

**EPA’s Review of Revisions to  
Minnesota’s Class 2 and Class 7 Beneficial Use Designations  
Minn. R. 7050.0420 and 7050.0470  
Under Section 303(c) of the Clean Water Act  
WQSTS #MN2018-1081**

**Date:**

## **I. EXECUTIVE SUMMARY**

On August 17, 2020, the U.S. Environmental Protection Agency received from the Minnesota Pollution Control Agency (MPCA) a rule revision package containing revisions to the State’s designated use rules at Minnesota Rules (Minn. R.) Chapter (Ch.) 7050. Minnesota’s rule package included revisions to the State’s process at Minn. R. 7050.0420 for designating cold water habitats and revisions to the aquatic life use designations at Minn. R. 7050.0470 for 188 specific waters in eight basins. Minnesota’s rule package also included several non-substantive revisions to Minn. R. 7050.0219 and verifications of the aquatic life use designations for three waters.

As discussed in Section II of this document, EPA has determined that these revisions are consistent with the relevant requirements of the Clean Water Act (CWA) and federal regulations at Title 40 of Code of Federal Regulations (CFR) Part 131 and therefore approves the water quality standards (WQS) revisions. Consistent with the requirements of the Endangered Species Act (ESA), EPA evaluated the potential impacts of its approval of the use designations on federally-protected species and designated critical habitat and has determined that consultation with the U.S. Fish and Wildlife Service (FWS) is necessary. As discussed in Section III of this document, EPA developed a biological evaluation (BE) that evaluates potential effects of its approval and sent it to FWS on September 18, 2020 seeking concurrence with EPA’s conclusion that approval of the use designations may affect, but is not likely to adversely affect, federally-listed species. Last, consistent with the “EPA Policy on Consultation and Coordination with Indian Tribes,” EPA evaluated whether approval of the variance may affect the interests of federally-recognized tribes. As discussed in Section IV of this document, EPA provided substantive opportunity for all tribes in Minnesota to provide input on EPA’s decision-making process and has therefore fulfilled its duty to consult on a government-to-government basis with federally-recognized tribes on actions that may affect tribal interests.

## **II. EPA’S REVIEW FOR CONSISTENCY WITH THE CWA AND FEDERAL REGULATIONS**

WQS requirements of CWA sections 101(a)(2) and 303(c)(2) are implemented through federal regulations contained in 40 CFR Part 131. WQS requirements of CWA Section 118, specific to waters of the Great Lakes System, are implemented through federal regulations in 40 CFR Part 132. Consistent with federal regulations at 40 CFR § 131.21, new or revised WQS do not become applicable WQS for CWA purposes until they are approved by EPA. The criteria by which EPA evaluates state-adopted WQS are identified in 40 CFR § 131.5(a)(1) through 40 CFR § 131.5(a)(8); EPA reviews each of these criteria below. Because the use designations included in this rule package do not revise Minnesota’s existing water quality criteria,

antidegradation policy or its implementation, grant any WQS variances, or affect Minnesota's compliance schedule provisions, the WQS requirements in 40 CFR §§ 131.5(a)(2), (3), (4) and (5) are not relevant in considering whether to approve Minnesota's revised WQS.

**A. Whether the State has adopted designated water uses that are consistent with the requirements of the Clean Water Act. (40 CFR § 131.5(a)(1))**

Section 101(a)(2) of the CWA states:

it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983.

Section 303(c)(2)(A) of the CWA requires states to establish water quality standards for their waters, taking into consideration the use of waters for "propagation of fish and wildlife" among other uses. The federal regulations at 40 CFR § 131.10 govern designation of uses for surface waters. With respect to the uses specified in Section 101(a)(2) of the CWA (hereafter collectively referred to as "101(a)(2) uses"), states must adopt uses consistent with those specified in Section 101(a)(2) of the CWA or demonstrate why attaining these uses is not feasible through a use attainability analysis (UAA). With respect to uses not specified in Section 101(a)(2) of the CWA (hereafter collectively referred to as "non-101(a)(2) uses"), states are not required to designate waters with those uses but must submit documentation justifying how its consideration of the use and value of the water for those uses appropriately supports its decision. As specified at 40 CFR §§ 131.10(g) and (h)(1), states may not remove a designated use if it is an existing use.

Minnesota's WQS protect aquatic life through its Class 2 beneficial use classification at Minn. R. 7050.0222. All waters in the State are assigned a Class 2 use unless specifically designated as a limited resource value water (Class 7). As required by Minn. R. 7050.0140, Subp. 8, a waterbody may be designated as Class 7 only if it has been subject to a UAA and found to have limited value as a water resource.

For all waterbodies not designated as Class 7, Minnesota's system of aquatic life (Class 2) beneficial uses at Minn. R. 7050.0222 assigns each water body one of the following use subclasses based on the fundamental type of the water and aquatic life community supported:

- Class 2A – cold water aquatic biota and habitat,
- Class 2Bd – cool and warm water aquatic biota also protected as a drinking source, or
- Class 2B – cool and warm water aquatic biota and habitat.

The different aquatic life subclasses assigned to Minnesota's surface waters reflect different biological expectations and human uses (drinking water, fish consumption) for the waters. Because of the differing biological expectations and human uses, the applicable water quality criteria for each subclass differ for some parameters. However, each of Minnesota's Class 2 aquatic life subclasses is intended to provide the same level of protection to the type of water and aquatic life community for which it is intended.

In addition to the aquatic life subclass, Minnesota's Class 2 WQS also assign each water a tiered aquatic life use (TALU) that reflects the biological condition (Exceptional ("e"), General ("g") or Modified ("m")) attainable by the water body. Within Minnesota's tiered aquatic life uses, the Exceptional and General uses are intended to be consistent with Section 101(a)(2) goals of the CWA for the protection and propagation of fish, shellfish and wildlife. The Modified Use is applied to waters where long-term anthropogenic disturbance limits the attainable biological community and are therefore unable to fully support the uses specified in Section 101(a)(2) of the CWA.

The Minnesota TALU framework utilizes a UAA process that is driven primarily by biological condition as measured through analytical tools using data obtained from their biological monitoring program. Establishing a Modified Use tier in Minnesota complies with CWA provisions that allow for the establishment of subcategories of the major uses when existing uses are maintained (40 CFR § 131.10(c)). In accordance with the CWA, the MPCA performs a UAA to determine that the water body cannot meet the General Use. For a water body to be designated as Modified Use the UAA must find that:

- 1) One or both biological assemblages do not meet the General Use goals;
- 2) The physical habitat structure is limiting the attainment of the General Use aquatic life goals;
- 3) The physical habitat has been directly altered by legal human activities (e.g., channelization, drainage maintenance, impoundment);
- 4) The modified attributes cannot be reversed with proven restoration designs, or 40 CFR §§ 131.10(g)(3) or (4) applies, or natural recovery to General Use conditions is not likely within the next five years; and
- 5) The activity is consistent with existing use (40 CFR § 131.3(e)).

