



# Minnesota Pollution Control Agency

520 Lafayette Road North | St. Paul, Minnesota 55155-4194 | 651-296-6300

800-657-3864 | 651-282-5332 TTY | [www.pca.state.mn.us](http://www.pca.state.mn.us) | Equal Opportunity Employer

March 6, 2014

Meghan Litsey  
Prior Lake-Spring Lake Watershed District  
14070 Commerce Ave NE, Suite #300  
Prior Lake, MN 55372

RE: Public Notice of Municipal Separate Storm Sewer System General Permit SWPPP  
Document: Prior Lake-Spring Lake Watershed District

Dear Ms. Litsey:

The staff of the Municipal Division of the Minnesota Pollution Control Agency (MPCA) has finished its technical review of your Municipal Separate Storm Sewer System (MS4) Permit Application (Application) and Stormwater Pollution Prevention Program (SWPPP) Document for coverage under the National Pollutant Discharge Elimination System/State Disposal System General Permit MNR040000 for MS4s (Permit). MPCA staff has determined that your application is complete and ready to move into the next stage of the re-application process.

Pursuant to the requirements of a Minnesota Court of Appeals ruling, the MPCA is required to provide public notice and opportunity for hearing on each MS4's proposed SWPPP Document. Based on the technical review, the MPCA has determined that your SWPPP Document meets or exceeds the minimum permit requirements; therefore, it is ready for public notice. Accordingly, the MPCA plans to place the Application and SWPPP Document for Prior Lake-Spring Lake Watershed District on a 30-day public notice comment period from March 11, 2014, to April 10, 2014.

As a reminder, you are required to have your Application and SWPPP Document available locally for public review. The MPCA recommends that a hard copy be made available at more than one location, including your office, public library, or other supervised public facility. The MPCA will also post a copy of the SWPPP Document on the MPCA's Stormwater Wiki. A link to this website will be included in the notice placed on the MPCA's public notice webpage.

The MPCA will receive all comments and forward them to you immediately. Following the public notice period, you will be required to provide resolution, including justification of why or why you are not modifying your SWPPP Document, for all comments submitted. These responses will be sent to the MPCA, which will review the responses and any SWPPP Document modifications before forwarding responses to commenters and issuing Permit coverage. The MPCA requests that responses be returned to the MPCA within one week of the public notice period end date. For any complex or difficult comments, the MPCA requests that at least a schedule for resolution is submitted within one week of the public notice period end date.

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More information on the public notice process for MS4 SWPPP Documents is available on the MPCA website at: <http://www.pca.state.mn.us/bkzqa7d>.

Please contact Cole Landgraf at 651-757-2880 if you have any questions.

Sincerely,

*Duane Duncanson*

*This document has been electronically signed.*

Duane Duncanson  
Supervisor, Municipal Compliance Unit I  
St. Paul Office  
Municipal Division

cc: Prior Lake-Spring Lake Watershed District MS4 File



**Minnesota Pollution  
Control Agency**

520 Lafayette Road North  
St. Paul, MN 55155-4194

# MS4 SWPPP Application for Reauthorization

**for the NPDES/SDS General Small Municipal Separate  
Storm Sewer System (MS4) Permit MNR040000  
reissued with an effective date of August 1, 2013**  
Stormwater Pollution Prevention Program (SWPPP) Document

Doc Type: Permit Application

**Instructions:** This application is for authorization to discharge stormwater associated with Municipal Separate Storm Sewer Systems (MS4s) under the National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) Permit Program. **No fee** is required with the submittal of this application. Please refer to "Example" for detailed instructions found on the Minnesota Pollution Control Agency (MPCA) MS4 website at <http://www.pca.state.mn.us/ms4>.

**Submittal:** This MS4 SWPPP Application for Reauthorization form must be submitted electronically via e-mail to the MPCA at [ms4permitprogram.pca@state.mn.us](mailto:ms4permitprogram.pca@state.mn.us) from the person that is duly authorized to certify this form. All questions with an asterisk (\*) are required fields. All applications will be returned if required fields are not completed.

**Questions:** Contact Claudia Hochstein at 651-757-2881 or [claudia.hochstein@state.mn.us](mailto:claudia.hochstein@state.mn.us), Dan Miller at 651-757-2246 or [daniel.miller@state.mn.us](mailto:daniel.miller@state.mn.us), or call toll-free at 800-657-3864.

## General Contact Information (\*Required fields)

### MS4 Owner (with ownership or operational responsibility, or control of the MS4)

\*MS4 permittee name: Prior Lake-Spring Lake Watershed District \*County: Scott  
(city, county, municipality, government agency or other entity)

\*Mailing address: 14070 Commerce Ave NE, Suite #300

\*City: Prior Lake \*State: MN \*Zip code: 55372

\*Phone (including area code): 952-447-4166 \*E-mail: info@plslwd.org

### MS4 General contact (with Stormwater Pollution Prevention Program [SWPPP] implementation responsibility)

\*Last name: Litsey \*First name: Meghan  
(department head, MS4 coordinator, consultant, etc.)

\*Title: Outreach Specialist

\*Mailing address: 14070 Commerce Ave NE, Suite #300

\*City: Prior Lake \*State: MN \*Zip code: 55372

\*Phone (including area code): 952-378-2163 \*E-mail: mlitsey@plslwd.org

### Preparer information (complete if SWPPP application is prepared by a party other than MS4 General contact)

Last name: \_\_\_\_\_ First name: \_\_\_\_\_  
(department head, MS4 coordinator, consultant, etc.)

Title: \_\_\_\_\_

Mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip code: \_\_\_\_\_

Phone (including area code): \_\_\_\_\_ E-mail: \_\_\_\_\_

## Verification

1. I seek to continue discharging stormwater associated with a small MS4 after the effective date of this Permit, and shall submit this MS4 SWPPP Application for Reauthorization form, in accordance with the schedule in Appendix A, Table 1, with the SWPPP document completed in accordance with the Permit (Part II.D.). ☒ Yes
2. I have read and understand the NPDES/SDS MS4 General Permit and certify that we intend to comply with all requirements of the Permit. ☒ Yes

## Certification (All fields are required)

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- ☒ Yes - I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted.

*I certify that based on my inquiry of the person, or persons, who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete.*

*I am aware that there are significant penalties for submitting false information, including the possibility of civil and criminal penalties.*

This certification is required by Minn. Stat. §§ 7001.0070 and 7001.0540. The authorized person with overall, MS4 legal responsibility must certify the application (principal executive officer or a ranking elected official).

By typing my name in the following box, I certify the above statements to be true and correct, to the best of my knowledge, and that this information can be used for the purpose of processing my application.

Name: Meghan Litsey

*(This document has been electronically signed)*

Title: Outreach Specialist

Date (mm/dd/yyyy): 12/30/2013

Mailing address: 14070 Commerce Ave NE, Suite #300

City: Prior Lake

State: Minnesota

Zip code: 55372

Phone (including area code): 952-378-2163

E-mail: mlitsey@plslwd.org

**Note:** The application will not be processed without certification.

# Stormwater Pollution Prevention Program Document

## I. Partnerships: (Part II.D.1)

- A. List the **regulated small MS4(s)** with which you have established a partnership in order to satisfy one or more requirements of this Permit. Indicate which Minimum Control Measure (MCM) requirements or other program components that each partnership helps to accomplish (List all that apply). Check the box below if you currently have no established partnerships with other regulated MS4s. If you have more than five partnerships, hit the tab key after the last line to generate a new row.

☐ No partnerships with regulated small MS4s

Name and description of partnership	MCM/Other permit requirements involved
<p>City of Prior Lake;</p> <p>We have a Memorandum of Agreement (MOA) that our Rules are equivalent to their requirements.</p> <p>Additionally, we have a Joint Powers Agreement/Memorandum of Agreement (JPA/MOA) for Construction, Use, Operation and Maintenance of the Prior Lake Outlet Channel (PLOC); the agreement defines maintenance responsibilities and restricts discharge rates.</p> <p>Prior Lake provides funding and in-kind staff time toward educational material on watershed-friendly lawn care practices.</p> <p>We conduct weekly inspections of the culverts on the PLOC (of which the City is a cooperator), but we defer to the City of Prior Lake for investigating, locating and eliminating illicit discharges.</p>	MCM 1, 3, 4, 5
<p>Shakopee Mdewakanton Sioux Community;</p> <p>We have a JPA/MOA for Construction, Use, Operation and Maintenance of the PLOC; the agreement defines maintenance responsibilities and restricts discharge rates.</p> <p>We conduct weekly inspections of the culverts on the PLOC (of which the SMSC is a cooperator), but we defer to the SMSC for investigating, locating and eliminating illicit discharges.</p>	MCM 4, 5
<p>City of Shakopee;</p> <p>We have a JPA/MOA for Construction, Use, Operation and Maintenance of the PLOC; the agreement defines maintenance responsibilities and restricts discharge rates.</p> <p>We conduct weekly inspections of the culverts on the PLOC (of which the City is a cooperator), but we defer to the City of Shakopee for investigating, locating and eliminating illicit discharges.</p>	MCM 4, 5
<p>City of Savage;</p> <p>We have a MOA that our Rules are equivalent to their requirements.</p> <p>Savage also provides in-kind staff time toward educational material on watershed-friendly lawn care practices.</p>	MCM 1, 3, 4, 5

- B. If you have additional information that you would like to communicate about your partnerships with other regulated small MS4(s), provide it in the space below, or include an attachment to the SWPPP Document, with the following file naming convention: *MS4NameHere\_Partnerships*.

## II. Description of Regulatory Mechanisms: (Part II.D.2)

### Illicit discharges

- A. Do you have a regulatory mechanism(s) that effectively prohibits non-stormwater discharges into your small MS4, except those non-stormwater discharges authorized under the Permit (Part III.D.3.b.)? ☒ Yes ☐ No

1. If **yes**:

- a. Check which *type* of regulatory mechanism(s) your organization has (check all that apply):

- |  |  |
|--|--|
| <input type="checkbox"/> Ordinance             | <input type="checkbox"/> Contract language |
| <input type="checkbox"/> Policy/Standards      | <input type="checkbox"/> Permits           |
| <input checked="" type="checkbox"/> Rules      |  |
| <input type="checkbox"/> Other, explain: _____ |  |

- b. Provide either a direct link to the mechanism selected above or attach it as an electronic document to this form; or if your regulatory mechanism is either an Ordinance or a Rule, you may provide a citation:

Citation:

*Rule P: Illicit Discharge*

Direct link:

- ☒ Check here if attaching an electronic copy of your regulatory mechanism, with the following file naming convention: *MS4NameHere\_IDDEreg*.

2. If **no**:

Describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, this permit requirement is met:

*We will amend our Rules to include definitions for: stormwater, illicit discharge, and illicit connection to Rule A: Definitions during the Rule Revision process. This will be completed within 12 months of the date permit coverage is extended.*

### Construction site stormwater runoff control

- A. Do you have a regulatory mechanism(s) that establishes requirements for erosion and sediment controls and waste controls? ☒ Yes ☐ No

1. If **yes**:

- a. Check which *type* of regulatory mechanism(s) your organization has (check all that apply):

- |  |  |
|--|--|
| <input type="checkbox"/> Ordinance             | <input type="checkbox"/> Contract language |
| <input type="checkbox"/> Policy/Standards      | <input type="checkbox"/> Permits           |
| <input checked="" type="checkbox"/> Rules      |  |
| <input type="checkbox"/> Other, explain: _____ |  |

- b. Provide either a direct link to the mechanism selected above or attach it as an electronic document to this form; or if your regulatory mechanism is either an Ordinance or a Rule, you may provide a citation:

Citation:

*Rule E: Erosion & Sediment Control*

Direct link:

- ☒ Check here if attaching an electronic copy of your regulatory mechanism, with the following file naming convention: *MS4NameHere\_CSWreg*.

- B. Is your regulatory mechanism at least as stringent as the MPCA general permit to Discharge Stormwater Associated with Construction Activity (as of the effective date of the MS4 Permit)? ☐ Yes ☒ No

If you answered **yes** to the above question, proceed to C.

If you answered **no** to either of the above permit requirements listed in A. or B., describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met:

*We will amend our current Rules to be at least as stringent as the MPCA CSW permit; this process will take about two months to complete, and will be placed on the WD's board meeting agenda within 12 months following the due date of this application document to the MPCA.*

- C. Answer **yes** or **no** to indicate whether your regulatory mechanism(s) requires owners and operators of construction activity to develop site plans that incorporate the following erosion and sediment controls and waste controls as described in the Permit (Part III.D.4.a.(1)-(8)), and as listed below:

- |  |   |
|--|---|
| 1. Best Management Practices (BMPs) to minimize erosion.   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 2. BMPs to minimize the discharge of sediment and other pollutants.  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 3. BMPs for dewatering activities.   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 4. Site inspections and records of rainfall events   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 5. BMP maintenance   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 6. Management of solid and hazardous wastes on each project site.  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 7. Final stabilization upon the completion of construction activity, including the use of perennial vegetative cover on all exposed soils or other equivalent means. | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 8. Criteria for the use of temporary sediment basins.  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |

If you answered **no** to any of the above permit requirements, describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met:

*C 1-8: We will revise our Rules to include the specific requirements for items 1-8 above that are at least as stringent as the MPCA CSW permit. This will be completed within 12 months of the date permit coverage is extended.*

## Post-construction stormwater management

- A. Do you have a regulatory mechanism(s) to address post-construction stormwater management activities?  
☒ Yes ☐ No

1. If **yes**:

- a. Check which *type* of regulatory mechanism(s) your organization has (check all that apply):

- |  |  |
|--|--|
| <input type="checkbox"/> Ordinance             | <input type="checkbox"/> Contract language |
| <input type="checkbox"/> Policy/Standards      | <input type="checkbox"/> Permits           |
| <input checked="" type="checkbox"/> Rules      |  |
| <input type="checkbox"/> Other, explain: _____ |  |

- b. Provide either a direct link to the mechanism selected above or attach it as an electronic document to this form; or if your regulatory mechanism is either an Ordinance or a Rule, you may provide a citation:

Citation:

*Rule D: Stormwater Management*

Direct link:

- ☒ Check here if attaching an electronic copy of your regulatory mechanism, with the following file naming convention: *MS4NameHere\_PostCSWreg*.

- B. Answer **yes** or **no** below to indicate whether you have a regulatory mechanism(s) in place that meets the following requirements as described in the Permit (Part III.D.5.a.):

- |  |   |
|--|---|
| 1. <b>Site plan review:</b> Requirements that owners and/or operators of construction activity submit site plans with post-construction stormwater management BMPs to the permittee for review and approval, prior to start of construction activity.  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. <b>Conditions for post construction stormwater management:</b> Requires the use of any combination of BMPs, with highest preference given to Green Infrastructure techniques and practices (e.g., infiltration, evapotranspiration, reuse/harvesting, conservation design, urban forestry, green roofs, etc.), necessary to meet the following conditions on the site of a construction activity to the Maximum Extent Practicable (MEP): |   |

- a. For new development projects – no net increase from pre-project conditions (on an annual average basis) of: ☐ Yes ☒ No
- 1) Stormwater discharge volume, unless precluded by the stormwater management limitations in the Permit (Part III.D.5.a(3)(a)).
  - 2) Stormwater discharges of Total Suspended Solids (TSS).
  - 3) Stormwater discharges of Total Phosphorus (TP).
- b. For redevelopment projects – a net reduction from pre-project conditions (on an annual average basis) of: ☐ Yes ☒ No
- 1) Stormwater discharge volume, unless precluded by the stormwater management limitations in the Permit (Part III.D.5.a(3)(a)).
  - 2) Stormwater discharges of TSS.
  - 3) Stormwater discharges of TP.
3. **Stormwater management limitations and exceptions:**
- a. Limitations
- 1) Prohibit the use of infiltration techniques to achieve the conditions for post-construction stormwater management in the Permit (Part III.D.5.a(2)) when the infiltration structural stormwater BMP will receive discharges from, or be constructed in areas: ☐ Yes ☒ No
    - a) Where industrial facilities are not authorized to infiltrate industrial stormwater under an NPDES/SDS Industrial Stormwater Permit issued by the MPCA.
    - b) Where vehicle fueling and maintenance occur.
    - c) With less than three (3) feet of separation distance from the bottom of the infiltration system to the elevation of the seasonally saturated soils or the top of bedrock.
    - d) Where high levels of contaminants in soil or groundwater will be mobilized by the infiltrating stormwater.
  - 2) Restrict the use of infiltration techniques to achieve the conditions for post-construction stormwater management in the Permit (Part III.D.5.a(2)), without higher engineering review, sufficient to provide a functioning treatment system and prevent adverse impacts to groundwater, when the infiltration device will be constructed in areas: ☐ Yes ☒ No
    - a) With predominately Hydrologic Soil Group D (clay) soils.
    - b) Within 1,000 feet up-gradient, or 100 feet down-gradient of active karst features.
    - c) Within a Drinking Water Supply Management Area (DWSMA) as defined in Minn. R. 4720.5100, subp. 13.
    - d) Where soil infiltration rates are more than 8.3 inches per hour.
  - 3) For linear projects where the lack of right-of-way precludes the installation of volume control practices that meet the conditions for post-construction stormwater management in the Permit (Part III.D.5.a(2)), the permittee's regulatory mechanism(s) may allow exceptions as described in the Permit (Part III.D.5.a(3)(b)). The permittee's regulatory mechanism(s) shall ensure that a reasonable attempt be made to obtain right-of-way during the project planning process. ☒ Yes ☐ No
4. **Mitigation provisions:** The permittee's regulatory mechanism(s) shall ensure that any stormwater discharges of TSS and/or TP not addressed on the site of the original construction activity are addressed through mitigation and, at a minimum, shall ensure the following requirements are met:
- a. Mitigation project areas are selected in the following order of preference: ☐ Yes ☒ No
    - 1) Locations that yield benefits to the same receiving water that receives runoff from the original construction activity.
    - 2) Locations within the same Minnesota Department of Natural Resource (DNR) catchment area as the original construction activity.
    - 3) Locations in the next adjacent DNR catchment area up-stream
    - 4) Locations anywhere within the permittee's jurisdiction.
  - b. Mitigation projects must involve the creation of new structural stormwater BMPs or the retrofit of existing structural stormwater BMPs, or the use of a properly designed regional structural stormwater BMP. ☐ Yes ☒ No
  - c. Routine maintenance of structural stormwater BMPs already required by this permit cannot be used to meet mitigation requirements of this part. ☐ Yes ☒ No
  - d. Mitigation projects shall be completed within 24 months after the start of the original construction activity. ☐ Yes ☒ No
  - e. The permittee shall determine, and document, who will be responsible for long-term maintenance on all mitigation projects of this part. ☐ Yes ☒ No
  - f. If the permittee receives payment from the owner and/or operator of a construction activity ☐ Yes ☒ No



for mitigation purposes in lieu of the owner or operator of that construction activity meeting the conditions for post-construction stormwater management in Part III.D.5.a(2), the permittee shall apply any such payment received to a public stormwater project, and all projects must be in compliance with Part III.D.5.a(4)(a)-(e).

5. **Long-term maintenance of structural stormwater BMPs:** The permittee's regulatory mechanism(s) shall provide for the establishment of legal mechanisms between the permittee and owners or operators responsible for the long-term maintenance of structural stormwater BMPs not owned or operated by the permittee, that have been implemented to meet the conditions for post-construction stormwater management in the Permit (Part III.D.5.a(2)). This only includes structural stormwater BMPs constructed after the effective date of this permit and that are directly connected to the permittee's MS4, and that are in the permittee's jurisdiction. The legal mechanism shall include provisions that, at a minimum:
- a. Allow the permittee to conduct inspections of structural stormwater BMPs not owned or operated by the permittee, perform necessary maintenance, and assess costs for those structural stormwater BMPs when the permittee determines that the owner and/or operator of that structural stormwater BMP has not conducted maintenance. ☒ Yes ☐ No
  - b. Include conditions that are designed to preserve the permittee's right to ensure maintenance responsibility, for structural stormwater BMPs not owned or operated by the permittee, when those responsibilities are legally transferred to another party. ☒ Yes ☐ No
  - c. Include conditions that are designed to protect/preserve structural stormwater BMPs and site features that are implemented to comply with the Permit (Part III.D.5.a(2)). If site configurations or structural stormwater BMPs change, causing decreased structural stormwater BMP effectiveness, new or improved structural stormwater BMPs must be implemented to ensure the conditions for post-construction stormwater management in the Permit (Part III.D.5.a(2)) continue to be met. ☐ Yes ☒ No

If you answered **no** to any of the above permit requirements, describe the tasks and corresponding schedules that will be taken to assure that, within twelve (12) months of the date permit coverage is extended, these permit requirements are met:

*B.2.a, B.2.b.: We will amend our current stormwater rule to include new Permit requirements pertaining to TSS and TP during new and redevelopment. We currently have guidance for stormwater discharge volume, but it is not explicitly stated in our Rules. We will amend our Rules to include specific Permit requirements after meeting with the TAC; the amended Rule will be placed on the WD's board meeting agenda within 12 months following the due date of this application document to the MPCA.*

*B.3.a.1.: Our Rules partially meet a and c. We do not have anything in our Rules about d. We will amend our Rule to include language that addresses stormwater management limitations as described in the new Permit. This will occur on the same schedule as the items above.*

*B.3.a.2.: We currently meet B.3.a.2.a and we do not have karst features in the PLSLWD. We will amend our Rules to include the restrictions about DWSMA and where soil infiltration rates are more than 8.3 inches per hour. This will occur on the same schedule as the items above.*

*B.4.a.-f.: Our Rules currently do not contain specific language about mitigation provisions. We will amend our Rules to address items a through f; this will occur on the same schedule as the items above.*

*B.5.c.: We partially meet requirement c; we will add language to our Rules in order to conform to the new or improved structural stormwater BMPs must be implemented to ensure the conditions for post-construction stormwater management in the Permit continue to be met. This will occur on the same schedule as the items above.*

### III. Enforcement Response Procedures (ERPs): (Part II.D.3)

- A. Do you have existing ERPs that satisfy the requirements of the Permit (Part III.B.)? ☒ Yes ☐ No
- 1. If **yes**, attach them to this form as an electronic document, with the following file naming convention: *MS4NameHere\_ERPs*.
  - 2. If **no**, describe the tasks and corresponding schedules that will be taken to assure that, with twelve (12) months of the date permit coverage is extended, these permit requirements are met:

B. Describe your ERPs:

*We utilize misdemeanors, verbal warnings, administrative orders, and forfeiture of security as our ERPs (outlined in Rule O: Enforcement). In some cases, we defer to the corresponding City (Savage, Prior Lake, or Shakopee) to assist in ERPs. Our permit application, issued permit and ESC inspection form contains language that addresses Part III.B.2.a-g.*

#### IV. Storm Sewer System Map and Inventory: (Part II.D.4.)

- A. Describe how you manage your storm sewer system map and inventory:

*The PLSLWD consulted Emmons & Oliver Resources, Inc. in 2012 to update the Prior Lake Outlet Channel XP-SWMMM model to include land use changes, channel improvements and channel crossing (culvert) upgrades that have occurred since 2007. The PLSLWD uses the XP-SWMMM model as a map and inventory of our outlet system. The updated model is also a predictive tool for evaluating channel improvements and repairs to provide guidance on sizing of future PLOC crossing improvements.*

- B. Answer **yes** or **no** to indicate whether your storm sewer system map addresses the following requirements from the Permit (Part III.C.1.a-d), as listed below:

1. The permittee's entire small MS4 as a goal, but at a minimum, all pipes 12 inches or greater in diameter, including stormwater flow direction in those pipes. ☐ Yes ☒ No
2. Outfalls, including a unique identification (ID) number assigned by the permittee, and an associated geographic coordinate. ☐ Yes ☒ No
3. Structural stormwater BMPs that are part of the permittee's small MS4. ☒ Yes ☐ No
4. All receiving waters. ☒ Yes ☐ No

If you answered **no** to any of the above permit requirements, describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met:

*B. 1.: The Prior Lake Outlet Channel only has one pipe, which connects the Prior Lake Outlet Structure to its first outfall; the pipe is a 36" reinforced concrete pipe.*

*B.2.: We will work with EOR to include geographic coordinates in the XP-SWMMM model; this will be completed within a year after the due date of this application.*

- C. Answer **yes** or **no** to indicate whether you have completed the requirements of 2009 Minnesota Session Law, Ch. 172. Sec. 28: with the following inventories, according to the specifications of the Permit (Part III.C.2.a.-b.), including:

1. All ponds within the permittee's jurisdiction that are constructed and operated for purposes of water quality treatment, stormwater detention, and flood control, and that are used for the collection of stormwater via constructed conveyances. ☐ Yes ☒ No
2. All wetlands and lakes, within the permittee's jurisdiction, that collect stormwater via constructed conveyances. ☐ Yes ☒ No

- D. Answer **yes** or **no** to indicate whether you have completed the following information for each feature inventoried.

1. A unique identification (ID) number assigned by the permittee. ☐ Yes ☒ No
2. A geographic coordinate. ☐ Yes ☒ No
3. Type of feature (e.g., pond, wetland, or lake). This may be determined by using best professional judgment. ☐ Yes ☒ No

If you have answered **yes** to all above requirements, and you have already submitted the Pond Inventory Form to the MPCA, then you do not need to resubmit the inventory form below.

If you answered **no** to any of the above permit requirements, describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met:

*We completed a Comprehensive Wetland Plan in 2012, which is attached to this application; however, we rely on the surrounding City's inventories and will work with them to complete their inventories within 12 months of the date permit coverage is extended.*

- E. Answer **yes** or **no** to indicate if you are attaching your pond, wetland and lake inventory to the MPCA ☒ Yes ☐ No on the form provided on the MPCA website at: <http://www.pca.state.mn.us/ms4>, according to the specifications of Permit (Part III.C.2.b.(1)-(3)). Attach with the following file naming convention: *MS4NameHere\_inventory*.

If you answered **no**, the inventory form must be submitted to the MPCA MS4 Permit Program within 12 months of the date permit coverage is extended.

#### V. Minimum Control Measures (MCMs) (Part II.D.5)

##### A. MCM1: Public education and outreach

1. The Permit requires that, within 12 months of the date permit coverage is extended, existing permittees revise their education and outreach program that focuses on illicit discharge recognition and reporting, as well as other specifically selected stormwater-related issue(s) of high priority to the permittee during this permit term. Describe your **current**

educational program, including **any high-priority topics included:**

*The purpose of the District's education and outreach program is to meet the requirements of the MS4 permit and improve understanding of local water resources and practices among all stakeholders in the District. Our education and outreach program will combine coordinated efforts with the City of Prior Lake and other local government units to implement a community-wide approach which provides the resources necessary to develop an understanding of local water resource issues and outcomes, with special emphasis on phosphorus reduction and illicit discharge.*

- List the categories of BMPs that address your public education and outreach program, including the distribution of educational materials and a program implementation plan. Use the first table for categories of BMPs that you have established and the second table for categories of BMPs that you plan to implement over the course of the permit term.

Include the measurable goals with appropriate timeframes that each BMP category will be implemented and completed. In addition, provide interim milestones and the frequency of action in which the permittee will implement and/or maintain the BMPs. Refer to the U.S. Environmental Protection Agency's (EPA) *Measurable Goals Guidance for Phase II Small MS4s* (<http://www.epa.gov/npdes/pubs/measurablegoals.pdf>).

If you have more than five categories, hit the tab key after the last line to generate a new row.

Established BMP categories	Measurable goals and timeframes
PLSLWD website	We recently updated our website to make it easier for residents to find information. We will keep our website up, use Google Analytics to track visits, and add posts/update content on a weekly to monthly basis.
Newsletter	We distribute an annual newsletter to PLSLWD volunteers, LGUs, partners, etc. and other who sign up to receive the publication. We will continue this effort during the next permit cycle and measure recipients.
Press releases & newspaper articles	We will continue to submit press releases to promote articles in the Prior Lake American paper and other local sources regarding water quality issues and other MS4-related topics.
Social Media	We currently use Facebook and Twitter to share updates and information pertaining to illicit discharge, phosphorus reduction, and our SWPPP. We will continue to use social media during the next permit cycle and track views and comments.
BMP categories to be implemented	Measurable goals and timeframes
Direct mailings	Starting in 2014 we will collaborate with our PLOC cooperators to distribute brochures, letters, etc. via direct mail to homeowners along the PLOC about illicit discharge, lawn care, etc.
Program Evaluation	Each year we will review printed materials and programs to determine which are the most effective. We will use the information collected to enhance or eliminate programs/materials as necessary. We will also use citizen feedback to determine education needs.

- Provide the name or the position title of the individual(s) who is responsible for implementing and/or coordinating this MCM:

*Outreach Specialist*

## B. MCM2: Public participation and involvement

- The Permit (Part III.D.2.a.) requires that, within 12 months of the date permit coverage is extended, existing permittees shall revise their current program, as necessary, and continue to implement a public participation/involvement program to solicit public input on the SWPPP. Describe your current program:

*Each year we provide an opportunity to receive feedback on our SWPPP during an annual meeting, which is held in combination with a regular Board meeting.*

- List the categories of BMPs that address your public participation/involvement program, including solicitation and documentation of public input on the SWPPP. Use the first table for categories of BMPs that you have established and the second table for categories of BMPs that you plan to implement over the course of the permit term.

Include the measurable goals with appropriate timeframes that each BMP category will be implemented and completed. In addition, provide interim milestones and the frequency of action in which the permittee will implement and/or maintain the BMPs. Refer to the EPA's *Measurable Goals Guidance for Phase II Small MS4s* (<http://www.epa.gov/npdes/pubs/measurablegoals.pdf>). **If you have more than five categories**, hit the tab key after the last line to generate a new row.

Established BMP categories	Measurable goals and timeframes
Annual Meeting	We will continue to hold the annual meeting at our regular Board meeting in May and solicit public input regarding the District's SWPPP. If any input is received, we will document it and respond as necessary.
Public Notice	We will notice the annual meeting in the Prior Lake American two weeks prior to the meeting. Additionally, we will notify local partners and interest groups by email; as well as use social media and our website to promote the annual meeting.
Coordination Meeting	We will meet with JPA/MOA cooperators annually to discuss illicit discharge and stormwater management initiatives, and determine where collaboration can occur on education, projects, etc.
BMP categories to be implemented	Measurable goals and timeframes
Online Availability of SWPPP Document	We will make the SWPPP available on our website to allow easier access to the document.

3. Do you have a process for receiving and documenting citizen input? ☒ Yes ☐ No

If you answered **no** to the above permit requirement, describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, this permit requirement is met:

4. Provide the name or the position title of the individual(s) who is responsible for implementing and/or coordinating this MCM:

*Outreach Specialist*

### C. MCM 3: Illicit discharge detection and elimination

1. The Permit (Part III.D.3.) requires that, within 12 months of the date permit coverage is extended, existing permittees revise their current program as necessary, and continue to implement and enforce a program to detect and eliminate illicit discharges into the small MS4. Describe your current program:

*We recently implemented an Illicit Discharge Rule. District staff are instructed to look for any signs of illicit discharges while out in the field. If illicit discharges are found, we defer to the LGU's for investigating, locating, and eliminating the source of illicit discharges.*

2. Does your Illicit Discharge Detection and Elimination Program meet the following requirements, as found in the Permit (Part III.D.3.c.-g.)?

- Incorporation of illicit discharge detection into all inspection and maintenance activities conducted under the Permit (Part III.D.6.e.-f.) Where feasible, illicit discharge inspections shall be conducted during dry-weather conditions (e.g., periods of 72 or more hours of no precipitation). ☒ Yes ☐ No
- Detecting and tracking the source of illicit discharges using visual inspections. The permittee may also include use of mobile cameras, collecting and analyzing water samples, and/or other detailed procedures that may be effective investigative tools. ☒ Yes ☐ No
- Training of all field staff, in accordance with the requirements of the Permit (Part III.D.6.g.(2)), in illicit discharge recognition (including conditions which could cause illicit discharges), and reporting illicit discharges for further investigation. ☐ Yes ☒ No
- Identification of priority areas likely to have illicit discharges, including at a minimum, evaluating ☐ Yes ☒ No

land use associated with business/industrial activities, areas where illicit discharges have been identified in the past, and areas with storage of large quantities of significant materials that could result in an illicit discharge.

- e. Procedures for the timely response to known, suspected, and reported illicit discharges. ☒ Yes ☐ No
- f. Procedures for investigating, locating, and eliminating the source of illicit discharges. ☐ Yes ☒ No
- g. Procedures for responding to spills, including emergency response procedures to prevent spills from entering the small MS4. The procedures shall also include the immediate notification of the Minnesota Department of Public Safety Duty Officer, if the source of the illicit discharge is a spill or leak as defined in Minn. Stat. § 115.061. ☐ Yes ☒ No
- h. When the source of the illicit discharge is found, the permittee shall use the ERPs required by the Permit (Part III.B.) to eliminate the illicit discharge and require any needed corrective action(s). ☐ Yes ☒ No

If you answered **no** to any of the above permit requirements, describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met:

*2.c.: We will add annual training for identifying and responding to illicit discharge to all field staff's training plans within 12 months of the date permit coverage is extended.*

*2.d.: We will develop and implement written procedures for prioritizing illicit discharge priority areas and inspections within 12 months of the date permit coverage is extended.*

*2.f.: We will develop and implement written procedures for investigating, locating and eliminating the source of illicit discharges within 12 months of the date permit coverage is extended.*

*2.g.: We will develop and implement written procedures for responding to spills as described in the permit within 12 months of the date permit coverage is extended.*

*2.h.: We will update our ERPs to enforce and compel compliance with illicit discharge within 12 months of the date permit coverage is extended.*

3. List the categories of BMPs that address your illicit discharge, detection and elimination program. Use the first table for categories of BMPs that you have established and the second table for categories of BMPs that you plan to implement over the course of the permit term.

Include the measurable goals with appropriate timeframes that each BMP category will be implemented and completed. In addition, provide interim milestones and the frequency of action in which the permittee will implement and/or maintain the BMPs. Refer to the EPA's *Measurable Goals Guidance for Phase II Small MS4s* (<http://www.epa.gov/npdes/pubs/measurablegoals.pdf>).

**If you have more than five categories**, hit the tab key after the last line to generate a new row.

Established BMP categories	Measurable goals and timeframes
Inspections	We conduct weekly inspections of the culverts on the PLOC while it is actively running. In addition, we inspect the full PLOC biannually for erosion, invasive species, etc. Staff are instructed to be on the lookout for illicit discharges while they perform their regular duties. We forward any reports regarding illicit discharge to the corresponding LGU.
Public Information	We will continue to provide information to businesses and residents within the District regarding the dangers of illicit discharge and improper disposal, and options for disposal. We will distribute at least one educational message per year. We will also maintain current information about County disposal sites on the PLSLWD website.
BMP categories to be implemented	Measurable goals and timeframes
Illicit Discharge Rule	We recently added an Illicit Discharge Rule. We will implement this Rule and review and update as necessary.
Priority Areas	We will identify areas on the PLOC that are likely to or have had illicit discharges.
Staff Training	District staff will participate in training for identifying and responding to illicit discharges on a yearly basis, including but not limited to educational videos, webinars, and/or workshops, etc.

4. Do you have procedures for record-keeping within your Illicit Discharge Detection and Elimination (IDDE) program as specified within the Permit (Part III.D.3.h.)? ☒ Yes ☐ No

If you answered **no**, indicate how you will develop procedures for record-keeping of your Illicit Discharge, Detection and Elimination Program, within 12 months of the date permit coverage is extended:

5. Provide the name or the position title of the individual(s) who is responsible for implementing and/or coordinating this MCM:

*Outreach Specialist & Water Resources Specialist*

#### D. MCM 4: Construction site stormwater runoff control

1. The Permit (Part III.D.4) requires that, within 12 months of the date permit coverage is extended, existing permittees shall revise their current program, as necessary, and continue to implement and enforce a construction site stormwater runoff control program. Describe your current program:

*We require a permit for activity that will disturb more than 10,000 square feet within a shoreland protection zone or within 300 feet of the PLOC. We participate in site plan reviews and provide comment, when solicited by our partners in the MOA. We work with our LGUs to coordinate site inspection and enforcement efforts. All inspection reports are completed electronically and saved in a corresponding project folder that contains documentation about site plans, reviews, monetary accounts, correspondence, etc.*

2. Does your program address the following BMPs for construction stormwater erosion and sediment control as required in the Permit (Part III.D.4.b.):
- a. Have you established written procedures for site plan reviews that you conduct prior to the start of construction activity? ☒ Yes ☐ No
  - b. Does the site plan review procedure include notification to owners and operators proposing construction activity that they need to apply for and obtain coverage under the MPCA's general permit to *Discharge Stormwater Associated with Construction Activity No. MN R100001*? ☒ Yes ☐ No
  - c. Does your program include written procedures for receipt and consideration of reports of noncompliance or other stormwater related information on construction activity submitted by the public to the permittee? ☒ Yes ☐ No
  - d. Have you included written procedures for the following aspects of site inspections to determine compliance with your regulatory mechanism(s):
    - 1) Does your program include procedures for identifying priority sites for inspection? ☒ Yes ☐ No
    - 2) Does your program identify a frequency at which you will conduct construction site inspections? ☒ Yes ☐ No
    - 3) Does your program identify the names of individual(s) or position titles of those responsible for conducting construction site inspections? ☒ Yes ☐ No
    - 4) Does your program include a checklist or other written means to document construction site inspections when determining compliance? ☒ Yes ☐ No
  - e. Does your program document and retain construction project name, location, total acreage to be disturbed, and owner/operator information? ☒ Yes ☐ No
  - f. Does your program document stormwater-related comments and/or supporting information used to determine project approval or denial? ☒ Yes ☐ No
  - g. Does your program retain construction site inspection checklists or other written materials used to document site inspections? ☒ Yes ☐ No

If you answered **no** to any of the above permit requirements, describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met.

3. List the categories of BMPs that address your construction site stormwater runoff control program. Use the first table for categories of BMPs that you have established and the second table for categories of BMPs that you plan to implement over the course of the permit term.

Include the measurable goals with appropriate timeframes that each BMP category will be implemented and completed. In addition, provide interim milestones and the frequency of action in which the permittee will implement and/or maintain the BMPs. Refer to the EPA's *Measurable Goals Guidance for Phase II Small MS4s* (<http://www.epa.gov/npdes/pubs/measurablegoals.pdf>). If you have more than five categories, hit the tab key after the last line to generate a new row.

Established BMP categories	Measurable goals and timeframes
Staff Training	We currently have two staff members who have active ESC



	certifications; we will ensure that at least one staff member maintains their erosion and soil control certification throughout the next permit term.
Construction Site Plan Review	<p>We will continue to utilize our current checklists to determine if site plans meet our Rule requirements.</p> <p>We currently review development plans as a member of the city/county review teams, but do not issue separate permits as long as the terms of the MOA are complied with and the District's rule requirements continue to be met. However, we do issue permits to LGU's if they are completing a construction project within the PLSLWD boundary or if it is within 300 feet of the PLOC. We will continue coordinated reviews throughout the next permit term.</p>
Site Inspection Procedure	We will continue to utilize our ESC inspection form, which incorporates both NPDES permit guidelines and our Rules. We will update this inspection form as needed to comply with new requirements. We will continue to track and archive all inspection documents using Microsoft Access throughout the next permit term.
Inspections	We will continue to inspect active construction sites within the PLSLWD boundary or within 300 feet of the PLOC at least once a week or as needed.
<b>BMP categories to be implemented</b>	<b>Measurable goals and timeframes</b>
Rules Update	District staff will revise our Rules (as needed) to conform with updated NPDES construction permit requirements and work with LGU's per MOA by holding regular TAC meetings. This BMP will be implemented in the new permit term.

4. Provide the name or the position title of the individual(s) who is responsible for implementing and/or coordinating this MCM:

Outreach Specialist and District Planner

#### E. MCM 5: Post-construction stormwater management

1. The Permit (Part III.D.5.) requires that, within 12 months of the date permit coverage is extended, existing permittees shall revise their current program, as necessary, and continue to implement and enforce a post-construction stormwater management program. Describe your current program:

*Our Rules currently require the use of BMP's to manage the rate, volume, and nutrient/sediment load of stormwater runoff, and the establishment of buffer strips along wetlands and water courses. The Rules include performance design standards and design requirements for water quality treatment, rate control and volume control.*

2. Have you established written procedures for site plan reviews that you will conduct prior to the start of construction activity? ☒ Yes ☐ No
3. Answer **yes** or **no** to indicate whether you have the following listed procedures for documentation of post-construction stormwater management according to the specifications of Permit (Part III.D.5.c.):
- a. Any supporting documentation that you use to determine compliance with the Permit (Part III.D.5.a), including the project name, location, owner and operator of the construction activity, any checklists used for conducting site plan reviews, and any calculations used to determine compliance? ☒ Yes ☐ No
- b. All supporting documentation associated with mitigation projects that you authorize? ☐ Yes ☒ No
- c. Payments received and used in accordance with Permit (Part III.D.5.a.(4)(f))? ☒ Yes ☐ No
- d. All legal mechanisms drafted in accordance with the Permit (Part III.D.5.a.(5)), including date(s) of the agreement(s) and names of all responsible parties involved? ☒ Yes ☐ No

If you answered **no** to any of the above permit requirements, describe the steps that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met.

3.b.: Our Rules currently do not contain specific language about mitigation provisions. We will amend our Rules to include documentation associated with mitigation projects that we authorize within 12 months following the due date of this application document to the MPCA.

4. List the categories of BMPs that address your post-construction stormwater management program. Use the first table for categories of BMPs that you have established and the second table for categories of BMPs that you plan to implement over the course of the permit term.

Include the measurable goals with appropriate timeframes that each BMP category will be implemented and completed. In addition, provide interim milestones and the frequency of action in which the permittee will implement and/or maintain the BMPs. Refer to the EPA's *Measurable Goals Guidance for Phase II Small MS4s* (<http://www.epa.gov/npdes/pubs/measurablegoals.pdf>). **If you have more than five categories**, hit the tab key after the last line to generate a new row.

Established BMP categories	Measurable goals and timeframes
Inspections	We will continue to inspect active construction sites within the PLSLWD boundary or within 300 feet of the PLOC at least once a week or as needed.
Permit Application Checklist	We use a permit application checklist to ensure proposed plansets meet the requirements of our Rules; we use this checklist as part of our permit approval process.
Encourage use of BMPs	Per our Rules, we will continue to recommend the use of BMPs to manage rate, volume, and nutrient/sediment load of stormwater runoff.
Long-term Operations & Maintenance of BMPs	The District will provide advice and technical assistance to developers, cities, townships, Scott County, Homeowner's Associations, and property owners to ensure provisions are made and followed for the long-term operations and maintenance of BMP's that were installed as part of new or re-development.

BMP categories to be implemented	Measurable goals and timeframes
Mitigation provisions	We will amend our Rules to include documentation associated with mitigation projects that we authorize within 12 months following the due date of this application document to the MPCA.

5. Provide the name or the position title of the individual(s) who is responsible for implementing and/or coordinating this MCM:

*District Planner and Outreach Specialist*

## F. MCM 6: Pollution prevention/good housekeeping for municipal operations

1. The Permit (Part III.D.6.) requires that, within 12 months of the date permit coverage is extended, existing permittees shall revise their current program, as necessary, and continue to implement an operations and maintenance program that prevents or reduces the discharge of pollutants from the permittee owned/operated facilities and operations to the small MS4. Describe your current program:

*We operate the PLOC with our partners through a JPA/MOA particularly in regards to repair and control erosion and sedimentation along the channel. We do not have municipal operations or facilities that are associated with this MS4 permit.*

2. Do you have a facilities inventory as outlined in the Permit (Part III.D.6.a.)? ☐ Yes ☒ No
3. If you answered **no** to the above permit requirement in question 2, describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, this permit requirement is met:

*We do not have municipal operations or facilities. We manage the outlet structure, which consists of an outlet box that houses an accordian-shaped fixed crest weir.*



4. List the categories of BMPs that address your pollution prevention/good housekeeping for municipal operations program. Use the first table for categories of BMPs that you have established and the second table for categories of BMPs that you plan to implement over the course of the permit term.

Include the measurable goals with appropriate timeframes that each BMP category will be implemented and completed. In addition, provide interim milestones and the frequency of action in which the permittee will implement and/or maintain the BMPs. For an explanation of measurable goals, refer to the EPA's *Measurable Goals Guidance for Phase II Small MS4s* (<http://www.epa.gov/npdes/pubs/measurablegoals.pdf>).

If you have more than five categories, hit the tab key after the last line to generate a new row.

Established BMP categories	Measurable goals and timeframes
Maintenance Program	The District will continue to operate the outlet channel in accordance with the JPA/MOA, particularly measures designed to repair and control erosion and sedimentation along the channel. Based on the outcome of weekly inspections, the District will repair erosion, remove accumulated sediment and maintain vegetation as needed.
Inspection of 20% of Outfalls/PLOC inspections	District staff will continue to inspect the outlet channel on an annual basis and periodically while the Prior Lake Outlet is flowing; staff will also maintain records for channel inspections and notify cooperators of the PLOC immediately if there are issues.
Record reporting and retention of all inspections and responses to the inspections	The District will maintain records of all inspections, including inspection results, date, antecedent weather conditions, sediment storage and capacity remaining, and any maintenance performed or recommended.
Evaluation of Inspection Frequency	The District will annually assess whether inspection activities and frequencies are adequate to assure proper operation and prevention of pollution.
Staff & Manager Training	Staff will conduct or participate in training to foster pollution prevention in District operations as opportunities arise; we will track the number of formal training opportunities per year and the number of participants.
BMP categories to be implemented	Measurable goals and timeframes
Schedule for training	The District will develop a schedule for training new or seasonal employees and recurring training for existing employees to address changes in procedures, practices, techniques and requirements. This will be implemented within 12 months of the date permit coverage is extended.
Written procedures for inspections	The District will develop written procedures for inspection of structural stormwater BMPs associated with the PLOC. Procedures will be in place within 12 months of the date permit coverage is extended.

5. Does discharge from your MS4 affect a Source Water Protection Area (Permit Part III.D.6.c.)? ☒ Yes ☐ No

a. If **no**, continue to 6.

b. If **yes**, the Minnesota Department of Health (MDH) is in the process of mapping the following items. Maps are available at <http://www.health.state.mn.us/divs/eh/water/swp/maps/index.htm>. Is a map including the following items available for your MS4:

- 1) Wells and source waters for drinking water supply management areas identified as vulnerable under Minn. R. 4720.5205, 4720.5210, and 4720.5330? ☒ Yes ☐ No
- 2) Source water protection areas for surface intakes identified in the source water assessments conducted by or for the Minnesota Department of Health under the federal Safe Drinking Water Act, U.S.C. §§ 300j – 13? ☐ Yes ☒ No

- c. Have you developed and implemented BMPs to protect any of the above drinking water sources? ☒ Yes ☐ No
6. Have you developed procedures and a schedule for the purpose of determining the TSS and TP treatment effectiveness of all permittee owned/operated ponds constructed and used for the collection and treatment of stormwater, according to the Permit (Part III.D.6.d.)? ☐ Yes ☒ No
7. Do you have inspection procedures that meet the requirements of the Permit (Part III.D.6.e.(1)-(3)) for structural stormwater BMPs, ponds and outfalls, and stockpile, storage and material handling areas? ☒ Yes ☐ No
8. Have you developed and implemented a stormwater management training program commensurate with each employee's job duties that:
- Addresses the importance of protecting water quality? ☒ Yes ☐ No
  - Covers the requirements of the permit relevant to the duties of the employee? ☐ Yes ☒ No
  - Includes a schedule that establishes initial training for new and/or seasonal employees and recurring training intervals for existing employees to address changes in procedures, practices, techniques, or requirements? ☐ Yes ☒ No
9. Do you keep documentation of inspections, maintenance, and training as required by the Permit (Part III.D.6.h.(1)-(5))? ☒ Yes ☐ No

If you answered **no** to any of the above permit requirements listed in **Questions 5 – 9**, then describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met:

5.a. 2.): *The District does not have any known surface water intakes.*

6.) *The District does not own or operate any ponds that are associated with our MS4.*

8.) *The District will develop and implement a stormwater management training program commensurate with each employees job duties as they are outlined in the Permit (Part III.D.6.g.). These procedures will be implemented within 12 months following the date permit coverage is extended.*

10. Provide the name or the position title of the individual(s) who is responsible for implementing and/or coordinating this MCM:
- District Administrator*

## VI. Compliance Schedule for an Approved Total Maximum Daily Load (TMDL) with an Applicable Waste Load Allocation (WLA) (Part II.D.6.)

- A. Do you have an approved TMDL with a Waste Load Allocation (WLA) prior to the effective date of the Permit? ☐ Yes ☒ No
- If **no**, continue to section VII.
  - If **yes**, fill out and attach the MS4 Permit TMDL Attachment Spreadsheet with the following naming convention: *MS4NameHere\_TMDL*.
- This form is found on the MPCA MS4 website: <http://www.pca.state.mn.us/ms4>.

## VII. Alum or Ferric Chloride Phosphorus Treatment Systems (Part II.D.7.)

- A. Do you own and/or operate any Alum or Ferric Chloride Phosphorus Treatment Systems which are regulated by this Permit (Part III.F.)? ☐ Yes ☒ No
- If **no**, this section requires no further information.
  - If **yes**, you own and/or operate an Alum or Ferric Chloride Phosphorus Treatment System within your small MS4, then you must submit the Alum or Ferric Chloride Phosphorus Treatment Systems Form supplement to this document, with the following naming convention: *MS4NameHere\_TreatmentSystem*.
- This form is found on the MPCA MS4 website: <http://www.pca.state.mn.us/ms4>.

## VIII. Add any Additional Comments to Describe Your Program

*The District has attached a copy of the 2014 Education & Outreach Plan with this application to support MCM 1.*

(ii) Outside of the shoreland protection zone, an area of less than one acre.

(f) Installation of any fence, sign, telephone or electric poles, or other kinds of posts or poles.

(g) Emergency activity necessary to protect life or prevent substantial harm to persons or property.

(h) All land disturbing activities not required by this Rule to obtain a permit or have an approved stormwater management plan shall nevertheless be conducted in full compliance with Rule C.

## **RULE E - EROSION AND SEDIMENT CONTROL**

1. **POLICY.** It is the policy of the managers to require the preparation and implementation of erosion and sediment control plans to control runoff and erosion and to retain or control sediment on land during land disturbing activities.

2. **REGULATION.** No person or political subdivision shall commence a land disturbing activity or the development or redevelopment of land, unless specifically exempted by Paragraph 7 below, without first obtaining a permit from the District that incorporates and approves an erosion and sediment control plan for the activity, development or redevelopment.

3. **CRITERIA.** Erosion and sediment control plans shall comply with the following criteria:

(a) Natural site topography and soil conditions shall be used to control runoff and reduce erosion and sedimentation during construction and after completion of the land disturbing activity.

(b) Erosion and sediment control measures shall be consistent with best management practices, and shall be sufficient to retain sediment on-site.

(c) All erosion and sediment controls shall be installed before commencing the land disturbing activity, and shall not be removed without District approval or until the District has issued a certificate of completion pursuant to Paragraph 14 of Rule B.

(d) The activity shall be phased when possible to minimize disturbed areas subject to erosion at any one time.

4. EXHIBITS. The following exhibits shall accompany the permit application (one set full size, and two sets reduced to a maximum size of 11" x 17"):

(a) An existing and proposed topographic map showing contours on and adjacent to the land, property lines, all hydrologic features, the proposed land disturbing activities, and the locations of all runoff, erosion and sediment controls and soil stabilization measures.

(b) Plans and specifications for all proposed runoff, erosion and sediment controls, and temporary and permanent soil stabilization measures.

(c) Detailed schedules for implementation of the land disturbing activity, the erosion and sediment controls, and soil stabilization measures.

(d) Detailed description of the methods to be employed for monitoring, maintaining and removing the erosion and sediment controls, and soil stabilization measures.

(e) Soil borings if requested by the District.

5. MAINTENANCE. The permittee shall be responsible for proper operation and maintenance of all erosion and sediment controls, and soil stabilization measures, in conformance with best management practices. The permittee shall, at a minimum, inspect and maintain all erosion and sediment controls and soil stabilization measures daily during construction, weekly thereafter until vegetative cover is established, and after every rainfall event exceeding 0.5 inches. The permittee shall maintain a log of activities under this Paragraph 5 for inspection by the District.

6. SECURITY. Any bond or other security required in accordance with Rule L shall be maintained until final soil stabilization and removal of erosion and sediment controls, and the payment of all fees and other amounts due the District.

7. EXCEPTIONS. No permit or erosion control plan shall be required under this Rule for the following land disturbing activities:

(a) Minor land disturbing activities such as home gardens, repairs and maintenance work.

(b) Construction, installation and maintenance of individual sewage treatment systems.

(c) Construction, installation and maintenance of public utility lines or individual service connections unless the activity disturbs more than one acre, in which event Paragraph 7(e) below shall apply.

(d) Construction of any structure on an individual parcel in a subdivision with an erosion and sediment control plan approved by the District, so long as any land disturbing activity complies with the approved plan.

(e) Development and redevelopment of, or construction of a structure on, an individual parcel with a land disturbing activity that does not cause off-site erosion, sedimentation, flooding or other damage, and disturbs:

(i) In the shoreland protection zone, an area less than 10,000 square feet; provided that, if a municipality or county with jurisdiction has adopted an ordinance requiring stormwater management consistent with this Rule E that also regulates the activity, such ordinance shall govern the activity, and the exempt area shall increase from 10,000 square feet to one acre (at which point this Rule shall apply in addition to the municipal or county regulation); or

(ii) Outside of the shoreland protection zone, an area of less than one acre.

(f) Installation of any fence, sign, telephone or electric poles, or other kinds of posts or poles.

(g) Emergency activity necessary to protect life or prevent substantial harm to persons or property.

(h) All land disturbing activities not required by this Rule to obtain a permit or have an approved erosion and sediment control plan shall nevertheless be conducted in full compliance with Rule C.

## **RULE F - FLOODPLAIN ALTERATION**

1. POLICY. It is the policy of the managers to:

(a) Preserve existing water storage capacity below the 100-year critical flood elevation on all waterbodies in the District to minimize the frequency and severity of high water.

(b) Minimize development in the floodplain which will unduly restrict flood flows or aggravate known high water problems.

