Rule Revision Process

Pelican River watershed district

Public Information Meeting – September 25, 2024

moore engineering, inc.

1

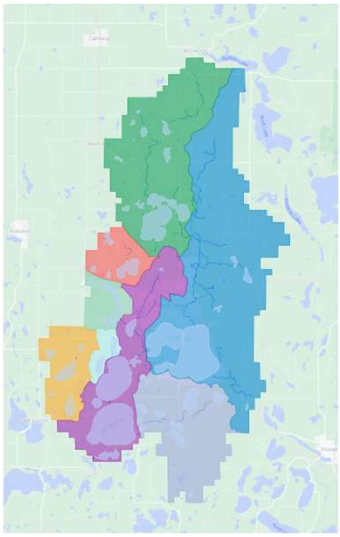
Outline (this is not a slide)

- Brief introduction to the presenter
- Brief intro/overview of PRWD
- Rule Revision Process Overview
  - Basis of Rules
  - What the Board has done
  - Where we're at
  - What's ahead – estimated schedule
- Rule interaction primer
- Process ahead
- Next opportunity to engage
- Q&A
- Solicit Feedback – future process improvement now that rules are being updated
- Prepare slides on typical activities – Home project, sand blanket, SIZ figure
  - Hearing more about disappearing shoreline
  - Plug cost share program

2

Pelican River Watershed District

- PRWD or District
- Special Unit of government under MS 103D ("Watershed Law")
- Covers approximately 120 sq. mi. in Becker and Otter Tail Counties.
- Drains to Pelican River and ultimately the Otter Tail and Red Rivers
- Board of Managers (7)
- Staff (3)



3

PRWD Brief History

- Establishment initiated in 1965 to address lake issues, namely "finding causes and solutions for lake eutrophication problems".
- PRWD was the first WD established under the Amended Watershed Act of 1965 which expanded the definition of watershed to include lakes and the lands draining to them.
- First Plan published in 1967
- Fifth Plan published in 2023 as part of Otter Tail River One Watershed One Plan

4

Moore Engineering, Inc.

PRWD District Engineer

Established in 1960

ESOP S-Corp

180+ Employees

Engineers
Engineering Technicians
Surveyors & Crews (PLS)
CADD & GIS Technicians
Environmental Scientists

5

Mission & Values

Improving lives by building strong communities.

RESPECT | INTEGRITY | ACCOUNTABILITY | LOYALTY | KINDNESS

6

Locations

11 Office Locations

NORTH DAKOTA

Bismarck
Horace
Minot
Valley City
West Fargo
Williston

MINNESOTA

Bemidji
East Grand Forks
Fergus Falls
Plymouth
St. Cloud

7

Services

Municipal
We help cities with their water, sewer, streets, walking paths and more - the things that make cities more livable and keep economic activity churning.

Water & Wastewater
Water systems, wastewater systems, pumping stations and water towers - our team works on the most basic to the most challenging water quality issues in the region.

Land & Site Development
We help guide developments from concept to completion while considering aesthetics, safety, site constraints, storm water management, zoning, ordinances and more.

Airports
Airports across the region rely on us for the planning, layout, and design of runways, taxiways, aprons, hangars, roads, parking facilities and more.

Environmental
Our team navigates complex regulatory environment. We're proud to serve clients with best-in-class analysis and evaluation, design and engineering, reporting, permitting, and funding assistance support.

Construction Observation
Our RPRs serve as project owners' "eyes and ears", monitoring the project's every step, ensuring contract compliance and addressing issues as they arise.

Survey
With the most up-to-date technology, we provide immediate, accurate collection and storage of field data from topographic and boundary surveys to easements, road surveys and construction staking.

GIS
Geographic Information Systems (GIS) is not just mapping. It's information about your world, bringing data together to make smarter, faster decisions.

Drones
Thanks to advanced drone technology, our inspections, tracking, imagery and more are easier and safer than ever.

Transportation
We partner with state-wide departments of transportation to serve the region. Together we design, build, and maintain urban, rural, and state streets and highway systems to keep us moving forward.

