

***CITY OF FALCON HEIGHTS***  
**Regular Meeting of the City Council**  
**City Hall**  
**2077 W. Larpenteur Ave.**

**AGENDA**  
**July 24, 2002**

- A. CALL TO ORDER: 7 p.m.
- B. ROLL CALL:       GEHRZ \_\_\_\_ KUETTEL \_\_\_\_ LAMB \_\_\_\_  
                          LINDSTROM \_\_\_\_ TALBOT \_\_\_\_  
                          WORTHINGTON \_\_\_\_ PHILLIPS \_\_\_\_  
                          ATTORNEY \_\_\_\_ ENGINEER \_\_\_\_
- C. COMMUNITY FORUM:
- D. APPROVAL OF MINUTES: July 10, 2002
- E. CONSENT AGENDA:
  - 1. General disbursements through 7/18/02, \$88,806.57  
   Payroll, 7/1/02 to 7/15/02, \$17,239.29
  - 2. License
- F. PRESENTATION:
  - 1. Kay Andrews of Northwest Youth & Family Services
- G. POLICY AGENDA:
  - 1. National Pollution Discharge Elimination System Letter of Understanding  
   With League of Minnesota Cities
- H. REPORTS FROM COUNCILMEMBERS:
- I. INFORMATION AND ANNOUNCEMENTS:
- J. ADJOURN

**DRAFT**

City of Falcon Heights  
City Council Minutes  
July 10, 2002

Acting Mayor Laura Kuettel opened the meeting at 7 p.m.

PRESENT: Kuettel, Lamb, Lindstrom, Talbot. Also present was city administrator, Heather Worthington

ABSENT: Gehrz, Phillips

COMMUNITY FORUM: There was no one present wishing to speak before council.

MINUTES: The minutes of June 26, 2002 were approved as written.

CONSENT:

Councilmember Lindstrom made a motion to approve the following consent agenda.

1. General disbursements and payroll
2. Licenses
3. Approval of capital expenditure for sidewalk replacement
4. Approval of contract amount with Kern DeWenter Viere Ltd. for 2001 audit expenses related to the GASB-34 conversion

POLICY

2002 Sealcoat and Crackseal Improvements Project

Administrator Worthington said the city originally budgeted \$32,000 for the sealcoating/cracksealing project. Two bids were received for this project and both were higher than anticipated but the reason is that staff researched some new material and found that a granite chip will have more durability, better adherence to the tar, and a better appearance overall than the traditional pea gravel used in past years. The granite chip is about \$1,000 more in cost than pea gravel, but typically lasts about two years longer. Worthington said the other additional expenses are in the form of labor and fuel costs. City engineers anticipate a cost savings over time despite the higher material cost. Worthington also recommended that later this year, council should approve a budget amendment that will put sealcoating into a infrastructure capital expenditure amount. At that time, council can make an addition to the budget to cover additional amount of bid over \$32,000. Councilmember Lamb questioned whether it was too premature to work together with Lauderdale on this particular street project. Worthington responded in the affirmative but said she had talked to staff at Lauderdale and they are interested in combining future projects if it will save both cities some money. Councilmember Lindstrom asked if it would be a cost savings in doing all the city streets at the same time. Worthington said she would do some research on that. After brief discussion, Councilmember Lindstrom made a

motion to authorize staff to contract with Pearson Brothers, Inc. for the NE Quadrant project at a cost of \$44,762.60.

Adoption of a legal fireworks ordinance

Administrator Worthington said the legislature legalized certain types of fireworks that were sold in Minnesota this past year. The city's draft ordinance basically re-states the state statute that legal fireworks may not be used on public property or on private property without the consent of the private property owner. Worthington said council may or may not wish to adopt the ordinance at this time. Councilmember Lamb said he did not think the city should incorporate an ordinance that is already covered by a state statute. Councilmembers Lindstrom and Kuettel said a part of the city's proposed noise ordinance could be made specific to cover fireworks. Councilmember Lamb recommended not to approve the draft ordinance. The ordinance discussion was tabled.

Adoption of Resolution 02-14, authorizing application for the Livable Communities Demonstration Program

Administrator Worthington said the city is required to pass a resolution of support for funding applications to the Metropolitan Council in the Livable Communities Demonstration Account funding. This grant application for funding for the SE Corner Redevelopment Project will cover the construction of a transit shelter, the relocation of utilities, streetscaping, pedestrian links, and underground parking on the site. Councilmember Talbot made a motion to adopt Resolution 02-14 authorizing application for the Livable Communities Demonstration Program. The motion passed unanimously.

Hiring of temporary fire inspector

Administrator Worthington said the city is currently negotiating with the City of Little Canada to finalize an arrangement to share a fire inspector. Until the agreement is finalized, staff is recommending the hiring of Jerry Maleitzke on a temporary basis to do fire inspections for Falcon Heights and Lauderdale. Mr. Maleitzke is a licensed fire inspector currently working part-time for Little Canada. Staff recommends he be an "at-will" employee, and his term of employment will not exceed 90 days. Staff expects to have a draft agreement prepared with the City of Little Canada sometime in late August and will present it for council review. After brief discussion, councilmember Lamb made a motion to approve the hiring of Jerry Maleitzke to serve as fire inspector for a period not to exceed 90 days. The motion passed unanimously.

## INFORMATION

### 1. Review of proposed Noise Ordinance 02-03.

Administrator Worthington said the city has had numerous complaints and police have responded to 30 calls regarding excessive noise. The present city noise ordinance is very vague and Worthington felt a review and discussion of the proposed noise ordinance was needed at this time. A lengthy discussion ensued with councilmember Lamb bringing several points to the attention of everyone that he felt should be examined more thoroughly. Lamb said council needs to be careful to balance the need to be specific without creating unintended consequences. Lamb also said some of the language was discriminatory. After considerable discussion, Acting Mayor Kuettel recommended further review and discussion of this ordinance at a mini-workshop in September.

## INFORMATION AND ANNOUNCEMENTS

Councilmember Lamb said he and Administrator Worthington had attended a Suburban Ramsey County Housing and Redevelopment Authority meeting. Lamb said it was basically a fact-finding and exploratory type of meeting with future meetings to be scheduled.

Councilmember Talbot reminded everyone of the meetings at city hall on July 18<sup>th</sup>, which is the second meeting with the developer on the progress of the SE corner redevelopment. Also, a meeting will be held on Monday, July 22<sup>nd</sup>, regarding Curtiss Field pond.

Acting Mayor Kuettel reminded all of the 3<sup>rd</sup> Annual Agricultural Open House at the St. Paul Campus of the U of M on Saturday, July 27, from 9 to 1 p.m. Also invited everyone to the Ice Cream Social at Community Park on July 25<sup>th</sup> from 6 to 8 p.m.

## ADJOURN

The meeting adjourned at 8:15 p.m.

Respectfully submitted, (via video)

Pat Phillips  
Deputy Clerk

CONSENT 1  
Meeting Date: 7/24/02

ITEM DESCRIPTION: Disbursements

SUBMITTED BY: Roland Olson, Finance Director

EXPLANATION/SUMMARY:

1. General disbursements through 7/18/02, \$88,806.57
2. Payroll, 7/1/02 to 7/15/02, \$17,239.29

ACTION REQUESTED: Approval

APPROVAL OF BILLS  
 PERIOD ENDING: 7-19-02

CHECK#	VENDOR NAME	DESCRIPTION	DEPT.	AMOUNT
	US BANCORP	LMC CONF ROCHESTER EXPS	LEGISLAT	167.60
	*** TOTAL	FOR DEPT 11		167.60
	AMERICAN OFFICE PRODUCTS	ENVELOPES/AWARD FORMS	ADMINIST	51.74
	US BANCORP	LMC CONF HOTEL EXP	ADMINIST	214.53
	US BANCORP	BUSINESS LUNCH MEETING	ADMINIST	25.09
	US BANCORP	BUSINESS LUNCH MEETING	ADMINIST	32.33
	CASH	POSTAGE	ADMINIST	77.65
	CASH	UPS CHARGES	ADMINIST	6.15
	INSTY-PRINTS PLUS	LETTERHEAD ENVELOPES	ADMINIST	398.75
	MIDWEST DELIVERY SERVICE	DELIVERY FEE	ADMINIST	14.65
	MCFOA	MEMBERSHIP/02 HEATHER	ADMINIST	35.00
41387	PERA	JULY 1-15 PERA WITHHOLDS	ADMINIST	1,304.09
	RAMSEY COUNTY	JULY/02 INSURANCE	ADMINIST	3,232.21
	UNITED WAY	PHILLIPS 2ND QTR	ADMINIST	36.00
	UNITED WAY	WORTHINGTON 2ND QTR	ADMINIST	30.00
	COORDINATED BUS. SYSTEMS,	3RD COPIER MAINTENANCE	ADMINIST	370.00
41384	NAFEESA SHABAZZ-BROWN	PARK RENTAL REFUND	ADMINIST	106.50
	*** TOTAL	FOR DEPT 12		5,934.69
	CAMPBELL KNUTSON	JUNE/02 LEGAL SVCS	LEGAL	1,037.61
	*** TOTAL	FOR DEPT 14		1,037.61
	US BANCORP	BADGAMINIT SUPPLIES	COMMUNIC	23.45
	CLOVER SUPER FOODS	ICE CREAM/SUMMER SOCIAL	COMMUNIC	387.33
	CUB FOODS	SHEET CAKE/CAKEWALD ITEM	COMMUNIC	150.95
	MGM LIQUOR	ROOTBEER:SUMMER SOCIAL	COMMUNIC	185.70
	E. JAMES TOROK	BAND FOR ICE CREAMSOCIAL	COMMUNIC	400.00
	QWEST	TELEPHONE	COMMUNIC	599.86
41382	RAMSEY COUNTY DEPARTMENT	TEMP FOOD LICENSE	COMMUNIC	110.00
	DAVID L. WASSON GRAPHIC	2ND QTR NEWSLETTER	COMMUNIC	1,145.50
	*** TOTAL	FOR DEPT 16		3,002.79
	AMERICAN PLANNING ASSOCIA	02/MEMBERSHIP	PLANNING	165.00
	AMERICAN OFFICE PRODUCTS	INK CARTRIDGES GIS PRINT	PLANNING	68.71
	CASTLE INSPECTION SVC	PLUMBING INSPECT/2NDQTR	PLANNING	18.81
	CASTLE INSPECTION SVC	BLDG/PLAN CK 2ND QTR	PLANNING	5,729.39
	*** TOTAL	FOR DEPT 17		5,981.91
	MINNCOMM	PAGER RENTALS	EMERGENC	32.20
	*** TOTAL	FOR DEPT 21		32.20
	ST ANTHONY VILLAGE	AUG/02 POLICE SVCS	POLICE	35,418.92
	*** TOTAL	FOR DEPT 22		35,418.92
	AMERIPRIDE LINEN&APPAREL	LINEN CLEANING	FIRE FIG	42.75
	CY'S UNIFORMS	BADGES FIRE FIGHTERS	FIRE FIG	599.54
	GLENWOOD INGLEWOOD	H2O AND COOLER RENT	FIRE FIG	30.00
	OXYGEN SERVICE COMPANY	TANK RENT	FIRE FIG	45.00
	SUBURBAN ACE HARDWARE	OIL CHAIN BAR/ABSORBENTS	FIRE FIG	97.74
	VERIZON WIRELESS	CELL PHONE CHARGS	FIRE FIG	21.78
	QWEST	TELEPHONE EXP	FIRE FIG	161.33
	*** TOTAL	FOR DEPT 24		998.14
	BROWNING-FERRIS IND.	JULY/02 TRASH COLLECTION	CITY HAL	280.59

APPROVAL OF BILLS  
 PERIOD ENDING: 7-19-02

CHECK#	VENDOR NAME	DESCRIPTION	DEPT.	AMOUNT
	TRUGREEN-CHEMLAWN	CITY HALL LAWN APPL	CITY HAL	159.75
	GLENWOOD INGLEWOOD	H2O AND COOLER RENT	CITY HAL	30.00
	GRAINGER, W. W., INC.	PAPER TOWELS/TISSUE	CITY HAL	286.02
	MERCURY WASTE SOLUTIONS	FLUORESCENT DISPOSALS	CITY HAL	48.62
41383	XCEL ENERGY	ELECT 6/30	CITY HAL	42.25
41383	XCEL ENERGY	ELECT 6/30	CITY HAL	940.45
	J.O. THOMPSON INC.	KITCHEN FLOOR REPAIR	CITY HAL	983.81
	*** TOTAL FOR DEPT 31			2,771.49
	US BANCORP	WORKSHIRTS-PUBLIC WORKS	STREETS	891.00
	TRUGREEN-CHEMLAWN	BLVD LAWN APPL	STREETS	218.33
	TRUGREEN-CHEMLAWN	BLVD LAWN APPL	STREETS	159.75
	LINDERS GARDEN CENTER	FLOWERS FOR PLANTERS	STREETS	42.78
	NRG PROCESSING SOLUTIONS	MULCH/RECYCLE BRUSH	STREETS	296.00
41383	XCEL ENERGY	ELECT 6/30	STREETS	9.30
41383	XCEL ENERGY	ELECT/6/30	STREETS	7.38
41383	XCEL ENERGY	ELECT/6/30	STREETS	75.01
41383	XCEL ENERGY	ELECT/6/30	STREETS	85.01
41383	XCEL ENERGY	ELECT/6/30	STREETS	88.00
41383	XCEL ENERGY	ELECT/6/30	STREETS	8.38
41383	XCEL ENERGY	ELECT/6/30	STREETS	32.62
41383	XCEL ENERGY	ELECT/6/30	STREETS	1,803.48
	XCEL ENERGY	ELECT 7/2	STREETS	7.46
	SUBURBAN ACE HARDWARE	MOTOR OIL/ABSORBENT	STREETS	60.84
	SUBURBAN ACE HARDWARE	ROSE FOOD/KEYS	STREETS	76.57
	UNITED RENTALS	AUGER RENTAL FOR BOBCAT	STREETS	144.40
	*** TOTAL FOR DEPT 32			4,006.31
	HOWARD GREEN COMPANYC.	2002 SIDEWALK REPAIRS	ENGINEER	1,115.40
	HOWARD GREEN COMPANYC.	FULHAM AVE SURVEY	ENGINEER	786.69
	*** TOTAL FOR DEPT 33			1,902.09
	TRUGREEN-CHEMLAWN	CURTIS PK LAWN APPL	PARK & R	90.95
	TRUGREEN-CHEMLAWN	COMM PK LAWN APPL	PARK & R	90.53
	D-ROCK CENTER LANDSCAPE	2YDS SAND	PARK & R	45.80
	HERMES FLORAL COMPANY	PARK SOIL/FERTILIZER	PARK & R	77.88
	HONEYWELL INC.	3RD QTR SECURITY MONITOR	PARK & R	116.75
41383	XCEL ENERGY	ICE RINK AREA LITES	PARK & R	21.17
41383	XCEL ENERGY	ELECT/GAS	PARK & R	289.52
	XCEL ENERGY	ELECT 7/2	PARK & R	51.82
	ON SITE SANITATION	PORTABLE TOILET COMM PK	PARK & R	70.65
	SUBURBAN ACE HARDWARE	FERTILIZER	PARK & R	135.57
	SUBURBAN ACE HARDWARE	PRUNER/BRUSHES/GLOVES	PARK & R	72.89
	UNITED RENTALS	STRIPPING PAINT	PARK & R	55.59
	UNITED RENTALS	STRIPPING PAINT	PARK & R	55.59
41386	VERIZON WIRELESS	3 CELL PHONES	PARK & R	25.01
	KINKO'S INC.	BIG PICTURE/CURTIS FLOOD	PARK & R	159.11
	*** TOTAL FOR DEPT 41			1,358.83
	JEDERBERG,TANYA	REIMB COOKING CLASS EXPS	PARK PRO	32.86
	*** TOTAL FOR DEPT 50			32.86
	E-Z RECYCLING, INC.	JULY/02 RECYCLING	SOLID WA	2,559.40

APPROVAL OF BILLS  
 PERIOD ENDING: 7-19-02

CHECK#	VENDOR NAME	DESCRIPTION	DEPT.	AMOUNT
*** TOTAL FOR DEPT 56				2,559.40
	AMERICAN OFFICE PRODUCTS	FOLDING TABLE	GENERAL	179.56
	AMERICAN OFFICE PRODUCTS	7 SURGE PROTECTORS	GENERAL	147.31
	US BANCORP	TV AND VCR	GENERAL	211.98
*** TOTAL FOR DEPT 63				538.85
	SHORT ELLIOTT HENDRICKSON	CURTIS FIELD SITE INVEST	PUBLIC W	2,781.60
	SUPERIOR ROOFING CONSTRUC	ROOF REPAIR EASTSIDEBLDG	PUBLIC W	1,600.00
*** TOTAL FOR DEPT 65				4,381.60
	METROPOLITAN COUNCIL	AUG/02 S.S.	SANITARY	17,117.50
41383	XCEL ENERGY	ELECT 6/30	SANITARY	70.20
	QWEST	AUTO DIALER LIFT STATION	SANITARY	58.68
*** TOTAL FOR DEPT 75				17,246.38
41385	INTERNAL REVENUE SERVICE	ARBITRAGE PYMT 1996 BOND	LARPENTE	221.57
*** TOTAL FOR DEPT 82				221.57
	CAROLE L. SMITH	JULY 16-31 PROF SVCS	MCAD	1,213.33
*** TOTAL FOR DEPT 84				1,213.33
*** TOTAL FOR BANK 01				88,806.57
*** GRAND TOTAL ***				88,806.57







U.S. BANCORP CARD SERVICES, INC.  
PO BOX 6343  
FARGO, ND 58125-6343

N06639

**U.S. Bank Visa® Business Platinum Card**  
Issued by U.S. Bank National Association ND

Account Number: 4251 2400 0599 8794  
Statement date: Jul. 05, 2002  
New balance \$454.48  
Minimum payment due \$10.00  
Payment must be received: Jul. 25, 2002

JUL 11 2002

Amount Enclosed \$

**454.48**

Please detach and return this coupon with your check payable to:

HEATHER WORTHINGTON  
CITY OF FALCON HEIGHTS  
2077 W LARPEUR AVE  
FALCON HEIGHTS MN 55113-5551

U.S. BANK  
P.O. BOX 790429  
ST. LOUIS, MO 63179-0429

4251240005998794 000045448 000001000

Please tear payment coupon at perforation.

