

**MINNEHAHA CREEK WATERSHED DISTRICT
BOARD OF MANAGERS**

**In the Matter of permit no. 14-219
Anderson Property, 3850 Watertown Road,
Orono**

**FINDINGS OF FACT
CONCLUSIONS OF LAW
AND ORDER**

FINDINGS OF FACT

1. On October 13th, 2016, at a duly scheduled meeting of the Minnehaha Creek Watershed District (District) Board of Managers (Board), a hearing was held on compliance of erosion control and wetland protection work at property with a wetland at 3850 Watertown Road, Orono, (the Property), owned at all times relevant to this matter by Mark Anderson, holder of District permit 14-219.
2. Managers present were *To Be Determined*. Also present were *To Be Determined*.
3. The Board hearing was preceded by a meeting of the Board's Violations Committee (*To Be Determined* in attendance), at which the probable violation and possible terms of a Board compliance order were discussed. *To Be Determined* also attended the meeting. *To be Determined* were present at the meeting. Mark Anderson *did/did not* attend the meeting (*To Be Determined*).
4. Verbal notice of the meeting and hearing was given to Mark Anderson on October 3rd, 2016. Written notice of the meeting and hearing was sent via e-mail to Mark Anderson on October 6th, 2016. Notice of revision to the scheduled meeting time was sent by e-mail to Mark Anderson on October 10th, 2016.
5. At the hearing, Ms. Workin provided the following documents, which constitute the hearing record in this matter:
 - a. Permit 13-162 Site Plan
 - b. July 25th, 2014 Inspection Report
 - c. October 17th, 2014 Inspection Report
 - d. Notice of Decision- Wetland Boundary and Type
 - e. August 3rd, 2015 TEP Findings
 - f. Permit 14-219 Approved Grading Plan (RW markup)
 - g. October 8th, 2015 Inspection Report
 - h. November 5th, 2015 Notice of Probable Violation
 - i. November 12th, 2015 Inspection Report
 - j. August 19th, 2016 As-Built Survey
 - k. September 30th, 2016 As-Built Survey (RW markup)
 - l. October 3rd, 2016 TEP Findings (need updated copy with BWSR Signature)
 - m. October 3rd, 2016 Cease and Desist Order

- n. October 6th, 2016 Compliance Order
- o. October 8th, 2016 Restoration Order

These documents, along with the testimony provided during the hearing, constitute the record in this matter.

6. At the request of *To Be Determined*, Ms. Workin related the discussion that occurred before the committee, summarized as follows:

3850 Watertown Road, Orono is a 22.56-acre parcel comprised of a single family home surrounded by fields historically used to raise horses and livestock recreationally. There is a Type 2, Fresh (Wet) Meadow wetland located along the southwestern property line that receives run off from the adjacent field and neighboring property. Under permit 01-169, a portion of the wetland was excavated into a Type 4, Deep Marsh wetland.

Mark and Kristen Anderson purchased this property in 2013 and subsequently applied for a Minnehaha Creek Watershed District (MCWD) permit (13-162) for landscaping to construct a berm along Watertown Road. Following completion of this project, an inspection found additional, unpermitted grading on the property. The grading resulted in fill within the wetland, whose boundary and type were reconfirmed in an after-the-fact wetland delineation. The MCWD, City of Orono, and Technical Evaluation Panel (TEP) worked with the property owners to properly permit their project. Per the Findings of Fact following an August 3rd, 2015 meeting of the TEP, it was determined that the applicant must submit an approved grading plan showing the removal of wetland fill. Following receipt of this grading plan, MCWD permit 14-219 was issued on September 22, 2015.

Ensuing inspections determined that the Permittee did not remove the wetland fill as indicated on the approved grading plan and additional wetland fill had accumulated as a result of ongoing work. A Notice of Probable Violation was sent on November 5th, 2015, and the applicant was also advised that if progress toward compliance was not found, enforcement would increase to a Wetland Conservation Act (WCA) Cease and Desist Order (CDO) and/or other actions. An as-built survey submitted on August 19th, 2016 and then on September 30th, 2016 showed that fill remained in the wetland. Within the wetland boundary, fill was present up to 1004' within the pre-grading 998' contour line and fill was present up to 1010' within the pre-grading 1000' contour line. On September 22nd, 2016, the permit expired without being renewed.

The TEP met on October 3rd, 2016 to review the submitted as-built survey. It was determined that wetland fill was still present in violation of the Wetland Conservation Act. The TEP also visited the site during the meeting and determined that a berm was constructed in the wetland, resulting in additional fill. Due to the presence of fill in violation of WCA, the DNR Conservation Officer issued a CDO to Mark Anderson. MCWD issued a Compliance Order on October 5th, 2016 due to the violation of MCWD procedural rules and the Wetland Protection rule. The Compliance Order stated that Mark Anderson should apply to renew his permit and comply with the conditions of the Restoration Order. Hennepin County wrote a Restoration Order with support of the TEP

stating that the wetland should be restored to the approved contours and re-established with a wetland seed mix. The Restoration Order was issued to Mark Anderson on October 8th, 2016.

7. The Board of Managers finds the above-stated report of the committee meeting in the matter and the facts stated herein to be supported by the record and adopts it as the factual findings in this matter (*To Be Determined*).

8. The Board of Managers finds that the noncompliant fill of wetland constitutes an increased risk of localized flooding within the Stubbs Bay minor sub-watershed and a long-term risk of degradation of water quantity and quality because of the fill in violation of wetland protection rule and permit 14-219 prevents the storage and filtration of water (*To Be Determined*).

CONCLUSIONS OF LAW

1. The District possesses authority under Minnesota Statutes sections 103D.335 and 103D.341 to adopt and implement rules applicable to erosion control and wetland protection, and to issue remedial orders for compliance with its rules (*To Be Determined*);

2. The District's erosion control and wetland protection rules are duly adopted and in force pursuant to the Board's statutory authority and all applicable provisions of law and has been, in relevant part, throughout the time actions described herein took place (*To Be Determined*);

3. Mark Anderson *is/is not* responsible for violation of District permit 14-219 and the applicable District erosion control and wetland protection regulatory requirements applicable to the Property (*To Be Determined*);

4. Notice of the meeting and hearing was sent to Mark Anderson. Mark Anderson *did/did not* attend the meeting or hearing. The District made reasonable efforts to locate and provide notice of the meeting and hearing to Mark Anderson. The Board may hear the evidence of a violation and issue a compliance order on the basis of evidence presented at the hearing (*To Be Determined*).

ORDER

Accordingly, the Board of Managers ORDERS as follows:

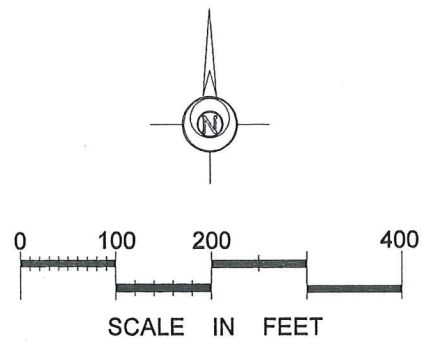
1. By October 22nd, 2016, Mark Anderson must have a valid MCWD (*To Be Determined*).

2. By November 30th, 2016 Mark Anderson must have fulfilled the required steps of the DNR Restoration Order (*To Be Determined*).

Sherry White, President
MCWD Board of Managers

Date _____

**PROPOSED GRADING PLAN FOR
MARK & KRISTEN ANDERSON
IN LOT 1, BLOCK 1, HILLWAY FARM
HENNEPIN COUNTY, MINNESOTA**



LEGAL DESCRIPTION OF PREMISES SURVEYED:
Lot 1, Block 1, HILLWAY FARM,
ALSO

This survey shows the boundaries of the above described property, and the location of all existing buildings thereon. It does not purport to show any other improvements or encroachments.

o : Iron marker
Bearings shown are based upon an assumed datum
Note: Distances shown in parentheses are added to the description by us to clarify dimensions

---948--- : Existing contour from Orono City maps
-1000- : Proposed contour line

June 1 - 8 Silt Fence & Site Prep
June 8 - 22 Fill Import & Placement
June 22 - 29 Grading & Seeding (Grass)
June 29 - 30 Cleanup

Work By : SHC 612-382-4199
7665 Co. Rd. 11
Maple Plain Mn. 55359



— Silt Fence

GRONBERG & ASSOCIATES, INC.
CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS
445 N. WILLOW DRIVE LONG LAKE, MN 55355
PHONE: 952-473-4141 FAX: 952-473-4435

DATE	4-17-13
SCALE	1"=100'
SHEET NO.	13-129
TOTAL SHEETS	13-129

I HEREBY CERTIFY THAT THIS SURVEY, PLAN, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER LAWS OF THE STATE OF MINNESOTA.
Michael J. Gronberg
DATE: 4-17-13 MINN. LICENSE NUMBER: 12375

REVISIONS	DATE	BY	REMARKS
DESIGNED			
DRAWN			
CHECKED			



INSPECTION REPORT

DATE: **July 28th, 2014**
TO: **Mark & Kristen Anderson**
FROM: **Tom Dietrich, MCWD**
RE: **MCWD No Permit Inspection: 3850 Watertown Rd, Orono**

Dear Applicant,

The Minnehaha Creek Watershed District (MCWD) has inspected your site for compliance with the MCWD permit requirements. Based on our inspection at the above mentioned location, the following was observed and recorded on July 25th, 2014:

- Land-disturbing activity requiring an MCWD Erosion Control permit has taken place without a permit

The following actions must be taken to complete the process of obtaining MCWD permit coverage:

- Cease all land-disturbing activity until an MCWD permit is obtained
- Provide an NPDES number
- Provide a financial assurance agreement to the amount of \$1,500.00

To avoid formal enforcement action from the Minnehaha Creek Watershed District, please implement the above mentioned corrective actions by **noon, Wednesday, July 30th, 2014**.

Thank you for your attention to MCWD permit requirements. If you have any questions, please contact me at 952-641-4518 or by email at tdietrich@minnehahacreek.org

Respectfully,

Tom Dietrich
District Representative

The Minnehaha Creek Watershed District is committed to a leadership role in protecting, improving and managing the surface waters and affiliated groundwater resources within the District, including their relationships to the ecosystems of which they are an integral part. We achieve our mission through regulation, capital projects, education, cooperative endeavors, and other programs based on sound science, innovative thinking, an informed and engaged constituency, and the cost effective use of public funds.



