



18681 Lake Drive East  
 Chanhassen, MN 55317  
 952-607-6512  
 www.rpbcwd.org

## Riley Purgatory Bluff Creek Watershed District Permit Application Review

Permit No: 2024-006

Considered at Board of Managers Meeting: April 3, 2024

Received complete: March 4, 2024

**Applicant:** Chris & Betsy Preus and Kirk & Camille Swanson

**Consultant:** Sathre-Bergquist, Inc , Charles Wiemerslage, PE

**Project:** Watercourse and Wetland Restoration – The applicant is seeking a permit to restore excavation in a wetland and downstream watercourse as part of a Wetland Conservation Act restoration order issued to the owners of both properties.

**Location:** 1811 and 1851 Lake Lucy Lane, Chanhassen, MN

**Reviewer:** Scott Sobiech, PE, Barr Engineering

### Proposed Board Action

Manager \_\_\_\_\_ moved and Manager \_\_\_\_\_ seconded adoption of the following resolution based on the permit report that follows and the presentation of the matter at the April 3, 2024 meeting of the managers. Resolved that the application for Permit 2024-006 is approved, subject to the conditions and stipulations set forth in the Recommendations section of the attached report;

Resolved that on determination by the RPBCWD administrator that the conditions of approval have been met, the RPBCWD president or administrator is authorized and directed to sign and deliver Permit 2024-006 to the applicant on behalf of RPBCWD.

Upon vote, the resolution was adopted, \_\_\_\_\_ [VOTE TALLY].

### Rule Conformance Summary

Rule	Issue	Conforms to RBPCWD Rules?	Comments
B	Floodplain Management and Drainage Alterations	Yes	
C	Erosion Prevention and Sediment Control	See Comment	See Rule Specific Permit Condition C1 related to the name and contact information of the individual responsible for erosion control measures.
D	Wetland and Creek Buffers	See Comment	See Rule Specific Permit Condition D1 related to recordation of a maintenance declaration.
F	Shoreline and Streambank Stabilization	Yes	
G	Waterbody Crossings and Structures	See comment.	See rule-specific permit condition G1 related to maintenance declaration.
L	Permit Fee	See Comment	\$1,000 deposit fees received February 7, 2024. As of March 22, 2024 the amount due is \$1,300.
M	Financial Assurance	See Comment	The financial assurance is calculated at \$39,325.

**Project Background**

In 2022, the applicants excavated portions of the bed of a Wetland Conservation Act protected wetland and the bed of a downstream watercourse without receiving a permit from Riley Purgatory Bluff Creek Watershed District, the City of Chanhassen (which is the Local Government Unit administering WCA), or the state Department of Natural Resources. The project is located on single-family home properties at 1811 and 1851 Lake Lucy Lane in Chanhassen. RPBCWD staff issued a notice of probable violation on September 5, 2023 for the excavation in the wetland without a permit. The DNR issued a cease and desist order in October 2022. A WCA restoration order was issued to the owners of both properties on November 16, 2023. Throughout 2023 the technical evaluation panel worked with applicant to develop the restoration plan under consideration with this permit application. Because the restoration work has been proposed as a unified, single project and the property owners applied together, the work is analyzed here as a combined restoration project. In addition, because the property owners submitted a joint application, if approved by the board, the property owners will be responsible for the completion of all of the proposed work. It will be the responsibility of the property owners to ensure they have the necessary property rights and interests to complete the proposed work in the event that the owners of each property do not provide for completion of the work on their own property.



The project site information is summarized below:

Description	1811 Lake Lucy Lane	1851 Lake Lucy Lane	Project Total
Site Area (acres)	6.27	7.82	14.09
Length of streambank impacted (ft)	40	520	560 feet
New (Increase) in Site Impervious Area (acres)	0	0	0
Disturbed impervious surface (acres)	0	0	0
Total Disturbed Area (acres)	0.1	0.21	0.31 acres

The following materials were reviewed in support of the permit request:

1. Permit application dated January 26, 2024 (Notified applicant on February 9, 2024 that submittal was incomplete, revised materials completing the application received March 4, 2024)

2. RPBCWD Notice of probable violation at 1811Lake Lucy Lane dated January 30, 2023
3. RPBCWD Notice of probable violation at 1851 Lake Lucy Lane dated September 5, 2023
4. Minnesota Wetland Conservation Act Restoration Order dated November 16, 2023
5. Restoration Plan set dated November 20, 2023 (revised March 4, 2024)
6. Wetland Delineation & Proposed Restoration Memo dated July 27, 2023
7. Wetland delineation Report dated May 22, 2023
8. Original, Existing, and Proposed conditions HYDROCAD Models received March 4, 2024
9. Applicant response to review comments received March 4, 2024

**Rule Specific Permit Conditions**

**Rule B: Floodplain Management and Drainage Alterations**

Because the project alters surface flows and fills land below the 100-year flood elevation of two waterbodies in the watershed (i.e. the wetland and the downstream watercourse) to stabilize the watercourse and restore the wetland, the project must conform to the requirements in the RPBCWD Floodplain Management and Drainage Alteration rule (Rule B, Subsection 2.1).

Rule B, Subsections 3.1 and 3.4 are not relevant because no building was constructed or reconstructed as part of the project, and no impervious surface was created or re-created within 50 feet of a watercourse.

The project will result in 16 cubic yards of fill and 31 cubic yards of cut below the 100-year floodplain of the watercourse. The project will result in a net increase in floodplain storage of 15 cubic yards along the watercourse. Because the plans require the contractor to only use prior excavated material that was left within the floodplain following the unauthorized excavation in 2022 to fill the east/west ditch, the proposed work will result in no net floodplain fill in the wetland. Because the project results in a net increase in storage below the 100-year flood elevation of the watercourse and no net floodplain fill in the wetland, the project conforms to the requirements set forth by Rule B, Subsection 3.2.

In order demonstrate the project is not reasonably likely to have offsite adverse impacts the applicant provided a comparison of pre-excitation (i.e. original), existing (i.e. 2023 condition) and proposed (i.e., restored) discharge rate for the 2-, 10-, and 100-year events. Because the proposed work is a restoration effort to reestablish conditions prior to unauthorized excavations, the engineer concurs with the applicants' use of the original condition as the benchmark for restoration. The discharges through the watercourse and flood elevations in the wetland site are summarized in the table below.

	2-Year			10-Year			100-Year		
	Orig	Ex	Prop	Orig	Ex	Prop	Orig	Ex	Prop
Discharge (cfs)	7.7	10.4	7.6	25.1	28.9	25.0	67.7	72.2	67.5
Flood Elevation (feet)	978.3	977.3	978.3	978.6	977.9	978.6	979.0	978.6	979.0

The engineer concurs with the HYDROCAD modeling results showing that the restored project does not increase the rate of stormwater discharge above the original conditions. Because the proposed grading, wetland outlet structure, check dams along the watercourse, and vegetation re-establishment will help control flows, reduce velocities, and reduce erosion within the watercourse, the project will restore channel stability. The restoration of the wetland will also restore groundwater hydrology by promoting infiltration of the runoff retained in the wetland. Because this information submitted demonstrates restoration of flows, promotion of infiltration, and consistent flood elevations, the proposed alterations are not likely to cause adverse impacts and the project conforms to Rule B, Subsection 3.3.

See Rule C analysis of the applicants submitted erosion control plan to conform with Rule B, Subsection 3.5. A note on the plans indicates that activities must be conducted to minimize the potential transfer of aquatic invasive species conforming to Rule B, Subsection 3.6. The RPBCWD Engineer finds that the proposed restoration conforms to the applicable design criteria in Rule B.

