



Title: MN Watersheds 2025 Submitted Resolutions

Prepared by: Name: Becky Christopher, Policy Director
Phone: 952-641-4512
bchristopher@minnehahacreek.org

Purpose:

To provide the Board of Managers with the resolutions that were submitted for consideration by the members of Minnesota (MN) Watersheds and staff's proposed process for review.

Background:

On March 21, 2025, MN Watersheds held a special meeting to adopt a new process for resolutions and legislative priorities. This new process allows for resolutions to be developed earlier in the year and for the membership to vote on the legislative priorities at the annual meeting.

Under this new process, there is a brief 10-day comment period for members to provide input on the proposed resolutions before they are reviewed by the Resolutions and Legislative Committee (Committee). The Committee will meet by July 1 to review the resolutions and provide their recommendations, which will then be distributed to the members. Watershed delegates will meet in August to deliberate and act on the proposed resolutions. At the December annual meeting, the members will review and approve legislative priorities.

Summary:

Staff have discussed the new resolution process with the Administrator and Board President and propose the following approach to staff review and communication to the Board:

1. During the initial 10-day comment period:
 - a. Resolutions will be assessed by the Policy Director, who will determine if legal review is warranted or if any written analysis is needed for the Board
 - b. Resolutions can be included as an information item unless Policy Director, Administrator, or Board President guide for deeper Board analysis and discussion
2. MN Watershed's Resolution Committee:
 - a. Reviews statewide staff feedback
 - b. Determines which resolutions will be advanced
3. Prior to August MN Watershed Meeting on Resolutions:
 - a. Staff will provide written analysis for the Board, with input from legal counsel
 - b. The Board will appoint delegates to vote on MCWD's behalf

Five resolutions were submitted for consideration and are attached for the Board's information. Staff will provide analysis of the resolutions, and the Committee's upcoming recommendations, ahead of the August 25, 2025 meeting.

Supporting documents:

2025 MN Watersheds Submitted Resolutions

Background Information

2025 Minnesota Watersheds Resolution #1

Proposing Watershed: Coon Creek Watershed District

Contact Name: Tim Kelly

Phone Number: 763-755-0975

Email Address: Tkelly@cooncreekwd.org

Resolution Title: Resolution Seeking Action For Increasing MDNR And MPCA Permit Efficiency, Requiring State Agencies To Consider Existing And Prior Approved Plans and Studies, Encouraging Practical And Timely State Agency Input

Background that led to the submission of this resolution:

Lower Coon Creek in Anoka County is on the State impaired waters list. The Coon Creek Watershed District is required to address that impairment and make significant progress in resolving that impairment by 2050.

In September/October 2024 a planned project by the District to restore a large portion of lower Coon Creek was delayed during MPCA and MDNR permit reviews for unspecified reasons. Reaching out to MDNR and MPCA field staff yielded no specifics as to why the delay.

In meetings with senior MDNR and MPCA staff we learned that MDNR conducts both their review of permit application completeness, and project compliance with state standards, at the same time. The result has created an environment of potential never-ending requests for data, information and additional costs with no certainty of obtaining approval.

Efforts to solve the problem:

In January, February and March 2025, Coon Creek Watershed District and Minnesota Watersheds staff met with the MDNR and MPCA commissioners, Division Directors and lead program staff. One of the goals was to review, discuss and work together to clarify and develop a common understanding of the problem and begin to develop a general approach to restructure the context of project discussions and reviews and thereby provide increased certainty and reduced risk for water resource restoration projects.

Those meetings have yet to produce any practical or feasible alternatives or clear or practical paths to reducing the risk and uncertainty in pursuing public projects or the waste of public funds.

Is legislative action the best means of addressing the matter? If yes, what is the purpose or intent of your proposal? If not, what advocacy steps could be taken with state or local government officials?

We believe that legislation is required to

1. Change and shape the context of permit reviews
2. Clarify the state agencies' roles,
3. Provide deference to local water management projects that are the product of a planning or environmental review process, have been reviewed and generally vetted by local and state agencies, coordinated with local, state and federal water management efforts, potentially obtained state funding and gained general approval.

