

# WILD RICE WATERSHED DISTRICT

11 East 5<sup>th</sup> Avenue – Ada, Minnesota 56510

Phone (218) 784-5501

## REGULAR MEETING

1. The regular meeting of the Wild Rice Watershed District Board of Managers was held on Wednesday, February 9, 2005, at the Wild Rice Watershed District located at 11 East 5<sup>th</sup> Avenue, Ada, MN.
2. The following members were present: Joe Spaeth, Warren J. Seykora, Steve Dalen, Jim Skaurud, Diane Ista, Bob Wright and Jim Wagner Sr. The following members were absent: None. In addition, the following persons were also present: Attorney Elroy Hanson, Administrator Bennett and Loretta Johnson, Recording Secretary.
3. Chairman Seykora called the meeting to order at 8:40 a.m.
4. Managers Special Interest. Chairman Seykora reviewed with the Board an election form from Western National Insurance Company for carrying terrorism coverage under the District's excess liability policy. Consensus of Managers was for Administrator Bennett to obtain the cost to the District for including or excluding the coverage. Managers were reminded of the upcoming MAWD Legislative Breakfast schedule for March 22-23, 2005. Administrator Bennett also stated that the City of Gary requested representatives from the District to attend their city council meeting scheduled for 5:00 p.m. on Wednesday, February 9, 2005, to discuss water concerns.
5. A motion was made by Manager Skaurud and seconded by Manager Wright to approve the agenda for Wednesday, February 9, 2005, regular meeting. Carried.
6. Monthly Meeting Minutes. A motion was made by Manager Spaeth and seconded by Manager Wright to approve the minutes of the January 11, 2005, minutes with the following corrections: In Paragraph No. 6, Line #10, Wright should be changed to read Wagner; In Paragraph No. 4, Line #2, Ohnstad Twitchel should be changed to read Rinke Noonan; In Paragraph No. 10, Line #4, (\$3,900.10) should be changed to read (\$3,900.18). Carried.
7. Monthly Financial Report. Doug Marcussen distributed copies of the January 31, 2005, Financial Report. Upon a motion by Manager Spaeth and second by Manager Wagner, the monthly Financial Report was approved for entry into the record. Carried.

8. 2004 Audit Gale Schmitz Correspondence. Doug Marcussen reviewed a letter received from Gale Schmitz, who has indicated that he will no longer be able to provide his services to conduct the District's annual audit. Marcussen stated that he had contacted the Minnesota State Auditor's office about conducting the audit and they have declined due to their present workload. Marcussen recommended that the Board obtain quotes from outside consultants to conduct the annual audit. A motion was made by Manager Ista and seconded by Manager Wagner authorizing Marcussen to obtain estimates and possible quotes from three area firms interested in doing Watershed District audits to be reviewed by Manager Wagner and Administrator Bennett. Carried.

9. Jerry Bents arrived at 9:15 a.m.

10. Monthly Billings. The Board discussed compensation for the appraisers hired to determine the damages for the South Branch repair projects. The appraisers have requested to be compensated at \$125 per day, which is the same rate they are currently being compensated for appraisal work with the Sand Hill Watershed District. A motion was made by Manager Skaurud and seconded by Manager Wright authorizing compensation in the amount of \$125 per day plus mileage and expense reimbursement to Kenneth Holum, Eddie Bernhardson and Edwin Johnson for their services on the South Branch repair projects. Carried. The bills of the District were reviewed. A motion was made by Manager Wright and seconded by Manager Spaeth to approve the payment of the January 2005 bills, including ½ cost share to the Red River Watershed Management Board in the amount of \$39,173.19. Carried. A listing of the billings is attached at the end of these minutes.

A motion was made by Manager Spaeth and seconded by Manager Wright authorizing a donation by the District in the amount of \$100 each to the Becker County SWCD Envirothon and the Mahnomen County SWCD Envirothon. Carried.

Minnesota Viewers Association Dues. A motion was made by Manager Spaeth and seconded by Manager Wright authorizing payment of \$125 by the District to the Minnesota Viewers Association for dues. Carried.

11. J.D. #56 Main. A motion was made by Manager Wright and seconded by Manager Spaeth to approve the change order for a contract deduction in the amount of (\$92.42) and Final Pay Request in the amount of \$6,380.34, to RBR Development for work on J.D. #56 Main. Carried.

12. Watershed District Projections for 2005. Administrator Bennett provided a listing of the projects and programs that the Board prioritized in 2004. Bennett suggested that the Board use the list to help them identify the projects and programs they would like to see continue in 2005 along with any new initiatives that the Board would like to work on.

Manager Wagner brought up the possibility of storing water along the west side of the beach ridge in to provide water supply and flood storage. Wagner felt that a project along the beach ridge could provide the dual purpose of providing water to the City of Fargo and also flood storage for the District. Wagner felt that the District should have some engineering to look into this option to determine the amount of acre-feet of storage available along with exploring the possibility of using the storage area for water supply. Manager Ista suggested a possible storage site in Section 25 of Green Meadow Township.

Other projects and programs discussed for 2005 included continuing with the South Branch Storage investigation, Upper Felton Ditch Flood Storage, SWCD Voluntary Flood Storage Grant Program, Wild Rice River Feasibility Study, Farmstead Ring Dike Program, Norman County Rural Acquisitions, Heiberg Dam, South Branch Winchester Repair, A.C. Heirass Repair, Green Meadow Dam Repair, Upper Reaches Levee Rehabilitation, Judicial Ditch #51 Repair, Grass Buffer Strip Restoration, Flood Control Impoundment Maintenance, Legal Ditch System Maintenance, Ditch Spraying Program, and the Watershed District's Permitting Program.

