

Roseau River Watershed District

Amended Rules *2014*

Adopted December 3, 2014

AMENDED RULES
OF THE
ROSEAU RIVER WATERSHED DISTRICT

As adopted by the
Watershed District Board of Managers

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AMENDED RULES
OF THE
ROSEAU RIVER WATERSHED DISTRICT

1.0 INTRODUCTION

The Roseau River Watershed District was established by order of the Minnesota Water Resources Board on June 17, 1963. The district encompasses portions of Roseau, Kittson, Marshall, Beltrami and Lake of the Woods Counties in Minnesota.

1.1 Purpose

The purpose of these rules is to implement the intent of the Minnesota Watershed Act, more fully set forth in Minnesota Statutes Chapter 103D, as said legislation affects the Roseau River Watershed District. Said rules are adopted pursuant to the provisions of M.S. 103D.341 and are deemed to be necessary, proper, and desirable to implement the provisions of M.S. 103D in any and all provisions for which the district was established.

1.2 Adoption of Rules

The managers shall comply with all requirements set forth in MN Statute 103D.341 and the following procedure in adopting rules.

- A) A copy of the proposed rules or amendments shall be submitted to each manager of the district at least 30 days prior to its adoption by the managers.
- B) Any proposed rule or amendment shall be adopted by majority vote of the managers after a public hearing has been held on said proposed rule or amendment. The public hearing shall be at a date, time and place set by the board and notice of said hearing shall be given to the public by reason-able publication in a newspaper of general circulation in each county within the Watershed District.
- C) The original copy of the rules shall be kept in the files of the managers and, in addition, copies shall be prepared for distribution to the County Auditors and County Commissioners of each affected county in the watershed district and to the Town Board Chairmen of each township being wholly or partially in the confines of the watershed district. Copies shall also be distributed to all cities within the confines of the watershed district and to the appropriate regional development commissions, director of the Minnesota Pollution Control Agency, the Commissioner of Natural Resources of the State of Minnesota, the Minnesota State Department of Health, the Minnesota Environmental Quality Board and the Minnesota Board of Water and Soil Resources.
- D) Each rule adopted by the managers shall have the full force and effect of law.

1.3 Rules

The managers of the district shall be empowered to amend the rules of the district. Any interested person may petition the board of managers for an amendment to the rules.

1.4 Inconsistent Provisions

If any rules herein contained are inconsistent with the provisions of M.S. 103D or other applicable laws of the State of Minnesota, the provisions of said Chapter 103D or other applicable law shall govern.

1.5 Severability

In the event that any section, phrase, clause or condition of these rules is declared to be invalid by a court of competent jurisdiction, the same shall not affect the validity of these rules as a whole and only the part so declared to be invalid shall be affected.

1.6 Rights of Appeal

Any person believed to be adversely affected by the adoption or enforcement of these rules, or by any action of the managers rising out of and pursuant to the adoption or enforcement of said rules may appeal from the rules or any action taken thereon in accordance with the appellate procedure and review provided in M.S. 103D.

1.7 Interrelation with other Units of Government

It is the stated intention of the managers to cooperate with all federal, state and local units of government and their respective agencies in the conservation of the natural water resources for the common good of the public and also to act as a coordinating agency for said governmental units and agencies in the development and carrying out of policies, procedures and regulations concerning water and related resources within the District.

1.8 Adoption by Reference

Any portion of a statute, rule, regulation, code or ordinance adopted by any legally constituted authority hereinafter listed may be adopted as a part of these rules and made a part thereof as if fully stated and written herein. This provision shall be inapplicable unless said statute, rule, regulation, code or ordinance applies in whole or in part to any of the purposes for which a watershed district may be formed according to M.S. 103D.201 or which apply to any of the powers and duties of managers listed in M.S. 103D.335.

A) The Rules of the Minnesota Department of Natural Resources, Department of Health, Pollution Control Agency and Environmental Quality Board.

- B) The Rules of the Roseau, Kittson, Marshall, Beltrami and Lake of the Woods County Soil and Water Conservation Districts.
- C) Any zoning, sanitation and subdivision ordinances of Roseau, Kittson, Marshall, Beltrami and Lake of the Woods Counties.
- D) Any ordinances, rules or regulations, of any townships existing in part or in whole within the confines of the Roseau River Watershed District.
- E) The ordinances of any cities existing within the confines of the Roseau River Watershed District.
- F) The Minnesota Watershed Act, M.S. 103D, et seq.
- G) M.S. 116B and M.S. 116D. (Environmental Acts of the State of Minn.)

1.9 Review of Local Ordinances Before Passage

Copies of proposed county, municipal and township ordinances relating to surface water drainage, floodplains and shoreland use within the Watershed District shall be submitted to the managers 30 days prior to the first public hearing for review and comment.

2.0 Submission of Local Ordinances after Passage

Ordinances relating to surface water drainage, floodplains and shoreland use shall be submitted to the managers within 15 days after passage.

2.0 DEFINITIONS

For the purposes of these Rules, certain words and terms are herein defined as follows. In the absence of a definition hereinafter, the definitions established for the State of Minnesota by statute or by case law shall apply to these Rules unless clearly in conflict, clearly inapplicable or unless the context makes such meaning repugnant thereto:

100-YEAR FLOODPLAIN shall mean the area within and adjacent to a watercourse or water basin, as those terms are defined in Minnesota Statutes as a Regional Flood or by FEMA Flood Insurance Rate Map (FIRM), that is inundated during the 24-hour precipitation event with a recurrence interval of 100 years.

