



Capitol Region Watershed District

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Statement of Need and Reasonableness (SONAR) for Watershed District Rules

Part I

The Capitol Region Watershed District (District) is in the process of promulgating Rules pursuant to MN Statutes 103D.341. This SONAR serves as the justification for Watershed District Rules. This document contains two sections, the first section describes the need for Watershed District Rules and the second section describes why the District feels the proposed rules are reasonable. Table 3 on Page 5 summarizes the actions taken by the Board of Managers over the past five years leading up to and through the development of the SONAR and proposed Rules.

Assessment of Need for Watershed District Rules

The Capitol Region Watershed District (District) was established September 24, 1998 by the Board of Water and Soil Resources (BWSR). In the order that created the district it states: "The Board of Managers of the Capitol Region Watershed District should highly consider to: . . . set target pollutant loads and improve the water quality of Lakes Como and McCarrons and require erosion control for development and redevelopment." (See Appendix A).

Subsequent to the establishment order, the District completed a Watershed Management Plan (WMP). The Plan was the result of input received from many interested citizens, organizations, and stakeholders. The Plan was adopted December 14, 2000. It called for a multi-faceted approach to protect and improve the water resources of the District. One of the approaches was the incorporation of stormwater management best management practices within the watershed as development and redevelopment occurred. Section IV-7 of the WMP, Resource Based Performance Standards & Watershed Rules, sets forth a plan to develop standards and ensure that they are achieved as development and redevelopment occurs in the District. (See Appendix B) Section IV-7 of the WMP set forth a review process with interim performance standards and provided for the creation and adoption of Rules.

During 2001 and 2002, the District developed Memorandums of Understanding (MOU) with each of the member Cities with the exception of St. Paul. (See Appendix C) The MOU set forth a review and

comment process that would be utilized by the District and the Cities. It provided a method to incorporate site design changes into the final city approval that would allow the development to meet the District's Development Review Criteria. The Development Review Criteria was developed in 2002 and adopted by the District on September 5, 2002. The intent of Development Review Criteria was to, in part, achieve the goals and policies of the WMP. The criteria required developments and redevelopments to address rate control, volume control, water quality treatment, flooding, wetland protection, erosion and sediment control, and integrated resource management on their sites. (See Appendix D)

During 2003-2005, the District assumed an advisory role to the Cities with development and redevelopment proposals. The advisory role consisted of review and comment in reference to the District's Development Review Criteria. The Cities would consider the comments and attempt to incorporate suggested changes to the greatest extent possible into the final approval. During 2003-2005, the District reviewed 71 developments or redevelopments (through 10/01/2005). (See Appendix E) The District tracked compliance with all of the development review criteria and found marginal compliance with the criteria. The volume control and water quality criteria had the poorest level of compliance. Additionally, there were problems associated with the CRWD being made aware of the developments very late in the process or not at all. The main problem with late notification was that site plans were completely developed and very difficult and costly to change at that late stage of the process. Developers were usually unwilling to make changes after they had received municipal approval and the city staff was either unable or unwilling to compel the developer to make the changes as well.

To assess the impact of non-compliance with the Development Review Criteria, the District completed the Development Impact Assessment in November 2004. (See Appendix F) This assessment analyzed the long-term impact that the current level of compliance would have on the water resources of the District. The study found that if development/redevelopment continued in the manner it had in the past, the peak rate and total volume of flow, as well as the amount of phosphorus being delivered to receiving water bodies would increase. The District's goal of improving conditions within the watershed by achieving a decrease in rate and volume of flow, as well as a 60% reduction in phosphorus loads was clearly not being met under the current development review process. Table 1 summarizes the findings of the Development Impact Assessment:

Criteria	CRWD Goal/Standard	Results from Study
Rate Control	0% Increase	5 Yr Storm – 13.2% Increase 100 Yr Storm – 28.7 % Increase
Volume Control	0% Increase based on existing runoff volumes or that of site with 25 % impervious surfaces	5 Yr Storm – 24.2% Increase 100 Yr Storm – 13.7 % Increase
Water Quality	60% Reduction	9% Increase

Based on these results using the development review criteria and the significant long-term impacts that would result from non-compliance, the District concluded that the voluntary development review process had not and would not achieve the goals and policies of the District's WMP.

On December 13, 2004 the District held a meeting with the member cities and indicated its intention to promulgate Rules.