### **Rule C: Erosion and Sediment Control**

In accordance with paragraph 3.5 of Rule B, the project must conform to the requirements in the RPBCWD Erosion and Sediment Control rule (Rule C, Subsection 2.1).

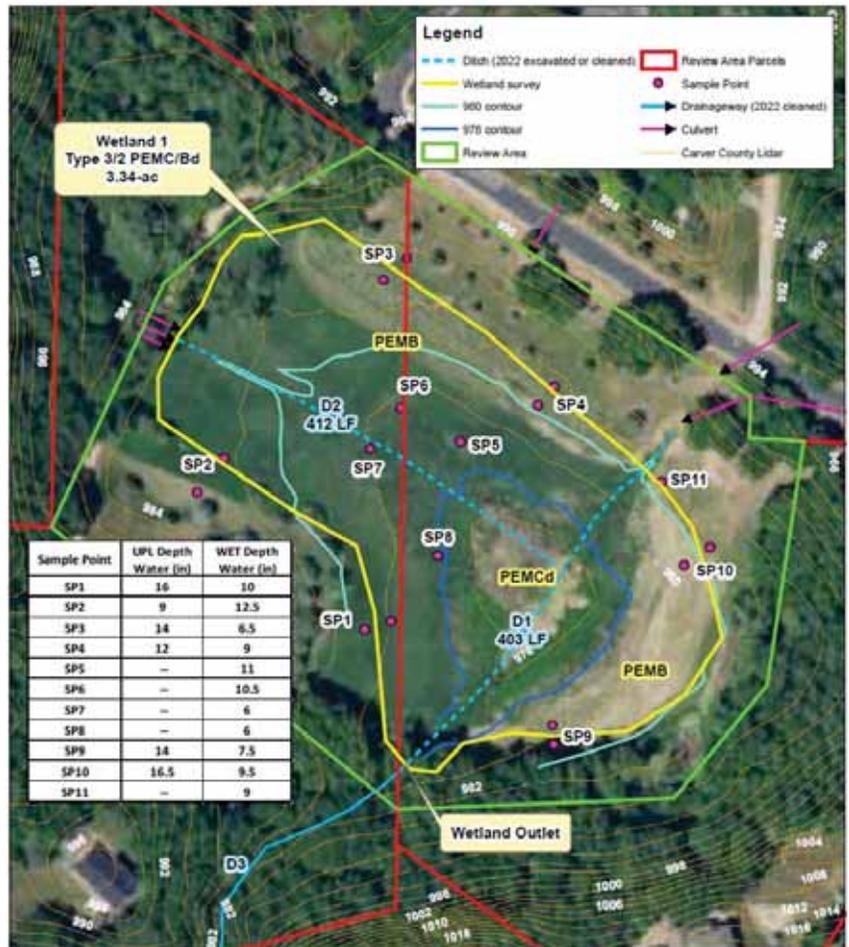
The erosion control plan prepared by Sathre-Bergquist, Inc includes installation of sediment control logs, a rock berm construction entrance, daily inspection, placement of a minimum of 6 inches of topsoil, erosion control blanket, decompaction of areas compacted during construction, and retention of native topsoil onsite to the greatest extent possible. To conform to RPBCWD Rule C requirements, the following revisions are needed:

- C1. The Applicant must provide the name, address and phone number of the individual who will remain liable to the District for performance under this rule and maintenance of erosion and sediment-control measures from the time the permitted activities commence until vegetative cover is established. This information is required prior to issuance of the permit.

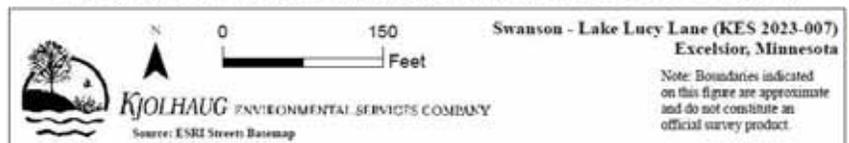
**Rule D: Wetland and Creek Buffers**

Because the proposed work triggers a permit under RPBCWD Rules B, F and G and there is a delineated wetland protected by the state Wetland Conservation Act disturbed by the proposed construction activities, Rule D, Subsections 2.1a and 3.1a require buffers around the entire wetland (a wetland map is provided below for reference).

Because the proposed land-disturbing activities are on existing single family residential properties, Rule D, subsection 3.2.d requires 20-foot average, 10-foot minimum buffer widths. The buffer widths from the project plans are summarized in the following table and demonstrate conformation with to Rule D, subsection 3.2.



Survey Revised Figure 2 - Existing Conditions (6-18-2021 FSA Photo)



Wetland ID	Required Minimum Width (ft)	Required Average Width (ft)	Provided Minimum Width (ft)	Provided Average Width (ft)
Wetland 1	10	20	10	20

The plan requires revegetating disturbed areas within the proposed buffer with native vegetation, thus conforming with Rule D, Subsection 3.3. The plan sheets show that buffer markers will be placed per District criteria (Subsection 3.4). A note is included on the plan sheet indicating the project will be constructed so as to minimize the potential transfer of aquatic invasive species (e.g., zebra mussels, Eurasian watermilfoil, etc.) to the maximum extent possible conforming to Rule D, Subsection 3.6.

To conform to the RPBCWD Rule D the following revisions are needed:

- D1. Before any work subject to District permit requirements commences, buffer areas and maintenance requirements, including locations of buffer markers, must be documented in a

declaration recorded after review and approval by RPBCWD in accordance with Rule D, Subsection 3.5.

### **Rule G: Waterbody Crossings and Structures**

Because the project will place rock check dams in contact within the bed and banks of the watercourse, the project requires conformance with RPBCWD's Waterbody Crossings and Structures Rule (Rule G). The criteria in subsections 3.1, 3.5 and 3.7 are relevant to the project.

This work provides a specific purpose to restore the outlet control elevation for the wetland and stabilize the watercourse itself by placing the check dams along the watercourse to slow the movement of flows in order to promote infiltration, mitigate potential erosion, and restore vegetation (Rule G, Subsections 3.1b)

The applicant worked closely with the TEP and city to identify potential restoration features. The applicant pursued the check dam outlet instead of the more traditional embankment/piping configuration or weir wall structure to reduce site disturbance. Given that a legally enforceable restoration order has been issued to the property owners, not completing restoration work is not an option; further, it would leave the resources in the degraded condition caused by the unauthorized excavation. The proposed design represents the minimal impact solution (Rule G, subsection 3.5a).

The intended purpose of the rock check dam structures is to stabilize the watercourse, reduce erosion, reduce pollutants reaching the downstream water resources, and promote sedimentation to naturally restore the excavated channel bottom over time. The plans show the bottom width of the proposed check dam is similar to the existing watercourse with an overflow elevation consistent with the approximate channel bottom before the unpermitted excavation took place, thus minimizing the encroachment (Rule G, subsection 3.5b).

The Rule B analysis provided above demonstrates the project complies with district's floodplain rule as required by Rule G, subsection 3.5c.

Because the proposed grading, wetland outlet structure, check dams along the watercourse, and vegetation re-establishment will help control flows, reduce velocities, reduce erosion within the watercourse, promote sediment settling to restore the channel bottom, the project will restore channel stability. The restoration of the wetland outlet will also restore groundwater hydrology by promoting infiltration of the runoff retained in the wetland, which also reduces pollutants. The restoration of the wetland hydrology and vegetation restoration of disturbed areas with native vegetation will help restore the resource and is not likely to have adverse impacts, thus conforming with Rule G, subsection 3.5d.