8

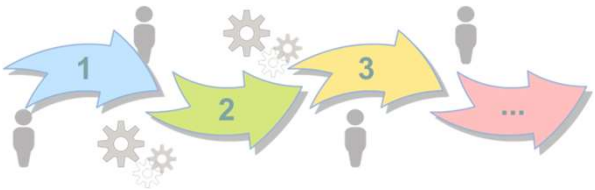
Where We Started

- One of the first tasks to tackle was a Rule Revision
- Previous Rules were outdated (last published April 1, 2003)
  - A lot has happened in water management in the last 20+ years
  - Needed to incorporate new industry standards
- Previous Rules were causing confusion
  - Did not meet current needs of applicants or practices of staff
  - Referenced many exterior documents and had few criteria listed
  - Needed to provide a primary source for applicants to understand permitting requirements
- Started in March

9

Rule Making is a Process

- When we work the process we
  - Stay focused
  - Systemically address each item
  - Provide important background information
  - Make informed decisions
  - Work towards consensus
- We're not starting from scratch
  - This will be a refinement and clarification process
  - We will revisit and either edit or reaffirm as needed



10

What is the Process?

- BWSR Rule Making Handbook
- Statutory Requirements
- Facilitated by following a Roadmap
  1. ~~Review District Goals & Purpose~~
  2. ~~Establish Baseline Knowledge~~
  3. ~~Clarify/Update Rule Language and Criteria~~
  4. Coordination With Other Agencies - WIP
  5. Establish Procedures/Workflows - WIP
  6. Stakeholder Review of Proposed Updates
  7. Complete Review and Comment Period

11

Review District Goals & Purpose

- What's in the Comprehensive Watershed Management Plan?
- What are we obligated to do?
  - MS 103.D
  - MS 103.E
  - MPCA (WRAPS/TMDLs)
  - MS4
  - Etc.

12

Otter Tail Plan Vision Statement

- "The natural beauty and diversity of water and land in the Otter Tail Watershed is attractive to residents and tourists because of its recreational opportunities, farming, forests, and wildlife. We strive to sustain this diversity of riches for future generations to enjoy."

- Preserve, Enhance, & Protect

13

Obligations

- State Statute 103D – Watershed Law

103D.201 WATERSHED DISTRICT PURPOSES.

Subdivision 1. **General purposes.** To conserve the natural resources of the state by land use planning, flood control, and other conservation projects by using sound scientific principles for the protection of the public health and welfare and the provident use of the natural resources, the establishment of watershed districts is authorized under this chapter.

Subd. 2. **Specific purposes.** A watershed district may be established for any of the following purposes:

(1) to control or alleviate damage from floodwaters;

(2) to improve stream channels for drainage, navigation, and any other public purpose;

(3) to reclaim or fill wet and overflowed land;

(4) to provide a water supply for irrigation;

(5) to regulate the flow of streams and conserve the streams' water;

(6) to divert or change all or part of watercourses;

(7) to provide or conserve water supply for domestic, industrial, recreational, agricultural, or other public use;

(8) to provide for sanitation and public health, and regulate the use of streams, ditches, or watercourses to dispose of waste;

(9) to repair, improve, relocate, modify, consolidate, and abandon all or part of drainage systems within a watershed district;

(10) to control or alleviate soil erosion and siltation of watercourses or water basins;

(11) to regulate improvements by riparian property owners of the beds, banks, and shores of lakes, streams, and wetlands for preservation and beneficial public use;

(12) to provide for hydroelectric power generation;

(13) to protect or enhance the water quality in watercourses or water basins; and

(14) to provide for the protection of groundwater and regulate its use to preserve it for beneficial purposes.

History: *1990 c 391 art 4 s 6*

Official Publication of the State of Minnesota
Revisor of Statutes

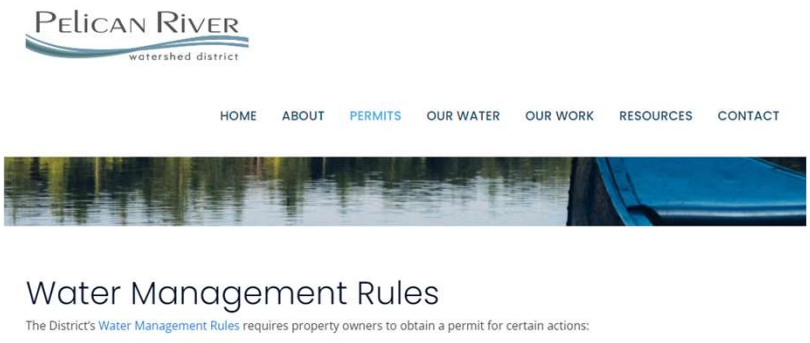
14

Obligations

- State Statute 103D – Watershed Law

103D.341 RULES.

