THE CITY OF LAKE ELMO

STAFF REPORT

DATE: 4-8-25
Workshop

TO: Mayor and Councilmembers
FROM: Clark Schroeder Special Projects Manager
AGENDA ITEM: Water topics in Lake Elmo

CORE STRATEGIES:

☐ Vibrant, inclusive, connected community
☐ Responsive, transparent, adaptive governance
☐ Managed Growth
☐ Efficient, reliable, innovative services
☒ Balanced Finances now and future
☒ Resilient Infrastructure

BACKGROUND: Lake Elmo has a number of different concerns related to water currently. This workshop is a updated from Special Projects Manager Clark Schroeder. Clark Schroeder represents the city on the 3M priority one workgroup and the White Bear Lake Comprehensive Workgroup.
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ISSUE BEFORE COUNCIL: Mr. Schroeder will cover the following topics at the workshop:

1. White Bear Lake Workgroup update
2. DNR water permit and legal update
3. 3M settlement group update and studies
4. Washington County Landfill review

PROPOSAL DETAILS/ANALYSIS: Presentation from staff and receiving of feedback from Council.

FISCAL IMPACT: Unqualified at this time.

OPTIONS: Provide feedback for further study.

RECOMMENDATION:
No action requested.

ATTACHMENTS:
PowerPoint and associated documents.

Lake Elmo Water

April 8th, 2025

Clark Schroeder, Special Projects Manager
cschroeder@lakeelmo.gov

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Topics

01 DNR/WBL Legal Update

White Bear Lake Comprehensive Workgroup

02 3M Settlement Priority 1 Workgroup

03 Long Term Funding

04 Washington County Landfill

05

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DNR / White Bear Lake Legal Update/Lawsuits

01 In 2012, a lawsuit was filed against the DNR claiming that excess groundwater permits in the east metro led to unacceptably low lake levels.

02 Timeline of court cases that have been going on since 2012 HERE.

03 Short summary HERE.

04 This led to the White Bear Lake Comprehensive workgroup

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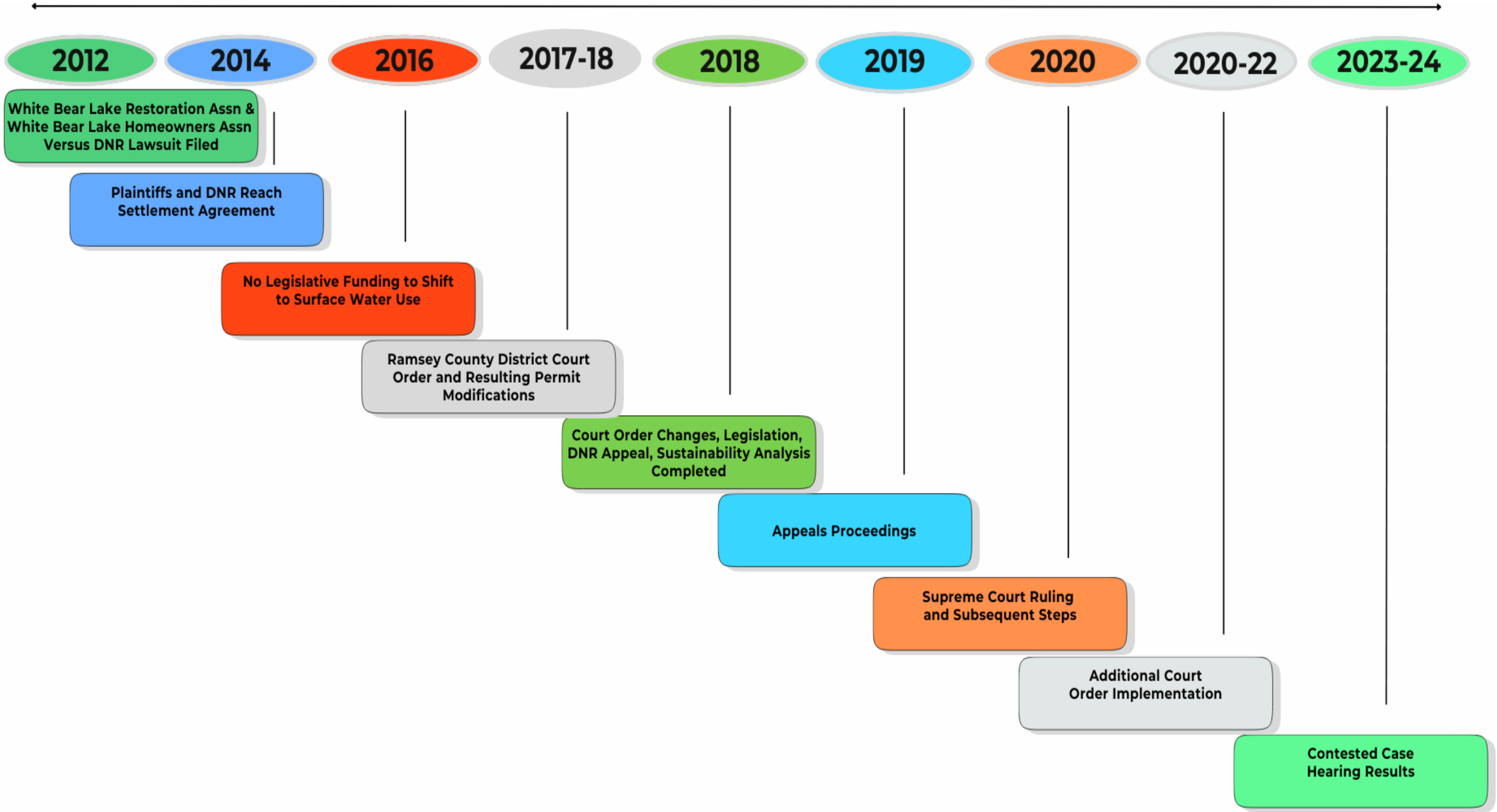
White Bear Lake Lawsuit Timeline



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White Bear Lake Lawsuit Next Steps

01 On April 16th at 11:15, there will be an oral argument at the Minnesota Court of Appeals regarding a water appropriation permit appeal. We are appealing the Administrative law judge's decision that requires us to implement and enforce a plan to phase down to 75/90 (condition No. 3).

02 December 16-19, 2025, the trial addresses the City's objection to the DNR's September 10, 2024, amendment to our water permit.

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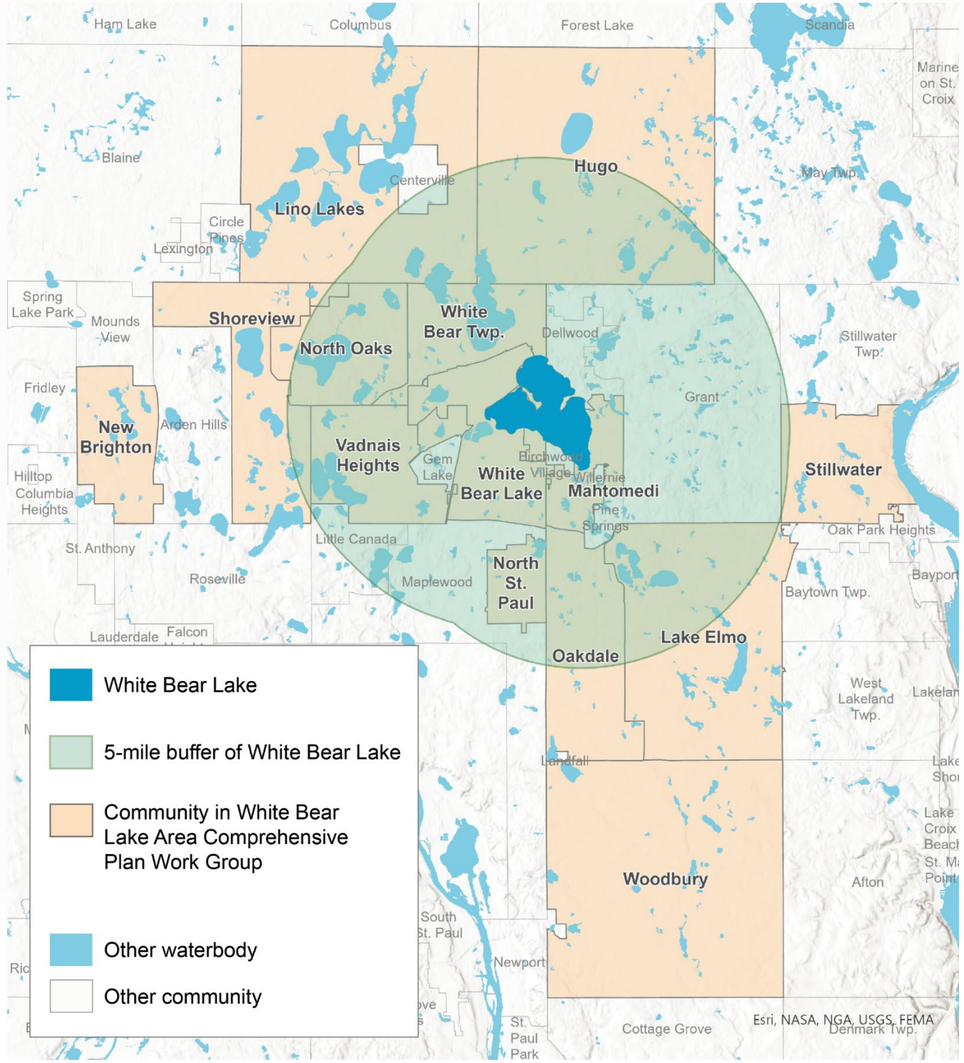
White Bear Lake Comprehensive Workgroup

01 A workgroup has been established to create a comprehensive plan that ensures communities in the White Bear Lake area have access to sufficient safe drinking water. This plan aims to support municipal growth while also ensuring the sustainability of surface water and groundwater resources to meet the community's needs.

02 15 different studies being done or considered by the group
HERE is a listing of the studies.

This is the current Lake level. HERE
Protective level of 922

03 Legislative allocation of $2 million; will most likely need more to finish all studies.



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White Bear Lake Comprehensive Workgroup

- The court ordered the DNR to amend existing groundwater permits within a five-mile radius of White Bear Lake with the following stipulations:
- Require a residential irrigation ban when the water level of White Bear Lake drops below 923.5 feet. The ban remains in effect until the water level reaches 924 feet.
- Require all permittees to develop a per capita water use plan to reduce residential per capita water use to 75 gallons per day and total per capita water use to 90 gallons per day.
- Require public water suppliers to develop a contingency plan to shift their source of water from groundwater to surface water.
- Require all permittees to report to the DNR annually on collaborative efforts with other north and east metro communities to develop per capita water use plans.

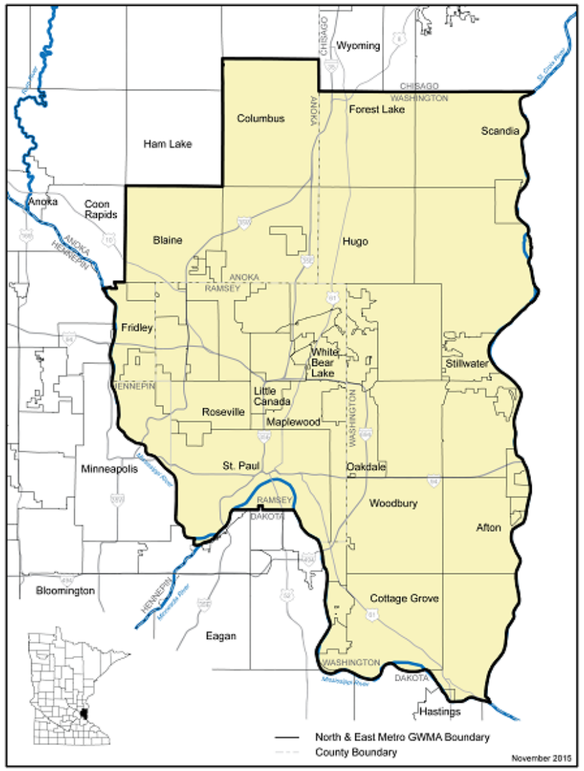
White Bear Lake Studies

01 One study is examining potential surface water connections for various cities.

02 The proximity of a city to the lake influences lake levels.

03 In this proposal, we will study surface water connections to cities closer to White Bear Lake than Lake Elmo. Presentation. Surface water will not be recommended for Lake Elmo due to the limited effect it would have on WBL in my opinion.

04 A key concern is how to fund this initiative. If cities in the east metro area benefit from switching to surface water, an east metro taxing district could be established, or state funding could cover costs. Further discussion on this will continue over the next two years.



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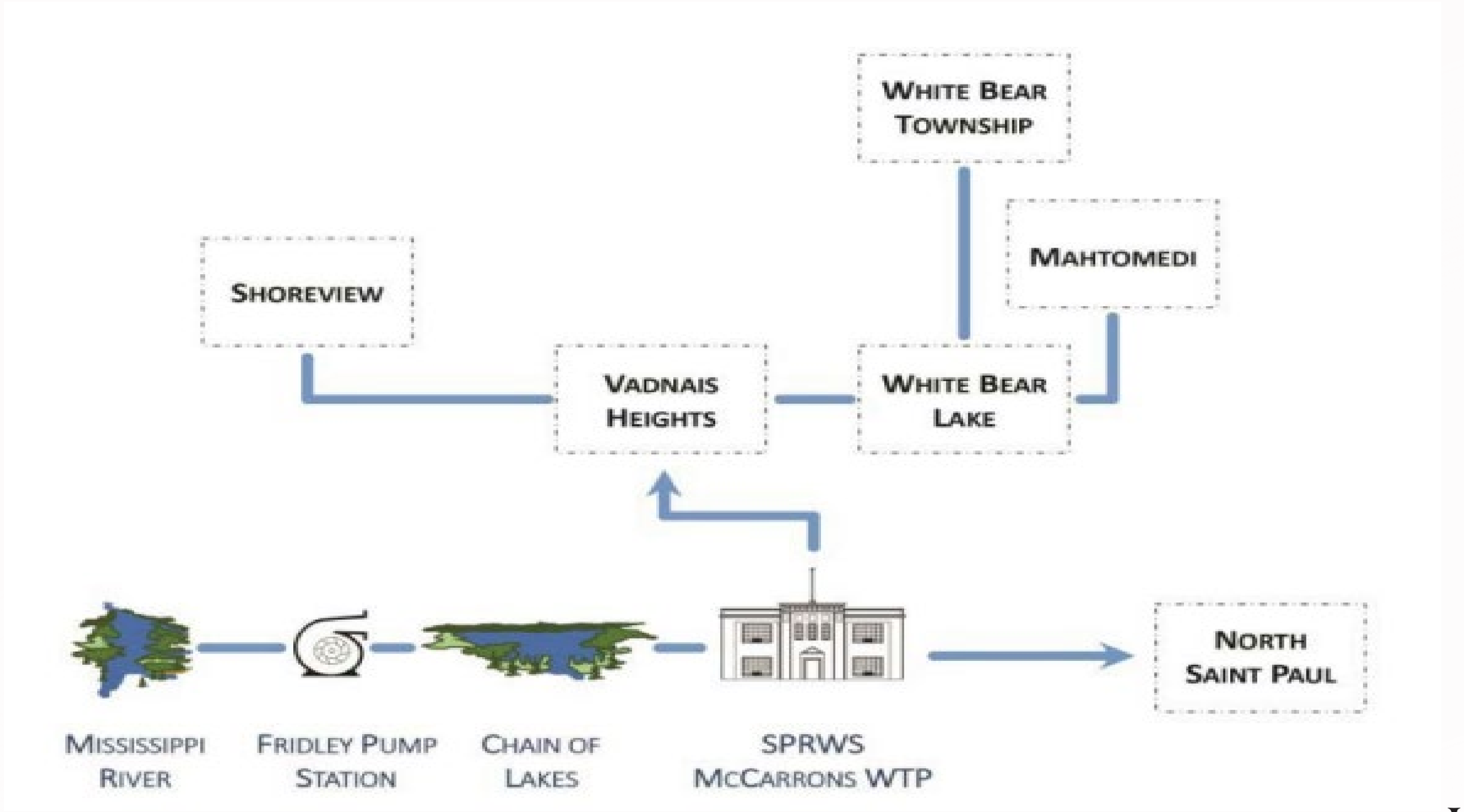
White Bear Lake Comprehensive Workgroup

One Option for Surface Water



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White Bear Lake Comprehensive Workgroup Members

Bryan Bear, City of Hugo Clark Schroeder, City of Lake Elmo Michael Grochala, City of Lino Lakes Bob Goebel, City of Mahtomedi Craig Schlichting, City of New Brighton Kevin Kress, City of North Oaks Morgan Dawley, City of North St. Paul Chris Volkers, City of Oakdale Tom Wesolowski, City of Shoreview Shawn Sanders, City of Stillwater Racquel Vaske, Saint Paul Regional Water Services	Jim Hauth, City of Vadnais Heights Paul Kauppi, City of White Bear Lake Mary Van Milligen, City of Woodbury Pat Christopherson, White Bear Township David Weum, Department of Health Jason Moeckel, Department of Natural Resources vacant, Metropolitan Area Water Supply Advisory Committee (MAWSAC) Liz Kaufenberg, Minnesota Pollution Control Agency

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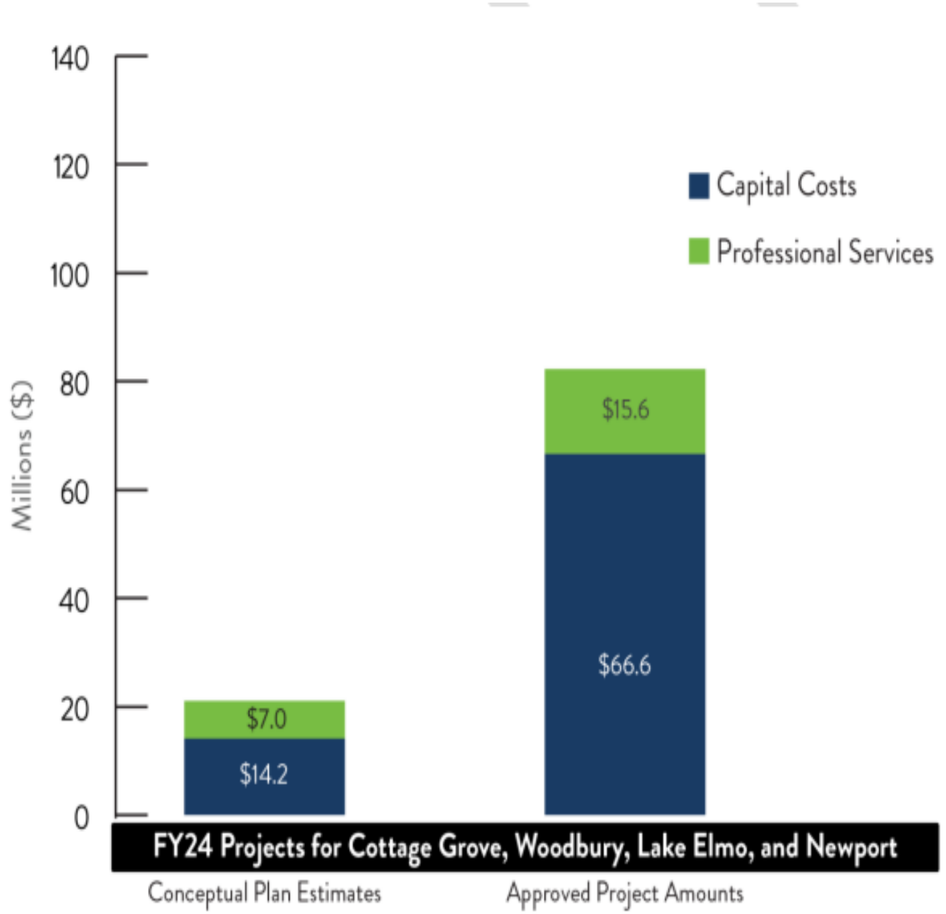
3M Priority One Workgroup

01 This fund is managed by a Trustee who reviews and approves projects according to their charter. This document is from 2020, so some members' names have changed.

02 All the past meetings and notes are HERE

03 Annual report for 2024 HERE

04 Approved projects are more expensive than the conceptual estimate, and hence they are anticipating the fund will run out by 2027.



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3M Priority One Workgroup

This group is composed of one representative each from the MPCA, DNR, 3M, Washington County, and one representative from each of the following communities: Afton, Cottage Grove, Lake Elmo, Lakeland, Lakeland Shores, Maplewood, Newport, Oakdale, St. Paul Park, Woodbury, the townships of Denmark, Grey Cloud Island, and West Lakeland, and the Prairie Island Indian Community. One representative from the Citizen–Business Group will also be a liaison to this group. Each community, MPCA, DNR, and 3M can designate one alternate when their representative is unable to participate in a meeting. MAP.

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3M Priority One Workgroup Lake Elmo Projects

Well 2 PFAS Treatment Project.

Contract #1: Well 2 PFAS Removal Equipment. We have been informed that a delay in equipment delivery is anticipated and are working with the Contractor to mitigate impacts.

Contract #2: Well 2 Generator Equipment. The generator delivery date has been moved up to May 13, 2025 (previously June 4). Contract #3: Well 2 Water Treatment Plant General Construction Contract. Demolition work is substantially completed at Wellhouse No. 2 and the contractor is starting masonry, electrical and concrete work.

South Water Treatment Plant (WTP) and Wells.

A preliminary site plan has been developed with land acquisition requirements identified, it will require and acquisition of approximately 8-acres.

North Water Treatment Plant (WTP) for Well 4 and Well 5.