INSPECTION REPORT

DATE: **October 17, 2014**

TO: **Mark & Kristen Anderson
Dale Gustafson (GreenDale Design)**

CC: **Melanie Curtis (City of Orono)
Lyle Oman (City of Orono)
Ben Meyer (Minnesota Board of Water and Soil Resources)
Stacey Lijewski (Hennepin County)
Brandon Dahl (MPCA)**

FROM: **Courtney Hall, MCWD Wetland Specialist**

RE: **MCWD No Permit Inspection: 3850 Watertown Rd, Orono**

Dear Applicant,

The Minnehaha Creek Watershed District (MCWD) has inspected your site for compliance with the MCWD permit requirements and MN Rules 8420 (Wetland Conservation Act). Based on our inspection at the above mentioned location, the following was observed and recorded on October 17, 2014:

- Land-disturbing activity requiring an MCWD Erosion Control permit has taken place without a permit
- Activity on site is beyond the scope of the site plans submitted to MCWD for the Erosion Control Permit including working beyond the indicated area and adding more fill to site than proposed
- Land-disturbing activity upslope of wetland area that is causing potential fill into a wetland
- Silt fence located incorrectly from what was shown on submitted site plans
- Potential wetland impacts caused by excavation and fill

The following actions must be taken to complete the process of obtaining MCWD permit coverage:

- Immediately stop all land disturbing activity
- Immediately stop work upslope of wetland that may impact wetland area
- Complete a wetland delineation of the property and submit a wetland delineation report to MCWD staff noting any potential wetland impacts
- Stake wetland boundaries on-site to be reviewed by MCWD staff
- Contact MCWD staff to review staked wetland boundaries
- Establish and maintain 25' wetland buffers around all wetlands that have been impacted due to land-disturbing activities
- Submit accurate site plans to MCWD indicating: total area disturbed; location of all grading; amount of fill added; and delineated wetland and buffer edges

The Minnehaha Creek Watershed District is committed to a leadership role in protecting, improving and managing the surface waters and affiliated groundwater resources within the District, including their relationships to the ecosystems of which they are an integral part. We achieve our mission through regulation, capital projects, education, cooperative endeavors, and other programs based on sound science, innovative thinking, an informed and engaged constituency, and the cost effective use of public funds.



To avoid formal enforcement action from the Minnehaha Creek Watershed District, please implement the above mentioned corrective actions no later than **November 3rd, 2014**.

Thank you for your attention to MCWD permit requirements. If you have any questions, please contact me at 952-473-2855 or by email at chall@minnehahacreek.org

Respectfully,

A handwritten signature in blue ink that reads "Courtney Hall". The signature is written in a cursive, flowing style.

Courtney Hall
Wetland Specialist

Minnesota Wetland Conservation Act

Notice of Decision

Local Government Unit (LGU) Minnehaha Creek Watershed District	Address 15320 Minnetonka Blvd Minnetonka, MN 55391
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1. PROJECT INFORMATION

Applicant Name Mark Anderson	Project Name 3850 Watertown Rd	Date of Application 2/27/15	Application Number W15-02
<input checked="" type="checkbox"/> Attach site locator map			

Type of Decision:

<input checked="" type="checkbox"/> Wetland Boundary or Type	<input type="checkbox"/> No-Loss	<input type="checkbox"/> Exemption	<input type="checkbox"/> Sequencing
<input type="checkbox"/> Replacement Plan	<input type="checkbox"/> Banking Plan		

Technical Evaluation Panel Findings and Recommendation (if any):

<input type="checkbox"/> Approve	<input type="checkbox"/> Approve with conditions	<input type="checkbox"/> Deny
Summary (or attach):		

2. LOCAL GOVERNMENT UNIT DECISION

Date of Decision:		
<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> Approved with conditions (include below)	<input type="checkbox"/> Denied

LGU Findings and Conclusions (attach additional sheets as necessary):

Mark Anderson has applied for a wetland boundary & type determination for the wetland located on the southwest side of the parcel located at 3850 Watertown Rd in the City of Orono (PID 3211823320005). The boundary/type determination was requested to identify the extent of an area within a depression that meets wetland criteria. At the time of the delineation, the depressional area had been subject to recent disturbance including scraping, fill, and repair of a drain tile.

A wetland delineation was conducted by Svoboda Ecological Resources on October 25, 2014 and November 8, 2014. A complete application was received on February 27, 2015. One wetland was delineated on site.

A Technical Evaluation Panel consisting of MCWD, BWSR, and Hennepin County reviewed the boundaries in the field on April 28, 2015. The TEP requested updates be made to the boundary and type that were submitted. Svoboda Ecological Resources submitted final updates on May 26, 2015 that address the changes requested by the TEP. The wetland is typed as a Type 4 deep marsh with surrounding Type 2 wet meadow community.

MCWD approves the wetland boundaries and types as documented in the updated delineation report. This decision is valid for five years.

For Replacement Plans using credits from the State Wetland Bank:

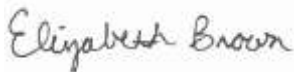
Bank Account #	Bank Service Area	County	Credits Approved for Withdrawal (sq. ft. or nearest .01 acre)
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Replacement Plan Approval Conditions. In addition to any conditions specified by the LGU, the approval of a Wetland Replacement Plan is conditional upon the following:

- Financial Assurance:** For project-specific replacement that is not in-advance, a financial assurance specified by the LGU must be submitted to the LGU in accordance with MN Rule 8420.0522, Subp. 9 (List amount and type in LGU Findings).
- Deed Recording:** For project-specific replacement, evidence must be provided to the LGU that the BWSR “Declaration of Restrictions and Covenants” and “Consent to Replacement Wetland” forms have been filed with the county recorder’s office in which the replacement wetland is located.
- Credit Withdrawal:** For replacement consisting of wetland bank credits, confirmation that BWSR has withdrawn the credits from the state wetland bank as specified in the approved replacement plan.

Wetlands may not be impacted until all applicable conditions have been met!

LGU Authorized Signature:

Signing and mailing of this completed form to the appropriate recipients in accordance with 8420.0255, Subp. 5 provides notice that a decision was made by the LGU under the Wetland Conservation Act as specified above. If additional details on the decision exist, they have been provided to the landowner and are available from the LGU upon request.		
Name Beth Brown	Title Permitting Technician	
Signature 	Date 5/28/15	Phone Number and E-mail (952) 641-4504 ebrown@minnehahacreek.org

THIS DECISION ONLY APPLIES TO THE MINNESOTA WETLAND CONSERVATION ACT.

Additional approvals or permits from local, state, and federal agencies may be required. Check with all appropriate authorities before commencing work in or near wetlands.

Applicants proceed at their own risk if work authorized by this decision is started before the time period for appeal (30 days) has expired. If this decision is reversed or revised under appeal, the applicant may be responsible for restoring or replacing all wetland impacts.

This decision is valid for three years from the date of decision unless a longer period is advised by the TEP and specified in this notice of decision.

3. APPEAL OF THIS DECISION

Pursuant to MN Rule 8420.0905, any appeal of this decision can only be commenced by mailing a petition for appeal, including applicable fee, within thirty (30) calendar days of the date of the mailing of this Notice to the following as indicated:

Check one:

<input checked="" type="checkbox"/> Appeal of an LGU staff decision. Send petition and \$0 fee (if applicable) to: Minnehaha Creek Watershed District 15320 Minnetonka Blvd Minnetonka, MN 55391	<input type="checkbox"/> Appeal of LGU governing body decision. Send petition and \$500 filing fee to: Executive Director Minnesota Board of Water and Soil Resources 520 Lafayette Road North St. Paul, MN 55155
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4. LIST OF ADDRESSEES

<input checked="" type="checkbox"/> SWCD TEP member: Stacey Lijewski – stacey.lijewski@co.hennepin.mn.us <input checked="" type="checkbox"/> BWSR TEP member: Ben Meyer – ben.meyer@state.mn.us <input type="checkbox"/> LGU TEP member (if different than LGU Contact): <input type="checkbox"/> DNR TEP member: <input checked="" type="checkbox"/> DNR Regional Office (if different than DNR TEP member): Brooke Haworth - brooke.haworth@state.mn.us <input type="checkbox"/> WD or WMO (if applicable): <input checked="" type="checkbox"/> Applicant (notice only) and Landowner (if different): Mark Anderson – mark.anderson@chemsolusa.com <input checked="" type="checkbox"/> Members of the public who requested notice (notice only): Frank Svoboda (Svoboda Ecological Resources) – franks@gpsinnovations.com , Melanie Curtis (City of Orono) – mcurtis@ci.orono.mn.us , Christine Mattson (City of Orono) – cmattson@ci.orono.mn.us <input checked="" type="checkbox"/> Corps of Engineers Project Manager (notice only): Melissa Jenny – melissa.m.jenny@usace.army.mil <input type="checkbox"/> BWSR Wetland Bank Coordinator (wetland bank plan applications only)

5. MAILING INFORMATION

- For a list of BWSR TEP representatives: www.bwsr.state.mn.us/aboutbwsr/workareas/WCA_areas.pdf
- For a list of DNR TEP representatives: www.bwsr.state.mn.us/wetlands/wca/DNR_TEP_contacts.pdf
- Department of Natural Resources Regional Offices:

NW Region:	NE Region:	Central Region:	Southern Region:
Reg. Env. Assess. Ecol. Div. Ecol. Resources 2115 Birchmont Beach Rd. NE Bemidji, MN 56601	Reg. Env. Assess. Ecol. Div. Ecol. Resources 1201 E. Hwy. 2 Grand Rapids, MN 55744	Reg. Env. Assess. Ecol. Div. Ecol. Resources 1200 Warner Road St. Paul, MN 55106	Reg. Env. Assess. Ecol. Div. Ecol. Resources 261 Hwy. 15 South New Ulm, MN 56073

For a map of DNR Administrative Regions, see: http://files.dnr.state.mn.us/aboutdnr/dnr_regions.pdf

