

WILD RICE WATESHED DISTRICT

11 Fifth Avenue East

Ada, MN 56510

Ph: 218-784-5510

SPECIAL MEETING

NOVEMBER 20, 2006

J.D. #51 Repair

APPROVED

1. A special meeting of the Wild Rice Watershed District Board of Managers was held on Monday, November 20, 2006, at the office of the District. The following members were in attendance: Joe Spaeth, Warren J. Seykora, Bob Wright, James Wagner, Sr., Diane Ista, and Jim Skaurud. The following members were absent: Dave Vipond. In addition the following persons were in attendance: Attorney Elroy Hanson, Engineer Jerry Bents, Administrator Dalen, Secretary Loretta Johnson, Publicist Tim Halle, Court Reporter Sandy Bjerke, and Royal Knutson, Brian Borgen, Kevin Rude, LeeAnn Hall, Jerry Bitker, Warren Olson, Jim Ellefson, Eugene Vik, Joe Kroshus, Cory Jacobson, Mick Alm, Woody Roux, Verna Grivno, Candy Robertson, Jim Austinson, Wayne Lee, Ron Baker, Curt Jacobson, Terry Guttormson, Juel Furueth, Bruce Tufte, Kenny Visser, Tom Opheim, Don Vellenga, Paul Houglum, Gordon Peterson, Clarence Weipert.
2. Chairman Seykora called the meeting to order at 1:00 p.m.
3. The purpose of the meeting was to discuss the repair to J.D. #51 east of Ada.

Norman County Commissioner Warren Olson asked why the repair was requested. Brian Borgen, who submitted the request, began explaining his reasons for requesting the repair. Borgen stated that in 2004 he removed a culvert on the north side of the Billy Lee Bridge in Section 3 of Mary Township without a watershed district permit. Borgen went on to read excerpts from correspondence received from Attorney Hanson and Mick Alm and other documentation relating to the unauthorized culvert removal. As a result of this violation, criminal charges were filed by the District against Borgen for unauthorized work without a permit. Borgen stated that there is a need for a common sense approach to stop the flooding.

Olson replied that if the flooding affects one person it is going to counter affect someone else, and he is not in favor of passing the flooding down to someone else. Eugene Vik stated that the flooding is getting worse in his area. Attorney Hanson provided the legal reasons for the repair, stated that the District was compliant with the law, and is not improving the ditch, just putting it back to its original design. Hanson stated that the District is not required to do a hydraulic study every time a request for repairs is received for a ditch system.

Verna Grivno stated that it was her understanding when she signed the easement that the trees were going to be put on the edge of the land and that only the trees in the ditch would be removed. Manager Wagner stated that he explained the easement to Mr. Grivno and Grivno understood that the trees had to be removed.

Ronnie Baker stated that because the sawmill is no longer there, from the very early years of the project, the elevation at the weir should be brought back to the original condition. Baker stated that because of the erosion before the weir, it is approximately seven feet lower than it was originally. Ada Mayor Jim Ellefson, stated that at the city council meeting, concerns were raised that prior to this project, when discussing the repair of a slough on the north edge of Ada, it was their understanding that funding was not available. Ellefson also said that the City of Ada is currently working on a Section 205 Study with the Corps of Engineers to determine if funding would be available to build flood protection for the entire City. The concern with the project is what affect it could have on the numerous homes on the north side of the city that do not have good flood protection. Another concern was that if J.D. #51 needed cleaning, it should have started on the western end. Ellefson stated that at the city council meeting a motion was made to ask the Watershed District or attempt to stop the project, until the council could get an answer on the affect of the project on the City of Ada. Engineer Bents stated that it would be costly to do a complete analysis of an acre by acre comparison prior to and with the repairs. Jerry Bitker stated that more than one analysis was done on the Marsh River and it was not necessary to do any more studies. Engineer Bents stated that the studies done by the COE were regarding restoring the flow split at the weir, the current repair is just to remove the sediment on J.D. #51. Ronnie Baker stated that a solution would be to restore the mouth to its original opening as well as the weir. Kenny Visser stated that before the turn of the century there were two rivers, the Marsh and the Wild Rice. The Marsh River now is gone, if you look at the volume of sediment in the Wild Rice River the logical thing to do is clean J.D. #51 until it has the capacity to move that water and to start at the bottom and work up; Visser stated that enough money has been spent on studies. Curt Jacobson stated that if the weir is cleaned there is nothing to stop the water from coming towards Ada and eroding the fields. Jacobson stated there is not the capacity at the Highway #200 or #9 bridges to take the water.