A draft preliminary design proposal was received by SEH and is currently under review by the City Engineering team. Once the work plan and fee is finalized, staff will prepare a Planning Grant through the MPCA to fund the study. The study purpose is to prepare the preliminary design and Site analysis for the North Water Treatment Plant for Well 4 and Well 5. *Staff is currently working on preparing a MPCA grant.*

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3M Priority One Workgroup

01 What's next after the 3M settlement fund runs of money?

02 In 2007, the MPCA and 3M negotiated a Consent Order to bring investigation and cleanup of the three disposal sites under the formal Superfund process. These sites are in Oakdale, Woodbury, and Cottage Grove. The Washington County Landfill (WCL) in Lake Elmo was NOT included. 2007 Decree, Listing from AG office of exhibits from the 2018 settlement. HERE

03 3M is requesting mediation to resolve disputes with the MPCA regarding "what is reasonable and necessary," under the 2007 decree.

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PFAS Plume

Lake Elmo's concern for both City water supplies and private wells

03 Our plume is also influenced by project 1007 which is a project which stabilized the lake levels in the tri-lakes area from 1987 but also ended up creating a path for PFAS transmission further downstream. Project

04 MPCA is analyzing the plume to see what percentage of mixed molecules come from which landfill.

05 One of the long-term goals is to eliminate the PFAS in the aquifers. The only way to do that is to pump out the water and reinject it back in, or divert some of it to drinking water

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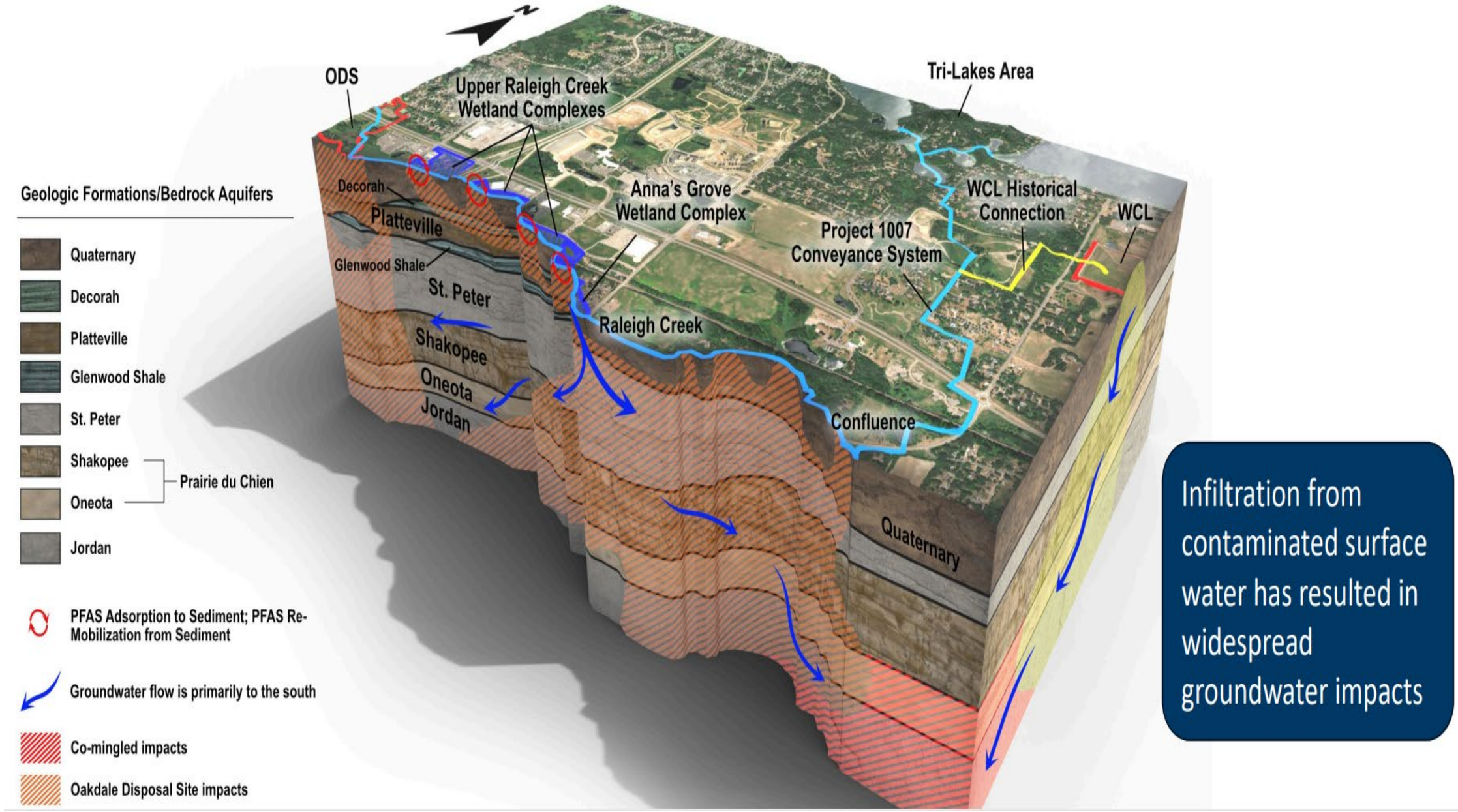
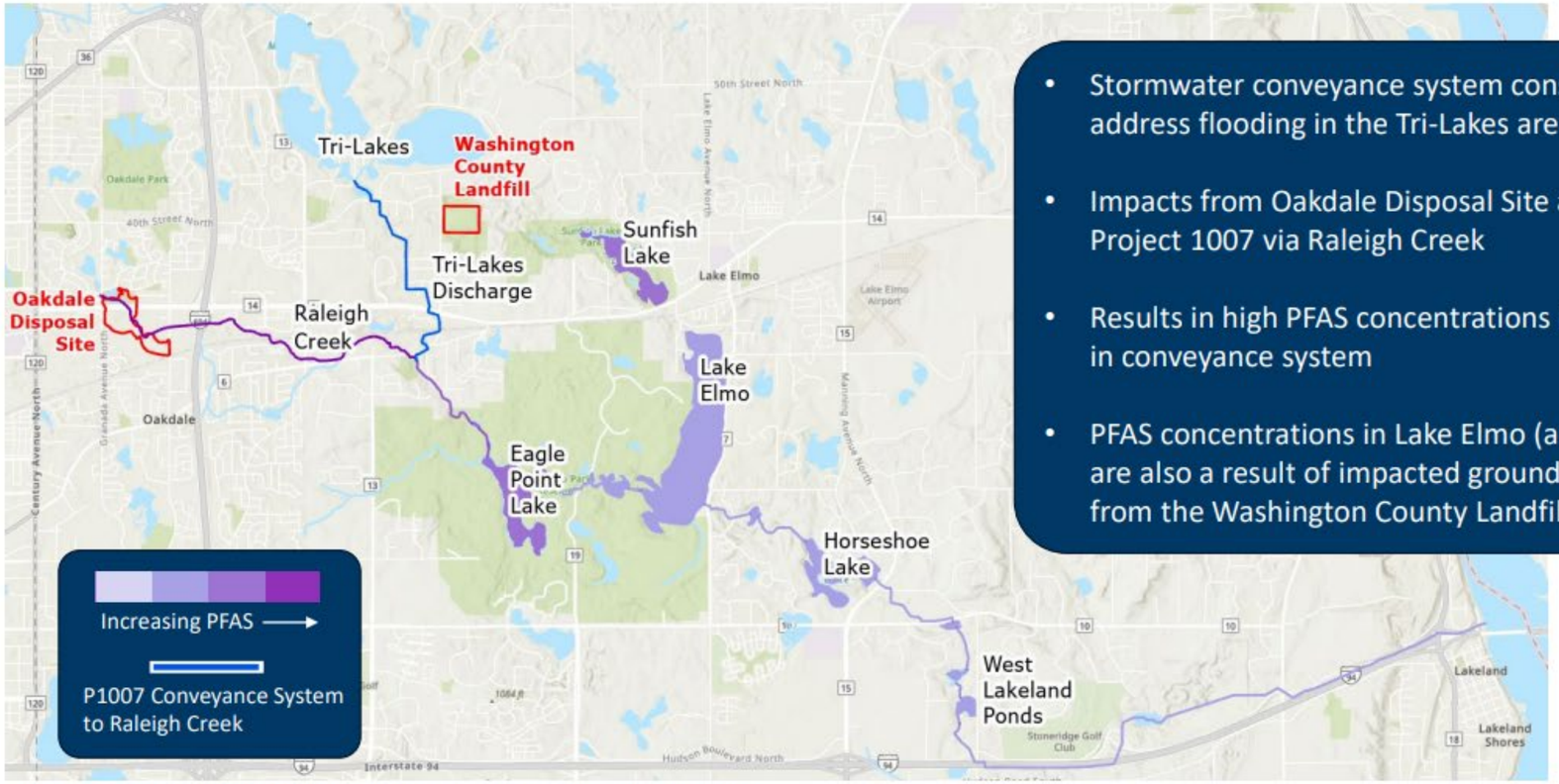
Project 1007- Highway for PFAS Transmission



Project 1007- Highway for PFAS Transmission

Project 1007 Overview

AECOM



- Stormwater conveyance system constructed to address flooding in the Tri-Lakes area
- Impacts from Oakdale Disposal Site are discharged to Project 1007 via Raleigh Creek
- Results in high PFAS concentrations in surface water in conveyance system
- PFAS concentrations in Lake Elmo (and downstream) are also a result of impacted groundwater discharge from the Washington County Landfill

Project 1007 Surface Water to Groundwater Migration

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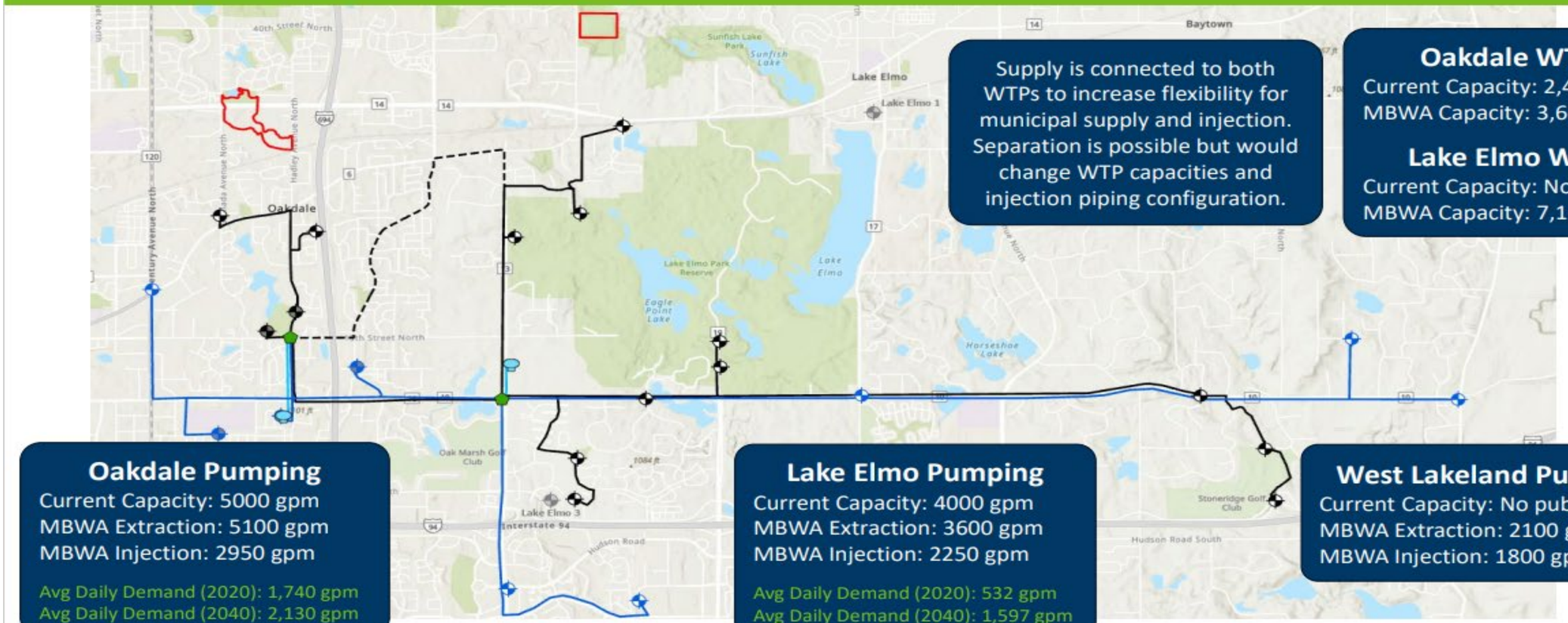
Project 1007 Multi-Benefit Well Arrays Proposal 1

AECOM

MBWA Water Balance



Supply is connected to both WTPs to increase flexibility for municipal supply and injection. Separation is possible but would change WTP capacities and injection piping configuration.

Oakdale WTP
Current Capacity: 2,400 gpm
MBWA Capacity: 3,600 gpm

Lake Elmo WTP
Current Capacity: No plant
MBWA Capacity: 7,100 gpm

Oakdale Pumping
Current Capacity: 5000 gpm
MBWA Extraction: 5100 gpm
MBWA Injection: 2950 gpm

Avg Daily Demand (2020): 1,740 gpm
Avg Daily Demand (2040): 2,130 gpm

Lake Elmo Pumping
Current Capacity: 4000 gpm
MBWA Extraction: 3600 gpm
MBWA Injection: 2250 gpm

Avg Daily Demand (2020): 532 gpm
Avg Daily Demand (2040): 1,597 gpm

West Lakeland Pumping
Current Capacity: No public supply
MBWA Extraction: 2100 gpm
MBWA Injection: 1800 gpm

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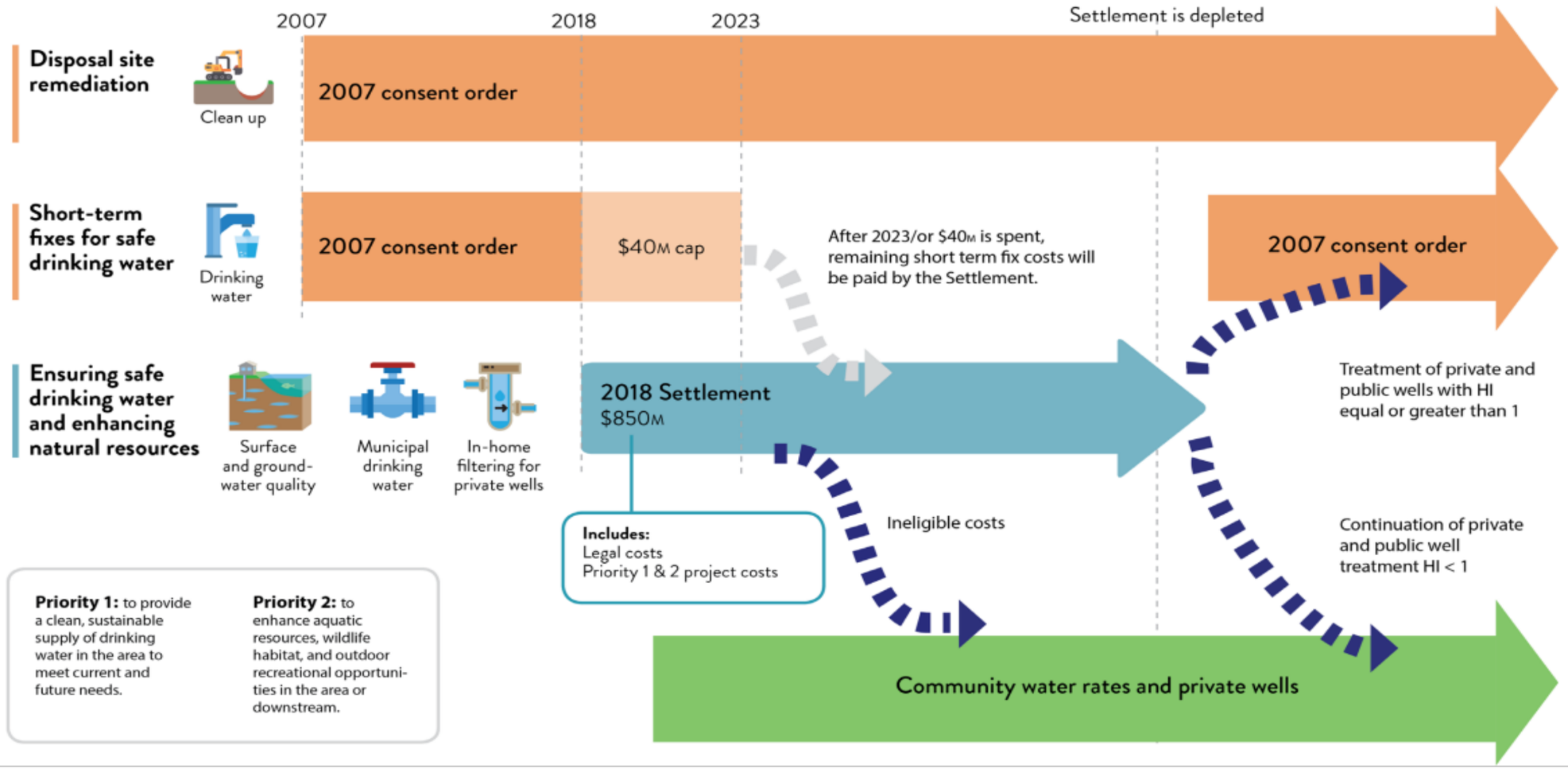
Long Term Funding

Timelines for drinking water and groundwater solutions

Minnesota 3M PFC Settlement



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Long Term Funding

Due to the comingled plume, The 2007 Consent Decree might only cover a portion of ongoing expenses related to the molecules from Oakdale and Washington County Landfill. At worst, 3M might not pay anything, and the MPCA's closed landfill program would provide some coverage.

In discussions with the Minnesota Pollution Control Agency (MPCA), efforts are underway to develop a funding framework for both private and public water treatment in Lake Elmo; however, the details are still being finalized. The agency is also exploring contributions from the two landfills in the area. Lake Elmo staff will continue to work closely with the MPCA, the 3M trustees, and 3M.

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Long Term Funding

In 2019, the city approved an agreement that settled a multi-year lawsuit against 3M for contamination in our drinking water. This agreement released 3M from any liability from "PFAS" fluorinated organic substance. Lawsuit agreement is HERE. Because of this agreement, Lake Elmo cannot sue 3M for costs related to PFAS cleanup or treatment.

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vs.

3M

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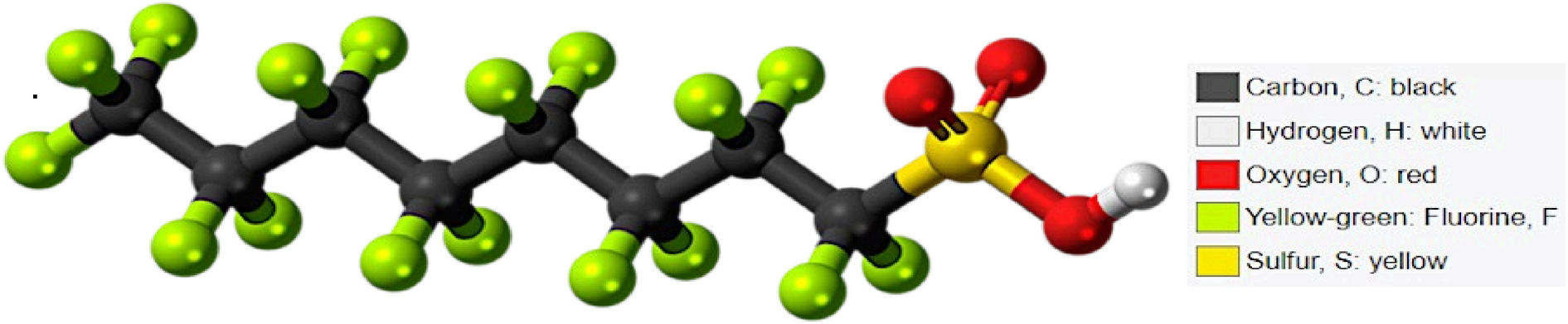
Washington County Landfill

Lake Elmo's concern for both City water supplies and private wells

01 Due to the plume being made up of a different molecular mix from the Oakdale Landfill and another mix from the Washington County Landfill, we have a comingled plume. Private wells tests HERE shows different molecule if you look at each well.



02 PFOS is the primary PFAS constituent in the Oakdale site, whereas the Washington County Landfill has PFBA/PFOA signature. The main point, is both landfills have a mix of different PFAS which when we test downstream in the aquifer it is hard to tell what came from where.

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Washington County Landfill: Why do we own it?

The City took ownership of the landfill in 1995. The City is looking into the history of why, and if there were any disclosures at that time. Both Washington County and Ramsey County utilized the landfill from 1969 until 1975. Landfill page HERE.

Staff are reviewing old file boxes for agenda items from the mid-90s and has requested public information from Washington County.

In addition, the MPCA will review their files as well.

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QUESTIONS?

