

WILD RICE WATERSHED DISTRICT
11 Fifth Avenue East
Ada, MN 56510
Ph: 218-784-5501

REGULAR MEETING
June 10, 2009
APPROVED MINUTES

1. The regular meeting of the Wild Rice Watershed District Board of Managers was held on Wednesday, June 10, 2009. Managers in attendance included Diane Ista, Joe Spaeth, Greg Holmvik, Duane Erickson, John Austinson, Dean Spaeth and Mike Christensen. Absent: None. In addition the following persons were in attendance: Interim Administrator Loretta Johnson, Administrative Assistant Kari Kujava, Attorney Hanson, Engineer Bents and landowners and interested persons.
2. Chairman Christensen called the meeting to order 8:35 a.m.
3. Agenda Approval. A **motion** was made by Manager J Spaeth and **seconded** by Manager Austinson to approve the agenda with the addition of Atlanta Township issues, access to DNR lands, and Washington DC meeting expense. **Carried**.
4. Mark Meister Presentation. Mark Meister, Public Information Consultant for the Red River Watershed Management Board (RRWMB) gave a brief presentation on his qualifications and expertise in providing public information for member districts. Meister stated that he would assist the District, if requested, to inform landowners on District activities through the media. He explained that there are no costs to the District because this is funded by the RRWMB on behalf of member districts.
5. Red River Watershed Management Board (RRWMB) Appointment. A **motion** was made by Manager Holmvik and **seconded** by Manager Erickson appointing Manager J Spaeth as alternate representative to the RRWMB. **Carried**.
6. Project #42. Attorneys Jerry Von Korff and Adam Ripple, Rinke Noonan, joined the meeting via teleconference to provide background information and a status update on Project #42. Von Korff stated that with the new board in place, it is important for this board to provide the appropriate policy directions to the attorneys and not keep the train rolling if Managers want to change direction. Von Korff stated that there are some unclosed purchase agreements, binding agreements that the District has signed and executed but have not been closed. Landowners have contacted the law firm indicating that they would like revisions to their agreement and go in a different direction. There are binding purchase agreement for the Richards and Hogetvedt properties.

Manager Ista stated that there is a lot of opposition to CD #18. Manager Austinson agreed with Ista on the opposition to CD #18, but indicated that there appears to be a lot of support for Upper Becker. Manager J Spaeth stated that a lot of money has been spent on these projects and trying to complete them would create a lot less flood damages to Norman County. He felt that the District should stay on track. These are projects that are possible to be permitted and maybe the local share of the funding could be obtained through the DNR or NRCS.

Manager Ista asked about the five sites mentioned in the DNR Grant. Engineer Bents stated that each project of the five sites is a project in its own right. One or more of these sites could be removed. Bents said that in the beginning the original intention was to do all of the sites as one project; however it was realized that wasn't going to work.

Von Korff stated that there are deadlines on the purchase agreements which are legally binding and the District needs to implement them. He stated that these agreements don't require a lot of money, approximately \$36,000. If the board wants to go forward with just one then you need to start the planning process, go to a plan change in the Water Management Plan. The statute is designed to force and encourage managers to do this in a correct and public way. But don't spend money on something that you don't intend to finish. Engineer Bents stated that there are three possible funding options to pay for the local \$2M local share: fund those with reserves from the Red River Construction Account; set up a special assessment district, like the District's ditch systems; establish a WMD, either for a small area or District wide. Manager Erickson stated that he would like to move forward with something, let's get focused on Upper Becker.

Jerry Von Korff stated that James Jirava has an executed binding option that has already been signed by the District and the District is obligated to pay the \$5,000. The Zurn property document is a non binding letter of intent and not legally binding. Adam Ripple stated that George Read also has an executed signed option and an additional option that is not executed. Attorney Hanson recommended that someone is authorized to negotiate with Mr. Read. Ripple stated that the second option agreement is the same price per acre and the same option price of \$5,000. The first option with Read has been executed and the \$5,000 paid.

The question was raised if the Richards property was tied to the CD #18 property owned by Hogtevedt. Ripple stated that a purchase agreement was executed with Richards in January for a land swap with property the District already owns. Richards have an additional 15 acres in the land that would be swapped; therefore the District would owe Richards approximately \$36,000. Richards have asked that the second purchase agreement be revised in order to divide the property between two families of Richards. Ripple recommended that Managers first view the document and then sign the agreement. Von Korff and Ripple were asked their recommendation on what the District do next. Both agreed that first the Managers should have copies and access to all agreements, which they will provide, review them, and then make their decision on how to move forward. Von Korff stated that he will send all copies of these documents.

