

**WILD RICE WATERSHED DISTRICT
11 5TH AVENUE EAST
ADA MN 56510**

**Approved Minutes
January 18, 2007
Hearing on Project #9
Petition for Repair
Sections 24-25, Mary; 30-36, Winchester; 1, Felton Townships**

A hearing on the Petition for Repair in Sections 24-25 of Mary; Sections 30-36 of Winchester and Section 1 of Felton Townships, Project #9 was held on January 18, 2007, at the Borup Community Center, Borup, Minnesota. The following Managers were in attendance: Warren Seykora, Diane Ista, Dave Vipond and Joe Spaeth. The following Managers were absent: Jim Skaurud and Jim Wagner. Bob Wright sat as a member of the audience. In addition Administrator Dalen, Engineer Bents and Secretary Loretta Johnson were in attendance.

Chairman Seykora called the meeting to order at 7:00 p.m.

Attorney Hanson discussed the repair petition submitted by landowners, public notification requirements and the legal process. Hanson stated that the Watershed District has an obligation to maintain the district projects in a condition to serve the purposes that they were originally designed. Landowners have 30 days from the time the Board makes a decision to appeal.

Engineer Bents gave a PowerPoint presentation on the repair petition. Petitions were filed at the District office on June 2, 2005, by Ronald Guttormson, John Germolus, Perry Ellingson, Richard Menholt, Darrell Menholt and Brent Kappes to restore Section 36 of Winchester and Section 1 of Felton Township back to the original cross sections and on June 6, 2005, by John Germolus to clean the sediment that has collected to the bottom and side banks of Sections 24 and 25 of Mary Township. The location of the request is a portion of the South Branch of the Wild Rice River.

The proposed repair is to restore to the original constructed gradeline and bottom width; reslope the side slopes; level spoil material; and re-seed and mulch. The Board of Managers acted as viewers. A total of 72.55 acres of temporary R/W is necessary and benefits for the R/W was determined at \$80 per ac for a two year period for a total of \$11,608 paid for the R/W. The rate used is the same rate as established as the Winchester Repair in 2005. Total cost for the proposed project is estimate at \$630,675. Based on a one year payment the cost per acre for property in the highest benefiting area would be \$6.14 and the low area would be \$4.09. To spread the repayment over a ten year period with the interest rate of 3.5% the cost per acre per year for property in the higher rate would be \$0.74 and the low \$.49.

Helen Renfrew asked if there wouldn't be a conflict by moving forward with the project due to construction in 2007 of a bridge installation on C.R. #39. Engineer Bents stated that the project would need to be coordinated with the County. John Germolus asked if the District had any discussions regarding just doing some spot cleaning. Manager Seykora stated that it had been discussed by the Board. Steve Jacobson asked if any study was done on the possible downstream impacts. Engineer Bents stated that none had been done.

Attorney Hanson said that the issue is whether the level of sedimentation compromises the design flow of the project during a 16.5 year flood event. The statute states that the board is mandated to maintain the project to a level of protection that was the purpose of the project when it was constructed. Brian Borgen asked why the Board approved the proposed bridge construction on C.R. #39.

Engineer Bents stated that originally the county had a consultant design a bridge that was approved by the District, but upon doing soil borings and soils analysis, they indicated that the backslopes would need to be 6.1 on the cross section and based on the soils conditions, a revised permit was submitted because based on the soils conditions the design for the bridge is the smallest that can be done in that spot. Wayne Stevenson stated that he thought the project should be placed on hold due to the bridge replacement and if any cleaning is done, start at the mouth of the project.

John Germolus asked if the problem of property being in CRP has been addressed. Bents stated that on the Winchester cleaning landowners, who had land in CRP were compensated at the same rate; but clearance was obtained through the FSA office and it was landowners' responsibility to reseed on their property. Germolus stated that as petitioners they would like the Board of Managers to table the cleaning, if possible and investigate after the new bridge installation is in place and a retention area is in place which may reduce sediment. Duane Brendemuhl stated that this repair would be more expensive than the 2005 repair and asked what the process is to petition for the redetermination of benefits. Attorney Hanson stated that using the procedure under statute for redetermination of benefits, if that procedure can be used, landowners can petition for the process with a required percentage of property owners. If this is considered a drainage project, landowners could petition for a new project. Administrator Dalen asked Hanson what percent of affected landowners in the affected area would need to sign a petition and bring to the Board of Managers for the District to initiate the process. Hanson stated that he thought it would require a separate project under Statute 103D through a separate project petition and that any number of requisite property owners can bring a petition, but they would be responsible for the costs.

Wayne Stevenson stated that it was his understanding that it may cost \$100,000 to redetermine the benefits but the benefits could go upstream of the project. Hanson stated that contributing property can be assessed into a project with contributing water, whether it would be the same level of benefits would be determined by whoever did the viewing. Germolus asked if Project #9 could be split into two separate projects so that a redetermination could be done on one or the other. Hanson stated that he thought it would take a separate project. Manager Seykora stated that it could cost a considerable amount of money and landowners would have to weight this before deciding. Don Pake asked why the people upstream do not pay for the drainage into the project. Perry Ellingson stated that landowners would be paying more for the cleanout than the cost of the original project and requested that it be tabled. Attorney Hanson asked Engineer Bents if the accumulation of sediment impedes the flow for a 16.5 year flood event that the original project was designed for. John Germolus asked if it would be possible to do a spot repair instead of the whole cleaning. Engineer Bents stated that it may save costs to clean in certain areas where a lateral comes into the ditch system and there is sediment accumulation.

Ronnie Tang stated if petitioners are willing to withdraw the petition, it would be better to table the project and have time to investigate the splitting of Project #9 into two projects. Administrator Dalen stated that the District is currently working on an upstream project, hopefully to begin construction in 2008, which also may reduce sediment.

Steve Jacobson asked if the Watershed District could conduct a study on downstream impacts before beginning the project and indicated that he would encourage the Board to look at this as part of the repair. Attorney Hanson asked Engineer Bents if this expense could be justified for this specific project. Perry Ellingson stated that he is not willing to use an open checkbook to study downstream impacts with the LIDAR information. A show of hands by attendees indicated that most were opposed to the repair project at this time. Steve Jacobson noted that tabling the petition for the repair request is a completely different issue than the redetermination of benefits discussed. The question was raised if the District is legally obligated to move forward with the cleaning project. Manager Seykora stated that the District received a petition for cleaning; and the Board by law must act on this request and go through the process. Manager Spaeth felt that the cleaning project could be tabled comparable to another project recently tabled. Wayne Stevenson stated that he felt the project should be stopped until the reason the silt continues to move down from upstream is determined. Perry Ellingson stated that all board members are not in attendance and no decision can be made. Attorney Hanson stated that a quorum of board members are in attendance and a decision can be made or Managers can choose to table a decision.

A motion was made by Manager Vipond and seconded by Manager Ista to table any action on the project petition until the Managers discuss downstream affects with engineering. Carried. Manager Wright did not take part in a discussion or vote.

The meeting was adjourned at 8:30 p.m.

Diane Ista, Secretary