Minnesota's adopted rules include both revisions to the process by which Minnesota assigns its cold water habitat subclass (Class 2A), as well as revisions to the aquatic life subclass and/or TALU for 188 specific waterbodies based on the framework described above. EPA reviews each below.

### **1. Revisions to Minnesota's Cold Water Habitat rules**

As defined at Minn. R. 7050.0222, Subp. 2, Minnesota's Class 2A beneficial use is intended to "permit the propagation and maintenance of a healthy community of cold water aquatic biota, and their habitats according to the definitions in subpart 2c." Prior to this rulemaking, Minn. R. 7050.0420, Subp. 1 had provided that the Class 2A beneficial use applied to all waters identified on the Minnesota Department of Natural Resources trout waters list at Minn. R. 6264.0050. The adopted rules modify this process by specifying that Class 2A waters will be identified in Minnesota's designated use tables at Minn. R. 7050.0470 and that:

Cold water habitat waters identified as class 2A, 2Ae, or 2Ag in part 7050.0470 must reflect an existing beneficial use or a feasibly attainable beneficial use, according to Code of Federal Regulations, title 40, section 131.10, that permits propagating and maintaining a healthy community of cold water aquatic biota and their habitats. For purposes of this

subpart, “existing beneficial use” means a beneficial use that was attained in a water body on or after November 28, 1975. (Minn. R. 7050.0420 (B))

Part C of the revised rules provides that “The commissioner must propose changes to part 7050.0470 when reliable scientific evidence supports adding or removing a water listed as class 2A, 2Ae, or 2Ag. Changes must be supported by data relevant to the biological community, habitat, thermal regime, or other features of a class 2A, 2Ae, or 2Ag habitat.”

As discussed in Section II.A above, for 101(a)(2) uses such as aquatic life, states must either adopt a use that is consistent with Section 101(a)(2) of the CWA or demonstrate that it is infeasible to attain the full 101(a)(2) use based on one of the six factors at 40 CFR § 131.10(g).

40 CFR § 131.10(h)(1) requires that states may not remove an existing use unless a use requiring more stringent criteria is added. Additionally, 40 CFR § 131.10(i) requires that “[w]here existing water quality standards specify designated uses less than those which are presently being attained, the State shall revise its standards to reflect the uses actually being attained.

As discussed above, Minnesota’s Class 2A beneficial use is intended to provide a level of protection consistent with Section 101(a)(2) of the CWA for waters that support cold water aquatic life communities. Minnesota’s adopted rules are procedural only; they do not add or remove the Class 2A beneficial use for any waterbodies but only specify how individual waterbodies will be designated with the Class 2A beneficial use in the future. Consistent with 40 CFR § 131.10, the adopted rules at Minn. R. 7050.0420, Part B, allow Minnesota to designate the Class 2A beneficial use for any waters that support or could feasibly support cold water aquatic life communities. Additionally, the adopted rules do not allow the removal of the Class 2A beneficial use for waters where the Class 2A use has been attained on or after November 28, 1975 (i.e., where the Class 2A beneficial use is an existing use), consistent with 40 CFR § 131.10(h)(1). Therefore, EPA concludes that the adopted rules allow Minnesota to designate uses in a manner consistent with 40 CFR § 131.10.

As noted above, these rules only identify the procedure Minnesota will follow for designating waters with the Class 2A beneficial use. These rules do not change the use designation for any specific waterbodies and EPA approval of these procedural rules does not guarantee approval of any use designation changes developed by Minnesota through the operation of these rules. Each individual use designation change adopted by Minnesota must be submitted to EPA for review and approval and EPA will review the specific information supporting each such use designation change to ensure that each designated use change complies with the applicable requirements of 40 CFR § 131.10. EPA will approve only those designated use changes that are consistent with the applicable requirements of 40 CFR § 131.10, regardless of whether the particular designated use change at issue was adopted consistent with Minnesota’s adopted cold water habitat rules.

## **2. Aquatic life use designation changes for 188 waterbodies**

MPCA reviewed the designated uses for selected waters in eight basins using data collected between 2008 and 2015 and adopted aquatic life use changes for 184 stream segments and four lakes. These changes are detailed in tables 4 through 11 and summarized in tables 1 through 3 below.

**Table 1.** Summary of all aquatic life use changes included in Minnesota’s adopted rules.

<b>Type of Change:</b>	<b>Number of Segments:</b>
Class 2A Subclass Only	65
TALU Only	119
Both Subclass and TALU	4
<b>Total</b>	<b>188</b>

**Table 2.** Summary of aquatic life use subclass changes included in Minnesota’s adopted rules.

<b>Previous Designation:</b>	<b>Adopted Designation:</b>	<b>Number of Segments:</b>
2A	2Bd	33
2B	2A	33
2Bd	2A	1
7	2A	2
<b>Total</b>		<b>69</b>

**Table 3.** Summary of TALU changes included in Minnesota’s adopted rules.

<b>Previous Designation:</b>	<b>Adopted Designation:</b>	<b>Number of Segments:</b>
g	e	20
g	m	101
<b>Total</b>		<b>121</b>

In addition, Minnesota retained the previously-assigned aquatic life designations for three segments but changed the confirmation status for those segments in the designated use tables at Minn. R. 7050.0470. As discussed in Section II.E below, EPA determined that these were non-substantive revisions that do not change the meaning or implementation of the State’s existing WQS and approves these three use verifications.

EPA reviewed each individual use change in this rule package by following the above designation procedures, as discussed below. EPA’s approval determinations for each individual stream segment are presented in tables 4 to 11.

**a. Designated use changes requiring a UAA**

As specified at 40 CFR § 131.10(j), a UAA is required whenever:

- (1) The State designates for the first time, or has previously designated for a water body, uses that do not include the uses specified in section 101(a)(2) of the Act; or

(2) The State wishes to remove a designated use that is specified in section 101(a)(2) of the Act, to remove a sub-category of such a use, or to designate a sub-category of such a use that requires criteria less stringent than previously applicable.

