

**MINNEHAHA CREEK WATERSHED DISTRICT
BOARD OF MANAGERS**

**In the matter of discharge of pollutants, permit 18-015
2320 Oliver Hill
Orono**

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

FINDINGS OF FACT

1. On June 28, 2018, at the regular scheduled meeting of the Minnehaha Creek Watershed District Board of Managers, a hearing was held on failure of erosion and sediment control and discharge of pollutants to an unnamed second-order watercourse on and from a single-family home property at 2320 Oliver Hill in Orono (the Property). According to readily available Hennepin County property information, the Property is owned by Ole Knute Hovde and Carlie Dayle Hovde (the Property Owners). Youngfield Homes Inc., a private Minnesota business doing business as Country Joe Homes (the Permittee), has been the holder of MCWD permit 18-015 authorizing land-disturbing activities on the Property at all times relevant to this matter.
2. Managers present at the hearing were *Sherry White, Brian Shekleton, Richard Miller, Kurt Rogness, William Olson, William Becker* and *Jessica Loftus*. Also present were Katherine Sylvia, MCWD Permitting Program Manager; Shawn Witherspoon, MCWD engineer (Wenck Associates); and Michael Welch, MCWD legal counsel (Smith Partners). [*OTHERS TBD*]
3. Ms. Sylvia, MCWD Permitting Program Manager, sent written notice of the hearing via email June 20, 2018, to Dylan Moore, of the Permittee at an email address provided to MWCD in the application for the permit. Written notice also was provided in person by MCWD staff member Cole Thomson to Bob Cumbow, Director of Operations of the Permittee at the Property at 12:00 p.m., June 21, 2018. Written notice also was sent by Ms. Sylvia via email to Carlie Dayle Hovde and by certified mail to the Property Owners June 22, 2018, at the Property, the only address MCWD was able to readily obtain from public records for the Property Owners. Written notice of the hearing was sent by Ms. Sylvia by email and certified mail to Ed Renner, project manager at E.H. Renner & Sons (E.H. Renner) on June 26, 2018.
4. This matter concerns the failure to establish and maintain required erosion and sediment control practices, the failure to maintain required wetland buffer vegetation and the discharge of pollutants to a watercourse in a manner that constitutes a harm and continued threat to waters within the jurisdiction of the Minnehaha Creek Watershed District.
5. At the hearing, Katherine Sylvia provided the following documents:
 - a. Project Location Maps - June 27, 2018
 - b. Stream Inventory – June 27, 2018
 - c. Declaration, Hennepin County doc. No. A10130655 – October 27, 2014
 - d. Application for permit, submitted by Youngfield Homes – January 12, 2018

- e. MCWD Permit 18-015 – issued to Country Joe Homes for Erosion Control – February 5, 2018
- f. MCWD Erosion Control Inspection Report and associated photographs – May 31, 2018
- g. MCWD Notice of Probable Violation 18-015 – June 15, 2018
- h. MCWD Compliance Order 18-015 and Notification of Hearing to Permittee – June 20, 2018
- i. Safety Data Sheet – Super Gel-X – July 24, 2015
- j. Remediation Scope of Work (Wenck Associates) – June 21, 2018
- k. Notification of Hearing sent to the Property Owners – June 22, 2018
- l. Notification of Hearing sent to E.H. Renner – June 26, 2018
- m. Dated photographic documentation of site conditions May 31-June 20, 2018
- n. Memorandum of MCWD Engineer (Wenck Associates) – site and spill assessment – June 26, 2018
- o. *Confirmations of receipt of notice (TBD)*

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

6. Ms. Sylvia presented the findings of the MCWD staff in the matter. Ms. Sylvia stated that:
- a. MCWD received an application for a permit under MCWD’s Erosion Control Rule from the Permittee for the construction of a single-family home at the Property on January 12, 2018. The permit, number 18-015, was approved February 5, 2018.
 - b. Inspection of the Property on May 31, 2018, discovered missing and non-functioning erosion control around the perimeter of the construction area of the Property, and a discharge of excessive sediment and dewatering washout to the wetland buffer area on the Property, wetland and an unnamed second-order watercourse that runs through the Property and continues south (the Stream). The Stream flows south-southeast off of the Property and crosses through a culvert under Watertown Road (a city street) approximately 860 feet from the property. The Stream eventually connects to Long Lake Creek through a wetland complex approximately 0.38-mile south-southeast of the Property, which eventually discharges into Tanager Bay approximately 1.8 miles south-southeast of the Property. MCWD staff directed the Permittee to install establish silt fence around the active construction area, install sedimentation basins, ditch checks and/or other best-management practices to filter discharge, and to remove sediment from the Stream and wetland area within seven days.
 - c. After subsequent inspections documented in photographs that that erosion-control practices had not been installed or reinstalled or secured, and that sediment in the Stream had not be removed, on June 15 staff issued a Notice of Probable Violation to the Permittee, requiring install and repair of erosion and sediment control measures around disturbed area, removal of discharge from the Stream and wetland and implementation of measures to filter discharge from the Property by June 18.
 - d. On June 15 MCWD staff engaged the emergency response team of the MCWD engineer (Wenck Associates or Wenck) to assess the Property and advise on

- remediation measures needed. Aided by a Safety Data Sheet provided to MCWD by onsite representatives of E.H. Renner, Wenck determined that approximately 3 cubic yards of bentonite well-drilling material and sediment had been discharged from the Property and flowed approximately 850 feet of the Stream, to a culvert under Watertown Road.
- e. After further inspections by MCWD documented in photographs that erosion-control practices had not been completely installed or repaired, continuing discharge of sediment and well-drilling material from the Property to the Stream, on June 20 MCWD issued a Compliance Order to the Permittee requiring it to install and repair erosion control measures around the disturbed areas of the Property, remove discharge from the Stream, cease and desist all land-disturbing activities that could mobilize pollutants including additional well drilling or dewatering, and obtain necessary permission(s) to enter downstream property(ies) and submit a plan for removal of pollutants from downstream waterbodies for District approval.
7. Shawn Witherspoon of Wenck presented further findings to the managers. He stated that:
 - a. The Safety Data Sheet identified the composition of the well drilling fluid that is the principal component of the material that has entered the Stream in discharge from the Property to be a mixture of bentonite clay, calcium carbonate, smectite minerals, quartz, and cristobalite. The deposition of the clay mixture within the Stream channel can impact water quality through excess turbidity, dissolved oxygen depletion and filling of interstitial spaces, which has the potential to adversely impact aquatic vegetation, macroinvertebrates and fish.
 - b. At the direction of MCWD staff, Wenck installed on June 22 an underflow dam to contain the bentonite in the Stream at Watertown Road.
 8. Ms. Sylvia stated that MCWD provided via June 25 email to the Permittee a scope of work for removal of the Discharge from the Stream, prepared by Wenck in response to a request from MCWD staff. MCWD received a communication on June 25 from Rob Bouta of Kjolhaug Environmental Services on behalf of the Permittee, along with photographs, stating and purporting to document that erosion-control measures on the Property had been properly reinstalled and that cleanup measures had removed the bentonite from the Stream.
 9. Mr. Witherspoon stated that his inspection of the Property on June 25 found that erosion and sediment-control measures – including double and triple layers of silt fence – had been established such that further bentonite would not reach the Stream. In addition, the Permittee had effectively removed the bentonite from 150 to 200 feet of the Stream, leaving bentonite remaining in approximately 650 feet of the Stream. The remaining bentonite presents a persistent risk to water resources, as previously described.
 10. The Board of Managers finds the above-stated testimony of Ms. Sylvia and Mr. Witherspoon, as well as the evidence, facts and statements set forth in the above-cited documents, to be credible and adopts them as its factual findings in this matter.
 11. The Board of Managers finds that the actions of the Permittee and E.H. Renner and noncompliant conditions on the Property constitute an actual and continuing threat to the Stream and other downstream water resources.

CONCLUSIONS OF LAW

12. MCWD possesses authority under Minnesota Statutes sections 103D.335 and 103D.341 to adopt and implement water resource-protection rules including regulations applicable to erosion control and discharge of pollutants, and to issue remedial orders for compliance with its rules. In addition to the enforcement of its rules under MCWD's Enforcement Rule, under the Illicit Discharge Detection & Elimination Rule, MCWD may provide notice of violation of the rule and require compliance from the person or persons responsible.

13. MCWD's Erosion Control and Illicit Discharge Detection & Elimination rules and associated definitions are duly adopted and in force pursuant to MCWD's statutory authority and all applicable provisions of law, and have been, in relevant part, throughout the time activities described herein took place. The Declaration is a valid encumbrance on the Property, enforceable on its terms by MCWD.

14. The failure of the Permittee to maintain erosion and sediment control practices in accordance with the erosion control plan approved for purposes of and as the basis for the issuance of MCWD permit 18-015 constitutes a violation of the permits terms. The failure to establish and maintain erosion and sediment control practices also constitutes a violation of MCWD Erosion Control Rule provisions requiring maintenance of erosion-control practices to minimize sediment from entering surface waters (paragraph 9(c)) and construction and maintenance of sedimentation basins or other practices to receive discharge of sediment-laden water to preclude adverse effects on receiving waters and downstream landowners (paragraph 9l).

15. The Stream is a watercourse, as defined in MCWD rules, and the Discharge constitutes water pollution as defined at Minnesota Statutes section 115.01, subdivision 13, and a violation of MCWD Illicit Discharge Detection & Elimination Rule paragraph 3(f).

16. The Permittee and Property Owners are liable for the failure to maintain wetland buffer, which constitutes a breach of paragraph 1a of the Declaration.

17. The Permittee, the Property Owners and E.H. Renner received actual notice of the hearing. The board may hear the evidence of a violation and issue a compliance order on the basis of evidence presented at the hearing.

ORDER

Accordingly, the Board of Managers amends and supersedes the June 20, 2018, Compliance Order with the following ORDER, requiring the Permittee and/or Property Owners to:

18. Maintain erosion control best management practices in accordance with the January 12, 2018, MCWD-approved erosion control plan and otherwise as necessary to comply with the MCWD Erosion and Sediment Control Rule and to prevent further adverse impact to downgradient water resources as long as land-disturbing work is under way at the Property.

19. Remove uncontained bentonite materials from the Property to prevent further off-site discharge by July 2, 2018. No land-disturbing work on the Property may occur until MCWD has confirmed, in writing, that bentonite and other pollutants have been contained on the Property in a manner that will prevent offsite discharge.

20. Submit by July 8, 2018, a detailed plan for restoration of wetland buffer in accordance with the Declaration and removal of the remaining bentonite from the Stream and, as necessary, other water resources (the Plan) to MCWD for approval. The Plan must identify the necessary regulatory approvals and the necessary permission to enter property/ies to implement the Plan and describe how the permissions and approvals will be obtained.

21. On approval from MCWD, implement the Plan within five business days.

22. Pay applicable costs of enforcement of permit 18-015 and MCWD rules, including but not limited to costs of [\$TBD] to date, representing MCWD's actual costs of field inspection, analysis, services of consultants including engineering and legal consultants, and monitoring; and pay all further permit-compliance fees accrued within 30 days of receipt of invoice from MCWD and submit a financial assurance, in form acceptable to MCWD, of \$XXXXXXX by July 8, 2018.

