

Mission: To protect and enhance the quality of water in the lakes within its jurisdiction....ensure wise decisions are made concerning the management and related land resources which impact these lakes.

**PELICAN RIVER WATERSHED DISTRICT
MEETING ANNOUNCEMENT
Regular MONTHLY MANAGERS' MEETING
Thursday, August 16, 2018
6:15 PM
WATERSHED DISTRICT OFFICE
Wells Fargo Bank, 2nd Floor Conference Room
211 Holmes Street West, Detroit Lakes, MN
(218) 846-0436 www.prwd.org**

AGENDA

- | | |
|----------------|---|
| 6:15 PM | 1. Call to order |
| | 2. Approval of Agenda and Consent Agenda (Administrator's Report; Secretary's Report –July 19, 2018 Regular Meeting Minutes; May 24, 2018 Public Hearing Minutes for Impoundment of Waters of Becker County Ditch 13, Rules/Permitting Report; Ditch Inspector's Report) |
| 6:30 PM | 3. Committee Updates
a. Personnel, RMP/Rules, Citizen Advisory |
| 6:35 PM | 4. Old Business
a. Rice Lake Project Progress
b. Water Management Rule Updates |
| 7:00 PM | 5. Treasurer's Report
a. Approve August 2018 Bills
b. Approve Fund transfer
c. Review January-June 2018 Revenue & Expenses – to be filed and subject to audit. |
| 7:15 PM | 6. New Business
a. Review 2019 Preliminary Budget, levies, assessments and fees
b. Cost Share Application Approvals- Bill Ufkin and Anne Anderson |
| 8:15 PM | 7. Public Forum (5 minutes) |
| 8:20 PM | 8. Attorney's Report
9. Engineer's Report
10. Pulled Consent Agenda Items |
| 8:30 PM | 11. Announcements – Public Hearing for 2019 Budget, levies, assessments and fees to be held September 11, 2018 at 6:15 PM followed September Board meeting |
| 8:35 PM | 12. Meeting Adjournment (action items in bold face) |



THE PELICAN RIVER WATERSHED
DISTRICT OF
BECKER AND OTTERTAIL
COUNTIES

MINUTES OF THE REGULAR MEETING

July 19, 2018

Managers Present: Kral, Imholte, Okeson, Michaelson, Refsland

Managers Absent: Haggart, Deede

Staff: Administrator Guetter, Alcott

Consultants: Attorney Skoyles

Advisory Committee: None **Others:** Brent Kuehne, Michael Sly, Tony Paul, Terry Anderosn

The Public Hearing for Buffer Compliance Rules was called to order by President Kral at 6:15 PM. Guetter noted the District received a comment letter from the City of Detroit Lakes (attached hereto). Administrator Guetter forwarded the letter on to the MN Board of Soil and Water Resources, who contacted the City to explain the State of MN statute requirements for the District to adopt the Rule. Administrator Guetter reported she received an email from the City Administrator Kelcey Klemm (attached hereto) which stated the City had no objection to the proposed Rule. No other comments were made by the public. **President Kral closed the Public Hearing at 6:17 PM.**

The Regular Managers' meeting was called to order by President Kral at 6:17 PM.

CONSENT AGENDA. The consent agenda, Administrator Report; Secretary's Report June 18, 2018 Regular Managers' Meeting Minutes; Rules/Permitting Report and Ditch Inspector's Report was approved (Okeson, Michaelson), carried unanimously.

PROGRESS REPORTS.

Personnel Committee –no business to report.

Rules/Revised Management Plan (RMP)–no business to report.

Citizen Advisory Committee –no business to report

NEW BUSINESS.

- a. **Adopt Pelican River Watershed District 103E systems Only Buffer Rule.** The Managers' reviewed the Buffer Enforcement Rule, noting the District will only be enforcing compliance on the drainage systems it has jurisdiction over including Becker County Drainage systems 11,12, 13, and 14. The State of MN requires the District to adopt an enforcement Rule by November 1, 2018. The Becker County Soil and Water Conservation District and the State of MN make the buffer compliance determination for all affected waters within the County, including drainage systems and will notify the District to begin enforcement action on its drainage system parcels which are non-compliant. Becker County and Buffalo River Watershed District will also be enforcing the buffer rule on the waters and drainage systems within their jurisdiction. **Motion to adopt the State of MN, Pelican River Watershed District 103E Systems Only Buffer Rule, (Kral, Imholte) carried unanimously (attached hereto).**
- b. **Set Public Hearing for 2019 Preliminary Budgets and Levies, Assessments and Fees and September Regular Manager's Meeting Date.** The District is required to submit preliminary budgets, levies, assessment, and fees to Becker and Otter Tail County Auditor's office by September 15th. The managers set the date for the **Public Hearing for the 2019 Preliminary Budgets and Levies, Assessments and Fees on Tuesday, September 11 at 6:15 PM to be followed by the Regular Monthly Manager's Meeting.**
- c. **Water Management Rules-Violations Updates & projects. Park Core, LLP; Floyd Lake Toy Box.** Brent Kuehne, Tony Paul, and Park Core representing attorney, Michael Sly were present. The permit application and submittals are under review by District staff and engineer, Marlon Mackowick. Over the past few weeks, the Becker County attorney's office was clarifying whether the proposed project is a permitted use, a conditional use, or requires some other approvals. The County sent a letter clarifying its position (attached hereto). The 60-day plan review period to for the District to act on the Park Core, LLP, Floyd Lake Toy Box District permit application is July 19, 2018. The managers reviewed conditions for permit approval, however, more information was required for approval. **Motion to approve the Park Core LLC, Floyd Lake Toy Box permit application (Michaelson, Refsland) with the following four conditions: 1) Specify turf reinforcement mat capable of withstanding**