The goal of this effort is to amend Minnesota Statutes 84.027 and Minnesota Statute 116.03. Our intent is to reduce the risk and uncertainty currently associated with vetted public projects and prevent the waste of public funds. To accomplish this, we suggest that:

- That both state agencies be required to accept existing approved plans and studies as sufficient evidence and disclosure on the need and reasonableness of the project
- MDNR and MPCA be required to attend a preapplication meeting to review site specific restraints, constraints, and problems and identify practical and feasible actions for completing the project.
- That the local agency requesting the meeting have plans that are 10% to 20% complete and of sufficient detail to identify specific environmental and natural resource problems, and impacts.
- That failure of the agencies to attend the meeting will constitute a finding by the agency not attending, and that the project sponsor can proceed toward a detailed design that meets state standards and when practical and feasible addresses concerns identified at the meeting

In the end, uncertainty will be reduced by making explicit the requirements for a complete application and the ability to gauge permit review timelines. Risk will be reduced by being able to plan and schedule funding, contract scopes and construction schedules.

Anticipated support or opposition:

Support:

Association of Minnesota Counties
Association of County Highway Engineers
League of Minnesota Cities
Minnesota City Stormwater Coalition
Minnesota Association of Soil and Water Conservation Districts

Opposition:

Minnesota Department of Natural Resources
Minnesota Pollution Control Agency
Audubon Society

This issue (check all that apply)

Applies only to our district:	<u> </u>	Requires legislative action:	<u> X </u>
Applies only to 1 or 2 regions:	<u> </u>	Requires state agency advocacy:	<u> </u>
Applies to the entire state:	<u> X </u>	Impacts MW bylaws or MOPP:	<u> </u>

RESOLUTION SEEKING ACTION FOR INCREASING MDNR AND MPCA PERMIT EFFICIENCY, REQUIRING STATE AGENCIES TO CONSIDER EXISTING AND PRIOR APPROVED PLANS, ENCOURAGING PRACTICAL AND TIMELY STATE AGENCY INPUT

WHEREAS, the Coon Creek Watershed District (District) is a Minnesota special purpose unit of government established and governed under Minnesota Statute 103D and a Watershed Management Organization (WMO) under the Metropolitan Surface Water Management Act (Minnesota Statute 103B), and

WHEREAS, the District is also a Special Municipal Separate Storm Sewer System (MS4) under Minnesota Rules chapter 7090, and

WHEREAS, as an MS4, the District is pursuing the water quality goals, water quality load reductions and restoration of the impaired waters within the District to achieve the state and federally approved total maximum daily loads in a manner that is cost-effective and does not create other natural resource problems, and

WHEREAS, the District has developed a comprehensive watershed management plan and capital improvement program to achieve the state and federal water quality and other goals, including support for the conservation and preservation of endangered species, achievement of the TMDLs within the watershed, and

WHEREAS, that plan and list of capital improvements was reviewed by both the Minnesota Department of Natural Resources and the Minnesota Pollution Control Agency and the District addressed all of the concerns raised during those reviews, and

WHEREAS, following the District response to comments the plan was endorsed by both agencies and approved by the Minnesota Board of Water and Soil Resources, and

WHEREAS, implementation of comprehensive watershed management plans, including support for the conservation and preservation of endangered species, TMDL and restoration of impaired waters can involve direct action and construction such as streambank stabilization, stream channel restoration projects, and reconnection with the floodplain, and

WHEREAS, in order for those projects to be budgeted at the local level, qualify for state grants and be successfully completed, the Board of Water and Soil Resources, the Minnesota Pollution Control Agency and the Minnesota Department of Natural Resources encourage or require those projects be collaborative in nature, consistent with the Storm Water Pollution Prevention Plan,

and specifically referenced in the capital improvement project portion of the comprehensive watershed management plan, and

WHEREAS, implementing those actions and projects may require permits from the Minnesota Pollution Control Agency and/or, Minnesota Department of Natural Resources, and

WHEREAS, the review of those permit applications by the Department of Natural Resources is guided in part by Minnesota Statutes 84.027, subdivisions 14, 14a; and permit applications to the Minnesota Pollution Control Agency are guided by Minnesota Statute 116.03, subdivision 2b, and