13. SWCD Voluntary Flood Storage Grant Program. At 10:00 a.m. Doug Thompson, Clearwater County SWCD, gave a Power Point presentation and update on the funding provided to the SWCD through District's Voluntary Flood Storage Grant. The Clearwater County SWCD identified ten potential storage sites in Clearwater County as a part of the program funding. Thompson indicated that many of the sites are located on county owned property and preliminary discussions on utilizing the property for flood storage have been favorable. Many of the sites would be on smaller basins using roads to act as the flood control structures. Thompson also provided calculations that were done by the SWCD giving the characteristics of the sites along with the amount of flood storage volumes that are anticipated. Thompson indicated that there would still need to be an environmental review done on the sites but was confident that storage would be permitted since many of the areas have been previously degraded. Manager Dalen asked Thompson if the Clearwater County SWCD has a Mission Statement brought down from the state level and also asked how they addressed flooding. Thompson said that the majority of their funding comes from the local level, and also indicated that these types of projects are mentioned in their water plan. Manager Ista asked Thompson if he could prioritize the projects and also stated that she would like to keep on file a land description of these 10 sites for future long term planning. Thompson stated that he has most of the elements needed for prioritization for their county and could do this. Thompson left the meeting at 11:00 a.m. No action taken.

14. Response to Curt Jacobson Request for Data Practice Act Information. Attorney Hanson stated that it was his understanding that members of the Board wanted a chance to review the correspondence and information that was sent to Rinke Noon prior to the mailing. Hanson indicated that Attorney Jerry Van Korf would be in the office and available for a conference call to provide an update. Administrator Bennett stated that there had been a consensus by the Board of Managers for the letter to be sent out. Chairman Seykora asked if there were any questions. Manager Dalen felt that at this time there is no need for a conference call and wants to see what kind of a response the District gets from Carlson. Manager Ista asked about the committee that she recalled from her notes that was to work with Hanson on the Carlson matter. Attorney Hanson suggested that the Board clarify the role and/or authority of the committee, which was not clearly defined. A motion was made by Manager Wagner and seconded by Manager Ista that rather than utilize a committee structure for this issue that future action required would be taken to the Board. Carried.

15. Meeting Notes. It was the consensus of the Managers for staff to mail the meeting notes to Managers Ista, Dalen and Wagner who requested they be mailed following meetings. The list of meeting motions will be mailed once they have been finalized.

Projections (Continued). Manager Dalen discussed an information request that he distributed to the Board for the purpose of determining their primary and secondary goals as Managers of this District. Dalen felt that included in these answers are direction and leadership issues and he requested that the seven board members take time for approximately three separate meetings to discuss these issues. Attorney Hanson stated unequivocally that the Board couldn't have a closed meeting for these purposes and read from Watershed District rules the laws regarding open meetings. Hanson stated that the law provides the option of a closed meeting for formulating an offer to buy real estate and the person/people who is prohibited from being at the meeting must be subject to the Board's authority. Attorney Hanson interprets this to mean that contractors are not subject to this same definition of authority as intended under the open meeting laws. Hanson also advised the Board that for a fee of \$200 the Commissioner of Commerce would issue an opinion that the board can rely on regarding the question of whether the watershed district consultants fall under the same definition as employees when being directed by the Board. Dalen also asked Attorney Hanson what the risks are to holding a closed meeting. Hanson stated that it could be a crime; you cannot violate the open meeting law. Manager Ista stated that she previously requested Attorney Hanson to compile information regarding the open meeting laws and indicated that she would pay the costs for Attorney Hanson, privately, if the Board did not approve the funding for the work done by Hanson. Attorney Hanson stated that he would like clarification by the Board on policy for handling future requests by individual Board members who may call and request information or discussion to determine if he may proceed on the request and ratify the costs at the next upcoming Board meeting. Manager Skaurud questioned Dalen as to why he would choose to have a closed meeting of just the Board. Manager Dalen made a motion to go into closed session for the purpose of evaluating Engineer Bents' performance. Manager Ista seconded the motion. Attorney Hanson once again stated that it would not be legal for the Board to close the meeting for the purpose of evaluating the performance of the District's consulting engineer, Jerry Bents. Manager Dalen indicated that he did not wish to withdraw the motion. Chairman Seykora called for a roll call vote. Managers Skaurud, Wagner, Wright and Spaeth voted no and Managers Dalen and Ista voted yes. Motion failed.

A motion was made by Manager Wagner and seconded by Manager Skaurud authorizing Attorney Hanson to seek clarification of the open meeting law from the Commissioner of Commerce for a fee of \$200. Carried.

Manager Dalen stated that his goal is to have a philosophy that Board members could look to for a methodical list of moving a project forward. Dalen felt that the Board needs more focus and direction in moving projects forward. Engineer Bents stated that it is important to determine what you want to do as a Board and then stick to it. Dalen stated that he needs to have logic behind his decisions and questioned if the original priority area is holding the Board back from projects. Engineer Bents stated in answer to Dalen's question, you need the priority area to justify projects and if you remove that, there would be no rationalization for building of projects. Dalen stated that the Board is committed to the COE Feasibility Study, but questioned how the District could work at getting another project completed.