ADMINISTRATOR shall be the person currently employed by the District Board of Managers to carry out board directed activities and actions.

BOARD OR BOARD OF MANAGERS shall mean the Board of Managers of the Roseau River Watershed District.

DEPARTMENT OF NATURAL RESOURCES or **DNR** shall mean the Minnesota Department of Natural Resources.

DESILTATION BASIN OR STRUCTURE shall mean any pond, depression, structure or other device, either natural or artificial, which because of its configuration is able to reduce the velocity of moving water with a resulting deposition of silt particles onto the bottom of such basin or behind such structure.

DETENTION BASIN OR STRUCTURE shall mean any pond, depression, structure or other device which creates a store of water by detaining or slowing the outflow of the water by natural or artificial means.

DIKE shall mean a bank or mound of earth that is built to control water and especially to protect an area from flooding

DITCH AUTHORITY shall mean the County Board of Commissioners, the Joint County Board or the Watershed District having authority over the legal ditch.

DOMESTIC WATER USE shall mean the use of water for common household or farm use.

DRAINAGEWAY shall mean any natural or artificial channel which provides a course for the flow of water, whether that flow be continuous or intermittent.

GENERAL WELFARE shall include any act or thing tending to improve or benefit or contribute to the safety or well-being of the general public or benefit the inhabitants of the District. General welfare shall be synonymous with "Public Welfare" or "Public Benefit".

GOVERNMENTAL SUBDIVISION shall mean any legally constituted political subdivision having the powers of establishing governing policies, the authority to levy taxes and, having duly elected officials which form a governing body, such governmental subdivisions (or governmental units) for the purposes of this definition shall include only the United States of America, the State of Minnesota, the Counties of Roseau, Kittson, Marshall, Beltrami and Lake of the Woods and the various cities and townships or portions thereof that lie within the Watershed District.

GOVERNMENTAL AGENCY shall mean any legally constituted non-elected body performing in an advisory or support capacity to a duly elected governmental subdivision, such agencies shall include, but not necessarily be limited to; the United States Department of Agriculture, the Minnesota Water Resources Board, the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency.

IMPROVE shall have the meaning set forth in Minnesota Statutes 103E.215, subdivision 2, which states that improvement means the tiling, enlarging, extending, straightening, or deepening of an established and constructed drainage system including construction of ditches to reline or replace tile and construction of tile to replace a ditch..

LEGAL DITCH / DRAINAGE WAY shall mean a ditch established under M.S. 103E of the State of Minnesota.

MANAGERS shall be the Board of Watershed District Managers of the Roseau River Watershed District acting as a Board and not as individuals, unless specifically stated to the contrary.

MARSH shall mean any area as defined by the Watershed Board of Managers which, because of topographic features, soil type or other reason, remains wet for a substantial portion of the year as evidenced by vegetation type or other factors.

PERMIT, DNR shall be the permit document issued by the Minnesota Department of Natural Resources for the purpose of permitting an applicant or permit holder to perform work in the public waters of the state and, in particular, in the public waters of the Watershed District.

PERMIT, WATERSHED DISTRICT shall be the permit document issued by the Watershed District for the purposes of permitting the applicant or permit holder to perform work in the District.

PERSON shall mean any individual, firm, partnership, association, corporation or limited liability company but does not include public or political subdivisions or governmental

subdivisions.

PLAN is a map, drawing, report, photograph or other similar supportive exhibit for a proposed work project.

PONDING AREA shall mean any natural or artificial depression capable of retaining or detaining runoff waters and may be either permanent or intermittent in that regard, but in any case such ponding area shall have been designated as such in a report or on a plan of the Watershed District or of a report or plan of another governmental subdivision.

PUBLIC HEALTH shall be any act or thing or condition which tends to improve the general sanitary conditions of the district.

RETENTION BASIN OR STRUCTURE shall mean any pond, depression, structure or other device, either natural or man-made, which because of its configuration is able to retain surface runoff waters.

SHORELAND shall mean land located within the following distances from public waters:

- (a) One thousand (1,000) feet from a normal high water mark of a lake, pond or flowage
- (b) Three hundred (300) feet from a river or stream

STORM SEWER shall mean a system of pipe installed for the specific purpose of transporting surface and/or underground waters from one location to another and said system need not be continuously constructed only of pipe, but may include reaches of flumes, spillways or open-channels.

TILE DRAINAGE shall mean an agriculture practice that removes excess water from soil subsurface.

WATERSHED DISTRICT shall mean the legally established agency named and referred to as the Roseau River Watershed District, when the first letters are capitalized. When the word "district" appears without capitalization, it shall mean the lands contained within the boundary of the governmental unit, the Roseau River Watershed District, as established by the Minnesota Water Resources Board.

WORK OR WORKS shall mean any construction, maintenance, repair or improvement, whether specifically in regard to water resources or not, carried out within the district.

"**SHALL**" & "**MAY**" as used in these Rules shall be construed to indicate a mandatory and a permissive state or condition respectively.

3.0 PERMITS

The District permit requirement is not intended to delay or inhibit development. Rather permits are needed so that the managers are kept informed of planned projects, can advise and in some cases provide assistance, and can ensure that land disturbing activity and development occurs in an orderly manner and in accordance with the overall plan for the District. All interpretations of these rules and permit decisions under these rules will incorporate and be consistent with District purposes set forth in Minnesota Statutes section 103D.201.

