

KANARANZI-LITTLE ROCK WATERSHED DISTRICT
(KLR)

RULES & REGULATIONS

2014 Review and Proposed Amendments

After

BWSR and Staff Review w/ Changes

Proposed Amendments

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1. Introduction

The Kanaranzi-Little Rock Watershed District (KLR) was established by order of the Minnesota Board of Water and Soil Resources under the authority of Minn. Stat. Chapter 112, the Watershed Law on October 8, 1981. The District's primary purpose is conservation of the natural resources within the watershed. The District's boundary is shown on the last page of these Rules & Regulations

1.1 Purpose

These rules are intended to effectuate the purposes of the District and the powers of the Managers under the Minnesota Watershed Law. The Managers adopt by reference all of the water law of the State of Minnesota; but, reserve the right to impose rules and regulation which are more restrictive than said water law.

1.2 Procedures for Adopting Rules and Amendments

The Kanaranzi-Little Rock Watershed District adopts the procedures illustrated in Minn.Stat. 103D.341, as amended, by reference as means of adopting and amending its rules.

1.3 Consistence with State Law

- A. If any rule herein contained is inconsistent with the provisions of the water law of the State of Minnesota, or other applicable state or federal law in a particular instance, then such state or federal law shall govern and the rule or regulation shall be deemed inapplicable.
- B. The Board of Managers expressly adopts by reference all of the water law of the State of Minnesota. The Board of Managers reserves the right to impose rules and regulations that are more restrictive than the laws contained within the water law of the State of Minnesota.
- C. The Board of Managers expressly adopts by reference the rules, regulations, and provisions of the following agencies and statutes to the extent that such rules, regulations, and provisions apply to activities regulated by these rules: Minnesota Board of Water and Soil Resources (BWSR); Minnesota Department of Health (MDH); Minnesota Pollution Control Agency (MPCA); Minnesota Department of Natural Resources (MDNR); Minnesota Environmental Quality Board (EQB); U.S. Department of Agriculture (USDA); U.S. Environmental Protection Agency (EPA); U.S. Army Corps of Engineers (ACOE); Nobles Soil and Water Conservation District (SWCD); Nobles County; Local governmental units, including municipalities and townships; Minnesota Environmental Rights Law, MS Chapter 116B, as amended; State Environmental Policy, MS Chapter 116D, as amended; Minnesota Wetland Conservation Act of 1991, as amended. Where more than one rule, regulation, or provision applies, the most restrictive rule, regulation, or provision shall pertain.
- D. These rules and regulations shall not be deemed to have any impact, influence, nor effect upon the requirements for drainage projects regulated and controlled by Minnesota Statutes Chapter 103D and 103E involving public drainage systems.

1.4 Severability

If any part of these rules is declared invalid by a court of competent jurisdiction, such declaration shall not affect the validity of these rules as a whole, but only the part declared invalid.

1.5 Appeal

Any person aggrieved by the adoption or enforcement of these rules, a permit decision, or an order made by the managers may appeal under the appellate procedures provided in Minnesota Statutes Chapter 103D: In addition to the statutory appeal rights, reconsideration of a decision or order of the Board of Managers may be reconsidered in accordance with the following procedures.

- A. Reconsideration. Any person aggrieved by a decision on a permit or other order of the Board of Managers may request reconsideration to the Board of Managers by making a written demand for a hearing within 30 days of the person receiving written notice of the decision.
- B. Appeal to County Board. Any person aggrieved by a decision of the Board of Managers upon a request for reconsideration shall possess the right to appeal the Board's decision to the appropriate Board of County Commissioners by making a written demand to the County Commissioners to be placed upon the County Board's agenda. Said demand shall be made within 30 days of the Board of Managers' final decision.

2. General Policy

Pursuant to Minn.Stat. 103D.341, Subd. 1., the Managers must adopt rules to accomplish the purposes of Minnesota Statutes, Chapter 103D, and to implement the powers of the managers.

2.1 Coordination with Other Governmental Units

In order to enable the Managers to coordinate the administration of the District's rules with all interested federal, state, regional and local governmental units and agencies having jurisdiction in the District, each county and city having territory in the District shall forward to the District a copy of all preliminary plats and accompanying drainage and grading plans, whenever all or part of such plans affect land within the District. The District may provide recommendations to the county and cities on the site's suitability for the proposed land use, based on soil and water conditions. The District will require permits for land disturbing activities to ensure that erosion and storm water discharges are properly controlled.