**Site Inspection Form**

Project: \_\_\_\_\_  
Supervisor: \_\_\_\_\_  
Inspector(s): \_\_\_\_\_  
\_\_\_\_\_

Inspection Date: \_\_\_\_\_  
Next Inspection Date: \_\_\_\_\_  
City Project #: \_\_\_\_\_

Permit Requirements	In Compliance	Maintenance Required	Out of Compliance	Not Applicable at time of Inspection	Comments
Erosion Control					
Soil stabilization <sup>1</sup>					
Drainage conveyance stabilized <sup>2</sup>					
Energy dissipation from drainage conveyance <sup>3</sup>					
No unbroken slope greater than 75 feet with a grade of 3:1 or steeper <sup>4</sup>					
Slopes of 3:1 or greater has approved BMPs installed <sup>5</sup>					
Final stabilization apparent on finished lots <sup>6</sup>					

<sup>1</sup> All exposed soil areas must be stabilized as soon as possible to limit soil erosion but in no case later than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased. [NPDES - PIII.B.3]

<sup>2</sup> The normal wetted perimeter of any temporary or permanent drainage ditch or swale that drains water from any portion of the construction site, or diverts water around the site, must be stabilized within 200 lineal feet from the property edge, or from the point of discharge into any surface water. Stabilization of the last 200 lineal feet must be completed within 24 hours after connection to a surface water. [NPDES - PIII.B.4]

<sup>3</sup> Pipe outlets must be provided with temporary or permanent energy dissipation within 24 hours after connection to a surface water. [NPDES - PIII.B.4]

<sup>4</sup> There shall be no unbroken slope length of greater than 75 feet for slopes with a grade of 3:1 or steeper. [NPDES - PIII.C.1.c]

<sup>5</sup> Slopes greater or equal to 3:1 shall have approved erosion control BMPs installed immediately after finished grading. [PWDM PII.2.14]

<sup>6</sup> The Permittee(s) must ensure final stabilization of the site. Final stabilization requires that all soil disturbing activities at the site have been completed and all soils must be stabilized by a uniform perennial vegetative cover with a density of 70% over the entire pervious surface area, or other equivalent means necessary to prevent soil failure under erosive conditions. [NPDES - PIII.G.1]

Permit Requirements	In Compliance	Maintenance Required	Out of Compliance	Not Applicable at time of Inspection	Comments
Sediment Control					
Sediment BMPs functioning <sup>7</sup>					
Construction entrance in place and operational <sup>8</sup>					
Sediment tracking <sup>9</sup>					
Soil stockpiles <sup>10</sup>					
Sediment basins <sup>11</sup>					

<sup>7</sup> All nonfunctional BMPs must be repaired, replaced, or supplemented with functional BMPs within 24 hours after discovery, or as soon as field conditions allow access. All silt fences must be repaired, replaced, or supplemented when they become nonfunctional or the sediment reaches 1/2 of the height of the fence. Temporary and permanent sediment basins must be drained and the sediment removed when the depth of the sediment collected reaches 1/2 the storage volume. Drainage and removal must be completed within 72 hours of discovery, or as soon as field conditions allow access. [NPDES - PIII.E.4]

<sup>8</sup> Vehicle tracking of sediment for the construction site (or onto streets within the site) must be minimized by BMPs such as stone pads, concrete or steel wash racks, or equivalent systems. Street sweeping must be used if such BMPs are not adequate to prevent sediment from being tracked onto the street. [NPDES - PIII.E.4]

<sup>9</sup> Construction site vehicle exit location must be inspected for evidence of off-site sediment tracking onto paved surfaces. Tracked sediment must be removed from all paved surfaces, within 24 hours of discovery. [NPDES - PIII.E.4.d]

<sup>10</sup> Temporary soil stockpiles must have silt fence or other effective sediment controls, and cannot be placed in surface water, including stormwater conveyances such as curb and gutter systems, or conduits and ditches unless there is a bypass in place for the stormwater. [NPDES - PIII.C.5]

<sup>11</sup> Drainage areas over 5 acres must have a temporary sediment basin. Design must comply with the NPDES SWPPP requirements. [PWDM PII.2.21]



Permit Requirements	In Compliance	Maintenance Required	Out of Compliance	Not Applicable at time of Inspection	Comments
Stormwater Management					
Inlet protection in place and operational <sup>12</sup>					
Off-site deposition <sup>13</sup>					
Surface water deposition <sup>14</sup>					

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<sup>12</sup> All storm drain inlets must be protected by appropriate BMPs during construction until all sources with potential for discharging to the inlet have been stabilized. [NPDES - PIII.C.4]

<sup>13</sup> If sediment escapes the construction site, off-site accumulations of sediment must be removed in a manner and at a frequency sufficient to minimize off-site impacts. [NPDES - PII.E.4.c]

<sup>14</sup> The Permittee(s) must remove all deltas and sediment deposited in surface waters, including drainage ways, catch basins, and other drainage systems, and re-stabilize the areas where sediment removal results in exposed soil. The removal and stabilization must take place within seven (7) days of discovery unless precluded by legal, regulatory, or physical access constraints. The Permittee(s) shall use all reasonable efforts to obtain access. If precluded, removal and stabilization must take place within seven (7) calendar days of obtaining access. [NPDES - PIII.E.4.c]

Permit Requirements	In Compliance	Maintenance Required	Out of Compliance	Not Applicable at time of Inspection	Comments
Other/General					
Dewatering <sup>15</sup>					
Site inspections <sup>16</sup>					
Inspection documentation & SWPPP <sup>17</sup>					
Infiltration area protection <sup>18</sup>					
Hazardous materials <sup>19</sup>					
Solid waste <sup>20</sup>					
Concrete washout <sup>21</sup>					
Issues resolved since last inspection					

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<sup>15</sup> All water from dewatering or basin draining activities must be discharged in a manner that does not cause nuisance conditions, erosion in receiving channels or on downslope properties, or inundation in wetlands causing significant adverse impact to the wetland. [NPDES - PIII.D.2]

<sup>16</sup> Routinely inspect the entire construction site at least once every seven (7) days during active construction and within 24 hours after a rainfall event greater than 0.5 inches in 24 hours.[ NPDES - PIII.E.1]

<sup>17</sup> All inspections and maintenance conducted during construction must be recorded in writing and these records must be retained with the SWPPP. [NPDES - PIII.E.2]

<sup>18</sup> All infiltration areas must be inspected to ensure that no sediment from ongoing construction activity is reaching the infiltration area and these areas are protected from compaction due to construction equipment driving across the infiltration area.[ NPDES - PIII.E.5]

<sup>19</sup> Hazardous materials such as oil, gasoline, paint and any hazardous substances) must be properly stored, including secondary containment, to prevent spills, leaks or other discharge. Restricted access to storage areas must be provided to prevent vandalism. Storage and disposal of hazardous waste must be in compliance with MPCA regulations. [NPDES - PIII.F.2]

<sup>20</sup> Solid waste must be disposed of properly and must comply with MPCA disposal requirements. [NPDES - PIII.F.1]

<sup>21</sup> All liquid and solid wastes generated by washout operations must be contained in effective containment. The liquid and solid wastes must not contact the ground, and there must not be runoff from the washout operations or areas. Liquid and solid wastes must be disposed of properly and in compliance with MPCA regulation. A sign must be installed adjacent to each washout facility to inform concrete equipment operators to utilize the proper facilities. [NPDES - PIII.G.1]

## **RULE O - ENFORCEMENT**

1. **MISDEMEANOR.** A violation of these Rules, a stipulation agreement made or permit or order issued by the managers pursuant to these Rules, is a misdemeanor subject to a penalty as provided by law.

2. **ACTIONS.** The District may exercise all powers conferred upon it by Minnesota Statutes, chapter 103D, in enforcing these Rules, or a stipulation agreement made or permit or order issued by the managers under these Rules, including criminal prosecution, injunction, or an action to compel performance, restoration or abatement, or other appropriate action.

3. **ADMINISTRATIVE ORDER.** The District may issue a cease and desist order when it finds that a proposed or initiated activity or project presents a serious threat of flooding, erosion, sedimentation, an adverse effect upon water quality, or otherwise violates these Rules.

4. **ATTORNEYS' FEES AND COSTS.** In any civil action arising from or related to these Rules, an order or a stipulation agreement made or a permit issued or denied by the managers under these Rules, the court may award the prevailing party reasonable attorneys' fees and costs.

(f) Use of fertilizer and pesticides in the shoreland protection zone shall be done so as to minimize runoff into public waters by the use of earth material, vegetation, or both.

(g) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference shall be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and man-made materials and facilities.

(h) Whenever the District determines that any land disturbing activity has become a hazard to any person, or endangers the property of another, adversely affects water quality or any waterbody, increases flooding, or otherwise violates these Rules, the owner of the land upon which the land disturbing activity is located, or other person or agent in control of such land, upon receipt of written notice from the District, shall within the time period specified therein repair or eliminate such condition. The owner of the land upon which a land disturbing activity is located shall be responsible for the cleanup and any damages from sediment that has eroded from such land. The District may require the owner to obtain a permit under these Rules before undertaking any repairs or restoration.

## **RULE D - STORMWATER MANAGEMENT**

1. POLICY. It is the policy of the managers to:

(a) Require that peak runoff rates not exceed existing conditions and the capacity of downstream conveyance facilities or contribute to flooding.

(b) Manage subwatershed discharge rates and flood storage volumes to be consistent with the goals of the water resources management plan.

(c) Control runoff rates by the use of regional or on-site detention or infiltration facilities where feasible.

(d) Review stormwater management structures based on the 100-year critical storm event for the drainage area.

(e) Route runoff to water treatment ponds or other acceptable facilities before discharging into waterbodies.

(f) Promote the use of natural waterbodies for storing runoff and improving water quality and other amenities.

(g) Promote natural infiltration of runoff.

2. REGULATION. No person or political subdivision shall commence a land disturbing activity or the development or redevelopment of land, unless specifically exempted by Paragraph 9 below, without first obtaining a permit from the District that incorporates and approves a stormwater management plan for the activity, development or redevelopment.

3. CRITERIA. Stormwater management plans shall comply with the following criteria:

(a) A hydrograph method based on sound hydrologic theory will be used to analyze runoff for the design or analysis of flows and water levels.

(b) Runoff rates for the proposed activity shall not exceed existing runoff rates for the 2-year, 10-year and 100-year critical storm events, and runoff rates may be restricted to less than the existing rates when necessary for the public health and general welfare of the District.

(c) Regional detention basins shall be utilized to manage peak flow rates and runoff volumes, and meet water quality objectives when feasible. On-site detention basins, infiltration facilities, and permanent sedimentation and water quality ponds will be utilized for land disturbing activities exceeding one acre when regional basins are not in place or feasible. A waiver may be granted for special circumstances described in Paragraphs 4(a) and 4(b) below.

(d) The District may approve alternative BMPs instead of permanent sedimentation and water quality ponds if it finds that the water quality performance of the proposed alternative BMPs is equivalent to that of a permanent sedimentation and water quality pond designed according to the criteria set forth for permanent sedimentation and water quality ponds in Paragraph 3(h) below. The generally accepted performance of permanent sedimentation and water quality ponds designed to these criteria is 60% Total Phosphorus removal. For alternative BMPs, performance for the one-year, 24-hour event shall be assessed, and the assumed performance for the BMPs shall be based on information from independent laboratory work, studies, or reference materials including the Minnesota Urban Small Sites BMP Manual (Metropolitan Council 2001), as such manual may be amended, revised or supplemented.

(e) Analysis of flood levels, storage volumes and flow rates for waterbodies and detention basins shall be based on the range of rainfall and snow melt durations producing the critical flood levels and discharges.

(f) Landlocked water basins may be provided with outlets that:

(i) Retain a hydrologic regime complying with Rules F and G;

(ii) Provide sufficient dead storage to retain back-to-back 100-year, 24-hour rainfalls and runoff above the highest anticipated groundwater elevation and prevent damage to property adjacent to the basin; and

(iii) Do not create adverse downstream flooding or water quality conditions, or materially affect stability of downstream water courses.

(g) Detention basins shall be designed to provide:

(i) An outlet structure to control the 2-year, 10-year and 100-year critical storm events to predevelopment runoff rates;

(ii) An identified overflow spillway sufficiently stabilized to convey a 100-year critical storm event;

(iii) A normal water elevation above the OHW of adjacent waterbodies;  
and

(iv) Access for future maintenance.

(h) Permanent sedimentation and water quality ponds shall be designed to the Wet Pond Design Standards set forth on Appendix A to these Rules and provide:

(i) Water quality features consistent with NURP criteria and best management practices;

(ii) A permanent wet pool with dead storage of at least the runoff from a 2.5-inch storm event;

(iii) A normal water elevation above the OHW of adjacent waterbodies;

(iv) An outlet skimmer to prevent migration of floatables and oils for at least the one year storm event; and

(v) Access for future maintenance.

(i) Unless a municipality or the county has adopted an ordinance prescribing a minimum low floor elevation, which ordinance shall govern, any new

residential, commercial, industrial and other habitable structures shall be constructed with the following low floor elevation:

(i) In the case of a land-locked basin, the low floor elevation shall be at least 3 feet above the surveyed basin overflow or three feet above the high water level of the basin as determined from an estimate of high water levels using the higher of either the 100-year, 10-day runoff event and back-to-back 100-year, 24-hour rainfalls under full build-out conditions. Aerial photographs, vegetation, soils and topography shall be used to derive a “normal” water elevation for the basin to compute the 100-year elevation.

(ii) In all other cases, the low floor elevation shall be at least 2 feet above the critical event 100-year high water elevation and three feet above the overflow elevation of nearby waterbodies and stormwater basins.

(j) Development that creates impervious surfaces must explicitly address the use of best management practices to limit the loss of pervious area, and infiltrate runoff from impervious areas to the extent feasible considering site-specific conditions.

(i) At a minimum, the following BMPs shall be considered and a narrative description submitted explaining why any cannot be used, are not feasible, or are not applicable:

(aa) Vegetated swales;

(bb) Pond outlets perched above groundwater levels;

(cc) Roof drainage to pervious areas;

(dd) Depressed casual storage areas;

(ee) Minimization of the number and width of parking stalls;

(ff) “Rural section” roads and road width minimization; and

(gg) Mitigation of disrupted soils.

(ii) The goal of these BMPs is to minimize the amount of directly connected impervious surface created by the development, preserve the infiltration capacity of the soil, and incorporate infiltration practices into the design. For impervious surface created by the development on Hydrologic Soil Types A, B, C, and D, one-half inch of runoff must be infiltrated within 72 hours using a combination of the BMPs described in Paragraph 3(j)(i) above or other accepted

BMPs for infiltration, such as infiltration trenches, rainwater gardens, or infiltration basins except as described in Paragraphs 3(j)(iii), 3(j)(iv) and 3(j)(v) below. Infiltration volumes and facility sizes shall be calculated using the appropriate hydrological soil group classification and saturated infiltration rate from the table below. Documented site specific infiltration or hydraulic conductivity measurements completed by a licensed soil scientist or engineer can be used in place of the values in the table.

Hydrologic Soils Type	Infiltration Rate	Soil Texture
A	0.30 inches/hour	Sand, loamy sand, or sand loam
B	0.15 inches/hour	Silt loam or loam
C	0.07 inches/hour	Sandy clay loam
D	0.03 inches/hour	Clay loam, silt clay loam, Silty clay or clay

Source: Urban Hydrology for Small Watersheds (SCS, 1986), as amended, revised or supplemented.

(aa) Infiltration areas will be limited to the horizontal areas subject to prolonged wetting.

(bb) Areas of permanent pools tend to lose infiltration capacity over time and will not be accepted as an infiltration practice.

(cc) Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter the infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging and to protect groundwater quality. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips. To minimize potential groundwater impacts it is desirable to infiltrate the cleanest runoff. To achieve this, a design may propose greater infiltration of runoff from low pollutant sources such as roofs, and less from higher pollution source areas such as parking lots.



(iii) In the case of Type D soils no infiltration is required provided the impervious surfaces created by the development do not increase runoff volumes from existing conditions for the 2-year critical storm event, not including the 10 day snow melt event.

(iv) An alternative infiltration standard can be used with Hydrologic Soil Types C and D, or soils with restrictive horizons having infiltration rates less than 0.10 inches/hour located within 6 inches of the bottom of the infiltration device. This alternative standard allows for the incorporation of underdrains or tile drains into BMP designs; and the infiltration volume is the lessor of the runoff volume increase from existing conditions for the 2-year critical storm event (not including the 10 day snow melt event), or one-half inch of runoff from impervious surfaces created.

(v) Infiltration shall be avoided by using other appropriate areas of project sites, or shall not be provided for:

- (aa) Fueling and vehicle maintenance areas,
- (bb) Areas with less than 3 feet vertical separation from the bottom of the infiltration system to the elevation of seasonal high groundwater or top of bedrock.
- (cc) Areas with runoff from industrial, commercial and institutional parking lots and roads with less than 5 feet separation from the bottom of the infiltration system to the elevation of the seasonal high groundwater.
- (dd) Areas within a wellhead protection zone, within 400 feet of a community water system well or within 100 feet of a private well for runoff infiltrated from commercial, industrial and institutional land uses.

#### 4. WAIVERS.

(a) The managers may waive the on-site runoff rate and water quality control design criteria in Paragraphs 3(a), 3(b), 3(c), 3(d), 3(e), 3(g) and 3(h) above, if a municipality has an approved local water management plan which provides for off-site stormwater facilities capable of controlling and treating runoff.

(b) The design criteria in Paragraphs 3(b), 3(c), 3(d), 3(h), and 3(j)) above may be waived for sites with total impervious surface of less than one acre, or for sites

with land disturbing activities less than one acre; if infiltration, runoff rate control, and water quality BMPs have been incorporated to the maximum extent possible.

5. EXHIBITS. The following exhibits shall accompany the permit application (one set full size, and two sets reduced to a maximum size of 11" x 17"):

- (a) Property lines and delineation of lands under ownership of the applicant.
- (b) Delineation of the subwatershed contributing runoff from off-site, proposed and existing subwatersheds on-site, emergency overflows and watercourses.
- (c) Proposed and existing stormwater facilities location, alignment and elevation.
- (d) Delineation of existing on-site wetland, marsh, shoreland and floodplain areas.
- (e) For applications proposing infiltration as a stormwater management practice, identification, description, permeability and approximate delineation of site soils in both existing and proposed as-developed condition.
- (f) Existing and proposed ordinary high and 100-year water elevations on-site.
- (g) Existing and proposed site contour elevations at 2 foot intervals, referenced to NGVD, 1929 datum.
- (h) Construction plans and specifications of all proposed stormwater management facilities, including design details for outlet controls.
- (i) Runoff volume and rate analysis for the 2-year, 10-year and 100-year critical storm events, existing and proposed.
- (j) All hydrologic, water quality and hydraulic computations made in designing the proposed stormwater management facilities.
- (k) Narrative addressing incorporation of infiltration BMPs.
- (l) Delineation of any ponding, flowage or drainage easements, or other property interests, to be dedicated for stormwater management purposes.

6. MAINTENANCE. All stormwater management structures and facilities shall be maintained in perpetuity to assure that the structures and facilities function as

originally designed. The responsibility for maintenance shall be assumed either by the municipality or county with jurisdiction over the structures and facilities, or by the applicant entering into a compliance agreement with the District.

7. EASEMENTS. The applicant shall establish in form acceptable to the District temporary and perpetual easements for ponding, flowage and drainage purposes over hydrologic features such as waterbodies and stormwater basins. The easements shall include the right of reasonable access for inspection, monitoring, maintenance and enforcement purposes.

8. COVENANTS. The District may require that the land be subjected to restrictive covenants or a conservation easement, in form acceptable to the District, to prevent the future expansion of impervious surface and the loss of infiltration capacity.

9. EXCEPTIONS. No permit or stormwater management plan shall be required under this Rule for the following land disturbing activities:

(a) Minor land disturbing activities such as home gardens, repairs and maintenance work.

(b) Construction, installation and maintenance of individual sewage treatment systems.

(c) Construction, installation and maintenance of public utility lines or individual service connections unless the activity disturbs more than one acre, in which event Paragraph 9(e) below shall apply.

(d) Construction of any structure on an individual parcel in a subdivision with a stormwater management plan approved by the District, so long as any land disturbing activity complies with the approved plan.

(e) Development or redevelopment of, or construction of a structure on, an individual parcel with a land disturbing activity that does not cause off-site erosion, sedimentation, flooding or other damage, and disturbs:

(i) In the shoreland protection zone, an area less than 10,000 square feet; provided that, if a municipality or county with jurisdiction has adopted an ordinance requiring stormwater management consistent with this Rule D that also regulates the activity, such ordinance shall govern the activity, and the exempt area shall increase from 10,000 square feet to one acre (at which point this Rule shall apply in addition to the municipal or county regulation); or

(ii) Outside of the shoreland protection zone, an area of less than one acre.

(f) Installation of any fence, sign, telephone or electric poles, or other kinds of posts or poles.

(g) Emergency activity necessary to protect life or prevent substantial harm to persons or property.

(h) All land disturbing activities not required by this Rule to obtain a permit or have an approved stormwater management plan shall nevertheless be conducted in full compliance with Rule C.

## **RULE E - EROSION AND SEDIMENT CONTROL**

1. **POLICY.** It is the policy of the managers to require the preparation and implementation of erosion and sediment control plans to control runoff and erosion and to retain or control sediment on land during land disturbing activities.

2. **REGULATION.** No person or political subdivision shall commence a land disturbing activity or the development or redevelopment of land, unless specifically exempted by Paragraph 7 below, without first obtaining a permit from the District that incorporates and approves an erosion and sediment control plan for the activity, development or redevelopment.

3. **CRITERIA.** Erosion and sediment control plans shall comply with the following criteria:

(a) Natural site topography and soil conditions shall be used to control runoff and reduce erosion and sedimentation during construction and after completion of the land disturbing activity.

(b) Erosion and sediment control measures shall be consistent with best management practices, and shall be sufficient to retain sediment on-site.

(c) All erosion and sediment controls shall be installed before commencing the land disturbing activity, and shall not be removed without District approval or until the District has issued a certificate of completion pursuant to Paragraph 14 of Rule B.

(d) The activity shall be phased when possible to minimize disturbed areas subject to erosion at any one time.

## **RULE P – Illicit Discharge**

1. **POLICY.** It is the policy of the managers to prohibit illicit discharges to the Prior Lake Outlet Channel.

2. **REGULATION.**

- (a) No person or political subdivision shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the Prior Lake Outlet Channel any pollutants or waters containing any pollutants, other than stormwater, unless specifically exempted by Paragraph 3 below.
- (b) The construction, use, maintenance or continued existence of illicit connections to the Prior Lake Outlet Channel is prohibited.
  - i. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law, rule, or practices applicable or prevailing at the time of connection.
  - ii. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the Prior Lake Outlet Channel, or allows such a connection to continue.
  - iii. Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system.
  - iv. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the District requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the District.

Secretary Signature: \_\_\_\_\_

Date: \_\_\_\_\_

November 25, 2013

3. EXCEPTIONS. The following materials may be discharged to the Prior Lake Outlet Channel operated by the District:

- (a) Stormwater from a Municipal Separate Storm Sewer System connected to the Prior Lake Outlet Channel operated by the District, as specified in the Joint Powers Agreement / Memorandum of Agreement that governs the operation of the Prior Lake Outlet Channel.
- (b) Discharges from public waters, including Prior, Pike, and Dean lakes.
- (c) The following minor discharges:
  - i. Water line flushing
  - ii. Landscape irrigation
  - iii. Diverted stream flows
  - iv. Rising ground waters
  - v. Uncontaminated ground water infiltration
  - vi. Uncontaminated pumped ground water
  - vii. Discharges from potable water sources
  - viii. Foundation drains
  - ix. Air conditioning condensation
  - x. Irrigation water
  - xi. Springs
  - xii. Water from crawl space pumps
  - xiii. Footing drains
  - xiv. Lawn watering
  - xv. Individual residential car washing
  - xvi. Flows from riparian habitats and wetlands
  - xvii. Dechlorinated swimming pool discharges
  - xviii. Street wash water
- (d) Discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA), 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 a permit has been received from the District under all applicable rules.
- (e) Discharges or flow from firefighting, and other discharges specified in writing by the Prior Lake Watershed District as being necessary to protect public health and safety.

Secretary Signature: \_\_\_\_\_

Date: \_\_\_\_\_

November 25, 2013





# COMPREHENSIVE WETLAND PLAN

Prior Lake-Spring Lake Watershed District | April 2012



Prepared by  
Emmons & Olivier Resources, Inc.  
for the Prior Lake-Spring Lake Watershed District

#### **Document Component Specs**

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**Comprehensive Wetland Plan**  
**for the**  
**Prior Lake-Spring Lake Watershed District**

**Adopted**  
**April 10, 2012**

**Board of Managers**

Craig Gontarek, President  
William Kallberg, Vice President  
William Schmokel, Secretary  
Greg Aamodt, Treasurer  
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## ACRONYMS

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BMP – Best Management Practices  
BWSR – Board of Water and Soil Resources  
CAC – PLSLWD Citizens Advisory Committee  
CWF – Clean Water Fund (BWSR Program)  
CWP – Comprehensive Wetland Plan (Local Process)  
CWMP – Comprehensive Wetland Protection and Management Plan (BWSR Process)  
DAP – Detailed Area Plan prepared by Scott County  
DNR – Minnesota Department of Natural Resources  
EOR – Emmons & Olivier Resources, Inc  
GIS – Geographic Information System  
IRM – Integrated Resource Management  
LGU – Local Government Unit  
LSWMP – Local Surface Water Management Plan  
MUSA – Metropolitan Urban Service Areas  
MnDOT – Minnesota Department of Transportation  
MnRAM – Minnesota Routine Assessment Method  
NWI – National Wetland Inventory  
PLSLWD – Prior Lake-Spring Lake Watershed District  
QA/QC – Quality Assurance/Quality Control  
SWAG – Storm Water Advisory Group  
SWCD – Scott Soil and Water Conservation District  
TEP – Technical Evaluation Panel  
TMDL – Total Maximum Daily Load  
USACE – United States Army Corps of Engineers  
US FWS – United States Fish and Wildlife Service  
WCA – Wetland Conservation Act  
WLA – Waste Load Allocation  
WMO – Scott County Watershed Management Organization  
WREP – Wetland Reserve Enhancement Program  
WRMP – PLSLWD Water Resources Management Plan (2010-2019)

## 1. EXECUTIVE SUMMARY

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Prior Lake-Spring Lake Watershed District (PLSLWD) prepared this Comprehensive Wetland Plan (CWP) to accomplish goals and meet policies set forth in the Water Resources Management Plan (WRMP) adopted July 2010. This CWP was modeled after the Comprehensive Wetland Protection and Management Plan (CWMP) process developed under Rule 8420.0830 for the Minnesota Wetland Conservation Act (WCA). The WCA Technical Evaluation Panel (TEP) served in an advisory capacity throughout the development of this CWP, and input was also received from a broad government stakeholders group, the PLSLWD Citizen Advisory Committee and a local public values survey of residents in the plan area. The TEP included representatives from the five WCA Local Government Units (LGUs) in the plan area; City of Prior Lake, City of Shakopee, Spring Lake Township, City of Savage, and Scott County Soil and Water Conservation District.

A thorough review of existing wetland data from the LGUs was used to ensure that this CWP complements and does not duplicate previous wetland inventory and planning efforts. The updated data collected as part of this project was used to develop wetland management standards, and will be used to support other important water resource management activities in the Watershed District.

A public meeting and public values survey was conducted early in the process to identify which wetland functions were valued by residents in the plan area. From 55 respondents, groundwater, surface water quality, and wildlife habitat were wetland functions identified as having the highest value. These findings informed the establishment of the Functions Based Wetland Management Classes including: Hydrology Management, Natural Areas Management, and Restoration/Enhancement. All other wetlands not identified by the Functions Based Wetland Management Class protocol described in this CWP shall follow the Basic Protection Standards as defined by Board of Water and Soil Resources' Minnesota Routine Assessment Method (MnRAM) for determining wetland functions.

The management classes prescribed in this CWP define wetland buffer and hydrologic bounce standards for each of the Functions Based Wetland Classes. The buffer standard allows "averaging" by specifying an allowable minimum less than the standard width. Replacement for impacted wetlands is preferred within the immediate vicinity. In cases where on-site replacement for impacts is not provided, replacement of lost functions must be provided by other appropriate Best Management Practices (BMPs) and habitat/ecosystem restoration activities.

This Wetland Plan is not intended to follow the Board of Water and Soil Resources' approval process for CWMPs. The PLSLWD is not a WCA LGU, nor does this CWP propose to vary wetland mitigation requirements currently found in the WCA.

This Wetland Plan will be adopted by the Prior Lake-Spring Lake Watershed District as a local Resource Management Plan and recommendations herein will be used in the District's Rule making process being undertaking in 2012. Governing bodies overlapping the geographic boundaries of the District will be invited to participate in the Rule making process.

## 2. PROJECT BACKGROUND

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### 2.1. Purpose & Need

The Water Resources Management Plan (WRMP) for PLSLWD was adopted on July 13, 2010. The WRMP identified wetlands as one of the resources to be managed. Goal #12 of the WRMP states, *“To restore, enhance and/or preserve wetlands or partially drained wetlands which provide natural attenuation of runoff volumes, improve water quality and provide fish and wildlife habitat. Perform wetland restoration projects in the District.”* Goal #11 of the WRMP states, *“To fully understand the character and condition of all wetlands in the watershed for the purpose of resources planning, restoration and permitting. Build on previous efforts to complete an inventory and function and values assessment of all wetlands in the watershed. The functional assessment shall inform District efforts to restore and/or enhance wetlands and the values assessment shall be informed by local government values. Participate where possible in the sequencing review process.”*

Eight policies were set forth in the WRMP for wetlands:

1. The District does not serve as the LGU for any of its member communities in regard to wetlands.
2. The District will actively cooperate with local governments to be well informed and involved in the review of potential wetland impacts and mitigation.
3. The District will promote regulatory programs conducted at the federal, state and local levels.
4. The District will seek all opportunities to avoid wetland impacts before pursuing minimization and mitigation discussions.
5. The District requires notice of all pending applications, hearings, and technical evaluation panels and will provide review and comment on pending Wetland Conservation Act applications.
6. The District discourages the use of wetlands for the placement of roads, highways and utilities.
7. The District will initiate collaborative projects with local governments that identify wetlands with high functions and values and encourage the development of wetland management plans to preserve those functions and values, and to identify wetland enhancement opportunities.
8. The District will maintain open communication with local governments and other organizations to initiate and partner on potential wetland restoration projects.

The process utilized during the initiation and development of this local Comprehensive Wetland Plan (CWP) followed that of a Comprehensive Wetland Protection and Management Plan (CWPMP) specified in the Minnesota Wetland Conservation Act (WCA). Although the PLSLWD does not intend to finalize approval from BWSR as a CWPMP at this time, the process was followed to ensure compatibility with WCA Rules. WCA Rule 8420.0830 Subpart 1 provides the purpose and eligibility to prepare CWPMPs as follows:

- A. As an alternative to the rules adopted under Minnesota Statutes, section 103G.2242, subdivision 1, and the public value criteria established or approved under Minnesota Statutes, section 103B.3355, a comprehensive wetland protection and management plan may be developed by a local government unit, or one or more

local government units operating under a joint powers agreement, provided that the requirements of this part are met. This part provides minimum standards. Local government units may require equivalent or more stringent standards and procedures for wetland conservation, but not less stringent standards and procedures.

B. The ultimate goal of a comprehensive wetland protection and management plan is to maintain and improve the quality, quantity, and biological diversity of wetland resources within watersheds through the prioritization of existing wetlands and the strategic selection of replacement sites. The purpose of developing a plan is to provide a watershed and ecosystem-based framework to make wetland impact and replacement decisions that meet state standards and locally identified goals and support the sustainability or improvement of wetland resources in watersheds while providing local flexibility as allowed under subpart 4.

C. Any local government unit opting to pursue development of a plan and incorporating this chapter into local ordinance must provide documentation to the board demonstrating local capacity to implement the plan.

## 2.2. Issues Identification

PLSLWD set out to complete a CWP to serve in practice like a CWPMP and prudently utilize financial resources in protection planning rather than costly future remedial projects.

PLSLWD provided a notice of intent August 4, 2010 in accordance with WCA Rule 8420.0830 Subp. 6. A for inviting participation in plan preparation (see Section 5.2 and 5.3 for list of organizations).

Identification of issues was initiated by the WCA Technical Evaluation Panel (TEP) established for intergovernmental oversight and guidance of plan preparation (see Section 5.2 for TEP members). The kickoff meeting on August 10, 2010 began the discussion of issues identification. Through the course of the project and input received through the process, four key issues were identified. Following is a discussion of each.

**Issue 1.** This Plan focuses on the gaps in inventory and management that are not covered by existing data and plans identified in Chart 2.2-1. Existing data gaps are identified as 'NA'.

**Chart 2.2-1. Existing Wetland Data and Plans in the PLSLWD.**

WCA Local Government Unit	Wetland Data	Wetland Plan	Contact Person
City of Prior Lake	Complete from 2005	Complete from LSWMP Feb 2005	Ross T. Bintner
Spring Lake Township	NA	NA	Kathy Nielson or Ben Meyer
City of Savage	Complete from 2001	Complete from 2000 CWPMP and 2012 Wetland Ordinance update	Jon Allen
City of Shakopee	NA	NA	Joel Rutherford
Scott County (SWCD) (for regions not listed above)	2003 drained and altered wetland inventory	Scott County Local Water Plan	Troy Kuphal or Paul Nelson

**Issue 2.** Continuity in management standards across the watershed, inclusive of existing city and township standards, should be evaluated and inconsistencies identified.

### **City of Savage**

The City of Savage has wetland management classes and programmatic information as summarized below.

From Chapter 4 of the Savage 2030 Comprehensive Plan: designates regional wetland mitigation sites, potential regional stormwater pond sites, and wetland management classes. About 300 wetlands were identified and functions and values<sup>1</sup> evaluated.

The City of Savage 2000 CWPMP has wetland management classes, and these were updated in 2012 as follows:

**Preserve:** Maintain wetland and existing functions, values and wildlife habitat. Possible need for active management of wetland to protect unique features. Apply strict avoidance standards. May be appropriate to develop a conservation easement. A 50 feet average buffer is proposed.

**Manage 1:** Maintain wetland without degrading existing functions, values and wildlife habitat. Apply WCA sequencing process. A 40 feet average buffer is proposed.

**Manage 2:** Maintain wetland footprint. Improve wetland biological and plant community diversity/integrity or enhance other functions if possible. Apply WCA sequencing process. Consider for restoration. A 30 feet average buffer is proposed.

**Manage 3:** Allow for relaxed sequencing and replacement plan flexibility. Consider for restoration/enhancement. A 16.5 feet buffer is proposed.

Stormwater ponds were not evaluated in the Savage CWPMP, however the 2011 zoning code updates for stormwater management require pretreatment prior to discharge to wetlands. Runoff shall not be discharged directly into wetlands and must be treated according to the standards set forth in subchapter 152.407, Wetlands Overlay District Standards.

Savage additionally has a Natural Resources Inventory published in 2001 for areas considered to be least disturbed by human activity, based on Minnesota County Biological Survey criteria. General natural resource management recommendations are provided in the project report.

### **City of Prior Lake**

Chapter 4 of the City of Prior Lake's 2005 local surface water management plan (LSWMP) serves as their Wetland Management Plan. This plan utilizes a wetland ranking method, based on functions and in comparison to the wetlands in the study area. Habitat protection/ranking categorizes wetlands as unique, high, moderate, or low, and is based on floral diversity/integrity plus wildlife habitat functions assessed using MnRAM. Stormwater protection/ranking as highly, moderately, or slightly/least susceptible to stormwater inputs is based on the criteria in *Guidance for Evaluating Urban Storm Water and Snowmelt Runoff Impacts to Wetlands* after scoring floral diversity using MnRAM. As stated in the plan, "Wetlands that do not fall under the high, moderate, or least susceptible categories are considered slightly susceptible. (Note: This category also includes wetlands or wetland complexes that contain 40 percent floodplain forest, which is a slightly susceptible wetland community, with medium to exceptional floral diversity.)".

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<sup>1</sup> Minnesota Routine Assessment Method (MnRAM), version 2.0.



Management Category	Stormwater Phosphorus Pretreatment Recommendations
Highly Susceptible <sup>1</sup>	150 ppb <sup>2</sup>
Moderately Susceptible	200 ppb
Slightly Susceptible	200 ppb
Least Susceptible	250 ppb

1) Includes lakes, creeks, streams, and rivers (as defined by the USGS).

2) A multi-cell configuration with lower cell being a constructed wetland or infiltration basin is recommended to achieve these levels of removal.

In addition to the pretreatment standards shown above, the stormwater ranking class also sets hydrologic regime standards, buffer strip average/minimum widths and vegetation requirements, and structural setbacks. All of these standards are recommended strategies to protect wetland functions.

### **Scott County**

In addition to these two municipal sources of wetlands data, Scott County also has several documents to be consulted for wetland planning. They are the 2006 Scott County Water Resources Plan (with wetland inventory), the 2009 Scott Watershed Management Organization (WMO) Comprehensive Water Resource Plan 2009-2018, and the natural resource inventory that is presented as natural area corridors in the county 2030 Comprehensive Plan Update. Corridors throughout the county are considered priority natural resources. Areas that include wetlands can be considered priorities for preservation.

The 2006 Scott County Water Resources Plan identifies Goals, Policies and Objectives that support this CWP. Section 4, “Goals and Policies” of that plan identifies the following goal:

*“To protect and enhance wetland ecosystems by managing contributing watersheds, and to ensure/encourage a measurable net gain of wetland functions and acreage throughout the WMO.”*

Ten policy statements were developed in the Scott County Water Plan. In summary those wetland policy statements pertained to achieving no net loss, encouraging avoidance of impacts, identification of restoration areas, mitigation, stormwater impacts, preservation of high functioning wetlands, buffers and public outreach.

Two specific objectives were identified. The first identifies the need for a Comprehensive Wetland Management Plan that includes a wetland protection program and the second is to establish wetland buffer requirements.

**Issue 3:** Focus on wetland functions and uses to best support TMDL implementation.

The PLSLWD Spring and Upper Prior Lake TMDL Implementation Plan is in draft form (as of January 2012). The wetland functions and uses that might be relevant to that plan would be related to wetland restoration with potential to enhance water quality within the drainage areas of the plan.

**Issue 4.** Focus on wetland functions and uses that best implement WRMP goals.

The WRMP goals were reviewed to identify those that focus on wetland functions. The results are shown below in Chart 2.2-2. Wetland functions are shown as shaded headings listing one or

more functions. The WRMP numbered goals are listed under each heading. Goals can encompass several wetland functions. Some functions are not addressed in WRMP goals. Functions related to hydrology of wetlands taken together address six of twelve watershed goals. The wetland values of Aesthetics/ Recreation/ Education/ Cultural meet four of the twelve watershed goals or another 25% of the watershed goals. Taken together, these two groups, wetland values and hydrologic functions, are important to three quarters of the watershed goals. This outcome is worth noting while reviewing Section 3.1 of this Wetland Plan and the results of the public opinion survey conducted on values of wetlands. The priority wetland functions should be those that most accomplish overall watershed goals.

**Chart 2.2-2. WRMP Goals and Best Fit to Wetland Functions Evaluated for the Wetland Plan.**

<b>Vegetative Diversity/Integrity</b>
No WRMP goals identified
<b>Maintenance of Characteristic Hydrologic Regime; Flood/Stormwater/Attenuation; Downstream Water Quality</b>
<b>1. To minimize new discharge of stormwater from the District.</b> Maintain design discharge capacity of Prior Lake outlet. Manage runoff volume to minimize volume increases.
<b>2. To protect the District's rights and capacity of the Prior Lake Outlet Channel.</b> Continue to exercise rights set forth in the Joint Powers Agreement/Memorandum of Agreement executed in October 2006 and other present and future agreements so executed or amended.
<b>4. To maintain or improve water quality within the District.</b> Achieve and maintain pollutant load levels at or below standards as dictated by Federal and State Impaired Waters threshold levels in the lakes within the District.
<b>5. To obtain quantitative data to better manage water quantity and quality issues.</b> Maintain monitoring stations and parameters on designated water bodies as established in monitoring plans.
<b>7. To minimize erosion and, when it occurs, retain the sediment upland and on-site.</b> Coordinate site inspection with other government entities.
<b>9. To maintain existing conveyance routes.</b> Monitor condition and perform needed maintenance as required to maintain conveyance and discharge capacity. Secure conveyance routes via easements as properties develop.
<b>Maintenance of Wetland Water Quality/Shoreline Protection/Maintenance of Characteristic Wildlife Habitat</b>
<b>11. To fully understand the character and condition of all wetlands in the watershed for the purpose of resources planning, restoration and permitting.</b> Build on previous efforts to complete an inventory and function and values assessment of all wetlands in the watershed. The functional assessment shall inform District efforts to restore and/or enhance wetlands and the values assessment shall be informed by local government values. Participate where possible in the sequencing review process.
<b>12. To restore, enhance and/or preserve wetlands or partially drained wetlands which provide natural attenuation of runoff volumes, improve water quality and provide fish and wildlife habitat.</b> Perform wetland restoration projects in the District.
<b>Maintenance of Characteristic Fish Habitat; Maintenance of Characteristic Amphibian Habitat</b>
No WRMP goals identified
<b>Aesthetics/Recreation/Education/Cultural</b>
<b>3. To plan for future development and redevelopment and optimize the quality of life by minimizing problems with water and land resources.</b> Require and conduct review of local plans, rules, and ordinances which anticipate future water resource needs within two years of plan approval.
<b>6. To reduce, to the greatest extent practical, the public expenditures needed to manage surface water.</b> Revise rules to allow for regulatory coordination, carry out inventory efforts and prioritize District programs to coincide with upcoming governmental projects. Cost and benefits weighed comprehensively prior to pursuing project.
<b>8. To seek opportunities to integrate recreational, wildlife, and open space benefits on projects initiated or partnered on by the District.</b> Continue partnering with local government entities to maximize established land management programs and to acquire easements over priority land areas.
<b>10. To serve as a central resource for local water resource information in the District.</b> Maintain a collection of information, reports and reference material for use by stakeholders. Convene periodic technical and citizen advisory committee meetings to discuss issues.
<b>Commercial Uses</b>
No WRMP goals identified
<b>Groundwater Interaction</b>
<b>13. To cooperate with governmental units and other organizations to promote infiltration and groundwater recharge.</b> Promote and support regional infiltration and groundwater recharge projects in cooperation with local governments.

## Summary of Issues Identification

The overarching theme of issues identification is to develop a plan that examines wetlands in the context of other water and natural resources. In other words this is known as integrated resource management (IRM). Financially and ecologically, IRM ties together wetlands with other aquatic resources and their management, terrestrial resources, and overall community planning intentions. IRM thus eliminates redundancy in government planning and projects and demonstrates multiple outcomes for the same projects developed and dollars spent. IRM addresses the WRMP Goal # 6, *“To reduce, to the greatest extent practical, the public expenditures needed to manage surface water. Revise rules to allow for regulatory coordination, carry out inventory efforts and prioritize District programs to coincide with upcoming governmental projects. Cost and benefits weighed comprehensively prior to pursuing project.”*

## 2.3. Supporting Planning Studies/Documents

In addition to the WRMP, the activities of the PLSLWD are represented by additional studies and plans described below. The CWP and other studies of the District will complement each other and provide supporting data through effective project coordination. In practice, anticipated outcomes of the CWP will be met by coordinated implementation of several plans, not just the CWP.

### Upper Watershed Review and Assessment Technical Memo. 2010.

This technical memo provides useful guidance for estimating stormwater volume reduction resulting from wetland restoration activities. Both drained and undrained basins were evaluated. The following guidance is provided:

- **Drained Wetland Restoration:** For drained wetlands, primarily drain tiled agricultural depressions, the benefit is modeled by changing the land cover from agricultural crops (average of good/poor row crops for all soil groups) to a wetland with less than 1/3 open water.
- **Undrained Wetland Restoration:** For undrained wetlands, vegetative enhancement is estimated to occur at a rate differentiating open water evaporation and evapotranspiration of water in a semiwet wetland. The total benefit for undrained wetland restoration is estimated to be 3.3 inches per year in addition to pan evaporation rates for open water, as determined through extensive literature search.

Upper Watershed Runoff Volume Reduction Study. 2011-12 This project will have the potential to provide more detailed information about the hydrology of wetlands in the study area. Monitoring data collected on implemented projects can be used to validate or update design and modeling assumptions for future stormwater management projects.

Lower Prior Lake Diagnostic Study. This plan, initiated in 2011, will include a watershed assessment and water quality model of the drainage area, and thus provide possible opportunity for more detailed information about the hydrology of wetlands in this drainage area.

### Storage and Infiltration Study. 2004.

In this report, the District inventoried potential regional infiltration opportunities. Infiltration was not identified as very suitable for this drainage area; however, many potential sites were identified for storage. These areas primarily included topographic low points (in some cases wetlands) and were prioritized using established parameters.

### Spring and Upper Prior Lake TMDL. 2011.

In 2002, Spring Lake and Upper Prior Lake were listed on Minnesota's 303(d) List of Impaired Waters for nutrient/eutrophication biological indicators. A combination of individual and categorical Waste Load Allocations (WLA) were set for the regulated sources. The regulated sources include the City of Prior Lake, Spring Lake Township, Scott County, the Minnesota Department of Transportation (MnDOT), and construction and industrial stormwater. A categorical WLA is provided for the City of Prior Lake, Spring Lake Township, Scott County, construction stormwater, and industrial stormwater, and an individual WLA is provided for MnDOT.

Spring and Upper Prior Lake TMDL Implementation Plan, 2012.

The PLSLWD will lead the coordinated effort to improve the water quality in each lake. Multiple partners will provide guidance and implement actions, as appropriate, as outlined in this implementation plan. The PLSLWD will coordinate and lead meetings with implementation partners. The PLSLWD will work closely with a core group of partners on data collection and project implementation.

Scott County Rural Residential Service Area Detailed Area Plan: Assessing the Cumulative Impacts of a Long-term Rural Service Area. December 22, 2009. Scott County Community Development Division. This is commonly known as the DAP Study. From a fiscally prudent perspective the plan examines "urban growth boundaries", clustering development, and creating future patterns that permanently preserve defined Natural Area Corridors and unique environmental features. All of which are concepts associated with Low Impact Development. The DAP covers portions of Spring Lake Township within PLSLWD. For implementing the DAP, the County has developed a wide variety of cluster development zoning standards, and policies for Planned Unit Development (see Scott County Property Zoning Information). Zoning Map:

### 3. INCORPORATION OF PUBLIC VALUES

#### 3.1. PLSLWD Public Values Survey Summary

##### What Are Values Related to Wetlands?

Public value of wetlands is defined by the WCA to mean, “the importance and benefit to the public derived from [the] wetland functions.”

WCA lists the following Functions and Uses of Wetlands:

- A. water quality, including filtering pollutants to surface water and groundwater, using nutrients that would otherwise pollute public waters, trapping sediments, protecting shoreline, and recharging groundwater;
- B. flood water and storm water retention, including the potential for flooding in the watershed, the value of property subject to flooding, and the reduction in potential flooding by the wetland;
- C. public recreation and education, including hunting and fishing areas, wildlife viewing areas, and nature areas;
- D. commercial uses, including wild rice and cranberry growing and harvesting and aquaculture;
- E. fish, wildlife, and native plant habitats;
- F. low-flow augmentation; and
- G. other functions and public uses as identified in wetland evaluation methods demonstrated to reasonably identify appropriate candidates for wetland replacement.

##### Public Values for Wetlands in PLSLWD

During the time period of February 15 - March 24, 2011 the PLSLWD received 55 responses to a wetland public values survey. The survey was posted online and the request to respond to the survey was included in a newspaper article, posted on PLSLWD’s website and verbally communicated at a public meeting. The public values survey questions were designed to inform the CWP on the functions and uses of wetlands most important to the represented public. The results are summarized here, based upon the complete set of questions and responses in Section 7.3 of this Plan.

Responders were asked to rank the eight wetland functions and uses in the survey. The results are shown below in Chart 3.1-1. Groundwater and surface water quality ranks as the two most highly valued functions and uses.

**Chart 3.1-1.** Public Priorities for Wetland Functions and Uses Ranked Highest to Lowest Value.

Wetland Function and Use	Cumulative Value of Rankings
Surface Water Quality	320
Wildlife Habitat	320
Groundwater Quality	312
Flood Prevention	225
Wetland Aesthetics	222
Ecological Diversity	217
Recreation/Education	210
Commercial	148

Responders were also asked their general opinion of wetlands and community planning, with consideration of wetland value/importance/focus in future planning and development. Of the 55 responses, the following outcome clearly indicates that the responders find wetlands valuable and ought to be a major focus in community planning.

**Chart 3.1-2.** Public Priorities for Wetlands as Part of Community Planning.

Extent of Wetlands Focus in Future Development	Public Priority (breakdown of 55 respondents)
Inherent value/major focus, regardless of their utility for humans	21
Valuable due to their beneficial functions/major focus	21
Valuable/not a major focus	10
Some value/low importance/no focus	3

### 3.2. Strategies to Address Input

The results of the public values survey were used to prioritize wetland functions for decisions related to management and permitting and emphasize WRMP goals that affect wetland functions. The more important wetland functions and WRMP goals are identified below.

The public survey finds that wetlands are valuable and should be a major focus of community planning. The public values survey results show that the more important wetland functions are:

- Surface Water Quality
- Wildlife Habitat
- Groundwater Quality

Section 2.2 of this CWP shows the relationship of WRMP goals to all wetland functions. Taking into consideration the priorities of the public, six of thirteen WRMP goals speak to the more important wetland functions. These WRMP goals are listed below, with bold-typed key phrases that are related to wetlands. District wide projects related to these WRMP goals should thus include a priority for the above listed wetland functions.

Six WRMP goals that support the highest valued wetland functions:

4. To **maintain or improve water quality** within the District. Achieve and maintain pollutant load levels at or below standards as dictated by Federal and State Impaired Waters threshold levels in the lakes within the District.
5. To **obtain quantitative data to better manage water quantity and quality** issues. Maintain monitoring stations and parameters on designated waterbodies as established in monitoring plans.
8. To seek opportunities to **integrate recreational, wildlife, and open space** benefits on projects initiated or partnered on by the District. Continue partnering with local government entities to maximize established land management programs and to acquire easements over priority land areas.
11. To fully understand the **character and condition of all wetlands** in the watershed for the purpose of resources planning, restoration and permitting. Build on previous efforts to complete an inventory and function and values assessment of all wetlands in the watershed. The functional assessment shall inform District efforts to restore and/or enhance wetlands and the values assessment shall be informed by local government values. Participate where possible in the sequencing review process.
12. To **restore, enhance and/or preserve wetlands** or partially drained wetlands which provide natural attenuation of runoff volumes, improve water quality and provide fish and wildlife habitat. Perform wetland restoration projects in the District.

13. To cooperate with governmental units and other organizations to promote **infiltration and groundwater recharge**. Promote and support regional infiltration and groundwater recharge projects in cooperation with local governments.

Relationship of Values Survey to WCA Rules and MnRAM Functions and Uses Evaluated for this Plan. The public values survey finds the following functions and uses as defined in the WCA Rules, to be more important:

A. water quality, including filtering pollutants to surface water and groundwater, using nutrients that would otherwise pollute public waters, trapping sediments, protecting shoreline, and recharging groundwater;

E. fish, wildlife, and native plant habitats.

Likewise, the public values survey results were used to prioritize MnRAM functions. All MnRAM functions evaluated for this plan are listed below, but only those found to have high public value are underlined.

1. Maintenance of Characteristic Vegetative Diversity/Integrity

2. Maintenance of Hydrologic Regime

3. Flood/Stormwater Attenuation

4. Downstream Water Quality

5. Maintenance of Wetland Water Quality

6. Shoreline Protection

7. Maintenance of Characteristic Wildlife Habitat Structure

12. Ground Water Interaction

Additional Evaluation Information

1. Restoration Potential

Functions of high importance in the City of Prior Lake's Local Surface Water Management Plan include "Maintenance of Hydrologic Regime" and "Flood/Stormwater Attenuation". Although these two did not score highest on the public values survey, they are also important wetland functions to the PLSLWD and were considered in the development of the wetland management classifications.



#### 4. PRESERVATION/ENHANCEMENT OF WETLAND FUNCTIONS & USES

The TEP considered ways to identify sites for preserving, enhancing, or restoring wetland functions at Meeting #2. The recommendations are listed below.

- ✓ Utilize the results from the citizen surveys to prioritize the functional benefits of the wetlands.
- ✓ The classification categories of the wetlands can be built upon water quality treatment, stormwater storage, the Scott County's corridor study or other factors.
- ✓ Initial prioritization should be based upon providing improved water quality.
- ✓ Prioritizing the plan will provide a good framework for future work.
- ✓ A proactive approach towards restoration may be an easier path than establishing tougher regulations for development. It would be easier to get projects on the ground ahead of development.
- ✓ Detailed Area Planning (DAP) has shown that development is a way to improve water quality.
- ✓ It may be possible to create a system for replacement within the District. Utilize development dollars to augment projects funded by public money.
- ✓ If the District wants to keep mitigation within its boundaries, it may want to create a banking system.
- ✓ The functional priority of the wetlands in the study should be able to be adjusted if there are changes. A wetland might move up or down in the list depending on local changes.

The data for identifying preservation and restoration sites comes from the WRMP goals (Section 2.2), public values survey results (Section 3.2), and local wetland inventory and assessment findings (Section 7.0). Information to identify these sites can also come from examining the WRMP for potential contributors<sup>2</sup> to reduced wetland water quality and hence function.

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<sup>2</sup>From the 2010 WRMP: Currently operating feedlots are subject to field inspections and given surface water pollution potential ratings of high, medium, or low relative to the number of animals present, current condition of the feedlot, land slope, and proximity to surface water bodies. The number of feedlots in the District has decreased from 18 feedlots in 1999 to 11 feedlots in 2008.

A search was conducted via the US EPA Enforcement and Compliance History Online database and 65 sites were identified. This search included auto salvage facilities, hazardous waste sites, medical facilities, and other facilities holding permits to generate, emit, discharge or handle pollutants. Auto salvage yards, machine shops, and medical facilities are the most common and are frequently sources of heavy metals such as lead, zinc, copper, and chromium as well as oil and grease.

A study of HEL soils was conducted by the watershed in cooperation with Scott SWCD in 1993 as part of the Prior Lake-Spring Lake Diagnostic/Feasibility Study. This study found that approximately 3,410 acres of 14,550 acres evaluated were potentially highly erodible. This corresponds to approximately 23 percent of the southern watershed. The allowable soil loss, or T factor, as specified by Scott SWCD is 5 tons/acre/year.

#### 4.1. High Priority Resource Preservation

In accordance with WCA Rules, the CWP may identify local preservation criteria or sites based upon the WRMP goals (Section 2.2 of this Plan) and high public values (Section 3.2 of this Plan). The WCA prioritizes protection of wetlands in minor watersheds that have less than 50 percent of their original wetland acreages and wetlands that are at risk of degradation or loss because their protection is integral to maintaining the ecological health of the watershed. The high priority areas can be for preservation, enhancement, restoration, and establishment.

Wetland functions of high public value (see Section 3.2 and listed below) were sorted according to functionality as high, medium, low. All wetlands scoring high for one of the following functions were given a high priority for wetland resource preservation (see Map 4.1-1).

- Maintenance of Characteristic Vegetative Diversity/Integrity
- Downstream Water Quality
- Maintenance of Wetland Water Quality
- Maintenance of Characteristic Wildlife Habitat Structure

Map 4.1-1 presents the 2011 high priority preservation sites. As new data become available maps would be updated and provided in the annual reporting requirements (see Section 5.4 of this Plan). This map does not include ground water interaction or data on rare species (see Section 6.2 of this Plan) records for the Blanding's turtle and red-shouldered hawk wetland-upland habitat complexes.

#### 4.2. Prioritization of Restoration Sites

The CWP identifies restoration/replacement sites based upon inventories of historic and existing wetland resources, including identification of degraded wetlands, existing high-quality wetlands, and immediate and long-term resource needs; an analysis of the types and locations of replacement projects that will provide the desired wetland functions, benefit the watershed from a landscape perspective. Priority is given to naturally self-sustaining replacement that best achieves watershed goals and improves the ecological condition of the watershed.