Because the watercourse is not used for fish spawning or migration, Rule G, Subsection 3.7a does not impose requirements on the project. The project plans indicate the banks will be immediately stabilized after completion of permitted work and revegetated as soon as growing conditions allow (Rule G, Subsection 3.7b). A note is included on the plan sheet indicating the project will be constructed so as to

minimize the potential transfer of aquatic invasive species (e.g., zebra mussels, Eurasian watermilfoil, etc.) to the maximum extent possible (Rule G, Subsection 3.7c).

Rule G, Subsection 3.7d requires compliance with the applicable criteria in subsections 3.3 of Rule F. The plans call for a native woodland edge seed mix to be used along the streambank near the proposed structures, thus conforming with Rule F, Subsection 3.3a (i) Construction drawings indicate that proposed riprap check dam structures will be tied into the existing streambanks at the existing side slopes. Because the ditch checks are not proposed to stabilize the streambank, Rule F, Subsection 3.3a (ii) does not impose requirements on this project. Drawings confirm the proposed check dam structures will follow the existing alignment of the watercourse (Rule F, Subsection 3.3a (iii)). The project proposes the use natural stone riprap for the construction of the check dams with an average size of 6 inches in diameter (MNDOT Class II Riprap). Because the proposed riprap can withstand flow velocities of between 5-10 feet per second, which is greater than the anticipated velocities (3-4 fps), the check dam design is consistent with the erosion intensity for the flow in the watercourse, thus conforming to Rule F, Subsection 3.3a(iii). Because the check dam purpose and design is different than typical riprap installation, Rule F, Subsection 3.3b does not impose requirements on this permit.

To conform to the RPBCWD Rule G the following revisions are needed:

- G1. Before any work subject to District permit requirements commences, maintenance requirements for the check dam structure must be documented in a declaration recorded after review and approval by RPBCWD in accordance with Rule G, Subsection 5.

#### **Rule F: Shoreline and Streambank Stabilization**

Because the land-disturbing activity involves stabilization of the watercourse banks downstream of the wetland, the project must conform to the criteria in Rule F. The applicant is proposing to restore the watercourse banks by grading and installing native woodland edge seed mix with erosion control blanket as allowed in Rule F, subsection 3.1

The applicant computed streambank shear stress along the of the reach is between 0.1 pounds per square foot (psf) and 0.6 psf for the 2-year storm event resulting in the reach being designated a low energy stream because the maximum shear stress is less than 2.5 pounds per square foot (psf). Therefore, most of the reach could be stabilized with native vegetation which can withstand stress of between 0.7-1.7 psf. The design for the stream includes revegetation with a native woodland edge seed mix and erosion control blanket, which are consistent with the design criteria for a low energy stream (Rule F, subsection 3.3.a.i). While bank grading will attempt to produce finished slope below the ordinary high water level (OHW) of 3H:1V where possible without impacts to existing trees, the applicant engineer certified drawings indicating some slopes will remain steeper than 3:1 to match existing slopes (subsection 3.3.a.ii.a).

Drawings confirm the proposed streambank grading will follow the existing alignment of the natural watercourse (Rule F, Subsection 3.3a (iii)). As the above shear stress analysis demonstrates, the native

vegetated streambank restoration measures are reflective of the site conditions. Because no riprap is proposed for the stabilization of the streambank, Subsection 3.3b does not impose requirements on this permit. The RPBCWD Engineer finds that the proposed project conforms to the applicable design criteria in Rule F.

**Rule L: Permit Fee Deposit:**

The RPBCWD permit fee schedule adopted in February 2020 requires permit applicants to deposit \$200 For land-disturbing activities on record single-family residential property to be held in escrow and applied to cover the \$10 permit-processing fee and reimburse RPBCWD for permit review and inspection-related costs and when a permit application is approved, the deposit must be replenished to the applicable deposit amount by the applicant before the permit will be issued to cover actual costs incurred to monitor compliance with permit conditions and the RPBCWD Rules. A permit fee deposit of \$1,000 was received on February 7, 2024. The applicant must replenish the permit fee deposit to the original amount due before the permit will be issued. Subsequently, if the costs of review, administration, inspections and closeout-related or other regulatory activities exceed the fee deposit amount, the applicant will be required to replenish the deposit to the original amount or such lesser amount as the RPBCWD administrator deems sufficient within 30 days of receiving notice that such deposit is due. The administrator will close out the relevant application or permit and revoke prior approvals, if any, if the permit-fee deposit is not timely replenished.

- L1. The applicant must replenish the permit fee deposit to the original amount due before the permit will be issued. As of March 22, 2024 the amount due is \$1,300.

**Rule M: Financial Assurance:**

	Unit	Unit Cost	# of Units	Total
<b>Rule C: Erosion Control</b>				
Silt Fence	LF	\$2.50	50	\$125
Inlet Protection	EA	\$100	0	\$0
Rock Entrance	EA	\$250	1	\$250
Restoration of disturbance	Ac	\$2,500	0.15	\$375
<b>Rule D: Wetland Buffer</b>	LS	\$5,000	1	\$5,000
<b>Rule F: Shoreline and Streambank Stabilization</b>	LF	\$100	250	\$25,000
<b>Rule G: Waterbody Crossing and Structures (1.25 engineers cost = 1.25*\$4000)</b>	LS	1.25*OPC		\$5,000
Contingency (10%)		10%		\$3,575
<b>Total Financial Assurance</b>				<b>\$39,325</b>

**Applicable General Requirements:**

1. The RPBCWD Administrator and Engineer shall be notified at least three days prior to commencement of work.
2. Construction must be consistent with the plans, specifications, and models that were submitted by the applicant that were the basis of permit approval. The date(s) of the approved plans, specifications, and modeling are listed on the permit. The grant of the permit does not in any

way relieve the permittee, its engineer, or other professional consultants of responsibility for the permitted work.

3. The grant of the permit does not relieve the permittee of any responsibility to obtain approval of any other regulatory body with authority.
4. The issuance of this permit does not convey any rights to either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.
5. In all cases where the doing by the permittee of anything authorized by this permit involves the taking, using or damaging of any property, rights or interests of any other person or persons, or of any publicly owned lands or improvements or interests, the permittee, before proceeding therewith, must acquire all necessary property rights and interest.
6. RPBCWD's determination to issue this permit was made in reliance on the information provided by the applicant. Any substantive change in the work affecting the nature and extent of applicability of RPBCWD regulatory requirements or substantive changes in the methods or means of compliance with RPBCWD regulatory requirements must be the subject of an application for a permit modification to the RPBCWD.
7. If the conditions herein are met and the permit is issued by RPBCWD, the applicant, by accepting the permit, grants access to the site of the work at all reasonable times during and after construction to authorized representatives of the RPBCWD for inspection of the work.

### **Findings**

1. The proposed project includes the information necessary, plan sheets and erosion control plan for review.
2. The project conforms to Rules B and F.
3. The project will conform to Rules C, D and G, if the rule specific comments detailed above are addressed.