Tom Opheim, attorney for the City of Ada stated that the city is looking for some type of hydraulic analysis to determine the effects of the cleanout to the City of Ada. Attorney Hanson stated that the Board does have the authority to stop the project and/or stop it and come back to it later. Warren Olson requested that the District rescind any motion that they made authorizing the project repair, stating that it will affect some people and alleviate others. Manager Spaeth questioned who is being assessed the costs of the cleaning. Chairman Seykora stated that all costs will be assessed to the Upper Reaches Project. Seykora asked if he was correct in understanding that the City of Ada is requesting that an analysis be done; if so how much of an analysis; are you asking that the project be stopped until the analysis is done? Seykora stated that at the present time there is sediment on the weir which allows more water to go down the Wild Rice River and some protection for the City of Ada.

Attorney Hanson stated that the District is obligated to keep its ditches in repair, however concerns have been raised by property owners that a hydraulic analysis was not done. Hanson stated that the District was not legally obligated to do an analysis, but the District could order one done.

Don Vellenga stated that the water is coming faster and faster as the land is drained and the work needs to be done correctly. Manager Wagner stated that there is only one way to stop this water and that is upstream storage. Kenny Visser stated that the sediment coming down the Wild Rice has increased dramatically in the last few years; whatever you do, the water will come to Ada, there is no way to stop it and he thinks the cleaning of J.D. #51 is necessary. Chairman Seykora asked if the request from the city and landowners is that an analysis be done before the project is completed with the costs being assessed to the project. Mayor Ellefson replied yes.

Manager Ista stated that she felt the people should know why the District is not currently moving forward with the redetermination of benefits on the Upper Reaches Project. Attorney Hanson stated that he has been in contact with Attorney Von Korff of Rinke Noonan. This is a very complicated project with several components. Von Korff is trying to sift through all of the old documents and facts on the Upper Reaches and determine which avenue would be the best way to move forward. Chairman Seykora asked how much of an analysis the City of Ada would like done. Warren Olson stated that he felt it would be the best to stop the whole project right now. Mayor Ellefson stated that the Ada City Council would like to know how the cleaning of the 30 inches of sediment off the weir would affect the city of Ada, no further analysis than that. Ellefson also stated that the timing of the project was bad because the city was frustrated that they are taking steps for protection and the COE is supposed to come back with a determination shortly. Kenny Visser stated that with another spring like 2006, the water will be heading down to Ada anyway. Joe Kroshus stated that maybe J.D. #51 could take more water and with the additional 30 inches at the weir it would be hard to say the affect on the city of Ada, but he felt that it would make very little difference. Brian Borgen asked if the redetermination of benefits is not done, who will pay the costs. Chairman Seykora stated that District uses in house financing and loans funds to projects that are in the deficit for a small percent of interest rate. Seykora also stated that there are landowners in attendance who have both the pros and cons of moving forward with the cleaning on J.D. #51. Manager Ista felt that the District should rely on the engineer in assisting with the answers. Manager Wagner asked how the District could address the request without a hydraulic analysis. The question was raised regarding the amount of added costs to stop the project. Engineer Bents stated that would not be a big issue, as the contractor is being paid hourly; therefore he would probably finish placing the spoil back over the uncovered ground and covering that. Considerable discussion was held whether the cleanout should be stopped or moved ahead.

A motion was made by Manager Ista and seconded by Manager Skaurud to stop the cleaning project on J.D. #51 east of Ada until the engineer determines the possible impacts at the City of Ada. The engineer is authorized to do an analysis for the determination. Carried.