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shear stresses of at least 3.5 pounds per square foot. Consider MnDOT Category 2 TRM. 2) PRWD, strongly recommends the Applicant reconsider providing a minimum of 0.5 feet of freeboard for the 100-year event on all storm water ponds/infiltration basins. If the Applicant chooses not to provide a minimum 0.5-feet of freeboard for the 100-year event, the Applicant shall submit documentation that the top of the pond was constructed to the designed top of elevation in the approved submittal. The lower end tolerance of elevation shall be -0.00 of design elevation. The documentation survey shall have a maximum spacing around the top of the storm water feature of 10 feet. This documentation shall be supplied to the PRWD in a 11x17 figure showing a plan view of the storm water feature to scale with all the survey points shown. 3) PRWD requires a typical cross-section on the project plans which depicts a swale between the structures to minimize adjacent structure flooding and convey water to the on-site designated storm water management and treatment facilities. 4) No work will commence prior to all required approvals, variances, conditional uses, and permits are obtained from Becker County and if project plans are modified the District will be notified and revised storm water management plans and runoff calculations must be provided and approved by the District. Lengthy discussion regarding acceptable language regarding #3 above, "typical" building cross-section for water conveyance, was held. **Manager Michaelson requested to withdraw the motion and President Kral asked the Managers for consent to withdraw the motion and all agreed.** Tony Paul, Park Core, LLC applicant requested a 14-calendar day plan review timeframe extension to allow the applicant to provide the District additional information for the permit approval conditions. **Motion to approve a 14-calendar day extension to the 60-day plan review period for the Park Core, LLC Floyd Toy Box permit application (Michaelson, Refsland), carried unanimously.** The Managers set a **Special Meeting date for August 2, 2018 at 9:00 AM** to act on the permit application if the permit has not been issued by August 2, 2018.

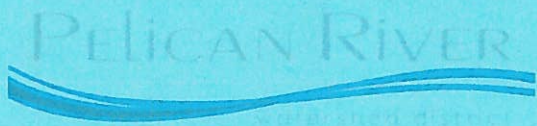
- d. **Cost Share Program – Lillquist Application-** In 2017, a limited time cost share tree replacement program was offered after the July storms which heavily affected shorelines on District lakes. Lillquists applied for cost share in 2017, but the trees were not planted until spring 2018. **Motion to approve the Lillquist application for cost share eligible expenses for the amount of \$96.18 (Imholte, Okeson), carried unanimously**

OLD BUSINESS.

- a. Rice Lake Progress Report – Kral and Guetter reported on the Detroit Township meeting they attended regarding Anchor Road and continued future road maintenance costs. There were varying opinions from residents regarding the merits of partial road abandonment. The District stated this is a township matter and the District is prepared to move ahead with the project. The District will need a decision by September if a partial road abandonment was approved.
- b. Flowering Rush Treatments - Treatments were conducted this past month. Guetter noted the shoreline area along Sallie at Dunton Rapids did not respond well to treatment. MN DNR also noted some potential bulrush damage near the public water access on Sallie. Staff will investigate further into this and make changes to the permit area maps as necessary. Imholte noted Chinese Mystery Snails are an ongoing issue.
- c. MAWD Summer Tour. Managers in attendance noted it was one of the best tours, as most of the tour stops had issues and projects which were similar to the District's issues and projects, including lake alum treatments, urban stormwater management, invasive species management, and streambank stabilization. Manager Okeson stated he would like to see the construction/completed results of the streambank stabilization project in Riley Purgatory Creek as it is directly relatable to the Campbell Creek issues.

TREASURER'S REPORT

- a. **Approval of July 2018 Claims.** Manager Michaelson reviewed the monthly bills with the managers. **Motion to pay July 2018 claims (Checks #14481-14498 and EFT 754-761) in the amount of \$51794.05 and Managers 2nd Quarter 2018 Per Diems and Expenses (EFT 762-768 and EFT 747-753) in the amount of \$3903.94 (Michaelson, Okeson), carried unanimously.**
- b. **July 2018 Fund Transfers.** \$82,000 is needed to cover monthly expenses. **Motion to transfer \$82,000 from Bremer Bank savings account to the checking account (Michaelson, Imholte), carried unanimously.**
- c. **Financial Report.** The January-June 2018 Revenues and Expenses Report was reviewed by the managers. **Motion to approve the January-June 2018 R & E Report (Michaelson, Okeson), carried unanimously.** The report will be filed for audit.



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PUBLIC FORUM – Terry Anderson reported on aquatic plant roadside pick up program. There are some areas where he is picking up mostly beach sand and not plants.

ATTORNEY REPORT- Nothing further to report.

ANNOUNCEMENTS - None

ADJOURNMENT. Motion to adjourn the meeting at 8:17 PM (Kral, Okeson), carried unanimously.

A handwritten signature in black ink, appearing to read "Brad Refsland".