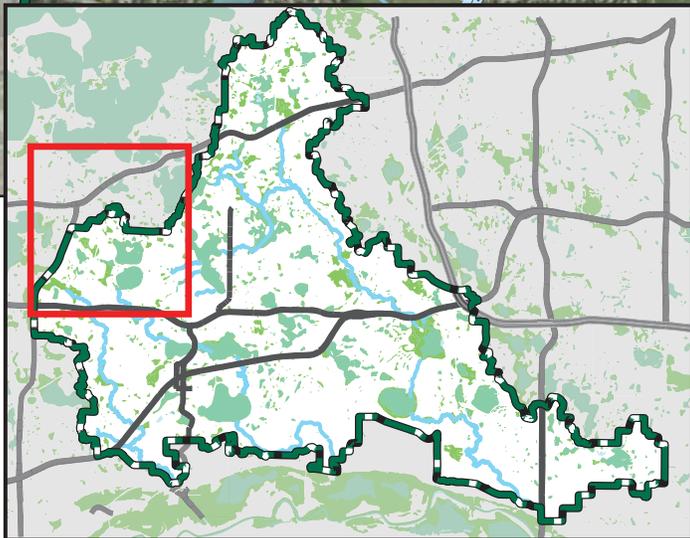
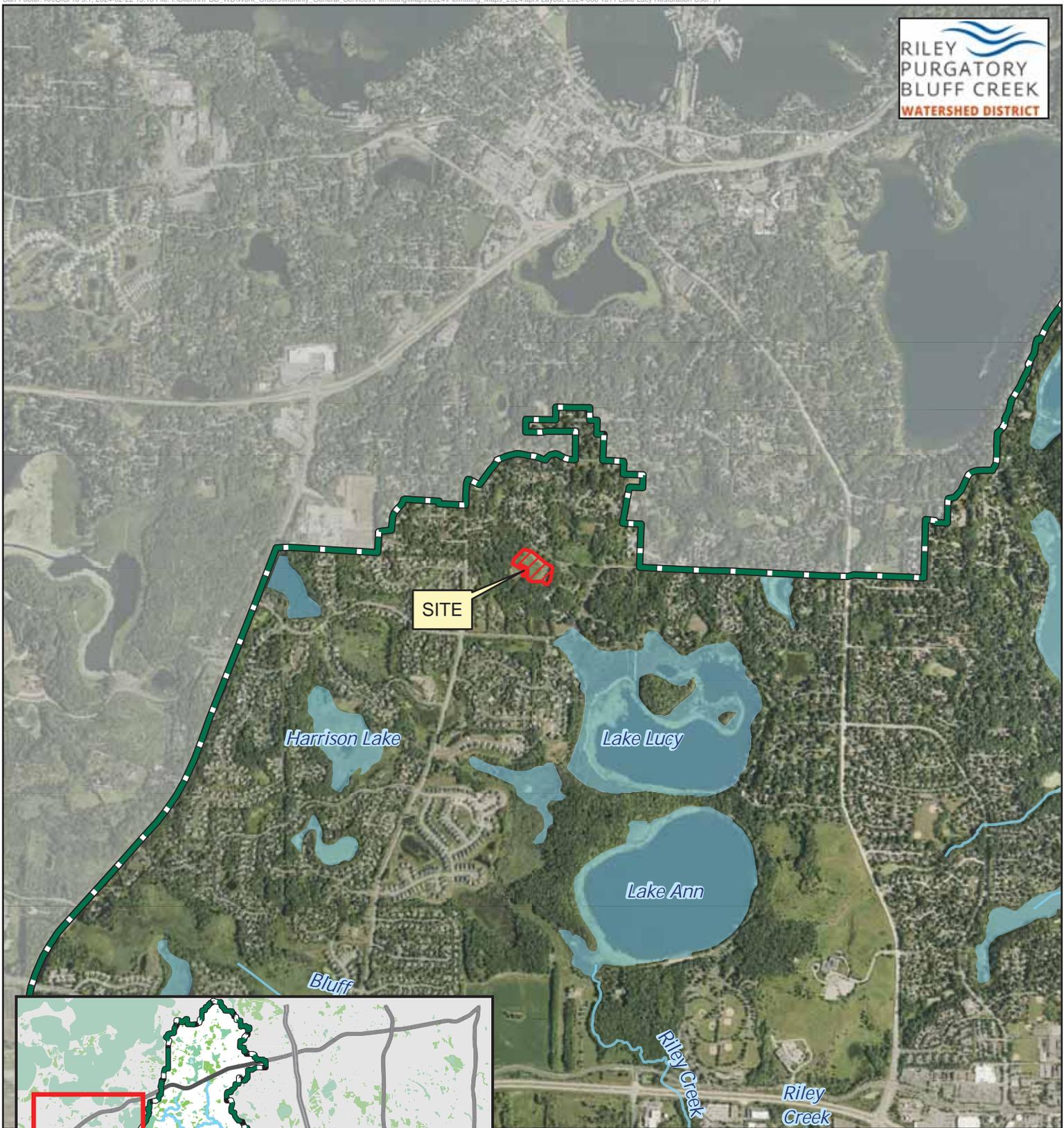
### **Recommendation:**

Approval of the permit contingent upon:

1. Financial Assurance in the amount of \$39,325.
2. The applicant providing the name and contact information of the general contractor responsible for the site.
3. Receipt in recordation a maintenance declaration for the operation and maintenance the wetland buffer areas and check dam structures. Drafts of all documents to be recorded must be reviewed and approved by the District prior to recordation and proof of recordation must be provided to RPBCWD.
4. The applicant must provide the permit fee deposit to the original amount due before the permit will be issued. As of March 22, 2024 the amount due is \$1,300.

By accepting the permit, when issued, the applicant agrees to the following stipulations:

1. Continued compliance with General Requirements.
2. Per Rule C, Subsection 3.3 the permit holder will be responsible for the inspection, maintenance and effectiveness of all erosion prevention and sediment control facilities, features and techniques. The permittee must inspect all erosion prevention and sediment control facilities and soil stabilization measures to ensure integrity and effectiveness until final site stabilization.
3. As noted above, given the joint application for work on the two separately owned subject properties, the applicants will be jointly and severally liable for completion of all work, and must – to the extent necessary – secure the property rights necessary to do so.

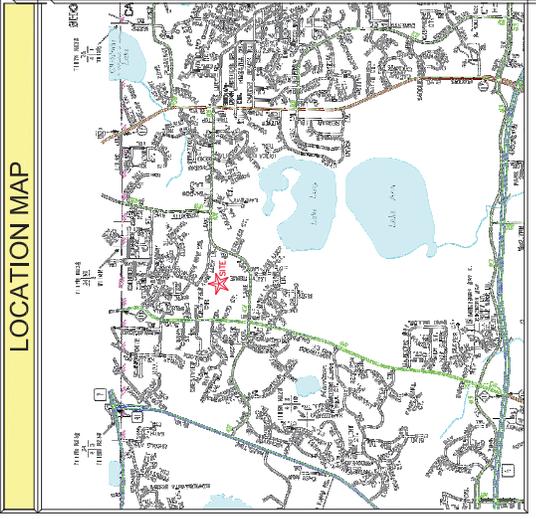


Feet



Permit Location Map

LAKE LUCY RESTORATION  
**Permit 2024-006**  
Riley Purgatory Bluff Creek  
Watershed District



SHEET INDEX TABLE	
SHEET	Description
01	Title Sheet
02-04	Restoration Plan
05	Restoration Details
06	Cross Sections
07	Wetland Buffer & Sequencing