WHEREAS, both of these agencies have repeatedly demonstrated and engaged in actions that have ignored the prioritized and mandated natural resource conservation and restoration issues identified in the approved comprehensive watershed management plans, the actions needed to protect public health, safety and infrastructure, have not provided practical or feasible suggestions that address the state agency's apparent concerns, and have delayed administrative action and decision-making by repeatedly requesting additional data and surveys, with no apparent consideration of the additional cost to the public or additional damage to the land or related water resources, and

WHEREAS, the delayed decisions have led to increased water resource damage, increased project costs and discouraged the pursuit and achievement of the mandated state and federal goals delegated to the District, and

WHEREAS, District staff and representatives of the Minnesota Watersheds have met with the Commissioners and key leadership staff of both agencies and our concerns were not adequately addressed or afforded any practical or feasible guidance to work together to reduce the cost, risk and uncertainty of pursuing our mandated goals.

NOW THEREFORE BE IT RESOLVED THAT

Minnesota Watersheds should pursue legislation that addresses these permitting and administrative concerns in a way that provides standing and deference to existing and approved plans and studies, directs the Department of Natural Resources and Pollution Control agencies to develop practical and reasonable permit submittal standards that those agencies will use to determine completeness, requires the agencies to explain why an application may be found not to be complete, identify what is needed and what will be then be used to review the application for consistency with approved standards.

BE IT FURTHER RESOLVED THAT

The Minnesota Department of Natural Resources and Pollution Control Agency should give deference to approved comprehensive and capital improvement plans: Watershed Restoration and Protection Strategy (WRAPS); load reduction, impairment monitoring and other studies, especially studies involving impairments for fish and aquatic life by:

- Considering as prima facie the need and justification for the projects and actions in the above and subsequent state approved plans and studies.
- Holding a pre-application permit review meeting with the qualifying agency on proposed projects or actions in approved plan or studies within 4 weeks of a request by a qualifying agency. A qualifying agency and project is an agency and project that has:
 - a. one or more of the approved documents, plans, studies or requirements listed above.
 - b. approved plans and studies above, plus an approved state or federal grant or other state funding such as bonding intended to wholly or partially fund a project listed in the above documents or intended to address the requirements listed above

BE IT FURTHER RESOLVED THAT

Failure by the Minnesota Department of Natural Resources or Pollution Control Agency to accommodate and attend the pre-application permit review meeting will indicate satisfaction of state standards and approval of the permit.

Background Information

2025 Minnesota Watersheds Resolution #2

Proposing Watershed: Coon Creek Watershed District

Contact Name: Tim Kelly

Phone Number: 763-755-0975

Email Address: Tkelly@cooncreekwd.org

Resolution Title: Resolution Requiring State Agencies To Develop Specific Practical And Reasonable Criteria For Determining Permit Application Completeness

Background that led to the submission of this resolution:

Lower Coon Creek in Anoka County is on the State impaired waters list. The District is required to address that impairment and make significant progress in resolving that impairment by 2050.

The District has completed its fourth generation Comprehensive Watershed Management Plan including a capital improvement strategy to restore the creek's water quality. That plan was reviewed by the MDNR and MPCA who then supported its approval, adoption and implementation by the watershed district through grants and technical assistance.

In 2023 the District began to work earnestly on design and funding a project to restore the channel of lower Coon Creek identified in both the 3rd and 4th generation comprehensive plans. The project goal was to make significant progress toward achieving our 2050 water quality responsibilities. The project's intent was to specifically address the fisheries and Aquatic Life impairments by restoring the channel, reconnecting the stream to the floodplain, and restoring floodplain and riparian habitat.

In early 2024, District staff contacted and worked with all concerned local, state and federal agencies to identify any other water resource or environmental concerns and clarify permit requirements. Construction was targeted in a window from the end of November through December to avoid disturbing known threatened and endangered species and to avoid ice up and later fish spawning.

In October 2024 the project was delayed during final MPCA and MDNR permit reviews for unspecified reasons. Conversations with agency staff finally noted a discomfort with the use of rip-rap and concern for the potential presence of Blanding's Turtle, a state threatened species. Beyond these concerns no specifics, suggestions for mitigation or alternative designs were provided.

The project, whose construction dates were planned to avoid impact to known threatened and endangered species in the area, was delayed. The delay created difficulties for the contractor and with grant funding, agreements with partner agencies and property owners, as well as the common understanding with the public and elected officials.