Restoration sites were identified using a methodology for prioritizing and ranking wetland restoration sites for the Upper Watershed Volume Reduction Project.

##### **Background**

The PLSLWD was awarded a BWSR Clean Water Fund (CWF) grant for the Upper Watershed Volume Reduction project. The District has also leveraged Wetland Reserve Enhancement Program (WREP) dollars to implement the projects. Each of these programs has specific eligibility requirements. This methodology determined specific site eligibility under the two programs and provided a quantitative approach to ensuring that among the eligible sites, the most cost effective and beneficial projects are implemented. This methodology was also used to inform this Prioritization of Restoration Sites for this CWP.

##### **Methodology Used:**

##### **Step 1. Potential Site Evaluation**

The first step in the process was to utilize documentation and GIS information from previous efforts. Those data sets included:

- April 22, 2010 PLSLWD Upper Watershed Review & Assessment Technical Memo, EOR
- December 2004 PLSLWD Watershed Storage and Infiltration Study, Wenck

- PLSLWD wetland MnRAM Database (which includes previously developed Scott County Wetland Inventory coverages)
- Scott County Soil Survey - Hydric Soils = Base layer of all potential basins

### **Step 2. Restoration Potential Determination**

This step involved determining the “restoration potential” using several data sources. The PLSLWD CWP originally rated the potential for hydrologically restoring inventoried basins based on pre-established BWSR MnRAM protocol. Also, the original Scott County Wetland Inventory database contains notes on some of the drained basins pertaining to the ease of restoration that will be utilized in this step. An additional GIS exercise was performed to determine the number of restorable acres per landowner for the entire basin. This numeric value guided the outreach prioritization process detailed in Step 4.

### **Step 3. Relative Benefit Determination**

This step involved determining the relative benefit of each site. This was accomplished by an evaluation that included area of the site (which served as a surrogate for volume retention and P removal), MnRAM scores for water quality, and field notes on infiltration potential.

### **Step 4. Outreach Prioritization**

To guide initial landowner outreach, all potential basins were scored consistent with BWSR CWF Runoff Reduction Grant goals (i.e. basins were prioritized based on potential to reduce stormwater runoff and retain water on the land to reduce the movement of sediment, nutrients and pollutants). Practices should accomplish restoration, protection or enhancement of water quality in lakes, rivers and streams and/or protect groundwater and drinking water. This step involved attributing the GIS database with unique metrics for all potential basins and scoring for each of the parameters. The following metrics were utilized for outreach prioritization:

1. **Volume Reduction Benefit.** Basin identified in “December 2004 PLSLWD Watershed Storage and Infiltration Study” (Basins in Priority Infiltration Sites = 2, Basins in Potential Infiltration Sites = 1, Other = 0) [WENCKINF]
2. **Volume Reduction Benefit.** Basin identified as a “Drained” basin in the PLSLWD MnRAM Database (YES = 2, NO = 0) [DRAINED]
3. **Restoration Potential.** Basin was identified in the PLSLWD MnRAM Database as having a “HIGH” rank for Restoration Potential (High = 2, Medium = 1, Low = 0) [RESTOHIGH]
4. **Restoration Potential.** Basin identified in the Scott County Soil Survey as containing historically Hydric Soils (YES = 1, NO = 0) [HYDRIC1]
5. **Stacked Goals.** Basin is contained within a Scott County Natural Areas Corridor (YES = 2, NO = 0) [CORRIDOR]
6. **Landowner Involvedness.** Restorable acres per landowner score (>5ac per landowner = 2, <5ac per landowner = 0) [LANDOWNER]
7. **Single-Landowner Bonus.** Basin is owned by a single landowner (YES = 2, NO = 0) [ONEOWNER]

The results of this 2011 restoration priorities analysis are displayed on Map 4.2-1. As new data become available, the mapping database will be updated.

## **4.3. Sequencing Standards**

This CWP does not vary the WCA sequencing standards. After discussions with and input from TEP members and stakeholders, it was concluded that current Federal and State sequencing requirements adequately achieved desired outcomes for this CWP. Therefore, no modification to sequencing standards is proposed.

#### 4.4. Replacement Locations and Standards

This CWP will match current Federal and State required sequencing, and follow a minimum acreage requirement of two acres<sup>3</sup> of replaced wetland for each acre of impacted wetland requiring replacement.

The TEP will review proposed replacement plans for no net loss of public value within the area subject to the plan. The first priority is for onsite functional replacement, and the second priority is for replacement within the Watershed District. If on-site replacement is deemed non-feasible, wetland replacements and mitigation can be sought using the WCA sequencing and wetland banking, however wetland functions impacted must be replaced onsite by utilizing appropriate stormwater management BMPs and ecological restoration practices.

Priority is given for wetland replacement activities that restore and enhance existing degraded wetlands, and reestablishment of wetland in former wetland basins not currently meeting jurisdictional status. Creation of wetland in upland areas is given lowest priority.

#### 4.5. Proposed Functions Based Wetland Management Classes

Establishing wetland management classes as part of a wetland planning process is an important component to meeting local resource management objectives. Work completed to date on the PLSLWD CWP includes an inventory of wetlands, functional assessment, identification of high priority wetlands for restoration potential and preservation, and public survey on importance or value of wetlands functions and uses. Local planning efforts have identified the key function wetlands have in flood protection. Taken together, all of this information provides the basis for establishing management classes for wetlands in the PLSLWD.

Management class standards shall serve as guidance for decisions on all land use activities throughout the watershed that may affect wetland functions. This includes decisions related to the following actions:

- Wetland permitting - Setting conditions for permits.
- Stormwater Management. – Development of local plan goals and policies, reviewing capital implementation projects, and proposed developments.
- Flood Prevention and Water Quality Projects – Development of capital implementation projects.
- Parks and trails planning – Coordination of public open space with wetland protection.
- Transportation planning – Providing suitable replacement for unavoidable impacts.

Of high value to the public in the plan area are the service wetlands provide related to groundwater recharge, surface water protection and wildlife habitat. In addition, habitat quality based on vegetative quality is also an important function of wetlands. An additional component of PLSLWD's wetland inventory and analysis are priority areas for restoration and/or enhancement. These highly valued services provide the basis for describing the three management classes below.

Wetlands shall be assigned to one of these management classes (presented in no particular order). If a wetland meets classification standards for more than one management class, the most restrictive standards shall apply. Standards proposed are based on recommendations derived from MnRAM and the Storm Water Advisory Group's (SWAG) bounce and inundation recommendations for wetlands.

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<sup>3</sup> The minimum for counties within the less than 50 percent area of presettlement wetlands remaining.

### **1. Hydrology Management Class**

The plan addressed Hydrology Management through assessment of the following wetland functions:

- Downstream Water Quality
- Groundwater Interaction

These are also the wetland functions of highest priority according to the public values survey. Data analysis provided a score of high, medium, or low for each function assessed. For any wetlands scoring “High” or “Exceptional” for either of these functions, they would be assigned a “Hydrology” Management Class. Appendix A shows Map 4.5-1: Wetlands with Hydrology Management Class.

### **2. Natural Areas Management Class**

The plan addressed Natural Areas value through assessment of the following wetland functions:

- Maintenance of Characteristic Vegetative Structure/Integrity
- Maintenance of Characteristic Wildlife Habitat Structure

Data analysis provided a score of high, medium, or low for each function assessed. For any wetlands scoring “High” or “Exceptional” for these functions, they would be assigned a “Natural Areas” Management Class. These scores were evaluated in conjunction with the Scott County natural areas corridor locations as well, because an important component of habitat function is the connectivity between wetland habitats and wetland and upland habitats. Appendix A shows Map 4.5-2 Wetlands with Natural Areas Management Class.

### **3. Restoration/Enhancement Management Class**

These scores were evaluated in conjunction with wetland assessment data on restoration potential and PLSLWD assessment of the upper watershed for retention, storage, and infiltration of precipitation. Some sites of wetland restoration potential are lands that currently lack wetland hydrology as a result of prior alteration and drainage. Any wetlands/basins that were ranked for high priority for restoration would be assigned a “Restoration/Enhancement” Management Class. Appendix A shows Map 4.5-3: Basins with Restoration/Enhancement Management Class.

## **4.6. Proposed BWSR MnRAM Basic Protection Classes**

For all wetlands not assigned to the “Functions Based Wetland Management Classes” BWSR’s Basic Protection standards apply. BWSR’s MnRAM protocol has a “Recommended Wetland Management Classification System” which takes wetland functional rankings and creates a single Management Classification system (“Preserve,” “Manage 1,” “Manage 2,” and “Manage 3”). Recommended standards for all wetlands in the Basic Management class most closely match the BWSR MnRAM-identified “Manage 2”. These standards along with SWAG’s were used to define recommended standards.

## **4.7. Cumulative Buffer Averaging**

In addition to management class standards, cumulative buffer averaging shall be applied to development site plan review to maximize the area of connected wetland and buffer on a cumulative basis for the whole site, including connections to offsite natural areas and wetlands.

The cumulative buffer area for the development shall be calculated using the minimum or mid-range width for the management class of each wetland (assigned according to the site-specific MnRAM results). The dimensions of the buffer may be adjusted by the LGU during application review based upon the quality of the wetland and public waters, local topographic conditions and the type and design of development being proposed.

**Chart 4.4-1.** Recommended Wetland Management Standards, PLSLWD Wetland Plan

Management Class	Wetlands		MnRAM Functions of Value (High/Exc)	Management Strategy	Mitigation Standard Recommendations	Buffer Recommendations (monuments required)	Hydrologic Guideline Recommendations
	Number	Acres					
Hydrology Management	89	248	Downstream Water Quality  Groundwater Interaction	Maintain existing hydrologic functions or increase in accordance with upper watershed priorities.	WCA minimum or greater replacement ratio with documented replacement of functions/values. Replacement of functions and values on site or in location specified in plan for restoration.	Use 35-50 feet average with vegetation consisting of unmowed grassland species optimal for maximizing roughness. Pervious trails and stormwater features incorporated into buffer are counted in average area.	<u>Bounce:</u> Existing + 0.5 feet <u>Inundation:</u> (2 yr): Existing + 1 day (10 yr): Existing + 7 days <u>Runout Control:</u> Moderate adjustments to enhance hydrologic function.
Natural Areas Management	23	506	Vegetative Structure/ Integrity  Wildlife Habitat Structure	Maintain existing wetland classification type. Maintain or enhance ecological functions of wetland.	WCA minimum or greater replacement ratio with documented replacement of functions/values.	Use 50-100 feet variable width consisting of unmowed naturalized vegetation. Pervious trails incorporated into buffer are counted in average area.	<u>Bounce:</u> Existing <u>Inundation:</u> (2 yr): Existing (10 yr): Existing <u>Runout Control:</u> Maintain existing hydrology.
Restoration/ Enhancement	124	482	Restoration Potential	Restore or enhance existing wetland functions and/or creation of projects with potential to provide wetland functions.	WCA allows mitigation flexibility with minimum standards required in the plan area, see M.R. 8420.0650.	Establish a 25-35 feet average buffer consisting of unmowed grassland species optimal for maximizing roughness. Pervious trails and stormwater features incorporated into buffer are counted in average area.	<u>Bounce:</u> No Limit <u>Inundation:</u> (2 yr): Existing+7 days (10 yr): Existing+21 days <u>Runout Control:</u> 0 to 4.0 ft above existing runout elevation.
Basic Management Class	479	2,270	None Specified	Maintain wetland function	WCA allows mitigation flexibility with minimum standards required in the plan area, see M.R. 8420.0650	A buffer shall be provided for all affected wetlands with a minimum width of 16.5 feet and an average width of 25 feet. Stormwater features adjacent to wetlands may be included in the buffer width calculations..	<u>Bounce:</u> Existing + 1.0 feet <u>Inundation:</u> (2 yr): Existing + 2 days (10 yr): Existing + 14 days <u>Runout Control:</u> Enhance hydrologic function



## 5. COMPREHENSIVE WETLAND PLAN IMPLEMENTATION PROCESS

### 5.1. PLSLWD Administrative Process

The PLSLWD has committed resources to preparation and implementation of the CWP in accordance with its WRMP. The WRMP identified the need for a CWPMP and this project was initiated as such. The PLSLWD assembled a TEP that provided input throughout the process and influenced the decision to pursue a CWP through the local planning process rather than a CWPMP through the BWSR approval process. The TEP will be consulted in future implementation phases of the CWP. The PLSLWD Board of Managers will adopt the CWP as a resource management plan of the PLSLWD. The priorities for preservation and restoration will be used by PLSLWD in coordination with other studies and plans to implement projects that can meet multiple WRMP goals. The recommended standards found in this CWP will provide basis for future PLSLWD Rule development. The wetland data generated for this plan will be a useful tool for Scott County WCA LGUs for WCA permitting decisions and other local wetland initiatives.

### 5.2. LGU & TEP Administrative Process

For administration of wetland rules, this plan shall provide tools listed below for decision-making by the WCA Local Government Unit (LGU) and Technical Evaluation Panel (TEP).

**Chart 5.2-1.** PLSLWD Wetland Plan Watershed-wide Tools for WCA TEP and LGU Use.

- Inventory of wetland locations and updated mapping
- Assessment of functions and uses and database
- Restoration priorities assigned to management class standards
- Preservation priorities assigned to management class standards

PLSLWD will identify potential implementation projects (such as in Section 2.4) and request TEP advisory meetings for recommendations.

The WCA TEP and LGU were involved in preparation of this plan and are listed below. The TEP is advisory to all LGUs in Scott County.

**Chart 5.2-2.** WCA TEP and LGU Members in the PLSLWD.

Entity	Contact Person	Group
- City of Prior Lake	Ross Bintner	LGU and TEP
- City of Savage	Jon Allen	LGU
- City of Shakopee	Joel Rutherford	LGU
- Spring Lake Township	Kathy Nielson or Ben Meyer	LGU
- Sand Creek Township	Paul Nelson	LGU
- Scott County	Troy Kuphal	LGU and TEP
- MN BWSR	Ken Powell	TEP
- MN DNR	Jeff Berg	TEP
- USACE	Michael Setering	TEP

### 5.3. Other Stakeholder Roles

In accordance with WCA Rule 8420.0830 Subp. 6. A, the WRMP stakeholders consist of those invited to meetings during the development of the plan and Draft Wetland Plan review. The

stakeholder organizations listed below were invited to participate and are in addition to the WCA LGU stakeholders listed in Section 5.2.

**Chart 5.3-1. WCA Stakeholders Invited to Participate in the Wetland Plan.**

- Sand Creek Township	- MN Dept. of Agriculture
- Shakopee Mdewakanton Sioux Community	- MN Dept. of Health
- Lower Minnesota River WD	- MN Dept. of Transportation
- Metropolitan Council	- MN Pollution Control Agency

These entities can best support the CWP by identifying inconsistencies between WRMP and CWP activities, potential overlap with their programs and projects, and opportunities for collaboration in project development and funding.

#### 5.4. Annual Evaluation of CWP

WRMP activities, which may have various degrees of overlap with the CWP, are listed below.

- ✓ Identify regulated areas and potential easements or land acquisition areas;
- ✓ Outline procedure for submitting annual reports to agencies which document Wetland Conservation Act and monitoring program data consistent with state compatibility Guidelines;
- ✓ Set forth an implementation program, including a description of official controls, inspection and program maintenance, and a capital improvement plan;
- ✓ Describe official controls and the responsible unit of government in the following areas: wetlands, erosion control, shoreland, floodplain, grading, and drainage;
- ✓ The Local Plan must identify potential capital projects for which District cost-share will be sought, and projects the LGU may petition the District to complete;
- ✓ The Local Plan must recognize and incorporate District wetland priority areas identified via completion of functions and values assessments and the District's planned Wetland Plan.

The CWP annual evaluation will include the items listed above from the WRMP activities, along with these additional items categorized by LGU.

- ✓ Gains or losses in wetland acreages by impacts, replacement plans, and mitigation banks;
- ✓ Actions that required wetland permit application forms;
- ✓ Actions that required exemption and no loss reporting;
- ✓ Wetland monitoring activities.

Additionally, the annual evaluation will describe actions taken to implement priorities for wetland preservation and enhancement.

#### 5.5. Implementation of CWP Recommended Standards

The standards developed as part of this CWP will be implemented through Watershed District Rule G. For activities that impact wetlands, a permit from the District will be required. The District encourages entities considering projects that impact wetlands to contact District staff early in the planning process. The District can provide assistance throughout the process to ensure the permitting delays are avoided to the greatest extent possible.

The permitting process will be most efficient if the applicant contacts PLSLWD to determine if the proposed project requires a permit. In such case a permit is required, the applicant will be advised to follow this stepwise process:



1. Delineate and conduct MnRAM on existing wetlands.
2. Review and concurrence from PLSLWD is advised before proceeding to next step.
3. Use updated MnRAM or existing CWP data to determine appropriate classification for each wetland basin on site.
4. Applicant considers buffer and hydrologic standards proposed for each wetland.
5. Address sequencing requirements for any impacts proposed.
6. Calculate required buffer area and utilize allowable buffer averaging standards to enhance wetland function and provide some flexibility in site design
7. Design site with appropriate standards in place and conduct a MnRAM on proposed site conditions.
8. Review and concurrence from PLSLWD is advised before proceeding to next step
9. Demonstrate project proposal meets wetland mitigation requirements and preservation of wetland function. This step should include the preparation of the final application and with some assurance that PLSLWD staff will be recommending approval that wetland and buffer standards will be met.
10. Implement project activities and establish required buffers according to standards proposed in Chart 4.4-1 and protected by a conservation easement or outlot.
11. Monitor mitigation areas per WCA and perform necessary maintenance on mitigation activities as applicable.

## 6. PROJECT AREA DESCRIPTION

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Section 6.0 summarizes and is consistent with the characterization of the PLSLWD area that is provided in the WRMP.

### 6.1. Land Use

The PLSLWD includes approximately 42 square miles of area located entirely within Scott County, Minnesota. The City of Prior Lake and Spring Lake Township comprise most of the District's area, while Sand Creek Township and the cities of Shakopee and Savage have relatively little land area within the District. The PLSLWD is bordered by the Lower Minnesota River Watershed on the north, and the Scott County Water Management Organization (WMO) on all other sides.

Population estimates for Scott County by the Metropolitan Council and State Demography Unit estimate the 2007 population as 123,735 people. From the Scott County Census 2010 results, the population increased to 129,928 people. Utilizing the same census results, the estimated population within the PLSLWD in 2010 was 27,432 people.

Urban developments are primarily residential units located adjacent to the lakes with some commercial and industrial development primarily occurring along Highway 13 through the City of Prior Lake. The predominant residential land use is single family residential units with portions of the area zoned as permanent rural residential. Commercial and industrial land use in the watershed is comprised of warehousing, residential services, and office space. Rural land use is primarily comprised of small to medium sized farms with the average farm size being about 150 acres. The major farming activities include row crop production of corn and soybeans along with a few cattle grazing in pastures. The agricultural areas of the District are primarily located in the southern part of the District away from Prior and Spring Lakes and outside the Metropolitan Urban Service Area (MUSA).

### 6.2. Ecology

The PLSLWD lies within the North Central Hardwood Forest Ecoregion, and more specifically, the Big Woods subsection. This region is defined by a single landform that was once dominated by oak woodland and maple-basswood forests. Few remnants of the original vegetation remain as a result of agricultural and urban development.

Historical wet prairies, or wet meadows, were found in two bands running south from Spring Lake. These wet prairies generally followed major natural drainage features that still exist today: County Ditch 13 and the Buck Lake Channel. The aquatic wetland community within the wet prairie areas was one of the most complex and diverse communities in the region. Wetlands represented in these areas represented a variety of hydrologic regimes from seasonally inundated wet meadows (Type 1 wetlands) to Lakes (Type 5 wetlands). The variation in hydrologic regimes is mirrored in the plant community with wetland plants ranging from facultative wetland plants that grow near wetland boundaries, to obligate wetland plants such as cattails and floating and submerged aquatic vegetation.

The southwestern portion of the watershed includes Swamp Lake, Sutton Lake, Fish Lake and Buck Lake. This region is drained primarily by County Ditch 13 for Swamp and Sutton Lakes and by the Buck Lake channel for Fish and Buck Lakes. These channels discharge to Spring Lake, which discharges to Upper Prior Lake, which in turn discharges to Lower Prior Lake.

*Emboidea blandingii*, the Blanding's turtle typically prefers shallow wetlands with adjacent uplands for nesting. It is likely that this species inhabits the marshes within or adjacent to Murphy-Hanrehan Park (which is near, but not within the geographic boundary of the PLSLWD) and utilizes the forested uplands during the nesting season. Other potential locations include wetlands near the northeastern shore of Upper Prior Lake. The red-shouldered hawk requires large forested tracts (about 500 acres) interspersed with small marshes and wet meadows for breeding. Conservation actions to minimize the disturbance of the remaining forest/wetland complex southeast of Prior Lake are recommended by MN DNR to protect the breeding habitat of this rare woodland hawk. There is also a small Sphagnum rich fen located west of Highway 13 between County Roads 16 and 42.

### **6.3. Geologic Setting and Hydrology**

The surficial geology of the District is almost entirely comprised of glacial till deposits. The only surficial geological unit of any other origin is a few small regions of peat deposits. Glacial till and drift were brought to the region through a series of glaciations coming from the northeast and the northwest. The Superior lobe came from the northeast bringing reddish-brown drift, eroded from the bedrock of the Superior region. Glaciers coming from the northwest brought gray clayey, calcareous drift eroded from North Dakota, Manitoba, and Northwestern Minnesota. The hills, ridges, and kettle lakes of the region were formed when the Des Moines Lobe began to stagnate and melt. This resulted in the creation of the irregular topography of the region. Six major soil associations have been identified in the District.

Snow and rainfall data for the District is obtained from a weather station at Jordan, Minnesota. The water elevation of Prior Lake has ranged from a recorded low of 883.6 in 1938 to a recorded high of 907.6 in 1906. This can be considered as a historical benchmark for potential water table fluctuation in area wetlands as well. To supplement the existing data on lake levels and flow, several hydrologic models have been developed for the District. These models can be used to make predictions regarding future water levels and flow rates in the District.

## 7. WETLAND INVENTORY AND ASSESSMENT

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### 7.1. Wetland Inventory

#### *Past and Previous Inventories*

A detailed map and inventory list of DNR protected wetlands can be found in the 1996 DNR publication "Protected Waters and Wetlands, Scott County, Minnesota". Permits are required from the DNR for any alteration of protected wetlands or waters below the ordinary high water elevation. DNR protected wetlands are defined in M.S. 105.37 as "all Type 3, 4, and 5 wetlands, as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition), not included within the definition of public waters, which are 10 or more acres in size in unincorporated areas or 2.5 or more acres in incorporated areas."

The United States Fish and Wildlife Service (USFWS) has also compiled wetland maps through the National Wetland Inventory (NWI). The NWI maps identify wetland types 1-8, regardless of size, and therefore provide a more complete accounting of wetland areas. Detailed USFWS NWI maps can be found on the USFWS interactive Geospatial Wetlands Information website at <http://www.fws.gov/wetlands/Data/Mapper.html>. The District has chosen to use this interactive mapping tool, as opposed to a hard copy map, as it is the most up to date and allows flexibility in selecting data sets.

In 1994, Scott Soil and Water Conservation District (SWCD) conducted a detailed wetland inventory for the District. Under this effort, the SWCD reviewed maps from the DNR, the Metropolitan Mosquito Control District, the United States Department of Agriculture, the United States Fish and Wildlife Service, and the United States Geological Service to identify existing wetlands, drainage areas for these wetlands, and drainage channels. Tile records were reviewed to obtain information on drained wetlands. Historical aerial photographs dating back to 1937 were also reviewed to identify original wetland areas. Field reconnaissance was used to complete the inventory by providing a field verification of the mapping results. The inventory records and maps can be viewed at the PLSLWD office, and were used as the base layer for the PLSLWD's 2010 Wetland Inventory and MnRAM Assessment.

#### **7.1.1. Wetland Inventory Methodology**

EOR coordinated field data collection efforts with staff from PLSLWD and Scott County SWCD. TEP members were involved with calibrating data collection methods so that all field teams would collect MnRAM data using the same protocols. Numerous in office and field days were dedicated to teaching MnRAM methodology to all field teams, during which multiple wetland examples were used to calibrate individual teams' data collection methods to be identical. An integrated QA/QC process accompanied the field data collection process, involving EOR staff, BWSR/TEP staff, and PLSLWD staff for double checking MnRAM data collected in the field.

The 2010 inventory is a map verification of the datasets described in Section 7.1 plus a functional assessment (described in Section 7.2 of this Plan). The inventory was restricted to areas not being evaluated by other WCA LGUs in the District. This includes the City of Savage.

**7.1.1.1. Contributing Partners**

Field data collection was performed by staff from PLSLWD and Scott SWCD, with training provided by EOR staff. Following is a list of individuals participating in the inventory:

<u>PLSLWD Staff</u>	Joshua Mankowski, Stacy Sass
<u>Scott SWCD Staff</u>	Ryan Holzer, Willie Peters, Dave Rickert, Jaime Rockney, Scott Schneider, Doug Schoenecker
<u>EOR Staff</u>	Melissa Arikian, Annie Felix, Mike Majeski

**7.1.1.2. TEP Input**

TEP meeting #1 and #2 (see Section 8.1 of this Plan) were used to develop the methodology for the inventory and functional assessment.

**7.1.1.3. Reference Wetlands**

Reference wetlands were not established for this plan. The City of Savage CWPMP identified reference wetlands, categorized as Preservation, located on public park land, and could be called upon for use in this plan.

**7.1.2. Wetland Inventory Results**

A series of graphs were produced to summarize the number of high, medium, and low scoring wetlands for each function assessed, found in Appendix A.

**7.2. Wetland Functional Assessment (MnRAM)**

The methodology used the Minnesota Routine Assessment Method (MnRAM) Version 3.2. This version has been supplanted by MnRAM 3.4 (BETA) Sept 15, 2010. The differences between versions include these two additional features available in MnRAM version 3.4 (published after the assessment) including:

- Sensitivity to Stormwater & Urban Development;
- Additional Stormwater Treatment Needs.

The differences between versions 3.2 and 3.4 do not change the recommended management and activities of the Wetland Plan.

**7.2.1. Calculation Methodology**

Data were collected for each evaluated wetland either through GIS sources or field inspection. Field assessment was performed by two-person professional crews with training<sup>4</sup> at the outset to ensure consistent use of the evaluation methodology. In particular, training emphasized familiarity with dominant versus subdominant definitions, and the 10% rule as it pertains to plant community mapping per MnRAM. Wetlands encountered in the field but not mapped or inventoried, were noted and field evaluation was performed. Field data were recorded onto paper data sheets and entered into the MnRAM database in the office<sup>5</sup>. Map locations and GIS wetland evaluation data were previously entered onto the data sheets. Wetlands were initially sorted and grouped as 'W' or 'D' group wetlands, representing extant wetland for 'W' and drained wetland for 'D' based on the original Scott SWCD Wetland Inventory. 'D' wetlands were field evaluated for restoration potential only unless verified in the field to be functioning wetlands.

<sup>4</sup> August 19, 2010, field training session conducted utilizing guidance provided by BWSR (available at the BWSR website).

<sup>5</sup> Per TEP recommendation and approval, field evaluation conducted using MnRAM standard evaluation sheet utilized, but modified to 'strip' out GIS-evaluated questions.

Methodology was presented in modified form and approved by the TEP<sup>6</sup>: Listed below are all of the functions and uses that can be evaluated using the MnRAM, those not evaluated for this plan are crossed out.

- Vegetative Diversity/Integrity
- Maintenance of Characteristic Hydrologic Regime
- Flood/Stormwater/Attenuation
- Downstream Water Quality
- Maintenance of Wetland Water Quality
- ~~Shoreline Protection~~
- Maintenance of Characteristic Wildlife Habitat
- ~~Maintenance of Characteristic Fish Habitat~~
- ~~Maintenance of Characteristic Amphibian Habitat~~
- Aesthetics/Recreation/Education/Cultural
- ~~Commercial Uses~~
- Groundwater Interaction
- Restoration Potential

The MnRAM evaluation for this plan does not include questions #29 through 34 (related to Shoreline Protection), and questions #42 – 57 (related to Amphibian Habitat, Fish Habitat, and Commercial Uses).

For “Groundwater Interaction” the focus was on the one field-evaluated question of #62 – Inlet/Outlet configuration. In addition, if a wetland (mostly all recharge wetlands for this District) displayed obvious signs of high or low infiltration capacity, such was noted in the field.

For “Restoration Potential” wetlands were identified first by examining for drained wetlands. Additional potential areas for wetland restoration were recorded in the field, marking them on field maps and transferring those potential basin locations to the GIS database. Determination of these potential areas was based upon the “D” or “drained” basins from Scott County SWCD’s original wetland inventory, and was further refined during the field collection phase of this project.

For “Restoration Potential”, question #65 regarding number of landowners is bias towards higher restoration potential when fewer landowners involved. This question was not answered for this plan. The number of landowners can be an important factor, but otherwise good candidate restoration sites may involve a higher number of landowners. As such, during plan implementation, this information can be made available to the TEP and decision-makers on a case by case basis for targeting sites already prioritized for restoration (according to Section 4.2).

### **7.2.2. Results**

A series of graphs were produced to summarize the number of high, medium, and low scoring wetlands for each function assessed, found in Appendix A.

## **7.3. Public Values Survey**

In accordance with WCA Rule 8420.0830, Subp. 6, C, local citizen involvement was sought for the determination of local value. The survey was posted online and the request to respond to the survey was included in a newspaper article, posted on PLSLWD’s website and verbally communicated at a public meeting.. The survey requested that residents rank wetland services from most to least important. They could either return the paper survey or visit a website to

<sup>6</sup> Reference: Arikian, Melissa, August 16, 2010, to the TEP by email correspondence, presenting the proposed methodology and associated modifications. Review and revisions comments received via email reply.

complete the survey. In addition, the survey provided a place for residents to submit written comment about the survey or other wetland issues. The survey protocol and complete results are presented in this section of the Plan. The summary tabulation and analysis are presented in Section 3.0 of this Plan.

### 7.3.1. Survey Protocol

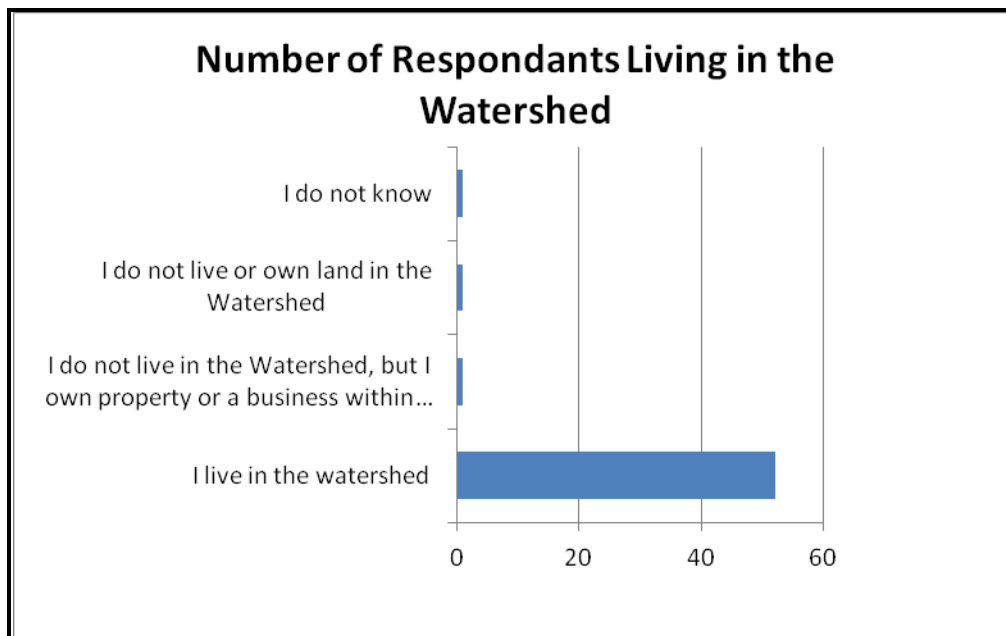
The survey protocol was developed out of recommendations from TEP meeting #2:

- ✓ An open house meeting should be held to help involve citizens. Target the local lake associations and sportsman groups. A survey should be sent to landowners as part of citizen involvement.
- ✓ It is important to involve the individual property owners near wetland areas. Property owners may view the wetland differently than those who use the wetland lands for recreational purposes.
- ✓ It is very important to try and obtain a good cross-section of property owners.
- ✓ The surveys should be used to inform citizens as well as ascertain their views for ranking the values of the wetlands. Wetlands may serve functions that the property owners are unaware of, but view as important.
- ✓ The type of property owner (farmer vs. urban resident) can heavily influence the responses received in a survey. A balance between the different groups must be acquired.
- ✓ Some property owners' views towards wetlands may be changing. At one time the wetland may have been viewed as unusable land; it is now viewed as a potential resource (a way to attract development).
- ✓ The information obtained from the resident surveys can be utilized in other projects being conducted by the District (TMDL Implementation Plan, rules revision).

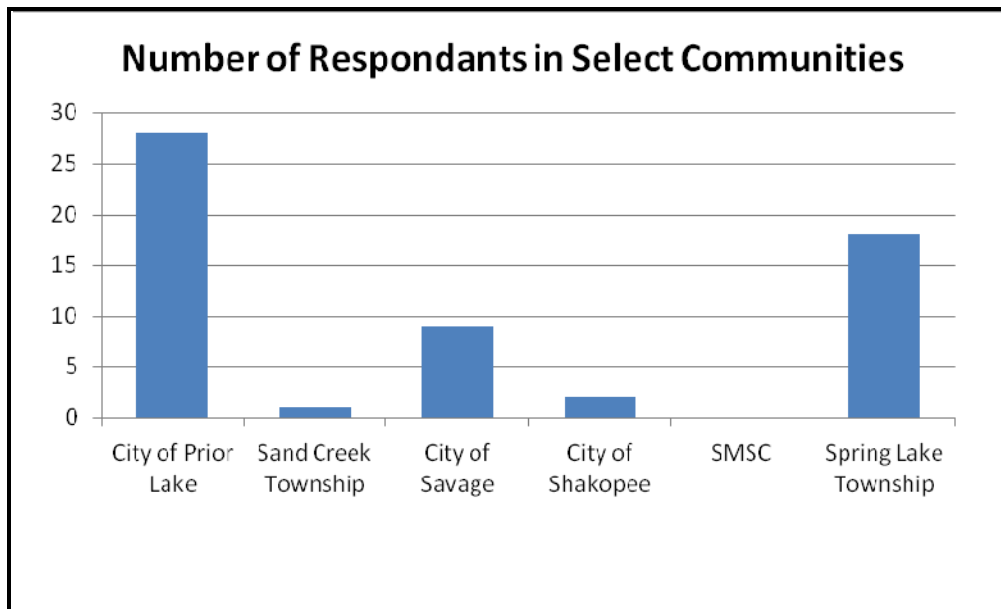
### 7.3.2. Results

The online survey resulted in a total of 55 responses between February 15 and March 24, 2011.

1. Do you live or own property within the geographic boundary of the Prior Lake – Spring Lake Watershed District?

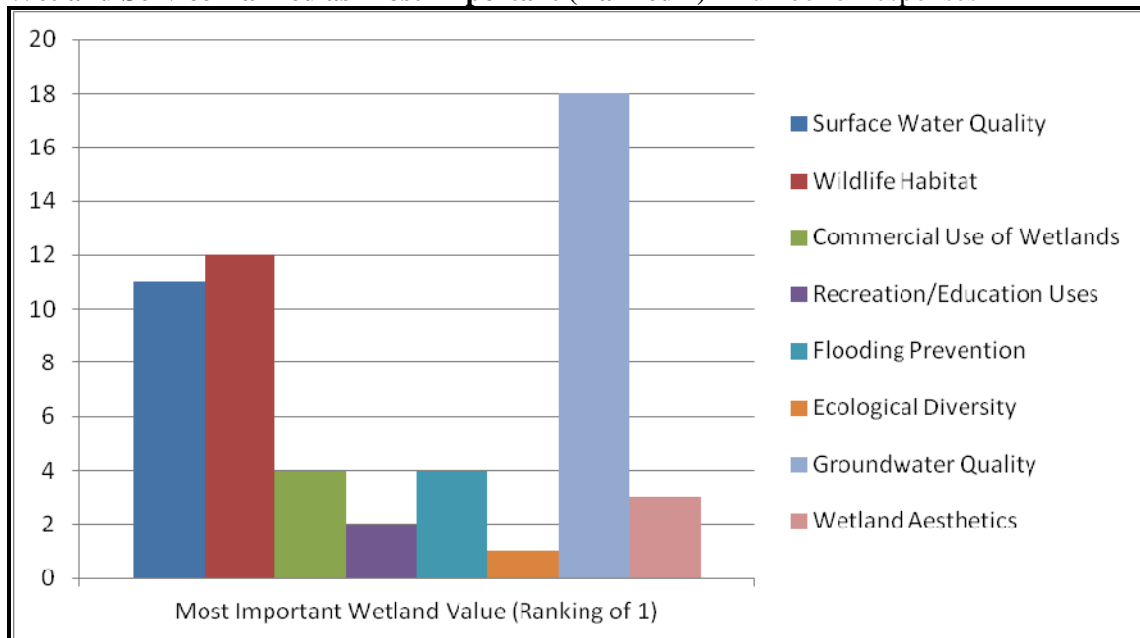


2. In which community do you live?



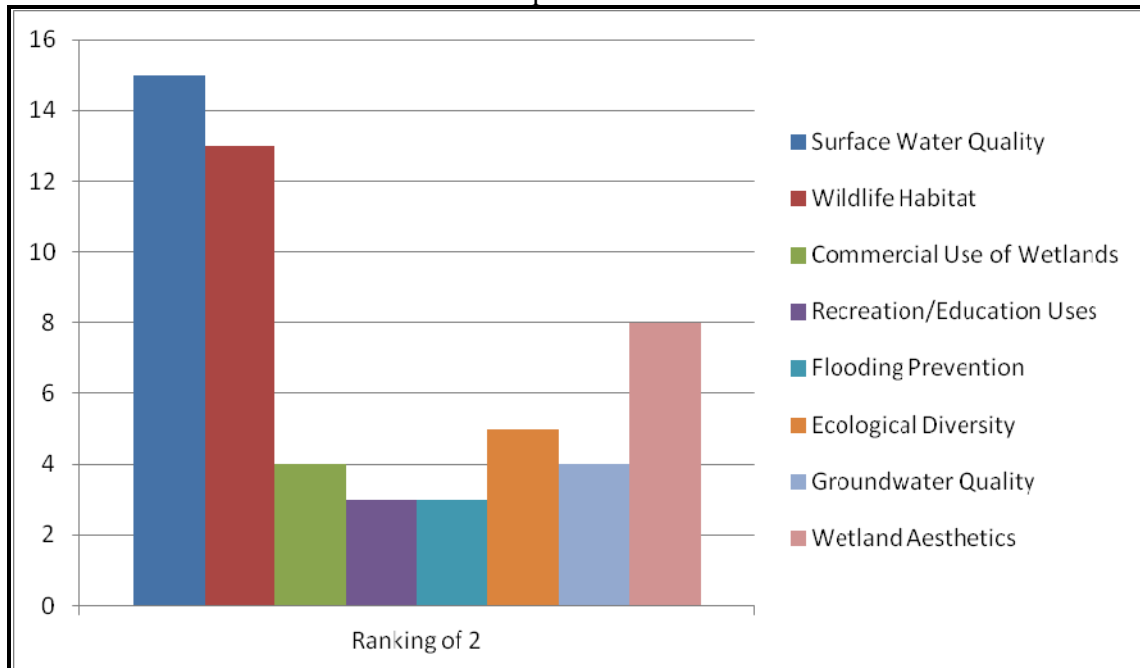
3. Rank the following wetland services of importance to you from 1 (the most important to you) to 8 (the least important wetland service to you).

**Wetland Service Ranked as Most Important (Ranked 1) – number of responses**

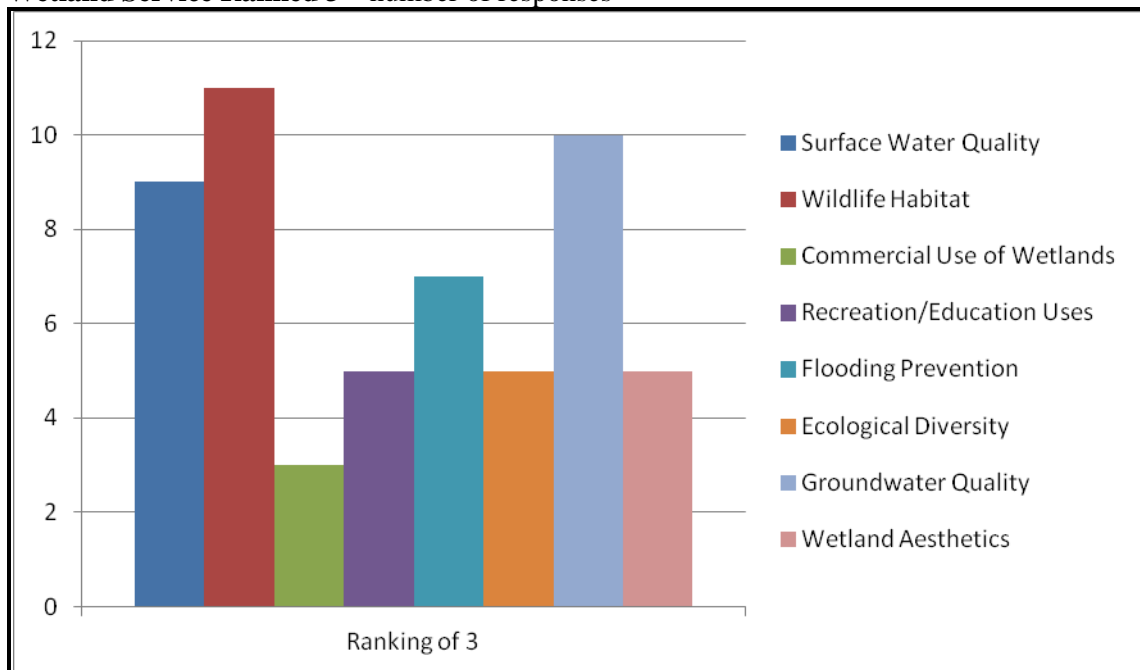




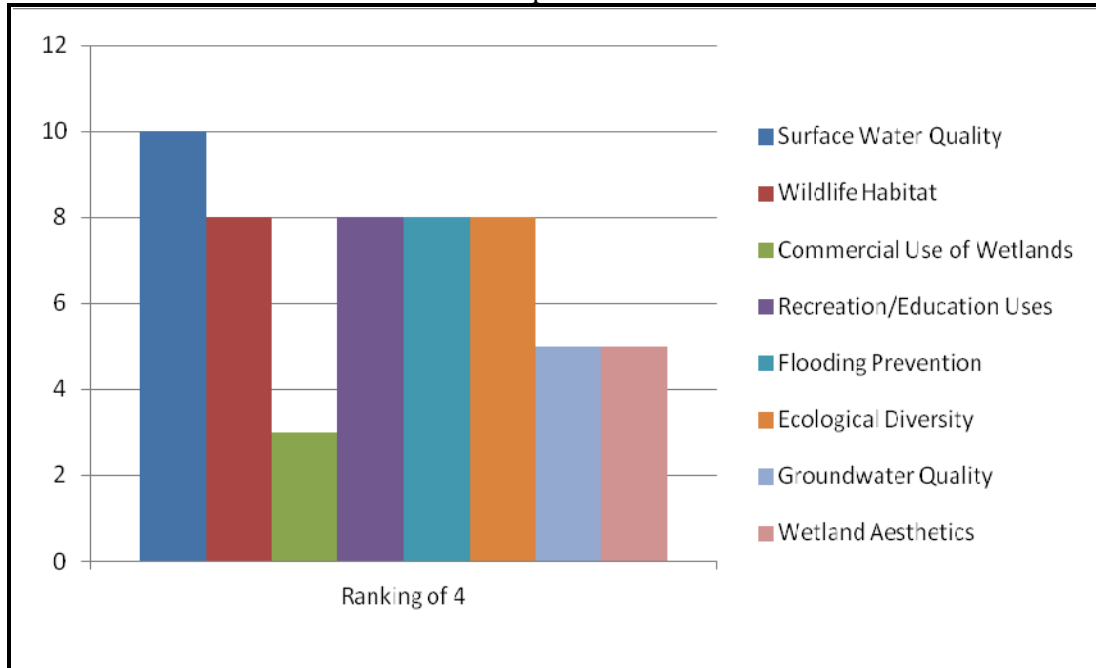
**Wetland Service Ranked 2 – number of responses**



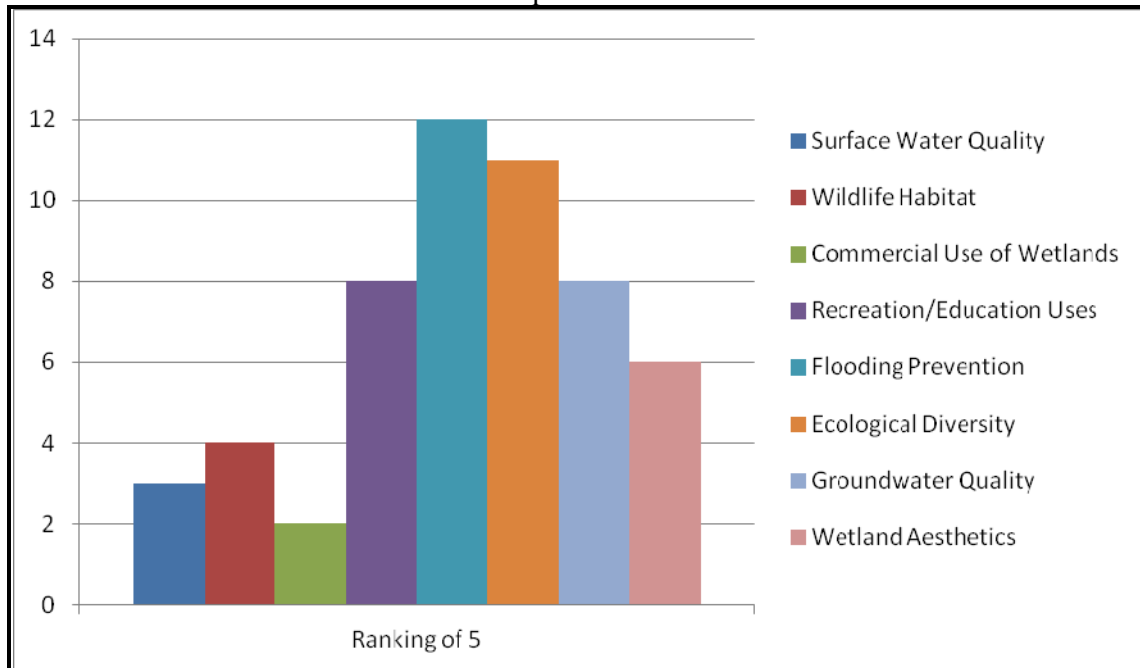
**Wetland Service Ranked 3 – number of responses**



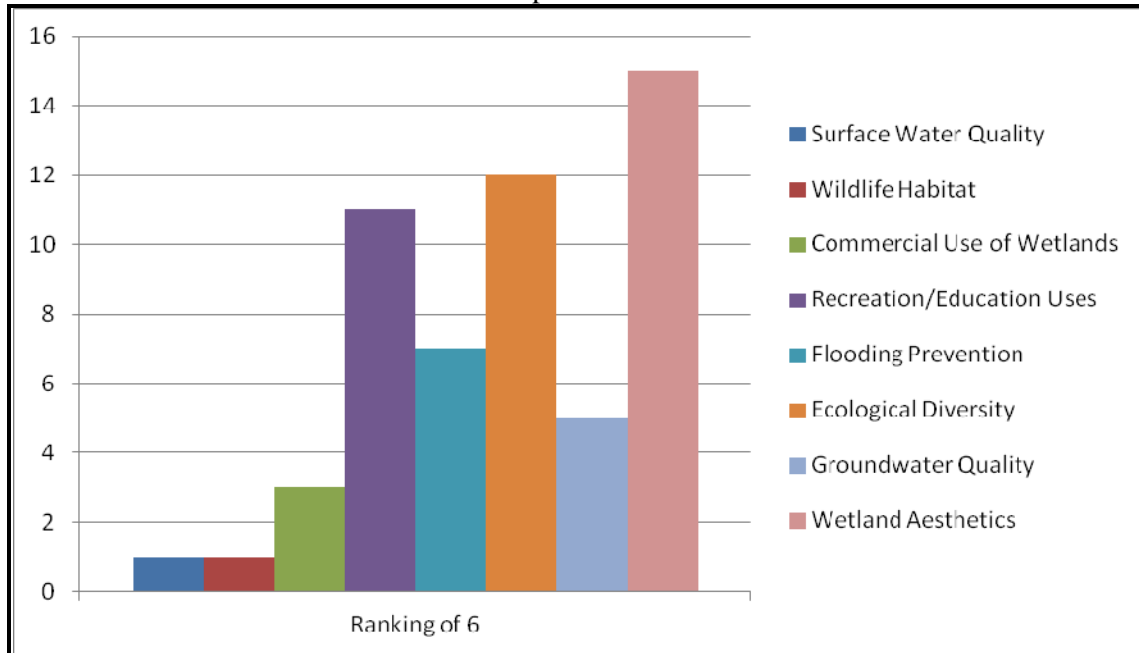
**Wetland Service Ranked 4 – number of responses**



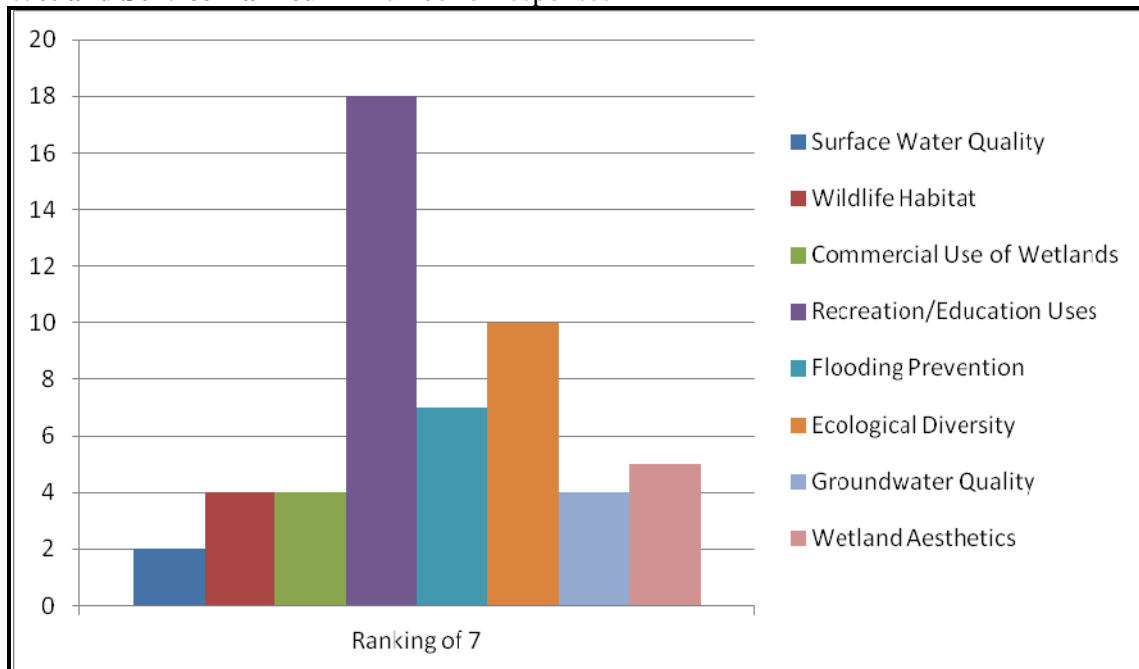
**Wetland Service Ranked 5 – number of responses**



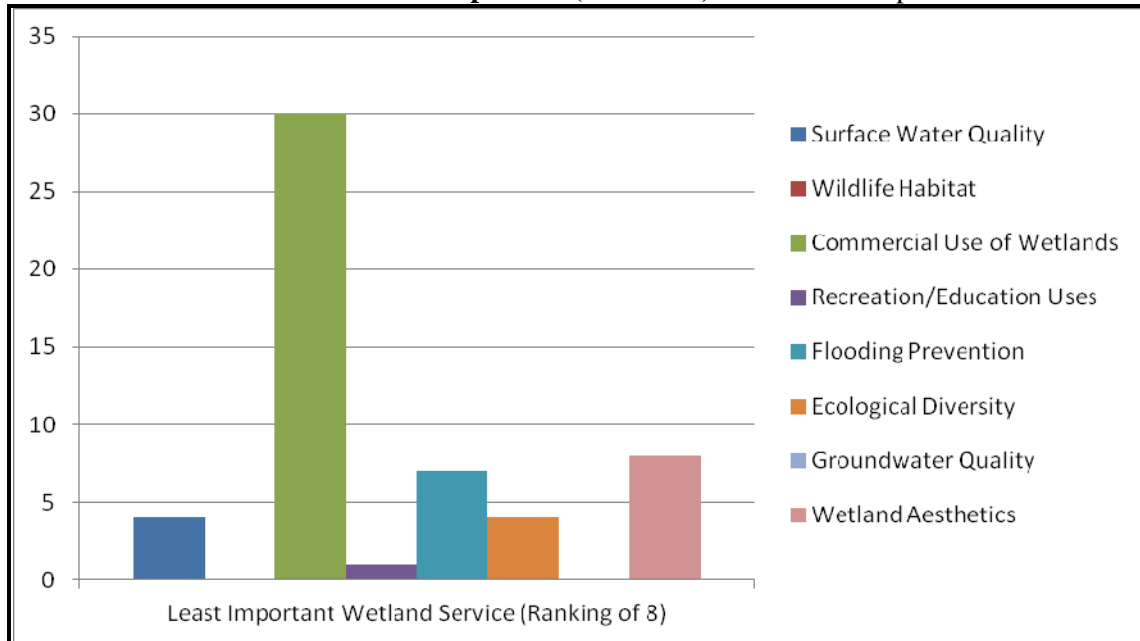
**Wetland Service Ranked 6 – number of responses**



**Wetland Service Ranked 7 – number of responses**

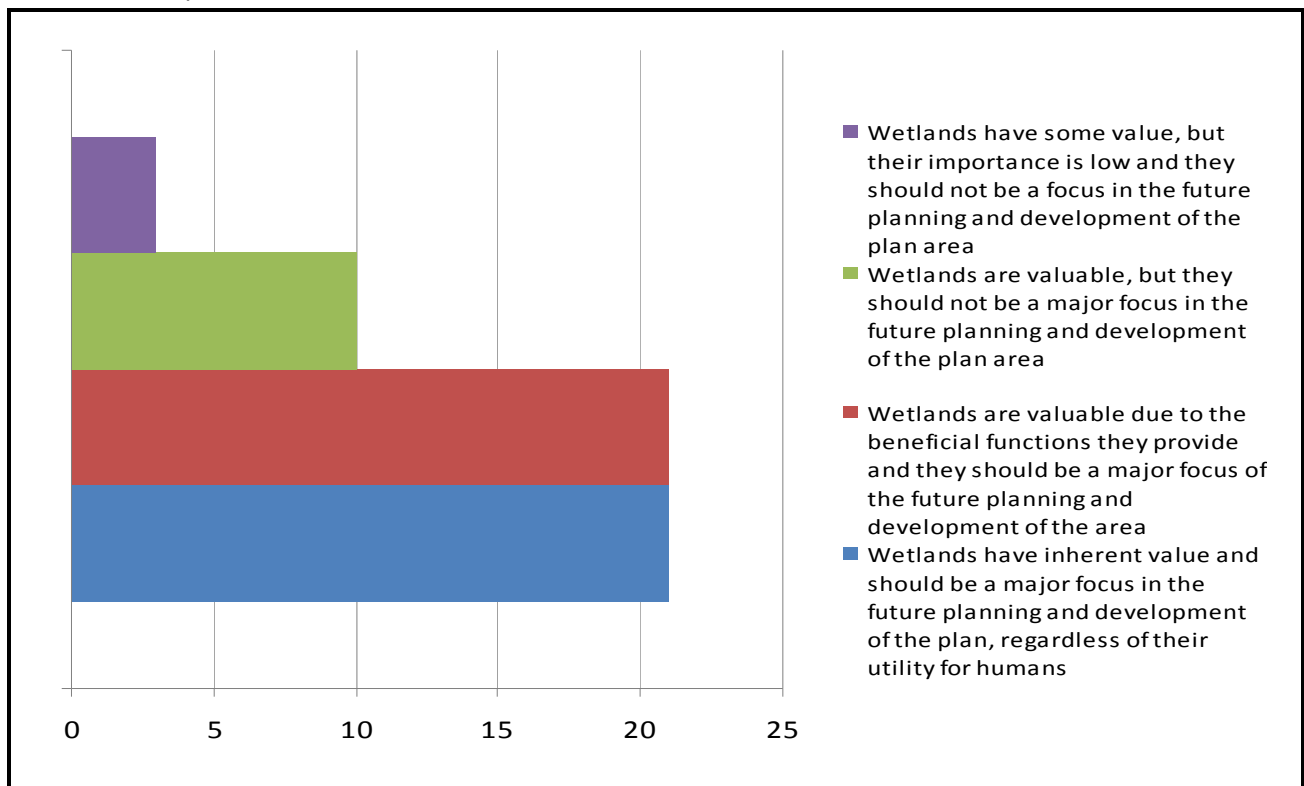


**Wetland Service Ranked as Least Important (Ranked 8)– number of responses**

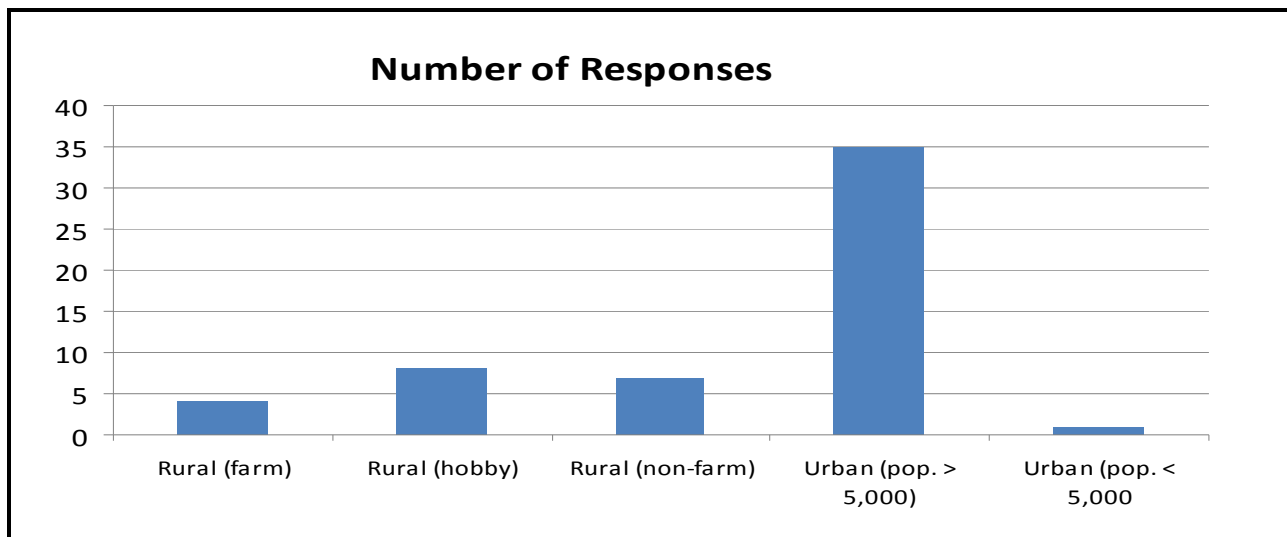


4. Which of the following statements best describes your general opinion about wetlands and their role in community planning?