2.2 Review of Local Ordinances

The district adopts, by reference, all existing ordinances of these entities relating to floodplains, shoreland or other water-related topics, and the district shall maintain copies of these ordinances in the district office.

3. Definitions

3.1 An Impairment of Public Welfare: Means any act or thing that tends to degrade, damage or reduce the safety or well-being of the general public or cause any detriment to the inhabitants of the watershed district, wildlife habitat, or any degradation of the District's water resources.

3.2 Complete Application Form: Means applications that contain all information required by these rules and applicable statutes relating to the project; including landowner signatures and dates.

3.3 District: The KLR Board, land, and/or boundary of the Kanaranzi-Little Rock Watershed District.

3.4 Erosion: Means the wearing away of the land surface by water, wind, ice, or other geological agents and by such processes as gravitational creep.

3.5 Excessive Erosion: This exists when either or both of the following conditions exist:

- a) Estimated average annual rate of soil erosion for a particular parcel of land under agricultural use resulting from sheet and rill erosion or wind erosion is greater than the soil loss tolerance of any of the soil series comprising that particular parcel of land as stated in the Handbook of Standards (Section 3); or
- b) Evidence of active gully erosion on land under agricultural use

3.6 Excessive Sedimentation: Means the rate of an amount of sedimentation from agricultural land that results in any observable detrimental effect, damage, or result to adjacent lands, water, or the atmosphere.

3.7 General Subsurface Tile(ing): Means tiling projects that do not drain or alter wetlands; tiling that does not include the installation of: new intake devices, inspection pipes, or vents that potentially allow in unfiltered water; tiling that doesn't convey sewage, manure, or pollutants; and/or tiling that includes non-erosive outlets.

3.8 General Welfare: Means any act or anything tending to improve or benefit or contribute to the safety or well being of the general public or benefit the inhabitants of the watershed district. General welfare shall be synonymous with "public welfare" or "public benefit".

3.9 Gully Erosion: Means displacement of a large, single channel (gully) of soil by water due to the combination of concentrated flows from numerous rills. It is characterized by its typical persistent and ever-enlarging nature and steep, unstable side slopes. It cannot be obliterated by ordinary tillage operations.

3.10 Handbook of Standards (handbook): means a handbook, adopted by the District (pursuant to section 3.0), containing a compilation of the agricultural erosion control practices, design specifications, and planning procedures used in the control of soil erosion resulting from the agricultural use of land.

3.11 Land Disturbing Activity: Means any activity that exposes one acre of incorporated soil or five acres of unincorporated soil for any length of time, leaving it susceptible to soil erosion; excluding cultivated land with an average soil loss of less than four tons per acre per year.

3.12 Legal Drainage System: Means a county, judicial or district ditch, tile or combination thereof.

3.13 Managers: The Board of Managers of the Kanaranzi-Little Rock Watershed District.

3.14 Non-Polluting Materials: Means which materials or their residues are not classified as a pollutant under any existing federal or state law or agency.

3.15 Normal High Water Mark: Means the ordinary High Water Level as defined by the Department of Natural Resources (DNR) regulatory boundary.

3.16 Proper Disposal of Trees and Brush: Means that trees or brush which is buried or disposed of at least 150 feet from a water basin or watercourse.

3.17 Public Welfare: Means the aggregate enjoyment of, financial needs of, and/or aesthetic benefit to the surrounding public entities.

3.18 Reasonable Use: Means "*reasonable use*" shall be interpreted to incorporate the doctrine of reasonable use; i.e., in affecting a reasonable use for a legitimate purpose a landowner, acting in good faith, may drain his land of surface waters and cast them as a burden upon the land of another, although such drainage carries with it some waters which would otherwise have never gone that way, if there is a reasonable necessity for such drainage; and if reasonable care be taken to avoid unnecessary injury to the land receiving the burden; and if the utility or benefit accruing to the land drained reasonably outweighs the gravity of the harm resulting to the land receiving the burden; and if, where practicable it is accomplished by reasonably improving and aiding the normal and natural system of drainage according to its reasonable carrying capacity, or if, in the absence of a practicable natural drain, a reasonable and feasible artificial drainage system is adopted.

