

# Minnesota Wetland Conservation Act

## Notice of Decision

Item 8E.  
BCWMC 9-16-15

Local Government Unit (LGU) <b>Bassett Creek Watershed Management Commission (BCWMC)</b>	Address <b>7800 Golden Valley Road Golden Valley, MN 55427</b>
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### 1. PROJECT INFORMATION

Applicant Name <b>Kerby Skurat</b>	Project Name <b>1143 South Shore Drive, Medicine Lake</b>	Date of Application <b>6/29/16</b>	Application Number
<input checked="" type="checkbox"/> Attach site locator map.			

Type of Decision:

<input type="checkbox"/> Wetland Boundary or Type	<input checked="" type="checkbox"/> No-Loss	<input type="checkbox"/> Exemption	<input type="checkbox"/> Sequencing
<input type="checkbox"/> Replacement Plan	<input type="checkbox"/> Banking Plan		

Technical Evaluation Panel (TEP) Findings and Recommendation (if any):

<input type="checkbox"/> Approve	<input type="checkbox"/> Approve with conditions	<input type="checkbox"/> Deny
Summary (or attach): no TEP Findings Report		

### 2. LOCAL GOVERNMENT UNIT DECISION

Date of Decision: <b>8/23/16</b>
<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Approved with conditions (include below) <input type="checkbox"/> Denied

LGU Findings and Conclusions (attach additional sheets as necessary):

On behalf of Kerby Skurat, Anderson Engineering submitted a joint application form requesting a no-loss approval for temporary wetland impacts located within the property at 1143 South Shore Drive in the City of Medicine Lake, Section 36, Township 118N, Range 22W, within Hennepin County.

After unpermitted wetland impacts occurred in April 2016, Anderson Engineering conducted a wetland delineation, which was approved by the BCWMC on 5/31/16 as a Type 3/6, PEM/SS1Cd, shallow marsh/shrub-carr wetland. A restoration plan was also submitted by Anderson Engineering. Both the wetland delineation and the restoration plan were reviewed by TEP members.

An initial site review was conducted on 4/14/16 with Ben Meyer from the Board of Water and Soil Resources, Brad Scheib with HKGI for the City of Medicine Lake, Kerby Skurat, Karen Wold with Barr Engineering for the BCWMC, Melissa Jenny with the U.S. Army Corps of Engineers, and Kate Drewry with the MN Department of Natural Resources. After initial restoration was conducted, another site review took place on 5/9/16 with Ben Meyer, Stacey Lijewski with Hennepin County, Karen Wold, Ben Hodapp and Lucy Kozub with Anderson Engineering for the applicant.

The wetland delineation report, wetland restoration plan, and survey were reviewed and discussed during the 5/19/16 BCWMC meeting. During the BCWMC meeting, the commissioners required the landowner to submit a joint application form requesting a no-loss approval for the temporary wetland impacts that were associated with the unpermitted wetland fill as well as recording a Declaration of Restrictions and Covenants on the wetland. The no-loss application and Declaration of Restrictions and Covenants were

submitted to the LGU on 6/29/16. After review, changes were requested to the application, survey, and Declaration with revisions submitted on 7/25/16. After further review and comment, the Declaration and Restrictions of Covenants was again revised and was recorded on 8/16/16.

The unpermitted wetland fill area has been restored. The BCWMC approves the no-loss for temporary impacts. The Notice of Decision for the wetland delineation approval, and the final versions of the restoration plan, the no-loss application, and the recorded Declaration of Restrictions and Covenants are included with this Notice of Decision.

