3.0 Wetlands Management

3.1 Policy

1.1 It is the policy of the Board of Managers to ensure the preservation of the natural resources, habitat, water treatment and water storage functions of wetlands. This rule is intended to:

3.1.1 Achieve no net loss in the extent, quality and ecological diversity of existing wetlands in the watershed.

3.1.2 Require buffers around wetlands affected by land-altering activities regulated by the District.

3.1.3 Prevent direct and indirect impacts to wetlands and require replacement of wetlands affected by land-altering activities regulated by the District.

3.1.4 Maintain wetland integrity and prevent fragmentation of wetlands.

3.2 Regulation

3.2.1 Where the District is the local government unit implementing the Wetland Conservation Act, a permit from the District is required for any activity that results in the draining, excavation, or filling of a wetland regulated by the Wetland Conservation Act. The Wetland Conservation Act, as amended, and its implementing rules, as amended, are incorporated into these rules.

3.2.2 The buffer provisions of section 3.4 of this rule and the stormwater-treatment provisions of section 3.5 of this rule apply to any project requiring a permit from the District under rules 2.0 through 8.0. In cases where the District is not the responsible wetlands regulatory authority, sections 3.4 and 3.5 nevertheless apply, pursuant to the District's watershed authority.

a Sections 3.4 and 3.5 do not apply to incidental wetlands or to wetlands, the filling or draining of which is exempt from regulation under the de minimus exemption of the Wetland Conservation Act, as amended, or that are subject to a no-loss determination from the relevant LGU.

3.3 Replacement wetlands

3.3.1 Replacement wetlands must be sited in the following order of priority:

a On site;

b Within the same subwatershed;

c In the Nine Mile Creek watershed;

d In the seven-county metropolitan area of the Minnesota River-Shakopee major surface water watershed (No. 33) (*see* Map, Appendix 3a);

e In the Minnesota River-Shakopee major surface water watershed (No. 33), but replacement wetlands of at least equal size to the affected wetland area must be sited within the seven-county metropolitan area of the Minnesota River-Shakopee major surface water watershed (No. 33).

3.3.2 Replacement wetlands must be sized at a ratio to the affected wetland of:

a two-and-one-quarter-to-one (2.25:1) within the seven-county metropolitan area of the Minnesota River-Shakopee major surface water watershed (No. 33);

b three-to-one (3:1) outside of the seven-county metropolitan area of the Minnesota River-Shakopee major surface water watershed (No.33), with at least one-to-one replacement within the seven-county metropolitan area of the Minnesota River-Shakopee major surface water watershed (No. 33);

c nine-to-one (9:1), if the affected wetland is a high quality wetland (*see* wetlands definitions in Appendix 3b), with at least one-to-one replacement within the seven-county metropolitan area of the Minnesota River-Shakopee major surface water watershed (No. 33).

3.3.3 Where more restrictive than sections 3.3.1 or 3.3.2, state rules shall apply.

3.3.4 Minnesota Rule 8420.0544, as amended, when applicable, shall supersede sections 3.3.1 and 3.3.2, for public transportation projects.

3.4 Wetland buffers

Any activity for which a permit is required under any District rule(s) must provide buffer on all wetlands disturbed by the activity and on all wetlands downgradient from the activity, in accordance with the following criteria:

3.4.1 Subject to section 3.4.2, buffers must extend:

a Average 60 feet from the edge of high value wetlands, minimum 30 feet;

b Average 40 feet from the edge of medium value wetlands, minimum 20 feet;

c Average 20 feet from the edge of low value wetlands, minimum 10 feet.

Buffer width averaging calculation will exclude any part of the buffer exceeding 200 percent of the Applied Buffer Width.

3.4.2 Where a buffer encompasses all or part of a slope averaging 12 percent or greater over a distance of 50 feet or more upgradient of the wetland, calculated using a reasonably precise topographic surface model, the buffer shall extend to the extent specified under section 3.4.1 or to the top of the slope, whichever is greater. An existing contour alteration or artificial structure on a slope constitutes a break in slope only if it will indefinitely dissipate upgradient velocity and trap upgradient pollutant loadings.

3.4.3 **Existing single-family residential properties:** Subsections 3.4.1 and 3.4.2 do not apply, and the exhibit requirements of section 3.6 do not apply, except that documentation of the extent and location of wetlands on the subject property must be submitted. When required on an existing single-family home property, buffer must extend an average of 20 feet from the delineated edge of a wetland, minimum 10 feet. The buffer width averaging calculation will exclude any part of the buffer exceeding 200 percent of the Applied Buffer Width.

a Where the District has documentation indicating the presence of wetland on a subject property, an applicant must substantiate the nonexistence of wetland via a determination of a qualified third-party or the District.