**U.S. Bank Visa® Business Platinum Card**  
Issued by U.S. Bank National Association ND

**New Balance Summary**

Previous balance	\$522.52	
Payments & credits	\$522.52	
New purchases & advances	+	\$454.48
Finance charges	+	\$0.00
Cash advance fees	+	\$0.00
Other fees	+	\$0.00
<b>New Balance</b>		<b>\$454.48</b>

**Account & Payment Information**

Customer name:	HEATHER WORTHINGTON
Company name:	CITY OF FALCON HEIGHTS
Account number:	4251 2400 0599 8794
Statement date:	Jul 05, 2002
Minimum payment due:	\$10.00
Payment must be received:	<b>Jul. 25, 2002</b>
Amount and Date Paid:	

**Credit Available**

Credit limit	\$5,000.00
New balance	- \$454.48
<b>Credit available</b>	<b>\$4,545.52</b>

**Your Resources for Help**

24 Hour Customer Service	1-800-344-5696
Text telephone (TTY)	1-800-585-5035

**Transactions**

Post Date	Tran Date	Reference Number	Transaction Description	Amount
<b>Payment &amp; Credits</b>				
Jun 18	Jun 18	74798262169000000000632	PAYMENT - THANK YOU 00000 C	- \$522.52
				<b>Total Payments and Credits - \$522.52</b>
<b>Purchases</b>				
Jun 14	Jun 12	24403692164900216400093	CIATTIS ITALIAN RESTAURAN FALCON HEIGHT MN	\$32.33
Jun 17	Jun 14	24717052166641662351432	THE BIBELOT SHOPS ST PAUL MN - <i>Craig's going away gift</i>	\$14.93
Jun 21	Jun 19	242707621712868004388656	RADISSON HOTELS/CTRPLACE ROCHESTER MN <i>LMC Conf. Council Dinner</i>	\$187.60
Jun 24	Jun 20	24717052172641725240251	HILTON HOTELS ROCHESTER MN <i>LMC Conf. - hotel</i>	\$214.53
			0000039487 ARRIVAL: 06/18/02	
Jul 01	Jun 26	24236272179400000246072	OL MEXICO ROSEVILLE MN <i>LUNCH MTG.</i>	\$25.09
				<b>Total Purchases \$454.48</b>

**Finance Charge Summary**

	Average Daily Balance	Variable Monthly Periodic Rate	Corresponding APR	Interest Charges
PURCHASES	\$0	1.0125%	12.15%	\$0.00
ADVANCES	\$0	1.2625%	15.15%	\$0.00
<b>Total APR the Cycle: 0.00%</b>				

*OK to pay  
thru 7/10/02*

C H E C K R E G I S T E R

CHECK TYPE	CHECK DATE	EMPLOYEE NAME NUMBER	CHECK NUMBER	CHECK AMOUNT
COM	7 15 02	34 CLEMENT KURHAJETZ	31945	59.75
COM	7 15 02	35 LEO LINDIG	31946	46.07
COM	7 15 02	40 KEVIN ANDERSON	31947	54.95
COM	7 15 02	42 MICHAEL D CLARKIN	31948	59.24
COM	7 15 02	66 ALFRED HERNANDEZ	31949	52.12
COM	7 15 02	74 MARK J ALLEN	31950	66.66
COM	7 15 02	81 LAUREL F SANDBERG	31951	6.47
COM	7 15 02	82 DUSTIN P THUNE	31952	46.70
COM	7 15 02	85 DANIEL S JOHNSON-POWERS	31953	155.13
COM	7 15 02	86 GREGORY R YOUNGS JR	31954	36.48
COM	7 15 02	87 MICHAEL A MCKAY	31955	56.16
COM	7 15 02	90 ANDREW P SCHIPPEL	31956	124.15
COM	7 15 02	91 RICHARD H HINRICHS	31957	292.05
COM	7 15 02	94 CALEB H SORENSON	31958	6.47
COM	7 15 02	95 MICHAEL J POESCHL	31959	47.68
COM	7 15 02	96 DAVID R HOLTZ	31960	181.52
COM	7 15 02	1003 HEATHER WORTHINGTON	31962	1395.72
COM	7 15 02	1007 PATRICIA PHILLIPS	31963	1072.85
COM	7 15 02	1013 WILLIAM MAERTZ	31964	1514.77
COM	7 15 02	1033 DAVE TRETSEVEN	31965	1090.52
COM	7 15 02	1038 DEBORAH K JONES	31966	839.93
COM	7 15 02	1089 KATHLEEN A CIERNIA	31967	263.10
COM	7 15 02	1103 DIANE MEYER	31968	1078.50
COM	7 15 02	1136 ROLAND O OLSON	31969	1464.32
COM	7 15 02	1143 COLIN B CALLAHAN	31970	620.43
COM	7 15 02	1144 ANITA TWAROSKI	31971	136.67
COM	7 15 02	1169 JAY PAUL KURTIS	31972	471.91
COM	7 15 02	1173 ELIZABETH M POSTIGO	31973	362.19
COM	7 15 02	1175 LAURA M SUPPES	31974	205.78
COM	7 15 02	1176 MICHAEL P ECKBERG	31975	450.12
COM	7 15 02	1178 PETER M FISCHER	31976	500.82
COM	7 15 02	1183 ALEX D EVANS	31977	141.88
COM	7 15 02	1185 BAUBAK L AZAR	31978	270.37
COM	7 15 02	1187 SUSAN ENGEL	31979	340.72
COM	7 15 02	1188 NICOLE S GRAHAM	31980	224.28
COM	7 15 02	1189 JEFFREY C OLSON	31981	204.25
COM	7 15 02	1190 COLLEEN SPANGENBERG	31982	519.58
COM	7 15 02	2008 ELIZABETH L. BARRY	31983	58.18
COM	7 15 02	2009 ADAM C. BLEDSOE	31984	195.78
COM	7 15 02	2010 KELLY C. DAMROW	31985	123.75
COM	7 15 02	2011 TIMOTHY J. DAMROW	31986	158.38
COM	7 15 02	2012 KIMBERLY A. KUHENS	31987	73.42
COM	7 15 02	2013 KATIE JO KUEHNS	31988	194.70
COM	7 15 02	2015 CARTER T. LEE	31989	110.82
COM	7 15 02	2016 STACI L. SAMSON	31990	200.79
COM	7 15 02	2017 MATTHEW S. SEIFFERT	31991	166.46
COM	7 15 02	2018 ANNA M. SHELDON	31992	163.23
COM	7 15 02	2019 PRIYA M. SURY	31993	185.35
COM	7 15 02	2020 LEAH M. SVENTEK	31994	214.06
COM	7 15 02	2021 JOHANNA R. WINTERS	31995	130.90
COM	7 15 02	2022 CANDACE ROGERS	31996	91.42
COM	7 15 02	2023 ZACH E. BRAND	31997	222.28
COM	7 15 02	2024 TANYA JEDERBERG	31998	214.06
COM	7 15 02	2025 ANDY J. DAYKIN	31999	275.40

PERIOD END DATE 07/15/02  
SYSTEM DATE 07/14/02

\*\*FILE NOT UPDATED\*\*

PAGE 2

C H E C K R E G I S T E R

CHECK TYPE	CHECK DATE	EMPLOYEE NAME NUMBER	CHECK NUMBER	CHECK AMOUNT
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		COMPUTER CHECKS	17239.29	
		MANUAL CHECKS		.00
		NOTICES OF DEPOSIT		.00

		****TOTALS****	17239.29	
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CONSENT 2  
Meeting Date: 7/25/02

ITEM DESCRIPTION: Licenses

SUBMITTED BY: Pat Phillips, Licensing Coordinator

REVIEWED BY: Heather Worthington, City Administrator

EXPLANATION/SUMMARY:

MECHANICAL CONTRACTOR

Owens Companies, Inc. Lic. #02-728  
Bloomington, MN

ACTION REQUESTED: Approval

**Presentation  
7/24/02**

**ITEM: Presentation by Kay Andrews, Northwest Youth and Family Services**

**SUBMITTED BY: Heather Worthington, City Administrator**

**EXPLANATION:**

Summary: Ms. Andrews will present information to the Council regarding the 2001 Audit of the NYFS, and the goals of her organization. She will also be on hand to answer any questions the Council may have.

**ATTACHMENT:**

Letter and 2001 Audit from NYFS



# Northwest Youth & Family Services

JUL 18 2002

3490 Lexington Avenue North, Suite 205 • Shoreview, MN 55126 • Phone (651) 486-3808 • Fax (651) 486-3858

July 16, 2002

Heather Worthington  
City Administrator  
City of Falcon Heights  
2077 Larpenteur Ave.  
Falcon Heights, MN 55113

Dear Heather:

This letter is to inform you that the 2003 City Participation amount will be \$7,243.00, based on the 2000 census figures and in keeping with the contract with NYFS. This is based on a per capita rate of \$1.30, which has been adjusted according to implicit price deflation index. Your city's population is listed as 5,572 according to the 2000 census.

Attached you will find the materials to be given to each city as designated in the current city contract.

The annual report and second quarter report are being completed and will be sent under separate cover.

Thank you.

Sincerely,

Kay Z. Andrews  
Executive Director

Enc: 2001 Audit

Cc: Roland Olson

**NORTHWEST YOUTH AND  
FAMILY SERVICES**

*FINANCIAL STATEMENTS  
DECEMBER 31, 2001*



**NORTHWEST YOUTH AND FAMILY SERVICES**

Table of Contents

---

	<u>Exhibit</u>	<u>Page</u>
<b>BOARD OF DIRECTORS AND KEY PERSONNEL</b> .....		I
<b>INDEPENDENT AUDITOR'S REPORT</b> .....		1
<b>FINANCIAL STATEMENTS</b>		
Financial Position .....	A-1	2
Activities .....	A-2	3
Cash Flows .....	A-3	4
Functional Expenses .....	A-4	5
Notes to Financial Statements .....		6
<b>INDEPENDENT AUDITOR'S REPORT ON SUPPLEMENTARY INFORMATION</b> .....		13
<b>SUPPLEMENTARY INFORMATION</b>		
Schedule of Support and Revenue and Expenses – Budget and Actual .....	B-1	14
Schedule of Grants – Unrestricted .....	B-2	16
Schedule of Contributions – Unrestricted .....	B-3	17
Schedule of Contributions – Restricted .....	B-4	18

**NORTHWEST YOUTH AND FAMILY SERVICES**  
**BOARD OF DIRECTORS AND KEY PERSONNEL**  
**DECEMBER 31, 2001**

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**Board of Directors**

Amanda Little	Chair
Pat Riermersma	Vice Chair
Jane Spartz	Treasurer
Lois Rem	Secretary
W. Glen Winchell	Board Member
Annie Hoffman	Board Member
Paul Ciernia	Board Member
Chuck MacFarlane	Board Member
Sandra Martin	Board Member
Dean Maschka	Board Member
Jennifer Risdall	Board Member
Marre Jo Sager	Board Member
Laura Kuettel	Board Member
Mary Kay VonDeLinde	Board Member
Cindy Swan-Henderlite	Board Member
Cecilia Warner	Board Member

**Key Personnel**

Kay Andrews	Executive Director
Fran Smith	Business Manager
Perry Lofquist	Community Enhancement Programs Manager
Marcy Luedtke	Development Manager
Rachel Cain	Health Programs Manager



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## INDEPENDENT AUDITOR'S REPORT

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The Board of Directors  
**Northwest Youth and Family Services**  
Shoreview, Minnesota

We have audited the accompanying statement of financial position of **Northwest Youth and Family Services**, as of December 31, 2001, and the related statements of activities, cash flows and functional expenses for the year then ended. These financial statements are the responsibility of the Organization's management. Our responsibility is to express an opinion on these financial statements based on our audit. The prior year summarized comparative information has been derived from the Organization's 2000 financial statements and, in our report dated March 28, 2001, we expressed an unqualified opinion on those financial statements.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatements. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of **Northwest Youth and Family Services**, as of December 31, 2001, and the results of its operations and cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

*Eide Bailly LLP*

Eden Prairie, Minnesota  
March 21, 2002

	<u>2001</u>	<u>2000</u>
<b>LIABILITIES AND NET ASSETS</b>		
<b>CURRENT LIABILITIES</b>		
Current portion of long-term debt	\$ 124,946	\$ 62,300
Current portion of capital lease	1,297	-
Line of credit	-	30,000
Accounts payable	51,949	47,641
Acrued expenses		
Interest	5,703	5,703
Compensated absences	39,000	30,000
Income taxes	-	2,500
Security deposits payable	17,053	17,053
Total current liabilities	<u>239,948</u>	<u>195,197</u>
<b>LONG-TERM LIABILITIES</b>		
Long-term debt, less current portion	730,959	679,323
Obligation under capital lease, less current portion	5,652	-
Total long-term liabilities	<u>736,611</u>	<u>679,323</u>
<b>TOTAL LIABILITIES</b>	<u>976,559</u>	<u>874,520</u>
<b>NET ASSETS</b>		
Unrestricted		
Designated for endowment	13,992	14,209
Undesignated	1,309,389	1,332,010
Total unrestricted net assets	<u>1,323,381</u>	<u>1,346,219</u>
Temporarily restricted	-	137,000
Total net assets	<u>1,323,381</u>	<u>1,483,219</u>
	<u>\$ 2,299,940</u>	<u>\$ 2,357,739</u>

**NORTHWEST YOUTH AND FAMILY SERVICES**  
**STATEMENT OF ACTIVITIES**  
**YEAR ENDED DECEMBER 31, 2001**  
**(With Comparative Totals for 2000)**

Exhibit A-2

	2001			2000
	Unrestricted	Temporarily Restricted	Total	
<b>SUPPORT AND REVENUE</b>				
Support				
Grants	\$ 840,228	\$ -	\$ 840,228	\$ 1,119,801
Contributions	134,171	-	134,171	354,677
Special events	61,160	-	61,160	77,537
Revenue				
Net program service fees	265,111	-	265,111	256,704
Rent	360,731	-	360,731	379,833
Conference fees	32,208	-	32,208	41,404
Investment income	65	-	65	693
Miscellaneous	3,553	-	3,553	3,731
Contributions released from restrictions	137,000	(137,000)	-	-
Total support and revenue	<u>1,834,227</u>	<u>(137,000)</u>	<u>1,697,227</u>	<u>2,234,380</u>
<b>EXPENSES</b>				
Program services	1,271,736	-	1,271,736	1,576,349
Supporting services				
Management and general	148,348	-	148,348	138,007
Fundraising	158,164	-	158,164	161,534
Building operation expenses	278,817	-	278,817	241,819
Total expenses	<u>1,857,065</u>	<u>-</u>	<u>1,857,065</u>	<u>2,117,709</u>
CHANGE IN NET ASSETS	(22,838)	(137,000)	(159,838)	116,671
NET ASSETS AT BEGINNING OF YEAR	<u>1,346,219</u>	<u>137,000</u>	<u>1,483,219</u>	<u>1,366,548</u>
NET ASSETS AT END OF YEAR	<u>\$ 1,323,381</u>	<u>\$ -</u>	<u>\$ 1,323,381</u>	<u>\$ 1,483,219</u>

**NORTHWEST YOUTH AND FAMILY SERVICES**  
**STATEMENT OF CASH FLOWS**  
**YEAR ENDED DECEMBER 31, 2001**  
**(With Comparative Totals for 2000)**

Exhibit A-3

	<u>2001</u>	<u>2000</u>
<b>OPERATING ACTIVITIES</b>		
Change in net assets	\$ (159,838)	\$ 116,671
Charges and credits to net income not affecting cash		
Depreciation and amortization	86,100	84,780
Investments received as contributions	-	(12,189)
Unrealized (gain) loss on investments	498	(693)
Changes in assets and liabilities		
Accounts receivable	(2,520)	3,190
Grants receivable	182,604	(43,721)
Prepaid taxes	(1,461)	-
Other assets	(2,600)	-
Accounts payable	4,308	(38,277)
Accrued expenses	9,000	-
Deferred revenue	-	(21,616)
Income taxes payable	(2,500)	(8,400)
<b>NET CASH PROVIDED BY OPERATING ACTIVITIES</b>	<u>113,591</u>	<u>79,745</u>
<b>INVESTING ACTIVITIES</b>		
Proceeds from sale of investments	-	1,939
Purchases of investments	(281)	-
Purchase of property and equipment	(205,619)	(25,596)
<b>NET CASH USED FOR INVESTING ACTIVITIES</b>	<u>(205,900)</u>	<u>(23,657)</u>
<b>FINANCING ACTIVITIES</b>		
Net proceeds (payments) on notes payable - bank	(30,000)	-
Proceeds from issuance of long-term debt	181,439	-
Payments of capital lease	(424)	-
Payments on long-term debt	(67,157)	(71,735)
<b>NET CASH PROVIDED (USED) FOR FINANCING ACTIVITIES</b>	<u>83,858</u>	<u>(71,735)</u>
<b>NET CHANGE IN CASH</b>	<u>(8,451)</u>	<u>(15,647)</u>
<b>CASH AT BEGINNING OF YEAR</b>	<u>36,633</u>	<u>52,280</u>
<b>CASH AT END OF YEAR</b>	<u>\$ 28,182</u>	<u>\$ 36,633</u>

**NORTHWEST YOUTH AND FAMILY SERVICES**  
**STATEMENT OF FUNCTIONAL EXPENSES**  
**YEAR ENDED DECEMBER 31, 2001**  
**(With Comparative Totals for 2000)**

Exhibit A-4

	2001						2000
	Program Services	Supporting Services		Building Rental Expenses	Total		
		Management and General	Fundraising				
Salaries	\$ 751,981	\$ 96,475	\$ 82,708	\$ 72,623	\$ 1,003,787	\$ 941,779	
Independent contractors	33,995	-	-	-	33,995	37,674	
Payroll taxes and benefits	152,691	23,318	12,527	21,045	209,581	205,713	
Office supplies	11,010	1,597	857	5	13,469	11,470	
Building rental supplies	-	-	-	10,975	10,975	10,387	
Professional services	24,857	8,571	1,642	216	35,286	23,833	
Equipment rental	6,171	689	438	-	7,298	13,727	
Telephone	13,065	942	607	141	14,755	12,068	
Postage	4,910	529	1,099	-	6,538	6,047	
Transportation	14,518	196	362	30	15,106	11,830	
Advertising and promotion	7,320	173	246	-	7,739	9,883	
Printing	969	-	3,726	-	4,695	6,642	
Insurance	11,479	2,317	747	9,110	23,653	23,407	
Utilities	16,368	1,431	942	28,199	46,940	54,483	
Maintenance	15,403	1,554	888	21,059	38,904	28,282	
Building repairs	1,211	43	37	9,274	10,565	21,971	
Interest expense	24,163	1,371	1,099	31,794	58,427	56,817	
Real estate taxes	4,860	416	286	8,340	13,902	10,090	
Training	2,449	250	235	-	2,934	5,828	
Memberships and subscriptions	3,193	650	556	-	4,399	4,096	
Miscellaneous	(501)	3,932	(733)	38	2,736	5,820	
Staff and board development	2,782	1,686	188	-	4,656	3,451	
Project engage	9,958	-	-	-	9,958	8,457	
TEFRA	-	-	-	-	-	317,809	
Teen court	-	-	-	-	-	134	
Family service program	45,752	-	-	-	45,752	34,040	
RAP subsidy	847	-	-	-	847	1,445	
Special projects	14,202	-	-	-	14,202	8,701	
Mental health conferences	26,644	-	-	-	26,644	21,528	
Penny pinchers	5,566	-	-	-	5,566	11,809	
Rent	10,466	-	-	-	10,466	-	
Youth run business stipends	16,088	-	-	-	16,088	24,175	
Concession supplies	-	-	-	-	-	11,111	
Special events	-	-	48,231	-	48,231	62,597	
Curfew center	10,269	-	-	-	10,269	9,809	
Unrelated business income tax	-	-	-	9,340	9,340	9,402	
Bad debt	3,262	-	-	-	3,262	6,614	
Depreciation & amortization	25,788	2,208	1,476	56,628	86,100	84,780	
<b>TOTAL EXPENSES</b>	<b>\$ 1,271,736</b>	<b>\$ 148,348</b>	<b>\$ 158,164</b>	<b>\$ 278,817</b>	<b>\$ 1,857,065</b>	<b>\$ 2,117,709</b>	
% to total Excluding Building Rental Expenses	81%	9%	10%		100%		
% to total Including Building Rental Expenses	68%	8%	9%	15%	100%		

**NORTHWEST YOUTH AND FAMILY SERVICES**  
**NOTES TO FINANCIAL STATEMENTS**  
**DECEMBER 31, 2001**

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**NOTE 1 - NATURE OF ACTIVITIES AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

*Nature of Activities*

Northwest Youth and Family Services (NYFS) is a private, non-profit organization committed to preparing youth and families for healthy lives. Activities of the Organization include:

- Providing counseling and support services to youth, families and the community
- Providing health education and support services to youth, families and area professionals
- Stimulating community understanding of the needs of youth and families
- Providing community linkages through employment, diversion programming and educational seminars

*Basis of Accounting*

The financial statements of the Organization have been prepared on the accrual basis of accounting and, accordingly, reflect all significant receivables, payables, and other liabilities.