Per 40 CFR § 131.10(g), if a State adopts a new or revised WQS based on a required UAA, the State must adopt the highest attainable use.

**i. Designation of Modified Use for 101 stream segments**

As part of this rulemaking, Minnesota has designated 101 waters as Modified Use (Class 2Bm). Because, as discussed in Section II.A above, the Modified Use does not meet Section 101(a)(2) of the CWA, a UAA is required for these 101 designations per 40 CFR § 131.10(j)(2). As discussed below, for each of these stream segments, MPCA evaluated the physical habitat and submitted documentation that habitat limitations resulting from historic channel modification and ongoing drainage maintenance prevent attainment of the General Use.

**Federal requirements regarding designation of aquatic life uses**

As discussed above, the federal regulations at 40 CFR § 131.10(g) describe what is necessary to document that the uses described in section 101(a)(2) of the CWA are not attainable for a given surface water. These are:

- that the use in question is not an existing use as defined in 40 CFR § 131.3 and
- that it is not feasible to attain the use or uses based on at least one of the six reasons specified in 40 CFR §§ 131.10(g)(1) – (6).

These are excerpted below:

(1) Naturally occurring pollutant concentrations prevent the attainment of the use; or

(2) Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating State water conservation requirements to enable uses to be met; or

(3) Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place; or

(4) Dams, diversions or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or to operate such modification in a way that would result in the attainment of the use; or

(5) Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, preclude attainment of aquatic life protection uses; or

(6) Controls more stringent than those required by sections 301(b) and 306 of the Act would result in substantial and widespread economic and social impact.

Minnesota's designation of Modified Use for the surface waters identified in Minnesota's revised water quality standards is consistent with the CWA and federal regulations and may be approved by EPA if the supporting documentation demonstrates that Minnesota's General Use aquatic life use is neither an existing use of the constructed channel, as defined at 40 CFR § 131.3(e), nor is it feasible to attain Minnesota's General Use aquatic life use per 40 CFR § 131.10(g).

### **Minnesota's demonstration that General Use is not an existing use for any of the waters that Minnesota proposes to designate as Modified Use**

As described on page 11 of the June 2019 supporting document *Amendments to Aquatic Life (Class 2) Use Designations*, Minnesota's UAA process includes consideration of whether a water attained General Use on or after November 28, 1975:

“[i]f it is not restorable or not likely to recover on its own, available data would be reviewed to determine if the General Use was attained on or after November 28, 1975 (i.e., existing use). If there is evidence that the General use was attained, then the reach would be designated General Use. Otherwise, the reach would be eligible for the Modified Use.”

Consistent with MPCA's UAA process and as described in the June 2019 *Amendments to Aquatic Life (Class 2) Use Designations*, MPCA considered historic data (e.g., previous biological surveys and historical aerial photography) for each of the 101 streams designated as Modified Use and submitted documentation that these stream segments do not currently attain and have not attained in the past (at a minimum on or after the WQS existing use regulatory date of November 28, 1975) any of the aquatic life uses that meet Section 101(a)(2) of the CWA. Consequently, there are no available data indicating that the General Use has been attained in these stream segments in the past such that the General Use is an existing use (as defined in 40 CFR § 131.3(e) and as required under 40 CFR § 131.10(h)(1)). Consequently, EPA concludes that General Use is not an existing use for the 101 waters that Minnesota is proposing to designate as Modified Use, consistent with the requirements of 40 CFR § 131.10(g).

### **Minnesota's demonstration that it is infeasible for the waters designated Modified Use to attain General Use**

As discussed in the June 2019 *Amendments to Aquatic Life (Class 2) Use Designations*, Minnesota's process for assigning the Modified Use begins with the observation that the aquatic community of a given water does not meet the General Use expectations as articulated by Minnesota's biocriteria. Minnesota next looks at the habitat data for the site to determine if habitat is a possible explanation for the observed biological performance and whether the habitat limitations at the site are a result of legal anthropogenic activities such as impoundment or channelization. If yes, the next step in the assessment process is to evaluate the potential for active restoration or natural recovery. Only if this evaluation determines that restoration or recovery are not feasible does Minnesota proceed to consider assigning Modified Use to the water based on either 40 CFR §§ 131.10(g)(3) or (4).

Consistent with Minnesota's process and as described in the June 2019 *Amendments to Aquatic Life (Class 2) Use Designations*, MPCA evaluated the biological communities in these streams and submitted documentation that these stream segments do not currently attain any the General Use. For each of these stream segments, MPCA submitted documentation that the stream had been physically altered before November 28, 1975 and that poor habitat associated with those physical modifications prevent attainment of the General Use, consistent with 40 CFR § 131.10(g)(4).

As discussed in MPCA's October 2018 *Technical Guidance for Reviewing and Designating Tiered Aquatic Life Uses in Minnesota Streams and Rivers*, Minnesota considered current restoration technologies and demonstrated that:

Under current technologies, the ability to construct multiuse drainage ways (i.e., channels that provide drainage and protect aquatic life) has not been fully demonstrated – especially on a large scale. As a result, most maintained drainage ways are not presently restorable without a huge investment with uncertain results. However, in some cases short reaches (e.g., <0.25 miles) that are part of a largely unmodified stream system may be considered restorable using current technologies (e.g., re-meandering, 2-stage ditches).

Thus, Minnesota has demonstrated that it is not currently feasible to restore channelized streams unless the extent of the alteration is limited in scale. As further explained in that document, Minnesota's process is intended to be used at the waterbody level and “should not result in many small (e.g., <0.25 miles) reaches with different uses. Instead the purpose of this review is to characterize and recommend the overall use for larger reaches.” Consistent with this, none of the 101 waters designated as Modified Use are small reaches that would be considered to be restorable based on Minnesota's demonstration. As discussed on page 14 of MPCA's August 2015 *Technical Guidance for Reviewing and Designating Tiered Aquatic Life Uses in Minnesota Streams and Rivers – Draft*, the potential for restoration for these 101 waters may be re-evaluated based on technological advances: “as channel restoration technology improves it will become feasible to restore larger sections and complexes of altered channels. Over time this will alter the threshold for this decision step.” Any new information regarding the potential for restoration of these waters would also need to be considered every three years as part of Minnesota's triennial review, as required under 40 CFR § 131.20(a).

For each of these segments, MPCA submitted documentation that the stream segments currently attain or have the potential to attain the Modified Use and designated Class 2Bm as the highest attainable use, consistent with 40 CFR § 131.10(g). Consequently, EPA concludes that these 101 use designations are consistent with the CWA and federal regulations at 40 CFR § 131.10.