3.19 Required Permit Data: Means the applicants: name, address, phone number, project location (legal description, ¼, section, and township), type of project (ex. ditch, waterway, etc), contractor name; as well as the SWCD signature, corresponding landowner signature, and application date.

3.20 Rill Erosion: Means displacement of tiny or small channels of soil by water due to initial concentration of surface flows from "sheet erosion". "Rill erosion" is characterized by its temporary nature and the fact that it is easily obliterated by ordinary tillage operations.

3.21 Sheet Erosion: Means displacement of thin layers of soil by the action of rainfall and surface runoff acting over the whole soil surface. "Sheet erosion" is the sum of these processes: (a) raindrop splash, which provides the detachment energy, and (b) surface flow, which provides the transporting capacity.

3.22 Soil Loss Tolerance: Means the maximum average annual rate of soil loss from sheet and rill erosion or wind erosion, expressed in tons per acre per year that is allowed; yet still sustains the productive capacity of soil to produce food and fiber over the long term.

3.23 Undue Hardship: Means the property under consideration cannot be put into a reasonable use if these rules were strictly applied and enforced.

3.24 Water basin: Means a contiguous land area greater than five (5) acres that is capable of supporting aquatic vegetation or holding standing open water; excluding artificial basins privately owned.

3.25 Water Control Structure: Means a permanent structure placed in a canal, ditch, or subsurface drainage conduit (drain tile or tube), which provides control of the stage or discharge of surface and/or subsurface drainage. The management mechanism on the structure may be flashboards, gates, valves, risers, or pipes.

3.26 Watercourse: Means any natural or constructed channel which drains an area greater than one square mile.

3.27 Waterway: Means a natural or constructed channel, with a permanent grass or vegetative cover, that is shaped or graded to engineered dimensions, and is established for the stable conveyance of runoff.

4. Adoption of The Handbook of Standards:

In conjunction with the adoption of these Rules and Regulations, the District hereby adopts the Natural Resource Conservation Service technical Guide dated December 1975, and as amended thereafter, specified as the minimum acceptable set of practice specifications and planning procedures for implementing the provisions of this Ordinance.

5. Notification Requirements:

In order to expedite landowner projects, assist landowners with proper project consultation, and appropriately notify the Managers of projects or activities which may affect the Districts water resources, the following notification requirements are established.

5.1 Actions Requiring District Notification

General subsurface tiling project(s) are those that meet the requirements of the Natural Resource Conservation Service and the Nobles Soil and Water Conservation District.

5.2 Notification Procedures

- A. Applicant requests project input from the Nobles Soil and Water Conservation District.
- B. If the project is considered a general subsurface tile project, the producer will be given a Kanaranzi-Little Rock Watershed District Subsurface Tile and Project Notification form to fill out. If the project is not considered a general subsurface tile project, a KLR Application for Permit will be given to the producer/landowner.
- C. The Subsurface Tile and Project Notification Form will be forwarded to the Managers for their review.
- D. The Managers have the authority to require further technical analysis of any notified project.
- E. The Managers has the authority to request that any project be submitted to the Managers under the permitting process as set forth in Rule 6.2 of these Rules.

6. Permit Requirements

In order to help ensure wise development and conservation of the District's water resources in accordance with the Watershed Management Plan, the following permit procedure is adopted:

Obtaining a permit or other approval for drainage or construction activities under these rules shall not constitute absolute authority to perform the drainage activity. The applicant remains responsible for obtaining any other required authorization. The permit or other authority is permissive only and shall not release the applicant from any liability nor obligation imposed by Minnesota law, Federal law, or local ordinances and shall be subject to all conditions and limitations imposed by the Board of Managers or hereafter imposed by applicable law. The Board of Managers, by approving a request for permit or other approval of a drainage activity, makes no representations to the applicant that the proposed drainage activity complies or does not comply with existing law. No liability shall be imposed upon or incurred by the watershed district, its Board of Managers, or its officers, agents, and employees, officially or personally, on account of the granting of the permit or other approval, or on account of any damage to any person or property resulting from any act or omission of the applicant or any of its contractors, agents, or employees relating to the drainage activity.

6.1 Actions Requiring a District Permit

- A. Land disturbing activity in any watercourse or water basin, whether or not open water is present at the time of the work; including to excavation, filling, dredging and the placement of structures; except general subsurface tile.