Any person or agency of the State of Minnesota or political subdivision undertaking an activity for which a permit is required by the District rules must first submit a permit application. The application must be submitted on the form provided by the District or the substantial equivalent, and must include all exhibits required by the applicable District rule(s). Application forms are available at the District office and on the web site at www.roseauriverwd.com.

3.1 Permit Requirements

- A) All permit applications must bear the original signature of the landowner.
- B) Applications for a permit shall be filed with or mailed to the Secretary or the Administrator for the District. A plan should accompany the application. The Board of Managers may request additional information at any time during the permit process, including requiring the applicant to appear before the Board. No works or use requiring a permit shall be commenced prior to the issuance of the permit.

Application for a permit will be acted upon within 60 days from the date the managers receive the application and required data. If a permit application is refused or granted subject to conditions, the applicant may within 30 days, demand a hearing on the application before the Board of Managers. Except as provided in section 103D.535, an interested party may appeal a permit decision or order made by the managers by a declaratory judgment action brought under chapter 555. An interested party may appeal a rule made by the managers by a declaratory judgment action brought under chapter 555 or by appeal to the board. The decision on appeal must be based on the record made in the proceeding before the managers. An appeal of a permit decision or order must be filed within 30 days of the managers' decision.

- C) Permit decisions will be made by the Board of Managers, except as may be delegated to staff or the District engineer by written resolution. The Board will review a staff permit decision on the applicant's request. The District may approve or deny an application and may impose reasonable conditions on approval. Conditions may include, consistent with the rules, requirements for financial assurances and maintenance agreements or declarations, and may require that these documents be properly executed or recorded before permit issuance.
- D) Unless specified in the permit, works for which a permit is given must be completed within one year. To renew a permit, the permittee must notify the District in writing prior to the permit expiration date and provide an explanation for the renewal request. The District may impose different or additional conditions on a renewal or deny the renewal in the event of a

material change in circumstances, except that on the first renewal, a permit will not be subject to additional or different requirements solely because of a change in District rules. New or revised rule requirements will not be imposed on renewal of a permit where the permittee has made substantial progress toward completion of the permitted work. If the activities subject to the permit have not substantially commenced, no more than one renewal may be granted. An applicant wishing to continue to pursue a project for which permit approval has expired must reapply for a permit from the District and pay applicable fees.

- E) A District permit is permissive. Obtaining a permit from the District does not relieve the applicant from responsibility to comply with any procedures or approvals that may be required by Minnesota Statutes chapter 103E or other ditch law, nor does it relieve the applicant from responsibility for obtaining authorizations required, if any, by other regulatory bodies.
- F) All permits, when issued, shall be on a form prescribed by the Board of Managers as amended and signed by the Chairman, Administrator or Secretary of the Board of Managers.
- G) Permit applications that include the construction of a drain or ditch shall have the County Auditor list all ditch benefitted areas on the permit application form.
- H) Permit applications that include agricultural diking within the floodplain shall have the public use authorization on the permit application form signed and notarized.
- I) Permit applications approved after the work has been completed will be required to submit to a fee to be determined by the Board of Managers based on the type of work completed and the effects to the drainage system.
- J) A permit applicant consents to entry and inspection of the subject property by the District and its authorized agents at reasonable times as necessary to evaluate the permit application or determine compliance with the requirements of a District permit or rule(s).

3.2 Watershed District Permits

- A) The District may issue district-wide general permits, approving certain routine activities or specific classes of projects where a standard design has been approved by the District, as long as the work is conducted in compliance with applicable District rule requirements.
 - i. Each District-wide permit will be subject to such specific requirements as the Board may establish.
 - ii. A hearing will be held before any District-wide permit is issued or renewed.
- B) A permit shall be obtained from the Watershed District prior to any work being commenced for:
 - i. Any work which requires a permit to be issued by the DNR or the Minnesota Pollution Control Agency if such work is related to the water resources of the district.

- ii. Any work which requires a permit to be issued by a county, township or municipality if such work is related to the water resources of the district and is to be located within 1,000 feet of any lakeshore or 300 feet of any streambank within the district.
- iii. Any sanitary sewer, storm sewer or other major utility project contemplated by any governmental subdivision within the district.
- iv. Any public street, road or highway construction project which by means of its construction has any effect on the quantity or quality of water runoff, or any other type of construction which may affect runoff or disposal site quantity or quality.
- v. Any drain tile.
- vi. Any works which include dredging, draining or filling of any lowland, marsh, pond, drainage way or of any other body of water as defined by these Rules or by the Watershed District Board of Managers.
- vii. Any bridge, dike, culvert or drain across any natural drainageway, lake or marsh.
- viii. Any diking, excavating, grading or filling adjacent to any natural drainage-way, lake or marsh. (This is not to be construed to include maintenance of roadways).
- ix. All water uses other than for domestic purposes, provided however that a permit shall not be required for the reasonable taking of water for purposes of lawns, noncommercial private gardens, decorative fountains or related minor uses.
- x. Any structure intended for commercial or industrial use to be built, located or relocated on any property any part of which lies within the shoreland of public waters as defined by the Shorelands Management Act.
- xi. Any artificial drainageway cut across a subwatershed to thereby deliver water into another subwatershed.
- xii. Any diversion of water by any artificial means into any legal drainage system from any land not assessed to that drainage system.
- xiii. Any alteration of any private or legal drainage system.
- xiv. Construction, alteration, repair or removal of any dike or reservoir.
- xv. Any new field ditching, draining an area in excess of twenty (20) acres.
- xvi. Any other act which, in the opinion of the Watershed District, may tend to alter the

quantity of runoff, affect the public health or have any impact, whether adverse or not, upon the surface water or groundwater resources of the district.