Manager Dalen asked Engineer Bents what his opinion was following the Monday, January 24, 2005, teleconference with the U.S. Army COE's staff, including the Mississippi Valley Division. Bents stated that he had a concern following the conference call that the COE did not have a clear direction on where they were going with the study. Administrator Bennett stated that following the teleconference with the COE on the 24<sup>th</sup> of January, he and Chairman Seykora talked to Chuck Spitzack, COE, who is the head of his division in St. Paul, in which they too, related their concerns- Spitzack is working on addressing what he felt were miscommunications between the St. Paul District and division. Bennett stated that he also had discussion with Kent Lokkesmoe, DNR, regarding future funding methodologies for the feasibility study projects. Lokkesmoe suggested that the District might want to consider moving forward with a local project. No action taken.

#### PERMIT APPLICATION

16. Ed Scherping Section 35, Pembina Township, Mahnomen County. At 1:00 p.m. Dan Scherping and Dale and Duane Pazdernik met with Managers to discuss the permit application of Ed Scherping to increase a culvert size in the SW $\frac{1}{4}$  of Section 35, Pembina Township. Scherping stated that Mike Murray, Mahnomen County Engineer, recommended a 36-inch culvert be installed and indicated that Mahnomen County would supply the culvert if Scherpings would pay for the installation. Upon a motion by Manager Skaurud and second by Manager Wagner, Permit Application No. 2-9-05-1 of Ed Scherping to increase the culvert size to 36 inches in the SW $\frac{1}{4}$  of Section 35, Pembina Township, was approved. Carried.

17. Ed Scherping Section 35, Pembina Township, Mahnomen County. Dan Scherping distributed information to the Managers regarding the permit application, which would realign three culverts and upgrade two additional culverts. Scherping stated that following the resurfacing of the County Highway, there were impacts that had not been anticipated and believes that there are significant changes in the amount of water and is only seeking a fair solution. Manager Wagner stated that if you are looking at impacts to the farmers in the valley, and he is very concerned about this, any changes made in the eastern portion of the District cause additional water downstream. Dale Pazdernik felt that the culvert going through County Road #10 will not change and would be the limiting factor. Engineer Bents stated that when you change in the area proposed, the peak flows will increase down to County Road #10, and would not be concerned downstream of #10, but felt that it would be important to notify landowners in the area prior to making a decision on the permit application. Administrator Bennett questioned Bents about the cost of doing an analysis of the downstream impacts. Scherping stated that Consultant Steve Cruel, who Scherpings hired to assist in correcting the problem, surveyed the area and would have the necessary information. Engineer Bents stated that it would cost approximately \$1,500 to conduct the analysis however, normally the District does not provide this information, and felt that if neighboring landowners do not have a problem with the proposed changes there would not be a need for a hydraulic analysis. Bennett agreed, and felt this would be an option for the applicant if they wanted to conduct their own analysis to show there was not going to be any downstream impacts. A motion was made by Manager Ista and seconded by Manager Wagner authorizing Engineer Bents to prepare a list of the information that would be necessary for review of the application and for staff to prepare a mailing to notify neighboring landowners downstream to County Highway #10 of the proposed permit application. Carried.

18. A motion was made by Manager Dalen and seconded by Manager Spaeth authorizing staff to work to develop some guidelines that could be used by the Board to assist in streamlining the permitting process. Carried.

19. Pazderniks and Scherpings left the meeting at 2:10 p.m.

20. Wild Rice River COE Feasibility Study. At 2:15 p.m. a conference call was held with Nan Bischoff, Corps of Engineers, St. Paul, who replaced Tom Raster as the Project Manager on the COE Feasibility Study. Bischoff discussed a letter from Engineer Bents that addressed various issues that have resulted in additional engineering services not included in the original contract. An issue discussed was the need to modify the with project modeling contract with Houston Engineering to provide some additional analysis for a cost of \$30,076. Bischoff stated that she and Scott Jutila, COE, thought that this was a reasonable request and would be considered for Work in Kind by the COE. Bischoff did raise concerns regarding the fact that the funds are a little out of the 50/50 cost share with the District and the COE will want to consider shifting some of the work load to the COE. Bents suggested as an option shifting the added engineering costs over to the DMA contract that is with the COE, however they would charge a handling fee. Bischoff reviewed the January 24, 2005, teleconference with people from headquarters and the Mississippi Valley Division, in which she indicated that another phone conference was held with headquarters to work at clarifying exactly what they need. Headquarters will provide a memorandum of record for the issues discussed and will issue a guidance memorandum. The thrust is to reiterate what headquarters is looking for and the need to emphasize what kind of things the District is trying to achieve in this project. Bischoff indicated that she felt there is a lot of existing information available that will assist her in building the case for the feasibility study projects. Manager Ista questioned what kind of a process this will be, and stated that the District has a lot of information about restoration opportunities on the river and examples of how the river and/or environment used to look. Bischoff stated that she will be having Randy Devendorf conduct a field review in the spring to evaluate the ecosystem restoration benefits. Manager Wagner stated that he is interested in accompanying Devendorf and would have the time and ability to take him to the river areas and see the environmental damages that have occurred and the ecosystem restoration possibilities. Engineer Bents also stated that if Devendorf is going to develop a matrix to assemble his information, Mark Deutschman, Houston Engineering, might be of a benefit in assisting him. A motion was made by Manager Dalen and seconded by Manager Spaeth authorizing Mark Deutschman and Manager Wagner to assist Devendorf as needed in determining the environmental benefits as part of his evaluation with funding to be used from the Section 205 Account. Carried.