- B. Land disturbing activity in the Right of Way of any legal drainage system.
- C. Withdrawal of ground or surface water at a rate greater than 50 gallons per minute, or installation of an irrigation project serving an area over five acres.
- D. Operation or alteration of any water control structure in any watercourse or water basin.
- E. Diversion of water into a different sub—watershed or into a legal drainage system from land not assessed for the system.
- F. Construction or improvement of any open ditch system or dike.
- G. Cultivating any area that is closer than one rod from the top edge of a watercourse bank or the normal high water mark of a water basin.
- H. Any other act that, as judged by the Managers, may have a significant impact on the District’s water resources within the District’s regulatory authority.
- I. Earth moving projects involving more than 200 cubic yards of excavation or fill; or which disturbs more than 10,000 square feet of soil, and which project, or any part thereof, is located within 300 feet of a stream, storm sewer catch basin, drainage tile intake or a wetland.
- J. Construction of new waterways, and alteration or work in/clean out of existing waterways requires a Permit.
- K. Work in existing ditches, which does not constitute a repair or improvement under Minnesota Statutes, Chapter 103E, requires a Permit.

6.2 General Permit Procedures

- A. Applicant obtains and completes a permit application form, which are located at the Nobles Soil and Water Conservation District offices at 1567 McMillan Street, Suite 3, Worthington, MN 56187.
- B. The complete application form is sent or delivered to The Kanaranzi-Little Rock Watershed District Office; for Manager review. In accordance with and subject to the exceptions and requirements of Minn.Stat. 15.99, which is hereby adopted by reference and Rule 7 set forth below, the Managers shall act on all permit applications within 60 days of receiving the application and required permit data.
- C. Managers review the permit application and assess the impact the proposal would have on the District’s water resources. Managers may approve the work, disapprove the work, approve the work with conditions, or, based on their preliminary assessment, may require the applicant to appear at a Board meeting to explain the proposal, may decide to view the site, or may require that a technical analysis of the proposed work be done to better understand its potential impacts.
- D. If the Managers determine that further technical analysis is required, the District may assess the reasonable costs of such analysis to the applicant. If a permit is denied, the Managers shall state the reasons for such denial to the applicant.
- E. If a permit is issued, the applicant shall abide by all of the terms and conditions of the permit, or the permit may be revoked and withdrawn by the Managers. Each permit issued must be signed by a Manager.
- F. If the Managers determine that it is necessary to monitor any work authorized by permit, such monitoring costs may be assessed to the applicant in accordance of Minn.Stat. 103D.345, which sets forth a districts authority to charge for permits, field inspections and bonds.

G. No work requiring a permit shall commence until a permit is issued. If required by the Managers, the applicant shall file a bond or approved escrow deposit with the District, before issuance or re—issuance of a permit, in an amount set by the Managers and conditioned on performance by the applicant of authorized activities in conformance with the terms and conditions of the permits. If the work is not performed satisfactorily, the Managers may complete the work using the forfeited funds from the bond or escrow account. Unused funds shall be returned to the applicant.

H. Unless otherwise specified in the permit, work for which the permit is given must be completed within two years or else a permit extension will be required.

I. Obtaining a District permit does not relieve the applicant from responsibility of obtaining any other needed permits from other governmental units or agencies. The District will endeavor to inform the applicant of other permits which may be required. It is unlawful for any agent, servant or employee of another to do any work within the District for which a permit is required under these Rules and Regulations unless the agent, servant or employee has obtained from the landowner a signed written statement stating either that all permits required for work have been obtained or that no permits are required. Prior to the commencement of any such work, the agent, servant or employee shall mail a copy of such statement to the District at its office. Violation of this section constitutes a separate and independent offense from any other provided by these Rules and Regulations.

J. There will be no charge for permits issued except for violators after the fact. The fee to landowners for an after the fact permit shall be \$10.00 plus all other costs incurred by the District. The fee to contractors will be \$10.00 plus all other costs incurred by the District. All after the fact permits shall be issued at the discretion of the Board.

7. Criteria for Reviewing Permit Applications

The Managers will review and apply, as deemed applicable; the criteria set forth in Rule 6.2 herein to all permits applications.

7.1 Work in Watercourses and Water Basins

A. No reservoir, dam, dike or crossing shall be constructed that would damage other people's rights to use waters of the State or which would cause serious erosion or additional flooding on other people's property without their consent.