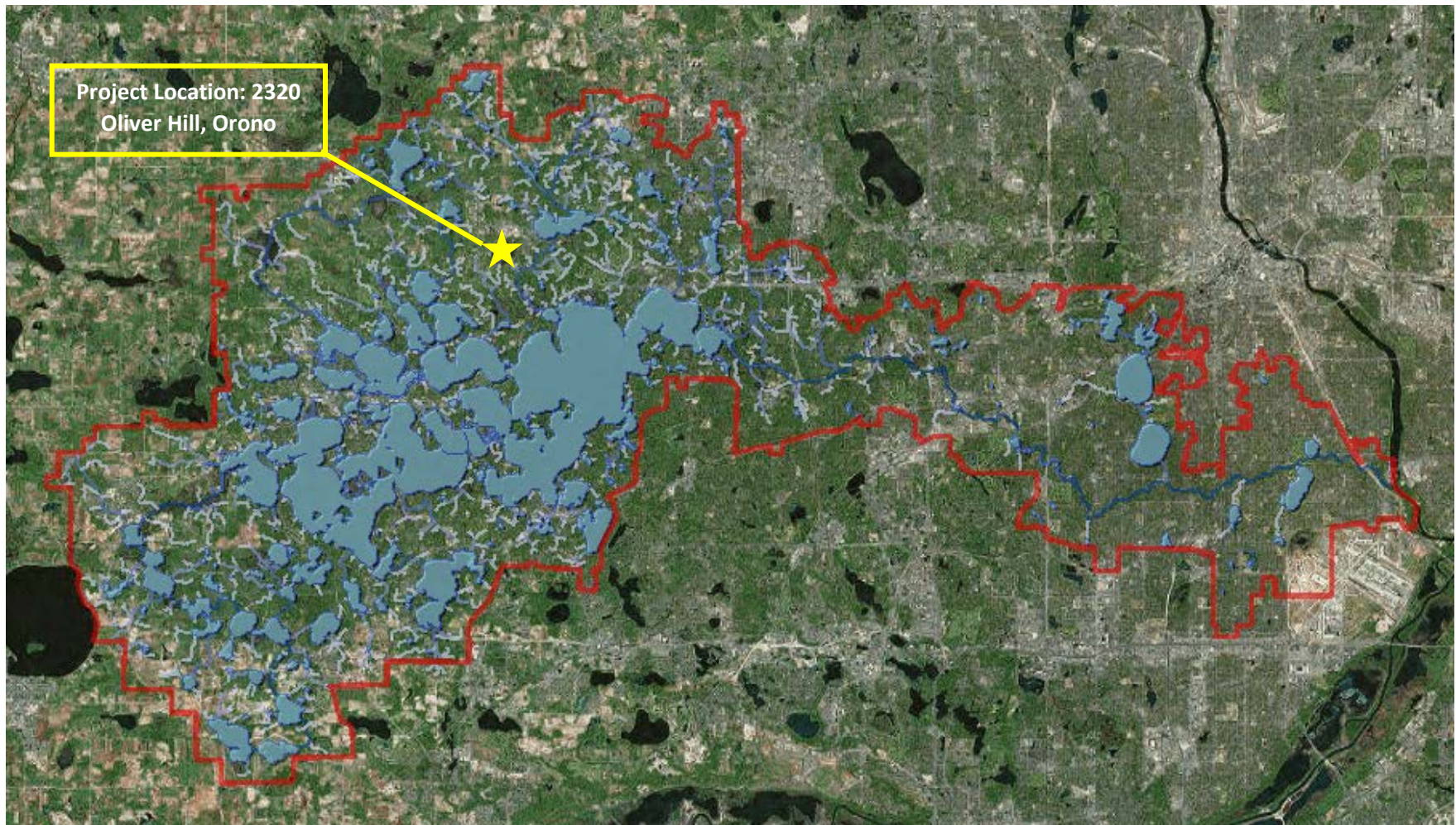
23. In the event of the Permittee's failure to obtain all required approvals and complete all required actions stated herein, MCWD will undertake removal of Pollutants discharged from the Property and invoice the Permittee for all costs thereof. In the event of the Permittee's failure to pay all such invoiced costs, MCWD may seek a court order to recover costs and/or record a lien against the Property for such costs.

24. This Order may be enforced in district court through criminal misdemeanor prosecution, civil injunction or other appropriate order pursuant to Minnesota Statutes sections 103D.545 and 103D.551.

Date _____

Sherry White, President
MCWD Board of Managers

Exhibit A: Project Location Maps



Project Location: 2320
Oliver Hill, Orono

Exhibit A: Project Location Maps

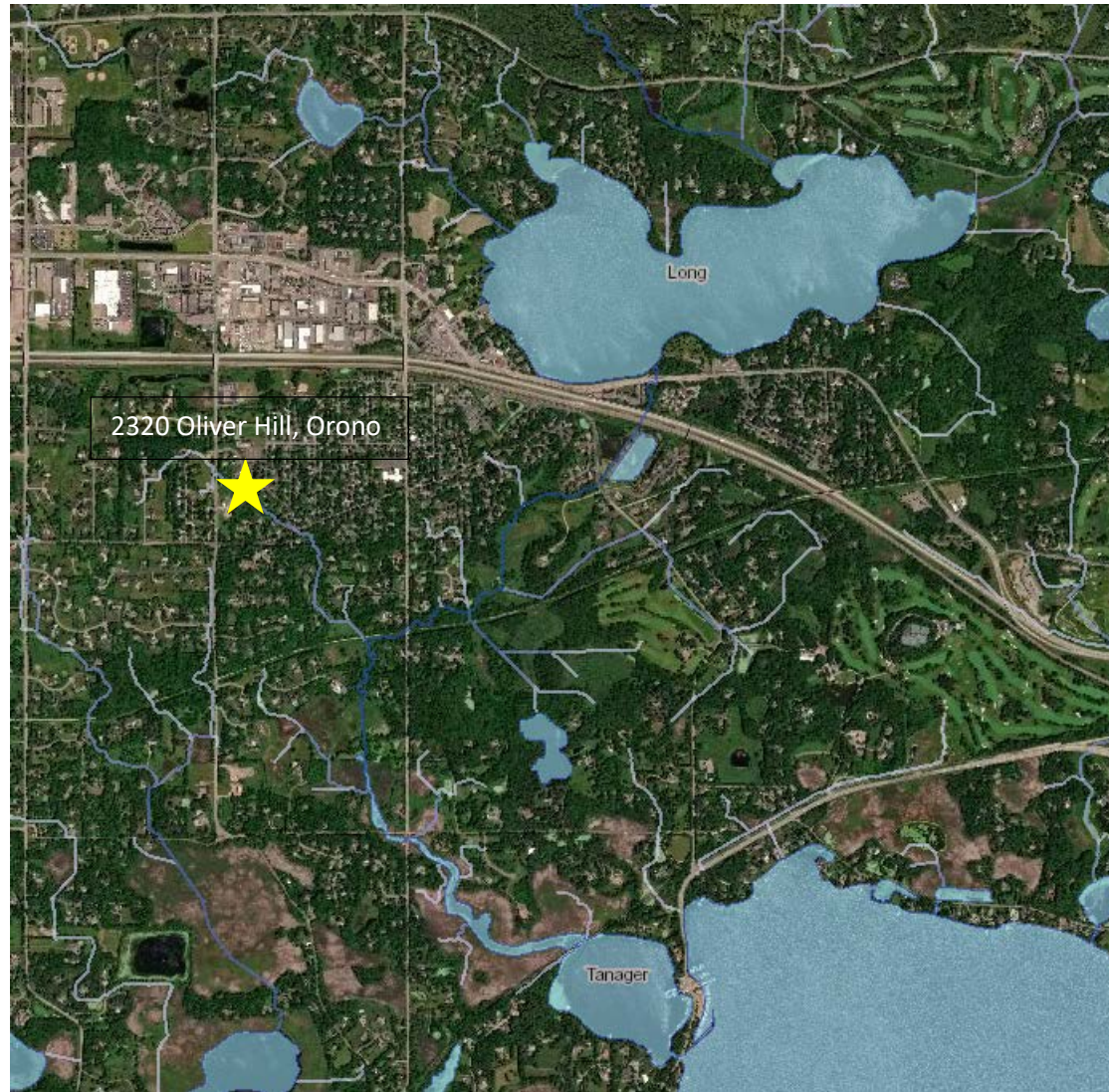
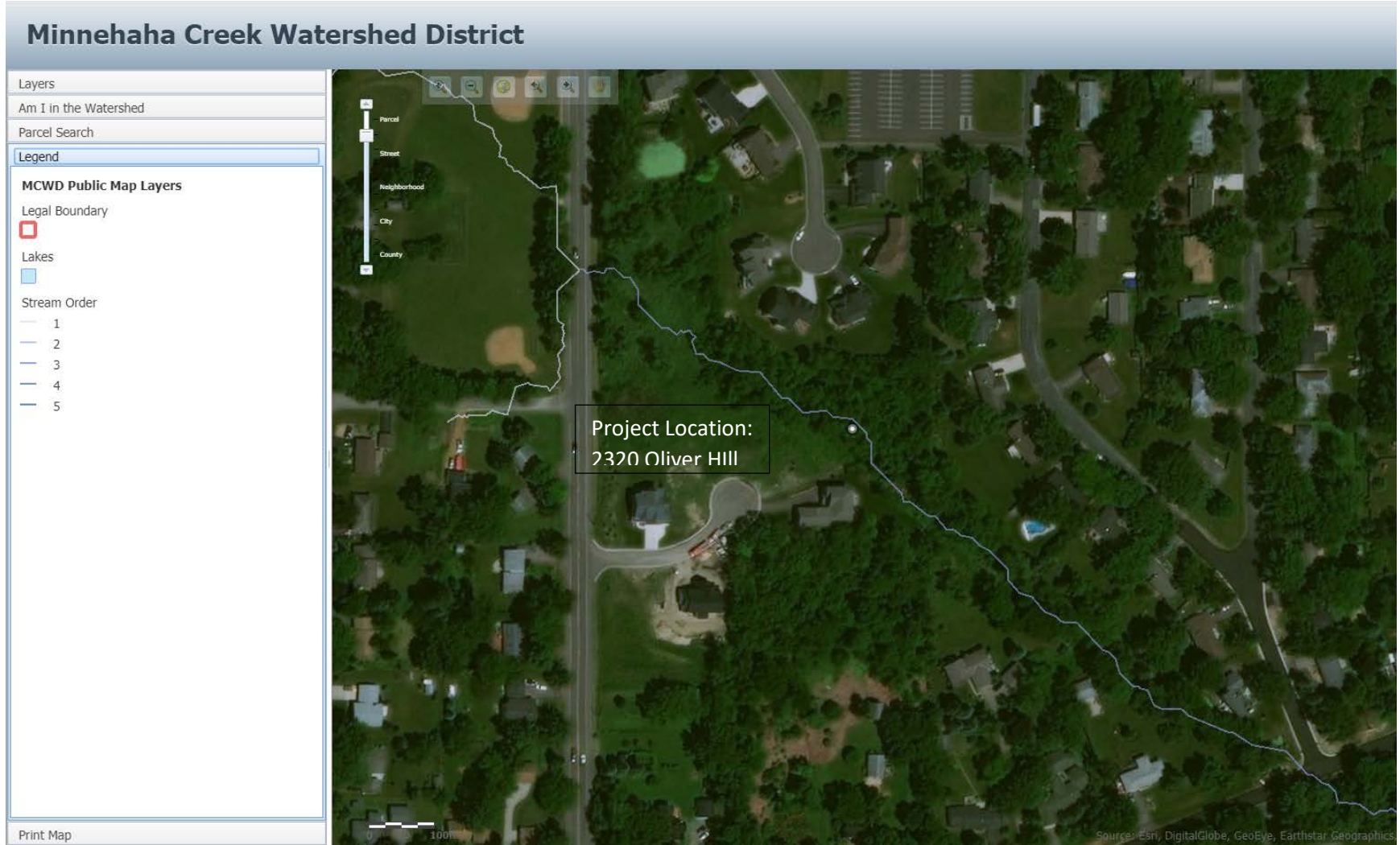


Exhibit B: MCWD Stream Inventory





Doc No **A10130655**

Certified, filed and/or recorded on
Oct 27, 2014 1:51 PM

Office of the County Recorder
Hennepin County, Minnesota
Martin McMormick, County Recorder
Mark Chapin, County Auditor and Treasurer

Deputy 59

Pkg ID 1167883C

Doc Name: **Declaration**

Attested Copy or Duplicate Original \$2.00

Document Recording Fee \$46.00

Document Total \$48.00

COPY

DECLARATION

THIS DECLARATION (Declaration) is made as of September 26, 2014, by THE BROADWAY GROUP, LLC, a Minnesota limited liability company ("Declarant") in favor of the Minnehaha Creek Watershed District ("MCWD"), a special purpose local unit of government with purposes and powers pursuant to Minnesota Statutes Chapters 103B and 103D.

RECITALS:

A. Declarant owns real property within the City of Orono, Hennepin County, Minnesota, platted and legally described as:

Lots 1, 2, 3, 4 and 5, Block 1; Lots 1 and 2, Block 2; and Outlot B, OLIVER HILL, Hennepin County, Minnesota

(the "Property"), and no one other than Declarant has any right, title or interest in the Property.

B. The Property constitutes the entirety of the land to which MCWD Permit # 14-309 applies.

C. Declarant desires to subject the Property to certain conditions and restrictions imposed by the MCWD as a condition to issuance of Permit #14-309 for the mutual benefit of the MCWD and the owners of the Property.

NOW, THEREFORE, Declarant makes this Declaration and hereby declares that this Declaration shall constitute covenants running with the Property in perpetuity, and further declares that the Property shall be owned, used, occupied and conveyed subject to the provisions of this Declaration, all of which shall be binding on all persons owning or acquiring any right, title or interest in the Property, and their heirs, personal representatives, successors and assigns. All features requiring maintenance identified on the scaled site plan for the Property attached hereto and incorporated herein as Attachment A will be maintained in perpetuity in accordance as follows:

1. **Wetland Buffer Areas.**

- a. Buffer vegetation will not be cultivated, cropped, pastured, mowed, fertilized, subject to the placement of mulch or yard waste, or otherwise disturbed, except for periodic cutting or burning that promotes the health of the buffer, actions to address disease or invasive species, mowing for purposes of public safety, temporary disturbance for placement or repair of buried utilities, or other actions to maintain or improve buffer quality, each as approved by MCWD staff in writing. Pesticides and herbicides may be used in accordance with Minnesota Department of Agriculture rules and guidelines. No new structure or hard surface will be placed within a buffer, except that construction of a trail or path of no more than 4 feet in width to provide riparian access through the buffer is acceptable. No fill, debris or other material will be excavated from or placed within a buffer.
- b. Permanent wetland buffer monuments will be maintained in the locations shown on the approved site plan. Language shall indicate the purpose of the buffer, restrictions, and the name and phone number of the Minnehaha Creek Watershed District.

2. **Violation.** Both the Declarant and subsequent property owners are liable to the MCWD for performance under this Declaration, and the MCWD may seek any remedy in law or equity against the Declarant as long as the declarant owns the Property and thereafter against the property owner to enforce the Declaration.

