

# 2009 Revised RULES OF BOIS DE SIOUX WATERSHED DISTRICT

## Section 1. Introduction and General Policy.

The rules of the Bois de Sioux Watershed District are to effectuate the purposes of Minnesota Statutes, Section 103D, and the authority of the Managers therein prescribed. These rules are deemed necessary to implement and make more specific the law administered by them.

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

Changes to these rules may be made by the Managers. Any interested person may petition the Managers for a change in these rules.

If any rule is inconsistent with the provisions of Minnesota Statute, Section 103D, or other applicable law, the provisions of said Section 103D or other applicable law shall govern.

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 persons, 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, by any rule of the District, without due process of law, and that all rules of the District shall be construed according to said intention.

It is the intention of the Managers to promote the use of the waters and related resources within the District in a provident and orderly manner so as to improve the general welfare and public health for the benefit of its present and future residents.

## Section 2. Amendment or Rules.

The Managers shall comply with the following steps in amending rules:

A. A copy of any proposed amendment to the rules shall be submitted to each Manager at least thirty (30) days before its adoption by the Managers.

B. An amendment to the rules shall be adopted by a majority vote of the Managers.

C. The original copy of the rules and any amendments to the rules shall be kept in the files of the Managers, and in addition, copies shall be prepared for distribution to the County Auditors, County Commissioners, Soil and Water Conservation Districts, Farm Service Agencies, and Township Board Chairmen in the District, and any other interested persons requesting the same.

D. Every rule and amendment thereof adopted by the Managers shall have the force and effect of the law.

## Section 3. Definitions.

For the purpose of these rules, certain words and terms are herein defined as follows:

A. District means the Bois de Sioux Watershed District.

B. Managers means the District Board of Managers.

C. Person means an individual, firm, partnership, association, or corporation, but does not include public or political subdivisions. It specifically includes, but is not limited to, landowners, occupants, contractors or equipment operators.

D. Public Corporation means a county, town, school district, or a political division or subdivision of the state or federal government.

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

F. 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.

G. Work or Works means any construction, maintenance, repairs or improvements.

H. The word shall is mandatory, not permissive.

I. Drainage way means a natural or artificial channel or tile which provides a

course for water flowing continuously or intermittently.

J. Legal drainage system means a watershed, county or joint county drainage system.

K. A plan is a map or drawing and supporting data for proposed works.

L. Maintenance, as referred to for dikes, drainage ditches and sewers, shall mean restoring the system as near as practicable to its original condition or as subsequently improved.

M. Normal high water mark means 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.

## Section 4. Permits.

The requirement for a permit from the Managers for certain uses of water or works within the District is not intended to delay or inhibit development. Rather, the permits are needed so that the Managers are kept informed of planned projects, can advise and in some cases provide assistance, and to insure that developments of the natural resources are orderly and in accordance with the Overall Plan for the District.

A. The Board shall designate a person to serve as Permit Officer. Said Officer shall facilitate the permit review process, and have the authority to deem a permit application incomplete, to require the applicant provide additional information, and to use all Watershed resources, including the District Engineer, Attorney and individual Managers in the application Review. Said Officer shall either issue a permit, issue a permit with conditions, or deny the permit, giving written notice to the applicant.

B. No works or use requiring a permit shall be commenced prior to the issuance of the permit.

In addition to the remedies provided in Minnesota Statute 103D.545 and Section 8, infra, in those instances where work has been done before a permit is granted, the District may require that the property be returned to its original condition before considering the permit; and

The District shall require applicant pay an After-The-Fact permit fee in the amount of \$250, plus the actual engineering and attorneys fees incurred by the District in dealing with the un-permitted work, as a condition to granting a permit.

C. Unless specified in the permit, work for which a permit is given must be completed within one (1) year. The District further requires, as a condition of all permits, that it be notified when an improvement is completed by returning a COMPLETION REPORT card.

D. If a permit application is denied or granted subject to conditions, the Applicant may, upon paying a permit hearing fee of \$300, ask the Board to hold a hearing on the permit application. Notice of such hearing shall be given to all persons expressing an interest in the proposed project.

E. Any applicant or other person or public corporation dissatisfied with either the Permit Officer's decision, or the Boards decision on any permit application must appeal the said decision to the District Courts of the State of Minnesota within ninety (90) days from and after the date of its issuance.

F. No fee shall be charged for a permit application except the fees hereinabove described.

G. Applications for a permit must be filed personally:

Bois de Sioux Watershed District  
704 South Highway 75  
Wheaton, MN 56296  
(320) 563-4185/P  
(320) 563-4987/F

H. The Permit Officer shall provide an application form setting forth the necessary information. This form must be completely and accurately filled out before the permit is deemed submitted.

I. The Board may issue district wide permits on an annual basis for specific

classes of projects where a standard design has been approved by the Board and where the Board is satisfied construction of such projects will be adequately supervised.

1. Each district wide permit shall be subject to such specific requirements as the Board may establish.

2. A hearing shall be held before any district wide permit is issued or renewed.

### **Section 5. Flood Control and Drainage.**

#### **(1) General Rules for the Disposal of Surface Water.**

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

B. Surface water shall not be artificially removed from the upper land to and across lower land without adequate provision being made on the lower land for its passage.

C. In order to reduce sediment transport, where feasible drainage shall be discharged through marsh lands, swamps, retention basins or other treatment facilities prior to release into the receiving bodies of public waters. Maximum utilization will be made of temporary storage areas or retention basins scattered throughout developing areas to maximize upstream storage and to reduce peak flows, erosion damage and drainage facility construction costs. Open drainage ditches shall make maximum use of vegetation to reduce channel erosion.

D. To control and alleviate erosion and the situation of the watercourses of the District:

1. All watercourses therein shall be constructed with a side slope, as determined by proper engineering practice, so as to reasonably minimize land and soil erosion, giving due consideration to the intended capacity of the watercourse, its depth, width and elevation, and the character of the soils through which the drain passes.

2. Water inlets, culvert openings and bridge approaches shall have adequate shoulder and bank protection in order to minimize land and soil erosion.

E. Any person who allows dirt to blow from his lands into a drainage is responsible for the removal of same.

F. Flood Control and Drainage (2, E. & F.) are interpreted so that ponds created solely by excavation are not reservoirs nor is the creation thereof reshaping of the surface topography. Therefore, the creation of ponds solely by excavation shall not require a watershed permit.

(2) A permit must be obtained from the Watershed District prior to any work being commenced for the following:

A. Any landowner, occupant, contractor or equipment operator shall be responsible to ascertain that a permit has been obtained before undertaking any of the work hereinafter described requiring a permit from the Board of Managers.

B. No person or public corporation shall cut an artificial Drainage way across a subwatershed and thereby deliver water into another subwatershed without a permit from the Managers.

C. No person or public corporation shall undertake to construct or improve any Drainage way without a permit from the Board of Managers. A permit is required for any deepening or enlarging of existing drainage ways. Any existing Drainage way may be cleaned of debris, cattails, and blown in or washed in sediment without a permit; but any cleaning that involves removing clay or virgin soils or changing the alignment, depth, or cross-section of the Drainage way requires a permit.

D. No person or public corporation shall construct, alter, or remove any dike without a permit from the Board of Managers.

E. No person or public corporation shall undertake the construction, removal or abandonment of any reservoir for the impoundment of water without a permit from the

Managers; nor shall any works be done which would alter the effectiveness of a reservoir without a permit from the Managers.

F. No person or public corporation shall undertake the practice of land forming, which is the reshaping of the surface topography but which does not include the common farming practice of land leveling, on a given tract of land without a permit from the Managers.

G. No Wetland types 3, 4, 5 and 8, as described by Circular 39, Wetlands of the United States, published by the United States Department of the Interior, shall be drained without a permit from the Managers.

H. Construction of new drainage ditches or improvements to existing public drainage ditches shall be administered by the Managers. Plans and specifications for such projects shall be filed with the Watershed District. Maintenance and repair of public drainage systems as permitted by Chapter 103E, Minnesota State Statutes, may be made by ditch authorities without a permit, provided the Board of Managers have been given copies of the plans and specifications for said ditch. The Board of Managers shall be notified of the proposed work prior to the commencement thereof.

I. No person or public corporation shall install or alter any drainage structure which will change the elevation and/or capacity of the structure without obtaining a permit from the Board of Managers.

### **Section 6. Related Ordinances.**

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

A. Copies of proposed county, municipal and town ordinances relating to surface water drainage, land use zoning, shore land use and flood plain zoning, as applied to changes within the flood plain, shall be submitted to the Manager thirty (30) days prior to the first public hearing date for review and comment.

B. Ordinances relating to surface water drainage, land use zoning, shore land use and flood plain zoning shall be submitted to the Managers within forty-five (45) days after passage.

### **Section 7. Alteration of Natural Drainage Way, Lakes and Wetland.**

Management of natural drainage ways, lakes, wetlands and their abutting land should be done in such a way so as to reduce their deterioration and to maximize their value for the general welfare of the District.

A. No change may be made in the bed, banks or shores of natural drainage ways, lakes or wetlands without a permit from the Managers.

### **Section 8. Enforcement.**

Any provision of these Rules or an order or stipulation agreement made, or any permit issued, by the Board of Managers of this Watershed District, may be enforced by criminal prosecution, injunction pursuant to Section 103D.545, of the Minnesota Statutes, action to compel performance, restoration, abatement, and other appropriate action.

A violation of these Rules or any order or stipulation agreement made, or a permit issued by the Board of Managers of this Watershed District, is a misdemeanor in accordance with Section 103D.545 of the Minnesota Statutes.

