

Appendix F

Rules and Regulations of the Upper Minnesota River Watershed District

10 YEAR PLAN UPDATE

UPPER MINNESOTA RIVER WATERSHED DISTRICT RULES AND REGULATIONS

The rules and regulations of the District are to effectuate the purposes of Minnesota Statutes, Chapter 103D and the authority of the managers therein prescribed. These rules and regulations are deemed necessary to implement the law administered by them.

These rules and regulations were adopted pursuant to Minnesota Statutes, Chapter 103D on November 14, 1972. The Board of Managers recognize that water resource issues have changed over time and will continue to change. Therefore, to address both current and possible future water resource issues the District is planning to review and revise the rules and regulations in 2010.

1. General Policy:

The Managers accept the responsibilities with which they are charged as a governing body. While there is no intention to usurp the authority or responsibilities of other agencies or governing bodies, neither will they shirk their responsibilities. They will cooperate to the fullest extent feasible with personal groups, state and federal agencies and other governing bodies.

It is the intention of the managers that no person shall be deprived or divested of any previously established beneficial use or right to natural resources by any rule or regulation of the District without due process of the law, and that all rules and regulations of the District shall be construed to said intention; and by the use of these rules and regulations to assist in the orderly use and conservation of the waters of the District.

If any part of these rules and regulations is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of these rules and regulations.

If any rule or regulation is inconsistent with the provisions of Minnesota Statutes, Chapter 103D or other applicable state laws, the provisions of such laws shall govern.

2. Definitions:

For the purposes of these regulations, the following terms shall have the meanings attached to them:

District: All of the land area within the established boundary of the Upper Minnesota River Watershed District.

Managers: The Board of Managers of the District.

Person: An individual, firm, partnership, association, or corporation that does not include public or political subdivisions.

Public Corporations: A country, town, school district, or a political division or subdivision of the state.

Public Health: Includes any act or thing tending to improve the general sanitary conditions of the District.

General Welfare: Includes 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.

Drainageway: An artificial or natural channel which provides a course for water flowing continuously or intermittently.

Legal Drainageway: All artificially constructed Judicial or County ditch Systems.

Private Drainageway: An individual or mutual drainage system.

Plan: A map or drawing and supporting data for proposed works.

Work or Works: Any construction, maintenance, repairs, or improvement.

Floodplain: All of the land area along channels and drainageways including the area around lakes, marshes, and lowlands which would become inundated as a result of a flood occurring on the average of once every 100 years.

Normal High Water Level: A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. Commonly it is that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

Water Impoundment Structure: A structure constructed to retain or contain runoff water such as dams, reservoirs, dikes, but does not include pits or dugouts in which the water level is maintained by seepage.

3. Works Paid by Assessment:

All works of the District which are to be paid by assessment upon benefited properties shall be instituted only upon a petition filed with the Managers, as prescribed in Minnesota Statutes, Chapter 103D.625, subd. 2. A copy of the law is on file in the District office.

4. Permits:

The Board of Managers requires that permits be secured from the District prior to the start of some planned works of improvements. The request for permits is not intended to be a denial or a delay of any project. The permits are necessary for the Managers to be informed of planned projects and to insure the orderly development of the natural resources in accordance with the Overall Plan.

- A. All permits when issued shall be signed by the chairman and/or secretary of the District or their designates.
- B. No works requiring a permit shall be commenced prior to the issuance of the permit.
- C. Unless specified in the permit, works for which a permit is issued must be completed within one year. The Managers further require that they be notified when the works of improvement are completed.
- D. Applications for a permit will be acted on by the Managers within 60 days from the date tha the request is made.
- E. If a permit application is refused or granted subject to conditions, the applicant may, within 30 days, demand a hearing on the application.
- F. The issuance of a permit by the Managers does not relieve the applicant from the responsibility of obtaining permits from other agencies when public waters are involved.
- G. Applications for a permit may be filed with Managers at their regular monthly meeting on the 2nd Tuesday of each month or mailed to: Upper Minnesota River Watershed District 211 SE 2nd St., Ortonville, MN 56278.
- H. A plan shall accompany the application, and the Managers may request additional information.
- I. There will be no charge for permits except where unusual circumstances require an engineering appraisal of the proposed works.