For Replacement Plans using credits from the State Wetland Bank:

Bank Account #	Bank Service Area	County	Credits Approved for Withdrawal (sq. ft. or nearest .01 acre)


**Replacement Plan Approval Conditions.** In addition to any conditions specified by the LGU, the approval of a Wetland Replacement Plan is conditional upon the following:

- Financial Assurance:** For project-specific replacement that is not in-advance, a financial assurance specified by the LGU must be submitted to the LGU in accordance with MN Rule 8420.0522, Subp. 9 (List amount and type in LGU Findings).
- Deed Recording:** For project-specific replacement, evidence must be provided to the LGU that the BWSR “Declaration of Restrictions and Covenants” and “Consent to Replacement Wetland” forms have been filed with the county recorder’s office in which the replacement wetland is located.
- Credit Withdrawal:** For replacement consisting of wetland bank credits, confirmation that BWSR has withdrawn the credits from the state wetland bank as specified in the approved replacement plan.

**Wetlands may not be impacted until all applicable conditions have been met!**

LGU Authorized Signature:

Signing and mailing of this completed form to the appropriate recipients in accordance with 8420.0255, Subp. 5 provides notice that a decision was made by the LGU under the Wetland Conservation Act as specified above. If additional details on the decision exist, they have been provided to the landowner and are available from the LGU upon request.

Name <b>Karen Wold</b>	Title <b>Senior Environmental Scientist, Barr Engineering Co.- Engineers for the BCWMC</b>	
Signature 	Date <b>8/23/16</b>	Phone Number and E-mail <b>952-832-2707</b> <a href="mailto:kwold@barr.com">kwold@barr.com</a> <b>Barr Engineering Co., 4300 MarketPointe Drive</b> <b>Minneapolis, MN 55435</b>

THIS DECISION ONLY APPLIES TO THE MINNESOTA WETLAND CONSERVATION ACT. Additional approvals or permits from local, state, and federal agencies may be required. Check with all appropriate authorities before commencing work in or near wetlands.

Applicants proceed at their own risk if work authorized by this decision is started before the time period for appeal (30 days) has expired. If this decision is reversed or revised under appeal, the applicant may be responsible for restoring or replacing all wetland impacts.

This decision is valid for five years from the date of decision unless a longer period is advised by the TEP and specified in this notice of decision.

### 3. APPEAL OF THIS DECISION

Pursuant to MN Rule 8420.0905, any appeal of this decision can only be commenced by mailing a petition for appeal, including applicable fee, within thirty (30) calendar days of the date of the mailing of this Notice to the following as indicated:

Check one:

<input type="checkbox"/> Appeal of an LGU staff decision. Send petition and \$_____ fee (if applicable) to:	<input checked="" type="checkbox"/> Appeal of LGU governing body decision. Send petition and \$500 filing fee to: Executive Director Minnesota Board of Water and Soil Resources 520 Lafayette Road North St. Paul, MN 55155
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#### 4. LIST OF ADDRESSEES

<input checked="" type="checkbox"/> SWCD TEP member: <b>Stacey Lijewski, Hennepin County</b>
<input checked="" type="checkbox"/> BWSR TEP member: <b>Ben Meyer</b>
<input checked="" type="checkbox"/> DNR TEP member: <b>Rebecca Horton, Kate Drewry</b>
<input checked="" type="checkbox"/> WD or WMO (if applicable): <b>Laura Jester (Keystone Waters, BCWMC administrator), Karen Chandler and Candice Kantor (Barr Engineering, BCWMC engineer), Clint Carlson (BCWMC Commissioner from Medicine Lake)</b>
<input checked="" type="checkbox"/> Applicant and Landowner (if different) <b>Kerby Skurat, agent Ben Hodapp and Lucy Kozub (Anderson Engineering)</b>
<input checked="" type="checkbox"/> City of Medicine Lake: <b>Gary Holter (Mayor), Brad Scheib (Hoisington Koegler Group Inc.)</b>
<input checked="" type="checkbox"/> Corps of Engineers Project Manager <b>Melissa Jenny</b>