Conversations with staff of MWA, Shell Rock River Watershed, the Red River Board staff and BWSR led to characterizations of MDNR and MPCA “Pocket Vetoing” projects or sending projects to “permit purgatory” where applications lingered with either no communication or an endless series of requests for more data. Applications remained there for months to years. The above agencies surmised that those projects were not subject to the statutory timelines for review because there was no “determination of application completeness”.

In December 2024 the District was contacted by Senator Michael Kreun (Anoka County) indicated he was receiving calls from property owners and developers who were able to obtain required permits from the state and seeking information and clarification on the purpose and scope of permits administered by the Minnesota Department of Natural Resources and Minnesota Pollution Control Agency.

In January 2025 the District and Minnesota Watersheds met with Senator Kreun to help him understand the breadth and depth of this issue. At that meeting the District and Minnesota Watersheds had already initiated contact with the Commissioners’ offices of both DNR and MPCA.

Efforts to solve the problem:

In January, February and March Coon Creek Watershed District and Minnesota Watersheds staff met with the MDNR and MPCA commissioners, Division Directors and lead program staff to review, discuss and work together on resolving these issues.

During that time, we learned that MDNR conducts both their review of permit application completeness, and their review of project compliance with state standards, at the same time. The result has created an environment of potential never-ending requests for data, information and additional costs with no certainty of obtaining approval.

The District believes that the meetings with MPCA were good and resulted in a common understanding of the problem and practical actions that both MPCA and applicants could take. But additional clarification and scoping would increase certainty and decrease risk to water management projects.

The District has also concluded that the meetings with MDNR have yet to produce any confidence that DNR understands the local agencies dilemma or believes a problem exists. The meetings and communications have to foster any practical or feasible alternatives or clear or

paths or actions for reducing the risk and uncertainty to a public permit applicant engaged in required water resource management projects potentially involving public funds. Those meetings ended in early March with the MDNR expressing a lack of value in continuing the discussions.

In late March 2025, at the MWA's Legislative Briefing, senior staff of BWSR, MDNR and MPCA were asked for guidance on how to proceed when mandated goals followed by planned and reviewed projects that are coordinated and often funded by those agencies, cannot either obtain permits for those projects or find out how those projects could be changed to the agency's satisfaction and impacts mitigated. At that meeting Commissioner Strommen indicated that MDNR would continue discussions.

On April 15 Katie Smith, MDNR Division Director, provided an update on the MDNRs permitting efficiency and timeliness efforts. The update provides general actions and assurances, but no specifics and the process did not involve watershed staff as indicated by Commissioner Strommen in March.

Is legislative action the best means of addressing the matter? If yes, what is the purpose or intent of your proposal? If not, what advocacy steps could be taken with state or local government officials?

We believe that legislation is required to

1. Further structure the permit review process by separating the determination of a complete application from review of that applications compliance with established standards
2. Compel action to reduce the risk and uncertainty associated with public water resource projects that have been reviewed and generally vetted by both agencies.

Our goal is to amend both Minnesota Statutes 84.027 and Minnesota Statute 116.03. Our intent is to reduce the risk and uncertainty currently associated with agency vetted public water management projects and prevent the waste of public funds. To accomplish this, we suggest that:

- The MDNR and MPCA be required to develop a list of information needed and can be provided as part of a permit application.
- The information listed, once all is provided, serve as the criteria for determining permit application completeness.
- The information provided also serves as the applicant's burden and contribution in determining the proposed project's compliance and consistency with published state standards.

In the end, a clear and reasonable set of submittals should be identified that can be practically and feasibly provided by the applicant, the agencies can quickly determine if the application is complete, and the existing statutory timelines for review and decision making will start.

