

RESOLUTION NO. 04-02

RICE CREEK WATERSHED DISTRICT
BOARD OF MANAGERS

RESOLUTION ADOPTING CWMP RULE M

Manager Lenox offered the following Resolution and moved its adoption, seconded by Manager Haake:

WHEREAS pursuant to Minnesota Statutes §103G.2243, the Rice Creek Watershed District (RCWD) Board of Managers has considered and adopted a Comprehensive Wetland Management Plan (CWMP) in the City of Blaine regarding Anoka County Ditch 53-62;

WHEREAS Minnesota Statutes §103G.2243 requires that a CWMP be implemented through adoption of a rule, and the RCWD has proposed and considered a rule implementing the CWMP ("Rule M");

WHEREAS, in accordance with Minnesota Statutes §103D.341, subdivision 2, RCWD staff transmitted the proposed CWMP rule to the Minnesota Board of Water and Soil Resources and the Minnesota Department of Transportation; made the proposed rule available to affected landowners, affected governmental units and other interested members of the public; provided for a public comment period of at least 30 days; and held a public hearing on January 14, 2004 before the Board for the further presentation of comments; and

WHEREAS, the proposed Rule M has been revised on January 28, 2004 in response to these comments without altering the scope of the proposed rule;

THEREFORE BE IT FURTHER RESOLVED that the RCWD Board of Managers hereby adopts Rule M as proposed by staff on January 28, 2004;


BE IT FURTHER RESOLVED that the RCWD staff shall publish notice of the adopted rules in legal newspapers in Anoka, Ramsey, and Washington Counties, file copies of the adopted rules duly signed by the Secretary of the Board of Managers with the Office of the County Recorder in each County, and mail a copy of the adopted rules to the governing body of each city and township wholly or partly within the RCWD.

The question was on the adoption of the Resolution and there were 4 yeas, 0 nays and 1 absentions as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>
CARDINAL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AIKEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
KARTH	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
HAAKE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LEROUX	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

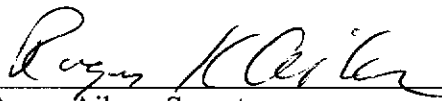
Upon vote, the Chair declared the Resolution passed.

Dated: January 28, 2004


 Roger Aiken, Secretary

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

IN TESTIMONY WHEREOF, I have hereunto set my hand this 28 day of
January, 2004.


 Roger Aiken, Secretary

RICE CREEK WATERSHED DISTRICT
BOARD OF MANAGERS

RULE M

Comprehensive Wetland Management Plan
City of Blaine

(Adopted January 28, 2004)

1. **PURPOSE.** The purpose of this Rule is to implement the "Anoka County Ditch 53-62 Comprehensive Wetland Management Plan dated July 17, 2003 ("CWMP"), approved by the Minnesota Board of Water and Soil Resources and adopted by the Rice Creek Watershed District Board of Managers pursuant to the Wetland Conservation Act (WCA), Minnesota Statutes §103G.2243, in conjunction with continuing maintenance of Anoka County Ditch 53-62 under authority of Minnesota Statutes Chapter 103E. CWMP provides for full replacement of disturbed wetland, and wetland functions & values, on an area rather than parcel basis. The CWMP aggregates existing and replacement wetland to create a larger, contiguous wetland complex providing ecological functions & values exceeding what would result from a parcel-based application of the WCA. At the same time, it allows developable upland to be aggregated in proximity to existing and planned development infrastructure in a manner that enhances the value of the property for development and facilitates municipal implementation of a comprehensive plan for development and open space protection within the CWMP area. This Rule regulates activity on both developable upland and protected wetland within the CWMP area in order to fully enhance and protect the ecology of the CWMP area without unduly limiting the benefits that it creates for property owners and municipal development. The Technical Evaluation Panel has had the opportunity to review and advise on the groundwater modeling methodology and scope & effect assessment in the CWMP.