#### 5. MAILING INFORMATION

- For a list of BWSR TEP representatives: [www.bwsr.state.mn.us/aboutbwsr/workareas/WCA\\_areas.pdf](http://www.bwsr.state.mn.us/aboutbwsr/workareas/WCA_areas.pdf)
- For a list of DNR TEP representatives: [www.bwsr.state.mn.us/wetlands/wca/DNR\\_TEP\\_contacts.pdf](http://www.bwsr.state.mn.us/wetlands/wca/DNR_TEP_contacts.pdf)
- Department of Natural Resources Regional Offices:

<u>NW Region:</u>	<u>NE Region:</u>	<u>Central Region:</u>	<u>Southern Region:</u>
Reg. Env. Assess. Ecol. Div. Ecol. Resources 2115 Birchmont Beach Rd. NE Bemidji, MN 56601	Reg. Env. Assess. Ecol. Div. Ecol. Resources 1201 E. Hwy. 2 Grand Rapids, MN 55744	Reg. Env. Assess. Ecol. Div. Ecol. Resources 1200 Warner Road St. Paul, MN 55106	Reg. Env. Assess. Ecol. Div. Ecol. Resources 261 Hwy. 15 South New Ulm, MN 56073

For a map of DNR Administrative Regions, see: [http://files.dnr.state.mn.us/aboutdnr/dnr\\_regions.pdf](http://files.dnr.state.mn.us/aboutdnr/dnr_regions.pdf)

- For a list of Corps of Project Managers: [www.mvp.usace.army.mil/regulatory/default.asp?pageid=687](http://www.mvp.usace.army.mil/regulatory/default.asp?pageid=687)  
or send to:

US Army Corps of Engineers  
St. Paul District, ATTN: OP-R  
180 Fifth St. East, Suite 700  
St. Paul, MN 55101-1678

- For Wetland Bank Plan applications, also send a copy of the application to:  
Minnesota Board of Water and Soil Resources  
Wetland Bank Coordinator  
520 Lafayette Road North  
St. Paul, MN 55155

#### 6. ATTACHMENTS

In addition to the site locator map, list any other attachments:
<input checked="" type="checkbox"/> <b>Approved wetland delineation Notice of Decision</b>
<input checked="" type="checkbox"/> <b>Wetland Restoration Plan</b>
<input checked="" type="checkbox"/> <b>No-Loss Joint Application for Temporary Wetland Impacts</b>
<input checked="" type="checkbox"/> <b>Recorded Declaration of Restrictions and Covenants</b>

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## Notice of Decision

Local Government Unit (LGU) <b>Bassett Creek Watershed Management Commission (BCWMC)</b>	Address <b>7800 Golden Valley Road          Golden Valley, MN 55427</b>
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### 1. PROJECT INFORMATION

Applicant Name <b>Kerby Skurat</b>	Project Name <b>1143 South Shore Drive, Medicine Lake</b>	Date of Application <b>5/5/16</b>	Application Number
<input checked="" type="checkbox"/> Attach site locator map.			

Type of Decision:

<input checked="" type="checkbox"/> Wetland Boundary or Type	<input type="checkbox"/> No-Loss	<input type="checkbox"/> Exemption	<input type="checkbox"/> Sequencing
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LGU Findings and Conclusions (attach additional sheets as necessary):