*Basis of Presentation*

Financial statement presentation follows the recommendations of the Financial Accounting Standards Board in its Statement of Financial Accounting Standards (SFAS) No. 117, *Financial Statements of Not-for-Profit Organizations*. Under SFAS No. 117, the Organization is required to report information regarding its financial position and activities according to three classes of net assets: unrestricted net assets, temporarily restricted net assets, and permanently restricted net assets. The Organization had no permanently restricted net assets at December 31, 2001.

*Cash and Cash equivalents*

For the purpose of the statement of cash flows, the Organization considers all highly liquid investments with a maturity of three months or less to be cash equivalents. At times, bank deposits may be in excess of FDIC limits.

*Investments*

Investments in marketable securities are stated at fair value. The investments are not FDIC insured and involve investment risks, including the possible loss of the principal invested.

The investments at December 31, 2001 consist of donated equity securities that are board designated for endowment purposes.



## NOTES TO FINANCIAL STATEMENTS

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### *Property and Equipment*

Expenditures for the acquisition of property and equipment are capitalized at cost, and donated property and equipment is capitalized at fair value. Depreciation is computed on the straight-line method over the following useful lives.

	<u>Years</u>
Office furniture and equipment	5-10
Buildings and building improvements	39

### *Leasing Costs*

Costs associated with locating tenants are capitalized and amortized on a straight-line basis over the length of the lease to which they apply.

### *Compensated Absences*

Under the Organization's policies and procedures, employees are granted vacation leave based on the number of years of experience they have at the Organization. Employees may accumulate a maximum of two years of their annual vacation leave benefit. Unused accumulated vacation is paid to employees upon termination.

Employees are able to earn and accumulate sick leave up to a maximum of 90 days. Upon separation, full-time employees with 10 or more years of service are entitled to 50% of their accumulated sick leave, but in no event shall such severance exceed one month's pay.

Compensated absences payable includes vacation and estimated severance payable.

### *Support and Revenue Recognition*

Contributions are recognized when the donor makes a promise to give to the Organization that is, in substance, unconditional. Contributions that are restricted by the donor are reported as increases in unrestricted net assets if the restrictions expire in the fiscal year in which the contributions are recognized. All other donor-restricted contributions are reported as increases in temporarily or permanently restricted net assets depending on the nature of the restrictions. When a restriction expires, temporarily restricted net assets are reclassified to unrestricted net assets.

Program revenue is recorded when earned. The Organization extends unsecured credit to its clients in the normal course of activities.

The Organization uses the allowance method to determine uncollectible contributions, grants, accounts receivable, and contractual allowances. The allowance is based on prior years' experience and management's analysis of the outstanding receivables.

## NOTES TO FINANCIAL STATEMENTS

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### *Functional Allocation of Expenses*

The costs of providing the various programs and activities have been summarized on a functional basis. Accordingly, certain costs have been allocated among the programs and supporting services benefited.

### *Use of Estimates*

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

### *Income Taxes*

The Organization qualifies as a tax-exempt nonprofit organization under Section 501(c)(3) and is not a private foundation under Section 509(a) of the Internal Revenue Code. Certain activities not directly related to the Organization's tax-exempt purpose is subject to taxation as unrelated income.

### *Contributed Property and Services*

In accordance with SFAS No. 116, *Accounting for Contributions Received and Contributions Made*, donated services are recognized as contributions if the services (a) create or enhance non-financial assets or (b) require specialized skills, are performed by people with those skills, and would otherwise be purchased by the Organization. Property, services and other non-cash donations are recorded as in-kind contributions at their estimated market value at the date of donation.

During 2001, the Organization received contributions of radio airtime and newspaper ads valued at approximately \$8,300 in connection with their annual summer special event. In addition, many individuals volunteer their time and perform a variety of tasks that assist the Organization, but these services do not meet the criteria for recognition as contributed services.

### *Comparative Data*

The financial statements include certain prior year summarized comparative information in total but not by net asset class. Such information does not include sufficient detail to constitute a presentation in conformity with accounting principles generally accepted in the United States of America. Accordingly, such information should be read in conjunction with the Organization's financial statements for the year ended December 31, 2000, from which summarized information was derived.

### *Reclassifications*

Certain reclassifications have been made in the 2000 financial statements to conform to the classifications used in 2001.

NOTES TO FINANCIAL STATEMENTS

NOTE 2 – LINE OF CREDIT

The Organization has available a \$50,000 line of credit with a bank, secured by a security agreement, which expires December 31, 2002. The interest rate is a base rate plus 1% (5.75% at December 31, 2001). As of December 31, 2001 there were no borrowings under the line of credit agreement.

NOTE 3 - LONG-TERM DEBT

	<u>2001</u>
Note payable to the Wells Fargo Bank Minnesota, N.A., payable in monthly installments of \$5,710 including interest at 8.25%, matures November 2004.	\$ 176,119
Note payable to Wells Fargo Bank Minnesota, N.A.; payable in monthly installments of \$4,137 including interest at 7.95%, matures November 2003.	94,362
Mortgage note payable to Wells Fargo Bank Minnesota, N.A., payable in monthly installments of \$5,782, including interest at 7.95%, matures October 2005. Interest converts to a floating rate in 2003.	<u>585,424</u>
Total long-term debt	855,905
Less current portion	<u>(124,946)</u>
Total long-term debt, less current portion	<u>\$ 730,959</u>

The notes payable are secured by a security agreement, real estate and assignment of leases and rents and are subject to certain restrictive covenants.

Future maturities of long-term debt are as follows:

<u>Year Ended December 31.</u>	
2002	\$ 124,946
2003	136,903
2004	86,490
2005	<u>507,566</u>
	<u>\$ 855,905</u>

NOTES TO FINANCIAL STATEMENTS

NOTE 4 – LEASE OBLIGATIONS

*As Lessee*

The Organization leases equipment under a capital lease and retail space (Penny Pinchers) under an operating lease. Equipment includes the following under capital leases:

	<u>2001</u>
Equipment	\$ 7,373
Accumulated Depreciation	<u>(184)</u>
Net Book Value	<u>\$ 7,189</u>

Total depreciation expense on the capital leases was \$184 for the year ended December 31, 2001.

The following is a schedule by year of future minimum lease payments required under the leases:

<u>Year Ending December 31,</u>	<u>Capital Leases</u>	<u>Operating Leases</u>
2002	\$ 2,827	\$ 22,000
2003	2,827	22,000
2004	2,827	23,000
2005	2,120	24,000
2006	<u>-</u>	<u>12,000</u>
Total Lease Commitment	\$ 10,601	<u>\$ 103,000</u>
Less Amount Representing Interest	<u>3,652</u>	
Present Value of Future Minimum Lease Payments	\$ 6,949	
Less Current Portion	<u>1,297</u>	
Obligations under Capital Leases, Less Current Portion	<u>\$ 5,652</u>	

Total rent expense was \$10,466 for the year ended December 31, 2001.

## NOTES TO FINANCIAL STATEMENTS

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### *As Lessor*

The Organization leases office space in the building it occupies to tenants under noncancelable operating leases with terms of five to six years.

Future minimum rentals, not including operating costs, under the lease agreements are as follows:

#### Year Ended December 31,

2002	\$ 381,000
2003	374,000
2004	352,000
2005	362,000
2006	362,000
	<hr/>
	\$ 1,831,000
	<hr/>

### **NOTE 5 - RETIREMENT PLAN**

Northwest Youth and Family Services established a tax-sheltered annuity plan under Section 403(b) of the Internal Revenue Code. Employees are eligible to participate after one year of service with the Organization. Participants in the plan can contribute up to 16.66% of their salary. The employer will contribute an additional 5.5% of the participant's salary if the participant contributes at least 4% of their salary. Total contributions made by the Organization for 2001 were approximately \$30,000.

### **NOTE 6 - THIRD-PARTY RATE ADJUSTMENTS**

Patient service revenue, included in program service fees, was derived under federal and state third-party reimbursement programs along with other third-party insurance companies which pay less than 100% of the Organization's fee. The Organization is contractually obligated to write off the remaining amount. The gross and net revenue breakdown is as follows in 2001:

Gross patient service revenue	\$ 311,728
Contractual allowances and write-offs	<hr/> (119,964)
Net patient service revenue	<hr/> \$ 191,764

## NOTES TO FINANCIAL STATEMENTS

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### NOTE 7 - CONTINGENCIES

Substantially all support is received in the form of donations from individual, charitable organizations, foundations, and governmental entities; therefore, the continuation of certain programs of the Organization is dependent upon future funding.

Grants require the fulfillment of certain conditions as set forth in the instrument of the grant. Failure of fulfill the conditions could result in the return of the funds to grantors. Although that is a possibility, the Board deems the contingency remote, since by accepting the gifts and their terms, it has accommodated the objectives of the organization to the provisions of the gift.

### NOTE 8 - SUPPLEMENTAL DISCLOSURES OF CASH FLOW INFORMATION

Cash paid during the year:

Interest	\$	58,430
Taxes	\$	10,801

Non-cash investing and financing activities:

A capital lease obligation of \$7,373 was incurred when the Organization entered into a lease for new equipment in 2001.

**NORTHWEST YOUTH AND  
FAMILY SERVICES**

*SUPPLEMENTARY INFORMATION*



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**INDEPENDENT AUDITOR'S REPORT ON SUPPLEMENTARY INFORMATION**

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The Board of Directors  
**Northwest Youth and Family Services**  
Shoreview, Minnesota

Our report on our audit of the basic financial statements of **Northwest Youth and Family Services** for 2001 appears on page 1. We conducted our audit in accordance with auditing standards generally accepted in the United States of America for the purpose of forming an opinion on the basic financial statements taken as a whole. The schedules B-1 through B-4 are presented for purposes of additional analysis and are not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

*Eide Bailly LLP*

Eden Prairie, Minnesota  
March 21, 2002



**NORTHWEST YOUTH AND FAMILY SERVICES**  
**SCHEDULE OF SUPPORT AND REVENUE AND EXPENSES –**  
**BUDGET AND ACTUAL**  
**YEAR ENDED DECEMBER 31, 2001**

Exhibit B-1

	Budget	Actual	Variance Favorable (Unfavorable)
<b>SUPPORT AND REVENUE</b>			
Support			
Grants	\$ 838,780	\$ 840,228	\$ 1,448
Contributions	318,216	134,171	(184,045)
Special events	65,000	61,160	(3,840)
Revenue			
Mental Health Program fees	179,800	210,214	30,414
Diversion Program fees	13,700	14,042	342
Youth Run Business Program fees	42,400	40,855	(1,545)
Office space and conference room rental	360,746	360,731	(15)
Conference fees	40,000	32,208	(7,792)
Interest income	500	65	(435)
Miscellaneous	7,000	3,553	(3,447)
<b>TOTAL SUPPORT AND REVENUE</b>	<b>\$ 1,866,142</b>	<b>\$ 1,697,227</b>	<b>\$ (168,915)</b>

(continued on next page)

SCHEDULE OF SUPPORT AND REVENUE AND EXPENSES -  
 BUDGET AND ACTUAL - page 2

EXPENSES	Budget	Actual	Variance Favorable (Unfavorable)
Salaries	\$ 1,002,506	\$ 1,003,787	\$ (1,281)
Independent contractors	42,000	33,995	8,005
Payroll taxes and benefits	236,986	209,581	27,405
Office supplies	21,000	24,444	(3,444)
Professional services	25,734	35,286	(9,552)
Telephone	13,120	14,755	(1,635)
Equipment rental	14,000	7,298	6,702
Postage	6,000	6,538	(538)
Transportation	13,000	15,106	(2,106)
Advertising	6,900	7,739	(839)
Printing	7,000	4,695	2,305
Insurance	23,817	23,653	164
Utilities	60,000	46,940	13,060
Contract and maintenance	31,000	49,469	(18,469)
Interest	56,762	58,427	(1,665)
Real estate taxes	7,862	13,902	(6,040)
Training	5,000	2,934	2,066
Memberships and subscriptions	4,686	4,399	287
Miscellaneous	7,252	2,736	4,516
Board development	5,523	4,656	867
Project Engage	9,000	9,958	(958)
TEFRA	-	-	-
Teen Court	-	-	-
Family support	44,500	45,752	(1,252)
RAP subsidy	1,800	847	953
Special projects	10,500	14,202	(3,702)
Conferences	24,000	26,644	(2,644)
Penny Pinchers	5,200	5,566	(366)
Penny Pinchers rent	-	10,466	(10,466)
Youth run business stipends	26,000	16,088	9,912
Curfew center	8,331	10,269	(1,938)
Special events	49,500	48,231	1,269
Unrelated business income tax	10,880	9,340	1,540
Bad debt	1,500	3,262	(1,762)
Depreciation and amortization	84,784	86,100	(1,316)
<b>TOTAL EXPENSES</b>	<b>\$ 1,866,143</b>	<b>\$ 1,857,065</b>	<b>\$ 9,078</b>

**NORTHWEST YOUTH AND FAMILY SERVICES**  
**SCHEDULE OF GRANTS - UNRESTRICTED**  
**YEAR ENDED DECEMBER 31, 2001**  
**(With Comparative Totals for 2000)**

Exhibit B-2

	2001	2000
Federal Grant		
Metro Council-purchased services	\$ 16,000	\$ 16,000
State Grants		
Youth intervention	32,000	32,000
Youth business ventures	53,324	96,726
Total state grants	<u>85,324</u>	<u>128,726</u>
County Grants		
Ramsey County - TEFRA	-	336,233
Ramsey County - Project Engage	28,275	23,629
Ramsey County - Curfew Center	58,900	69,767
Ramsey County - Other	157,174	164,715
Hennepin County	9,222	9,222
Total county grants	<u>253,571</u>	<u>603,566</u>
Municipal Grants		
Roseville	42,658	41,557
New Brighton	28,405	27,672
Shoreview	32,252	31,419
Mounds View	16,082	15,667
Arden Hills (1)	12,097	11,785
Little Canada	11,555	11,257
Falcon Heights	6,737	6,563
St. Anthony	3,265	3,181
North Oaks	4,473	4,358
Total municipal grants	<u>157,524</u>	<u>153,459</u>
Other Grants		
Family services collaborative	327,809	210,550
Teen Court	-	7,500
Total other grants	<u>327,809</u>	<u>218,050</u>
<b>TOTAL GRANTS</b>	<u><u>\$ 840,228</u></u>	<u><u>\$ 1,119,801</u></u>

(1) Funded in part by  
    Lady Slipper \$ 6,000  
    St. Mary's Romanian Church 6,095

**NORTHWEST YOUTH AND FAMILY SERVICES**  
**SCHEDULE OF CONTRIBUTIONS - UNRESTRICTED**  
**YEAR ENDED DECEMBER 31, 2001**

Exhibit B-3

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CONTRIBUTIONS - GENERAL OPERATING

Dellwood Foundation, Inc.	\$ 2,000
Deluxe Corporation Foundation	3,750
Elmer Anderson Foundation	2,000
H.B. Fuller Company Foundation	10,000
Kopp Family Foundation	1,000
Light Brigade, Inc.	6,000
St. Mary's Romanian Church	25,903
US Bank	2,000
Other less than \$1,000	<u>13,290</u>
<b>TOTAL CONTRIBUTIONS - UNRESTRICTED</b>	<b><u><u>\$ 65,943</u></u></b>

**NORTHWEST YOUTH AND FAMILY SERVICES**  
**SCHEDULE OF CONTRIBUTIONS - RESTRICTED**  
**YEAR ENDED DECEMBER 31, 2001**

Exhibit B-4

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RESTRICTED CONTRIBUTIONS - PROGRAMS

American Express Financial Corporation	\$ 10,000
3M Foundation	5,000
New Brighton/Moundsvew Chamber of Commerce	1,500
North Suburban Community Foundation	7,000
Presbyterian Church of the Way	1,348
Star Tribune Foundation	5,000
Other less than \$1,000	<u>38,380</u>
TOTAL CONTRIBUTIONS - RESTRICTED	<u>\$ 68,228</u>



**ITEM: National Pollution Discharge Elimination System Letter of Understanding with League of Minnesota Cities**

**SUBMITTED BY: Heather Worthington, City Administrator**

**EXPLANATION:**

Summary: The City will be required to apply for a Phase II Permit for the National Pollution Discharge Elimination System (NPDES) in 2003. The permit process is very complex, and the standards were just developed by the Minnesota Pollution Control Agency (MPCA) in late June. There is a committee of the LMC meeting regularly to determine what the final guide plan will look like, and how cities will meet the standards established by the Environmental Protection Agency (EPA). There will be significant cost savings for cities that can pool their resources and work together on the Phase II Notice of Intent and Storm Water Pollution Prevention Plan (the first two items required under the Phase II Permit).

In early June, the LMC asked member cities to determine whether or not they would be interested in participating in a joint task force to develop the guide plan, thereby pooling financial resources of several cities, and addressing the first two major items in the Phase II Permit. Staff has researched this issue, and has received a quote of approximately \$50,000 to complete the Phase II permit, \$5,000 of which would be paid to the League to jointly produce a guide plan that all of the participating cities can follow. This will ensure that the guide plan is consistent with the MPCA's standards, and will also be more cost-effective because individual cities will not need to develop that plan "from scratch".

Currently, 69 cities are participating in the Guide Plan development. The approximate cost of the LMC project is \$200,000. That cost will be spread out over the participating cities, and is not expected to exceed \$5,000 per city (with the cost decreasing as more cities participate).

**ATTACHMENT:**

- Letter from LMC
- Background on NPDES

**ACTION REQUESTED:**

- Approval of Letter of Understanding with LMC



145 University Avenue West, St. Paul MN 55103-2044  
Phone: (651) 281-1200 (800) 925-1122  
Fax: (651) 281-1299 TDD (651) 281-1290

---

July 15, 2002

## Letter of Understanding

Re: NPDES Phase II Stormwater Guide Plan – Letter of Understanding

Dear Heather Worthington, Administrator

Thank you for your city's interest in joining with other communities and the League of Minnesota Cities (LMC) to build the NPDES Phase II Stormwater Guide Plan (Guide Plan). The goal of the Guide Plan is to provide your city with a tool to allow it to complete 50% - 65% of your NPDES Phase II Notice of Intent and a Storm Water Pollution Prevention Plan using in-house resources.

Based on the significant number of cities responding to the LMC's June 7, 2002 letter, we are moving ahead to have the LMC Board approve a contract with a consultant to develop the Guide Plan. Due to the time sensitive nature of this project, please sign and return one copy of this Letter of Understanding to the LMC no later than August 15, 2002. LMC will not enter into an agreement with a consultant until it has received sufficient written city commitments to cover the cost of the project. This Letter of Understanding is intended to describe the scope and nature of the project.