2. **APPLICABILITY.**

(a) A Rule M permit is required to:

(i) Fill or excavate in or drain, wholly or partially, a wetland within the CWMP area;

(ii) Create more than 10,000 square feet of impervious surface within the CWMP area; or

(iii) Use motorized equipment to alter land contours within the CWMP area so as to increase or decrease the rate or volume of surface runoff into a wetland within the CWMP area.

(b) For activity subject to this Rule, a separate permit under District Rule B, C, D or F is not required. Other District Rules and the permit requirements of other units

of government continue to apply. This Rule does not eliminate the need for the applicant to obtain approval for a proposed activity from the U.S. Army Corps of Engineers.

3. ***SUBMITTALS.***

(a) Except as provided below, an application for a permit under this Rule shall consist of application materials, fees and sureties as required by District Rules B, C, D and F.

(b) A proposal that does not involve subdivision, grading or development of upland within the CWMP area need not submit application materials required by District Rule C.

(c) A proposal that does not involve fill, excavation or draining of a wetland within the CWMP area need not submit application materials required by District Rule F).

(d) On District request, the applicant shall conduct an assessment of protected plant or animal species within the CWMP area.

(e) The application shall include a wetland delineation, type determination and function and values assessment of any wetlands on the subject property using a methodology authorized under the Wetland Conservation Act.

(f) The application shall include the results of an on-site determination of the existence and location of all ditches.

(g) The applicant shall provide such other submittals as are reasonably requested by the District.

4. ***EROSION CONTROL.*** The requirements of District Rule D apply to activity subject to this Rule. The exceptions of Rule D, section 5, do not apply.

5. ***STORMWATER MANAGEMENT.*** The following requirements apply to subdivision, grading or the creation of impervious surface subject to this Rule.

(a) The applicant shall incorporate site design principles and Best Management Practices to minimize impervious surface, maximize on-site surface runoff infiltration, and reduce peak runoff flow rates and off-site pollutant transport.

(b) The requirements of District Rule C apply except as follows:

(i) Rule C, paragraphs 3(k), 6(a), 6(b) and do not apply.

(ii) Rule C, paragraph 6(g), applies but the applicant shall meet the peak flow control standards of paragraph 3(b).

(iii) Notwithstanding Rule C, paragraphs 6(e) and (f), a detention basin is not required provided that the applicant otherwise meets the standards of this section.

(c) Water quality / infiltration BMPs shall be incorporated on a subwatershed basis and are required to meet the following criteria:

(i) BMP volume will retain the 2-year event by providing at least the volume equal to the runoff from a 2.8-inch, 24-hour storm over the tributary area under proposed conditions.

(ii) Infiltration BMPs shall be incorporated in areas with A & B hydrologic soil groups (BMPs shall conform to standard plates and design criteria approved by District, as applicable). Pretreatment of stormwater from impervious surfaces (except rooftops) is required before discharge to infiltration BMPs. Up to 20% of the volume required by paragraph 5(c)(i) may be provided by pretreatment features.

(iii) For areas where infiltration is not ideally suited, a minimum of 20% of the volume required by paragraph 5(c)(i) shall be provided by bio-filtration features (BMPs shall conform to standard plates and design criteria approved by District, as applicable). The remaining volume required may be provided by water quality BMPs consistent with NURP criteria and District wet pond criteria (see appendix). Areas not ideally suited for infiltration are defined as areas of C or D hydrologic soil groups not routable via a gravity system to onsite A or B hydrologic soil groups, areas with a high groundwater table, or areas where it has been demonstrated that soil contamination is of particular concern.

(d) An increase in wetland bounce or inundation period may not exceed the following for a ten-year precipitation event. Wetland susceptibility class shall be determined with reference to the receiving wetland type resulting from implementation of the CWMP. Where more than one parcel drains to the wetland in question, impact will be determined by assuming the same percentage of peak flow and runoff volume increase for each parcel.

Wetland Susceptibility Class	Permitted Bounce	Inundation Period
High	Existing	Existing
Moderate	Existing + 0.5 feet	Existing plus 2 days
Slight	Existing + 1.0 feet	Existing plus 14 days
Least-susceptible	No limit	Existing plus 21 days

(e) The property owner shall record a declaration prohibiting the application of phosphorus-containing fertilizer or the storage of plowed snow in a location from which runoff will be conveyed without adequate pretreatment or sheet flow directly into a wetland within the CWMP area.