<p>On behalf of Kerby Skurat, Anderson Engineering submitted a wetland delineation report for the property at 1143 South Shore Drive in the City of Medicine Lake, Section 36, Township 118N, Range 22W, within Hennepin County.</p> <p>The edge of one wetland was delineated within the property boundaries and classified as a Type 3/6, PEM/SS1Cd, shallow marsh/shrub-carr wetland.</p> <p>This wetland delineation was one of the items required after the TEP determined that unpermitted wetland impacts occurred in April 2016. A restoration plan was submitted concurrently, which was reviewed by TEP members and the BCWMC and will be addressed separately.</p> <p>A site review of the wetland delineation was conducted on May 9, 2016. Present at the site review were Ben Meyer with the Board of Water and Soil Resources, Stacey Lijewski with Hennepin County, Karen Wold with Barr Engineering for the BCWMC, Ben Hodapp and Lucy Kozub with Anderson Engineering for the applicant. During the site review, TEP members requested a slight adjustment to the wetland boundary moving one of the delineation flags a few feet upslope.</p> <p>With this adjustment, the wetland boundary and type were found to be accurate, based on the requirements of the 1987 USACE Wetland Delineation Manual, the 2010 Midwest Regional Supplement, and the 2015 Guidance for Submittal of Delineation Reports to the USACE and WCA LGU in Minnesota, Version 2.0.</p> <p>The BCWMC approves the wetland boundaries and types.</p>
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Bank Account #	Bank Service Area	County	Credits Approved for Withdrawal (sq. ft. or nearest .01 acre)
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Name <b>Karen Wold</b>	Title <b>Senior Environmental Scientist, Barr Engineering Co.- Engineers for the BCWMC</b>	
Signature 	Date <b>5/31/16</b>	Phone Number and E-mail <b>952-832-2707</b> <a href="mailto:kwold@barr.com">kwold@barr.com</a> <b>Barr Engineering Co., 4300 MarketPointe Drive</b> <b>Minneapolis, MN 55435</b>

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- BWSR TEP member: **Ben Meyer**
- DNR TEP member: **Leslie Parris, Kate Drewry**
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- Department of Natural Resources Regional Offices:

<u>NW Region:</u>	<u>NE Region:</u>	<u>Central Region:</u>	<u>Southern Region:</u>
Reg. Env. Assess. Ecol. Div. Ecol. Resources 2115 Birchmont Beach Rd. NE Bemidji, MN 56601	Reg. Env. Assess. Ecol. Div. Ecol. Resources 1201 E. Hwy. 2 Grand Rapids, MN 55744	Reg. Env. Assess. Ecol. Div. Ecol. Resources 1200 Warner Road St. Paul, MN 55106	Reg. Env. Assess. Ecol. Div. Ecol. Resources 261 Hwy. 15 South New Ulm, MN 56073

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or send to:

US Army Corps of Engineers  
St. Paul District, ATTN: OP-R  
180 Fifth St. East, Suite 700  
St. Paul, MN 55101-1678