Respectfully Submitted,
Acting Secretary, Brad Refsland

Meeting Approved: _____

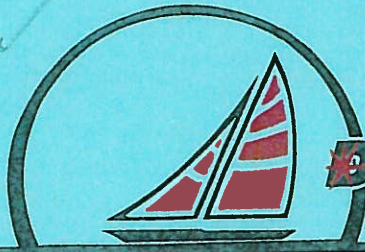
8-16-18

Pelican River Watershed District
Claims Paid
July 2018

<u>Date</u>		<u>Num</u>	<u>Amount</u>
<u>Employee ACH</u>			
07/23/2018	*Alcott, Brent	EFT-754	252.02
07/23/2018	*Guetter, Tera	EFT-755	279.80
07/23/2018	*Moses, Brenda	EFT-756	296.71
			\$ 828.53
<u>Vendor ACH</u>			
07/16/2018	Bremer Bank	EFT	30.00
07/23/2018	Lakes Computer Repair & Consulting	EFT-757	200.00
07/23/2018	RMB Environmental Laboratories, Inc.	EFT-758	2,727.00
07/23/2018	Wells Fargo-Office Lease	EFT-759	1,299.58
07/23/2018	Wenck Associates, Inc	EFT-760	3,584.66
07/23/2018	Xerox Corporation	EFT-761	581.47
			\$ 8,422.71
<u>Vendor Checks</u>			
07/20/2018	Arvig	14481	56.85
07/20/2018	Bank of America	14482	1,726.65
07/20/2018	County 6 Amoco & Bait	14483	540.14
07/20/2018	Detroit Lakes Newspapers	14484	62.00
07/20/2018	Forum Communications	14485	153.00
07/20/2018	Friesen's Inc.	14486	3.08
07/20/2018	Holiday Companies/washes	14487	6.50
07/20/2018	L & M Supply	14488	21.36
07/26/2018	Office of Enterprise Technology	14498	96.35
07/20/2018	Professional Lake Management	14489	26,820.84
07/20/2018	Schultz Garage & Bus Co., Inc	14490	681.75
07/20/2018	Swanson's Repair	14491	1,526.74
07/20/2018	Verizon	14492	VOID
07/23/2018	Verizon	14497	40.37
			\$ 31,735.63
<u>Rice Lake Project</u>			
07/20/2018	Houston Engineering Inc.	14493	4,583.25
07/20/2018	Meadowland Surveying, Inc.	14494	4,148.75
07/20/2018	Vogel Law Firm	14495	1,979.00
			\$ 10,711.00
<u>Cost Share Project</u>			
07/20/2018	^Lillquist, Sonja	14496	\$ 96.18
<u>Manager 2nd Qtr Expenses</u>			
07/23/2018	.Deede, L	EFT-762	249.07
07/23/2018	.Haggart, J.	EFT-766	260.51
07/23/2018	.Imholte, G.	EFT-763	250.70
07/23/2018	.Kral, D.	EFT-764	278.48
07/23/2018	.Michaelson, R.	EFT-765	38.15
07/23/2018	.Okeson, O.	EFT-767	256.15
07/23/2018	.Refsland, B	EFT-768	8.18
			\$ 1,341.24

Pelican River Watershed District
Claims Paid
July 2018

<u>Date</u>		<u>Num</u>	<u>Amount</u>
Manager 2nd Qtr Per Diems			
07/23/2018	.Deede, L	EFT-747	415.57
07/23/2018	.Haggart, J.	EFT-748	346.31
07/23/2018	.Imholte, G.	EFT-749	484.83
07/23/2018	.Kral, D.	EFT-750	507.92
07/23/2018	.Michaelson, R.	EFT-751	253.97
07/23/2018	.Okeson, O.	EFT-752	346.32
07/23/2018	.Refsland, B	EFT-753	207.78
			\$ 2,562.70
7/11/2018	Supplemental Benefits	EFT 737-739	2,377.71
7/12/2018	Employee Payroll	EFT 740-746	7,086.10
7/13/2018	Federal Withholding		2,743.86
7/26/2018	Employee Payroll	EFT 769-775	7,107.08
7/27/2018	Federal Withholding		2,638.92
7/31/2018	MN HCSP		500.00
7/31/2018	MN Revenue		787.00
7/31/2018	NACO		1,884.00
7/31/2018	PERA		2,026.24
	Total July Expenses		\$ 82,848.90



~~DETROIT LAKES CITY ATTORNEY~~

114 Holmes Street West, Detroit Lakes, MN 56501

Telephone 218-847-5653
Facsimile 218-847-2406

Charles J. Ramstad • City Attorney
Karen Skoyles • Assistant City Attorney

July 13, 2018

Ms Tera Guetter, Administrator
Mr. Brent Alcott, Assistant Administrator
Pelican River Watershed District
211 Holmes Street West
Suite 201
Detroit Lakes, MN 56501

via U.S. Mail and e-mail at:
Brent.Alcott@arvig.net

RE: Proposed Ordinance
103 Systems Only Buffer Rule

Dear Ms Guetter and Mr. Alcott:

The City of Detroit Lakes acknowledges receipt of the Notice of Hearing and Proposed Ordinance described above.

The City asserts that lands within the municipal boundaries of the City are exempt from the provisions of this Ordinance under Minn. Stat. 103F.48 Subd. 5 (4) (I) because lands within the City are regulated and provide water resources riparian protection as a municipal separate storm sewer system (MS4) City.

If you disagree and believe the proposed ordinance would be enforceable within the City please respond and provide authority for that position so that the City can intervene and assert its position prior to adoption of the ordinance.

As a side note, it appears to me that the subsection reference in subsections 4.2 and 4.3 should be to subsection 4.1, not to subsection 3.1 as recited.

Sincerely,

RAMSTAD, SKOYLES & WINTERS, P.A.

Charles J. Ramstad

cc Kelcey Klemm
Larry Remmen

Tera Guetter

From: Kelcey Klemm <KKlemm@cityofdetroitlakes.com>
Sent: Thursday, July 19, 2018 1:19 PM
To: Tera Guetter
Subject: RE: FW: Response to City of Detroit Lakes July 13-2018 comment letter

Tera,

The City is in receipt of your letter regarding the proposed buffer ordinance. The City understands that the ordinance impacts only the ditches within the City that the PRWD regulates. The City further understands that enforcement of the City's shoreland ordinance regulations essentially preempts the buffer ordinance. For those reasons, the City has no other objections to the proposed buffer ordinance.

