



MEMORANDUM

To: MCWD Executive Committee
From: Katherine Sylvia
Date: October 13, 2016
Re: MCWD Permit Violations and Compliance Orders

Purpose:

At the October 13th, 2016 Executive Committee Meeting, Staff will present two active violations and provide recommendations regarding Compliance Orders issued for permits 14-219 and 15-445 respectively. It is the intent that the Committee will discuss Staff's presentation and provide a recommendation to the full Board for action during the subsequent Board Workshop on October 13th.

Background:

Permit 14-219 3850 Watertown Road, Orono

Contact with this Applicant began in 2013 when MCWD issued an erosion control permit to Mark Anderson for 4,870 square feet of earth disturbance to construct a berm on his property (MCWD Permit #13-162, Issued 7/16/13). Following completion of that project, on July 25th, 2014 Staff discovered Mr. Anderson grading within proximity of a wetland, this work was not authorized under an MCWD permit. Staff required Mr. Anderson to conduct a wetland delineation and complete a permit application for erosion control.

The wetland Boundary and Type application was received in January 2015 and a Technical Evaluation Panel (TEP) meeting was held on August 3rd, 2015 to discuss those wetland boundaries. In a Findings of Fact dated August 25th, 2015, the TEP and MCWD determined that the applicant needed to apply for an erosion control permit and submit a grading plan showing restoration of the original wetland contours. Permit 14-219 was issued on September 22nd, 2015 to complete this restoration work. Mr. Anderson violated conditions of Permit 14-219 by completing work not included in the authorized plans and not utilizing proper erosion control measures on site. Due to Mr. Anderson's reluctance to respond to Staff inspection reports, Staff issued a Notice of Probable Violation to Mr. Anderson on November 5, 2015 for the unauthorized wetland disturbance on his property as well as the absence of required silt fence. Staff required that Mr. Anderson stop work in the wetland, install perimeter control, and submit a revised grading plan to restore the wetland to pre-disturbance contours.

On September 30th, 2016 Mr. Anderson submitted an as-built survey documenting the unauthorized fill within the wetland, which was requested as a follow-up to the Notice of Probable Violation. The TEP met on Monday October 3rd, 2016 at City of Orono Offices to review the submitted survey. The TEP

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confirmed that the approved grading plan had not been implemented and wetland fill still remains in the wetland, in violation of the Notice of Probable Violation issued on November 5, 2015. The TEP then conducted a site visit at which the DNR Conservation Officer issued a Cease and Desist Order. It was determined that Hennepin County Environmental Services will write the restoration plan which should be implemented in order to have the Cease and Desist Order lifted. In conjunction with the DNR Cease and Desist, Staff has issued an MCWD Compliance Order which requires Mr. Anderson to stop land disturbing work on-site and to comply with the Restoration Order submitted by Hennepin County Environmental Services. Staff's recommendation to the Board will be to approve the MCWD Compliance Order which reinforces the compliance actions initiated by the TEP.

Permit 15-445 300 6th Avenue N., Orono

MCWD Permit 15-445 is for the construction of an 11-lot subdivision on an 89-acre parcel located on Mooney Lake at 300 6th Avenue N. in Orono. The Permit was issued to George Stickney for Erosion Control, Wetland Protection, and Stormwater Management. During the review process, members of the public requested that the permit be considered by the Board of Managers in a public hearing. The Board moved to approve the permit as recommended by Staff at the October 22, 2015 Board Meeting.

On September 7th, neighbors of the property notified staff that a portion of the Mooney Lake shoreline had been clear-cut and adjacent wetland and buffer had been disturbed. On September 8th, Staff inspected the site and confirmed that the disturbance had taken place and the work was not included in the approved plans. Staff promptly issued a Notice of Probable Violation on September 9th notifying Mr. Stickney of the violation and prescribing the immediate corrective actions to take place on-site to minimize further impact.

On September 14th, Staff held a meeting on-site with Mr. Stickney and his contractors, representatives from the City of Orono, and Wes Boll from Wenck Associates in order to discuss the impacts and develop a schedule of corrective actions for restoration. On September 16th, Staff sent a formal letter outlining a list of required information due by September 23rd which would be used to inform a restoration plan for the unauthorized disturbance. The information that Mr. Stickney provided was considered incomplete by Staff, additionally, more instances of non-compliance had been observed on site. Given the threat to natural resources, Staff issued a Compliance Order which required Mr. Stickney to stabilize the site by Tuesday October 11, 2016 and to cease all land disturbing activity. Work is not to resume until Wenck Associates completes a site assessment to determine all work that is outside of the approved limits of disturbance and impacts to water resources as in violation of the Districts Wetland Protection, Erosion Control, and Floodplain Alteration rules. Wenck will then write the restoration plan guided by MCWD and City of Orono requirements, which will be implemented by Mr. Stickney. Staff's recommendation to the Board will be to extend the MCWD Compliance Order, restricting land-disturbing work on-site until the impacts are fully assessed and a restoration plan is agreed to.

Next Steps:

The Committee will be asked to recommend to the full Board of Managers ratification and extension of the following Compliance Orders:

14-219- Cease all land disturbing work except as directed by Restoration Order issued by DNR Conservation Officer. Compliance Order will be lifted once the Restoration Order is implemented.

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15-445- Stabilize the site and cease all land disturbing work while a site assessment is conducted by Wenck Associates. Work may resume once Mr. Stickney agrees to implement the restoration plan drafted by Wenck Associates.

If there are questions in advance of the meeting, please contact Katherine Sylvia at 952-473-2855 or ksylvia@minnehahacreek.org.

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