Adopted by the Board of Managers of the Bois de Sioux Watershed District this 20<sup>th</sup> day of August, 2009.

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Secretary, Bois de Sioux Watershed District

# BdSWD Policy and Procedures Manual

December 15

# 2022

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This manual contains the policies and procedures adopted by the Bois de Sioux Watershed District Board of Managers on the date shown above. This document is subject to periodic change and revision.

**By-Laws included**

**BY-LAWS OF  
BOIS DE SIOUX WATERSHED DISTRICT**

**ARTICLE I.  
NAME**

**Section 1.**     **Name:** Bois de Sioux Watershed District

**Section 2.**     **ABBREVIATIONS:** Throughout these By-Laws whenever it is desirable to abbreviate the name of the Bois de Sioux Watershed District, the initials “BDSWD” shall be used.

**ARTICLE II.  
PURPOSE**

**Section 1.**     **General Statutory Purpose:** To conserve the natural resources of the state by land use planning, flood control, and other conservation projects by using sound scientific principles for the protection of the public health and welfare and the provident use of the natural resources.

**Section 2.**     **BDSWD Statement Of Purpose:** The Bois de Sioux Watershed District Board of managers accept the responsibilities for which they are charged, as a governing body, to promote the wise stewardship of waters and related resources within the Bois de Sioux Watershed District. They shall govern in a provident and orderly manner so as to improve the general welfare and public health, for the benefit of its present and future residents.

It is the intention of the Board of Managers that no person shall be deprived or divested of any previously established beneficial use or right, by any rule of the district, without due process of law, and that all rules of the district shall be construed according to Minnesota Statutes Chapter 103D Watershed Districts, as amended, and in accordance with all other applicable Statutes and Rules.

The Board of Managers shall cooperate to the fullest extent feasible with persons, groups, state and federal agencies, and other governing bodies in performing their duties. While there is no intention to usurp the authority or responsibilities of other agencies or governing bodies, the Board of Managers shall fulfill their responsibilities to the BDWSD residents.

The following by-laws, establish rules governing conduct and procedure of the Board of Managers of the BDSWD. These by-laws are set forth in writing to comply with Minnesota Statute Section 103D.315 Subdivision (11), 2012.

### ARTICLE III.

#### BDSWD OFFICE AND DISTRICT BOUNDARIES

- Section 1. DISTRICT OFFICE:** The Bois de Sioux Watershed District's office is located at 704 Highway 75 South, Wheaton, MN 56296.
- Section 2. BOUNDARIES OF BDSWD:** The BDSWD is located in west central Minnesota and includes the entire Minnesota drainage basin of the Bois de Sioux River. The counties included in this area are Traverse, Grant, Wilkin, Stevens, Big Stone and Otter Tail. Cities within the District are Breckenridge, Doran, Campbell, Wendell, Elbow Lake, Norcross, Herman, Donnelly, Graceville, Dumont, Johnson, Wheaton and Tintah. The total area is about 1,412 square miles of which 93 percent is used for agricultural production. The Bois de Sioux River and its source, Lake Traverse, form the boundary between Minnesota and South and North Dakota. The river flows north from Lake Traverse to Breckenridge where it joins with the Otter Tail River to form the Red River of the North. Major tributaries in Minnesota are the Mustinka River and the Rabbit River. Tributaries in North and South Dakota contribute drainage from an additional 549 square miles.

### ARTICLE IV.

#### BOARD OF MANAGERS

- Section 1. COMPOSITION OF BDSWD BOARD OF MANAGERS:** The Board of Managers of the BDSWD is composed of nine (9) managers appointed by County Commissioners of the six (6) affected counties: Wilkin County, one (1) Manager; Otter Tail County, one (1) Manager; Traverse County, three (3) Managers; Grant County, two (2) Managers; Stevens County, one (1) Manager; Big Stone County, one (1) Manager.
- Section 2. TERMS OF OFFICE:** Appointments made by the respective Counties' Boards of Commissioners to the BDSWD Board of Managers are for three-year terms. Terms of office begin in May of the year they are appointed unless a county delays in the appointment of a manager. Subject to the term set forth herein, a BDSWD manager's term continues until a successor is appointed and qualified.
- Section 3. BONDING:** Before assuming the duties of the Board, each Board member, at District expense, will obtain and file a bond in accordance with Minnesota Statutes§103D.315, subdivision 2 (as amended). The Board, at District expense, will provide insurance for its members to provide liability protection on such terms and in such amounts as the Board decides.

- Section 4. VACANCIES:** Any manager who is unable to fulfill their three-year term of office on BDSWD Board of Managers shall notify their respective county commissioner of the fact they will be leaving their positions as manager on the BDSWD so the county they represent can appoint another manager as soon as possible to complete the departing manager's term in office.
- Section 5. COMPENSATION:** BDSWD Board of Managers compensation shall be paid in accordance with MN Statute § 103D.315 Subd. 8 (2012) as the same may be modified or amended. Compensation may be set annually by the BDSWD Board.
- Section 6. SUBMISSION OF MANAGERS EXPENSES:** A claim form shall be filled out by each manager and submitted to the BDSWD office to be processed and approved in the same manner as other claims.
- Section 7. MANAGERS POWERS:** The Managers shall have all powers set forth in Chapter 103D as the same may be amended.

**ARTICLE V.  
OFFICERS**

- Section 1. ELECTION OF OFFICERS:** The following officers shall be elected each calendar year on or before the first regularly scheduled meeting in June: President, Vice-President, Secretary and Treasurer. Terms are for one-year unless re-elected. Said officers have the authority to sign legal and other binding documents on behalf of the district.
- Section 2. OFFICER VACANCIES:** MS 103D.315 Subd.3: "*The managers must fill vacancies occurring in the officers' positions.*"
- Section 3. TEMPORARY APPOINTMENTS OF OFFICERS:** The Board may appoint a board member as officer pro tem if an officer is absent or disabled and action by that officer is required.

**Section 4. DUTIES OF OFFICERS:**

- (a) **President:** The President shall preside at all meetings of the Board of Managers. The President shall serve under the supervision and direction of the Board and shall see that all orders and resolutions of the Board are carried into effect. The President shall execute all contracts or instruments requiring an officer's signature, unless otherwise directed by the Board, and shall have the general powers and duties usually vested in the office of President of the Board and shall have such other powers and perform such other duties as the Board may from time to time prescribe.
- (b) **Vice-President:** In the absence of the President at a regularly held BDSWD meeting, the Vice-President shall preside at the meeting. The Vice-President shall exercise and perform the authorities and duties of the President in the event of the latter's absence, death, disqualification, or incapacity until the BDSWD Board of Managers elect a new President. The Vice-President shall exercise and perform such other authorities and duties as may be prescribed or limited from time to time by the Board of Managers.
- (c) **Secretary:** The Secretary shall cause to be recorded all votes and the minutes of all proceedings of the Board of Managers and of the members in a book to be kept for that purpose. The Secretary shall give, or cause to be given, notice of all meetings of the Board, and shall perform such other duties as may from time to time be prescribed by the Board or by the President.
- (d) **Treasurer:** The Treasurer shall have the care and custody of the funds and securities and shall disburse the funds of BDSWD as may be ordered from time to time by the Board. The Treasurer shall keep or cause to be kept full and accurate accounts of receipts and disbursements in books belonging to BDSWD, and shall deposit all monies, securities and other valuable effects of the BDSWD in the name and to the credit of the BDSWD in such depositories as may be designated from time to time by the Board. Except to the extent that some other person or persons may be specifically authorized by the Board to do so, the Treasurer shall make, execute, and endorse all checks and other commercial paper on behalf of BDSWD when requested by the Board and shall perform such other duties as may be prescribed by the Board.
  - 1. **TREASURER'S REPORT:** On the third Thursday of each month, at the regular meeting, the Treasurer's report shall be presented showing the financial status of the district. No payment of invoices submitted to the Treasurer or district office shall take place without a majority vote of the board of managers, approving the expenditure, except where otherwise authorized in these by-laws.

a. Treasurer's Procedure. All invoices and requests for payment shall be sent to the BDSWD office where they will be reviewed for approval. A list of bills to be approved will be assembled for presentation to the board for approval at the next regular meeting. Upon board approval, administrators are authorized to pay all the bills approved. Manager vouchers may be submitted at the regular meetings, quarterly. Paid invoices or claims shall show date and check number upon the voucher attached to the invoice.

Each original invoice or request for payment shall be available at the Board of Managers meeting for review by the Board of Managers. The Treasurer's Report shall be submitted to the Board of Managers prior to or at the regular meeting, either in its entirety or in part. The total Treasurer's Report shall be approved at the regular monthly meeting.

The Treasurer or office staff shall keep up-to-date the following:

- (1) Savings Account: Money received by the BDSWD shall be kept in an interest earning account when possible, until needed to satisfy an operating expense.
- (2) Checking Account: The Treasurer or Administrator shall maintain only the minimum amount in a checking account to cover current expenses. The Treasurer or Office Staff shall file the monthly bank statement with the canceled checks together, for each month of the calendar year. The annual file shall also contain the checkbook stubs, paid invoices, claims and Treasurer's Reports.

The Treasurer or office staff shall maintain the appropriate ledgers and journals as recommended by certified public accountants.

**Section 5. AUTHORIZED SIGNATORIES BY MANAGERS:** All checks, drafts, or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of BDSWD may be signed by the Treasurer, or the administrators when specifically authorized by the Board of Managers. Checks may be endorsed through electronic signature.

**Section 6. REMOVAL FROM OFFICE:** Any officer may be removed at any time, with or without cause, upon the affirmative vote of two-thirds (2/3<sup>rd</sup>s) of the authorized votes of the Board of Managers.



