWD desires to permit every single family home for erosion control. May be desirable in certain locations, such as close to water bodies. Some municipalities have building inspectors already doing similar work and it is difficult for the BCWD to get to all single family homes currently required by the erosion control rules. Legal counsel stated that there is a process to give the WD’s permitting

authority to the municipalities. The local stormwater management plan can apply rules at least as stringent as the WD rules. The WD would have to approve the plan and then give the municipality the right to permit without individual WD approval. Manager Leiser mentioned that the City of Grant and May Township both have adopted WD rules but also want the WD to administer the rules for the permitting program. Some municipalities are within up to four WD and it would be difficult to standardize without standardizing all WDs. The Board would like Manager Kilberg present to participate in the discussion, due to past history of involvement, before continued discussion of standardizing rules for LGU adoptions.

- b. Buffers—Klayton Eckles discussed that the buffer rule is confusing as written. Communities have tended to have one buffer value, i.e. 50 feet. The current rule, as developed, was an attempt to accommodate wetland susceptibilities and address bounce. Buffers are currently only applied to MN DNR protected water bodies. The rules are an attempt to accommodate gradient, soil type, vegetative cover present, and value of the wetland or waterway. There is an allowance in the current rule for buffer averaging. There are only 4-5 DNR protected water bodies within the City of Stillwater. Under current development levels, Klayton Eckles felt that the City of Stillwater probably won't have many more buffer issues. Brown's Creek buffers, particularly along the golf course, are covered under a special use permit with the MN DNR and violations are being addressed by that agency.

**b) Water Consortium Comparison Report Recommendations—Camilla Correll**

Camilla Correll, EOR, was a lead on the Water Consortium's Rule Comparison study. Camilla put together the following table of examples where BCWD did not have language in its rules on a particular issue to facilitate Board discussion. The Board's discussion/decision has been included in the gray shaded column to the right.

**Rule Language not included in the BCWD Rules and Regulations as identified in the *Washington County Water Consortium Comparative Review of Watershed District Rules and Recommendations for Standardization***

	<b>Specific Language currently not in the BCWD Rules as illustrated in the Washington County Comparative Review of Watershed District Rules</b>	<b>Language refers to which section of the Rules</b>	<b>BOARD DECISION 06-09-2003</b>
1	Must be acted upon within __ days.	Administrative/ Enforcement Procedures	Rule 1.7—Board decided to reduce time for submittal to <b>21 days</b> prior to the scheduled meeting date of the Board of Managers.
2	Fee Schedule not in the Rules.	Administrative/ Enforcement Procedures	Fee schedule will be available from District office. Current schedules will be adopted by Board but not updated in the rules after each amendment. Fee schedules will change more frequently than the rules
3	<b>Recognizes that primary control of land uses is responsibility of LGU. Requests LGUs to submit preliminary plats to District for comment. LGUs shall file with District for comment ordinances,</b>	Administrative/ Enforcement Procedures	Include language in BCWD Rules

	development guides and plans for land alteration, surface drainage, flood plain mgmt, and shore land mgmt.		
4	<b>Intends to serve as technical advisors to LGUs in preparing surface water mgmt plans, reviewing development proposals, preparing drainage plans, development guides, etc...</b>	Administrative/ Enforcement Procedures	Include language in BCWD Rules
5	No refuse, garbage, or noxious materials shall be dumped in any public waters or where the natural run-off or overflow drain into and be cast upon public waters.	Stormwater Runoff (Waste Disposal Standards)	Do <b>NOT</b> include in BCWD Rules
6	No waste of any kind shall be disposed of by underground pumping.	Stormwater Runoff (Waste Disposal Standards)	Do <b>NOT</b> include in BCWD Rules
7	The District shall require the implementation, where appropriate, of the Best Management Practices and Methods set forth in the MPCA publication "Protecting Water Quality in Urban Areas, Best Management Practices for Minnesota"	Stormwater Runoff (Best Management Practices)	Do <b>NOT</b> include in BCWD Rules, but do include language in permit application materials as listed for Rule 2.0 and Rule 3.0.
8	No language addressing required exhibits.	Erosion and Sedimentation Control (Required Exhibits)	Currently developing. Include language in BCWD Rules as well.
9	<b>Erosion and sediment control measures shall be installed prior to alteration and maintained until turf is established.</b>	Erosion and Sedimentation Control (Standard - Site Preparation)	Include language in BCWD Rules
10	<b>Disturbed areas shall be seeded and mulched: (1) within 14 days after final grading; (2) if not to be developed immediately, within 14 days of being disturbed</b>	Erosion and Sedimentation Control (Standard - Vegetative Stabilization)	Include language in BCWD Rules
11	Not LGU for WCA. No formal policy statement in rules or watershed management plan.	Wetland Management Standards (Serves as LGU for WCA)	Do <b>NOT</b> include in BCWD Rules
12	Permit required for all projects which result in a wetland impact.	Wetland Management Standards (Language Specifying Permit Requirements/Activities Regulated)	Do <b>NOT</b> include in BCWD Rules

13	The District shall appoint a person to serve on the technical evaluation panel in accordance with WCA Rules part 8420.0240. The person must be a technical professional with expertise in water resources management. When applicable, a professional employee of the local municipality will be considered as a member of the technical evaluation panel.	Wetland Management Standards (Technical Evaluation Panel)	Do NOT include in BCWD Rules
14	Incorporates, by reference, WCA and MN Rules Chapter 8420.	Wetland Management Standards (Reference to WCA)	Do NOT include in BCWD Rules
15	Requires replacement of all functions and values based on a wetland assessment.	Wetland Management Standards (Mitigation of Functions and Values)	Do NOT include in BCWD Rules
16	Floodplain Preservation: Floodplains adjacent to existing and future waters and waterways shall be preserved by dedication and/or perpetual easement to the community, to include the area lying below 1' above the 100-yr flood elevation.	Floodplain, Shoreland and Streambank Development and Alteration Standards	Needs more technical discussion to determine how the 100-year floodplain will be determined.
17	In landlocked basins low floor elevation must be a minimum of 5 feet above the critical 100-year flood elevation. BCWD discussed establishing a landlocked basin policy.	Floodplain, Shoreland and Streambank Development and Alteration Standards	Washington County is establishing a policy, based upon a research program. BCWD will wait until completed.
18	No specific language in the rules addressing groundwater resource protection.	Groundwater Management Standards	As Groundwater Management Plan is completed, BCWD can adopt items into rules. Will not develop specific language until then.
19	No specific language in the rules addressing the establishment of open space and greenbelts.	Open Space and Greenbelt Standards	Zoning issue and not necessary. Do NOT include in BCWD Rules
20	To be informed of the proposed appropriation of surface and/or ground water.	Water Appropriation Standards	Do NOT include in BCWD Rules
21	Copy of DNR permit application must be filed with the District. District will take action within ___ days.	Water Appropriation Standards	Not needed in rules. Do NOT include in BCWD Rules
22	Permits required for: irrigation projects serving over 5 acres; the repair of any public drainage system; and the construction, improvement and repair of any private drain.	Water Appropriation Standards	Do NOT include in BCWD Rules
23	Permit required for all projects which result in lake augmentation.	Water Appropriation Standards	Do NOT include in BCWD Rules

24	Requires plans for withdrawal of ground and surface water and the location of the discharge to be filed with the District for review and comment.	Water Appropriation Standards	Do <b>NOT</b> include in BCWD Rules
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**6. Adjournment**

**Manager Johnson moved to adjourn the meeting, seconded by Manager Medinger.** The meeting adjourned at 5:30 P.M.

Respectfully Submitted,

Karen Kill, Administrator