**Number of Responses**



## 5. Your home is:

**Additional Responses from 23 of 49 online entries [sic- for all entries below]**

- Somewhat biased survey for myself because I do research on Spring Lake regarding excess nutrients which lead to eutrophication.
- We Live on Cates Lake, near Prior Lake. Our lake is overcome with weeds every summer and this has killed off the fish. Why can we not use chemicals or any other methods to control the excess weeds? The weeds destroy the quality of the water and destroy fish life. It appears that if this continues the lake will continue to build sediment until it eventually dries up.
- Got your invite to the 2/15/2011 meeting today, on 2/15/2011. Would like the information, but am involved with church tonight.
- I don't have an answer for this problem, but I wish we could do more to improve the water quality in the area lakes!! Fish and Spring are slime green from June- Aug. The whole summer!!! I know you can't control run off. But it's sad for someone like me who grew up on these lakes to see what has happened over the past 30 years Thanks for listening
- A little more advance notice for the citizen meetings i.e., 'Clean Water Event'. Your letter dated 2/8/11 arrived this afternoon 2/15/11. Citizens may not have time to rearrange schedules to attend. Sending things bulk mail always takes longer.
- Wetlands are a priority habitat. If you have abundant healthy and functional wetlands, and they are protected, water quality, flood protection etc. should be obtainable due to the protection of this important resource

- I have heard that the Prior Lake High School may be considering the development of some of their property that may be part or abuts the wetlands. We have enough residential developments that aren't being completed to be adding another
- The wetlands are a key attraction to the area and we value them and what they bring to the people of spring lake
- I have a one-acre pond in my backyard which is green 5 months out of the year. This drains directly into Prior Lake. Can anything be done? I left a message by phone when I received the first invitation to call Mike, no one ever called me back. Thank you
- There must be coordination with developers in order to preserve our wetlands in its natural state.
- Restrictions on use should be reasonable and purposeful. Care should be taken not to unnecessarily limit development to save a few swamps.
- I wanted to give an 8 on nearly the entire survey, but I guess this is the best way to tell the number 1 priority
- Allot of the wetlands around Prior Lake contain evasive species of plants that need to be cleared/cleaned up to allow more native plants to flourish. Our wetland is chocked with evasive plants and does not promote any wildlife (geese, mallards, wood ducks and other migratory birds) from using it
- Downscale Ryan Park and give us back serenity and our wetlands.
- I live in an area with poor quality wetlands, i.e. reed grasses, rag weeds, etc. In my opinion, a controlled burn should take place to replant with prairie grasses and wild flowers.
- Work done last year on the wetland adjacent to my property did nothing to improve aesthetics or reduce the flooding that occurs into my yard. Closer supervision of the contractors work is necessary in future projects. What I was told of the final design did not occur in the end.
- During your compilation of the Protection and Management Plan, remember the vast majority of the wetlands in question are privately owned and managed. We do not need additional regulation on landowners than the current wetland preservation and clean water acts.
- Very few of our neighbors respect the wetland/conservation easements. They mow right down to the water. They cut down the wild grasses that were planted - install retaining walls. It is very frustrating that we are one of few who follow the rules.
- I own property that has a wetland on it. I feel that if I am paying the tax on the wetland, and am a good steward of the land, I fear further regulation will make it less appealing to live in this watershed
- Presently the mining operations of PL Aggregates are negatively impacting the PL/Savage Watershed District. Habitat (trees, environment and wetlands) is being destroyed with serious consequences for the future. The illegal draining of Cates Lake through the 4-inch pvc pipe into

the 5-acre pond behind our house should cease. The forest and ecological environment is being depleted with run off and negatively shifts the animals and wildlife into urban areas - coons, foxes, muskrats, coyotes, turkeys, deer - and has over-burdened our property with squirrels. We attended the Scott County Watershed meeting 4-5 years ago which said that PL Aggregates should cease and desist their digging operations so as not to negatively impact the Jordan Aquifer of which they said they were only 16 feet above the Aquifer and should cease mining operations of the gravel washing. Furthermore Scott County watershed supervisor said that the old PL dump to the west of then present operation should be avoided because of all of the mercury, pcb and hazardous waste that was on that site. Savage somehow procured the old PL dumpsite on some type of exchange some years ago. PL Aggregates has continued to mine, cut trees and operate in this area. We believe that this should be looked into as part of the Watershed District future plan

- I would like legal access to rest of my property, to make a walking path, to make land provide a profit by growing something for myself and wildlife.
- If wetlands continue to be treated on the same par as endangered species of animals, then people who 'own' wetlands are deserving of a tax break for owning land they can do nothing with, or better yet, add the amount of wetland acreage to their tillable land in order to qualify for agricultural credit in county property tax determination.
- We live in an area with several wetland areas. We value and prize these beautiful spaces for ourselves, the public who also enjoy them (aka trails) and future generations. It is also essential to provide necessary shelter and food for our wildlife.

## 8. TEP AND STAKEHOLDER INPUT PROCESS

Plan development, review, and approval occurred in three sequential phases outlined below. Section 5.2 and 5.3 of this plan list TEP representatives and stakeholders, respectively, invited to meetings and to provide plan review.

### Phase 1 (Data Collection and Evaluation) - 2010

- Compile existing wetland data records
- Build GIS database from available records
- Hold TEP/Stakeholder meeting #1, kick-off meeting. Invite resource agency staff and public to actively participate in the development of the plan
- Notify landowners know about the process and obtain their input on what they most value in their wetlands
- Attain access permission from landowners for field inventory
- Collect the wetland inventory data and assess it using the MnRAM methodology
- Develop MnRAM database and maps

### Phase 2 (Plan Development) – 2011-2012

- Hold TEP/Stakeholder meeting #2
- Conduct values survey and public event February 15
- Complete resource prioritization
- Write preliminary draft plan
- Discuss preliminary draft plan at PLSLWD Citizens Advisory Committee (CAC) meeting #1
- Hold TEP/Stakeholder meeting #3

### Phase 3 (Plan Approval) - 2012

- Discuss Draft Plan at PLSLWD Citizens Advisory Committee (CAC) meeting #2
- Submittal of Draft Plan (February 2012) to Stakeholders and Board for comment
- Summary of comments received reviewed by PLSLWD Staff and Board
- Draft Plan Editing
- PLSLWD Board review and approval of final plan (April 2012)

### 8.1. Input Meetings

#### Phase 1

The purpose of TEP/Stakeholder meeting #1, August 10, 2010, was to inform the included cities and townships of the plan goals, seek input on potential overlap of this plan with existing WCA LGU jurisdiction, and seek input on how this plan can address local resource issues, present the plan development process, and identify likely priority issues and the approach to public involvement.

Chart 8.1-1. TEP/stakeholder meeting #1 invitees and attendees (\*).

Entity	Representative
<b>Board of Water and Soil Resources</b>	Brad Wozney* Ken Powell*
<b>City of Prior Lake</b>	Ross Bintner*
<b>City of Savage</b>	Jon Allen
<b>City of Shakopee</b>	Joel Rutherford
<b>Emmons &amp; Olivier Resources, Inc. for PLSLWD</b>	Melissa Arikian* Jason Naber*



<b>MnDNR</b>	Melissa Doperalski &/or Janell Miersch &/or Craig Wills
<b>Prior Lake-Spring Lake Watershed District (PLSLWD)</b>	Joshua Mankowski* Stacy Sass* Liz Spande*
<b>Scott County Soil and Water Conservation District</b>	Ryan Holzer* Troy Kuphal*
<b>Spring Lake Township</b>	Ben Meyer*
<b>USACE</b>	Michael Setering

Phase 2

The purpose of TEP/stakeholder meeting #2, January 27, 2011, was to present the findings of the public values survey and seek input on the process for restoration sites prioritization.

Chart 8.1-2. TEP meeting #2 invitees and attendees (\*).

<b>Entity</b>	<b>Representative</b>
<b>Board of Water and Soil Resources</b>	Brad Wozney Ken Powell*
<b>City of Prior Lake</b>	Ross Bintner*
<b>City of Savage</b>	Jon Allen*
<b>City of Shakopee</b>	Joel Rutherford
<b>Emmons &amp; Olivier Resources, Inc. for PLSLWD</b>	Melissa Arikian* Jason Naber*
<b>MnDNR</b>	Melissa Doperalski &/or Janell Miersch &/or Craig Wills*
<b>Prior Lake-Spring Lake Watershed District (PLSLWD)</b>	Michael Kinney* Joshua Mankowski*
<b>Scott County Soil and Water Conservation District</b>	Ryan Holzer Troy Kuphal* Dan Miller*
<b>Spring Lake Township</b>	Ben Meyer* Kathy Nielson*
<b>USACE</b>	Michael Setering

**8.2. Plan Review**Phase 3

The purpose of TEP/stakeholder meeting #3 (January 12, 2012) was to discuss Proposed Wetland Management Classes and Proposed Management Standards. TEP review comments were also incorporated into the preliminary Draft Wetland Plan. The process for plan approval was also discussed.

Chart 8.1-3. TEP meeting #3 invitees and attendees (\*).

Entity	Representative
<b>Board of Water and Soil Resources</b>	Brad Wozney Ken Powell*
<b>City of Prior Lake</b>	Ross Bintner*
<b>City of Savage</b>	Jon Allen Sam Lucido
<b>City of Shakopee</b>	Joel Rutherford Joe Swentek
<b>Shakopee Mdewakanton Sioux Community</b>	Stan Ellison
<b>Emmons &amp; Olivier Resources, Inc. for PLSLWD</b>	Melissa Arikian* Jason Naber*
<b>MnDNR</b>	Melissa Doperalski &/or Jeff Berg &/or Craig Wills
<b>Prior Lake-Spring Lake Watershed District (PLSLWD)</b>	Michael Kinney* Stacy Sass* Nat Kale*
<b>Scott County Soil and Water Conservation District</b>	Ryan Holzer Troy Kuphal Dan Miller
<b>Spring Lake Township</b>	Ben Meyer* Kathy Nielson*
<b>USACE</b>	Michael Setering

Following submittal of the Draft Plan (February 2012) the District received comments from the following entities.

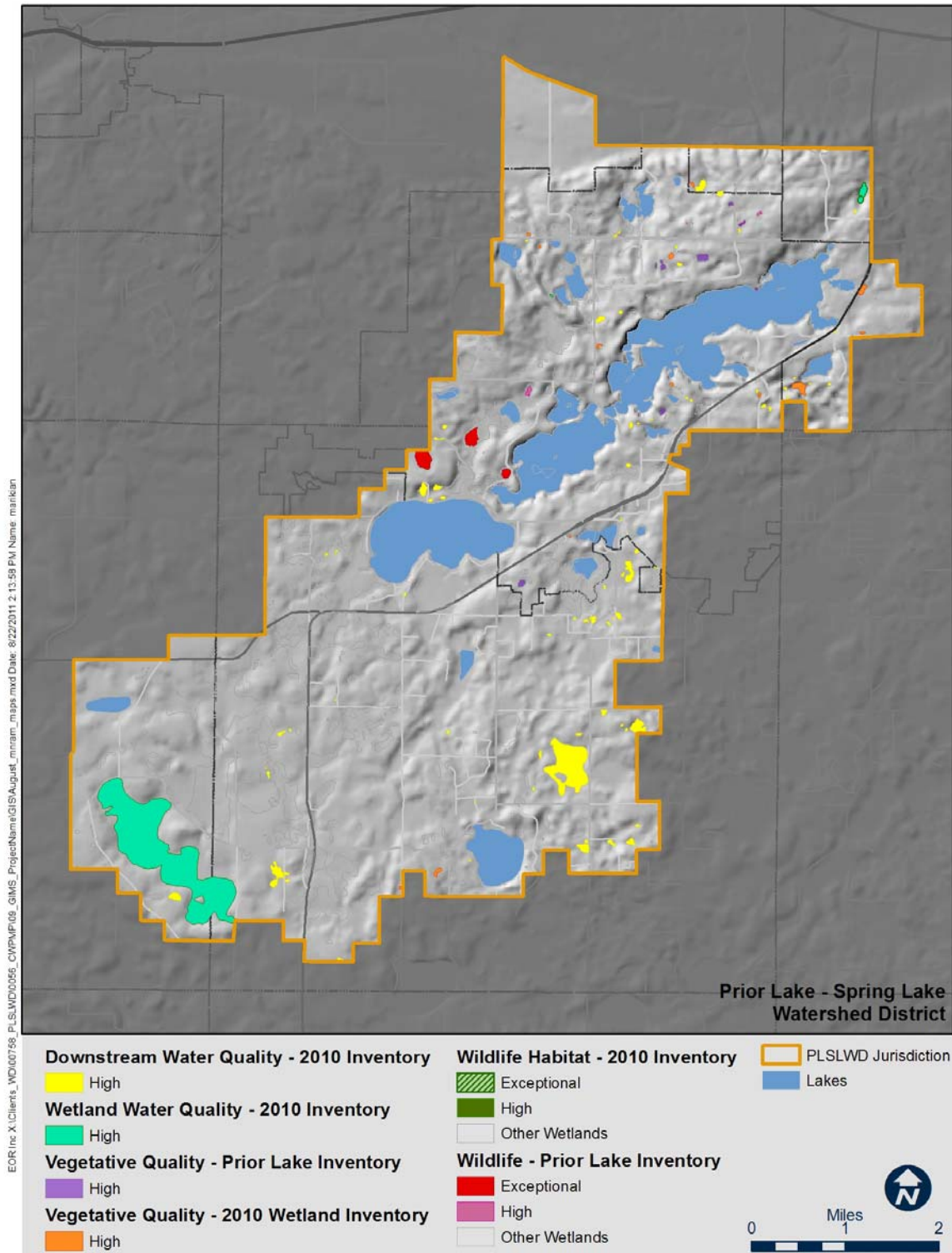
- MN Board of Water and Soil Resources (BWSR), Ken Powell, 2-17-12
- City of Prior Lake, Ross Bintner, 2-7-12
- Army Corps of Engineers, Michael Setering, 3-7-12
- Scott County on behalf of Sand Creek Township, Paul Nelson 3-7-12
- Scott County, Jason Swenson 3-5-12

A summary memo of those comments was prepared and submitted to the PLSLWD Board. The comments were carefully reviewed and considered in development of the Final CWP dated April 10, 2012.

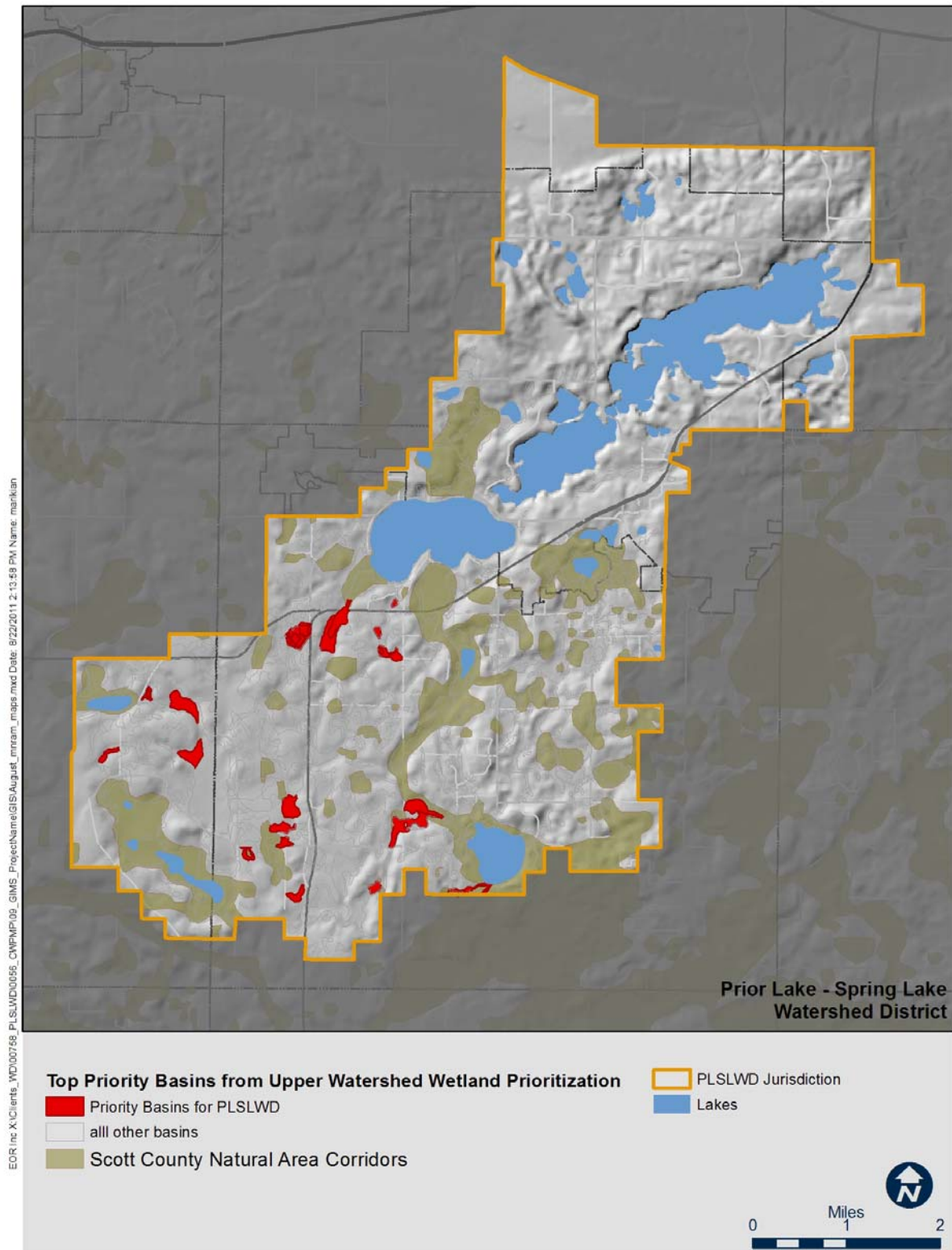
### 8.3. Plan Approval

At its regularly scheduled board meeting on April 10, 2012, the PLSLWD Board of Managers reviewed and signed resolution 12-246 that adopts the CWP as a resource management plan of the PLSLWD. They directed their Administrator to utilize the CWP in identifying, setting priorities for and implementing programs and capital projects, and make the CWP available to governmental partners and other interested parties for better coordination of resource management programs. The PLSLWD may further formalize the findings of the CWP at a later time, which may include incorporating CWP management standards into PLSLWD rules thru rulemaking and completing procedures for adoption of the CWP as a comprehensive wetland protection and management plan.

**Map 4.1-1. High Priority Preservation Wetlands.**

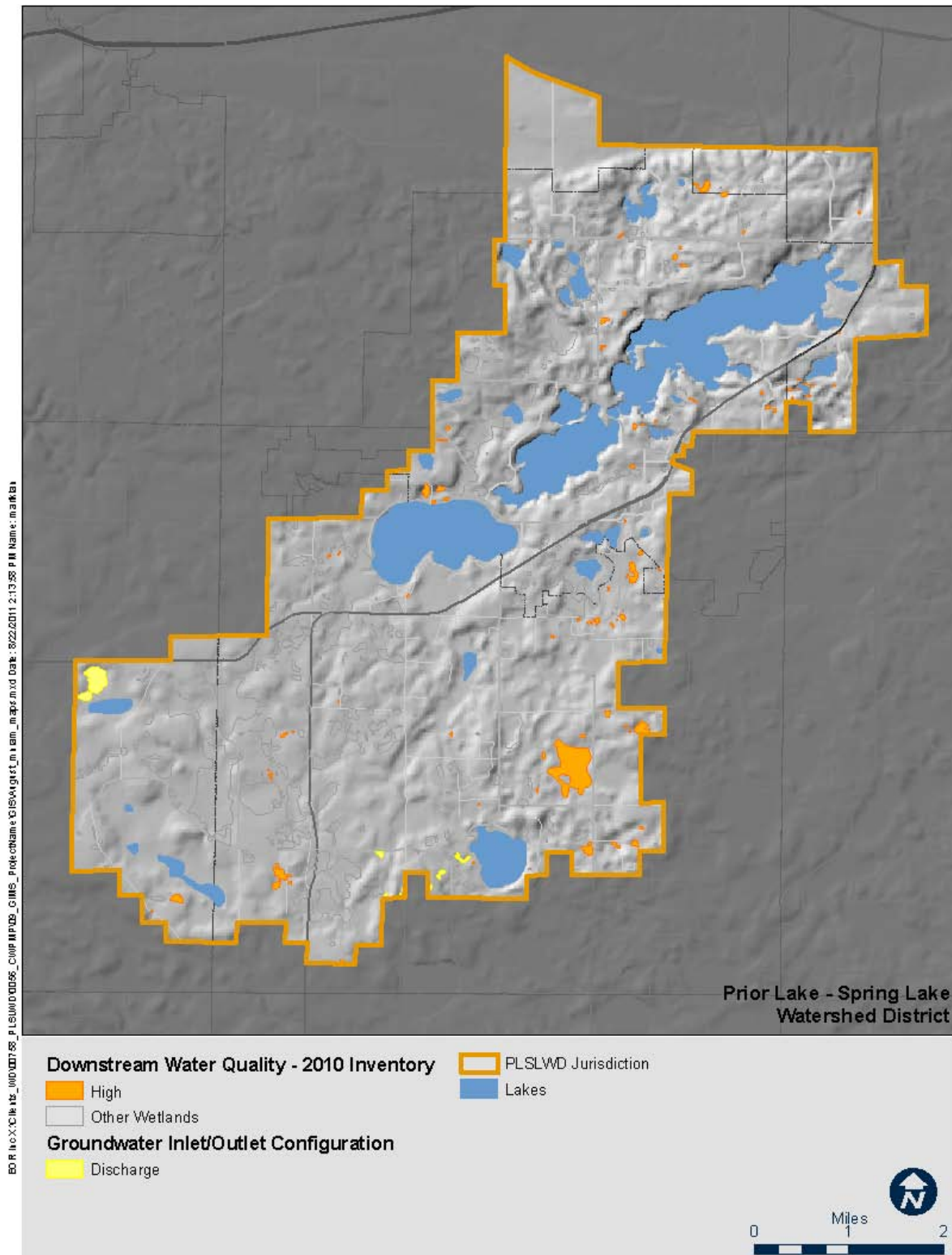


**Map 4.2-1.** Top Restoration Priority Wetlands with Scott County Natural Areas Corridors.

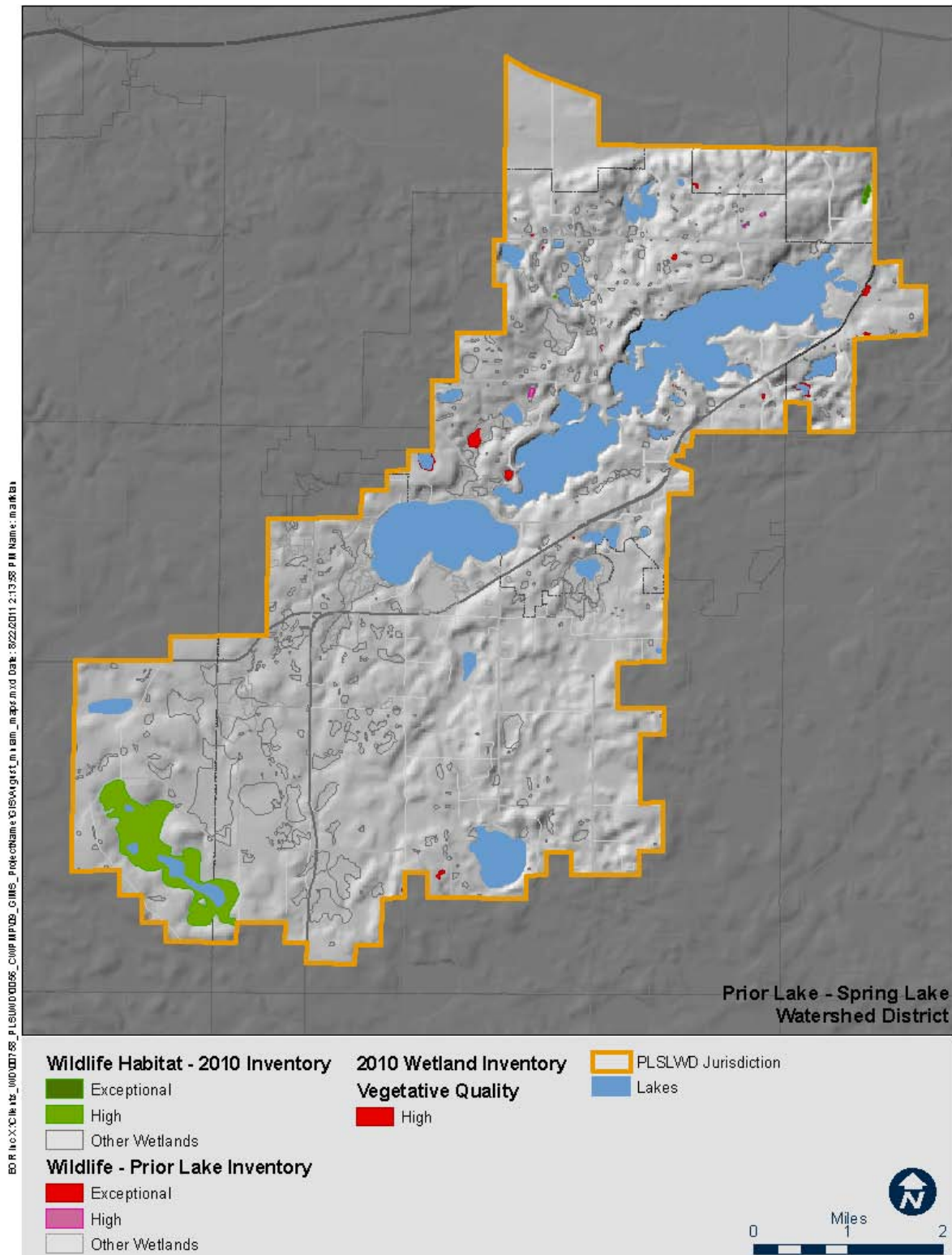




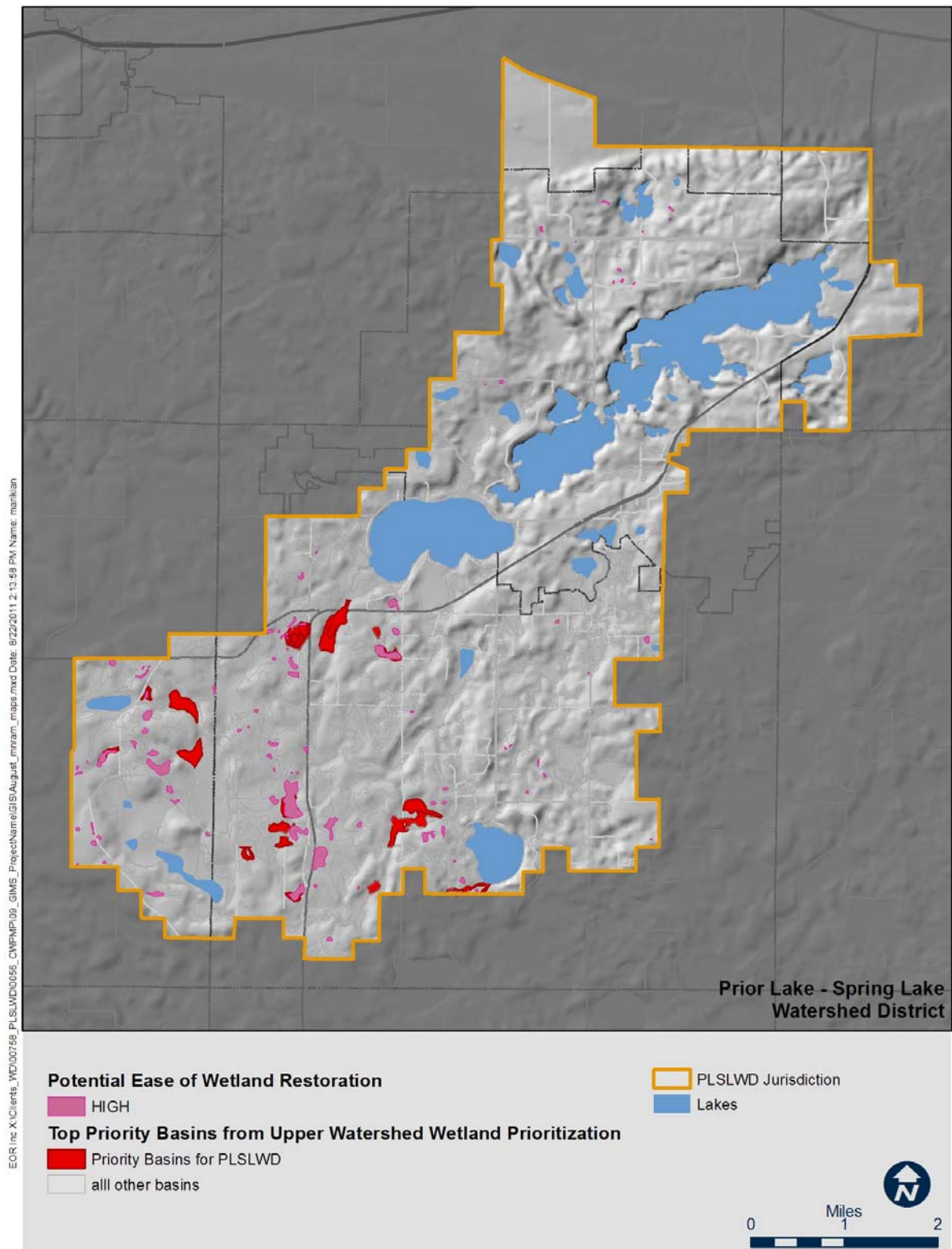
**Map 4.5-1. Wetlands with Hydrology Management Class.**



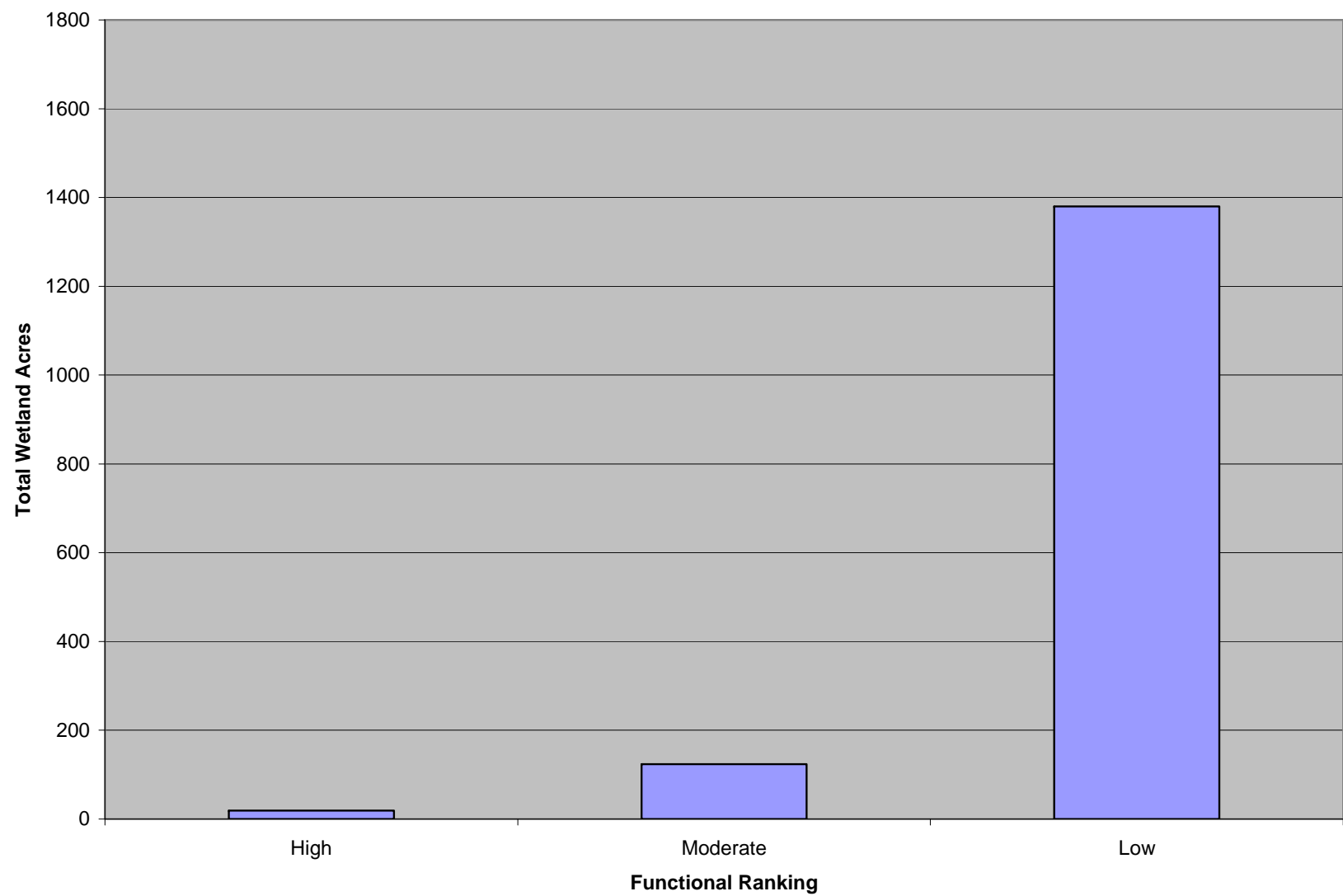
**Map 4.5-2. Wetlands with Natural Areas Management Class.**



**Map 4.5-3.** Basins with Restoration/Enhancement Management Class.

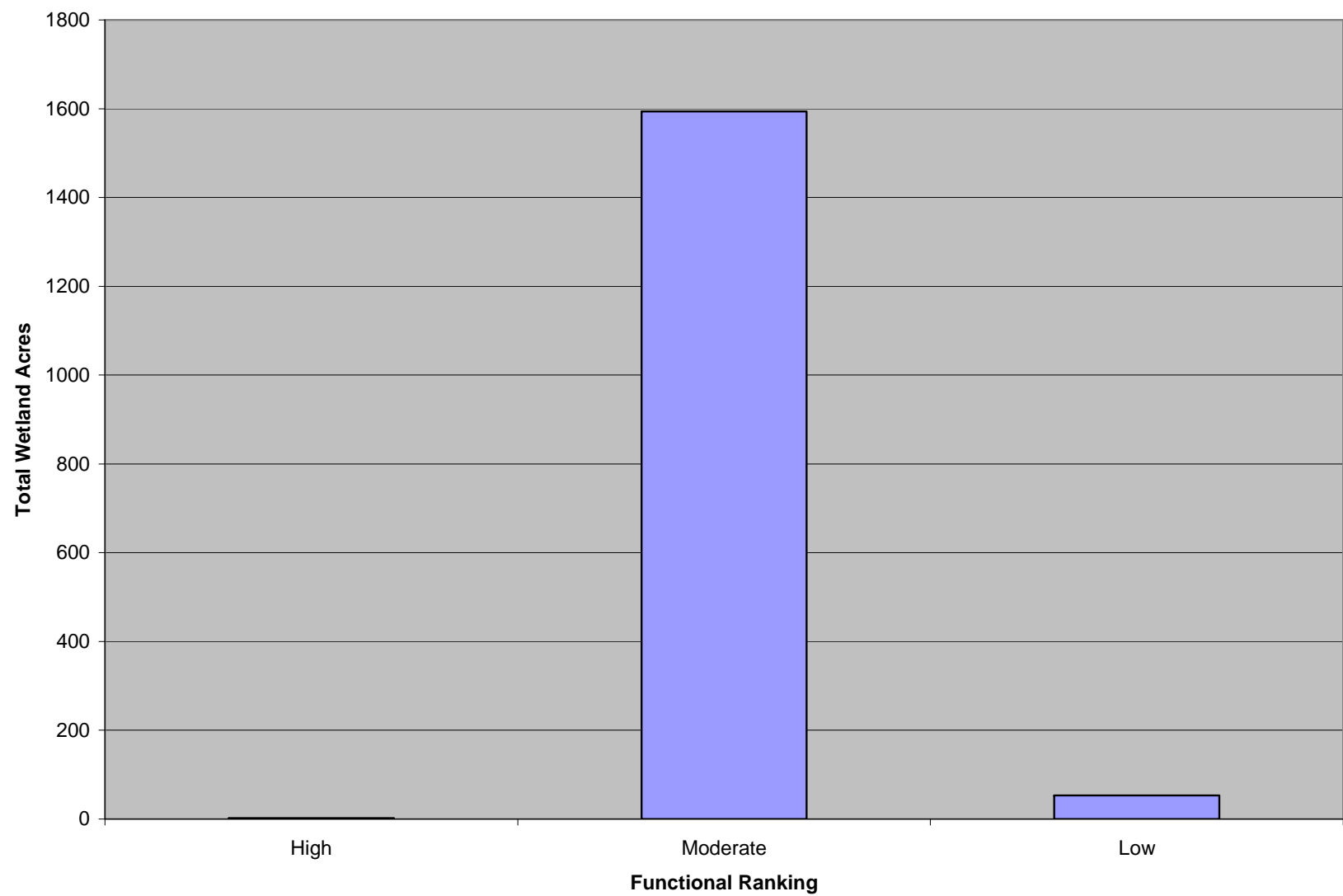


**Figure 7.2-1. Cumulative Function of all 2010 Inventoried Wetlands for Vegetative Diversity/Integrity**





**Figure 7.2-2. Cumulative Function of all 2010 Inventoried Wetlands for Maintenance of Characteristic Hydrologic Regime**



**Figure 7.2-3. Cumulative Function of all 2010 Inventoried Wetlands for Flood/ Stormwater/ Attenuation**

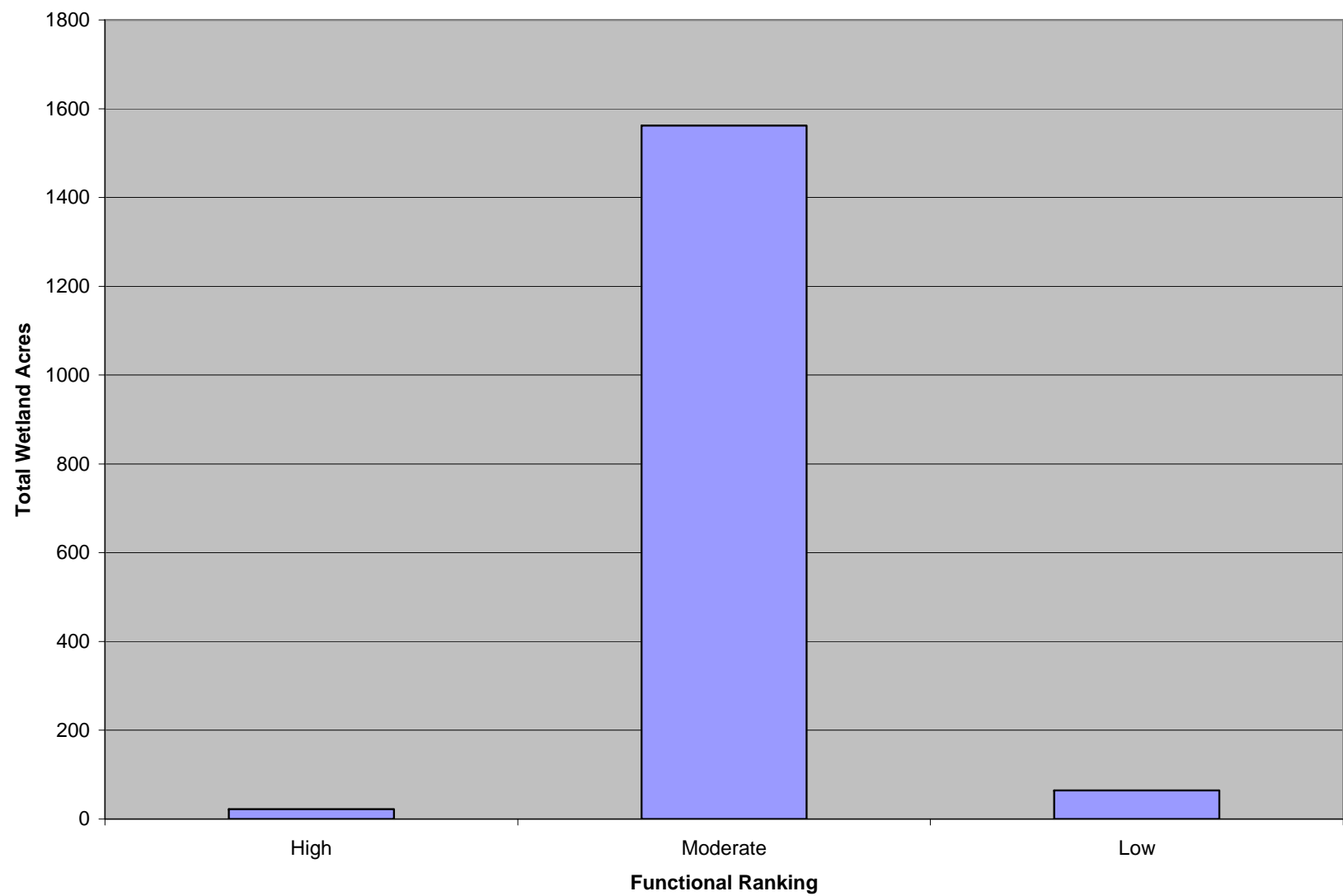
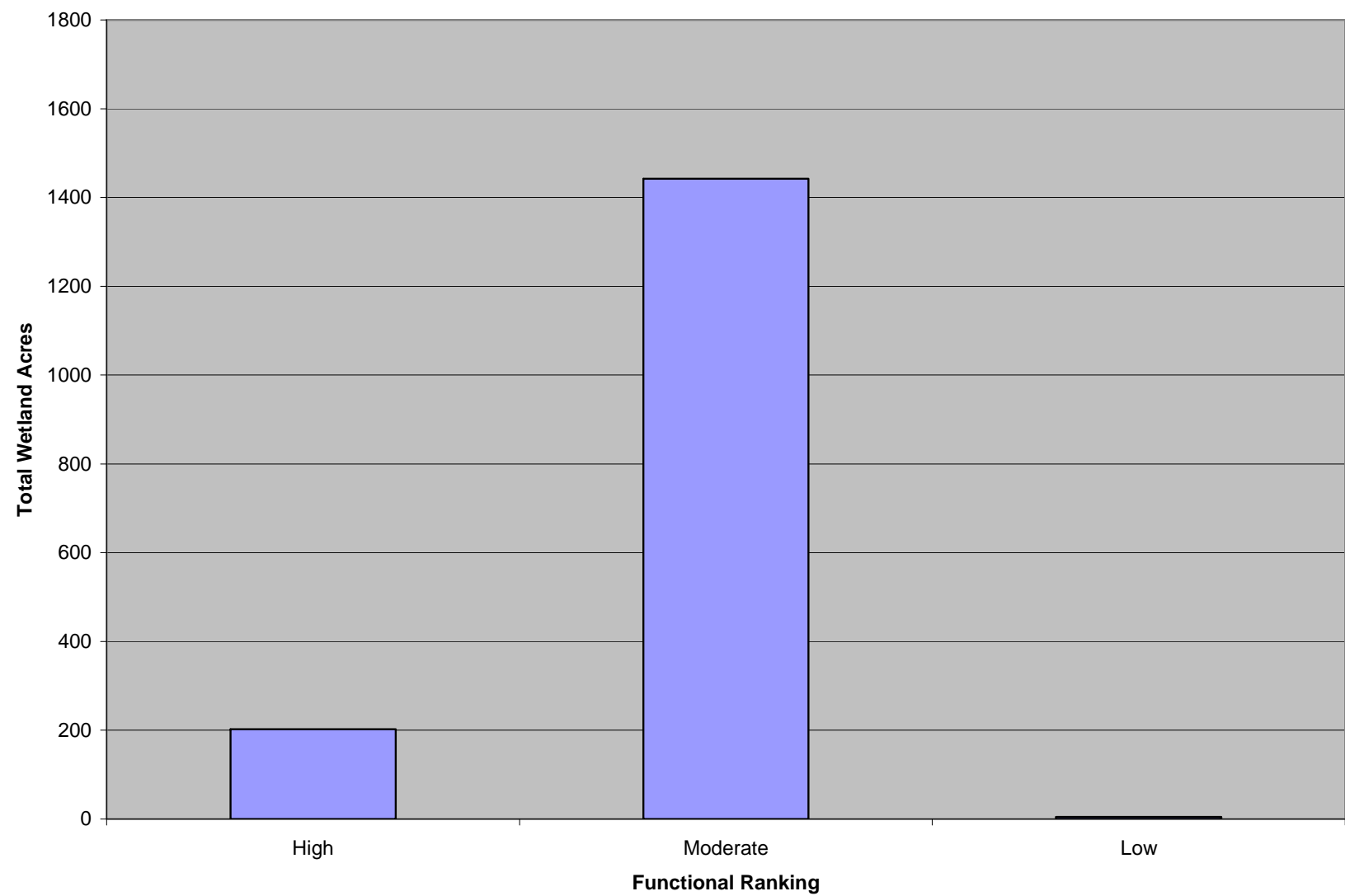
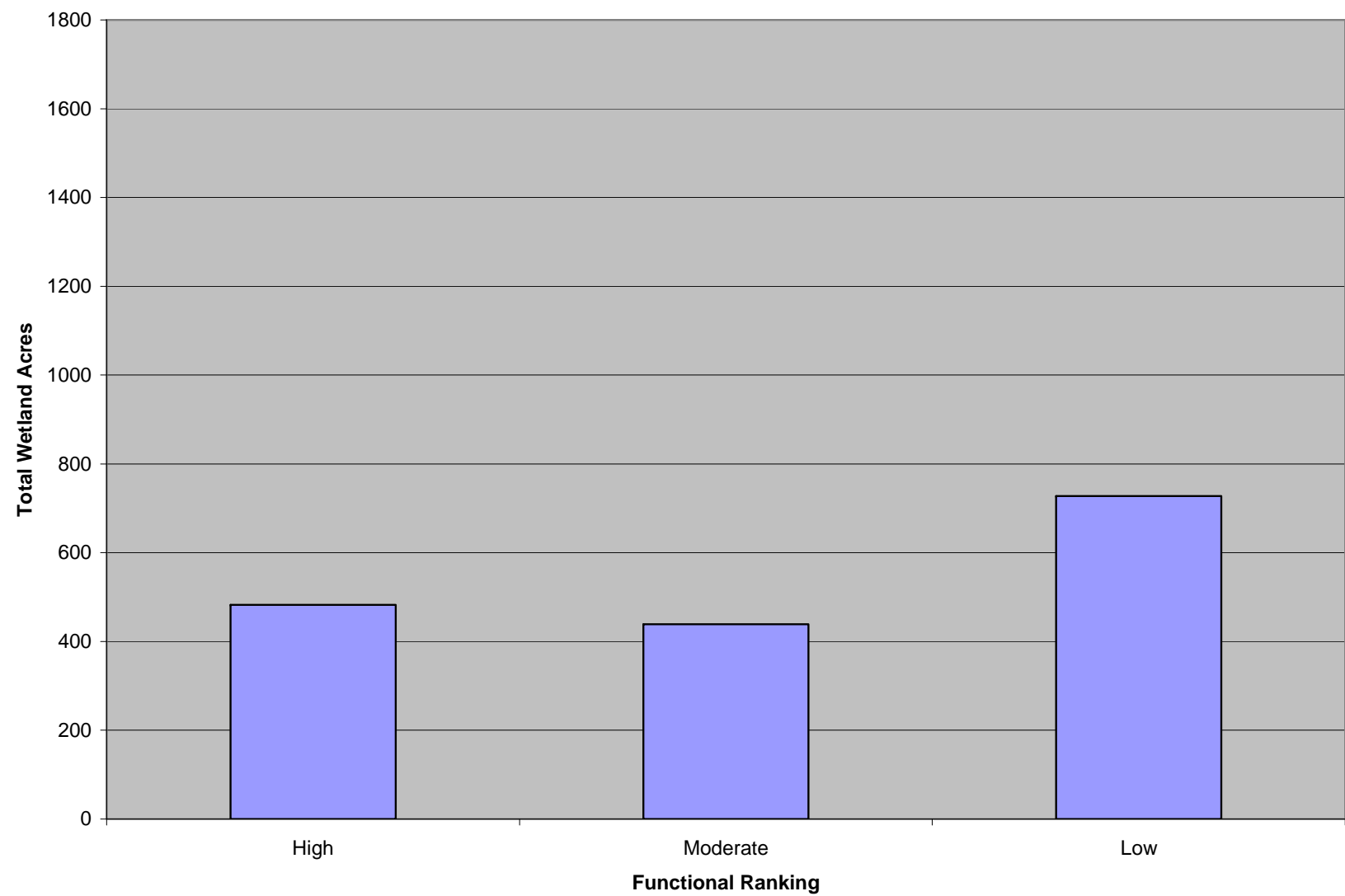


