

# WILD RICE WATERSHED DISTRICT

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## PUBLIC HEARING HEIBERG DAM REPAIR

A public hearing was held on Wednesday, September 15, 2004, at the Community Center in Twin Valley, Minnesota, for the purpose of presenting repairs to the Heiberg Dam.

The following members were present: Warren J. Seykora, Jim Skaurud, Diane Ista and Joe Spaeth. The following members were absent: Steve Dalen, James Wagner, Sr. and Robert E. Wright. In addition, the following persons were present: Administrator Jerry Bennett, Attorney Elroy Hanson, Engineer Jerry Bents, Loretta Johnson, recording secretary, and interested parties who are listed at the end of these minutes.

Chairman Seykora called the meeting to order at 7:15 p.m.

Following introductions by Chairman Seykora, Administrator Bennett spoke briefly about the purpose of the meeting and reviewed the agenda format.

Attorney Elroy Hanson discussed the legal repair process that the Board was following under Minnesota Statute 103D. Hanson stated that following the flood of 2002 the structure was damaged and the District has been working with agencies to arrive at a repair to restore the structure to its original level of operating efficiency. Hanson stated that the Board of Managers is holding the hearing to take testimony from those who may be opposed or are in support of the proposed repairs. Following the presentation on the project, its benefits, damages and costs, the Board will take public testimony. After deliberations by the Board, they will make a decision on the repairs. Hanson stated that following the decision, any party will have 30 days after the final order in which to file an appeal.

Hanson reviewed the legal notice requirements indicating that mailed notice was sent to all affected property owners included in the original benefiting area of the Heiberg Dam Project. Notice was also published in the local newspapers. Property owners that had land which would be acquired by the proposed project were served personal notice. Hanson stated that the proposed project is to restore the original operating function of the dam and the Board is not proposing to modify or change the original benefiting area established for the Heiberg Dam. However damages would need to be paid to property owners with land needed to be acquired to construct the repair project. Hanson also noted that for the construction costs related to the repair, the Board was not proposing any local assessment.

Engineer Bents gave a PowerPoint presentation on the Engineer's Repair Report for the Heiberg Dam. Bents said that the Heiberg Dam Project is located in the SW ¼ of Section 16 of Wild Rice Township, Norman County. Bents reviewed the history of the dam and the reconstruction completed by the watershed district to a sheet piling rock-filled overflow structure in the 1970s. The dam has an approximate 155-foot crest combined with upstream tie back levees on both the north and south banks of the river channel. The Heiberg Dam has a drainage area of approximately 900 square miles. The original dam constructed in the early 1900s was at approximately the same location as the present dam. The original dam was constructed by J.F. Heiberg for the purpose of powering a flourmill and later to generate electricity. Power generation is believed to have ended in the 1950s. The historic structure was destroyed by high flows in 1965. From 1965 to 1975 no dam existed at the site. The dam was reconstructed by the watershed district at the request of downstream landowners to address ice control and provide aquatic and recreational opportunities. The original project purpose as defined in the Wild Rice Watershed District Engineer's Report dated March 12, 1975, included: 1) Assisting with controlling the flow of ice during spring runoff period; 2) Enhancing the aquatic environment of the Wild Rice River in this region; along with 3) Increasing recreational facilities in this region.

Bents stated that following the 2002 flood, FEMA officials reviewed the damage and approved repairs to the dam estimated to be around \$330,000. Since the proposed repair involved federal funding assistance, an environmental review was conducted. The US Fish and Wild Life Service (USFWS) and the Minnesota Department of Natural Resources (MnDNR) provided comments that indicated concerns over replacement of the existing structure due to its negative effects to fish migration on the Wild Rice River. A MnDNR protected waters permit is required for the project and the MnDNR indicated that they would require fish passage as part of any repair to the existing structure. Bents stated that meetings were held with FEMA, MnDNR, USFWS and the White Earth Tribe in developing a design that would address the permitting concerns along with serving to provide the original intended benefits provided by the dam.

Bents reviewed the proposed construction plans that include the following features:

- 220 feet of combined sheet pile and earthen embankment to replace the original levee that was washed away between the existing dam crest and T.H. No. 32. The top of this levee will be set at elevation 1009.0, the same as what was constructed in 1975.
- Removal of the existing old powerhouse and adjacent building to obtain necessary area for repair construction.
- Lowering the existing dam crest from elevation 1000.0 to provide a 72-foot low flow weir at elevation 994.0 and 83-foot high flow crest at elevation 996.0.
- Installation of concrete sloped ice blocks on top of the modified dam crest to assist in the breakup of ice.
- Installation of a rock arch rapids below the dam to allow for fish migration, reduced stress on banks, and increasing safety by creating low velocity water near banks and eliminating the existing hydraulic roller effect.
- Installation of two bendway weirs downstream of the dam to direct flow back towards the center of the channel and reduce stress on the nearly vertical north bank.
- Minor restoration of the south levee to obtain the original design elevation of 1009.0.

Total construction costs are estimated at \$735,855, with engineering, design, plans, specifications, construction staking, construction right-of way, legal and administration, the total project cost is estimated to be \$824,255.

Administrator Bennett discussed the project construction and financing. Bennett stated that for the construction costs of \$824,255, the Board of Managers discussed not assessing the costs against the original benefiting area. The District is currently working on a funding package to cover the construction costs. Bennett noted that the District has received a verbal commitment from FEMA for \$500K. Verbal commitments have also been received from the DNR for between \$80-100K and the USFWS for \$140K. The White Earth Tribe is also working on an additional \$100K from the USFWS for the project that would require a 3:1 local match. Bennett noted that since there is no local match proposed, the White Earth Tribal grant has not been included in the projected funding leaving a shortfall of around \$174,000 if all other funding is secured. Options to cover the remaining shortfall discussed include: Requesting the additional federal funding assistance from FEMA, requesting state funding during the 2004-2005 legislative session or using the District's overall general levy to address any remaining deficit.