Anticipated support or opposition:

Support could be gained from

Association of Minnesota Counties

Association of County Highway Engineers

League of Minnesota Cities

Minnesota City Stormwater Coalition

Minnesota Association of Soil and Water Conservation Districts

Opposition could be from:

Minnesota Department of Natural Resources

Minnesota Pollution Control Agency

Audubon Society

This issue (check all that apply)

Applies only to our district:

Requires legislative action:

 X

Applies only to 1 or 2 regions:

Requires state agency advocacy:

Applies to the entire state:

 X

Impacts MW bylaws or MOPP:

RESOLUTION SEEKING ACTION FOR INCREASING DNR AND PCA PERMIT EFFICIENCY AND REQUIRING STATE AGENCIES TO DEVELOP SPECIFIC PRACTICAL AND REASONABLE CRITERIA FOR DETERMINING PERMIT APPLICATION COMPLETENESS

WHEREAS, the Coon Creek Watershed District (District) is a Minnesota special purpose unit of government established and governed under Minnesota Statute 103D and a Watershed Management Organization (WMO) under the Metropolitan Water Management Act (Minnesota Statute 103B), and

WHEREAS, the District has developed a comprehensive watershed management plan and capital improvement program to achieve local, state and federal goals, to conserve and sustain ground water, safe water conveyance, water quality and restoration of impaired water, water quantity and volume reduction, conservation of wetlands and the conservation and preservation of endangered species, within the watershed, and

WHEREAS, implementation of the comprehensive watershed management plan involves a combination of direct and indirect best management practices that may involve construction to build, repair, and/or restore natural features, and

WHEREAS, implementing those practices and projects may require permits from the Minnesota Pollution Control Agency and/or, Minnesota Department of Natural Resources, and

WHEREAS, the review, findings of permit application completeness and timelines for review of those permit applications by the Department of Natural Resources is guided in part by Minnesota Statutes 84.027, subdivisions 14, 14a; and permit applications to the Minnesota Pollution Control Agency are guided by Minnesota Statute 116.03, subdivision 2b, and

WHEREAS, watershed projects state-wide have had projects delayed and found that the review time period was never started, and

WHEREAS, conversation with the DNR has indicated that review of application completeness and compliance with state standards is performed simultaneously resulting in an evasion of the intent of Minnesota Statutes 84.027, subdivisions 14, 14a.

NOW THEREFORE BE IT RESOLVED THAT

Minnesota Watersheds should pursue legislation that addresses these permitting and administrative concerns in a way that provides standing and deference to existing and approved plans and studies, directs the Department of Natural Resources and Pollution Control Agencies to develop practical and reasonable permit submittal standards that those agencies will use to determine completeness, requires the agencies to explain why an application may be found not to be complete, identify what is needed and what will be then be used to review the application for consistency with approved standards.

BE IT FURTHER RESOLVED THAT

Each agency should identify specific information and develop specific criteria to determine the completeness of a permit application and what criteria will also be used to review the permit application's compliance with state approved standards in making the permitting decision.

Background Information

2025 Minnesota Watersheds Resolution #3

Proposing Watershed: Rice Creek Watershed District

Contact Name: Nicholas Tomczik

Phone Number: (763) 398-3079

Email Address: ntomczik@ricecreek.org

Resolution Title: Expanding Wetland Exemption for All Public Drainage Repairs

Background that led to the submission of this resolution:

Describe the problem you wish to solve, provide background information to understand the factors that led to the issue, and explain why the issue is important now. If relevant, attach statutory or regulatory documents.

The Wetland Conservation Act (WCA) **currently exempts** potential impacts to wetlands that have existed for less than 25 years resulting from public drainage system repairs. However, many public drainage systems state-wide at the discretion of the Drainage Authority have been unmaintained or undermaintained for more than 25 years, and repairs determined to be necessary now or at a future date to these systems can trigger the need for extensive investigation to determine the potential for wetland impact and mitigation requirements. Determining the impacts from public drainage system repairs is inexact at best, and as a result the regulatory pathways to accomplish these repairs are often inconsistent and inconclusive. To address these complications, RCWD would like the WCA to be modified to extend this exemption to all public drainage system repairs. This would simplify regulatory engagement for drainage system repairs and reduce costs for drainage authorities and benefiting landowners.

Balancing efficient drainage repairs with wetland preservation is critical, especially as infrastructure needs grow due to increased flood risks and climate impacts. This issue is important to ensure timely repairs while protecting water resources.

Relevant regulatory documents include Minnesota Statute 103G.2241 and MN Rule 8420.0420, detailing the current exemptions and processes under the WCA.

Efforts to solve the problem:

Document the efforts you have taken to try to solve the issue. For example: have you spoken to state agency staff, legislators, county commissioners, etc.? If so, what was their response?