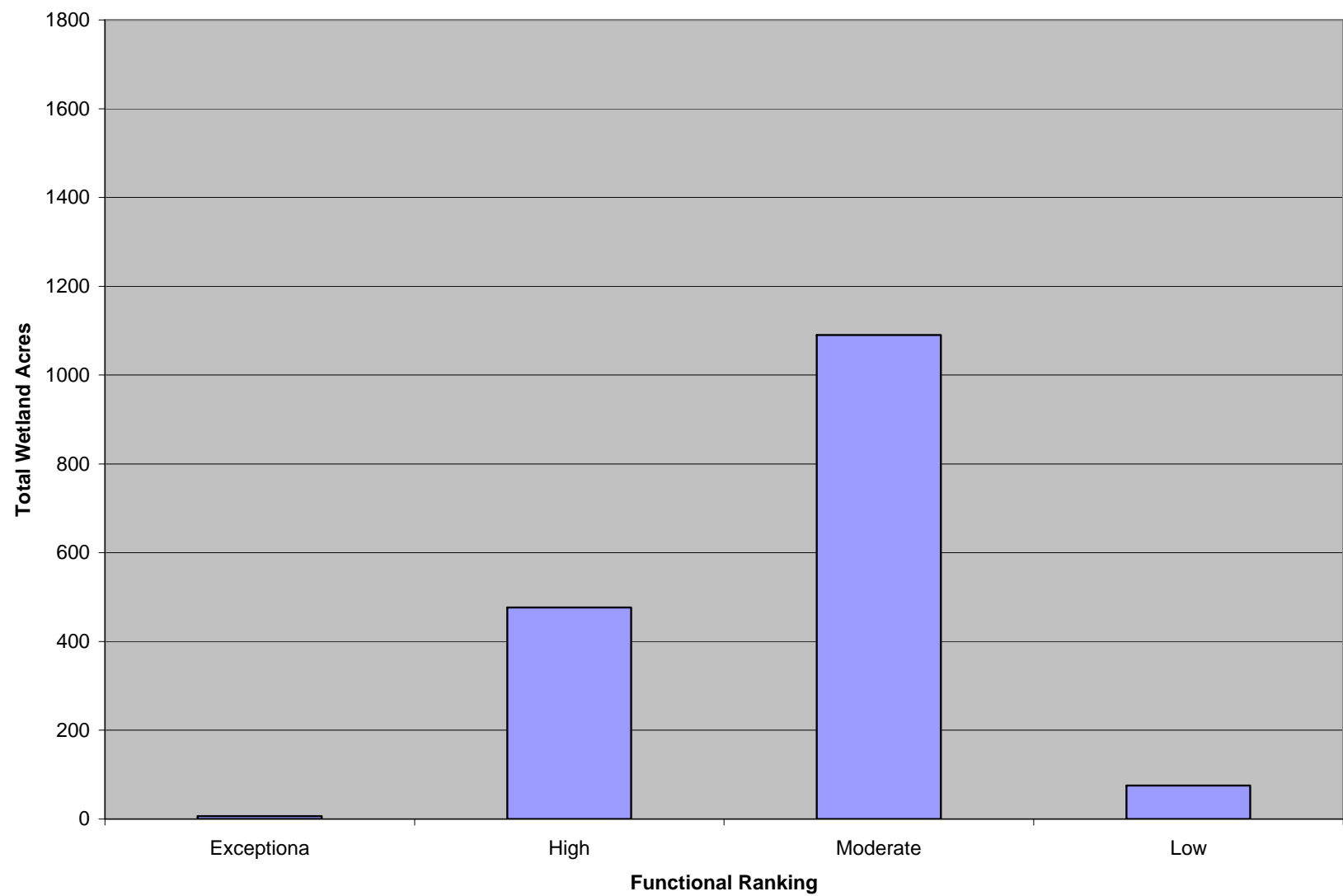
Figure 7.2-4. Cumulative Function of all 2010 Inventoried Wetlands for Downstream Water Quality



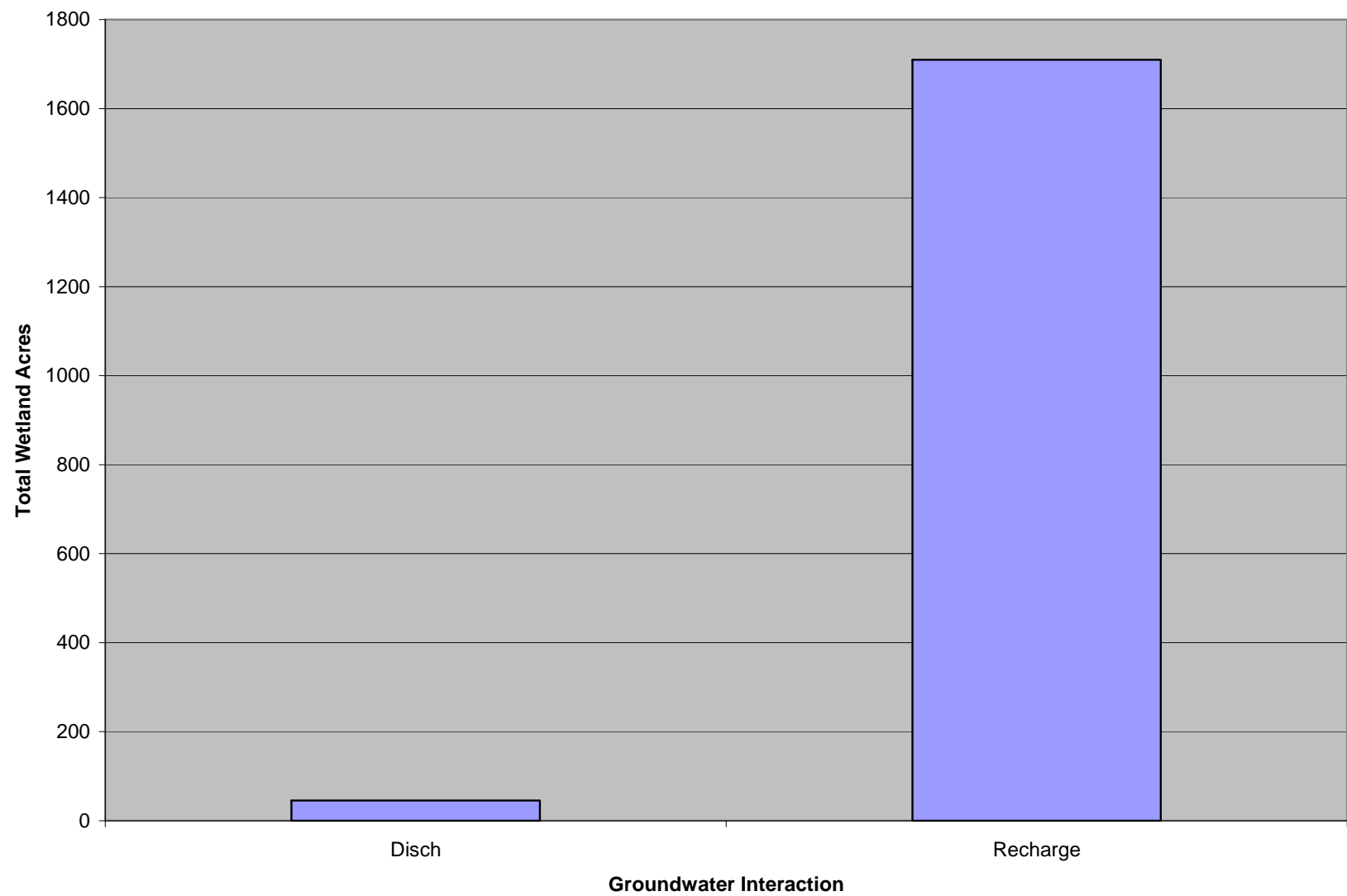
**Figure 7.2-5. Cumulative Function of all 2010 Inventoried Wetlands for Maintenance of Wetland Water Quality**



**Figure 7.2-6. Cumulative Function of all 2010 Inventoried Wetlands for Maintenance of Characteristic Wildlife Habitat**



**Figure 7.2-7. Cumulative Function of all 2010 Inventoried Wetlands for Groundwater Interaction**





## **Resolution 12-246**

### **Approving the Comprehensive Wetland Plan**

WHEREAS, the Prior Lake-Spring Lake Watershed District (PLSLWD) is established and authorized under Minnesota Statutes Chapters 103B and 103D; and

WHEREAS, pursuant to Minnesota Statutes §103B.231, the PLSLWD has an approved and adopted watershed management plan, the 2010 Water Resource Management Plan (2010 WRMP); and

WHEREAS, the goals “to fully understand the character and condition of all wetlands in the watershed for the purpose of resources planning, restoration and permitting” and “to restore, enhance, and/or preserve wetlands or partially drained wetlands which provide natural attenuation of runoff volumes, improve water quality and provide fish and wildlife habitat” are established as Goals of the District in Section 2.3, numbers 12 and 13 respectively, of the 2010 WRMP; and

WHEREAS, the policy “The District will initiate collaborative projects with local governments that identify wetlands with high functions and values and encourage the development of wetland management plans to preserve those functions and values, and to identify wetland enhancement opportunities” is established as a Policy of the District under Section 2.4.7, number 7, of the 2010 WRMP; and

WHEREAS, conducting a wetland function and values assessment and developing a Comprehensive Wetland Protection and Management Plan (CWMP) are provided for under Section 4.2.1.5 and Table 4.1 of the 2010 WRMP, and

WHEREAS, the PLSLWD’s engineering consultant, in coordination with PLSLWD staff, have prepared the “Comprehensive Wetland Plan for the Prior Lake-Spring Lake Watershed District (April 2012)” (CWP), a wetland management plan that includes an inventory and function and values assessment of wetlands within PLSLWD boundaries, an assessment of the role of these wetlands within watershed hydrology, and management standards for classes of wetlands to maintain functions and values; and

WHEREAS, in developing the CWP, the PLSLWD invited and benefited from the participation of local units of government, the Scott County Soil and Water Conservation District, the

Minnesota Board of Water and Soil Resources (BWSR), the Minnesota Department of Natural Resources, the U.S. Army Corps of Engineers, and local residents; and

WHEREAS, the Board of Managers has determined not to adopt the management standards of the CWP as official controls at this time, and therefore not to seek BWSR approval of the CWP as a comprehensive wetland protection and management plan under Minnesota Statutes §103G.2243;

NOW, THEREFORE, BE IT RESOLVED that the Board of Managers adopts the CWP as a resource management plan of the PLSLWD in implementation of its WRMP, and directs that the Administrator utilize the CWP in identifying, setting priorities for and implementing programs and capital projects, and make the CWP available to governmental partners and other interested parties for better coordination of resource management programs; and

BE IT FURTHER RESOLVED that the PLSLWD, through procedures as required by law and as the Board of Managers otherwise may direct, may take steps to further formalize the findings of the CWP, which may include incorporating CWP management standards into PLSLWD rules through rulemaking and completing procedures for adoption of the CWP as a comprehensive wetland protection and management plan.



Adopted this 10<sup>th</sup> day of April, 2012, upon motion by Kallberg and second by Schmoke by the following vote:

William Kallberg  
William Schmoke  
D. Bruce Thorsen

Yes  
Yes  
Yes

Greg Aamodt  
Craig Gontarek

yes  
yes

C. Gontarek  
Craig Gontarek, President

Attest to:

I, Bill Schmoke, Secretary of the Prior Lake-Spring Lake Watershed District, do hereby certify that the above resolution 12-246 was duly passed by the Board of Managers at a duly called meeting on the 10<sup>th</sup> day of April, 2012.

Bill Schmoke  
Bill Schmoke, Secretary

C O P Y



C O P Y

UNITED STATES | ENGLAND | GERMANY | CHINA

WALTER H. ROCKENSTEIN II  
wrockenstein@faegre.com  
(612) 766-7208

November 6, 2007

Bryce D. Huemoeller, Esq.  
Huemoeller, Bates & Gontarek PLC  
16670 Franklin Trail  
Suite 210  
Prior Lake, MN 55372

**BY MESSENGER**

**Re: Prior Lake-Spring Lake Watershed District  
Executed Originals Of MOA And JPA**

Dear Bryce:

I have enclosed for the City's records the following:

1. Two fully executed originals of the *Memorandum Of Agreement For Construction, Use, Operation, And Maintenance Of The Prior Lake Outlet Channel And Outlet Structure* with Exhibits;
2. Two fully executed originals of the *Joint Powers Agreement For Construction, Use, Operation, And Maintenance Of The Prior Lake Outlet Channel And Outlet Structure* with Exhibits.

I have also enclosed one copy of the *Memorandum Of Agreement* for your own records.

If you have any questions, please call me.

Sincerely,

Walter H. Rockenstein II

ROCWH:jorsa:fb.us.2401753.01  
Enclosures

RECEIVED  
NOV 07 2007

cc: Mike Kinney (w/one copy of each)

2200 WELLS FARGO CENTER | 90 SOUTH SEVENTH STREET | MINNEAPOLIS MINNESOTA 55402-3901  
TELEPHONE 612-766-7000 | FACSIMILE 612-766-1600 | WWW.FAEGRE.COM

**MEMORANDUM OF AGREEMENT  
FOR CONSTRUCTION, USE, OPERATION,  
AND MAINTENANCE OF  
THE PRIOR LAKE OUTLET CHANNEL  
AND OUTLET STRUCTURE**

**Between the Prior Lake–Spring Lake Watershed District,  
the City of Prior Lake,  
the City of Shakopee, and  
the Shakopee Mdewakanton Sioux Community**

**Effective as of October 1, 2006**

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**MEMORANDUM OF AGREEMENT  
FOR CONSTRUCTION, USE, OPERATION,  
AND MAINTENANCE OF  
THE PRIOR LAKE OUTLET CHANNEL  
AND OUTLET STRUCTURE**

**ARTICLE 1. AGREEMENT AND EFFECTIVE DATE**

The PRIOR LAKE-SPRING LAKE WATERSHED DISTRICT, a Minnesota political subdivision (the "**Watershed District**"), the CITY OF PRIOR LAKE, a Minnesota municipal corporation ("**Prior Lake**"), the CITY OF SHAKOPEE, a Minnesota municipal corporation ("**Shakopee**"), and the SHAKOPEE MDEWAKANTON SIOUX COMMUNITY, a Federally recognized Indian tribe (the "**SMSC**"), jointly the "**Project Cooperators**", enter into this *Memorandum Of Agreement For Construction, Use, Operation, And Maintenance Of The Prior Lake Outlet Channel And Outlet Structure* (this "**MOA**," as more fully defined in Section 2.1Y) to be effective as of October 1, 2006 (the "**Effective Date**"). In entering into this MOA, the Project Cooperators mutually acknowledge that this MOA's Provisions constitute sufficient consideration.

**ARTICLE 2. DEFINITIONS AND RULES OF CONSTRUCTION**

**2.1 Definitions**

Unless otherwise expressly provided in this MOA or the context otherwise requires, the following capitalized words have the following defined meanings when used in this MOA.

- A. Annual Meeting.* As defined in Section 11.2.
- B. Approval Date.* As defined in Section 4.5A.
- C. Best Storm Water Management Practices.* Storm water management practices approved or required by the Watershed District.

- D. Claims.** Any and all actions, causes of action, claims, costs, damages, demands, debts, executions, expenses (including reasonable attorneys' fees and expert and other fees and expenses), fines, judgments, liens, losses, obligations, penalties, or suits.
- E. Conceptual Design.** The *Prior Lake Outlet Channel Future Conceptual Plan*, a plan for restoring and enhancing the Outlet Channel, that was developed with the input of the Project Cooperators as part of the *Prior Lake Outlet Channel and Lake Volume Management Study* completed by the Watershed District in 2003. The Conceptual Design is based on the use of ecological principles, bioengineering, and natural stream technology practices to improve channel stability, reduce erosion, and enhance the habitat and aesthetics of the Outlet Channel.
- F. Construct/Construction.** All activities involved in building, creating, improving, or restoring a drainage way, trail, underground utility, or other device, object, or structure including: acquiring land for the work; bidding and contracting for the work; building, managing, inspecting, and approving the work; and remediating contamination or pollution of soil, water, structures, or other media necessary to perform the work.
- G. Construction Costs.** All costs related to Construction including: accountant, architect, appraisal, attorney, Construction management, engineering, and other professional fees and costs; contamination and pollution remediation costs; bidding, budgeting, contracting, office, travel, and other management costs; building or construction costs; easement, right-of-way, and other acquisition costs; erosion control costs; inspection costs; material costs; security costs; and staff costs.
- H. Design.** All activities involved in conceiving, designing, and planning, and in obtaining approval for plans for, a drainage way, trail, underground utility, or other device, object, or structure including: devising, discussing, drawing, and modifying plans and specifications; determining easements, rights-of-way, and other property interests needed; investigating contamination or pollution of soil, water, structures, or other media; preparing remedial action plans and other

documents related to contamination and pollution; testing soil and water; asking for, discussing, and getting comments on, or approvals of, plans and specifications from Project Cooperators or others; and asking for, discussing, and getting governmental comments on, or approvals of, licenses, permits, or other approvals for plans and specifications.

- I. *Design And Construction Budget.*** As defined in Section 11.2A(7).
- J. *Design And Construction Fund.*** The fund defined and established in Section 10.4A.
- K. *Design Costs.*** All costs related to Design including: accountant, architect, appraisal, attorney, engineering, geotechnical, scientific, and other professional fees and costs; bidding, budgeting, contracting, office, travel, and other management costs; investigation and testing costs; meeting and coordination costs; application preparation costs and fees; license, permit, and other governmental approval fees; administrative appeal and contested case fees and costs; and staff costs.
- L. *Design Flows.*** As defined in Section 7.1.
- M. *DNR.*** The Minnesota Department of Natural Resources.
- N. *Effective Date.*** As defined in Article 1.
- O. *Emergency Maintenance.*** All activities necessary to achieve immediate compliance with applicable laws and agreements, when immediate compliance is required, and to address conditions that pose an immediate threat to the functioning of a drainage way, trail, underground utility, or other device, object, or structure such as accidental damage, acts of vandalism, bank failure, culvert obstruction, storm damage, structural failure, or a contaminant or pollutant spill including: repairing or rebuilding the device, object, or structure; rebuilding, repairing, or restoring drainage channel banks or beds; removing obstructions; burning, mowing, planting, replanting, spraying, trimming, or otherwise managing vegetation; removing sediment from accumulation zones; cleaning up contaminant or pollutant spills; and protecting wildlife habitat and the aquatic environment.
- P. *Emergency Maintenance Costs.*** All costs related to Emergency Maintenance

including: accountant, appraisal, architect, attorney, Construction management, engineering, geotechnical, scientific, and other professional fees and costs; bank and bed stabilization costs; bidding, budgeting, contracting, office, travel, and other management costs; clean-up costs; contaminant or pollution remediation costs; building or construction costs; erosion control costs; inspection costs; license, permit, and other approval costs; material costs; repair costs; replacement costs; security costs; sediment removal costs; staff costs; vegetation management costs; and wildlife and aquatic environment protection costs.

**Q. *Emergency Maintenance Fund.*** The fund defined and established in Section 10.6A.

**R. *Fee Land.*** Land owned in fee now or hereafter by the SMSC.

**S. *Initial Meeting.*** As defined in Section 11.3.

**T. *JPA.*** As defined in Section 3.1P.

**U. *Lake Outlet Project.*** As defined in Section 3.1B.

**V. *LMCIT.*** As defined in Section 13.6A.

**W. *Maintain/Maintenance.*** All activities necessary to keep a drainage way, trail, underground utility, or other device, object, or structure in good repair, working efficiently, and in compliance with applicable laws and agreements including: rebuilding, repairing, or restoring the drainage way, device, object, or structure; rebuilding, repairing, or restoring channel banks or beds; removing obstructions; burning, mowing, planting, replanting, spraying, trimming, or otherwise managing vegetation; removing sediment from accumulation zones; cleaning up contaminant or pollutant spills; and protecting wildlife habitat and the aquatic environment.

**X. *Maximum Average Discharge Rate(s).*** As defined in Section 6.3.

**Y. *MOA.*** This *Memorandum Of Agreement For Construction, Use, Operation, And Maintenance Of The Prior Lake Outlet Channel And Outlet Structure*, including the following exhibits that are attached to and are a part of this MOA:

Exhibit A – Outlet Channel Map

Exhibit B – Outlet Channel Segment Drainage Areas

Exhibit C – Projected Average Discharge Rate Calculation Formula and Example Calculations

Exhibit D – Outlet Channel Design, Construction, and Maintenance Schedule

Exhibit E – Nine Year Estimate of Outlet Channel Design, Construction, and Operation And Maintenance Costs

Exhibit F – Calculation Method for Cost-Share Allocation

Exhibit G – Drainage Area Change Recalculation Example

Exhibit H – 2006 Fund Payments

**Z. 100-Year Rainfall Event.** The total rainfall from a 24-hour rainfall event with a 100 year frequency of return, assuming a Soil Conservation Service Type II rainfall distribution, as specified in Technical Paper 40, Rainfall Frequency Atlas of the United States for Durations from 30 minutes to 24 Hours and Return Periods from one to 100 Years (NOAA, 1961).

**AA. Operate/Operation.** All activities needed to keep a drainage way, trail, underground utility, or other device, object, or structure working, including; accounting for funds received and expended; adjusting equipment that is part of, and regularly inspecting, the drainage way or other device, object, or structure; bidding and contracting for, or otherwise providing, Maintenance; budgeting the use of funds received; overseeing the use of the drainage way or other device, object, or structure; providing staff for these activities; raising funds to pay for the enterprise; and otherwise managing the enterprise.

**BB. Operation And Maintenance Budget.** As defined in Section 11.2A(8).

**CC. Operation And Maintenance Costs.** All costs related to Operation or Maintenance including: accountant, architect, appraisal, attorney, engineering, geotechnical, scientific, and other professional fees and costs; bank and bed stabilization costs; bidding, budgeting, contracting, office, travel, and other management costs; clean-up costs; contamination and pollution remediation costs; building or construction costs; erosion control costs; inspection costs; license, permit, and other approval costs; repair costs; replacement costs; sediment removal costs; security costs; staff costs; vegetation management costs; and wildlife and aquatic environment protection costs.

**DD. Operation And Maintenance Fund.** The fund defined and established in Section 10.5A.

**EE. Outlet Channel.** The seven miles of natural and built drainage courses within the municipal boundaries of Prior Lake and Shakopee that were connected, built, and improved as part of the Lake Outlet Project. See Exhibit A – Outlet Channel Map. The Outlet Channel extends from the Outlet Structure north to the Minnesota River at Blue Lake. The Outlet Channel is divided into the following eight segments:

- Segment 1: Prior Lake to County Road 42
- Segment 2: County Road 42 to the inlet of Pike Lake
- Segment 3: The outlet of Pike Lake to Pike Lake Trail
- Segment 4: Pike Lake Trail to County Road 16
- Segment 5: County Road 16 to the inlet of Dean Lake
- Segment 6: The outlet of Dean Lake to State Trunk Highway 169
- Segment 7: State Trunk Highway 169 to State Trunk Highway 101
- Segment 8: State Trunk Highway 101 to the Minnesota River

**FF. Outlet Channel Restoration And Enhancement Project.** As defined in Section 3.1J.

**GG. Outlet Operating Plan.** The *Outlet Control Structure For Prior Lake Management Policy And Operating Procedures* (revised October 2004), a plan documenting the management policy and operating procedures for the Outlet Structure, as developed by the Watershed District and approved by the DNR in February 2005.

**HH. Outlet Structure.** The structure and pipe that were installed on Prior Lake by the Watershed District in 1983 as part of the Lake Outlet Project, to provide an outlet for the lake. See Exhibit A.

**II. Outlet Structure Repair Project.** As defined in Section 3.1G.

**JJ. Prior Lake.** As the context requires, either a Project Cooperator as defined in Article 1 or a lake in the City of Prior Lake.

**KK. Project.** As defined in Section 3.1J.

**LL. Project Cooperators.** As defined in Article 1.

**MM. Projected Average Discharge Rate.** The expected average storm water discharge rate from development that occurs after the Effective Date, as calculated by a Project Cooperator according to the formula in Exhibit C – Projected Average

Discharge Rate Calculation Formula and Example Calculations, for the entire drainage area within that Project Cooperator's jurisdiction tributary to an Outlet Channel segment.

- NN. *Projected Discharge Rate.*** The expected storm water discharge rate from a development or redevelopment calculated in cfs for the 100-Year Rainfall Event using storm water discharge specifications for a developed or redeveloped area.
- OO. *Provision.*** Any agreement, condition, duty, grant, immunity, indemnity, obligation, promise, provision, release, representation, responsibility, right, term, or warranty.
- PP. *Public Service Activity/Activities.*** As defined in Section 8.5A.
- QQ. *Shakopee.*** A Project Cooperator as defined in Article 1.
- RR. *SMSC.*** A Project Cooperator as defined in Article 1.
- SS. *SMSC Design And Compliance And Indemnification Letter Of Credit.*** An irrevocable letter of credit from the SMSC with the Watershed District, Prior Lake, and Shakopee as beneficiaries, in a form satisfactory to the Watershed District, from a surety located in the State, and as further provided in Section 14.1.
- TT. *SMSC Construction Letter Of Credit.*** An irrevocable letter of credit from the SMSC with the Watershed District as the beneficiary, in a form satisfactory to the Watershed District, from a surety located in the State, and as further provided in Section 12.1A.
- UU. *SMSC Emergency Maintenance Letter Of Credit.*** An irrevocable letter of credit from the SMSC with the Watershed District as the beneficiary, in a form satisfactory to the Watershed District, from a surety located in the State, and as further provided in Section 12.1C.
- VV. *SMSC Operation And Maintenance Letter Of Credit.*** An irrevocable letter of credit from the SMSC with the Watershed District as the beneficiary, in a form satisfactory to the Watershed District, from a surety located in the State, and as further provided in Section 12.1B.
- WW. *State.*** The State of Minnesota.
- XX. *Trust Land.*** Land held now and hereafter by the United States, in trust, for the



beneficial interest of the SMSC.

**YY. 2-Year Rainfall Event.** The total rainfall from a 24-hour rainfall event with a two year frequency of return, assuming a Soil Conservation Service Type II rainfall distribution, as specified in Technical Paper 40, Rainfall Frequency Atlas of the United States for Durations from 30 minutes to 24 Hours and Return Periods from one to 100 Years (NOAA, 1961).

**ZZ. Watershed District.** A Project Cooperator as defined in Article 1.

## **2.2 Rules Of Construction**

In interpreting this MOA, the following rules of construction will be used.

**A. Captions, Gender, Number, And Language Of Inclusion.** The Article and Section headings in this MOA are for convenience of reference only and do not define, limit, or prescribe the scope or intent of any MOA Provision. As used in this MOA, the singular includes the plural and vice versa, and the masculine, feminine, and neuter adjectives include one another.

**B. Construction.** The rule of strict construction does not apply to this MOA. This MOA will not be interpreted in favor of or against any Project Cooperator merely because of their respective efforts in preparing or modifying it.

**C. Words And Phrases.** The following words and phrases have the following meanings in this MOA.

- (1) *applicable law* means all applicable Federal, State, regional, county, municipal, local, or other constitutions, charters, bylaws, laws, statutes, codes, licenses, ordinances, rules, and regulations, including the applicable law of the Project Cooperators.
- (2) *cfs* means cubic feet per second.
- (3) *include* means include without limitation.
- (4) *including* means including but not limited to.
- (5) *incurred by* means asserted against, imposed upon, incurred by, paid by, or suffered.
- (6) *parties* means two or more of the Project Cooperators as the context of this MOA indicates.
- (7) *party* means one or more of the Project Cooperators as the context of this

MOA indicates.

- (8) *subject to approval by* means the entity whose approval is necessary may grant or deny approval, but approval cannot be unreasonably conditioned or delayed, and denial must have a reasonable basis and cannot be unreasonably delayed.

### ARTICLE 3. RECITALS AND STATEMENT OF PURPOSE

The following recitals and statement of purpose are incorporated in this MOA.

#### 3.1 Recitals

- A.* The Project Cooperators have the power to enter into this MOA and desire to do so.
- B.* In 1983, the Watershed District completed a project to build an artificial outlet for Prior Lake to drain water from Prior Lake and transport the water to the Minnesota River (“**Lake Outlet Project**”). The Lake Outlet Project connected and improved a natural drainage system of lakes, streams, and wetlands within the municipal boundaries of Prior Lake and Shakopee to connect Prior Lake and the Minnesota River. The resulting drainage way is known as the Outlet Channel. See Exhibit A.
- C.* The Outlet Channel drains water from land within the jurisdictions of Prior Lake and Shakopee and SMSC Fee Land and Trust Land. The drainage areas tributary to each Outlet Channel segment are shown on Exhibit B – Outlet Channel Segment Drainage Areas.
- D.* Since completion of the Lake Outlet Project, development has occurred in areas of Prior Lake and Shakopee tributary to the Outlet Channel, and the SMSC has acquired land tributary to the Outlet Channel for development. Consequently Prior Lake, Shakopee, and the SMSC use the Outlet Channel to convey storm water from developed areas within their boundaries or ownership to the Minnesota River.
- E.* The approved comprehensive plans of Prior Lake, Shakopee, and Scott County identify substantial additional development that will occur in drainage areas tributary to the Outlet Channel.
- F.* The SMSC plans additional development on both Fee Land and Trust Land in drainage areas tributary to the Outlet Channel.
- G.* The Watershed District plans repairs and modifications to the Outlet Structure to

address wear and tear that has occurred since its installation; to improve its efficiency and safety; and to reduce its operating costs ("**Outlet Structure Repair Project**").

- H.* The Outlet Structure directly and immediately benefits properties within the City of Prior Lake because it reduces Prior Lake water levels on riparian property within the established flood plain. The Outlet Structure Repair Project will continue these benefits.
- I.* The Project Cooperators desire to clarify their respective responsibilities and rights regarding implementation of the Outlet Structure Repair Project and the ongoing use, Operation, and Maintenance of the Outlet Structure.
- J.* The Project Cooperators are planning a project to restore and enhance the Outlet Channel using ecological principles, bioengineering, and natural stream technologies that will restore channel stability, improve water quality, enhance channel habitat and aesthetics, and assure capacity for existing and future storm water flows ("**Outlet Channel Restoration And Enhancement Project**" or "**Project**"), all in accordance with the Conceptual Design.
- K.* The Outlet Channel Restoration And Enhancement Project directly and immediately benefits the Project Cooperators because:
  - (1) The Project conforms to and implements Prior Lake, Shakopee, and the SMSC's overall drainage plan in the Outlet Channel's drainage area;
  - (2) The easements to be acquired within Shakopee and Prior Lake can also be used by those cities for underground public utility and trail purposes; and
  - (3) An operable Outlet Channel with adequate storm water conveyance capacity allows for orderly development by Prior Lake, Shakopee, and the SMSC.
- L.* Prior Lake and Shakopee desire to assist the Watershed District to acquire the easements necessary in their respective cities for Construction of the Outlet Channel Restoration And Enhancement Project.
- M.* The SMSC desires to assist the Watershed District to acquire the easements and rights-of-way necessary on Fee Land and Trust Land that the SMSC might purchase in the future.
- N.* The Project Cooperators desire to clarify their respective responsibilities and rights

regarding implementation of the Outlet Channel Restoration And Enhancement Project and the ongoing use, Operation, and Maintenance of the Outlet Channel.

- O.** The Project Cooperators have agreed to allocate Design Costs and Construction Costs for the Outlet Channel Restoration And Enhancement Project, and Operation And Maintenance Costs and Emergency Maintenance Costs for the Outlet Channel among the Project Cooperators using the following principles.
- (1) The cost-share obligation should be allocated among the Project Cooperators based on each Project Cooperator's current and anticipated use of the Outlet Channel for storm water conveyance.
    - a. The Watershed District's cost-share obligation should be based on its maximum release rate through the Outlet Structure of 65 cfs.
    - b. The cost-share obligation for Prior Lake, Shakopee, and the SMSC should be based on each Project Cooperator's tributary drainage area by Outlet Channel segment and its Maximum Average Discharge Rate or Rates as identified by each Project Cooperator and incorporated into this MOA.
  - (2) The contributing drainage area from the SMSC should include Fee Land and Trust Land.
  - (3) A separate cost-share allocation should be determined for each Outlet Channel segment.
  - (4) Each Project Cooperator's cost-share obligation should begin at the point furthest from Blue Lake where storm water from that Project Cooperator's jurisdictional boundaries first flows into the Outlet Channel and extend from that first point of discharge downstream to the point of inlet into Blue Lake.
- P.** To implement the Outlet Channel Restoration And Enhancement Project and provide for ongoing use, Operation, and Maintenance of the Outlet Channel and Outlet Structure, two agreements are being signed – this MOA between the Project Cooperators and the *Joint Powers Agreement For Construction, Use, Operation, And Maintenance Of The Prior Lake Outlet Channel And Outlet Structure* pursuant to Minnesota Statutes Section 471.59 (the “JPA”) between the Watershed District, Prior Lake, and Shakopee. For reasons of State law, the SMSC does not have authority to participate in a joint powers agreement for utility and drainage

purposes, and can only participate by executing this MOA with the Watershed District, Prior Lake, and Shakopee. This necessitates this MOA. But the MOA must be approved by the Secretary of the Interior. If this approval is not forthcoming, or if the MOA is approved and terminates in the future for any reason, the Watershed District, Prior Lake, and Shakopee desire to implement the Project and provide for ongoing use, Operation, and Maintenance of the Outlet Channel and Outlet Structure without the SMSC. This necessitates the JPA. If the MOA is approved by the Secretary of the Interior, the Project Cooperators intend this MOA, and not the JPA, to control their relationship. If this MOA is not approved, or if it is approved and terminates in the future for any reason, the Watershed District, Prior Lake, and Shakopee intend their relationship to continue and be controlled by the JPA, and not by this MOA.

### **3.2 Statement Of Purpose**

The general purpose of this MOA is to:

- A.* Establish Provisions under which the Watershed District will improve, use, Operate, and Maintain the Outlet Structure.
- B.* Preserve the Watershed District's discharge capacity rights to the Outlet Channel from consumption by storm water drainage generated from new development and redevelopment in the Outlet Channel drainage area.
- C.* Allocate Outlet Channel drainage capacity above that required for the Watershed District among the other Project Cooperators to promote orderly development within the Outlet Channel drainage area.
- D.* Establish Provisions under which the Project Cooperators will implement the Outlet Channel Restoration And Enhancement Project, including acquisition of the additional easements needed and allocation of Design Costs and Construction Costs among them.
- E.* Establish Provisions under which the Project Cooperators will use, Operate, and Maintain the Outlet Channel, including specification of their respective responsibilities for Operation, Maintenance, and Emergency Maintenance, allocation of Operation And Maintenance Costs and Emergency Maintenance Costs among them, and identification of additional uses that Prior Lake, Shakopee, and

the SMSC can make of the easements acquired for the Outlet Channel Restoration And Enhancement Project.

#### **ARTICLE 4. REPRESENTATIONS AND WARRANTIES**

Each Project Cooperator represents and warrants to the other Project Cooperators, and each of them, as follows:

##### **4.1 Existence and Authority Of Watershed District**

The Watershed District represents and warrants that it is a watershed district duly organized and operating under Minnesota Statutes Chapters 103B and 103D and that it has the corporate power and authority to execute and deliver this MOA, to perform fully its obligations under this MOA, and to consummate the transactions contemplated by this MOA. The execution and delivery by the Watershed District of this MOA, the performance of its obligations under this MOA, and the consummation of the transactions contemplated by this MOA have been duly authorized by all requisite corporate action of the Watershed District, and do not and will not conflict with, result in a violation of, or constitute a default under any State statute, its Constitution or bylaws, any other applicable law, any agreement or other instrument binding upon the Watershed District, or any court decree or order applicable to the Watershed District. This MOA is the legal, valid, and binding obligation of the Watershed District, enforceable against the Watershed District in accordance with its Provisions.

##### **4.2 Existence And Authority Of Prior Lake**

Prior Lake represents and warrants that it is a municipal corporation duly organized and operating under Minnesota Statutes Chapter 412 and that it has the corporate power and authority to execute and deliver this MOA, to perform fully its obligations under this MOA, and to consummate the transactions contemplated by this MOA. The execution and delivery by Prior Lake of this MOA, the performance of its obligations under this MOA, and the consummation of the transactions contemplated by this MOA have been duly authorized by all requisite corporate action of the Prior Lake City Council, and do not and will not conflict with, result in a violation of, or constitute a default under any State statute, its Code of Ordinances, any other applicable law, any agreement or other instrument binding upon Prior Lake, or any court decree or order applicable to Prior

Lake. This MOA is the legal, valid, and binding obligation of Prior Lake, enforceable against Prior Lake in accordance with its Provisions.

**4.3 Existence And Authority Of Shakopee**

Shakopee represents that it is a municipal corporation duly organized and operating under Minnesota Statutes Chapter 412 and that it has the corporate power and authority to execute and deliver this MOA, to perform fully its obligations under this MOA, and to consummate the transactions contemplated by this MOA. The execution and delivery by Shakopee of this MOA, the performance of its obligations under this MOA, and the consummation of the transactions contemplated by this MOA have been duly authorized by all requisite corporate action of the Shakopee City Council, and do not and will not conflict with, result in a violation of, or constitute a default under any State statute, its Code of Ordinances, any other applicable law, any agreement or other instrument binding upon Shakopee, or any court decree or order applicable to Shakopee. This MOA is the legal, valid, and binding obligation of Shakopee, enforceable against Shakopee in accordance with its Provisions.

**4.4 Existence And Authority Of SMSC**

The SMSC represents and warrants that it is a Federally recognized Indian tribe, duly organized and existing under Section 16 of the Indian Reorganization Act of 1934, as amended (25 U.S.C. §476), and its Constitution. The SMSC has the full power and authority to enter into this MOA, to perform fully its obligations under this MOA, and to consummate the transactions contemplated by this MOA, subject to the Secretary of the Interior's approval as provided in Section 4.5A. The execution and delivery by the SMSC of this MOA, the performance by the SMSC of its obligations under this MOA, and the consummation of the transactions contemplated by this MOA have been duly authorized by all necessary governmental action of the SMSC, and do not and will not conflict with, result in a violation of, or constitute a default under its Constitution, any other applicable law, any agreement or other instrument binding upon the SMSC, or any court decree or order applicable to the SMSC. This MOA is the legal, valid, and binding obligation of the SMSC, enforceable against the SMSC in accordance with its Provisions.

#### **4.5 Approval And Approval Date**

**A. Secretary Of Interior Approval Required.** The Secretary of the Interior's approval is required for the SMSC to participate in this MOA. Whether or not to grant this approval is in the sole and absolute discretion of the Secretary of Interior. The SMSC will seek this approval immediately after signing this MOA and promptly inform the other Project Cooperators if approval is granted or denied. On the date the Secretary of Interior approves this MOA ("**Approval Date**"), this MOA shall go into force as of the Effective Date. Until the Secretary of the Interior approves this MOA, no draw can be made on the SMSC letters of credit delivered to the Watershed District under Sections 12.1 and 14.1. If the Secretary of the Interior disapproves this MOA, it will not become effective, and the SMSC letters of credit delivered to the Watershed District under Sections 12.1 and 14.1 will be returned immediately to the SMSC without any draw being made.

**B. Other Consents.** Except for the approval of the Secretary of the Interior, the execution, delivery, and performance of the MOA by the SMSC mean either:

- (1) That the SMSC does not need the consent or approval of any other person or entity, including without limitation any regulatory authority or governmental body of the United States or any state thereof, or
- (2) That if any such consent or approval is needed, it has been obtained.

### **ARTICLE 5. OUTLET STRUCTURE REPAIR PROJECT AND OPERATION OF OUTLET STRUCTURE**

#### **5.1 Watershed District To Undertake Outlet Structure Repair Project**

The Watershed District will Design and implement the Outlet Structure Repair Project. All Design Costs and Construction Costs of the Outlet Structure Repair Project are the sole and exclusive responsibility of the Watershed District. Prior to the commencement of the Outlet Structure Repair Project, the Watershed District will obtain all permits and approvals required by any governmental unit having jurisdiction over the Outlet Structure, including permits and approvals from Prior Lake, Shakopee, the SMSC, the Lower Minnesota Watershed District, the DNR, the U.S. Army Corps of Engineers, and the U.S. Environmental Protection Agency. If any permit or approval requires modification of an Outlet Structure Repair Project plan developed under Section 5.2,



the Watershed District can make the required modification. The Watershed District will notify the other Project Cooperators of the change prior to the start of Construction but need not submit the modified plans to Prior Lake for review and comment.

**5.2 Plans And Specifications For Outlet Structure Repair Project**

The Watershed District will Design the Outlet Structure Repair Project to conform to the findings of the *Prior Lake Outlet Channel and Lake Volume Management Study*, dated May 2003. To begin, the Watershed District will consult with Prior Lake and prepare plans and specifications that conform to the *Prior Lake Outlet Channel and Lake Volume Management Study* considering generally acceptable engineering specifications. Next, the Watershed District will furnish Prior Lake with complete copies of the plans and specifications for the Outlet Structure improvements. Prior Lake will comment on the plans and specifications and may request modifications to them within 60 days of delivery. If Prior Lake provides comments or requests modifications, the Watershed District will endeavor to address the comments and incorporate the modifications into the plans and specifications. However, if situations arise where the Watershed District receives comments or modifications that are inconsistent with the *Prior Lake Outlet Channel and Lake Volume Management Study*, to avoid delays in the Outlet Structure Repair Project, the Watershed District's determination on questions of Design will be conclusive, and Article 15 will not apply.

**5.3 Operation And Maintenance Of Outlet Structure**

The Watershed District will Operate and Maintain the Outlet Structure. In doing so, the Watershed District will release water from the Outlet Structure in accordance with the Outlet Operating Plan and must not exceed the maximum release rate of 65 cfs as specified in the Plan. All Operation And Maintenance Costs and Emergency Maintenance Costs related to the Outlet Structure are the sole and exclusive responsibility of the Watershed District.

**ARTICLE 6. USES AND DRAINAGE RATES FOR OUTLET CHANNEL**

**6.1 Permitted Use By Watershed District**

The Watershed District will use the Outlet Channel to drain water from Prior Lake and for no other purposes.

## 6.2 Permitted Uses And Drainage Areas For Prior Lake, Shakopee, And SMSC

Prior Lake, Shakopee, and the SMSC will use the Outlet Channel to convey storm water from their respective drainage areas tributary to the Outlet Channel as specified in Table 1, or Table 1 as subsequently modified in accordance with Section 10.3, and for no other purposes. Prior Lake, Shakopee, and the SMSC must not convey storm water to the Outlet Channel from acres not specified in Table 1, or Table 1 as subsequently modified in accordance with Section 10.3.

**Table 1: Outlet Channel Tributary Drainage Areas in Acres (downstream of Prior Lake)**

Outlet Channel Segment	Watershed District <sup>1</sup>	Prior Lake	Shakopee	SMSC <sup>2</sup>	Subtotal
1	NA	658	0	28	686
2	NA	261	0	3	264
3	NA	1,147	93	5	1,245
4	NA	805	2,443	1,989	5,237
5	NA	0	748	8	756
6	NA	0	937	250	1,187
7	NA	0	1,407	0	1,407
8	NA	0	101	0	101
<b>Total</b>	NA	<b>2,871</b>	<b>5,729</b>	<b>2,283</b>	<b>10,883</b>

<sup>1</sup> The Watershed District's contribution to the Outlet Channel is not dependent on drainage area; it is based on a maximum release rate through the Outlet Structure of 65 cfs as provided in Section 5.3.

<sup>2</sup> Includes Fee Land and Trust Land.

## 6.3 Maximum Average Discharge Rates

The Watershed District, Prior Lake, Shakopee, and the SMSC will not discharge storm water to the outlet channel at rates in excess of the maximum average discharge rate or rates set for each in this Section 6.3 ("Maximum Average Discharge Rate(s)").

**A. Maximum Average Discharge Rate For Watershed District.** The Watershed District's Maximum Average Discharge Rate is its maximum release rate for water through the Outlet Structure to the Outlet Channel as provided in Section 5.3 and as shown in Table 2.

**B. Maximum Average Discharge Rates For Prior Lake, Shakopee, And SMSC.**

Prior Lake, Shakopee, and the SMSC will not discharge storm water to any Outlet Channel segment from drainage areas in their respective jurisdictions tributary to

that segment at a rate that exceeds their respective Maximum Average Discharge Rates for that segment as specified in Table 2, or Table 2 as modified in accordance with Sections 6.6 or 10.3. As stated in Table 2, the Maximum Average Discharge Rates are based on the 100-Year Rainfall Event. For example in Segment 4: Prior Lake cannot discharge storm water from its 805 acres of tributary drainage area at a rate that exceeds 0.25 cfs per acre; Shakopee cannot discharge storm water from its 2,443 acres of tributary drainage area at a rate that exceeds 0.10 cfs per acre; and the SMSC cannot discharge storm water from its 1,989 acres of tributary drainage area at a rate that exceeds 0.05 cfs per acre.

**Table 2: Maximum Average Discharge Rates to Outlet Channel Segments**

<b>Project Cooperator</b>	<b>Maximum Average Discharge Rate to Outlet Channel per Acre for 100-Year Rainfall Event</b>
Watershed District	65.00 cfs <sup>1</sup>
Prior Lake	0.25 cfs/acre <sup>2</sup>
Shakopee: south (upstream) of Dean Lake, except 124.61 acres directly tributary to Outlet Channel Segment 5	0.10 cfs/acre <sup>2</sup>
Shakopee: north (downstream) of Dean Lake, plus 124.61 acres directly tributary to Outlet Channel Segment 5	0.25 cfs/acre <sup>2</sup>
SMSC	0.05 cfs/acre <sup>2</sup>

<sup>1</sup> The Watershed District's Maximum Average Discharge Rate to the Outlet Channel is not an average rate per acre; it is the District's maximum release rate through the Outlet Structure of 65 cfs as provided in Section 6.3A.

<sup>2</sup> Each Maximum Average Discharge Rate was provided by the respective Project Cooperator.

#### **6.4 Verifying Watershed District's Maximum Average Discharge Rate**

On an annual basis, the Watershed District will provide to the other Project Cooperators a summary of the operating records and any monitoring data for the Outlet Structure to show the release rates through the Outlet Structure for the previous calendar year and will certify that its release rates did not exceed the Maximum Average Discharge Rate specified in Section 6.3A and Table 2. If the Watershed District cannot make this certification, it will describe the reason for the failure to certify and the extent of any exceedance.

## **6.5 Verifying Other Tributary Acreages And Maximum Average Discharge Rates**

On an annual basis, Prior Lake, Shakopee, and the SMSC will each verify to the other Project Cooperators that its use of the Outlet Channel conforms to the tributary drainage acreages specified in Section 6.2 and the Maximum Average Discharge Rates specified in Section 6.3 as follows.

**A. Information To Be Provided.** Prior Lake, Shakopee, and the SMSC will each provide a summary of the following for tributary drainage areas in their respective jurisdictions.

- (1) The tributary drainage acres developed by Outlet Channel segment before the Effective Date. Acreage in Prior Lake and Shakopee will be considered developed before the Effective Date if the preliminary plat for the development was approved by Prior Lake or Shakopee prior to the Effective Date. SMSC Fee Land or Trust Land Acreage will be considered developed if the SMSC General Council or Business Council approved the development before the Effective Date.
- (2) The tributary drainage acres developed by Outlet Channel segment after the Effective Date.
- (3) The tributary drainage acres remaining to be developed by Outlet Channel segment based on each Project Cooperator's current comprehensive plan or equivalent.
- (4) The Projected Discharge Rate by Outlet Channel segment for tributary drainage areas developed after the Effective Date.
- (5) The Projected Discharge Rate by Outlet Channel segment for any tributary drainage area redeveloped after the Effective Date.
- (6) An explanation of any discharge rate offsets within an Outlet Channel segment for tributary drainage areas redeveloped at a discharge rate higher than the area's Projected Discharge Rate when first developed. For example, if a low density residential area is redeveloped as a commercial area, the Project Cooperator must show how one or more Projected Discharge Rates will be reduced elsewhere in the tributary drainage area to offset the rate increase associated with commercial development.

- (7) A calculation of the Projected Average Discharge Rate for each Outlet Channel segment that includes all tributary drainage areas developed after the Effective Date; and
- (8) An explanation of how future development will be managed within each Outlet Channel segment to ensure conformance with the tributary drainage acreages specified in Section 6.2 and the Maximum Average Discharge Rates specified in Section 6.3.
- (9) The formula that the Project Cooperators will use to calculate the Projected Average Discharge Rates for each Outlet Channel Segment and example calculations are attached as Exhibit C.

**B. Use Of Monitoring Data.** As an alternative to calculating a Projected Average Discharge Rate for any Outlet Channel segment, Prior Lake, Shakopee, or the SMSC may provide the monitored, actual discharge rate for one or more segments using monitoring methods that are consistent with U.S. Geological Survey standards, subject to approval by the Watershed District.

**C. Certification**

- (1) Prior Lake, Shakopee, and the SMSC will each certify the following for tributary drainage areas in their respective jurisdiction:
  - a. The tributary drainage acres by Outlet Channel segment do not exceed those specified in Table 1; and
  - b. The Projected Average Discharge Rate or monitored actual discharge rate for each Outlet Channel segment does not exceed the Maximum Average Discharge Rate specified in Section 6.3 for each Outlet Channel segment.
- (2) If Prior Lake, Shakopee, or the SMSC, cannot make this certification, it will describe the reason for the failure to certify and the extent of any exceedance.

**6.6 Exceeding Maximum Discharge Rates And Changes To Address Exceedances**

**A. Options To Address An Excess Discharge Rate.** If a Project Cooperator exceeds its tributary drainage acres as specified in Section 6.2 or its Maximum Average Discharge Rate as specified in Section 6.3 for any Outlet Channel segment or wishes to modify either, the Project Cooperator will either:

- (1) Reduce flows elsewhere within its drainage area tributary to the Outlet

Channel so its Maximum Average Discharge Rate as specified in Section 6.3 is not exceeded, or

- (2) Assuming the Project Cooperator obtains all applicable approvals:
  - a. If the Project is still under Construction, revise the Conceptual Design to increase the Outlet Channel Design flow to handle the increased Maximum Average Discharge Rate, and pay all Design Costs, Construction Costs, Operation And Maintenance Costs, and Emergency Maintenance Costs for increasing the Outlet Channel Design flow; or
  - b. If the Project is complete, make all improvements or undertake any Maintenance to the Outlet Channel necessary to handle the increased Maximum Average Discharge Rate and pay all Design Costs, Construction Costs, Operation And Maintenance Costs, and Emergency Maintenance Costs for the increased Maximum Average Discharge Rate.

***B. MOA To Be Amended***

- (1) *For Reduced Flows To Address An Exceedance.* If a Project Cooperator decides to reduce flows elsewhere within its drainage area tributary to the Outlet Channel,
  - a. It will sign the necessary amendments to this MOA to implement and require the flow reduction, and
  - b. It will request that the Watershed District incorporate the amendments into this MOA, subject to approval by the other Project Cooperators in the form of signed amendments.
- (2) *For Improvements Or Maintenance To Address An Exceedance.* If a Project Cooperator decides to make improvements to, or undertake Maintenance of, the Outlet Channel:
  - a. It will sign the necessary amendments to this MOA to incorporate the increased Maximum Average Discharge Rate and to pay for all Design Costs, Construction Costs, Operation And Maintenance Costs, and Emergency Maintenance Costs for that increased Maximum Average Discharge Rate; and
  - b. It will request that the Watershed District incorporate the amendments into

this MOA, subject to approval by the other Project Cooperators in the form of signed amendments.

## **ARTICLE 7. CONSTRUCTION OF OUTLET CHANNEL RESTORATION AND ENHANCEMENT PROJECT**

### **7.1 Design Flows**

The Outlet Channel needs restoration and enhancement to stabilize the channel banks and ensure adequate capacity for existing and future storm water conveyance needs. The final Design for each segment of the Outlet Channel Restoration And Enhancement Project will be consistent with the Conceptual Design and will provide sufficient capacity for the Outlet Channel's expected flows ("**Design Flows**") specified in Table 3, which are based on the 2-Year Rainfall Event plus 65 cfs of release through the Outlet Structure.

**Table 3: Outlet Channel Restoration and Enhancement Project Design Flows by Segment**

<b>Outlet Channel Segment</b>	<b>Channel Design Flows (2-Year Rainfall Event plus 65 cfs release through Outlet Structure)</b>
1	118 cfs
2	141 cfs
3	112 cfs
4	174 cfs
5	269 cfs
6	216 cfs
7	407 cfs
8	400 cfs

### **7.2 Project Schedule**

The Design and Construction of the Outlet Channel Restoration And Enhancement Project will occur over five years, beginning in 2005. The anticipated Construction schedule for the Project is described in Exhibit D – Outlet Channel Design, Construction, and Maintenance Schedule. The Watershed District in consultation with the other Project Cooperators may alter the Construction schedule but will not extend Project completion beyond 2009, subject to approval by the other Project Cooperators in writing. To the extent possible as it builds the Project, the Watershed District will

schedule Construction activities to coordinate with the subdivision and development of land adjacent to the Outlet Channel.

### **7.3 Project Design**

The Watershed District will lead, coordinate, and if necessary, make final decisions on the Design of the Outlet Channel Restoration And Enhancement Project. To begin, the Watershed District will consult with the Project Cooperators and prepare plans and specifications for each Outlet Channel segment that conform to the Conceptual Design considering both generally acceptable engineering practices for drainage projects and Best Storm Water Management Practices. Next, the Watershed District will furnish the Project Cooperators with complete copies of the plans and specifications for each segment of the Outlet Channel. Then, the Project Cooperators will comment on the plans and specifications and may request modifications to them within 60 days of delivery. If a Project Cooperator provides comments or requests modifications, the Watershed District will endeavor to address the comments and incorporate the modifications into the plans and specifications. However, if situations arise where the Watershed District receives comments or modifications that are inconsistent with the Outlet Channel Design Flows, the Conceptual Design, or with other comments or requested modifications, to avoid delays in the Project, the Watershed District's determination on questions of Design will be conclusive, and Article 15 will not apply.

### **7.4 Project Construction By Watershed District Or Other Project Cooperators**

**A. Construction By Watershed District.** The Watershed District will Construct the Outlet Channel Restoration and Enhancement Project in accordance with Outlet Channel final segment plans developed under Section 7.3. Also, the Watershed District will Construct the Project in conformance with all applicable laws and will obtain all permits and approvals required for the Construction activities by any governmental unit having jurisdiction over the Outlet Channel, including Prior Lake, Shakopee, the SMSC, the Lower Minnesota Watershed District, the DNR, the U.S. Army Corps of Engineers, and the U.S. Environmental Protection Agency. If any permit or approval requires modification of a final segment plan developed under Section 7.3, the Watershed District can make the required modification. The Watershed District will notify the other Project Cooperators of the change prior to



the start of Construction but need not submit the modified plans to the other Project Cooperators for review and comment.

**B. Construction By Other Project Cooperators.** A Project Cooperator other than the Watershed District may Construct a segment of the Outlet Channel Restoration And Enhancement Project earlier than specified in Exhibit D as follows.

*(1) Segment To Be Constructed According To Developed Plan*

- a. If a plan has been developed for that Outlet Channel segment under Section 7.3, the Project Cooperator will Construct the segment in accordance with the plan. Any change to the plan will be subject to approval by the Watershed District.
- b. If no plan has been developed for that Outlet Channel segment under Section 7.3, the Project Cooperator will consult with the Watershed District and prepare plans and specifications for the segment. Next the Project Cooperator will furnish the Watershed District with complete copies of the plans and specifications. The Watershed District will approve the plans and specifications or request modifications to them within 60 days of delivery. If modifications are requested, the Project Cooperator will incorporate them into the plans and specifications and resubmit them to the Watershed District. The Watershed District will approve the resubmitted plans and specifications or request modifications to them within 30 days of delivery. This process will be repeated until the Watershed District approves the plans and specifications or until an impasse is reached. If the Project Cooperator and the Watershed District reach impasse, then to the extent the Watershed District determines the plans and specifications are inconsistent with the Outlet Channel Design Flows or the Conceptual Design, the Watershed District's determination will be conclusive, and Article 15 will not apply. After approval by the Watershed District, the Project Cooperator may build the segment in accordance with the approved plans and specifications.
- c. The Project Cooperator will Construct the segment in conformance with all applicable laws and will obtain all permits and approvals required for

the Construction activities by any governmental unit having jurisdiction over the Outlet Channel, including Prior Lake, Shakopee, the SMSC, the Watershed District, the Lower Minnesota Watershed District, the DNR, the U.S. Army Corps of Engineers, and the U.S. Environmental Protection Agency. If any permit or approval requires modification of a final segment plan developed under Section 7.3, the Project Cooperator will not commence work until the modification has been incorporated into the plan, subject to approval by the Watershed District.