Subdivision 1. **Requirement.** The managers must adopt rules to accomplish the purposes of this chapter and to implement the powers of the managers.



15

Obligations

- State Statute 103E – Drainage Law

103E.011 DRAINAGE AUTHORITY POWERS.

Subdivision 1. **Generally.** The drainage authority may make orders to:

(1) construct and maintain drainage systems;

(2) deepen, widen, straighten, or change the channel or bed of a natural waterway that is part of the drainage system or is located at the outlet of a drainage system;

(3) extend a drainage system into or through a municipality for a suitable outlet; and

(4) construct necessary dikes, dams, and control structures and power appliances, pumps, and pumping machinery as provided by law.

16

Obligations

- MPCA
  - Otter Tail River Watershed Restoration and Protection Strategies
    - Watershed Approach – holistic approach to surface water management
    - Identify impairments and stressors
      - Excess nutrients & Eutrophication
      - Fish and aquatic insect impacts due impairments
      - 8 stream reaches impaired for E. coli
  - Otter Tail River Watershed Total Maximum Daily Load Report (TMDL)
    - Purpose – Section 303(d) of the federal CWA requires that TMDLs be developed for waters that do not support their designated uses. These waters are referred to as "impaired" and are included in Minnesota's list of impaired waterbodies. The term "TMDL" refers to the maximum amount of a given pollutant a waterbody can receive on a daily basis and still achieve water quality standards.
    - Plainly – What's the sustainable limit
    - St. Clair Lake
    - Campbell Creek/CD12

17

Obligations – with Partners

MS4 – Municipal Separate Storm Sewer System

An MS4 is a conveyance or system of conveyances that is:

- owned by a state, city, town, village, or other public entity that discharges to waters of the U.S.,
- designed or used to collect or convey stormwater (e.g., storm drains, pipes, ditches),
- not a combined sewer, and
- not part of a sewage treatment plant, or publicly owned treatment works (POTW).

Requires MS4s to obtain NPDES permit coverage for stormwater discharges

- NPDES – National Pollutant Discharge Elimination System
  - Nationwide permit
  - Typically for Construction Stormwater and Industrial use
  - Threshold of 1 acre of disturbance (or cumulative of 1 acre for planned development)
  - Often focused on no net increase in rate and minimize nutrient loading

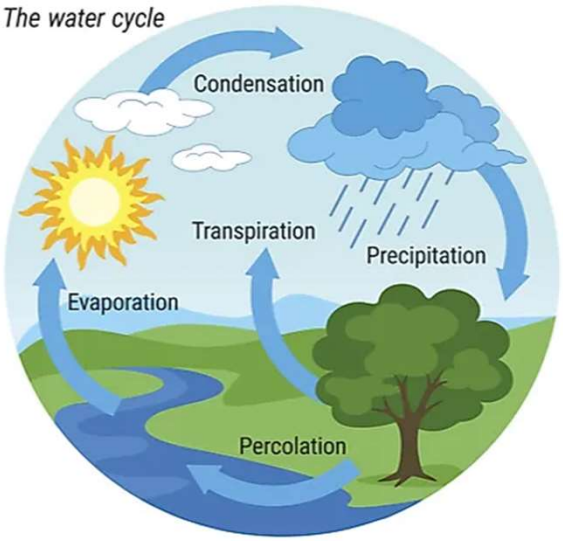
18

What's the Takeaway?

- PRWD has/shares many goals
  - CWMP
  - WMP
  - WRAPS
- PRWD has obligations
  - 103D
  - 103E
  - TMDL
  - MS4 (in collaboration with partners)
- The obligations won't inherently meet the goals
  - The Pelican River Watershed is a unique context with unique needs and interests
  - Accomplishing goals will require a multifaceted approach

19

What's at the heart?



