



Item 7B
BCWMC 5-16-13

May XX, 2013

Mr. John (Jack) Gleason
DNR Hydrologist
Minnesota Department of Natural Resources
1200 Warner Road
St. Paul, MN 55106-6793

**Re: Response to Comments Regarding Bassett Creek Watershed Management
Commission's Proposed Major Plan Amendment**

Dear Mr. Gleason:

Thank you for your April 5, 2013 letter regarding the Bassett Creek Watershed Management Commission's (Commission) proposed major plan amendment. In that letter (**attached**), the Minnesota Department of Natural Resources (DNR) commented on the proposed Schaper Pond Diversion Project, one of the three proposed additions to the Commission's capital improvement program (CIP). In the letter, the DNR notes that Schaper Pond is a DNR Public Water Wetland (#27-649) and that the proposed additional diversion structure would require an amendment to DNR permit 1997-6094.

However, of most concern to the Commission is the statement that "the DNR may not be able to authorize this proposal or a similar concept" because of changes in rules and policies at the Minnesota Pollution Control Agency (MPCA). The DNR's understanding is that the MPCA rules do not allow enhancement of public waters that have been previously modified to serve as stormwater ponds. The DNR letter also encourages the Commission to 1) conduct subwatershed assessments to identify retrofit opportunities for stormwater best management practices (BMPs); 2) review its requirements to address infiltration/abstraction BMPs for redevelopment as well as development projects; and 3) to incorporate the MPCA's work on minimal impact design standards (MIDS), as appropriate.

Commission's Response to DNR's Comments

The Commission appreciates that the DNR brought the MPCA issues to the Commission's attention. However, the Commission feels that this is a project worth pursuing, and the Commission will apply for a permit to construct the project, assuming the Minnesota Board of Water and Soil Resources approves the major plan amendment.

DNR permit 1997-6094 authorized the City of Golden Valley to make alterations to Schaper Pond, which at that time was a wetland severely degraded by the presence of demolition debris in the western portions of the wetland. According to the Voluntary Response Action Plan prepared for the project (April 1997), environmental investigations at the site identified polycyclic aromatic hydrocarbons and lead as the primary contaminants of concern with the demolition debris. Clean-up efforts at the site were undertaken in conjunction with the DNR-permitted activities to provide

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recreational development and water quality improvement measures in and near Schaper Pond and the adjacent park. As a result of the project, a better shoreline was established (i.e., construction debris no longer exposed) and a berm was installed in the pond to improve treatment of stormwater entering the pond from the northwest corner of the pond.

As noted in the DNR letter, Schaper Pond is immediately upstream of Sweeney Lake, which is an impaired water. The Sweeney Lake TMDL (approved by the MPCA in 2011) calls for an external load reduction of 99 pounds of total phosphorus from the contributing watershed during the June through September period. The Implementation Plan for the Sweeney Lake TMDL includes several options for reducing phosphorus loads to Sweeney Lake. One option in the implementation plan was modification of Schaper Pond to improve the pond's ability to remove phosphorus. In response to this recommendation, the Commission completed a feasibility study in 2012 (Feasibility Report for the Schaper Pond Improvement Project) that investigated alternatives for modifying the pond. The feasibility study recommended construction of a diversion structure to direct more of the stormwater from the south to the northwest (larger, deeper) lobe of Schaper Pond where more treatment could be provided. The feasibility study found that the project could remove an estimated 81 – 156 pounds of phosphorus during the June through September period each year. This amount of phosphorus removal would go a long way towards reaching the Sweeney Lake TMDL phosphorus removal requirement of 99 pounds. Whereas the earth diversion berm constructed under DNR permit 1997-6094 resulted in more treatment of the stormwater discharging directly into the northwest side of Schaper Pond, the proposed diversion will provide for more treatment of the stormwater entering the south side of Schaper Pond (the main inflow into the pond).

The proposed diversion is envisioned to be a floating/movable structure that would force the water to the northwest side of Schaper Pond and toward the bottom of the pond, to significantly improve phosphorus removal.

The proposed Schaper Pond Diversion Project will not increase the amount of pollutants/nutrients entering Schaper Pond, but it will decrease the amount of pollutants/nutrients entering Sweeney Lake. The diversion project would allow the sediment in the stormwater entering Schaper Pond more time to settle in the pond, thus decreasing the amount of pollutants/nutrients leaving the pond and entering Sweeney Lake.

The Commission also has the following comments in response to the DNR's recommendations regarding subwatershed assessments, infiltration/abstraction BMPs, and MIDS.

- The Sweeney Lake TMDL also found that the network of 44 in-place stormwater BMPs are already removing 34 percent of the watershed total phosphorus loading to Sweeney Lake. Some of those BMPs were constructed more than 25 years ago. Because of the fully-developed nature of the tributary watershed, there are limited opportunities to install significant new BMPs in the upstream watershed. The best opportunities for installing such BMPs will come with redevelopment in the tributary watershed, but it would likely take decades to reach the phosphorus removal requirements of the TMDL. Through the Sweeney Lake TMDL and earlier Commission studies regarding improving the water quality of Sweeney Lake and other waterbodies in the watershed, detailed subwatershed assessments have already been undertaken and BMPs have been implemented.
- The Commission adopted a water quality management policy in 1994, and adopted water quality management standards in 1995 (Requirements for Improvements and Development Proposals), which were updated in 2008. The Commission's 1995 water quality management standards required the use of water quality treatment basins (designed to "NURP" standards) to reduce the phosphorus and sediment loading caused by development and redevelopment.

The 2008 update to the standards allow for infiltration and other BMPs to be used to meet the Commission's water quality treatment requirements. In addition, the 2008 update requires no increase in total phosphorus discharge from redevelopment sites. To meet the Commission and member city requirements, many developers often need to implement infiltration BMPs. The 2008 standards include design requirements and operation and maintenance guidelines for selected/approved BMPs.

- The Commission is currently in the process of updating their Watershed Management Plan. During the planning process, the Commission will review its water quality management standards, and consider whether infiltration requirements and the outcome of the MPCA's MIDS work should be incorporated into the Commission's standards.

In summary, the Commission wishes to pursue this project because it is the most feasible project for reaching the MPCA's approved TMDL load reduction goals in a reasonable timeframe. The Commission selected this alternative because it can be implemented in the immediate future, while most of the other alternatives in the TMDL implementation plan would require a much longer timeframe (decades) to see the same result, as they are dependent on redevelopment in the watershed. We believe the proposed project is necessary to meet the TMDL requirements for Sweeney Lake and is consistent with the Commission's, the city's, the MPCA's, and the DNR's shared objective of responsible management of our valued water resources.

Again, thank you for your review and comments on the Commission's proposed plan amendment. If you have any questions, please contact Karen Chandler, P.E., the BCWMC's engineer, at (952) 832-2813 (or kchandler@barr.com), or Charlie LeFevere, Esq., the BCWMC's legal representative, at (612) 337-9215 (or clefevere@Kennedy-Graven.com).

Sincerely,

Virginia (Ginny) Black,
Chair, Bassett Creek Watershed Management Commission

c:
Enclosure(s)