PERMIT APPLICATIONS

7. City of Perley, Section 25, Lee Township. A **motion** was made by Manager Ista and **seconded** by Manager Austinson to approve Permit Application #6-10-09-13N of the City of Perley to install an approach and a 24" CMP and construct a seepage ditch surrounding the City's lagoons. Install an 8" centerline pipe that outlets to Norman County Ditch #62, with the condition that the ditch authority approves of the outlet to Norman County Ditch #52. **Carried.**

8. Del Schnable, Sections 12, 13, Hendrum Township. A **motion** was made by Manager Ista and **seconded** by Manager D Spaeth to table Permit Application #6-10-09-15N of Del Schnabel to raise the level of the dike approximately 4 feet in Section 12 and 13 of Hendrum Township. Plans showing the proposed work including cross sections and plan views will be requested. (It was also noted that there is an ongoing litigation and property dispute regarding a property boundary line.) **Carried.**

9. Good Hope Township, Section 29, 30 Good Hope Township. A **motion** was made by Manager Holmvik and **seconded** by Manager Austinson to deny Permit Application #6-10-09-16N of Good Hope Township to replace a centerline 18" CMP with a 48" CMP through a township road in Sections 29, 30 of Good Hope Township due to possible downstream impacts. **Carried.**
10. Roger Kurpius, Section 2, Mary Township. A **motion** was made by Manager D Spaeth and **seconded** by Manager Holmvik to table Permit Application #6-10-09-17N of Roger Kurpius to install a culvert and crossing across a drainageway and give notice to Dick Ambuehl. **Carried.**
11. Warren Lee, Section 33, Hegne Township. A **motion** was made by Manager Austinson and **seconded** by Manager Ista to approve Permit Application #6-10-09-18N of Warren Lee to install an 18" culvert through a field approach that is currently a dry block in Section 33 of Hegne Township. **Carried.**
12. Upper Reaches Maintenance Policy. Attorney John Kolb, Rinke Noonan, was at the meeting via teleconference. Kolb answered questions regarding the Upper Reaches Maintenance Policy that was distributed. After considerable discussion a **motion** was made by Manager Ista and **seconded** by Manager Holmvik to adopt the Findings and Repair Policy to the Upper Reaches Project. **Carried.** (As part of the motion Ista requested that the policy portion to be in the beginning of the document and also to attach the memo regarding Brian Borgen's complaint.)

UPPER REACHES MAINTENANCE POLICY

STATE OF MINNESOTA WILD RICE WATERSHED DISTRICT

The matter of maintenance of Non-Federal
Flood Control Works maintenance and
repair on levees adjacent to the Upper
Reaches Project

Findings and Repair Policy

Manager Ista moved adoption of the following findings and policy:

Policy:

Based on the foregoing, the Board of Managers of the Wild Rice Watershed District adopts the following policy:

The levee system (non-Federal levees), on lands adjacent to the Wild Rice and Marsh Rivers, constitute a non-Federal component of the Upper Reaches Project. The levee system is depicted on the attached map.

The Wild Rice Watershed District shall inspect and maintain the non-Federal levees to ensure their structural integrity.

The Wild Rice Watershed District shall continue the non-Federal levees' enrollment under public law 84-99, or subsequent Non-Federal Flood Control Works Maintenance and Inspection Program, if available.

Upon inspection and recommendation from the District's Engineer, the Wild Rice Watershed District shall maintain the non-Federal levee system to elevations substantially similar to those documented by the District's survey and LiDAR information and in the various Corps of Engineers Continuing Eligibility Inspection reports. Within the right of way of the Upper Reaches Project, maintenance activities may include but are not limited to correction of bank erosion, cleaning of side inlet channels outletting into the Wild Rice River, restoration of levees, realignment, and setback of levees where necessary to maintain the integrity of levee system. Maintenance shall not include activities outside of the right of way of the Upper Reaches Project, correction of erosion on adjacent land from breakouts or levee failures, or correction of other damage to property or facilities which are not part of the Upper Reaches Project.