## **ii. Designated use changes from Class 2A to Class 2Bd**

As summarized in Table 2, Minnesota designated 33 stream segments that had previously been designated as Class 2A with an aquatic life use subclass designation (Class 2Bd) that requires criteria less stringent than previously applicable. Per 40 CFR § 131.10(j)(2), a UAA is required for these designations.



The federal regulations regarding UAAs do not differ between UAAs required for 40 CFR §§ 131.10(j)(1) and (2) and, thus, the same federal regulations identified in Section II.A.2.a.i apply to these 33 designated use changes. Consequently, Minnesota's re-designation from Class 2A to Class 2Bd for the 33 surface waters identified in Minnesota's revised water quality standards is consistent with the CWA and federal regulations and may be approved by EPA if the supporting documentation demonstrates that Minnesota's Class 2A aquatic life use subclass is neither an existing use of the water body, as defined at 40 CFR § 131.3(e), nor is it feasible to attain the Class 2A subclass per 40 CFR § 131.10(g).

### **Minnesota's demonstration that Class 2A is not an existing use for any of the waters that Minnesota proposes to designate as Class 2Bd**

As discussed in the June 2019 *Amendments to Aquatic Life (Class 2) Use Designations*, Minnesota's process for designating the Class 2A subclass considers both contemporary and historical data:

In all cases, the use review is held to determine whether or not a designated use is an existing use. This holds that uses attained in a surface water on or after November 28, 1975 must be protected (see Minn. R. 7050.0255, subp. 15).

Consistent with this and as described in the June 2019 *Amendments to Aquatic Life (Class 2) Use Designations*, MPCA considered historic data and submitted documentation that these stream segments do not currently support and have not supported in the past (at a minimum on or after the WQS existing use regulatory date of November 28, 1975) cold water aquatic communities consistent with Minnesota's Class 2A use. These waters had initially been listed as Class 2A because of their inclusion on Minnesota Department of Natural Resources trout waters list. However, while some of the waters have been stocked with trout, MPCA submitted documentation that none of these streams supported reproducing populations of trout and did not have good year-to-year carryover of trout. Biological surveys did not indicate that these streams support or had supported aquatic communities typical of cold water streams. Consequently, there are no available data indicating that the Class 2A subclass has been attained in these stream segments in the past such that the Class 2A cold water aquatic biota subclass is an existing use (as defined in 40 CFR § 131.3(e) and as required under 40 CFR § 131.10(h)(1)). Consequently, EPA concludes that the Class 2A cold water aquatic biota subclass is not an existing use for the 33 waters previously designated as Class 2A that Minnesota is proposing to designate as Class 2Bd, consistent with the requirements of 40 CFR § 131.10(g).

### **Minnesota's demonstration that it is infeasible for the waters designated Class 2Bd to attain Class 2A**

As discussed on page 17 of MPCA's June 2019 *Amendments to Aquatic Life (Class 2) Use Designations*, Minnesota's process for assigning the Class 2A considers whether the water body has been documented to support cold water taxa and whether the physical and chemical characteristics of the water body (e.g., physical habitat, thermal regime, dissolved oxygen, migration barriers) are suitable for supporting and maintaining cold water biota.

Consistent with Minnesota's process and as described in the June 2019 *Amendments to Aquatic Life (Class 2) Use Designations*, MPCA evaluated the biological communities in these streams and submitted documentation that these stream segments do not currently support cold water aquatic communities and the physical habitat and the natural thermal regimes in these streams are not supportive of cold water aquatic biota. Therefore, MPCA concluded that physical conditions related to the natural features of the water body prevent attainment of the Class 2A use, consistent with 40 CFR § 131.10(g)(5). For these waterbodies, MPCA submitted documentation that it is feasible for the waterbodies to support cool or warm water biological communities consistent with the Class 2Bd use and designated Class 2Bd as the highest attainable use, consistent with 40 CFR § 131.10(g). Consequently, EPA concludes that these 33 designated use changes are consistent with the CWA and federal regulations at 40 CFR § 131.10.

**b. Designated use changes not requiring a UAA**

As described at 40 CFR § 131.10(k), a UAA is not required when:

- (1) The State designates for the first time, or has previously designated for a water body, uses that include the uses specified in section 101(a)(2) of the Act; or
- (2) The State designates a sub-category of a use specified in section 101(a)(2) of the Act that requires criteria at least as stringent as previously applicable; or
- (3) The State wishes to remove or revise a designated use that is a non-101(a)(2) use. In this instance, as required by paragraph (a) of this section, the State must submit documentation justifying how its consideration of the use and value of water for those uses listed in paragraph (a) appropriately supports the State's action, which may be satisfied through a use attainability analysis.

As summarized in Table 3, Minnesota designated 20 stream segments with a TALU designation that meets Section 101(a)(2) of the CWA (Exceptional Use) and requires criteria at least as stringent as previously applicable. Additionally, as summarized in Table 2, Minnesota designated 36 stream segments with an aquatic life use subclass designation (Class 2A) that requires criteria at least as stringent as previously applicable. Per 40 CFR §§ 131.10(k)(1) and (2), a UAA is not required for these designations. For each of the 20 Exceptional Use designations, MPCA evaluated the biological communities and physical habitat in these streams and, as described in the documentation listed in Section II.D.2 below, determined that the biological communities currently attain an Exceptional Use aquatic life subclass and/or the physical habitat is capable of supporting an Exceptional Use aquatic life subclass. Similarly, for each of the 36 Class 2A designations, MPCA evaluated the biological communities, physical habitat and thermal regimes in these streams and, as described in the documentation listed in Section II.D.2 below, determined that the biological communities currently attain a Class 2A aquatic life subclass and/or the physical habitat and thermal regime is capable of supporting a Class 2A aquatic life subclass. Based on the considerations above, EPA concludes that for these 56 stream segments, Minnesota designated an aquatic life use consistent with Section 101(a)(2) of the CWA based on the information currently available. Consequently, EPA concludes that these 56 use designations are consistent with the CWA and federal regulations at 40 CFR § 131.10.

Table 4. Aquatic life use designation revisions for the Lake Superior Basin (Minn. R. 7050.0470, Subp. 1), submitted by MPCA on August 17, 2020, and EPA's CWA determinations.