5. Drainage:

Every person shall use his land reasonably in disposing of surface water and he may turn into a natural drainageway all of the surface water that would naturally drain there, but he may not burden a lower landowner with more water than is reasonable under the circumstances.

Surface water shall not be artificially removed from upper land to and across lower land without adequate provision being made on the lower land for its passage, nor shall the natural flow of surface water be obstructed so as to cause an overflow onto the property of others. The following rules and regulations shall govern drainage projects in the District:

- A. The District will enforce and comply with the drainage laws under the Minnesota Drainage code.
- B. The District will assume the legal responsibility for all new and improved drainage systems within its boundary. When so authorized, it will accept the legal responsibility of all existing legal drainage systems within the District.

- C. No person or public corporation shall cut an artificial drainageway across a subwatershed and thereby deliver water into another subwatershed without a permit from the Managers.
- D. No person or public corporation shall divert water to or cast water by any artificial means into any legal drainage system from any land not assessed to said drainage system without complying with the proper statutory procedure therefore, and securing a permit from the Managers.
- E. A permit shall be secured from the Managers prior to any works or alterations undertaken on any private drainage system. A permit is also required before any repair or alteration is started on any legal drainage system under the jurisdiction of the Managers.
- F. A permit is required from the Managers for all outlets of drainage into existing right-of-ways of township, county, state, and federal road ditches.
- G. All new and improved outlets into existing legal or natural drainageways shall be constructed in such design which will not cause a deterioration of the channel or impede the flow of water.
- H. No wetland or marsh shall be drained without a permit from the Managers
- I. All new and improved legal drainageways shall be assessed annually for a specific amount of maintenance.
- J. The construction of a new private drainage system requires the permit applicant to aquire permission from the downstream landowner. The downstream landowner must sign a permit application consent form or contact the Watershed Distric Board personally.

6. Soil Erosion and Sedimentation:

Soil and water conservation practices on the land are recognized as an important part of good water management program. Stopping rain where it falls allows more infiltration of moisture into the soil to be used by the growing crops. Reducing runoff and soil erosion will prolong the life of all works of improvement below.

It shall be the policy of the Managers to cooperate with the Soil and Water Conservation District and other agencies and to encourage the adaptation of proper land use practices.

To control and alleviate soil erosion and siltation of the drainageways, reservoirs, and lakes in the District the following will apply:

- A. Each landowner and operator is expected to apply the proper land use practices to minimize runoff and soil erosion from sloping land.

- B. Sloping land abutting drainageways, lakes, ponds, or reservoirs shall be used in such manner so as to provide reasonable control of sediment. A permit is required from the Managers to till any area covered with permanent grass within 200 feet of the low water mark of drainageways and within 200 feet of the normal high water mark of lakes, ponds, or reservoirs.
- C. All new or improved drainageways shall be constructed with side slopes, as determined by proper engineering practices, 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.
- D. On all new and improved legal and private drainageways which have a minimum bottom width of four feet, the side slopes above the low water mark and the berm shall be planted with a permanent grass buffer strip. (The berm is defined as a strip of land at least 15' in width on each side of the top edge of the channel.) No agricultural practices other than those required for the maintenance of a permanent growth of grass shall be permitted. Harvest of grass in any manner not harmful to the grass or works of repair on any drainage system may require the foregoing practice; if additional right-of-way is required to comply with the foregoing, the matter shall proceed as provided by law. The area to be planted to grass as herein provided is a minimum requirement and may be enlarged in any works of improvement of new construction.

7. Water Quality:

The Managers will cooperate with public corporations and state and federal agencies in the application of ordinances and rules concerning water quality within the District.

The Managers will cooperate with the various agencies in South Dakota to attain uniform regulations which will improve the quality of the joint boundary waters to enhance their recreational and aesthetic values.