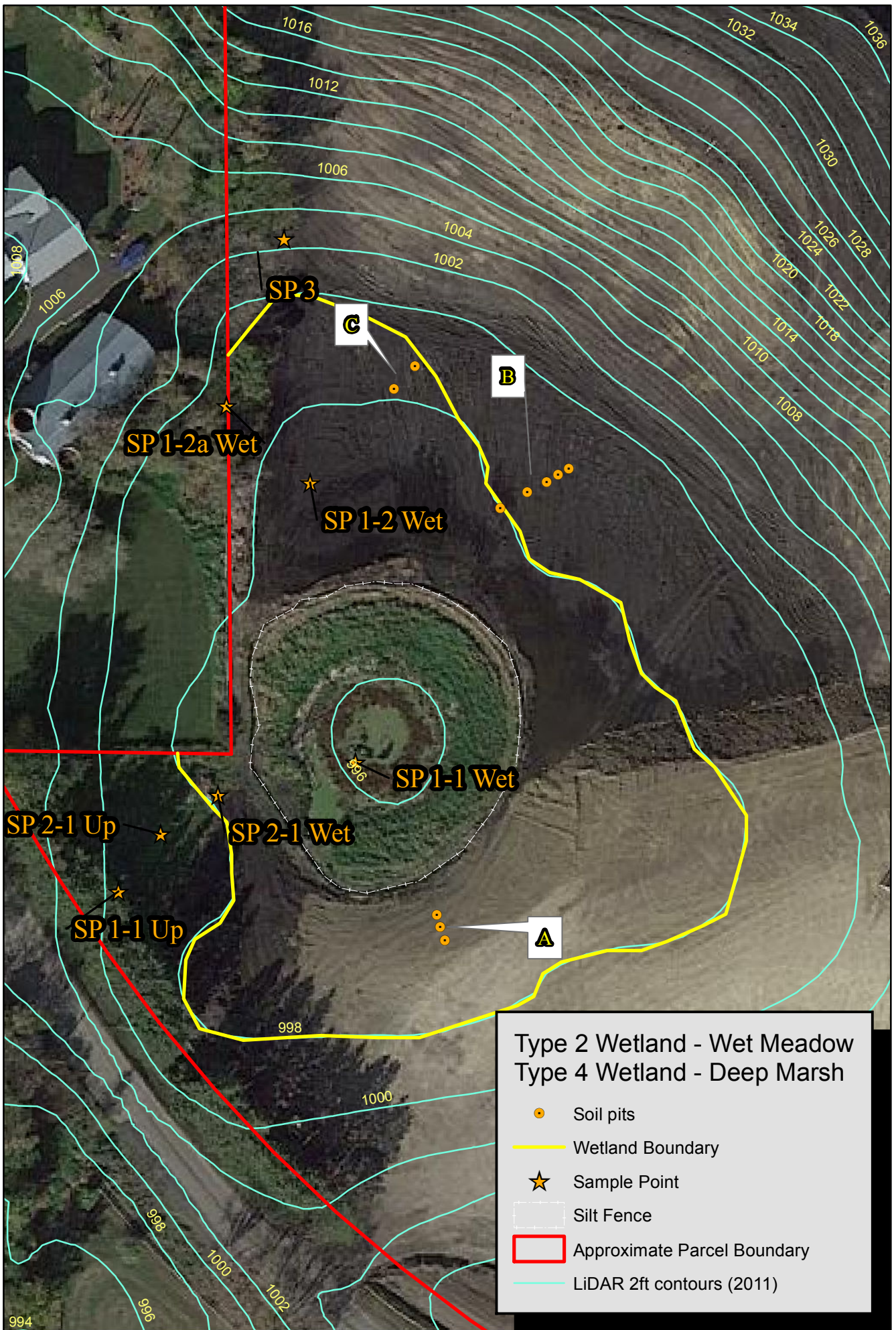
- For a list of Corps of Project Managers: www.mvp.usace.army.mil/regulatory/default.asp?pageid=687 or send to:

US Army Corps of Engineers
St. Paul District, ATTN: OP-R
180 Fifth St. East, Suite 700
St. Paul, MN 55101-1678

- For Wetland Bank Plan applications, also send a copy of the application to:
Minnesota Board of Water and Soil Resources
Wetland Bank Coordinator
520 Lafayette Road North
St. Paul, MN 55155

6. ATTACHMENTS

In addition to the site locator map, list any other attachments: <input checked="" type="checkbox"/> Approved wetland boundaries <input type="checkbox"/> <input type="checkbox"/>
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T118N R23W S32

Wetland Boundary

Overlaid on 2014 Aerial Photograph

4-30-15 Revision based on 4-28-15 field visit

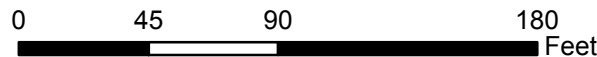


Figure 5a

2014-040

3850 Watertown Rd

Orono, Minnesota



Minnesota Wetland Conservation Act

Technical Evaluation Panel Findings Report

Date(s) of Site Visit/Meeting:	<u>8/3/15</u>	LGU:	<u>Minnehaha Creek Watershed District (MCWD)</u>
County:	<u>Hennepin</u>	LGU Contact:	<u>Beth Brown</u>
Project Name:	<u>3850 Watertown Rd (MCWD #14-219, W15-02)</u>	Phone #:	<u>952-641-4504</u>
Location of Project: (attach map if possible)	<u>3850 Watertown Rd, Orono</u>	Email Address:	<u>ebrown@minnehahacreek.org</u>

TEP ATTENDEES:

OTHER ATTENDEES:

OTHER ATTENDEES:

LGU: Beth Brown - MCWD

SWCD: Stacey Lijewski - Hennepin County Environmental Services (HCES)

BWSR: Ben Meyer

DNR: _____

PROJECT DESCRIPTION AND PURPOSE OF MEETING:

The purpose of the TEP meeting was to discuss the wetland boundaries for 3850 Watertown Rd that were reviewed and approved during the spring of 2015.

TYPE OF MEETING: *Check all applicable*

Office On-Site Phone Conference E-Mail Other: _____

TEP FINDINGS AND RECOMMENDATIONS ¹:

MCWD called a TEP meeting to discuss the wetland boundaries at 3850 Watertown Road in the City of Orono. The TEP reviewed the wetland boundaries on site on April 28, 2015 and MCWD approved the wetland boundaries in a Wetland Conservation Act Notice of Decision on May 28, 2015. The LGU sought TEP comments regarding the boundaries' relation to two different types of elevation data: LiDAR contours versus City of Orono topographic data/on-site contours. The former appear on the figure included in the LGU's Notice of Decision, in which the wetland boundaries generally follow the 998' and 1000' LiDAR contours. A memo from Svoboda Ecological Resources (SER) on behalf of the landowner appears to suggest that the wetland boundaries proffered on the restoration plan submitted to MCWD on July 2 correlate with the City of Orono topographic data and/or on-site contours.

The TEP reviewed that LiDAR contours were referenced during the April site review and that a determination was made on-site relating the wetland boundaries to these contours. MCWD and BWSR discussed that during the site review, the field conditions observed on-site and the historical aerial photos reviewed on-site were compared to the LiDAR maps provided by SER (both in SER's delineation report and on-site on April 28) and that these data indicated that the wetland boundary correlated well with the LiDAR contours. HCES agreed.

MCWD explained that the word "LiDAR" was not included in its written follow-up to SER & Mark Anderson detailing the necessary boundary revisions but that (1) the contours discussed on site were LiDAR contours, (2) the revised figures submitted to MCWD for final approval depicted LiDAR contours, and (3) the attachment included in the Notice of Decision as the approved wetland boundary figure depicted the wetland boundary corresponding with LiDAR contours, rather than with City of Orono topographic data or on-site contours. The TEP concurred that the Notice of Decision was clear in establishing the relationship between the wetland boundaries and the LiDAR contours.

¹ TEP Findings should be a meaningful concise summary detailing the project conditions, technical data, and what rules apply. The TEP recommendation should be clear, based on rule and best professional judgement.

BWSR noted that since the Notice of Decision was issued on May 28, the 30 calendar day appeal period has expired.

The TEP discussed the following recommended path forward:

1. To meet local MCWD requirements and avoid formal DNR enforcement of the state Wetland Conservation Act, the applicant must submit a grading plan that clearly depicts removal of all fill and restoration of excavated areas within the approved wetland boundaries.
2. Earth-moving work should not begin on site until the applicant has been issued a MCWD permit. MCWD will promptly issue a permit once an appropriate grading plan and complete application details, per MCWD's 7-16-15 Incomplete Letter, have been submitted.
3. The applicant should pursue an amendment to the City of Orono's approved grading plan.