Work Order Proposal Requests
White Bear Lake Area Comprehensive Plan

I. Converting water supplies that are groundwater dependent to total or partial supplies from surface water (3/3)

Study No. 1 - Redirect stormwater to augment White Bear Lake

Study No. 2

1. Convey treated surface water from St. Paul Regional Water Services to north and east communities
2. Construct a regional surface water treatment plant near the chain of lakes in the north metro and convey treated surface water to north and east communities
3. Added - Convey treated surface water from St. Paul Regional Water Services to north and east communities and construct a regional surface water treatment plant near the chain of lakes in the north metro and convey treated surface water to north and east communities

II. Reuse water

Study No. 3 - Reuse of treated wastewater from local Met Council interceptors for industrial and agricultural users

Study No. 4 - Stormwater reuse for irrigation

Study No. 5 - Reuse water discharged from contaminated wells – MPCA Project 1007

III. Projects designed to increase groundwater recharge

Study No. 6 - Treat wastewater from local Met Council interceptors and inject the treated wastewater into the aquifer to raise groundwater elevations

Study No. 7A – Water quality study as it relates to lake augmentation study (Study No. 7B)

Study No. 7B - Lake augmentation by pumping treated surface water from the chain of lakes into White Bear Lake

Study No. 8 - Stormwater collection and infiltration to raise groundwater elevations

Study No. 9A – Raise outlet elevation of White Bear Lake – initial evaluation of potential flood impacts

Study No. 9B – Raise outlet elevation of White Bear Lake – potential water storage and downstream hydraulic capacity. This study would be completed only if favorable results are achieved with Study No. 9A

IV. Other methods for reducing groundwater use

Study No. 10 - Lawn water restrictions (day of week and time)

Study No. 11 - Implement/require/encourage non- or less-potable water reuse for irrigation and process water (Talk to Jim Hauth at Vadnais Heights)

Study No. 12 - Tiered increasing block water utility rates

Study No. 13 - Potential water savings from alternative low input turf grasses

V. Other studies (dependent on available funding)

Study No. 14A – Future community impacts from PFAS groundwater contamination with groundwater modeling

Study No. 14B – Estimated capital and long-term O&M costs of PFAS water treatment for impacted communities

Study No. 15 – Estimated capital and long-term O&M costs to construct two additional wells in Shoreview and expand the city's existing water treatment plant capacity to serve drinking water for North Oaks' projected 2050 and ultimate development water demands if groundwater modeling determines that Shoreview can remain on groundwater through ultimate development

NMLG Model Results for White Bear Lake, Ultimate Demand Scenarios

Glen Champion | Hydrologist

DEPARTMENT OF NATURAL RESOURCES

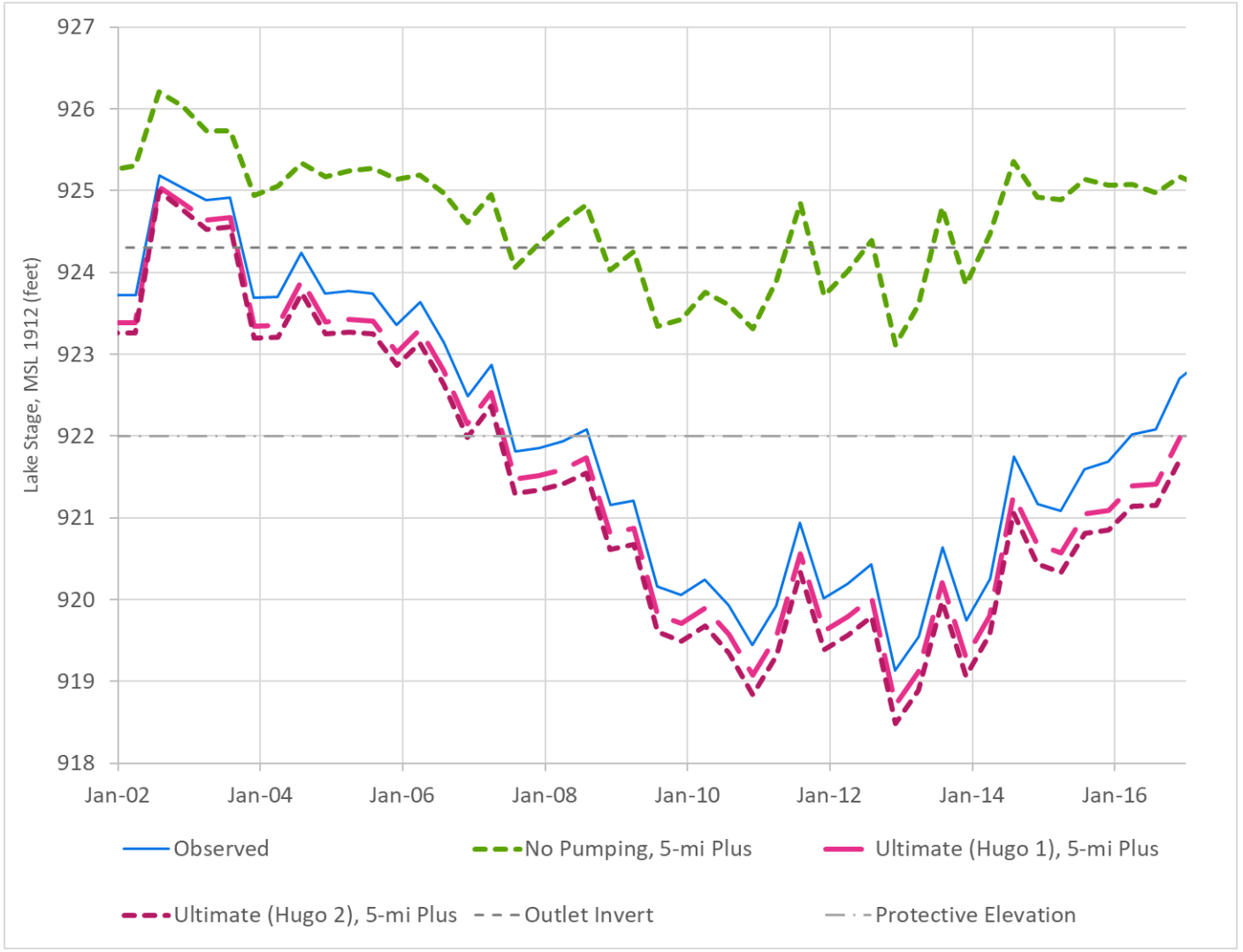
Overview

- Review ultimate demand scenarios
- 75 gpcd residential and 90 gpcd total demand goals
- Groups of water systems off groundwater (surface-water supply)
- Lake augmentation (example)
- Injection of treated wastewater into bedrock aquifer

Summary of Ultimate-Demand Scenarios

Scenario	Descripton
Ultimate (Hugo 1)	Long-term groundwater use at projected Ultimate demands (2030/2040 MUSA in Hugo)
Ultimate (Hugo 2)	Long-term groundwater use at projected Ultimate demands (expanded MUSA in Hugo)

All Groundwater



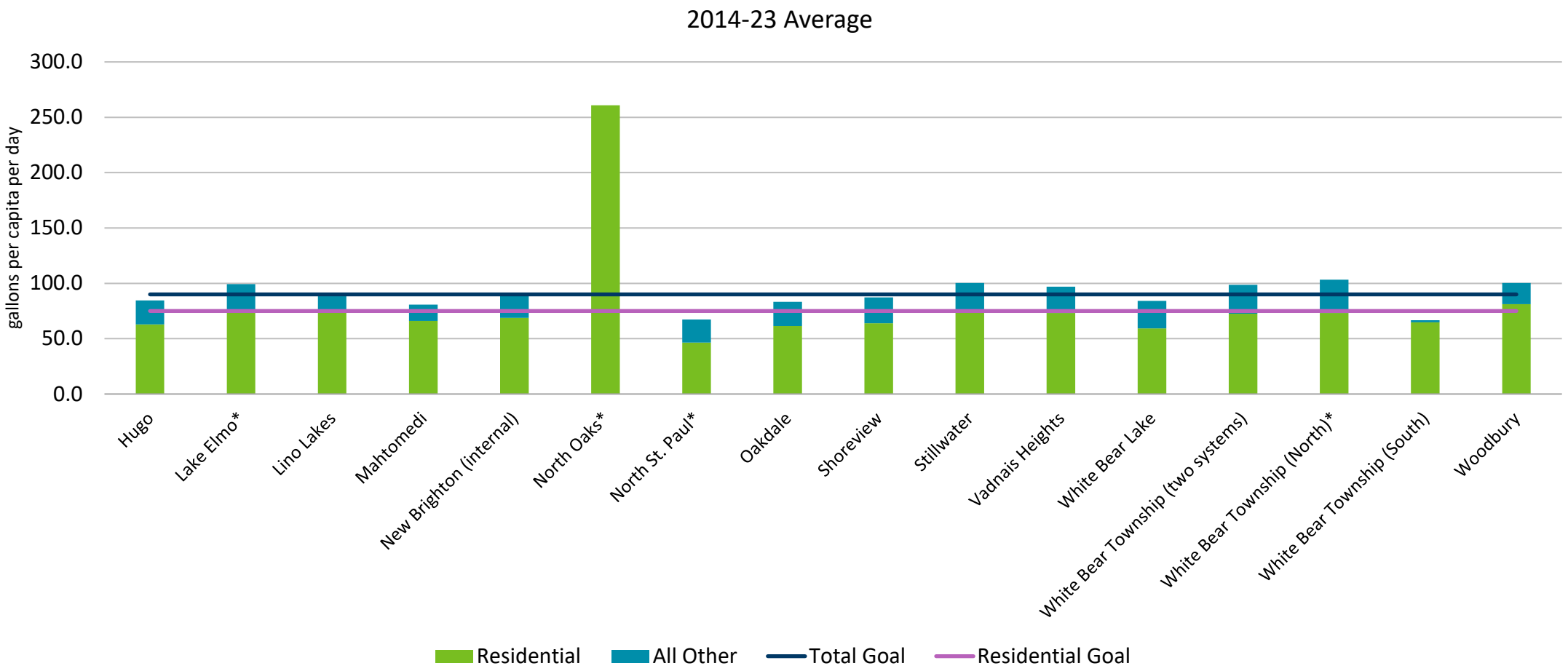
Water Demands and Goals

Court Order applied to groundwater users in 5-mile buffer around WBL

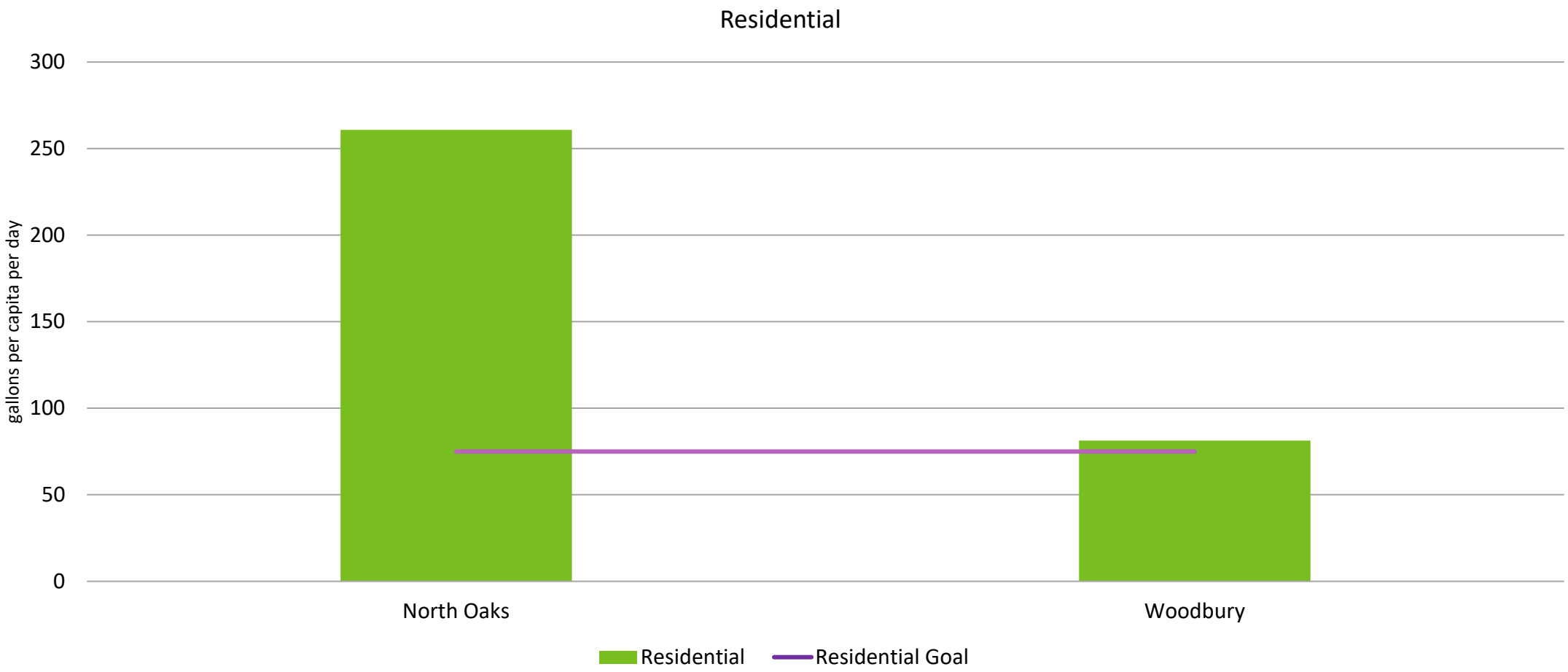
“. . . all existing permits include an enforceable plan to phase down per capita residential water use to 75 gallons per day and total per capita water use to 90 gallons per day.”

How would meeting the 75 and/or 90 goals for communities remaining on groundwater affect scenario results?

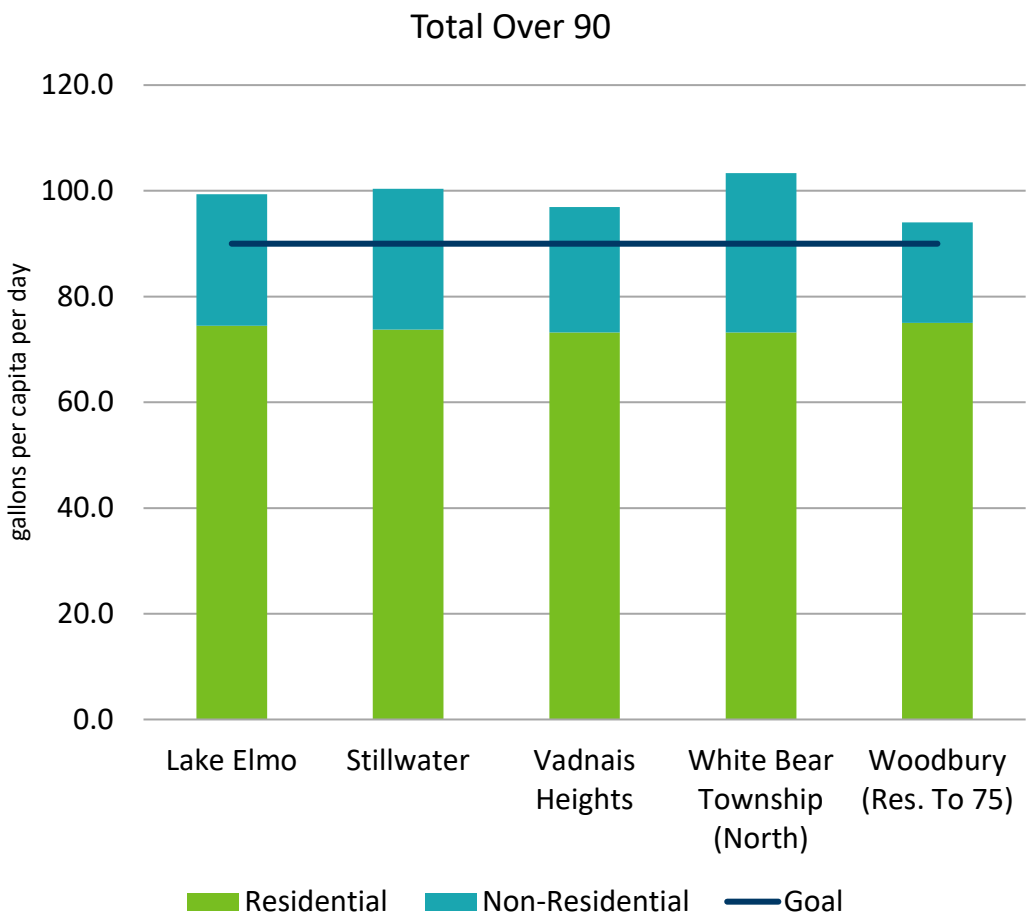
Per Capita Demands

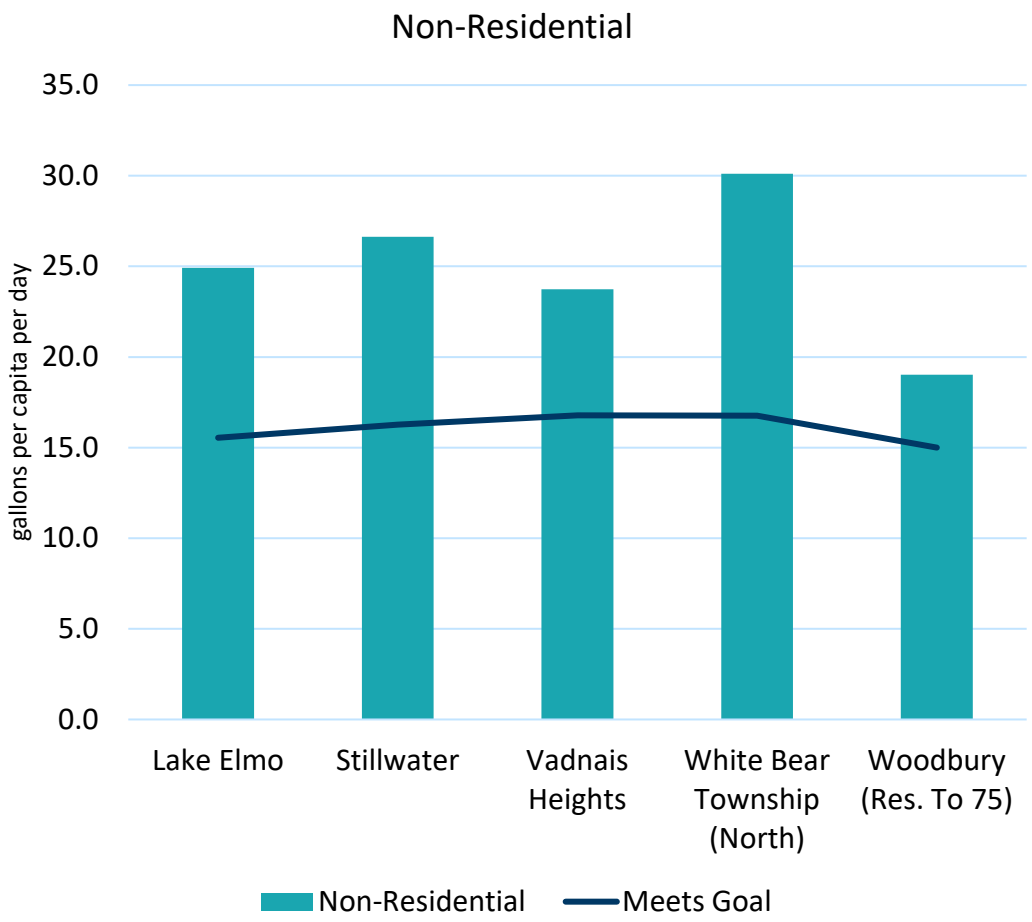


Per Capita Demand Goals - Residential



Per Capita Demand Goals





Alternative Future Demand Considerations

- Systems over 75 gpcd residential→ 75 gpcd
- Systems over 90 gpcd → ?
- Possibilities for further reductions in future per capita demands?
  - Reduce non-residential, per capita demands by X%?
  - Non-residential only → 20% to 45% per capita reductions
  - Per capita residential reductions (median = 71)?
- Uncertainties in Ultimate and actual populations served

