

Red River Basin Drainage Conference

Model Watershed District Rules & Guidance  
for the Red River Basin

March 19, 2019

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## Overview:

- Why Model Rules
- Surface Drainage & Flood Mitigation
- Subsurface Drainage
- Permitting Procedures, Fees & Financial Assurances
- Enforcement

# Why Model Rules

- Rulemaking Mandate in Watershed Law
- RRWMB Rules & Regulations Committee
- Survey - Value of Update and Common Approach
- Model Rules as a Resource, Not an RRWMB Mandate

# Surface Drainage & Flood Mitigation

- Engineer advice on local watershed concerns
- Policies:
  - Preserve capacity in public drainage systems
  - Preserve channel integrity, limit sediment transport
  - Protect structural integrity of public drainage systems
  - Prevent unassessed lands from draining into public systems

## Surface Drainage & Flood Mitigation, cont.

- Regulation: clarity about what requires a permit
  - Any change affecting surface flows
  - Excavating channel, grading, installing tile
  - Installing tile inlet, diking, expand capacity of outlet
  - Any work in or over a public drainage system

## Surface Drainage & Flood Mitigation, cont.

- Exempt:
  - Maintenance
  - Replacing 50 feet of tile or less
  - Emergency work
  - Ordinary agricultural cultivation

## Surface Drainage & Flood Mitigation, cont.

- Permit Criteria:
  - No unreasonable increase to flows (peak or volume)
  - No connection of unassessed lands into public system
  - Mitigate downstream impacts from flow changes
  - Erosion and sediment transport control
  - General: no adverse impacts to flows, water quality
  - Specific provision for dikes

## Subsurface Tile Drainage

- RRRRA Basin Technical and Scientific Advisory Committee (BTSAC):
  - Uncontrolled subsurface drainage potential to increase local and regional flooding
- Policies:
  - Minimize downstream flooding
  - Maximize soil storage and agricultural productivity



## Subsurface Tile Drainage, cont.

- Regulation:
  - Mandate outlet controls for new tile systems
  - Two Year Notice\* - Retrofit existing systems with outlet controls
  - Land owner education, cost share

## Subsurface Tile Drainage, cont.

- Permit Criteria:
  - Control water table within 1 ft of surfact over 80% of area
  - After harvest, open controls, maximize detention capacity
  - Once freezing, can close controls
  - Remain closed until spring flood conditions recede
- Consider other trigger conditions to address localized flooding

# Subsurface Tile Drainage

- Impact of tiling on public drainage systems, other watershed impacts?
- Cost/benefit of outlet controls?
  - Flood mitigation;
  - Production value

# Permitting Procedures, Fees & Financial Assurances

- Value of detailing procedures
- Policy – protect water resources without undue burdens
- Application Submittal
  - No regulated work done without a permit
  - Landowner signs application
  - On District's form – 15.99 clock
  - Permission to enter property
  - Permit approval v. issuance

# Permitting Procedures, Fees & Financial Assurances, cont.

- Permit renewal
  - Request before permit expires
  - Balancing landowner convenience and delay problems
  - Indefinite renewals if substantially commenced
  - Deny renewal if material change in circumstances
  - Rule changes; one free renewal, more if substantial progress
- Permit assignment
  - 'Runs with land' – change of ownership
  - Track permit compliance with transfer
  - Substitute financial assurance

# Permitting Procedures, Fees & Financial Assurances, cont.

- General Permits
  - Low risk activities, but desire to set standards
  - Make record of work occurring
  - Exercise jurisdiction if violation of standards
- Delegation of permit decisions
  - District administrator
  - Reconsideration by board of managers

## Permitting Procedures, Fees & Financial Assurances, cont.

- Reconsideration
  - Importance of findings in event of challenge
  - Koontz v. St. Johns River Water Mgmt District
  - Require reconsideration before any appeal
  - Important to track deadlines – Section 15.99

# Permitting Procedures, Fees & Financial Assurances, cont.

- Permit Fees
  - Authorized to recover actual costs of inspection, analysis
  - Use of fee schedule
  - Government agencies exempt from fees
- Financial Assurance
  - Key means of assuring compliance
  - Bond, letter of credit, cash escrow
  - Setting correct amount is critical



# Enforcement

- No fines (Administrative penalty orders)
- Inspections – investigations of noncompliance
- Authorized entry on property (with limitations)
- Compliance orders by staff
  - Due process concerns
  - Board delegation of authority to staff (limits)
  - Violation or imminent violation + water resource threat
  - Effective for 10 days
  - Due process hearing, perhaps a special meeting

## Enforcement, cont.

- Alternative “Notice of Probable Violation”
- Hearing before Board of Managers
- Compliance order, with findings
- Enforced in district court
- Recovery of enforcement costs
- Property owner, contractor liability

The image features a solid blue background. In the upper left corner, there are two green, elongated leaf-like shapes. The lower half of the image is filled with a pattern of concentric, light blue ripples, suggesting a stone dropped into water. Centered in the middle of the image is the word "Questions?" in a white, italicized, serif font.

*Questions?*