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
Spruce Creek (Deer Yard Creek)	04010101-615	2Ag	2Ae	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Manitou River (North Branch Manitou River)	04010101-D23	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Brule River	04010101-D30	2Bdg	2Ae	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Sugarloaf Creek	04010101-D87	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Pete's Creek	04010102-518	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Knife River, West Branch	04010102-C16	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Unnamed creek (French River Tributary)	04010102-C39	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Unnamed creek (Palmer Creek)	04010102-C40	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Swan River	04010201-557	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
East Swan River	04010201-558	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Barber Creek (East Swan River)	04010201-569	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Knowlton Creek	04010201-985	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Unnamed creek (Merritt Creek)	04010201-987	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
Unnamed creek (Merritt Creek tributary)	04010201-A80	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Unnamed creek (Merritt Creek)	04010201-A81	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Unnamed creek (Coffee Creek)	04010201-A82	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Buckingham Creek	04010201-B02	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Cedar Lake	69-0431-00	2A	2Bd	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Lower Twin Lake	69-0967-00	2B	2A	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Upper Twin Lake	69-0967-01	2B	2A	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Golf Course Pond	69-1345-00	2A	2Bd	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Beartrap Creek	04010202-520	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Berry Creek	04010202-526	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Humphrey Creek	04010202-530	2Ag	2Ae	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Coyote Creek	04010202-584	2Bg	2Be	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Cloquet River	04010202-669	2Bg	2Ae	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Cloquet River	04010202-670	2Bg	2Be	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Cloquet River	04010202-671	2Bg	2Be	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
Blackhoof River	04010301-519	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Unnamed creek (Blackhoof River Tributary)	04010301-523	2Ag	2Ag	Approve. Non-substantive verification of existing use designation.
Unnamed creek (Blackhoof River Tributary)	04010301-524	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Unnamed creek (Blackhoof River Tributary)	04010301-525	2Ag	2Ag	Approve. Non-substantive verification of existing use designation.
Nemadji River	04010301-757	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Blackhoof River	04010301-761	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].

Table 5. Aquatic life use designation revisions for the Lake of the Woods Basin (Minn. R. 7050.0470, Subp. 2), submitted by MPCA on August 17, 2020, and EPA's CWA determinations.

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
Little Isabella River	09030001-530	2Ag	2Ae	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Snake River	09030001-542	2Ag	2Ae	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Jack Pine Creek	09030001-564	2Ag	2Ae	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Mitawan Creek	09030001-568	2Ag	2Ae	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Denley Creek	09030001-627	2Bg	2Be	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Trappers Creek	09030001-802	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
Cross River	09030001-966	2Bg	2Be	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Bezhik Creek	09030001-975	2Bg	2Be	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Unnamed creek (Valley River Tributary)	09030005-562	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Venning Creek	09030005-568	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Venning Creek	09030005-570	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Johnson Creek	09030005-679	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].

Table 6. Aquatic life use designation revisions for the Red River of the North Basin (Minn. R. 7050.0470, Subp. 3), submitted by MPCA on August 17, 2020, and EPA's CWA determinations.

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
County Ditch 66	09020107-516	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 11	09020107-517	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
Judicial Ditch 51	09020107-518	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Marsh Creek	09020108-519	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Unnamed creek	09020108-541	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 45	09020108-553	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Tulaby Creek	09020108-565	2Bg	2Be	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Unnamed creek	09020108-598	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Spring Creek	09020108-647	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Marsh Creek	09020108-651	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Mosquito Creek	09020108-657	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
Wild Rice River, South Branch	09020108-661	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 14	09020305-523	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Judicial Ditch 73	09020305-550	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Unnamed creek	09020305-561	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].

Table 7. Aquatic life use designation revisions for the Upper Mississippi River Basin (Minn. R. 7050.0470, Subp. 4), submitted by MPCA on August 17, 2020, and EPA's CWA determinations.

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
Minnewawa Creek	07010103-518	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Prairie River, West Fork	07010103-571	2Bg	2Be	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Unnamed ditch	07010103-572	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Willow River Ditch	07010103-716	2Bg	2Be	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Tamarack River	07010103-758	2Bg	2Be	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].



<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
Prairie River	07010103-759	2Bg	2Be	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Martin Creek (Poplar Brook)	07010106-588	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Stoney Brook	07010106-699	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Cory Brook	07010106-700	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Willow Creek	07010107-525	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Spruce Creek	07010108-512	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Briggs Creek	07010203-538	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Unnamed creek (Robinson Hill Creek)	07010203-724	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].

Table 8. Aquatic life use designation revisions for the Minnesota River Basin (Minn. R. 7050.0470, Subp. 5), submitted by MPCA on August 17, 2020, and EPA's CWA determinations.

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
Unnamed creek	07020001-560	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 2	07020001-562	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Unnamed creek	07020001-569	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Fish Creek	07020001-571	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 34	07020003-526	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Judicial Ditch 1	07020003-560	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Unnamed ditch	07020003-570	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Unnamed ditch	07020003-571	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
Unnamed ditch	07020003-575	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Tenmile Creek	07020003-577	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Cobb Creek	07020003-583	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Canby Creek	07020003-586	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Cottonwood Creek	07020005-728	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Cottonwood Creek	07020005-729	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Unnamed creek	07020007-578	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
County Ditch 42	07020012-551	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Rush River, North Branch (Judicial Ditch 18)	07020012-555	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
Rush River, North Branch (County Ditch 55)	07020012-556	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Judicial Ditch 1 (Judicial Ditch 6)	07020012-573	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Judicial Ditch 6	07020012-574	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Rush River, Middle Branch (County Ditch 23 and 24)	07020012-586	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
High Island Ditch 2	07020012-588	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Judicial Ditch 11	07020012-590	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Judicial Ditch 24	07020012-591	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Judicial Ditch 11	07020012-593	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Unnamed creek (County Ditch 13)	07020012-604	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
Unnamed ditch (County Ditch 55)	07020012-610	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Unnamed creek	07020012-621	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Unnamed creek	07020012-622	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 10	07020012-628	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 13	07020012-636	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
High Island Creek	07020012-653	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 11	07020012-674	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 22	07020012-675	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 49	07020012-677	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
Judicial Ditch 15	07020012-682	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 39	07020012-683	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Unnamed creek	07020012-684	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 8/53	07020012-766	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Judicial Ditch 4	07020012-767	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 42	07020012-772	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 32A	07020012-783	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 9	07020012-784	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Judicial Ditch 1	07020012-785	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
County Ditch 44	07020012-786	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Unnamed ditch	07020012-788	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 56	07020012-790	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 18	07020012-791	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 47A	07020012-792	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 75	07020012-793	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Judicial Ditch 12	07020012-794	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 30A	07020012-801	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Ninemile Creek	07020012-808	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
Raven Stream, East Branch	07020012-819	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Le Sueur Creek	07020012-823	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Rush River, South Branch	07020012-825	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Buffalo Creek (County Ditch 59)	07020012-831	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Unnamed creek	07020012-835	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Sand Creek	07020012-839	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Bevens Creek	07020012-843	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Bevens Creek	07020012-845	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Unnamed creek	07020012-849	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].