Bennett also reviewed the costs to date for the project development including flood recovery efforts and engineering to develop the Engineer's Repair Report. Bennett noted that the funding package for construction would not cover the costs related to project development and therefore the Board agreed to address those costs similar to other projects being funded by FEMA disaster repair assistance. The total costs expended on the Heiberg Dam since 2002 are \$51,295. The project account started with an original positive balance of \$9,525 and the MnDNR provided an engineering grant for \$10,000. This leaves a remaining negative balance of \$31,770. Bennett discussed some options to recover these costs using an assessment against the original benefiting area for a 2-year, 3-year, 4-year or 5-year amortization schedule.

Upon completion of the presentations Chairman Seykora asked for public testimony from those in attendance.

A breakdown of project costs was requested. Engineer Bents explained the various line items in the cost estimate taken from the Engineer's Report. Questions were also asked about what was to be done with the old power plant. Seykora stated that it would be removed and it was felt that this was a very good idea. Steve Bommersbach questioned if an emergency spillway or overflow would be constructed on the north side of the river where the dam blew out. Engineer Bents stated that the spillway was considered, however under the current design with the crest being lowered, and with evaluating the costs to construct an overflow spillway, it was determined not to be a necessity and was eliminated. Ryan Braulick asked about the tax levy and how it is used to fund future maintenance costs. Attorney Hanson reviewed the assessment area and how the Board would use the area to pay for the operation and maintenance of the project. Tim Halle asked what would happen if the funding package does not materialize. Bennett stated that if the Board of Managers issues its order on the repair making it a requirement that the construction costs would not be assessed, another public hearing would be required before the Board could consider using the benefiting area to cover those costs.

Don Buckhout, MnDNR, asked about the schedule for construction. Engineer Bents stated that because the funding is not in place it is unlikely construction could be started this fall. If the USFWS grant for \$70,000 is approved, these funds could be used to prepare the plans and specifications for the project construction. To complete the bid documents and advertise, it would take around 60 to 90 days before construction could start if the funding was in place. Bents noted that it is more likely that construction will start in the spring/summer of 2005.

A landowner asked how the original benefiting area of the project was determined. Attorney Hanson said that the Viewers' Report was prepared in 1975 during the development of the original dam reconstruction. Hanson stated that since this is a repair and not an improvement and there will be no local assessment, it was his advice to stay with the original benefiting area. Bennett mentioned that a redetermination of benefits can be costly and it would not address past costs, only future repairs. Therefore, it is not advantageous to property owners to expend the costs for a redetermination of benefits. Another question asked was if it is necessary to include fish passage in the reconstruction of the project or could it be left just the way it is. Bob Merritt emphatically said yes the fish passage is necessary although he did not have a problem leaving it the way it is. Merritt stated that the DNR agreed to a compromise with the District to allow modification to the structure that would address the ice control features and allow for the fish passage. Chairman Seykora asked if there were any more questions from the public. None were raised.

The Board of Managers then proceeded to deliberate over a decision for the repairs to the proposed project.

Manager Skaurud offered the following resolution and moved its adoption:

ORDER FOR REPAIRS AND IMPROVEMENTS EXCEEDING  
NORMAL MAINTENANCE RE HEIBERG DAM/PROJECT NO. 2

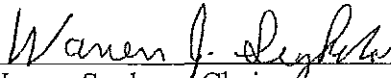
WHEREAS, The Wild Rice Watershed District Board of Managers has determined that the construction part of this repair project shall not proceed unless funding can be identified that would not require a special assessment re said construction against the benefiting property. The sources of funding include, but are not limited to, FEMA (\$500,000.00), DNR (\$80,000.00 to \$100,000.00), US Fish and Wildlife Service (\$70,000.00), White Earth Tribe (\$100,000.00), possible watershed district *ad valorem* levy in an unidentified amount, and other as of yet unidentified sources of funding. It was the consensus of the board that the construction of the project and any contracts relating thereto not proceed unless and until all of the funding has been identified.

WHEREAS, The benefiting are re the Heiberg Dam Project is the same as was originally determined in the appraiser's report when the Heiberg Dam Project was initially construction and the board hereby adopts that appraiser's report as determined by the Board of Managers to reflect damages as a result of said repairs.

IT IS HEREBY RESOLVED, That the Board of Managers accepts the engineer's report dated June 9, 2004, for the repair of Project No. 2 – Heiberg Dam.

BE IT FURTHER RESOLVED, That there shall be no construction on the project and the project shall not proceed unless all of the funding can be identified that would not require a special assessment re said construction against the benefiting property.

BE IT FURTHER RESOLVED, That the Board of Managers hereby adopts the appraiser's report concerning the benefits as set forth in the original Heiberg Dam Project, and the appraiser's report concerning damage payments subject to the need to acquire such other parcels of property as may reasonably be necessary to complete the proposed repairs.

  
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Warren Seykora, Chairman

The motion for adoption of said resolution was duly seconded by Manager Ista, and, upon the question being put, was declared unanimously carried.

The Board also discussed recovery of the costs related to the development of the project including the costs to prepare the Engineer's Report. Manager Ista made a motion that the costs be recovered over a three-year period that would be a four percent levy against the benefiting area or amount to approximately 14 cents per acre/per year, for three years. The motion was seconded by Manager Spaeth and carried.

Attorney Hanson reminded property owners of the appeal process, which allows a 30-day time period to file an appeal following the date of the Board's final order.

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

Chairman Seykora adjourned the meeting at 8:15 p.m.