3.4.4 The buffer is only required on property that is the subject of the District permit, and is required where the wetland is either on or adjacent to the subject property.

3.4.5 A buffer shall be indicated by permanent, free-standing markers at the buffer's upland edge, with a design and text approved by the District in writing. A marker shall be placed along each lot line, with additional markers at an interval of no more than 200 feet. If a District permit is sought for a subdivision, the monumentation requirement will apply to each lot of record to be created. On public land or right-or-way, the monumentation requirement may be satisfied by the use of a marker flush to the ground or breakaway markers of durable material.

3.4.6 Wetland buffer areas created in compliance with this rule must be planted with native vegetation and maintained to retain natural resources and ecological value. Existing wetland buffer areas preserved in compliance with this rule must be managed in a naturalized condition to encourage growth of native vegetation and eliminate invasive species. Buffer

vegetation shall not be cultivated, cropped, pastured, mowed, fertilized, subject to the placement of mulch or yard waste, or otherwise disturbed, except for periodic cutting or burning that promotes the health of the buffer, actions to address disease or invasive species, mowing for purposes of public safety, temporary disturbance for placement or repair of buried utilities, or other actions to maintain or improve buffer quality, each as approved by the District in advance in writing or when implemented pursuant to a written agreement executed with the District. Pesticides and herbicides may be used in accordance with Minnesota Department of Agriculture rules and guidelines. No new structure or hard surface shall be placed within a buffer. No fill, debris or other material shall be excavated from or placed within a buffer. Boardwalks and trails designed for nonmotorized use and stormwater management facilities may be located within a buffer area upon approval of the District.

3.4.7 A buffer shall be documented by a declaration or other document approved by the District and recorded in the office of the county recorder or registrar before the permit will be issued. A buffer on public land or right-of-way may be documented in a written agreement executed with the District in lieu of a recorded document; the agreement shall state that if the land containing the buffer is conveyed, the public body shall require the buyer to comply with this subsection.

3.5 Stormwater treatment

Use of an existing or created wetland for stormwater treatment as part of a proposed development, redevelopment or other land-altering project regulated under District rules must comply with the following criteria:

3.5.1 Stormwater must be treated before discharge to a wetland.

a High value wetlands cannot be used for stormwater management where another alternative is feasible; when permitted, any discharge to a high value wetland must be treated to at least sixty percent (60%) annual removal efficiency for phosphorus and at least ninety percent (90%) annual removal efficiency for total suspended solids prior to discharge to the wetland.

3.6 Required information and exhibits

The following exhibits shall accompany the permit application; one set full-size (22 inches by 34 inches), one set reduced to a maximum of 11 inches by 17

inches) and one set as electronic files in a format acceptable to the District:

3.6.1 A wetland delineation, type determination and function and values assessment of pre- and post-disturbance wetland and replacement wetland using a methodology authorized under the Wetland Conservation Act. The delineation must conducted by a wetland professional and supported by the following documentation:

a Identification of the delineation method used;

b Identification of presence or absence of normal circumstances or problem conditions;

c Basin classification using a Wetland Conservation Act-acceptable methodology;

d Wetland data sheets, or a report, for each sample site, referenced to the location shown on the delineation map. In each data sheet/report applicant must provide the reasoning for satisfying, or not satisfying each of the technical criteria and why the area is or is not a wetland;

e A delineation map showing the size, locations, configuration and boundaries of wetlands in relation to identifiable physical characteristics, such as roads, fence lines, waterways or other identifiable features;

f The location of all sample sites and stakes/flags must be accurately shown on the delineation map. Delineations submitted by applicants will normally be field-verified by District staff. Applicants must leave stakes in the field to aid review of the site. Wetland delineations should be performed during the normal growing season for this area of the State of Minnesota (April 15 - October 15). Delineations performed outside this time frame may or may not be permitted, depending on potential wetland impact in relation to the entire development or project.

3.6.2 Site plan showing:

a Property lines and corners and delineation of lands under ownership of the applicant.

b Existing and proposed elevation contours, including the existing runout elevation and flow capacity of the wetland outlet, and spoil disposal areas.

c Area of the wetland to be filled, drained or excavated.

3.6.3 A replacement plan, if required, outlining the steps followed for the sequencing process and including documentation supporting the proposed mitigation plan.

