

Synopsis of The Woods at Eagle Lake HOA Septic System - Big Lake, MN

December 2024

The residents of The Woods at Eagle Lake (WAEL) have faced significant hardships over the past year concerning the Sewage Treatment System (STS). These challenges began when Natural System Utilities (NSU) informed them about the state of their STS and the necessary upgrades required to meet Minnesota Pollution Control Agency (MPCA) compliance standards.

In a letter dated December 6, 2023, NSU proposed spreading the estimated \$640,000 upgrade cost over four years, starting January 2024. However, the homeowners requested a delay until January 2025 to explore financial assistance options. NSU granted the extension but reduced the payment period from four years to three, and by May 2024, the estimated total project cost had already increased to over \$652,000. Recently, the costs have ballooned to roughly \$800,000 over a 3-year payment plan.

Our Declaration only provides limited detail on how the business relationship should work between the HOA and the Owner of the STS. In the absence of a separate agreement, the Owner has acted as though they have the authority to dictate all other terms and conditions, without input from the HOA. To remedy this situation, the HOA prepared a draft Agreement to supplement the Declaration, which was sent to the Owner on November 1, 2024. The Owner did not respond directly; instead, they had their outside legal counsel send a letter stating the Owner rejects our draft terms and conditions. No negotiation.

WAEL feels there is a gap in financial assistance, oversight, and regulatory guidance putting homeowners at risk for the following reasons:

1. **Non-Compliance Issues:** Our system was built and permitted in 2003 and the MPCA initiated the regulation affecting our system in 2004. NSU was aware of the elevated nitrate levels since 2017 but only acknowledged the STS was not compliant in its 2021 Year End Report. In 2022, the Minnesota Pollution Control Agency (MPCA) issued a permit requiring NSU to install denitrification. NSU missed a crucial deadline in July 2023 to discuss these upgrades with the homeowners, resulting in a Letter of Warning from the MPCA. For 5-6 years, NSU failed to communicate the severity and implications of the nitrate issue effectively, acting in bad faith.
2. **Lack of Replacement Reserve Funds:** According to the Amended and Restated Declaration, NSU was supposed to assess fees to establish a replacement reserve for the STS. Despite claims to the contrary, NSU revealed in October 2023 that it had not set aside any funds for this purpose. This non-compliance and dishonesty added another layer of frustration and mistrust among homeowners. In total the WAEL has paid NSU roughly \$225K over the last 10 years.
3. **Failed Financial Assistance:** Efforts to secure financial assistance through state political representatives and a state bonding bill failed. Additionally, NSU, as a for-profit company, was ineligible for government loan programs typically available to Local Government Units (LGUs). Sherburne County, one of the potential LGUs, declined to

sponsor the homeowners for such loans, stating that financing must come from a private source since the STS is privately owned.

4. **Unfeasible Purchase Price for the STS:** When the Board inquired about purchasing the STS, NSU demanded a price in the hundreds of thousands of dollars, an amount the HOA found entirely unfeasible given their size and resources.
5. **Potential for Financial Default:** Many individual homeowners expressed concerns about the financial burden of the proposed three-year payment plan. The additional cost of \$646 per month, alongside a \$100 Usage Fee, was seen as unsustainable for a typical household. The Board warned NSU of the potential time and expenses involved in collections under the current proposed payment arrangement.
6. **Lack of Transparency and Oversight:** The hardships faced by the residents of WAEL are further compounded by a significant lack of transparency and oversight regarding the funds collected and managed by NSU. Despite assurances that fees were being assessed and put into a replacement reserve for the Sewage Treatment System, the revelation in October 2023 that no such funds had been set aside was a devastating blow to the HOA. This disclosure highlighted a troubling gap in financial accountability and raised serious concerns about how other collected funds might be managed or mismanaged. The homeowners had been operating under the assumption that their contributions were being prudently saved and managed for future needs. Instead, they were blindsided by the lack of foresight and honesty from NSU. This situation has left the community questioning the integrity of the financial practices in place and has underscored the need for greater transparency and oversight to ensure their money is being used appropriately and effectively for the community's benefit. The Board and residents now face the arduous task of regaining control and ensuring that future funds are handled with the accountability they deserve. In essence, to our knowledge there are no state and local regulations ensuring NSU is being held accountable and the residents of WAEL have no consumer protection for the fees they are being assessed on this vital utility.

Considering these challenges, the residents and the Board find themselves at an impasse. Despite exhausting all available options for financial assistance, they are left with no reasonable payment plan to cover the STS upgrade costs. This situation has placed immense financial and emotional strain on the community, exacerbated by the prolonged period of inadequate communication and support from NSU. The homeowners now face an uncertain future, grappling with the financial implications of the necessary but costly upgrades to their sewage treatment system.

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