Unless approved by Watershed District permit, the Wild Rice Watershed District shall prohibit private modification of the non-Federal levee system.

The motion was seconded by Manager Holmvik. After discussion and upon a vote, the Findings and Policy were approved by a unanimous vote.

Findings:

The Corps of Engineers completed a flood control project on the Wild Rice and Marsh Rivers in 1954 (the Upper Reaches Project). The project consisted primarily of channel improvements to river miles 27.3 to 48.3 of the Wild Rice River and river miles 21.0 to 45.0 of the Marsh River. Additional project features included a control structure on the Old Marsh River. Details of the project and its scope can be found in the 1956 Operations and Maintenance Plan and subsequent inspection documents prepared by the Corps.

Excavated material from the Upper Reaches Project was sidecast into spoil piles on adjacent riverbanks. The spoil piles formed a rough levee system that provided additional flood protection along most of the river reaches affected by the project. Beginning in 1954, the Wild Rice Watershed District graded and shaped the spoil bank material into levees on both sides of the river to increase the level of flood protection. The majority of this work was completed in 1954 but additional work on the levee system continued until about 1978.

Since 1978, some stretches of the system have been reconstructed – set back from the river channel and tied back into the levee system on either side of the re-alignment. These setback realignments have been accomplished through the acquisition of right of way and the payment of damages.

What exists today is a levee system on each side of the river(s) consisting of modified and unmodified spoils from the original project. This system of levees, in total, is referred to as non-Federal since it was primarily constructed and maintained by the Watershed District. The non-Federal levees provided additional flood protection and damage reduction to that designed into the Upper Reaches Project.

Since their construction, the District has treated the non-Federal levees as flood control works of the District. Beginning at least in 1978, the District enrolled the levees under public law 84-99 as non-Federal Flood Control Works. Under public law 84-99, the Corps of Engineers conducts periodic eligibility inspections of the levees and provides cost share for maintenance activities. Since 1978, the District has conducted over \$2 million in levee repairs with federal assistance. Survey information contained in Corps of Engineers' inspection documents provides limited information on the configuration and elevations of the non-Federal levees. However, Approximately 95% of the levee system has been surveyed by the Watershed District's engineers since 2004. In addition, full LiDAR coverage from 2003, 2006, and 2008 gives a fair level of detail regarding the non-Federal levees.

The Upper Reaches Project was designated with an exceedance frequency of approximately 10 years, which included a significant flow split to the Marsh River. A much lower level of protection exists along the Wild Rice River today due to the actions of erosion and deposition. Over the years, erosion due to head cutting has occurred at the upstream end of the project, causing a reduction in the flow split to the Marsh River and sending a greater portion of the flow down the Wild Rice River.

The Wild Rice and Marsh Rivers have adjoining basins with drainage areas of 1,653 and 300 square miles, respectively. The two basins include nearly all of Norman and Mahnommen Counties and small portions of Clay, Becker, Clearwater, and Polk Counties. The Wild Rice River originates in the southwestern part of Clearwater County and flows westerly for about 193 miles. The Marsh River originates near the Wild Rice River at a point about 2 miles southeast of Ada, Minnesota. However, in 1895, the Marsh River ditch (also known as Judicial Ditch 51 or the Marsh River Diversion) was constructed to permit diversion of a portion of the flow from the Wild Rice River at a point about 5 miles east of Ada into the Marsh River Channel at a point about 6 miles west of Ada. Also prior to the project improvements, a diversion channel between the Wild Rice River and the source of the Marsh River was established as the result of frequent and heavy overbank flow along this route. In recent years, the Marsh River ditch has become known as the Marsh River, and the reach of the Marsh River upstream from the ditch confluence is called the "Old Marsh River."

According to the 1956 Operations and Maintenance manual, prior to completion of the Upper Reaches Project, high discharges on the Wild Rice River caused frequent, severe flooding. The area affected was a 75-square-mile triangular-shaped area with its apex on the Wild Rice River about 6 miles east of Ada and a downstream leg on a line between the two rivers at a point about 7 miles west of Ada. Except for urban areas in Ada, the flood area is mainly flat, fertile agricultural land. In other areas in the two basins, the flood flows are confined to narrow, sharply defined stream valleys.

The Upper Reaches Project on the Wild Rice and Marsh Rivers provides for flood control and major drainage. The project consists of improved channels through the principal flood area and a dike and gated culvert to control diversion of flow from the Wild Rice River to the upper end of the old channel of the Marsh River.