- A. In the interest of public health and to prevent pollution of waters within the District, the applicable county ordinances and the rules of the State Board of Health and the Minnesota Pollution control Agency regarding the disposal of wastes, are by reference hereby adopted as rules and regulations of the District within the limits of the statutory authority granted to the Managers.
- B. A permit must be secured from the District prior to the construction of all new or relocated livestock feedlots.
- C. A permit must be secured from the District prior to any activity in the lakes which would cut and remove aquatic weeds or the use of chemicals to control algae or weeds.
- D. A permit must be secured from the District to dump or spray industrial or municipal liquid wastes on or in any land, lake, reservoir, slough, marsh, river ditch, or natural waterway. Liquid wastes discharged into public waters must meet the minimum standards established by state and federal agencies.

- E. Dumping of solid wastes into lakes, reservoirs, sloughs, marshes, rivers, ditches, or natural waterways is prohibited.
- F. Wastes from chemical toilets in boats or cabins, or used by campers must be disposed of in approved disposal areas.

8. Flooding and Water Impoundment Structures:

Flooding is an annual occurrence in some parts of the watershed. While soil and water conservation practices on the land will help to reduce runoff, some structural measures might be necessary to alleviate the problems.

Multi-purpose reservoirs, farm ponds and other water detention structures are encouraged by the Mangers. Some diking might be necessary to protect low lands from water overflow.

To provide for orderly development of flood control and water conservation measures the following rules shall govern:

- A. A permit shall be secured from the District prior to the construction, alteration, or removal of any reservoir or water impoundment structure.
- B. A permit shall be secured from the District before a dike is constructed, altered, or removed on or near any drainageway, or any lake or marsh.
- C. Normal maintenance which does not decrease the effectiveness of a structure, or harvesting of grass from a water impoundment structure or dike may be done without a permit.
- D. No permit is needed for construction of pits or dugouts.

9. Accelerated Soil Erosion Caused by Construction:

- A. A permit shall be obtained from the District prior to the start of any road or building construction or land development activities including ditching, grading, stripping, cutting or filling which would:
 - 1. Remove top soil and/or vegetation from an area one acre or more.
 - 2. Increase, concentrate, or dispose of runoff on a temporary or permanent basis which might cause or increase soil erosion.
- B. A request for such a permit shall include plans for the construction which shall include a description of the erosion control measures to be followed during and after construction. A work schedule and time table for erosion control measures and construction shall be included in the plan.
- C. Individuals or developers carrying out the erosion control measures for a permit, and all subsequent owners of the property involved, shall effectively maintain all erosion control features.

10. Bridges, Culverts, and Drains:

No bridge, culvert, or drain shall be constructed, reconstructed, laid, to or across any natural, legal, or private drainageway without a permit from the Managers. They shall be suitably located, have adequate waterway openings and shall have adequate shoulder and bank protection.

11. Water Use Permit:

A permit shall be obtained from the District to appropriate surface or underground water for irrigation, municipal, or industrial use. No permits are required for individual dwellings or farm water supplies.

12. Shoreland Protection and Floodplain Zoning:

Each of the counties involved in the District have established or will establish Shoreland Protection and Floodplain Zoning regulations in accordance with Minnesota State criteria. Procedures for administration of these regulations have been developed by each county. The District will adopt and comply with these regulations and the counties will retain the administration of the regulations.

13. Wildlife:

The Managers will encourage private land owners to retain non-agricultural land for wildlife purposes. They will cooperate with state and federal agencies and private persons and organizations in their habitat development and land purchase programs.

- A. No marsh shall be drained without a permit from the District.
- B. A permit is required from the District prior to any land acquisition for wildlife habitat by state and federal agencies and by private persons and organizations.

14. Penalty:

In the event of a violation or a threatened violation of these rules and regulations, the Managers may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violations or threatened violations as provided for by Minnesota Statutes 103D.545, Subd. 2.

15. Appeal:

Any party aggrieved by the adoption or enforcement of these rules and regulations or by any order of the Managers thereof may appeal in accordance with the appellate procedure and review as provided in Minnesota Statutes, Chapter 103D.537.