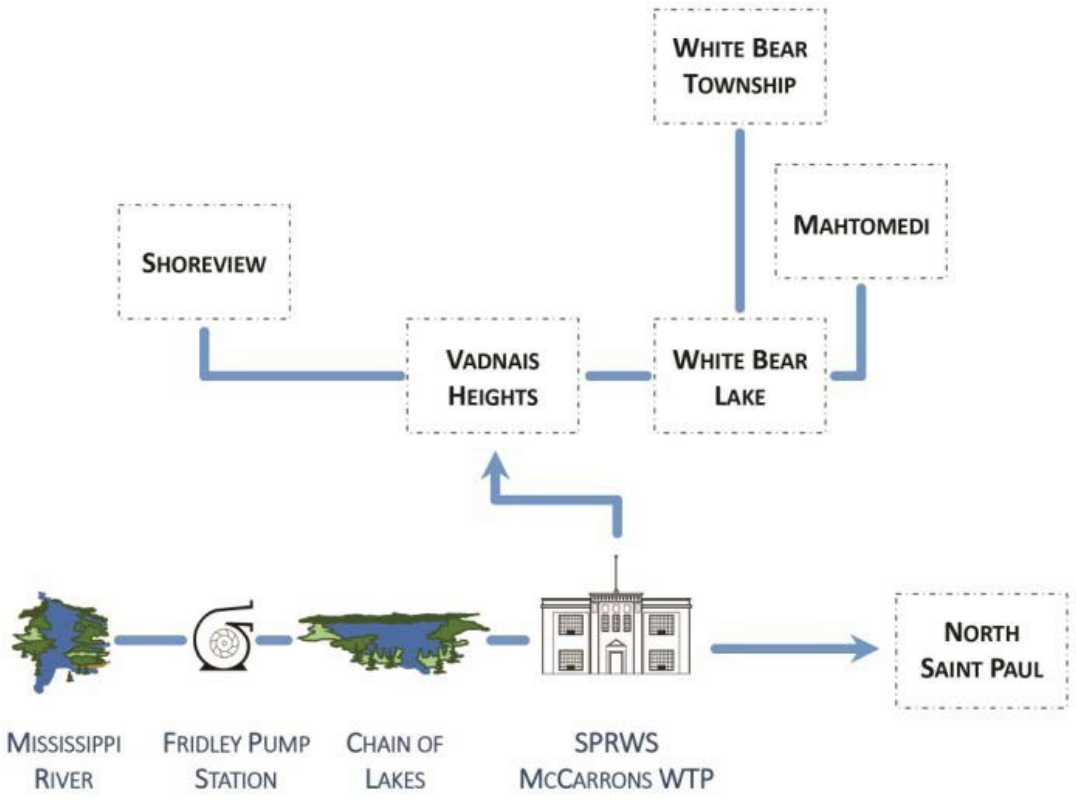
Alternative Future Demand Scenario

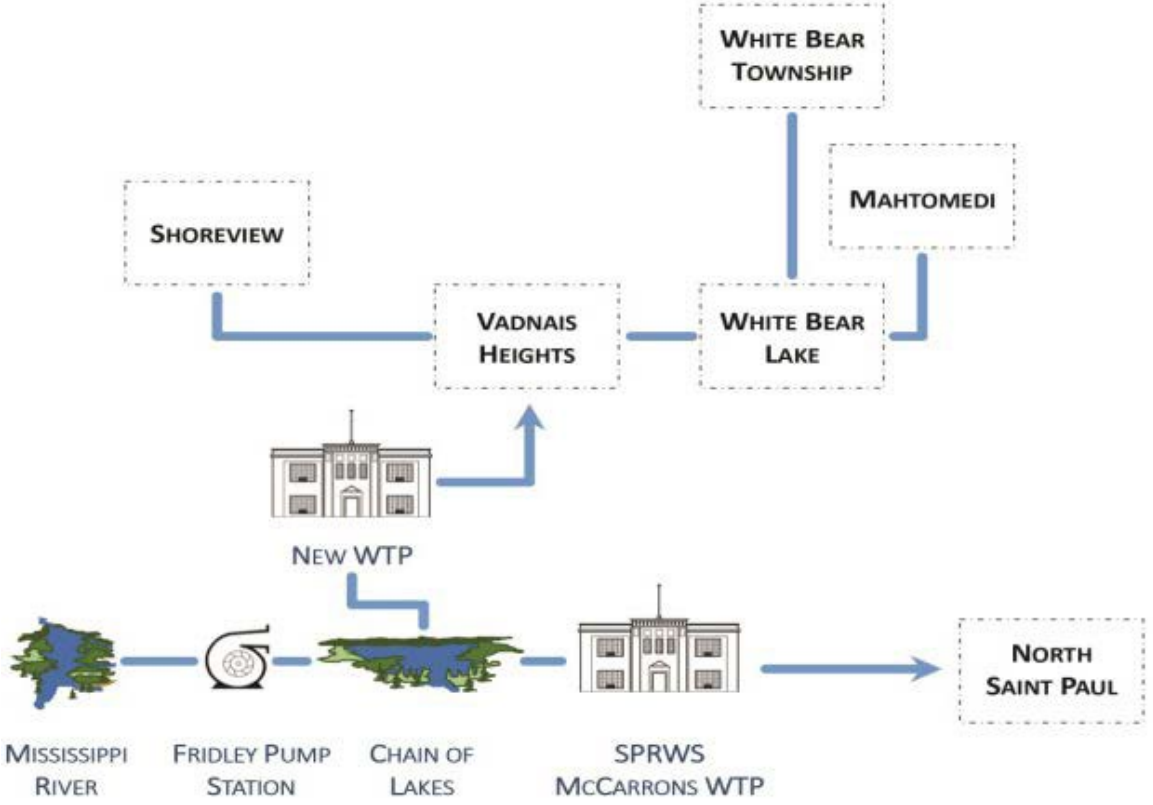
- Initially tested adjusting residential per capita to 75 gallons
  - North Oaks and Woodbury
- Other possibilities?

Replace Groundwater Supplies – Approach

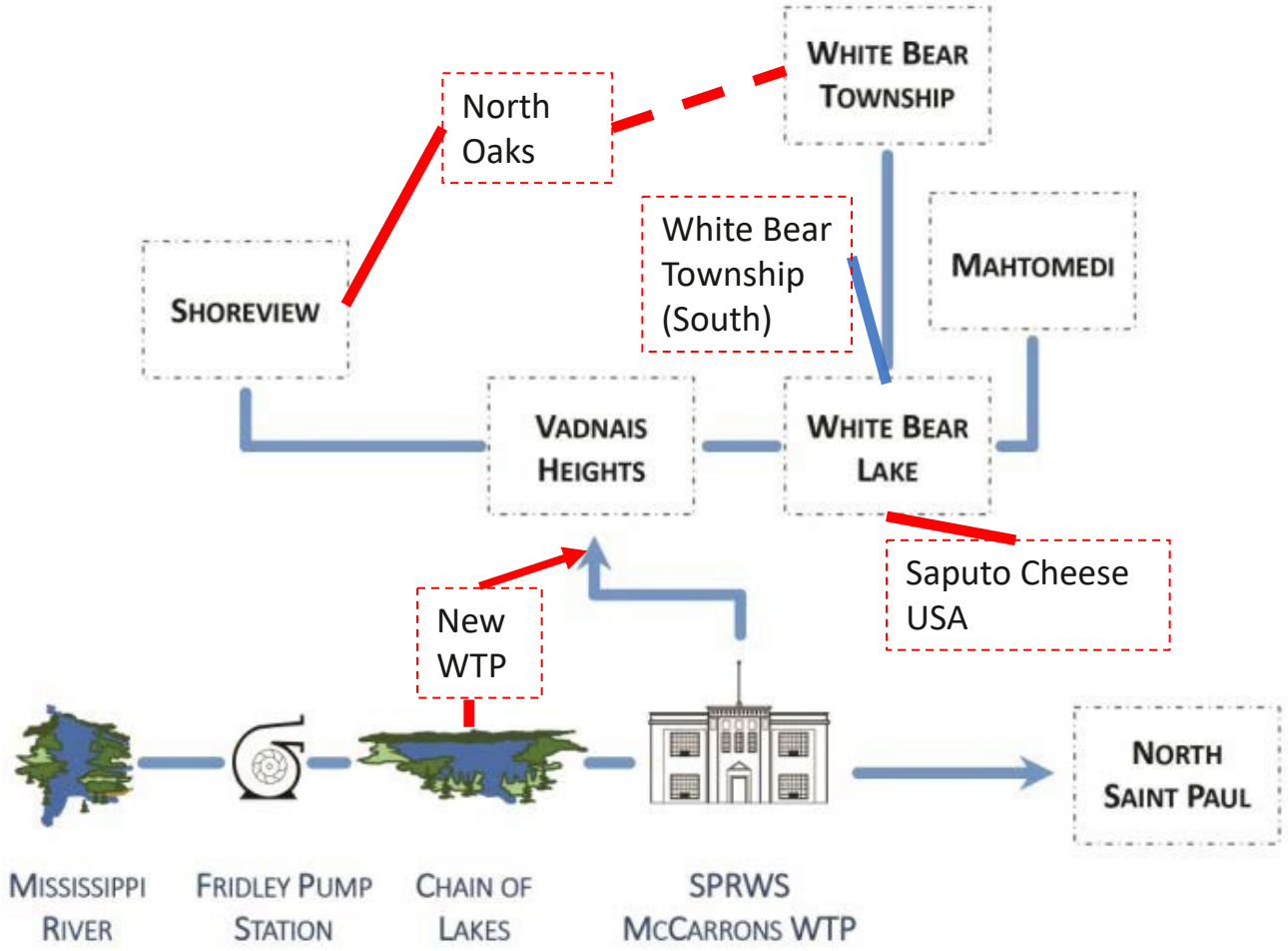
- Tested multiple replacement scenarios in model
- 2014 Met Council study
- Hugo 1 and Hugo 2 development options
  - Same in groundwater model if extra development area supplied with surface water

Replace Groundwater Supplies – Previous Study (2014)

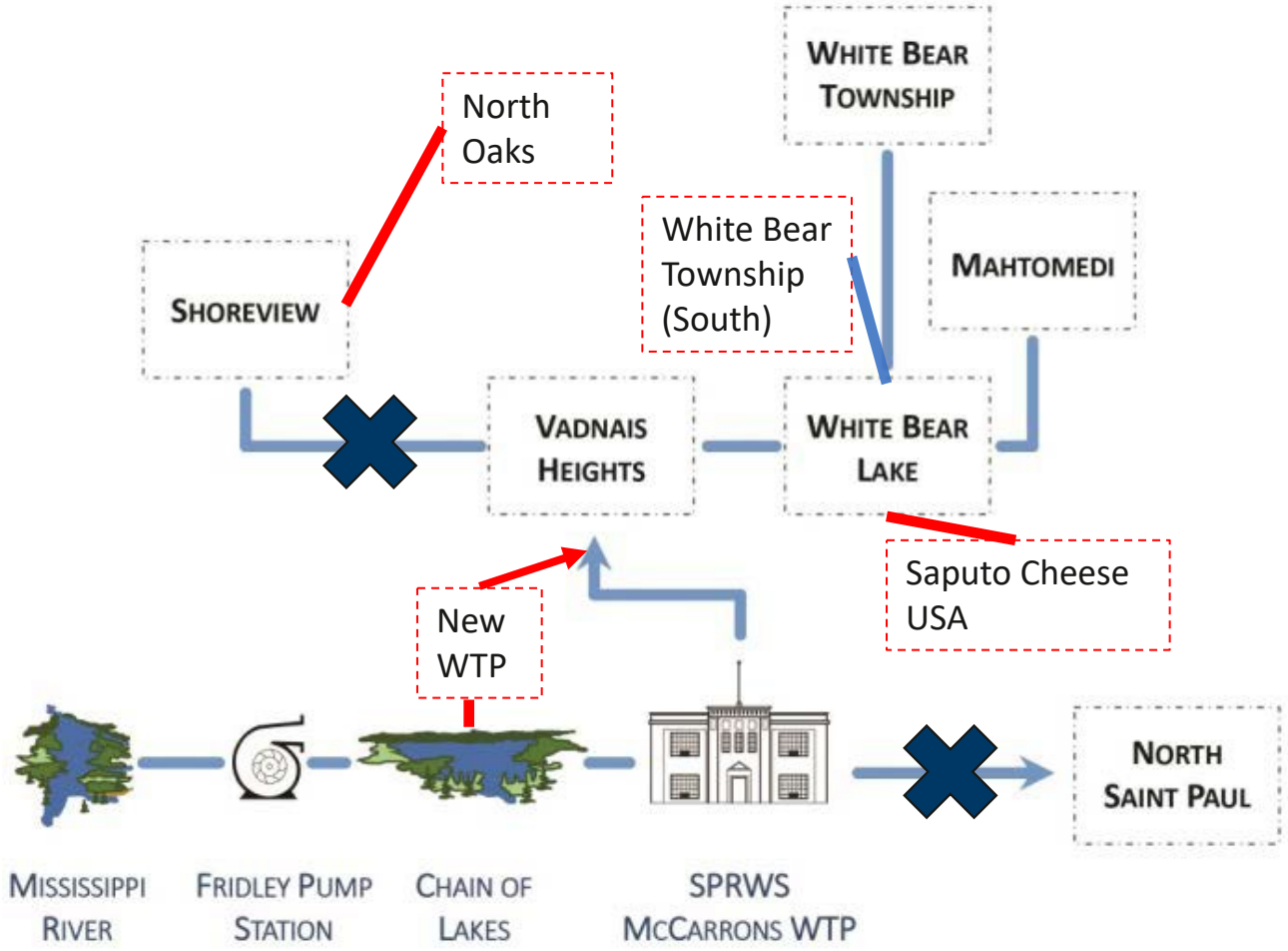




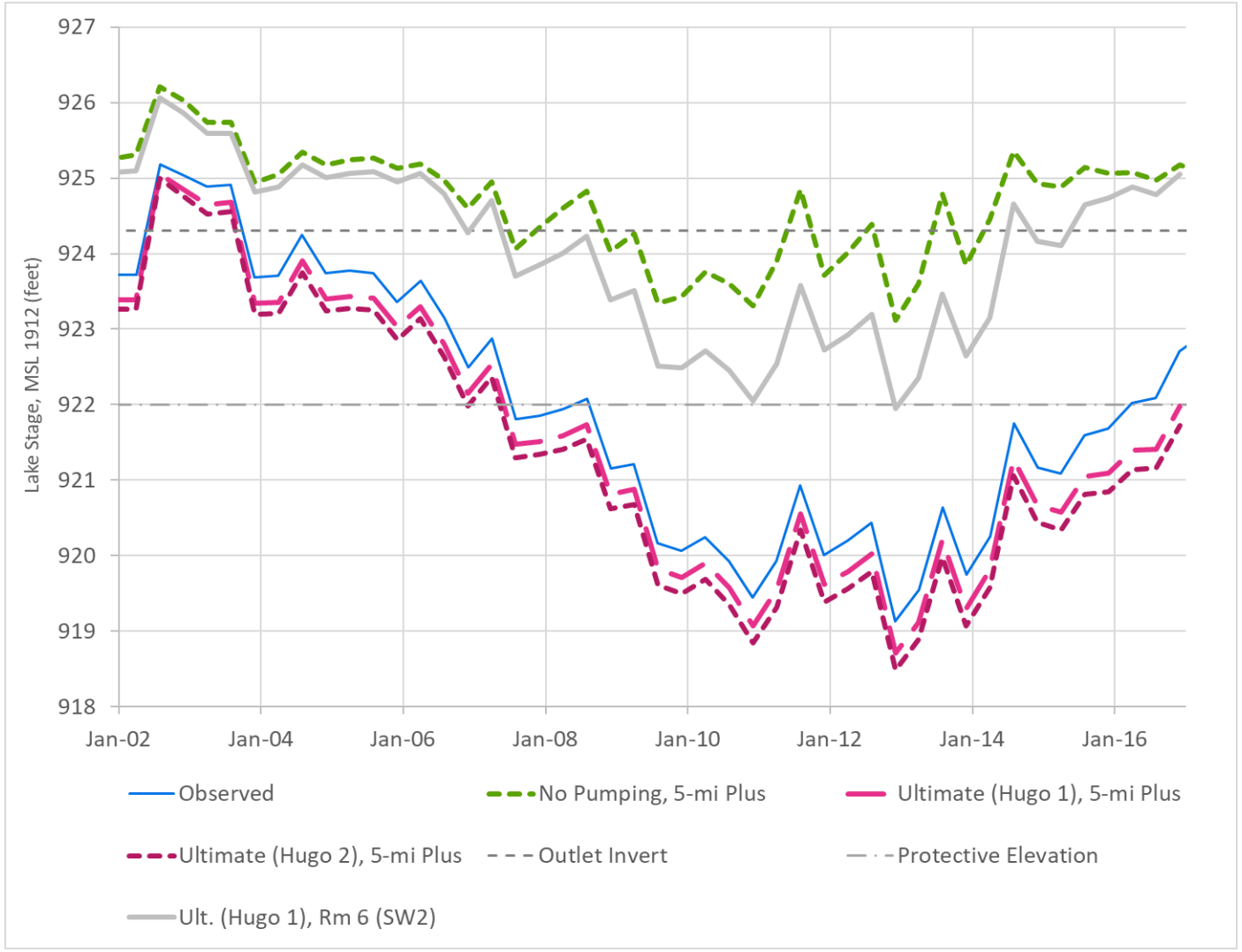
Replace Groundwater Supplies – Present Analysis



Replace Groundwater Supplies – Replace 6 (SW 2)

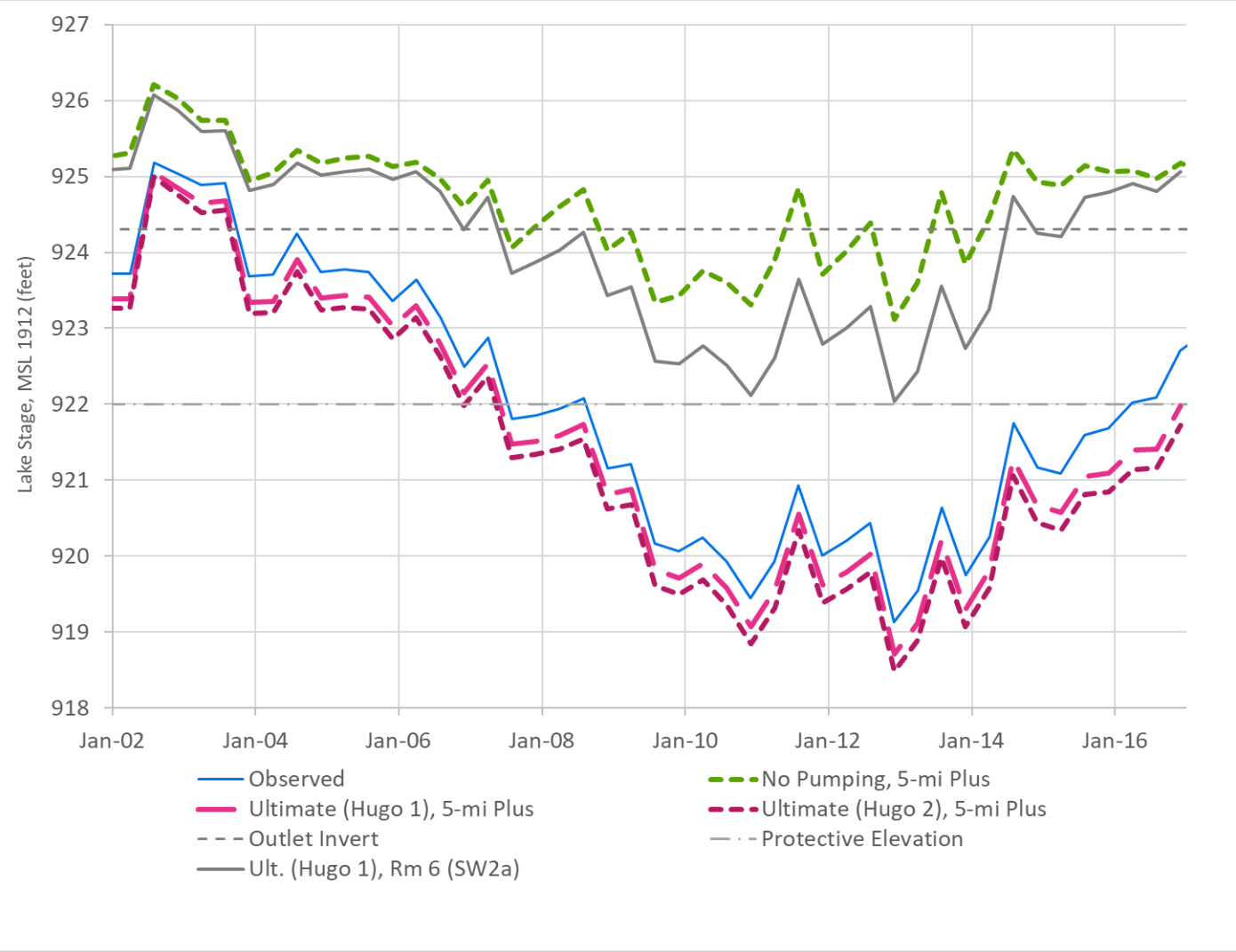


Model Results– Replace 6 Permits (SW 2)



- Hugo 1
- Replace 6 permits, 4 communities

Model Results– Replace 6 Permits (SW 2a)



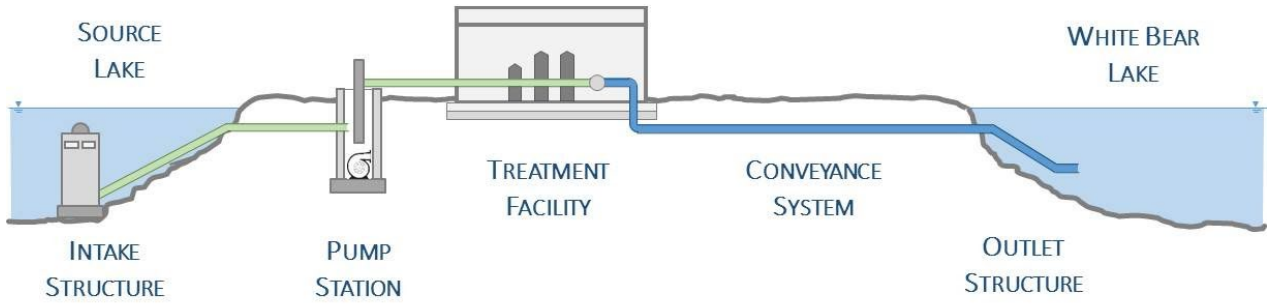
- Hugo 1
- Replace 6 permits, 4 communities
- North Oaks and Woodbury → 75 gpcd residential
- Other demand reduction options?