The Guide Plan elements will include the following:

- permit application components meeting the six minimum measures required by the USEPA and MPCA;
- a permit task check list;
- a check list for existing city programs;
- a list of acceptable Best Management Practices (BMPs);
- ordinances;
- employee training;
- educational materials & programs;
- access to state and county programs, and requisite contact information;
- form letters and agreements for outside providers; and
- details and options for funding mechanisms to comply with this regulatory program.



Estimates to develop the Guide Plan range from approximately \$100,000 to \$350,000. This cost assumes that a large portion of the work plan will be coordinated by and implemented through League staff. By approving this Letter of Understanding, your city agrees to contribute \$5,000 to help make the Guide Plan a reality.

The process for developing the Guide Plan will include the following components.

Steering Committee: The Steering Committee consists of 15 voting members, all of who are city officials and were selected as volunteers to represent their communities. The first meeting of the Steering Committee is July 16, 2002. The Steering Committee will make a recommendation regarding a consultant for the project and will provide direction for the project as it moves forward. There will be a sub-committee of the Steering Committee that will help LMC short-list firms for interview.

Request for Qualifications / Statement of Qualification: The LMC issued a modified Request for Qualifications (RFQ) on July 12, 2002. The LMC targeted the RFQ to firms that have expressed interest in the project. Additionally, the project was noticed to the City Engineers Association of Minnesota and to the American Council of Engineering Companies of Minnesota

Statements of Qualifications (SOQs) are not to exceed 15 pages, however, if necessary appendix materials including resumes may be unlimited. Firms are asked to provide 10 copies that LMC can have delivered over-night to key the Steering Committee members. Since the RFQ was mailed out on July 12, 2002, the SOQs will be due July 26, 2002, giving firms a two-week turn around.

LMC Board Action: The LMC Board will review and approve the suggested process at their July 25, 2002 Board Meeting.

Interview / Selection of Consultants: Based on the SOQs, the sub-committee of the Steering Committee will develop a short list (3-5 firms) of eligible engineering firms that will be invited to make presentations during the week of August 5, 2002 to the full Steering Committee. The Steering Committee will then make a recommendation to the LMC Board. At its July 25 meeting, the LMC Board may choose to delegate to its Executive Committee the authority to select and contract with the consultant.

LMC enter into contract / Deliverable October 15, 2002: On behalf of the participating cities in the Guide Plan project, the LMC will enter into a contract with a selected consulting firm to produce the final copywritten Guide Plan. The budget has not yet been set, but we anticipate the cost to be about \$200,000. It is anticipated the contract will be let in early August, 2002. The Guide Plan will be due no later than October 15, 2002 and will have a "not to exceed" clause based on the number of communities that agree to participate in the project. In the event the project is completed and delivered for less than the estimated \$5,000 per community, the LMC will make an equitable remittance to all participating communities.

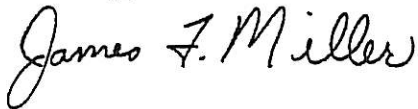
Training / Construction of Permit Application: The Steering Committee will meet at least two times in person with the selected consultant to review the Guide Plan's progress and the final draft. We anticipate the Steering Committee and all participating cities will be given weekly or bi-weekly updates prepared by LMC staff and the consulting firm. Upon delivery of the Guide Plan, it is our expectation that the consulting firm will provide at least two training and education opportunities to participating cities in the use and implementation of the Guide Plan.

Ownership: The final Guide Plan will be the property of LMC, although all participating cities will receive copies of the completed Guide Plan. LMC may provide a copy of the completed Guide Plan to non-participating cities upon payment of an appropriate fee, as determined by LMC. Revenue from the sale of the Guide Plan shall belong to the LMC, to compensate it for the cost and staff time involved in coordinating this project.

The LMC Board of Directors understands the importance of using your city's resources wisely. We support your desire to collaborate with other communities to develop the Guide Plan. As indicated above, LMC will not enter into an agreement with a consultant until it has received sufficient written city commitments to cover the cost of the project. You may include your \$5000 contribution with the signed Letter of Understanding or we will invoice your city for the amount.

If you have any questions about this project or the contract, please contact Remi Stone at (651) 281-1256 or email: rstone@lmnc.org; or Tom Grundhoefer at (651) 281-1266 or email: tgrundho@lmnc.org.

Sincerely,



James F. Miller  
Executive Director

Agreed to on this date \_\_\_\_\_ by the city of \_\_\_\_\_

Attest:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk



MAR 25 2002

145 University Avenue West, St. Paul, MN 55103-2044  
Phone: (651) 281-1200 • (800) 925-1122  
Fax: (651) 281-1299 • TDD (651) 281-1290  
Web Site: <http://www.lmnc.org>

To: City Administrators, Managers, Clerk and Engineers

From: Remi Stone

Re: Storm Water Regulations

By March 2003, nearly 150 Minnesota communities will be facing new storm water system regulations under the NPDES Phase II storm water regulatory program. Compliance with the program may prove to be complex and potentially expensive.

The stormwater program is currently open for public comment. Also, the LMC Annual Conference will feature a session on the stormwater program in Rochester at 10:45 a.m. on Wednesday, June 19, 2002.

Enclosed are several documents regarding the pending National Pollution Discharge Elimination System (NPDES) Phase II storm water regulatory program.

Attached you will find:

1. "Is your city an MS4", LMC Bulletin Article, December 5, 2001
2. "A Phase II primer", LMC Bulletin Article, December 5, 2001
3. "How can your city be on top of the Phase II game?", LMC Bulletin Article, December 19, 2001
4. "Phase II storm water rules open for public comment", LMC Bulletin Article, March 20, 2002
5. Advance Notice for April 30, 2002 NPDES Workshop offered by Bonestroo, Rosene, Anderlik & Associates

Please take a moment to become familiar with this environmental regulatory mandate.

Please share this information with your staff who will have responsibility for managing your city's permit.

Thank you for your attention to this matter. If you have questions please contact me at 651.281.1256 or [rstone@lmnc.org](mailto:rstone@lmnc.org).

ADVANCE NOTICE:

Workshop on NPDES Phase II Permitting for Municipalities, April 30, 2002

To: Interested Municipal Officials

From: Bonestroo, Rosene, Anderlik & Associates

**What: NPDES Phase II Workshop**

**When: Tuesday, April 30, 2002, 9:00 to 12:00 AM**

**Where: Four Points Hotel, Minneapolis**

**Cost: Tentatively set at \$30.00**

Now that the final draft MS4 Permit for NPDES Phase II has been released by the MPCA, it's time to start considering the concrete steps that cities, towns, and counties need to take to meet the requirements of this program.

Bonestroo is offering a three-hour workshop that will provide the details you will need over the next few months. It is set for Tuesday morning, April 30, at the Four Points Hotel, north of Minneapolis, near 35W and Industrial Boulevard. Please mark this date on your calendar.

Presenters from the MPCA, Bonestroo, and other resources will cover hot topics, including:

1. BMP's and measurable goals - matched to the 6 Minimum Control Measures listed in the Permit
2. Using existing plans and programs to meet the Permit requirements
3. Elements of the Annual Reports
4. Software that can help - inspections, reports, tracking measurable goals
5. Meeting the educational requirements of the Permit - finding and working with existing educational programs and resources

If you would like to attend, please reply to the undersigned and let us know how many people may attend from your organization. This does not commit you to the workshop, but would be very helpful for our planning. We will send out a firm workshop notice and registration information in the next few weeks.

We look forward to seeing you there.

Randy Neprash, P.E.  
651-604-4703  
[rneprash@bonestroo.com](mailto:rneprash@bonestroo.com)

Beth Weber  
651-604-4799  
[bweber@bonestroo.com](mailto:bweber@bonestroo.com)

Drew Budelis  
651-604-4734  
[dbudelis@bonestroo.com](mailto:dbudelis@bonestroo.com)



# Minnesota Pollution Control Agency

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June 28, 2002

TO INTERESTED PARTIES:

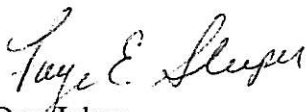
RE: Small Municipal Separate Storm Sewer Systems General Permit MN R580000

On June 25, 2002, the Minnesota Pollution Control Agency (MPCA) Citizens' Board voted to approve the Findings of Fact, Conclusions of Law, and Order which resulted in denial of a contested case hearing and approval for the issuance of the National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) General Permit MN R580000 for Small Municipal Separate Storm Sewer Systems (MS4). The Findings of Fact, Conclusion of Law, and Order document concludes that: the MPCA has jurisdiction, that adequate public notice of the proposed permit issuance was given, the criteria for granting contested case hearing requests have not been met with respect to the issues raised, the requirements for issuance of a permit have been met, and the general permit is in compliance with all applicable state and federal pollution control statutes and rules. This decision for approval of the MS4 general permit completes the state permit issuance process under the Minn. R. 7001.0140.

These permits will become effective on March 10, 2003, and have a five-year term. Application for coverage under this permit must be received no later than March 10, 2003.

We appreciate the time and effort of those who submitted comments on the MS4 general storm water permit. Your input helped to clarify the final document. We hope to have the approved permit and supporting documents on the MPCA web site very soon at:  
<http://www.pca.state.mn.us/netscape4.html>

Sincerely,

*for*   
Don Jakes

Supervisor, Program Technical Support Unit  
Program Support and Training Section  
Regional Environmental Management

DJ:KM:ry

## CHAPTER 8. NUISANCES, OFFENSES AND REGULATION OF AREAS

### SECTION 1. NUISANCES - BLIGHT OR BLIGHTING FACTORS

#### 8-1.01 Causes of Blight or Blighting Factors

It is hereby determined that the uses, structures and activities and causes of blight or blighting factors described herein, if allowed to exist, will tend to result in blighted and undesirable neighborhoods so as to be harmful to the public welfare, health and safety. No person, firm or corporation of any kind shall maintain or permit to be maintained any of these causes of blight or blighting factors upon any property in the City owned, leased, rented or occupied by such person, firm or corporation.

- A. Inoperable Vehicles. In any area zoned for residential purposes, the storage upon any property of inoperable vehicles is illegal. For the purpose of this section, the term "inoperable vehicle" shall include any motor vehicle, part of a motor vehicle, not stored in a garage, which is either (a) unusable or inoperable because of lack of, or defects in component parts; or (b) unusable or inoperable because of damage from collision, deterioration, or having been cannibalized; or (c) beyond repair and not intended for future use as a motor vehicle; or (d) being parked on any street or alley, for a period exceeding 48 consecutive hours; or (e) without valid and current license plates issued by the proper state agency attached.

Special Permits. The City Council in its discretion, upon receipt of an application showing hardship in special circumstances may in the instance of an inoperable vehicle issue a special permit with appropriate conditions attached permitting an individual to keep such vehicle for a period of not to exceed sixty (60) days.

- B. Junk, Trash, Rubbish and Refuse. In any area within the City the storage or accumulation of junk, trash, rubbish or refuse of any kind, except refuse stored in such a manner as not to create a nuisance for a period not to exceed thirty (30) days is illegal. The term "junk" shall include parts of machinery or motor vehicles, unused stoves or other appliances stored in the open, remnants of wood, decayed, weathered or broken construction materials no longer suitable or safe, approved building materials, metal or any other material or cast off material of any kind whether or not the same could be put to any reasonable use.
- C. Littering and Failure to Remove. No person, firm or corporation shall leave, place, throw or deposit rubbish, garbage, yard wastes or other similar substances or materials in any public place, or in any vacant lot or premises in the city, or to neglect or refuse to remove the same.
- D. Noxious Weeds, Vegetation and Substances. No owner agent or occupant of any premises shall permit upon his/her premises any noxious weeds as defined in MN Statutes, Section 18.171, weeds or grass growing to a height greater than six inches or which have gone or are about to go to seed, fallen trees, dead trees, tree limbs or items which are a fire hazard or otherwise detrimental to the health or appearance of the neighborhood.

E. Structures.

1. Unfit Structure. In any area the existence of any structure or part of any structure which because of fire, wind or other natural disaster, or physical deterioration is no longer habitable as a dwelling, nor useful for any other purpose for which it may have been intended is illegal.

2. Vacant Structure. In any area zoned for residential purposes, the existence of any vacant dwelling, garage, or other outbuilding, unless such buildings are kept securely locked, windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals is illegal.

F. Graffiti.

No owner agent or occupant of any premises shall allow or leave on the premises any graffiti, which shall mean any writing, printing, marks, signs, symbols, figures, designs, inscriptions, or other drawings which are scratched, scrawled, painted, drawn, or otherwise placed on any surface of objects, such as buildings, walls, fences, sidewalks, curbs, trees, rocks, or other permanent structures or objects on public or private property or the interior surfaces of those parts of building accessible to the general public and which have the effect of defacing the property. An owner agent may request the city to remove the graffiti by providing a waiver to the city to allow for the removal of graffiti on the owner agent's property. The owner agent will be billed for the cost.

8-1.02 Enforcement.

- A. Notification and Deadline for Removal. The owner and the occupant of any property upon which any of the causes of blight or blighted factors set forth in 8-1.01 is found to exist, shall be notified in writing by the clerk to remove or eliminate such causes of blight or blighting factors from such property within ten (10) days after service of the notice. The notice may be served personally, or by mailing by certified mail, return receipt requested to the last known address of the owner and if the premises are occupied, to the premises. Additional time may be granted by the enforcement officer where bona fide efforts to remove or eliminate such causes of blight or blighting factors are in progress.
- B. Authority to Abate.
- a. In case of failure to remove any blight as defined in Chapter 8-1.01 [A, B, C, D, E, F] after notification and within the time prescribed, the administrator or clerk may order city employees or a contracted party to abate the blighted condition. The responsible person shall be billed for the costs. If the bill is unpaid, the cost shall be certified to the county auditor as a special assessment against the property for collection in the same manner as other special assessments.
  - b. In case of failure to remove any blight as defined in 8-1.01, E (1) and (2), after notification and within the time prescribed, the council may direct the administrator or clerk to proceed as defined in state statutes, Chapter 463.15-261 regarding the repair and/or removal of hazardous and substandard buildings on property.





**Table of Contents**

	<u>Page</u>
<b>I Permit Goals .....</b>	<b>3</b>
<b>II. Coverage Under This Permit .....</b>	<b>3</b>
<b>III. Application Requirements (Notice of Intent) .....</b>	<b>4</b>
<b>IV. Rights and Responsibilities .....</b>	<b>6</b>
<b>V. Storm Water Pollution Prevention Program .....</b>	<b>6</b>
<b>VI. Evaluating, Recordkeeping and Reporting .....</b>	<b>13</b>
<b>VII. Appendix A: Standard Conditions .....</b>	<b>15</b>
<b>VIII Appendix B: Definitions .....</b>	<b>17</b>
<b>IX. Appendix C: Limitations on Coverage .....</b>	<b>21</b>

## PART I. PERMIT GOALS

The primary goal of this permit is to restore and maintain the chemical, physical, and biological integrity of **waters of the state** through management and treatment of urban storm water runoff. This is accomplished by management of **Municipal Separate Storm Sewer Systems** through a **Storm Water Pollution Prevention Program**. The purpose is to maintain water quality standards where there is compliance, and help bring waters that do not meet water quality standards into attainment. It should be noted that when there is a discharge to waters where there are limitations on coverage (Part II. B.), there may be more stringent requirements that must be addressed. You may also voluntarily adopt more stringent measures to meet local goals.

## PART II. COVERAGE UNDER THIS PERMIT

### A. Eligibility

This permit, including appendices, authorizes discharges of storm water from **Small Municipal Separate Storm Sewer Systems** as defined in 40 CFR 122.26 (b)(16).

### B. Limitations on Coverage

1. This permit does not authorize discharges other than storm water. Non-storm water discharges may include: combined sewer overflow, noncontact cooling water, sewage, wash water, scrubber water, spills, oil, hazardous substances, fill, commercial equipment/vehicle cleaning and maintenance wastewaters. A separate NPDES permit may be required for these discharges.
2. This permit does not authorize the discharge of storm water when a separate NPDES permit is required for these activities. For example, while storm water from industrial activity or construction activity may be discharged from a **MS4** with authorized storm water discharges, this permit does not replace or satisfy any other permits required for those discharges.
3. This permit does not authorize the discharge of storm water from any other entity located in the drainage area or outside the drainage area. Only your system and the portions of the storm sewer system that are under your operational control are authorized by your permit.
4. This permit does not authorize the following **new or expanded** discharges unless the requirements of Appendix C are met:
  - a. Discharges into waters with Prohibited Discharges as defined in Minn. R. 7050.0180, subp. 3, 4 and 5.
  - b. Discharges into waters with Restricted Discharge as defined in Minn. R. 7050.0180, subp. 6, 6a and 6b.
  - c. Discharges into Trout waters as defined in Minn. R. 6264.0050, subp 2 and 4.

- d. Discharges into Wetlands as defined in Minn. R. 7050.0130, subp. F (see also Minn. R. 7050.0186).
- e. Discharges that have not met applicable Environmental Review required by state or federal laws.
- f. Discharges whose direct, indirect, interrelated, interconnected, or independent impacts would jeopardize a listed endangered or threatened species or adversely modify a designated critical habitat.
- g. Discharges which adversely affect properties listed or eligible for listing in the National Register of Historic Places or affecting known or discovered archeological sites.

C. Obtaining Authorization

In order for storm water discharges from **Small Municipal Separate Storm Sewer Systems** to be authorized to discharge under this general permit, a discharger must:

1. Submit an application with a summary of the **Storm Water Pollution Prevention Program** in accordance with the requirements of Part III, using a form provided by the Commissioner (or a photocopy thereof).
2. Where the ownership or operational control of the **MS4** changes significantly, or where a new owner of the **MS4** is added after the submittal of an application under Part III, a new application must be submitted in accordance with Part III.
3. Unless notified by the Commissioner to the contrary, dischargers who submit a complete application in accordance with the requirements of this permit are authorized to discharge storm water from **Small Municipal Separate Storm Sewer Systems** under the terms and conditions of this permit, on the issuance date of this permit. If the application is received after the issuance date, discharge is authorized on the date the application is received by the agency.
4. The Commissioner may deny coverage under this permit and require submittal of an application for an individual NPDES permit based on a review of the application or other information, in accordance with Minn. R. ch. 7000 and 7001.

**PART III. APPLICATION REQUIREMENTS (Notice of Intent)**

A. Deadlines for Notification

If you are an owner or operator of a regulated small municipal separate storm sewer system designated under 40 CFR § 122.32, you must apply for coverage under an NPDES permit by March 10, 2003. If you fail to make the application, you are out of compliance and must submit an application. **MS4s** that are designated for coverage after March 10, 2003, will need to apply by the date specified in the designation criteria.

B. Signature

The Application shall be signed in accordance with application forms provided by the Commissioner and shall include the following information:

1. The street address, county, and the owner or person with operational control of the **MS4** for which the notification is submitted; and
2. The name, address, and telephone number of the person responsible for overall permit compliance.