**ARTICLE VI.**  
**MEETINGS OF BDSWD BOARD OF MANAGERS**

**Section 1. REGULAR SET MEETINGS:** The managers shall hold regular meetings on the third Thursday of each month at 8:00 a.m. April through October and at 9:00 a.m. November through March. Meetings may be dispensed with or rescheduled by a majority vote of the board of managers.

The principal place of business for the BDSWD shall be located at 704 Highway 75 South, Wheaton, Minnesota 56296. The Board of Managers may adjourn to other meeting places throughout the district.

The meeting of the Board of Managers shall be open meetings. The President may call upon other persons to speak on any question before the Board of Managers. The meetings of the Board of Managers shall be informal but question of the parliamentary procedure shall be reserved by application of Roberts Rules of Parliamentary Law, Newly Revised Edition. At any BDSWD meeting, anything can be considered that may properly be brought before the Board of Managers. All people present shall sign a register.

**Section 2. SPECIAL MEETINGS:** Special meetings to conduct certain specified business considering only such matters of the BDSWD may be held and shall be legally noticed at any other time that the managers may deem necessary. In all other respects, Section 1 of the business rules shall apply to special meetings as well.

**Section 3. PUBLIC HEARINGS:** Public hearings shall be conducted pursuant to Chapter 429 or any other charter provision requiring a public hearing. Public hearings are governed by the Minnesota Watershed Act Chapter 103D, business rules and Roberts Rules of Parliamentary Law, Newly Revised Edition. The President may refuse to recognize any person who has already spoken twice on any single question until all other persons have spoken.

**Section 4. MEETING CALLED BY MANAGER:** Individual managers may request a meeting at any time, which shall be held in compliance with 103D315, Subd. 10

**Section 5. QUORUM AND ADJOURNED MEETING:** At all meetings of the managers, a majority of the managers appointed shall constitute a quorum to do business but a small number may adjourn from time to time. Staff is to gather information as to Board members ability to attend each meeting. The President may adjourn any meeting when it is known a quorum will not be present. Administration is to give telephone notice to each Board member of the details of the adjournment.

**Section 6. CHAIR OF MEETINGS:** The President shall preside as chairperson at all meetings of the managers. In the absence of the President, the Vice-President shall preside.

**Section 7. MEETING FORMAT:**

- (a) At the hour appointed for a meeting of the BDSWD, upon reaching a quorum, the managers shall be called to order by the President or in his/her absence, by the acting President. The managers shall proceed to do business following a set agenda.
- (b) The President shall preserve order. The President may make motions, second motions or speak on any question, provided, however, that in order to do any of these things, upon demand of any manager, shall vacate the chair and designate a temporary President. The President, or acting President, shall be entitled to vote like other members/managers.
- (c) Every manager, prior to his/her speaking, shall address the President and shall not proceed until he/she has been recognized by the Chair.
- (d) If a manager has a personal interest in a matter that comes before the BDSWD Board of Managers, the manager shall not vote on said issue.
- (e) No person other than a manager shall address the Board except with the consent of the President or by a vote of the majority of the managers present.
- (f) The President has the authority to set a time limit that a manager or a person addressing the board may speak.
- (g) All committees shall be appointed by the Chair unless expressly ordered by the Board. It shall be the duty of committees to act promptly and faithfully in all matters referred to them and to make reports at a future set time/date established by the board.
- (h) Minutes of all meetings of the BDSWD Board of Directors shall be prepared by the administrator, reviewed by the Board, adopted and kept at the District offices. They shall be signed by the Secretary and shall constitute an official record of the procedure. The format for the minutes shall take the form of one paragraph for each subject matter and should show:

1. All main motions and the wording in which each motion was adopted or otherwise disposed of. (The facts as to how the motion may have been debated or amended before disposition being mentioned only parenthetically).
2. Discussion of topics and/or information pertinent to the purpose of the BDSWD.

Proposed Minutes shall normally be mailed to the Board members in advance of the monthly Board meeting, and approved with corrections, if any, at the beginning of the next regular meeting. Special meeting minutes, unless written as a separate set, shall be included in the minutes of the next regular meeting. Corrections, if any, and approval of the minutes shall be done by a majority consent.

The reading of the minutes is dispensed with, provided the minutes have been made available to the Board of Managers for their review, prior to the meeting. Approval of the meeting minutes, by a majority vote, shall take place prior to any subsequent meeting minutes being read or approved.

- (i) Any member may request that the yeas and nays be recorded on any motion voted on by the Board and such request will be granted by the President.

**Section 8. CONFLICTS OF INTEREST:**

The Board of Managers hereby adopts for themselves and successor managers the following guidelines in an effort to avoid real and perceived conflicts of interest and to enhance the credibility of the Watershed's actions:

1. All managers shall comply with M.S.A. §471.87. No manager shall have a personal financial interest in any sale, lease or contract entered into by the Board.
2. Disclosure. At the beginning of the discussion on any subject, all managers shall disclose any potential conflict of interest and/or direct pecuniary interest they may have. Examples of matters which should be disclosed by the managers include:
  - (a) They own land which may be assessed.
  - (b) They own land which may benefit or be damaged other than by a direct tax.
  - (c) They have close relatives who have lands as described in (a) and (b) above.
  - (d) They have close friends or business associates who have lands as described in (a) and (b) above.

- (e) They are a public officer, such as a township officer, which has potential interest or that may be affected by said project.
- 3. All managers shall abstain from voting on any resolution that involves a direct pecuniary interest.
- 4. Each manager shall use his own judgment in other situations and when in doubt should abstain from voting.
- 5. To avoid the appearance of wrongdoing, it is suggested that a manager should remove himself from the Manager's chair and sit in the audience when he wishes to participate in a public discussion, particularly a public meeting on subjects where he may have a direct conflict of interest.
- 6. To the extent applicable, the Watershed staff is instructed to follow the above guidelines.

**Section 9. APPEAL OF A CHAIR RULING.** A member may appeal to the Board from a ruling of the Chair. If the appeal is seconded, the member may speak once solely on the question involved and the Chair may explain his or her ruling, but no other Board member will participate in the discussion. The appeal will be sustained if it is approved by a majority of the members present exclusive of the Chair.

**Section 10. INTEREST EARNED ON DITCH FUNDS.** Each ditch system owns its own fund. The BDSWD is the authority for these ditch systems and manages those funds. Each ditch fund shall be credited with a pro-rated share of interest earned annually based on the average monthly balance of that fund. Each ditch fund which carries a negative balance shall be charged interest at the rate the district is then receiving on its savings account, to be shared with all ditch funds that carry a positive balance.

**Section 11. ADMINISTRATIVE BILLING POLICY.** Any project or ditch work performed by the BDSWD Administration, shall be billed at a rate to be set annually by the Board. This shall be titled an administrative expense and shall be for the purposes of covering administrative costs during the time that was spent on that project or ditch.

**Section 12. FISCAL YEAR.** The fiscal year of the BDSWD shall end on the last day of December each year.

**Section 13. DITCH REPORTS.** The District Administrator or appointed ditch inspector shall do an inspection of each ditch system annually. Upon completion of these inspections, a report on the condition of each ditch system shall be filed with the Board of Managers and shall be kept as a permanent record of the ditch itself.

**ARTICLE VII  
PARLIMENTARY AUTHORITY**

- Section 1. PARLIMENTARY AUTHORITY.** Robert’s Rules of Order Newly Revised (Tenth Edition) shall govern BDSWD’s meetings in all cases to which they are applicable and in which they are not inconsistent with these By-Laws and/or any special rules of order BDSWD may adopt.
- Section 2. SUSPENSION.** Robert’s Rules of Order may be temporarily suspended by consent of the majority of the managers.

**ARTICLE VIII  
BDSWD ADVISORY COMMITTEE**

- Section 1. ADVISORY COMMITTEE REQUIRED.** Pursuant to 103D.331 Subd. 1 *“The managers must annually appoint an advisory committee to advise and assist the managers on all matters affecting the interests of the watershed district and make recommendations to the managers on all contemplated projects and improvements in the watershed district.”*
- Section 2. MEMBERS OF ADVISORY COMMITTEE.** 103D.331 Subd. 2 Members:
- (a) *“The advisory committee consists of at least five members. If practicable, the advisory committee members selected should include a representative from each soil and water conservation district, a representative of each county, a member of a sporting organization, and a member of a farm organization. Other advisory committee members may be appointed at the discretion of the managers. The members must be residents of the watershed district, except representatives from soil and water conservation districts and counties, and serve at the pleasure of the managers.”*
- (b) *“In addition, the managers may appoint other interested and technical persons who may or may not reside within the watershed district to serve at the pleasure of the managers.”*

**ARTICLE IX  
ANNUAL REPORT**

- Section 1. ANNUAL REPORT.** Managers must prepare a yearly report of the financial conditions of the watershed district, the status of all projects, the business transacted by the watershed district, other matters affecting the interests of the watershed district, and a discussion of the managers’ plans for the succeeding year.”

**Section 2. COPIES DISTRIBUTED.** MS 103D.351: *“(b) Copies of the report must be transmitted to the Board of Water and Soil Resources, the commissioner, and the director within a reasonable time.”*

**Section 3. ADMINISTRATOR’S AUTHORITY TO ACT ON BEHALF OF DISTRICT**

The District Administrator may sign legal and other binding documents on behalf of the district, where the underlying action has been approved by a Board of Managers resolution.

Office staff also has the authority to sign checks for BDSWD for the following purposes:

- (a) To meet watershed payroll expenses authorized by the Board, and to cover monthly operating expenses, not to exceed \$2,000, aggregate for any given month.
- (b) To transfer and invest funds of the district upon consultation with the Treasurer of the board.
- (c) When authorized by the Board of Managers for specific purposes.