Replace Groundwater Supplies - Summary

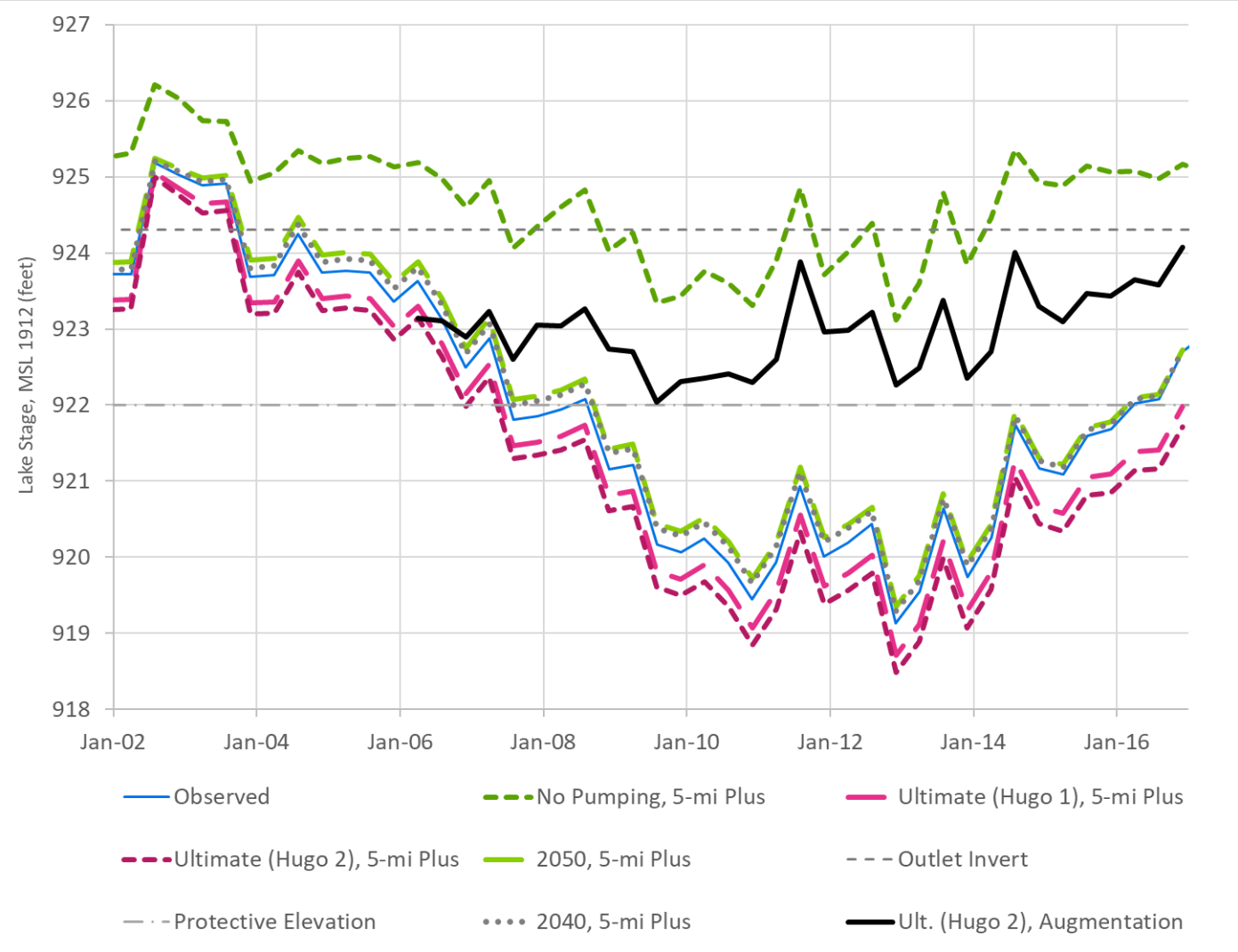
Scenario	Brief Description	Communities / Permits
SW 2a (Hugo 1)	Replace 6 permits with reduced demands	Mahtomedi, Saputo Cheese USA, Vadnais Heights, White Bear Lake, White Bear Township (2 systems)
SW 3 (Hugo 1)	Replace 7 permits	Mahtomedi, North St. Paul, Saputo Cheese USA, Vadnais Heights, White Bear Lake, White Bear Township (2 systems)
SW 3-2 (Hugo 2)	Replace 7 permits with reduced demands	Mahtomedi, North St. Paul, Saputo Cheese USA, Vadnais Heights, White Bear Lake, White Bear Township (2 systems)
SW 4 (Hugo 1), SW 4-2 (Hugo 2)	Replace 9 permits	Mahtomedi, North St. Paul, Saputo Cheese USA, Shoreview and North Oaks(joint system), Vadnais Heights, White Bear Lake, White Bear Township (2 systems)
SW 5 (Hugo 1)	Replace 7 permits	Mahtomedi, North Oaks, Saputo Cheese USA, Vadnais Heights, White Bear Lake, White Bear Township (2 systems)
SW 6a (Hugo 1)	Replace 6 permits with reduced demands	Mahtomedi, North Oaks, Vadnais Heights, White Bear Lake, White Bear Township (2 systems)
SW 2c (Hugo 1)	Replace 6 permits and injection of 1 mgd treated wastewater	Mahtomedi, Saputo Cheese USA, Vadnais Heights, White Bear Lake, White Bear Township (2 systems)
SW 7 (Hugo 1)	Replace 4 permits and injection of 2 mgd treated wastewater	Saputo Cheese USA, White Bear Lake, White Bear Township (2 systems)

Lake Augmentation

- Two previous conceptual cost studies (Met Council, 2014 and DNR and Met Council 2016)
- Water-quality study starts soon
- Initial model test
  - Hugo 2, all communities remain on groundwater supplies
  - Augmentation during open-water season
  - Trigger - 923 ft if not rising
  - Up to 780 MGY (< ½ previously studied)
  - Max rate ~ 4 mgd

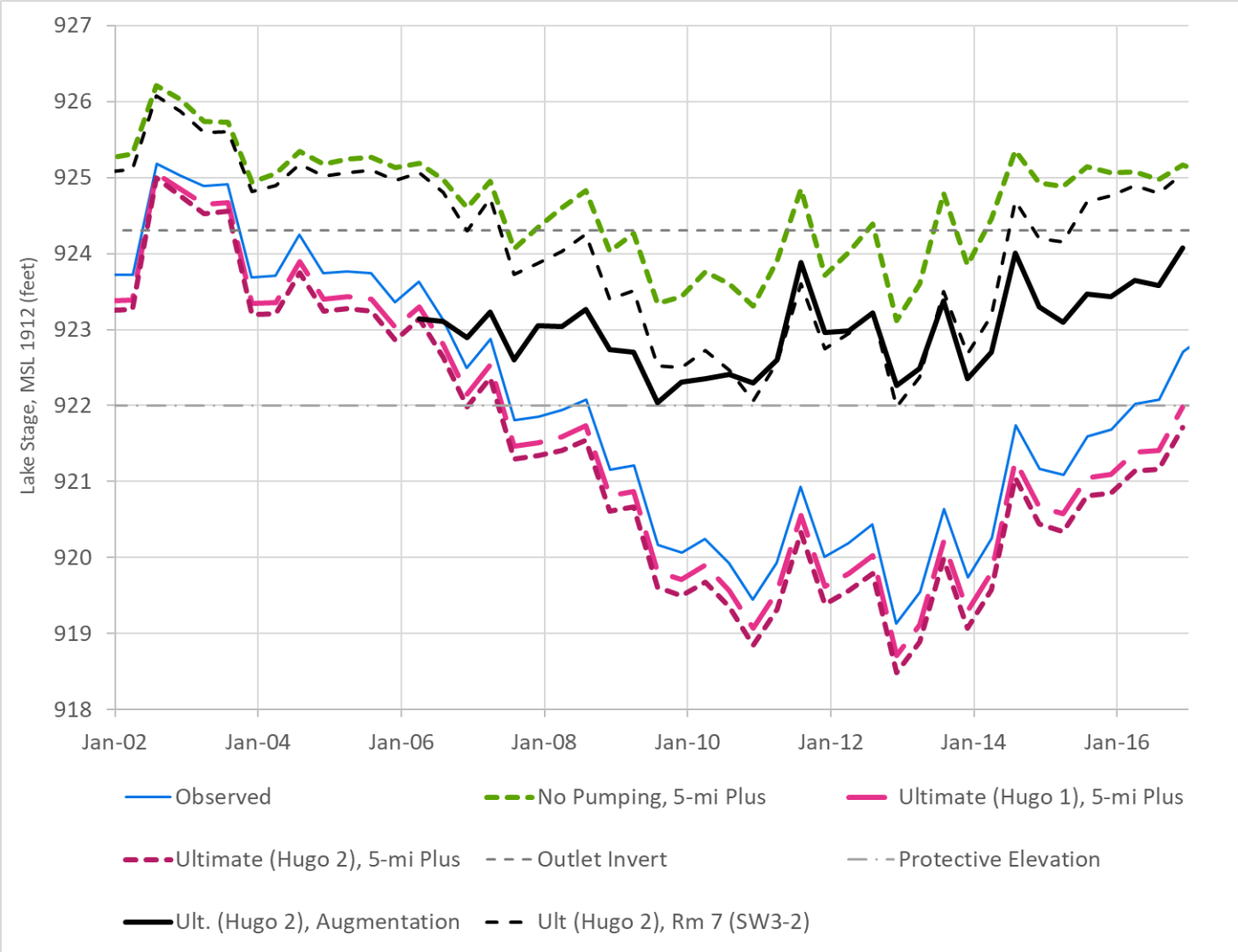


Augmentation Example



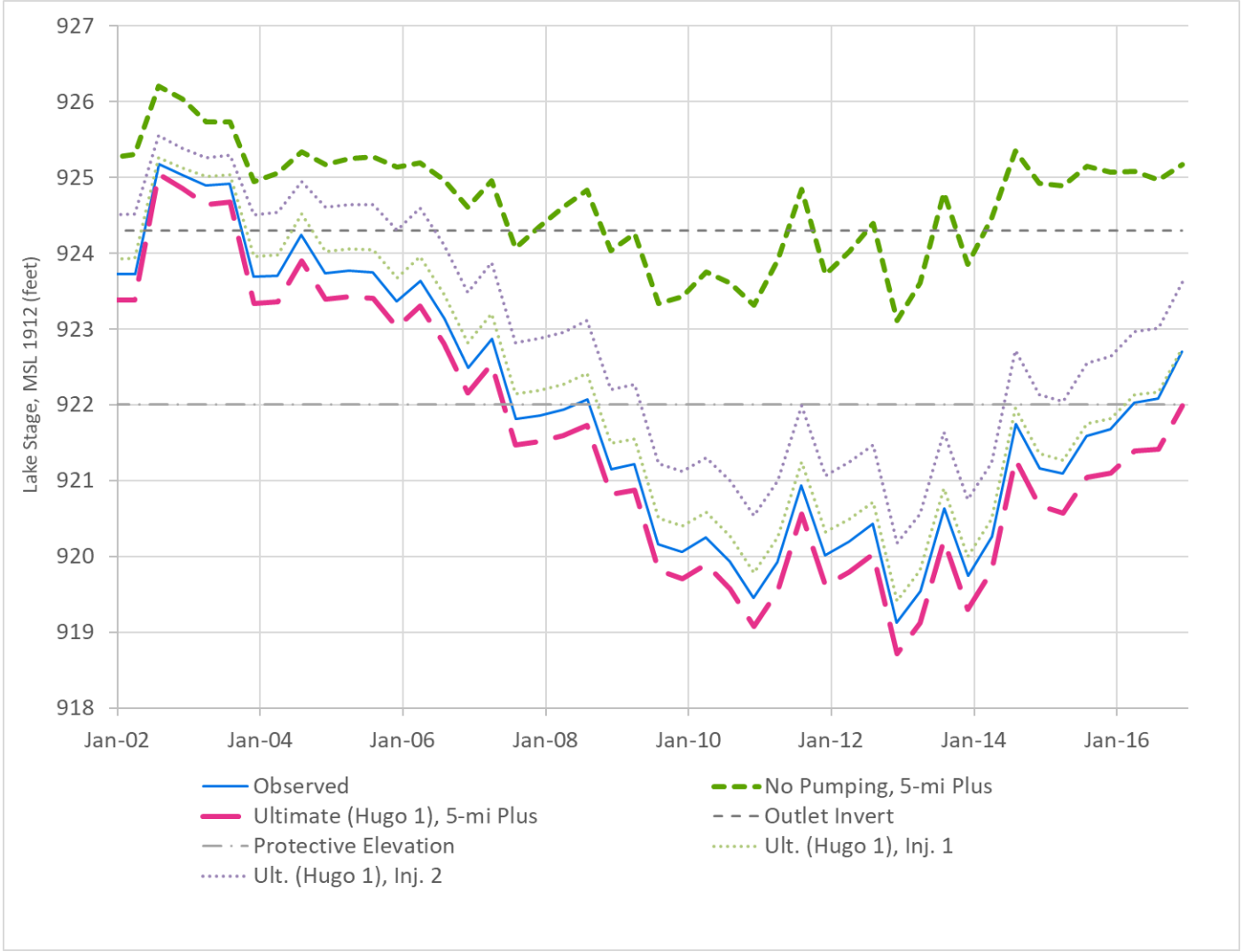
- Hugo 2
- Augmentation during open-water season 2006-07, part of 2008, 2009-10, part of 2011, and part of 2012

Replacement vs. Augmentation Comparison



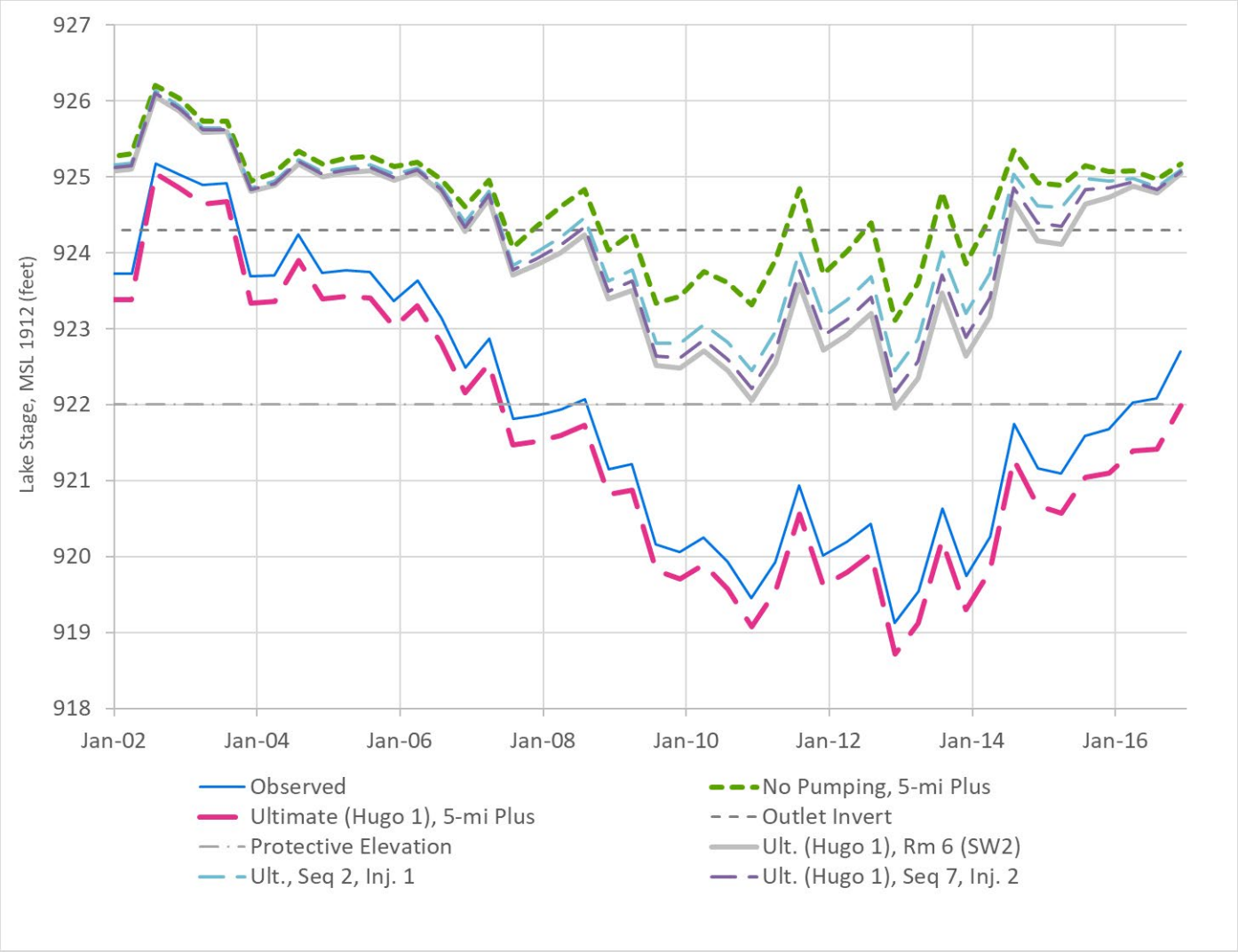
- Hugo 2
- Augmentation vs. SW 3-2 (Replace 7 permits, 5 communities)

Injection of Treated Wastewater



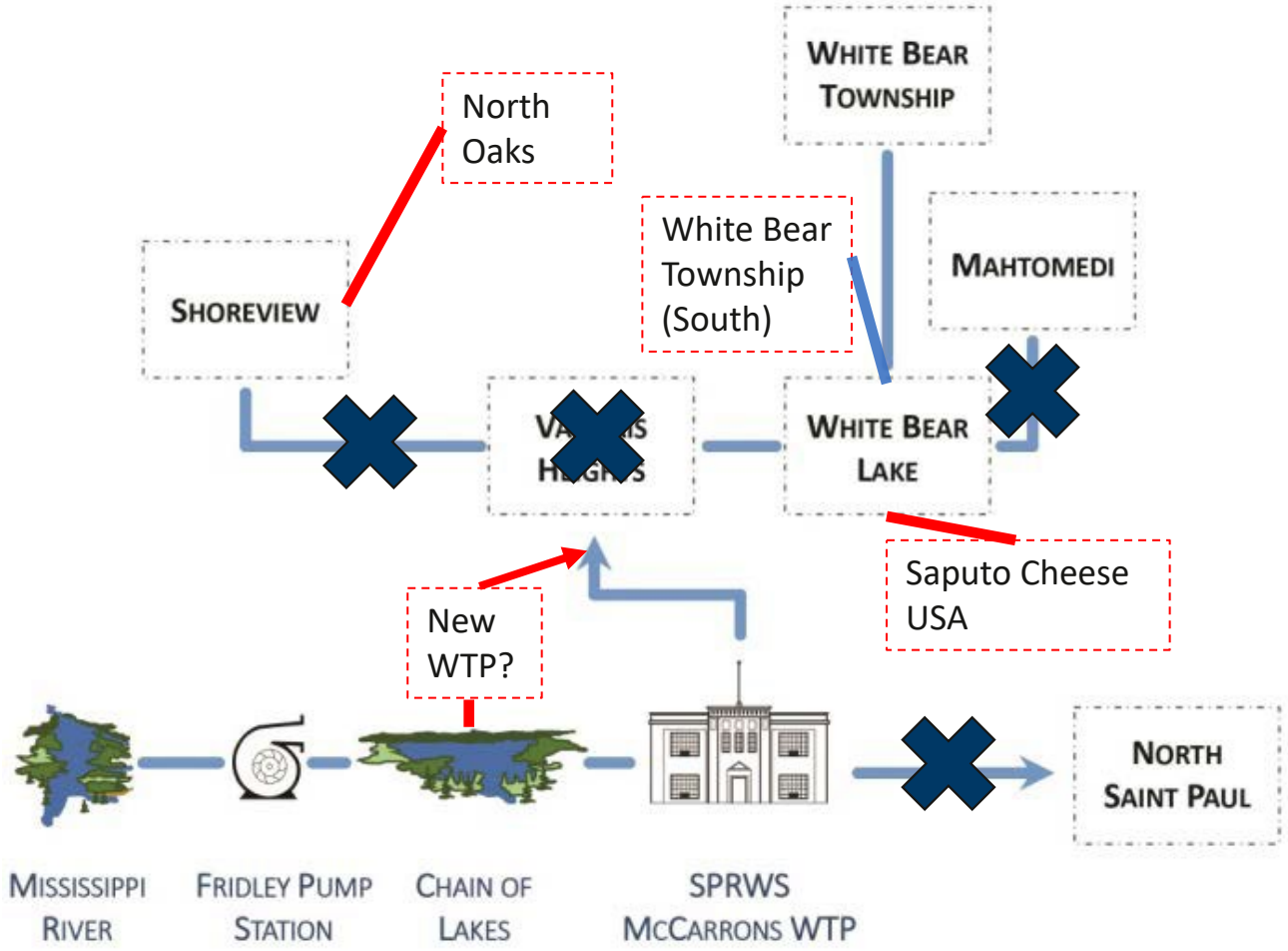
- Ultimate (Hugo 1)
- Injection well(s) adjacent to WBL, 1 mgd or 2 mgd

Injection of Treated Wastewater and Replace Groundwater Supplies



- Ultimate (Hugo 1)
- Injection well adjacent to WBL, 1 mgd
- Replace 6 permits, 4 communities (SW 2)
- Injection well(s) adjacent to WBL, 2 mgd
- Replace 4 permits, 2 communities (SW 7)

Replace Groundwater Supplies – Replace 4 Permits (SW 7)



Summary of Options

Type	Ultimate Demand Scenario	Options
Replace groundwater supplies	Hugo 1	• Replace 6 permits with demand reductions (SW 2a) • Replace 7 permits (SW 3 and SW 5) • Replace 9 permits (SW 4)
Replace groundwater supplies	Hugo 2	• Replace 9 permits (SW 4-2) • Replace 7 permits with demand reductions (SW 3-2) • Hugo 1 options with expanded Hugo area supplied with surface water
Augmentation	Hugo 1 or Hugo 2	• Augmentation trigger elevation
Combine surface-water supply with injection of treated wastewater	Hugo 1	• Replace 6 permits (2 options) with 1 mgd injection (SW 2, SW 6) • Replace 4 permits with 2 mgd injection (SW 7) • Replace < 6 permits with 1 mgd injection?
Combine surface-water supply with injection of treated wastewater	Hugo 2	Not tested, likely several options

Thank You!