C. Summary

A summary of the Storm Water Pollution Prevention Program for implementing the permit shall be attached to the application, including:

1. The **Best Management Practices (BMPs)** that you will implement for each of the storm water minimum control measures at Part V, G. of this permit;
2. The measurable goals for each of the **BMPs**, including, as appropriate, the months and years in which you will undertake required actions, including interim milestones and the frequency of the action, in narrative or numeric form, as appropriate;
3. Estimated timeline(s) (months, years) in which you will implement each **Best Management Practice**; and
4. Person(s) responsible for implementing and/or coordinating each component of the Phase II Storm Water Program. This should be the person you want the Agency to contact for the particular component; it may be the overall coordinator or other individual.

D. Where to Submit

Applications signed in accordance with Part III B. of this permit, are to be submitted to the Commissioner at the following address:

MS4 Storm Water Program  
MPCA  
520 Lafayette Road North  
St. Paul, MN 55155-4194

E. Record Retention

The applicant shall retain copies of the permit application, all data and information used by the applicant to complete the application, and additional information requested by the Commissioner during the review of the application for a period of at least three years beyond the date of permit expiration. This period is automatically extended during the

course of an unresolved enforcement action regarding the facilities or as requested by the Commissioner.

#### **PART IV. RIGHTS AND RESPONSIBILITIES**

- A. The Commissioner may modify this permit or issue other permits, in accordance with Minn. R. 7001, which include more stringent effluent limitations, including permit requirements that modify, or are in addition to, the minimum control measures. These modifications may be based on the Commissioner's determination that such limitations are needed to protect water quality.
- B. You may request individual permits based on Minn. R. ch. 7000, 7001 and other applicable rules.
- C. Section 303(d) listings and **Total Maximum Daily Load (TMDL)** implementation plans.

If your MS4 discharges to a **water of the state** that appears on the current USEPA-approved list of impaired waters under Section 303(d) of the Clean Water Act, you must review whether changes may be warranted in your **Storm Water Pollution Prevention Program** to reduce the impact of your discharge. If an implementation plan has been developed for a USEPA-approved **TMDL(s)**, you must review the adequacy of your Storm Water Pollution Prevention Program to meet the **TMDL's** load allocation set for storm water sources. This review must include assessment of: 1) your MS4's contribution to the overall storm water allocation, 2) your MS4's selected BMPs and their effectiveness in meeting the **TMDL's** allocation goal, and 3) whether your timeline for putting BMPs in place is consistent with the timeline of the **TMDL** implementation plan. If the **Storm Water Pollution Prevention Program** is not meeting the applicable requirements, schedules and objectives of the **TMDL** implementation plan, you must modify your **Storm Water Pollution Prevention Program**, as appropriate.

#### **PART V. STORM WATER POLLUTION PREVENTION PROGRAM**

- A. You must develop, implement and enforce a **Storm Water Pollution Prevention Program** designed to minimize the discharge of pollutants from your small municipal separate storm sewer system, to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act.
- B. Your **Storm Water Pollution Prevention Program** must be designed and managed to minimize the discharge of pollutants from your storm sewer system to the **Maximum Extent Practicable (MEP)**. You must manage your municipal storm sewer system in compliance with the Clean Water Act and with the terms and conditions of this permit. You must manage, operate, and maintain the storm sewer system and areas you control that discharge to the storm sewer system in a manner to minimize the discharge of pollutants. The **Storm Water Pollution Prevention Program** will consist of a combination of Best Management Practices (**BMPs**), including education, maintenance, control techniques, system design and engineering methods, and such other provisions as you determined to be appropriate, as long as the **BMPs** meet the minimum requirements of this permit.

- C. You shall submit an annual report on the implementation of the **Storm Water Pollution Prevention Program** by March 10 of each year, or on another date if established for your **MS4** by the Commissioner, beginning in 2004 in accordance with the Reporting Requirements of Part VI. C.
- D. Your **Storm Water Pollution Prevention Program** must include **BMPs** that control or reduce pollutants, as appropriate for your community. In the development of **BMPs** for your **Storm Water Pollution Prevention Program**, you must consider the sources of pollutants, the potentially polluting activities being conducted in the watershed, and the sensitivity of the receiving waters. For **MS4s** that have discharges to "Outstanding Resource Value Waters" listed in (Minn. R. 7050.0180, subp. 6, 6a or 6b, (listed waters, or Waters With Restricted Discharges) see the Part IX, Appendix C, section B for additional requirements.
- E. For each minimum control measure, there shall be a description of the **BMPs** for this measure, responsible department in charge, an implementation schedule and measurable goals that will be used to determine the success or benefits of the **BMPs**.
- F. The **Storm Water Pollution Prevention Program** shall become an enforceable part of this permit upon receipt of the complete application for coverage under this permit by the Agency. Modifications to the **Storm Water Pollution Prevention Program** that are required or allowed by this permit shall also become enforceable provisions.
- G. The six minimum control measures to be included in your **Storm Water Pollution Prevention Program** are listed below. You must define appropriate **BMPs** for these minimum control measures and measurable goals for each **BMP**.
  - 1. Public education and outreach on storm water impacts. You must select and implement a program of appropriate **BMPs** and measurable goals for this minimum control measure. At minimum:
    - a. You must implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff.
    - b. You must specifically implement an education program that individually addresses each Minimum Control Measure (Parts V, G. 1 through 6):
      - 1) Public education and outreach;
      - 2) Public participation;
      - 3) Illicit discharge detection and elimination;
      - 4) Construction site storm water runoff control;
      - 5) Post-construction storm water management in new development and redevelopment; and
      - 6) Pollution prevention/good housekeeping for municipal operations.
    - c. For each control measure, your education program must identify:

- 1) The audience or audiences involved;
  - 2) Educational goals for each audience in terms of increased awareness, increased understanding, acquired skills, and/or desired changes in behavior;
  - 3) Activities used to reach educational goals for each audience;
  - 4) Activity implementation plans, including responsible department in charge, entities responsible for given activities, and schedules; and
  - 5) Available performance measures that can be used to determine success in reaching educational goals.
- d. You must describe how your education program is coordinated with and makes effective use of other storm water education programs being conducted in your area by other entities as appropriate for your **MS4**, including, but not limited to: community groups, nonprofit organizations, lake conservation districts, soil and water conservation districts, watershed districts, watershed management organizations, school districts, University of Minnesota Extension, and county, regional, state, and federal government.
- e. You must hold at least one public meeting per year addressing the **Storm Water Pollution Prevention Program** annual report. You must hold the public meeting prior to submittal to the Commissioner of the annual report, required in Part VI. C.
- 1) Location. The public informational meeting must be held in the general vicinity of the **MS4**, which is the subject of the permit. Otherwise, the public informational meeting must be held in a place that is generally convenient to persons expected to attend the meeting.
  - 2) Notice. You must prepare a notice of the public informational meeting at least 30 days prior to the meeting. The notice must contain a reference to the **Storm Water Pollution Prevention Program**, the date, time, and location of the public informational meeting; a concise description of the manner in which the public informational meeting will be conducted; and shall indicate where a copy of the **Storm Water Pollution Prevention Program** is available for public review.
  - 3) Distribution of notice. You must publish the notice in a **newspaper** of general circulation in the general vicinity of the **MS4**, and shall make available a copy of the notice to the Agency, the appropriate city and county officials, and all other persons who have requested that they be informed of public meetings for the **Storm Water Pollution Prevention Program**.
  - 4) Joint meetings. You may consolidate two or more matters, issues, or related groups of issues, or hold joint **MS4** public meetings with other permittees to meet the requirements of this part. These public meetings may be part of a larger public meeting, such as a city council meeting, provided that adequate public notice and opportunity to participate is provided.

2. Public participation/involvement. You must select and implement a program of appropriate **BMPs** and measurable goals for this minimum control measure. At minimum:
  - a. You must comply with applicable public notice requirements of Part V, G.1.e.2 when implementing the provisions of the **Storm Water Pollution Prevention Program**.
  - b. You must get public input and opinion on the adequacy of the **Storm Water Pollution Prevention Program**, including input from the public meeting, described in Part V, G.1.e., each year prior to submittal of the annual report to the Commissioner, which is described in Part VI, C.
    - 1) You must afford interested persons a reasonable opportunity to make oral statements concerning the **Storm Water Pollution Prevention Program**.
    - 2) You must consider timely, relevant written materials that interested persons submit concerning the **Storm Water Pollution Prevention Program**.
    - 3) You may establish procedures and processes for each speaker's presentation, require speakers with similar views to select a spokesperson, specify the timing and format of written materials or make similar rules, to help ensure an opportunity for full and fair consideration of all views.
  - c. You must consider the public input, oral and written, to the **Storm Water Pollution Prevention Program** and shall make adjustments you find appropriate.
3. Illicit discharge detection and elimination. You must develop, implement and enforce a program to detect and eliminate illicit discharges as defined at 40 CFR 122.26(b)(2) into your small **MS4**. You must also select and implement a program of appropriate **BMPs** and measurable goals for this minimum control measure. At minimum:
  - a. You must develop, if not already completed, a storm sewer system map showing the location of:
    - 1) Ponds, streams, lakes and wetlands that are part of your system;
    - 2) Structural pollution control devices (grit chambers, separators, etc.) that are part of your system;
    - 3) All pipes and conveyances in your system, as a goal--but at minimum--those pipes that are 24 inches in diameter and over;
    - 4) Outfalls, including discharges from your system to other **MS4s**, or waters and wetlands that are not part of your system (where you do not have operational control); structures that discharge storm water directly into groundwater; overland discharge points and all other points of discharge from your system that are outlets, not diffuse flow areas.



- b. You must, to the extent allowable under law, effectively prohibit, through ordinance or other regulatory mechanism, non-storm water discharges into your storm sewer system and implement appropriate enforcement procedures and actions;
- c. You must develop and implement a program to detect and address non-storm water discharges, including illegal dumping, to your system;
- d. You must inform employees, businesses, and the general public in your MS4 area of hazards associated with illegal discharges and improper disposal of waste;
- e. You must address the following categories of non-storm water discharges or flows (i.e., illicit discharges), only if you identify them as significant contributors of pollutants to your small MS4:

water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water, discharges or flows from fire fighting activities.

- 4. Construction site storm water runoff control. You must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to your small MS4 from construction activities within your jurisdiction that result in a land disturbance of greater than or equal to one acre. Reduction of storm water discharges from construction activity disturbing less than one acre must be included in your program, if that construction activity is part of a larger **common plan of development or sale** that would disturb one acre or more. You must also select and implement a program of appropriate **BMPs** and measurable goals for this minimum control measure, at minimum:
  - a. An ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under law. These ordinances or regulatory mechanisms must be in place by March 11, 2005;
  - b. Requirements for construction site operators to implement appropriate erosion and sediment control best management practices;
  - c. Requirements for construction site operators to control waste, such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;

- d. Procedures for site plan review which incorporate consideration of potential water quality impacts;
  - e. Procedures for receipt and consideration of reports of non compliance or other information on construction related issues submitted by the public, and
  - f. Procedures for site inspection and enforcement of control measures.
5. Post-construction storm water management in new development and redevelopment. You must develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects within your jurisdiction that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger **common plan of development or sale**, that discharge into your small MS4. Your program must ensure that controls are in place that would prevent or minimize water quality impacts. You must also select and implement a program of appropriate **BMPs** and measurable goals for this minimum control measure. At minimum:
- a. Develop and implement strategies which include a combination of structural and/or non-structural best management practices (**BMPs**) appropriate for your community;
  - b. Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under law; and
  - c. Ensure adequate long-term operation and maintenance of **BMPs** installed as a result of these requirements.
6. Pollution prevention/good housekeeping for municipal operations. You must select and implement a program of appropriate **BMPs** and measurable goals for this minimum control measure. At minimum:
- a. You must develop and implement an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations. Training materials that are available from the USEPA, state and regional agencies, or other organizations may be used as appropriate or modified for your community. Your program must include employee training to prevent and reduce storm water pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system maintenance.
  - b. You must also:
    - 1) Operate and maintain your storm water system in a manner so as to minimize the discharge of pollutants.

- 2) Inspect annually all structural pollution control devices, such as trap manholes, grit chambers, sumps, floatable skimmers and traps, separators, and other small settling or filtering devices.
- 3) Inspect, at minimum, 20% of the MS4 outfalls, sediment basins and ponds each year on a rotating basis, during the effective period of this permit.
- 4) Based on your inspection, determine if repair, replacement, or maintenance measures are necessary for proper operation and to prevent environmental impacts such as erosion. The necessary measures shall be completed as soon as possible, usually during the same year as the inspection. When this is not practicable, the reasons and a schedule for completion shall be submitted in the annual report.
- 5) Summarize the results of outfall inspections in the annual report and include the dates of inspection and the date of completion of major additional protection measures.
- 6) Keep records of inspection results, date, antecedent weather conditions, sediment storage and capacity remaining, and any maintenance performed or recommended. After two years of inspections, if patterns of maintenance become apparent, the frequency of inspections may be adjusted. If maintenance or sediment removal is required as a result of each of the first two annual inspections, the frequency of inspection shall be increased to at least two (2) times annually, or more frequently as needed to prevent carry-over or washout of pollutants from the structures and maximize pollutant removal. If maintenance or sediment removal is not required as a result of both of the first two annual inspections, the frequency may be reduced to once every two years.

#### H. Modifications to the **Storm Water Pollution Prevention Program**

1. The Commissioner may require you to modify the **Storm Water Pollution Prevention Program** as needed, and may consider the following factors:
  - a. Discharges from the storm sewer system are impacting the quality of receiving waters;
  - b. More stringent requirements are necessary to comply with new state or federal regulations; or
  - c. Additional conditions are deemed necessary to comply with the goals and requirements of the Clean Water Act.
2. Modifications required for your **Storm Water Pollution Prevention Program** shall be requested by the Commissioner in writing, setting forth schedules for compliance, offering you the opportunity to propose alternative program modifications, and comply with other requirements of law, to meet the objectives of the requested modification.

3. The **Storm Water Pollution Prevention Program** may be modified by you without prior approval of the Commissioner, provided it is in accordance with the following:
  - a. A **BMP** is added, and none subtracted, from the **Storm Water Pollution Prevention Program**;
  - b. A less effective **BMP** identified in the **Storm Water Pollution Prevention Program** is replaced with an alternate **BMP**. The alternate **BMP** shall address the same, or similar, concerns as the ineffective or failed **BMP**; and
  - c. The Commissioner is notified of the modification in the annual report for the year the modification is made.

## **PART VI. EVALUATING, RECORDKEEPING AND REPORTING**

### **A. Evaluation and assessment.**

You must evaluate program compliance, the appropriateness of your identified **best management practices**, and progress towards achieving your identified measurable goals.

### **B. Recordkeeping.**

You must keep records required by the NPDES permit for at least 3 years beyond the term of the permit. You must submit your records to the Commissioner only if specifically asked to do so.

### **C. Public availability**

You must make your records, including your **Storm Water Pollution Prevention Program**, available to the public at reasonable times during regular business hours (see 40 CFR 122.7 for confidentiality provision). You may assess a reasonable charge for copying. You may require a member of the public to provide advance notice.

### **D. Annual reporting**

Your annual report must summarize:

1. The status of compliance with permit conditions, including an assessment of the appropriateness of your identified **best management practices** and progress towards achieving your identified measurable goals for each of the minimum control measures. Your assessment must be based on results of information collected and analyzed, including monitoring (if any), inspection findings, and public input received during the reporting period;
2. The storm water activities you plan to undertake during the next reporting cycle;
3. A change in any identified **best management practices** or measurable goals for any of the minimum control measures; and
4. Notice that you are relying on another entity to satisfy some of your permit obligations (if applicable).

E. Reporting submittals.

You must submit annual reports to the Agency by March 10, for each year of your permit term. The reports shall be submitted to:

MS4 Storm Water Program  
MPCA  
520 Lafayette Road North  
St. Paul, MN 55155-4194

**PART VII. APPENDIX A: STANDARD CONDITIONS**

- A. The Agency's issuance of a permit does not release the permittee from any liability, penalty, or duty imposed by Minnesota or federal statutes or rules or local ordinances, except the obligation to obtain the permit.
- B. The Agency's issuance of a permit does not prevent the future adoption by the agency of pollution control rules, standards, or orders more stringent than those now in existence and does not prevent the enforcement of these rules, standards, or orders against the permittee.
- C. The permit does not convey a property right or an exclusive privilege.
- D. The Agency's issuance of a permit does not obligate the Agency to enforce local laws, rules, or plans beyond that authorized by Minnesota statutes.
- E. The permittee shall perform the actions or conduct the activity authorized by the permit in accordance with the plans and specifications approved by the Agency and in compliance with the conditions of the permit.
- F. The permittee shall at all times properly operate and maintain the facilities and systems of treatment and control and the appurtenances related to them which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. The permittee shall install and maintain appropriate backup or auxiliary facilities if they are necessary to achieve compliance with the conditions of the permit and, for all permits other than hazardous waste facility permits, if these backup or auxiliary facilities are technically and economically feasible.
- G. The permittee may not knowingly make a false or misleading statement, representation, or certification in a record, report, plan, or other document required to be submitted to the Agency or to the Commissioner by the permit. The permittee shall immediately upon discovery report to the Commissioner an error or omission in these records, reports, plans, or other documents.
- H. The permittee shall, when requested by the Commissioner, submit within a reasonable time the information and reports that are relevant to the control of pollution regarding the construction, modification, or operation of the facility covered by the permit or regarding the conduct of the activity covered by the permit.
- I. When authorized by Minn. Stat. §§ 115.04; 115B.17, subd. 4; and 116.091, and upon presentation of proper credentials, the Agency, or an authorized employee or agent of the agency, shall be allowed by the permittee to enter at reasonable times upon the property of the permittee to examine and copy books, papers, records, or memoranda pertaining to the construction, modification, or operation of the facility covered by the permit or pertaining to the activity covered by the permit; and to conduct surveys and investigations, including sampling or monitoring, pertaining to the construction, modification, or operation of the facility covered by the permit or pertaining to the activity covered by the permit.

- J. If the permittee discovers, through any means, including notification by the Agency, that noncompliance with a condition of the permit has occurred, the permittee shall take all reasonable steps to minimize the adverse impacts on human health, public drinking water supplies, or the environment resulting from the noncompliance.
- K. If the permittee discovers that noncompliance with a condition of the permit has occurred which could endanger human health, public drinking water supplies, or the environment, the permittee shall, within 24 hours of the discovery of the noncompliance, orally notify the Commissioner. Within five days of the discovery of the noncompliance, the permittee shall submit to the Commissioner a written description of the noncompliance; the cause of the noncompliance; the exact dates of the period of the noncompliance; if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
- L. The permittee shall report noncompliance with the permit not reported under item K as a part of the next report, which the permittee is required to submit under this permit. If no reports are required within 30 days of the discovery of the noncompliance, the permittee shall submit the information listed in item K within 30 days of the discovery of the noncompliance.
- M. The permittee shall give advance notice to the Commissioner as soon as possible of planned physical alterations or additions to the permitted facility or activity that may result in noncompliance with a Minnesota or federal pollution control statute or rule or a condition of the permit.
- N. The permit is not transferable to any person without the express written approval of the Agency after compliance with the requirements of Minn. R. 7001.0190. A person to whom the permit has been transferred shall comply with the conditions of the permit.
- O. The permit authorizes the permittee to perform the activities described in the permit under the conditions of the permit. In issuing the permit, the state and Agency assume no responsibility for damage to persons, property, or the environment caused by the activities of the permittee in the conduct of its actions, including those activities authorized, directed, or undertaken under the permit. To the extent the state and Agency may be liable for the activities of its employees, that liability is explicitly limited to that provided in the Tort Claims Act, Minn. Stat. § 3.736.
- P. This permit incorporates by reference the applicable portions of 40 CFR 122.41 and 122.42 parts (c) and (d) and Minn. R. 7001.1090, which are enforceable parts of this permit.