SIGNATURES

Stacy Zywicki
SWCD Representative

8/14/15
Date

Do not concur

Benjamin L. Meyer
BWSR Representative
Do not concur

8/10/2015
Date

Celine Bennett Brown
LGU Representative

8/12/15
Date

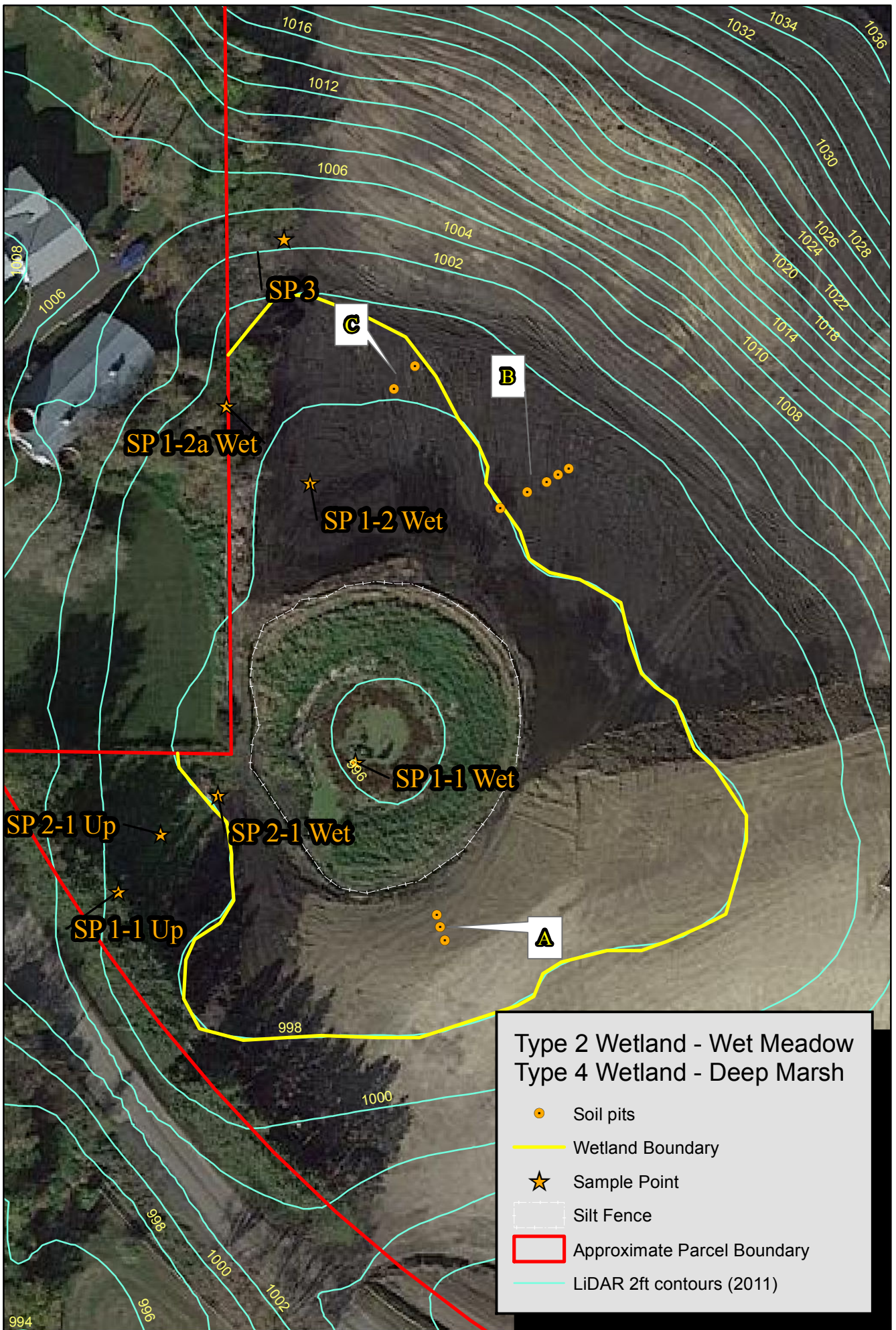
Do not concur

DNR Representative

Date

Do not concur

¹ TEP Findings should be a meaningful concise summary detailing the project conditions, technical data, and what rules apply. The TEP recommendation should be clear, based on rule and best professional judgement.



T118N R23W S32

Wetland Boundary

Overlaid on 2014 Aerial Photograph

4-30-15 Revision based on 4-28-15 field visit

0 45 90 180 Feet

Figure 5a

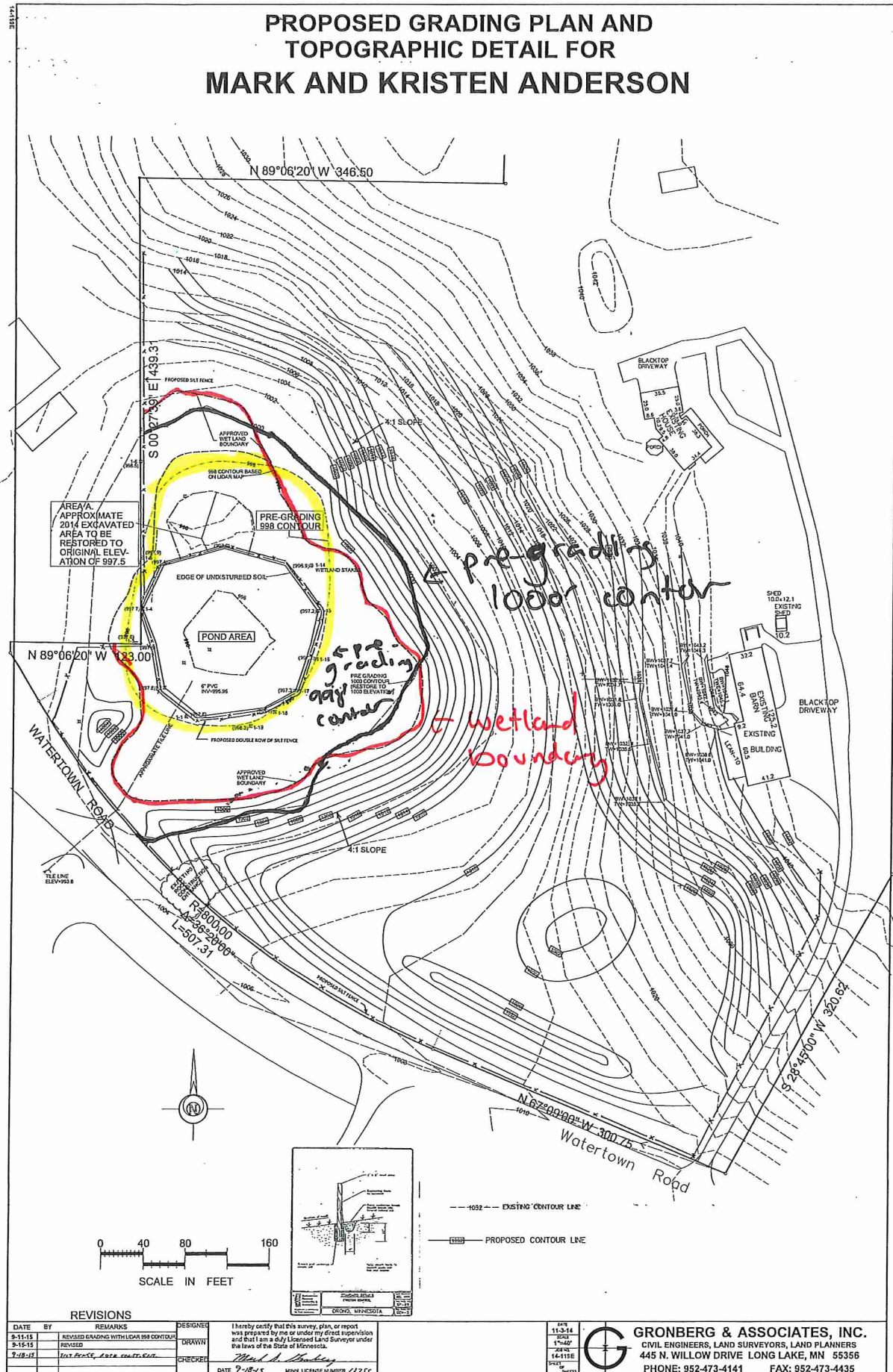
2014-040

3850 Watertown Rd

Orono, Minnesota

Approved Site Plan

PROPOSED GRADING PLAN AND TOPOGRAPHIC DETAIL FOR MARK AND KRISTEN ANDERSON



REVISIONS		
DATE	BY	REMARKS
3-11-15		REVISED GRADING WITH LEGAR 899 CONTOUR
9-15-15		REVISED
9-18-15		EDIT FENCE, SALT FENCE, ETC.

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Mark A. Anderson
 DATE 9-18-15 MINN. LICENSE NUMBER 12212


GRONBERG & ASSOCIATES, INC.
 CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS
 445 N. WILLOW DRIVE LONG LAKE, MN 55356
 PHONE: 952-473-4141 FAX: 952-473-4435



INSPECTION REPORT

DATE: 10/8/2015
TO: Mark Anderson
CC: Melanie Curtis (City of Orono)
FROM: Beth Brown, Permitting Technician
RE: MCWD Permit #14-219: 3850 Watertown Road, Orono

Dear Mr. Anderson,

The Minnehaha Creek Watershed District (MCWD) has inspected your site for compliance with the MCWD permit requirements. Based on our inspection at the above mentioned location, the following was observed and recorded on October 8th, 2015:

- Missing, collapsed, and nonfunctional double silt fence around the center of the wetland
- Sediment in the center of the wetland
- Mowed vegetation in the center of the wetland
- Small trench running through the center of the wetland
- No silt fence downgradient of grading work
- No rock construction entrance

MCWD requests that the following corrective actions are taken:

- Install and repair the required double silt fence around the center of the wetland
- Remove sediment from the center of the wetland
- Clarify to MCWD staff the origin and purpose of the trench running through the center of the wetland
- Install the required silt fence downgradient of grading work
- Install rock construction entrance

To avoid formal enforcement action from the Minnehaha Creek Watershed District, please implement the above mentioned corrective actions **no later than October 12th, 2015.**

Thank you for your attention to MCWD permit requirements. If you have any questions, please contact me at ebrown@minnehahacreek.org or 952-641-4504.

Sincerely,

Beth Brown
Permitting Technician

The Minnehaha Creek Watershed District is committed to a leadership role in protecting, improving and managing the surface waters and affiliated groundwater resources within the District, including their relationships to the ecosystems of which they are an integral part. We achieve our mission through regulation, capital projects, education, cooperative endeavors, and other programs based on sound science, innovative thinking, an informed and engaged constituency, and the cost effective use of public funds.

NOTICE OF PROBABLE VIOLATION

Property Owner: Mark Anderson	Address: 3850 Watertown Road, Orono, MN 55359
Permit #: 14-219	Property Owner's Representative:
Notice Issued Thursday, November 5, 2015	Activity: Wetland Disturbance & Erosion Control Issues

OBSERVATIONS:

The following apparent violations have been observed by MCWD staff (including citation to MCWD rule provision(s), permit or order violated):

1. *Unapproved earth-moving in the wetland (MCWD Wetland Protection rule)*
2. *Missing perimeter control (MCWD Erosion Control rule)*

You hereby are requested to take the following actions to come into compliance with the above requirements:

ACTION COMPLIANCE:

DEADLINE

- | | |
|---|--------------------------------|
| <i>1. Halt all earth-moving and disturbance in and around the wetland</i> | <i>4:30 PM – Nov. 6, 2015</i> |
| <i>2. Install perimeter control according to approved plan</i> | <i>4:30 PM – Nov. 9, 2015</i> |
| <i>3. Submit revised plan demonstrating that the disturbed wetland area will be restored to pre-disturbance contours and the remaining undisturbed wetland area will be protected by silt fence</i> | <i>4:30 PM – Nov. 10, 2015</i> |

The timeliness and completeness of your compliance with the above-requested actions will be considered by the MCWD Board of Managers in deciding whether to take further appropriate enforcement steps. On notice and an opportunity to be heard, the board may issue an order requiring remedial, corrective, preventative or other actions to achieve compliance with applicable MCWD requirements. The listing of apparent violations above does not prevent the board from finding additional or other violations on the basis of the evidence presented. Under Minnesota Statutes section 103D.545, failure to comply with MCWD rules, the conditions of your permit or an order of the Board of Managers subjects you to possible civil and criminal penalties.