Thank you for providing the supporting information.

Kelcey Klemm
City Administrator
City of Detroit Lakes
1025 Roosevelt Avenue
Detroit Lakes MN 56501
218-846-7123 (Direct Line)
kklemm@cityofdetroitlakes.com

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State of Minnesota
Pelican River Watershed District
103E Systems Only Buffer Rule

1.0 Policy

It is the policy of the Pelican River Watershed District Board of Managers to:

(a) Provide public drainage system ditches with vegetated buffers and water quality practices to achieve the following purposes:

- (1) Protect state water resources from erosion and runoff pollution; and
- (2) Stabilize soils, and banks.

(b) Coordinate closely with the District's landowners, soil and water conservation districts and counties, and utilize local knowledge and data, to achieve the stated purposes in a collaborative, effective and cost- efficient manner.

(c) Integrate District authorities under Minnesota Statutes §103D.341, 103E.021, and 103F.48 to provide for clear procedures to achieve the purposes of the rule.

(d) The District will implement and enforce buffers through the use of Drainage Law (Minnesota Statutes §103E.021 and 103E.351) and when that cannot be accomplished through the use of Administrative Penalty Order (APO) powers granted through Minnesota Statute §103F.48.

2.0 Definitions

BWSR: Minnesota Board of Water and Soil Resources.

Buffer: An area consisting of perennial vegetation, excluding invasive plants and noxious weeds.

Buffer Protection Map: means buffer maps established and maintained by the commissioner of natural resources.

Buffer law: Minnesota Statutes §103F.48, as amended.

Commissioner: Commissioner of the Minnesota Department of Natural Resources.

Cultivation farming: Practices that disturb vegetation roots and soil structure, or involve vegetation cutting or harvesting that impairs the viability of perennial vegetation.

District: Pelican River Watershed District.

Drainage authority: The public body having jurisdiction over a drainage system under Minnesota Statutes chapter 103E.

Landowner: means the holder of the fee title, the holder's agents or assigns, any lessee, licensee, or operator of the real property and includes all land occupiers as defined by Minn. Stat. §103F.401, subd. 7 or any other party conducting farming activities on or exercising control over the real property.

Parcel: means a unit of real property that has been given a tax identification number maintained by the County.

NRCS: U.S. Department of Agriculture, Natural Resource Conservation Service.

Responsible Party: A party other than a landowner that directly or indirectly controls the condition of riparian land subject to a buffer under the rule.

Public water: As defined at Minnesota Statutes §103G.005, subdivision 15, and included within the public waters inventory as provided in Minnesota Statutes §103G.201.

Riparian protection: A water quality outcome for the adjacent waterbody equivalent to that which would be provided by the otherwise mandated buffer, from a facility or practice owned or operated by a municipal separate storm sewer system (MS4) permittee or subject to a maintenance commitment in favor of that permittee at least as stringent as that required by the MS4 general permit in effect.

Shoreland standards: Local shoreland standards as approved by the Commissioner or, absent such standards, the shoreland model standards and criteria adopted pursuant to Minnesota Statutes §103F.211.

Structure: An above-ground building or other improvement that has substantial features other than a surface.

SWCD: Soil and Water Conservation District.

3.0 Data sharing/management

3.1 The District may enter into arrangements with an SWCD, a county, the BWSR and other parties with respect to the creation and maintenance of, and access to, data concerning buffers and alternative practices under this rule.

3.2 The District will manage all such data in accordance with the Minnesota Data Practices Act and any other applicable laws.

4.0 Vegetated Buffer Requirement

4.1 Except as subsection 4.3 may apply, a landowner must maintain a buffer on land that is adjacent to a public drainage system ditch identified and mapped on the buffer protection map established and maintained by the Commissioner pursuant to the buffer law.

- The buffer must be of a 16.5-foot minimum width. This rule does not apply to the portion of public drainage systems consisting of tile.
- The buffer is measured from the top or crown of bank. Where there is no defined bank, measurement will be from the normal water level. The District will determine normal water level in accordance with BWSR guidance. The District will determine top or crown of bank in the same manner as for measuring the perennially vegetated strip under Minnesota Statutes §103E.021.

4.2 The requirement of subsection 4.1 applies to all public drainage ditches within the legal boundary for which the District is the drainage authority.

4.3 The requirement of subsection 4.1 does not apply to land that is:

- Enrolled in the federal Conservation Reserve Program;

- Used as a public or private water access or recreational use area including stairways, landings, picnic areas, access paths, beach and watercraft access areas, provided the area in such use is limited to what is permitted under shoreland standards or, if no specific standard is prescribed, what is reasonably necessary;
- Used as the site of a water-oriented structure in conformance with shoreland standards or, if no specific standard is prescribed, what is reasonably necessary;
- Covered by a road, trail, building or other structure;
- Regulated by a national pollutant discharge elimination system/state disposal system (NPDES/SDS) municipal separate storm sewer system, construction or industrial permit under Minnesota Rules, chapter 7090, and the adjacent waterbody is provided riparian protection;
- Part of a water-inundation cropping system; or
- In a temporary non-vegetated condition due to drainage tile installation and maintenance, alfalfa or other perennial crop or plant seeding, or a construction or conservation project authorized by a federal, state or local government unit.