3. **Property Owner.** The term "Owner" or "Owners," as used in this Declaration means the owner of the Property, or some portion or part thereof, which is subject to the provisions of this Declaration.

4. **Recitals.** The recitals set forth above are expressly incorporated herein.

IN AGREEMENT, the undersigned has executed this Declaration the day and year first set forth above.

DECLARANT:

THE BROADWAY GROUP, LLC

By: W.A. Abbott

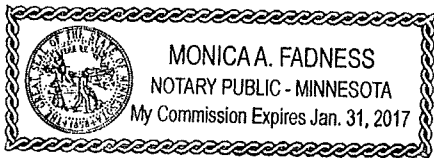
Its Manager

STATE OF MINNESOTA)
(ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this 26 day of September, 2014, by William Abbott the Manager of THE BROADWAY GROUP, LLC, a Minnesota limited liability company, on behalf of the company.

Monica A. Fadness

Notary Public



This Instrument Was Drafted By:

John B. Winston
Winston Law Office
815 Wayzata Blvd. East, Suite 104
Wayzata, Minnesota 55391

Attachment A

[Scaled Site Plan]

18-015



WATER RESOURCE PERMIT APPLICATION FORM

Use this form to notify/apply to the Minnehaha Creek Watershed District (MCWD) of a proposed project or work which may fall within their jurisdiction. Fill out this form completely and submit with your site plan, maps, etc. to the MCWD at: 15320 Minnetonka Blvd. Minnetonka, MN 55345.

Keep a copy for your records.

YOU MUST OBTAIN ALL REQUIRED AUTHORIZATIONS BEFORE BEGINNING WORK.

1. Name of each property owner: Youngfield Homes, Inc. - Joey Miller
Mailing Address: 22260 Dodd Blvd. City: Lakeville State: MN Zip: 55044
Email Address: joeymiller@mac.com Phone: 612-269-6370 Fax: 952-469-4067

2. Property Owner Representative Information (not required) (licensed contractor, architect, engineer, etc...)
Business Name: Younffield Homes, Inc. Representative Name: Adam Bohn
Business Address: 22260 Dodd Blvd. City: Lakeville State: MN Zip: 55044
Email Address: abohn@countryjoehomes.com Phone: 952-314-1187 Fax: 952-469-4067

3. Project Address: 2320 Oliver Hill City: Orono
State: MN Zip: 55356 Qtr Section(s): Section(s): Township(s): Range(s):
Lot: 4 Block: 1 Subdivision: Oliver Hill PID:

4. Size of project parcel (square feet or acres): 13,000 S.F.
Area of disturbance (square feet): 7,500 S.F. Volume of excavation/fill (cubic yards): 200 C.Y.
Area of existing impervious surface: None Area of proposed impervious surface: 1,300
Length of shoreline affected (feet): None Waterbody (& bay if applicable): None

5. Type of permit being applied for (Check all that apply):
[X] EROSION CONTROL [] WATERBODY CROSSINGS/STRUCTURES
[] FLOODPLAIN ALTERATION [] STORMWATER MANAGEMENT
[] WETLAND PROTECTION [] APPROPRIATIONS
[] DREDGING [] ILLICIT DISCHARGE
[] SHORELINE/STREAMBANK STABILIZATION

6. Project purpose (Check all that apply):
[X] SINGLE FAMILY HOME [] MULTI FAMILY RESIDENTIAL (apartments)
[] ROAD CONSTRUCTION [] COMMERCIAL or INSTITUTIONAL
[] UTILITIES [] SUBDIVISIONS (include number of lots)
[] DREDGING [] LANDSCAPING (pools, berms, etc.)
[] SHORELINE/STREAMBANK STABILIZATION [] OTHER (DESCRIBE):

7. NPDES/SDS General Stormwater Permit Number (if applicable):

8. Waterbody receiving runoff from site:

9. Project Timeline: Start Date: Completion Date:

Permits have been applied for: City [X] County [] MN Pollution Control Agency [] DNR [] COE []
Permits have been received: City [X] County [] MN Pollution Control Agency [] DNR [] COE []

By signing below, I hereby request a permit to authorize the activities described herein. I certify that I am familiar with MCWD Rules and that the proposed activity will be conducted in compliance with these Rules. I am familiar with the information contained in this application and, to the best of my knowledge and belief, all information is true, complete and accurate. I understand that proceeding with work before all required authorizations are obtained may be subject to federal, state and/or local administrative, civil and/or criminal penalties.

Signature of Each Property Owner: Steve Lambert Date: 1-12-18

check for \$10.00 being mailed: 1-12-18

EROSION CONTROL SUPPLEMENTAL INFORMATION FORM

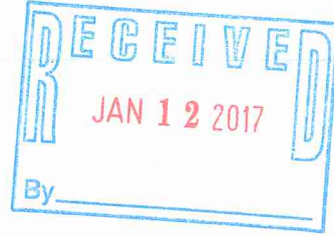
INSPECTION PLAN REQUIREMENTS

1. Routine Inspections:

- Once every seven days during active construction
- Within 24 hours of a half inch or more precipitation

2. Completed Field Inspection Reports:

- Reports available within 24 hours of request until MCWD determines project is complete & stabilized



Failure to submit requested inspection information will result in a site inspection and may be subject to reimbursement for MCWD staff time.

Who will inspect your site regularly?

NAME:	<u>Dylan moore</u>	ORGANIZATION:	<u>Youngfield Homes</u>
PHONE:	<u>612-214-4029</u>	ALTERNATE PHONE:	<u>952-380-8120</u>
EMAIL:	<u>dylan.m@countryjoehomes.com</u>		

Where is the concrete washout location?

<input checked="" type="checkbox"/> OFF SITE OR CONTAINED ON TRUCK
<input type="checkbox"/> INDICATED ON SITE PLAN (with required impermeable liner)
<input type="checkbox"/> N/A

What is the final stabilization method?

(seed, sod, etc.): <u>sod</u>
<i>6 inches of topsoil must be added/replaced prior to final stabilization</i>

Will protective fencing for retained vegetation be installed?

<input type="checkbox"/> YES
<input checked="" type="checkbox"/> NOT APPLICABLE
<input type="checkbox"/> OTHER (describe) _____

I certify that I am familiar with the requirements of the MCWD Erosion Control Rule and that the proposed activity will be conducted in compliance with this rule.

Steve Sabbe
Signature of Applicant or Authorized Agent

Date



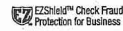
MINNEHAHA CREEK
WATERSHED DISTRICT
QUALITY OF WATER, QUALITY OF LIFE

DATE	INVOICE NO.	DESCRIPTION	INVOICE AMOUNT	DEDUCTION	BALANCE
1-12-18	2320OLI-PE	2320 OLIVER-EROSION PERM	10.00	.00	10.00
CHECK DATE	1-19-18	CHECK NUMBER	27556	TOTALS	10.00
					10.00

27556

Youngfield Homes, Inc.
 22260 Dodd Boulevard
 Lakeville, MN 55044

ANCHOR BANK
 www.anchorink.com
 AnchorLine® 952-808-8083
 75-1523/960



1-19-2018 \$*****10.00

Pay: ***** DATE ***** CHECK NO. ***** AMOUNT ***** Ten dollars and no cents

PAY TO THE ORDER OF
 MCWD
 15320 MINNETONKA BLVD
 MINNETONKA, MN 55345

Steven J. Amber
 AUTHORIZED SIGNATURE

⑈027556⑈ ⑆096015232⑆ ⑆00025432⑆

RECEIPT DATE 1/22/18 No. 519488

RECEIVED FROM Youngfield Homes \$ 10.00

Ten and 00/100 DOLLARS

FOR RENT
 FOR 2320 Oliver

ACCOUNT: _____
 PAYMENT: _____
 BAL. DUE: _____

CASH
 CHECK
 MONEY ORDER
 CREDIT CARD

FROM 27556 TO _____
 BY [Signature]

3-11

ADDRESS: 2320 OLIVER HILL

CERTIFICATE OF SURVEY FOR COUNTRY JOE HOMES

Erosion Control Plan

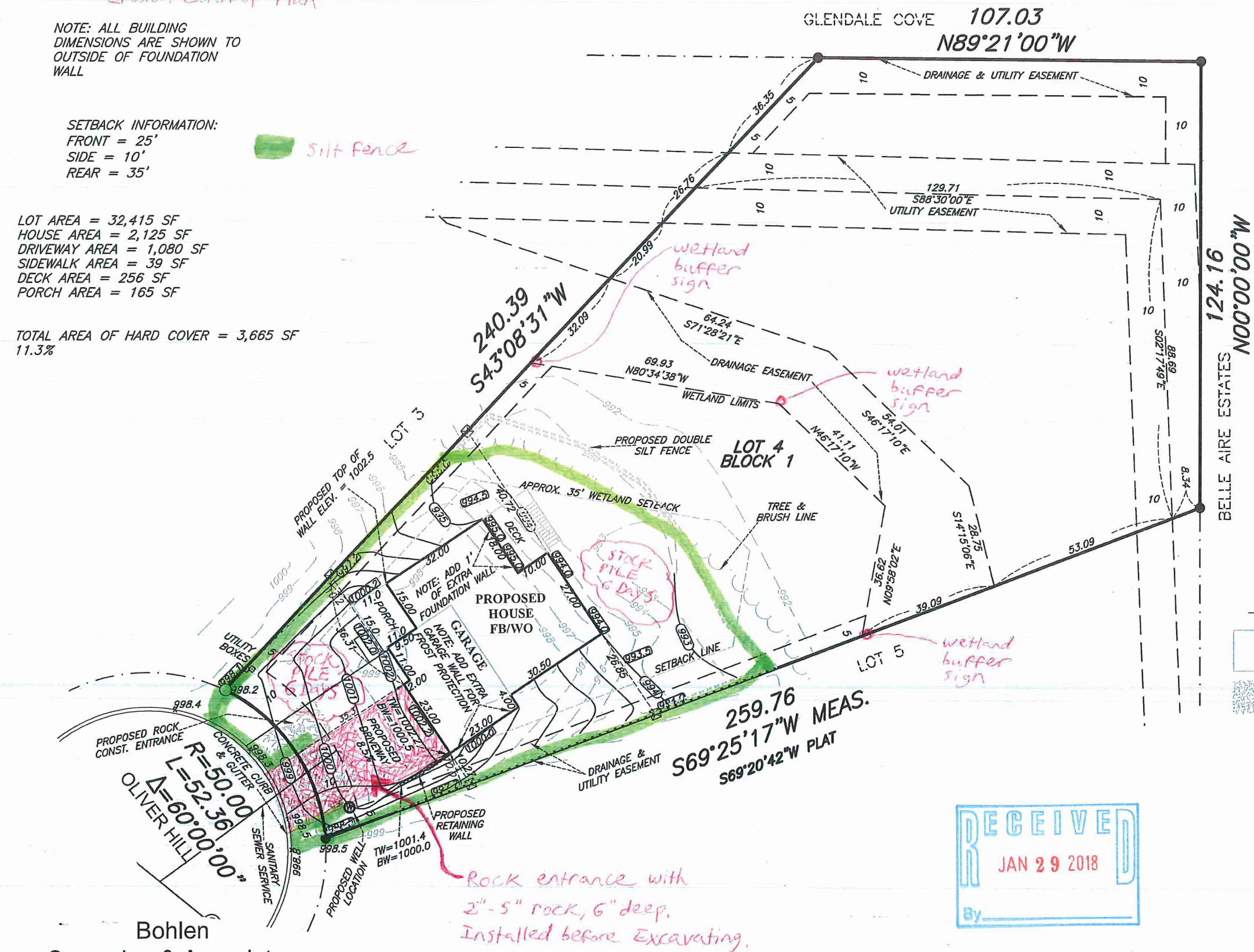
NOTE: ALL BUILDING DIMENSIONS ARE SHOWN TO OUTSIDE OF FOUNDATION WALL

SETBACK INFORMATION:
FRONT = 25'
SIDE = 10'
REAR = 35'

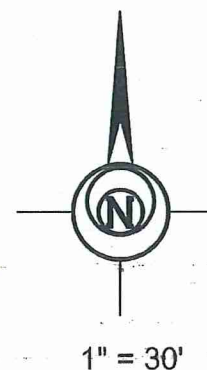
LOT AREA = 32,415 SF
HOUSE AREA = 2,125 SF
DRIVEWAY AREA = 1,080 SF
SIDEWALK AREA = 39 SF
DECK AREA = 256 SF
PORCH AREA = 165 SF

TOTAL AREA OF HARD COVER = 3,665 SF
11.3%

Silt fence



BENCH-MARK
RIM OF SANITARY MANHOLE
40' NW OF THE NW CORNER
OF LOT 2, BLOCK 2, ELEV. =
1005.49



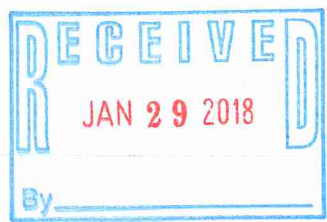
- DENOTES SET IRON PIPE MONUMENT
- DENOTES FOUND IRON PIPE MONUMENT
- DENOTES PROPOSED DRAINAGE DIRECTION
- DENOTES SERVICE LOCATION
- DENOTES WOOD HUB
- 000.0 DENOTES EXISTING ELEVATION
- DENOTES PROPOSED ELEVATION
- HE=000.0 DENOTES HUB ELEVATION
- DENOTES EXISTING CONTOUR
- DENOTES PROPOSED CONTOUR
- DENOTES BITUMINOUS SURFACE
- DENOTES CONCRETE SURFACE

PROPOSED TOP OF WALL ELEV. = 1002.5
PROPOSED GARAGE FLOOR ELEV. = 1002.2
PROPOSED BASEMENT FLOOR ELEV. = 994.5

PROPERTY DESCRIPTION

LOT 4, BLOCK 1, OLIVER HILL, CITY OF ORONO,
HENNEPIN COUNTY, MINNESOTA.

