

## Riley-Purgatory-Bluff Creek Watershed District

### Memorandum Supporting and Providing Explanation of Revisions of Riley-Purgatory-Bluff Creek Watershed District

#### Rule D – Wetland & Creek Buffers

#### Rule F – Shoreline & Streambank Stabilization

February 3, 2020

This memorandum presents background on and explanation of amendments of the Riley-Purgatory-Bluff Creek Watershed District rules. The memo supports the RPBCWD Board of Managers' determination that the changes to the rules will improve the efficiency and cost-effectiveness of its regulatory program's efforts to protect water resources. It describes the basis for RPBCWD's determination that the effectiveness of the rules, as revised, reasonably outweighs the burden incurred by property owners in complying with the rules.

RPBCWD proposes to amend Rule F – Shoreline and Streambank Improvements.

#### **Opportunities to comment**

RPBCWD wishes to receive written or verbal comments on its proposed revisions. Interested persons and organizations can submit written comments on the revisions on or before the close of business on **March 22, 2021**. RPBCWD prefers submission of comments by email to Terry Jeffery, watershed planning coordinator, at [tjeffery@rpbcwd.org](mailto:tjeffery@rpbcwd.org). But comments also may be sent to Mr. Jeffery at the RPBCWD offices, 18681 Lake Drive East, Chanhassen MN 55317. Critique of the changes is most valuable when accompanied by a suggested alternative approach RPBCWD could take.

In addition to the written comment period, RPBCWD will hold a **public hearing** on the revisions at **6:30 p.m., on March 3, 2021, via zoom**. At the hearing, any interested person will have the opportunity to address the managers and staff concerning the proposed revisions.

The proposed changes may be revised in response to comments. In addition, this memo will be updated, as needed, to address comments received, and will be reissued in final form to support the managers' adoption of the final revisions to the rules and to provide property owners and project proposers with guidance and background on the rules.

The RPBCWD Board of Managers will consider adopting the revised rules at the regular meeting on **April 7, 2021**. When adopting the revised rules, the managers will set a date on which the amended rules will be effective throughout the watershed. RPBCWD has tentatively identified **April 8, 2021**, as the **target effective date**. Permit applications that are not complete as of the effective date will be subject to the amended rules, though an applicant who has submitted a complete application prior to that date may request to have the matter determined in accordance with the revisions.<sup>1</sup>

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<sup>1</sup> RPBCWD will administratively amend its watershed management plan to include the updated rules when they are adopted.

## **Rule F – Shoreline Maintenance Revision**

RPBCWD’s policy is that hard-armoring shorelines should be undertaken only when necessary to address erosion forces on a shoreline or streambank. But where a shoreline is already hard-armored (i.e., covered with riprap), RPBCWD policy is to ensure such installation is properly maintained to prevent degradation of the shoreline or streambank and resulting erosion and sedimentation of the subject waterbody. (Under existing language in paragraph 2.4, maintenance or in-kind replacement of existing public infrastructure on a shoreline or streambank is not subject to the Rule F requirements.)

In keeping with this policy, in 2018 Riley-Purgatory-Bluff Creek Watershed District amended its regulatory requirements to streamline the approval process for maintenance of such *existing* riprap installations. RPBCWD established a reduced set of requirements for a property owner whose project would not increase the width, depth or length of the stabilized area of their shoreline and would not disturb underlying soils. In subsequently reviewing applications and subject sites with property owners, RPBCWD has found that some amount of underlying soil disturbance is inherent to and necessary for the maintenance of riprapped shorelines. Given this, the streamlined permitting framework was not achieving its intended purposes of encouraging property owners to ensure that their shoreline stabilizations continued to protect against erosion and sedimentation. Also, the extent of disturbance of underlying soils necessary to maintain a hard-armored shoreline does not warrant the articulation of a need for the stabilization (subsection 3.1 of the rule) since the stabilized shoreline is already in place, nor does it require a complete assessment of erosion intensity (subsection 3.2). They are required only when an applicant proposes installation of a new or expansion of a shoreline stabilization. The principal thrust of the proposed new revisions to the rule is to allow maintenance of shoreline stabilizations in their present form without needing to demonstrate need or assess erosion intensity. (Applicants still must provide those section 4.0 exhibits needed for RPBCWD to assess compliance with the applicable criteria of section 3.3.)

The proposed change to Rule D – removing the term “fast-track” – is ministerial, revising a cross-reference to the subsection 3.4 option for approval of shoreline maintenance projects.

The streamlined permitting applies only to shorelines – not streambanks – and the specification of rule provisions that apply only to one or the other is accomplished by adding “streambanks” in relevant places throughout the rule. These additions clarify, but do not change, the operation of the rule (i.e., no new requirements are being added to either shoreline or streambank stabilizations).

The streamlined permitting process also applies only when a property owner is undertaking maintenance that does not change the form of the stabilization. That is, it applies only when a hard-armored (riprapped) shoreline is being maintained as hard-armored, bioengineered as bioengineered, and naturalized as naturalized.

## **RPBCWD support for bioengineered stabilizations**

While the revised shoreline-maintenance terms are out for review and comment, RPBCWD will be assessing whether new policy provisions – e.g., cost-share program criteria – are needed to support property owners who wish to stabilize their shorelines with bioengineering or a mixture of bioengineering and vegetation. RPBCWD will affirm its support – and make resources available – for property owners who wish to transition from full or partial hard-armorings to fully or partially naturalized stabilizations.

Shoreline and streambank stabilization projects differ from any other regulated land-disturbing activity in that RPBCWD *wants* property owners to undertake such projects because shorelines and streambanks that are instable are sources of sediment and pollutant loading to water bodies. Further, RPBCWD’s resource-improvement goals are furthered by landowner projects that move from hard-armorings, which does not provide habitat or other benefits beyond preventing erosion, to more natural shorelines, which do. At the same time, RPBCWD needs to ensure that bioengineering will effectively stabilize a shoreline or streambank, which means that it is important to require property owners to subject their plans to RPBCWD’s regulatory analysis generally and to complete an Erosion Intensity Scoresheet (Rule F subsection 3.2a) or shear-stress calculation (Rule F subsection 3.2b) specifically. This unique conjunction of interests requires careful balancing of fairness to all property-owner applicants by requiring *all* of those who wish to install a new or different stabilization to comply with the rules and receive a permit (at the applicant’s cost), with support for naturalizing projects through cost-share funds for construction or in-kind assistance of staff.

RPBCWD is eager to hear any ideas stakeholders have for striking such a balance, as well as concerns about its efforts to do so. RPBCWD staff will be reaching specifically to the members of its Technical Advisory Committee for insights on this balancing effort, which inherently involves ensuring that public funds are applied only to fulfill public purposes and goals.