5.0 Drainage System Acquisition and Compensation for Buffer

5.1 In accordance with Minnesota Statutes §103F.48, subdivision 10(b), a landowner owning land within the benefited area of and adjacent to a public drainage ditch may request that the District, as the drainage authority, acquire and provide compensation for the buffer strip required under this rule.

5.2 The request may be made to use Minnesota Statutes §103E.021, subdivision 6, or by petition pursuant to Minnesota Statutes §103E.715, subdivision 1.

5.3 The decision on the request is within the judgment and discretion of the District, unless the request concerns a buffer strip mandated by Minnesota Statutes §103E.021.

5.4 If the request is granted or the petition proceeds, the requirements of the buffer strip and the compensation to be paid for its incorporation into the drainage system will be determined in accordance with the statutes referenced in paragraph 5.1 and associated procedures. When the order establishing or incorporating the buffer strip is final, the buffer strip will become a part of the drainage system and thereafter managed by the District in accordance with the drainage code.

5.5 On a public drainage ditch that also is a public water subject to a 50-foot average buffer, the drainage system will be required to acquire only the first 16.5 feet of the buffer.

5.6 The District, on its own initiative pursuant to Minnesota Statutes §103F.48 and 103E.021, may acquire and provide compensation for buffer strips required under this rule on individual or multiple properties along a public drainage system. The Board of Managers findings and order will be delivered or transmitted to the landowner.

5.7 This section does not displace, the terms of Minnesota Statutes chapter 103E requiring or providing for drainage system establishment and acquisition of vegetated buffer strips along public ditches.

6.0 Action for Noncompliance

6.1 When the District observes potential noncompliance or receives a third-party complaint from a private individual or entity, or from another public agency (such as the SWCD), it will determine the appropriate course of action to confirm compliance status. This may include communication with the landowner or his/her agents or operators, communication with the shoreland management authority, inspection or other appropriate steps necessary to verify the

compliance status of the parcel. On the basis of this coordination, the SWCD may issue a notification of noncompliance to the District. If the SWCD does not transmit such a notification, the District will not pursue a compliance or enforcement action under Minnesota Statutes §103F.48, but may pursue such an action under the authority of Minnesota Statutes §§103E.021 and 103D.341 and section 6 of this rule.

6.2 On receipt of an SWCD notification of noncompliance, or if acting solely under authority of Minnesota Statutes §103E.021 or 103D.341, the District will determine first whether sufficient public drainage system easement exists to establish the required vegetative buffer. If a sufficient easement does not exist, the District will attempt to acquire the necessary easements through incremental buffer establishment provided in §103E.021, subd. 6 or through a redetermination of benefits provided in Minnesota Statutes §103E.351 to establish the required buffers. The establishment of the required buffers will occur within 12 months of the determination that inadequate easement exists, and no more than 18 months from the receipt of a SWCD notification of noncompliance or the Watershed District decision to establish the required buffers.

6.3 If the District is unable to acquire the necessary easements through incremental buffer establishment provided in §103E.021, subd. 6 or through a redetermination of benefits, or if sufficient easement does exist and an established buffer has been adversely altered, the District will issue a corrective action list and practical schedule for compliance to the landowner or responsible party. The District may inspect the property and will consult with the SWCD, review available information and exercise its technical judgment to determine appropriate and sufficient corrective action and a practical schedule for such action. The District will maintain a record establishing the basis for the corrective action that it requires.

6.3.1 The District will issue the corrective action list and schedule to the landowner of record. The landowner may be the subject of enforcement liabilities under subsections 7.1 and 7.2. The District may deliver or transmit the list and schedule by any means reasonably determined to reach the landowner, and will document receipt. However, a failure to document receipt will not preclude the District from demonstrating receipt or knowledge in an enforcement proceeding under section 7.0.

6.3.2 The corrective action list and schedule will identify the parcel of record to which it pertains and the portion of that parcel that is alleged to be noncompliant. It will describe corrective actions to be taken, a schedule of intermediate or final dates for correction, a compliance standard against which it will judge the corrective action, and a statement that failure to respond to this list and schedule will result in an enforcement action. The District will provide a copy of the list and schedule to the BWSR.

6.3.3 At any time a landowner or responsible party may supply information in support of a request to modify a corrective action or the schedule for its performance. On the basis of any such submittal or at its own discretion, the District may modify the corrective action list or schedule, and deliver or transmit the modified list and schedule in accordance with paragraph 5.2.1, or may advise the landowner in writing that it is not pursuing further compliance action.

6.3.4 At any time after the District has issued the list and schedule, a landowner, or authorized agent or operator of a landowner or responsible party, may request that the SWCD issue a validation of compliance with respect to property for which the list and schedule has been issued. On District receipt of the validation: (a) the list and schedule will be deemed withdrawn for the purposes of subsection 7.2, and the subject property will not be subject to enforcement under that subsection; and (b) the subject property will not be subject to enforcement under subsection 6.3.

6.3.5 A corrective action list and schedule is not considered a final decision subject to appeal. An objection to a finding of noncompliance, or to any specified corrective action or its schedule, is reserved to the landowner or responsible party and may be addressed in an enforcement proceeding under section 7.0.

7.0 Enforcement

7.1 Under authority of Minnesota Statutes §103E.021, 103D.545, and 103D.551, the District may seek remedies for noncompliance with section 4.0 against any landowner or responsible party including but not limited to: (a) reimbursement of District compliance costs under Minnesota Statutes §103D.345 and 103E.021 and/or an escrow, surety, Performance Bond or a Letter of Credit for same; (b) administrative compliance order; (c) district court remedy including injunction, restoration or abatement order, authorization for District entry and/or order for cost recovery; and (d) referral to the District attorney for criminal misdemeanor prosecution.