**Section 4. ANNUAL BUDGET:** The District Administrator shall prepare an Annual Budget for the administrative and project purposes of the district each year, for presentation at the August Regular Meeting. The District Administrator may consult with the Treasurer and Consulting Staff when preparing this budget. At the August meeting, the board will go through the proposed budget and make any changes or corrections they see fitting. The budget will be presented at the September regular meeting and a public hearing will be scheduled for the September regular meeting date. District Administrators shall also prepare the budget for all legal ditch systems under the authority of the BDSWD in this same manner. After the September regular meeting, the board shall approve or adopt a budget for administrative purposes and ditch systems. Copies of these budgets shall be sent to the appropriate auditors in all counties within the BDSWD. They shall cause the levies to be placed on the appropriate lands within the district.

**ARTICLE X  
ANNUAL AUDIT**

**ANNUAL AUDIT.** MS 103D.355, Subd. 1 Requirement: *“The managers must have an annual audit completed of the books and accounts of the watershed district. The annual audit may be made by a public accountant or the state auditor at least once every five years, or when cumulative district revenues or expenditures exceed an amount established by the board in consultation with the state auditor.”*

**Section 1. ANNUAL MEETING.** The annual meeting of the BDSWD shall be held at the first regular meeting in June of each year, except when the audit is not yet complete at that time. If the audit is not complete and ready for presentation at the regular meeting in June, the annual meeting shall be rescheduled at a more appropriate date.

**ARTICLE XI  
WATERSHED MANAGEMENT PLAN**

**WATERSHED MANAGEMENT PLAN.** MS 103D.401, Subd. 1.

Contents:

*(c) “The managers must adopt a watershed management plan for any and all of the purposes for which a watershed district may be established. The watershed management plan must give a narrative description of existing water and water-related problems within the watershed district, possible solutions to the problems, and the general objectives of the watershed district. The watershed management plan must also conform closely with watershed management plan guidelines as adopted and amended from time to time by the Board of Water and Soil Resources.”*

*(d) “The watershed management plan may include a separate section on proposed projects. If the watershed district is within the metropolitan area, the separate section of proposed projects or petitions for projects to be undertaken according to the watershed management plan is a comprehensive plan of the watershed district for purposes of review by the Metropolitan Council under section 473.165.”*

**ARTICLE XII  
AMENDMENT TO BY-LAWS**

**Section 1.** **BDSWD BY-LAWS MAY BE AMENDED**, repealed or adopted by a majority of the BDSWD Board of Managers upon thirty (30) days written notice of the proposed change in its entirety during a meeting of the BDSWD Board of Managers unless said notice is waived by all of the managers. Notice of such alteration or amendment is to be contained in the notice of such meeting. The alteration/s or amendment/s must pass by a 4/5th's vote of the BDSWD Board of Managers.

**Section 2.** **INTERPRETATION** of the By-Laws and any amendment or additions thereto shall rest with the BDSWD Board of Managers.

**Section 3.** **TEMPORARY SUSPENSION OF BYLAWS:** These rules may be temporarily suspended by consent of a majority of managers.

**ARTICLE XIII  
REVIEW OF BY-LAWS**

**THESE BY-LAWS** shall be reviewed at least every five years and revised if needed. These bylaws govern internal BDSWD matters and do not create rights in any third parties.



**Permit Policies**  
*(Revised 04/15/2021)*

General Provisions

- All permit applications must be signed by the Landowner.
- If Applicant is not the Landowner, applicant must sign also.
- Landowner & Applicant signatures will be accepted by mail, hand delivery, or by facsimile to allow for the review process to begin.
- Approved permits are valid for 36 months from the date of issuance.
- Requests for extensions may be made by submitting the request in writing stating the reason said extension is needed.
- If digital designs for any project are available, they need to be included in the application to make the application complete.
- When an incomplete application is received, the Administrator will utilize an “Incomplete Permit Application Notification” form to communicate with the applicant that information is missing from the permit application.
- Contractors will be given a copy of approved permits via e-mail or other means.
- Due to the ever-changing technologies; innovations; and practices in water management, this policy in part or whole may be changed and/or updated at the discretion of the Board of Managers of the Bois de Sioux Watershed District.
- Surface and subsurface drainage applications which propose the drainage of water into a different sub watershed basin other than the existing surface drainage pattern will not be denied without board review.

Surface Drainage

- For all permit requests for surface drainage improvements or new surface drainage construction, an inventory of the culverts showing the first controlling culvert downstream must be provided. That culvert must be sized to convey the 10-yr BTSAC Briefing Paper No. 3 design flow with no less than 0.5 feet of head loss (The design flow for watersheds of less than 3 square miles is approximately equivalent to the design flow resulting from a 1” Drainage Coefficient).

## Sub Surface Drainage

- Applicants and designers are encouraged to develop tile systems with controls that allow for the tile to be “shutoff” during periods of flooding.
- Tile projects that include controls which allow for the tile system to be “shutoff” when necessary are not restricted by drainage coefficient (DC) limitations. Tile projects that do not include controls are restricted to a ¼ inch per day drainage coefficient (DC) at the outlet including projects with surface inlets.
- Surface inlets are limited to a 1 inch per day drainage coefficient (DC).
- The following language will be the standard condition placed on every permit granted for tiling projects.

***The following conditions must be complied with if a permit is granted. All pumps must be turned off, and gates closed, during all times the district determines flood conditions exist downstream. Determinations that flood conditions exist shall be shown on the District's website, [www.bdswd.com](http://www.bdswd.com). All pump/gate owners and operators are required to either check the website daily, or telephone the District office during the spring runoff and in the event of summer heavy rains.***

***I accept and agree to comply with the above conditions.***

---

### ***Applicant and Landowner Signature***

- Gates must be opened at the time of crop harvest and remain open until just prior to spring runoff. At any other time of year, gates may be operated as the operator wishes, all subject to the above conditions.
- Projects with pump outlets must be “shutoff” if downstream culverts are being impacted by ice-buildup due to freezing of tile discharge water.
- During the spring snowmelt period, the District will require tile pump and gate closure operations based on regional and local conditions. During all other times of the year, the District will require pump and gate operations based primarily on local conditions.
- When tile pump and gate closure operations are required, the District will utilize its website to communicate with the public. On a daily basis, the Administrator, Engineer, and select board members will discuss flood conditions, discuss pump and gate operations, post explanations, and update the District website as necessary until operations are no longer warranted.

- For all permit requests for sub surface drainage improvements or new sub surface drainage construction, an inventory of the culverts showing the first controlling culvert downstream must be provided. That culvert must be sized or made to function at the 1" Drainage Coefficient.

### **General Permits**

- Any public corporation within the BdSWD may install or authorize the installation of, approach culverts or replace existing centerline culverts without an individual permit, subject to the following conditions:
  - The cross sectional area of the pipe must not exceed the equivalent of one 18" diameter pipe.
  - The culvert must be installed on public right of way.
  - The culvert must be designed and installed according to generally accepted engineering design principles.
- Policy regarding Public Culverts –
  - Existing culverts of any size may be **replaced** without a BdSWD permit if the replacement has the same capacity and is set at the same grade.
  - Existing Centerline culverts may be **replaced** with culverts 18" or smaller without an individual BdSWD permit.
  - Existing approach culverts may be **replaced** with culverts 18" in diameter or smaller without an individual BdSWD permit

**BOIS DE SIOUX WATERSHED DISTRICT GENERAL PERMIT FOR CONSTRUCTION OF NRCS  
STANDARD WATER AND SEDIMENT CONTROL BASIN**

Landowners within the Bois de Sioux Watershed District may construct the above type facility without obtaining an individual permit, but must comply with the following conditions:

1. The facility must be designed by the Natural Resource Conservation Service (NRCS) in accordance with all current applicable standards and constructed in accordance with NRCS specifications.
2. The upstream drainage area cannot exceed forty (40) acres.
3. The maximum height of the dam must not exceed fifteen feet (15').
4. The pool capacity must be sufficient to handle runoff from a ten (10) year, twenty-four (24) hour rainfall event without overtopping the embankment or emergency spillway.
5. A project completion form, with plans and specifications attached, must be signed by the landowner and the NRCS representative, certifying construction in accordance with the above conditions, and filed with the Bois de Sioux Watershed District.

The landowner must obtain an individual permit from the Bois de Sioux Watershed District before abandoning, removing, or modifying the facility.

**BOIS DE SIOUX WATERSHED DISTRICT GENERAL PERMIT FOR CONSTRUCTION OF SCS  
STANDARD 600 TERRACE**

Landowners within the Watershed District may construct the above type facility without obtaining an individual permit, but must comply with the following conditions:

1. The facility must be designed by the Soil Conservation Service (SCS) in accordance with all current applicable SCS standards and specifications.
2. The capacity must be sufficient to control runoff from a ten (10) year, twenty-four (24) hour storm without overtopping.
3. An adequate vegetated or underground outlet must exist. Soil infiltration may be used as an outlet if it is known it will function properly.
4. A project completion form, with plans and specifications attached, must be signed by the landowner and SCS representative certifying construction in accordance with the above conditions. This must be filed with the Watershed District.
5. The landowner must obtain an individual permit from the Watershed District before abandoning, removing or modifying the facility.

## **Policy for Board when acting as Drainage Authority**

Pursuant to M.S. 103E.625, the Bois de Sioux Watershed District (District) became the drainage authority for 60 legal drainage ditches in 1991. The District recognized its ongoing obligation to inspect and maintain these ditches. As set forth in M.S. 103E.705, the district will appoint a drainage inspector to inspect the drainage systems the board designates. It is the board's goal to inspect every ditch system at least once every three years.