Bischoff stated that she might rewrite the entire Feasibility Scoping Document to better portray the ecosystem restoration benefits of the project. Engineer Bents asked Bischoff if the District is going to gain any additional level or protection. Bischoff stated that what she is saying is that the ecosystem restoration portion of the project would be funded at the current federal cost share. However, if additional flood protection is added to a project that has federal interest the District could chose to modify the project and implement its own Locally Preferred Plan. Under the Locally Preferred Plan the federal cost share would be modified to reflect the additional features added to provide an increased level of flood protection. Consensus of the Managers was to have Houston Engineering do additional work if necessary to satisfy headquarters of the COE on identifying the alternatives for the level of protection needed with Bischoff and Scott Jutila. Bischoff also stated that with the current state of the economy and the country at war, budgets are tight. Funding for the feasibility study is in the FY2005 budget, however at the present time there is not funding in the FY2006 budget. Bischoff left the teleconference at 3:00 p.m.

21. Jim Birkemeyer, KRJB Radio, arrived at 3:00 p.m.

22. Public Information Contract. Tim Halle reviewed his proposal for a public information contract, to the Board of Managers, which included four press releases, "Water Wise," a small insert to be published weekly in the papers for a total of 22 times. Jim Birkemeyer stated that "Water Wise" would be a good carry over into the radio as well and he would like to do 20 "Water Wise" radio ads. Halle stated that he is also in the process of creating a packet of information to be made available for County Commissioners and may also be good for Soil and Water Conservation Managers as well. The final item in the proposal included a newsletter that would be ready for mailing prior to the COE Feasibility Study meeting scheduled for June.

Jim Birkemeyer briefly reviewed his proposal and stated that Water Wise is a common constant between all mediums that is simple and straightforward. The proposal also included doing a 2-3 minute prerecorded radio ad to keep consistency with the newspaper advertising, and it may be prudent to include someone from the District being on the radio once a month.

A motion was made by Manager Ista and seconded by Manager Wagner to approve the proposal submitted by Tim Halle, to include revisions, in the amount not to exceed \$14,520, contingent on cost share approval by the COE. A copy of the contract is on file at District office. Carried.

A motion was made by Manager Wagner and seconded by Manager Wright to approve the proposal by Jim Birkemeyer, KRJB Radio in the amount not to exceed \$3,000, contingent on cost share approval by the COE. A copy of the contract is on file at the District office. Carried.

A motion was also made by Manger Skaurud and seconded by Manager Wagner to approve a four week proposal by Jim Birkemeyer to start prior to approval of WRRFS COE contracts at a cost of \$560.00 and a consulting fee of not to exceed 5 hours a month at a rate of \$45 per hour. Carried.

A motion was made by Manager Wright and seconded by Manager Ista to approve a six-week contract to start work prior to COE approval for Tim Halle at the regular hourly rate of \$27 per hour and not to exceed cost of \$125 per week for a six-week period. Carried.

Manager Ista also noted that at a recent meeting with county commissioners, Steve Jacobson expressed an interest in being included on a committee for public information, and Ista felt that it might be important to include members of the public. No action taken.

Administrator Bennett distributed a copy of the H2M proposal for outside consulting services to be used on an as needed basis. A motion was made by Manager Skaurud and seconded by Manager Wright authorizing the H2M contract in the amount of \$6,080 contingent on approval of the contract for work in kind with the COE. Managers Skaurud, Wright, Spaeth and Seykora voted yes, and Managers Dalen, Ista and Wagner no. Carried.

Wild Rice River COE Feasibility Study (Continued). A motion was made by Manager Ista and seconded by Manager Wright to approve the contract amendment with Houston Engineering for additional engineering services in connection with the WRRFS with project modeling in the amount of \$30,076. Carried.

23. Report on Meeting with Warren Olson and Concerned Citizen Representatives. Manager Skaurud gave a report on a meeting held with County Commissioners Warren Olson and Steve Jacobson, representatives from the Concerned Citizens and Managers Skaurud, Ista and Wagner. Skaurud stated that many things were discussed including priorities for flood reduction. Skaurud stated that he brought up the numerous things the District is doing and has completed. Manager Wagner stated that the number one priority expressed at the meeting was storage. Skaurud noted that other flood reduction efforts were also discussed including the dikes, community protection and the lower wild rice river projects. Manager Ista stated that the group asked about a master plan, were all in agreement that we needed storage and indicated that they were not impressed with the Project Team. Ista also stated that there was a request for the District to do an Activity Audit. Attorney Hanson stated that the watershed district already does an Activity Audit that is part of its District's Annual Report. Hanson stated that the District should make a specific inquiry with the new auditor who will be doing the 2004 audit to ensure the Activity Audit is included. Manager Wagner stated that the group also brought up the independent contractors hired by the District. Manager Skaurud requested that the District's Annual Reports be provided to the new county commissioners that were recently elected and asked the Managers' opinion on attending another meeting. Consensus was that this would not be necessary.

24. Manager Ista provided Attorney Hanson, Administrator Bennett and board members a letter, which contained her views on the current contract that the District has with J.B. Associated, Ltd. Ista stated that she would like to see this changed to a hired salaried employee of the District. Attorney Hanson stated that the gist of the letter is whether the Board wants an independent contractor or a hired employee and has discussed in the past pros and cons over using independent contractors or contracting with employees. Bennett provided for discussion amending the contract to a three year term if the options helped address Ista's concerns. No action was taken.

25. Chairman Seykora recessed the meeting at 4:45 p.m. to be reconvened at 10:30 a.m. on Wednesday February 16, 2005, at the office of the District.

