



Nine Mile Creek Discovery Point
12800 Gerard Drive

Eden Prairie, MN 55346

(952) 835-2078

www.ninemilecreek.org

MEMO

TO: Nine Mile Creek Watershed District Board of Managers
FROM: Randy Anhorn
DATE: March 4, 2020
RE: Comment letter on MPCA's proposed amendment to their rules governing water quality fees.

Background

As mentioned at the Board's February meeting, the MPCA is seeking comments on a proposed amendment to their rules governing water quality fees.

The MPCA is seeing an increase in demand from permittees for more innovative approaches and tailored technical assistance. These types of activities and complex projects take more time and resources. Water quality fees have not kept pace with costs, so the current fees authorized in rule for water-related permitting do not generate sufficient revenue to administer the associated water quality programs. The MPCA is planning amendments to the water quality fee rules that would revise permit application fees, additional fees, and annual fees.

Revised fees are also needed to distribute permit costs equitably across affected permittees. This includes fees for municipal and industrial wastewater permits, stormwater permits, feedlot permits and registration fees, and subsurface sewage treatment systems (SSTS) tanks and licensing. These amendments would also change the implementation of variance fees, though would not increase them. These amendments will build on strategies identified in [Water Fee Advisory Committee: Findings and Recommendations](#) as well as feedback from stakeholder meetings held this past fall.

The MPCA held several public meetings in February to share information on revising these fee rules. The Public comment period ends March 13, 2020. More information on the rulemaking, including rule documents, a presentation and WebEx are available for viewing on the [rulemaking webpage](#).

Attached is a draft comment letter detailing our support for the establishment of a program fee structure to support the MPCA's SmartSalting education and certification program for commercial applicators.

Request

Authorize the Board chair to sign the attached comment letter and direct staff to submit the comments to the Office of Administrative Hearing Rulemaking e-Comments website.



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March 5, 2020

Denise Collins, Court Administrator
Office of Administrative Hearings
600 North Robert Street
P.O. Box 64620
St. Paul, Minnesota 55164-0620

Submitted via web: minnesotaoah.granicusideas.com

Re: Planned Amendments to Rules Governing Water Quality Fees, *Minnesota Rules*, Chapters 7002 and 7083; Revisor's ID Number R-4476; OAH Docket No. 65-9003-34479

Ms. Collins,

Nine Mile Creek Watershed District is a special purposes local unit of government with purposes and powers specified in Minnesota Statutes chapters 103B and 103D. NMCWD has been a leader in addressing chloride pollution, coordinating a Total Maximum Daily Load study of chloride pollution in Nine Mile Creek that was completed in 2010. (The creek was listed as impaired for chlorides in 2004.) NMCWD was also the first local governmental entity in the state to implement a regulatory requirement addressing chlorides, requiring permit applicants to prepare a chloride-management plan to meet its stormwater-management rule starting in 2018. The regulatory approach supplements the education and outreach efforts NMCWD has been vigorously engaged in since the creek was listed. Reducing chloride concentrations in the creek remains a high-priority issue for NMCWD,¹ and we continue to collaborate with our fellow local governmental entities on development and implementation of reduction strategies.

NMCWD strongly supports establishment of a program-fee structure that facilitates MPCA's provision of the Smart Salting education and certification program for commercial applicators. NMCWD's support is contingent on amendment of state law to provide liability limitations for those having received such certification. That is, no fee should be charged for commercial salt applicators unless and until a tort-liability limitation for certified applicators is incorporated into state law, as provided in bills presently pending in the Legislature: House File 1502 and Senate File 1667. NMCWD strongly encourages the agency to implement both of these key upgrades to its current chloride program as soon as possible.

¹ Sec. 4.4.6, NMCWD Water Management Plan, October 2017, available at <https://www.ninemilecreek.org/about-us/reports/water-management-plan/>.



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NMCWD appreciates the opportunity to comment, and stands by to provide any further notes or feedback the agency may find useful in pursuing solutions to the critical water-resources problem of chloride contamination.

Sincerely,

Jodi Peterson
President

c/ Katie Smith, Assistant Division Director, MPCA (via email)