C) Section B notwithstanding, no permit from the District is required:

- i. To perform maintenance on an existing drainage way or field drain, so long as the work does not remove clay or virgin soils or alter the original alignment, depth or cross-section of the drainage way;
- ii. To repair or replace up to 50 lineal feet of tile within a private drainage way without altering the system invert;
- iii. To perform emergency work on a drainage way to avoid substantial property damage due to flooding, subsidence or other cause, in which case the District must be notified of the work and the reasons for emergency action before commencing a repair within a legal drainage way and, with respect to other repair, within 30 days of commencing repair; or
- iv. To disturb surface soils in the course of ordinary cultivation or other agricultural activity.

3.3 Permit Procedures

The following procedures, although not applicable in each and every case, shall be followed by the applicant and the Watershed District before a permit is issued, during the execution of the work for which said permit has been issued and following completion of work:

- A) If, in the opinion of the Board, it is necessary for the Watershed District Technician or other consultant to review the application and all exhibits, view the site and make a report to the Watershed District as to the technical implications of the work, costs incurred by the Watershed District during this review shall be borne by the applicant.
- B) If the permit is issued, the applicant shall abide by all of the conditions of its issuance. The Board may require timely notification to the Watershed District of the commencement of work so that proper observation and inspection can be made. If the Board determines that it is necessary to monitor an activity authorized by a permit, all such monitoring costs may be charged and collected from the permit holder.
- C) The managers, at their discretion, may require an applicant to file a bond, letter of credit or other escrow deposit in a form approved by the District as a condition of permit issuance. The amount of the financial assurance required will be set in accordance with a schedule established and maintained the Board of Managers by resolution. When the permitted activities are certified as having been completed in compliance with the District permit and rules, the financial assurance will be released.
 - i. If the District determines that the permitted activities have not been completed in compliance with the permit and District rules, the Board of Managers may determine that the assurance is forfeited and the District may use the funds to take such actions the District deems necessary to bring the subject property into compliance with the permit and District rules, to prevent or mitigate harm to protected resources or other

property, to abate or restore damages, or otherwise to ensure conditions in compliance with an applicable District permit and/or the District rules.

- a) If financial assurance funds prove insufficient to complete necessary work, the District may complete the work and assess the permit holder and/or property owner for any excess costs.
- b) No financial assurance will be required of any agency of the United States or of any governmental unit or political subdivision of the State of Minnesota. The District may require that the District be named as a beneficiary in the financial assurance of the agency's contractor.

3.4 Reconsideration.

Before a permit decision is final for the purpose of appeal under Minnesota Statutes §103D.537, an applicant must request that the Board of Managers reconsider its decision. The applicant must submit a notice of reconsideration on a form provided by the District that includes concurrence in an extension of the time for District permit action under Minnesota Statutes §15.99. The notice must be submitted within 10 days of the permit decision and at least one day before the date by which a permit decision must be rendered under §15.99. Within 10 days of submitting the notice, the applicant must in writing enumerate for the District the specific findings or conditions for which reconsideration is requested, along with any additional submittals or argument supporting applicant's request. Except as provided in section 103D.535, an interested party may appeal a permit decision or order made by the managers by a declaratory judgment action brought under chapter 555. An interested party may appeal a rule made by the managers by a declaratory judgment action brought under chapter 555 or by appeal to the board. The decision on appeal must be based on the record made in the proceeding before the managers. An appeal of a permit decision or order must be filed within 30 days of the managers' decision.

- A) The District will give the applicant due notice of when the Board of Managers will reconsider the permit decision. The Board of Managers will adopt findings on reconsideration. The District will not take longer than 120 days to issue a final decision including reconsideration, unless a further extension is approved by the applicant.
- B) The permit decision is final if an applicant fails to timely file notice under paragraph 3.4 A if the applicant otherwise waives the right of reconsideration, or if the Board of Managers is unable to reconsider the permit decision before the expiration of the District's time for review under §15.99. Otherwise, the Board of Managers' decision on reconsideration is the final decision.
- C) District costs incurred for reconsideration are permit administration costs for which an applicant may be responsible under Section 5 of this rule.

3.5 PERMIT FEE

The District will charge applicants a permit fee in accordance with state law and a schedule maintained by the Board of Managers to ensure that permit fees cover the District's actual costs

of administering and enforcing permits. Fees also will cover actual costs related to field inspections of permitted projects, such as investigation of the area affected by the proposed activity, analysis of the proposed activity, services of consultants and any required monitoring of the proposed activity. Costs of monitoring an activity authorized by permit may be charged and collected as necessary after issuance of the permit. The fee schedule may be obtained from the District office [or the District's web site at www.roseauriverwd.com]. A permit applicant must submit the required permit fee to the District at the time it submits the relevant permit application. The fee provided for in this rule will not be charged to any agency of the United States or of any governmental unit or political subdivision of the State of Minnesota.