**PREPARED BY**  
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WETLAND BUFFER POST



- NOTES:**
- No activity affecting the bed or banks of a protected water may be conducted between March 15 and June 15 on watercourses or between April 1 and June 30 on all other public water bodies, to minimize impacts on fish spawning and migration.
  - Banks must be stabilized immediately after completion of permitted work and revegetated as soon as growing conditions allow.
  - Natural topography and soil conditions must be protected, including retention of native topsoil to the greatest extent possible.
  - Additional measures, such as hydraulic mulching and other practices as specified by the District must be used on slopes of 3:1 (H:V) or steeper to provide adequate stabilization.
  - Final site stabilization measures must specify that at least six inches of topsoil or organic matter be spread and incorporated into the underlying soil during final site treatment wherever topsoil has been removed.
  - Construction site waste such as discarded building materials, concrete truck washout, chemicals, litter and sanitary waste must be properly managed.
  - All temporary erosion and sediment control BMPs must be maintained until completion of construction and vegetation is established sufficiently to ensure stability of the site, as determined by the District.
  - All temporary erosion and sediment control BMPs must be removed upon final stabilization.
  - Soil surfaces compacted during construction and remaining portions upon completion of construction must be decomposed to achieve a soil compaction testing pressure of less than 1,400 lbf/sqft or 200 pounds per square inch in the upper 12 inches of the soil profile while taking care to protect utilities, tree roots, and other existing vegetation.
  - All disturbed areas must be stabilized within 7 calendar days after hand-ditching work has temporarily or permanently ceased on a property that drains to an impaired water, within 14 days elsewhere.
  - The permittee must, at a minimum, inspect, maintain and repair all disturbed surfaces and all erosion and sediment control facilities and soil stabilization measures every day work is performed on the site and at least weekly until hand-ditching activity has ceased. Thereafter, the permittee must perform these responsibilities at least weekly until vegetative cover is established. The permittee will maintain a log of activities under the section for inspection by the District on request.
  - Import of material to restore excavated trenches is NOT allowed.
  - All work within the creek shall be performed from the bank adjacent or if entry of creek is required, shall be done so that minimum disturbance of creek is created. No. Enter creek as near as possible to site of work with downstream protections installed prior to entry.

Activities must be conducted so as to minimize the potential transfer of aquatic invasive species (e.g., zebra mussels, Eurasian watermilfoil, etc.) to the maximum extent possible.

**FILE NO.**  
46900-002

**CITY PROJECT NO.**  
—

**TITLE SHEET**  
1811 LAKE LUCY RESTORATION  
1811 LAKE LUCY LN

**CHANNES**  
MINNESOTA

**SATHRE-BERGQUIST, INC.**  
14000 25TH AVE NE #220 RLYAOUTH, MN 55447 (852) 475-8900

**DATE**  
1/2023

**SCALE**  
1" = 100'

**DATE**  
1/2023

I HEREBY CERTIFY THAT THIS PLAN OR SPECIFICATION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

*Charles A. Wernstrom, P.E.*  
 Charles A. Wernstrom, P.E.  
 Lic. No. 47180

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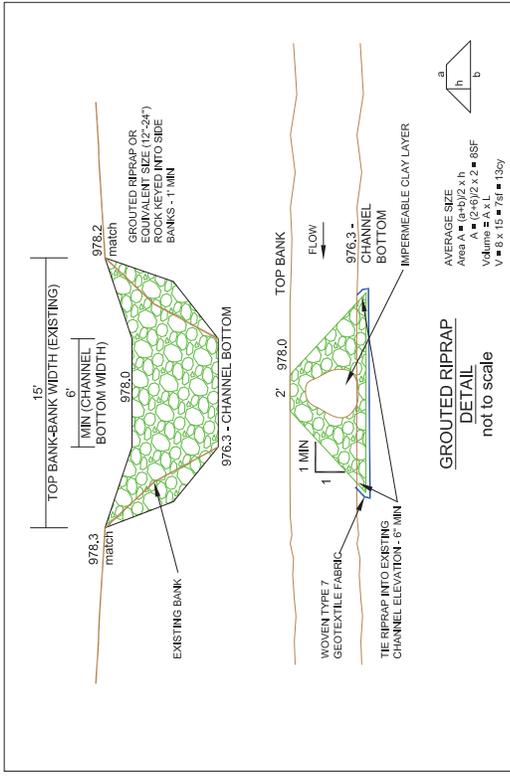
DATE	BY	DATE	REVISION
1/2023	1	3/4/2023	INTERSECT COMMENTS

NOTES: THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES. THE CONTRACTOR SHALL OBTAIN THE NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES. THE CONTRACTOR SHALL OBTAIN THE NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES.



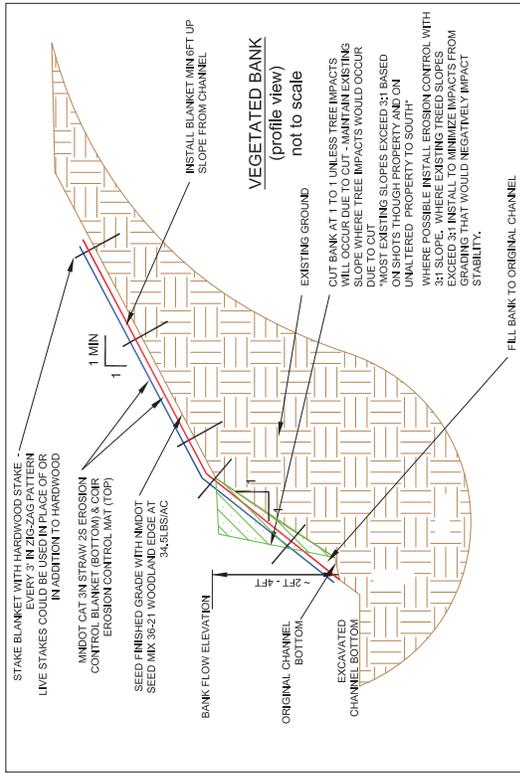




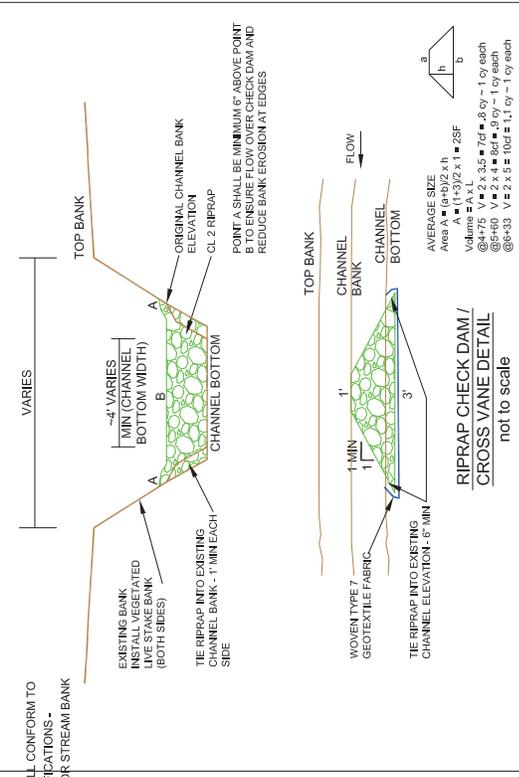


**GROUTED RIPRAP DETAIL**  
not to scale

AVERAGE SIZE  
Area =  $\frac{1}{2} a \times h$   
Volume =  $A \times L$   
 $V = 8 \times 15 \times 7ft = 13cy$