26. Chairman Seykora reconvened the meeting at 10:40 a.m. on Wednesday, February 16, 2005. The following members were present: Joe Spaeth, Warren J. Seykora, Steve Dalen, Jim Skaurud, Diane Ista, Bob Wright and Jim Wagner Sr. The following members were absent: None. In addition, the following persons were also present: Attorney Elroy Hanson, Engineer Jerry Bents, Administrator Bennett and Loretta Johnson, Recording Secretary.

27. Farmstead Ring Dikes. Administrator Bennett reported that correspondence was sent to Stanley Gunderson, Louie Bertrand and Roger Hanson, notifying them of the prepay landowner cost share. Stanley Gunderson indicated that he did not intend to move forward with his ring dike because of the amount of the cost share and also because he felt that he is a contractor and could do the work himself. As a part of the grant funding and the size of the projects, the ring dike construction must be put out on bids. In a meeting with Bertrand, he indicated that he would like to see some changes in the alignment of the ring dike and is working on addressing the changes at the present time. It was reported that Roger Hanson agreed to proceed with District financing that was discussed by the ring dike committee as an option for individuals that could not because of financial considerations be able to proceed. Attorney Hanson cautioned against any type of financing by the district, stating that there is a need to make sure the mortgage is secure. Hanson also indicated that he did not think it is a good idea for the District to be in the business of private financing. Administrator Bennett stated that with upcoming grant deadlines, it is important to move on to other applicants if Gunderson and Hanson cannot move forward at this time, and suggested preparation of plans, specs and bidding documents for the applicants that are ready to proceed.

Consensus of Managers on advice of counsel was not to proceed with internal private financing for ring dike applicants' cost share. Engineer Bents stated that Harvey Christensen, Steve Mjolsness and Earl Schreiner were the next candidates on the prioritization list and technician Mike Buerkley felt that Earl Schreiner had the most damages to his property to which Manager Wright concurred. A motion was made by Manager Skaurud and seconded by Manager Wagner authorizing Engineer Bents to move ahead with plans, specs and preparation of a cost share agreement with Schreiner, upon receiving a signed cost share agreement, along with contacting Hanson about proceeding with his project as long as he can provide the local cost share and if not to proceed with Mjolsness, and to proceed with Bertrand if he provides a signed cost share agreement. Carried.

28. Norman County Rural Acquisition. Administrator Bennett reported on correspondence received from Mike Gillis in regard to the unauthorized farm use of property in the SW<sup>1</sup>/<sub>4</sub> of Section 34, Winchester Township that he felt the District had purchased through the rural acquisition program. Loretta Johnson stated that the property in question was part of a DTED buyout that was property that ended up being deeded to the County. Discussion entailed that the property in question was actually purchased by Norman County and is not property of the District. A motion was made by Manager Wagner and seconded by Ista to verify ownership and provide a proper response to Gillis. Carried.

Administrator Bennett reported that Harry Haskins indicated that he would not be participating in the 2002 DR 1370 Acquisition program buyout and would like to be added to the ring dike list. Consensus of Managers was for staff to correspond with Haskins notifying him that he would be officially removed from the program at this time. Roger Lee has made an appointment to further discuss the acquisition of his property in the 2002 program. It was also noted that Les Trnka is in the process of finalizing the Kesselberg appraisal.

Attorney Hanson reported that he has contacted FEMA in regards to the District selling property to private individuals, purchased through the acquisition program, which would put the property back on the local tax roles. Hanson stated that a response will take a considerable amount of time but he will keep the Managers updated.

29. Project No. 9, South Branch Repairs. Administrator Bennett distributed a draft copy of the Viewers' Report for the Winchester site. Bennett stated that because a portion of the right of way is in CRP, there are some questions that need to be answered by Randy Tufton, local Farm Service Agency, prior to completing the report. Bennett stated that the Viewers' Report on the Heiraas repair site should be completed by the March 9, 2005, meeting. Attorney Hanson recommended holding a public hearing for both site repairs. Bennett stated that with the time constraints and spring planting, it might be helpful to landowners if they are notified in advance that it is anticipated that the projects may move forward in the summer of 2005. Bennett has contacted Clay County Auditor, Lori Johnson about bonding for the project. Clay County will not be issuing bonds and due to the size of the project would work with the District to issue bonds on the South Branch that would take somewhere around 60 days. Manager Wright questioned if this is the area where Mark Harless had proposed a storage area and questioned if there should be more research done prior to moving forward with the project. Engineer Bents stated that the Board is acting on a petition for a repair that ends up being a Board obligation and any development of a storage project would take many years. A motion was made by Manager Ista and seconded by Manager Dalen authorizing an informational notice be sent to landowners in the project area who have property within the right of way to notify them of the pending repairs and to let them know that the project is anticipated to go ahead in 2005. Carried. Manager. Wright abstained.

30. Heiberg Dam. Administrator Bennett reported on a meeting held with Engineer Bents and White Earth Tribal Representative, Mike Swan, to discuss the grant agreement with the District. Bennett stated that there is a list of tasks that may be provided by the DNR for in kind services as a part of the cost share. Bennett stated that the grant agreement includes a local match of \$100,000. As a part of the grant there is a considerable amount of written information that needs to be provided. With the limited amount of time, it was suggested that Houston Engineering could provide assistance in submittal of construction information, preparation of the work plan and to provide permit information for the project. A motion was made by Manager Ista and seconded by Manager Wagner authorizing Houston Engineering to coordinate with Swan and provide the needed assistance to formulate the information needed on the project for the grant. Carried.

31. Drainage System Repair and Maintenance. Administrator Bennett distributed a spreadsheet dated February 9, 2005, which listed repairs and maintenance activities that would carry forward into 2005.