Assessment of the Reasonableness of the Proposed Watershed District Rules

The District initiated the rulemaking process January 5, 2005 and adopted a workplan and schedule that would conclude with rule adoption at the end of 2005. (See Appendix G) The workplan had two phases, the first was to draft the Rules and the second was the formal adoption process dictated by MN Statutes 103D.341. The District's philosophy was to provide multiple opportunities for stakeholder input and to work closely with adjacent watershed districts to have as much consistency as possible with our rules.

In April of 2005, the District, partnering with Ramsey Washington Metro Watershed District, completed Rulemaking Study Phase I. (See Appendix H) The goal of the study was to evaluate how stormwater BMPs could be incorporated on densely developed sites to achieve the District's Development Review Criteria. The Rulemaking Study Phase I analyzed three previously approved sites that did not fully meet District Development Review Criteria. The three sites were evaluated in reference to District criteria for rate control, volume control, and water quality to determine: A) Is it possible to achieve the current District criteria, and if so what would the stormwater BMPs be and how much would they cost; OR B) If it is determined that it is not possible to meet the current development review criteria, then alternative attainable criteria should be developed and the BMPs used and their associated costs should be detailed. The District retained four firms, each of which independently completed the analysis. By having multiple firms complete the study it showed that multiple designs/approaches were available to achieve the District's criteria on densely developed sites. The Rulemaking Study obtained multiple objectives towards Rulemaking including:

- Reevaluating the original Development Review Criteria
- Exploring potential alternative Development Review Criteria
- Providing examples of how previously noncompliant developments could be brought into compliance
- Giving an indication of the costs of complying with various technical criteria
- Providing a valuable tool to demonstrate the feasibility of implementing our new rules

Based on the analysis completed during the Rulemaking Study Phase I, the District developed and adopted draft technical standards for Rules. (Appendix I) The draft technical standards for Rules were simpler and easier to interpret than the original Development Review Criteria and in some cases were less restrictive. Major changes were made to the volume control and water quality criteria. The integrated resource management criterion was not included in the draft technical standards for Rules.

To further evaluate the draft technical criteria for Rules, the District completed the Rulemaking Study Phase II in June 2005. (Appendix J) The second phase of the Rulemaking Study evaluated the same three sites analyzed in the Phase I but utilized the draft technical standards for Rules. This second phase of the Rulemaking Study in particular illustrated that the technical criteria for Rules were practical, feasible from an engineering perspective, and the costs were reasonable in reference to the total project cost. Table 2 summarizes the findings of the Phase II Rulemaking Study from June of 2005.

Table 2 - Summary of Rulemaking Study Phase II, June 2005

Site Name	Stormwater Practices fit within existing, City approved site plan?	Estimated Total Development Cost	Stormwater Practice (s) Cost from City Approved Plan	Stormwater Practice (s) Cost from City Approved Plan AND CRWD Plan ¹	Increased Cost of Stormwater BMPs to meet CRWD Criteria	Percent of Total Development Cost for Stormwater BMPs to meet CRWD Criteria
CVS Pharmacy	Yes	\$4,000,000	\$73,215	\$100,459	\$27,245	0.68 %
The Metro	Yes	\$15,500,000	\$75,977	\$96,584	\$20,607	0.13%
The Heritage	Yes	\$22,000,000	\$99,232	\$139,372	\$40,140	0.18 %

1 – Average Cost based on three consultants data

On July 12, 2005, the District, in conjunction with RWMWD held a joint meeting with their member Cities to solicit input on the draft technical standards for Rules. As the result of previous collaboration, the District and RWMWD had the same standards for all criteria except wetland management. The CRWD criterion for wetlands is more restrictive than the RWMWD because the CRWD only has 1.4% of its wetlands remaining. The RWMWD has over 8% of its land area as wetlands.

Based on comments received at that meeting and additional rule development efforts, the District completed the drafting of the proposed Rule during August and September 2005.

On October 5, 2005, the District adopted the SONAR and authorized the distribution of the draft Rules to interested stakeholders for review and comment. (See Appendix K) The District accepted comments for a 45-day period ending on November 25, 2005, and held a public hearing on November 16, 2005. During the 45-day review period, the District held a meeting with its member Cities to review the draft Rules. At the public hearing an extension of the comment period to December 15, 2005 was requested and granted by the Managers. Many of the comments received pertained to the volume control rule and its implementation on road projects. (See Appendix L) Additionally, there was a request for a Technical Advisory Committee (TAC) to address the concerns raised during the comment period.