Table 9. Aquatic life use designation revisions for the Saint Croix River Basin (Minn. R. 7050.0470, Subp. 6), submitted by MPCA on August 17, 2020, and EPA’s CWA determinations.

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
Trout Brook	07030005-568	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Browns Creek	07030005-587	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Unnamed ditch	07030005-593	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Unnamed creek	07030005-766	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Unnamed creek	07030005-767	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Unnamed creek (Zavoral's Creek)	07030005-778	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].

Table 10. Aquatic life use designation revisions for the Lower Mississippi River Basin (Minn. R. 7050.0470, Subp. 7), submitted by MPCA on August 17, 2020, and EPA’s CWA determinations.

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
Unnamed creek	07040001-700	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Vermillion River, South Branch	07040001-707	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Wells Creek	07040001-708	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
Unnamed creek (Vermillion River Tributary)	07040001-720	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Unnamed creek (Vermillion River Tributary)	07040001-721	2Ag	2Ag	Approve. Non-substantive verification of existing use designation.
Unnamed creek (Little Cannon River Tributary)	07040002-639	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Unnamed creek (Little Cannon River Tributary)	07040002-670	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Unnamed creek (Trail Run Creek)	07040002-738	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Belle Creek	07040002-740	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Whitewater River, North Fork	07040003-524	7	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Unnamed creek	07040003-609	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Unnamed creek (Latsch Creek)	07040003-625	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Whitewater River, South Fork	07040003-F17	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Whitewater River, Middle Fork	07040003-F18	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Logan Branch	07040003-F31	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Root River, Middle Branch (Deer Creek)	07040008-545	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
Unnamed creek (Camp Hayward Creek)	07040008-624	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Root River, Middle Branch	07040008-B95	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Sugar Creek	07040008-G86	2Ag	2Bdg	Approve. UAA indicates water body does not support cold water fish and macroinvertebrate communities and physical habitat and temperature regime are not considered supportive of a cold water community [40 CFR § 131.10(g)(5)].
Curtis Creek	07040008-G90	7	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Bridge Creek	07040008-G92	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Unnamed creek	07040008-H02	2Bg	2Ag	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].
Bee Creek (Waterloo Creek)	07060002-515	2Ag	2Ae	Approve. Meets CWA requirements [101(a)(2) and 40 CFR § 131.10(a)].

Table 11. Aquatic life use designation revisions for the Cedar-Des Moines Rivers Basin (Minn. R. 7050.0470, Subp. 8), submitted by MPCA on August 17, 2020, and EPA's CWA determinations.

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
Lime Creek	07080203-501	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Steward Creek (County Ditch 23)	07080203-504	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Unnamed creek	07080203-509	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
Judicial Ditch 25	07080203-515	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 20	07100001-504	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Judicial Ditch 76	07100001-515	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Unnamed creek	07100001-518	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Judicial Ditch 26	07100001-523	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Perkins Creek	07100001-544	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Judicial Ditch 14	07100001-589	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Unnamed ditch	07100001-594	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Unnamed creek	07100001-608	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
Unnamed creek	07100001-614	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Unnamed creek	07100001-615	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Unnamed creek	07100001-621	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Unnamed creek	07100001-624	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Lake Shetek Inlet	07100001-642	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Jack Creek, North Branch	07100001-649	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Jack Creek	07100001-658	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Beaver Creek	07100001-664	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Judicial Ditch 12	07100001-665	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].

<b>Waterbody Name</b>	<b>AUID</b>	<b>Previous Use Designation</b>	<b>Revised Use Designation</b>	<b>CWA Determination</b>
County Ditch 4	07100001-667	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Brown Creek (Judicial Ditch 10)	07100002-502	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
Judicial Ditch 6	07100002-513	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 53	07100003-506	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].
County Ditch 1/Judicial Ditch 50	07100003-515	2Bg	2Bm	Approve. Fish and macroinvertebrates do not meet General Use biocriteria. Poor habitat due to channel modification prevents attainment of the use and it is not feasible to restore the water body to its original condition [40 CFR § 131.10(g)(4)].

**B. Whether the State has followed applicable legal procedures for revising or adopting standards. (40 CFR § 131.5(a)(6))**

In a letter dated July 7, 2020 and received by EPA on August 17, 2020, Jean L. Coleman, MPCA Attorney, certified that the rules were duly adopted in accordance with Minnesota Law and are legally enforceable in the State of Minnesota by the MPCA.

In adopting the use designations, MPCA also provided opportunities for public input consistent with federal requirements at 40 CFR § 131.20(b) and 40 CFR Part 25. During development of the rules, MPCA published a Request for Comments in the State Register on September 24, 2018, notifying the public that written comments would be accepted through November 8, 2018. MPCA received three written comments during this comment period. On September 12, 2019, MPCA published a Dual Notice of Intent and a copy of the draft rules in the State Register, announcing that a public hearing would be held on the draft rules on December 11, 2019 if 25 requests for a hearing were submitted and notifying the public that written comments would be accepted through November 7, 2019. MPCA also mailed electronic copies of the Notice of Hearing and the draft rules to all interested parties. MPCA received 11 written comments before the November 7, 2019 deadline. On November 8, 2019, MPCA published a Notice of Hearing in the State Register, providing notice that the public hearing announced in the Dual Notice would be held on December 11, 2019. The agency held a public hearing on December 11, 2019 in St. Paul with video conference access provided in Duluth, Detroit Lakes, Marshall and Rochester. Nineteen individuals made statements at the hearing and 19 written comments were submitted as exhibits into the hearing record at the hearing. At the public hearing, the Administrative Law Judge announced that written comments would be accepted for 20 days after the public hearing ended. MPCA received 264 written comments after the public hearing. After MPCA published its response to comments on December 31, 2019, a post-hearing public comment period was provided until January 8, 2020 to allow commenters to rebut the agency's response. No written comments were received during this period. MPCA publicized the public hearing more than 45 days prior to the date of the hearing, recorded the hearing and met other requirements for public hearings specified at 40 CFR § 25.5. Consequently, EPA concludes that the State satisfied the public participation requirements at 40 CFR § 131.20(b).