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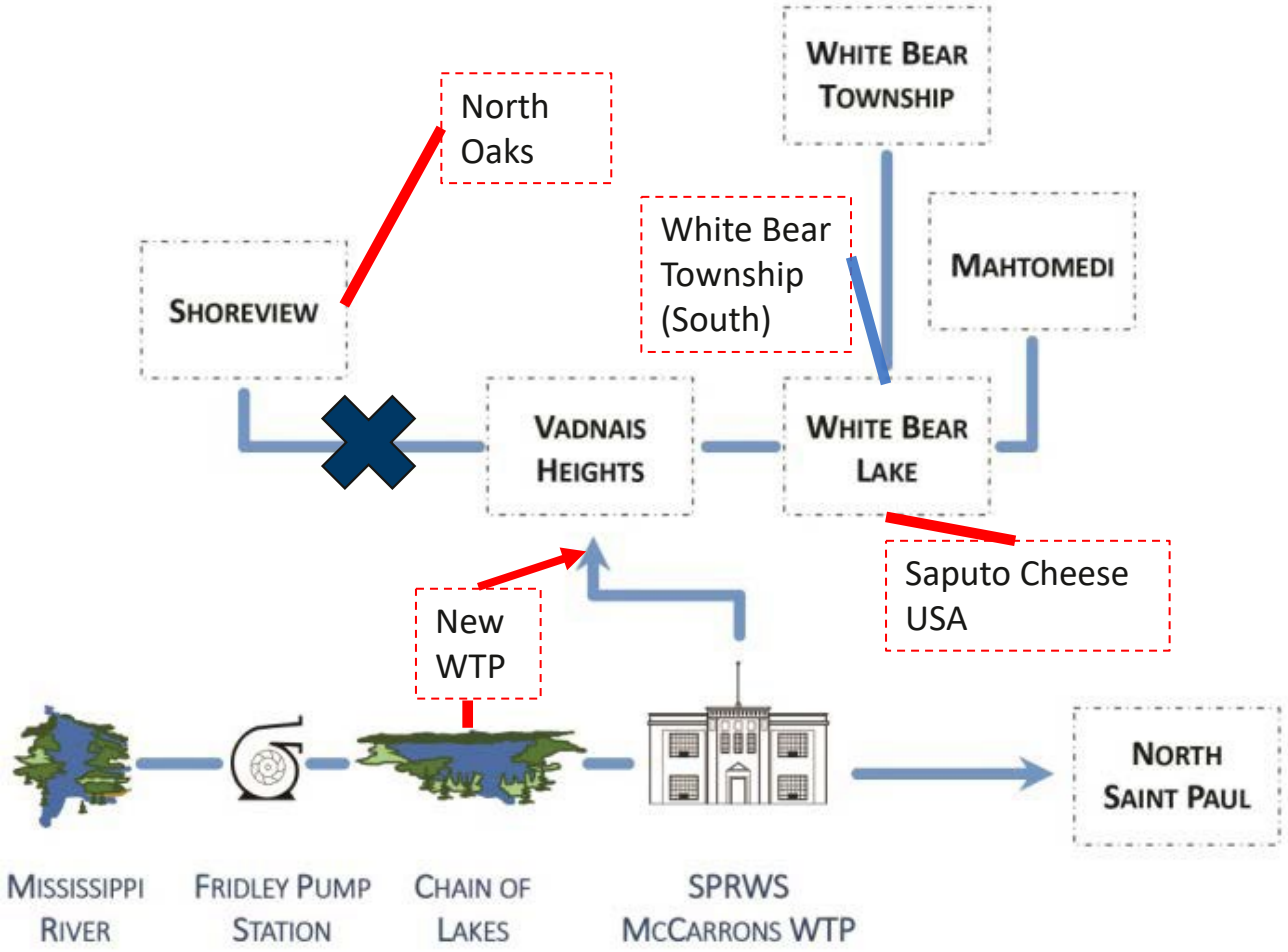
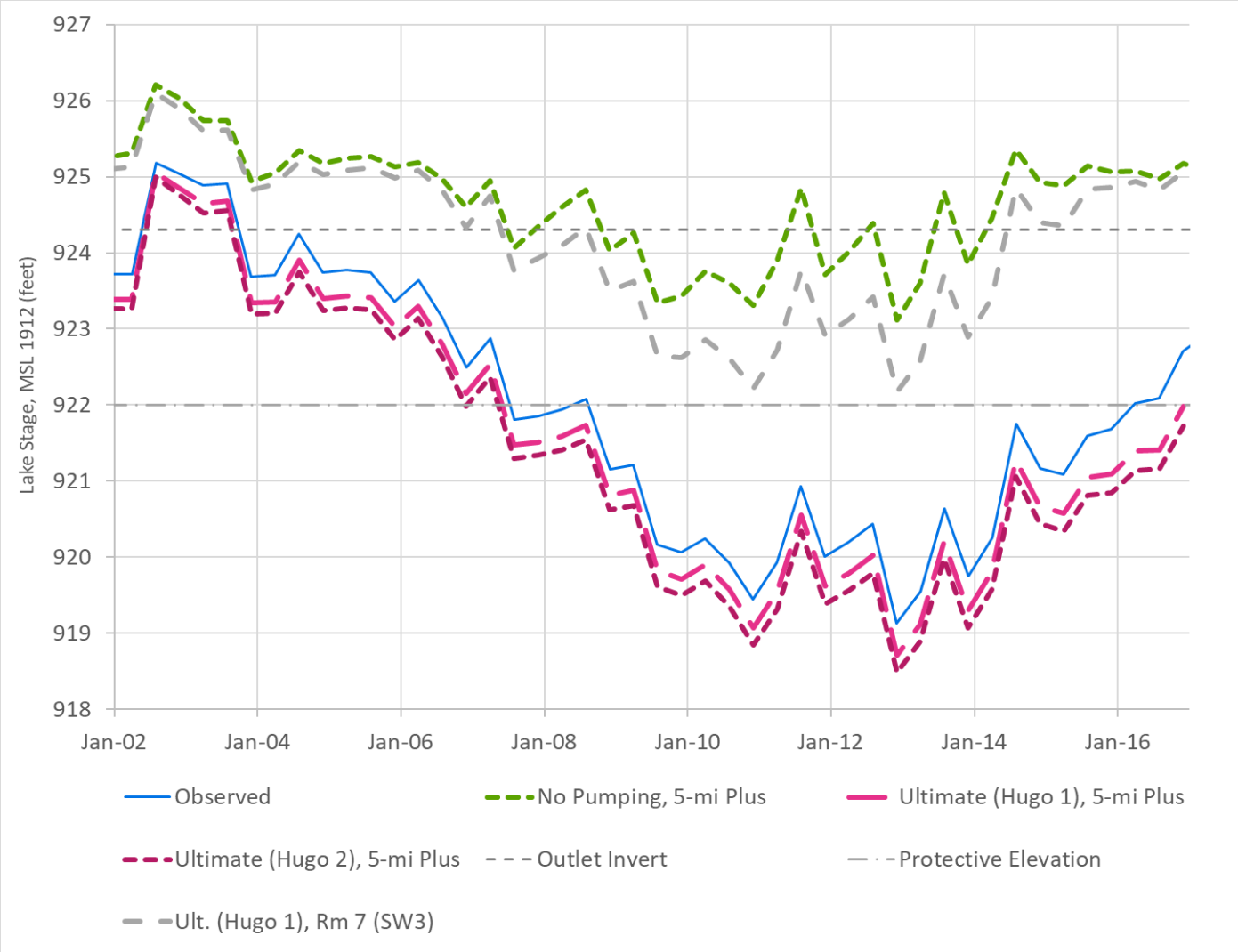
Supplemental Slides

Replace Groundwater Supplies – Replace 7 Permits (SW 3)

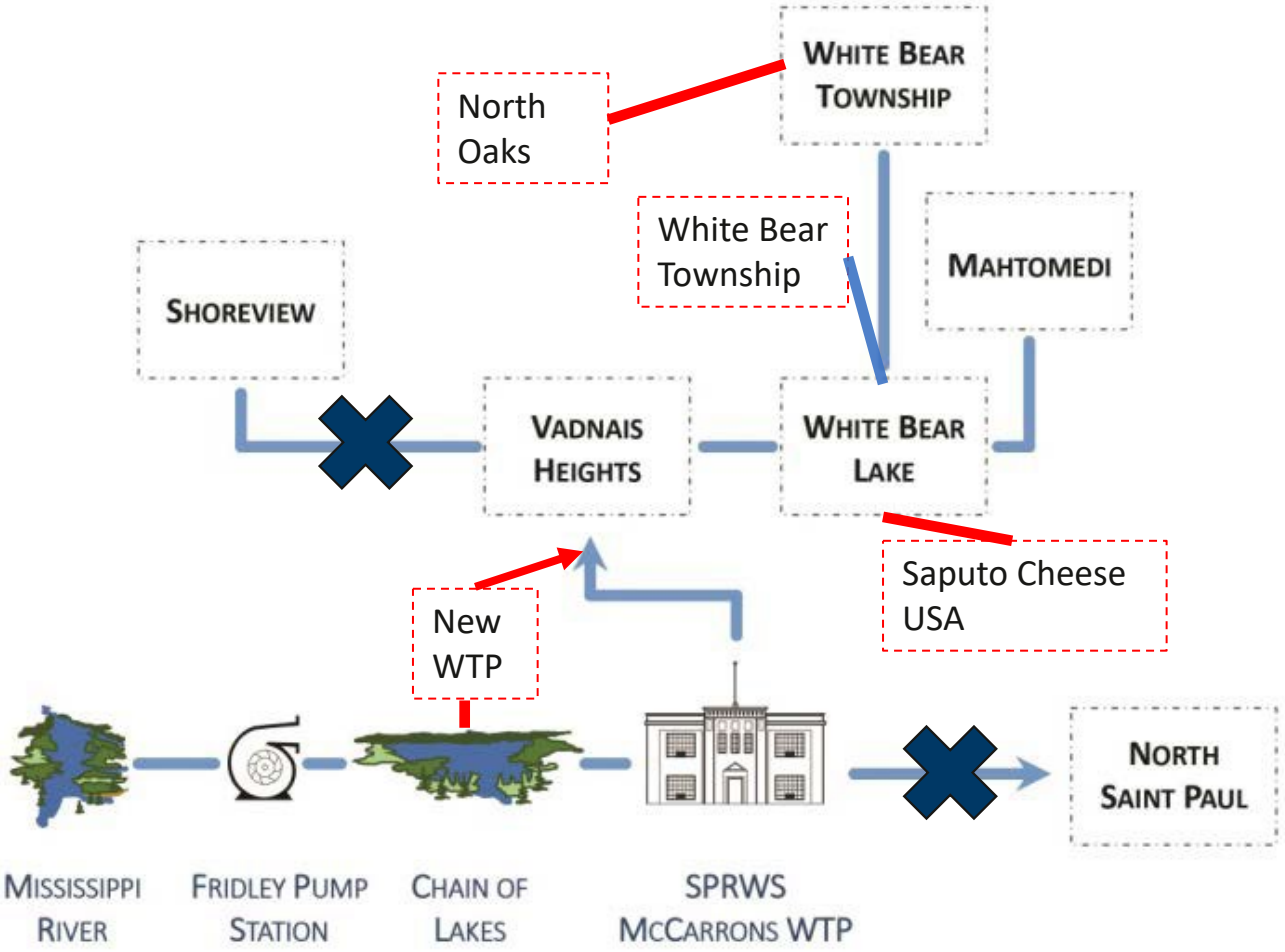


Model Results– Replace 7 Permits (SW 3)

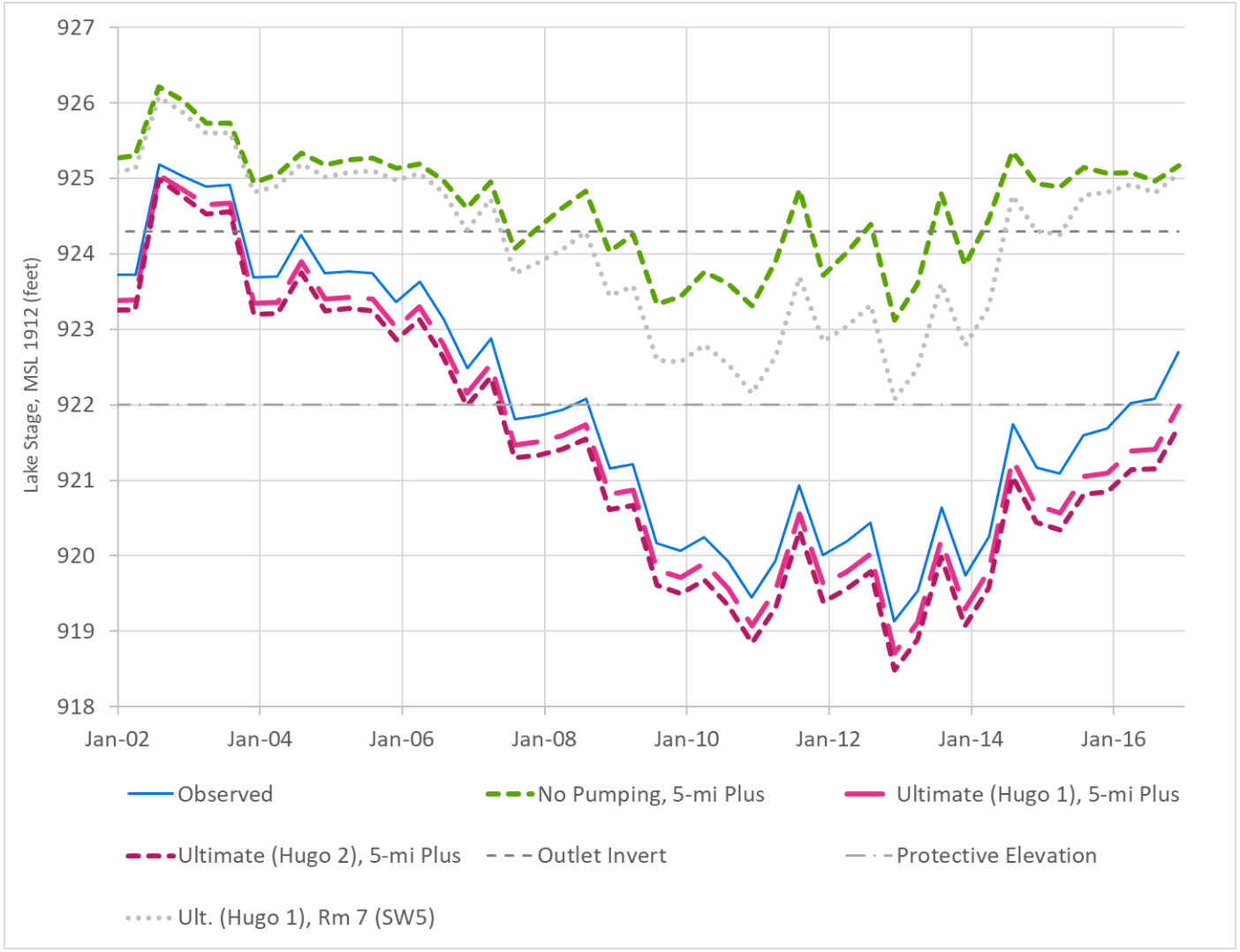


- Hugo 1
- Replace 7 permits, 5 communities

Replace Groundwater Supplies – Replace 7 Permits (SW 5)

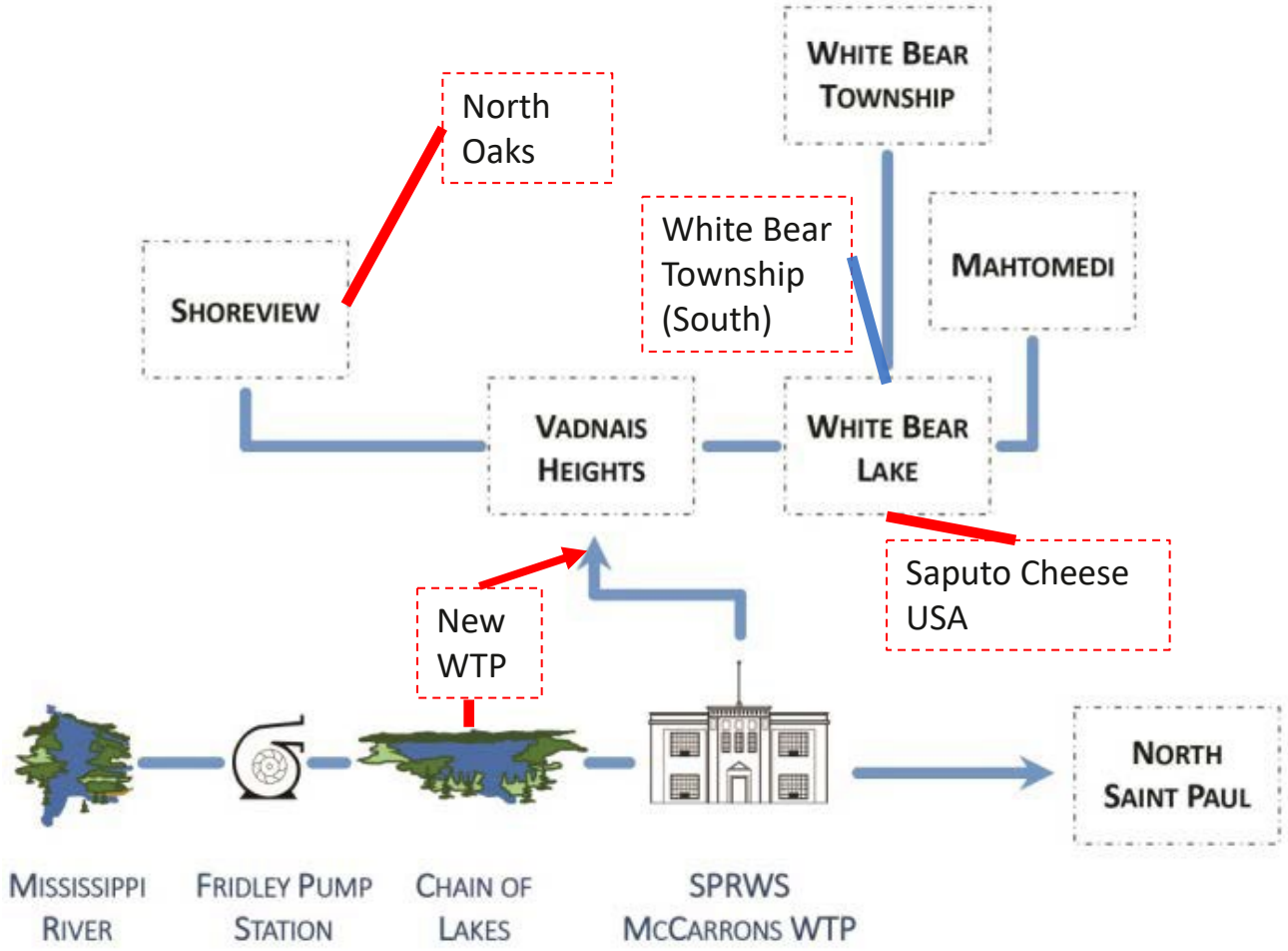


Model Results– Replace 7 Permits (SW 5)

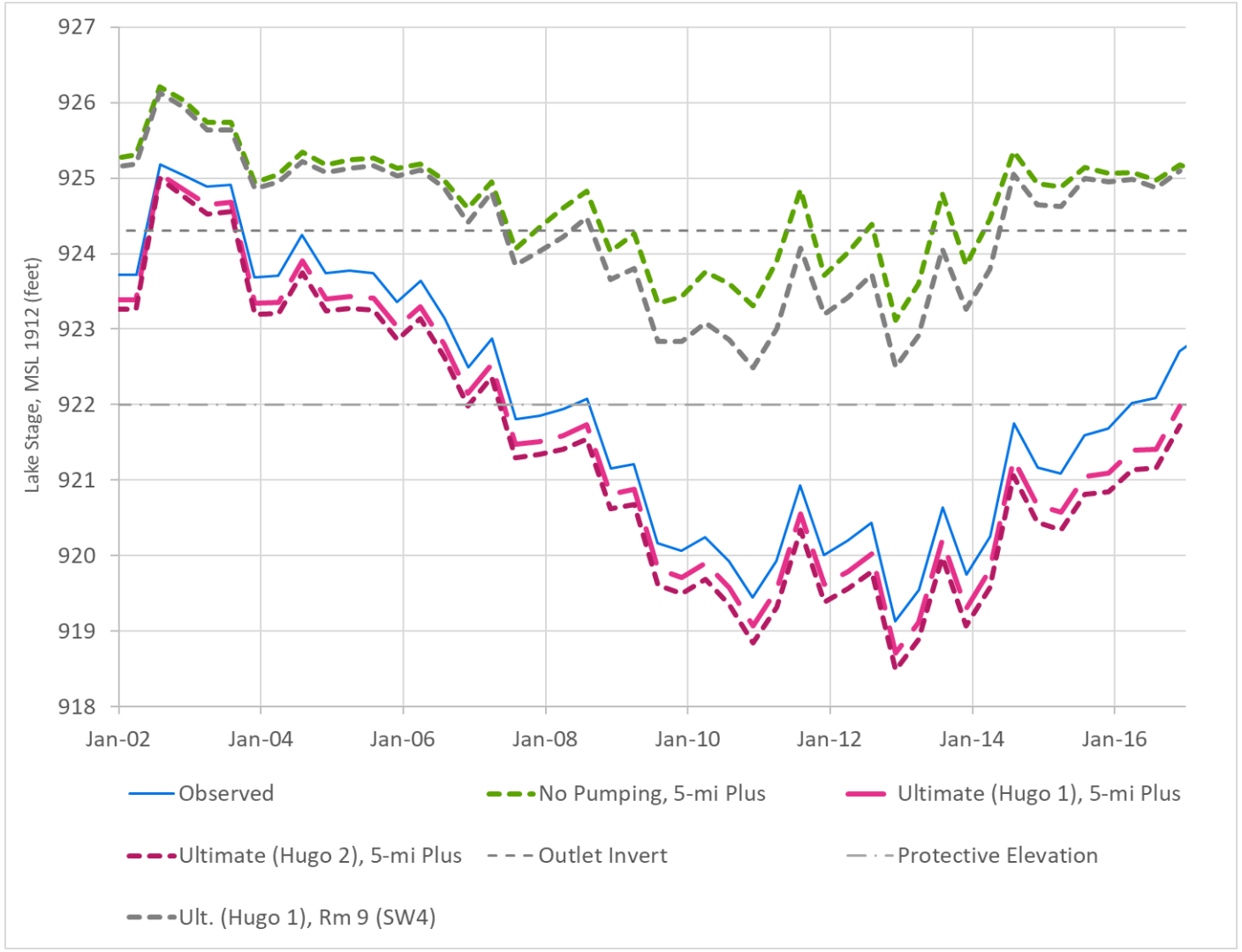


- Hugo 1
- Replace 7 permits, 5 communities

Replace Groundwater Supplies – Replace 9 (SW 4)