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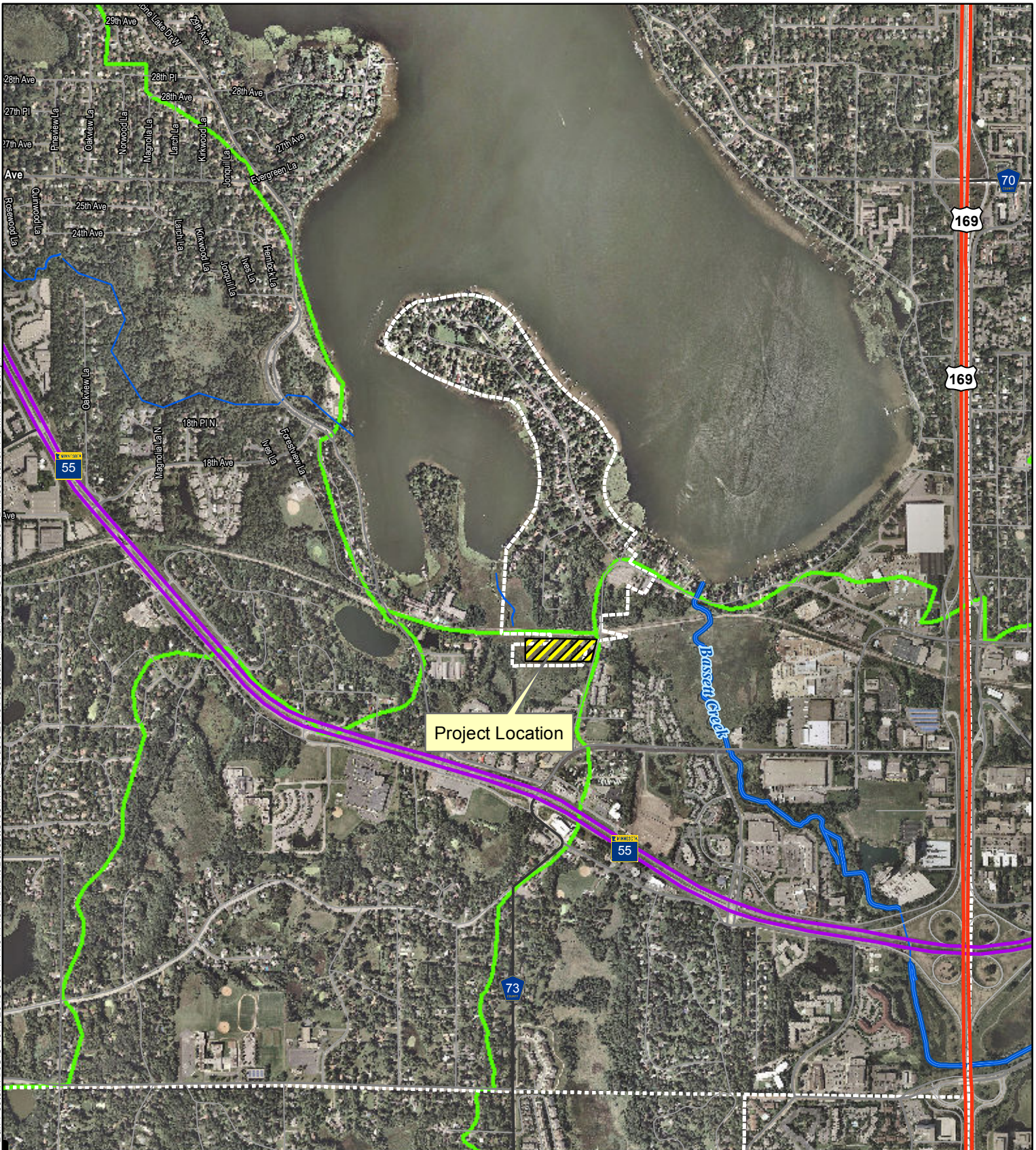
#### 6. ATTACHMENTS

In addition to the site locator map, list any other attachments:







- Wetland delineation map**

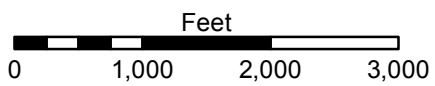


Barr Footer: ArcGIS 10.4, 2016-05-11 14:31 File: I:\Client\BassettCreek\Work Orders\2016\Restoration Plan 1143 South Shore Dr\Restoration Plan.mxd User: iv



Imagery Source: Aerial Express (2009)

-  Project Location
-  Bassett Creek
-  WMC Boundary
-  Major Subwatershed
-  Municipality
-  Stream



**RESTORATION PLAN**  
**1143 South Shore Dr.**  
**Medicine Lake, MN**



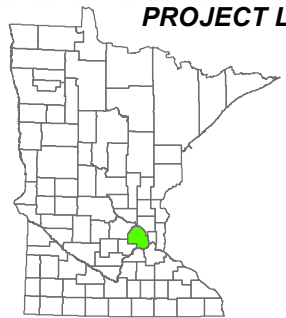


**Legend**

- Project Parcel
- Hennepin Co. Parcels
- Sample Point
- Field Delineated Wetland 4/21/2016