4.0 SURFACE & SUBSURFACE DRAINAGE AND DIKING

4.1 Policy

It is the policy of the Board of Managers to promote the use of the waters and related resources within the District in a provident and orderly manner to improve the general welfare and public health for the benefit of the District's present and future residents. Further, it is the policy of the Board of Managers to regulate new construction, improvement, repair and maintenance of legal and private drainage ways for the following purposes:

- I. To preserve the capacities of drainage systems to accommodate future needs.
- II. To improve water quality and prevent localized flooding.
- III. To prevent the loss of drainage capacity.
- IV. To avoid drainage conditions that cause or aggravate erosion or sedimentation of downstream drainage ways or waterbodies.
- V. To ensure that parties responsible for accumulation of debris, soil and sediment in drainage ways maintain those drainage ways.

4.2 Regulation

The requirements of this rule are in addition to other applicable laws and procedures, including those of Minnesota Statutes chapter 103E. This rule is to provide for management of waters in the public interest and does not displace in whole or part any private legal rights a property owner or other person may have with respect to the use and drainage of waters.

A contractor or equipment operator is responsible to ascertain whether a permit is required by this rule and, if so, that it has been obtained.

4.3 Surface Drainage

The following criteria apply to applications under this rule other than those for the construction, alteration or removal of a dike:

- A) An applicant may use their land reasonably in disposing of surface water and may collect the natural surface drainage into a drainage way.
- B) An applicant may not dispose of or alter the flow of surface water so as to unreasonably burden another landowner with surface flow.
- C) Surface water will not be artificially directed from upper land to and across lower land without adequate provision on the lower land for its passage.
- D) Surface water will not be artificially directed into a legal drainage system from land not assessed to that system.

- E) Erosion and downstream siltation will be controlled by the following means:
- i. All work involving exposed or stockpiled soil or materials subject to erosion will conform to an erosion and sediment control plan approved by the District.
 - ii. Open drainage ways will be stabilized with vegetation above the low water mark or other best management practices to reduce channel erosion.
 - iii. To reduce sediment transport, where feasible drainage will be discharged through marsh lands, swamps, retention basins or other treatment facilities prior to release into the receiving public water. Where feasible, a retention basin will overflow to a wide, shallow grassed waterway.
 - iv. Drainage ways will be constructed with side slopes designed in accordance with proper engineering practice to minimize erosion, giving due consideration to the intended capacity of the drainage way; its depth, width and elevation; and the character of the soils to be drained.
 - v. Water inlets, culvert openings and bridge approaches must have adequate shoulder and bank protection to minimize land and soil erosion.
 - vi. Channels and outfalls must be designed to be stable.
 - vii. In accordance with MN Statute 103E.021, a grass strip 16.5 feet in width will be established and maintained on each side of a new drainage way and each side of an existing drainage way where work is completed for which a permit is required.
- F) The proposed activity may not adversely affect downstream water quality or quantity.

4.5 Drain Tile Systems

The following criteria apply to the construction, alteration or removal of a drain tile system.

- A) Applicant must submit a completed Permit Application Form along with an accurate and scale drawing showing the tile size and spacing, tile patterns, upstream and downstream culvert data, and any other data the Board of Managers deems necessary.
- B) All outlets shall be suitably located, have adequate bank protection and waterway opening.
- C) RRWD recommends the outlet be a metal pipe and shall include sufficient riprap to prevent erosion. Outlets must be marked to facilitate mowing.
- D) A permit is required for construction or alteration of any drain tile that drains an area in excess of 20 acres.
- E) The RRWD shall require that tile system flows be shut off when the NWS gage at Roseau exceeds 19 feet for systems upstream of Roseau, or when the USGS gage at Caribou exceeds 10 feet for systems downstream of Roseau. System flows may be re-established once the river stages drop below the trigger stages.
- F) After harvest, tile outlet controls, including lift stations, may be opened or turned on to remove water from the system unless downstream culverts are freezing.

- G) If project outlets into a road authority Right of Way, permittee must notify/obtain permission from the proper road authority.
- H) If permittee needs longer than the one year permit term, this needs to be identified on the application as well as a reason for the extension.
- I) Obtaining a permit from the RRWD does not relieve the applicant from the responsibility of obtaining any other additional authorization (including immediate adjacent downstream landowner) or permits required by law.
- J) Note on map any other parcels within the same section that are tiled.

4.5 Dikes

The following criteria apply to the construction, alteration or removal of a dike:

- A) The dike shall not unreasonably restrict flow onto downgradient property.
- B) The dike shall not be constructed or maintained within the 100-year floodplain unless plans and specifications, signed by a registered engineer, are submitted showing that:
 - i. The work will not impede 100-year flood flows outside of the delineated retention area, or raise the 100-year flood level or increase flood peak downstream;
 - ii. Overflow sections are designed to handle overtopping during major floods without significant erosion or risk of failure and without sandbagging or other manual measures before or during a flood; and
 - iii. The capacity of pumping facilities to remove surface water stored behind a dike is consistent with criteria of the Minnesota Hydrology Guide.
- A) Operational procedures must prohibit pumping when the dike is overtopped during a rain or snow-melt event until downstream flood peaks have occurred.
- B) Outlet drainage must be sized to the applicable capacity in the Minnesota Hydrology Guide (Curve 1) for agricultural drainages, or other technical specifications established by the District.
- C) A permit to construct or maintain an agricultural dike will be conditioned on the applicant's granting the District the right in perpetuity to:
 - i. Install and maintain traps/gates to restrict or eliminate outflow from the diked area during and after overtopping flood events; and
 - ii. Enter on the subject property to operate traps/gates during and after an overtopping flood event.