Pursuant to MCWD Enforcement Rule, paragraph 5, you will be liable for all costs incurred by the MCWD to secure your compliance pursuant to this notice, including District consultant and legal costs. If you do not complete the actions requested above by the indicated deadlines, the MCWD may act to remedy the noncompliance and recover the costs of its action, including attorneys' fees, from you or your surety.

This notice does not affect the ability of any other federal, state or local body of government to take enforcement action against you pursuant to its own laws and regulations.

ISSUED BY:

Elizabeth Brown _____ Position: Permitting Technician
 Name/Title (Print)

Signature Date: _____

ISSUED VIA:
 EMAIL:
 IN PERSON
 OTHER (specify: mail)

TO:

Mark Anderson **Date:** November 5, 2015
Name/Title (Print)

Property Owner
Position

Your signature below indicates only that you received this order. Your signature does not constitute an admission of any kind with respect to the apparent violations listed above.

RECEIVED BY:

Name/Title (Print) Date: _____

Company

Signature

Address:

Telephone:

Email:

November 16, 2015

Mark Anderson
3850 Watertown Road
Orono, MN 55359

RE: W14-219 Notice of Probable Violation – 3850 Watertown Road

Dear Mr. Anderson,

The above mentioned Minnehaha Creek Watershed District (MCWD) Notice of Probable Violation for Wetland Disturbance & Erosion Control was issued on November 5th, 2015. MCWD received an email response to the notice later on November 5th. On November 9th, MCWD also received a copy of an email containing additional information sent to the City of Orono on November 7th. On November 12th, MCWD inspected 3850 Watertown Road for compliance with MCWD permit requirements.

Based on our November 12th, 2015 inspection at 3850 Watertown Road, the following was observed and recorded:

- No perimeter control around the southern and western project boundaries
- New silt fence installed around the center of the wetland
- Disturbed soil and vegetation within the wetland inside the silt fence
- Disturbed soil and vegetation within the wetland outside the silt fence

MCWD requests that the following actions are taken:

- Install perimeter control downgradient of all work on site, including the southern and western project boundaries, as approved under permit 14-219.
- Submit an as-built survey of the property following completion of the grading project.
 - This survey must demonstrate that the contours within the project area have been established and maintained as approved under permit 14-219.
 - Permit 14-219 expires on 9/22/2016. The as-built survey must be submitted no later than 10/6/2016.

MCWD also offers the following clarification:

- Cropping:
 - The wetland can be planted in row crops up to the water edge, provided that the wetland grade is established and maintained as approved under permit 14-219 and there is no further filling, excavation, or draining of the wetland.
- Silt fence:
 - On November 5th, 2015 MCWD observed that the double silt fence around part of the wetland, repairs to which MCWD requested in the October 8th inspection report, had been removed; previously undisturbed portions of wet meadow were

de-vegetated and disturbed; and new silt fence was being installed in the location of the original single layer of silt fence around the most central (deep marsh) portion of the wetland.

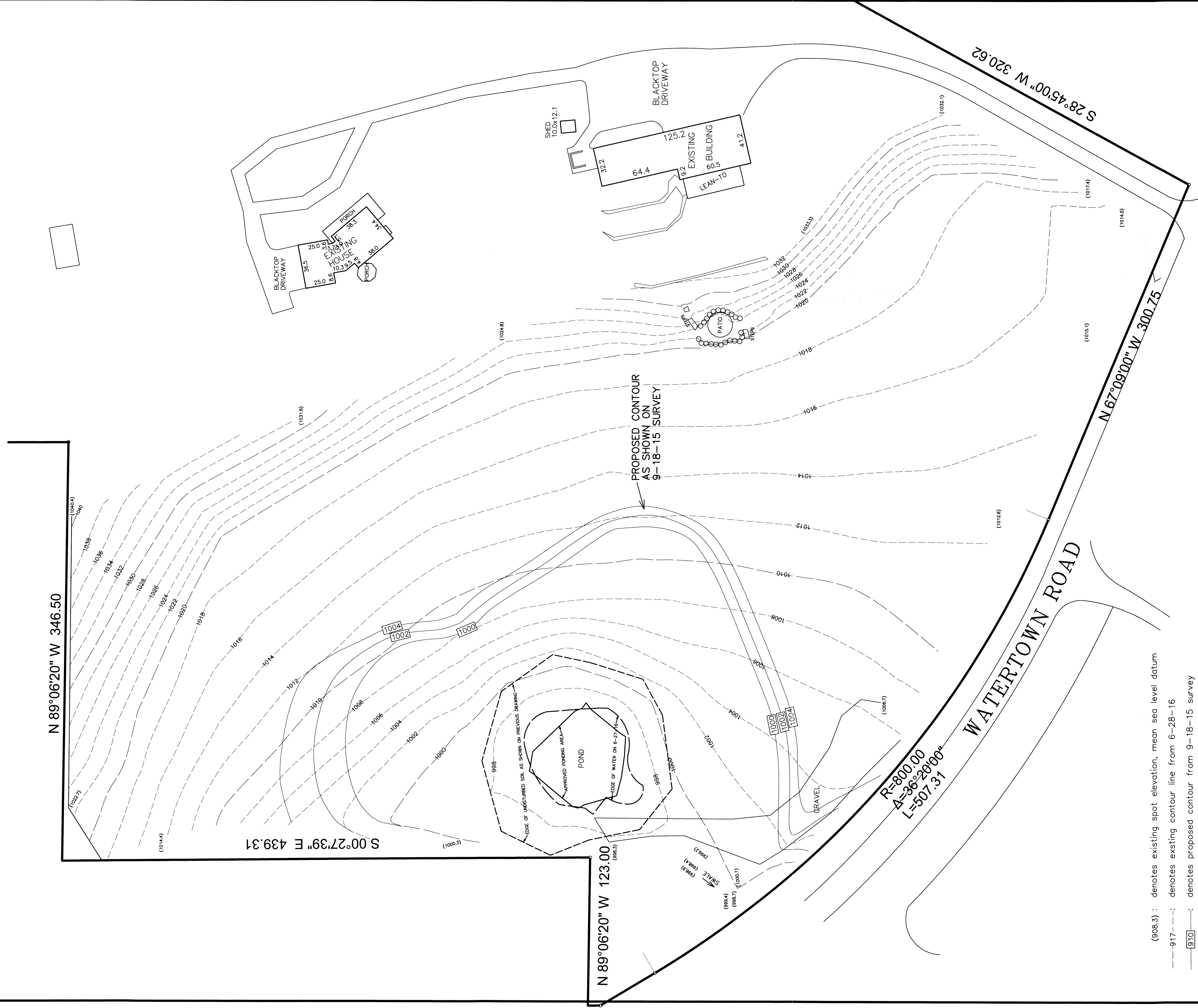
- The November 5th response MCWD received indicated that these activities were undertaken to remove the sediment in the wetland that MCWD noted in the October 8th inspection report and/or to prepare the wet meadow fringe for cropping.
- If the former, please note less invasive methods of sediment removal, such as removal by hand shovel, are preferred for instances of minor and discrete sediment deposition.

Thank you for your attention to MCWD permit requirements. If you have any questions, please contact me at 952-641-4504 or ebrown@minnehahacreek.org.

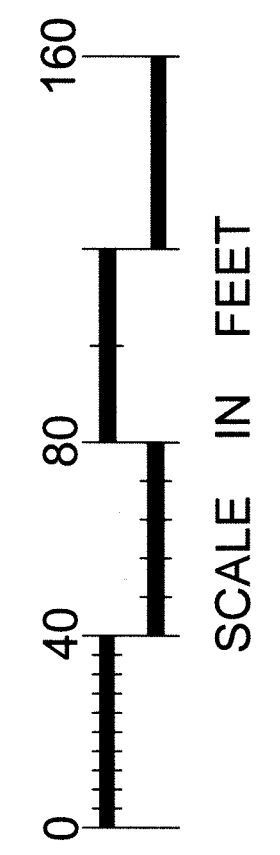
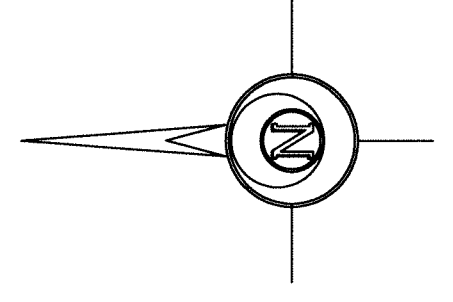
Sincerely,

Beth Brown
Permitting Technician

AS-BUILT TOPOGRAPHIC DETAIL FOR MARK AND KRISTEN ANDERSON



(908.3) : denotes existing spot elevation, mean sea level datum
 ---917--- : denotes existing contour line from 6-28-16
 [910] : denotes proposed contour from 9-18-15 survey



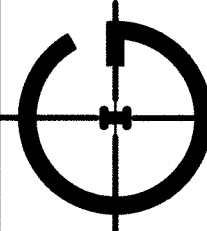
REVISIONS

DATE	BY	REMARKS

DESIGNER	DRAWN	CHECKED

I hereby certify that this survey, plan, or report was prepared by me or under my supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.
Mark D. Anderson
 MINN. LICENSE NUMBER / 2755