B. Waterway openings in a new or reconstructed crossing shall have a capacity that is compatible with the nearest crossings upstream and downstream in the watercourse or their planned replacements.

C. Side inlets shall be constructed so as to protect watercourses from serious erosion and increased flooding.

7.2 Floodplain, Shoreland and General Land Development

A. All plats and plans which are within any designated floodplain or shoreland area shall be submitted to the Managers. The Managers intent is to review these plans and provide comments and recommendations to all cities and counties within the District. The Managers do not intend to require a separate District permit for such work unless the cities or counties do not require that minimum State standards be met.

B. The Managers encourage all landowners to retain non—agricultural land for wildlife habitat purposes. The Managers will cooperate with private and public efforts to develop improved fish and wildlife habitat in the District.

C. The Managers will review all shore land development proposals as to their impact on District water resources, including site suitability and the drainage plan. Proposals having a potential flooding impact will be required to detain a portion of storm water runoff for a time period sufficient to prevent increased downstream flooding.

7.3 Erosion

- A. New or reconstructed ditches shall have side slopes, grades, grassed berms, and waterways that prevent excessive erosion. The Managers will consult with the Nobles and/or Rock County Soil and Water Conservation Districts on matters pertaining to the control of soil erosion.
- B. Water inlets, culverts, Texas crossings, bridges and all other structures affecting runoff water in watercourses shall be adequately protected against erosion.
- C. All construction sites shall apply effective erosion control measures until vegetation has been re-established.
- D. If the Managers are made aware of an excessive erosion problem caused by a certain cultivated tract, they may request a report from the Nobles and/or Rock Soil and Water Conservation Districts to determine the soil losses taking place. In cases where excessive erosion is resulting in an impairment of the public welfare, the Managers may require the responsible land owner to repair, install, and/or replace infrastructure to stop soil loss.

7.4 Water Withdrawal

- A. Artificial recharge of ground water is discouraged unless the water quality effects of such action are clearly known.
- B. Water conservation practices are encouraged for all water users.
- C. District permits for water withdrawals may be suspended if the permittee fails to reasonably satisfy owners of neighboring wells or the neighboring well owners start to experience well interference problems as a result of the permittee's withdrawals.

7.5 Water Quality

- A. No refuse, garbage, untreated wastes, or other pollutants shall be dumped or discharged directly into any watercourse or water basin, or placed in a location where runoff waters would carry them into any watercourse or water basin.
- B. All trees and brush cut from watercourses and the rights of way of legal drainage systems shall be removed and properly disposed of.
- C. Material used as fill or riprap in watercourses or water basins shall be nonpolluting.

7.6 Tiling

- A. No tiling without a subsurface tile notification for or an approved permit, including all Local, State and Federal Governmental bodies within the Watershed District.
- B. The applicant bears the responsibility of contacting adjacent landowners to inform them of the proposed project.
- C. No tiling shall outlet into a county or township ditch without the permission of those bodies except for a bridge or culvert crossing. Tile outlets shall stay a minimum of one foot inside of the property line.
- D. New tile crossing the road must connect to existing tile; as directed by the Managers.
- E. Surface inlets must be installed where Managers deem necessary.

7.7 Waterway

- A. Construction of new waterways, and alteration or work in/clean out of existing waterways requires a Permit.

B. The applicant bears the responsibility of contacting adjacent landowners to inform them of the proposed-project.

C. Clean Out of a waterway includes:

- 1) Removal of silt.
- 2) Removal of brush or trees.

All silt, brush, and/or trees removed from a waterway shall be buried or disposed of 150' from the waterway; and other watercourses or water basins. Sediment and silt cannot be placed in wetlands adjacent to a watercourse. Sediment and silt may be placed adjacent to a watercourse (in non-wetland areas) as long as it is leveled and seeded with appropriate grass cover within 48 hours of completion of project unless otherwise directed by the Board of Directors.

D. All applicants must adhere to the recommended directives of the watershed managers including adhering to the recommended standards and specifications put in place by the Kanaranzi-Little Rock Watershed District, Nobles Soil and Water Conservation District and the Natural Resource Conservation Service that are approved by the Managers.

7.8 Wetlands

A. The Nobles Soil and Water Conservation District and the Natural Resource Conservation Service must be consulted for review and determination as to the applicability and compliance with rules and regulations concerning wetlands.

