

12.0 Sureties

12.1 Policy

It is the policy of the District to protect and conserve the water resources of the District by requiring a bond or other surety with a permit application to ensure adequate performance of the authorized activities and compliance with the District Rules.

12.2 Requirement

The District may require a performance bond, letter of credit or other surety in a form approved by the District for an activity regulated under these Rules. A performance surety will not be required of any agency of the United States or of any governmental unit or political subdivision of the State of Minnesota.

12.3 Criteria

Sureties required pursuant to this rule must be issued in compliance with the following criteria:

- 12.3.1 The surety shall be a performance bond or letter of credit or other form acceptable to the District, and a commercial surety shall be from an issuer licensed and doing business in Minnesota. Surety templates may be obtained from the District web site at www.ninemilecreek.org/general/index.html and also are available from the District office.
- 12.3.2 The surety shall be issued in favor of the District and conditioned upon the applicant's performance of the activities authorized in the permit in compliance with the terms and conditions of the permit and all applicable laws, including the District's rules, and payment when due of any fees or other charges authorized by law, including the District's rules. The surety shall state that in the event the conditions of the surety are not met, the District may make a claim against it. In the event that the District makes a claim against a surety, the full amount of the surety required must be restored within 45 days.
- 12.3.3 The surety must be effective for at least three years from the date of issuance and shall contain a provision that it may not be canceled without at least thirty (30) days prior written notice to

the District.

- 12.3.4 The surety shall be submitted by the permit applicant, but the surety principal may be either the landowner or the individual or entity undertaking the proposed activity.
- 12.3.5 No surety will be released except pursuant to the terms of section 12.4 or section 5.5.
- 12.3.6 No interest will be paid on sureties held by the District.
- 12.3.7 The types and amounts of sureties required by the District will be set by the Board of Managers by resolution. The schedule of surety amounts and types will be maintained on the District website at www.ninemilecreek.org/general/index.html and also will be available from the District office. Surety amounts will be set as necessary to cover the following potential liabilities to the District:
 - a field inspection, monitoring and related fees authorized under Minn. Stat. § 103D.345;
 - b the cost of maintaining and implementing erosion and sediment control and other protective measures required by the permit;
 - c the cost of remedying damage resulting from noncompliance with the permit or for which the permittee is otherwise responsible.

12.4 Surety Release

On written notification of completion of a project, the District will inspect the project to determine if the project has been constructed in accordance with the terms of the permit and District Rules. If the project is completed in accordance with the terms of the permit and District Rules, and there is no outstanding balance for unpaid permit fees, the District will release the surety. Final inspection compliance includes, but is not limited to, confirmation that the site has been vegetated and stabilized to prevent erosion and sedimentation per section 5.3.3, and stormwater management features have been constructed or installed and are functioning as designed. The District may return a portion of the surety if it finds that the entire surety amount is no longer required to ensure compliance with the permit conditions and District rules. If the District has not inspected the project and made a determination about the project's compliance with the above criteria within 45 days of District

receipt of written notification of project completion, the surety is deemed released. In this event, the District will provide a writing releasing the surety if needed to meet the issuer's requirements.