- (2) *Reimbursement To Be Delayed.* If a Project Cooperator Designs or Constructs a Project segment earlier than specified in Exhibit D, it will temporarily pay all Design Costs and Construction Costs of that segment because other Project Cooperators are not obligated to provide their cost-share earlier than if the segment had been built according to the schedule in Exhibit D. Design Costs and Construction Costs incurred by a Project Cooperator beyond its cost-share allocation will be paid from the Design And Construction Fund after the other Project Cooperators have paid their cost-share allocations for that segment, subject to approval by the Watershed District after it receives an itemized statement of those costs from the Project Cooperator.

#### **7.5 Use Of Outlet Channel During Construction And Vegetation Establishment**

The Outlet Channel will continue to be used by the Project Cooperators for storm water conveyance while the Outlet Channel Restoration And Enhancement Project is under Construction and before vegetation is fully established. During Construction and until vegetation is established, the Watershed District will install and Maintain erosion controls using Best Storm Water Management Practices. Construction efforts will be sequenced to protect downstream resources. Despite these efforts, a situation may arise that results in a downstream impact following a large rainfall or other runoff or weather-related event. In the event of a downstream impact, the Project Cooperators will work together to remediate the impact and will include that work as an element of the overall Outlet Channel Restoration And Enhancement Project, subject to the cost-share allocation in Section 10.2.

**7.6 Construction Cost Participation**

Throughout the entire MOA term, the Project Cooperators will pay all Design Costs and Construction Costs of the Outlet Channel Restoration And Enhancement Project according to the cost-share allocation in Section 10.2 using the Design And Construction Fund established in Section 10.4.

**ARTICLE 8. ACQUISITION AND USE OF OUTLET CHANNEL EASEMENTS**

**8.1 Acquisition By Dedication, Purchase, Or Right-of-Way Grant**

To the extent possible, the Project Cooperators will obtain the necessary easements for Construction of the Outlet Channel Restoration And Enhancement Project and the ongoing Operation and Maintenance of the Outlet Channel:

- A.* By dedication pursuant to the Prior Lake and Shakopee subdivision ordinances if land containing a portion of the Outlet Channel or needed easements is developed or redeveloped during this MOA's term;
- B.* Through the grant of easements on Fee Land if the SMSC purchases Fee Land that includes a portion of the Outlet Channel or needed easements during this MOA's term; or
- C.* Through the grant of rights-of-way over Trust Land by the United States Government, if the SMSC purchases Trust Land that includes a portion of the Outlet Channel or needed easements during this MOA's term.

**8.2 Acquisition By Purchase Or Condemnation In Prior Lake Or Shakopee**

If the Construction timing for the Outlet Channel Restoration And Enhancement Project requires obtaining easements prior to subdivision, the Watershed District will negotiate for and acquire through purchase or condemnation the necessary Outlet Channel easements within the municipal boundaries of Prior Lake and Shakopee. In acquiring the easements, the Watershed District will comply with Minnesota Statutes Chapters 103D and 117.

- A. Assistance By Prior Lake.* If the Watershed District determines that condemnation proceedings are required to acquire an easement in Prior Lake, the Watershed District will notify Prior Lake, and Prior Lake will assist the Watershed District in pursuing condemnation. In that event, all legal proceedings will be brought in the

joint name of the Watershed District and Prior Lake by the Prior Lake City Attorney. Prior Lake will be solely responsible for all legal fees of its City Attorney.

***B. Assistance By Shakopee***

- (1) Easement Within Watershed District's Legal Boundaries.* If the Watershed District determines that condemnation proceedings are required to acquire an easement in Shakopee and the easement is within the Watershed District's legal boundaries, Shakopee will cooperate with and assist the Watershed District in pursuing condemnation. The legal proceedings will be brought in the joint name of the Watershed District and Shakopee by the Shakopee City Attorney. Shakopee will be solely responsible for all legal fees of its City Attorney.
- (2) Easement Outside Watershed District's Legal Boundaries.* If the Watershed District determines that condemnation proceedings are required to acquire an easement in Shakopee and the easement is outside the Watershed District's legal boundaries, Shakopee will undertake the condemnation action, and the Watershed District will cooperate with and assist Shakopee. The legal proceedings will be brought by the Shakopee City Attorney in the joint name of the Watershed District and Shakopee if permissible under applicable law, or if that is not permissible under applicable law, in the name of Shakopee for the benefit of the Watershed District and Shakopee. Shakopee will be solely responsible for all legal fees of its City Attorney.

***C. Uses Of And Title To Easements.*** Easements acquired by the Watershed District will be for drainage purposes over, under, and across the affected properties. However, the Watershed District, Prior Lake, Shakopee, or the SMSC may acquire an easement for purposes in addition to drainage as provided in Section 8.5. In Prior Lake, title to the easements will be acquired in the joint names of the Watershed District and Prior Lake. In Shakopee, title to the easements will be acquired in the joint names of the Watershed District and Shakopee.

**8.3 Acquisition Of Easements Or Rights-Of-Way On Fee Land Or Trust Land**

The SMSC could acquire Fee Land or Trust Land that includes a portion of the Outlet

Channel or needed easements before Construction of the Outlet Channel Restoration And Enhancement Project takes place on that portion of the Outlet Channel. If this happens and if the Watershed District needs an easement or right-of-way to build the Project on the Fee Land or Trust Land, the SMSC will provide an easement over Fee Land or will cooperate with the Watershed District to request a right-of-way grant from the United States Government over Trust Land. If the SMSC grants an easement over Fee Land, title will be held in the joint names of the Watershed District and the SMSC.

#### **8.4 Easement Acquisition Costs**

Throughout the entire MOA term, the Project Cooperators will pay all easement acquisition costs of the Outlet Channel Restoration And Enhancement Project according to the cost-share allocation in Section 10.2 using the Design And Construction Fund established in Section 10.4. However, if Prior Lake or Shakopee acquire an easement for the Outlet Channel by dedication, the Project Cooperator acquiring or granting the easement or approving the grant of right-of-way will receive no cost reimbursement for the value of the easement. If the SMSC grants an easement on Fee Land or if the United States Government grants a right-of-way over Trust Land, the SMSC will receive cost reimbursement based on the SMSC's acquisition cost of that portion of the Fee Land subject to the easement, or Trust Land subject to the right-of-way.

#### **8.5 Additional Authorized Easement Uses**

*A. Project Cooperators May Use Easements.* Subject to the limitations of specific Outlet Channel easements, Prior Lake and Shakopee may use Outlet Channel easements in their respective jurisdictions for the Construction, Emergency Maintenance, Operation, Maintenance, repair, reconstruction, and removal of trails and underground utilities (individually, a “**Public Service Activity**,” and collectively “**Public Service Activities**”), including nature and recreational trails, electricity, natural gas, sanitary sewer, storm sewer, telephone and other communications, and water. In no event will any Public Service Activity interfere with or otherwise restrict the drainage function of the Outlet Channel. If the Watershed District reasonably believes a Public Service Activity will do so, it may refuse to allow a Public Service Activity in a specific easement. Upon completion of any Public Service Activity in an Outlet Channel easement by Prior Lake or

Shakopee, it will restore the Outlet Channel to its previous condition, unless some alteration of the Outlet Channel was approved by the Watershed District as part of the Public Service Activity.

**B. *Plan Submission And Approval.*** Before using an Outlet Channel easement in its jurisdiction for Public Service Activities, Prior Lake or Shakopee will obtain approval from the Watershed District for its proposed use. To begin, Prior Lake or Shakopee will consult with the Watershed District and prepare plans for the Public Service Activities. Next Prior Lake or Shakopee will furnish the Watershed District with complete copies of the plans and specifications for the Public Service Activities. The Watershed District will approve the plans and specifications or request modifications to them within 60 days of delivery. If modifications are requested, Prior Lake or Shakopee will incorporate the modifications into the plans and specifications and resubmit them to the Watershed District. The Watershed District will approve the resubmitted plans and specifications or request modifications to them within 30 days of delivery. This process will be repeated until the Watershed District approves the plans or specifications or until an impasse is reached. If Prior Lake or Shakopee and the Watershed District reach impasse, then to the extent the Watershed District determines the plans and specifications are inconsistent with the Outlet Channel Design Flows or the Conceptual Design, the Watershed District's determination will be conclusive, and Article 15 will not apply.

**C. *Implement Public Service Activities In Accordance With Plan.*** After approval by the Watershed District, Prior Lake or Shakopee may implement the Public Service Activities in accordance with the approved plans and specifications. The Project Cooperator will implement the Public Service Activities in conformance with all applicable laws and will obtain all permits and approvals required for the Public Service Activities. If any permit or approval requires modification of the approved plans and specifications, the Project Cooperator will not implement the Public Service Activities until the modification has been incorporated into the plans and specifications, subject to approval by the Watershed District.

**D. *Expanded Size Or Use Of Easements Yet To Be Acquired.*** If Prior Lake or

Shakopee anticipate using an Outlet Channel easement yet to be acquired for Public Service Activities, and if the easement will be larger than required to implement the Conceptual Design or will be acquired for more than drainage purposes, then Prior Lake or Shakopee will inform the Watershed District of the need for the larger easement or broader purpose when the Design process for the affected segment begins under Section 7.3. The Watershed District will then endeavor to incorporate the larger easement or broader purpose in the plans and specifications for the affected segment that are furnished to the Project Cooperators under Section 7.3. The Project Cooperator requesting the larger easement or broader purpose will comment on that portion of the plans and specifications relating to the easement size and purpose and may request modifications to these portions within the time provided in Section 7.3. The Watershed District will endeavor again to address the comments and incorporate the modifications into the plans and specifications. However, if the Watershed District determines that the larger easement or broader purpose is inconsistent with the Outlet Channel Design Flows or the Conceptual Design, or will delay the Project, the Watershed District's determination will be conclusive, and Article 15 will not apply.

- E. Costs To Be Borne By Those Conducting Public Service Activities.*** Prior Lake or Shakopee will be solely and exclusively responsible for all costs related to their respective Public Services Activities on Outlet Channel easements, including:
- (1) Costs incurred by Prior Lake or Shakopee to Design, Construct, Operate, and Maintain the Public Service Activities;
  - (2) Outlet Channel Restoration And Enhancement Project acquisition costs, Design Costs, and Construction Costs related to an easement acquired under Section 8.5D to the extent those costs exceed the estimated acquisition costs, Design Costs, and Construction Costs for an easement that was not larger than required to implement the Conceptual Design and that did not include purposes other than drainage;
  - (3) Outlet Channel Operation And Maintenance Costs and Emergency Maintenance Costs related to an easement acquired under Section 8.5D to the extent those costs exceed the estimated Operation And Maintenance Costs and

Emergency Maintenance Costs for an easement that was not larger than required to implement the Conceptual Design and that did not include purposes other than drainage; and

- (4) Outlet Channel Operation And Maintenance Costs and Emergency Maintenance Costs related to any Public Service Activities.

**F. Claims Arising From Public Service Activities.** Prior Lake or Shakopee will be solely and exclusively responsible for all Claims arising out of or in connection with their Public Service Activities, or with any trail or underground utility placed in an Outlet Channel easement as a part of their Public Service Activities.

## **ARTICLE 9. OPERATION AND MAINTENANCE OF OUTLET CHANNEL**

### **9.1 General**

Following the completion of each segment of the Outlet Channel Restoration And Enhancement Project, annual Operation and Maintenance activities will be necessary to monitor the status of the Outlet Channel and ensure the stability and continued performance of the Outlet Channel. In addition, Emergency Maintenance may be required following significant or sustained flows or other events.

### **9.2 Preparation Of Maintenance Plans**

The Watershed District will lead, coordinate, and if necessary, make final decisions on plans and specifications for Maintenance of the Outlet Channel. To begin, the Watershed District will consult with the Project Cooperators and prepare plans and specifications for Maintenance of each Outlet Channel segment that preserve the Conceptual Design considering generally acceptable engineering practices for drainage systems and Best Storm Water Management Practices. Next, the Watershed District will furnish the Project Cooperators with complete copies of the plans and specifications for the Maintenance activities. The Project Cooperators will comment on the plans and specifications or request modifications to them within 60 days of delivery. If a Project Cooperator provides comments or requests modifications, the Watershed District will endeavor to address the comments and incorporate the modifications into the plans and specifications. However, if situations arise where the Watershed District receives comments or modifications that are inconsistent with the Outlet Channel



Maintenance needs, the Conceptual Design, or with other comments or requested modifications, to avoid delays in Outlet Channel Maintenance, the Watershed District's determination on Maintenance questions will be conclusive, and Article 15 will not apply.

**9.3 Operation And Maintenance By Watershed District Or Other Project Cooperators**

- A. *Watershed District To Operate And Maintain Outlet Channel.*** The Watershed District will Operate and Maintain the Outlet Channel in accordance with the Outlet Channel final segment Maintenance plans developed under Section 9.2. The Watershed District will do so in conformance with all applicable laws and will obtain all permits and approvals required for Operation and Maintenance activities by any governmental unit having jurisdiction over the Outlet Channel, including Prior Lake, Shakopee, the SMSC, the Lower Minnesota Watershed District, the DNR, the U.S. Army Corps of Engineers, and the U.S. Environmental Protection Agency. If any permit or approval requires modification of a final segment Maintenance plan developed under Section 9.2, the Watershed District can make the required modification. The Watershed District will notify the other Project Cooperators of the change prior to the start of Maintenance but need not submit the modified plans to the other Project Cooperators for review and comment.
- B. *Annual Inspection.*** Each year, the Watershed District will inspect the Outlet Channel as required in the Outlet Operating Plan. If an inspection reveals changed conditions in any Outlet Channel segment that warrant changes in that segment's Maintenance plan, the Watershed District will amend the segment Maintenance plan using the procedure in Section 9.2. If an inspection reveals that Emergency Maintenance is required, the Watershed District will undertake Emergency Maintenance as provided in Section 9.4.
- C. *Operation Or Maintenance By Other Project Cooperators.*** The Watershed District may contract with or enter into a delegation agreement with other Project Cooperators to Operate or Maintain Outlet Channel segments within that Project Cooperator's jurisdiction. The contract or delegation agreement will specify the method for documenting Operation And Maintenance Costs incurred by the Project Cooperator to the Watershed District and for payment of the Project Cooperator.

All Operation or Maintenance undertaken by other Project Cooperators will be in accordance with the Outlet Channel segment Maintenance plans developed under Section 9.2. The Project Cooperator will Operate or Maintain Outlet Channel segments in conformance with all applicable laws and will obtain all permits and approvals required for Operation or Maintenance by any governmental unit having jurisdiction over the Outlet Channel, including Prior Lake, Shakopee, the SMSC, the Watershed District, the Lower Minnesota Watershed District, the DNR, the U.S. Army Corps of Engineers, and the U.S. Environmental Protection Agency. If any permit or approval requires modification of a final segment Maintenance plan developed under Section 9.2, the Project Cooperator will not commence work until the modification has been incorporated into the Maintenance plan, subject to approval by the Watershed District. The Operation And Maintenance Costs incurred by the Project Cooperator will be paid from the Operation And Maintenance Fund, or be counted as a credit against the Project Cooperator's next Operation And Maintenance Fund payment, subject to approval by the Watershed District after it receives an itemized statement of those costs from the Project Cooperator.

**9.4 Emergency Maintenance By Watershed District Or Other Project Cooperators**

- A. *Watershed District To Perform Emergency Maintenance.*** Whenever the need for Emergency Maintenance arises, the Watershed District will respond promptly and perform the necessary work. To the extent possible under the circumstances, Emergency Maintenance will conform to the Maintenance plan for the Outlet Channel segment in which the Emergency Maintenance occurs. The Watershed District will perform the Emergency Maintenance in conformance with all applicable laws and will obtain all permits and approvals required for Emergency Maintenance activities by any governmental unit having jurisdiction over the Outlet Channel, including Prior Lake, Shakopee, the SMSC, the Lower Minnesota Watershed District, the DNR, the U.S. Army Corps of Engineers, and the U.S. Environmental Protection Agency.
- B. *Emergency Maintenance By Other Project Cooperators.*** If a Project Cooperator discovers the need for Emergency Maintenance, it will communicate the emergency

to the Watershed District immediately. If the Watershed District is unavailable or unable to perform the Emergency Maintenance, a Project Cooperator may perform the Emergency Maintenance, which will, to the extent possible under the circumstances, conform to the Maintenance plan for the Outlet Channel segment in which the Emergency Maintenance occurs. The Project Cooperator will perform the Emergency Maintenance in conformance with all applicable laws and will obtain all permits and approvals required for Operation or Maintenance by any governmental unit having jurisdiction over the Outlet Channel, including Prior Lake, Shakopee, the SMSC, the Watershed District, the Lower Minnesota Watershed District, the DNR, the U.S. Army Corps of Engineers, and the U.S. Environmental Protection Agency. When circumstances allow, the Project Cooperator undertaking the Emergency Maintenance will provide the other Project Cooperators with 24 hours notice of the Emergency Maintenance; however, the Project Cooperator is entitled to move forward with the Emergency Maintenance regardless of response from the other Project Cooperators. The Emergency Maintenance Costs incurred by the Project Cooperator will be paid from the Emergency Maintenance Fund, or be counted as a credit against the Project Cooperator's next Emergency Maintenance Fund payment, subject to approval by the Watershed District after it receives and approves an itemized statement of those costs from the Project Cooperator.

**9.5 Operation and Maintenance Cost Participation**

**A. Operation And Maintenance Costs.** Throughout the entire MOA term, the Project Cooperators will pay all Operation And Maintenance Costs for the Outlet Channel according to the cost-share allocation in Section 10.2 using the Operation And Maintenance Fund established in Section 10.5.

**B. Emergency Maintenance Costs.** Throughout the entire MOA term, the Project Cooperators will pay all Emergency Maintenance Costs for the Outlet Channel as specified in Article 10 using the Emergency Maintenance Fund established in Section 10.6. But if a discharge exceeding the Maximum Average Discharge Rates in Table 2 causes conditions requiring Emergency Maintenance, then the Project Cooperator whose discharge exceeds its Maximum Average Discharge Rate will

pay all related Emergency Maintenance Costs and Claims. If multiple discharges exceeding the Maximum Average Discharge Rates in Table 2 cause conditions requiring Emergency Maintenance, then the Project Cooperators whose discharges exceed their Maximum Average Discharge Rates will pay all related Emergency Maintenance Costs and Claims in amounts proportional to their excess discharges.

#### **ARTICLE 10. OUTLET CHANNEL COST SHARING AND FUNDING**

##### **10.1 Estimated Costs**

Exhibit E – Nine Year Estimate of Outlet Channel Design, Construction, and Operation And Maintenance Costs presents the estimated cost to each Project Cooperator for Design and Construction of the Outlet Channel Restoration And Enhancement Project and the first ten years of Operation and Maintenance of the Outlet Channel. These estimates will change as the Project Cooperators develop final plans and specifications for the Project and for Operation and Maintenance of the Outlet Channel.

##### **10.2 Cost-Share Allocation**

*A. Design And Construction Cost-Share Allocation.* Except as otherwise specifically provided in this MOA, all Design Costs and Construction Costs for the Outlet Channel Restoration And Enhancement Project for a specific Outlet Channel segment will be allocated to the Project Cooperators according to the Outlet Channel segment cost-share allocation in Table 4 for that Outlet Channel Segment, or in Table 4 as modified in accordance with Sections 6.6 or 10.3.

**Table 4. Cost-Share Allocation for Outlet Channel**

Outlet Channel Segment	Cost-Share for Each Project Cooperator by Outlet Segment <sup>1</sup>			
	Watershed District	Prior Lake	Shakopee	SMSC
1	88.4%	11.2%	0.0%	0.4%
2	84.6%	15.0%	0.0%	0.4%
3	69.9%	27.7% <sup>2</sup>	2.0%	0.4%
4	37.8%	20.9%	29.5%	11.8%
5	34.1%	18.8%	36.4%	10.7%
6	35.7%	19.7%	32.0%	12.6%
7	30.0% <sup>3</sup>	16.5%	43.0%	10.5%
8	29.6%	16.3%	43.7% <sup>4</sup>	10.4%
<b>Total</b>	<b>49.5%</b>	<b>17.8%</b>	<b>25.1%</b>	<b>7.6%</b>

<sup>1</sup> For all segments, except as noted below, the cost-share percentages were rounded to the nearest tenth by rounding up numbers equal to or greater than x.x5, and by rounding down numbers equal to or less than x.x4. Segments noted below were rounded as indicated, so each segment will total 100%.

<sup>2</sup> In Segment 3, the Prior Lake cost-share was rounded from 27.756% to 27.7 %.

<sup>3</sup> In Segment 7, the Watershed District cost-share was rounded from 29.946% to 30.0%.

<sup>4</sup> In Segment 8, the Shakopee cost-share was rounded from 43.647% to 43.7%.

**B. Operation, Maintenance, And Emergency Maintenance Cost-Share Allocation**

- (1) *For Specific Channel Segments.* Operation And Maintenance Costs and Emergency Maintenance Costs for a specific Outlet Channel segment will be allocated to the Project Cooperators according to the Outlet Channel segment cost-share allocation in Table 4 for that Outlet Channel Segment, or in Table 4 as modified in accordance with Sections 6.6 or 10.3.
- (2) *For Entire Outlet Channel.* Operation And Maintenance Costs and Emergency Maintenance Costs for the overall Outlet Channel (for example, annual inspection costs and the annual Emergency Maintenance Fund payments) will be allocated to the Project Cooperators according to the “Total” cost-share allocation in Table 4, or Table 4 as modified in accordance with Sections 6.6 or 10.3.

**C. Cost-Share Allocation Formula.** The formula used to calculate the cost-share allocation is more particularly described in Exhibit F – Calculation Method for Cost-Share Allocation and will be used to recalculate the cost-share allocation when

required by other Provisions of this MOA.

**10.3 Revisions To Cost-Share Allocations Due To Changes In Tributary Drainage Areas**

If any Project Cooperator's tributary drainage area changes by more than 40 acres, the Watershed District will recalculate that Project Cooperator's cost-share allocations, arrange for reimbursement of past costs, and amend this MOA as follows:

**A. *Recalculation And Payment Of Future Cost-Share Allocations.*** As to Outlet Channel Restoration And Enhancement Project Design Costs and Construction Costs, Outlet Channel Operation and Maintenance Costs, and Outlet Channel Emergency Maintenance Costs incurred subsequent to a change in tributary drainage area, the following Provisions will apply.

**(1) *Cost Recalculation***

- a. The Watershed District will recalculate the cost-share allocation according to the method described in Exhibit F to reflect the change in tributary drainage area and to document the change in Maximum Average Discharge Rate associated with change in the tributary drainage area. For any tributary drainage area changing jurisdictions, the Maximum Average Discharge Rate will be the Maximum Average Discharge Rate originally associated with the tributary drainage area.
- b. In addition, the Watershed District will amend this MOA to incorporate the recalculation including any necessary changes to Tables 1, 2, and 4, subject to approval by the other Project Cooperators in the form of signed amendments.

**(2) *Payment Of Cost-Share Allocations.*** All these costs incurred after the change in tributary drainage area will be borne by the Project Cooperators according to the cost-share allocations recalculated under Section 10.3A(1). If the change in tributary drainage area results in an overall discharge to that Outlet Channel segment in excess of the acquiring Project Cooperator's Maximum Average Discharge Rate for that segment as specified in Table 2 (recalling that Section 10.3A(1)a provides that the Maximum Average Discharge Rate for a tributary section changing jurisdictions will be the same as originally provided for that tributary drainage area), the Project Cooperator acquiring the

additional area will address the excess discharge in accordance with Section 6.6.

**B. Calculation And Reimbursement Of Past Cost-Shares.** As to Outlet Channel Restoration And Enhancement Project Design Costs and Construction Costs and Outlet Channel Operation And Maintenance Costs incurred before a change in tributary drainage area, the following Provisions will apply.

- (1) *Cost Calculation.* The Watershed District will calculate these costs as follows:
  - a. Calculate these costs incurred before the change in tributary drainage area for the Outlet Channel segment affected by change; and
  - b. Calculate the proportion of these costs attributable to the tributary drainage area that is changing jurisdictions, based on the size of the tributary drainage area change relative to the size of the total segment drainage area based on Table 1 and the Maximum Average Discharge Rate for the tributary drainage area changing jurisdictions from Table 2 using the Maximum Average Discharge Rate originally associated with the drainage area.
- (2) *Cost Reimbursement.* The Project Cooperator acquiring the tributary drainage area will reimburse the Project Cooperator from which the area was acquired for the proportional costs calculated under Section 10.3B(1).
- (3) *Example.* Exhibit G – Drainage Area Recalculation Example provides an example calculation to address a change in tributary drainage area.

#### **10.4 Creation Of Design And Construction Fund And Payment Of Construction Cost-Share Allocations**

**A. Design And Construction Fund Creation And 2006 Payments.** Within ten days after the Approval Date, the Watershed District will establish a fund for the Design Costs and Construction Costs of the Outlet Channel Restoration And Enhancement Project (the “**Design And Construction Fund**”). Within 30 days after the Approval Date, the Project Cooperators will deposit into the Design And Construction Fund their respective 2006 Design And Construction Fund payments in the amounts shown on Exhibit H – 2006 Fund Payments. The 2006 Design And Construction Fund payments will include Design Costs and Construction Costs

incurred for the Outlet Channel Restoration And Enhancement Project from January 1, 2004, to December 31, 2006, in anticipation of this MOA. These costs are shown on Exhibit H.

***B. 2007 And Subsequent Annual Payments To Design And Construction Fund.***

Ninety days after the Initial Meeting, in February of 2008, and in February of each succeeding calendar year until the Design And Construction Fund is closed, each Project Cooperator will pay into the Design And Construction Fund its share of the Design And Construction Budget for that calendar year and any deficiency from the previous year, according to the cost-share allocation in Section 10.2. For example, in February of 2008, each Project Cooperator will pay into the Design And Construction Fund its share of the Design And Construction Budget for 2008 and its share of any deficiency in the Design And Construction Fund at the end of 2007.

***C. Design And Construction Fund Administration.*** The Design And Construction Fund will be administered by the Watershed District in accordance with the following Provisions.

- (1) Authorized Payments.* The Watershed District may use the Design And Construction Fund at any time to pay Design Costs or Construction Costs for the Outlet Channel Restoration And Enhancement Project, including Design Costs and Construction Costs incurred for the Outlet Channel Restoration And Enhancement Project from January 1, 2004, to the Effective Date in anticipation of this MOA, and to pay any Project Cooperator who acts under and complies with Section 7.4B.
- (2) Consistency With Budget.* The Design and Construction expenditures will be consistent with the budget developed during the Annual Meeting. Any variation from the budget of more than ten percent is subject to approval by all the Project Cooperators in writing.
- (3) Year End Reconciliation.* Following the end of a calendar year and before January 31st of the next year, the Watershed District will provide the Project Cooperators with a detailed accounting of the Design And Construction Fund for the previous year. If any funds remain at calendar year end, the Watershed District will allocate the funds as credits to the Project Cooperators according



to the cost-share allocation in Section 10.2. The Watershed District will then subtract the credits from the following year's Design Cost and Construction Cost payments owed by the Project Cooperators. If a deficit exists at calendar year end, the Watershed District will allocate the deficit among the Project Cooperators as deficiencies according to the cost share allocation in Section 10.2 and will add the deficiencies to the following year's Design Costs and Construction Cost payments owed by the Project Cooperators. The Project Cooperators will pay the deficiencies as provided in Section 10.4B.

- (4) *Interest To Remain In Fund.* All interest earned by the Design And Construction Fund will remain in the Fund to pay future Design Costs and Construction Costs.

**D. Closing The Design And Construction Fund.** After Design and Construction of the Outlet Channel Restoration And Enhancement Project and the completion of all Design and Construction contracts and obligations, the Watershed District will prepare and furnish to the Project Cooperators a final accounting report for the Design And Construction Fund and close it as follows.

- (1) *Distribution Of Excess Funds.* If any funds remain, the Watershed District will allocate the funds as a refund to the Project Cooperators according to the cost-share allocation in Section 10.2. The Watershed District will then pay the refunds to the Project Cooperators, or at a Project Cooperator's direction, will apply the refund as a credit against that Project Cooperator's next annual Operation And Maintenance Fund payment.
- (2) *Payment Of Any Deficit.* If a deficit exists, the Watershed District will allocate the deficit among the Project Cooperators according to the cost share allocation in Section 10.2 and will invoice each Project Cooperator its share of the deficit. Each Project Cooperator will pay the Watershed District within 120 days after delivery of the invoice.

#### **10.5 Creation Of Operation And Maintenance Fund And Payment Of Operation And Maintenance Cost-Share Allocations**

**A. Operation And Maintenance Fund Creation And 2006 Payments.** Within ten days after the Approval Date, the Watershed District will establish a fund to pay the Operation And Maintenance Costs of the Outlet Channel (the "Operation And

**Maintenance Fund**”). Within 30 days after the Approval Date, the Project Cooperators will pay into the Operation And Maintenance Fund their respective 2006 Operation And Maintenance Fund payments in the amounts shown on Exhibit H.

***B. 2007 And Subsequent Annual Payments To Operation And Maintenance Fund.***

Ninety days after the Initial Meeting, in February of 2008, and in February of every succeeding calendar year, each Project Cooperator will pay into the Operation And Maintenance Fund its share of the Operation And Maintenance Budget for that calendar year and any deficiency from the previous year, according to the cost-share allocation in Section 10.2. For example, in February of 2008, each Project Cooperator will pay into the Operation And Maintenance Fund its share of the Operation And Maintenance Budget for 2008 and its share of any deficiency in the Operation And Maintenance Fund at the end of 2007.

***C. Operation And Maintenance Fund Administration.*** The Operation And Maintenance Fund will be administered by the Watershed District in accordance with the following Provisions.

- (1) Authorized Payments.* The Watershed District may use the Operation And Maintenance Fund at any time to pay Operation And Maintenance Costs of the Outlet Channel and to pay any Project Cooperator who acts under and complies with Section 9.3C.
- (2) Consistency With Budget.* The Operation and Maintenance expenditures will be consistent with the budget developed during the Annual Meeting. Any variation from the budget of more than ten percent is subject to approval by all the Project Cooperators in writing.
- (3) Year End Reconciliation.* Following the end of a calendar year and before January 31st of the next year, the Watershed District will provide the Project Cooperators with a detailed accounting of the Operation And Maintenance Fund for the previous year. If any funds remain at calendar year end, the Watershed District will allocate the funds as credits to the Project Cooperators according to the cost-share allocation in Section 10.2. The Watershed District will then refund the credits, or at a Project Cooperator's direction, will

subtract the credit from that Project Cooperator's next annual Operation And Maintenance Fund payment. If a deficit exists at calendar year end, the Watershed District will allocate the deficit among the Project Cooperators as deficiencies according to the cost share allocation in Section 10.2 and will add the deficiencies to the following year's Operation And Maintenance Fund payments for the Project Cooperators. The Project Cooperators will pay the deficiencies as provided in Section 10.5B.

- (4) *Interest To Remain In Fund.* All interest earned by the Operation And Maintenance Fund will remain in the Fund to pay future Operation And Maintenance Costs.

**10.6 Creation Of Emergency Maintenance Fund And Payment Of Emergency Maintenance Cost-Share Allocations**

- A. *Emergency Maintenance Fund Creation And 2006 Payments.*** The Project Cooperators will create a \$250,000 fund to provide a stable source for Emergency Maintenance along the Outlet Channel (the "**Emergency Maintenance Fund**"). Within ten days after the Approval Date, the Watershed District will establish the Emergency Maintenance Fund. Within 30 days after the Approval Date, the Project Cooperators will pay into the Emergency Maintenance Fund their respective 2006 Emergency Maintenance Fund payments in the amounts shown on Exhibit H.
- B. *2007 Through 2010 Annual Payments To Emergency Maintenance Fund.*** Ninety days after the Initial Meeting, in February of 2008, and in February of each succeeding calendar year through 2010, each Project Cooperator will pay into the Emergency Maintenance Fund its share of the \$50,000 annual payment for that calendar year according to the cost-share allocation in Section 10.2. For example, in February of 2008, each Project Cooperator will pay into the Emergency Maintenance Fund its share of the \$50,000 annual payment for 2008.
- C. *Emergency Maintenance Fund Administration.*** The Emergency Maintenance Fund will be administered by the Watershed District in accordance with the following Provisions.
- (1) *Authorized Payments.* The Watershed District may use the Emergency Maintenance Fund at any time to pay Emergency Maintenance Costs of the Outlet Channel and to pay any Project Cooperator who acts under and

complies with Section 9.4B.

- (2) *Year End Report.* Following the end of a calendar year and before January 31st of the next year, the Watershed District will provide the Project Cooperators with a detailed accounting of the Emergency Maintenance Fund for the previous year.
- (3) *Replenishment Of Fund.* When Emergency Maintenance is performed on an Outlet Channel segment, the Watershed District will replenish the Emergency Maintenance Fund by invoicing the Project Cooperators using that segment in an amount equal to the Emergency Maintenance Costs plus an inflation factor equal to the Engineering News Record Construction Cost Index calculated using 2006 as the base year, according to the cost-share allocation in Section 10.2. If Emergency Maintenance occurs on or before December 31, 2010, the Project Cooperators will pay the invoiced amounts within 60 days after delivery of the invoice. If Emergency Maintenance occurs on or after January 1, 2011, the Project Cooperators will pay the invoice before the end of the February following delivery of the invoice.
- (4) *Interest To Remain In Fund.* All interest earned by the Emergency Maintenance Fund will remain in the Fund to pay future Emergency Maintenance Costs.

#### **10.7 General Fund Administration And Recordkeeping**

In addition to the specific fund administration requirements in Sections 10.4, 10.5, and 10.6, the Watershed District will administer the Design And Construction Fund, Operation And Maintenance Fund, and Emergency Maintenance Fund according to the following Provisions.

- A. Accounts To Conform To Statutory Requirements.* Funds will be retained in accounts that conform to the requirements of Minnesota Statutes Chapter 118A.
- B. Retention And Inspection Of Records.* The Watershed District will retain all financial records for the Funds for a period of six years following the completion of any work. The Project Cooperators may inspect the books and records maintained by the Watershed District for the Outlet Channel during normal business hours.
- C. Quarterly Reports.* The Watershed District will provide quarterly fund balance

statements for each Fund to the Project Cooperators.

**D. *Annual Audit.*** The Watershed District will include the Funds in its annual audit, provide a copy of the audit to the Project Cooperators, and, upon request, will make these financial records available for review or audit by any Project Cooperator.

**E. *Reimbursement Of Watershed District.*** The Watershed District will be reimbursed from the Operation And Maintenance Fund for the actual staff costs and accounting fees associated with maintaining financial records and reporting to the Project Cooperators and others about the Design And Construction Fund, Operation And Maintenance Fund, and Emergency Maintenance Fund.

## **ARTICLE 11. PROJECT COOPERATOR MEETINGS**

### **11.1 General Provisions**

**A. *Representation At Meetings.*** Each Project Cooperator will designate an individual and an alternative to serve as representatives and attend Project Cooperator meetings.

**B. *Meetings Open And Noticed.*** All meetings of the Project Cooperators will be noticed and open to the public in accordance with the requirements of applicable law governing any Project Cooperator.

**C. *Quorum.*** No business may be conducted at a meeting unless representatives of three Project Cooperators are present.

**D. *Voting.*** Each Project Cooperator will have one vote, and any action requires the vote of three Project Cooperators.

**E. *Conduct Of Meeting.*** Meetings will be conducted in accordance with this MOA's Provisions and the latest edition of Robert's Rules of Order. If a conflict arises between this MOA's Provisions and Robert's Rules of Order, this MOA will control. The Watershed District's representative will serve as chair.

### **11.2 Annual Meeting And Failure To Agree On Budgets**

Beginning in March of 2008 and in March of each succeeding calendar year, the Watershed District will convene a coordination and planning meeting of the Project Cooperators (the "**Annual Meeting**").

**A. *Annual Meeting Activities.*** At the Annual Meeting, the Project Cooperators will:

- (1) Review the previous year's activities;
- (2) Discuss the Design and Construction planned for the Outlet Channel Restoration And Enhancement Project in the next calendar year;
- (3) Discuss the Operation and Maintenance planned for the Outlet Channel in the next calendar year;
- (4) Review any completed or requested modifications to the cost-share allocations;
- (5) Review the status of the Design And Construction Fund, the Operation And Maintenance Fund, and the Emergency Maintenance Fund;
- (6) Refine the Construction Costs and the Operation And Maintenance Costs based on the most recent data;
- (7) Approve a budget for Design Costs and Construction Cost for the next calendar year ("**Design And Construction Budget**"); and
- (8) Approve a budget for Operation And Maintenance Costs for the next calendar year ("**Operation And Maintenance Budget**").

**B. Failure To Agree On Budgets.**

- (1) *Failure To Agree On Design And Construction Budget.* If for any reason, the Project Cooperators fail to agree on a Design And Construction Budget for the Outlet Channel Restoration And Enhancement Project, the annual estimate from Exhibit E plus an inflation factor equal to the Engineering News Record Construction Cost Index calculated using the year 2006 as the base year will apply to the next year, and the annual contributions of each Project Cooperator will be based on the annual estimate as adjusted.
- (2) *Failure To Agree On Operation And Maintenance Budget.* If for any reason, the Project Cooperators fail to agree on an Operation And Maintenance Budget for the Outlet Channel, the Operation And Maintenance Budget for the prior year plus an inflation factor equal to the Engineering News Record Construction Cost Index calculated using the year 2006 as the base year will apply to the next year, and the annual contributions of each Project Cooperator will be based on the prior year's budget as adjusted.

### **11.3 Initial Meeting**

Within 45 days after the Approval Date, the Watershed District will convene a meeting of the Project Cooperators ("**Initial Meeting**"). The meeting purpose will be to adopt the 2007 Design And Construction Budget and the 2007 Operation And Maintenance Budget. If for any reason, the Project Cooperators fail to agree on one or both budgets, the budget or budgets as presented by the Watershed District will be deemed adopted and the 2007 Design And Construction Fund, Operating And Maintenance Fund, and Emergency Maintenance Fund payments of each Project Cooperator will be based on that budget.

### **11.4 Other Meetings**

Other Project Cooperator meetings may be called by the Watershed District or by a written request to the Watershed District signed by any two Project Cooperators.

## **ARTICLE 12. SECURITY FOR PAYMENT OF SMSC COST-SHARE ALLOCATIONS**

### **12.1 SMSC To Provide Letters Of Credit**

As security for the payment of the SMSC's cost-share allocations under Article 10, the SMSC will provide the Watershed District with letters of credit as follows.

#### ***A. SMSC Construction Letters Of Credit For Design And Construction Fund***

- (1) Initial SMSC Design And Construction Letter Of Credit.* Within 15 days after the SMSC signs this MOA, it will provide the Watershed District with an initial SMSC Design And Construction Letter Of Credit in the amount of 225% of the SMSC's 2006 Design And Construction Fund payment as shown on Exhibit H. This initial SMSC Design And Construction Letter Of Credit will name the Watershed District as beneficiary, will be issued for a term of 18 months, and will be in addition to the SMSC's 2006 Design And Construction Fund payment as shown on Exhibit H.
- (2) Annual SMSC Design And Construction Letters Of Credit.* Ninety days after the Initial Meeting, in February of 2008, and continuing in February of every succeeding calendar year until the Design And Construction Fund is closed, the SMSC will provide the Watershed District with a SMSC Design And Construction Letter Of Credit in the amount of 225% of the SMSC's Design

And Construction Fund payment for that calendar year. Each SMSC Design And Construction Letter Of Credit will name the Watershed District as beneficiary, will be issued for a term of 18 months, and will be in addition to the SMSC's payment to the Design And Construction Fund for the calendar year.

***B. SMSC Operating Letters Of Credit For Operation And Maintenance Fund***

- (1) *Initial SMSC Operation And Maintenance Letter Of Credit.* Within 15 days after the SMSC signs this MOA, it will provide the Watershed District with an initial SMSC Operation And Maintenance Letter Of Credit in the amount of 225% of the SMSC's 2006 Operation And Maintenance Fund payment as shown on Exhibit H. This initial SMSC Operation And Maintenance Letter Of Credit will name the Watershed District as beneficiary, will be issued for a term of 18 months, and will be in addition to the SMSC's 2006 Design And Construction Fund payment as shown on Exhibit H.
- (2) *Annual SMSC Operation And Maintenance Letters Of Credit.* Ninety days after the Initial Meeting, in February of 2008, and continuing in February of every succeeding calendar year, the SMSC will provide the Watershed District with a SMSC Operation And Maintenance Letter Of Credit in the amount of 225% of the SMSC's Operation And Maintenance Fund payment for that calendar year. Each SMSC Operation And Maintenance Letter Of Credit will name the Watershed District as beneficiary, will be issued for a term of 18 months, and will be in addition to the SMSC's payment to the Operation And Maintenance Fund for the calendar year.
- (3) *SMSC Can Combine Design And Construction And Operating And Maintenance Letters of Credit.* With the approval of the Watershed District, the SMSC may combine the initial SMSC Design And Construction Letter of Credit and the SMSC Operation And Maintenance Letter Of Credit, or any subsequent annual set of these letters of credit, into one letter of credit.

***C. SMSC Emergency Maintenance Letters Of Credit For Emergency Maintenance Fund.*** Within 15 days after the SMSC signs this MOA, it will provide the Watershed District with a SMSC Emergency Maintenance Letter Of Credit in the



amount of \$100,000. This SMSC Emergency Maintenance Letter Of Credit will name the Watershed District as beneficiary, will be issued for a term acceptable to the Watershed District, and will either renew automatically or be replaced by the SMSC not less than three months before its expiration. This SMSC Emergency Maintenance Letter Of Credit will be in addition to the SMSC's payments to the Emergency Operation And Maintenance Fund in 2006 through 2010, will be in addition to any payments made to replenish the Emergency Maintenance Fund under Section 10.6C(3), and will be provided for as long as this MOA continues in force.

## **12.2 Drawing Against SMSC Cost Share Letters Of Credit**

### ***A. Basis For Cost Share Draw And Use Of Draw***

- (1) Failure To Pay Construction Cost Share Allocation.* If the SMSC fails to pay any cost share allocation to the Design And Construction Fund when due, the Watershed District may draw on any outstanding SMSC Design And Construction Letter Of Credit for the amount due using the process under Section 12.2B and will apply the draw to pay the amount due.
- (2) Failure To Provide SMSC Design And Construction Letter Of Credit.* If the SMSC fails to provide a SMSC Design And Construction Letter Of Credit when due, the Watershed District may draw the full amount of any outstanding SMSC Design And Construction Letter of Credit using the process under Section 12.2B. The Watershed District will hold the draw in escrow and use it to pay any SMSC cost share allocation to the Design And Construction Fund if the SMSC fails to pay it when due.
- (3) Failure To Pay Operating Cost Share Allocation.* If the SMSC fails to pay any cost share allocation to the Operation And Maintenance Fund when due, the Watershed District may draw on any outstanding SMSC Operation And Maintenance Letter Of Credit for the amount due using the process under Section 12.2B and will apply the draw to pay the amount due.
- (4) Failure To Provide SMSC Operation And Maintenance Letter Of Credit.* If the SMSC fails to provide a SMSC Operation And Maintenance Letter Of Credit when due, the Watershed District may draw the full amount of any

outstanding SMSC Operation And Maintenance Letter of Credit using the process under Section 12.2B. The Watershed District will hold the draw in escrow and use it to pay any SMSC cost share allocation to the Operation And Maintenance Fund if the SMSC fails to pay it when due.

- (5) *Failure To Pay Emergency Maintenance Cost Share Allocation.* If the SMSC fails to make a payment to the Emergency Maintenance Fund as provided in Section 10.6B or fails to replenish the Emergency Maintenance Fund as provided in Section 10.6C(3), the Watershed District may draw on the outstanding SMSC Emergency Maintenance Letter Of Credit for the amount due using the process under Section 12.2B and will apply the draw to pay the amount due.
- (6) *Failure To Provide SMSC Emergency Maintenance Letter Of Credit.* If the SMSC fails to provide a SMSC Emergency Maintenance Letter Of Credit when due, the Watershed District may draw the full amount of the outstanding SMSC Emergency Maintenance Letter of Credit using the process under Section 12.2B. The Watershed District will hold the draw in escrow and use it to pay a SMSC annual payment or replenishment payment to the Emergency Maintenance Fund if the SMSC fails to pay it when due.
- (7) *SMSC Insolvency or Dissolution*
  - a. If the SMSC becomes insolvent or admits in writing its inability to pay debts as they come due, if the SMSC applies for or consents to the appointment of a trustee or receiver, if in the absence of such application or consent, a trustee or receiver is appointed for SMSC, or if any proceeding under any bankruptcy or insolvency law or any dissolution or liquidation proceeding is instituted by or against SMSC, then the Watershed District may immediately draw the full amount of any outstanding SMSC Design And Construction Letter of Credit, SMSC Operation And Maintenance Letter Of Credit, and SMSC Emergency Maintenance Letter Of Credit. The Watershed District will hold the draws in escrow and use them to pay any SMSC cost share allocation to the Design And Construction Fund or the Operation And Maintenance Fund,

or annual payment or replenishment payment to the Emergency Maintenance Fund, if the SMSC fails to pay them when due.

- b. If the SMSC disputes the Watershed's District's draws under this Section 12.2A(7), the SMSC may invoke the dispute resolution process in Article 15 after the draw has been made. While dispute resolution is ongoing under Article 15, the Watershed District will not disburse any funds received as a result of draws under this Section 12.2A(7).
- c. However, as to any funds drawn on an SMSC Emergency Maintenance Letter Of Credit and subject to dispute resolution under this Section 12.2A(7), the Watershed District may disburse the funds if an Emergency Maintenance activity becomes necessary and if the Emergency Maintenance Fund does not contain sufficient funds to pay for the activity because the SMSC has failed to make any required payment to the Emergency Maintenance Fund. If the dispute resolution process determines the Watershed District should not have drawn on the Emergency Maintenance Letter Of Credit, the Watershed District will repay to the SMSC any funds disbursed under this Section 12.2A(7)c.

**B. Cost Share Draw Process.** If the Watershed District seeks to draw on any SMSC letter of credit under Section 12.2B(1)-(6), the Watershed District will give the SMSC a 30-day notice of its intent to draw specifying the reason for the draw and the letter of credit to be drawn against. However, if the letter of credit has less than 60 days remaining before it expires, the notice period will be one-half the number of days remaining in its term. If the notice period expires without the SMSC paying the amount in default or providing the necessary letter of credit, the Watershed District may draw on the specified letter of credit for the amount noticed.

**C. Letter Of Credit Replacement After Draw.** Within 30 days after a draw occurs on any SMSC letter of credit provided under Section 12.1, the SMSC will replace the letter of credit if drawn in full or, if partially drawn, restore the letter of credit to its full amount, and give notice to the Project Cooperators that it has done so. If after a partial draw the SMSC does not restore a letter of credit to its full amount, the Watershed District may draw on the letter of credit for the full amount remaining

using the process under Section 12.2B. The Watershed District will hold the draw in escrow and use it to pay any SMSC cost share allocation to the Design And Construction Fund or the Operation And Maintenance Fund, or annual payment or replenishment payment to the Emergency Maintenance Fund, if the SMSC fails to pay them when due.

***D. No Draw During Dispute Resolution.*** If the SMSC disputes the amount in default or tries to prevent the Watershed District from drawing on a SMSC letter of credit, either party may invoke the dispute resolution process in Article 15. While dispute resolution involving the SMSC is ongoing under Article 15, no draw may be made on any SMSC letter of credit securing the disputed payment except as follows.

- (1) Letter Of Credit Expiration.* If any SMSC letter of credit securing a disputed payment will expire before resolution of the dispute under Article 15, the SMSC will extend or replace the SMSC letter of credit as required by this MOA. If the SMSC fails to do so, the Watershed District may draw on the SMSC letter of credit as provided in Section 12.2A using the process in Section 12.2B. The Watershed District will hold the draw in escrow, and in addition to the uses allowed under Section 12.2B, the Watershed District will disburse funds in accordance with the outcome of the dispute resolution process.
- (2) SMSC Insolvency Or Dissolution.* If the Watershed District determines it has the right to draw on a SMSC letter of credit securing a disputed payment under Section 12.2A(7), it may do so as provided in that Section.
- (3) Lack Of Funds In Emergency Maintenance Fund.* If Emergency Maintenance becomes necessary and if the Emergency Maintenance Fund does not contain sufficient funds to pay for the activity because the SMSC has failed to make any required payment to the Emergency Maintenance Fund, the Watershed District may draw on an Emergency Maintenance Letter Of Credit and disburse funds to pay for the Emergency Maintenance activity. If the dispute resolution process determines the Watershed District should not have drawn on the Emergency Maintenance Letter Of Credit, the Watershed District will repay to the SMSC any funds disbursed under this Section 12.2D(3).

## **ARTICLE 13. INDEMNIFICATION**

### **13.1 Watershed District Indemnification Of Prior Lake, Shakopee, And SMSC**

Subject to the limitations of Minnesota Statutes Chapter 466, the Watershed District will defend, indemnify, and hold Prior Lake, Shakopee, and the SMSC harmless from Claims arising out of or in connection with: any Design or Construction by the Watershed District of the Outlet Structure Repair Project or the Outlet Channel Restoration And Enhancement Project, or any portion of either; any Operation, Maintenance, or Emergency Maintenance by the Watershed District of the Outlet Structure or Outlet Channel; or any failure by the Watershed District to comply with this MOA's Provisions. Under no circumstances, however, will the Watershed District be required to pay any amounts in excess of the limits on liability established in Minnesota Statutes Chapter 466 applicable to any one Project Cooperator. Claims may not be aggregated to exceed the statutory limits afforded by Minnesota Statutes Chapter 466.

### **13.2 Prior Lake Indemnification Of Watershed District, Shakopee, And SMSC**

**A. *Prior Lake General Indemnity.*** Subject to the limitations of Minnesota Statutes Chapter 466, Prior Lake will defend, indemnify, and hold the Watershed District, Shakopee, the SMSC, and their respective elected and appointed officials, employees, and agents harmless from Claims arising out of or in connection with: any Design or Construction by Prior Lake of any portion of the Outlet Channel Restoration And Enhancement Project; any Operation, Maintenance, or Emergency Maintenance by Prior Lake of the Outlet Channel; any Public Service Activity by Prior Lake; or any failure by Prior Lake to comply with this MOA's Provisions. Under no circumstances, however, will Prior Lake be required to pay any amounts in excess of the limits on liability established in Minnesota Statutes Chapter 466 applicable to any one Project Cooperator. Claims may not be aggregated to exceed the statutory limits afforded by Minnesota Statutes Chapter 466.

**B. *Prior Lake Indemnity For Public Service Activities.*** Subject to the limitations of Minnesota Statutes Chapter 466 as modified in this Section 13.2B., Prior Lake will defend, indemnify, and hold the Watershed District, Shakopee, the SMSC, and their

respective elected and appointed officials, employees, and agents harmless from Claims arising out of or in connection with Prior Lake's Public Service Activities or with any trail or underground utility placed in an Outlet Channel easement as part of Prior Lake's Public Service Activities. Prior Lake understands that under Minnesota Statutes Section 466.03, subd. 6e, Prior Lake is not subject to tort liability for Claims arising out of or in connection with any trail placed in an Outlet Channel easement as part of Prior Lake's Public Service Activities or the Public Service Activities necessary to Design, Construct, Operate, and Maintain any trail. Nevertheless, for the purpose of the indemnity provided in this Section 13.2B only and up to the limits on liability established in Minnesota Statutes Chapter 466 only, Prior Lake waives its sovereign immunity. Under no circumstances, however, will Prior Lake be required to pay any amounts in excess of the limits on liability established in Minnesota Statutes Chapter 466 applicable to any one Project Cooperator. Claims may not be aggregated to exceed the statutory limits afforded by Minnesota Statutes Chapter 466.

**13.3 Shakopee Indemnification Of Watershed District, Prior Lake, And SMSC**

- A. *Shakopee General Indemnity.*** Subject to the limitations of Minnesota Statutes Chapter 466, Shakopee will defend, indemnify, and hold the Watershed District, Prior Lake, the SMSC, and their respective elected and appointed officials, employees, and agents harmless from Claims arising out of or in connection with: any Design or Construction by Shakopee of any portion of the Outlet Channel Restoration And Enhancement Project; any Operation, Maintenance, or Emergency Maintenance by Shakopee of the Outlet Channel; any Public Service Activity by Shakopee; or any failure by Shakopee to comply with this MOA's Provisions. Under no circumstances, however, will Shakopee be required to pay any amounts in excess of the limits on liability established in Minnesota Statutes Chapter 466 applicable to any one Project Cooperator. Claims may not be aggregated to exceed the statutory limits afforded by Minnesota Statutes Chapter 466.
- B. *Shakopee Indemnity For Public Service Activities.*** Subject to the limitations of Minnesota Statutes Chapter 466 as modified in this Section 13.3B, Shakopee will defend, indemnify, and hold the Watershed District, Prior Lake, the SMSC, and

their respective elected and appointed officials, employees, and agents harmless from Claims arising out of or in connection with Shakopee's Public Service Activities or with any trail or underground utility placed in an Outlet Channel easement as part of Shakopee's Public Service Activities. Shakopee understands that under Minnesota Statutes Section 466.03, subd. 6e, Shakopee is not subject to tort liability for Claims arising out of or in connection with any trail placed in an Outlet Channel easement as part of Shakopee's Public Service Activities or the Public Service Activities necessary to Design, Construct, Operate, and Maintain any trail. Nevertheless, for the purpose of the indemnity provided in this Section 13.3B only and up to the limits on liability established in Minnesota Statutes Chapter 466 only, Shakopee waives its sovereign immunity. Under no circumstances, however, will Shakopee be required to pay any amounts in excess of the limits on liability established in Minnesota Statutes Chapter 466 applicable to any one Project Cooperator. Claims may not be aggregated to exceed the statutory limits afforded by Minnesota Statutes Chapter 466.

**13.4 SMSC Indemnification Of Watershed District, Prior Lake, And Shakopee**

The SMSC will defend, indemnify, and hold the Watershed District, Shakopee, Prior Lake, and their respective elected and appointed officials, employees, and agents harmless from Claims arising out of or in connection with: any Design or Construction by the SMSC of any portion of the Outlet Channel Restoration And Enhancement Project; any Operation, Maintenance, or Emergency Maintenance by the SMSC of the Outlet Channel; any Public Service Activity by the SMSC; or any failure by the SMSC to comply with this MOA's Provisions. Under no circumstances, however, will the SMSC be required to pay any Claims from which Minnesota municipalities are immune under Minnesota Statutes Chapter 466 or any amounts in excess of the limits on liability for Minnesota municipalities established in Minnesota Statutes Chapter 466 applicable to any one Project Cooperator. Claims may not be aggregated to exceed the statutory limits afforded by Minnesota Statutes Chapter 466 and this Section 13.4.