4.6 EXHIBITS.

The following exhibits must accompany the permit application.

- I. Map showing location of project and tributary area.
- II. Plans and specifications for the project.
- III. Existing and proposed cross sections and profile of affected area.
- IV. Description of bridges or culverts required.
- V. Narrative and calculations of hydrology and hydraulics describing wetland impacts and effects on water levels above and below the project area.
- VI. List of owners of properties benefitted by the drainage ways affected by the proposed work.
- VII. Such other submittals as the District reasonably may require to evaluate whether the proposed activity meets the standards of this rule.

6.0 WATER USES

6.1 Permits Under M.S. Chapter 103G. (Waters of the State)

- A) A copy of each application for a permit which is required under M.S. Chapter 103G together with maps, plans and specifications shall be served on the Secretary of the Board, and proof of such service shall be included with the application filed with the Commissioner as is required by M.S. Section 103G.301, Subd. 6.

- B) The withdrawal of ground or surface water and the location of the place of discharge thereof shall conform to the standards of the Minnesota Pollution Control Agency and the Minnesota Department of Natural Resources.

7.0 EROSION AND SEDIMENTATION

Runoff of needed moisture from sloping lands, eroding and carrying with it sediment from those lands from the banks of natural drainageways, constitutes a serious problem. It shall be the policy of the managers to encourage the adaptation of proper land use practices and other methods to help reduce said erosion and sedimentation.

7.1 To Control and Alleviate Soil Erosion and the Siltation of the Drainageways and Lakes of the District

- A) All drainageways therein shall be constructed so as to reasonably minimize soil erosion, giving due consideration to the intended capacity of the drainageway, its depth, width and elevation and the character of the soils through which the drain passes.
- B) Sloping lands abutting drainageways, lakes, ponds or reservoirs shall be used in such a manner so as to provide reasonable control of sediment.
- C) Any construction project within the boundaries of the district which requires the movement of earth or the removal of vegetation or topsoil such as, but not limited to, subdivision improvements, road construction, ditch or channel construction and maintenance and similar improvements, shall provide for the prevention of erosion by wind and water both during and after construction. The person or governmental subdivision responsible for the work may, at the discretion of the Board of Managers, be required to submit a plan to the Watershed District which shall show or describe the construction practices to be utilized to avoid and control erosion. A work schedule and timetable for erosion control measures shall accompany the time schedule for construction.
- D) Individuals or developers carrying out the erosion control measures, with a permit, and all subsequent owners of the property involved, shall effectively maintain all erosion control features.
- E) Conditions placed on any permit granted pursuant to this regulation shall include, but not be limited to, the following:
 - i. Work in or near public waters and drainage systems shall be conducted so as to minimize increases in suspended solids and turbidity of runoff or receiving waters.
 - ii. Materials used in erosion prevention, such as riprap, shall be non-polluting under any foreseeable conditions and shall be installed consistent with good engineering practices and in such a way to assure effectiveness and permanence.
 - iii. The Watershed District shall be notified immediately of any harmful disturbance to

public waters or drainageways.

iv. Fill material shall be nonpolluting.

v. Spoils shall be prevented from entering public waters or drainageways.

8.0 POLLUTION CONTROL

In order to provide for the abatement of the pollution of public and private water resources as a part of a comprehensive program to eliminate the pollution thereof, the Watershed District shall have the power and authority to impose certain preventive and remedial measures to promote the public health and general welfare, to promote safety and sanitation and to improve the quality of the waters thereof for general use.

8.1 Pollution Prohibited

No person shall pollute the waters of the district by placing or permitting to be placed or deposited upon any of said waters, any sewage, industrial wastes, garbage, rubbish, or other waste, nor shall such placement or depositing be allowed upon any private or public land from which contaminants may be carried into the waters of the district. This section shall not apply to properly operated municipal sewage or solid waste disposal facilities which are subject to Regulations WPC 23 and their current amendments and revisions of the Minnesota Pollution Control Agency.

8.2 Individual Sewage Systems

Individual sewage systems such as drainfields, septic tanks, sewage lagoons and similar disposal facilities shall be allowed only when municipal collection facilities are not available, and then only when a permit is issued by the municipality or the county or other proper governing authority. Such system may be subject to review by the Watershed District at its discretion.

- A) No surface discharge shall be permitted from an individual system either directly or by seepage to the surface of the ground.
- B) The design of any individual system shall be in conformance with the current Rules of the Minnesota Pollution Control Agency, the Minnesota Department of Health, these Rules and all other regulations, laws, ordinances and policies of any other governmental subdivision or agency having proper jurisdictional authority.

8.3 Agricultural Wastes

- A) No feed lots shall be operated within the district in violation of MPCA regulations.
- B) No agricultural wastes shall be accumulated in any area where they can be carried by surface runoff to any lake or stream.

