Minnesota Water Rescurces Bcard

500 Lafayette Road
First Floor
St. Paul, Minnesota
55146

STATE OF MINNESOTA)
)ss
COUNTY OF RAMSEY)

AFFIDAVIT

Karen Schultz being first duly sworn cn cath, depcses and says:

THAT *she* IS the *Secretary* fcr the Minnesota Water Rescurces Bcard; that *she* has compared the attached ccpy cf an Order relating tc the *Lower Minnesota River Watershed District*

dated at Saint Paul, Minnescta, cn the *13th day of December 1985* with the original thereof cn file in _____ cfficial custcdy; and THAT SAID COPY is a true and correct copy cf said original and the whcle therecf.

Karen Schultz
Secretary

STATE OF *Minnesota*

COUNTY OF *Ramsey*

Subscribed and swcrn tc befcre me this *16th* day of *January* 198*6*

ALBERT J. BRAMSTEDT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES JANUARY 9, 1989

My Commission Expires *1-9-89*

Albert J Bramstedt

#36448

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JAN 27 1986
Joan Anderson Growe
Secretary of State

Minnesota Water Resources Board
500 Lafayette Road
First Floor
St. Paul, Minnesota 55146

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In the Matter of the Petition to Add Certain Land to the Lower Minnesota River Watershed District filed September 27, 1985 by the City of Carver (M.S. 1984 Section 112.761)

ORDER AMENDING THE BOUNDARY OF THE LOWER MINNESOTA RIVER WATERSHED DISTRICT

A sufficient petition having been filed with the Minnesota Water Resources Board (Board) pursuant to Minn. Stat. sec. 112.761 (1984) seeking the addition of certain land to the Lower Minnesota River Watershed District (District); proper legal notice of hearing having been given by the Board; and a public hearing having been conducted on the petition; the Board, having fully considered the record, makes the following:

FINDINGS OF FACT

1. On September 27, 1985 the City of Carver (City) filed a petition requesting that all of the land within the corporate boundary of the City, not already within the legal boundary of the District, be included within the District.
2. On October 28, 1985 the Chairman of the Board issued a Notice of and Order for Hearing scheduling a public hearing on the petition for November 25, 1985 beginning at 7:00 in the Carver City Hall. Copies of said Notice and Order were mailed to the City of Carver, the Auditor

of Carver County, the District, the Director of the Division of Waters (DOW), of the Department of Natural Resources (DNR), and about nine other interested persons. The Notice and Order was also published in the Carver County Herald newspaper on November 6 and 13, 1985.

3. A public hearing was conducted on November 25, 1985 by Board Member Peggy Lynch. Appearing with Peggy Lynch on behalf of the Board was Dan Steward, Staff Hydrologist. Appearing on behalf of the City were Robert Jordan, Mayor, and Michael Mornson, City Administrator. Chaska and Dahlgren Townships were represented by officials who also serve on the Chaska Creek and Carver Creek Watershed Management Organizations (WMOs). State Senator Earl Renneke of LeSueur attended. The Carver Soil and Water Conservation District and the Soil Conservation Service were represented. Appearing on behalf of the District were its President, Russell Sorenson; Member, Russell Heltne; Attorney, Fred Richards; and Engineer, Larry Samstad. About five citizens also were present.

4. Carver County submitted a written statement supporting the petition, but opposing the inclusion of any lands in Chaska or Dahlgren Townships within the District.

5. The Director of the DOW of the DNR submitted a report recommending that only those portions of the City that are not part of the Carver Creek watershed should be included in the District. The Director also recommended that those portions of Sections 7 and 8 of Chaska Township and Sections 12 and 13 of Dahlgren Township that drain into the City should be included in the District.

6. The lands proposed to be added to the District are contiguous to the District's legal boundary.

7. All of the lands proposed to be included in the District drain into the Minnesota River.

8. The lands proposed for inclusion in the District include portions of the Carver Creek secondary watershed, the Spring Creek minor watershed, and two other minor watersheds that contribute direct drainage to the Minnesota River.

9. Mayor Jordan testified that the City's most serious water problems have occurred in the Spring Creek minor watershed. The Mayor testified that the City had an 8" rain in 1976 that caused significant erosion and flooding problems along Spring Creek.

10. The Mayor testified that the City had been interested in joining the Carver Creek WMO until the Joint Powers Agreement was amended to include a $2,000 cap on capitol improvement projects. The Mayor testified that it would be in the best interests of the City to have its entire corporate boundary included within the District because it could then take advantage of the District's water mnanagement expertise and avoid the restrictive spending limits contained in the Carver and Chaska Creek WMO joint powers agreements.