The RCWD has had extensive dialog with the Board of Water and Soil Resources (BWSR) staff for many years on the topic of evaluating wetland impacts from public drainage system repairs. Recent 2024 legislation attempted to simplify WCA, but did not address this specific issue.

Is legislative action the best means of addressing the matter? If yes, what is the purpose or intent of your proposal? If not, what advocacy steps could be taken with state or local government officials?

Describe potential solutions for the problem. Provide references to statutes or rules if applicable.

Yes, legislative action is the appropriate means. The purpose of the proposal is to amend existing statutes to expand the 25-year wetlands exemption to include all public drainage repair activities.

If legislative action is not pursued, advocacy efforts could focus on engaging with local and state officials

to promote administrative modifications or policy adjustments. This might include informing DNR and BWSR of the importance of balancing repair efficiency with wetland preservation, emphasizing the economic and flood mitigation benefits of streamlined repairs.

Potential solutions include:

- Advocating for amendments to Minnesota Statutes 103G.2241 and MN Rules 8420.0420 to expand exemptions.
- Developing policies that support expedited drainage repair approvals without compromising wetland protections.

Anticipated support or opposition:

Who would be willing to partner with your watershed or Minnesota Watersheds on the issue? Who may be opposed to our efforts? (Ex. other local units of government, special interest groups, political parties, etc.)?

Other Watershed Districts that are Drainage Authorities for public drainage systems might support this issue. State agencies such as BWSR or DNR, wetland conservation special interest groups might oppose this effort.

This issue: (check all that apply)

- | | |
|---|--|
| <input type="checkbox"/> Applies only to our district | <input checked="" type="checkbox"/> Requires legislative action |
| <input type="checkbox"/> Applies only to 1 or 2 regions | <input checked="" type="checkbox"/> Requires state agency advocacy |
| <input checked="" type="checkbox"/> Applies to the entire state | <input type="checkbox"/> Impacts Minnesota Watersheds bylaws or MOPP
(MOPP = <i>Manual of Policies and Procedures</i>) |

MN Watersheds 2025 Resolution

Support of Legislative Amendment to Expand the Wetland Conservation Act (WCA) Exemption for Public Drainage System Repairs

WHEREAS, the Wetland Conservation Act (WCA) currently exempts potential impacts to wetlands that have existed for less than 25 years resulting from public drainage system repairs; and

WHEREAS, many public drainage systems statewide, at the discretion of the Drainage Authority, have been unmaintained or undermaintained for more than 25 years; and

WHEREAS, repairs determined to be necessary now or at a future date to these systems can trigger the need for extensive investigation to determine the potential for wetland impact and mitigation requirements; and

WHEREAS, determining the impacts from public drainage system repairs is inexact at best, and as a result, the regulatory pathways to accomplish these repairs are often inconsistent and inconclusive; and

WHEREAS, to address these complications, RCWD proposes that the WCA be modified to extend this exemption to all public drainage system repairs, which would simplify regulatory engagement for drainage system repairs and reduce costs for drainage authorities and benefiting landowners; and

WHEREAS, balancing efficient drainage repairs with wetland preservation is critical, especially as infrastructure needs grow due to increased flood risks and climate impacts; and

WHEREAS, this issue is important to ensure timely repairs while protecting water resources; and

WHEREAS, relevant regulatory documents include Minnesota Statute 103G.2241 and MN Rule 8420.0420, which detail the current exemptions and processes under the WCA; and

WHEREAS, the Rice Creek Watershed District has had extensive dialog with the Board of Water and Soil Resources (BWSR) staff for many years on the topic of evaluating wetland impacts from public drainage system repairs, and recent 2024 legislation attempting to simplify WCA did not address this specific issue; and

WHEREAS, legislative action is the appropriate means of addressing this matter, with the purpose of amending existing statutes to expand the 25-year wetlands exemption to include all public drainage repair activities; and

NOW, THEREFORE, BE IT RESOLVED, that Minnesota Watersheds supports the introduction of new legislation to amend Minnesota Statute 103G.2241 and MN Rule 8420.0420 to expand the WCA exemption to include all public drainage system repairs, and commits its staff to further discussion through the Drainage Work Group in 2025 and to promoting passage of such legislation in upcoming sessions.