32. Upper Reaches Project. Bennett stated that with regard to the Upper Reaches Project the District might want to work on preparing a cost estimate for work that they would like to have accomplished on the project in 2005. Bennett also suggested a possible informational meeting with property owners to discuss work done on the project, work planned for 2005, estimated costs and levy consideration. Bennett also suggested having Dave Christensen of the COE to discuss the levee rehabilitation program and the inspection and maintenance requirements. Manager Seykora stated that he had contacted the coordinator for the "Sentence to Serve" program and has a list of the information that needs to be compiled and submitted for eligibility of the District. Seykora stated that the cost to the District for using this program for tree and fence removal on the Upper Reaches Project is minimal. Right of way for doing the repairs was also discussed and Attorney Hanson recommended that at some time it is important to confirm that the land right of way is tracked against the correct parcels for permanent record at the Norman County Recorder's office. A motion was made by Manager Spaeth and seconded by Manager Wright to provide copies of the current maps to Attorney Hanson, authorizing Hanson to verify that right of way is recorded. Carried. A motion was made by Manager Spaeth and seconded by Manager Wright authorizing Engineer Bents, Administrator Bennett and Warren Seykora to meet and prepare a list of work to be done in 2005 along with preparation of cost estimates. Carried.

33. Clay County Ditch #14. Engineer Bents distributed an Engineer's Report for the cleanout in Sections 15-17 of Georgetown Township on Clay County Ditch #14. Option #1 included moving the side slope of the ditch system away from the township road and establishing a 3:1 side slope on the field side. Option #2 included the same option as #1, but also establishing a 3:1 side slope on the township roadside of the ditch. Bents stated that the construction estimate for Option #1 is approximately \$59-60,000 with an additional \$10,000 for Option #2 or approximately \$69-70,000. Bents stated that a consideration might be to discuss with Georgetown Township paying the costs of providing the flatter road slope that is included in the additional \$10,000. Manager Dalen stated that he is currently a township Manager and the township does not have the available funds for the project.

A motion was made by Manager Ista and seconded by Manager Dalen authorizing contacting landowners for the purpose of obtaining executed right of way easement for land necessary for the project; values established at \$80 per acre for a term of two years for the temporary easement and a maximum of \$1,500 per acre for permanent right of way; also an informational meeting on Clay County Ditch #14 to be scheduled contingent on the District obtaining the executed easement agreements. Carried.

34. J.D. #53, Main. Engineer Bents also reviewed the survey information for the repair request in Section 25, Shelly Township. Bents stated that the survey indicates that there is currently a 3:1 slope on both sides of the ditch although the road continues to slough. An option considered would be to move the ditch away from the road in just the area of the sloughing and repair the area where the sloughing continues along with installing drain tile. Engineer Bents will provide a written repair report. No action was taken.

35. Manager Spaeth left the meeting at 12:30 p.m.

36. Green Meadow Dam. Engineer Bents distributed a report dated July 23, 2001, prepared by Jeff LeDoux, Houston Engineering, on the Ramstorf seepage ditch investigation in Section 10 of Green Meadow Township. In response to the original request by Ramstorf, LeDoux felt that it was unlikely that the Green Meadow Dam was affecting the ground water level and causing the problem. Manager Skaurud felt that if the District could accommodate Ramstorf, even though it may not be the problem from the project, if we could provide a seepage ditch since borrow material will be needed for the Green Meadow Dam project anyway. A motion was made by Manager Skaurud and seconded by Manager Wagner authorizing discussions with Ramstorf and the District about the possibility for using borrow material taken out of the ditch going south and west of his property in an attempt to alleviate some of Ramstorf's concerns. Carried.

37. Ditch System Grass Buffer Strip Restoration. Discussion was held regarding the restoration of grass buffer strips where landowner encroachment has taken place. The five ditch systems under consideration for compliance in 2005 include: Project #3, County Ditch #20; Project #12, Wild Rice Township Ditch; J.D. #53, Lat. #1; Project #20, Clay Ditch #45; and Project #23, Norman County Ditch #34, Lat. #1. Managers discussed notification of property owners along the ditch systems prior to spring planting, stating that the District is in the process of reestablishing the grass strips on the ditches. Hanson questioned the District's authority if the property has not been recorded and there is a change in ownership. Administrator Bennett noted that this issue was raised previously and the District obtained an informal Attorney General's opinion that was provided for review and discussion. The opinion reads that the District does have the right to restore the one rod grass strip even if it has not been recorded which is common practices on public ditch systems. A motion was made by Manager Ista and seconded by Manager Wagner authorizing Attorney Hanson to prepare a determination on the District's authority to restore the one-rod grass strip prior to the landowner mailing on the ditch systems scheduled for compliance of the grass strip requirements. Carried.

38. Complaints/Violations. Administrator Bennett reported that correspondence was sent to Harold Bergstrom for work done in Sections 13 and 14 of Rockwell Township, dated February 4, 2005, including cost to date of \$1,059.22 and the remaining action needed on the violation. Correspondence will be sent to Keith Danks for work in Sections 29 and 30 of Wild Rice Township, notifying him that the restoration is considered complete and the final costs incurred by the District are \$161.66. Attorney Hanson stated that he is waiting for a decision from the County Attorney's office regarding the Eugene Vik violation in Section 36 of Hegne Township. If the county is not going to prosecute, Hanson recommended that the District pursue a civil action in the case.