The original project improvements were designed to provide sufficient channel capacity to pass the then current design flood (approximately the 10-year flood) within the channel banks along the improved reaches of the rivers. The project features originally afforded substantial reduction in the stage and duration of floods of greater magnitude. Currently, the project provides about a 2 to 5-year level of protection through the majority of the reach, including protection provided by non-Federal levees constructed from spoil material resulting from the Federal project.

The non-Federal levee system is located along the Wild Rice River in Norman County, Minnesota. The levees provide flood protection to agricultural land and to the city of Ada, Minnesota. The levee system generally begins near the confluence of the South Branch and main stem of the Wild Rice River and extends upstream approximately 14.7 river miles. Additional non-Federal levees extend upstream along the South Branch from the Wild Rice River to County Road 14.

Where modified, the levee system consists of trapezoidal earthen levees. Levee top widths vary from about 6 to 16 feet, with side slopes generally ranging from 1 vertical (V) on 3 horizontal (H) to 1V on 4H. The levee height varies from 0 to 20 feet, with 4 feet being the average height. The majority of the levee slopes are protected by grassy vegetation, while some portions of levees remain overgrown with trees and brush. Some reaches of the riverward slope are protected with stone where levee repairs have been performed by the Corps of Engineers, the Natural Resources Conservation Service, or the Watershed District. Where unmodified, the levee system consists of the original spoils which have since overgrown with grasses and woody vegetation. In some areas the levee system is tied into natural high ground.

The material used to construct the levees along the Wild Rice River in 1954 was generally obtained from the sidecast spoil of the Federal project. The material used was reported to be impervious. Levee material inspected at a few locations indicated that the fill consisted of silty clay of medium plasticity. Material used to repair or replace damaged embankment sections may contain more silt or sand, depending on available borrow.

The levees generally have an adequate cross section and tend to perform well as flood barriers. Consideration was given to the unique condition of breakout flows from the right bank of the Wild Rice River levee flowing overland, and away from the levee toward the Marsh River, rather than pond and flood the entire area behind the levee. For this reason, levee elevations are generally higher on the right bank than the left.

R I N K E N O O N A N
A T T O R N E Y S A T L A W

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MEMORANDUM

TO: Wild Rice Watershed District Board of Managers
FROM: John C. Kolb
DATE: April 28, 2009
SUBJECT: Borgen Complaint Regarding Upper Reaches

Issue:

You asked that I look at the recent complaint (received by the District on 3/16/2009) of Mr. Brian Borgen regarding the upper reaches project. In his complaint, Mr. Borgen requests removal of levees to an elevation that would stop flooding on his property in sections 18 and 7 in May Township and his home property near Hendrum. Mr. Borgen further requests payment of past damages.

Conclusion:

I have considered Mr. Borgen's complaint in the context of the history of Upper Reaches and the associated levees. I conclude that there is no individual action the District can take to satisfy Mr. Borgen's complaint. Mr. Borgen has provided no evidence to support his claim for damages and has given no authority or theory by which the levees can be removed. The Board should communicate to Mr. Borgen that it is taking no action on his complaint.

Mr. Borgen's complaint, however, does highlight the need to consider a more comprehensive approach to levee maintenance (ie. adoption of a maintenance policy), and, possibly, a successor watershed project that will establish uniform flood protection standards for the levees and their future maintenance.

Recommendation:

1. Establish Repair Policy (near term): The issue of a repair policy was last discussed by my office in January, 2007. At that time, Jerry Von Korff wrote:

It is my recommendation that the Watershed District will be on a much sounder footing, as it proceeds in the future, if it would adopt a levee maintenance policy. Adopting a policy gives you an opportunity to consider the various issues that would impact upon your decision when requests for maintenance are made. Adopting a policy avoids the perception that you are making your decision on an ad hoc basis; it allows you to hear from the public on the various factors that

R I N K E N O O N A N S M O I E Y , D E T E R C O L U M B O W I A N T V O N K O R F F & H O B B S L T D

D. Michael Noonan
William A. Smokey
Kurt A. Deter
Berrett L. Colombo

James L. Wiant
Gerald W. Von Korff
Sharon G. Hobbs
David J. Meyers
John J. Meurers