The Board also established a policy of involving the landowners assessed to the ditches, in decisions as to repairs as practical, particularly those that go beyond annual maintenance. The board recognizes that these landowners, through assessments, pay for the ditch repairs. The District has established an account for each ditch system in accordance with MS 103E.651 and sets assessments to maintain a ditch fund balance in each account.

Therefore the Board established a policy of seeking landowner requests for ditch maintenance and developed a form (Request For Maintenance – RFM) for the district administrator to complete at the request of a landowner.

The typical steps for ditch maintenance are as follows:

- 1) Requests for maintenance are reported to the district administrator;
- 2) Requests are presented to the Board by the administrator. The Board will evaluate the extent of the maintenance request including; available ditch records, past engineer's reports, and compare estimated cost of repair to the current ditch benefit amount.
- 3) The Board will determine if the scope of the repair requires additional investigation and/or a landowner meeting or if the repair can be completed immediately using the available records.
- 4) The Board may require a landowner petition before proceeding with the repair or may require that a redetermination of benefits, per M.S. 103E.351, be completed prior to the repair.

Ditch maintenance will be completed as soon as practicably possible after the request for ditch maintenance is received. Typically, maintenance will occur in the fall after the crops have been removed from the adjacent fields. However, the board may, at its discretion, complete maintenance during the summer. Ditch maintenance during summer months is more prone to damaging adjacent crops. If crop damages occur, the costs for these damaged crops will be agreed upon between the landowner and Board and the landowner will be reimbursed utilizing the ditch funds.

While the Board recognizes it has the responsibility to determine whether the conditions exist for a redetermination of benefits pursuant to M.S. 103E.351, its policy is to require the support in writing of at least 50% of the assessed landowners or the owners of 50% of the assessed land area and notification of the remaining assessed landowners, before going forward and appointing viewers, as it does not want to incur the expense of a redetermination without substantial landowner support. Once the support in writing is received, the Board will hold an informal meeting to consider the request. Mailed notice shall be given to all landowners assessed to the ditch as well as published notice in each county where the ditch watershed is located. Redeterminations under M.S. 103E.351 shall be financed consistent with the Districts "pay as you go" ditch fund management policy.

The board also has adopted a policy relating to permits for private drainage improvements within one mile of its M.S. 103E ditch. If these lands are within the watershed and not assessed benefits to said ditch,

it requires them to petition to be added pursuant to M.S. 103E.401. The board may also, at its discretion, require the same for lands beyond one mile of the M.S. 103E ditch. The petitioner is required to provide expert opinion as to the capacity of the ditch to accept the additional drainage. If the petition is granted the district administrator calculates the fee and benefits on the following basis.

The administrator will research the current benefitted amount of lands adjacent to the parcel being added and recommend assigning a benefitted amount similar to those. He will also calculate an "Entrance Fee" based on all documented expenses on the ditch from the date of establishment to the current date, and pro-rate that amount across the parcel to be added. (i.e. - **total expenses to date / current benefitted acres = expense per acre X number of acres in parcel to be added = entrance fee**).

**Board Approved 8-17-2017**

### **Removal of Lands from Benefited Area Policy Re: Petitions under M.S.103 E. 805**

Whereas, the above statute sets forth specific requirements of fact, as conditions for the granting of relief; and

Whereas, ditch systems are only established and benefitted lands determined after a detailed process requiring engineering opinion and detailed viewing of the benefitted lands, public hearings before the ditch authority, and a full opportunity for review by the courts;

It is the policy of the Bois de Sioux Watershed to require expert testimony from a professional with experience with legal drainage systems, to meet the burden of proof for any petition brought under MS 103 E. 805, to remove property from or partially abandon a drainage system.

If the Watershed Board or its engineer have reservations after hearing said testimony, the Board may require the petitioner to have the district's engineer investigate further, at petitioner's expense, as a condition to further consideration of said petition.

**BOIS DE SIOUX WATERSHED DISTRICT TRAP POLICY AS TO LEGAL DRAINAGE DITCHES UNDER  
Bois de Sioux Watershed District Authority**

Legal Ditch Systems where the Bois de Sioux Watershed District is the Ditch Authority

1. The Bois de Sioux Watershed District will not install trap gates along legal ditch systems on a parcel by parcel basis. The District will consider installing trap gates along the entire ditch system for an overall ditch repair or improvement. When the District installs a trap gate it is considered part of the legal ditch system infrastructure and will be owned and maintained by the ditch system in the future.
2. If a landowner wishes to install a trap gate, a permit from the District is required. Individual trap gates are not considered part of the ditch system and therefore will not be owned or maintained by the ditch system. The applicant must sign the "Trap Agreement" and this agreement must be included in the permit application submittal.
3. The Ditch Inspector shall note trap gates that were observed in the field during inspections. Trap gates that are not permitted or installed by the ditch authority shall require an after the fact permit and adhere to all the conditions required for private trap gates along legal ditch systems or shall be removed by the Ditch Inspector.
4. The trap gate installation shall not result in greater than 10-yr 24 protection for undeveloped property.

Legal Ditch Systems where the Bois de Sioux Watershed District is NOT the Ditch Authority

1. The Applicant shall obtain written approval from the Ditch Authority for individual trap gate installations and the written approval shall be included with the permit application.
2. The trap gate installation shall not result in greater than 10-yr 24 protection for undeveloped property.

NON-Legal Ditch Systems

1. Landowners seeking to install trap gates along drainage facilities that are not part of a legal ditch system shall obtain a permit from the Bois de Sioux Watershed District. The "Trap Agreement" is not required in these instances.
2. The trap gate installation shall not result in greater than 10-yr 24 protection for undeveloped property.

**TRAP AGREEMENT**

THIS AGREEMENT, made between \_\_\_\_\_, hereinafter referred to as "Landowner" and the BOIS DE SIOUX WATERSHED DISTRICT, hereinafter referred to as "District", WITNESSETH:

WHEREAS, the Landowner is the owner of real property benefited by \_\_\_\_\_, and believes they benefit from a drainage culverts which allow



water to flow into said ditch and which drainage culvert has on it a trap which prevent the back flow of water through said culvert, the location of which is described as follows:

*Culvert(s) located (legal description of culvert and trap location). Said culvert allows water to flow (direction) from (legal description of location) and enter into (legal ditch number)*

and,

WHEREAS, Landowner understands that the District's position is that it does not own said trap, that said trap was not established as part of any construction or improvement of said drainage systems pursuant to Minnesota Drainage Law, nor was the District asked to prepare nor have available to it any engineering studies showing the overall possible consequence or effect from the existence of said trap, and

WHEREAS, by reason of the aforesaid, Landowner understands the District is not willing to accept ownership or responsibility for said trap, and in fact, intends to remove said traps unless the Landowner is willing to accept ownership and all responsibility for the continued placement of said traps, and

WHEREAS, the Landowner wishes to have said traps continue in place.

NOW, THEREFORE, in consideration of the premises, which the parties agree is sufficient consideration, the parties hereto covenant and agree as follows:

1. Landowner agrees he is the sole owner of the hereinabove described trap.
2. Landowner accepts all responsibility for the maintenance of said trap.
3. Landowner accepts all responsibility for any consequences which may result from the continued placement of said traps, including any and all potential damages, foreseen or unforeseen, and further agrees to specifically hold the District harmless from any said damages, including without limitation the possibility of claimed damages as a result of flooding alleged to result from the existence of said trap, together with any and all costs the District may incur by reason of said claims, including without limitation, all reasonable legal fees incurred in connection with defending against any said claims. This obligation will not require the landowner to pay the Watershed District's expenses and attorney fees unless the Watershed first tenders the defense of said lawsuit to the landowner and the landowner hereunder refuses said tender.

Dated: \_\_\_\_\_  
By:

Dated: \_\_\_\_\_  
By: Administrator  
Bois de Sioux Watershed District

## **Bois de Sioux Watershed District Policies and Procedures for Public Access to Documents**

Public access to the data of public bodies is governed by the Data Practices Act (DPA), Minnesota Statutes, Chapter 13. The DPA states that data of public bodies are to be available to the public unless specifically exempted under the law in cases where individual privacy would be violated or where other valid concerns outweigh the interest in public availability. The Bois de Sioux Watershed District (BdSWD) recognizes the public interest in open access to its data as well as the public interest that requires that certain types of data not be publicly available. It is the intent of the BdSWD to comply fully with the DPA and, where the DPA allows for the exercise of judgment, to exercise that judgment consistent with the public interests underlying the law.

This policy is adopted pursuant to Section 13.03, Subdivision 2 of the DPA, which states that every public body shall establish procedures to implement the DPA.

### **Procedure for Review of BdSWD Documents**

All requests to inspect or receive copies of BdSWD data, and all other inquiries regarding the DPA, must be in writing, signed by the requestor, and delivered by U.S. Mail, facsimile, scanned and emailed, or hand delivered during business hours, addressed to the “Data Practices Compliance Official,” at the following address:

Bois de Sioux Watershed District  
704 Highway 75 South  
Wheaton, MN 56296  
Fax #: 320-563-4987  
Email: [bdswd@runestone.net](mailto:bdswd@runestone.net)

The BdSWD Administrator is designated as the Data Practices Compliance Official.

Requests to inspect or obtain copies of BdSWD data are to be in writing. In the event an individual wishes to inspect BdSWD data, the Data Practices Compliance Official will gather the documents of interest, separate any documents to be withheld from inspection, and see to it that someone is available to assist with the inspection. BdSWD files may not be removed from it's office.