(f) Soil amendment, excavation or filling pursuant to development within the CWMP area shall not impede groundwater flow.

6. **VEGETATED BUFFER.** As a condition of permit issuance under this Rule, the property owner shall record a declaration in a form approved by the District establishing a 50-foot buffer adjacent to the delineated edge of wetland within the CWMP area. The declaration shall state that on further subdivision of the property, each subdivided lot of record shall meet the monumentation requirement of paragraph 6(b). On public land or right-of-way, in place of recording a buffer may be documented in a written agreement executed with the District. The agreement shall state that if the land containing the buffer is conveyed, the seller must require the buyer to comply with this section.

(a) This section applies only to the central, contiguous wetland area within the CWMP area. It does not apply to wetlands that lack a surface hydrologic connection to the central wetland area.

(b) A buffer shall be indicated by permanent, free-standing markers at the buffer's upland edge, with a design and text approved by the District staff in writing. One marker shall be placed at each lot line, with additional markers at an interval of no more than 200 feet. If a District permit is sought for a subdivision, the monumentation requirement will apply to each lot of record to be created. On public land or right-of-way, the monumentation requirement may be satisfied by the use of markers flush to the ground, breakaway markers of durable material, or a vegetation maintenance plan approved by the District staff in writing.

(c) The buffer width may vary, provided that an average width of 50 feet is achieved, a width of at least 25 feet is achieved at all points, and the buffer provides wetland and habitat protection at least equivalent to a buffer of uniform 50-foot width.

(d) The buffer shall consist of vegetated land, consisting primarily of plant species native to this region, that is not cultivated, cropped, pastured, mowed, fertilized, subject to the placement of mulch or yard waste, or otherwise disturbed, except for periodic cutting or burning that promotes the health of the buffer, actions to address disease or invasive species, or other actions to maintain or improve buffer quality, each as approved in writing by the District staff. The application shall include a vegetation management plan for District approval.

(e) Established buffer may be disturbed to alter land contours or improve buffer function if the following criteria are met:

(i) An erosion control plan is submitted under which: alterations are designed and conducted to expose the smallest amount of disturbed ground for the shortest time possible; fill or excavated material is not placed to create an unstable slope; mulches or similar materials are used for temporary soil coverage; and permanent natural vegetation is established as soon as possible.

(ii) Wooded buffer and riparian canopy trees are left intact;

(iii) When disturbance is completed, sheet flow characteristics within the buffer are improved; average slope is no steeper than preexisting average slope or 5:1 (horizontal:vertical), whichever steeper; the top 18 inches of the soil profile is uncompacted, has a permeability at least equal to the permeability of the preexisting soil in an uncompacted state and has organic matter content of between five and 15 percent; and habitat diversity and riparian shading are maintained or improved.

(iv) A revegetation plan specifies removal of invasive species and establishment of native vegetation suited to the location.

(v) A recorded declaration provides that for three years following site stabilization, the property owner shall correct erosion, maintain and replace vegetation, and remove invasive species to establish permanent vegetation according to the revegetation plan.

(vi) Disturbance is not likely to result in erosion, slope failure or a failure to establish vegetation due to existing or proposed slope, soil type, root structure or proposed construction methods.

(f) Except as provided in this subsection, no above- or below-ground structure or impervious surface shall be placed within the buffer permanently or temporarily.

(i) A structure may extend or be suspended above the buffer if the impact of any supports within the buffer is negligible, the design allows sufficient light to maintain the species shaded by the structure, and the

structure does not otherwise interfere with the protection afforded by the buffer.

(ii) A public utility, or a structure associated with a public utility, may be located within a buffer on a demonstration that there is no reasonable alternative that avoids or reduces the proposed buffer intrusion. The utility or structure shall minimize the area of permanent vegetative disturbance.