## **PART VIII. APPENDIX B: DEFINITIONS**

**“Agency” or “Agency members”** means the Commissioner and the eight persons appointed to the Minnesota Pollution Control Agency, pursuant to Minnesota Stat., § 116.02, subd. 1.

**“Best Management Practices” or “BMP”**. Best management practices means practices to prevent or reduce the pollution of the waters of the state, including schedules of activities, prohibitions of practices, and other management practice, and also includes treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge, or waste disposal or drainage from raw material storage.

**“Commissioner”** means the Commissioner of the Minnesota Pollution Control Agency or the Commissioner's designee.

**“Common Plan Of Development Or Sale”** means a contiguous area where multiple separate and distinct construction activities are planned to occur at different times on different schedules under one plan, e.g., a housing development of five 1/4 acre lots (40 CFR Sec. 122.26 (b)(15)(i)).

**“DMR”** means Discharge Monitoring Report, which for the purpose of this permit is the annual report.

**“EPA”** means the U.S. Environmental Protection Agency.

**“Expanded discharge”** means, except as noted in this item, a discharge that changes in volume, quality, location, or any other manner after the effective date the outstanding resource value water was designated as described in Minn. R. 7050.0460 and 7050.0470, such that an increased loading of one or more pollutants results. In determining whether an increased loading of one or more pollutants would result from the proposed change in the discharge, the agency shall compare the loading that would result from the proposed discharge with the loading allowed by the Agency as of the effective date of outstanding resource value water designation. This definition does not apply to the discharge of bioaccumulative chemicals of concern, as defined in Minn. R. 7052.0010, subp. 4, to outstanding resource value waters in the Lake Superior Basin. For purposes of Minn. R. 7050.0180, an expanded discharge of a bioaccumulative chemical of concern to an outstanding resource value water in the Lake Superior Basin is defined in Minn. R. 7052.0010, subp. 18.

**“General permit”** means a permit issued under Minn. R. 7001.0210 to a category of permittees whose operations, emissions, activities, discharges, or facilities are the same or substantially similar.

**“Maximum Extent Practicable” “MEP”** is the statutory standard that establishes the level of pollutant reductions that an owner or operator of regulated MS4s must achieve. The USEPA has intentionally not provided a precise definition of MEP to allow maximum flexibility in MS4 permitting. The pollutant reductions that represent MEP may be different for each small MS4, given the unique local hydrologic and geologic concerns that may exist and the differing possible pollutant control strategies. Therefore, each permittee will determine appropriate BMPs to



satisfy each of the six minimum control measures through an evaluative process. The USEPA envisions application of the **MEP** standard as an iterative process.

“**MPCA**” means the Minnesota Pollution Control Agency.

“**MS4**” means a municipal separate storm sewer system.

“**Municipal separate storm sewer system**” means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

1. Owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management Agency under section 208 of the CWA that discharges to waters of the United States;
2. Designed or used for collecting or conveying storm water;
3. Which is not a combined sewer; and
4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

“**New Development**” means construction activities that create new impervious surface.

“**New discharge**” for outstanding resource value waters means a discharge that was not in existence on the effective date the outstanding resource value water was designated as described in Minn. R. 7050.0460 and 7050.0470.

“**New discharge**” for non- outstanding resource value waters means a discharge that was not in existence before January 1, 1988.

“**Newspaper**” means a publication containing news of general interest (in the vicinity of the **MS4**). It can include other publications if the distribution includes the general population of potentially interested parties.

“**Notice of Intent**” as referenced in the USEPA documents is synonymous with the term “permit application” for the purposes of this permit.

“**Other Regulatory Mechanism**” means any legally enforceable document, such as a contract or other agreement that has penalties such as withholding payments, fines or other measures to prevent non compliance.

“**Operator**” means the person with primary operational control and legal responsibility for the **municipal separate storm sewer system**.

**“Outfall”** means the point where a **municipal separate storm sewer system** discharges from a pipe, ditch, or other discrete conveyance to receiving waters, or other **municipal separate storm sewer systems**. It does not include diffuse runoff or conveyances, which connect segments of the same stream or other water systems.

**“Owner”** means the person that owns the **municipal separate storm sewer system**.

**“Person”** means the state or any agency or institution thereof, any municipality, governmental subdivision, public or private corporation, individual, partnership, or other entity, including, but not limited to, association, commission or any interstate body, and includes any officer or governing or managing body of any municipality, governmental subdivision, or public or private corporation, or other entity.

**“Physical alteration”** means the dredging, filling, draining, or permanent inundating of a wetland. Restoring a degraded wetland by reestablishing its hydrology is not a physical alteration.

**“Rebuttable Presumption”** is a presumption, which may be rebutted by the evidence.

**“Redevelopment”** refers to alterations of a property that change the “footprint” of a site or building in such a way that results in the disturbance of equal to or greater than 1 acre of land. The term is not intended to include such activities as exterior remodeling, which would not be expected to cause adverse storm water quality impacts and offer no new opportunity for storm water controls.

**“Small Municipal Separate Storm Sewer System”** means all separate storm sewers that are:

1. Owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States.
2. Not defined as “large” or “medium” **municipal separate storm sewer systems** pursuant to 40 CFR 122.26 paragraphs (b)(4) and (b)(7) of, or designated under paragraph (a)(1)(v).
3. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

**“Small MS4”** means a **small municipal separate storm sewer system**.

**“Storm Water”** means storm water runoff, snowmelt runoff, surface runoff and drainage.

**“Total Maximum Daily Load”** is the process established by the USEPA for the allocation of pollutant loads, including storm water, to a particular water body or reach of a water body.

**“Waters of the State”** means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

**“Wetlands”** are those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Constructed wetlands designed for wastewater treatment are not waters of the state. Wetlands must have the following attributes:

1. A predominance of hydric soils;
2. Inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil condition; and
3. Under normal circumstances support a prevalence of such vegetation.

**“You”** means the owner, operator or permittee as appropriate.

## PART IX. APPENDIX C : Limitations on coverage.

This part describes more stringent requirements for discharges that meet the specified criteria. Whenever two or more requirements, restrictions, or prohibitions apply, the requirements for both or all must be met. Whenever two or more requirements, restrictions, or prohibitions conflict, the more restrictive conditions are applicable.

### Contents of Appendix C:

*A. Discharges to Waters with Prohibited Discharges (Minn. R. 7050.0180, subp. 3).*

*B. Discharges to Waters With Restricted Discharge (Minn. R. 7050.0180, subp. 6).*

*C. Discharges to Trout waters (Minn. R. 6264.0050 subp. 2 and 4).*

*D. Discharges to Wetlands (Minn. R. 7050.0130, subp. F).*

*E. Discharges requiring Environmental Review.*

*F. Discharges affecting Threatened or Endangered Species or their habitat.*

*G. Discharges affecting Historic or Archeological sites.*

**A. Discharges to Waters with Prohibited Discharges.** This permit does not authorize new or expanded discharges to waters where the water quality standards prohibit new or expanded discharges as described in Minn. R. 7050.0180 subp. 3, 4 and 5.

**B. Discharges to Waters with Restricted Discharges.** This permit does not authorize new or expanded discharges to waters where the water quality standards restrict new or expanded discharges, unless such discharges are in accordance with Minn. R. 7050.0180 subpart 6, 6a and 6.b or other applicable rules. For MS4s that have discharges to "Outstanding Resource Value Waters" listed in (Minn. R. 7050.0180, Subp. 6, 6a or 6b, (listed waters, or Waters With Restricted Discharges) the MPCA makes a **rebuttable** presumption that all MS4s discharging to listed waters have or will create a **new or expanded discharge** to a listed water. The following requirements create a schedule to bring discharges to listed waters into compliance.

In order to allow a **new or expanded discharge**, the MPCA must determine that there are no prudent and feasible alternatives to the **new or expanded discharge**. The determination will be based on your demonstration. This demonstration should include, but is not limited to developing a plan to address prudent and feasible alternatives to the discharge to listed waters. If you believe there are no prudent and feasible alternatives to the discharge to listed waters, you must develop a plan to restrict the discharge to the extent necessary to preserve the existing high quality, or to preserve the wilderness, scientific, recreational, or other special characteristics that make the listed water an outstanding resource value water. Specifically you must:

1. Identify the above listed waters, which your MS4 discharges to, as part of your application for permit.
2. You must map the watersheds in your jurisdiction that discharge to the listed waters on U.S.G.S. watershed or topographic maps of 1:24,000 scale or better. You must provide a narrative estimate of the percent impervious surface based on current land use, expected impervious surface based on zoning or comprehensive plans and other information that may significantly affect your runoff to the listed waters. You must then develop a narrative assessment of how your **Storm Water Pollution Prevention Program** can be reasonably altered to eliminate **new or expanded discharges** to the listed waters. This information is to be included in your **Storm Water Pollution Prevention Program** for public comment and a summary submitted with your first annual report.
3. Where you believe that there are no prudent and feasible alternatives to **new or expanded discharges** to listed waters, you must propose measures you could implement to restrict the discharge to the extent necessary to preserve the existing high quality, or to preserve the wilderness, scientific, recreational, or other special characteristics that make the listed waters outstanding resource value waters. Measures that can be taken include ordinances and zoning changes or other **BMPs** that you determine to be appropriate. This information is to be included in your **Storm Water Pollution Prevention Program** for public comment and a summary submitted with your second annual report.
4. You must submit a proposed plan, which includes whether you believe you have prudent and feasible alternatives to any **new or expanded discharges**. If your plan demonstrates that there are no prudent and feasible alternatives and as a result you have **new or expanded discharges** to listed water, you must describe how you will restrict the discharge to the extent necessary to preserve the existing high water quality, or to preserve the wilderness, scientific, recreational, or other special characteristics that make the listed water an outstanding resource value water. You must submit your proposed plan, for MPCA review and approval, with your third annual report. The plan will be reviewed by the MPCA Commissioner, who will provide opportunity for public input and hearing prior to denial or approval of your proposed plan.
5. You must implement your approved plan, during the 4<sup>th</sup> year of your permit. The plan must be included as part of your **Storm Water Pollution Prevention Program**; therefore, your 4<sup>th</sup> and 5<sup>th</sup> year annual reports must provide applicable implementation information for public comment and a summary with your annual reports.

**C. Discharges to Trout Waters.** For Trout Waters: (Minn. R. 6264.0050, subp. 2 and 4):

1. This permit does not authorize **new or expanded discharges** to trout waters unless, at minimum, you make the following determinations and document the basis for your decision:

- a. That there is no feasible and prudent alternative to the proposed discharge;
  - b. All feasible and prudent measures to avoid impacts will be implemented; and
  - c. All feasible and prudent measures to minimize impacts will be implemented (see Part IX, C. 2. below).
2. If the discharge cannot be avoided, **you** must consider measures to protect water quality and prevent temperature increases. Acceptable measures include diversion away from the stream and use of filter strips, infiltration, biofiltration, or enhanced swales to treat runoff before discharge to the trout water. Innovative alternatives to ponds are specifically encouraged for trout water discharges if they provide equivalent treatment.
- D. Discharges to Wetlands. Wetland Mitigation.** This permit does not authorize physical alterations, including **new or expanded discharges** to wetlands, if the alteration will have a significant adverse impact to the designated uses of a wetland. Any physical alteration to wetlands that will cause a potential for a significant adverse impact to a designated use, must be mitigated as required in Minn. R. 7050.0186 and/or other applicable rules.
- E. Discharges requiring Environmental Review.** This permit does not replace or satisfy any environmental review requirements, including those under the Minnesota Environmental Policy Act (MEPA) or the National Environmental Policy Act (NEPA). You must complete any environmental review required by law, including any required Environmental Assessment Work Sheets or Environmental Impact Statements, Federal environmental review, or other required review.
- F. Discharges affecting Threatened or Endangered species.** This permit does not replace or satisfy any review requirements for **Threatened or Endangered species**, from **new or expanded discharges** whose direct, indirect, interrelated, interconnected, or independent impacts would jeopardize a listed endangered or threatened species or adversely modify a designated critical habitat. You must conduct any required review and coordinate with appropriate agencies for any project with the potential of affecting threatened or endangered species, or their critical habitat.
- G. Discharges affecting Historic or Archeological sites.** This permit does not replace or satisfy any review requirements for **Historic or Archeological sites**, from **new or expanded discharges** which adversely affect properties listed or eligible for listing in the National Register of Historic Places or affecting known or discovered archeological sites. You must be in compliance with National Historic Preservation Act and conduct all required review and coordination related to historic preservation, including significant anthropological sites and any burial sites, with the Minnesota Historic Preservation Officer.

STATE OF MINNESOTA  
POLLUTION CONTROL AGENCY

**In the Matter of the Decision to Deny the  
Request for a Contested Case Hearing from the  
Minnesota Center for Environmental Advocacy  
and Issue the National Pollutant Discharge  
Elimination System/State Disposal System  
(NPDES/SDS) General Permit MN R580000 for  
Small Municipal Separate Storm Sewer Systems**

**FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND ORDER**

The matter captioned above came before the Minnesota Pollution Control Agency (MPCA) for decision on June 25, 2002. After affording all interested persons the opportunity to present written and oral data, statements, and arguments to the MPCA, and after considering all of the evidence in the records, files, and proceedings herein, the MPCA, being fully advised, hereby adopts the following Findings of Fact, Conclusions of Law and Order.

**I. FINDINGS OF FACT****A. Jurisdiction**

1. Congress amended the Federal Water Pollution Control Act in 1972 (currently known as the Clean Water Act) to require National Pollutant Discharge Elimination System (NPDES) permits for any discharge of pollutants to waters of the United States.
2. The MPCA was authorized by the U.S. Environmental Protection Agency (EPA) to administer the NPDES program in June 1974 through 40 CFR Part 122.28.
3. EPA approved the MPCA's NPDES general permits program on December 15, 1987.
4. Congress amended the Clean Water Act in 1987 to require a national program for storm water discharges to be implemented in two phases under the NPDES program. See Clean Water Act, 33 USC 1342(p).
5. The MPCA has authority to issue this permit under Minn. Stat. § 115, Minn. Stat. § 116, Minn. R. 7000, and Minn. R. 7001.
6. EPA promulgated regulations governing the implementation of Phase I and Phase II on the storm water permitting requirements on November 16, 1990, and December 8, 1999, respectively.
7. The final rule for Phase II, published in the *Federal Register* on December 8, 1999 [64 *FR* at 68722 (1999)], includes requirements for the NPDES permitting authority to issue general permits for regulated Municipal Separate Storm Sewer Systems (MS4s) by

December 9, 2002, and for regulated small MS4s to obtain permit coverage by March 10, 2003 [64 *FR* at 68753 (1999)].

## **B. Background**

8. The MPCA, as the NPDES permitting authority, is required to issue a permit [EPA recommends the use of general permits [64 *FR* at 68737 (1999)] for MS4s by December 9, 2002 [40 CFR Part 123.35(b)(4)(d)(2)(v)(5)]. The owners or operators of regulated small MS4s must obtain permit coverage by March 10, 2003 [40 CFR Part 122.26 (B)(19)(e)(1)(ii)]. EPA requires the permitting authority to include six minimum control measures in the permit [40 CFR Part 122.34 (b)]. The control measures are:
  - Public Education and Outreach;
  - Public Participation/Involvement;
  - Illicit Discharge Detection and Elimination;
  - Construction Site Runoff Control;
  - Post-Construction Runoff Control; and
  - Pollution Prevention/Good Housekeeping.
9. 40 CFR Part 122.34 (a) requires the following for permittees:

"Your NPDES MS4 permit will require at a minimum that you develop, implement, and enforce a storm water management program designed to reduce the discharge of pollutants from your MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act. Your storm water management program must include the minimum control measures described in paragraph (b) of this section..."
10. EPA's guidance describes maximum extent practicable (MEP):

"The CWA [Clean Water Act § 402 (P)(3)(B)(iii)] requires that NPDES permits for discharges from MS4s 'shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques, and system, design and engineering methods.'... Compliance with the conditions of the general permit and the series of steps associated with identification and implementation of the minimum control measures will satisfy the MEP standards." [64 *FR* at 68754 (1999)].
11. The MPCA adopts EPA's conclusions and finds that the Clean Water Act requires control measures, that those control measures must reduce pollutants to the maximum extent practicable, and that the control measures as required by the Draft National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) General Permit MN R580000 (Draft Permit) will satisfy the maximum extent practicable requirements.
12. The Draft Permit complies with 40 CFR Part 122.34 and the Clean Water Act by requiring submittal of a Storm Water Pollution Prevention Program (SWPPP) - EPA refers to this as the "Storm Water Management Program" above. The SWPPP must include best management practices (BMPs) for the six minimum control measures. The SWPPP becomes an enforceable part of the permit.
13. 40 CFR Part 122.34 (a) continues:



"...For purposes of this section, narrative effluent limitations requiring implementation of best management practices (BMPs) are generally the most appropriate form of effluent limitations when designed to satisfy technology requirements (including reductions of pollutants to the maximum extent practicable) and to protect water quality. Implementation of best management practices consistent with the provisions of the storm water management program required pursuant to this section and the provisions of the permit required pursuant to § 122.33 constitutes compliance with the standard of reducing pollutants to the 'maximum extent practicable'..."

14. The SWPPP requires BMPs for the six minimum control measures listed above. The measures require each permittee to select specific BMPs for each of the six minimum control measures listed above, as appropriate to address the specific issues pertinent to each permittee's storm sewer system.
15. In addition to the BMPs chosen by the permittee, the Draft Permit also contains additional required BMPs within the six minimum control measures beyond what is required by EPA. (See also Finding 66.) These additional BMPs were developed based on stakeholder input and on comments received during the comment period. The Draft Permit also contains control measures for Outstanding Resource Value Waters (ORVWs) and ensures compliance with the impaired waters and the Total Maximum Daily Load process. These additional control measures were included to clarify permit requirements based on comments received during the public comment period.
16. The MPCA agrees with EPA's conclusions that BMPs are the most appropriate form of effluent limitation for small MS4 storm water discharges at this time. The MPCA has issued BMP-based general permits for construction and industrial activities under Phase I of the Storm Water Program since the early 1990s.
17. EPA states the following reasons that numeric effluent limits are not appropriate:

"...EPA determines that pollutants from wet weather discharges are most appropriately controlled through management measures rather than end-of-pipe numeric effluent limitations...EPA believes that the currently available methodology for derivation of numeric water quality-based effluent limitations is significantly complicated when applied to wet weather discharges for MS4s... Wet weather discharges from MS4s introduce a high degree of variability in the inputs to the models currently available for derivation of water quality based effluent limitations, including assumptions about instream and discharge flow rates, as well as effluent characterization. In addition, EPA anticipates that determining compliance with an such numeric limitations may be confounded by practical limitations in sample collection...If the permitting authority...needs to impose additional or more specific measures to protect water quality, then that action will most likely be the result of an assessment based on a TMDL or equivalent analysis that determines the sources and allocations of pollutant(s) of concern." 64 FR at 68753 (1999).
18. The MPCA agrees with and adopts EPA's approach to addressing storm water discharges with control measures instead of numeric limits. In response to comments received, the permit was amended to ensure compliance with the impaired waters and the Total Maximum Daily Load process.