The BdSWD will follow the DPA Policy of scheduling inspections within a reasonable time of the request. The response time will vary depending on the complexity of the request and the press of other BdSWD business.

If the BdSWD determines that certain data will not be made available for inspection or copying, it will inform the individual of the basis for denial of access. If requested, the BdSWD will certify in writing that the request has been denied and state the specific basis for denial.

## **Costs**

There is no cost to inspect documents. If document copies are requested, the requesting individual will be charged twenty five cents (\$0.25) per page for letter and legal sized black and white documents.

With respect to oversize copies, color copies, tapes, electronic data, photographs, slides and other unusual formats, the requesting individual will be responsible for the actual cost incurred by the BdSWD to make the copy itself or to use a vendor.

An individual requesting copies or the electronic transmittal of data consisting of more than 100 black and white copies of letter or legal sized paper, is responsible to pay the BdSWD the actual cost, including the cost of staff time, to search for and retrieve data and to make, certify, compile and transmit copies. Staff costs will be assessed based upon established hourly rates.

If requested, the BdSWD will advise approximate cost before making said copies. Payment may be made by cash or check. The BdSWD may require payment in advance.

The BdSWD may charge a fee for data that has commercial value and was developed with a significant expenditure by the BdSWD. The BdSWD may also require a license agreement limiting the use of said data.

**Board Approved 3-27-2014**

## **BOIS DE SIOUX WATERSHED DISTRICT COST SHARE POLICY PUBLIC ROAD RAISE PROGRAM**

### ***Purpose***

To encourage and support the raising of roadways as a means of reducing flood damages and improving public safety in the Bois de Sioux Watershed District.

Road washouts occur during frequent flood events throughout most of the watershed. The associated damages to roadways result in considerable public expense and traffic hazard. Flood flows downstream are also increased when upstream roads wash out. The district has a general policy of encouraging uniform design of roadway stream crossings as a method of moderating flood flows and reducing flood damages. Proper design requires an appropriate waterway opening based on the upstream drainage area and a road elevation high enough to prevent overtopping except during extreme flood events or in situations where there is significant risk of flood damages upstream.

### ***Cost Share Program***

In some cases, raising the roadway involves considerable expense which may be a burden on the road authority. In these cases, the district may participate in the cost of raising the road provided that the design meets the district's flood damage reduction objectives. Subject to individual recommendation by the Bois de Sioux Watershed District Engineer, the district may share in the additional cost to raise the road. Included in the engineer's review will be a determination that the waterway opening is appropriately sized and that the proposed roadway elevation is high enough to meet the district's flood damage reduction goals.

### ***Requirements***

The project must be implemented by the road authority.

Approved 2014

## **Ditch Fund Management**

1. Ditch system funds will be managed by the BdSWD as the ditch authority.
2. The watershed district's goal for ditch expenses is to operate on a "pay as you go" basis. To that end, ditches will be assessed so as to have sufficient positive balances to fund normal maintenance requests as they occur. When larger projects are anticipated, again, the watershed district's goal will be to operate on a "pay as you go" basis. Therefore, for larger projects, the district will finance with preference in the following order:
  - a. Set assessments sufficient to cover the anticipated expenditure (subject to the statutory maximum) in advance of the project.
  - b. If anticipated costs cannot practically be paid in advance, the ditch system may borrow against the overall ditch fund with the intent of bringing the ditch out of debt within three years by assessing up to the statutory maximum.
  - c. The watershed district will arrange the issuance of bonds to finance projects in cases where it is neither practical to collect funds in advance of the project or borrow against other ditches. The bonds shall be arranged for before commencing work on the project.
3. All ditch funds with a positive balance annually will earn a prorated share of that interest. All ditch funds with a negative balance will pay interest to the positive funds at the average rate interest that was earned throughout the year on these funds.
4. The BdSWD Ditch Inspector has authority, in consultation with the District Engineer and Board Manager closest to the project, to spend up to \$10,000 per ditch if time is of the essence, ditch benefits exceed \$10,000, and ditch funds in that ditch account are available, without board approval, for repairs of 103E ditches. The BdSWD Ditch Inspector will inform the board of expenditures at the next regular meeting of the Bois de Sioux Watershed District.

**Board Approved 1/18/18**

## **BOIS DE SIOUX WATERSHED POLICY RELATIVE TO PRIVATE CROSSINGS OF LEGAL DRAINAGE DITCHES**

When a private landowner seeks to replace a crossing on a 103E ditch system, the private landowner shall obtain a permit from the Bois de Sioux Watershed District to ensure proper elevation, capacity, and overall conformance with ditch design. Culvert capacity shall meet the Basin Technical and Scientific Advisory Council Briefing paper No. 3 guidelines.

The Bois de Sioux Watershed District Board wishes to relieve landowners adjacent to legal ditch systems under its control from the unduly costly expense, which may otherwise result from the necessity to replace private crossings on legal ditches established before March 25, 1947.

A. The Watershed Board expects the road authorities will provide landowners adjacent to legal ditches with similar assistance as they provide landowners adjacent to road ditches, which customarily is equivalent to the cost of a 24 inch culvert.

B. The Watershed Board desires to encourage the consolidation of private crossings where at all practical, as all culverts restrict the flow of water and, thus, the efficiency of the drainage ditches to some degree.

THEREFORE, in regard to existing structure replacements and in recognition of the above principals, the Watershed Board agrees:

1. To pay for the cost of the culvert material from the ditch fund, less the cost of a 24" culvert, where the Watershed determines the replacement is necessary and where there exists no more than one private crossing per mile along the section where the crossing is located. The landowner is responsible for all installation costs, other materials such as granular fill and surface gravel, fill material, riprap, and maintenance.

2. To pay for 75% of the culvert material from the ditch fund, less the cost of a 24" culvert, where there are two private crossings in a mile where the crossing is located, again subject to the Watershed's determination the replacement is necessary. The landowner is responsible for all installation costs, other materials such as granular fill and surface gravel, fill material, riprap, and maintenance. In the event replacement is requested where there exists more than two private crossings in the mile, the application will be evaluated by the Watershed Board, giving consideration to all relevant circumstances, including the necessity for the crossing. **IN THE EVENT THE WATERSHED DETERMINES THE CROSSING IS NECESSARY**, the Watershed may participate in the replacement costs at its discretion, but in no event shall pay more than seventy-five percent (75%).

**NEW CROSSINGS:** Permit applications for new private crossings over legal ditch systems shall be considered by the Watershed Board and evaluated on a case by case basis and the landowner carries the burden of establishing that there is a practical need and necessity for said crossing and that there is no reasonable alternative.

If the Board determines that there is a need and necessity for a new private crossing, it may at its discretion participate in the structure cost on the same terms and conditions set forth for its participation in the cost of replacement structures.

#### **BOIS DE SIOUX WATERSHED POLICY RELATIVE TO PUBLIC ROAD CROSSINGS OF LEGAL DRAINAGE DITCHES**

When a road authority seeks to replace a crossing on a 103E ditch system, the Road Authority shall obtain a permit from the Bois de Sioux Watershed District to ensure proper elevation, capacity, and overall conformance with ditch design. Minnesota Statute 103E.721 shall be followed, which states the road authority is responsible for all project costs.

#### **BOIS DE SIOUX WATERSHED POLICY RELATIVE TO SIDE INLET CULVERTS ASSOCIATED WITH LEGAL DRAINAGE DITCHES**

When a private landowner or road authority seeks to install or replace a side inlet culvert to a 103E ditch system a permit from the Bois de Sioux Watershed District is required. When a landowner or road authority initiates a side inlet culvert installation, the landowner or road authority is responsible for project costs and maintenance. The ditch authority may, at its discretion, provide cost share dollars from the ditch fund toward landowner or road authority initiated side inlet culvert installations. Ditch system cost share funds will be determined based on the availability of outside funds. In the case of a Ditch Authority led project, the Ditch Authority shall pay for all side inlet project costs and maintenance. Capacity of side inlet culverts shall meet the requirements of the BdSWD.

Approved by the Bois de Sioux Watershed District Board of Managers on January 18, 2018.

#### **Land Acquisition Policy**

The district's policy is to only acquire lands physically necessary for its projects. Occasionally, when a willing seller owns lands within and outside a project "footprint", the District may find it necessary to acquire lands that will not be located within the project itself. The District may use such lands, when so requested, to trade for lands located within the project when both properties have been appraised by the District. Other than the above exception, the District's policy is to not engage in land trades. The District will dispose of property not needed for projects in a way that avoids unnecessary holding costs and illiquidity of assets.

The owners of lands essential to a district project often desire to replace said lands. The District will assist such efforts by making written offers to purchase so seller is guaranteed funds for a replacement purchase.

1. The District strongly prefers to rely on willing landowners to supply land and easements through negotiated arms-length transactions.

2. The District will evaluate a potential acquisition by considering whether the land has characteristics that make it likely to be suited for project needs in that subwatershed, whether the price is fair, and the District's ability to avoid financial loss in the event a project using that land does not go forward.
3. For each subwatershed, as a part of its project planning activities the District will prepare land acquisition guidelines that identify the extent of land rights the District may need for projects and the characteristics of the land needed, including general location, acreage, topography, soils and any other features that would determine the land's physical suitability for District purposes. These guidelines will be publicly available and will be used by the board of managers to judge the soundness of an anticipatory acquisition. The guidelines will also acknowledge that the managers retain the ability to make case-by-case judgments. The District may also consult its technical advisory committee or the Red River Basin Flood Damage Reduction Work Group in developing these guidelines.
4. The District will obtain an appraisal before acquisition or disposition, except in very limited circumstances, such as cases where the tracts of land are small and the District determines that it is appropriate to determine benefits and damages pursuant to Minnesota Statutes Section 103D.721. The District may also utilize auction bidding to acquire property where the District has established a maximum price through review of recent area land sales. The District will dispose of excess lands by auction or through other competitive process.
5. Occasionally, the District may find it prudent and necessary to acquire lands that will not be located within the project itself. The District may use such lands, when so requested, to trade for lands that are located within the project. The District will dispose of property not needed for projects in a way that avoids unnecessary holding costs and illiquidity of assets.