On January 4, 2006 the Manager’s established a joint TAC with Ramsey-Washington Metro Watershed District and adopted a workplan and timeline for the Committee. (See Appendix M) The workplan directed the committee to discuss and make recommendations on 5 main topics:

- 1” Infiltration Standard
- Roads/Linear Projects
- Standard/Non-Linear Projects
- Alternative Compliance (Off-site Compliance, Variances)
- Maintenance/Longevity
- Definitions, Ambiguities, Misc.

The TAC completed its work in March 2006 and its recommendations (Appendix N) were reviewed with the Managers at the District's April 5, 2006 meeting. All TAC meeting and subcommittee meeting summaries, two technical memos, and two staff memos are found in Appendix N. The TAC recommendations provided significant clarification for dealing with road projects and projects on sites where infiltration is not possible. Those clarifications translated into revisions to Rule C.

The district revised the draft rule based on the comments received during the comment period and the recommendations of the TAC. The district also developed guidance documents and worksheets to assist applicants during preparation of their permit submittal. These documents include: Permit Guidance and Information Handbook, Permit Application, Permit Process and Deadline Summary, Stormwater Management Worksheet, Sample Maintenance Agreement, Volume Reduction FAQ and can be found in Appendix O.

On June 7, 2006, the District adopted the revised SONAR and authorized the distribution of the draft Rules to interested stakeholders for review and comment. (See Appendix P) The District accepted comments for a 45-day period ending on July 26, 2006, and held a public hearing during the 45-day review period. Also during the 45-day review period, the District held a meeting with the Technical Advisory Committee to review the draft Rules.

The table below is a summary of the actions Capitol Region Watershed District has taken in advance of adoption of Rules as described above.

TABLE 3 – Summary of Actions taken by the Board of Managers		
Action	Timeline	Supporting Documentation
Assessment of Need		
Order from BWSR creates District	9/24/1998	Appendix A
District's Watershed Management Plan adopted	12/14/2000	Appendix B
District signs Memorandum of Understanding signed with all member cities, except St. Paul	2001-2002	Appendix C
District adopts Development Review Criteria	9/5/2002	Appendix D
District assumes advisory role to Cities, Review and Comment	2003-2005	Appendix E
2003 Development Impact Assessment	2004	Appendix F
District conducts meeting with Cities and indicates intent to promulgate Rules	12/13/2004	
Assessment of Reasonableness		
District Initiates Rulemaking Process and adopts Rulemaking Workplan and Timeline	1/5/2005	Appendix G
District completes Rulemaking Study Phase I	4/1/2005	Appendix H
District adopts draft Technical Standards for Rules	5/18/2005	Appendix I
District completes Rulemaking Study Phase II	6/13/2005	Appendix J
District/RWMWD hold joint meeting with Cities to solicit input on draft technical standards for rules	7/12/2005	
District adopts SONAR and authorizes distribution of draft Rules for 45-day review period	10/5/2005	Appendix K
District holds public hearing and receives comments on draft Rules	12/15/2005	Appendix L
District establishes joint Technical Advisory Committee with Ramsey Washington Metro Watershed District	01/04/2006	Appendix M
District completes TAC process and recommendations are reviewed by the Managers	04/05/2006	Appendix N
District revises draft Rule and develops extensive guidance materials and worksheets as requested by TAC	05/2006	Appendix O
District adopts revised SONAR and authorizes distribution of the revised draft Rule for a 45-day review period	06/07/06	

Part II: Assessment of the Reasonableness of the Proposed Revisions to Watershed District Rules

CRWD rules were adopted on September 6, 2006 and went into effect on October 1, 2006. During the adoption process, a Technical Advisory Committee (TAC) was formed to gather input and concerns of the affected regulated parties. During this process, it was agreed that the TAC should meet regularly to discuss any concerns or difficulties experienced in achieving compliance with the rules.

Throughout 2007, the District compiled a list of issues and concerns that arose during the permitting process. In conjunction with RWMWD, two joint TAC meetings were held in 2007, one on September 11, and one on December 4.