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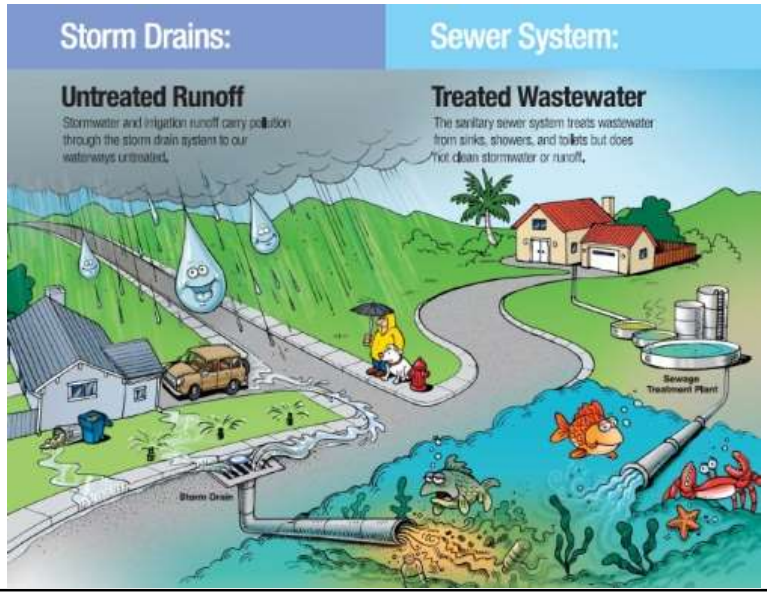
How do we play a part?



21

How do we play a part?

22

What requires a permit?

Common Stormwater Thresholds

- Non- linear projects that construct or reconstruct impervious surface:
  - More than 25% residential lot area within the shoreland district.
  - More than 25% commercial lot area elsewhere.
  - More than 7,000 square feet of lot coverage within the shoreland district.
  - More than 1 acre of impervious surface coverage or 5 percent elsewhere.
  - Projects requiring a variance from, or use of allowable mitigation within, the local shoreland zoning ordinance.
- Residential subdivision or development of four(4) or more lots
- Others detailed in the Rules

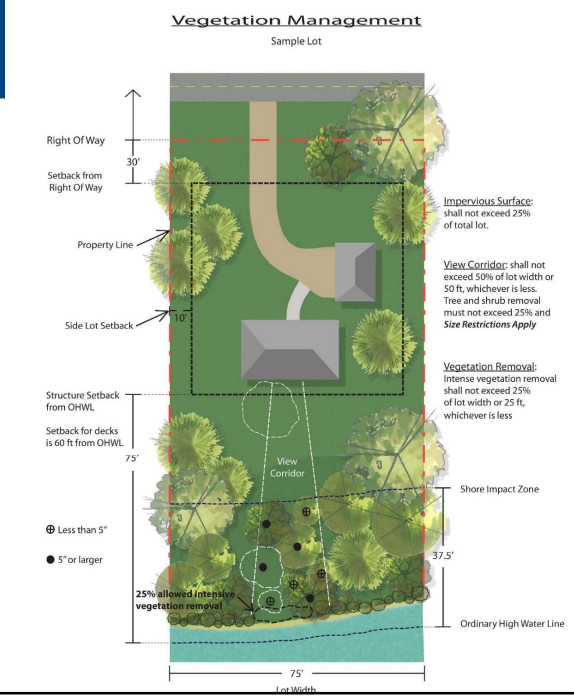
23

What requires a permit?

Common Shoreland Thresholds

- Land Disturbance within Shoreland Impact Zone:
  - Grading
  - Construction or Reconstruction of Impervious Surface
  - Ice Pressure Ridge Repair
  - Bank Stabilization
  - Sand Blankets
  - Rain Gardens
- Retaining Walls
- Vegetation Alteration

24



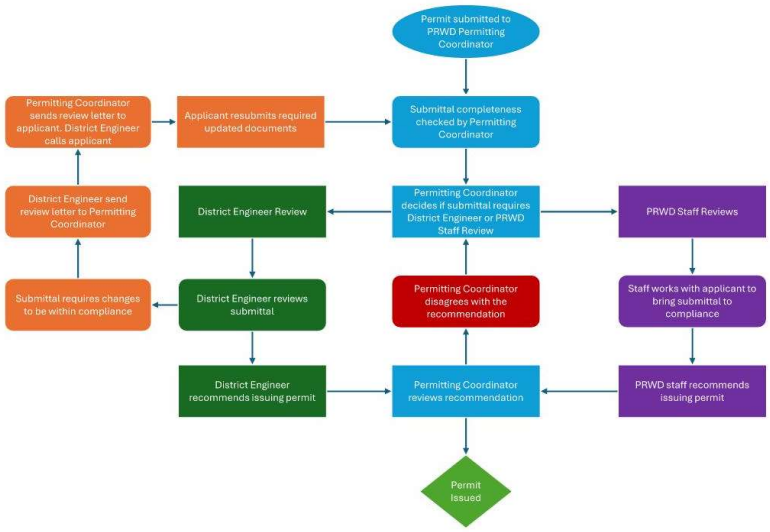
25

What requires a permit?