Background Information

2025 Minnesota Watersheds Resolution

Proposing Watershed: Bassett Creek Watershed Management Commission

Contact Name: Laura Jester, Administrator
Phone Number: 952-270-1990
Email Address: laura.jester@kestonewaters.com

Resolution Title: Seeking Revision to MN Statute 383B.79 to Include Watershed Management Organizations

Background that led to the submission of this resolution:

Describe the problem you wish to solve, provide background information to understand the factors that led to the issue, and explain why the issue is important now. If relevant, attach statutory or regulatory documents.

[MN Statute 383B.79 Multijurisdictional Program](#) gives Hennepin County the ability to create multijurisdictional reinvestment programs in partnership with certain jurisdictions in the county including watershed districts that are wholly or partially in the county. The statute does not include watershed management organizations in the list of jurisdictions allowed to officially participate in these programs.

The Bassett Creek Valley lies in the lower end of the watershed in the city of Minneapolis and receives stormwater runoff from over 20,000 acres of upstream and surrounding drainage areas. It lies within a natural low area that is plagued by historic contamination, poor soils, and high groundwater. In addition, the 100-year floodplain within the Bassett Creek Valley extends up and beyond the creek's channel and into surrounding neighborhood and commercial areas, negatively impacting existing properties and hindering redevelopment opportunities.

Improved conditions in the Bassett Creek Valley are a high priority for the BCWMC. Since 2019, the BCWMC has been working with the City of Minneapolis, Minneapolis Park and Recreation Board, Hennepin County, and other partners to study the valley and develop plans for regional stormwater and floodplain management, ecological improvements, and community access to the creek. The County has expressed interest in convening a multijurisdictional partnership to implement a Community Works Project that would bring together science, partners, community planning, and funding to realize vast improvements in the Bassett Creek Valley. The BCWMC seeks to be an official partner in this endeavor. However, the statute does not provide authority for joint powers watershed management organizations to participate in such endeavors.

Efforts to solve the problem:

Document the efforts you have taken to try to solve the issue. For example: have you spoken to state agency staff, legislators, county commissioners, etc.? If so, what was their response?

No actions have been taken on this issue to date.

Is legislative action the best means of addressing the matter? If yes, what is the purpose or intent of your proposal? If not, what advocacy steps could be taken with state or local government officials? Describe potential solutions for the problem. Provide references to statutes or rules if applicable.

A change to the statute would require legislative action. BCWMC advocates for a change to the statute language to add “watershed management organizations entirely or partially located in Hennepin County” to the list of political subdivisions contained in MN Statutes 383B.79, Subdivision 1.

Anticipated support or opposition:

Who would be willing to partner with your watershed or Minnesota Watersheds on the issue? Who may be opposed to our efforts? (Ex. other local units of government, special interest groups, political parties, etc.)?

Hennepin County is likely to support this resolution. No known opposition.

This issue: (check all that apply)

- | | |
|--|--|
| <input type="checkbox"/> Applies only to our district | <input checked="" type="checkbox"/> Requires legislative action |
| <input checked="" type="checkbox"/> Applies only to 1 or 2 regions | <input type="checkbox"/> Requires state agency advocacy |
| <input type="checkbox"/> Applies to the entire state | <input type="checkbox"/> Impacts Minnesota Watersheds bylaws or MOPP
(MOPP = Manual of Policies and Procedures) |

X This would apply to any watershed management organization wholly or partially in Hennepin County.

**MINNESOTA WATERSHEDS RESOLUTION XX
Resolution Seeking Revision to MN Statute 383B.79 to Include Watershed
Management Organizations**

WHEREAS, Minnesota Statute 383B.79 Multijurisdictional Program gives Hennepin County the ability to create multijurisdictional reinvestment programs in partnership with certain political subdivisions in the county, including watershed districts that are wholly or partially in the county; and

WHEREAS, a high priority goal of the Bassett Creek Watershed Management Commission (a joint powers WMO) is to collaborate on evaluation, sequencing, and implementation of multi-beneficial projects within the Bassett Creek Valley to create regional flood storage, reduce floodplain by at least 8 acres, improve regional stormwater management and improve creek access; and

WHEREAS, Hennepin County has expressed interest in utilizing the multijurisdictional program to implement a Community Works Project that would bring together partners, science, community planning, and funding to realize vast improvements in the Bassett Creek Valley; and

WHEREAS, the Bassett Creek Watershed Management Commission wishes to participate as an official jurisdiction on the Community Works Project; and

WHEREAS, Minnesota Statute 383B.79 does not expressly include joint powers watershed management organizations (WMOs) in the list of political subdivisions allowed to officially participate in these programs.