MPCA considered and responded to the public comments before adopting the rules. MPCA revised the draft rules in response to some of the comments. EPA reviewed the comments and MPCA's responses in deciding whether to approve Minnesota's new and revised WQS.

**C. Whether the State standards which do not include the uses specified in section 101(a)(2) of the Act are based on appropriate technical and scientific data and analyses. (40 CFR § 131.5(a)(7))**

Minnesota's designated use revisions included 101 waterbody use changes to the modified TALU use, which as discussed in Section II.A above is intended for waters where long-term anthropogenic disturbance limits the attainable biological community and are therefore unable to fully support the uses specified in Section 101(a)(2) of the CWA. These use changes were supported by UAAs incorporating appropriate analyses of biological and physical data for each water body as described in Section II.A.2.a above.

**D. Whether the State submission meets the requirements included in §131.6 of this part and, for Great Lakes States or Great Lakes Tribes (as defined in 40 CFR § 132.2) to conform to section 118 of the Act, the requirements of 40 CFR Part 132. (40 CFR § 131.5(a)(8))**

Federal WQS requirements in 40 CFR Part 132 that apply to waters in the Great Lakes System do not specifically address how states may designate and modify uses. Therefore, there are no requirements of 40 CFR Part 132 that are applicable to EPA's review of these rules.

As described below, Minnesota's submission satisfied the minimum requirements of a WQS submission included in 40 CFR § 131.6.

**1. 40 CFR § 131.6(a): Use designations consistent with the provisions of sections 101(a)(2) and 303(c)(2) of the Act**

As discussed in Section II.A above, all designated uses adopted in this rule package are consistent with Section 101(a)(2) or were otherwise supported with a UAA consistent with 40 CFR § 131.10(g).

**2. 40 CFR § 131.6(b): Methods used and analyses conducted to support water quality standards revisions**

As described in the supporting documents, all biological and habitat data used to support these designated use changes were collected and analyzed using MPCA's methodology (*Technical Guidance for Reviewing and Designating Tiered Aquatic Life Uses in Minnesota's Streams and Rivers*, dated October 2018). The State submitted the following documents in support of these rules:

- Transmittal letter from Laura Bishop, MPCA Commissioner, to Tera Fong, EPA Region 5 Water Division Director, RE: Minnesota Pollution Control Agency Adopted Rule Amendments to Minn. R. ch. 7050, Rules Governing Water Quality Standards Class 2 and Class 7 Use Designations, dated August 7, 2020 and received August 17, 2020;
- Letter from Will Bouchard, MPCA Research Scientist, to Tera Fong, EPA Region 5 Water Division Director, RE: Rulemaking and Technical Documents Supporting Development and Adoption of Amendments to Minn. R. ch. 7050, Rules Governing Water Quality Standards Class 2 and Class 7 Use Designations, dated August 7, 2020 and received August 17, 2020;
- Legal certification letter from Jean Coleman, MPCA Attorney, to Tera Fong, EPA Region 5 Water Division Director, RE: Rulemaking and Technical Documents Supporting Development and Adoption of Amendments to Minn. R. ch. 7050 Governing Water Quality Standards Class 2 and Class 7 Use Designations, dated July 7, 2020 and received August 17, 2020;
- Findings of Fact and Order Adopting Rules for Adoption of Amendments to Water Quality Standards: Minnesota Rules, Chapter 7050, relating to Modification of Class 2 and Class 7 Beneficial Use Designations, dated April 29, 2020;
- Notice of Adopted Rules, published in the Minnesota State Register on June 1, 2020;



- Adopted Permanent Rules Relating to Standards for Water Quality (with strikethrough/underlined changes), as approved by the Office of the Revisor of Statutes on May 4, 2020;
- Proposed Permanent Rules Relating to Standards for Water Quality, dated July 9, 2019;
- Statement of Need and Reasonableness (SONAR) in the matter of proposed revisions of Minnesota Rules, chapter 7050, relating to Class 2 and Class 7 beneficial use designations, dated June 2019;
- Exhibits to the SONAR (full list of documents can be found on pages 48-51 of the SONAR);
- Request for Comments on Planned Amendments to Rules Governing Water Quality Standards – Use Classifications 2 and 7, *Minnesota Rules* chapter 7050, Revisor’s ID Number R-04561, dated September 10, 2018;
- Dual Notice: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing are Received, Revisor’s ID Number R-4561, dated September 12, 2019;
- Notice of Hearing to Those Who Requested a Hearing for Proposed Amendments to Rules Governing Water Quality Standards – Class 2 and Class 7 Use Designations, *Minnesota Rules* chapter 7050, Revisor’s ID Number R-4561, dated November 8, 2019;
- Transcript of public hearing held December 11, 2019;
- Report of the Administrative Law Judge Re: Request for Comments on Planned Amendments to Rules Governing Water Quality Standards – Use Class 2 and 7 OAH 65-9003-35561, Revisor R-4561, dated February 3, 2020;
- Geographic Information Systems layer packages with the waterbodies affected by the adopted revisions;
- Technical Support Document: Amendments to Aquatic Life (Class 2) Use Designations, dated June 2019;
- Appendices to the Technical Support Document: Amendments to Aquatic Life (Class 2) Use Designations with Maps of designated use changes for each basin;
- Beneficial Use Designation tables, as amended on June 1, 2020;
- Public comments received;
- Documents included in public comments placed into the hearing record;
- MPCA Response to Public Comments Submitted During the Dual Notice Public Comment Period and at the Public Hearing, dated December 31, 2019; and
- MPCA Rebuttal Response to Public Comments, dated January 8, 2020.

**3. 40 CFR § 131.6(c): Water quality criteria sufficient to protect the designated uses**

These rule revisions do not affect Minnesota’s existing, EPA-approved and effective water quality criteria.

**4. 40 CFR § 131.6(d): An antidegradation policy consistent with §131.12**

These rule revisions do not affect Minnesota’s existing, EPA-approved and effective antidegradation policy.

**5. 40 CFR § 131.6(e): Certification by the State Attorney General or other appropriate legal authority within the State that the WQS were duly adopted pursuant to State law**

In a letter dated July 7, 2020 and received by EPA on August 17, 2020, Jean Coleman, MPCA Attorney, certified that the revised WQS were duly adopted in accordance with Minnesota Law and are enforceable in the State of Minnesota by the MPCA.