- Thresholds and regulated activities are listed in the Rule
- When in doubt, check website or call District staff! (They're really helpful)
- PRWD doesn't regulate land use or impervious surface but does regulate the stormwater that comes off it and shoreline activity.
- Reminder – you may need permits from other agencies!

26

What is the permit process?



27

Rule Revision Next Steps

Moore to finalize next revision of Draft Rule
Draft Rule made available on PRWD website
October 22nd meeting with Contractors, Engineers, Agencies, and Public Partners
Prepare revised Rules for Board consideration in November
Begin the Public Hearing Process of posting Rules for required comment period
Compile and address public comment for Final Draft
Board review of Final Draft
Public Hearing estimated February of 2025

28

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29

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30

Q&A

31

Future Engagement

We want your feedback!

Following Rule Revision, District staff want to know what resources and application processes you would find helpful. Please share your ideas.

32

Rules of Interest

Ice Pressure Ridges

Ice pressure ridges are formed by winter ice expansion pushing up on a shoreline. While these natural features provide a host of ecological benefits there are circumstances that it may be necessary to conduct repair to an existing ridge that has been damaged. Modification to the ice pressure ridge is permitted according to the following:

i. Modifications or repairs are only allowed on ice pressure ridges that experienced recent damage from ice action within the past six (6) months. Landowners will need to provide proof of ice ridge formation within the last six months through ariels or photographs.
ii. A ridge of no less than eight (8) inches must be maintained parallel to the shore or ice ridge repaired to previous height (whichever is higher). The eight (8) inch difference is measured between the ridge top and three (3) feet landward of the ridge
iii. Ice ridge material that is composed of muck, clay, or organic sediment is deposited and stabilized at an upland site above the OHW.
iv. Ice ridge material that is composed of sand or gravel may be regraded to conform to the original cross-section and alignment of the lakebed, with a finished surface at or below the ordinary high-water level (OHWL) or it may be removed.
v. Additional excavation or replacement fill material must not occur on the site.
vi. Erosion control measures shall be installed in accordance with the approved Erosion and Sediment Control Plan. Once grading and excavating activities are completed, the project area shall be vegetated.
vii. Any unrelated grading, excavating, and/or filling activities may require additional permits.
viii. Any alteration below the OHWL shall require approval from the DNR.
ix. Project must meet all state, city, and county regulations.

33

Rules of Interest

Sand Beach Blanket

Placement of sand beach blanket areas must meet the following standards:

i. The existing lake bottom must be hard bottom sand or gravel, with no muck or organic layer present, suitable for supporting material.
ii. The maximum size of the blanket cannot exceed fifty (50) feet in width (or half width of the lot, whichever is less), maximum ten (10) feet in depth landward from the OHW, ten (10) feet waterward from OHW, and not exceed six (6) inches in thickness.
    1) Alternatively, within the view corridor, the sand blanket may be thirty (30) feet wide and fifteen (15) feet landward from the OHW.
iii. The natural slope must be less than five (5) percent.
iv. Material must be clean and washed sand or gravel with no organic materials, silt, loam, or clay.
v. The design must incorporate a berm or stormwater diversion around the beach area on upslope edge to prevent erosion.
vi. Replacement and maintenance of the sand blanket requires a permit and expansion of the sand blanket is not allowed. Only one (1) installation of sand or gravel to the same location may be made during a four-year period. After the four (4) years have passed since the last blanketing, the location may receive another sand blanket. More than two (2) applications at an individual project site requires a permit from the MN DNR.
vii. Sand blankets are not allowed on steep slopes, emergent vegetation, or wetland and marsh areas.
viii. Exception. Beaches operated by public entities and available to the public may be maintained in a manner that represents the minimal impact to the environment are exempt from parts 1 and 5 of this section; however, District permits are still required and must adhere to MN DNR regulations.
ix. Use of non-biodegradable fabric is not permissible.

34

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35