



Minnesota Water Resources Board  
555 Wabasha Street  
Room 206  
St. Paul, Minnesota  
55102

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In the Matter of the Petition for Enlargement  
of the Riley-Purgatory Creek Watershed District  
Filed on December 21, 1983 (Minnesota Statutes  
1982, Section 112.761)  
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FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
ORDER

A petition signed by the Cities of Chanhassen and Chaska, requesting the enlargement and re-naming of the Riley-Purgatory Creek Watershed District, was filed with the Water Resources Board ("Board") on December 9, 1983. On February 10, 1984, the Board found the Petition sufficient and tentatively scheduled a public hearing. On March 9, 1984, the Board designated Peggy Lynch as the hearing Referee.

A hearing was held on March 22, 1984, in the Council Chambers of the City of Chanhassen. The hearing was conducted by Thomas H. Jensen, a hearing examiner of the State of Minnesota. Catharine Haukedahl, Special Assistant Attorney General, appeared for the Board; and Fred Richards, Attorney, appeared for the Riley-Purgatory Creek Watershed District. The petitioners were represented by Bill Monk, Chanhassen City Engineer. The Board was also represented by Peggy Lynch and Georgia Holmes, Board members, and Mel Sinn, Executive Director.

The Report of the Hearing Examiner was received on April 30, 1984.

Having fully considered the testimony and evidence presented, the Board makes the following:

FINDINGS OF FACT

- I. The Riley-Purgatory Creek Watershed District ("District") was established by Board Order dated July 31, 1969.
- II. A Petition signed by the Cities of Chanhassen and Chaska requesting the enlargement of the District to include the drainage area of Bluff Creek, except that lower portion already within the Lower Minnesota River Watershed District, and requesting a change in the name of the District, was filed with the Board on December 9, 1983.

- III. Affidavits of Mailing of the Petition to the Auditors of Carver and Hennepin Counties, the District, and the Commissioner of the Minnesota Department of Natural Resources, were filed with the Board on December 21, 1983; to the Director of the Division of Waters, of the Minnesota Department of Natural Resources, on February 1, 1984; and to the Lower Minnesota River and Minnehaha Creek Watershed District on February 29, 1984.
- IV. On February 10, 1984, the Board found the petition sufficient and tentatively scheduled a hearing. On February 28, 1984, the Board mailed an ORDER FOR HEARING AND NOTICE THEREOF to the petitioners, the affected counties and watershed districts, and to other interested persons.
- V. The Board gave published notice of hearing in the Eden Prairie News and Carver County Herald. Additional notice was published in the State Register.
- VI. On March 15, 1984, the Board received a letter from Joseph Neaton, Carver County Board Chairman, expressing Carver County Board support of the Petition.
- VII. On March 19, 1984, the Board received the Report of the Director of the Division of Waters of the Minnesota Department of Natural Resources. The Director's Report included comments on the Petition and a watershed map of Bluff Creek.
- VIII. On March 19, 1984, the Board received a legal description and detailed maps of the area proposed to be added to the District from Robert Obermeyer of Barr Engineering on behalf of the petitioners.
- IX. A hearing was held on March 22, 1984, beginning at 9:30 a.m. in the Council Chambers of the City of Chanhassen, 690 Coulter Drive, Chanhassen, Minnesota 55317.
- X. The area proposed to be added to the District comprises approximately five square miles of land located entirely within the Cities of Chanhassen and Chaska. It is contiguous to the southwesterly boundary of the District. Its principal watercourse is the Bluff Creek, which flows in a southeasterly direction toward the Minnesota River in a similar manner as the Riley and Purgatory Creeks. Its outlet is located within the Lower Minnesota River Watershed District.
- XI. Current land use in the watershed of Bluff Creek is primarily rural. It is expected, however, to undergo the same type of urban development that is occurring in the District.
- XII. The Bluff Creek watershed's physical characteristics are similar to the District's. The District has adopted rules to regulate new development in order to properly manage and protect the District's water and related resources. The District has also developed a program of undertaking cooperative projects with municipalities to enhance the District's water resources. The area proposed to be added to the District can be feasibly administered by the District's board of managers.