NOW, THEREFORE, BE IT RESOLVED that Minnesota Watersheds seeks a revision to Minnesota Statutes, section 383B.79, Subd 1 to explicitly include “joint powers watershed management organizations entirely or partially located in Hennepin County” to the list of political subdivisions that can participate in the county’s

multijurisdictional reinvestment programs.

BACKGROUND INFORMATION ON MINNESOTA WATERSHEDS RESOLUTION 2025-5

Resolution Seeking Rule Language Change to Agree with the Statute Language and Make It Effective (Considering Timeline)

Proposing District: Middle Snake Tamarac Rivers Watershed District
Contact Name: Morteza Maher, District Administrator
Phone Number: 218-230-5703
Email Address: morteza.maher@mstrwd.org

Background that led to the submission of this resolution

Middle-Snake-Tamarac Rivers Watershed District (MSTRWD) proposes that the rare natural communities/Calcareous Fen-related statutes and rules be streamlined so that early RNC screening can eliminate waste of public funds.

In 2016, MSTRWD began the project work team (PWT) process (a process under the 1998 Mediation agreement) on a capital project that was eventually referred to as Lilac Ridge. From the outset, the project's PWT involved representatives from the DNR. During the process, the DNR indirectly stated some concerns about the wetlands in the area but did not mention anything about the presence of Calcareous Fen (which is protected under Minn. Stat. § 103G.223). In December of 2020, USACE under Concurrence Point 3, reviewed alternatives analysis and accepted that the selected alternative was the "Least Environmentally Damaging Practicable Alternative" (LEDPA). By then, the preliminary engineering was mostly done, the PWT process was wrapping up, and the USACE's LEDPA determination triggered the project to move to the EAW process.

In response to the EAW process in July of 2021, the DNR provided a writing that suggested the potential of the existence of Calcareous Fen within the project footprint. (The document did not mention the Calcareous Fen by name, but instead referred to the potential for various types of fens, and only indirectly mentioned the ground water and minerals that feed some kinds of Calcareous Fens).

Knowing the designation of Calcareous Fen as protected, at this point MSTRWD started direct communication with DNR. In subsequent contacts, it was revealed that the DNR believed there was a high likelihood that Calcareous Fen would be found within the footprint of the planned project. Therefore, MSTRWD requested that the DNR make a prompt, solid determination regarding the existence of Calcareous Fen on the site before the district expended further funds and time on the project. In response, the DNR informed the district that it lacked staff to perform such a determination and could not accommodate the district's request but suggested that the district could hire an outside consultant to perform the same.

In response, the district retained a consultant to investigate the site and through coordination with DNR the consultant provided a report. Following submission of the report to the DNR, the agency insisted that it needed to send its experts to the site and confirm the findings of the report. This confirmation process took three more site visits (close to a whole year) due to snow on the ground and staff shortage. Eventually DNR provided a formal letter stating that the area has Calcareous Fen.

The report from the district's consultant did note that the quality of the Calcareous Fen on the site was not high. Since the Calcareous Fen quality based on the third party's report was not high, with

WHEREAS, [Minn. Stat. § 103G.223](#) **CALCAREOUS FENS** states: ... “(a) Calcareous fens, as identified by the commissioner by written order;” and,

WHEREAS, [Minn. Rule 8420.0935](#) Subp. 3. A. states that “[T]he commissioner must investigate wetlands to determine if the wetland is properly identified as a calcareous fen;” and,

WHEREAS, the above rule is relaxing the role of the Commissioner from being responsible to “Identify” with the use of a passive form of sentence. And this is a political escape from responsibility; and

WHEREAS, both Statute and Rule lack a timeline for this identification to be done by. And lack of timeframe could cause waste of public funds just like the way it did on Lilac Ridge project,

NOW, THEREFORE, BE IT RESOLVED that Minn. Rule 8420.0935 Subp. 3. A. be amended as follows: The commissioner must investigate all State wetlands to determine if the wetland is properly and identified all as a calcareous fen within the state by no later than Dec. 31, 2030.