A final billing will be sent to Kenny Visser for the violation incurred in Section 21, McDonaldsville Township, along with notice that Paul Larson has withdrawn his complaint. Bennett reported that Manager Seykora would provide field measurements to Houston Engineering for determination on compliance by Canadian Pacific Railroad on a board order to install a restrictor plate on a culvert installation in Section 23 of Pembina Township. C.P. Railroad will be notified of the determination of Houston Engineering along with costs incurred to date are \$968.25.

39. Wild Rice River COE Feasibility Study. Engineer Bents reported that modeling of the four alternatives for the diversion is near completion. Bents stated that there is a considerable amount of information to provide to the Board and suggested a time be set aside on the March meeting agenda for the purpose of reviewing this information with the Managers. Administrator Bennett reported that a meeting is scheduled in St. Paul for the purpose of discussing using CREP on the COE WRRFS. A motion was made by Manager Ista and seconded by Manager Wright authorizing staff and Managers attendance at the upcoming meeting. Carried.

#### PERMIT APPLICATIONS

40. City of Ada, Section 9, McDonaldsville Township. Upon a motion by Manager Ista and second by Manager Wagner, the permit application of the City of Ada to install a storm water control structure on four existing discharge points along Judicial Ditch #51, was tabled pending field investigation. Carried.

41. Roger Kurpius, Section 9, Lockhart Township. Upon a motion by Manager Ista and second by Manager Wagner the permit application of Roger Kurpius to install a culvert in Section 9, Lockhart Township, was tabled pending field investigation. Carried.

42. C.P. Railroad, Section 22, Bejou Township. Upon a motion by Manager Wagner and second by Manager Ista, the permit application of C.P. Railroad to replace a bridge in Section 22, Bejou Township, was tabled pending further investigation by Engineer Bents. Carried.

43. Jerry Matter, Section 32/33, Popple Grove Township. Upon a motion by Manager Wagner and second by Manager Skaurud, Permit Application No. 12-8-04-7 of Jerry Matter to side slope a ditch in Sections 32/33 of Popple Grove Township was approved as an "after the fact permit application" and the applicant is to be notified that the approval of the permit is accepted as a condition of bringing the violation into compliance. The applicant shall notify the Minnesota DNR when work is started and a final inspection will be required and charged to the applicant to verify compliance with the terms of the permit. Carried.

44. Lloyd Jirava, Section 4, Spring Creek Township. Upon a motion by Manager Wright and second by Manager Wagner, Permit Application No. 12-8-04-8 of Lloyd Jirava to install tile in Section 4, Spring Creek Township, was approved with the condition that the plan be reviewed with NRCS/FSA to ensure compliance with USDA farm program requirements. Carried.

45. C.P. Railroad, Section 30, White Earth Township. Upon a motion by Manager Wagner and second by Manager Skaurud, Permit Application No. 2-16-05-1 of C.P. Railroad to replace a bridge in Section 30, White Earth Township, was approved with the recommendation that C.P. Railroad obtain the necessary DNR and COE permits. Carried.

46. South Branch Flood Storage Investigation. Engineer Bents asked if it might be better to place a hold on notifying landowners within the proposed South Branch Flood Storage Sites until additional information is available. Bents stated that because of the environmental review some of these sites could be determined to not be feasible and removed from consideration. Manager Dalen felt that it was important to keep the landowners informed and said that this was a recommendation by a number of agencies and the Project Team at their last meeting. A motion was made by Manager Ista and seconded by Manager Wagner authorizing that information be provided in the form of a box holder mailer as part of the public information contract with H2M to include a map and update on the progress on the storage investigation. Carried.

47. CCWRWD Data Request Ring Dikes/Flood Buyout Programs and Questions Related to FDR Progress. Administrator Bennett reported that Janis Jensen requested a total cost of farmstead ring dikes and rural acquisition from the District. Doug Marcussen put together an approximate cost of \$3-400 to compile the information. Jensen was also given the option of reviewing the information in the District office on her own time. Also discussed were questions by the CCWRWD related to the FDR progress. Administrator Bennett stated that Tim Halle is preparing an information packet for distribution to the Norman County Commissioners and possible the advisory board. Halle also distributed a packet of information, which will be dispersed at the Mahanomen County Township Association. Halle also noted that a volunteer is needed for the radio ad. A motion was made by Manager Wright and seconded by Manager Ista authorizing Attorney Hanson to speak on the topic of how a project gets implemented. Carried.

48. Manager Wagner left the meeting at 3:10 p.m.

49. Attorney Hanson stated that the Red River Watershed Management Administrator Erickson notified him of an upcoming meeting at the Holiday Inn at Detroit Lakes for the purpose of attorneys representing the Districts in the RRWMB to gather for information and gain perspectives on project and legal issues. A motion was made by Manager Ista and seconded by Manager Wright authorizing Attorney Hanson's attendance along with checking into the cost being covered by the RRWMB similar to what is currently done with the TSAC. Carried.

50. Citizen's Advisory Board Report. Administrator Bennett gave a brief report on the recent Citizens' Advisory Board meeting. Bennett stated that the Advisory Committee had requested reconsideration on modeling for the 2002 flood depending on the cost and value of getting this information along with consideration for having a summer tour to look at watershed district projects. No action taken.