- XIII. The area proposed to be added to the District includes a small tract of land that is within the Minnehaha Creek Watershed District, and a small tract that is within the Lower Minnesota River Watershed District. The majority of the area of each of these tracts is tributary to Bluff Creek. Both the Minnehaha Creek and Lower Minnesota River Watershed Districts support the inclusion of these tracts in an enlarged District.
- XIV. The Petition requested that the name of the District be changed to either the "Riley-Purgatory-Bluff Creek Watershed District" or "Tri-Creek Watershed District", as approved by the District's board of managers. The District board of managers requested that the name of the enlarged District be the "Riley-Purgatory-Bluff Creeks Watershed District". The Board has authority to change the name of the District pursuant to Minnesota Statutes 1982, Section 112.761, Subd. 2.
- XV. The District requested the Board to increase the size of the board of managers to six members, with the new member to come from Bluff Creek and to be appointed by Carver County. The existing board of managers consists of five members; four being appointed by Hennepin County and one being appointed by Carver County. The existing District contains roughly 42 square miles of surface area, with about 80% located in Hennepin County. An expanded District would contain roughly 47 square miles, with about 72% located in Hennepin County. Over 90% of the assessed valuation of the existing District is in Hennepin County. The Petition did not request an increase in the number of managers, and the record contains no testimony on the issue from the affected cities and counties. No authority is given to the Board by Minnesota Statutes 1982, Section 112.761, to increase the size of a board of managers as part of a proceeding to enlarge a watershed district. The Board is authorized to increase the size of the board of managers of a district located wholly within the metropolitan area under Section 112.42, Subd. 3a. Under this Section, the Board must request recommendations from all affected local governmental units before restructuring a district's board of managers. In April 1983 the Board requested recommendations from the District and the chief official of each affected City and County on whether the size of the District's board of managers should be increased. No interested party recommended an increase. In August 1983 the Board determined that no increase was justified. The Board would reconsider the issue of increasing the size of the board of managers upon the request of the District or the affected local governmental units.

XVI. Minnesota Statutes 1982, Section 473.878, requires a watershed management plan for watersheds comprising all minor watershed units within the metropolitan area, which includes the Bluff Creek watershed. This Section requires watershed management plans to be prepared by either watershed districts, joint powers watershed management organizations, or counties. The Cities of Chanhassen and Chaska; the Board of Commissioners of Carver County; and the board of managers of the District all agreed that the best way of implementing Section 473.878 for the Bluff Creek watershed would be to make it part of the District. The Board received no testimony in opposition to the proposed enlargement.

XVII. It would be conducive to the public health and welfare to enlarge the District to include the watershed of Bluff Creek, as requested by the Petitioners, because it will enable the board of managers operating under the authority of the Minnesota Watershed Act to effectively carry out the purposes of the Metropolitan Surface Water Management Act in the area.

XVIII. When a watershed district is enlarged, the board of managers has discretionary authority to levy an organizational expense fund against the area added to the district pursuant to Minnesota Statutes 1982, Section 112.61, Subd. 2.

#### CONCLUSIONS OF LAW

XIX. The Board has jurisdiction in this matter, and all relevant requirements of law have been fulfilled.

XX. The addition of the watershed of Bluff Creek to the District would serve the public welfare and public interest and the purposes of Minnesota Statutes, Chapter 112. The name of the District should be changed to reflect the addition of the Bluff Creek watershed.

XXI. The issue of increasing the size of the District's board of managers is not properly before the Board in this proceeding.

#### IT IS THEREFORE ORDERED THAT

XXII. The territory of the District is enlarged to include the area requested to be added by the Petitioners.

XXIII. The name of the enlarged watershed district is the "Riley-Purgatory-Bluff Creek Watershed District".

XXIV. The boundary of the Riley-Purgatory-Bluff Creek Watershed District is defined by the Order establishing the Riley-Purgatory Creek Watershed District dated July 31, 1969; as amended by the Board boundary change Order dated November 5, 1971; and as further amended by this Order as follows:

By striking the existing description in the July 31, 1969, Order beginning with the word "to" in line 18 on page 23, and concluding with the word "to" in line 18 on page 25; and by substituting in lieu thereof the following description:

"of Section 25 to the intersection of said line with the centerline of State Highway 101; thence southerly along the centerline of State Highway 101 to the centerline of the Chicago and Northwestern Railroad, Sec. 36, Township 116 North, Range 23 West; thence westerly along the centerline of the Chicago and Northwestern Railroad to the centerline of Bluff Creek Drive; thence northwesterly along the centerline of Bluff Creek Drive to the centerline of C.S.A.H. 14; thence west along the centerline of C.S.A.H. 14 to the centerline of C.S.A.H. 17; thence north along the centerline of C.S.A.H. 17 to the east-west  $\frac{1}{4}$  section line of Section 27, Township 116 North, Range 23 West; thence west along said  $\frac{1}{4}$  section line to the west line of the Walter C. Wagner property, Section 27, Township 116 North, Range 23 West; thence north along said property line to the north line of Section 27, Township 116 North, Range 23 West; thence east along said line to the centerline of C.S.A.H. 17; thence northwesterly on the centerline of C.S.A.H. 17 to the easterly extension of the centerline of Autumn Woods Drive; thence west along the centerline of Autumn Woods Drive to the southerly extension of the east line of Lot J, Autumn Woods, Section 22, Township 116 North, Range 23 West; thence north along said line to the east line of R.L.S. No. 62; thence northerly and northwesterly along said line to the west line of the northeast  $\frac{1}{4}$  of the southwest  $\frac{1}{4}$  of Section 22, Township 116 North, Range 23 West; thence north along said line to the east-west  $\frac{1}{4}$  section line of Section 22, Township 116 North, Range 23 West; thence east along said line to the east line of Tract B, R.L.S. No. 85; thence northwesterly along said line extended to the centerline of Crosby Road; thence westerly along the centerline of said roadway to the centerline of Crosby Road (north-south section of roadway); thence northwesterly along the centerline of said roadway to the north line, extended westerly, of Tract B, R.L.S. No. 51, Section 22, Township 116 North, Range 23 West; thence northeasterly along said line extended to the centerline of County Road 117; thence northeasterly along

the centerline of County Road 117 to the south line of the Helen Aspden Hillier property in the northeast  $\frac{1}{4}$  of the southeast  $\frac{1}{4}$  of Section 16, Township 116 North, Range 23 West; thence west along said line to the west line of the northeast  $\frac{1}{4}$  of the southeast  $\frac{1}{4}$  of Section 16, Township 116 North, Range 23 West; thence north along said line to the east-west  $\frac{1}{4}$  section line of Section 16, Township 116 North, Range 23 West; thence west along said line to the centerline of State Highway 41; thence northerly and northeasterly along the centerline of State Highway 41 to the east-west  $\frac{1}{4}$  section line of Section 4, Township 116 North, Range 23 West; thence east on said  $\frac{1}{4}$  section line and the east-west  $\frac{1}{4}$  section lines of Sections 3 and 2, Township 116 North, Range 23 West, to"

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D.D.

XXV. The boundary of the Minnehaha Creek Watershed District is defined by the Order establishing the District dated March 9, 1967; as amended by Board boundary change Orders dated November 5, 1971; March 19, 1979; and December 9, 1981; and as further amended by this Order as follows:

By striking the existing description in the Board's Order of March 9, 1967, beginning with the word "south" in line 16 on page 15, and concluding with the words "Section 4" in line 19 on page 15; and by substituting in lieu thereof the following description:

"south line of the north half of Section 4, Township 116 North, Range 23 West; thence easterly on said line".

XXVI. The boundary of the Lower Minnesota River Watershed District is defined by the Board's boundary change Order dated August 21, 1975; as amended by the Board's boundary change Order dated October 28, 1975; and as further amended by this Order as follows:

By striking the existing description in the Board's Order of August 21, 1975, beginning with the word "its" in line 12 on page 11, and concluding with the word "to" in line 29 on page 11.

Dated at Saint Paul, Minnesota 55102, this 8th day of June 1984.

MINNESOTA WATER RESOURCES BOARD



Duane R. Ekman  
Chairman