7.2 In instances where existing vegetation on the ditch buffer easement has been adversely altered and has not been restored, the District may collect compliance expenses in accordance with Minnesota Statutes §103E.021 from a landowner for noncompliance with the corrective action list and schedule, as provided under paragraphs 6.3.1 and 6.3.2. The District will restore any adversely altered buffer and charge the landowner for the cost of the restoration if the landowner does not complete the requirements of the corrective action list and schedule.

7.3 In instances where a ditch buffer easement area cannot be established in a timely manner, the District may issue an administrative order imposing a monetary penalty against a landowner or responsible party for noncompliance with the corrective action list and schedule, as provided under paragraphs 7.3.1 and 7.3.2. The penalty will continue to accrue until the noncompliance is corrected as provided in the corrective action list and schedule.

7.3.1 The penalty for a landowner on a single parcel that previously has not received an administrative penalty order issued by the District shall be:

- (a) \$0 for 11 months after issuance of the corrective action list and schedule;
- (b) \$50 per parcel per month for the first six (6) months (180 days) following the time period in (a); and
- (c) \$200 per parcel per month after six (6) months (180 days) following the time period in (b).

7.3.2 The penalty for a landowner on a single parcel that previously has received an administrative penalty order issued by the District shall be:

- (a) \$50 per parcel per day for 180 days after issuance of the corrective action list and schedule; and
- (b) \$200 per parcel per day for after 180 days following the time period in (a).

7.4 The administrative order will state:

- I. The facts constituting a violation of the buffer requirements;
- II. The statute and/or rule that has been violated;
- III. Prior efforts to work with the landowner to resolve the violation;
- IV. For an administrative penalty order, the amount of the penalty to be imposed, the date the penalty will begin to accrue, and the date when payment of the penalty is due; and
- V. The right of the landowner or responsible party to appeal the order.

A copy of the APO must be sent to the SWCD and BWSR.

7.5 An administrative order under subsection 7.1 or 7.3 will be issued after a compliance hearing before the District Board of Managers. The landowner and any other responsible parties will receive written notice at least two weeks in advance of the hearing with a statement of the facts alleged to constitute noncompliance and a copy or link to the written record on which District staff intends to rely, which may be supplemented at the hearing. A landowner or responsible party may be represented by counsel, may present and question witnesses, and may present evidence and testimony to the Board of Managers. The District will make a verbatim record of the hearing.

7.6 After a hearing noticed and held for consideration of an administrative penalty or other administrative order, the Board of Managers may issue findings and an order imposing any authorized remedy or remedies.

7.6.1 The amount of an administrative penalty will be based on considerations including the extent, gravity and willfulness of the noncompliance; its economic benefit to the landowner or responsible party; the extent of the landowner or responsible party's diligence in addressing it; any noncompliance history; the public costs incurred to address the noncompliance; and other factors as justice may require.

7.6.2 The Board of Managers findings and order will be delivered or transmitted to the landowner and other responsible parties. An administrative penalty order may be appealed to the BWSR in accordance with Minnesota Statutes §103F.48, subdivision 9, and will become final as provided therein. The District may enforce the order in accordance with Minnesota Statutes §116.072, subdivision 9. Other remedies imposed by administrative order may be appealed in accordance with Minnesota Statutes §103D.537.

7.6.3 The Board of Managers may forgive an administrative penalty, or any part thereof, on the basis of diligent correction of noncompliance following issuance of the findings and order and such other factors as the Board finds relevant.

7.7 Absent a timely appeal pursuant to paragraph 7.6.2, an administrative penalty is due and payable to the District as specified in the administrative penalty order.

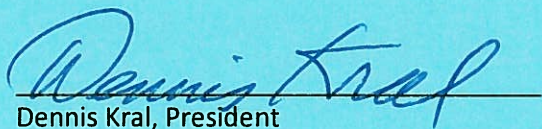
7.8 Nothing within this rule diminishes or otherwise alters the District's authority under Minnesota Statutes, Chapter 103E with respect to any public drainage system for which it is the drainage authority, or any buffer strip that is an element of that system.

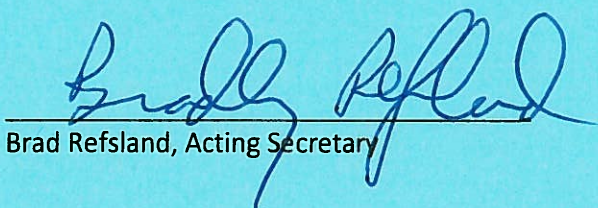
8.0 Effect of Rule

8.1 If any section, provision or portion of this rule is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the rule is not affected thereby.

8.2 Any provision of this rule, and any amendment to it, that concerns District authority under Minnesota Statutes §103F.48 is not effective until an adequacy determination has been issued by the BWSR. Authority exercised under Minnesota Statutes Chapter 103D and 103E does not require a BWSR adequacy determination.

Adopted by the Board of Managers of the Pelican River Watershed District this 19th day of July, 2018.


Dennis Kral, President


Brad Refsland, Acting Secretary

BECKER COUNTY ATTORNEY

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July 19, 2018

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Vogel Law Firm
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218 Northern Pacific Avenue
Fargo, North Dakota 58107

RE: Floyd Lake Toy Box

Dear Counsel:

I am writing to inform you that it is the official position of Becker County that the Floyd Lake Toy Box development as proposed is not a permitted use within the zoning district. The County has not approved the project, and any memorandum or correspondence stating otherwise is retracted. For the project to be considered for approval, proper application must be made for approval of a subdivision and likely a conditional use permit. Proper application does not guarantee approval. Please refer to Chapter 8 Section 5 of the Becker County Zoning Ordinance for the subdivision approval process and Chapter 8 Section 11 for the conditional use permitting process.