19. The Draft Permit complies with Minn. R. 7001.1080, subp. 3, which states in part, "If the commissioner finds that it is not feasible to establish an effluent limitation, standard, or prohibition using a numerical value, the commissioner shall establish permit conditions requiring implementation by the permittee of best management practices." The Draft Permit does not include numeric effluent limits because they are not feasible. Instead, the Draft Permit is a BMP-based permit as required under the federal Storm Water Program and as authorized under Minn. R. 7001.1080, subp. 3.
20. The policy statements found in Minn. R. 7050.0180 and 7050.0185 do apply to storm water discharges. The rule requirements implementing these policy statements, adopted in the mid to late 1980s, were developed for the municipal and industrial wastewater treatment facility program, and for use in individual permits. The Draft Permit is a general permit, which complies with the requirements of Minn. R. 7050.0180 and 7050.0185. However in the future, the MPCA intends to revise these rules to better clarify the requirements for general permits and the storm water program.
21. In regard to monitoring:

"EPA recommends that, in general, NPDES permits for small MS4s should not require the conduct of any additional monitoring beyond monitoring that the small MS4 may be already performing. In the second and subsequent permit terms, EPA expects that some limited ambient monitoring might be appropriately required for perhaps half of the regulated small MS4s. EPA expects that such monitoring will only be done in identified locations for relatively few pollutants of concern. EPA does not anticipate "end-of-pipe" monitoring requirements for regulated small MS4s." 64 *FR* at 68769 (1999).
22. MPCA agrees with and adopts EPA's recommendation that monitoring by individual permittees is not appropriate.

### ***C. Public Comment***

23. The MPCA provided for stakeholder involvement in the development of the Phase II Municipal Storm Water Program. Input on permit content was sought starting in February 2001. Following initial permit development, four stakeholder meetings were held to review draft permit language on December, 12, 2001, January 3, 2002, January 24, 2002, and February 5, 2002.
24. In accordance with the requirements of Minn. R. 7001.0100, the MPCA Commissioner prepared a draft permit and gave the public more than 30 days notice and opportunity to comment on the draft permit. The permit was on public notice from March 11 to April 11, 2002.
25. Twenty-two written comments were received during the public notice period.
26. The MPCA provided three public informational meetings, during the comment period, on March 26, 2002 in Rochester, March 27, 2002 in Shoreview, and March 28, 2002 in St. Cloud.

27. Two verbal comments were taken in Rochester and three in Shoreview. No comments were received in St. Cloud.
28. Based on the comments received, the Draft Permit was amended to correct typographical errors, change wording to provide additional clarity, and add to the list of definitions in Appendix B of the Draft Permit.
29. Part IV. C of the Draft Permit was amended to provide additional clarity to the requirement for discharges to listed impaired waters and the Total Maximum Daily Load process.
30. On May 17, 2002, MPCA staff provided MPCA Citizens' Board members a memorandum regarding the MS4 general permit. The memorandum provided 1) background on the federally mandated storm water program, 2) an update on the MS4 permitting process, and 3) a discussion of the two policy issues raised by MCEA's contested case hearing request and other commentors. The memorandum also provided Board members with 1) copies of the contested case hearing request and all written and verbal comments received during the public notice period, 2) MPCA staff's responses to comments, 3) MPCA staff's preliminary changes to the MS4 general permit based on the comments, and 4) copies of Minn. Rules 7050.0180 and 7050.0185.
31. At the May 28, 2002, MPCA Citizens' Board meeting, MPCA staff sought input and direction from Board members concerning issues raised by the application of two existing provisions of Minnesota Rules: Minn. R. 7050.0180, Nondegradation for Outstanding Resource Value Waters (ORVWs), and 7050.0185, Nondegradation for All Waters. MPCA staff presented Board members with four options to consider in providing staff direction for addressing ORVWs and nondegradation in relation to the draft permit, including:
  - Implementing the traditional individual permit approach,
  - Providing a variance to the rule requirements,
  - Addressing the rule requirements in the MS4 general permit, or
  - Revising the rule requirements for specific application to the storm water program.In accordance with direction from the MPCA Citizens' Board, the MPCA staff provided an additional public comment period on these issues from May 29 to June 4, 2002.
32. After receiving nine additional written comments and meeting with a representative from the Minnesota Center for Environmental Advocacy, the MPCA amended the Draft Permit to clarify how the permit will comply with the nondegradation requirements of Minn. R. 7050.0180 and 7050.0185.
33. To ensure compliance with Minn. R. 7050.0180, Nondegradation to Outstanding Resource Value Waters, the Draft Permit addresses new or expanded discharges to ORVWs on a compliance schedule. The draft permit assumes that MS4s will create new and expanded discharges unless the permittee can rebut or document otherwise. The compliance schedule requires MS4s to: 1) identify listed ORVWs in the permit application, 2) map the ORVWs and assess changes that could be made in the Storm Water Pollution Prevention Program to eliminate discharges to ORVWs in the first

annual report, 3) where there are no prudent and feasible alternatives, propose measures to be included in the Storm Water Pollution Prevention Program to preserve the existing high quality, or to preserve the wilderness, scientific, recreational, or other special characteristics of those ORVWs in the second annual report, 4) as part of the third annual report, submit a proposed plan, which lists whether or not there are prudent and feasible alternatives to new or expanded discharges, and if not, propose measures to preserve existing high quality, or to preserve the wilderness, scientific, recreational, or other special characteristics of those ORVWs, to the MPCA for an opportunity for the public to have input and hearing prior to MPCA approval, and 5) implement the approved plan and report on implementation in the fourth and fifth annual reports. [For actual permit language, see Part IX (Appendix C) of the Draft Permit.]

34. The MPCA finds that the Draft Permit meets the requirements of Minn. R. 7050.0185, because the Draft Permit already contain reasonable control measures to prevent the degradation of receiving waters. The MPCA finds that implementation of the requirements contained in the Draft Permit will result in a net improvement to water quality.
35. During the public notice period, the MPCA received one written request for the MPCA to hold a contested case hearing, as provided in Minn. R. 7001.0130. The contested case hearing request was submitted by the Minnesota Center for Environmental Advocacy (MCEA).
36. The two decision items before the MPCA are: (1) whether to hold a contested case hearing prior to making a decision on issuance of the proposed permit and, (2) if no contested case hearing is ordered, whether to issue the permit.

#### ***D. Contested Case Hearing Request***

37. Minn. R. 7000.1900, subp. 1 establishes the standards to be used by the MPCA in evaluating a request for a contested case hearing.
38. The MPCA must grant the petition to hold a contested case hearing or order upon its own motion that a contested case hearing be held if it finds that:
  - there is a material issue of fact in dispute concerning the matter pending before the MPCA;
  - the MPCA has the jurisdiction to make a determination on the disputed material issue of fact; and
  - there is a reasonable basis underlying the disputed material issue of fact or facts such that the holding of a contested case hearing would allow the introduction of information that would aid the MPCA in resolving the disputed facts in making a final decision on the matter.
39. To satisfy the first test of whether there is a material issue of fact in dispute, MCEA must show that the specific fact will affect the outcome of the case [see *O'Malley v. Ulland Brothers*, 549 N.W.2d 889 (Minn. 1996)]. This is a standard used in summary judgment motions before Minnesota courts and provides the MPCA Citizens' Board some guidance

in considering MCEA's request for a contested case hearing. In this context, MCEA has to show the existence of a new genuine issue of fact, the resolution of which may affect the outcome of the case, and may not just rely on mere allegations of factual dispute [see *Nicollet Restoration Inc. v. City of St. Paul*, 533 N.W.2d 845 (Minn. 1995)].

40. For the second test, MCEA must show that the MPCA has jurisdiction or authority to make a determination on the material factual issue. "Agencies are not permitted to act outside the jurisdictional boundaries of their enabling act" [*Cable Communications BD v. Nor-West Cable*, 356 N.W.2d 658, 668 (Minn. 1984)]. This means that each issue in the contested case request has to be such that it is within the authority of the MPCA to resolve.
41. To meet the third test, MCEA has the burden of demonstrating the existence of material facts that would aid the MPCA in making a decision before MCEA is entitled to a contested case hearing [see *Matter of NSP Red Wing Ash Disposal Facility*, 421 N.W.2d 398, 404 (Minn. Ct. pp. 1988)]. To do so, the MCEA may provide the MPCA with specific expert's names, and with any indication of what specific *new facts* an expert might testify to at a contested case hearing. The Minnesota Supreme Court has recognized that to meet this test, "it is simply not enough to raise questions or pose alternatives without some showing that evidence can be produced which is contrary to the action proposed by the MPCA" [see *In the Matter of Amendment No. 4 to Air Emission Facility Permit*, 454 N.W.2d 427, 430 (Minn. 1990)].
42. As explained in the following Findings, none of the hearing requests satisfy all three conditions of the rule. A discussion of each of MCEA's requests and the MPCA determinations follow.

#### ***E. Hearing Request Issues***

The MPCA makes the following specific findings regarding issues raised by the requester.

#### **Designation Criteria**

43. MCEA's April 11, 2002, letter, Issue 1 presented as a material issue of fact: "Which MS4s must obtain Phase II permit coverage".
44. MCEA does not raise a material issue of fact because MPCA will develop and apply designation criteria by December 9, 2002. 40 CFR Part 123.35(b) requires NPDES permitting authorities to develop and apply criteria to designate additional small MS4s located outside of urbanized areas, and having a population of at least 10,000, for permit coverage. This is in addition to the small MS4s, which are automatically regulated because they are located within an urbanized area as defined by the most recent list provided by the Federal Bureau of Census. This designation of additional permittees is required by December 9, 2002, under 40 CFR Part 123.35(b)(5).
45. The MPCA intends to promulgate rules regarding the municipal, construction, and industrial Phase II storm water programs, and will include designation criteria as part of

this rulemaking effort. The rulemaking for Phase II will provide an opportunity for public comment as required under Minn. Stat. § 14.14 or 14.22. Because this issue will be addressed in the separate rulemaking, any factual issues that might be present can be addressed in the rulemaking proceedings. Therefore, regarding Issue 1, MCEA presents no issue of material fact, and a contested case hearing is not required.

#### **Nondegradation/Minn. R. 7050.0185**

46. MCEA's April 11, 2002, letter, Issue 2 presented as a material issue of fact: "Whether and to what extent various MS4s are considered new or expanded discharges and whether and to what extent such new or expanded discharges are significant under Minnesota Rules".
47. MCEA does not raise a material issue of fact that will further aid the MPCA's decision on this issue. The MPCA staff has brought this issue before the May 28, 2002 MPCA Citizen's Board Permitting Committee meeting and provided opportunity for additional public comment on this issue. The MPCA finds that the draft permit is a nondegradation permit pursuant to Minn. R. 7050.0185, subp. 1.
48. Minn. R. 7050.0185 requires the MPCA to consider whether additional discharges are considered new or expanded, and whether those discharges are significant. For new or expanded discharges, the permit must include reasonable control measures to prevent degradation of water quality. The MPCA finds that the best management practices (including the additional BMPs listed in Finding 66) required in the permit comprise the reasonable control measures as required by the rule.
49. Further, community growth (resulting in significant new and expanded discharges) has been an accepted reason to authorize increased loading of pollutants due to the economic and social development benefits test pursuant to Minn. R. 7050.0185, subp. 4.
50. The MPCA finds that issuance of the Draft Permit will allow reasonable community growth while still reducing the loading of pollutants from storm water discharges through the implementation of BMPs from previously unregulated sources. Therefore, regarding Issue 2, holding a contested case hearing is not necessary since a material issue of fact has not been raised that will aid the MPCA further in making its decision.

#### **Outstanding Resource Value Waters (ORVWs)/Minn. R. 7050.0180**

51. MCEA's April 11, 2002, letter, Issue 3, presented as a material issue of fact: "Whether and to what extent various MS4s discharge to Outstanding Resource Value Waters (ORVWs) and whether they and the MPCA have met the requirements of Minnesota Rules to do so by demonstrating that there is no feasible and prudent alternative and the Draft Permit contains specific, stringent controls to preserve ORVWs".

52. MCEA does not present a material issue of fact because the permit has been amended to include provisions that meet the requirements of the rule, and because further information will not aid the MPCA in making its decision.
53. Under the ORVW Rule at Minn. R. 7050.0180 subp. 3, no new or expanded discharge is allowed in certain *prohibited waters*. The MPCA has not identified any MS4 located on any of these waters.
54. For certain *restricted waters*, Minn. R. 7050.0180, subp. 6, prohibits new or expanded discharges unless there is no prudent or feasible alternative to the discharge. Minn. R. 7050.0180, subp. 8, provides an opportunity for a public hearing prior to an MPCA determination on the existence or lack of prudent or feasible alternatives.
55. Based on comments received and direction from MPCA Board members, the draft permit has been amended to clarify the requirements for discharges to ORVWs.
56. For MS4s discharging to ORVWs, the draft permit addresses new or expanded discharges to ORVWs on a compliance schedule. The draft permit assumes that MS4s will create new and expanded discharges unless the permittee can rebut or document otherwise. The compliance schedule requires MS4s to: 1) identify listed ORVWs in the permit application, 2) map the ORVWs and assess changes that could be made in the Storm Water Pollution Prevention Program to eliminate discharges to ORVWs in the first annual report, 3) where there are no prudent and feasible alternatives, propose measures to be included in the Storm Water Pollution Prevention Program to preserve the existing high quality, or to preserve the wilderness, scientific, recreational, or other special characteristics of those ORVWs in the second annual report, 4) as part of the third annual report, submit a proposed plan, which lists whether or not there are prudent and feasible alternatives to new or expanded discharges, and if not, propose measures to preserve existing high quality, or to preserve the wilderness, scientific, recreational, or other special characteristics of those ORVWs, to the MPCA for an opportunity for the public to have input and hearing prior to MPCA approval, and 5) implement the approved plan and report on implementation in the fourth and fifth annual reports. [For actual permit language, see Part IX (Appendix C) of the Draft Permit.]
57. Holding a contested case hearing is not necessary because the permit has been amended to address the concerns raised, and no material issue of fact exists that will aid the MPCA further.

#### **Best Management Practices - Compliance**

58. MCEA's April 11, 2002, letter, Issue 4 presented as a material issue of fact: "Whether the Draft Permit contains adequate and precise enough measures to ensure compliance with all applicable Minnesota and federal laws and rules, in particular compliance with water quality standards and what those measures should be".

59. MCEA does not present a material issue of fact, and holding a hearing would not assist the MPCA in making its decision, because the permits meet all federal and state legal requirements.
60. MCEA supports its argument with several citations to Minnesota Rules, including Minn. R. 7001.0150, subp. 2 and 7001.1090, subp. 1D, but the provisions cited are not applicable. Minn. R. 7001.0150, subp. 2 requires a "schedule of compliance that leads to compliance with the rule," but only when "applicable to the circumstances." The Draft Permit sets timelines for compliance and uses BMPs; therefore, the Draft Permit contains all applicable conditions required by the rule.
61. State rules allow for the use of BMPs to protect water quality. See Minn. R. 7001.1080 subp. 3. The Draft Permit does not include numeric effluent limits or monitoring requirements, but is instead a BMP-based permit. The MPCA believes that the BMPs in the permit are designed to protect water quality and are an appropriate tool to meet the rule requirements.
62. The federal Clean Water Act does not regulate storm water through water quality based regulation, but instead by requiring the removal of pollutants to the maximum extent practicable. See *Defenders of Wildlife v. Browner*, 191 F.3d at 1165-66. 33 U.S.C. 1342 (Section 402 CWA) (p)(3)(b)(iii) does not require numeric effluent limits and allows for 'management practices'. 40 CFR Section 122.44 (k) authorizes the use of BMPs for the control of storm water where numeric effluent limitations are infeasible. EPA requires BMPs for small MS4s under 40 CFR Section 122.34. The MPCA has included the six minimum measures required under 40 CFR Section 122.34 and, therefore, is in compliance. The Draft Permit also contains additional BMPs (see Findings 66-68) and includes control measures for Outstanding Resource Value Waters and ensures compliance with the impaired waters and Total Maximum Daily Load process. There is no requirement that the permits contain specific BMPs as MCEA requests, although the MPCA has included several in the Draft Permit.
63. The MPCA finds that the Draft Permit is in compliance with state and federal rules. Holding a hearing is not necessary since a material issue of fact has not been raised and a contested case hearing will not aid the MPCA further.

#### **Best Management Practices - Pollutant Reduction**

64. MCEA's April 11, 2002, letter, Issue 5 presented as a material issue of fact: "Whether the Draft Permit contains adequate and precise enough measures to ensure reduction of pollutants in stormwater to the maximum ext[e]nt practicable".
65. MCEA does not present a material issue of fact because MPCA is following the exact control measures that EPA has determined would meet the maximum extent practicable (MEP) standard. EPA found that "[c]ompliance with the condition of the general permit and the series of steps associated with identification and implementation of the minimum control measures will satisfy the MEP standard" [64 FR at 68754 (1999)].



66. In addition to the federal requirements, the Draft Permit includes the following required BMPs within the control measures:
- Adoption by the permittee of an ordinance for erosion/sediment control from construction sites by the permittee by March 11, 2005;
  - Specific education requirements for each of the six control measures;
  - Documentation and goals for the education programs;
  - Coordination with other education programs done by watershed groups, etc.;
  - One public meeting each year with 30 day public notice;
  - Opportunity for oral and written public input on the SWPPP;
  - Consider public input and make adjustments as appropriate to the SWPPP;
  - Mapping the conveyance system down to 24-inch pipes;
  - An operation and maintenance program to prevent or reduce pollutant runoff;
  - Annual inspections of pollution control devices;
  - Inspection of 20 percent of the ponds, basins, and outfalls each year so that all are inspected during the 5-year permit cycle; and
  - Needed maintenance or repair within one year, or compliance schedule set and listed on annual report.
67. These additional Minnesota-specific requirements were added to the Draft Permit based on stakeholder input and comments received during the public comment period, and will control storm water discharges beyond what is required by federal regulations needed to meet the maximum extent practicable standard.
68. The Draft Permit maintains flexibility for permittees to tailor BMPs to address the pollutant issues specific to their system. The Draft Permit also requires control measures for Outstanding Resource Value Waters and ensures compliance with the impaired waters and the Total Maximum Daily Load process.
69. The BMPs currently in the permit were developed with stakeholder involvement and include additional BMPs requested during the comment period. The specific BMPs listed by MCEA under Issue 4 have been considered during this process. Holding of a contested case hearing on this issue would not aid the MPCA further.

### **Monitoring**

70. MCEA's April 11, 2002, letter, Issue 6 presented as a material issue of fact: "Whether and to what extent the Draft Permit must contain monitoring requirements".
71. MCEA does not present a material issue of fact because there is no statute or rule that requires a specific monitoring scheme for MS4s in the storm water program. Permittees are required to monitor their compliance with the terms of the permit and to submit an annual report detailing the actions they took to maintain compliance. These requirements include development of a Storm Water Pollution Prevention Program and implementation of BMPs. These requirements meet all applicable rules.
72. In regard to monitoring:

"EPA recommends that, in general, NPDES permits for small MS4s should not require the conduct of any additional monitoring beyond monitoring that the small MS4 may be already performing. In the second and subsequent permit terms, EPA expects that some limited ambient monitoring might be appropriately required for perhaps half of the regulated small MS4s. EPA expects that such monitoring will only be done in identified locations for relatively few pollutants of concern. EPA does not anticipate "end-of-pipe" monitoring requirements for regulated small MS4s." 64 FR at 68769 (1999).