8.4 Discharges from Municipal and Industrial Waste Treatment Plants

The Board of Managers may, at its discretion, require each municipality, industry and feed lot operator discharging wastes directly into any stream, lake or water-course within the district to file with the board a copy of its current NPDES permit issued by the Minnesota Pollution Control Agency describing the effluent standards and limitations prescribed by the Agency. Pursuant to M.S. 103D.335, Subd. 14 and 16 the board or its designate shall have the right to enter upon any lands of the district for the purposes of inspection, monitoring and testing the quantity and quality of the discharge and shall have the right to install whatever hydrological recording and testing devices it may deem necessary. Any permit violations found shall be reported immediately to the discharger and to the Agency for appropriate action. Should the discharger fail to abate the violation in a reasonable period of time, the board may, at its discretion, require the discharger to appear at a special meeting to show cause why the violation should not be abated, pursuant to its authority under M.S. 103D.545.

8.5 Mandatory Reporting of Contamination

Mandatory reporting of contamination shall be required of any person or governmental subdivision or agency responsible for any act which introduces pollutive contaminants into the surface or underground waters of the district. In the absence of absolute knowledge of responsibility for the act itself, the person or governmental subdivision or agency responsible for the operation or maintenance of systems and equipment involved in the act, or the owner of the land on which the act occurs, shall immediately inform any individual member of the Watershed District Board of Managers of said act and all of the known particulars associated therewith. Acts of contamination requiring mandatory reporting shall include, but not be limited to, spills of untreated sewage, flooding of sewage systems or lift stations, spillage of petrochemicals, flooding of fertilizer stockpiles or manure heaps and feed lots, massive erosion of land and other similar happenings. The reporting of a spill of any contaminant or pollutant to the Watershed District shall not relieve the responsibility to make any other report to any other agency which now or in the future requires mandatory reporting.

9.0 ENVIRONMENTAL ASSESSMENT AND IMPACT

9.1 Powers of the Watershed District Described

The Watershed District shall have the power and authority to require any person, governmental subdivision or governmental agency to submit an environmental assessment or statement of the impact of any construction, improvement or act on the water-related natural resources of the district or to require that such person, governmental subdivision or agency submit a statement that the construction, improvement or act will have no adverse impact on the water resources of the district. In the determination of environmental impact, the person, subdivision or agency submitting the statement and the Watershed District in reviewing the statement shall consider, as a minimum, the following factors:

- A) Existing facilities and their deficiencies
- B) Description of proposed project
- C) Alternatives to the proposed project, including the alternative of doing nothing
- D) The consequences of each alternative action
- E) Inventory assessment and probable project impact on:
 - i) Geology, soils and topography
 - ii) Agricultural and nonagricultural land resources
 - iii) Surface and groundwater resources
 - iv) Climatology
 - v) Biological resources, flora and fauna
 - vi) Natural amenity resources
- F) Probable unavoidable adverse effects of project and methods of minimizing same, regarding:
 - i) Erosion control, sedimentation, wind and water
 - ii) Biological resources
 - iii) Water resources
 - iv) Land resources
 - v) Pollution of any nature
- G) Short-term versus long-term benefits and productivity
- H) Irreversible commitments of resources

9.2 Responsibility of Applicant

The submission of an assessment or impact statement shall not relieve the person, subdivision or agency of any other requirement by any federal, state or local subdivision or agency, nor shall such submission and acceptance of conditions make the Watershed District liable for any act performed or not performed by the person, subdivision or agency, nor shall it prevent the Watershed District from making any other requirement or enforcing any statute, ordinance, law or these Rules, nor shall it prevent the Watershed District from petitioning the Minnesota Environmental Quality Council to require an Environmental Assessment or Impact Statement from such person, subdivision or agency.

10.0 REVIEW OF PLANS AND PLATS

In order to carry out the intent of the Minnesota Watershed Act, and to provide for assurance that the development of the district and its natural resources is carried out in an orderly manner, the Watershed District Board of Managers shall require the submission of certain plans and documents for various types of improvement, developments, projects and proposals, and may, at its discretion, review and report on these activities together with suggestions, recommendations and requirements as to their contemplated affect on the water resources of the district. Submission shall be required for the following, at a minimum, and any other improvements, developments, projects or proposals which the Board from time to time shall deem to be of a similar nature:

- A) Any contemplated improvement for which a permit is normally required to be obtained from the Watershed District, the Minnesota Department of Natural Resources or the Minnesota Pollution Control Agency.
- B) Any contemplated improvement for which a water-related Environmental Impact Statement is required by the Minnesota Environmental Quality Council.
- C) Any drainage project or other type of construction which includes drainage improvements as a part thereof, regardless of whether planned by an individual, firm, partnership, corporation, limited liability company, association, public agency or governmental subdivision or agency. For the purposes of this section, a street, highway or bridge project, a utility lines project or a project for the abandonment, improvement or construction of right-of-ways shall be considered as subject to the requirement for submission.
- D) A drainage plan shall be submitted for any plat or proposed subdivision within the district whenever such a proposal and its implementation may increase the runoff volume, lessen the time of runoff concentration or alter the quality of the runoff waters.
- E) Any plan for removal of water in a pond or marsh by pumping or other means.
- F) Any development or improvement contemplated by a method not covered under Section 11.0 (d) which is of similar magnitude or which may result in conditions similar to those indicated.
- G) Any plan for the alteration, improvement or repair of any existing drainage system.
- H) Any contemplated construction or improvement or plan, regardless of the person or subdivision initiating the proposal, which by its nature may have an adverse impact on the water resources of the district.
- I) Any proposal or contemplated improvement which tends to alter the character of the use of

any water body within the district, including but not necessarily limited to, creation or closing of a public access, marinas or multiple docking facilities involving four or more boats, events which may tend to attract large numbers of boats, obstruction of or removal of obstructions from water bodies and other acts of a similar nature.