Sincerely.

BECKER COUNTY ATTORNEY'S OFFICE

/s/ Nathaniel D. Welte
Nathaniel D. Welte
Assistant County Attorney
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Detroit Lakes, MN 56501
218-847-6590
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cc: Jack Ingstad, Becker County Administrator
Kyle Vareberg, Becker County Planning & Zoning

**Pelican River Watershed District
Administrator Monthly Report
August 10, 2018
www.prwd.org**

MAIN DISTRICT WATER QUALITY INITIATIVES

Targeted Watershed Nutrient Reduction Grant/Rice Lake Project. The wetland replacement credit application is under review by BWSR and Becker Soil and Water Conservation District. HEI has responded to preliminary review and made plan modifications. Detroit Township is reviewing Anchor Road potential for partial abandonment. The City of Detroit Lakes road and structure access easements have been drafted and are under review by the City.

Otter Tail Basin Watershed Restoration and Protection Strategies (WRAPS). District Staff (Guetter, Alcott, and interns) along with Manager Okeson, joined the MN DNR on August 1st to assess streambank erosion and rate the erodibility riverbank between Co Rd 149 to Floyd Lake. MN DNR will schedule a date to complete the upstream section between Co Rd 149 and 230th St. As expected, many areas of erosion were observed that are contributing to high nutrient and sediment loads to Floyd Lake, however, some of the bank slump areas from 20 year's ago are "healing" up. There is storm sewer which is discharging untreated water directly into the Pelican River at the old railroad spur crossing bridge and bypassing the nearby treatment pond. The City is working on repairing the structure. This area is on a preliminary water impairment list for e.coli, and other stressors.

Pelican River Watershed District 103E Systems Only Buffer Rule—The Buffer Rule and the approved July 2018 Board minutes will be sent to BWSR for their review and final approval.

St. Clair Lake/Ditch 14. Alcott has been providing District data to Joe Bischoff and Sarah Nalven (Wenck) to complete a quote for the feasibility study for an in-lake ALUM treatment on St. Clair and a study to investigate additional phosphorus removal on Ditch 14 prior to discharge into the Pelican River. We will also request a quote to include North Floyd Lake.

WATER MANAGEMENT RULES

Permits - see enclosed report.

Becker County Ordinance Review Committee – The committee members and government staff met on August 9th to review ordinance changes and additions to allow for storage facilities to be built without a principal structure .

MONITORING

Stream Monitoring— This past month we have observed phosphorus concentration increases after a 1.8-inch rainfall event on July 20th. Within the Rice Lake project area, the total phosphorus concentrations increased from 23ppb at Anchor Road/Ditch 13 to 189ppb at the Rice Lake outlet. Dissolved phosphorus also increased from 10ppb to 58 ppb between those sampling points.

We are also seeing similar water responses at Campbell Creek for sediment loading. After a 2-inch rainfall event on July 9, the sediment levels at 230th/Ditch 12 measured 6.8 mg/L, increased to 49mg/L ½ mile downstream near the edge of the downstream treeline, and significantly increased downstream through the forested area to 346 mg/L at Co Rd 149. At this point, the major sediment loading source is from the eroding streambanks in the forested area between 230th Street and Floyd Lake. The MN DNR streambank assessment coupled with the District's monitoring data will give a complete picture of sediment sources and scope of impacts.

Lake Monitoring – So far, in the 2018 open water season, water quality has been better than average for most District lakes. On Sallie, typical water clarity range for the month of July is between 5-7 feet. On July 24th, Lake Sallie and Melissa both had secchi readings of 12.5ft. Another interesting observation in July was that Big Detroit's clarity was at 12 ft. while Little Detroit was at 10.5 ft, which is a reversal of past trends. Total phosphorus (TP) levels for the lakes were at 15 ppb. Abbey Lake has the largest better than average results all season, where clarity is to the lake bottom (or into plant growth) and the average TP level on Abbey in late-July of about 50ppb. Floyd Lake is the only lake being monitored in 2018 that is below normal for both clarity, which was 8.5 feet (average of 11 feet), and 8ppb Chlorophyll-a (average of 5ppb) 8 at the end of July at average levels of 15 ppb.

Special Projects

Vegetation surveys were completed on Long Lake on August 2nd and 3rd. Vegetation surveys on Pearl Lake will be conducted on August 8th and 9th. The results will be published in the Annual Monitoring Report and on the website.

Chlorides. Chloride levels from Ditch 14 to the Pelican River remain consistent, ranging from 110-130 mg/L

EDUCATION

KDLM Radio – Tera spoke on Hodge Podge on July 20th about the events the district is involved in such as the Becker County fair and Aqua Chautauqua.

Aqua Chautauqua Event- Karen Terry, University of Minnesota Extension Office, continues to lead the organizations in planning this event for **Thursday, August 9, from 5:00-8:00 PM in Dunton Locks park.** PRWD received a MN Sustainable Development Partnership grant in the amount of \$500 to cover costs for the kayak/paddle, musician, and bike rental; Becker COLA pass through funds to the District will be applied towards the tent and cover ice cream coupons.

Becker County Fair – Interns Ali and Eli, along with Moses, staffed a booth in the MN DNR building booth in the MN DNR at the Becker County Fair between July 25-28. building once again this year. The big hit was the button maker where kids colored pictures of wildlife and were able to make into buttons. Temporary tattoos with butterflies, bugs, frogs, etc. were also handed out.