At the meeting on Tuesday, September 11, 2007 the District presented the staff identified list of concerns to the TAC members, identified additional items for consideration, and discussed possible solutions to the issues. A majority of the discussion focused on requirements for water quality and alternative compliance for linear projects, found in Stormwater Rule C. The following questions were raised during the meeting:

- What is the correlation between volume reduction and TSS removal rates?
- What is the most accurate way to calculate maximum depth, drawdown time, and volume for underground BMPs?
- How should the Rules address credit for disconnected impervious?

It was apparent that revisions should address how the cost of compliance for road authorities could be controlled in a more predictable manner. The meeting agenda, staff identified discussion items, and meeting summary are included in Appendix P for reference.

On December 4, 2007 the District convened the TAC for a second time. Between meetings, the District reviewed the comments received at the first TAC meeting, formulated responses, and drafted proposed rule revisions. These items were distributed to the TAC members for review prior to the second meeting. The District presented a memo with responses to the questions raised by members of the TAC and discussed these at the meeting. This memo can be found Appendix P. Also included in this memo were explanations of the proposed Rule revisions that accompanied a copy of the draft language for Stormwater Rule C. These revisions focused on the following four topics:

- Drawdown Time Requirements for Volume Reduction BMPs
- Alternative Compliance and the Water Quality Standard
- The Cost Cap for Linear Projects
- Maximum BMP Size to be Counted for Volume Reduction

The TAC reached a general consensus that the proposed revisions adequately addressed their concerns. It was then agreed that the District should convene a Cost-Cap subcommittee of the TAC to give recommendations on an appropriate dollar amount for the Cap on Costs for linear projects as it did in 2006.

The District then presented the adoption process timeline. The TAC indicated a desire to maintain a reasonable timeline in order reduce conflicts with the 2008 construction season. The District set a goal of early January for distribution of the draft Rule revisions for public review and comment.

The District Board of Managers reviewed and authorized distribution of the draft Rule revisions on January 2, 2008 and scheduled a public hearing for February 6, 2008. At the request of the board, the Wetland Management Rule E was revised to remove buffer averaging and to require a minimum buffer of 25 feet around wetlands. The draft Rule was distributed on January 4, 2008 for 45 day review and comment period to end on February 19, 2008.

On January 23, 2008, the Cost Cap Subcommittee met to discuss if the cost cap should be adjusted to reflect the changes in the proposed Rule revisions. The current Rule only allowed for volume reduction costs to be considered in the cost cap calculations, whereas the proposed Rule revisions allows for costs associated with both volume reduction and water quality practices to be considered. The current Rule required linear projects to meet the water quality standard onsite when utilizing banked volume credits. The proposed revisions allow the banked volume credits to also carry the associated water quality benefits. The subcommittee members concluded that because the standards were combined for certain cases, it was reasonable to raise the cost cap. The subcommittee agreed that \$30,000 per acre of impervious was acceptable, and that this number should continue to be evaluated annually as more project cost data is collected. The District agreed that by increasing the cost cap to \$30,000, the standards in the rules are not compromised and recommended to the Board that the resolution to adopt a cap on costs include this new amount. On January 28, 2008, a draft cost cap resolution was distributed to the interested stakeholders for public comment to supplement the review materials for the draft Rule.

On February 6, 2008, a public meeting was held for comment on the proposed Rule revisions. A member of the public was present and asked that groundwater be considered a water resource of the District. No other comments were made.

The public comment period ended on February 19, 2008. The comments were compiled and a Response to Comments table was drafted.

On March 5, 2008 the District Board of Managers approved the Response to Comments document and adopted the updated SONAR, revised Rules, and resolutions on the Cost Cap, Surety and Fees Schedule, and Stormwater Impact Fund. Copies of these documents are located in Appendix P.

TABLE 4 – Part II Summary of Actions taken by the Board of Managers		
Action	Timeline	Supporting Documentation
District Adopts New Rules	09/06/2006	Appendix P
District Initiates 2007 Joint TAC Process	9/11/2007, 12/04/2007	Appendix P
District Authorizes Distribution of Draft Proposed Rule Revisions	01/02/2008	Appendix P
District Holds Public Hearing	02/06/2008	
District Adopts Updated SONAR and Rule Revisions, and Approves Resolutions for Cost Cap, Sureties and Fees Schedule, and Stormwater Impact Fund	03/05/2008	Appendix P

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