3.6.4 An erosion control plan complying with District Rule 5.0

3.7 Exceptions

A District wetlands-management permit is not required:

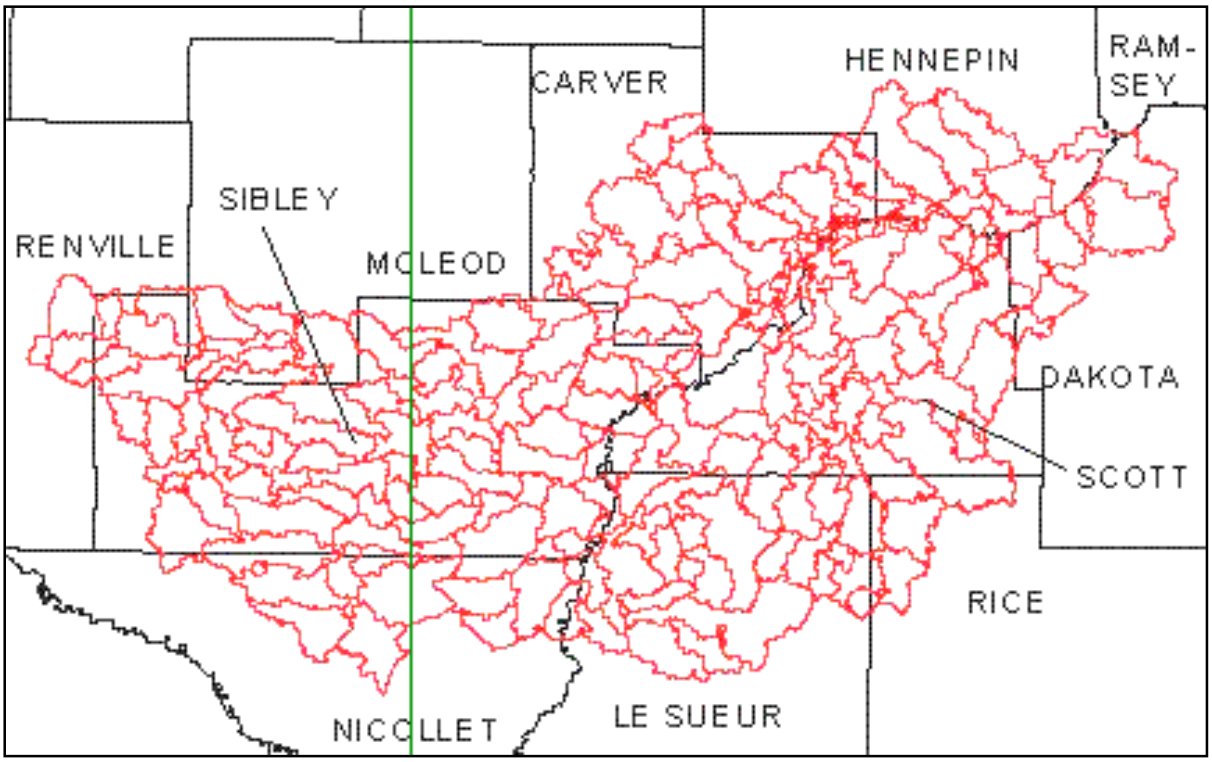
3.7.1 To create, restore or improve a wetland and/or buffer pursuant to a District-approved natural resources restoration management plan;

3.7.2 To plant native wetland or buffer vegetation;

3.7.3 To selectively remove or prune trees or vegetation that is diseased, noxious, invasive or otherwise hazardous.

3.7.4 To selectively prune trees to maintain health.

Appendix 3a: Minnesota River–Shakopee Major Surface Water Watershed (No. 33)



Appendix 3b: Wetlands definitions

"High value wetlands" are those meeting one or more of the following rating levels, as determined by application of the current edition of the Minnesota Routine Assessment Method (MnRAM) or another wetlands-assessment method approved by the District. A wetland will not be rated a high value wetland for purposes of application of Rule 3.0;Wetlands Management merely because the wetland receives or is proposed to receive stormwater or snowmelt runoff.

Function or Value	Rating
Vegetative Diversity	Exceptional/High
Wildlife Habitat	Exceptional/High
Fish Habitat	Exceptional/High
Aesthetics/education/recreation/cultural AND Wildlife Habitat	Exceptional/High High/Medium
Stormwater Sensitivity AND Vegetative Diversity	Exceptional/High Medium or greater
Vegetative Diversity AND Maintenance of hydrologic regime	High/Medium High or greater

"Medium value wetlands" are those that do not qualify as high value wetlands but that meet one or more of the following rating levels, as determined by application of the current edition of the Minnesota Routine Assessment Method (MnRAM) or another wetlands-assessment method approved by the District.

Function or Value	Rating
Vegetative Diversity	Medium
Wildlife Habitat	Medium
Fish Habitat	Medium
Aesthetics/education/recreation/cultural AND Wildlife Habitat	Medium Low
Stormwater Sensitivity AND Vegetative Diversity	Medium Low
Vegetative Diversity AND Maintenance of Hydrologic Regime	Low Medium

"Low value wetlands" are those do not qualify as a "high" or "medium" wetlands.