

**Resolution No. 24-XX**  
**Brown's Creek Watershed District**  
**Board of Managers**

**Adopting a record of decision for the environmental review of the Brown's Creek Restoration Project and making a negative declaration on the need for an environmental impact statement**

Manager \_\_\_\_\_ offered the following resolution and moved its adoption, seconded by Manager \_\_\_\_\_:

**Whereas** Brown's Creek Watershed District has an approved and adopted watershed resources management plan in fulfillment of Minnesota Statutes section 103B.231 including policies committing BCWD to the improvement of the water quality and ecological integrity of Brown's Creek and its tributaries, including maintaining a viable cold-water fishery and maintaining the hydrology and geomorphology of Brown's Creek and its tributaries required for stream equilibrium and health, and the capital improvements program in the plan includes creek-restoration projects addressing impairments of Brown's Creek for turbidity and fish-bioassessments identified in the Brown's Creek Total Maximum Daily Load Plan (2012) and the Brown's Creek Thermal Study (2016), including improvement of reaches categorized as having degraded stream channel geomorphology by addressing lack of buffer, stream width, overhanging banks, and profile and alignment;

**Whereas** at its November 2022 meeting, the BCWD Board of Managers directed BCWD staff and the engineer to assess the feasibility of the capital improvements in the plan to address the impairments and restore water quality and habitat in Brown's Creek, and staff and the engineer conducted necessary surveys and worked with the Department of Natural Resources and the City of Stillwater to develop a conceptual design for restoration of 2,000 feet of the creek from McKusick Road just upstream of Brown's Creek Park to just downstream of the Brown's Creek State Trail in Stillwater, and the concept includes:

- reconnection of cutoff meanders, pattern adjustments to increase stream sinuosity, and grade control to reconnect the floodplain adjacent to the creek;
- remove invasive species from the bank and upstream areas along the reach;
- bank shaping and selective tree thinning to promote herbaceous understory growth;
- restoration of fish habitat with rock riffles and pools to increase spawning opportunities and provide stable refuge for macroinvertebrates;
- improved access to the creek from Brown's Creek State Trail.

(The work described here is collectively referred to hereafter as "the Project.")

**Whereas** at its July 2023 regular meeting, the BCWD Board of Managers authorized and directed the BCWD engineer to complete an Environmental Assessment Worksheet for the Project pursuant to Minnesota Statutes chapter 116D for presentation to the managers, sitting as the Responsible Governmental Unit as agreed to by representatives of the Department of Natural Resources pursuant to Minnesota Rules 4410.4300, subpart 27A, to make a determination on whether the Project has the potential to have significant negative environmental effects pursuant to Minnesota Statutes section 116D.04, subdivision 2a;

**Whereas** at its November 8, 2023, regular meeting, the BCWD Board of Managers approved the EAW for the Project and directed the BCWD administrator to provide the EAW to the state Environmental Quality Board for publication of a notice of availability in the *EQB Monitor*, which occurred on November 21, 2023, and the EAW was distributed as required by Minnesota Rules 4410.1500, and a 30-day public comment period was provided as required by the rules, ending December 21, 2023, and BCWD received written comments from several state agency representatives, Washington County and Metropolitan Council during the comment period;

**Whereas** on December 13, 2023, BCWD Board of Managers held a noticed public hearing at which interested members of the public and others were afforded the further opportunity to comment on potential impacts examined in the EAW, and no comments were offered;

**Whereas** the BCWD engineer and staff have carefully reviewed the written comments received, and prepared substantive written responses, in accordance with the terms of Minnesota Rules 4410.1700, and a compilation of the comments and responses is included as part of the record of decision attached hereto;

**Whereas** on the basis of comments provided, the analysis of the engineer and BCWD staff as presented in the findings of fact included in the record of decision attached to this resolution, and its own deliberations, the BCWD Board of Managers, sitting as the Responsible Governmental Unit, concludes as a matter of law that an environmental impact statement for the Project is not necessary because: (1) the Project does not fall within a mandatory EIS category in Minnesota Rules 4410.4400; and (2) the Project does not have the potential for significant negative environmental effects, as specified at Minnesota Rules 4410.1700, subpart 6, and (3) the Project will effectively achieve the BCWD's water-quality improvement goals in improve in-stream and creek corridor conditions with the least possible impact on environmental and other public interests; and

**Whereas** the final EAW and the findings of fact, including the written comments and responses prepared by the engineer and staff as well as the original comment communications, are attached hereto to serve as the record of decision in the matter.

**NOW, THEREFORE, BE IT RESOLVED** that the BCWD Board of Managers, sitting as the responsible government unit in the matter, adopts the attached record of decision,

and makes a negative declaration, determining that preparation of an environmental impact statement is not necessary, and directs staff to distribute this resolution and the record of decision in the matter within five days per Minnesota Rules 4410.1700, subpart 5.

The question was on the adoption of the resolution and there were \_\_ yeas and \_\_ nays as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Eckles	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Johnson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LeRoux	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sahulka	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wirth	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the president declared the resolution adopted January 13, 2024.

\* \* \* \* \*

I, Chuck LeRoux, secretary of the Brown's Creek Watershed District, do hereby certify that I have compared the above resolution with the original thereof as the same appears of record and on file with BCWD and find the same to be a true and correct transcription thereof.

IN TESTIMONY WHEREOF, I set my hand this \_\_\_day of January, 2024.

\_\_\_\_\_  
Chuck LeRoux, Secretary

**Brown's Creek Restoration Project  
Environmental Assessment Worksheet  
Record of Decision**

DRAFT