ORDER RE: PROJECT NO. 51

An emergency meeting of the Board of Managers of the Wild Rice Watershed District was held on November 20, 2006, at 1:00 p.m. at the District Office located at 11 5th Avenue East in Ada, Minnesota. A quorum of the board of managers was present.

Discussion was had that an emergency meeting of the Board of Managers was properly noticed and convened because of circumstances that, in the judgment of the board of managers, require immediate consideration by the board of managers, i.e., there were threats of the city obtaining an injunction against the Watershed District to continue with certain ordered repairs.

Discussion was had by the board regarding certain repairs which were being undertaken by the District regarding JD #51, especially those certain repairs which were identified in the Houston Engineering repair report regarding the repair of Section 12 and 13 of McDonaldsville and Section 18 of Lake Ida Townships.

Discussion was had that the contractor was in the process of performing the repairs per the terms of a contract which had been previously let pursuant to a board repair order on November 18 of 2006. Discussion was had that a number of the parties affected the Upper Reaches Project ("Project"), including especially property owners within the City of Ada, were concerned that the repairs being performed by the district may result in an increase in flooding. Discussion was had by the board that it had previously concluded that the repairs presently being performed pursuant to the board's order on November 18th were determined as being necessary and for the best interests of the affected property owners. The board advised interested property owners that it had acted within its authority to order the repairs, but that that order did not mean that the board could not decide to stop the work for purposes of having a hydraulic analysis done and, upon completion of further hydraulic analysis to address the concerns of the affected property owners, the board could at that time make further decisions/order as to the best interests of the project/affected property owners.

Discussion was had by both property owners who wanted the repair work to continue, as well as comments from property owners who wanted the repair to stop pending a hydraulic analysis.

Comments were made by especially the City of Ada regarding an on-going Corp of Engineers 205 Study which was in process and that the City was interested in seeing the result of that study before the repairs per the board's order be completed. Further discussion was had concerning a redetermination of benefits for the Upper Reaches Project, the number of acres which may be affected as a result of the presently ordered repair, what effect the present repair would have on the Ada golf course, general discussion by affected property owners regarding the history of Project No. 51/the Upper Reaches Project, and matters related to the present ordered repair. Discussion was further had by the board that if it stops the contractor from continuing the repairs per the terms of the contract that certain related costs/damages may be incurred by the project.

NOW, THEREFORE, based on the above discussion, the board of managers makes the following:

FINDINGS OF FACT

1. That, based on the concerns of property owners within the City of Ada, as well as the City of Ada, it is in the best interests of the affected property owners, as well as the Upper Reaches Project/Project No. 51, that the present repairs which are being completed in furtherance of the board's November 18, 2006, repair order be stopped pending further order of the board.

2. That the board finds that it is in the best interests of the project to satisfy the concerns of affected property owners to have further hydraulic analysis done to determine the impact, if any, on affected property owners within the project area from the *situs* of the present repair work up to State Highway No. 9.

3. The board further finds that it is in the best interests of the project to hire Houston Engineering to perform the hydraulic analysis and to report back to the board as soon as that analysis is completed so that the board can make further orders in these regards.

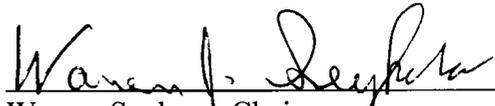
NOW, THEREFORE, based on the above Findings, the board makes the following:

ORDER

1. That staff for the district are to take such action as may be necessary to instruct the contractor to cease further work on the repairs, with the exception of leveling off spoil banks and related "clean-up" type activities, pending further order of the board.

2. That the district's engineer is ordered to prepare a hydraulic analysis and report back to the board as to the impact, if any, from the present ordered repairs to the City of Ada and other affected property owners from the *situs* of the present repairs up to State Highway No. 9.

Dated this day of December, 2006.



Warren Seykora, Chairman
Wild Rice Watershed District

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

Chairman Seykora adjourned the meeting at 2:30 p.m.



Diane Ista, Secretary