11. Dean Miller, Chairman of Dahlgren Township, and member of the Carver Creek WMO, testified that if the City wanted to provide input to the Carver Creek WMO they should have remained a member.

12. A representative of the Soil Conservation Service testified that the City's water problems were mainly in the Spring Creek watershed.

13. Larry Samstad, Engineer for the District, testified that flooding problems in the lower reaches of Carver Creek are caused by back water from the Minnesota River when it is in a flooding condition.

14. Michael Mornson, Carver City Admininstrator, testified that the City was concerned about not being able to meet the December 31, 1986 deadline for preparing plans under the Metropolitan Surface Water Management Act, if the City were to plan under joint powers authority rather than watershed district authority.

15. Larry Samstad testified that land use in the Carver Creek watershed is nearly all agricultural.

16. Inclusion in the District of those portions of the City contained within the Spring Creek subwatershed, and those portions of the City lying northeast of the Spring Creek subwatershed that are directly tributary to the Minnesota River, would promote an opportunity for improved water management in these areas and would be consistent with the purposes and requirements of the Metropolitan Surface Water Management Act.

17. Inclusion in the District of those portions of Sections 7 and 8 of Chaska Township and Sections 12 and 13 of Dahlgren Township that drain into the City and into the District, would also be consistent with the purposes and requirements of the Metropolitan Surface Water Management Act, but the Board does not have proper jurisdiction to include those lands because they were not part of the City's petition.

18. Those portions of the City that drain into Carver Creek should properly become part of the Carver Creek WMO in order to facilitate

interlocal cooperation in watershed planning and management. That portion of the City lying southeast of the Carver Creek watershed is more closely associated physically with the Carver Creek watershed than with the District, and, therefore, it would be logical to incorporate this area into the Carver Creek WMO also.

CONCLUSIONS OF LAW

1. The Board has proper jurisdiction in this matter.
2. All relevant, substantive, and procedural requirements of law have been fulfilled.
3. Granting the petition for the area north of the south line of the N 1/2 of the NW 1/4 of Section 19, Township 115 North, Range 23 West, will provide the City the opportunity to utilize the authorities of the Minnesota Watershed Act and the water management expertise of the District to address its most severe flooding and erosion problems.
4. It would be in the public welfare, and public interest, and further the purpose of the Minnesota Watershed Act, to amend the legal boundary of the District to include those portions of the City located north of the south line of the N 1/2 of the NW 1/4 of Section 19, Township 115 North, Range 23 West, which are not already a part of the District, within the legal boundary of the Lower Minnesota River Watershed District.
5. Since the petition did not request the inclusion of the headwaters portions of the Spring Creek watershed in Chaska and Dahlgren Townships, the Board lacks the jurisdiction to include those lands in the District.

6. Inclusion in the District of those portions of the City lying south of the south line of the N 1/2 of the NW 1/4 of Section 19, Township 115 North, Range 23 West, would not be consistent with the purposes of the Metropoolitan Surface Water Management Act, which seeks to strengthen cooperative water planning and management efforts among local units of government having territory in the same secondary watershed units.

IT IS THEREFORE ORDERED

1. That that portion of the NW 1/4 of Section 17, Township 115 North, Range 23 West, lying northwest of the northwesterly right of way of the Chicago, Milwaukee, St. Paul and Pacific Railroad; that portion of the N 1/2 of Section 18, Township 115 North, Range 23 West, lying northwest of the northwesterly right of way of the Chicago, Milwaukee, St. Paul and Pacific Railroad; the SW 1/4 of said Section 18; and the North 1/2 of the NW 1/4 of Section 19, Township 115 North, Range 23 West; are hereby added to and included within the legal boundary of the Lower Minnesota River Watershed District.

2. That the Board's Order dated April 12, 1985, which redefined the boundary of the Lower Minnesota River Watershed District, is hereby amended as follows:

   Strike lines 16 through 26 on page 7 and lines 1 through 9 on page 8, and insert in lieu thereof the following description:

   "corner of the N 1/2 of the N 1/2 of Section 19, Township 115 North, Range 23 West; thence northerly on the west line of Sections 19 and 18, Township 115 North, Range 23 West, to the centerline of U.S. Highway 212; thence easterly and northeasterly on the centerline of U.S. Highway 212 to its intersection with the centerline".

3. That the legal boundary of the Lower Minnesota River Watershed District is defined by the Board's Order dated April 12, 1985, as modified by this Order.

Dated at Saint Paul, Minnesota 55146, this 13th day of December 1985.

MINNESOTA WATER RESOURCES BOARD

Duane R. Ekman
Chairman

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