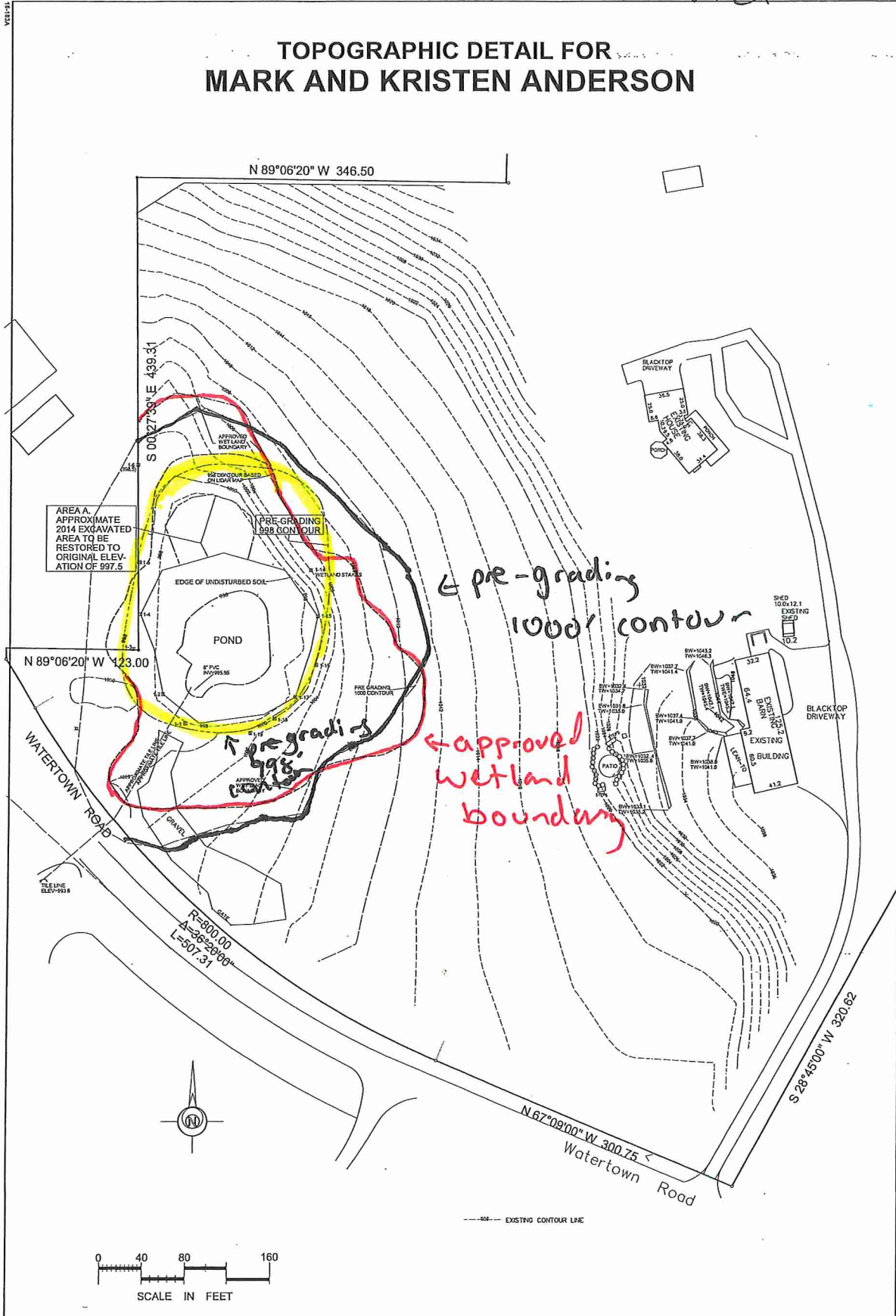
DATE	SHEET	SHEETS
6-28-16	16	183A



GRONBERG & ASSOCIATES, INC.
 CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS
 445 N. WILLOW DRIVE LONG LAKE, MN 55356
 PHONE: 952-473-4141 FAX: 952-473-4435

As-Built Submitted 09-30-16

TOPOGRAPHIC DETAIL FOR MARK AND KRISTEN ANDERSON



REVISIONS		DESIGNED	CHECKED	DATE	MAN LICENSE NUMBER	SCALE	PROJECT
				9-25-16	22733	AS SHOWN	MARK AND KRISTEN ANDERSON

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Mark A. Anderson
DATE: 9-25-16 MAN LICENSE NUMBER: 22733

G
GRONBERG & ASSOCIATES, INC.
CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS
445 N. WILLOW DRIVE LONG LAKE, MN 55356
PHONE: 952-473-4141 FAX: 952-473-4435

Minnesota Wetland Conservation Act

Technical Evaluation Panel Findings Report

Date(s) of Site Visit/Meeting:	<u>10/3/16</u>	LGU:	<u>Minnehaha Creek Watershed District (MCWD)</u>
County:	<u>Hennepin</u>	LGU Contact:	<u>Rachel Workin</u>
Project Name:	<u>3850 Watertown Road (MCWD #14-219)</u>	Phone #:	<u>952-641-4518</u>
Location of Project: (attach map if possible)	<u>3850 Watertown Road, Orono</u>	Email Address:	<u>rworkin@minnehahacreek.org</u>

<u>TEP ATTENDEES:</u>	<u>OTHER ATTENDEES:</u>	<u>OTHER ATTENDEES:</u>
LGU: Rachel Workin (MCWD)	Melanie Curtis (City of Orono)	Mark Gronberg (on-site only)
SWCD: Tony Brough (HCES)	Dave Martini (City of Orono)	
BWSR: Ben Meyer	Frank Svoboda (on-site only)	
DNR: Leah Weyandt	Mark Anderson (on-site only)	

PROJECT DESCRIPTION AND PURPOSE OF MEETING:

The property owner at 3850 Watertown Road placed fill within and excavated an on-site wetland. The property owner then submitted an after-the-fact delineation and a grading plan to restore the wetland to its original contours. The purpose of the TEP meeting was to discuss whether an as-built survey submitted by the property owner demonstrated successful restoration of the wetland contours or whether there was remaining fill and excavation within the wetland.

TYPE OF MEETING: *Check all applicable*

Office
 On-Site
 Phone Conference
 E-Mail
 Other: _____

TEP FINDINGS AND RECOMMENDATIONS ¹:

The TEP met in the City of Orono's office and then on-site to discuss whether the as-built survey for 3850 Watertown Road submitted on September 30th, 2016 conformed to the approved grading plan that was required following a TEP meeting on August 3rd, 2015 and as part of the application for MCWD permit 14-219. The approved grading plan depicted removal of all fill and restoration of excavated areas within the approved wetland boundary.

The TEP found that:

1. The submitted as-built survey shows fill remaining within the wetland and does not conform to the approved grading plan.
2. The fill is a wetland impact (as defined in 8420.0111 Subp. 32 of WCA). Further enforcement is needed to restore the wetland to its original contours as shown on the approved grading plan.
3. The applicant would be able to submit a Wetland Replacement Plan application in lieu of on-site restoration; however, the Plan would have to meet WCA Sequencing requirements. If the Plan does not meet WCA Sequencing requirements, it will be denied. The City explained that any remaining fill in the wetland would still be in violation of the property owner's Conditional Use Permit with the City.
4. Based on current information, the TEP does not believe that the impact will qualify for any exemptions.
5. The property does not meet the definition of "agricultural land" under 8420.0111 Subp. 6 of WCA since the land is not used principally for the cultivation or production of plants or farm animals.
6. The fountain currently placed in the wetland is not considered an impact under 8420.0111 Subp. 32 of WCA, provided that it does not drain the wetland.


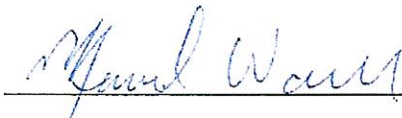
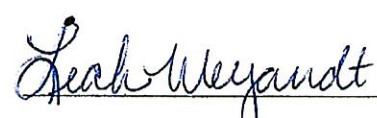
¹ TEP Findings should be a meaningful concise summary detailing the project conditions, technical data, and what rules apply. The TEP recommendation should be clear, based on rule and best professional judgement.

7. An unapproved berm was erected on the western property line. A portion of the berm is in the wetland and must be removed, because it is considered fill. The berm blocks surface flow from the neighbor's property into the wetland. Once the berm has been removed, the area could be replanted at the approved elevation. This work is subject to regulation by the City.

The TEP recommends that:

1. The DNR Conservation Officer issue a Cease and Desist Order to be followed by a Restoration Order written by HCES (the SWCD) in consultation with the TEP.
2. HCES re-stake the wetland boundary or approve re-staking undertaken by the property owner.
3. The Restoration Order should include restoration of the original contours within the approved wetland boundary by the end of 2016 and establishment of wetland vegetation via a wetland seed mix by Spring 2017.
4. Once the wetland seed mix is established at the approved elevations, the Restoration Order will be lifted.
5. Any activity in the wetland not included in the Restoration Order would be considered a violation of said Order. Once the Restoration Order is lifted, activities allowed under WCA may resume within the wetland.

SIGNATURES

	10-4-16		
SWCD Representative	Date	BWSR Representative	Date
Do not concur <input type="checkbox"/>		Do not concur <input type="checkbox"/>	
	10-3-16		10/4/16
LGU Representative	Date	DNR Representative	Date
Do not concur <input type="checkbox"/>		Do not concur <input type="checkbox"/>	

¹ TEP Findings should be a meaningful concise summary detailing the project conditions, technical data, and what rules apply. The TEP recommendation should be clear, based on rule and best professional judgement.