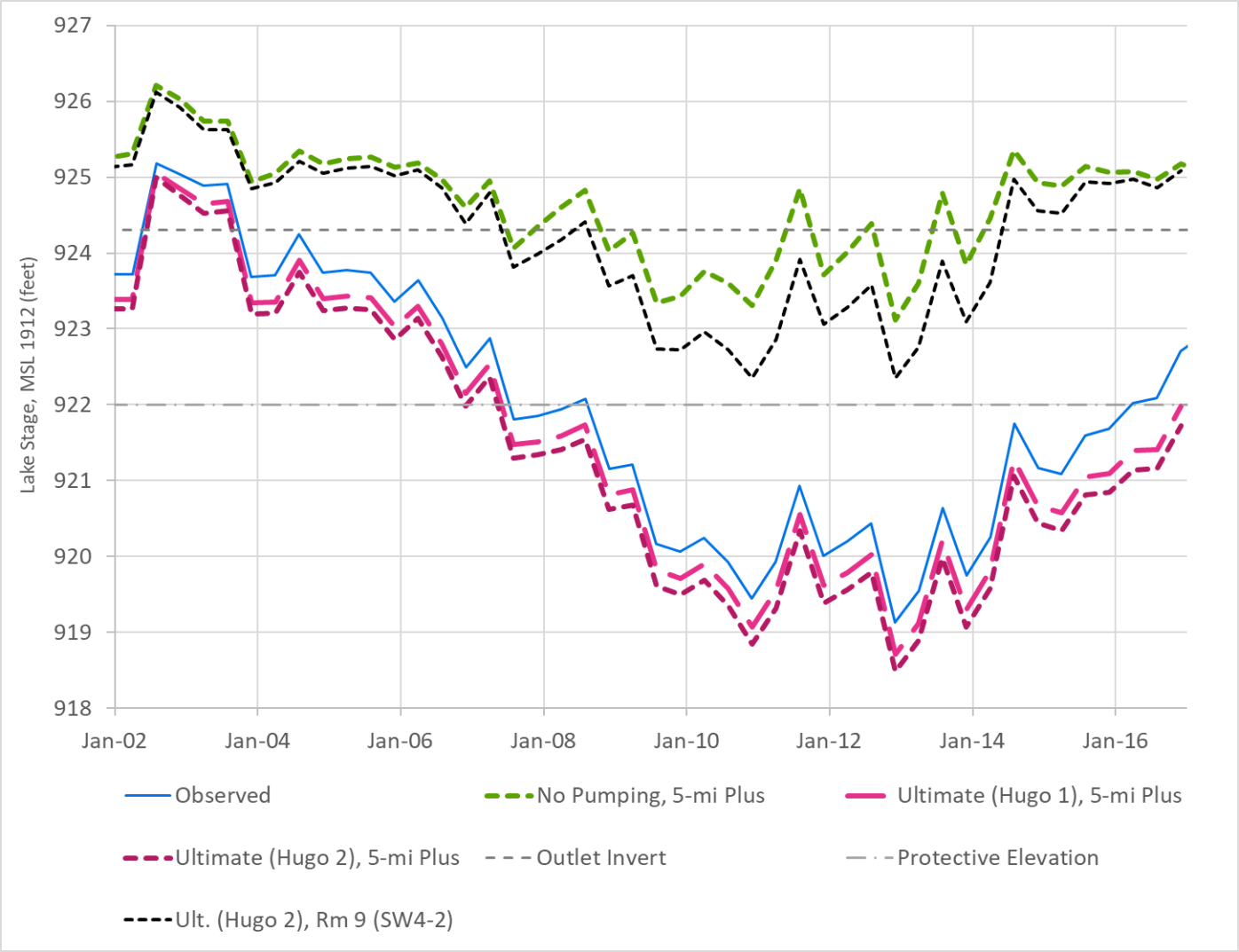


Model Results– Replace 9 Permits (SW 4)



- Hugo 1
- Replace 9 permits, 7 communities

Model Results– Replace 9 Permits (SW 4-2)

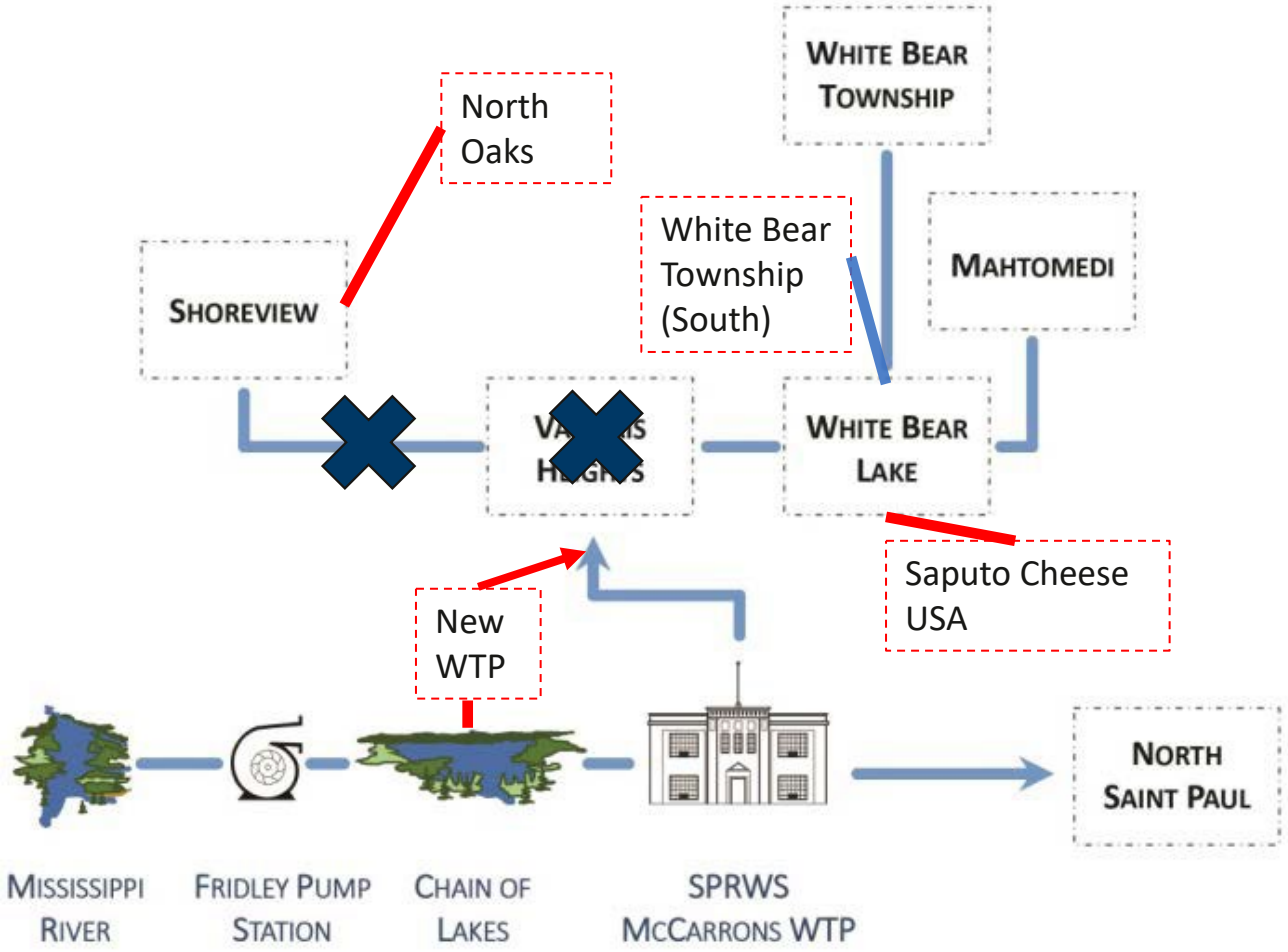


- Hugo 2
- Replace 9 permits, 7 communities

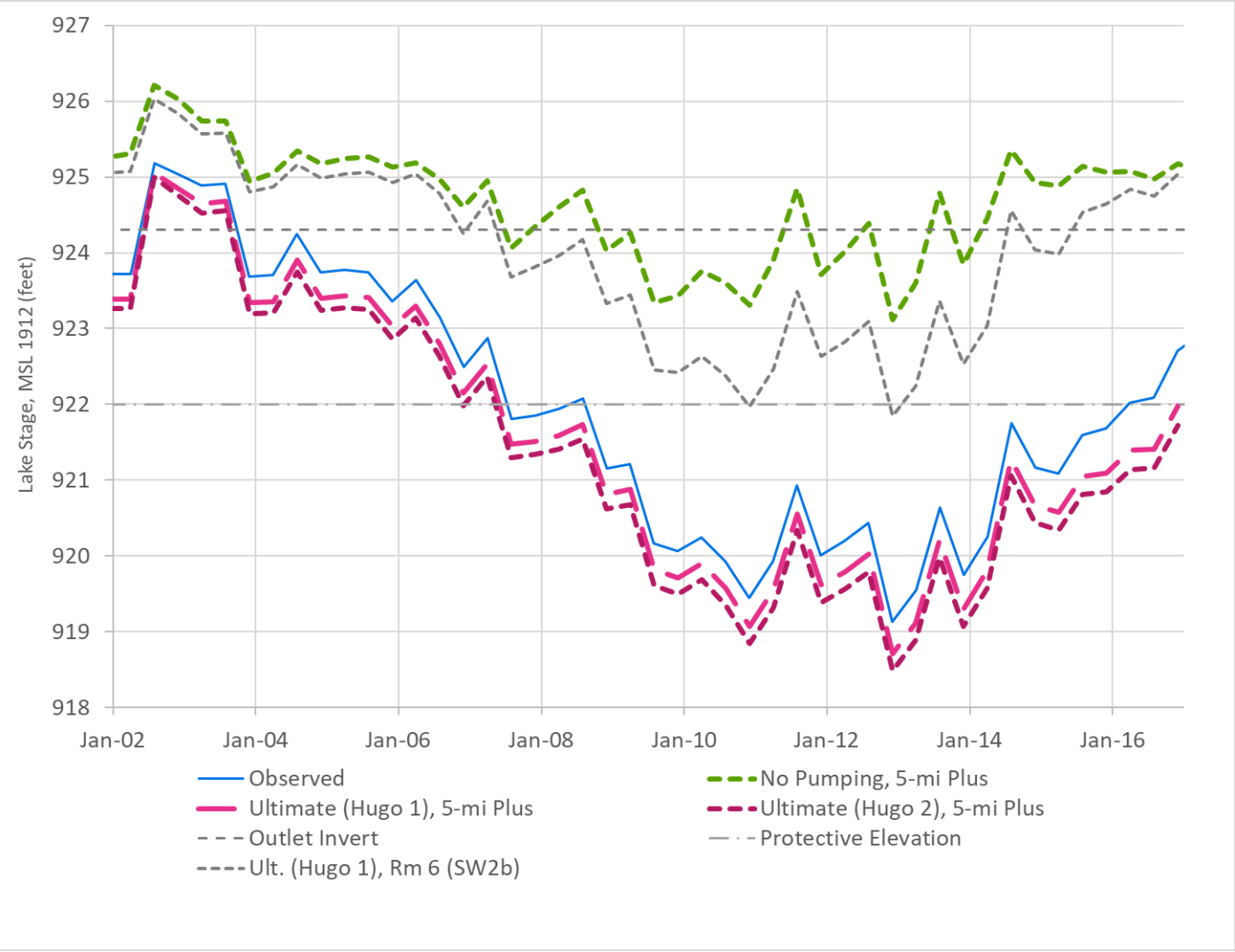
Replace Groundwater Supplies – Other Tested Scenarios

Scenario	Brief Description	Communities / Permits
SW 2 (Hugo 1)	Replace 6	Mahtomedi, Saputo Cheese USA, Vadnais Heights, White Bear Lake, White Bear Township (2 systems)
SW 2b (Hugo 1)	Replace 6 with reduced demands	Mahtomedi, North St. Paul, Saputo Cheese USA, White Bear Lake, White Bear Township (2 systems)
SW3-2 (Hugo 2)	Replace 7	Mahtomedi, North St. Paul, Saputo Cheese USA, Vadnais Heights, White Bear Lake, White Bear Township (2 systems)
SW 6 (Hugo 1)	Replace 6	Mahtomedi, North Oaks, Vadnais Heights, White Bear Lake, White Bear Township (2 systems)

Replace Groundwater Supplies – Replace 6 Permits (SW 2b)

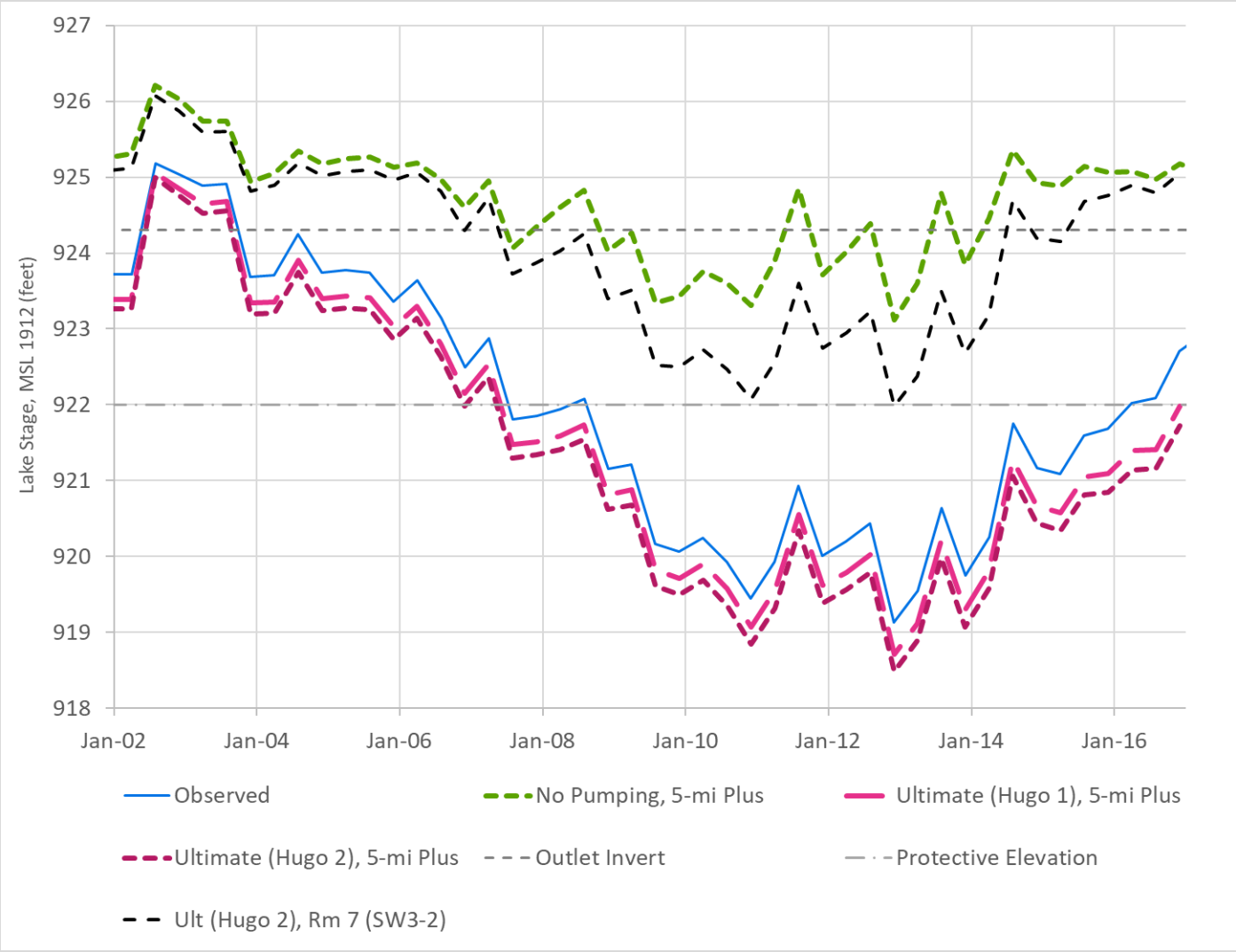


Model Results– Replace 6 Permits (SW 2b)



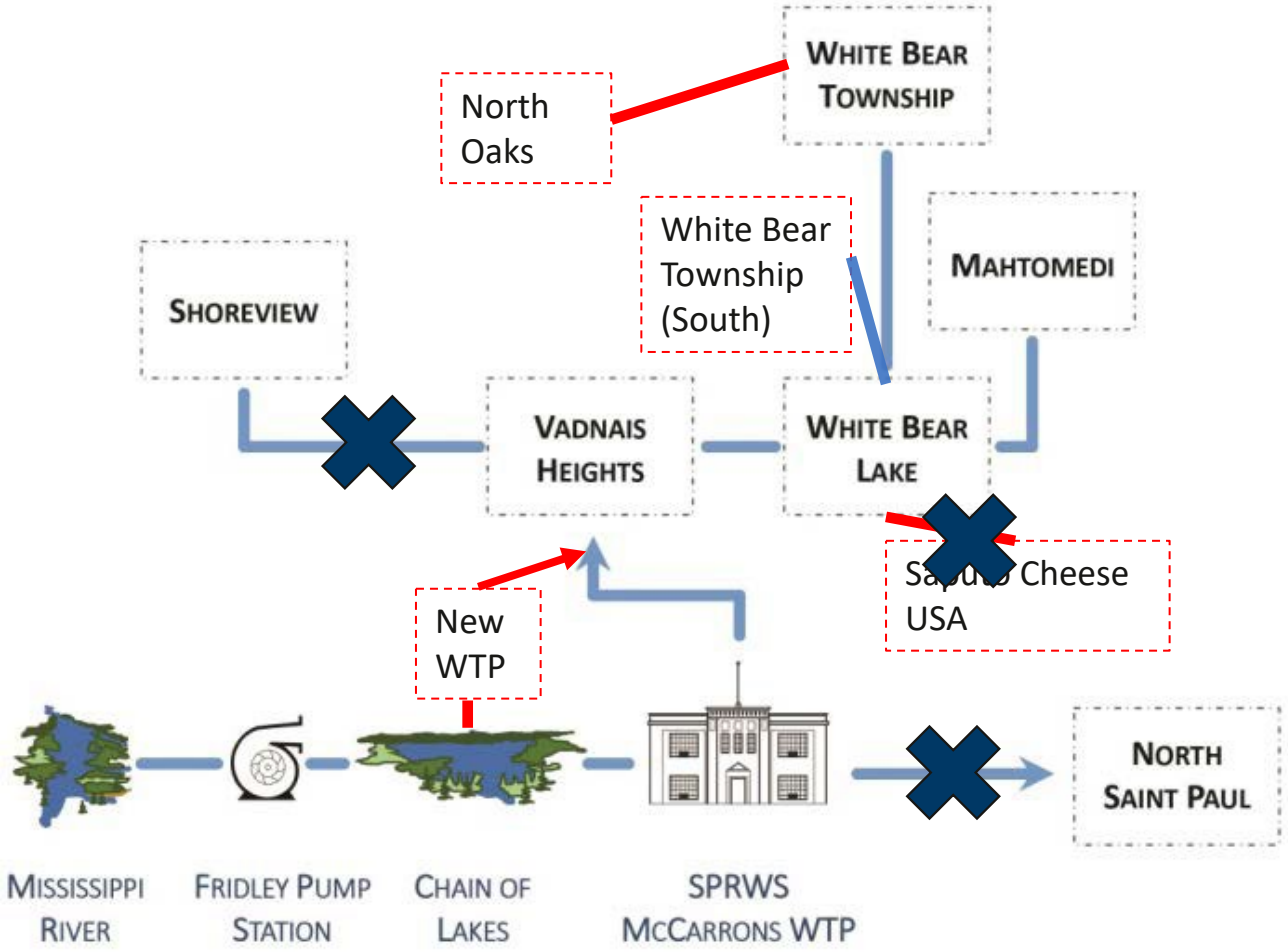
- Hugo 1
- Replace 6 permits, 4 communities
- North Oaks and Woodbury → 75 gpcd residential
- Further demand reductions?
- Other options?