I HEREBY CERTIFY THAT THIS SURVEY 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.



**Bohlen
Surveying & Associates**

31432 Follage Avenue
Northfield, MN 55057
Phone: (507) 645-7768
tomeara@bohlenurveying.com

1682 Cliff Road E.
Burnsville, MN 55337
Phone: (952) 895-9212
Fax: (952) 895-9259

MINNEHAHA CREEK



WATERSHED DISTRICT

QUALITY OF WATER

QUALITY OF LIFE

Pursuant to Minnesota Statutes Chapter 103D, and on the basis of statements and information contained in the permit application, correspondence, plans, maps, and all other supporting data submitted by the applicant, and made a part hereof by reference, PERMISSION IS HEREBY GRANTED to the applicant named below for use and development of land in the Minnehaha Creek Watershed District.

Issued to: Youngfield Homes	Permit No: 18-015
Location: 2320 Oliver Hill, Orono	
Purpose: Erosion Control- Single family home	
Date of Issuance: 2/5/2018	Date of Expiration: 2/5/2019

By Order of the Board of Managers

Elizabeth Showalter
Permitting Technician

This permit is not transferable without District approval, and is valid to the date of expiration. No activity is authorized beyond the expiration date. If the permittee requires more time to complete the project, an application for renewal of the permit must be received by the District at least 30 days before expiration.

The applicant is responsible for compliance with all District Rules and for the action of their representatives, contractors, and employees.

- Conditions:** Project to be completed as described in plans submitted to the MCWD office on January 12th, 2018 according to the provisions of this permit.
- Properly install and maintain all required erosion control measures until the disturbed areas are re-stabilized
 - Notify MCWD in writing upon completing installation of perimeter and sedimentation controls
 - When the site is re-stabilized and the MCWD staff has performed a final inspection, all perimeter control must be removed

(Statement concerning fees for inspections, violations, etc... on following page)

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





Inspection/Analysis/Monitoring Fees

A site inspection and monitoring by District staff will be performed where the activity involves:

- a commercial/industrial/multi-family residential development
- a single family residential development greater than 5 acres or of any size if within the Minnehaha Creek subwatershed
- any alteration of a floodplain or wetland
- dredging within the beds, banks or shores of any protected water or wetland
- a violation
- any project which in the judgment of the District staff should be inspected due to project location, scope, or construction techniques

In these cases, the applicant shall pay to the District a fee equal to the actual costs of field inspection of the work, including investigation of the area affected by the work, analysis of the work, and any subsequent monitoring of the work, which in the case of a violation shall be at least \$35.

Standard Fee Schedule

District professional staff	\$ 65.51*
District interns	\$ 40.35*
District clerical staff	\$ 46.69*
Consulting Senior Engineer	\$ contracted rate
Consulting Engineer/Technician	\$ contracted rate
District Counsel	\$ contracted rate
Application fee	\$ 10.00
Copy costs	\$.25 + actual staff time
Color copy costs	\$ 1.00 + actual staff time

* Hourly

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

Exhibit F: 18-015 Inspection Report



Erosion Control Inspection Report

Date: 5/31/2018

MCWD Inspector: Megan Schirmers, Heidi Quinn

Permit #: 18-015

Address: 2320 Oliver Hill, Orono- Oliver Hills Subdivision Lot 4 Block 1

To: Dylan Moore, Country Joe Homes

The Minnehaha Creek Watershed District (MCWD) has inspected the site mentioned above for compliance with the MCWD permit requirements. Based on our inspection, the following was observed and recorded on May 31th, 2018.

Compliance Issues Observed	Corrective actions required
<input checked="" type="checkbox"/> Silt Fence/Perimeter Control:	Silt fence around entire active site needs maintenance
<input type="checkbox"/> Crushed rock construction entrance is failing or absent	
<input type="checkbox"/> Excessive sediment tracking on streets and/or sidewalks	
<input type="checkbox"/> Inlet protection requires maintenance	
<input type="checkbox"/> Site or stockpiles are not stabilized	
<input type="checkbox"/> Slopes are not stabilized	
<input type="checkbox"/> Concrete washout is not contained	
<input checked="" type="checkbox"/> Excessive sediment washout from dewatering	Install permanent or temporary sediment basin or other appropriate BMP to filter dewatering discharge. Reinstall silt fence and ditch checks
Additional Comments:	Per MPCA and MCWD requirements, sediment in stream and wetland should be removed as soon as possible within 7 days

Additional comments:

Site was inspected on May 31, 2018 at 3:00 PM. Silt fence around active properties need to be reinstalled. Dewatering discharge draining into wetland and stream.



Illicit discharge draining towards wetland and stream



Sediment entering stream



Failing silt fence around perimeter



To avoid formal enforcement action from the Minnehaha Creek Watershed District, **please implement installation of perimeter control and discussed ditch checks by June 1th, 2018. No dewatering is to commence without proper filtration (see attachment for dewatering BMPs). Sedimentation into the stream and wetland needs to be removed by June 7th, 2018.**

Thank you for your attention to MCWD permit requirements. If you have any questions, please contact me at mschirmers@minnehahacreek.org or 952-642-4586.

Respectfully,

Megan Schirmers
Permitting Assistant

CC:

Heidi Quinn, Permitting Technician

Joey Miller, Youngfield Homes

Jason Rech, Metro West Inspection Services on the behalf of City of Orono

Melanie Curtis, City of Orono

Christine Mattson, City of Orono

MINNEHAHA CREEK

QUALITY OF WATER



WATERSHED DISTRICT

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NOTICE OF PROBABLE VIOLATION

Property Owner: Country Joe Homes

Address: 2320 Oliver Hill, Orono- Oliver Hill Subdivision Lot 4 Block 1

Permit #: 18-015

Property Owner's Representative: Dylan Moore, Country Joe Homes

Notice Issued Friday, June 15th, 2018

Activity: Illicit Discharge from well dewatering

OBSERVATIONS:

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

1. *Non-functioning erosion control BMPs*
2. *Illicit discharge in stream adjacent to development and downstream wetland*

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

ACTION COMPLIANCE:

DEADLINE

- | | |
|--|----------------------|
| 1. <i>Install and repair all erosion and sediment control measures around areas of disturbance</i> | <i>June 18, 2018</i> |
| 2. <i>Remove illicit discharge from stream and wetland as directed in Inspection Report dated 5/31/2018</i> | <i>June 18, 2018</i> |
| 3. <i>Implement a permanent or temporary sediment basin or other appropriate BMP to filter dewatering discharge as directed in Inspection Report dated 5/31/2018</i> | <i>June 18, 2018</i> |

Failure of your compliance with the above-requested actions will result in a Compliance Order that 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.

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MINNEHAHA CREEK



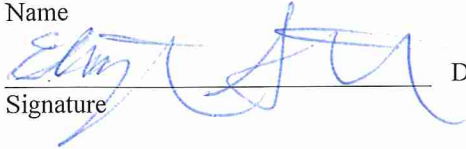
WATERSHED DISTRICT

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ISSUED BY:

Elizabeth Showalter _____ Position: Permitting Technician
Name

 _____ Date: 6/15/18
Signature

ISSUED VIA:

EMAIL:

TO:

Dylan Moore, Country Joe Homes _____ Date: June 15th, 2018
Name/Title (Print)

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:

_____ Date: _____
Name/Title (Print)

Company

Signature

Address:

Telephone:

Email:

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COMPLIANCE ORDER

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

Property Owner: Youngfield Homes, Inc. (dba Country Joe Homes)

Address: 2320 Oliver Hill, Orono 55356

Permit #: 18-015

Property Owner's Representative: Dylan Moore (Youngfield Homes, Inc.)

Notice of Probable Violation Issued: Friday, June 15, 2018

Activity: Discharge of pollutant (well-drilling fluid) into watercourse; failure to install and maintain erosion and sediment control.

OBSERVATIONS:

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

1. *Improperly installed/maintained erosion control Best Management Practices (BMPs) per the Erosion Control Rule, section 9(c);*
2. *Discharge of pollutant (well-drilling fluid) into downstream waterbody per the Illicit Discharge Rule, section 2(c); and*
3. *Failure to remediate discharge and prevent further discharge per the Illicit Discharge Rule, section 2(c).*

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

Action

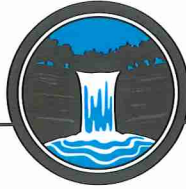
1. *Remove accumulated sediments, reinstall silt fence, and install additional silt fence on the corner of the lot (photographs attached) to contain discharge on-site and limit further impact to downstream waterbodies by **June 22, 2018**;*
2. *Remove pollutants from site to prevent further off-site discharge by **June 22, 2018**;*
3. *Cease and desist all land-disturbing or other activities that could mobilize pollutants including additional well drilling or dewatering by **June 22nd, 2018**;*
4. *Obtain necessary permission(s) to enter downstream property/ies and submit a plan for removal of pollutants (well-drilling fluid slurry) from downstream waterbodies for approval by the District by **June 27th, 2018**.*

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 **June 28th, 2018, at 7:00 p.m.**, at the following location: **15320 Minnetonka Boulevard, Minnetonka**. At this time you may address the board, be represented by an attorney and present evidence

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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:

Katherine Sylvia
Permitting Program Manager

Date: June 20th, 2018

Signature

ISSUED VIA:

EMAIL (email: dylanm@countryjoehomes.com)

IN PERSON

OTHER (specify: _____)

TO:

Dylan Moore
Youngfield Homes, Inc.

Date: June 20th, 2018

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.

(continued)

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WATERSHED DISTRICT

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RECEIVED BY:

Name/Title (Print)

Date: _____

Company

Signature

Address:

Telephone:

Email:

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updated 2/19/17

SAFETY DATA SHEET



1. Identification

Product identifier **SUPER GEL-X®**
Other means of identification None.
Recommended use Not available.
Recommended restrictions Workers (and your customers or users in the case of resale) should be informed of the potential presence of respirable dust and respirable crystalline silica as well as their potential hazards. Appropriate training in the proper use and handling of this material should be provided as required under applicable regulations.

Manufacturer/Importer/Supplier/Distributor information

Manufacturer

Company name **CETCO**, an MTI Company
Address 2870 Forbs Avenue
 Hoffman Estates, IL 60192
 United States
Telephone General Information 800 527-9948
Website <http://www.cetco.com/>
E-mail safetydata@amcol.com
Emergency phone number
 Americas 1.866.519.4752 (US, Canada, Mexico) 1 760 476 3962 Access Code 333562

2. Hazard(s) identification

Physical hazards Not classified.
Health hazards Not classified.
Environmental hazards Not classified.
OSHA defined hazards Not classified.
Label elements
Hazard symbol None.
Signal word None.
Hazard statement Not applicable.
Precautionary statement
Prevention Observe good industrial hygiene practices.
Response Wash hands after handling.
Storage Store away from incompatible materials.
Disposal Dispose of waste and residues in accordance with local authority requirements.
Hazard(s) not otherwise classified (HNOC) None known.
Supplemental information Not applicable.

3. Composition/information on ingredients

Mixtures

Chemical name	Common name and synonyms	CAS number	%
TRADE SECRET*		Proprietary*	< 0.1
Other components below reportable levels			90 - 100

Constituents

Chemical name	CAS number	%
CALCIUM CARBONATE	471-34-1	
SMECTITE GROUP MINERALS	1318-93-0	

Constituents	CAS number	%
Chemical name		
QUARTZ	14808-60-7	<= 8
CRISTOBALITE	14464-46-1	<= 2

*Designates that a specific chemical identity and/or percentage of composition has been withheld as a trade secret. Bentonite is a UVCB substance sub-type 4. The purity of the product is 100 % w/w. Bentonite is composed mainly of smectite group minerals but the composition is varied, as expected for a UVCB substance, and other mineral constituents will be present in small and varying amounts. These minor constituents are not relevant for classification and labelling.

Composition comments Occupational Exposure Limits for constituents are listed in Section 8. The purity of the product is 100% w/w. Impurities are not applicable for a UVCB substance.

4. First-aid measures

Inhalation	If dust from the material is inhaled, remove the affected person immediately to fresh air. Call a physician if symptoms develop or persist. No specific first aid measures noted.
Skin contact	No specific first aid measures noted. Get medical attention if irritation develops and persists. Wash skin with soap and water.
Eye contact	No specific first aid measures noted.
Ingestion	No specific first aid measures noted. Rinse mouth thoroughly. Get medical attention if any discomfort occurs.
Most important symptoms/effects, acute and delayed	Dust in the eyes will cause irritation.
Indication of immediate medical attention and special treatment needed	Provide general supportive measures and treat symptomatically.
General information	No hazards which require special first aid measures. Provide general supportive measures and treat symptomatically.