DEPARTMENT OF NATURAL RESOURCES

WETLAND CEASE AND DESIST ORDER

Date 10/03/2016	Time 10:19 AM	Issued To: Landowner	Phone Number	CDO# F890592627701
First Name Mark		Middle Douglas	Last Name Anderson	
Address 3850 Watertown Rd			City Maple Plain	State MN
Zip Code 55359				
Violation Information:				
County Hennepin County		PWI No.	<input type="checkbox"/> Airplane Used	
Address 44.98287500, -93.62227167			City Orono	State MN
Zip Code				
(Location Description (T-R-S or PID) 3211823320005				
Violation (Type) Description: This Cease and Desist Order states there is no work to be done in the wetland/violation area unless it is in compliance with the Restoration Order that will be served to ANDERSON.				
CEASE AND DESIST ORDER (CDO): The above, and his/her/its agents, contractors, heirs, successors, and assigns, are hereby ordered, pursuant to Minnesota Statutes, Section 103G.2372 or 103G.615, immediately cease and desist any illegal activity adversely affecting groundwater quantity, a wetland, public waters or the illegal gathering, harvesting, planting or transplanting, or destroying of aquatic vegetation or organisms in public waters.				
LGU Contact: Rachel Workin				Phone No. (952) 641 - 4518
Local Government Unit: Minnehaha Creek WD - 15320 Minnetonka Blvd, Minnetonka, MN 55345 (952) 471-0590				
Office Name: Leah Weyandt			Badge: 592	Officer's Phone: (612) 759 - 9230

ANY VIOLATION OF THIS ORDER IS A MISDEMEANOR

CEASE AND DESIST INFORMATION SHEET WCA

You have received a Cease and Desist Order issued under the Minnesota Wetland Conservation Act. The Cease and Desist Order was issued under Minnesota Statutes, Section 103G.2372. Administrative rules pertaining to the Wetland Conservation Act appear in Chapter 8420 of Minnesota Rules. The Cease and Desist Order requires you to stop draining, filling, or excavating a wetland*. Failure to comply with either the Cease and Desist Order or any subsequent restoration order or replacement order is a misdemeanor. A copy of the Cease and Desist Order will be provided to the Local Government Unit listed on the Order. If you believe that the activity is exempt or results in no loss of wetlands, then, if you have not done so already, you may apply to the Local Government Unit for an exemption or no-loss determination. If the Local Government Unit determines that the activity is exempt or results in no-loss of wetlands, then, provided the local government determination is not appealed, the Cease and Desist Order will be rescinded. You must apply to the Local Government Unit in writing and submit all required documentation to support your application. You may use the application form on the opposite side of this sheet; however, additional documentation may be required. If you do not apply to the Local Government Unit for an exemption, no-loss, or replacement plan determination or your application is denied, or if your application is granted but reversed on appeal, then whatever drain, excavation, or fill work has been performed will require restoration according to a restoration plan designed by the local Soil and Water Conservation District. If you disagree with a no-loss, or replacement plan determination made by the Local Government Unit, you may appeal to the Minnesota Board of Water and Soil Resources pursuant to Minnesota Rules 8420.0905. The decision of the Local Government Unit will become final unless you file a petition for appeal in writing within 30 working days after the date on which the decision of the Local Government Unit is mailed. The petition must include the filing fee and must comply with all other requirements specified in Minnesota Rules 8420.0905. If you have any questions about the Cease and Desist Order or the process described above, contact the Local Government Unit or the issuing officer listed on the Order. You should also consult an attorney at any time you feel the need for legal advice.

This information sheet provides general background information for wetlands. The statutes and rules pertaining to the protection of wetlands supersede any information provided on this sheet. The information provided is done so as a courtesy and is not legal advice; consult an attorney for legal advice.

* Pursuant to Minnesota Rules 8420.0111 Subp. 72: "Wetlands" means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water.

Wetlands must:

- (1) have a predominance of hydric soils;
- (2) be inundated or saturated by surface water or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- (3) under normal circumstances, support a prevalence of hydrophytic vegetation



COMPLIANCE ORDER

Under authority of Minnesota Statutes §103D.341 and Minnehaha Creek Watershed District Enforcement Rule

Property Owner: Mark Anderson	Address: 3850 Watertown Road, Orono
Permit #: 14-219	Property Owner's Representative: N/A
Notice of Probable Violation Issued: November 5 th , 2015	Activity: Wetland Disturbance and Erosion Control Issues

OBSERVATIONS:

The following apparent violations have been observed by MCWD staff (including citation to MCWD rule provision(s), permit or order violated):

1. Working with an expired permit (Procedural Requirements Rule Subp. 9.);
2. Unapproved earth-moving in the wetland (Wetland Protection Rule Subp.2. and Wetland Conservation Act [WCA] 8420.0500 Subp. 2.);
3. Missing erosion control (Erosion Control Rule); and
4. Failure to comply with Notice of Probable Violation issued November 5th, 2015.

A site inspection was conducted on October 3rd, 2016 and an as-built survey submitted on September 30th, 2016 was reviewed and the following additional issues were observed:

1. Unauthorized fill within a wetland; and
2. Un-stabilized soil within a wetland.

You hereby are ordered to take the following actions to come into compliance with the above requirements:

<u>Action</u>	<u>Compliance Deadline</u>
1. APPLY FOR RENEWAL OF MCWD PERMIT 14-219	<u>Immediately</u>
2. CEASE ALL LAND-DISTURBING WORK EXCEPT AS DIRECTED BY RESTORATION ORDER	<u>As stated on Restoration Order</u>
<ul style="list-style-type: none"> • Comply with conditions listed on Restoration Order to be submitted by DNR Conservation Officer 	

We collaborate with public and private partners to protect and improve land and water for current and future generations.

MINNEHAHA CREEK



WATERSHED DISTRICT

QUALITY OF WATER

QUALITY OF LIFE

This Compliance Order will expire 10 days from the date of the order, if rescinded by the MCWD administrator, or when superseded by further order of the MCWD Board of Managers, whichever occurs first. Failure to comply with this Compliance Order is a civil violation and a criminal misdemeanor.

The matters alleged in this order will be heard by the board on October 13th, 2016, at Time TBD., at the following location: Minnehaha Creek Watershed District offices (15320 Minnetonka Boulevard, Minnetonka). At this time you may address the board, be represented by an attorney and present evidence or witnesses in your behalf. (If no date/time/location information is indicated here, you will be advised shortly of the date, time and location of the hearing.)

After hearing, the Board of Managers may dismiss this order, extend the order, direct that you act to remedy further violations found by the board, and/or initiate civil or criminal proceedings, pursuant to Minnesota Statutes section 103D.545. The listing of violations above does not preclude the MCWD from finding additional or other violations on the basis of the evidence presented.

Your compliance with the direction to take the action specified above, whether remedial, corrective, preventative or otherwise, is required pending the board hearing. IF SPECIFIED ABOVE AS A REQUIRED ACTION, YOU MUST CEASE WORK UNTIL THE MCWD HAS VERIFIED COMPLIANCE WITH THE TERMS OF THIS ORDER. IF NOT SPECIFIED ABOVE, YOU NEED NOT CEASE WORK. HOWEVER, FAILURE TO COMPLY WITH THE TERMS AND DIRECTIONS OF THIS ORDER BY THE COMPLIANCE DEADLINE MAY RESULT IN A FURTHER ADMINISTRATIVE ORDER DIRECTING THAT WORK CEASE. The timeliness and completeness of your compliance will be considered by the board in determining further appropriate action, if any.

Pursuant to MCWD Enforcement Rule, paragraph 5, you will be liable for all costs incurred by the MCWD to secure your compliance with this order, including District consultant and legal costs. If you do not complete the actions ordered above by the indicated deadlines, the MCWD may act to remedy the noncompliance and recover the costs of its action, including attorneys' fees, from you or your surety.

This order does not affect the ability of any other federal, state or local body of government to take enforcement action against you pursuant to its own laws and regulations.

ISSUED BY:

Rachel Workin/Permitting Technician Date: October 6th, 2016
Name/Title (Print)

[Handwritten Signature]
Signature

ISSUED VIA:

- EMAIL (email: mark@captdrake.com)
- IN PERSON
- OTHER (specify: _____)

TO:

Mark Anderson Date: October 6th, 2016

We collaborate with public and private partners to protect and improve land and water for current and future generations.



MINNEHAHA CREEK



WATERSHED DISTRICT

QUALITY OF WATER

QUALITY OF LIFE

Your signature below indicates only that you received this order. Your signature does not constitute an admission of any kind with respect to the apparent violations listed above.

RECEIVED BY:

Name/Title (Print)

Date: _____

Company

Signature

Address:

Telephone:

Email:

We collaborate with public and private partners to protect and improve land and water for current and future generations.





Minnesota Wetland Conservation Act Restoration Order



REF #
CDO#
RPN#

The Commissioner of Natural Resources hereby orders Mark & Kristen Anderson and his/hers/its heirs, successors, and assigns to complete restoration of the wetland located at **(legal description)** 3850 Watertown Rd Orono, MN (PID 3211823320005); Hennepin (27) County State of Minnesota.

Name:	Mark Anderson
Address:	3850 Watertown Rd Orono, MN

Findings of Fact: 1. Wetland Determination: On 2/27/15, Mark Anderson applied for a wetland boundary and type determination for the parcel located at 3850 Watertown Rd in the City of Orono. A wetland delineation was conducted by Svoboda Ecological Resources and a complete application was submitted by the property owner and received by the Minnehaha Creek Watershed District (MCWD) on 2/27/2015. One wetland basin was delineated. This wetland was identified as a Type 4 with a surrounding Type 2. The MCWD approved this delineation report with documentation dated 5/28/15.

#2. Activities: In 2014 grading, filling, and land disturbing activities occurred on-site as reported by staff of the City of Orono and the MCWD. In 2015, the TEP determined that fill was placed within the wetland identified above under Finding of Fact #1. An as-built survey submitted by the property owner concurred with the determination that fill material was placed within the wetland area. Additional grading and fill removal occurred in 2016, but the latest as-built survey was submitted on 9/30/16 demonstrates that fill material still exists within this jurisdictional wetland. An on-site inspection by the TEP and City of Orono concurred with the determination that fill material still exists within the wetland area.

#3. Jurisdiction: The delineated wetland at 3850 Watertown Rd in Orono, MN is regulated by the Wetland Conservation Act (WCA) of 1991. The wetland filling activities fall under the scope of the WCA of 1991. A Cease and Desist order

(#F890592627701) was issued to the property owner and by the enforcement authority on 10/3/16. In cooperation with the local government and the LGU (MCWD), Hennepin Conservation District staff concluded that restoration is possible or prudent and this restoration order would be developed and issued to the landowner.

This order is issued pursuant to Minn. Stat. § 103G.2372 and MN Rule part 8420.0900.

**VIOLATION OF THIS ORDER IS A MISDEMEANOR
AND A DEED RESTRICTION COULD BE PLACED ON THE PROPERTY.**

You must either:

- A.** Provide for restoration of the wetland in the manner required by this order. Complete restoration must be accomplished on or before See dates listed in the steps below; **or**
- B.** Submit a complete wetland replacement plan, exemption, or no-loss application to the Minnehaha Creek Watershed District within 30 days of receipt of this order.