**PROJECT LOCATION**

SOURCE: MN DNR, USDA, ESRI, TIGER, Bing, Hennepin Co., Anderson Engineering

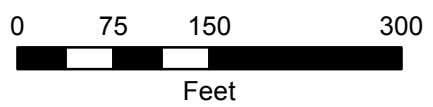


Hennepin County  
State of Minnesota



City of Medicine Lake  
Hennepin County, MN

1 in = 150 feet



1143 South Shore Drive  
Medicine Lake, Hennepin County, MN  
PID: 053-361182220002

**ANDERSON ENGINEERING**  
ENGINEERING • ARCHITECTURE • LAND SURVEYING  
ENVIRONMENTAL SERVICES • LANDSCAPE ARCHITECTURE

Anderson Engineering of Minnesota, LLC  
13605 1st Avenue North  
Suite 100  
Plymouth, MN 55441  
763-412-4000 (o) 763-412-4090 (f)  
www.ae-mn.com

**DELINEATION - FIGURE 5  
SKURAT PROPERTY**





Doc No **T05372154**

Certified, filed and/or recorded on  
Aug 16, 2016 4:11 PM

Office of the Registrar of Titles  
Hennepin County, Minnesota  
Martin McCormick, Registrar of Titles  
Mark Chapin, County Auditor and Treasurer

Deputy 21	Pkg ID 1430867C
Attested Copy or Duplicate Original	\$2.00
Document Recording Fee	\$46.00
<b>Document Total</b>	<b>\$48.00</b>

**Existing Certs**

1415571

(Above Space is Reserved for Recording Information)

**Declaration of Restrictions and Covenants for Existing Wetland**

**Declarant:** Kerby Skurat

**General Location of Wetland:** Sec. 36, Twp. 118N, Rge. 23W, County of Hennepin

This Declaration of Restrictions and Covenants for the Perpetual Protection of an Existing Wetland (Declaration) is made this 16<sup>th</sup> day of August, 2016 by the undersigned Declarant:

**RECITALS**

A. The Declarant holds the fee title or perpetual easement on the real property described in Exhibit A, attached hereto.

B. A portion of this real property consists of an existing Wetland. Exhibit B, attached hereto, is a map or survey of the subject property with the approved Wetland boundary, as documented in the Bassett Creek Watershed Management Commission Notice of Decision dated May 31, 2016.

C. The Local Government Unit (LGU) charged with WCA administration for the wetland located on this property is the Bassett Creek Watershed Management Commission (C/O Karen Wold at Barr Engineering), whose address is 4300 MarketPointe Drive, Suite 200, Minneapolis, MN 55435. All references in this instrument to Minnesota Statutes and Rules are to the Statutes and Rules currently in effect and as amended or renumbered in the future.

**RESTRICTIONS AND COVENANTS**

The Declarant makes the following declaration of restrictions and covenants for the Wetland on this property. These restrictions and covenants shall run with the land, and bind Declarant, and Declarant's heirs, successors, and assigns:

1. The Declarant agrees to protect the Wetland in perpetuity as required by the LGU and the State of Minnesota. Declarant shall not make any use of the Wetland that would adversely affect the existing functions or values of the Wetland as determined by the LGU and/or Minnesota Rules, Chapter 8420.

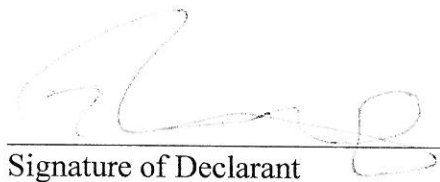
2. The Declarant shall not place any materials, substances, or other objects, nor erect or construct any type of structure, temporary or permanent within the Wetland without a permit or approval.

3. Declarant shall record or file this Declaration with the Hennepin County Recorder or Registrar of Titles, pay all costs associated with recording or filing, and provide proof of recording or filing to the LGU in order to be valid.

4. Acknowledge that this Declaration shall be unlimited in duration, without being re-recorded.

5. This Declaration may be modified only by the written approval of the LGU.

6. This Declaration may be enforced, at law or in equity, by the LGU.

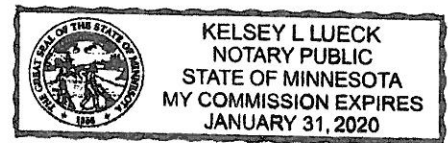
  
\_\_\_\_\_  
Signature of Declarant

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF Hennepin )

This instrument was acknowledged before me on 8.16.16 (date) by Kerby Shurat (name(s) of person(s)).