5. Fire-fighting measures

Suitable extinguishing media	Water fog. Foam. Dry chemical powder. Carbon dioxide (CO ₂). Use any media suitable for the surrounding fires.
Unsuitable extinguishing media	Not applicable, non-combustible.
Specific hazards arising from the chemical	None known. The product itself does not burn.
Special protective equipment and precautions for firefighters	Material can be slippery when wet.
Fire fighting equipment/instructions	In the event of fire, cool tanks with water spray. Material can be slippery when wet.
Specific methods	Cool containers exposed to flames with water until well after the fire is out.
General fire hazards	No unusual fire or explosion hazards noted. This material will not burn.

6. Accidental release measures

Personal precautions, protective equipment and emergency procedures	Keep unnecessary personnel away. Material can be slippery when wet. Use a NIOSH/MSHA approved respirator if there is a risk of exposure to dust/fume at levels exceeding the exposure limits. Avoid inhalation of dust from the spilled material. For personal protection, see section 8 of the SDS. No special precautions are necessary beyond normal good hygiene practices. See Section 8 for additional personal protection advice when handling this product.
Methods and materials for containment and cleaning up	If sweeping of a contaminated area is necessary use a dust suppressant agent which does not react with the product. Sweep up or vacuum up spillage and collect in suitable container for disposal. Collect dust using a vacuum cleaner equipped with HEPA filter. Minimize dust generation and accumulation. Avoid the generation of dusts during clean-up. Following product recovery, flush area with water. For waste disposal, see section 13 of the SDS. Collect powder using special dust vacuum cleaner with particle filter or carefully sweep into closed container.
Environmental precautions	Prevent further leakage or spillage if safe to do so. No special environmental precautions required.

7. Handling and storage

Precautions for safe handling	Minimize dust generation and accumulation. Provide appropriate exhaust ventilation at places where dust is formed. Avoid breathing dust. Avoid contact with skin and eyes. In case of insufficient ventilation, wear suitable respiratory equipment. Practice good housekeeping.
--------------------------------------	--

Conditions for safe storage, including any incompatibilities

No special restrictions on storage with other products. Store in a dry area. Store in original tightly closed container. Keep the container dry. Store in a well-ventilated place. Store away from incompatible materials (see Section 10 of the SDS). Guard against dust accumulation of this material.

8. Exposure controls/personal protection

Occupational exposure limits

US. OSHA Table Z-1 Limits for Air Contaminants (29 CFR 1910.1000)

Constituents	Type	Value	Form
INERT OR NUISANCE DUSTS	PEL	5 mg/m3	Respirable fraction.
		15 mg/m3	Total dust.

US. OSHA Table Z-3 (29 CFR 1910.1000)

Constituents	Type	Value	Form
INERT OR NUISANCE DUSTS	TWA	5 mg/m3	Respirable fraction.
		15 mg/m3	Total dust.
		50 mppcf	Total dust.
		15 mppcf	Respirable fraction.

US. ACGIH Threshold Limit Values

Components	Type	Value
TRADE SECRET	TWA	2 ppm

US. NIOSH: Pocket Guide to Chemical Hazards

Components	Type	Value
TRADE SECRET	TWA	6 mg/m3 2 ppm

Biological limit values

No biological exposure limits noted for the ingredient(s).

Exposure guidelines

US - California OELs: Skin designation

TRADE SECRET (CAS Proprietary)

Can be absorbed through the skin.

US - Tennessee OELs: Skin designation

TRADE SECRET (CAS Proprietary)

Can be absorbed through the skin.

US ACGIH Threshold Limit Values: Skin designation

TRADE SECRET (CAS Proprietary)

Can be absorbed through the skin.

US NIOSH Pocket Guide to Chemical Hazards: Skin designation

TRADE SECRET (CAS Proprietary)

Can be absorbed through the skin.

Appropriate engineering controls

Ventilation should be sufficient to effectively remove and prevent buildup of any dusts or fumes that may be generated during handling or thermal processing. If engineering measures are not sufficient to maintain concentrations of dust particulates below the OEL, suitable respiratory protection must be worn.

Individual protection measures, such as personal protective equipment

Eye/face protection

Use tight fitting goggles if dust is generated. Wear dust-resistant safety goggles where there is danger of eye contact.

Skin protection

Hand protection

No protection is ordinarily required under normal conditions of use.

Other

Normal work clothing (long sleeved shirts and long pants) is recommended.

Respiratory protection

Use a NIOSH/MSHA approved respirator if there is a risk of exposure to dust/fume at levels exceeding the exposure limits.

Thermal hazards

Not applicable.

General hygiene considerations

Always observe good personal hygiene measures, such as washing after handling the material and before eating, drinking, and/or smoking. Routinely wash work clothing and protective equipment to remove contaminants. Use good industrial hygiene practices in handling this material.

9. Physical and chemical properties

Appearance

Lump, granular or fine powder.

Physical state

Solid.

Form	Powder. Various.
Color	Various.
Odor	None.
Odor threshold	Not applicable.
pH	8.5 - 11
Melting point/freezing point	> 842 °F (> 450 °C) / Not applicable.
Initial boiling point and boiling range	Not applicable.
Flash point	Not applicable.
Evaporation rate	Not available.
Flammability (solid, gas)	This product is not flammable.
Upper/lower flammability or explosive limits	
Flammability limit - lower (%)	Not applicable.
Flammability limit - upper (%)	Not applicable.
Explosive limit - lower (%)	Not available.
Explosive limit - upper (%)	Not available.
Vapor pressure	Not applicable.
Vapor density	Not applicable.
Relative density	2.6 g/cm ³
Solubility(ies)	
Solubility (water)	< 0.9 mg/l
Partition coefficient (n-octanol/water)	Not applicable.
Auto-ignition temperature	Not applicable.
Decomposition temperature	> 932 °F (> 500 °C)
Viscosity	Not applicable.
Viscosity temperature	Not applicable.
Other information	
Bulk density	0.9 - 1.4 g/cm ³
Explosive limit	Not applicable.
Explosive properties	Not explosive
Explosivity	Not applicable.
Flame extension	Not applicable.
Flammability	Not applicable.
Flammability (flash back)	Not applicable.
Flammability (Heat of combustion)	Not applicable.
Flammability (Train fire)	Not applicable.
Flammability class	Not applicable.
Flash point class	Not flammable
Molecular formula	UVCB Substance
Molecular weight	Not applicable.
Oxidizing properties	None.
Percent volatile	0 %
pH in aqueous solution	8.5 - 11
Specific gravity	Not applicable.
VOC (Weight %)	CARB 0 %

10. Stability and reactivity

Reactivity	The product is stable and non-reactive under normal conditions of use, storage and transport.
Chemical stability	Stable at normal conditions.
Possibility of hazardous reactions:	Will not occur.
Conditions to avoid	Moisture. Avoid temperatures exceeding the decomposition temperature. Contact with incompatible materials. Avoid dispersal of dust in the air (i.e., clearing dust surfaces with compressed air).
Incompatible materials	None known.
Hazardous decomposition products	None.

11. Toxicological information

Information on likely routes of exposure

Inhalation	Inhalation of dusts may cause respiratory irritation.
Skin contact	Not classified.
Eye contact	Dust in the eyes will cause irritation.
Ingestion.	Not classified.

Symptoms related to the physical, chemical and toxicological characteristics

None known.

Information on toxicological effects

Product:	Species	Test Results
----------	---------	--------------

Bentonite

Acute

Inhalation

Dust

LC50

Rat

> 5.27 mg/l, 4 hr OECD 436

Oral

Dust

LD50

Rat

> 2000 mg/kg OECD 425

Components

Species

Test Results

TRADE SECRET

Acute

Inhalation

LC50

Rat

10600 mg/l/4h

1200 mg/l, 4 Hours

Oral

LD50

Mouse

2400 mg/kg

Rat

33.5 mg/kg

* Estimates for product may be based on additional component data not shown.

Skin corrosion/irritation	Not classified.
Serious eye damage/eye irritation.	Dust in the eyes will cause irritation. Mild irritant to eyes (according to the modified Kay & Calandra criteria)
Respiratory or skin sensitization	
Respiratory sensitization	Not classified.
Skin sensitization	Not classified.
Germ cell mutagenicity	Not classified.

Carcinogenicity

In June 2003, SCOEL (the EU Scientific Committee on Occupational Exposure Limits) concluded that the main effect in humans of the inhalation of respirable crystalline silica dust is silicosis. "There is sufficient information to conclude that the relative risk of lung cancer is increased in persons with silicosis (and, apparently, not in employees without silicosis exposed to silica dust in quarries and in the ceramic industry). Therefore, preventing the onset of silicosis will also reduce the cancer risk..." (SCOEL SUM Doc 94-final, June 2003) According to the current state of the art, worker protection against silicosis can be consistently assured by respecting the existing regulatory occupational exposure limits. Occupational exposure to respirable dust and respirable crystalline silica should be monitored and controlled. No carcinogenicity data available for this product. Sepiolite was evaluated by IARC as class 3 ("Cannot be classified as to carcinogenicity to humans"). Based on read-across with sepiolite, bentonite was assessed as non-carcinogenic. Therefore classification of bentonite for carcinogenicity is not warranted.

IARC Monographs. Overall Evaluation of Carcinogenicity

TRADE SECRET (CAS Proprietary)

3 Not classifiable as to carcinogenicity to humans.

Reproductive toxicity	Not classified.
Specific target organ toxicity - single exposure	Not classified.
Specific target organ toxicity - repeated exposure	Not classified.
Aspiration hazard	Not available.

12. Ecological information

Ecotoxicity

The product is not classified as environmentally hazardous. However, this does not exclude the possibility that large or frequent spills can have a harmful or damaging effect on the environment.

Product		Species	Test Results
Bentonite			
Aquatic			
Algae	EC50	Freshwater algae	> 100 mg/l, 72 hours
Crustacea	EC50	Coon stripe shrimp (<i>Pandalus danae</i>)	24.8 mg/l, 96 hours
		Daphnia	> 100 mg/l, 48 hours
		Dungeness or edible crab (<i>Cancer magister</i>)	81.6 mg/l, 96 hours
Fish	LC50	Freshwater fish	16000 mg/l, 96 hours
		Marine water fish	2800 - 3200 mg/l, 24 hours
Components		Species	Test Results
TRADE SECRET			
Aquatic			
Crustacea	EC50	Daphnia	47 mg/L, 48 Hours
Fish	LC50	Fish	222 mg/L, 96 Hours

* Estimates for product may be based on additional component data not shown.

Persistence and degradability Not relevant for inorganic substances

Bioaccumulative potential Will not bio-accumulate.

Partition coefficient n-octanol / water (log Kow)

TRADE SECRET

0.35

Mobility in soil

Bentonite is almost insoluble and thus presents a low mobility in most soils.

Mobility in general

The product has poor water-solubility.

Other adverse effects

No other adverse environmental effects (e.g. ozone depletion, photochemical ozone creation potential, endocrine disruption, global warming potential) are expected from this component.

13. Disposal considerations

Disposal instructions

Collect and reclaim or dispose in sealed containers at licensed waste disposal site. Dispose in accordance with all applicable regulations.

Local disposal regulations

Dispose in accordance with all applicable regulations.

Hazardous waste code

The waste code should be assigned in discussion between the user, the producer and the waste disposal company.

Waste from residues / unused products

Dispose of in accordance with local regulations. Empty containers or liners may retain some product residues. This material and its container must be disposed of in a safe manner (see: Disposal instructions).

Contaminated packaging

Empty containers should be taken to an approved waste handling site for recycling or disposal. Since emptied containers may retain product residue, follow label warnings even after container is emptied. Store containers and offer for recycling of material when in accordance with the local regulations.

14. Transport information

DOT

Not regulated as dangerous goods.

IATA

Not regulated as dangerous goods.

IMDG

Not regulated as dangerous goods.

Transport in bulk according to Annex II of MARPOL 73/78 and the IBC Code Not applicable.

15. Regulatory information

US federal regulations

CERCLA Hazardous Substance List (40 CFR 302.4)

TRADE SECRET (CAS Proprietary)

Listed.

Superfund Amendments and Reauthorization Act of 1986 (SARA)

Hazard categories Immediate Hazard - No
Delayed Hazard - No
Fire Hazard - No
Pressure Hazard - No
Reactivity Hazard - No

SARA 302 Extremely hazardous substance

Not listed.

SARA 311/312 Hazardous chemical No

SARA 313 (TRI reporting)
Not regulated.

Other federal regulations

Clean Air Act (CAA) Section 112 Hazardous Air Pollutants (HAPs) List

TRADE SECRET (CAS Proprietary)

Clean Air Act (CAA) Section 112(r) Accidental Release Prevention (40 CFR 68.130)

Not regulated.

Safe Drinking Water Act (SDWA) Not regulated.

Food and Drug Administration (FDA) Total food additive
Direct food additive
GRAS food additive

US state regulations

US - New Jersey RTK - Substances: Listed substance

TRADE SECRET (CAS Proprietary)

US - Pennsylvania RTK - Hazardous Substances: Listed substance

TRADE SECRET (CAS Proprietary)

US. California Controlled Substances. CA Department of Justice (California Health and Safety Code Section 11100)

Not listed.