51. Red River Watershed Management Board (RRWMB). Manager Wright gave a report on the RRWMB meeting held on Tuesday, February 15, 2005, at Thief River Falls. The Technical Scientific Advisory Committee (TSAC) reported on tiling and stated that they have selected two sites in the Red Lake Watershed District to evaluate the effects of tile drainage. TSAC also reported on proposed changes to the Moccasin Creek Operating and Maintenance Plan and thought that the changes in the plan should be considered by the RRWMB since they originally had provided funding for the project. The Green Meadow Dam project was discussed and TSAC recommended on funding requests for dam rehabilitation they would be looking for basic information including a copy of the original Engineer's Report, a star valuation calculation for the project, a specific plan for the project, actual cost of the project and what the cost share of the original project was. This is currently not a requirement and would have to be policy established by the RRWMB. No action was taken.

It was also reported Charlie Anderson and Dan Thule discussed the difference between flood protection vs. prevention and were advocating that the RRWMB conduct modeling to look at the changed conditions for future floods by implementing flood protection and not looking at prevention as part of the solution.

52. Managers Special Interest Items. Manager Skaurud stated that he would like the District to work at moving ahead with the Moccasin Creek flood problem proposed project. Skaurud stated that these farmers requested assistance over two years ago and nothing has been accomplished to date. Manager Dalen stated that he felt it is important to do some of these smaller projects and suggested that the District take the lead on the project. Manager Seykora reminded Managers that the Norman County SWCD was given this area to work on flooding solution as the lead agency for the project.

Administrator Bennett suggested a meeting with Curtis Borchert, Norman County SWCD and Earl Johnson, DNR, for the purpose of determining the status of the effort and working on a plan to be able to move ahead with a solution for the farmers in the area. A motion was made by Manager Skaurud and seconded by Manager Ista authorizing a meeting with Earl Johnson, Curtis Borchert, Bennett, Skaurud and Seykora. Carried.

Manager Dalen discussed portions of the Watershed Management Plan and recommended that the Board hold a special meeting for the purpose of discussing flood storage opportunities within the District. A motion was made by Manager Ista and seconded by Manager Dalen authorizing a special meeting scheduled for 9:00 a.m. on Wednesday, February 23, 2005, at the District office for the purpose of discussing flood storage. Approved with Manager Skaurud opposed.

53. Engineer Bents and Manager Dalen left the meeting at 4:05 p.m.

54. Volunteer Flood Storage Challenge Grant Application. A motion was made by Manager Ista and seconded by Manager Wright authorizing submitting a challenge grant application to the Board of Water and Soil Resources (BWSR) funding to be used for the Soil and Water Conservation Flood Storage sites, contingent on assistance provided by the area SWCDs. Carried.

55. There being no further business to come before the Board of Managers, a motion was made by Manager Skaurud and seconded by Manager Wright to adjourn the meeting. Carried.

56. Chairman Seykora adjourned the meeting at 4:10 p.m.

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Jim Skaurud, Secretary

<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Amount</u>
<b>Checking-RAB</b>				
02/09/2005	8669	Ada VFW Post 7557	Room Rent, Lunch	238.04
02/09/2005	8670	AmeriPride	Cleaning Services	28.08
02/09/2005	8671	Angstrom Analytical, Inc.	Monitoring Asb Removal	9,224.00
02/09/2005	8672	Brugen Environmental	Hazardous Material Abatement	35,966.00
02/09/2005	8673	Candys Drug	Office Supplies	3.17
02/09/2005	8674	Cecil Malme	Gauge Reading	50.00
02/09/2005	8675	City of Ada	Utilities	256.62
02/09/2005	8676	Diane Ista	Per Diem and Expense	248.03
02/09/2005	8677	Eddie Bernhardson	Viewers	473.26
02/09/2005	8678	Edwin M. Johnson	Viewers Costs	591.21
02/09/2005	8679	F & R Floral	Flowers Gilbertson	37.28
02/09/2005	8680	G R Graphics-Supplies	Staples, Copy Maching	53.91
02/09/2005	8681	H2M	Public Information/COE	5,076.08
02/09/2005	8682	Houston Engineering, Inc.	Engineering Fees	31,685.96
02/09/2005	8683	James Wagner, Sr.	PER Diem\Expense Reimb	206.67
02/09/2005	8684	JB Associates, Ltd., Inc.	Administrative Fees	13,514.96
02/09/2005	8685	Jim Skaurud	Per Diem and Expenses	746.21
02/09/2005	8686	Joe Spaeth	Per Diem and Expense	610.01
02/09/2005	8687	Kenneth Holum		609.35
02/09/2005	8688	Loretel Systems	Office Phone	288.40
02/09/2005	8689	Marcussen Accounting	Acct fees/audit/1099s/mtg attdce	1,136.00
02/09/2005	8690	MAWD	Dues	2,000.00
02/09/2005	8691	Norman County Auditor/Treasurer		38.15
02/09/2005	8692	Norman County Index	Press Release/Supplies	239.14
02/09/2005	8693	North Star Water	Water/Office	25.00
02/09/2005	8694	PERA	02/01-02/28	278.51
02/09/2005	8695	Pioneer Construction, Willard Gade	Office Repair	522.75
02/09/2005	8696	Rinke Noonan		2,186.75
02/09/2005	8697	Robert E. Wright	Per Diem and Expenses	192.56
02/09/2005	8698	Rural American Bank	FICA Withholding, Managers\Wtrshed	293.00
02/09/2005	8699	Steve Dalen	Per Diem and Expenses	579.85
02/09/2005	8700	Tim Halle	Press Release/Annual Report	589.00
02/09/2005	8701	Wambach & Hanson	Legal Fees	1,864.40
02/09/2005	8702	Warren J. Seykora	Per Diem & Expenses	1,404.23
02/10/2005	8664	RBR Development, Inc.	J.D. #56 Final Pay Request	<u>6,380.34</u>
Total Checking-RAB				117,636.92