**13.5 Limitation On Liability Of Project Cooperators**

Notwithstanding anything to the contrary in this MOA, under no circumstances will a Project Cooperator, including for the avoidance of doubt the SMSC, be required to pay

on behalf of itself and the other Project Cooperators any amounts in excess of the limits on liability established in Minnesota Statutes Chapter 466 applicable to any one Project Cooperator. The limits of liability for some or all of the Project Cooperators may not be added together to aggregate or determine the maximum amount of liability for any Project Cooperator. The intent of this Section 13.5 is to impose a limited duty to defend and indemnify for Claims arising under this MOA subject to the limits of liability under Minnesota Statutes Chapter 466. The purpose of creating this duty to defend and indemnify is to simplify the defense of Claims by eliminating conflicts among defendants, and to permit Claims against multiple defendants from a single occurrence to be defended by a single attorney.

### **13.6 Insurance And Evidence Of Coverage**

**A. Insurance For Watershed District, Prior Lake, And Shakopee.** The Watershed District, Prior Lake, and Shakopee will maintain liability coverage with the League of Minnesota Cities Insurance Trust (“LMCIT”) under standard LMCIT liability coverage forms for at least the amount of the maximum limit of liability under Minnesota Statutes Section 466.04 for any number of claims arising out of a single occurrence, as such limit may change during the term of this MOA. For the period from the Effective Date through December 31, 2007, the coverage limit will be at least \$1 million per occurrence. Thereafter, the coverage limit shall change to conform to Minnesota Statutes Section 466.04. Each Project Cooperator will name the other three Project Cooperators as additional insureds. If insurance cannot be obtained from the LMCIT, the Watershed District, Prior Lake, or Shakopee will maintain private liability insurance coverage as required for the SMSC in Section 13.6B.

**B. Insurance For SMSC.** The SMSC will maintain the following private liability insurance coverage through an insurance company licensed to do business in the State.

(1) *Commercial General Liability Coverage.* The SMSC will maintain commercial general liability coverage with a limit of at least the amount of the maximum limit of liability under Minnesota Statutes Section 466.04 for any number of claims arising out of a single occurrence, as such limit may change



during the term of this MOA. If this commercial general liability insurance contains a general aggregate limit, the SMSC will maintain a general aggregate limit of not less than twice the amount of coverage for each occurrence. For the period from the Effective Date through December 31, 2007, the coverage limit will be at least \$1 million per occurrence. Thereafter, the coverage limit shall change to conform to Minnesota Statutes Section 466.04. The commercial general liability insurance will cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury, advertising injury, and contractually-assumed liability. The SMSC will name the other three Project Cooperators as additional insureds.

- (2) *Public Officials' Errors And Omissions Insurance.* The SMSC will maintain public officials' errors and omissions or equivalent coverage, in a form acceptable to the Watershed District, with a limit of at least \$1 million per occurrence, and, if this insurance contains an aggregate limit, an aggregate limit of not less than \$2 million. The SMSC will name the other three Project Cooperators as additional insureds.

**C. Evidence Of Coverage And Ongoing Coverage.** Each Project Cooperator will provide the Watershed District with a certificate of insurance showing that the required coverages are in effect, and the Watershed District will provide the other Project Cooperators with the same evidence. No Project Cooperator will allow the insurance required by this MOA to lapse, be canceled, be reduced in limits or coverage, not be renewed, be changed materially, or have restrictive modifications added during this MOA's term. In the event any Project Cooperator fails to procure or maintain any insurance coverage required under this MOA, the Watershed District may buy such coverage on an annual basis and add the coverage cost to the next annual Operation And Maintenance Fund payment due from that Project Cooperator. If the Watershed District fails to procure or maintain any insurance coverage required under this MOA, any other Project Cooperator may buy such coverage on an annual basis and deduct the coverage cost from its next annual Operation And Maintenance Fund payment.

## **ARTICLE 14. SECURITY FOR SMSC COMPLIANCE AND INDEMNIFICATION**

### **14.1 SMSC Compliance And Indemnification Letter Of Credit**

- A. Provisions And Term.** Within 15 days after the SMSC signs this MOA, it will provide to the Watershed District a SMSC Compliance And Indemnification Letter Of Credit in the amount of \$2 million. This SMSC Compliance And Indemnification Letter Of Credit will name the Watershed District, Prior Lake, and Shakopee as beneficiaries, will be issued for a term and other Provisions acceptable to the Watershed District, and will be replaced by the SMSC not less than three months before its expiration. This SMSC Compliance And Indemnification Letter Of Credit will be in addition to providing the other SMSC letters of credit required in Section 12.1, will be in addition to maintaining the insurance coverage required in Section 13.6B, and will be provided for as long as this MOA continues in force.
- B. Adjusting Amount.** Every four years after the Effective Date, the Watershed District will calculate an inflation factor for the SMSC Compliance And Indemnification Letter Of Credit equal to the Engineering News Record Construction Cost Index using 2006 as the base year and sum it with \$2 million to determine a new amount for the SMSC Compliance And Indemnification Letter Of Credit. The Watershed District will give the SMSC notice of this new amount and within 30 days after receiving this notice, the SMSC will replace the outstanding SMSC Compliance And Indemnification Letter Of Credit with a new one for the amount specified in the notice.

### **14.2 Basis For Compliance Or Indemnification Draws**

- A. Draw For SMSC Default.** If the SMSC defaults in any of its obligations under this MOA and that default causes damage to the Outlet Channel Restoration And Enhancement Project or another Project Cooperator, the other Project Cooperator may give notice of the damage and demand payment. The other Project Cooperator will include in this notice a detailed statement of the nature of the default, the damage caused, how it was caused, and the amount claimed to be owed. If after 60 days, the SMSC has not paid the amount demanded, the other Project Cooperator may give the SMSC a 30-day notice of its intent to draw against the SMSC

Compliance And Indemnification Letter Of Credit. If the 30-day period expires without the SMSC paying the amount demanded in the first notice, the other Project Cooperator may draw on the SMSC Compliance And Indemnification Letter Of Credit for the amount demanded.

**B. Draw For SMSC Failure To Indemnify.** If the SMSC fails to maintain insurance coverage as required in Section 13.6B. and that failure leaves another Project Cooperator without indemnification to which it is entitled under Section 13.4, the other Project Cooperator may give notice to the SMSC of the failure to indemnify and demand payment. The other Project Cooperator will include in this notice a detailed statement of the basis and amount of the Claim on which it maintains indemnification is owed. If after 60 days, the SMSC has not paid the amount demanded, the other Project Cooperator may give the SMSC a 30-day notice of its intent to draw against the SMSC Compliance And Indemnification Letter Of Credit. If the 30-day period expires without the SMSC paying the amount demanded in the first notice, the other Project Cooperator may draw on the SMSC Compliance And Indemnification Letter Of Credit for the amount demanded.

**C. Draw For Failure To Maintain SMSC Compliance And Indemnification Letter Of Credit.** If the SMSC fails to provide a replacement SMSC Compliance And Indemnification Letter of Credit when due, the Watershed District may give the SMSC a 30-day notice of its intent to draw against the SMSC Compliance And Indemnification Letter Of Credit. However, if the letter of credit has less than 60 days remaining before it expires, the notice period will be one-half the number of days remaining in its term. If the notice period expires without the SMSC providing the replacement SMSC Compliance And Indemnification Letter Of Credit, the Watershed District may draw the entire amount of the SMSC Compliance And Indemnification Letter Of Credit. The Watershed District will hold the draw in escrow and use it to pay the following:

- (1) Any SMSC cost-share allocation to the Design And Construction Fund or the Operation And Maintenance Fund or annual payment or replenishment payment to the Emergency Maintenance Fund if the SMSC fails to pay them when due;

- (2) Any damages to the Project Cooperators arising from a SMSC default in its obligations under this MOA; or
- (3) Any Claim brought against a Project Cooperator where the SMSC fails to maintain insurance coverage as required in Section 13.6B and that failure leaves the Project Cooperator without indemnification to which it is entitled under Section 13.4.

***D. Draw For SMSC Insolvency or Dissolution***

- (1) *Basis For Draw And Use.* If the SMSC becomes insolvent or admits in writing its inability to pay debts as they come due, if the SMSC applies for or consents to the appointment of a trustee or receiver, if in the absence of such application or consent, a trustee or receiver is appointed for SMSC, or if any proceeding under any bankruptcy or insolvency law or any dissolution or liquidation proceeding is instituted by or against SMSC, then the Watershed District may immediately draw the full amount of the SMSC Compliance And Indemnification Letter of Credit. The Watershed District will hold the draw in escrow and use it to make any payment listed in Section 14.2C.
- (2) *Dispute Over Draw.* If the SMSC disputes the Watershed's District's draw under this Section 14.2D, the SMSC may invoke the dispute resolution process in Article 15 after the draw has been made. While dispute resolution is ongoing under Article 15, the Watershed District will not disburse any funds received as a result of its draw under this Section 14.2D.

**14.3 Letter Of Credit Replacement After Draw**

Within 30 days after a draw occurs on the SMSC Compliance And Indemnification Letter Of Credit provided under Section 14.1, the SMSC will replace the SMSC Compliance And Indemnification Letter Of Credit if drawn in full or, if partially drawn, restore it to its full amount and give notice to the Project Cooperators that it has done so. If after a partial draw the SMSC does not restore the SMSC Compliance And Indemnification Letter Of Credit to its full amount, the Watershed District may draw on the letter of credit for the full amount remaining using the process under Section 14.2C. The Watershed District will hold the draw in escrow and use it to make any payment listed in Section 14.2C.

#### **14.4 No Draw During Dispute Resolution**

If the SMSC disputes the information in a notice, the amount demanded, or a Project Cooperator's right to draw under Sections 14.2A, B, or C, either party to the dispute may invoke the dispute resolution process in Article 15. While dispute resolution is occurring under Article 15, no draw may be made on the SMSC Compliance And Indemnification Letter Of Credit except as follows.

**A. Letter Of Credit Replacement.** If the Watershed District determines it has the right to draw on the SMSC Compliance And Indemnification Letter Of Credit under Section 14.2C, it may do so as provided in that Section.

**B. SMSC Insolvency Or Dissolution.** If the Watershed District determines it has the right to draw on the SMSC Compliance And Indemnification Letter Of Credit under Section 14.2D, it may do so as provided in that Section.

### **ARTICLE 15. DISPUTE RESOLUTION**

#### **15.1 Policy For Resolving Disputes**

The Project Cooperators acknowledge that, if disputes arise over the interpretation of this MOA, or over the rights and obligations of the Project Cooperators under this MOA's Provisions, such disputes will, in all likelihood, impinge on substantial rights affecting the health and safety of the persons and property of the citizens residing within their respective jurisdictions. The Project Cooperators also acknowledge that any disputes will further arise under time frames that do not allow for extended investigation or negotiations to resolve the disputes. Therefore the following dispute procedure will apply.

#### **15.2 Procedure For Resolving Disputes**

All disputes arising out of or in connection with this MOA will be resolved as follows.

**A. Dispute Notice And Initial Meeting.** If a dispute arises between two or more Project Cooperators, any Project Cooperator involved in the dispute may send notice of the dispute to all Project Cooperators specifying the nature of the dispute and the parties to the dispute. Within five days after delivery of notice, a meeting between the parties to the dispute (and any other Project Cooperator that wishes to attend) will be held to attempt in good faith to negotiate a resolution of the dispute.

**B. Mediation.** If the parties to the dispute fail to resolve the dispute after a meeting, or any additional meetings as the parties to the dispute mutually deem necessary, or if the parties to the dispute fail to meet within five days after delivery of the notice, the parties to the dispute will submit the dispute within five days thereafter to mediation in accordance with Rule 114 of the Minnesota General Rules of Practice and bear equally the costs of the mediation. The parties to the dispute will participate in good faith in the mediation for a period of ten days, unless the parties to the dispute mutually extend the mediation period.

**C. Binding Arbitration.** If the parties to the dispute are not successful in resolving the dispute through mediation or if they fail to meet within the ten-day meeting period, then the dispute will be resolved by binding arbitration in accordance with Minnesota Statutes Sections 572.08 to 572.30, as amended, and the following conditions.

(1) *Selection Of Arbitrator.* The dispute will be heard by a single arbitrator selected as follows.

- a. Within five days after the expiration of the ten-day period for mediation of the dispute (or after the expiration of a longer period if the mediation period has been extended by the parties to the dispute), each Project Cooperator will propose three potential arbitrators who meet the qualifications set forth in Section 15.2C(2) by personally serving three names with brief qualification statements on the other Project Cooperators. Any Project Cooperator that fails to propose three potential arbitrators as provided in this Section 15.2C(1)a waives its right to propose arbitrators.
- b. Within five business days of the expiration of the deadline for proposing potential arbitrators, each Project Cooperator will personally serve on the other Project Cooperators a ranked list of all proposed arbitrators with a ranking of "1" indicating the highest or first choice, "2" the second choice, and so on for each potential arbitrator. On its list, each Project Cooperator may strike rather than rank one potential arbitrator. All persons so stricken will no longer be considered as an arbitrator for the dispute. Any Project Cooperator that fails to provide a ranked list as provided in this

Section 15.2C(1)b waives its right to strike a potential arbitrator and to rank potential arbitrators.

- c. Within two business days after the deadline for receiving the ranked lists, the Watershed District will combine the ranked lists properly served with the ranking for each non-struck potential arbitrator totaled. For example, a potential arbitrator who receives a ranking of “1” from the Watershed District, “5” from Prior Lake, “2” from Shakopee, and “7” from the SMSC will receive a total ranking of “15.” The potential arbitrator with the lowest total ranking will be appointed as the arbitrator for the dispute. If the arbitrator so selected cannot serve, then the potential arbitrator with the next lowest score will be appointed.
  - d. In the case of any tie, then the tie will be broken by random draw conducted by the Watershed District.
- (2) *Qualifications For Arbitrator.* The arbitrator must be impartial and independent. The arbitrator may be an attorney, engineer, government official, or other person who has at least five years of experience with drainage law, hydraulics, watersheds, water law, or watershed law. Following appointment, the arbitrator will serve subject to recusal by a majority of the parties for just cause or disability.
- (3) *Challenge To Qualifications.* If a party wishes to challenge a potential arbitrator or a selected arbitrator as unqualified, the party must give notice of the challenge to the Watershed District stating the reasons the potential or selected arbitrator is unqualified. Within five business days after the notice is effective the Watershed District will convene the three individuals designated under Section 11.1A to serve as meeting representatives from the three parties who did not propose that person as a potential arbitrator to decide by majority vote whether the person is qualified. A potential arbitrator deemed unqualified will no longer be considered as an arbitrator for the dispute. A selected arbitrator deemed unqualified will no longer be considered as an arbitrator for the dispute and will be replaced by the Watershed District with the potential arbitrator with the next lowest score as established under

Section 15.2C(1).

- (4) *Hearing Timing.* The hearing before the arbitrator will be held within ten days after the arbitrator's selection, unless otherwise mutually agreed by the parties to the dispute.
- (5) *Decision By Majority And Timing.* The arbitrator's decision will be rendered within 15 days after her or his selection, unless otherwise mutually agreed by the parties to the dispute.
- (6) *Governing Law.* The law governing interpretation of this MOA in any arbitration will be the laws of the State.
- (7) *Costs.* The parties to the dispute will bear equally the costs of the arbitrator and any other costs of the arbitration.

### **15.3 Enforcement Of Judgment Or Order**

- A. *Money Judgment Involving Watershed District, Prior Lake, Or Shakopee.*** If the arbitrator's decision under Section 15.2C involves a money judgment against the Watershed District, Prior Lake, or Shakopee, the respective Project Cooperator will pay the money judgment within 60 days after it is issued by the arbitrator. If the Watershed District, Prior Lake, or Shakopee fails to do so, the money judgment will be enforceable by any other Project Cooperator in the District Court of Scott County, Minnesota.
- B. *Money Judgment Or Order Involving SMSC.*** If the arbitrator's decision under Section 15.2C involves a money judgment against the SMSC, the SMSC will pay the money judgment within 60 days after it is issued by the arbitrator. If the SMSC fails to do so, the Project Cooperator in whose favor the money judgment was rendered may satisfy the judgment by drawing immediately upon one or more SMSC letters of credit provided to secure the obligation upon which judgment was rendered for the amount of the judgment. This right to draw is in addition to those specified in Sections 12.2A and 14.2.
- C. *Non-monetary Judgment Involving Watershed District, Prior Lake, Or Shakopee.*** If the arbitrator's decision under Section 15.2C involves a non-monetary judgment against the Watershed District, Prior Lake, or Shakopee or a judgment about how to interpret this MOA, the respective Project Cooperator will immediately conform to



the judgment. If the Watershed District, Prior Lake, or Shakopee fails to do so, the judgment will be enforceable by any other Project Cooperator in the District Court of Scott County, Minnesota.

**D. *Non-monetary Judgment Involving SMSC.*** If the arbitrator's decision under Section 15.2C involves a judgment about how to interpret this MOA, the SMSC will conform to the judgment. If the SMSC fails to conform to the judgment and this failure causes damage to any other Project Cooperator, the failure will be deemed a default, and the damaged Project Cooperator may proceed as provided in Section 14.2A.

#### **15.4 Limited Sovereign Immunity Waiver**

The Project Cooperators acknowledge that the SMSC is a Federally recognized Indian tribe and that the SMSC possesses sovereign immunity from unconsented suit and other legal proceedings, including arbitration. Despite the U.S. Supreme Court's decision in *C&L Enterprises, Inc. v. Citizen Band Potawatomi Tribe*, nothing in this Agreement shall be deemed to be an express or implied waiver of the SMSC's sovereign immunity, except as explicitly provided in this Section 15.4.

**A. *Limited Waiver of Sovereign Immunity.*** The SMSC hereby irrevocably waives its sovereign immunity, and all defenses based thereon, for the limited purpose of submitting to binding arbitration as provided in Section 15.2.

**B. *Limitation on Recourse.*** Notwithstanding any other Provisions herein, any arbitration award against the SMSC may only be for money damages and may only be enforced and collected against one or more SMSC letters of credit provided to secure the obligation upon which judgment was rendered.

**C. *Waiver of Exhaustion.*** The SMSC expressly waives the application of the doctrines of exhaustion of tribal remedies, abstention, or comity and all other rights of the SMSC that might otherwise require that claims arising from this Agreement be heard in any of the SMSC courts (whether now or hereafter existing) or other SMSC forums (whether now or hereafter existing) prior to the commencement of arbitration.

## **ARTICLE 16. TERM AND TERMINATION**

The term of this MOA is perpetual, or until otherwise expressly terminated by a unanimous vote of the Project Cooperators. Assuming the Outlet Channel Restoration And Enhancement Project is complete, the Watershed District's right to release 65 cfs through the Outlet Structure and the rights of other Project Cooperators to drain areas tributary to the Outlet Channel as described in Table 1 at the Maximum Average Drainage Rates described in Table 2 will survive this MOA's termination. Any termination will be recorded in the office of the Scott County Recorder.

## **ARTICLE 17. DISTRIBUTION OF PROPERTY UPON TERMINATION**

### **17.1 Distribution Of Property Generally**

Upon this MOA's termination, all personal property acquired as a result of this MOA will be returned to the contributing Project Cooperator. And all monies remaining in the Design And Construction Fund, the Operation And Maintenance Fund, or the Emergency Maintenance Fund will be returned to the Project Cooperators according to the cost-share allocation in Section 10.2.

### **17.2 Conveyance Of Title To Easements Outside The Watershed District**

**A. Conveyance To Shakopee.** Upon this MOA's termination, the Watershed District will convey to Shakopee, all of its right, title, and interest in that portion of the Outlet Channel lying outside of the legal boundaries of the Watershed District, east of Pike Lake Trail or north of Scott County Road 16 within the municipal limits of Shakopee, subject to the rights of the Watershed District and other Project Cooperators in Article 16.

**B. Conveyance To SMSC.** Upon this MOA's termination, the Watershed District will convey to the SMSC, all of its right, title, and interest in that portion of the Outlet Channel lying outside of the legal boundary of the Watershed District, and lying within either Trust Land or Fee Land, subject to the rights of the Watershed District and other Project Cooperators in Article 16.

## ARTICLE 18. GENERAL PROVISIONS

## 18.1 Counterparts

This MOA may be signed in separate counterparts, and the counterparts, taken together, shall constitute a single agreement.

## 18.2 Entire Agreement, Amendment, And Waiver

This MOA and the JPA embody the entire agreement and understanding of the Project Cooperators regarding the subject matter of this MOA and all prior agreements, representations, statements, and understandings, oral and written, are merged in this MOA and the JPA by this Section 18.2. This MOA may not be altered, amended, modified, or supplemented except in a writing signed by the Project Cooperators, which will be effective from and after the date that it is signed by all the Project Cooperators if an effective date is not specified. No MOA Provisions is waived unless done so in writing and signed by the Project Cooperator against whom such waiver is asserted.

### 18.3 MOA/JPA Precedence

If this MOA is approved by the Secretary of the Interior, its Provisions will control the relationship between the Project Cooperators. If this MOA is not approved by the Secretary of the Interior, or if it is approved and terminates in the future for any reason, the JPA's Provisions will control the relationship of the Watershed District, Prior Lake, and Shakopee. If any conflict arises between this MOA's Provisions and the JPA and the MOA has been approved and has not been terminated, this MOA will control.

## 18.4 Notices

**A. *Written Notice Required.*** Except as otherwise specifically provided in this MOA, all notices, demands, and communications required or provided to be given under this MOA will be in writing and will be directed as follows:

If to Watershed District:      Prior Lake–Spring Lake Watershed District  
Attn: District Administrator  
15815 Franklin Trail SE  
Prior Lake, MN 55372

**If to Prior Lake:** City of Prior Lake  
Attn: City Manager  
4646 Dakota Street SE  
Prior Lake, MN 55372

If to Shakopee: City of Shakopee  
Attn: City Administrator  
129 South Holmes Street  
Shakopee, MN 55379

If to the SMSC: Shakopee Mdewakanton Sioux Community  
Attn: Chairman  
2330 Sioux Trail NW  
Prior Lake, MN 55372

**B. How Notices May Be Delivered.** Except when personal service is required in this MOA, notices may be:

- (1) Delivered personally;
- (2) Sent by nationally recognized overnight courier; or
- (3) Sent by first class, certified United States Mail, return receipt requested, postage prepaid.

**C. When Notices Are Effective.** Notices are effective:

- (1) On receipt if delivered personally;
- (2) On the next business day if delivered by overnight courier; or
- (3) On the date shown on the receipt if mailed, unless delivery is refused or delayed by the addressee, in which event they are deemed delivered on the third business day following deposit in the United States Mail.

**D. Changes In Notice Address.** A Project Cooperator may change the address to which notice will be delivered by notice given to all Project Cooperators. No Project Cooperator may require notice to be delivered to more than two addresses.

**18.5 No Third Party Beneficiaries**

Except as otherwise specifically provided in this MOA, no rights, privileges, or immunities of any Project Cooperator under this MOA will inure to the benefit of any third-party, nor will any third-party be deemed to be a beneficiary of any of this MOA's Provisions.

**18.6 Successors And Assigns**

This MOA binds and inures to the benefit of the legal successors and assigns of the Project Cooperators.

SIGNED by the Watershed District, Prior Lake, Shakopee, and the SMSC to go into force on the

Approval Date as of the Effective Date.

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# PRIOR LAKE-SPRING LAKE WATERSHED DISTRICT

By: Craig Gontarek  
Craig Gontarek, Secretary

Page 69

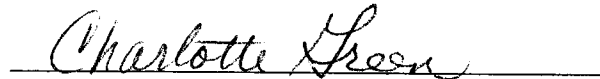
# MEMORANDUM OF AGREEMENT

By: Jack G. Haugen, Mayor

By: [Signature]

STATE OF MINNESOTA )

On this 1st day of November, 2007, the foregoing Memorandum of Agreement was acknowledge before me by Jack G. Haugen and Frank Boyles, the Mayor and City Manager respectively, of the City of Prior Lake, a Minnesota municipal corporation, on behalf of the City.



**Notary Public**

**MEMORANDUM OF AGREEMENT**  
**SIGNATURE PAGE FOR**  
**CITY OF SHAKOPEE**

CITY OF SHAKOPEE

By: John Schmitt  
John Schmitt, Mayor

By: Mark McNeill  
Mark McNeill, City Administrator

Judy Cox, City Clerk

STATE OF MINNESOTA )  
 ) ss  
COUNTY OF SCOTT )

On this 23<sup>rd</sup> day of Oct, 2007, the foregoing Memorandum of Agreement was acknowledged before me by John Schmitt, Mark McNeill, and Judy Cox, the Mayor, City Administrator, and City Clerk respectively, of the City of Shakopee, a Minnesota municipal corporation, on behalf of the City.

Notary Public





**MEMORANDUM OF AGREEMENT**  
**SIGNATURE PAGE FOR**  
**SHAKOPEE MDEWAKANTON SIOUX COMMUNITY**


SHAKOPEE MDEWAKANTON SIOUX COMMUNITY

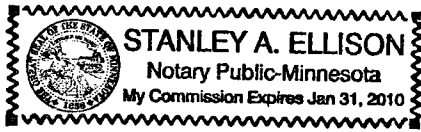
By: Stanley R. Crooks  
Stanley R. Crooks, Chairman

By: Keith B. Anderson  
Keith B. Anderson, Secretary/Treasurer

STATE OF MINNESOTA )  
 ) ss  
COUNTY OF SCOTT )

On this 24<sup>th</sup> day of October, 2007, the foregoing Memorandum of Agreement was acknowledge before me by Stanley R. Crooks and Keith B. Anderson, the Chairman and Secretary/Treasurer respectively, of the Shakopee Mdewakanton Sioux Community, a Federally recognized Indian tribe, on behalf of the Community.

  
Notary Public



UNITED STATES DEPARTMENT OF THE INTERIOR APPROVAL

The foregoing document is approved pursuant to 25 U.S.C. 81:

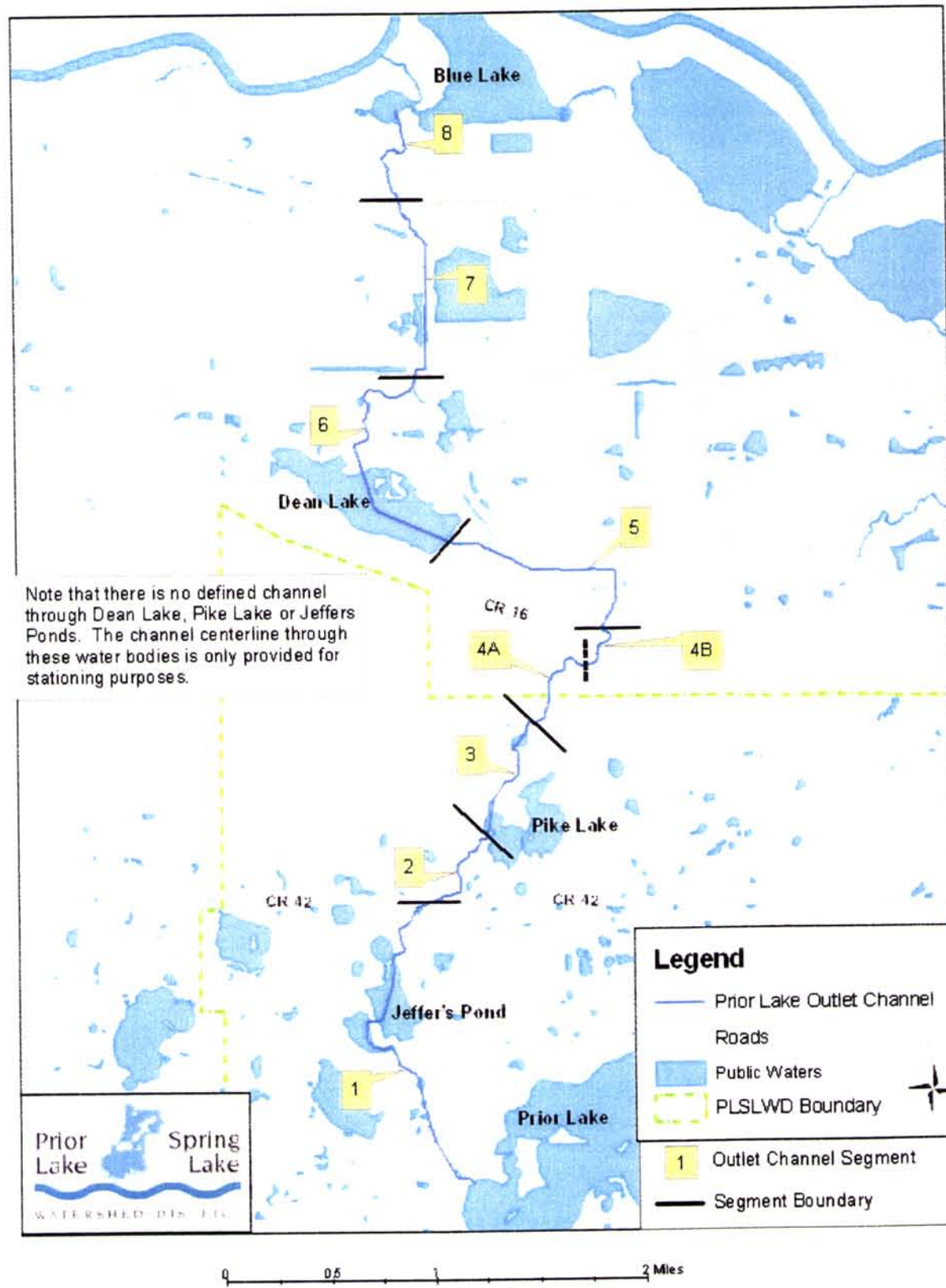
UNITED STATES DEPARTMENT OF THE INTERIOR,  
BUREAU OF INDIAN AFFAIRS:

By: \_\_\_\_\_, Area Director of  
the \_\_\_\_\_ Area Office of the Bureau of Indian  
Affairs of the Secretary of the Interior and the  
Commissioner of Indian Affairs, Acting Under  
Delegated Authority.

Date: \_\_\_\_\_, 2007

fb.us.1348121.17

# Exhibit A – Outlet Channel Map



# Exhibit B – Outlet Channel Segment Drainage Areas

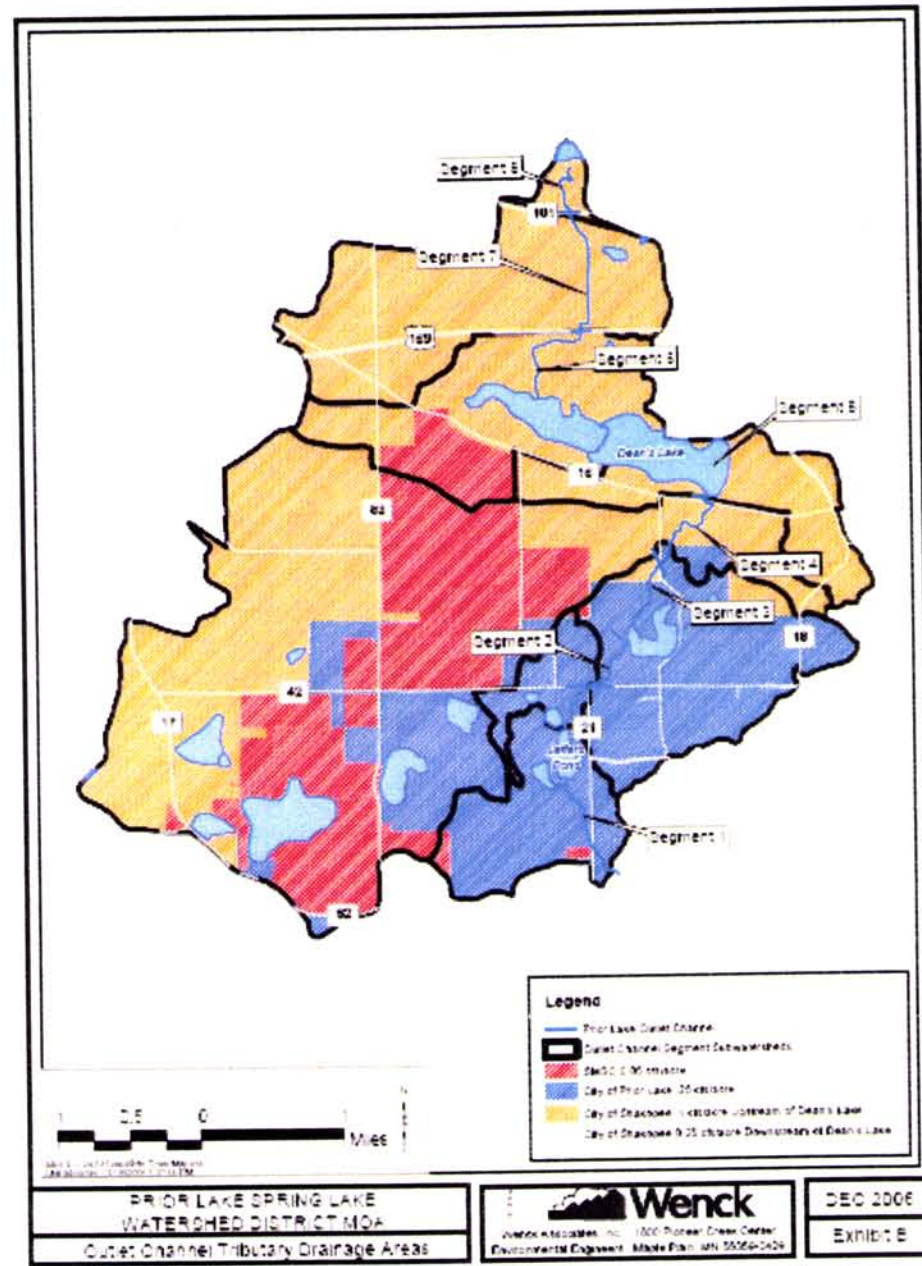


Exhibit C – Projected Average Discharge  
Rate Calculation Formula and Example Calculations

**1. CALCULATION FORMULA**

Projected Average Discharge Rate =

Area-weighted average of the Projected Discharge Rates of individual new developments =

$$\sum [(A_{ND}/T_{AND}) * \text{Max } D_{ND}]$$

Where:

$A_{ND}$  = acres (i.e. size) of an individual new development

$T_{AND}$  = total acres of all new development after the MOA effective date

$\text{Max } D_{ND}$  = Projected Discharge Rate for the 100-Year Rainfall Event, in cfs/acre, for each new development

**2. EXAMPLE CALCULATIONS**

**2.1 Scenario:**

Assume that Outlet Channel Segment 2 has a drainage area of 260 acres, all within Prior Lake. A total of 60 acres was developed prior to the MOA Effective Date, and the remaining 200 acres are developed over a three-year period following the MOA Effective Date, as follows:

- Year 1: 50 acres of commercial development at a Projected Discharge Rate of 0.5 cfs/acre.
- Year 2: 100 acres of low-density residential development at a Projected Discharge Rate of 0.125 cfs/acre; and 25 acres of a development that existed prior to the MOA Effective Date is redeveloped.
- Year 3: 50 acres of medium-density residential development at a Projected Discharge Rate of 0.25 cfs/acre.

**2.2 Background Information:**

- Prior Lake Maximum Average Discharge Rate (from MOA Table 2): 0.25 cfs/acre
- Projected Discharge Rate of an existing development: 0.64 cfs/acre

**2.3 Annual Certification:**

Given the assumptions and background information presented above, Prior Lake would complete its annual certification for Years 1, 2, and 3 following the MOA Effective Date as follows:



**A. Year 1:**

- (1) Prior Lake would report acres of land developed before the MOA Effective Date, land developed after the MOA Effective Date, and undeveloped land as follows:

Developed area prior to MOA: 60 acres

Developed area after MOA: 50 acres

Undeveloped area: 150 acres

- (2) Prior Lake would report that no land was redeveloped in Year 1.
- (3) Prior Lake would present the Projected Average Discharge Rate for new development as follows:

Projected Average Discharge Rate

$$= \sum [(A_{ND}/T_{AND}) * \text{Max } D_{ND}]$$

$$= [(50 \text{ acres in Year 1}/50 \text{ acres total}) * 0.5 \text{ cfs/acre}] = \underline{0.5 \text{ cfs/acre}}$$

- (4) Prior Lake would show how it plans to manage future development on the remaining 150 acres of undeveloped land in this Outlet Channel segment to meet its Maximum Average Discharge Rate of 0.25 cfs/acre.

**B. Year 2:**

- (1) Prior Lake would report the acres of land developed before the MOA Effective Date, land developed after the MOA Effective Date, and undeveloped land as follows:

Developed area prior to MOA: 60 acres

Developed area after MOA: 150 acres (50 acres in Year 1 + 100 acres in Year 2)

Undeveloped area: 50 acres

- (2) Prior Lake would note that 25 acres of developed land was redeveloped. Prior Lake would show that the Projected Discharge Rate of the redeveloped land is equal to or less than the Projected Discharge Rate of the developed condition that existed on the MOA Effective Date (that is, 0.64 cfs/acre), or if the Projected Discharge Rate of the redeveloped land exceeded 0.64 cfs/acre, Prior Lake would show how that additional rate was offset by a reduction elsewhere in the Segment 2 tributary drainage area.
- (3) Prior Lake would present the Projected Average Discharge rate of the new development since the MOA Effective Date as follows:

Projected Average Discharge Rate

$$= \sum [(A_{ND}/T_{AND}) * \text{Max } D_{ND}]$$

$$= [(50 \text{ acres in Year 1}/150 \text{ acres total}) * 0.5 \text{ cfs/acre}] +$$

$$[(100 \text{ acres in Year 2}/150 \text{ acres total}) * 0.125 \text{ cfs/acre}] = \underline{0.25 \text{ cfs/acre}}$$

- (4) Prior Lake would show how it plans to manage future development on the remaining 50 acres of undeveloped land in this segment to meet its Maximum Average Discharge Rate of 0.25 cfs/acre.

**C. Year 3:**

- (1) Prior Lake would report the acres of land developed before the MOA Effective Date, land developed after the MOA Effective Date, and undeveloped land as follows:

Developed area prior to MOA: 60 acres (25 acres redeveloped in Year 2)

Developed area after MOA: 200 acres (50 acres Year 1 + 100 acres in Year 2 + 50 acres in Year 3)

Undeveloped area: 0 acres

- (2) Prior Lake would report that no land was redeveloped in Year 3.
- (3) Prior Lake would present the Projected Average Discharge rate of the new development since the MOA Effective Date as follows:

Projected Average Discharge Rate

$$= \sum [(A_{ND}/T A_{ND}) * \text{Max } D_{ND}]$$

$$= [(50 \text{ acres in Year 1}/200 \text{ acres total}) * 0.5 \text{ cfs/acre}] +$$

$$[(100 \text{ acres in Year 2}/200 \text{ acres total}) * 0.125 \text{ cfs/acre}] +$$

$$[(50 \text{ acres in Year 3}/200 \text{ acres total}) * 0.25 \text{ cfs/acre}] = \underline{0.25 \text{ cfs/acre}}$$

- (4) Prior Lake would note that no new development will occur in this segment.

**D. After Year 3:**

After Year 3, Prior Lake's future annual certifications would consist of reporting on any redevelopment that occurs and demonstrating that the Projected Discharge Rate of the redevelopment is equal to or less than the previous developed condition.

Exhibit D – Outlet Channel Design, Construction, and Maintenance Schedule

Outlet Channel Segment		2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
1	Prior Lake To CR 42	D	C (winter 05-06)	M1	M1	M1	M1	M1	M2	M2	M2	M2
2	CR 42 to Pike Lake Inlet			D	C (winter 07-08)	M1	M1	M1	M1	M1	M2	M2
3	Pike Lake Inlet to Pike Lake Trail			D	C (winter 07-08)	M1	M1	M1	M1	M1	M2	M2
4	Pike Lake Trail to CR 16				D	C (winter 08-09)	M1	M1	M1	M1	M1	M2
5	CR 16 to Deans Lake Outlet		D	C (winter 06-07)	M1	M1	M1	M1	M1	M2	M2	M2
6	Deans Lake Outlet to TH 169	D	C (fall-winter 05-06)	M1	M1	M1	M1	M1	M2	M2	M2	M2
7	TH 169 to TH 101			D	C (winter 07-08)	M1	M1	M1	M1	M1	M2	M2
8	TH 101 to Blue Lake Inlet				D	C (winter 08-09)	M1	M1	M1	M1	M1	M2

Notes: D = Design; C = Construction; M1 = 0-5 yrs. Maintenance; M2 = 6+ yrs. Maintenance.



Exhibit E – Nine Year Estimate of Outlet Channel Design,  
Construction, and Operation And Maintenance Costs

The following tables present the Watershed District's estimate by Project Cooperator of the Outlet Channel Restoration And Enhancement Project Design Costs and Construction Costs from 2007 through 2009, the Outlet Channel Operation And Maintenance Costs from 2007 through 2015, and the annual contributions to establish the Emergency Maintenance Fund.

Project Cooperator	2007		2008		2009		2010		2011	
	D & C <sup>1</sup>	Maint. <sup>2</sup>	D & C	Maint.	D & C	Maint.	D & C	Maint.	D & C	Maint.
Watershed Dist.	\$ 306,054	\$ 76,948	\$ 445,978	\$ 97,491	\$ 157,197	\$ 151,577	--	\$ 174,034	--	\$ 149,270
Shakopee	219,326	\$21,875	220,893	43,802	156,985	65,746	--	88,173	--	75,627
Prior Lake	135,318	\$19,901	167,966	31,227	86,805	49,908	--	62,308	--	53,442
SMSC	61,463	\$7,684	59,992	14,130	51,003	19,578	--	26,864	--	23,041
<b>Total</b>	<b>\$ 722,160</b>	<b>\$ 126,408</b>	<b>\$ 894,830</b>	<b>\$ 186,650</b>	<b>\$ 451,990</b>	<b>\$ 286,809</b>	<b>--</b>	<b>\$ 351,380</b>	<b>--</b>	<b>\$ 301,380</b>

Project Cooperator	2012		2013		2014		2015		Total
	D & C <sup>1</sup>	Maint. <sup>2</sup>	D & C	Maint.	D & C	Maint.	D & C	Maint.	
Watershed Dist.	--	\$ 123,178	--	\$ 112,907	--	\$ 85,863	--	\$ 74,635	<b>\$ 1,955,132</b>
Shakopee	--	70,963	--	59,999	--	49,026	--	37,813	<b>1,110,229</b>
Prior Lake	--	47,924	--	42,262	--	32,921	--	26,721	<b>756,705</b>
SMSC	--	21,110	--	17,888	--	15,164	--	11,521	<b>329,439</b>
<b>Total</b>	<b>--</b>	<b>\$ 263,175</b>	<b>--</b>	<b>\$ 233,055</b>	<b>--</b>	<b>\$ 182,975</b>	<b>--</b>	<b>\$ 150,690</b>	<b>\$ 4,151,505</b>

<sup>1</sup> D & C = Design Costs and Construction Costs

<sup>2</sup> Maint. = Operation And Maintenance Costs and Emergency Maintenance Fund payments

Notes:

- Annual costs shown here include estimated capital and Maintenance costs, but not any easement acquisition costs.

- Construction Cost estimates are based on \$150 per linear foot of Outlet Channel, less the estimated cost of the first five years of Maintenance (\$10 per linear foot).
- Operation And Maintenance Cost estimates are based on \$10 per linear foot vegetation management for the first five years after the Outlet Channel Restoration And Enhancement Project and \$5 per linear foot thereafter.
- For this table, Operation And Maintenance Costs include the establishment of a \$250,000 Emergency Maintenance Fund during the first five years of the Project. The Fund will be replenished as it is used.
- Costs are based on present dollar values as of March 2006.

Exhibit F – Calculation Method  
for Cost-Share Allocation

The Outlet Channel cost-share allocation in MOA Table 4 is calculated for each Outlet Channel segment as follows (see Table F-2 below for the column references and calculation results):

- Step 1:** The tributary drainage area for each Project Cooperator in each Outlet Channel segment from MOA Table 1 (Column A) is multiplied by the Project Cooperator's Maximum Average Discharge Rate from MOA Table 2 (Column B).
- Step 2:** The resulting Peak Segment Discharge Rate (Column C) is added to the Peak Discharge Rate From Upstream (Column D) to determine the Total Peak Discharge Rate To Segment (Column E) from each Project Cooperator in each Outlet Channel segment.
- Step 3:** The Total Peak Discharge Rate to the Outlet Channel for each Project Cooperator in each Outlet Channel segment is then multiplied by the Project Cooperator's Duration Factor in Table F-1 below (Column F) to calculate each Project Cooperator's Total Segment Flow for each Outlet Channel segment (Column G).

**Table F-1: Duration Factors**

Project Cooperator	Duration Factor (Days)
Watershed District	10.0
Prior Lake	0.5
Shakopee, south (upstream) of Dean Lake, except 124.61 acres directly tributary to Outlet Channel Segment 5	2.0
Shakopee, north (downstream) of Dean Lake, plus 124.61 acres directly tributary to Outlet Channel Segment 5	1.0
SMSC	2.0

- Step 4:** The Total Segment Flow from each Project Cooperator is then added to determine the Total Segment Flow for each Outlet Channel segment (Column G)
- Step 5:** Finally, each Project Cooperator's relative flow contribution for each Outlet Channel segment is calculated as a percent of the Total Segment Flow for that Outlet Channel segment (Column H). That percent is then identified as the cost-share allocation for the Project Cooperator for that Outlet Channel segment and entered in MOA Table 4.

**Table F-2: Cost-Share Allocation Calculation Table**

Outlet Channel Segment	Project Cooperators	A	B	C	D	E	F	G	H
		Tributary Drainage Area (acres) <sup>1</sup>	Maximum Average Discharge Rate (cfs/acre) <sup>2</sup>	Peak Segment Discharge Rate (cfs)	Peak Discharge Rate From Upstream (cfs) <sup>3</sup>	Total Peak Discharge Rate To Segment (cfs)	Duration Factor (days) <sup>4</sup>	Total Segment Flow (cfs-days)	% of Total Segment Flow <sup>5</sup>
1	Watershed District	NA	65.00	65.0	NA	65.0	10.0	650.0	88.4%
	Prior Lake	658	0.25	164.5	NA	164.0	0.5	82.3	11.2%
	Shakopee	0	0.10	0	NA	0	2.0	0	0.0%
	SMSC (SMSC)	28	0.05	1.40	NA	1.4	2.0	2.8	0.4%
	Total	686						735.1	100.0%
2	Watershed District	NA		0	65.0	65.0	10.0	650.0	84.6%
	Prior Lake	261	0.25	65.3	164.5	229.8	0.5	114.9	15.0%
	Shakopee	0	0.10	0	0	0	2.0	0	0.0%
	SMSC	3	0.05	0.20	1.4	1.6	2.0	3.2	0.4%
	Total	264						768.1	100.0%
3	Watershed District	NA	0	0	65.0	65.0	10.0	650.0	69.9%
	Prior Lake	1,147	0.25	286.8	229.8	516.6	0.5	258.3	27.7% <sup>6</sup>
	Shakopee	93	0.10	9.3	0	9.3	2.0	18.6	2.0%
	SMSC	5	0.05	0.25	1.6	1.85	2.0	3.7	0.4%
	Total	1,245						930.6	100.0%
4	Watershed District	NA	0	0	65.0	65.0	10.0	650.0	37.8%
	Prior Lake	805	0.25	201.3	516.60	717.9	0.5	359.0	20.9%
	Shakopee	2,443	0.10	244.3	9.3	253.6	2.0	507.2	29.5%
	SMSC	1,989	0.05	99.5	1.85	101.3	2.0	202.6	11.8%
	Total	5,237						1,718.8	100.0%
5	Watershed District	NA	0	0	65.0	65.0	10.0	650.0	34.1%
	Prior Lake	0	0.25	0	717.9	717.9	0.5	359.0	18.8%
	Shakopee	748	0.10/0.25 <sup>7</sup>	93.5	253.6	347.1	2.0	694.2	36.4%
	SMSC	8	0.05	0.4	101.3	101.7	2.0	203.4	10.7%
	Total	756						1,906.6	100.0%

Memorandum of Agreement For Construction, Use, Operation, And Maintenance Of The Prior Lake Outlet Channel And Outlet Structure

Outlet Channel Segment	Project Cooperators	A	B	C	D	E	F	G	H
		Tributary Drainage Area (acres) <sup>1</sup>	Maximum Average Discharge Rate (cfs/acre) <sup>2</sup>	Peak Segment Discharge Rate (cfs)	Peak Discharge Rate From Upstream (cfs) <sup>3</sup>	Total Peak Discharge Rate To Segment (cfs)	Duration Factor (days) <sup>4</sup>	Total Segment Flow (cfs-days)	% of Total Segment Flow <sup>5</sup>
6	Watershed District	NA	0	0	65.0	65.0	10.0	650.0	35.7%
	Prior Lake	0	0.25	0	717.9	717.9	0.5	359.0	19.7%
	Shakopee	937	0.25	309.2	581.4	581.4	1.0	581.4	32.0%
	SMSC	250	0.05	12.5	114.2	114.2	2.0	228.4	12.6%
	Total	1,187						1,818.8	100.0%
7	Watershed District	NA	0	0	65.0	65.0	10.0	650.0	30.0% <sup>8</sup>
	Prior Lake	0	0.25	0	717.9	717.9	0.5	359.0	16.5%
	Shakopee	1,407	0.25	351.8	581.4	932.2	1.0	932.2	43.0%
	SMSC	0	0.05	0	114.2	114.2	2.0	228.4	10.5%
	Total	1,407						2,170.6	100.0%
8	Watershed District	NA	0	65	65.0	65.0	10.0	650.0	29.6%
	Prior Lake	0	0.25	0	717.9	717.9	0.5	359.0	16.3%
	Shakopee	101	0.25	25.2	933.2	958.4	1.0	958.4	43.7% <sup>9</sup>
	SMSC	0	0.05	0	114.2	114.2	1.0	228.4	10.4%
	Total	101						2,195.8	100.0%

<sup>1</sup> Taken from MOA Table 1.

<sup>2</sup> Taken from MOA Table 2. The Watershed District's discharge rate is not a maximum average rate but a maximum discharge rate through the Outlet Structure of 65 cfs as set in this MOA.

<sup>3</sup> Taken from Column E for the segment immediately upstream

<sup>4</sup> Taken from MOA, Exhibit F, Table F-1.

<sup>5</sup> The numbers in this column are used in MOA Table 4.

<sup>6</sup> Prior Lake's percentage was rounded from 27.756% to 27.7% so the percentages add to 100%.

<sup>7</sup> For the Segment 5 Shakopee tributary drainage areas, 623.39 acres have a maximum discharge rate of 0.1 cfs/acre, and 124.61 acres have a maximum discharge rate of 0.25 cfs/acre.

<sup>8</sup> The Watershed District percentage was rounded from 29.946% to 30.0% so the percentages add to 100%.

<sup>9</sup> Shakopee's percentage was rounded from 43.647% to 43.7% so the percentages add to 100%.

Exhibit G – Drainage Area  
Change Recalculation Example

**1. SCENARIO:**

The SMSC purchases 80 acres of land in Prior Lake that is tributary to Outlet Channel Segment 4. The purchase occurs after Construction of Segments 5 and 6 of the Outlet Channel Restoration And Enhancement Project.

**2. BACKGROUND INFORMATION:**

Size of Drainage Area Change:	80 acres
Segment 5 Tributary Watershed:	8,188 acres (direct plus upstream)
Segment 5 Construction and Maintenance Costs	\$900,000
Segment 6 Tributary Watershed:	9,376 acres (direct plus upstream)
Segment 6 Construction and Maintenance Costs	\$400,000

**3. HOW DRAINAGE AREA CHANGE IS ADDRESSED:**

**Step 1:** The Watershed District recalculates the cost-share allocation according to the method described in Exhibit F, and applies the new cost-share allocation to all future costs.

**Step 2:** For each Outlet Channel segment that has been constructed prior to the drainage area change, the Watershed District calculates the proportion of the Construction Costs and Operation And Maintenance Costs attributable to the drainage area change based on the size of the drainage area change relative to the size of the total drainage area.

Segment 5 costs = \$900,000  
Proportional costs = (80 acres/8188 acres) \* \$900,000 = \$8,793

Segment 6 costs = \$400,000  
Proportional costs = (80 acres/9376 acres) \* \$400,000 = \$3,413

**Step 3:** The Watershed District calculates the discharge attributable to the drainage area change based on the Maximum Average Discharge Rate from MOA Table 2 for the Project Cooperator with initial jurisdiction over the drainage area and the size of the drainage area.

80 acres \* 0.25 cfs/acre = 20 cfs

**Step 4:** The SMSC pays Prior Lake \$12,206 (\$8,793 + \$3,413) to reimburse Prior Lake for the share of the Outlet Channel Restoration And Enhancement Project Construction Costs

and Operation And Maintenance Costs Prior Lake has already paid that are attributable to the drainage area that has changed jurisdictions.

**Step 5:** The Watershed District revises MOA Table 1 to reflect the revised tributary areas for each Project Cooperator (i.e. the SMSC's tributary drainage area increases by 80 acres in Segment 4, and Prior Lake's tributary drainage area decreases by 80 acres).

The Watershed District also revises MOA Table 2 to note that the SMSC may discharge an additional 16 cfs (total) in Segment 4 as a result of the change in drainage area. This is because the SMSC reimbursed Prior Lake an amount based on Prior Lake's 0.25 cfs/acre Maximum Average Discharge Rate, while the SMSC's Maximum Average Discharge Rate is 0.05 cfs/acre. This gives the SMSC an additional 16 cfs in channel use that they have paid for and can use in the future, as is illustrated below:

Prior Lake:	80 acres * 0.25 cfs/acre = 20 cfs
SMSC:	80 acres * 0.05 cfs/acre = 4 cfs
Difference:	16 cfs capacity that shifts from Prior Lake to SMSC
	<ul style="list-style-type: none"><li>that is, SMSC may discharge the full 20 cfs originally associated with the 80 acres that has changed jurisdictions.</li></ul>

## Exhibit H – 2006 Fund Payments

### 1. 2006 CONSTRUCTION COSTS

The following tables detail the costs incurred or projected for the Construction of the Outlet Channel Restoration and Enhancement Project, by channel segment, from January 1, 2004, through December 31, 2006, based on the Construction schedule in Exhibit D – Outlet Channel Design, Construction, and Maintenance Schedule.<sup>1</sup>

#### 1.1 Table H-1: Segment 1

Activity	Amount
Design <sup>1</sup>	\$ 70,885
Construction <sup>2</sup>	377,434
Construction observation, contract <sup>3</sup>	35,821
Construction observation by Watershed District staff	9,400
Contingency <sup>4</sup>	25,000
<i>Subtotal</i>	<i>\$ 518,540</i>
Grants <sup>5</sup>	71,700
<b>Total</b>	<b>\$ 446,840</b>

<sup>1</sup> Costs since January 1, 2004.

<sup>2</sup> Actual Construction Costs from January 1, 2006, through December 31, 2006. Does not include bid for work between Fountain Hills Drive and County Road 42, which has been postponed pending the completion of the development plans.

<sup>3</sup> Contract Construction observation costs.

<sup>4</sup> For Construction change orders.

<sup>5</sup> DNR Shoreland grant: \$22,000; Met. Council Environmental Partnership Grant: \$49,700.

#### 1.2 Table H-2: Segment 5

Activity	Amount
Design <sup>1</sup>	\$ 82,500
<b>Total</b>	<b>\$ 82,500</b>

<sup>1</sup> Contracted Design costs. Only the Design of Segment 5 is scheduled as a 2006 cost. Construction is a 2007 cost according to Exhibit D – Outlet Channel Design, Construction, and Maintenance Schedule.