US. California. Candidate Chemicals List. Safer Consumer Products Regulations (Cal. Code Regs, tit. 22, 69502.3, subd. (a))

TRADE SECRET (CAS Proprietary)

US. Massachusetts RTK - Substance List

TRADE SECRET (CAS Proprietary)

Disclaimer

The information provided in this Safety Data Sheet is correct to the best of our knowledge, information and belief at the date of its publication. The information given is designed only as a guidance for safe handling, use, processing, storage, transportation, disposal and release and is not to be considered a warranty or quality specification. The manufacturer expressly does not make any representations, warranties, or guarantees as to its accuracy, reliability or completeness nor assumes any liability, for its use. It is the user's responsibility to verify the suitability and completeness of such information for each particular use. The information relates only to the specific material designated and may not be valid for such material used in combination with any other materials or in any process, unless specified in the text. The information in the sheet was written based on the best knowledge and experience currently available.

Revision Information

This document has undergone significant changes and should be reviewed in its entirety.



June 20, 2018

Minnehaha Creek Watershed District

Katherine Sylvia
Permitting Program Lead
Minnehaha Creek Watershed District
15320 Minnetonka Boulevard, Minnetonka, MN 55345

Re: Proposal, Stream Remediation, Bentonite Spill, 2340 Oliver Hill Road, Orono, MN

Dear Ms. Sylvia:

Wenck Associates, Inc. (Wenck) is pleased to provide a scope of work and cost estimate to Minnehaha Creek Watershed District to perform the remediation of a bentonite spill into an unnamed creek located behind 2340 Oliver Hill Road, Orono, MN.

Project Understanding

We understand you are requesting our assistance with the above cleanup. A well driller discharged an unknown amount of bentonite slurry into the yard at the above address. The slurry flowed to the backyard and into, the unnamed creek. The bentonite flowed approximately 900' south to the intersection of Watertown Road and Harrington Drive. Wenck performed an assessment of the spill and recommend the following Scope of Work to remediate the release.

SCOPE OF WORK

Wenck is responsible to perform this Scope of Work in compliance with all applicable state, federal legal requirements and industry standards. Wenck will complete this Scope of Work in accordance with its health and safety standards.

Our Scope of Work will consist of the following:

- CONTAINMENT
 - Construct an underflow dam at the intersection of Watertown Road and Harrington Drive using sandbags to prevent bentonite from flowing beyond that point.
- REMEDIATION
 - Construct two additional underflow dams in the creek 250' and 400' south of 2340 Oliver Hill Road.
 - Utilize rakes and other hand tools to suspend bentonite and move material downstream to underflow dams.
 - Collect bentonite with an air mover vacuum system at underflow dam locations. Bentonite will be placed in vacuum boxes for disposal
- DISPOSAL
 - Vacuum boxes will be transported to an approved landfill for disposal.
- REPORT
 - Document this Scope of Work in a summary report to include: timeline of events, photographic documentation and disposal documentation.

SCHEDULE

We anticipate we can complete the project in 5 working days. We will utilize a crew of 6 personnel working 10 hours days.

COST ESTIMATE

We will complete the above CONTAINMENT Scope of Work for a lump sum project cost of **\$4,712**.

<u>Item</u>	<u># of Units</u>	<u>Unit Cost</u>	<u>Totals</u>
Technicians (3)	24 (hours)	\$90.00	\$2,160
Materials (sandbags and pipe)	1	\$800	\$800
Equipment and Tools	1	\$1,752	\$1,752
Total			\$4,712

We will complete the above REMEDIATION and DISPOSAL section of the Scope of Work for a lump sum project cost of **\$47,125.00**. The table below provides a breakdown of our fees and expenses:

<u>Item</u>	<u># of Units</u>	<u>Unit Cost</u>	<u>Totals</u>
Technicians (6)	230 (hours)	\$90.00	\$20,700
Materials (expendables)	1	\$2,300	\$2,300
Equipment and Tools	1	\$15,625	\$15,625
Transportation and Disposal	1	\$8,500	\$8,500
Total			\$47,125

On behalf of the 300+ employee-owners of Wenck, thank you for this opportunity to work with Minnehaha Creek Watershed District. If you have questions or need additional information regarding the information provided in this proposal, please do not hesitate to contact me at (612) 258-4130 or switherspoon@wenck.com.

Sincerely,

Shawn Witherspoon
Wenck Response Services, Inc.

MINNEHAHA CREEK  **WATERSHED DISTRICT**
QUALITY OF WATER QUALITY OF LIFE

June 22, 2018

Ole Hovde
Carlie Hovde
2320 Oliver Hill
Orono, MN 55356

Via email: carlie.hovde@gmail.com and Certified Mail

RE: Notice of Enforcement Hearing – MCWD Permit 18-015; 2320 Oliver Hill, Orono

Dear Mr. Ole Hovde and Ms. Carlie Hovde,

As you may not be aware, the Minnehaha Creek Watershed District has discovered that drilling of a well as part of construction on the property at 2320 Oliver Hill in Orono in late May caused the discharge of water containing drilling clay and sediment into a small stream on and adjacent to the property.

This letter notifies you that the above-captioned matter will be heard by the Minnehaha Creek Watershed District Board of Managers at the June 28, 2018, meeting, which begins at 7 p.m. at 15320 Minnetonka Boulevard, Minnetonka, MN 55345. While the enclosed compliance order is directed to the contractor who is the MCWD permittee, as fee title owners of the subject property, you may also be subject to an order issued by the MCWD Board of Managers after the hearing. At the hearing you may address the board, be represented by an attorney and present evidence or witnesses on your behalf. After hearing, the Board of Managers may dismiss this order, extend the order, direct further action to remedy 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.

Pursuant to MCWD Enforcement Rule, paragraph 5, you may be liable for costs incurred by the MCWD to secure your compliance with an order issued by MCWD, including MCWD consultant and legal costs.

I understand that unfortunately you may not be aware of the MCWD inspection and enforcement efforts in the last month that led to this hearing, and so wish provide background information. MCWD received a Water Resources Permit Application for Erosion Control for the construction of a single family home on January 12, 2018 (attached). An individual associated with Youngfield Homes, Inc. signed the application as the Property Owner. Accordingly, MCWD has sent notification of concerns regarding site conditions generally and discharge of pollutants from the property to Youngfield Homes, Inc. and its representatives since May 31, 2018. It has come to our attention that you are the fee owners of the property located at 2320 Oliver Hill.

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

The attached Compliance Order was issued to Dylan Moore of Youngfield Homes, Inc. requiring corrective actions and a remediation plan to address a discharge that has contaminated a stream adjacent to the property as a result of well-drilling activity.

I have also attached the initial Inspection Report that was issued on May 31st, 2018 and the Notice of Probable Violation that was issued on June 15, 2018 in response to the lack of corrective action taken by Youngfield Homes to remedy the site. I have also attached pictures taken during MCWD staff site visits to monitor the condition of erosion control on-site and the impacted stream.

Further detail and information on the timeline of compliance will be transmitted under separate cover as soon as possible. If you have any questions or would like to discuss the matter further, please feel free to contact me at ksylvia@minnehahacreek.org or 952-473-2855. Confirmation of your receipt of this communication would be greatly appreciated.

Sincerely,



Katherine Sylvia
Permitting Program Manager

Attachments: MCWD Permit Application 18-015
Inspection Report issued on May 31, 2018
Notice of Probable Violation issued on June 15, 2018
Compliance Order issued on June 20, 2018
MCWD Site Visit Pictures

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18-015



WATER RESOURCE PERMIT APPLICATION FORM

Use this form to notify/apply to the Minnehaha Creek Watershed District (MCWD) of a proposed project or work which may fall within their jurisdiction. Fill out this form completely and submit with your site plan, maps, etc. to the MCWD at: 15320 Minnetonka Blvd. Minnetonka, MN 55345.

Keep a copy for your records.

YOU MUST OBTAIN ALL REQUIRED AUTHORIZATIONS BEFORE BEGINNING WORK.

1. Name of each property owner: Youngfield Homes, Inc. - Joey Miller
Mailing Address: 22260 Dodd Blvd. City: Lakeville State: MN Zip: 55044
Email Address: joeymiller@mac.com Phone: 612-269-6370 Fax: 952-469-4067

2. Property Owner Representative Information (not required) (licensed contractor, architect, engineer, etc...)
Business Name: Younffield Homes, Inc. Representative Name: Adam Bohn
Business Address: 22260 Dodd Blvd. City: Lakeville State: MN Zip: 55044
Email Address: abohn@countryjoehomes.com Phone: 952-314-1187 Fax: 952-469-4067

3. Project Address: 2320 Oliver Hill City: Orono
State: MN Zip: 55356 Qtr Section(s): Section(s): Township(s): Range(s):
Lot: 4 Block: 1 Subdivision: Oliver Hill PID:

4. Size of project parcel (square feet or acres): 13,000 S.F.
Area of disturbance (square feet): 7,500 S.F. Volume of excavation/fill (cubic yards): 200 C.Y.
Area of existing impervious surface: None Area of proposed impervious surface: 1,300
Length of shoreline affected (feet): None Waterbody (& bay if applicable): None

5. Type of permit being applied for (Check all that apply):
[X] EROSION CONTROL [] WATERBODY CROSSINGS/STRUCTURES
[] FLOODPLAIN ALTERATION [] STORMWATER MANAGEMENT
[] WETLAND PROTECTION [] APPROPRIATIONS
[] DREDGING [] ILLICIT DISCHARGE
[] SHORELINE/STREAMBANK STABILIZATION

6. Project purpose (Check all that apply):
[X] SINGLE FAMILY HOME [] MULTI FAMILY RESIDENTIAL (apartments)
[] ROAD CONSTRUCTION [] COMMERCIAL or INSTITUTIONAL
[] UTILITIES [] SUBDIVISIONS (include number of lots)
[] DREDGING [] LANDSCAPING (pools, berms, etc.)
[] SHORELINE/STREAMBANK STABILIZATION [] OTHER (DESCRIBE):

7. NPDES/SDS General Stormwater Permit Number (if applicable):

8. Waterbody receiving runoff from site:

9. Project Timeline: Start Date: Completion Date:

Permits have been applied for: City [X] County [] MN Pollution Control Agency [] DNR [] COE []
Permits have been received: City [X] County [] MN Pollution Control Agency [] DNR [] COE []

By signing below, I hereby request a permit to authorize the activities described herein. I certify that I am familiar with MCWD Rules and that the proposed activity will be conducted in compliance with these Rules. I am familiar with the information contained in this application and, to the best of my knowledge and belief, all information is true, complete and accurate. I understand that proceeding with work before all required authorizations are obtained may be subject to federal, state and/or local administrative, civil and/or criminal penalties.

Signature of Each Property Owner: Steve Lamber Date: 1-12-18

check for \$10.00 being mailed: 1-12-18

EROSION CONTROL SUPPLEMENTAL INFORMATION FORM

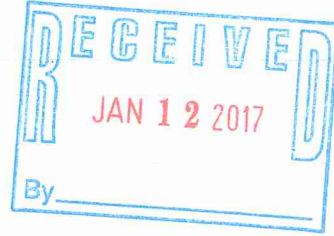
INSPECTION PLAN REQUIREMENTS

1. Routine Inspections:

- Once every seven days during active construction
- Within 24 hours of a half inch or more precipitation

2. Completed Field Inspection Reports:

- Reports available within 24 hours of request until MCWD determines project is complete & stabilized



Failure to submit requested inspection information will result in a site inspection and may be subject to reimbursement for MCWD staff time.

Who will inspect your site regularly?

NAME:	<u>Dylan moore</u>	ORGANIZATION:	<u>Youngfield Homes</u>
PHONE:	<u>612-214-4029</u>	ALTERNATE PHONE:	<u>952-380-8120</u>
EMAIL:	<u>dylan.m@countryjoehomes.com</u>		

Where is the concrete washout location?

<input checked="" type="checkbox"/> OFF SITE OR CONTAINED ON TRUCK
<input type="checkbox"/> INDICATED ON SITE PLAN (with required impermeable liner)
<input type="checkbox"/> N/A

What is the final stabilization method?

(seed, sod, etc.): <u>sod</u>
<i>6 inches of topsoil must be added/replaced prior to final stabilization</i>

Will protective fencing for retained vegetation be installed?

<input type="checkbox"/> YES
<input checked="" type="checkbox"/> NOT APPLICABLE
<input type="checkbox"/> OTHER (describe) _____

I certify that I am familiar with the requirements of the MCWD Erosion Control Rule and that the proposed activity will be conducted in compliance with this rule.