16. Changes in Rules and Regulations:

All changes in these rules and regulations shall be made with the approval of the Advisory Committee. Any person or public corporation may petition the Managers for such changes. The Managers may initiate changes in these rules and regulations.

17. Effective Date:

These rules and regulations were adopted pursuant to Minnesota Statutes, Chapter 103D, on the 14th day of November, 1972.

18. DNR General Permitting:

General Permit #97-4241 authorizes the UMRWD to issue permits for various types of activities in protected waters.

Permittable activities include the installation of natural riprap rock; replacement of bidges and culverts (in kind); channel cleanouts in altered natural watercourses; installation of outlets for landlocked basins (above the OHW); and bioengineering erosion control. All work must be done in accordance with all the general and special provisions that follow and those that are applicable based on project type.

GENERAL PROVISION

1. The permittee is not released from any rules, regulations, requirements or standards of any applicable federal, state or local agencies; including, but not limited to, the U.S. Army Corps of Engineers, Board of Water and Soil Resources, MN Pollution Control Agency, watershed districts, water management organizations, county, city and township zoning. This permit does not release the permittee of any permit requirement of the St. Paul District, U.S. Army Corps of Engineers, Army Corps of Engineers Center, 190 Fifth Street East, St. Paul, MN 55101-1638.
2. This permit is not assignable by the permittee except with the written consent of the Commissioner of Natural Resources.
3. The permittee shall notify the UMRWD at least five days in advance of the commencement of the work authorized hereunder and notify him/her of its completion within five day.
4. The permittee shall make no changes, without written permission previously obtained from the UMRWD Board of Managers in the dimensions, capacity, or location of any items of work authorized hereunder.
5. The permittee shall grant access to the site at all reasonable times during and after construction to authorized representatives of the UMRWD for inspection of the work authorized hereunder.
6. This permit may be terminated by the UMRWD at any time deemed necessary for the conservation of water resources of the state, or in the interest of public health and welfare, or for violation of any of the provisions or applicable law of this permit, unless otherwise provided in the Special Provisions.
7. Construction work authorized under this permit shall be completed on or before the date specified above. The permittee may request an extension of time to complete the project, stating the reason thereof, upon written request to the UMRWD.

SPECIAL PROVISIONS

RIPRAP PROTECTION PROJECTS

1. The riprap materials shall consist of a gradation of natural rock of sufficient size, quality, and thickness to withstand ice and wave action. The riprap shall be ungrouted.
2. The minimum finished slope shall be no steeper than 2:1 (horizontal to vertical).
3. A filter consisting of geotextile fabric and/or well-graded gravel or crushed stone is installed to prevent undercutting of the riprap
4. The encroachment into the water is the minimum amount necessary to provide protection and does not unduly interfere with the flow of water. The maximum encroachment waterward of the ordinary high water elevation is 10 feet.
5. The riprap shall conform with the natural alignment of the shoreline (i.e. maintaining an undulating or meandering shoreline). At each end of the stabilized shoreline, the finished slope of the riprap shall be varied in a fashion to produce a smooth transition with the natural shoreline.
6. The sub-permittee shall routinely inspect the authorized project and any needed maintenance work. Prior to commencing any maintenance work, the sub-permittee shall advise the Upper Minnesota Watershed District of the extent and method of maintenance. Maintenance shall not be commenced until sub-permittee receives written approval from the Upper Minnesota Watershed District.

EXCAVATION FOR BIOENGINEERING (I.E. SHORELINE/BANK STABILIZATION WITH PLANT MATERIALS)

1. The project must be approved by the DNR Area Fisheries Manager ((320) 839-2656). If aquatic plants (seed or root stock) are proposed to be transplanted from another basin or supplied by a vendor, an Aquatic Plant Management permit must be obtained from DNR-Section of Fisheries.
2. The project shall not involve cribs, tree anchoring or other bioengineering methods that encroach on the shoreline, streambank profile or floodway (Note: permitted methods include: willow wattling, brush layering, willow-posts, etc).