6. The District generally will obtain fee title to the necessary property for its projects. In each case the managers will judge the cost and financial risk to the District in purchasing land rights before full project definition and a formal decision to proceed with a project. The District will look to structure an acquisition to limit risk, through means such as buying an option, leasing lands consistent with project needs, preserving compatible uses by an underlying fee owner and disposing of land rights not needed for a project. For each acquisition, the District will prepare a management plan to describe how the District will minimize land holding costs and liabilities, and maximize water resource outcomes, until such time as the project is constructed.
7. The District acknowledges that it may in rare circumstances find it necessary to acquire land and easements for projects through all authorized means, including eminent domain, in the event project priorities so require.

### **Electronic Attendance at Board Meetings**

Board of Managers may attend district meetings electronically as long as the following conditions and the provisions of Minn. Statute 13 D are complied with:

1. The district administrator must be given at least four (4) business days' notice of a member's desire to attend electronically.
2. The administrator must be satisfied arrangements can be made so as to comply with the provisions of M.S. 13D02.
3. No member may attend more than two meetings electronically per year. The board may grant an exception to this on a case by case basis.
4. There must be a quorum of members physically present.
5. All votes shall be by roll-call.
6. Each location at which a board member is present is open and accessible to the public so as to comply with 13D02, subd. 1, 4.

## CULVERT COST SHARE POLICY

### CULVERT SIZING AS PART OF LEGAL DITCH SYSTEM REPAIRS

I. **Purpose.** The purpose of this Policy is to encourage and promote the sizing of culverts to reduce peak flows and provide temporary distributive storage for the Bois de Sioux Watershed District (the “District”). Because this Policy promotes flood damage reduction, the District will utilize watershed funds to reimburse Minn. Stat. § 103E ditch system funds, for which the District is the ditch authority, upon conformance of the drainage system’s culverts with the District’s culvert sizing goals.

II. **Flood Damage Reduction Technique – Compliance with 2003 Overall Plan.** Culvert sizing is a flood damage reduction technique that benefits the entire watershed and the Red River Basin. Culvert sizing is a recognized priority in the District’s Overall Plan, dated May 23, 2003, as described under Overall Watershed Goals and Objectives:

Culvert sizing is a flood control technique that incorporates roads and other man-made barriers to provide short-term detention of floodwater and reduce peak flows. It is a widely used form of flood control which can provide benefits throughout the watershed and appeals to a sense of fairness.

Culvert sizing should be based on drainage area and closely matched to channel capacity. When channel capacity is exceeded, the culvert restricts flows and the excess water temporarily impounded upstream. For the method to be safe and effective, the [road] grade must be high enough to prevent overtopping or be designed to overflow without washing out.

The District has routinely included culvert sizing as a mitigation requirement in granting drainage improvement permits. Projects to accelerate widespread implementation of culvert sizing may be a possibility. An inventory of existing culverts, and their respective drainage areas, is needed to evaluate the current status and future potential of this alternative.

The flood control benefits of culvert sizing are greatest when implemented in the middle and late contributing areas of the watershed.

III. **Board of Water and Soil Resources (BWSR) Performance Review and Assistance Program (PRAP).** In addition to being supported by the District’s Overall Plan, culvert sizing is supported by BWSR’s PRAP Level III:

Water Quantity Planned Action or Result: Promote distributive storage across the watershed through culvert sizing criteria.

**IV. Cost Share Program Requirements.** In recognition of the flood damage reduction benefits previously described, the District will reimburse a Minn. Stat. § 103E ditch system fund, for which the District is the ditch authority, upon conformance of the drainage system's culverts with the District's culvert sizing goals as part of a major repair or improvement process that includes a clean water retrofit of the ditch and redetermination of benefits. Clean water retrofits involve the flattening of ditch side-slopes, construction of berms, and installation of side-inlet culverts. The District will reimburse the ditch system fund for the following items, including but not limited to, culvert design, culvert materials, and installation. Cost share approval will be granted on a case-by-case basis depending on availability of funds, conformance with this Policy, and the following conditions:

1. The District must be the ditch authority for the Minn. Stat. § 103E ditch system.
2. Culvert size, design specifications, and installation specifications must be determined by District engineering staff.
3. This Policy is limited to in-line (in-channel) crossing culverts for both public and private crossings. Side-inlet culverts are not funded under this Policy.
4. This Policy is limited to Minn. Stat. § 103E ditches under the authority of the District that proceed with a major repair or improvement that includes a clean water retrofit of the ditch and a redetermination of benefits.
5. Reimbursement will be determined by the District's Board of Managers on a case-by-case basis; availability of funds and potential for alternative funding sources will be a consideration.
6. The District's Board of Managers, at its sole discretion, will determine whether to expend funds pursuant to this Policy.

**CLEAN WATER RETROFIT COST SHARE POLICY**  
**WATER QUALITY IMPROVEMENTS**  
**AS PART OF LEGAL DRAINAGE SYSTEM REPAIRS OR IMPROVEMENTS**

- I. **Purpose.** The purpose of this Policy is to facilitate erosion and sedimentation reduction practices that improve water quality while protecting drainage system efficiency and reducing drainage system maintenance for priority Minn. Stat. Chapter 103E drainage systems for which the Bois de Sioux Watershed District (the “District”) is the drainage authority.
  
- II. **Compliance with 2003 Overall Plan – Authority.** Erosion, sedimentation, and water quality impairments are identified as frequent problems in the District’s Overall Plan, dated May 23, 2003. This Policy aims to reduce erosion, sedimentation, and water quality impairments. The District has the authority to accept and use funds from sources other than, or in addition to, those derived from assessments based on the benefits of the drainage system for the purpose of water quality improvements pursuant to Minn. Stat. § 103E.011, Subd. 5.
  
- III. **Cost Share Program Requirements.** In an effort to promote water quality benefits previously described, upon construction of a drainage system clean water retrofit, the District will reimburse a Minn. Stat. Chapter 103E drainage system fund, which the District is the drainage authority, in the amount of fifty percent (50%) for eligible cost share items. Clean water retrofits involve flattening ditch side-slopes, constructing berms, and installing side-inlet culverts. The District will reimburse the drainage system fund at a rate of fifty percent (50%) for the following eligible cost share items:
  1. Side-inlet culverts, including the culvert, flared-end section, associated riprap and blanket, and related installation costs. Flap gates are not an eligible cost share item.
  2. Excavation and spoil bank leveling necessary to construct a berm adjacent to the ditch channel. The volume of eligible earth work is calculated assuming a maximum berm height of three feet (3’), maximum top of berm width of ten feet (10’), and three to one (3:1) slopes.
  3. Seeding within the channel is eligible; however, seeding beyond the channel daylight, including the required statutory buffer strip under Minn. Stat. § 103F.48, is not eligible.
  4. Grade control structures used to reduce in-channel velocity, including but not limited to, sheet-pile structures, rock riffles, and permanent rock weirs placed

across the channel bottom. Temporary rock checks used for storm water erosion control are not eligible.

5. Reimbursement for the eligible cost share items is based on final installation costs, not the engineer's cost estimate prior to bid.
6. Engineering fees related to the above items are not eligible.

**IV. Cost Share Conditions.** Cost share approval is granted on a case-by-case basis depending on the availability of funds, conformance with this Policy, and the following conditions:

1. The District will diligently pursue outside funding sources to cover the fifty percent (50%) cost share under this Policy. The District will only commit funding in the absence of outside funding sources.
2. The District must be the drainage authority for the Minn. Stat. Chapter 103E drainage system.
3. All eligible items, including related design specifications and installation specifications, must be determined by District engineering staff.
4. This Policy is limited to Minn. Stat. Chapter 103E drainage systems, under the District's drainage authority, that proceed with a repair or improvement that includes a clean water retrofit and a redetermination of benefits, if necessary.
5. Reimbursement will be determined by the District's Board of Managers on a case-by-case basis; availability of funds and potential for alternative funding sources are considerations.
6. The District's Board of Managers, at its sole discretion, will determine whether to expend funds pursuant to this Policy.

RIPARIAN PROTECTION AND WATER QUALITY PRACTICES RULE  
“BUFFER RULE”

1. STATUTORY AUTHORIZATION AND PURPOSE

1.1. **Statutory Authorization.** The riparian protection and water quality practices defined under this Rule (this “Rule”) are adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapter 103D and Minnesota Statutes § 103F.48 (the “Buffer Law”).

1.2. **Purpose.** It is the purpose and intent of the Bois de Sioux Watershed District to establish riparian buffers and water quality practices to:

- a) Protect state water resources from erosion and runoff pollution;
- b) Stabilize soils, shore, and banks; and
- c) Protect or provide riparian corridors.

2. DEFINITIONS AND GENERAL PROVISIONS

2.1. **Definitions.** Unless specifically defined below, words or phrases used in this Rule shall be interpreted to give them the same meaning they have in common usage and to give this Rule its most reasonable application. For the purpose of this Rule, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, are measured horizontally.

- a) **“BDSWD”** means the Bois de Sioux Watershed District.
- b) **“Board”** means the Board of Water and Soil Resources.
- c) **“Buffer”** means an area consisting of perennial vegetation, excluding invasive plants and noxious weeds, adjacent to all bodies of water within the state and that protects the water resources of the state from runoff pollution; stabilizes soils, shores, and banks; and protects or provides riparian corridors.