Steve Sabbe
Signature of Applicant or Authorized Agent

Date



MINNEHAHA CREEK
WATERSHED DISTRICT
QUALITY OF WATER, QUALITY OF LIFE

ADDRESS: 2320 OLIVER HILL

Erosion Control Plan

NOTE: ALL BUILDING DIMENSIONS ARE SHOWN TO OUTSIDE OF FOUNDATION WALL

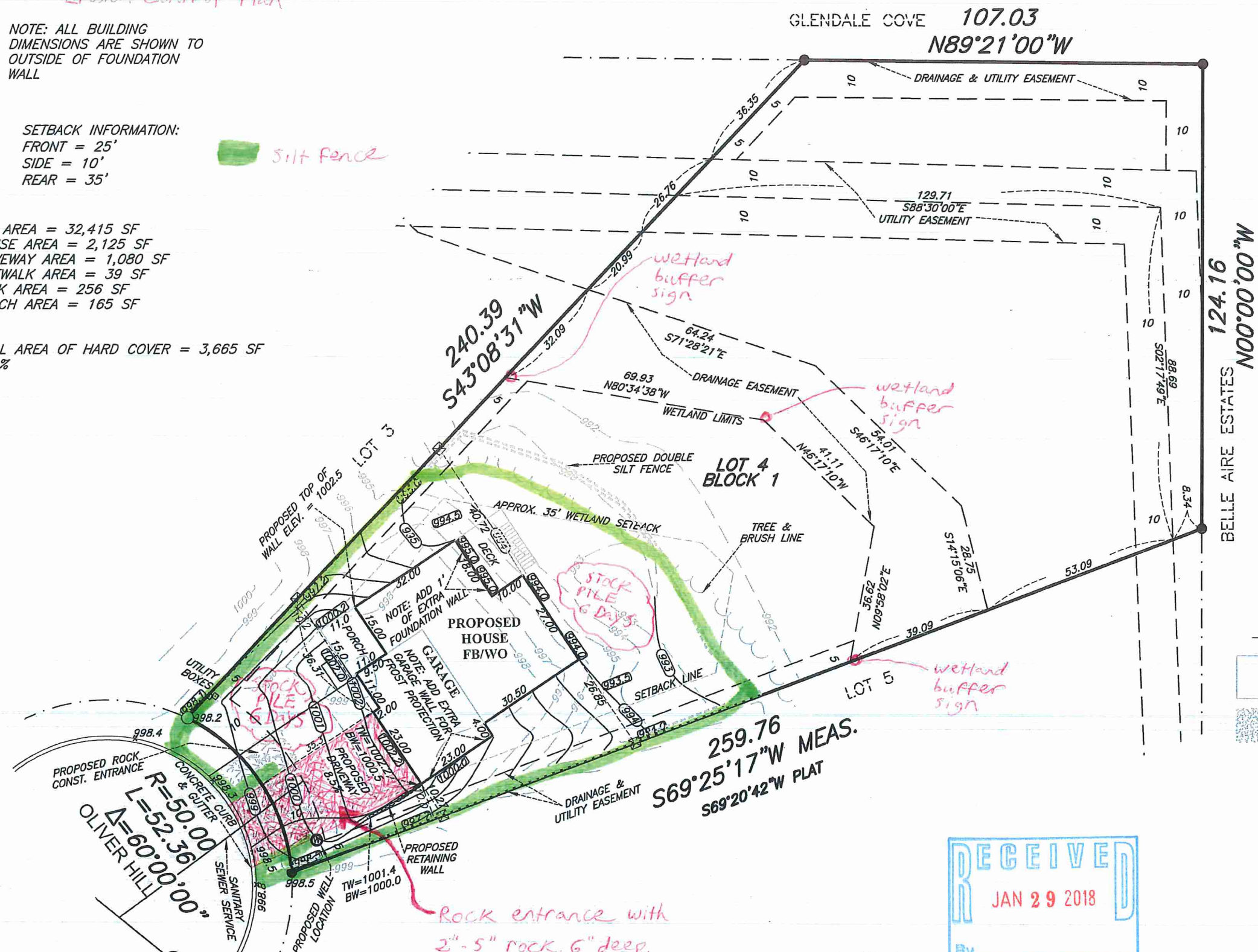
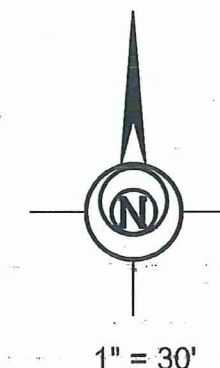
SETBACK INFORMATION:
FRONT = 25'
SIDE = 10'
REAR = 35'

LOT AREA = 32,415 SF
HOUSE AREA = 2,125 SF
DRIVEWAY AREA = 1,080 SF
SIDEWALK AREA = 39 SF
DECK AREA = 256 SF
PORCH AREA = 165 SF

TOTAL AREA OF HARD COVER = 3,665 SF
11.3%

CERTIFICATE OF SURVEY FOR COUNTRY JOE HOMES

BENCH-MARK
RIM OF SANITARY MANHOLE
40' NW OF THE NW CORNER
OF LOT 2, BLOCK 2, ELEV. =
1005.49



- DENOTES SET IRON PIPE MONUMENT
- DENOTES FOUND IRON PIPE MONUMENT
- DENOTES PROPOSED DRAINAGE DIRECTION
- DENOTES SERVICE LOCATION
- DENOTES WOOD HUB
- 000.0 DENOTES EXISTING ELEVATION
- DENOTES PROPOSED ELEVATION
- HE=000.0 DENOTES HUB ELEVATION
- DENOTES EXISTING CONTOUR
- DENOTES PROPOSED CONTOUR
- DENOTES BITUMINOUS SURFACE
- DENOTES CONCRETE SURFACE

PROPOSED TOP OF WALL ELEV. = 1002.5
PROPOSED GARAGE FLOOR ELEV. = 1002.2
PROPOSED BASEMENT FLOOR ELEV. = 994.5

PROPERTY DESCRIPTION

LOT 4, BLOCK 1, OLIVER HILL, CITY OF ORONO,
HENNEPIN COUNTY, MINNESOTA.

I HEREBY CERTIFY THAT THIS SURVEY 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.

DATE: 1-2-18
REVISED: 1-25-18

Thomas J. O'Meara
THOMAS J. O'MEARA, LAND SURVEYOR
MINNESOTA LICENSE NO. 46167



Bohlen
Surveying & Associates

31432 Follage Avenue
Northfield, MN 55057
Phone: (507) 645-7768
tomeara@bohlenurveying.com

1682 Cliff Road E.
Burnsville, MN 55337
Phone: (952) 895-9212
Fax: (952) 895-9259

Erosion Control Inspection Report

Date: 5/31/2018

MCWD Inspector: Megan Schirmers, Heidi Quinn

Permit #: 18-015

Address: 2320 Oliver Hill, Orono- Oliver Hills Subdivision Lot 4 Block 1

To: Dylan Moore, Country Joe Homes

The Minnehaha Creek Watershed District (MCWD) has inspected the site mentioned above for compliance with the MCWD permit requirements. Based on our inspection, the following was observed and recorded on May 31th, 2018.

Compliance Issues Observed	Corrective actions required
<input checked="" type="checkbox"/> Silt Fence/Perimeter Control:	Silt fence around entire active site needs maintenance
<input type="checkbox"/> Crushed rock construction entrance is failing or absent	
<input type="checkbox"/> Excessive sediment tracking on streets and/or sidewalks	
<input type="checkbox"/> Inlet protection requires maintenance	
<input type="checkbox"/> Site or stockpiles are not stabilized	
<input type="checkbox"/> Slopes are not stabilized	
<input type="checkbox"/> Concrete washout is not contained	
<input checked="" type="checkbox"/> Excessive sediment washout from dewatering	Install permanent or temporary sediment basin or other appropriate BMP to filter dewatering discharge. Reinstall silt fence and ditch checks
Additional Comments:	Per MPCA and MCWD requirements, sediment in stream and wetland should be removed as soon as possible within 7 days

Additional comments:

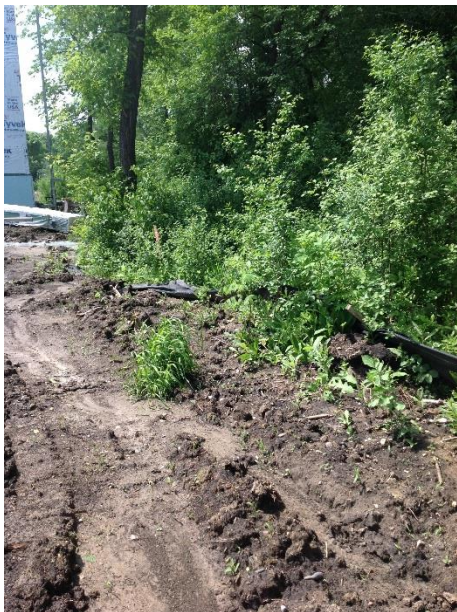
Site was inspected on May 31, 2018 at 3:00 PM. Silt fence around active properties need to be reinstalled. Dewatering discharge draining into wetland and stream.



Illicit discharge draining towards wetland and stream



Sediment entering stream



Failing silt fence around perimeter



To avoid formal enforcement action from the Minnehaha Creek Watershed District, **please implement installation of perimeter control and discussed ditch checks by June 1th, 2018. No dewatering is to commence without proper filtration (see attachment for dewatering BMPs). Sedimentation into the stream and wetland needs to be removed by June 7th, 2018.**

Thank you for your attention to MCWD permit requirements. If you have any questions, please contact me at mschirmers@minnehahacreek.org or 952-642-4586.

Respectfully,

Megan Schirmers
Permitting Assistant

CC:

Heidi Quinn, Permitting Technician

Joey Miller, Youngfield Homes

Jason Rech, Metro West Inspection Services on the behalf of City of Orono

Melanie Curtis, City of Orono

Christine Mattson, City of Orono



NOTICE OF PROBABLE VIOLATION

Property Owner: Country Joe Homes

Address: 2320 Oliver Hill, Orono- Oliver Hill Subdivision Lot 4 Block 1

Permit #: 18-015

Property Owner's Representative: Dylan Moore, Country Joe Homes

Notice Issued Friday, June 15th, 2018

Activity: Illicit Discharge from well dewatering

OBSERVATIONS:

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

- 1. Non-functioning erosion control BMPs
2. Illicit discharge in stream adjacent to development and downstream wetland

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

ACTION COMPLIANCE:

DEADLINE

- 1. Install and repair all erosion and sediment control measures around areas of disturbance June 18, 2018
2. Remove illicit discharge from stream and wetland as directed in Inspection Report dated 5/31/2018 June 18, 2018
3. Implement a permanent or temporary sediment basin or other appropriate BMP to filter dewatering discharge as directed in Inspection Report dated 5/31/2018 June 18, 2018

Failure of your compliance with the above-requested actions will result in a Compliance Order that will be considered by the MCWD Board of Managers in deciding whether to take further appropriate enforcement steps.

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.

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.

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MINNEHAHA CREEK



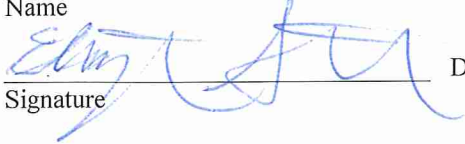
WATERSHED DISTRICT

QUALITY OF WATER

QUALITY OF LIFE

ISSUED BY:

Elizabeth Showalter _____ Position: Permitting Technician
Name


Signature

Date: 6/15/18

ISSUED VIA:

EMAIL:

TO:

Dylan Moore, Country Joe Homes
Name/Title (Print)

Date: June 15th, 2018

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:

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COMPLIANCE ORDER

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

Property Owner: Youngfield Homes, Inc. (dba Country Joe Homes)	Address: 2320 Oliver Hill, Orono 55356
Permit #: 18-015	Property Owner's Representative: Dylan Moore (Youngfield Homes, Inc.)
Notice of Probable Violation Issued: Friday, June 15, 2018	Activity: Discharge of pollutant (well-drilling fluid) into watercourse; failure to install and maintain erosion and sediment control.

OBSERVATIONS:

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

1. *Improperly installed/maintained erosion control Best Management Practices (BMPs) per the Erosion Control Rule, section 9(c);*
2. *Discharge of pollutant (well-drilling fluid) into downstream waterbody per the Illicit Discharge Rule, section 2(c); and*
3. *Failure to remediate discharge and prevent further discharge per the Illicit Discharge Rule, section 2(c).*

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

Action

1. *Remove accumulated sediments, reinstall silt fence, and install additional silt fence on the corner of the lot (photographs attached) to contain discharge on-site and limit further impact to downstream waterbodies by **June 22, 2018**;*
2. *Remove pollutants from site to prevent further off-site discharge by **June 22, 2018**;*
3. *Cease and desist all land-disturbing or other activities that could mobilize pollutants including additional well drilling or dewatering by **June 22nd, 2018**;*
4. *Obtain necessary permission(s) to enter downstream property/ies and submit a plan for removal of pollutants (well-drilling fluid slurry) from downstream waterbodies for approval by the District by **June 27th, 2018**.*

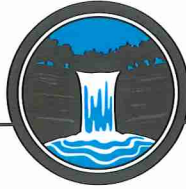
This Compliance Order will expire 10 days from the date of the order, if rescinded by the MCWD administrator, or when superseded by further order of the MCWD Board of Managers, whichever occurs first. Failure to comply with this Compliance Order is a civil violation and a criminal misdemeanor.

The matters alleged in this order will be heard by the board on **June 28th, 2018, at 7:00 p.m.**, at the following location: **15320 Minnetonka Boulevard, Minnetonka**. At this time you may address the board, be represented by an attorney and present evidence

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MINNEHAHA CREEK



WATERSHED DISTRICT

QUALITY OF WATER

QUALITY OF LIFE

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:

Katherine Sylvia
Permitting Program Manager

Date: June 20th, 2018

Signature

ISSUED VIA:

EMAIL (email: dylanm@countryjoehomes.com)

IN PERSON

OTHER (specify: _____)

TO:

Dylan Moore
Youngfield Homes, Inc.