GENERAL ADMINISTRATION

2019 Budget – Guetter and Moses reviewed six month expenditures and deposits, reviewed Chart of Accounts, and prepared a draft 2019 for Board review.

MAWD finance Committee Meeting – Scheduled for Sept 10th.

AQUATIC INVASIVE SPECIES MANAGEMENT

MN DNR AIS Advisory Committee Meeting. Nothing further to report, the committee meets August 23rd in St. Cloud.

2018 Flowering Rush Treatment. On July 20th, Alcott and interns reviewed treated areas on Detroit, Curfman, Muskrat, Sallie and Melissa. Most areas had good FR control with little regrowth observed, however, at the Pelican River/Sallie area there was poor FR control, especially in near shore area along Sallie in front of MN DNR facilities.

Guetter and Alcott contacted PLM (applicator) and discussed the results and learned the chemical application rate was greatly reduced in these areas since the boat equipment couldn't accurately calibrate the water depth due to extreme plant density. Alcott and intern Chalberg surveyed the actual water depth conditions within these areas and determined the depth was much deeper and could be treated at the maximum dosage rate in August.

Another nearby area of poor control was located on Muskrat Lake at the location of the tram. Due to the shallow water and current flowing through Dunton Rapids, herbicide contact time is not adequate to provide control. The area was not treated a 2nd time.

Alcott met with MN DNR AIS Specialist Mark Ranweiler and Nicole Kovar on July 25th to discuss the slight browning that was observed on some Bulrush on Lake Sallie after the first treatment. It is still unclear what caused the browning, but, after review of the areas, it was determined that the damage was only superficial and did not have any longterm impacts to the plant. As a precaution, and to limit any additional stress on the Bulrush that was affected by the first treatment, Alcott removed 3.2 acres of treatment area on the Lake Sallie Bulrush site.

Working around late July unfavorable wind conditions and early August WeFest event, the second treatment was done on August 6th and 7th which had ideal weather conditions – wind was calm!.

DRAINAGE SYSTEM REPORT

July 2018

Ditch 11/12 – A work order was issued to Josh Campbell to begin trapping beaver from a blockage just upstream from Whiskey creek drive.

Ditch 13 – Nothing to report.

Ditch 14 – Nothing to report.

RULES OF ENFORCEMENT

August



Permits Issued

<u>No.</u>	<u>Name</u>	<u>Address/Area</u>	<u>Approved Project</u>
18-29	Opsahl, David & Melissa	896 White Clover Beach Rd Detroit	SIZ: Install 4' wide steps to lake
18-30	City of Detroit Lakes	Lake Forest 7th Addition	Extension of street, sanitary sewer main, and stormwater Collection
18-31	Erik Gunderson Park Core LLC	Cty Rd 131 & Lindstrom Rd.	Site grading and construction of 2 multi unit and 24 single unit storage structures.
18-32	Nesemeier, Dallas & Jackie	24039 County Hwy 22 Pelican River	Site redevelopment. Remove existing structures and shoreline retaining wall. Construct new house, stormwater management Systems and shoreline restoration
18-33	Cornforth, Marilyn	11484 Ravenswood Beach Rd. Melissa	SIZ: Repair rip rap
18-34	Larson, Mike	24955 Lakeridge Lane Sallie	SIZ: Tree removal for view. Bluff Impact Zone: tree removal to prevent damage to retaining wall.
18-35	Cossette, Lawrence	25969 Brolin Beach Rd. Big Floyd	SIZ: Install 123' of rip rap to protect shoreline from muskrat damage.
18-36	City of Detroit Lakes WWTP	1044 Willow St. West	New construction and updated stormwater management plan.

Permit Applications submitted

Becker County Hwy Dept—County Hwy 131. Reconstruction of road from Hwy 59 to Tower Rd. As of 8/8 Apex is working on rate control calcs.

Vilmo, David & Karen—224 Shorewood Dr. Rip rap and ice ridge repair. MN DNR permit is required for ice ridge work.

Graham, Judd—1866 Brainard Circle. Remove retaining wall and replace patio.

City of Detroit Lakes/Airport Phase II—Runway construction. Wenck first review complete. Mead & Hunt currently making revisions.

Johnson, Jeff—23310 South Melissa Dr. Replace and remove portions of retaining wall. Need erosion control plan and project timeline.

Highland Estates—1335 Highland Dr. 22 unit condo complex. Wenck currently reviewing.

Thirfty White Pharmacy—321 West Main St. New building construction and site redevelopment. Review 1 is complete and applicant revising.

Friesen's—1389 Cormorant Ave. Building additional and parking lot construction. Wenck currently reviewing.

Swanson's Repair—Plans received 7/27. Wenck currently reviewing. Alcott expediting

Permit Applications expected

Historical Society Museum—Plans are being developed for both building and parking lot redevelopment.

Detroit Mountain Recreational Area—Apex working on stormwater management plan for entire complex.

Bob Bekkerus—126 Shorewood Dr. Stormwater management plan required; over 25% lot coverage. Becker SWCD making plan revisions

Violations Under Remediation

Aabye, Marjean—20818 Clarks Grove Rd. SIZ Violation in late 2017. Guetter met with owner on site 7/2 and agreed on plan. The south 25' of retaining wall and new sand area will be removed and slope regraded with grass planted. They will maintain 25' of sand blanket area on northern half of property. Work to be completed by mid September.

Progress Report

Golden Bay Shores—Retaining wall has been constructed as designed and meets City requirements. Reseeded stormwater ponds is complete. We will continue to monitor the site throughout the summer.