Restoration shall be accomplished by doing the following:

Restoration Order Steps:

(First Step)-No later than 11/18/16: You must restore the wetland to its pre-altered condition. This shall be accomplished by removing all the fill material located in the approved wetland area and grading area to comply with the approved site plan permitted by the MCWD permit #14-219. This plan is attached, dated 9/15/15 and provided by Gronberg & Associates, Inc. (See attachment). No additional excavation, grading, or filling is allowed. All removed fill material must be moved to an upland/non-wetland location. The wetland area restoration elevation is 998 for most of the boundary and up to 1,000 ft in the far northern area. See attached plan for more detail on required elevations. This work is to be completed no later than November 18, 2016.

**(Second Steps; Wetland Area)-No later than 11/30/16: After wetland fill removal is complete, all exposed soils within the wetland must be seeded with MN State wetland seed mix, 34-171 (wetland rehabilitation) or an equivalent formally approved by the MCWD staff. This must be applied at 283 seeds per sq. ft. The documentation tag is to be provided by the property owner.
www.bwsr.state.mn.us/native_vegetation/state_seed_mixes.pdf**

(Non-Wetland Area) No later than 11/30/16: Any exposed soils in upland/non-wetlands and within 400 feet of the restored wetland boundary must have temporary erosion controls installed. This includes Type 1 mulch at 90% soil coverage (2 tons per acre of straw mulch) and seeded with oats, or winter wheat at a rate of 100 lbs/ac (or an equivalent formally approved the the MCWD staff.)

This restoration order shall not be considered complete until vegetation is established throughout the wetland and adjacent upland. No additional excavation, grading, or filling can occur without proper permits from the City of Orono and the Minnehaha Creek Watershed District.

County staff will come out if requested to assist with restoration steps (Contact Tony Brough at 612-348-4378).

Attachments are a part of this document (check one) Yes No

The enforcement authority shall rescind this order if the landowner obtains approval for an after-the-fact replacement plan, exemption determination, or no-loss determination from the Minnehaha Creek Watershed District. The contact person is Rachel Workin at (952) 641-4518. If an after-the-fact approval is not received, the landowner/responsible party must restore the wetland as specified in this order. Upon completion of the restoration required by this order, the landowner must contact Tony Brough at the Hennepin County Soil and Water Conservation District (612) 348-4378 and request that a Certificate of Satisfactory Completion be issued.

If you choose to appeal the terms or conditions of this order, a written request must be submitted to the Minnesota Board of Water and Soil Resources (BWSR) Executive Director within 30 days of receiving this order, along with a minimum filing fee of \$500. If a written request and filing fee is not submitted to BWSR within 30 days, this restoration order shall become final.

**Order
Prepared by**

Signature Printed Name Date

**Order
Served by**

Conservation Officer Signature Badge # Printed Name Date

Officer Issuance Record: in person; or by certified mail on ____/____/____
[Date]

Distribute Copies To:

DNR Conservation Officer
DNR Water Resources Enforcement Officer
BWSR Wetland Specialist
Local Government Unit (LGU)
Soil and Water Conservation District (SWCD)
Landowner

Appeal and fee can be mailed to:

Minnesota BWSR
Executive Director
520 Lafayette Road North
St. Paul, MN 55155



115

MEDINA

LAKE INDEPENDENCE

115

201

24

24

MAPLE PLAIN

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201

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83

ORONO

6

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112



LONG LAKE

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MINNETRISTA

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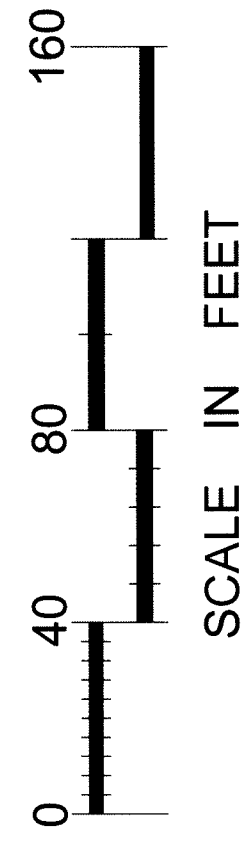
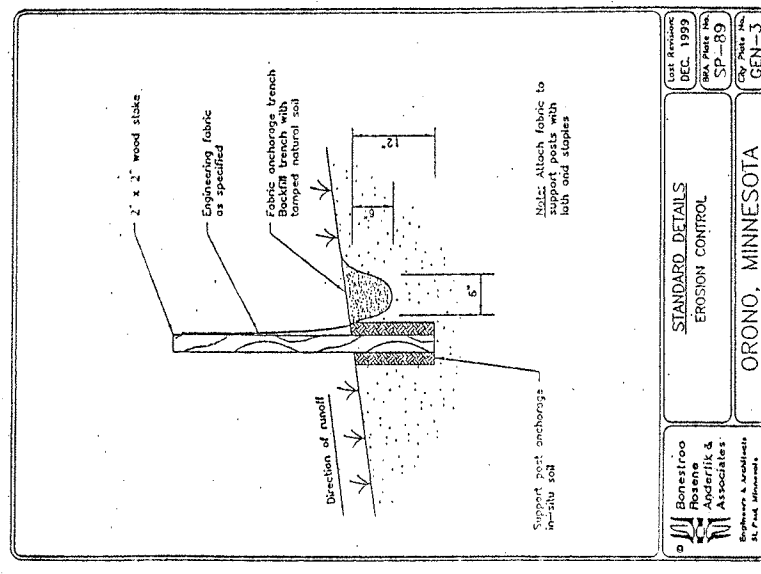
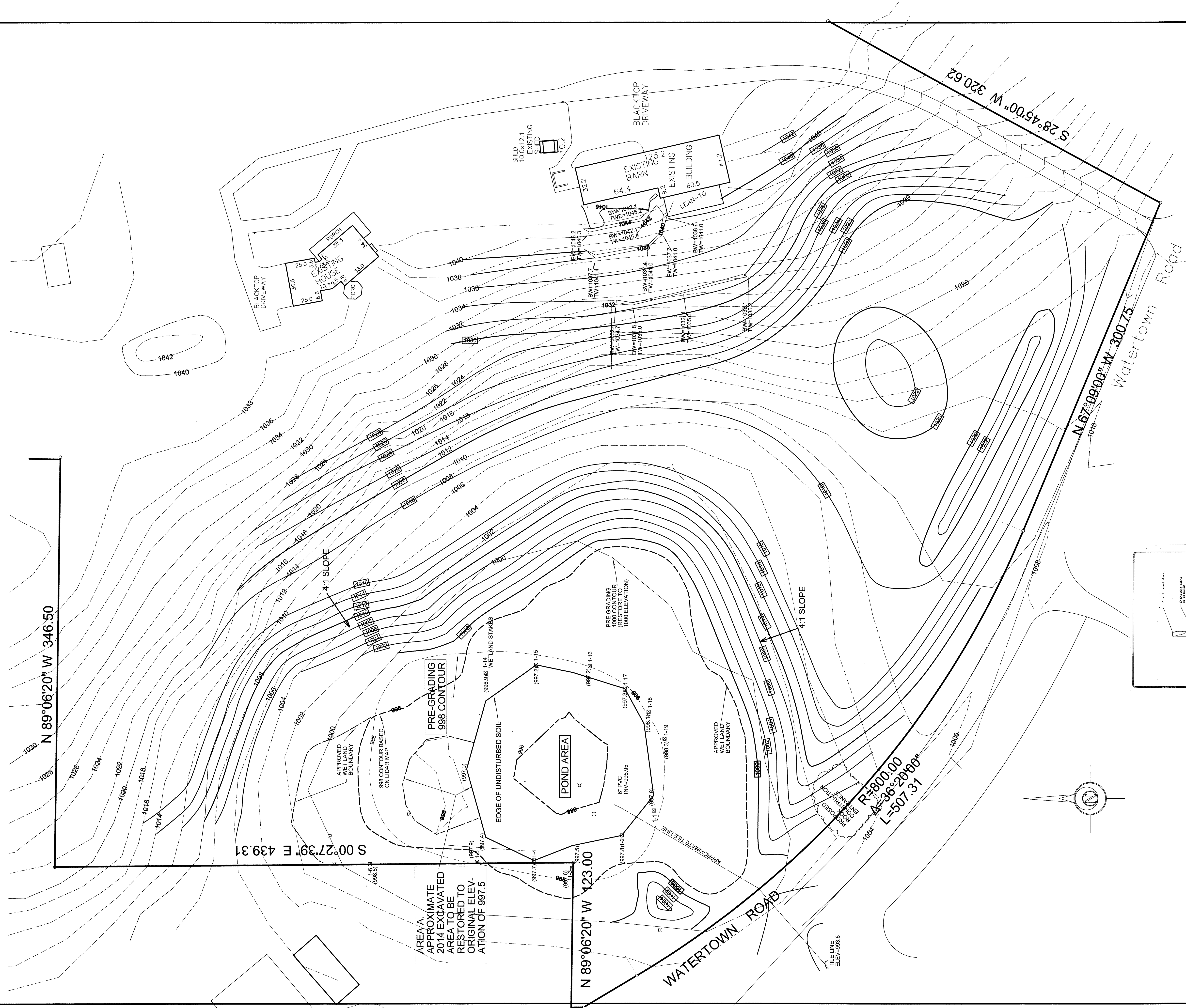
CRYSTAL BAY

LAKE MINNETONKA - WEST ARM

MINNETONKA BEACH

LAKE MINNETONKA - LOWER LAKE

PROPOSED GRADING PLAN AND TOPOGRAPHIC DETAIL FOR MARK AND KRISTEN ANDERSON



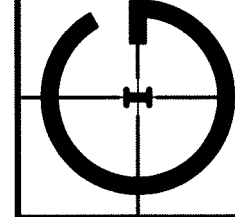
REVISIONS

DATE	BY	REMARKS
9-11-15		REVISED GRADING WITH LIDAR 998 CONTOUR
9-15-15		REVISED

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Mark D. Anderson
MINI LICENSE NUMBER 2227

DATE	SHEET NO.	TOTAL SHEETS
11-3-14	14-119E	14-119E



GRONBERG & ASSOCIATES, INC.
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445 N. WILLOW DRIVE LONG LAKE, MN 55356
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2012 - 2 ft Contours

Wetland Boundary per
Svoboda Ecological Resources
2/27/2015