Date: June 20th, 2018

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.

(continued)

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MINNEHAHA CREEK



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RECEIVED BY:

Name/Title (Print)

Date: _____

Company

Signature

Address:

Telephone:

Email:

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



Illicit Discharge flowing through site 5/31/18



Illicit Discharge flowing off-site 5/31/18



Illicit Discharge flowing through site 5/31/18



Failing erosion control, Illicit Discharge entering adjacent stream 5/31

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Illicit Discharge within adjacent stream
5/31/18



Illicit Discharge within stream at Watertown
Road intersection 5/31/18



Illicit Discharge in stream and failing erosion
control documented on 6/5/18



Perimeter control documented on 6/5/18

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Site condition documented on 6/8/18



Site condition documented on 6/8/18



Illicit Discharge and failing erosion control documented on 6/8/18

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Site condition documented 6/15/18



Failing erosion control documented 6/15/18



Failing Erosion Control and illicit discharge within stream documented 6/15/2018

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Site condition documented 6/18/18



Failing erosion control documented 6/18/18



Illicit discharge within stream 6/18/18



Illicit discharge within stream 6/18/18

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Site condition documented 6/20/18



Site condition documented 6/20/18



Removal of illicit discharge from site documented 6/21/2018



Removal of illicit discharge from site documented 6/21/2018

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MINNEHAHA CREEK  **WATERSHED DISTRICT**
QUALITY OF WATER QUALITY OF LIFE

June 26, 2018

Ed Renner
Project Manager
E.H. Renner & Sons
15688 Jarvis Street NW
Elk River, MN 55330

Via email and Certified Mail

RE: Notice of enforcement hearing – MCWD Permit 18-015- Erosion Control and Illicit Discharge Violation

Dear Mr. Renner,

As you know, MCWD has initiated enforcement action regarding on-going non-compliance with the Minnehaha Creek Watershed District Erosion Control and Illicit Discharge rules under Permit 18-015 for the construction of a single family home located at 2320 Oliver Hill in the City of Orono. During a site inspection on May 31st, 2018, MCWD Staff discovered well-drilling slurry over-land flowing across the project site and into an adjacent stream. Subsequently the attached Compliance Order has been issued to Dylan Moore of Youngfield Homes, Inc. requiring corrective actions and a remediation plan for removing an illicit discharge that has contaminated a stream adjacent to the property as a result of the well-drilling activity.

This letter notifies you that the above-captioned matter will be heard by the MCWD Board of Managers at the June 28th, 2018, meeting, which begins at 7 p.m. at 15320 Minnetonka Boulevard, Minnetonka, MN 55345. While the compliance order is directed to the prime contractor who is the MCWD permittee, please note that as the well drilling operator, under the MCWD rules and Section 3(e) of the District's Illicit Discharge rule specifically, you may also be subject to an order issued by the MCWD Board of Managers after the hearing. At the hearing you may address the board, be represented by an attorney and present evidence or witnesses on your behalf. After hearing, the Board of Managers may dismiss this order, extend the order, direct further action to remedy 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.

Pursuant to MCWD Enforcement Rule, paragraph 5, you may be liable for costs incurred by the MCWD to secure your compliance with an order issued by MCWD, including MCWD consultant and legal costs.

Further detail and information on the timeline of compliance and next-steps has been transmitted under separate cover on June 25, 2018. If you have any questions or would like to discuss the

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matter further, please feel free to contact me at ksylvia@minnehahacreek.org or 952-473-2855. confirmation of your receipt of this communication would be greatly appreciated.

Sincerely,



Katherine Sylvia
Permitting Program Manager

Attachment: MCWD Permit 18-015: Compliance Order issued June 26, 2018

CC: Roger Renner- President, E.H. Renner & Sons

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COMPLIANCE ORDER

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

Table with property owner, address, permit number, representative, violation date, and activity details.

OBSERVATIONS:

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

- 1. Improperly installed/maintained erosion control Best Management Practices (BMPs) per the Erosion Control Rule, section 9(c);
2. Discharge of pollutant (well-drilling fluid) into downstream waterbody per the Illicit Discharge Rule, section 2(c); and
3. Failure to remediate discharge and prevent further discharge per the Illicit Discharge Rule, section 2(c).

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

Action

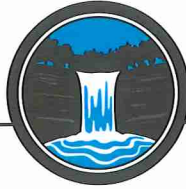
- 1. Remove accumulated sediments, reinstall silt fence, and install additional silt fence on the corner of the lot (photographs attached) to contain discharge on-site and limit further impact to downstream waterbodies by June 22, 2018;
2. Remove pollutants from site to prevent further off-site discharge by June 22, 2018;
3. Cease and desist all land-disturbing or other activities that could mobilize pollutants including additional well drilling or dewatering by June 22nd, 2018;
4. Obtain necessary permission(s) to enter downstream property/ies and submit a plan for removal of pollutants (well-drilling fluid slurry) from downstream waterbodies for approval by the District by June 27th, 2018.

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 June 28th, 2018, at 7:00 p.m., at the following location: 15320 Minnetonka Boulevard, Minnetonka. At this time you may address the board, be represented by an attorney and present evidence

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MINNEHAHA CREEK



WATERSHED DISTRICT

QUALITY OF WATER

QUALITY OF LIFE

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:

Katherine Sylvia
Permitting Program Manager

Date: June 20th, 2018

Signature

ISSUED VIA:

EMAIL (email: dylanm@countryjoehomes.com)

IN PERSON

OTHER (specify: _____)

TO:

Dylan Moore
Youngfield Homes, Inc.

Date: June 20th, 2018

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.

(continued)

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

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.





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

Exhibit M: Photograph Documentation of Site Conditions- May 31- June 21, 2018



Illicit Discharge flowing through site 5/31/18



Illicit Discharge flowing off-site 5/31/18



Illicit Discharge flowing through site 5/31/18



Failing erosion control, Illicit Discharge entering adjacent stream 5/31

Exhibit O: Photograph Documentation of Site Conditions- May 31- June 21, 2018



Illicit Discharge within adjacent stream
5/31/18



Illicit Discharge within stream at Watertown
Road intersection 5/31/18



Illicit Discharge in stream and failing erosion
control documented on 6/5/18



Perimeter control documented on 6/5/18

Exhibit O: Photograph Documentation of Site Conditions- May 31- June 21, 2018



Site condition documented on 6/8/18



Site condition documented on 6/8/18



Illicit Discharge and failing erosion control documented on 6/8/18

Exhibit O: Photograph Documentation of Site Conditions- May 31- June 21, 2018



Site condition documented 6/15/18



Failing erosion control documented 6/15/18



Failing Erosion Control and illicit discharge within stream documented 6/15/2018

Exhibit O: Photograph Documentation of Site Conditions- May 31- June 21, 2018



Site condition documented 6/18/18



Failing erosion control documented 6/18/18



Illicit discharge within stream 6/18/18



Illicit discharge within stream 6/18/18

Exhibit O: Photograph Documentation of Site Conditions- May 31- June 21, 2018



Site condition documented 6/20/18



Site condition documented 6/20/18



Removal of illicit discharge from site documented 6/21/2018



Removal of illicit discharge from site documented 6/21/2018

Memorandum

To: Minnehaha Creek Watershed District Board of Managers
From: Shawn Witherspoon, Wenck Associates, Inc.
Date: June 26, 2018
Subject: Release of Bentonite into Unnamed Stream – Orono, MN

Introduction

On June 15, 2018, Wenck staff were informed that bentonite clay used for drilling a well in the Oliver Hill development near Willow Drive North and Watertown Road in Orono had spilled beyond the boundaries of the Oliver Hill development. The spilled material had flowed overland to an unnamed stream and migrated downstream within the channel an undetermined distance. The spill, which occurred on/about May 29, was reported to Minnehaha Creek Watershed District (MCWD) on May 31, 2018.

Wenck's assistance to MCWD consisted of several site visits, the installation of an underflow dam to prevent further downstream migration of the material, and the development of a cleanup plan as presented to MCWD staff and shared with the Developer. Wenck staff members Shawn Witherspoon, Tom Binsfeld, Don Mekeland, and Jason Coyle assisted with the response.

Stream Characteristics

The affected unnamed stream is located approximately 100 feet east of the newly installed well. The stream drains a wetland complex located approximately 0.05-mile northwest of the point at which the spilled material drained into the stream, and the stream flows in a southeasterly direction 0.15 mile where it crosses under Watertown Road, flows easterly approximately 0.05 mile and then southerly 0.15 mile where it discharges into a large wetland complex. The channel can be described as intermittent from the point at which the bentonite drains into the stream for approximately 275 feet downstream, where the presence of springs provides sufficient baseflow to consider the stream perennial. The 2-3-foot-wide intermittent channel gradually expands to an approximately 5-foot-wide perennial stream at Watertown Road. Streamflow was not measured but is estimated at approximately 2-3 cubic feet per second at the point where the discharge occurred.

Spill

It is Wenck staff's understanding that the process of injecting water into the well for development lasted approximately two days before the spill was detected. Upon cessation of development activities, inspections revealed that an estimated 3 cubic yards of bentonite material was released into the stream, with a continuous impact within in the channel extending 857 feet downstream to the upstream side of Watertown Road (see photos below).

Response

Bentonite is a non-toxic, natural clay material that does not pose a chemical hazard to plants and animals. However, large concentrations of bentonite in streams can cause water

quality issues including excess turbidity, potential dissolved oxygen depletion, and the filling of interstitial spaces, all of which may adversely impact aquatic vegetation, macroinvertebrates, and fish.

As a response to the spill, the most immediate concerns were to: a) prevent the continued discharge of bentonite material into the channel; b) contain the material already discharged into the channel to prevent it from migrating further downstream; and c) remove the material that was discharged into the channel. Wenck provided MCWD with a plan to accomplish these objectives; this plan was shared with the Developer.

Additional silt fence was installed up-gradient of the point at which discharge occurred in the stream. Some additional grading of the development was conducted to slow erosional processes and to slow bentonite migration from the site of the well. Redundant best management practices (the installation of double and triple layers of silt fence) also enabled the Developer to prevent additional bentonite material from reaching the channel. Inspections conducted on June 25, 2018 confirmed that this effort was successful.

To prevent further downstream migration of material that had already reached the channel, Wenck staff installed an underflow dam on the upstream side of Watertown Road. The dam is constructed from sandbags and two, 24-inch pipes to ensure that bentonite is not allowed to continue downstream and that water is not impounded. The inspection from June 25 indicates that the dam has been successful, and that no bentonite material has migrated downstream of Watertown Road.

The Developer has been responsive in its efforts to mitigate this issue and has attempted to clean approximately 150-200 linear feet of the stream, successfully removing a substantial amount of bentonite. However, the Developer will have to continue these cleanup efforts for the entire 857-foot reach in which bentonite materials have been observed.

Photos



6/19/18: Conditions at development site



6/19/18: Conditions at development site



6/19/18: Stream conditions at Watertown Road



6/19/18: Bentonite present in stream



6/19/18: Bentonite present in stream



6/19/18: Stream conditions at Watertown Road



6/19/18: Bentonite present in stream



6/19/18: Silt fence in place at development



6/19/18: Silt fence overloaded by bentonite material



6/19/18: Redundant silt fence in development in need of maintenance



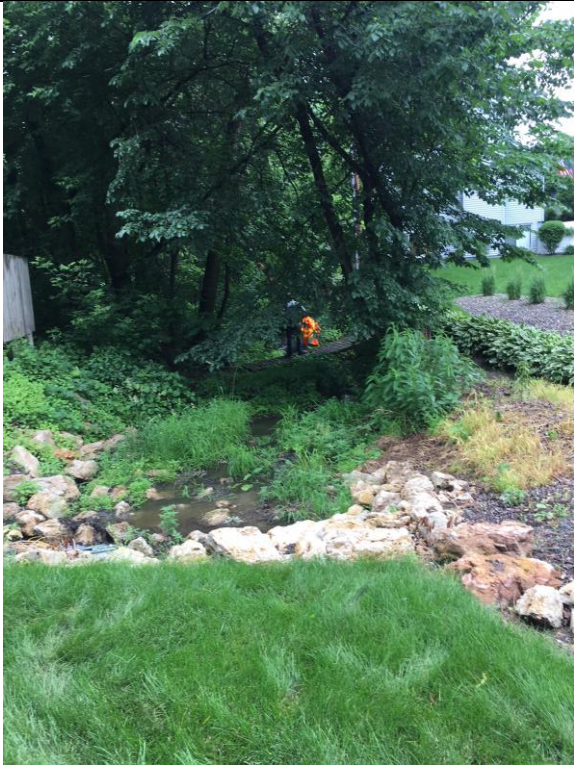
6/19/18: Bentonite pooled at well site/development



6/19/18: Bentonite materials within stream channel



6/19/18: Bentonite materials within stream channel



6/19/18: Stream conditions at Watertown Road



6/25/18: Re-grading and redundant silt fence as a response to spill



6/25/18: Re-grading and redundant silt fence as a response to spill



6/25/18: Clean-up efforts; silt fence in need of maintenance



6/25/18: Underflow dam at Watertown Road preventing downstream migration of bentonite material.