B. The applicant must complete the necessary corresponding notification or permit process; as explained previously in Section 5 and Section 6.

7.9 Watercourses

A. Work in streams, creeks and rivers, requires a Permit from the Watershed. If public waters are involved, a separate permit from the Department of Natural Resources and or the Army Corps of Engineers may also be required.

B. No channel straightening (unless the project is approved through a permit from the DNR Hydrologist of Public Waters)

C. KLR supports the Counties' efforts to require grass sod within 16.5 feet from the outer edge of all water courses. This sod is required on both sides and shall not be plowed up at any time. The Watershed Board of Managers reserves the right to require landowners to extend the width of the vegetation buffer strip beyond 16.5 feet; where deemed necessary.

D. The applicant will not be allowed to change the established grade-line of the channel bed.

7.10 Dams, Dikes and Crossings

A. Permit needed for all construction.

B. The applicant bears the responsibility of contacting adjacent landowners to inform them of the proposed project.

C. A DNR permit shall be required for all dam, dike or crossing construction done in a public water course.

7.11 Ditches

A. Work in existing ditches, which does not constitute a repair or improvement under Minnesota Statutes, Chapter 103E, requires a Permit.

B. The applicant bears the responsibility of contacting adjacent landowners to inform them of the proposed project.

C. Clean outs

- 1) Removal of silt only to the original grade line.
- 2) Brush and tree removal; as defined.

D. Construction of new or repair of an existing ditch requires a Petition under Minnesota Chapter 103E, and not a permit.

8. Limitations with District Action

8.1 Time deadline for action. The Board of Managers will approve or deny within 60 days a written request for a permit or other governmental approval of drainage activity under these rules. Failure of the Board of Managers to deny a request within 60 days is approval of the request. If the Board of Managers denies the request, it must state in writing the reasons for the denial at the time that the request is denied. The time deadline for permit action begins when the application is submitted. If the watershed district receives a written request that does not contain all required or necessary information, the 60-day limit starts over only if the watershed sends written notice to the requestor within ten business days of the initial consideration of the request by the Board of Managers telling the requestor what information is missing.

8.1.1 The watershed district's response meets the 60-day limit if the watershed district can document that its written approval or denial action was sent within 60 days of receipt of the written request as defined above.

8.1.2. The time limit in subdivision 6.1 is extended if a state statute, federal law, or court order requires a process to occur before the Board of Managers acts on the request, and the time periods prescribed in the state statute, federal law, or court order make it impossible to act on the request within 60 days. In cases described in this paragraph, the deadline is extended to 60 days after completion of the last process required in the applicable statute, law, or order.

8.1.3. The time limit in subdivision 6.2 is extended if a request submitted to the watershed district requires prior approval of another local, state, or federal agency or board. For purposes of this provision, another local, state, or federal agency or board includes the following: a city, county, town, school district, metropolitan, or regional entity, or other political subdivision. In cases described in this paragraph, the deadline for watershed district action is extended to 60 days after the required prior approval is granted. The watershed district will forward copies of the application to such other state or federal agencies whose approval is required.

8.1.4 The Board of Managers may extend the time limit in subdivision 6.2 before the end of the initial 60-day period to protect against serious or significant harm to the public health, safety, or welfare by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length which may not exceed an additional 60 days unless approved by the applicant. A decision by the Board of Managers to require an engineering report, environmental impact assessment, or similar preliminary evaluation of a request submitted to the watershed district shall be deemed an act to protect against serious or significant harm to the public health, safety, or welfare.

8.2 Required Considerations. In addition to the Criteria for Reviewing Permit Applications contained in Section 7, the following criteria shall be considered by the Board of Managers in approving or denying a written request for a permit or other approval of a proposed activity under these rules.

- A. The private or public benefits and costs of the proposed activity.
- B. The present and anticipated agricultural land acreage availability and use affected by the proposed activity.
- C. The present and anticipated land use affected by the proposed activity.
- D. The flooding characteristics of property affected by the proposed activity and downstream for 10 and 100-year flood events and the anticipated impact or effect upon said flooding characteristics of the proposed activity.