(iii) Stormwater infiltration features may be located within buffer, but not within the minimum required buffer width (25 feet).

(iv) The buffer may enclose a linear surface no more than 10 feet in width for non-motorized travel if wetland protection will not be measurably reduced. The surface shall not count toward buffer width.

(g) Material shall not be excavated from or placed in a buffer, except for temporary placement of fill or excavated material pursuant to duly-permitted work in the associated wetland; or pursuant to paragraph 6(e) of this Rule.

7. WETLAND REPLACEMENT. Any activity subject to this Rule that involves fill or excavation in or draining, partial or total, of a wetland within the CWMP area is subject to this section.

(a) The CWMP is incorporated into this Rule. The specific terms of this Rule will govern but to the extent that a term of this Rule is susceptible to more than one interpretation, the interpretation shall be chosen that best carries out the intent and purposes of the CWMP.

(b) Wetland impact from fill, excavation or draining shall be replaced at a ratio of one acre of replacement wetland for each acre of wetland impact.

(c) The location and type of wetland replacement shall be that which best conforms to Map Figure 5 of the CWMP and the following terms:

(i) No wetland plant community of Natural Heritage Rank B/C or higher (Department of Natural Resources), as shown in the CWMP, Map 1, may be disturbed.

(ii) Upland of Natural Heritage Rank B/C or higher may not be excavated for new wetland replacement credit.

(iii) Upland of lower quality than Natural Heritage Rank B/C may be converted to wetland for wetland fill replacement.

(iv) The property owner may include upland within the replacement area, but upland area will not receive replacement credit.

(v) Wetland buffer declared pursuant to section 6 of this Rule will not receive replacement credit.

(vi) Actual acres of wetland impact and replacement will be determined using the methodology and the scope and effect parameters detailed in the CWMP.

(vii) Actual final site conditions within the CWMP will depend on approved wetland delineations and detailed property information.

(d) The provisions of the Wetland Conservation Act, Minnesota Statutes §§103G.221 through 103G.2372, and its implementing rules, Minnesota Rules 8420.0100 et seq., each as amended, shall apply under this Rule except where inconsistent with this Rule or CWMP, or where this Rule specifically provides otherwise. The exceptions contained in Minnesota Rules 8420.0122 are not applicable under this Rule.

(e) Replacement plans will be evaluated and implemented in accordance with Minnesota Rules 8420.0230 and 8420.0500 through 8420.0630. Notwithstanding, the provisions of this Rule will apply in place of Minnesota Rules 8420.0520, 8420.0540, 8420.0541, 8420.0544, 8420.0546 and 8420.0549, as amended.

(f) The Technical Evaluation Panel shall have an opportunity to review the wetland delineation, wetland type determination and functional assessment before the District acts on a permit.

(g) A road, utility or other structure, other than a structure related to a passive recreational or educational use, may be placed within wetland in the CWMP area only on a showing of compelling need and pursuant to the District's variance procedures.

8. **EASEMENT.** As a condition of permit issuance, the property owner shall convey to the District and record, in a form acceptable to the District, a perpetual, assignable easement granting the District the authority to monitor, modify and maintain hydrological and vegetative conditions within CWMP wetland, upland enclosed by CWMP wetland and vegetated buffer, including the authority to install and maintain structures within those areas and reasonable access to those areas each as deemed necessary and convenient by the District to perform authorized activity.

9. **PARTIAL ABANDONMENT.** As a condition of permit issuance, the District may require a property owner to petition the District for partial abandonment of a public drainage system pursuant to Minnesota Statutes §103E.805, as amended. A partial abandonment under this section shall not diminish a benefited property owner's right to drainage without the owner's agreement.

10. **APPROVALS.** Following permit issuance, District staff may issue written approvals as required by this Rule for activities within the CWMP area. This delegation of authority to staff does not extend to execution of an agreement in place of buffer declaration under section 6 of this Rule.

Adopted by the
Rice Creek Watershed District Board of Managers
Resolution 04-02 (January 28, 2004)



Roger K. Aiken, Secretary