**6. 40 CFR § 131.6(f): General information which will aid the Agency in determining the adequacy of the scientific basis of the standards which do not include uses specified in section 101(a)(2) of the Act as well as information on general policies applicable to State standards which may affect their application and implementation**

As discussed in Section II.A.2.a.ii above, all use designations affecting non-101(a)(2) uses are based on appropriate technical and scientific data and analyses. The data and analysis used to support the use designations adopted in this rule package are listed in Section II.D.2. The MPCA includes watershed monitoring and assessment reports, stressor identification reports, basin modeling reports with hydrology and sediment and water quality calibrations on their watershed website where additional relevant information is found:

<https://www.pca.state.mn.us/water/watersheds>.

**E. Other items that EPA is approving.**

In addition to the revisions discussed above, Minnesota made several non-substantive revisions to remove references to Class 2C from Minn. R. 7050.0219, subps. 12 and 14 and verify the previously designated aquatic life uses for two stream segments in the Lake Superior Basin and one stream segment in the Lower Mississippi River Basin.

EPA reviewed these revisions and concluded that these were non-substantive revisions that do not change the meaning or implementation of the State's existing WQS. As discussed in EPA's 2012 document, titled "What is a New or Revised Water Quality Standard Under CWA 303(c)(3)? Frequently Asked Questions," EPA considers non-substantive edits to existing WQS to constitute new or revised WQS that EPA has the authority and duty to approve or disapprove under CWA Section 303(c)(3). However, the scope of EPA's action in reviewing and approving or disapproving such non-substantive changes extends only as far as the non-substantive changes themselves and does not constitute an action on the underlying, previously-approved WQS. Therefore, EPA concludes that these non-substantive revisions are consistent with the CWA and federal regulations in 40 CFR Part 131. As discussed above, the scope of EPA's action in reviewing these non-substantive revisions extends only as far as the non-substantive revisions themselves and does not constitute an action on the underlying, previously approved WQS.

**F. Conclusion of EPA's CWA review.**

For the reasons described above, EPA concludes that Minnesota's revisions to its cold water habitat designation rules at Minn. R. 7050.0420 and new and revised aquatic life use designations are consistent with the WQS requirements of CWA sections 101(a)(2) and 303(c)(2) and the

implementing regulations at 40 CFR Part 131. EPA approves all WQS revisions and all use changes in this rule package, subject to the results of the ESA Section 7 consultation process described below.

### **III. EPA'S REVIEW FOR COMPLIANCE WITH SECTION 7 OF THE ESA**

#### **A. EPA's consultation requirements under the ESA.**

As required under Section 7 of the ESA and federal regulations at 50 CFR Part 402, EPA is required to consult with the FWS on any action taken by EPA that may affect federally-listed threatened or endangered species or their critical habitat. Section 7(a)(2) requires that federal agencies, in consultation with the Service(s), ensure that their actions are not likely to jeopardize the existence of federally-listed species or result in the adverse modification of designated critical habitat of such species. Actions are considered to have the potential to affect listed species if listed species are present in the action area.

#### **B. EPA's ESA determination.**

As described above, the rules adopted by Minnesota that are the subject of this review consist of revisions to the designated TALU and aquatic life use subclass for 188 waterbodies. For 119 of these waterbodies, Minnesota's revisions only affect the designated TALU of the waterbody. Changes to a waterbody's designated TALU do not affect the chemical-specific criteria applicable to the waterbody. Because the criteria applicable to these waters are not affected by these revisions, the permissible water quality and level of protection afforded to aquatic organisms in Minnesota will not be affected by the revisions. Therefore, EPA concluded that approval of the designated use revisions for these 119 waterbodies will have no effect on any ESA-listed species or their critical habitat.

For the remaining 69 waterbodies, Minnesota's revisions affect the designated aquatic life use subclass. Because changes to the aquatic life use subclass affect the chemical-specific criteria applicable to the waterbody and, thus, have the potential to affect ESA-listed species. The action area for purposes of the ESA Section 7 evaluation generally consists of these 69 waterbodies. In addition, given the sensitivity of Unionid mussels to water quality, listed mussels present or potentially present within 10 miles downstream of these segments were also considered to be in the action area (see Appendix I of the biological evaluation submitted to FWS).

Based on a review of the distribution of federally-endangered and threatened species in Minnesota in relation to the above use changes, EPA concluded that the 69 aquatic life use subclass changes will have no effect on the Canada lynx, Dakota skipper, Karner blue butterfly, rusty patched bumble bee, Leedy's roseroot and prairie bush clover.

EPA reviewed all available data on the potential effects of the aquatic life use subclass changes on listed species. Based on EPA's analysis of the above listed species, EPA drafted a BE and concluded that its approval of the adopted use designation revisions in this rule package may affect, but are not likely to adversely affect, gray wolf, northern long-eared bat, piping plover, rufa red knot, Poweshiek skipperling, Minnesota dwarf trout lily, and four Unionid mussel species:

Higgins eye pearlymussel, sheepnose, snuffbox, spectaclecase and winged mapleleaf. EPA sent its BE to FWS on September 18, 2020 seeking concurrence on the Agency's conclusion.

To date, EPA has initiated, but not completed, consultation with FWS on the revised rules approved above. EPA has determined that this approval action does not violate Section 7(d) of the ESA, which prohibits irreversible or irretrievable commitments of resources that have the effect of foreclosing the formulation or implementation of reasonable and prudent alternatives, and has included in the record the basis for the conclusion that there are not impacts of concern during the interim period until the consultation is completed.

#### **IV. TRIBAL CONSULTATION**

On May 4, 2011, EPA issued the "EPA Policy on Consultation and Coordination with Indian Tribes" to address Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." The EPA Tribal Consultation Policy states that "EPA's policy is to consult on a government-to-government basis with federally recognized tribes when EPA actions and decisions may affect tribal interests."

On May 21, 2020, EPA Region 5 sent letters outlining the proposed WQS revisions and offering government-to-government consultation to the tribal leaders of the 11 federally-recognized tribes in Minnesota. The consultation letter further clarified that if EPA did not receive a response from the Tribe within 30 days of the date of the letter (June 20, 2020), as either written comments or an attempt to schedule a conference call, EPA would conclude that the Tribe did not wish to engage in consultation and EPA could therefore move forward with a decision.

None of the 11 identified tribes responded to the letter in written or verbal means by June 20, 2020. EPA therefore provided substantive opportunity for the 11 tribes to provide input on EPA's decision-making process and has therefore fulfilled its duty to consult on a government-to-government basis with federally-recognized tribes on actions that may affect tribal interests.