73. MPCA agrees with and adopts EPA's recommendation that monitoring by individual permittees is not appropriate.

74. MCEA cites to Minn. R. 7001.0150, subp. 2(B) and Minn. R. 7001.1090, subp. 1(D) in support of its hearing request. Minn. R. 7001.0150 does not apply because it requires that the permits include monitoring and testing only when "applicable to the circumstances." Traditional monitoring requirements are not applicable to this Draft Permit because the permit uses a broader, more holistic approach that does not rely on the monitoring of specific parameters. Minn. R. 7001.0150 subp. 2(B) requires monitoring to determine whether there is compliance with the terms and conditions of the permit or compliance with Minnesota and federal pollution control statutes and rules. Permittees are required to monitor their compliance with the terms of the permit and to submit an annual report detailing the actions they took to maintain compliance. This permit requirement ensures that the permittees are meeting the requirements of the rule. Minn. R. 7001.1090, subp. 1(D) requires submittal of "monitoring data, calculations, and results on a form provided by the commissioner, known as a discharge monitoring report." This rule does not impose a substantive requirement for any particular sort of monitoring, but instead establishes a procedure for communicating the results of applicable monitoring.

75. MPCA notes that traditional end-of-pipe effluent monitoring is not appropriate in this case, and adopts the position developed by EPA. MCEA does not present a material issue of fact because there is no statute or rule that requires a specific monitoring scheme and therefore, holding a contested case hearing is not required.

#### ***F. Issuance of the Permit.***

76. The MPCA's decision to issue the proposed permit is governed by its permit rule, Minn. R. 7001.0140, which provides:

*Subpart 1. Agency action. Except as provided in subpart 2, the agency shall issue, reissue, revoke and reissue, or modify a permit if the agency determines that the proposed permittee or permittees will, with respect to the facility or activity to be permitted, comply or will undertake a schedule of compliance to achieve compliance with all applicable state and federal pollution control statutes and rules administered by the agency, and conditions of the permit and that all applicable requirements of chapter 116D and the rules adopted under chapter 116D have been fulfilled..*

77. The MPCA finds that the draft permit meets the requirements of Minn. R. 7001.0140. Compliance with the requirements of the draft permit, and implementation of best management practices contained therein, will achieve greater environmental protection from previously unregulated entities. The general permit is in compliance with all applicable state and federal pollution control statutes and rules. The conditions of the permit will not pose a danger to human health or the environment. There are no environmental review requirements pursuant to Minn. Stat. Ch. 116D that are required prior to issuance of the MS4 general permit.
78. The MPCA drafted the MS4 general permit based on stakeholder input. The draft permit was placed on public notice with opportunity for public comment as required pursuant to Minn. R. 7001.0100. MPCA staff responded to the comments that were received during the public comment period. In addition, the MPCA Citizens' Board afforded interested and affected parties an additional opportunity for oral testimony at its May 28, 2002, Permitting Committee meeting, and for written comments through June 4, 2002. MPCA Board members also raised questions for MPCA staff response at its May 28<sup>th</sup> meeting. MPCA staff have responded to all additional comments and have used this input to propose changes in the draft permit.

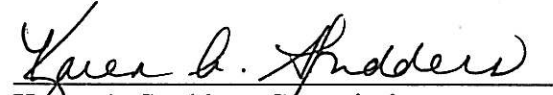
## II. CONCLUSIONS OF LAW

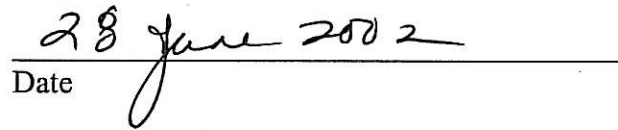
1. The MPCA has jurisdiction over this matter.
2. Adequate and timely public notice of the proposed permit issuance was given in accordance with Minn. R. 7001.0100, subps. 4 and 5.
3. The criteria of Minn. R. 7000.0190, subp. 1, for granting contested case hearing requests have not been met with respect to the issues raised in the request for a contested case hearing.
4. The requirements of Minn. R. 7001.0140 for issuance of a permit have been met.
5. Proper implementation of the control measures will achieve compliance with all applicable state and federal pollution control statutes and rules and the conditions of the permit, and will not pose a danger to human health or the environment.
6. Implementation of the requirements of this permit will achieve greater environmental protection from previously unregulated entities.

**III. ORDER**

The MPCA determines that the issues raised by Minnesota Center for Environmental Advocacy do not meet the requirements for granting a contested case hearing and denies the request.

The MPCA authorizes issuance of the National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) General Permit MNR580000 for Small Municipal Separate Storm Sewer Systems.

  
\_\_\_\_\_  
Karen A. Studders, Commissioner  
Minnesota Pollution Control Agency

  
\_\_\_\_\_  
Date

# Storm Sewer Regulatory Programs

## Is your city an MS4?

Remi Stone

An MS4 is a municipal separate storm sewer system. Your city is an MS4 for regulatory purposes if it operates a municipal separate storm sewer system. For many of Minnesota's cities, being an MS4 means a new and serious stormwater regulatory program. Cities with stormwater sewer systems in "urbanized areas", as defined by the census, will soon be required to comply with the Phase II Storm Water Rule promulgated by the United States Environmental Protection Agency (USEPA) and implemented by the Minnesota Pollution Control Agency (MPCA).

In March 2002, new federal requirements to control pollutants in runoff from municipal stormwater

sewer systems will go into effect.

Operators of regulated MS4 Stormwater Sewer Systems—nearly 150 cities, towns and counties in Minnesota—will be required to reduce the discharge of pollutants to the "maximum extent possible," protect water quality, and meet Clean Water Act water quality requirements.

According to the MPCA staff, it is the MPCA's intention to have a draft permit completed by February 2002, after which the MS4/National Pollution Discharge Elimination System (NPDES) stakeholder group will be activated. Implementation of the program by the MPCA and MS4s is expected to be in full swing by January 2003.

### Stay informed

The League of Minnesota Cities has set up a Phase II listserv to give cities a format to discuss the rulemaking process and permitting activities. The listserv is open to municipal officials interested in Phase II. Interested parties include city administrators, public works officials, engineers, watershed partners, Phase I officials, etc. To sign up for the listserv, please contact Remi Stone at [rstone@lmnc.org](mailto:rstone@lmnc.org) or (651) 281-1256.

### Phase II MS4s

Below is the initial list of Phase II MS4s located in an urbanized area and subject to Phase II. More communities may be added in the future.

### Cities & Townships

*\*more communities may be added later*

Andover	Dayton	Hilltop	Maple Plain	North Oaks	Spring Lake Park
Albert Lea	Deephaven	Hopkins	Maplewood	North ST. Paul	Spring Park
Anoka	Dilworth	Hutchinson	Marion TSP	Northfield	St. Anthony
Apple Valley	Duluth	Inver Grove	Marshall	Oakdale	St. Cloud
Arden Hills	Eagan	Heights	Medicine Lake	Oakport TSP	St. Cloud TSP
Austin	E. Grand Forks	La Crescent TSP	Medina	Osseo	St. Paul Park
Bemidji	Eden Prairie	La Crescent	Mendota	Owatonna	Stillwater
Birchwood	Excelsior	Lake Elmo	Mendota Heights	Plymouth	Sunfish Lake
Blaine	Faribault	Lakeville	Midway TSP	Prior Lake	Tonka Bay
Bloomington	Falcon Heights	Landfall	Minden TSP	Proctor	Vadnais Heights
Brainerd	Farmington	Lauderdale	Minnnetonka	Ramsey	Victoria
Brooklyn Center	Fergus Falls	Le Sauk TSP	Minnnetonka Beach	Robbinsdale	Waite Park
Brooklyn Park	Fort Snelling	Lexington	Minnnetrista	Rochester	Wayzata
Burnsville	Fridley	Lilydale	Moorhead	Rosemount	West St. Paul
Cascade TSP	Gem Lake	Lino Lakes	Moorhead TSP	Roseville	White Bear Lake
Champlin	Golden Valley		Mound	Sartell	White Bear TSP
Chanhausen	Grant	Little Canada	Moundsview	Sauk Rapids	Willernie
Circle Pines	Greenwood	Long Lake	New Ulm	Savage	Willmar
Coon Rapids	Ham Lake	Loretto	New Brighton	Shoreview	Winona
Cottage Grove	Hastings	Mahtomedi	New Hope	Shorewood	Woodbury
Credit River TSP	Haven TSP	Mankato	Newport	So. St. Paul	Woodland
Crystal	Hermantown	Maple Grove	North Mankato		

### Counties

Anoka	Clay	Houston	Scott	Stearns
Benton	Dakota	Olmsted	Sherburne	Washington
Carver	Hennepin	Polk	St. Louis	Wright

# A Phase II primer

Remi Stone

Communities facing the new storm-water regulations under the Phase II storm sewer systems program will be dealing with a vast and potentially expensive mandate. MS4 cities will be expected to secure a NSPDES stormwater permit and begin implementing best management practices starting Jan. 1, 2001.

## Becoming a Phase II MS4

By using the most recent U.S. Census data, the U.S. Environmental Protection Agency (USEPA) considers an "urbanized area" as one or more places consisting as a central urban area that together with the adjacent, densely-settled surrounding area (urban fringe) have a minimum of 50,000 persons. The urban fringe generally consists of a contiguous area having a density of at least 1,000 persons per square mile.

For Phase II purposes, a city will be automatically designated as a small MS4 by the USEPA if the storm sewer system is located within (fully or partially) an "urbanized area" as defined by USEPA/US Census Bureau.

Based upon Minnesota Pollution Control Agency (MPCA) design criteria, other communities will be included as Phase II MS4s if the community has a population of

10,000 to 100,000 and a population density greater than 1,000 people per square mile located outside of an "urbanized area."

Additionally, cities with a population less than 10,000 may be added in the future if:

- Its system discharges to sensitive waters
- Local water does not meet standards
- High growth is expected
- It is located near urban area

## Phase I

St. Paul, Minneapolis, and the Metropolitan Council have already worked out their initial NPDES Phase I program permits. Phase I was mandated for all municipalities with populations greater than 100,000 that have a stormwater program/permit. Phase I also included specific industries and required them to develop site-specific storm water plans. A third component of Phase I included construction sites greater than five acres and involved erosion control plans (temporary and permanent) and the implementation of best management practices (BMPs)

## Phase II

The mandated Phase II program involves small MS4s. A small MS4 has a population of more than 10,000 but less than 100,000, or is within a

defined urbanized area, or, if under 10,000 population, may be included if determined necessary by the agency later.

The small MS4 will need a NPDES permit that will outline how to meet the requirements of the program. The six minimum measures of the small MS4 program are:

1. Construction site runoff control
2. Post construction storm water management
3. Illicit discharge detection/elimination
4. Public outreach/education
5. Public involvement/participation
6. Phase II BMPs/good housekeeping for municipal operations

Phase II will also include construction sites. Sites greater than one acre and above will need a construction stormwater NPDES permit. Construction sites less than one acre may be added in the future if the site or area is considered sensitive.

Under Phase II, the rule exempts "no exposure" industrial sites from needing an industrial stormwater NPDES permit.

To learn more about the stormwater program, visit the MPCA web site: [www.pca.state.mn.us/water/stormwater.html](http://www.pca.state.mn.us/water/stormwater.html)

Visit the League  
on the Web:  
[www.lmnc.org](http://www.lmnc.org)

for all the latest information about how your city can participate and benefit from LMC and LMCIT services, resources, and training opportunities.

# Storm sewer regulatory programs

## How can your city be on top of the Phase II game?

Remi Stone

If your city operates a storm sewer system it is an MS4. This means that in March 2003, your city and other operators of regulated MS4 storm water sewer systems—nearly 150 cities, towns and counties in Minnesota—will be required to reduce the discharge of pollutants to the “maximum extent possible,” protect water quality, and meet Clean Water Act water quality requirements. This program will affect city budgets, too.

The Minnesota Pollution Control Agency's organizational progress on the Phase II stormwater front has been slow. The U.S. Environmental Protection Agency (USEPA) has expressed concern over Minnesota's tardiness in implementing Phase II. The agency's delay has given Phase II communities an opportunity to convene a forum to share knowledge and information on the rule and its permitting process.

By sharing information during the permitting process, all permittees are able to have a level permit playing field. Surprise elements often find their way into permits that are used as a “precedent” by the agency or third party advocacy groups, which have a negative domino affect on other permittees. There is always the concern that potential permittees will become involved in the process too late to effectively manage their own destiny, leaving permit decisions in the hands of the MPCA. Phase II MS4s need a forum to share information regarding the process.

Your city can prepare the process by following these two steps:

### Step 1: Join the LMC listserv

The LMC has set up a Phase II listserv to allow cities to have a format to discuss the rulemaking process and permitting activities. The listserv is open to municipal officials interested

in Phase II. Interested parties should include city administrators, public works officials, engineers, watershed partners, and Phase I officials. Please contact Remi Stone at [rstone@lmnc.org](mailto:rstone@lmnc.org) or (651) 281-1256 to submit your e-mail address to the listserv.

### Step 2: Convene a Phase II Summit

The LMC Annual Conference will be sponsor a Phase II workshop. Cities may wish to convene at the annual conference, held in June 2002 in Rochester, to discuss their mutual interests, develop a strategy to cope with MPCA, identify jurisdictional roadblocks and opportunities, and identify potential areas of collaboration. The workshop will be designed to help cities work through the Phase II process and will consult experts, MPCA representatives, and perhaps some Phase I permittees who are willing to share their experiences. ▶



## LMC Business Associates

For information on becoming an LMC Business Associate, call Rebecca Erickson at (651) 281-1222.

Advanced Drainage Systems  
Affiliated Computer Services  
Barna, Guzy & Steffen, Ltd  
Bolton & Menk, Inc.  
Bonestroo, Rosene, Anderlik &  
Associates, Inc.  
Briggs and Morgan  
Cincinnatus, Inc.  
David Drown Associates  
DPRA Environmental  
Ehlers & Associates Inc.

Evensen Dodge, Inc.  
Hallberg Engineering, Inc.  
HDR Engineering, Inc.  
Howard R Green Company  
Kennedy & Graven, Chartered  
Krass Monroe, P.A.  
LOGIS  
McCombs Frank Roos Associates,  
Inc.  
Paulsen Architects  
Ratwik, Roszak & Maloney, P.A.

Reliant Energy Minnegasco  
RLK-Kuusisto, Ltd.  
Short Elliott Hendrickson Inc.  
Springsted Incorporated  
TSP One, Inc.  
URS/BRW  
Voyageur Asset Management  
Widseth Smith & Nolting  
Xcel Energy  
Yaggy Colby Associates



# Seeking Input

## Phase II stormwater rules open for public comment

### Comment period ends April 12

Remi Stone

The Minnesota Pollution Control Agency (MPCA) has released the final draft permit for the MS4 program under NPDES Phase II. The comment period is from March 11 to April 11.

Cities owning storm sewer infrastructure will be required to have a Phase II permit in place by March 2003. The rule is slated to become effective Jan. 2003. Nearly 150 cities, towns, and counties have been identified as being subject to the new regulatory program. However, an unknown number of other cities and towns will likely become subject to the program based upon environmental concerns and growth projections.

- The links to the permit and the public notice material are at: [www.pca.state.mn.us/water/stormwater-phase2.html](http://www.pca.state.mn.us/water/stormwater-phase2.html)
- Permit public notice (open for public comment March 11-April 11, 2002): [www.pca.state.mn.us/news/publicnotice/pn031102.pdf](http://www.pca.state.mn.us/news/publicnotice/pn031102.pdf)
- Permit public notice fact sheet: [www.pca.state.mn.us/news/publicnotice/pn031102-factsheet.pdf](http://www.pca.state.mn.us/news/publicnotice/pn031102-factsheet.pdf)
- General permit: [www.pca.state.mn.us/news/publicnotice/pn031102-generalpermit.pdf](http://www.pca.state.mn.us/news/publicnotice/pn031102-generalpermit.pdf)

### MPCA hearings for NPDES Phase II permits

The Minnesota Pollution Control Agency (MPCA) will hold three informational meetings where interested parties will be able to ask agency staff questions about NPDES Phase II permits. The meetings will take place:

- **March 26**—Rochester Public Utilities Community Room, 4000 East River Road N.E., Rochester
- **March 27**—Minn. Dept. of Transportation Training and Conference Center 1900 West County Road I, Arden Hills
- **March 28**—St. Cloud Civic Center 10 Fourth Ave. S., St. Cloud

All meetings will begin at 9 a.m. and end at 11:30 a.m. Following these meetings, comments will be taken from 1-4 p.m. Those interested in attending one of the informational meetings should RSVP to Rachel Yartz at (651) 297-8679 or toll-free at 1-800-657-3864.

### PHASE II MS4s Cities & Townships

Below is the initial list of Phase II MS4s located in an urbanized area and subject to Phase II. More communities may be added.

Andover	La Crescent TSP	Ramsey
Albert Lea	La Crescent	Robbinsdale
Anoka	Lake Elmo	Rochester
Apple Valley	Lakeville	Rochester TSP
Arden Hills	Landfall	Rosemount
Austin	Lauderdale	Roseville
Bemidji	Le Sauk TSP	Sartell
Birchwood	Lexington	Sauk Rapids
Blaine	Lilydale	Savage
Bloomington	Lino Lakes	Shoreview
Brainerd	Little Canada	Shorewood
Brooklyn Center	Long Lake	So. St. Paul
Brooklyn Park	Loretto	Spring Lake Park
Burnsville	Mahtomedi	Spring Park
Cascade TSP	Mankato	St. Anthony
Champlin	Maple Grove	St. Cloud
Chanhassen	Maple Plain	St. Cloud TSP
Circle Pines	Maplewood	St. Paul Park
Coon Rapids	Marion TSP	Stillwater
Cottage Grove	Marshall	Sunfish Lake
Credit River TSP	Medicine Lake	Tonka Bay
Crystal	Medina	Vadnais Heights
Dayton	Mendota	Victoria
Deephaven	Mendota Heights	Waite Park
Dilworth	Midway TSP	Wayzata
Duluth	Minden TSP	West St. Paul
Eagan	Minnnetonka	White Bear Lake
E. Grand Forks	Minnnetonka Beach	White Bear TSP
Eden Prairie	Minnetrissa	Willernie
Excelsior	Moorhead	Willmar
Faribault	Moorhead TSP	Winona
Falcon Heights	Mound	Woodbury
Farmington	Moundsview	Woodland
Fergus Falls	New Ulm	
Fort Snelling	New Brighton	<b>Counties:</b>
Fridley	New Hope	Anoka
Gem Lake	Newport	Benton
Golden Valley	North Mankato	Carver
Grant	North Oaks	Clay
Greenwood	North St. Paul	Dakota
Ham Lake	Northfield	Hennepin
Hastings	Oakdale	Houston
Haven TSP	Oakport TSP	Olmsted
Hermantown	Osseo	Polk
Hilltop	Owatonna	Scott
Hopkins	Plymouth	Sherburne
Hutchinson	Prior Lake	St. Louis
Inver Grove Heights	Proctor	Stearns
		Washington
		Wright