- E. The waters to be drained and availability of alternative measures to conserve, allocate, and use the waters – including the potential for storage and retention of such waters.
- F. The anticipated effect of the proposed activity upon water quality – to include construction.
- G. The anticipated effect of the proposed activity upon fish and wildlife resources – to include construction.
- H. The anticipated effect of the proposed activity upon shallow ground water availability, distribution, and use.
- I. The overall environmental impact of the proposed activity.
- J. The adequacy and non-erodability of the outlet for the proposed activity.
- K. The need and reasonableness of the proposed activity.
- L. The anticipated injury or damage to adjoining or downstream property from the proposed activity and potential alternatives avoiding/reducing such injury and damage.
- M. Whether the benefits of the proposed activity outweigh the anticipated harm.
- N. Whether the proposed activity is consistent with the “*general welfare*”. In determining the general welfare, the Board of Managers will consider both agricultural best management practices and water quality best management practices.

Whether, under all the circumstances, the proposed activity constitutes a reasonable use of the land and resources involved. For purposes of these rules, the term “*reasonable use*” shall be interpreted to incorporate the doctrine of reasonable use; i.e., in affecting a reasonable use for a legitimate purpose a landowner, acting in good faith, may drain his land of surface waters and cast them as a burden upon the land of another, although such drainage carries with it some waters which would otherwise have never gone that way, if there is a reasonable necessity for such drainage; and if reasonable care be taken to avoid unnecessary injury to the land receiving the burden; and if the utility or benefit accruing to the land drained reasonably outweighs the gravity of the harm resulting to the land receiving the burden; and if, where practicable it is accomplished by reasonably improving and aiding the normal and natural system of drainage according to its reasonable carrying capacity, or if, in the absence of a practicable natural drain, a reasonable and feasible artificial drainage system is adopted.

8.3 Reservation of Right to Require Preliminary Analysis. The Board of Managers reserves the right, when in the Board’s considered opinion, such action is deemed to be in the public’s welfare, to require that any person or entity requesting a permit or other approval of a drainage activity under these rules, procure and pay for an engineering study, environmental impact assessment, or other preliminary analysis determined by the Board of Managers to be beneficial and reasonably necessary to the Board’s consideration, evaluation, and determination of the request.

9. Enforcement: As authorized by Minn.Stat. 103D.545 and 103D.551, the Board of Managers may enforce any violation of a watershed district’s rules and regulations, or the terms, conditions, and/or limitations of a permit or other approval of a drainage activity issued thereunder, through injunction, action to compel performance, restoration, abatement, or other appropriate relief in the district court and/or by referral of criminal misdemeanor charges to the appropriate county attorney office.

9.1 Penalty: A violation of a District rule or permit provision is a misdemeanor under Minnesota Statute Section 103D.545, Subd.1.

9.2 Concurrent Authority to Enforce Water Law. The enforcement powers described herein are not exclusive to the watershed district, but are concurrent with all county, state, and federal agencies possessing authority to regulate the activities embraced herein.

10. Variances: The Watershed District Board of Managers may hear requests for variances from the literal provisions of these rules in instances where their strict enforcement would cause undue hardship because of circumstances unique to the property under consideration.

- A. A request for variance shall be made in writing to the Managers and shall set forth the basis for the request.
- B. In order to grant a variance, the Board of Managers shall determine that the special conditions that apply to the structure or land in question do not apply generally to other land or structures in the District, that the granting of the variance will not merely serve as a convenience to the applicant, and that the variance will not impair or be contrary to the intent of these rules and will be consistent with the district’s watershed management plan and Minnesota water law generally..
- C. The term “*undue hardship*” as used in connection with the granting of a variance shall mean that the property under consideration cannot be put into a reasonable use if these rules were strictly applied and enforced. A hardship cannot be created by the landowner, the landowner’s agent or representative, or a contractor, and must be unique to the property. Economic hardship alone is not grounds for issuing a variance.
- D. A variance shall become void after one year after it is granted if not used.
- E. A violation of any condition set forth in a variance shall be a violation of the District rules and shall automatically terminate the variance.

11. Adoption

These rules were hereby adopted pursuant to Minn. Stat. Chapter 103D, on the 17th day of March 1983, amended on the 16th day of October 1997, and again amended pursuant to Minnesota Statutes Section 103D.341, Subd. 2, item b on the ____ day of _____ 2014

FOR THE BOARD OF MANAGERS
KANARANZI-LITTLE ROCK WATERSHED
DISTRICT

Tim Taylor
Chairman

Jerry Brake
Secretary

12. Kanaranzi-Little Rock Watershed District Boundary