Model Results– Replace 7 Permits (SW 3-2)

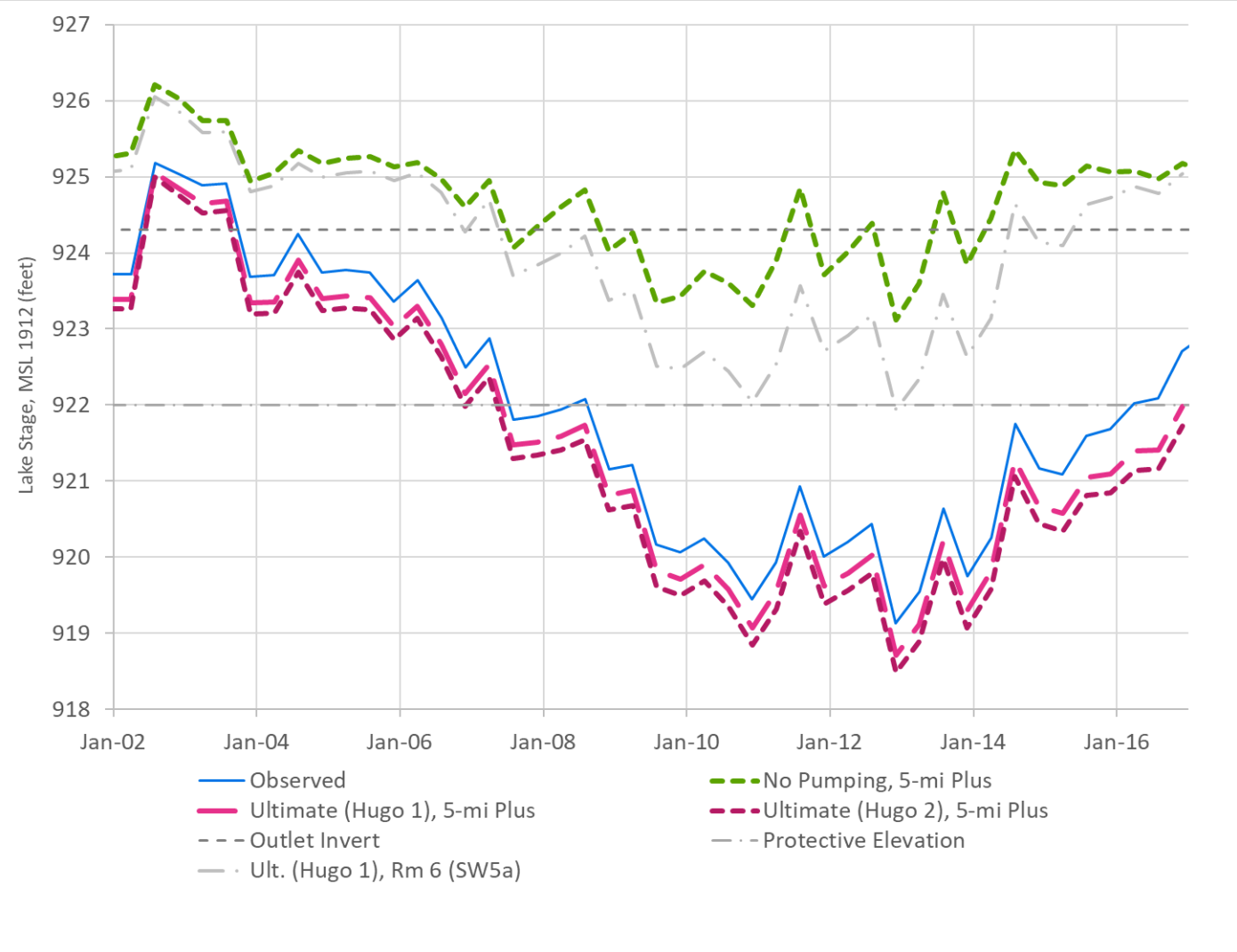


- Hugo 2
- Replace 7 permits, 5 communities
- Needs demand reductions or other options

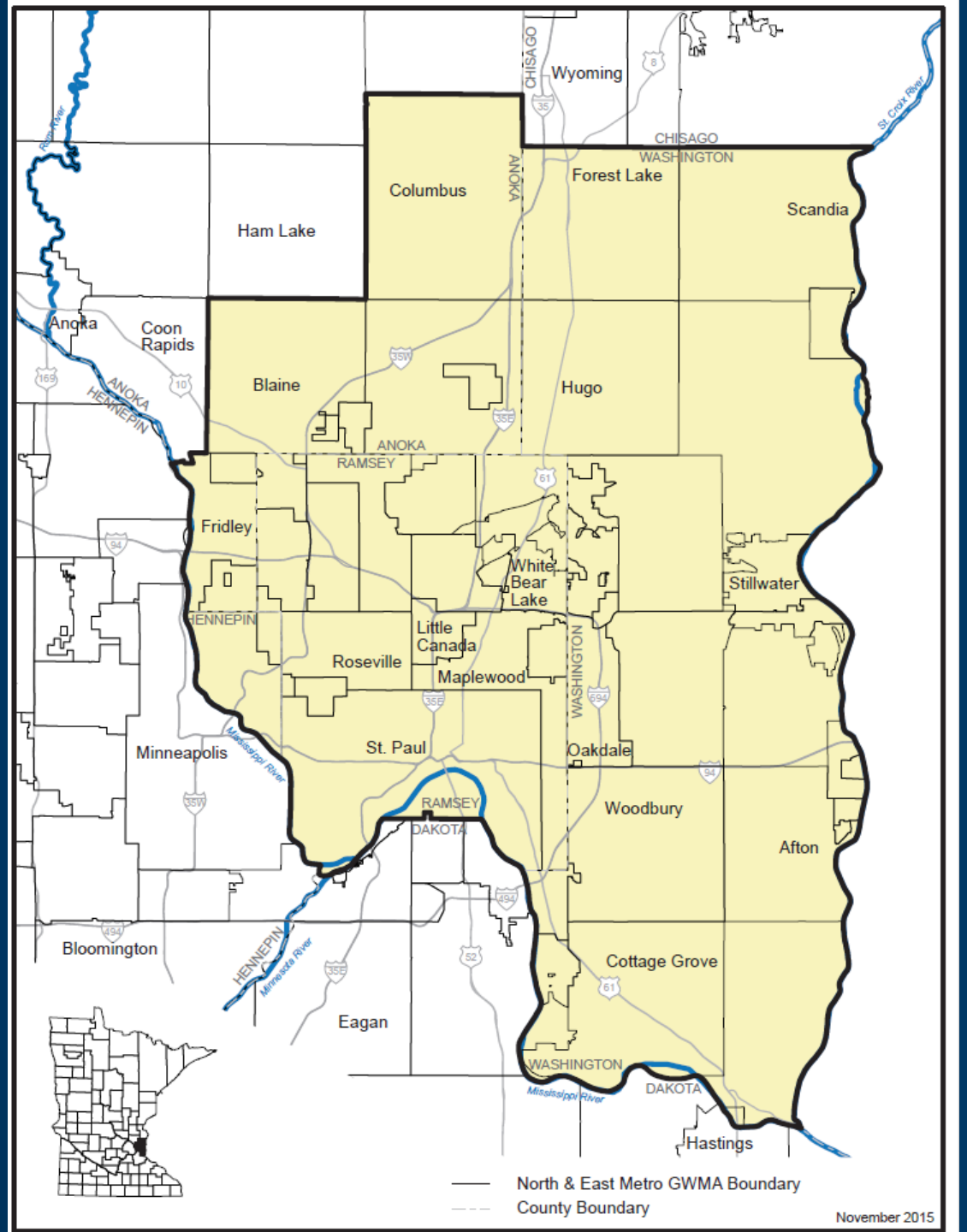
Replace Groundwater Supplies – Replace 6 Permits (SW 6)



Model Results– Replace 6 Permits (SW 6)

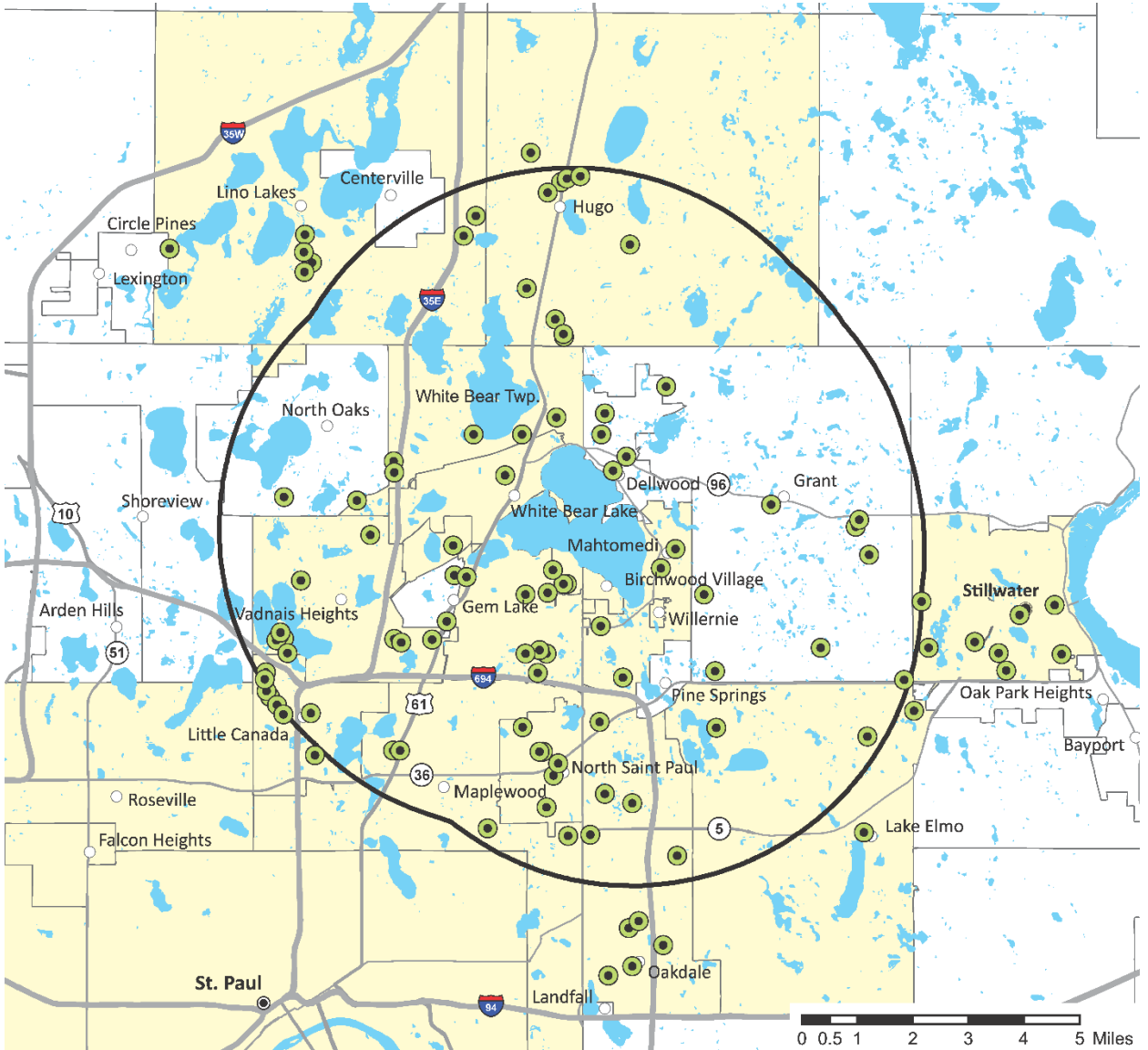


- Hugo 1
- Replace 6 permits, 5 communities
- Requires demand reductions or other options

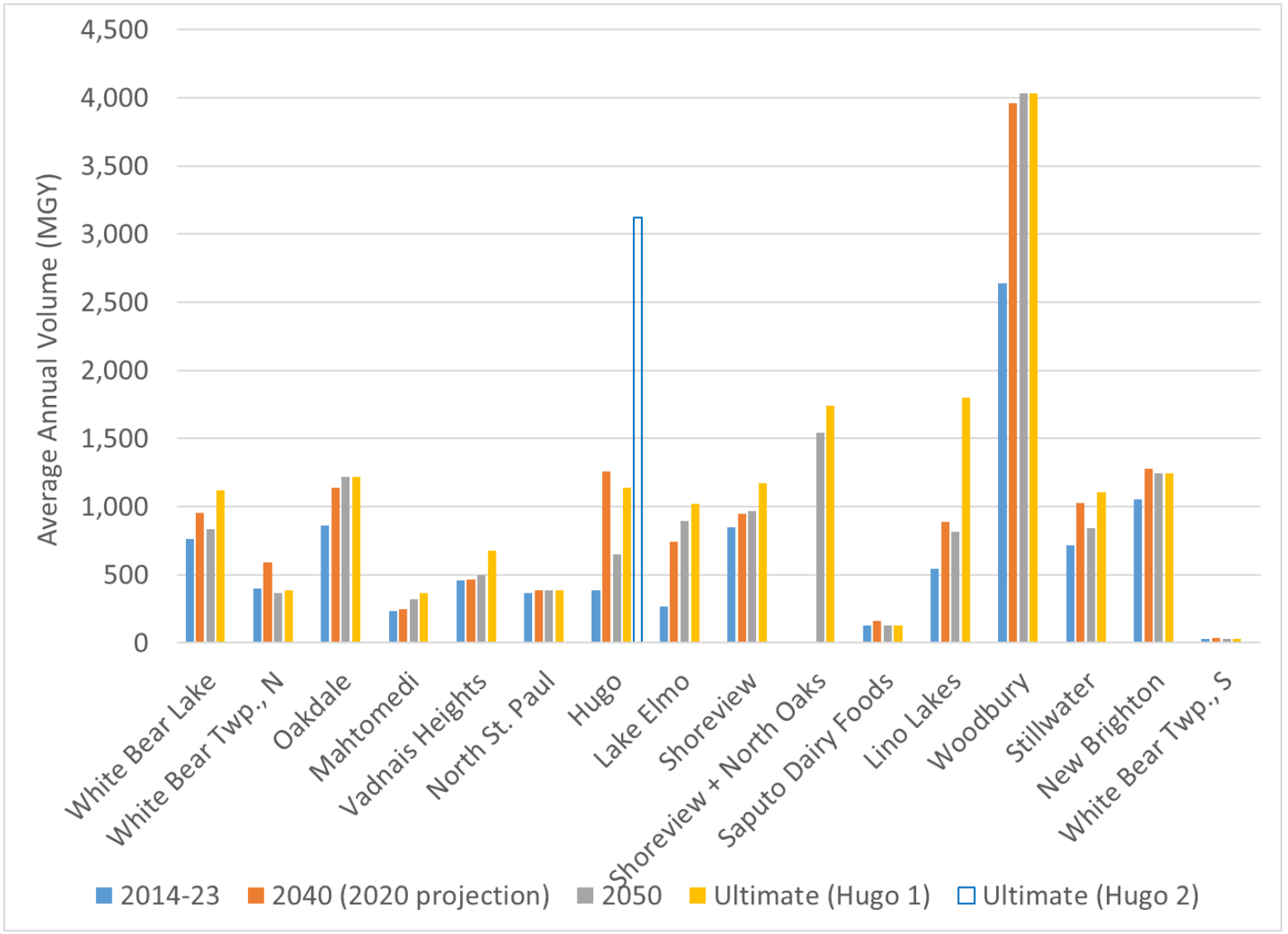


North and East Metro Groundwater Management Area

Permits and Wells w/in 5 Mile Area



Average Annual Volume of Water Use – Recent and Projected



1. **2012: Lawsuit Filed.** In November 2012, the White Bear Lake Restoration Association and the White Bear Lake Homeowners Association filed a suit in Ramsey County District Court alleging the permitted too much groundwater use near White Bear Lake, causing the lake water levels to drop unacceptably.

2. **2014: Plaintiffs and DNR Reach Settlement Agreement.** In December of 2014, the DNR and the plaintiffs in the lawsuit reached a settlement, contingent on achieving several requirements. The settlement agreement required:

- Work on water conservation and efficiency strategies with 13 area public water suppliers.
- Establish a protective elevation for White Bear Lake.
- Support legislative funding for a feasibility and design study to shift the source water for six communities in the White Bear Lake area to surface water.
- Achieve funding for the alternative water supply by the end of the 2016 Minnesota legislative session.
- Inform the plaintiffs of groundwater use permit applications and permit changes in the area, and provide them an opportunity to comment on those applications and proposed permit changes.
- Invite the plaintiffs to participate as members on the North and East Metro Groundwater Management Area project advisory team.

3. **2016: No Legislative Funding for Shift to Surface Water Use.** The DNR and the plaintiffs in the lawsuit met with legislators to discuss the prospects of passing legislation in the 2016 session to address the "Phase 1" alternative water supply Northeast Metro Project opens in a new browser tab outlined in the settlement agreement. In April of that year, a bill was introduced to provide some funding to assess the feasibility of the "Phase I" project, but the measure was not enacted. Because the proposed bill was not enacted, the stay on the litigation was lifted per the terms of the settlement agreement and the lawsuit went to trial. The "Phase I" project as defined in the settlement agreement would have connected six municipalities to either raw or treated water purchased from St. Paul Regional Water Services.

4. **2017-2018: Ramsey County District Court Order and Resulting Permit Modifications.** Following failure to obtain feasibility funding for the "Phase I" project before

the end of the 2016 legislative session, the lawsuit went to trial in March 2017. It was a bench trial (i.e., the judge, rather than a jury, acts as the fact finder) lasting three weeks.

The District Court found in favor of the plaintiffs on August 30, 2017 and imposed a number of restrictions and requirements on the DNR. The primary outcomes of the Order were: (see DNR White Bear Lake Litigation 2017-2018.)

5. **2018 Court Order Changes, Legislation, DNR Appeal, Sustainability Analysis Completed.**

Court Order Amended

In March 2018, the Ramsey County District Court amended its Order, allowing the DNR to issue permits for temporary groundwater appropriations within five miles of White Bear Lake, such as those needed for construction dewatering.

Legislation

In June 2018, a law was enacted (Minnesota Session Laws 2018, Chapter 181 - House File No. 4003 opens in a new browser tab) that prohibited the DNR from enforcing the permit modifications the DNR imposed pursuant to the Court Order (see above). This law was in effect through July 1, 2019.

DNR Appeals to Minnesota Court of Appeals

The DNR appealed the Ramsey County District Court ruling on September 12, 2018 to the Minnesota Court of Appeals on a number of issues related to the trial court decision.

Sustainability Analysis Completed

In October 2018, the DNR published the results of the court-ordered sustainability analysis using the transient groundwater flow model the DNR had developed:

- Groundwater use has been declining.

- Current groundwater use complies with Minnesota's groundwater sustainability standard.
- Current groundwater use has contributed to water levels falling below the recently established protective elevation for White Bear Lake (established in 2016 to protect recreational uses).
- Temporary irrigation bans within nearby cities would not have a significant effect on water levels in White Bear Lake.

6. **2019: Appeals Proceedings**

The Minnesota Court of Appeals ruled on the DNR's appeal on April 22, 2019. The Appeals Court reversed the District Court decision in the case and remanded the matter back to the District Court for further administrative proceedings. On May 21, 2019, the plaintiffs in the case filed an appeal to the Minnesota Supreme Court under petition for further review. The Minnesota Supreme Court, on July 16, 2019, granted the petition for further review.

7. **2020: Supreme Court Ruling and Subsequent Steps.** On July 15, 2020, the Minnesota Supreme Court ruled (PDF), reversing portions of the Appeals Court's Order and remanding the matter to the Court of Appeals to address the remaining unresolved issues.

After further briefing, the Minnesota Court of Appeals, on December 28, 2020, affirmed the District Court's August 2017 Order (PDF). The Court of Appeals noted that the permit holders had the right to appeal certain permit amendments ordered by the District Court via a contested case hearing. The District Court maintains jurisdiction over the matter and continues to oversee DNR permitting activities in the White Bear Lake Area.

Permit contested case hearings proceed

On May 5, 2021, the DNR informed the Office of Administrative Hearings that the appeals process in state court was concluded and the contested case process could commence for the 20 permit holders that appealed the DNR's modifications to their permits back in 2018. The contested case process is now ongoing, and the permit modifications remain in abeyance until that process is complete.

8. **2021-2022: Additional Court Order Implementation.**

Collective annual withdrawal limit for White Bear Lake

In early 2022, the DNR used its transient groundwater flow model to establish a collective annual withdrawal limit for White Bear Lake. This analysis determined that a reduction in water use of approximately 40% would be needed to maintain the protective elevation. The DNR determined that applying this reduction in accordance with the water use priorities in statute (Minnesota Statute 103G.261 opens in a new browser tab) would result in an allocation of 55 gallons per person per day, at current population levels…basically enough for domestic water use only. All other lower priority water uses for agriculture production, commercial, industrial and institutional purposes would need to be curtailed. Concluding that amending water appropriation permits in this fashion would not protect public health and welfare, the DNR sought clarification from the court on the implementation of the collective annual withdrawal limit.

In April 2022, the District Court clarified that its order (PDF) was not intended to limit municipal water supplies to 55 gallons per capita per day.

The DNR continues to work with the district court, plaintiffs and White Bear Lake area communities to identify the next steps required to implement the District Court Order.

9. **2023-2024: Contested Case Hearing Results**. In May 2024, the Office of Administrative Hearings issued a Findings of Fact, Conclusions of Law and Order (PDF) pertaining to multiple contested case hearings on the District Court-required permit amendments. The administrative law judge (ALJ) in the case upheld three of the four District Court ordered conditions but did not uphold the residential irrigation ban permit condition. This condition required permit holders within five miles of White Bear Lake to implement a residential irrigation ban when the water level of White Bear Lake drops below an elevation of 923.5 feet and remain in effect until the water level reaches an elevation of 924 feet. The ALJ order included the following:

- The contingency planning requirement to convert to surface water sources is reasonably necessary for the "safety and welfare of the people of the state."
- The plan to phase down per capita residential water use to 75 gallons per day and total per capita water use to 90 gallons per day is reasonably necessary for the "safety and welfare of the people of the state."
- Submitting annual reports to the DNR describing the work to phase down per capita water use is reasonably necessary for the "safety and welfare of the people of the state."

- Preparing, enacting, and enforcing a residential irrigation ban is so under-inclusive that it is an arbitrary and unlawful condition on appropriations of groundwater. An arbitrary condition cannot be reasonably necessary for the "safety and welfare of the people of the state."

The administrative law judge in the case further concluded, "The longer-term solution to the overuse of local groundwater supplies and lower levels of White Bear Lake, is to convert cities in the Northeast metro to surface water sources – as quickly as practicable. These conversions will not be simple or inexpensive; but they are necessary."

Several public water suppliers and the plaintiffs in the District Court case have appealed the ALJ order to the Minnesota Court of Appeals. This case is currently in progress.