<sup>1</sup> From January 1, 2004, through December 31, 2006, the Watershed District also incurred Design Costs for planning a portion of Segment 4 amounting to \$34,788.64 and Construction Costs for building a portion of Segment 5 amounting to \$17,759.22. These costs will be credited to the Watershed District's fund payments in 2008 when Segment 4 is scheduled for Design and in 2007 when Segment 5 is scheduled for Construction.



1.3 Table H-3: Segment 6

Activity	Amount
Design and Construction Costs <sup>1</sup>	\$ 194,245
Bank stabilization <sup>2</sup>	10,000
<b>Total</b>	<b>\$ 204,245</b>

<sup>1</sup> Construction Costs provided by Shakopee; a detailed cost report is available from Shakopee or the Watershed District. Design and Construction Costs include planning, permitting, bidding, building work, and Shakopee Construction observation (staff and contract engineer).

<sup>2</sup> Estimate for live staking along bank from Dean Lake outlet structure to Highway 169.

2. 2006 OPERATION AND MAINTENANCE COSTS

No Maintenance activities are scheduled for 2006 beyond those already included in the Segment 1 construction contract. However, the Watershed District will inspect the Outlet Channel twice in 2006 at a total cost of \$800. And the Watershed District estimates a cost of \$5,000 to establish the three funds specified in the JPA, administer the JPA, and oversee the Outlet Channel Operations in 2006. Thus the 2006 Operation And Maintenance Fund expenses will total \$5,800.

3. 2006 EMERGENCY MAINTENANCE COSTS

The 2006 Emergency Maintenance Fund Payments are based on each Project Cooperator's proportional cost of the annual \$50,000 total contribution to the Fund.

4. 2006 FUND PAYMENTS BY PROJECT COOPERATOR

4.1 Watershed District:

2006 Design And Construction Fund payment	
Segment 1 Costs (88.4% of total)	\$ 395,007.00
Segment 5 Costs (34.1% of total)	28,132.00
Segment 6 Costs (35.7% of total)	72,915.00
Less costs already paid (Segments 1 and 5)	(\$ 431,734.42) <sup>1</sup>
Total payment	\$ 64,319.58
2006 Operation And Maintenance Fund payment	
(49.5% of total)	\$ 2,871.00
2006 Emergency Maintenance Fund payment	
(49.5% of total)	\$ 24,750.00
<b>Total of all payments</b>	<b>\$ 91,940.58</b>

Note for the Watershed District:

1. The Watershed District's actual costs for Segments 1 and 5 from January 1, 2004, through December 31, 2006, were as follows:

Segment 1 (Design, Construction, and Const. mgmt.)	\$ 488,605.27
Segment 5 (Design)	57,345.43
Less grants received for Segment 1	(\$ 71,700.00)
Less cost reimbursement received from Prior Lake	(42,516.28)
Total	\$ 431,734.42

The Watershed District's actual costs do not equal the costs in Tables H-1 and H-2 because not all contracted segment costs were expended in 2006. This work is ongoing, and some of the costs will be expended in 2007 and applied to the 2007 Project accounting.

**4.2 Prior Lake:**

2006 Design And Construction Fund payment	
Segment 1 Costs (11.2% of total)	\$ 50,046.00
Segment 5 Costs (18.8% of total)	15,510.00
Segment 6 Costs (19.7% of total)	40,236.00
Less costs already paid (Segment 1)	(\$ 42,516.28)
Total payment	\$ 63,275.72
2006 Operation And Maintenance Fund payment (17.8% of total)	\$ 1,032.00
2006 Emergency Maintenance Fund payment (17.8% of total)	\$ 8,900.00
Total of all payments	\$ 73,207.72

**4.3 Shakopee:**

2006 Design And Construction Fund payment	
Segment 1 Costs (0.0% of total)	\$ 0.00
Segment 5 Costs (36.4% of total)	30,030.00
Segment 6 Costs (32.0% of total)	65,358.00
Less costs already paid (Segment 6)	(\$ 194,245.00)
Total payment	(\$ 98,857.00)
2006 Operation And Maintenance Fund payment (25.1% of total)	\$ 1,456.00
2006 Emergency Maintenance Fund payment (25.1% of total)	\$ 12,550.00
Total of all payments	(\$ 84,851.00)

**4.4 SMSC:**

2006 Design And Construction Fund payment	
Segment 1 Costs (0.4% of total)	\$ 1,787.00
Segment 5 Costs (10.7% of total)	8,827.00
Segment 6 Costs (12.6% of total)	25,735.00
Less costs already paid	(\$ 0.00)
<i>Subtotal</i>	<i>\$ 36,349.00</i>
2006 Operation And Maintenance Fund payment (7.6% of total)	\$ 441.00
2006 Emergency Maintenance Fund payment (7.6% of total)	\$ 3,800.00
<b>Total of all payments</b>	<b>\$ 40,590.00</b>

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Exhibit A – Outlet Channel Map

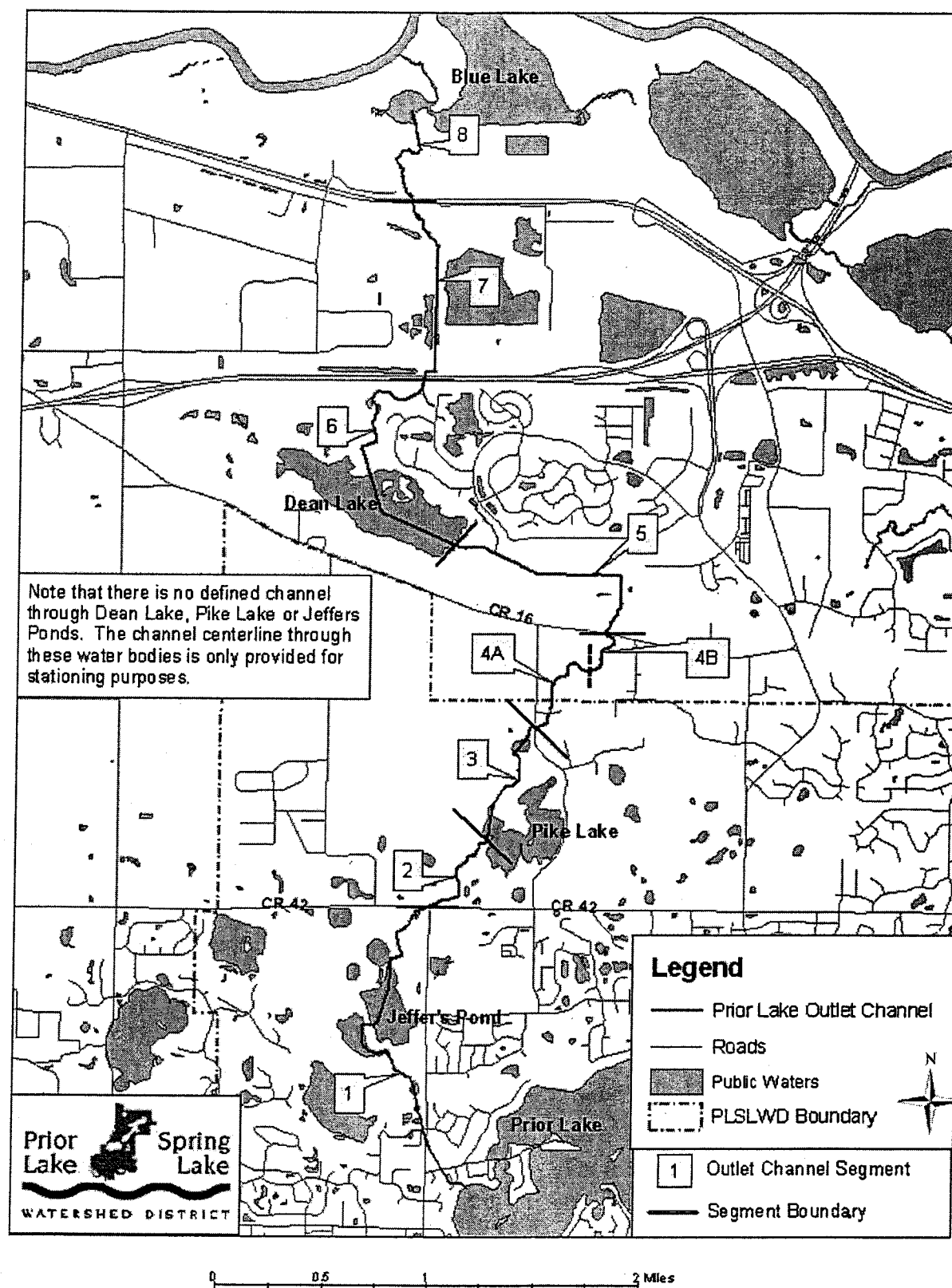


Exhibit B – Outlet Channel Segment Drainage Areas

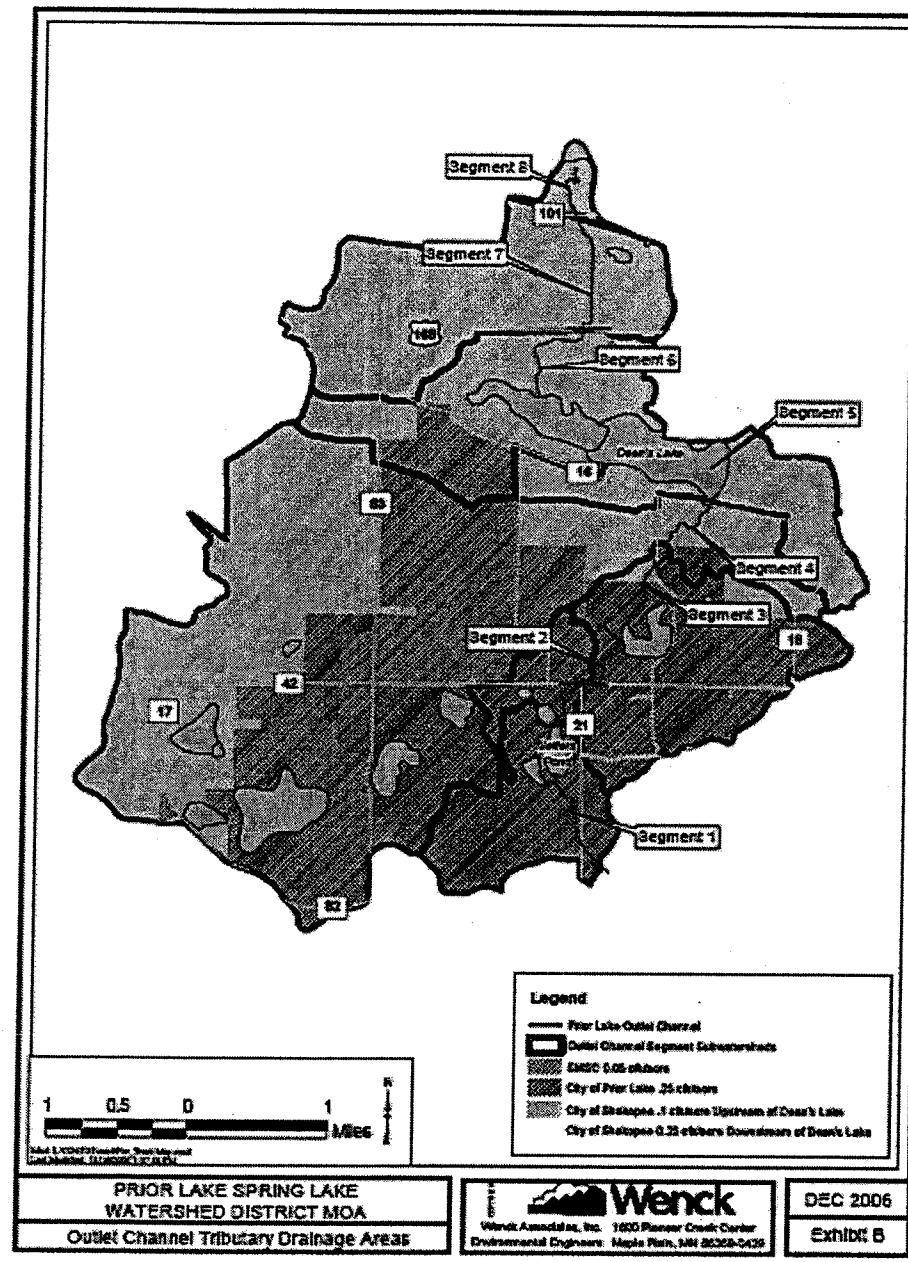


Exhibit C – Projected Average Discharge  
Rate Calculation Formula and Example Calculations

**1. CALCULATION FORMULA**

Projected Average Discharge Rate =

Area-weighted average of the Projected Discharge Rates of individual new developments =  
$$\sum [(A_{ND}/T_{AND}) * \text{Max } D_{ND}]$$

Where:

$A_{ND}$  = acres (i.e. size) of an individual new development

$T_{AND}$  = total acres of all new development after the MOA effective date

$\text{Max } D_{ND}$  = Projected Discharge Rate for the 100-Year Rainfall Event, in cfs/acre, for each new development

**2. EXAMPLE CALCULATIONS**

**2.1 Scenario:**

Assume that Outlet Channel Segment 2 has a drainage area of 260 acres, all within Prior Lake. A total of 60 acres was developed prior to the MOA Effective Date, and the remaining 200 acres are developed over a three-year period following the MOA Effective Date, as follows:

- Year 1: 50 acres of commercial development at a Projected Discharge Rate of 0.5 cfs/acre.
- Year 2: 100 acres of low-density residential development at a Projected Discharge Rate of 0.125 cfs/acre; and 25 acres of a development that existed prior to the MOA Effective Date is redeveloped.
- Year 3: 50 acres of medium-density residential development at a Projected Discharge Rate of 0.25 cfs/acre.

**2.2 Background Information:**

- Prior Lake Maximum Average Discharge Rate (from MOA Table 2): 0.25 cfs/acre
- Projected Discharge Rate of an existing development: 0.64 cfs/acre

**2.3 Annual Certification:**

Given the assumptions and background information presented above, Prior Lake would complete its annual certification for Years 1, 2, and 3 following the MOA Effective Date as follows:

**A. Year 1:**

- (1) Prior Lake would report acres of land developed before the MOA Effective Date, land developed after the MOA Effective Date, and undeveloped land as follows:

Developed area prior to MOA: 60 acres  
Developed area after MOA: 50 acres  
Undeveloped area: 150 acres

- (2) Prior Lake would report that no land was redeveloped in Year 1.  
(3) Prior Lake would present the Projected Average Discharge Rate for new development as follows:

Projected Average Discharge Rate

$$= \sum [(A_{ND}/T_{AND}) * \text{Max } D_{ND}]$$

$$= [(50 \text{ acres in Year 1}/150 \text{ acres total}) * 0.5 \text{ cfs/acre}] = \underline{0.5 \text{ cfs/acre}}$$

- (4) Prior Lake would show how it plans to manage future development on the remaining 150 acres of undeveloped land in this Outlet Channel segment to meet its Maximum Average Discharge Rate of 0.25 cfs/acre.

**B. Year 2:**

- (1) Prior Lake would report the acres of land developed before the MOA Effective Date, land developed after the MOA Effective Date, and undeveloped land as follows:

Developed area prior to MOA: 60 acres  
Developed area after MOA: 150 acres (50 acres in Year 1 + 100 acres in Year 2)  
Undeveloped area: 50 acres

- (2) Prior Lake would note that 25 acres of developed land was redeveloped. Prior Lake would show that the Projected Discharge Rate of the redeveloped land is equal to or less than the Projected Discharge Rate of the developed condition that existed on the MOA Effective Date (that is, 0.64 cfs/acre), or if the Projected Discharge Rate of the redeveloped land exceeded 0.64 cfs/acre, Prior Lake would show how that additional rate was offset by a reduction elsewhere in the Segment 2 tributary drainage area.  
(3) Prior Lake would present the Projected Average Discharge rate of the new development since the MOA Effective Date as follows:

Projected Average Discharge Rate

$$= \sum [(A_{ND}/T_{AND}) * \text{Max } D_{ND}]$$

$$= [(50 \text{ acres in Year 1}/150 \text{ acres total}) * 0.5 \text{ cfs/acre}] +$$

$$[(100 \text{ acres in Year 2}/150 \text{ acres total}) * 0.125 \text{ cfs/acre}] = \underline{0.25 \text{ cfs/acre}}$$

- (4) Prior Lake would show how it plans to manage future development on the remaining 50 acres of undeveloped land in this segment to meet its Maximum Average Discharge Rate of 0.25 cfs/acre.

**C. Year 3:**

- (1) Prior Lake would report the acres of land developed before the MOA Effective Date, land developed after the MOA Effective Date, and undeveloped land as follows:

Developed area prior to MOA: 60 acres (25 acres redeveloped in Year 2)  
Developed area after MOA: 200 acres (50 acres Year 1 + 100 acres in Year 2 + 50 acres in Year 3)

Undeveloped area: 0 acres

- (2) Prior Lake would report that no land was redeveloped in Year 3.  
(3) Prior Lake would present the Projected Average Discharge rate of the new development since the MOA Effective Date as follows:

Projected Average Discharge Rate

$$\begin{aligned} &= \sum [(A_{ND}/T_{AND}) * \text{Max } D_{ND}] \\ &= [(50 \text{ acres in Year 1}/200 \text{ acres total}) * 0.5 \text{ cfs/acre}] + \\ &\quad [(100 \text{ acres in Year 2}/200 \text{ acres total}) * 0.125 \text{ cfs/acre}] + \\ &\quad [(50 \text{ acres in Year 3}/200 \text{ acres total}) * 0.25 \text{ cfs/acre}] = \underline{0.25} \\ &\quad \underline{\text{cfs/acre}} \end{aligned}$$

- (4) Prior Lake would note that no new development will occur in this segment.

**D. After Year 3:**

After Year 3, Prior Lake's future annual certifications would consist of reporting on any redevelopment that occurs and demonstrating that the Projected Discharge Rate of the redevelopment is equal to or less than the previous developed condition.



Exhibit D – Outlet Channel Design, Construction, and Maintenance Schedule

Outlet Channel Segment		2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
1	Prior Lake To CR 42	D	C (winter 05-06)	M1	M1	M1	M1	M1	M2	M2	M2	M2
2	CR 42 to Pike Lake Inlet			D	C (winter 07-08)	M1	M1	M1	M1	M1	M2	M2
3	Pike Lake Inlet to Pike Lake Trail			D	C (winter 07-08)	M1	M1	M1	M1	M1	M2	M2
4	Pike Lake Trail to CR 16				D	C (winter 08-09)	M1	M1	M1	M1	M1	M2
5	CR 16 to Deans Lake Outlet		D	C (winter 06-07)	M1	M1	M1	M1	M1	M2	M2	M2
6	Deans Lake Outlet to TH 169	D	C (fall-winter 05-06)	M1	M1	M1	M1	M1	M2	M2	M2	M2
7	TH 169 to TH 101			D	C (winter 07-08)	M1	M1	M1	M1	M1	M2	M2
8	TH 101 to Blue Lake Inlet				D	C (winter 08-09)	M1	M1	M1	M1	M1	M2

Notes: D = Design; C = Construction; M1 = 0-5 yrs. Maintenance; M2 = 6+ yrs. Maintenance.

Exhibit E – Nine Year Estimate of Outlet Channel Design,  
Construction, and Operation And Maintenance Costs

The following tables present the Watershed District's estimate by Project Cooperator of the Outlet Channel Restoration And Enhancement Project Design Costs and Construction Costs from 2007 through 2009, the Outlet Channel Operation And Maintenance Costs from 2007 through 2015, and the annual contributions to establish the Emergency Maintenance Fund.

Project Cooperator	2007		2008		2009		2010		2011	
	D & C <sup>1</sup>	Maint. <sup>2</sup>	D & C	Maint.	D & C	Maint.	D & C	Maint.	D & C	Maint.
Watershed Dist.	\$ 306,054	\$ 76,948	\$ 445,978	\$ 97,491	\$ 157,197	\$ 151,577	--	\$ 174,034	--	\$ 149,270
Shakopee	219,326	\$21,875	220,893	43,802	156,985	65,746	--	88,173	--	75,627
Prior Lake	135,318	\$19,901	167,966	31,227	86,805	49,908	--	62,308	--	53,442
SMSC	61,463	\$7,684	59,992	14,130	51,003	19,578	--	26,864	--	23,041
<b>Total</b>	<b>\$ 722,160</b>	<b>\$ 126,408</b>	<b>\$ 894,830</b>	<b>\$ 186,650</b>	<b>\$ 451,990</b>	<b>\$ 286,809</b>	<b>--</b>	<b>\$ 351,380</b>	<b>--</b>	<b>\$ 301,380</b>

Project Cooperator	2012		2013		2014		2015		Total
	D & C <sup>1</sup>	Maint. <sup>2</sup>	D & C	Maint.	D & C	Maint.	D & C	Maint.	
Watershed Dist.	--	\$ 123,178	--	\$ 112,907	--	\$ 85,863	--	\$ 74,635	\$ 1,955,132
Shakopee	--	70,963	--	59,999	--	49,026	--	37,813	1,110,229
Prior Lake	--	47,924	--	42,262	--	32,921	--	26,721	756,705
SMSC	--	21,110	--	17,888	--	15,164	--	11,521	329,439
<b>Total</b>	<b>--</b>	<b>\$ 263,175</b>	<b>--</b>	<b>\$ 233,055</b>	<b>--</b>	<b>\$ 182,975</b>	<b>--</b>	<b>\$ 150,690</b>	<b>\$ 4,151,505</b>

<sup>1</sup> D & C = Design Costs and Construction Costs

<sup>2</sup> Maint. = Operation And Maintenance Costs and Emergency Maintenance Fund payments

Notes:

- Annual costs shown here include estimated capital and Maintenance costs, but not any easement acquisition costs.

- Construction Cost estimates are based on \$150 per linear foot of Outlet Channel, less the estimated cost of the first five years of Maintenance (\$10 per linear foot).
- Operation And Maintenance Cost estimates are based on \$10 per linear foot vegetation management for the first five years after the Outlet Channel Restoration And Enhancement Project and \$5 per linear foot thereafter.
- For this table, Operation And Maintenance Costs include the establishment of a \$250,000 Emergency Maintenance Fund during the first five years of the Project. The Fund will be replenished as it is used.
- Costs are based on present dollar values as of March 2006.

Exhibit F – Calculation Method  
for Cost-Share Allocation

The Outlet Channel cost-share allocation in MOA Table 4 is calculated for each Outlet Channel segment as follows (see Table F-2 below for the column references and calculation results):

- Step 1:** The tributary drainage area for each Project Cooperator in each Outlet Channel segment from MOA Table 1 (Column A) is multiplied by the Project Cooperator's Maximum Average Discharge Rate from MOA Table 2 (Column B).
- Step 2:** The resulting Peak Segment Discharge Rate (Column C) is added to the Peak Discharge Rate From Upstream (Column D) to determine the Total Peak Discharge Rate To Segment (Column E) from each Project Cooperator in each Outlet Channel segment.
- Step 3:** The Total Peak Discharge Rate to the Outlet Channel for each Project Cooperator in each Outlet Channel segment is then multiplied by the Project Cooperator's Duration Factor in Table F-1 below (Column F) to calculate each Project Cooperator's Total Segment Flow for each Outlet Channel segment (Column G).

**Table F-1: Duration Factors**

Project Cooperator	Duration Factor (Days)
Watershed District	10.0
Prior Lake	0.5
Shakopee, south (upstream) of Dean Lake, except 124.61 acres directly tributary to Outlet Channel Segment 5	2.0
Shakopee, north (downstream) of Dean Lake, plus 124.61 acres directly tributary to Outlet Channel Segment 5	1.0
SMSC	2.0

- Step 4:** The Total Segment Flow from each Project Cooperator is then added to determine the Total Segment Flow for each Outlet Channel segment (Column G)
- Step 5:** Finally, each Project Cooperator's relative flow contribution for each Outlet Channel segment is calculated as a percent of the Total Segment Flow for that Outlet Channel segment (Column H). That percent is then identified as the cost-share allocation for the Project Cooperator for that Outlet Channel segment and entered in MOA Table 4.

Table F-2: Cost-Share Allocation Calculation Table

Outlet Channel Segment	Project Cooperators	A	B	C	D	E	F	G	H
		Tributary Drainage Area (acres) <sup>1</sup>	Maximum Average Discharge Rate (cfs/acre) <sup>2</sup>	Peak Segment Discharge Rate (cfs)	Peak Discharge Rate From Upstream (cfs) <sup>3</sup>	Total Peak Discharge Rate To Segment (cfs)	Duration Factor (days) <sup>4</sup>	Total Segment Flow (cfs-days)	% of Total Segment Flow <sup>5</sup>
1	Watershed District	NA	65.00	65.0	NA	65.0	10.0	650.0	88.4%
	Prior Lake	658	0.25	164.5	NA	164.0	0.5	82.3	11.2%
	Shakopee	0	0.10	0	NA	0	2.0	0	0.0%
	SMSC (SMSC)	28	0.05	1.40	NA	1.4	2.0	2.8	0.4%
	Total	686						735.1	100.0%
2	Watershed District	NA		0	65.0	65.0	10.0	650.0	84.6%
	Prior Lake	261	0.25	65.3	164.5	229.8	0.5	114.9	15.0%
	Shakopee	0	0.10	0	0	0	2.0	0	0.0%
	SMSC	3	0.05	0.20	1.4	1.6	2.0	3.2	0.4%
	Total	264						768.1	100.0%
3	Watershed District	NA	0	0	65.0	65.0	10.0	650.0	69.9%
	Prior Lake	1,147	0.25	286.8	229.8	516.6	0.5	258.3	27.7% <sup>6</sup>
	Shakopee	93	0.10	9.3	0	9.3	2.0	18.6	2.0%
	SMSC	5	0.05	0.25	1.6	1.85	2.0	3.7	0.4%
	Total	1,245						930.6	100.0%
4	Watershed District	NA	0	0	65.0	65.0	10.0	650.0	37.8%
	Prior Lake	805	0.25	201.3	516.60	717.9	0.5	359.0	20.9%
	Shakopee	2,443	0.10	244.3	9.3	253.6	2.0	507.2	29.5%
	SMSC	1,989	0.05	99.5	1.85	101.3	2.0	202.6	11.8%
	Total	5,237						1,718.8	100.0%
5	Watershed District	NA	0	0	65.0	65.0	10.0	650.0	34.1%
	Prior Lake	0	0.25	0	717.9	717.9	0.5	359.0	18.8%
	Shakopee	748	0.10/0.25 <sup>7</sup>	93.5	253.6	347.1	2.0	694.2	36.4%
	SMSC	8	0.05	0.4	101.3	101.7	2.0	203.4	10.7%
	Total	756						1,906.6	100.0%

Memorandum of Agreement For Construction, Use, Operation, And Maintenance Of The Prior Lake Outlet Channel And Outlet Structure

Outlet Channel Segment	Project Cooperators	A	B	C	D	E	F	G	H
		Tributary Drainage Area (acres) <sup>1</sup>	Maximum Average Discharge Rate (cfs/acre) <sup>2</sup>	Peak Segment Discharge Rate (cfs)	Peak Discharge Rate From Upstream (cfs) <sup>3</sup>	Total Peak Discharge Rate To Segment (cfs)	Duration Factor (days) <sup>4</sup>	Total Segment Flow (cfs-days)	% of Total Segment Flow <sup>5</sup>
6	Watershed District	NA	0	0	65.0	65.0	10.0	650.0	35.7%
	Prior Lake	0	0.25	0	717.9	717.9	0.5	359.0	19.7%
	Shakopee	937	0.25	309.2	581.4	581.4	1.0	581.4	32.0%
	SMSC	250	0.05	12.5	114.2	114.2	2.0	228.4	12.6%
	Total	1,187						1,818.8	100.0%
7	Watershed District	NA	0	0	65.0	65.0	10.0	650.0	30.0% <sup>8</sup>
	Prior Lake	0	0.25	0	717.9	717.9	0.5	359.0	16.5%
	Shakopee	1,407	0.25	351.8	581.4	932.2	1.0	932.2	43.0%
	SMSC	0	0.05	0	114.2	114.2	2.0	228.4	10.5%
	Total	1,407						2,170.6	100.0%
8	Watershed District	NA	0	65	65.0	65.0	10.0	650.0	29.6%
	Prior Lake	0	0.25	0	717.9	717.9	0.5	359.0	16.3%
	Shakopee	101	0.25	25.2	933.2	958.4	1.0	958.4	43.7% <sup>9</sup>
	SMSC	0	0.05	0	114.2	114.2	1.0	228.4	10.4%
	Total	101						2,195.8	100.0%

<sup>1</sup> Taken from MOA Table 1.

<sup>2</sup> Taken from MOA Table 2. The Watershed District's discharge rate is not a maximum average rate but a maximum discharge rate through the Outlet Structure of 65 cfs as set in this MOA.

<sup>3</sup> Taken from Column E for the segment immediately upstream

<sup>4</sup> Taken from MOA, Exhibit F, Table F-1.

<sup>5</sup> The numbers in this column are used in MOA Table 4.

<sup>6</sup> Prior Lake's percentage was rounded from 27.756% to 27.7% so the percentages add to 100%.

<sup>7</sup> For the Segment 5 Shakopee tributary drainage areas, 623.39 acres have a maximum discharge rate of 0.1 cfs/acre, and 124.61 acres have a maximum discharge rate of 0.25 cfs/acre.

<sup>8</sup> The Watershed District percentage was rounded from 29.946% to 30.0% so the percentages add to 100%.

<sup>9</sup> Shakopee's percentage was rounded from 43.647% to 43.7% so the percentages add to 100%.

Exhibit G – Drainage Area  
Change Recalculation Example

**1. SCENARIO:**

The SMSC purchases 80 acres of land in Prior Lake that is tributary to Outlet Channel Segment 4. The purchase occurs after Construction of Segments 5 and 6 of the Outlet Channel Restoration And Enhancement Project.

**2. BACKGROUND INFORMATION:**

Size of Drainage Area Change:	80 acres
Segment 5 Tributary Watershed:	8,188 acres (direct plus upstream)
Segment 5 Construction and Maintenance Costs	\$900,000
Segment 6 Tributary Watershed:	9,376 acres (direct plus upstream)
Segment 6 Construction and Maintenance Costs	\$400,000

**3. HOW DRAINAGE AREA CHANGE IS ADDRESSED:**

**Step 1:** The Watershed District recalculates the cost-share allocation according to the method described in Exhibit F, and applies the new cost-share allocation to all future costs.

**Step 2:** For each Outlet Channel segment that has been constructed prior to the drainage area change, the Watershed District calculates the proportion of the Construction Costs and Operation And Maintenance Costs attributable to the drainage area change based on the size of the drainage area change relative to the size of the total drainage area.

Segment 5 costs = \$900,000  
Proportional costs = (80 acres/8188 acres) \* \$900,000 = \$8,793

Segment 6 costs = \$400,000  
Proportional costs = (80 acres/9376 acres) \* \$400,000 = \$3,413

**Step 3:** The Watershed District calculates the discharge attributable to the drainage area change based on the Maximum Average Discharge Rate from MOA Table 2 for the Project Cooperator with initial jurisdiction over the drainage area and the size of the drainage area.

80 acres \* 0.25 cfs/acre = 20 cfs

**Step 4:** The SMSC pays Prior Lake \$12,206 (\$8,793 + \$3,413) to reimburse Prior Lake for the share of the Outlet Channel Restoration And Enhancement Project Construction Costs

and Operation And Maintenance Costs Prior Lake has already paid that are attributable to the drainage area that has changed jurisdictions.

**Step 5:** The Watershed District revises MOA Table 1 to reflect the revised tributary areas for each Project Cooperator (i.e. the SMSC's tributary drainage area increases by 80 acres in Segment 4, and Prior Lake's tributary drainage area decreases by 80 acres).

The Watershed District also revises MOA Table 2 to note that the SMSC may discharge an additional 16 cfs (total) in Segment 4 as a result of the change in drainage area. This is because the SMSC reimbursed Prior Lake an amount based on Prior Lake's 0.25 cfs/acre Maximum Average Discharge Rate, while the SMSC's Maximum Average Discharge Rate is 0.05 cfs/acre. This gives the SMSC an additional 16 cfs in channel use that they have paid for and can use in the future, as is illustrated below:

Prior Lake:	$80 \text{ acres} * 0.25 \text{ cfs/acre} = 20 \text{ cfs}$
SMSC:	$80 \text{ acres} * 0.05 \text{ cfs/acre} = 4 \text{ cfs}$
Difference:	16 cfs capacity that shifts from Prior Lake to SMSC
	<ul style="list-style-type: none"><li>• that is, SMSC may discharge the full 20 cfs originally associated with the 80 acres that has changed jurisdictions.</li></ul>



Exhibit H – 2006 Fund Payments

**1. 2006 CONSTRUCTION COSTS**

The following tables detail the costs incurred or projected for the Construction of the Outlet Channel Restoration and Enhancement Project, by channel segment, from January 1, 2004, through December 31, 2006, based on the Construction schedule in Exhibit D – Outlet Channel Design, Construction, and Maintenance Schedule.<sup>1</sup>

**1.1 Table H-1: Segment 1**

Activity	Amount
Design <sup>1</sup>	\$ 70,885
Construction <sup>2</sup>	377,434
Construction observation, contract <sup>3</sup>	35,821
Construction observation by Watershed District staff	9,400
Contingency <sup>4</sup>	25,000
<i>Subtotal</i>	<i>\$ 518,540</i>
Grants <sup>5</sup>	71,700
<b>Total</b>	<b>\$ 446,840</b>

<sup>1</sup> Costs since January 1, 2004.

<sup>2</sup> Actual Construction Costs from January 1, 2006, through December 31, 2006. Does not include bid for work between Fountain Hills Drive and County Road 42, which has been postponed pending the completion of the development plans.

<sup>3</sup> Contract Construction observation costs.

<sup>4</sup> For Construction change orders.

<sup>5</sup> DNR Shoreland grant: \$22,000; Met. Council Environmental Partnership Grant: \$49,700.

**1.2 Table H-2: Segment 5**

Activity	Amount
Design <sup>1</sup>	\$ 82,500
<b>Total</b>	<b>\$ 82,500</b>

<sup>1</sup> Contracted Design costs. Only the Design of Segment 5 is scheduled as a 2006 cost. Construction is a 2007 cost according to Exhibit D – Outlet Channel Design, Construction, and Maintenance Schedule.

<sup>1</sup> From January 1, 2004, through December 31, 2006, the Watershed District also incurred Design Costs for planning a portion of Segment 4 amounting to \$34,788.64 and Construction Costs for building a portion of Segment 5 amounting to \$17,759.22. These costs will be credited to the Watershed District's fund payments in 2008 when Segment 4 is scheduled for Design and in 2007 when Segment 5 is scheduled for Construction.

1.3 Table H-3: Segment 6

Activity	Amount
Design and Construction Costs <sup>1</sup>	\$ 194,245
Bank stabilization <sup>2</sup>	10,000
<b>Total</b>	<b>\$ 204,245</b>

<sup>1</sup> Construction Costs provided by Shakopee; a detailed cost report is available from Shakopee or the Watershed District. Design and Construction Costs include planning, permitting, bidding, building work, and Shakopee Construction observation (staff and contract engineer).

<sup>2</sup> Estimate for live staking along bank from Dean Lake outlet structure to Highway 169.

2. 2006 OPERATION AND MAINTENANCE COSTS

No Maintenance activities are scheduled for 2006 beyond those already included in the Segment 1 construction contract. However, the Watershed District will inspect the Outlet Channel twice in 2006 at a total cost of \$800. And the Watershed District estimates a cost of \$5,000 to establish the three funds specified in the JPA, administer the JPA, and oversee the Outlet Channel Operations in 2006. Thus the 2006 Operation And Maintenance Fund expenses will total \$5,800.

3. 2006 EMERGENCY MAINTENANCE COSTS

The 2006 Emergency Maintenance Fund Payments are based on each Project Cooperator's proportional cost of the annual \$50,000 total contribution to the Fund.

4. 2006 FUND PAYMENTS BY PROJECT COOPERATOR

4.1 Watershed District:

2006 Design And Construction Fund payment	
Segment 1 Costs (88.4% of total)	\$ 395,007.00
Segment 5 Costs (34.1% of total)	28,132.00
Segment 6 Costs (35.7% of total)	72,915.00
Less costs already paid (Segments 1 and 5)	(\$ 431,734.42) <sup>1</sup>
Total payment	\$ 64,319.58
2006 Operation And Maintenance Fund payment	
(49.5% of total)	\$ 2,871.00
2006 Emergency Maintenance Fund payment	
(49.5% of total)	\$ 24,750.00
<b>Total of all payments</b>	<b>\$ 91,940.58</b>

Note for the Watershed District:

1. The Watershed District's actual costs for Segments 1 and 5 from January 1, 2004, through December 31, 2006, were as follows:

Segment 1 (Design, Construction, and Const. mgmt.)	\$ 488,605.27
Segment 5 (Design)	57,345.43
Less grants received for Segment 1	(\$ 71,700.00)
Less cost reimbursement received from Prior Lake	(42,516.28)
Total	\$ 431,734.42

The Watershed District's actual costs do not equal the costs in Tables H-1 and H-2 because not all contracted segment costs were expended in 2006. This work is ongoing, and some of the costs will be expended in 2007 and applied to the 2007 Project accounting.

**4.2 Prior Lake:**

2006 Design And Construction Fund payment	
Segment 1 Costs (11.2% of total)	\$ 50,046.00
Segment 5 Costs (18.8% of total)	15,510.00
Segment 6 Costs (19.7% of total)	40,236.00
Less costs already paid (Segment 1)	(\$ 42,516.28)
Total payment	\$ 63,275.72
2006 Operation And Maintenance Fund payment (17.8% of total)	\$ 1,032.00
2006 Emergency Maintenance Fund payment (17.8% of total)	\$ 8,900.00
Total of all payments	\$ 73,207.72

**4.3 Shakopee:**

2006 Design And Construction Fund payment	
Segment 1 Costs (0.0% of total)	\$ 0.00
Segment 5 Costs (36.4% of total)	30,030.00
Segment 6 Costs (32.0% of total)	65,358.00
Less costs already paid (Segment 6)	(\$ 194,245.00)
Total payment	(\$ 98,857.00)
2006 Operation And Maintenance Fund payment (25.1% of total)	\$ 1,456.00
2006 Emergency Maintenance Fund payment (25.1% of total)	\$ 12,550.00
Total of all payments	(\$ 84,851.00)

4.4 **SMSC:**

2006 Design And Construction Fund payment	
Segment 1 Costs (0.4% of total)	\$ 1,787.00
Segment 5 Costs (10.7% of total)	8,827.00
Segment 6 Costs (12.6% of total)	25,735.00
Less costs already paid	(\$ 0.00)
<i>Subtotal</i>	<i>\$ 36,349.00</i>
2006 Operation And Maintenance Fund payment (7.6% of total)	\$ 441.00
2006 Emergency Maintenance Fund payment (7.6% of total)	\$ 3,800.00
<b>Total of all payments</b>	<b>\$ 40,590.00</b>

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PLSLWD  
Education &  
Outreach Plan

2014

*“Our mission is to manage and preserve the water resources of the Prior Lake-Spring Lake Watershed District to the best of our ability using input from our communities, sound engineering practices, and our ability to efficiently fund beneficial projects which transcend political jurisdictions.”*

Prepared By:  
Meghan Litsey,  
Outreach Specialist

## Executive Summary

The purpose of the District's education and outreach program is to meet the requirements of the MS4 permit and improve understanding of local water resources and practices among all stakeholders in the District. In 2014, the education and outreach program will combine coordinated efforts with the City of Prior Lake and other local government units to implement a community-wide approach which provides the resources necessary to develop an understanding of local water resource issues and outcomes, with special emphasis on phosphorus reduction and illicit discharge.

In order to coordinate educational messages in 2014, District staff designed a curriculum with one core theme for education and outreach efforts: "Lake Friendly". The Lake Friendly program was originally created in 2002 by District staff. The primary goal of the program was to promote, enable, and demonstrate the efficacy of storm water runoff management on existing residential and business property through direct contact and education. Lake Friendly targeted homeowners and business runoff primarily through an audit checklist and encouraged implementation of "Lake Friendly" practices by exclusive coupons to local businesses in Prior Lake (ex: rental toward a lawn aerator or one consultation from a professional landscape ecologist, etc.). In 2014, District staff will incorporate elements from the Lake Friendly program into the 2014 education and outreach program. District staff will evaluate the effectiveness of the audit checklist that was created in 2002, and revise a few of the coupons to meet the current needs of residents in the Watershed District.

New to the Watershed District in 2014, is the Habitat for Watershed Raingarden Taskforce. In the first year the District will work with the CAC and other interested citizens to set up a "Habitat for Watershed" group of volunteers with some basic training in the creation and installation of raingardens and other lake-friendly practices. This group will be available on weekends and evenings for landowners interested in installing such practices. The District will advertise the services of this group to landowners who wish to do something for water resources, but would prefer for whatever reason not to be involved in the District's cost-share program. The District will provide the group with organizational support and training, but would not be financially involved in the installation of practices. District staff will develop a protocol for the program in the first year of operation, and look for potential partnership opportunities with other watershed districts.

The District's education and outreach program anticipates a variety of passive and active marketing techniques to reach out to various stakeholders throughout the watershed (Appendix A). Some current and potential activities include:

- Participation at community events
- Publication of fact sheets, brochures, articles, newsletters, etc.
- Submittal of news articles and press releases to the Prior Lake American newspaper and other publications
- Hosting educational workshops and outreach events
- Utilizing communication tools, like social media and the District's website
- Soliciting input from the general public, TAC and CAC members

- Partnerships with other jurisdictions and interest groups that share the District's goal

Throughout the calendar year, each month will have a designated focus topic for a community engagement event, news article or press release (Appendix B). The topics for each month were chosen not only for their seasonality, but to also meet requirements that have been outlined in the Municipal Separate Storm Sewer Systems (MS4) permit; these topics will help to instill a variety of supporting ideas, and will continuously be tied back to the core theme "Lake Friendly". For example, in April the topic for the month is: Spring Lawn Care. The District plans to host a storm drain stenciling event, and news articles will incorporate messages about fertilizer, household chemicals, and pet waste, which are intended to raise awareness of the impacts that certain actions, like improper disposal or illicit discharge, could have on our local lakes.

The District will also maintain communication and coordinate outreach efforts with interest groups that share the District's goal. In addition to communication and outreach efforts with local interests, like the Lake Associations and Prior Lake-Savage Area Schools, partnerships with outside organizations dedicated to education and outreach and water resources will be beneficial to District staff to encourage new ideas and resource sharing. The District will continue partnerships with the following organizations, but are not limited to:

- |  |  |
|--|--|
| • Prior Lake-Savage Area Schools       | • Spring Lake Township                           |
| • Prior Lake Association               | • Scott Soil and Water Conservation District     |
| • Spring Lake Association              | • Scott County                                   |
| • Lakes Advisory Committee             | • Scott County Watershed Management Organization |
| • City of Prior Lake                   | • Blue Thumb Partners                            |
| • City of Savage                       | • Freshwater Society                             |
| • City of Shakopee                     |  |
| • Shakopee Mdewakanton Sioux Community |  |

Due to budgetary constraints, District staff will end our agreement with the Freshwater Society in 2014, but will hopefully continue to use the Alex Gehrig as a potential resource.

## **Budget**

The 2014 Education and Communication Budget memo allocates \$79,000 for District activities that provide education and public involvement through various programs and projects. Based on budget set forth in the budget memo for education, the table in Appendix C outlines a list of proposed activity and program expenses for planned activities for 2014, with an estimated labor cost calculated at a rate of \$50/hour for staff time. Presently, the 2014 Education & Outreach Plan anticipates 1300 hours of staff time, at an estimated total cost of \$70,000.

## **Outcomes & Evaluation**

The desired outcome for 2014 education and outreach is to improve understanding of local water resources and practices among all stakeholders in the District; this strategic goal will be evaluated mostly by compliance with the MS4 permit. A large part of the Storm Water Pollution

Prevention Program (SWPPP), a component of the MS4 permit, requires identification and documentation of best management practices that will be undertaken to reduce the discharge of pollutants from the MS4 to the maximum extent practicable. A few of the metrics that will be used to measure the impact of marketing strategies include:

- Number of participants at a specific District hosted event or workshop
- Number of direct mailings, brochures, and newsletters distributed
- Number of submitted press releases articles
- Number of PLSLWD website visits and “Followers” on Facebook or Twitter

In order to maintain compliance with the MS4 permit, District staff will continue to record and quantify the above metrics which will determine the success or benefit of each best management practice. Additionally, District staff will provide surveys after educational workshops and outreach events (where applicable) to gauge the overall performance of the activity, and how well presented topics were understood; once results are received, staff will use feedback from the surveys to modify content and presentation as needed.



## Appendix A: Narrative of Activities

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The following marketing techniques are intended to meet one or more of the six minimum control measures (MCMs) defined in our MS4 Permit. For reference, the six MCMs are:

1. Public Education and Outreach
2. Public Participation and Involvement
3. Illicit Discharge Detection and Elimination
4. Construction Site Storm Water Runoff Control
5. Post Construction Storm Water Management in New and Redevelopment
6. Pollution Prevention/Good Housekeeping for Municipal Operations

### ACTIVE MARKETING

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District staff plans to coordinate and host and/or participate in the following educational workshops and outreach events in 2014:

1. Raingarden-in-a-Box & Buffer-in-a-Box Workshops (MCM 1, 2)

Raingarden-in-a-Box was started by the District in 2013; this program allows residents to attend a one day workshop on raingardens, where upon completion they will be able to purchase a “raingarden-in-a-box”; the box contains a raingarden design, instructions for installation, plants, and a list of local resources to find additional plants, mulch, equipment, etc. to successfully install the raingarden.

In 2014, District staff will work with the City of Prior Lake and other local partners to introduce “Buffer-in-a-Box”. Similar to Raingarden-in-a-Box, the Buffer-in-a-Box kit will allow residents to attend a one day workshop on shoreline buffers, where upon completion they will be able to purchase a Buffer-in-a-Box kit.

2. Storm Drain Stenciling (MCM 1, 2, 3)

Storm drain stenciling is a simple way to establish a connection between our streets and waterways by stenciling a “DRAINS TO LAKE” or similar message near storm drains; the goal of this event is to increase public awareness and discourage individuals from illicit discharges into a storm drain.

3. Twilight Farm Tour (MCM 1, 2)

Paul Krueger, of Krueger Dairy Farm in Jordan, MN has hosted a tour at his dairy farm where interested citizens have the opportunity to see a farm in action and have the chance to talk with Mr. Krueger and elected and citizen leaders from the area about the importance of agriculture in clean water protection. District staff will recruit another local farm to host the farm tour in 2014.

4. Boat Tour (MCM 1, 2)

This event brings together CAC members, lake association members, and Board members alike to take a boat tour of one of the lakes and encourage discussion about lake health and other water resource topics.

5. Community Clean-Ups (MCM 1, 2)

Several outreach events are planned throughout the year to involve the CAC, lake associations, and other interested volunteers to help remove litter from the lakes during the winter before the ice-off occurs on the lake and leaves and debris from the curb gutter in the fall. A few of the

## Appendix A: Narrative of Activities

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following include:

- Ice Off Litter Pickup
- Dive the Lake
- Rake for the Lake

6. K-12 Events (MCM 1, 2)

District staff will volunteer at the PLSAS Field and Leadership Day, and involve the Prior Lake High School's EcoTeam to help with the Carp Catch and other District outreach projects. A few of the upcoming PLSAS activities and events in 2014 include:

- Carp Catch with PLHS EcoTeam
- PLSAS Environmental Education Days
- PLSAS Field and Leadership Day

7. Volunteer Recognition (MCM 1, 2)

In order to properly thank all of our volunteers, the District will host a Volunteer Recognition event for volunteers that have assisted the District throughout the year. The event will honor all volunteers and awards or a small gift may be presented. Additionally, all volunteers will be recognized in the local paper for their efforts in 2014.

## PASSIVE MARKETING

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1. Attendance at Community Events (MCM 1,2)

Where appropriate, District staff will host a booth that will promote the PLSLWD and strive to inform residents about local water resources issues through interactive displays, informational brochures, etc. Some of the community events in 2014 may include: Arbor Day, Lakefront Days and Prior Lake Fall Community Fest.

2. Publication of fact sheets, brochures, newsletters, etc. (MCM 1-6)

Information and topics for fact sheets, brochures, and newsletters, etc. will be derived from the MS4 required focuses (i.e. illicit discharge), and other local issues that residents may encounter (i.e. aquatic invasive species). In addition to fact sheets and brochures, District will distribute an annual newsletter that will also allow targeted and passive marketing messages, and provide a personalized means to highlight District activities and accomplishments throughout the year.

3. Submittal of news articles and press releases to the Prior Lake American newspaper and other publications (MCM 1-6)

Similar to "Publication of fact sheets, brochures, newsletters, etc.," information and topics for news articles and press releases will be derived from the MS4 required focuses, and other local issues residents may encounter. News articles and press releases will also provide an avenue for targeted and passive marketing messages, and allow the District to keep a consistent presence in the public eye.

4. Utilization of communication tools (MCM 1-6)

District staff currently utilizes various social media communication tools, like Facebook and Twitter to stay connected with members of the local community and beyond; in 2014, staff will continue to use these communication tools. In addition, District staff will continue to update the new website with project updates, meeting information, etc.

## Appendix A: 2014 PLSLWD Education Calendar

### “Lake Friendly”

	Community Engagement Event		News Article/Press Release	
<b>January:</b> Ice Ridges	--	--	Ice Ridges	Salt Use
<b>February:</b> What is the FeCL Facility?	Carp Catch	--	What is the FeCL Facility?	Carp Removal Highlights
<b>March:</b> Aquatic Invasive Species	Ice-off Litter Pick-up	--	AIS/Ci-Biobase (?)	Promote Workshops
<b>April:</b> Spring Lawn Care	Raingarden/Buffer Workshops	Arbor Day Event	Spring Lawn Care	Workshop Highlights
<b>May:</b> Raingardens	Lake Friendly	Storm Drain Stenciling	Raingardens	Storm Drain Stenciling Highlights
<b>June:</b> Impervious Disconnection	Lake Friendly	MS4 Public Hearing	Rain Barrels & Impervious Disconnection	MS4 Annual Report
<b>July:</b> Water Conservation	Lake Friendly	Dive the Lake	Water Conservation	AIS
<b>August:</b> Shoreline Restoration	Lake Friendly	<ul style="list-style-type: none"> <li>Twilight Farm Tour</li> <li>Lakefront Days</li> <li>Annual Boat Tour</li> </ul>	Shoreline Restoration - Helping Fish & Wildlife	Why is the lake green?
<b>September:</b> Fall Lawn Care	Prior Lake Fall Community Fest	--	Fall Lawn Care	TBD

## Appendix A: 2014 PLSLWD Education Calendar

### “Lake Friendly”

	Community Engagement Event		News Article/Press Release	
<b>October:</b> Illicit Discharge	Rake for the Lake	--	Keeping Gutters Clean/Leaf Clean Up	Illicit Discharge
<b>November:</b> Snow & Ice Removal	--	--	Newsletter/ Recap of 2014	Winter Construction Site Stabilization
<b>December:</b> Volunteering for Water Quality	Workshop: Deicing - Municipal (?)	Volunteer Recognition Event	Volunteering for Clean Water	TBD

## Appendix C: Proposed Expenses

2014 Education & Outreach Plan						
MS4 Education Program - Phosphorus Reduction	Ag	Lakeshore	Urban	Business	Estimated Staff Time	Labor (\$50/hr)
Raingarden-in-a-Box Workshops			X		40	\$2,000
Buffer-in-a-Box Workshops ( <i>new</i> )		X			100	\$5,000
Lake Friendly Program ( <i>new</i> )	X	X	X	X	100	\$5,000
Community Clean-up Events (i.e: Rake for the Lake)		X	X	X	20	\$1,000
Storm Drain Stenciling Event		X	X	X	20	\$1,000
Booth at Fall Community Festival	X	X	X	X	5	\$250
Twilight Farm Tour	X	X	X		20	\$1,000
Volunteer Recognition Event	X	X	X	X	15	\$1,000
Create Factsheets and Brochures	X	X	X	X	30	\$1,500
Informational Mailings	X	X	X	X	20	\$1,000
Submit Articles to the Prior Lake American (2/mo)	X	X	X	X	175	\$8,750
Submit Articles to the Scott County Scene (6/yr)	X	X	X	X	45	\$2,250
Produce Annual PLSLWD Newsletter	X	X	X	X	20	\$1,000
Issue Website/Social Media Updates (weekly)	X	X	X	X	175	\$8,750
Prepare MS4 Annual Report and Hold MS4 Public Hearing	X	X	X	X	60	\$3,000
Education & Outreach Planning for 2015	X	X	X	X	40	\$2,000
Funds for contingencies, materials, etc.					0	\$4,500
<b>TOTAL</b>					<b>885</b>	<b>\$49,000</b>

*2014 Education & Communication Budget Memo*

800

\$50,000

Prior Lake-Savage Area Schools Partnership	Ag	Lakeshore	Urban	Business	Estimated Staff Time	Labor (\$50/hr)
PLSAS Environmental Education Days		X	X		15	\$750
PLHS EcoTeam Partnership		X	X		30	\$1,500
<b>TOTAL</b>					<b>45</b>	<b>\$2,250</b>

*2014 Education & Communication Budget Memo*

35

\$5,000

Citizen Advisory Committee	Ag	Lakeshore	Urban	Business	Estimated Staff Time	Labor (\$50/hr)
Facilitate Citizen Advisory Committee Activities	X	X	X		100	\$5,000
Provide updates to local groups	X	X	X		50	\$2,500
<b>TOTAL</b>					<b>150</b>	<b>\$7,500</b>

*2014 Education & Communication Budget Memo*

180

\$9,000

## Appendix C: Proposed Expenses

Habitat for Watershed/Raingarden Taskforce	Ag	Lakeshore	Urban	Business	Estimated Staff Time	Labor (\$50/hr)
Program implementation, etc.		X	X	X	200	\$10,000
<b>TOTAL</b>					<b>200</b>	<b>\$10,000</b>

*2014 Education & Communication Budget Memo*      200      \$10,000

Blue Thumb (Metro Watershed Partners)	Ag	Lakeshore	Urban	Business	Estimated Staff Time	Labor (\$50/hr)
Blue Thumb Membership					0	\$250
Participation at Blue Thumb partner meetings		X	X	X	20	\$1,000
<b>TOTAL</b>					<b>20</b>	<b>\$1,250</b>

*2014 Education & Communication Budget Memo*      60      \$5,000

<b>2014 Education &amp; Outreach Plan Proposal GRAND TOTAL</b>					Estimated Staff Time	Labor (\$50/hr)
MS4 Education Program					885	\$49,000
Prior Lake-Savage Area Schools Partnership					45	\$2,250
Citizen Advisory Committee					150	\$7,500
Habitat for Watershed/Raingarden Taskforce					200	\$10,000
Blue Thumb (Metro Watershed Partners)					20	\$1,250
<b>2014 Education &amp; Outreach Plan Proposal GRAND TOTAL</b>					<b>1300</b>	<b>\$70,000</b>

*2014 Education & Communication Budget Memo*      1275      \$79,000