  
\_\_\_\_\_  
(Signature of Notarial Officer)

Client Care Coordinator  
(Title)



My commission expires: 1.31.20

Attachments:  Exhibit A (legal description)  
 Exhibit B (map or survey of Property and Approved Wetland Boundary)

This instrument drafted by:

Anderson Engineering of Minnesota, LLC  
(763) 412-4000  
13605 1<sup>st</sup> Ave N, Suite 100  
Plymouth, MN 55441



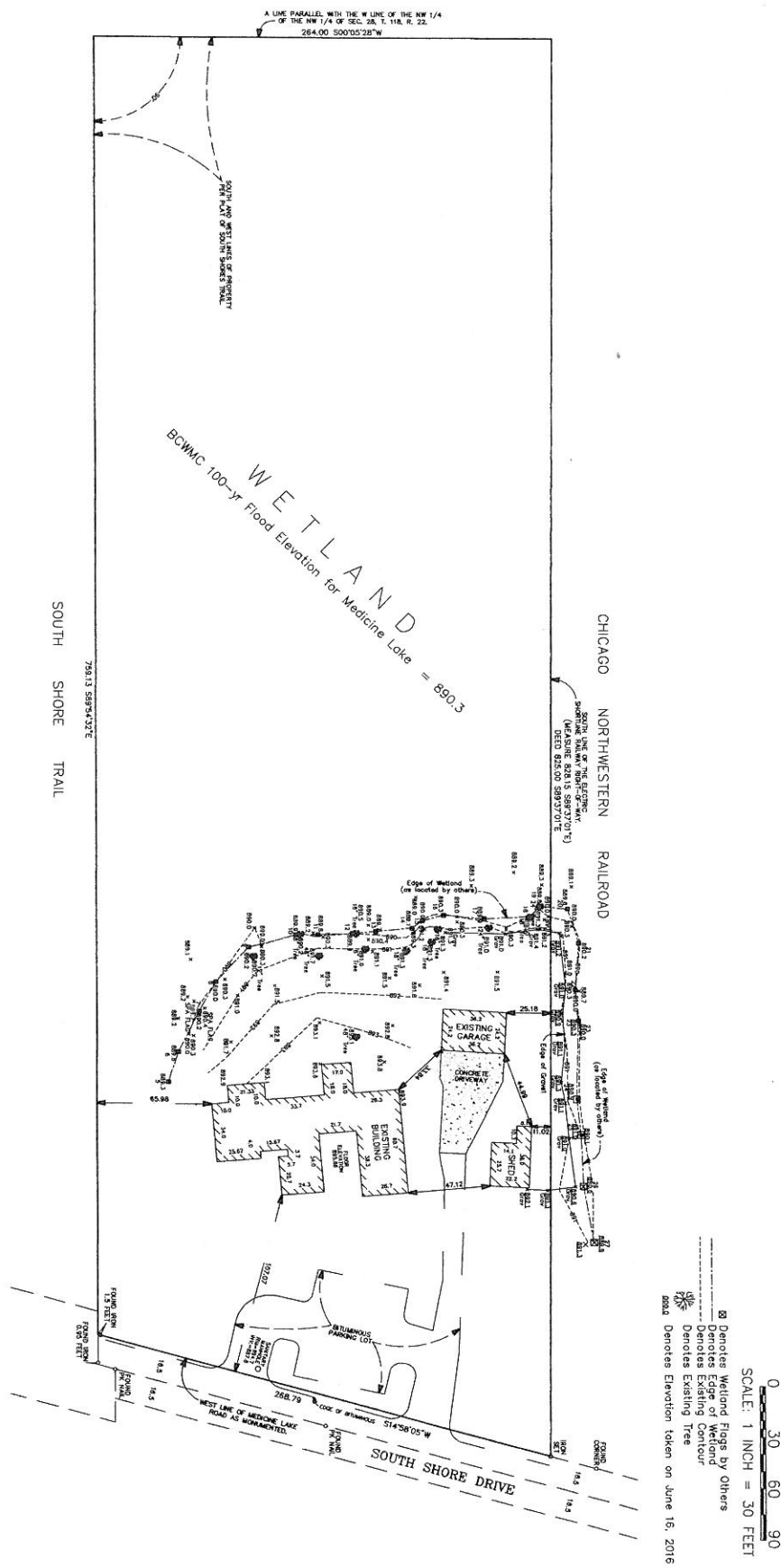
# Exhibit A

## **Legal Description of property located at 1143 South Shore Drive in Medicine Lake, MN**

The part of the northwest  $\frac{1}{4}$  of the northwest  $\frac{1}{4}$  of Section 36, Township 118, Range 22, described as follows:

Commencing at a point made by the intersection of the west line of Medicine Lake Road and the south line of right of way of electric short line railway company as each of the same are now laid out and used over and across said 40 acre tract; thence westerly along the southerly line of said right of way 825.0 feet; thence south and parallel to the west line of said 40 acre tract 264.0 feet; thence at right angles east to the west line of Medicine Lake Road; thence northerly along the west line of said road to beginning, Hennepin County, Minnesota.

# BOUNDARY SURVEY FOR 1143 SOUTH SHORE DRIVE



**LEGAL DESCRIPTION:**  
 THE LAND REFERRED TO IN THE COMMITMENT IS DESCRIBED AS FOLLOWS:  
 THAT PART OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 36, TOWNSHIP 118, RANGE 22,  