EXCAVATION IN ALTERED NATURAL WATERCOURSES

1. Permits shall only be issued for removal of accumulated silt and sediment on altered natural watercourses where channel maintenance has been conducted within the last 25 years and there is no forested buffer strip. Finished sideslopes are to be 3:1 or less steep.

2. Adequate methods shall be employed where necessary to prevent and/or correct erosion of channel banks resulting from entry of surface waters from adjacent lands and/or tributaries. Such methods may include drop structures, inlet pipes, riprap, and establishment and maintenance of vegetation.
3. The authorized work shall be done only under low flow conditions to minimize erosion and siltation caused by excavation.
4. Spoil material is to be placed landward of the grassed buffer strip, in an upland area. (Channel improvement-deepening or enlargement is not allowed).
5. The Sub-Permittee shall level all spoil piles to a depth of less than one foot and seed to grasses and/or legumes all side slopes, plus a strip of land 16.5 feet wide (minimum) along both sides of the new channel. This work shall be completed as soon as spoil material moisture conditions allow and within 180 days of completion of the excavation. The grassed strips shall not be mowed until after July 31 of each year.
6. Excavation which shall partially or wholly drain protected waters or wetlands is NOT authorized under this permit. All channel excavation authorized under this general permit is prohibited within 500 feet of any DNR Protected Waters or Wetlands. Contact the UMRWD if work is proposed within 500 feet of a protected lake or wetland.

INKIND REPLACEMENT OF BRIDGE & CULVERTS

1. A DNR Protected Waters Permit is required if the structure serves a water level control for a "Protected Waters Basin."
2. The Sub-Permittee is responsible for maintaining existing navigation and access to navigation.
3. Barn and cliff swallows often nest under bridges. Both of these species are protected by federal and state law. The permittee is responsible to determine if swallows nest under this bridge. If so, it will be necessary to obtain a U.S. Fish and Wildlife Service permit to destroy swallow nests or eggs. The permittee should be aware of the policy to not grant such permits if the eggs have hatched and young are still in the nest. For questions regarding the federal permit, contact the U.S. Fish and Wildlife Service at 612-725-3530.
4. The culvert nearest the deepest portion of the stream channel shall be depressed six inches to concentrate low stream flows within this culvert and allow for free passage for fish migration.

5. All material in, or resulting from the demolition of the existing structure shall be completely removed from the floodplain of the river and disposed of in accord with all local, state, or federal regulation.
6. Unless otherwise authorized, MDOT Class III natural rock riprap shall be used to armor both the upstream and downstream ends of the culvert(s). The channel banks and roadway embankment shall be shaped to a 3:1 (horizontal:vertical) finished slope. Riprap shall be placed along the channel and roadway embankment to an elevation one foot above the top of the culvert. Riprap shall be a minimum of 1.5 feet thick and extend at least 25 feet from the ends of the culvert(s).
7. No access roads or temporary channel diversions to aid in construction of any project are allowed below the OHW of public waters unless specifically authorized in writing by the Division of Waters.
8. No change in the existing flowline/gradient shall occur unless specifically authorized in writing by DNR Waters.
9. For the replacement of existing structure, stage increase for the regional (100 year) flood may be allowed up to that created by the existing structure provided there are no structures in the reach affected by the stage increase. For new structures, the maximum increase in the regional flood is 0.5 foot or the more restrictive provisions of a local government floodplain ordinance. Stage increases in excess of these thresholds must be approved in writing by the Department.
10. This permit is not valid until completion of environmental review if the bridge/culvert construction is part of a road project that includes other features that require a mandatory Environmental Assessment Worksheet. The Environmental Assessment Worksheet results may change the location or conditions of this permit.

OUTLETS FOR LANDLOCKED BASINS

1. Proposed control elevation must be above Ordinary High Water Level.
2. Outlet rights and/or flowage easements for the proposed discharge have all been obtained.
3. The project is implemented in a manner that will not cause significant erosion and/or flooding to downstream areas (i.e. limiting flow rate, restricting outflow to non-flooding periods & employing adequate energy dissipation structures at the point of discharge).