- J) Any proposed construction of any nature which occurs within fifty (50) feet of the shoreline of a water body or watercourse, or within two hundred (200) feet of the aforementioned locations if on a slope of greater than five (5) percent or anywhere within the district if there is a probability that sediment from that construction will enter the water body or watercourse as a result of the construction. The said proposed construction shall include, but not be limited to, single family homes, multiple dwellings, recreational facilities, road and highway construction. Submission of a plan for the prevention of such pollution shall be a required part of the exhibits to be submitted by the person or governmental subdivision contemplating the construction.

- K) Any plat for subdivision of any shorelands of the district. It shall be compulsory to include in the owner's affidavit or in a memorial on each plat, to-wit: "The undersigned owner or owners acknowledge that this land is in the Roseau River Watershed District and all purchasers and assigns hereunder are given notice that all properties and improvements made thereon are subject to the regulations and requirements of said Watershed District and must be adhered to".

- L) Any other proposal to perform any act for which a watershed district may be formed under Chapter 103D.201 or which is indicated as a power of duty of the managers under Chapter 103D.335 of the Minnesota Watershed Act, regardless of the source of its initiation.

11.0 ENFORCEMENT POWERS OF MANAGERS

11.1 Manner of Enforcement

In the event of a violation or threatened violation of a District rule, permit, order or stipulation, or a provision of Minnesota Statutes chapter 103D, the District may take action to prevent, correct or remedy the violation or any harm to water resources resulting from it. Enforcement action includes but is not limited to injunction; action to compel performance, abatement or restoration; and prosecution as a criminal misdemeanor in accordance with Minnesota Statutes sections 103D.545 and 103D.551.

11.2 Investigation of Noncompliance

The District's authorized representatives may enter and inspect a property in the watershed to determine the existence of a violation or threatened violation as described in section 1, above.

11.3 Administrative Compliance Order

The District may issue a preliminary compliance order without notice or hearing when it finds a violation or threatened violation as described in section 1, above, and that the violation or threatened violation presents a serious threat of adverse effect on water resources. A preliminary compliance order may require that the property owner or responsible contractor cease the land-disturbing activity; apply for an after-the-fact permit; and take corrective or restorative action. A preliminary compliance order is not effective for more than ten days. The Board of Managers by resolution may delegate to District staff the authority to issue preliminary compliance orders.

11.4 Board Hearing

After due notice and a hearing at which evidence may be presented, the Board of Managers shall make findings. If the Board finds a violation as described in section 1, above, it may issue a compliance order of indefinite duration that may require the property owner or responsible contractor to cease land-disturbing activity; apply for an after-the-fact permit; take corrective or restorative action; reimburse the District for costs under Minnesota Statutes section 103D.345, subdivision 3; and/or be subject to any other remedy within the District's authority. A compliance order may supersede a preliminary order or may be issued without a prior preliminary order.

11.5 LIABILITY FOR ENFORCEMENT COSTS.

To the extent provided for by Minnesota Statutes section 103D.345 and 103D.545, subdivision 2, a property owner or responsible contractor is liable for investigation and response costs incurred by the District under this rule, including but not limited to the costs to inspect and monitor compliance, engineering and other technical analysis costs, legal fees and costs, and administrative expenses.

11.6 Contractor's Liability

Any individual, firm, corporation, partnership, association or other legal entity contracting to perform work subject to one or more District rules will be responsible to ascertain that the necessary permit has been obtained and that the work complies with the permit, rules and statutes and any applicable District orders or stipulations. A contractor that, itself or through a subcontractor, engages in an activity constituting a violation or threatened violation under section 1, above, is a responsible contractor for purposes of this rule.

12.0 PUBLIC MEETINGS, HEARINGS AND RECORDS

12.1 Meetings

All meetings of the Watershed District, whether regular or special, shall be open to the public and shall be held at a time, date and place as determined from time to time by the managers.

12.2 Hearings

Any member of the public may request a public hearing on the approval of a permit. Notice of a public hearing shall be given as required by statute. Testimony given and received at such public hearings may be recorded and witnesses may be sworn as required by statute or at the discretion of the board.

12.3 Waiver of Hearing

Unless required by statute, the managers in their discretion may waive a public hearing on any application for a permit and make their order granting or refusing such application. If said application is refused or granted subject to conditions, the applicant may, within thirty days, demand a hearing on the application.

12.4 Records

The records of the Watershed District shall be public records as required by state statute and shall be open to the public for inspection to that extent required. It is the stated intention of the Board of Managers to cooperate with all persons, governmental subdivisions and governmental agencies in the promotion of the conservation of the natural resources of the district and to share information with the public for the common good.

13.0 EFFECTIVE DATE

The provisions of these Rules shall become effective upon the passage by the Board of Managers and publication in the Roseau Times-Region, Roseau, Minnesota. In addition to said publication, a notice of the adoption of these Rules shall be given in a newspaper of general circulation in each of Marshall, Kittson, Beltrami and Lake of the Woods Counties. These Rules amend and supersede the Amended Rules and Regulations of the Roseau River Watershed District previously adopted.

14.0 ADOPTION

These Amended Rules are hereby adopted pursuant to Minnesota Statutes Chapter 103D, on the _____th day of _____, 2014.

FOR THE BOARD OF MANAGERS
ROSEAU RIVER WATERSHED DISTRICT

Chairman

Secretary