 DESCRIBED AS FOLLOWS:  
 COMMENCING AT A POINT MADE BY THE INTERSECTION OF THE WEST LINE OF MEDICINE LAKE ROAD AND THE  
 SOUTH LINE OF RIGHT OF WAY OF ELECTRIC SHORT LINE RAILWAY COMPANY AS EACH OF THE SAME ARE NOW LAID  
 OUT AND USED OVER AND ACROSS SAID 40 ACRE TRACT; THENCE WESTERLY ALONG THE SOUTHERLY LINE OF SAID RIGHT  
 OF WAY 825.0 FEET; THENCE SOUTH AND PARALLEL TO THE WEST LINE OF SAID 40 ACRE TRACT 264.0 FEET; THENCE  
 AT RIGHT ANGLES EAST TO THE WEST LINE OF MEDICINE LAKE ROAD; THENCE NORTHERLY ALONG THE WEST LINE OF  
 SAID ROAD TO BEGINNING, HENNEPIN COUNTY, MINNESOTA.

Note: Benchmark from AS BULL T Sanitary Sewer  
 Plans from the City of Plymouth.

**HY-LAND SURVEYING, P.A. ©**  
 LAND SURVEYORS  
 11947 IDAHO AVENUE N.  
 CHAMPLIN, MN. 55316  
 PHONE: 763-323-1300

**SURVEYOR'S CERTIFICATION**  
 I hereby certify that this survey was prepared by me or under  
 my direct supervision, and that I am a duly Registered Land  
 Surveyor under the laws of the State of Minnesota.  
 Surveyed by us this 28th day of April, 2016.  
*Milton E. Hyland*  
 Signed: Milton E. Hyland, Minn. Reg. No. 20262

**JOB NUMBER:**  
33,868

**FIELD BOOK NUMBER:**  
314/49&50

**LEGAL DESCRIPTION:**  
 o - Denotes Iron Monument  
 Revised June 15, 2016  
 Revised June 19, 2016  
 Revised June 28, 2016  
 Revised July 25, 2016

**DRAWN BY:** MILT