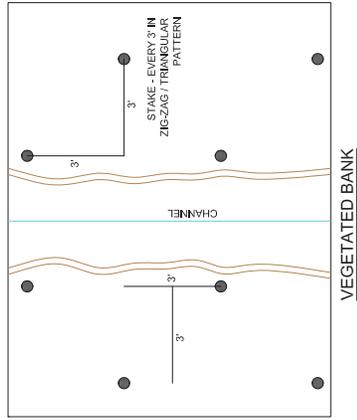
**VEGETATED BANK (plan view)**  
not to scale



**RIPRAP CHECK DAM / CROSS VANE DETAIL**  
not to scale

AVERAGE SIZE  
Area =  $\frac{1}{2} a \times h$   
Volume =  $A \times L$   
 $V = 2 \times 4 \times 1 = 2SF$   
@4+75  $V = 2 \times 3.5 \times 7ft = .8 cy - 1 cy$  each  
@5+60  $V = 2 \times 4 \times 6ft = .9 cy - 1 cy$  each  
@6+33  $V = 2 \times 3 \times 10ft = 1.1 cy - 1 cy$  each

- RIP-RAP NOTES:**
- A. RIP-RAP SHALL BE NATURAL STONE
  - B. STONE, GRANULAR FILTER MATERIAL & GEOTEXTILE MATERIAL SHALL CONFORM TO STANDARD MINNESOTA DEPARTMENT OF TRANSPORTATION SPECIFICATIONS - EXCEPT FOR NEITHER LIMESTONE NOR DOLOMITE WILL BE USED FOR STREAM BANK RIP-RAP.



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DATE	BY	DATE	REVISION
1/2023	CH	3/2023	INTERSECT COMMENTS

I HEREBY CERTIFY THAT THIS PLAN OR SPECIFICATION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

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Lic. No. 47180

**SATHRE-BERGQUIST, INC.**  
14002 25TH AVE N #220 FLYCATCHER, MN 55447 (651) 478-5000

**CHANHASSEN MINNESOTA**

CITY PROJECT NO. \_\_\_\_\_





## Minnesota Wetland Conservation Act Restoration Order

Pursuant to Minn. Stat. § 103G.2372 and MN Rule part 8420.0900, this order is being issued by the Minnesota Department of Natural Resources to restore wetland that was impacted in violation of the Minnesota Wetland Conservation Act. **Violation of this order is a misdemeanor.**

Reference Number: F890598227401

**This order is issued to:**

<b>Name:</b> Kirk and Camille Swanson, Chris and Betsy Preus
<b>Address:</b> 1811 Lake Lucy Ln, Excelsior MN 55331 (Swanson), 1851 Lake Lucy Ln, Excelsior MN 55331 (Preus)

**This order is for wetland impacts that have occurred at the following location:**

<b>County:</b> Carver
<b>Legal Description:</b>
<b>Address or Parcel ID:</b> 1811 and 1851 Lake Lucy Ln, Excelsior MN 55331

**Findings of Fact** (facts that demonstrate the existence of a violation): *Attach additional sheets if narrative exceeds space provided.*

\*This Restoration Order is to replace the Restoration Order and "Findings of Fact" with reference number F890598227401\*

-Please see attached sheets for new "Findings of Fact"

You are hereby ordered to restore impacted wetlands in conformance with the following plan and specifications (actions needed to restore including any referenced attachments): *Attach additional sheets if narrative exceeds space provided.*

1. The above property owner is required to hire a certified wetland delineator to complete a wetland delineation of the above property during the growing season. The wetland delineation report must be submitted to the Local Government Unit (LGU), city of Chanhassen to be reviewed and approved by the Technical Evaluation Panel (TEP). Deadline to submit the delineation report and have it approved is June 15, 2023. -Completed
2. Topographic survey of the entire extent of the ditch throughout neighboring properties, and the delineated wetland. – Add map with all properties that need to be surveyed No later than June 15, 2023- Completed
3. The ditch extending northwest be completely restored to original elevations to pre-project conditions. This ditch was not visible in any aerial photos. This work will trigger grading permit from the city of Chanhassen and must be applied for and required erosion control measures must be installed. This work will also require permitting from RPBCWD. The city must be contacted 48 hours before any work begins to assign someone to observe activities being completed. – No later than May 1, 2024
4. The city will install wetland buffer signs - May 1, 2024
5. The city will install wetland delineation signs/drainage and utility easements signs - May 1, 2024
6. Channel must be stabilized using appropriate erosion control measures. The city must be contacted 48 hours before any work begins to assign someone to observe activities being completed. – May 1, 2024
7. Channel is required to be restored to pre-project conditions, a wetland delineation and topographic survey will determine the extent the wetland and channel will be restored to. – Completed
8. Noninvasive, non-native is not allowed. Vegetation requirements may be needed in addition to the restoration according to the MN wetland seed mix. – May 1, 2024

This order must be complied with by this date: May 1, 2024

**Compliance Options:**

- Comply with the restoration order by the date indicated above.
- Submit an after-the-fact application to the Local Government Unit (see following instructions)

**This Order was Prepared by:**

<b>Name:</b> Tyler Polster	
<b>Organization:</b> Carver County Soil and Water Conservation District (SWCD)	
<b>Address:</b> 11360 Hwy 212, Ste 6, Cologne MN 55322	
<b>E-mail:</b> tpolster@co.carver.mn.us	
<b>Signature:</b> <i>Tyler Polster</i>	<b>Date:</b> 11/6/2023

**This Order was Served by:**

<b>Officer:</b> Lucas Belgard
<b>Badge Number:</b> 559
<input type="checkbox"/> In-person <input checked="" type="checkbox"/> By certified mail
<b>Signature:</b> Lucas Belgard <small>Digitally signed by Lucas Belgard Date: 2023.11.16 07:41:54 -06'00'</small> <b>Date:</b>

**After-the-Fact Application Instructions**

If you wish to submit an after-the-fact application for Wetland Conservation Act compliance, you need to submit all required application materials per Minnesota Rules 8420 and any local requirements to the following Local Government Unit (LGU) that administers the Wetland Conservation Act for this area by the date indicated.

<b>Due Date for After-the-Fact Application Submittal:</b>
<b>LGU Name:</b> City of Chanhassen
<b>LGU Representative:</b> Joe Seidl
<b>LGU Address:</b> 7700 Market Blvd PO Box 147, Chanhassen MN 55317
<b>LGU e-mail:</b> jseidl@chanhassenmn.gov

**Appeal Information**

If you wish to appeal this order, you must provide a written request within 30 calendar days of the date you received the order. All appeals must be submitted to the Board of Water and Soil Resources Executive Director along with a check payable to BWSR for \$500. The check must be sent by mail and the written request to appeal can be submitted by mail or e-mail. The appeal should include a copy of this order, name and contact information of appellant(s) and their representatives (if applicable), a statement clarifying the intent to appeal and supporting information as to why the terms and conditions of the order are in error. Send to:

Executive Director c/o Appeals and Regulatory Compliance Coordinator  
Minnesota Board of Water and Soil Resources  
520 Lafayette Road North  
St. Paul, MN 55155  
[travis.germundson@state.mn.us](mailto:travis.germundson@state.mn.us)

Cc: DNR Conservation Officer  
DNR Water Resource Enforcement Officer  
BWSR Wetland Specialist  
Local Government Unit Representative  
Soil and Water Conservation District



## Minnesota Wetland Conservation Act Technical Evaluation Panel Form

This form can be used to document TEP findings and recommendations related to WCA decisions, determinations, enforcement and pre-application reviews.