- d) **“Buffer protection map”** means buffer maps established and maintained by the Commissioner of the Department of Natural Resources.
- e) **“BWSR”** means the Board of Water and Soil Resources.
- f) **“Commissioner”** means the Commissioner of the Department of Natural Resources.
- g) **“Cultivation farming”** means farming practices that disturb root or soil structure or that impair the viability of perennial vegetation due to cutting or harvesting near the soil surface.
- h) **“Drainage Authority”** means the local watershed district or joint county drainage authority having jurisdiction over a drainage system or project.
- i) **“Drainage system”** means a system of ditch or tile, or both, to drain property, including laterals, improvements, and improvements of outlets, established and constructed by a drainage authority. Drainage system includes the improvement of a natural waterway used in the construction of a drainage system and any part of a flood control plan proposed by the United States or its agencies in the drainage system.
- j) **“Executive Director”** means the Executive Director of the Board of Water and Soil Resources.
- k) **“Landowner”** means the holder of fee title, the holder’s agents or assigns, any lessee, licensee, or operator of the real property and includes all land occupiers as defined by Minn. Stat. §103F.401, subd. 7, or any other party conducting farming activities on, or exercising control over, the real property.
- l) **“Parcel”** means a unit of real property that has been given a tax identification number maintained by the respective county.
- m) **“SWCD”** means Soil and Water Conservation District.

## 2.2. **Coordination and Implementation.**

- a) The respective SWCD must assist landowners with implementation of the water resource riparian protection requirements established under the Buffer Law pursuant to Minn. Stat. § 103F.48, Subd. 6. Assistance includes

planning, technical assistance, implementation of approved alternative practices, and tracking progress toward compliance with the requirements.

- b) The Commissioner or the Board must provide sufficient funding to the respective SWCD to implement the provisions of Minn. Stat. § 103F.48.
- c) The BDSWD will coordinate the implementation and enforcement of this Rule with the management of public drainage systems under applicable rules, statutes, policies, and jurisdiction of the BDSWD. The BDSWD will provide efficient and effective direction to landowners and protection of surface water quality and related land resources upon request.

- 2.3. **Data Sharing - Management.** The BDSWD may enter into agreements with any SWCD, BWSR, or other parties with respect to the creation and maintenance of, and access to, data concerning buffers and alternative practices under this Rule.
- 2.4. **Delegation of Enforcement.** Nothing herein prevents the BDSWD from entering into an agreement with any other entity authorized by law to enforce buffer requirements, within its jurisdiction according to the Buffer Law or other properly adopted enforcement rule.
- 2.5. **Drainage System Acquisition and Compensation for Buffer.** Nothing herein prevents the acquisition and compensation of buffers on public drainage systems pursuant to law.
- 2.6. **Jurisdiction.** The provisions of this Rule apply to public drainage systems shown on the buffer protection map for which BDSWD is the drainage authority.

### 3. BUFFER REQUIREMENTS.

- 3.1 **Buffer Width.** Except as otherwise stated herein, a landowner owning property adjacent to a public drainage system identified on the buffer protection map must establish and maintain a buffer width of at least sixteen and one half feet (16.5').
- 3.2 **Measurement.** In any proceeding to establish, construct, improve, or do any work affecting a public drainage system under any law that appoints viewers to assess benefits and damages, the buffer is measured outward from the top edge of the constructed channel resulting from the proceeding, or to the crown of the leveled spoil bank, whichever is the greater. In any action by the BDSWD that results only



in a redetermination of benefits and damages, the required width shall be sixteen and one half feet (16.5').

3.3 **Use of Buffer Area.** Except as otherwise stated herein, a buffer may not be put to any use which would remove or prevent the permanent growth of perennial vegetation including, but not limited to, cultivation farming. Harvesting the vegetation from the permanent buffer in a manner not harmful to the vegetation or the drainage system is the privilege of the fee owner or assigns.

3.4 **Exemptions.** Land adjacent to waters subject to Minn. Stat. § 103F.48, Subd. 3 is exempt from the water resource protection requirements under Minn. Stat. § 103F.48, Subd. 3, if it is:

- a) Enrolled in the federal Conservation Reserve Program;
- b) Used as a public or private water access or recreational use area including stairways, landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented structures as provided in the shoreland model standards and criteria adopted pursuant to Minn. Stat. § 103F.211 or as provided for in an approved local government shoreland ordinance;
- c) Covered by a road, trail, building, or other structures;
- d) Part of a water-inundation cropping system;
- e) In a temporary nonvegetated condition due to drainage tile installation and maintenance, alfalfa, or other perennial crop or plant seeding, or construction or conservation projects authorized by a federal, state, or local government unit; or
- f) Regulated by a national pollutant discharge elimination system/state disposal system ("NPDES/SDS") permit under Minnesota Rules, Chapter 7090, and provides water resources riparian protection, in any of the following categories:
  - (i) Municipal separate storm sewer system ("MS4");

(ii) Construction storm water (“CSW”); or

(iii) Industrial storm water (“ISW”).

3.5 **Alternative Practices.** A landowner practicing cultivation farming may demonstrate compliance with this Rule by establishing and maintaining an alternative riparian water quality practice, or combination of structural, vegetative, and management practices which provide water quality protection comparable to the water quality protection provided by a required buffer. Included in these practices are retention ponds and alternative measures that prevent overland flow to the water resource. The adequacy of any alternative practice allowed under this section is based on:

- a) Natural Resources Conservation Service (“NRCS”) Field Office Technical Guide (“FOTG”);
- b) Practices based on local conditions approved by the SWCD that are consistent with the NRCS FOTG; or
- c) Other local practices adopted by BWSR.

#### 4. COMPLIANCE.

4.1. **Compliance Determinations.** Compliance with the buffer requirement will be determined on a parcel by parcel basis. The compliance status of each individual parcel will be determined independently.

4.2. **Action for Noncompliance.** When the SWCD identifies potential noncompliance with the buffer requirement or receives a third-party complaint from a private individual or entity, or from another public agency, it will consult with the BDSWD to determine the appropriate course of action to document compliance status. This may include communication with the landowner, inspection, or other appropriate steps necessary to verify the compliance status of the parcel. On the basis of the evidence gathered in this process, the SWCD may issue a Notification of Noncompliance to the BDSWD.

4.3. **Corrective Actions.**

- a) If, pursuant to Minn. Stat. § 103F.48, Subd. 7, the SWCD determines a landowner is not in compliance with this Rule, the SWCD must notify the BDSWD and the Board. The BDSWD must then provide the landowner with a list of corrective actions needed to come into compliance and a practical timeline to meet the requirements of this Rule. The BDSWD must provide a copy of the Corrective Action Notice to the Board.
- b) If the BDSWD or the Board determines that sufficient steps have been taken to fully resolve noncompliance, all or part of the penalty may be forgiven.
- c) A landowner, agent, or operator may appeal the decision to the respective district court as provided under the Minnesota Rules of Court.
- d) A corrective action is not required for conditions resulting from a flood or other act of nature.
- e) A landowner, agent, or operator of a landowner may not remove or willfully degrade a riparian buffer or water quality practice, wholly or partially, unless the agent or operator has obtained a signed statement from the property owner stating that the permission for the work has been granted by the unit of government authorized to approve the work in this Rule or that a buffer or water quality practice is not required as validated by the SWCD. Removal or willful degradation of a riparian buffer or water quality practice, wholly or partially, by an agent or operator is a separate and independent offense and may be subject to the corrective actions and penalties in this Rule.

4.4. **Service of Notice.** The BDSWD shall serve the Corrective Action Notice by one (1) of the following methods:

- a) Personal service; or
- b) Certified mail, return receipt requested. A copy of the notice will also be provided to the respective SWCD and BWSR.

Refusal of the landowner to accept service is not a defense to lack of notice.

4.5. **Proof of Compliance by Landowner.** At any time during the process set forth above, the landowner may provide documentation of compliance to the BDSWD. The BDSWD and SWCD may then review the documentation, inspect the buffer, and evaluate alternative practices to determine if the parcel is in compliance. The BDSWD shall then issue a written determination of compliance to the landowner and appropriate county SWCD and BWSR. The SWCD may also issue a validation of compliance if applicable and requested by the landowner.

- 4.6. **Request for Modification of Corrective Action Notice.** After service of a Corrective Action Notice, the landowner may supply information to the BDSWD in support of a request to modify a corrective action or the timeline for compliance. The BDSWD may, at its discretion, make a written modification to the Corrective Action Notice. Any modification must be served on the landowner in the same manner as subsection 4.4.
5. **ENFORCEMENT.** Under authority of Minnesota Statutes, the BDSWD may seek remedies against any landowner or responsible party for noncompliance with this Rule including referral to the county attorney for criminal misdemeanor prosecution in the county where the offense occurred. Violations of this Rule may be enforced pursuant to Minn. Stat. § 103D.545.
6. **REPORTING DOCUMENTATION.** The BDSWD shall maintain the following records for any potential violation of the riparian protection and water quality practices requirements. Said records include, but are not limited to, the following:
- a) The cause of the violation;
  - b) The magnitude and duration of the violation;
  - c) Documentation showing whether the violation presents an actual or imminent risk to public health and safety;
  - d) Documentation showing whether the violation has the potential to harm the natural resources of the state;
  - e) A record of past violations;
  - f) Efforts by the SWCD, BDSWD, or BWSR to assist the responsible party or parties to become compliant, including written and oral communications with responsible parties; and
  - g) Past and present corrective action efforts by the responsible party or parties.