<b>Local Government Unit:</b> City of Chanhassen	<b>County:</b> Carver
<b>Landowner/Applicant:</b> Kirk & Camille Swanson/Chris & Betsy Preus	
<b>Agent/Representative(s):</b> Melissa Barrett, Kjolhaug Environmental	
<b>Project Name:</b> Swanson Property	<b>Project No. (if any):</b> 2022-122; 021583-000
<b>Project Location:</b> 1811 Lake Lucy Ln, Chanhassen	

**Purpose of TEP Findings/Recommendation** - check all that apply and describe.

<input type="checkbox"/> Pre-application review <input type="checkbox"/> Application Review (related to WCA Decision) <input type="checkbox"/> Local Government Road Wetland Replacement Program Eligibility <input type="checkbox"/> WCA Determination Request <input checked="" type="checkbox"/> Other (specify): <b>Describe:</b>
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**Meeting Type** – check all that apply and specify dates as applicable.

<input checked="" type="checkbox"/> In-Person Meeting(s), Date(s): 11/3/2023 <input type="checkbox"/> Electronic Exchanges (email, skype, etc.) <input type="checkbox"/> Onsite Review(s), Date(s): <input type="checkbox"/> Other (specify):
--

### Findings and Recommendations

A meeting was held at the Chanhassen City Hall on Friday, November 3 at 10 a.m. and concluded at 11 a.m.

Those present at the meeting included: Betsy and Chris Preus; Kirk Swanson; Charlie Wiemerslage, Sathre-Berquist; Melissa Barret, Kjolhaug Environmental; Tyler Polster, Carver County SWCD; Alyssa Core, BWSR; Joe Seidl, Chanhassen; Mat Nicklay and Zachary Dickhausen, RPBCWD.

**Ditch 2**  
 During the meeting, it was discussed that the plan for ditch 2 (D2) through the Preus property will be to fill the ditch back to grade and reseed. A plan will need to be developed and approved for how the work will be completed.

RPBCWD District engineer requires the use of material excavated from Ditch 2 be used to fill the ditch back in so as not to decrease net floodplain storage by importing material.

**Ditch 1**  
 For ditch 1 (D1) through the Swanson property, the channel through the wetland consists of peat and will sluff in over time. The outlet control structure will be the control so the ditch can be left alone without filling it back in as it is already sluffing in and more damage would be done if it is disturbed.

RPBCWD staff stated they are comfortable with not refilling the channel but allowing for the channel to naturally sluff in and revegetate. This will result in no loss of floodplain storage.

**Outlet Control Structure**  
 Discussion took place over the outlet control structure. Melissa had suggested 977 elevation but the regulatory agencies were not comfortable with the elevation without additional justification or other

information. There is not a pre-project survey therefore it is difficult to determine what the exact elevation driving the wetland should be. As noted by Melissa there is a "saddle" area where the conveyance channel has minimal grade. The survey submitted shows this area at an elevation ranging from approx. 977.0 to 976.2. The cut in this area was observed to be 1 to 2 feet deep. It is reasonable to assume that the wetland was driven by an elevation in the saddle area which was altered by the project. The landowners would agree to 978 if the city and RPBCWD would be comfortable with the elevation. The applicant found evidence that there was tile in the area that may or may not have drained the wetland at a different elevation but no survey data was provided. If the property owner wants to believe that the elevation should be different than 978 they can provide additional information for review. Information would include survey, H&H modeling, and aerial photo analysis. A more accurate elevation, modeling and/or other justification would need to be submitted and approved by the City and Watershed district.

Charlie asked what kind of outlet structure is desired.

Joe suggested keyed in grouted riprap. There are concerns about an earthen berm because of erosion potential. It was suggested that there be a discussion with Scott, engineer for RPBCWD, Charlie and Joe.

**Drainage Way**

Melissa stated that the drainage way is fairly level but has a saddle in the area possibly where the tile was. She stated that the tile was probably in the bottom of the channel. It appears that the excavation made the channel lower causing the elevation to increase at the property level. The channel is unvegetated and a plan needs to be developed to stabilize the system.

The City's perspective is the channel is exposed and causing erosion problems. The excavation created a sharp cut and eroding out since it is not stabilized, and slopes are steep. The property owner needs to stabilize it so additional dumping of sediment does not impact downstream areas.

RPBCWD will require shear stress calculations for how this area will be restored.

It was discussed that the area needs erosion control blanket and seed with a shady seed mix.

**Permitting**

The property owners need to develop a plan to receive permits. Charlie stated that a design will take a couple of weeks. It was agreed that one permit will be required for the entire area.

For RPBCWD, the property owners will need Board Approval for an after-the-fact permit. To get the application at the January 3 Board meeting, the completed application and materials would have to be submitted by November 19, and final review of materials would happen by December 15. Review of a permit application by the Board does not guarantee approval. It may be determined that mandatory conditions will be required for Board approval.

For the City, the property owner will need to complete an on-line grading permit. The permit will receive staff approval.

For the restoration order through Carver SWCD, the current deadlines are on hold. The property owners have requested an extension which the regulatory agencies have agreed is fair. The new deadline will be May 1, 2024. Tyler will send out an extension.

Attachment(s) (specify):

**DNR Protected Waters and Shoreland Protection Zone**

Will the project/activity affect DNR public waters, DNR public waters wetlands or wetlands within the shoreland protection zone?  Yes  No If yes, DNR representative is a member of the TEP.

**Signatures**

<input type="checkbox"/> LGU TEP Member:	Agree with Findings & Recommendations: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Signature: <i>Joe Seidl</i>	Date: 11/15/2023
<input type="checkbox"/> SWCD TEP Member:	Agree with Findings & Recommendations: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Signature: <i>Tyler Polster</i>	Date: 11/15/2023
<input type="checkbox"/> BWSR TEP Member:	Agree with Findings & Recommendations: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Signature: <i>Alyssa Core</i>	Date: 11/15/2023
<input type="checkbox"/> DNR TEP Member:	Agree with Findings & Recommendations: <input type="checkbox"/> Yes <input type="checkbox"/> No
Signature:	Date:



## NOTICE OF PROBABLE VIOLATION

Riley-Purgatory-Bluff Creek Watershed District  
18681 Lake Drive East, Chanhassen, MN 55317  
www.rpbcwd.org

Subject Property: PIN 254070130  
Address: 1851 Lake Lucy Lane, Excelsior, MN 55317  
Property Owner: Christian and Elizabeth Preus  
Permit Number: None Permittee (if different) \_\_\_\_\_  
Contractor: Unknown  
Date and Time: September 5, 2023

The following apparent violations have been observed by RPBCWD staff:

Rule/Permit/Order	Description
1. Rule B – Floodplain Management and Drainage Alterations	Under the rule, "A permit is required for any land-disturbing activity or filling of land below the 100-year flood elevation of a waterbody." RPBCWD staff have found evidence that the waterway through the wetland on the subject property was excavated and, further, that the excavated soils were deposited elsewhere within the wetland and below the 100-year flood elevation of the wetland. There is no record of a permit being obtained from the RPBCWD.
2. Rule C – Erosion Prevention and Sediment Control	"An erosion prevention and sediment control permit must be obtained for any land-disturbing activity," according to Rule C, where there is placement, alteration, or removal of 50 C.Y. of material or more. RPBCWD staff have found evidence that the watercourse on the subject property was excavated, and the excavated materials were deposited elsewhere within the wetland. There is no record of a permit being obtained from the RPBCWD.
3. Rule D – Wetland and Creek Buffer	Under RPBCWD Rule D, "Compliance with the criteria in section 3 of this rule is required for any activity that requires a permit under Rule B – Floodplain Management and Drainage Alterations" RPBCWD staff have found evidence of excavation of the waterway through the wetland on the subject property was excavated and, further, that the excavated soils were deposited elsewhere within the wetland, degrading wetland functions and values. As a result, the project must comply with Rule D. There is no record of a permit being obtained from the RPBCWD.

You are requested to take the following actions to address the circumstances described above:

Action	Requested Date/Time for Compliance
1. <u>Install temporary sediment control adequate to prevent the migration of sediment off the subject property.</u>	<u>September 10, 2023</u>

2. Submit a permit application for after-the-fact review to the RPBCWD.

ASAP but no later than 11/19/2023

This is not a legally binding order of the Riley-Purgatory-Bluff Creek Watershed District. **However, if you do not complete the actions requested above by the indicated deadline(s), RPBCWD staff may schedule an enforcement hearing before the RPBCWD board of managers. You will be provided with notice of the scheduled hearing and, at the hearing, an opportunity to appear before and be heard by the managers.** The timeliness and completeness of your actions will be considered by the board of managers in deciding whether to take further enforcement steps. The board may issue an order requiring remedial, corrective, preventative or other actions to achieve compliance with applicable RPBCWD requirements.

The listing of apparent violations above does not prevent the board from finding additional or other violations on the basis of evidence presented. Under Minnesota Statutes section 103D.545, failure to comply with RPBCWD rules, the conditions of your permit or an order of the board of managers subjects you to possible civil and criminal penalties. Pursuant to RPBCWD Rule L, you will be liable for all costs incurred by RPBCWD in obtaining and monitoring your compliance with applicable RPBCWD rules, permit terms and conditions, and orders of the board of managers, including consultants' costs and attorneys' fees.

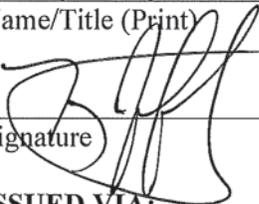
This notice does not affect the ability of any other federal, state or local body of government to take enforcement action against you pursuant to its own laws and regulations.

**ISSUED BY:**

Terry Jeffery / Administrator

Name/Title (Print)

Signature



9/5/23

Date

**ISSUED VIA:**

- EMAIL (email: \_\_\_\_\_)
- IN PERSON
- OTHER (specify: CERTIFIED MAIL)

**ISSUED TO/RECEIVED BY:**

Name/Title (Print)

Date: \_\_\_\_\_

Title/Organization (Print)

Address & Telephone

Signature

*Your signature here indicates only that you received this notice. Your signature does not constitute an admission of any kind with respect to the apparent violations listed above.*

**cc (via email):**

Mat Nicklay, RPBCWD; Michael Welch, Smith Partners PLLP; Joe Seidl, City of Chanhassen; Tyler Polster, Carver County SWCD; Alyssa Core, MN BWSR; Arnaud Kpachavi, DNR



## NOTICE OF PROBABLE VIOLATION

Riley-Purgatory-Bluff Creek Watershed District  
18681 Lake Drive East, Chanhassen, MN 55317  
www.rpbcwd.org

Subject Property: PIN 019-254070120  
Address: 1811 Lake Lucy Lane, Chanhassen, MN 55317  
Property Owner: Kirk and Camille Swanson  
Permit Number: None Permittee (if different) \_\_\_\_\_  
Contractor: Unknown  
Date and Time: January 30, 2023

The following apparent violations have been observed by RPBCWD staff:

Rule/Permit/Order	Description
1. Rule B – Floodplain Management and Drainage Alterations	Under the rule, “A permit is required for any land-disturbing activity or filling of land below the 100-year flood elevation of a waterbody.” There is evidence that the waterway through the wetland on the subject property was excavated and, further, that the excavated soils were deposited elsewhere within the wetland. There is no record of a permit being obtained from the RPBCWD.
2. Rule C – Erosion Prevention and Sediment Control	“An erosion prevention and sediment control permit must be obtained for any land-disturbing activity,” according to Rule C, where there is placement, alteration, or removal of 50 C.Y. of material or more. There is evidence that the waterway on the subject property was excavated, and the excavated materials were deposited elsewhere within the wetland. There is no record of a permit being obtained from the RPBCWD.
3. Rule D – Wetland and Creek Buffer	Under RPBCWD Rule D, “Compliance with the criteria in section 3 of this rule is required for any activity that requires a permit under Rule B – Floodplain Management and Drainage Alterations” There is evidence of work occurring on the subject property which would trigger rule B. As a result, the project must comply with Rule D. There is no record of a permit being obtained from the RPBCWD.

You are requested to take the following actions to address the circumstances described above:

Action	Requested Date/Time for Compliance
--------	------------------------------------

- |    |  |                                  |
|----|--|----------------------------------|
| 1. | Install temporary sediment control adequate to prevent the migration of sediment off the subject property. | 2400 hours on February 5, 2023   |
| 2. | Submit a permit application for after-the-fact review to the RPBCWD.                                       | ASAP but no later than 3/19/2023 |

This is not a legally binding order of the Riley-Purgatory-Bluff Creek Watershed District. **However, if you do not complete the actions requested above by the indicated deadline(s), RPBCWD staff will schedule an enforcement hearing before the RPBCWD board of managers. You will be provided with notice of the scheduled hearing and, at the hearing, an opportunity to appear before and be heard by the managers.** The timeliness and completeness of your actions will be considered by the board of managers in deciding whether to take further enforcement steps. The board may issue an order requiring remedial, corrective, preventative or other actions to achieve compliance with applicable RPBCWD requirements.

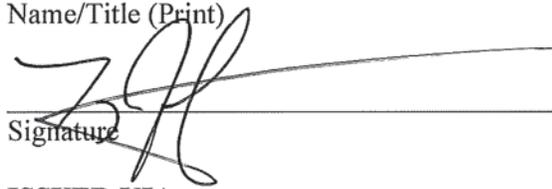
The listing of apparent violations above does not prevent the board from finding additional or other violations on the basis of evidence presented. Under Minnesota Statutes section 103D.545, failure to comply with RPBCWD rules, the conditions of your permit or an order of the board of managers subjects you to possible civil and criminal penalties. Pursuant to RPBCWD Rule L, you will be liable for all costs incurred by RPBCWD in obtaining and monitoring your compliance with applicable RPBCWD rules, permit terms and conditions, and orders of the board of managers, including consultants' costs and attorneys' fees.

This notice does not affect the ability of any other federal, state or local body of government to take enforcement action against you pursuant to its own laws and regulations.

**ISSUED BY:**

Terry Jeffery / Administrator

Name/Title (Print)



Signature

1/30/23

Date

**ISSUED VIA:**

EMAIL (email: \_\_\_\_\_)

IN PERSON

OTHER (specify: \_\_\_\_\_)

**ISSUED TO/RECEIVED BY:**

\_\_\_\_\_  
Name/Title (Print)

Date: \_\_\_\_\_

\_\_\_\_\_  
Title/Organization (Print)

\_\_\_\_\_  
Address & Telephone

\_\_\_\_\_  
Signature

*Your signature here indicates only that you received this notice. Your signature does not constitute an admission of any kind with respect to the apparent violations listed above.*

**cc (via email):**



Mat Nicklay, RPBCWD; Michael Welch, Smith Partners PLLP; Joe Seidl, City of Chanhassen; Tyler Polster, Carver County SWCD; Alyssa Core, MN BWSR; Arnaud Kpachavi, DNR; Elizabeth Schmiesing, Winthrop & Weinstine, P.A