Roger C. Justin
John J. Babcock
Igor S. Lenzner
Gary R. Lenzico
John C. Kolb

Scott G. Hamak
Pamela A. Stockman
Stefanie L. Brown
Tonya T. Hinkemeyer
Ryan J. Holton

Benjamin B. Bohnsack
Tim A. Sims
James A. Mogan
Nicholas R. Delaney
Chad D. Miller

Adam A. Ripple
Brodie L. Miller
Andrew J. Steil
Katie R. Minnich

1. Qualified neutral under Rule 114. 2. A Real Property Law Specialist certified by the Minnesota State Bar Association. 3. Admitted to practice law in Wisconsin. 4. Admitted to practice law in North Dakota. 5. Admitted to practice law in South Dakota. 6. Sherburne County Examiner of Titles. 7. Admitted to practice law in Arizona. 8. Admitted to practice law in Iowa.

interested parties would like you to consider. Any policy that you adopt would, of course, be limited by availability of funds.

If you decide to adopt a policy, then I would recommend that as you consider individual requests for levee repair, you then consider those requests based upon the factors listed in your policy. Then, when you approve, or disapprove a request, you would adopt a resolution or order which states that your action is in conformance with the policy and which provides a statement of the facts that support your decision.

A policy on levy maintenance should be premised either on the expected level of flood protection to be provided by the levees or upon the historical elevations of the levees. Protection determinations are typically made in the context of proceedings to establish the levees. There is, however, no clear record regarding the design and construction of the levees.

Though historical documents indicate that the District or its predecessor constructed the levees in 1954, is not clear regarding when and how it began to treat the levees as works of the District. It is clear, however, since 1978, that the District did, in fact, treat the levees as works of District -- repairing the levees, with Federal assistance, to existing elevations.

I am preparing a draft of findings to support a repair policy for the levees. A task for the engineer in assisting to develop a repair policy will be to conduct an analysis and make a recommendation to the Board regarding a repair elevation for the levees. Once that is prepared and accepted by the Board, future requests for repair and repair activities can be made consistent with the repair elevations.

2. Initiate Watershed Project (long term): It has been suggested that areas benefiting from the levees, and the Upper Reaches project for that matter, do not reflect current benefits rolls for the project. Additionally, it has been suggested that the levees associated with the Upper Reaches project are not coordinated to provide consistent flood protection.

In December, 2006, my office provided an opinion regarding the Upper Reaches project. We concluded that Upper Reaches is a watershed project governed by statutes chapter 103D and not as a drainage project under chapter 103E. I do not disagree with that opinion. For that reason, the District must consider the procedures in chapter 103D when seeking to correct benefits or create other predictability regarding the function, operation and maintenance of the levees associated with the Upper Reaches project.

Discussion:

Mr. Borgen's complaint is the most recent in a series of complaints regarding the District's maintenance of protective set-back levees associated with the Upper Reaches project. Back in late 2004 to early 2005, Mr. Borgen made multiple requests for work on the levees. Most notably, he requested that the Board consider raising the south side levy to match the elevation of the north side levy along the entire Upper Reaches project. The District's attorney correctly determined that such an action would require a watershed project.

Complicating the Board's consideration of this matter is the lack of information specifying the elevations of the original spoil banks on the north and south sides of the river. Though there is survey information contained in Corps of Engineers' inspection documents, there is no specific design information related to the levees. The levees were constructed from the spoil material from the Upper Reaches dredging in order to provide additional flood protection. The levees were not part of the Federal portion of the Upper Reaches project.

The Upper Reaches project consisted of channel improvements and diking along the Wild Rice Marsh Rivers. The Corps of Engineers (COE) completed the project in 1954. The project was designed to provide sufficient channel capacities to pass the 10-year design flood within the channel banks. The original operation and maintenance manual for the project, dated May of 1956 states that the watershed district, successor to the Wild Rice-Marsh River Drainage and Conservancy District, shall "maintain the channels after completion in accordance with regulations prescribed by the Secretary of the Army."

Though constructed by the District, or its predecessor, in 1954, concurrently with the Upper Reaches project, the protective set-back levees as they currently exist were not considered part of the Federal project. However, the District, since at least 1978, has treated the levees as a project or works of the District. Since at least 1978, the District has enrolled the levees under public law 84-99 as Non-federal Flood Control Works. Under public law 84-99, the Corps of Engineers conducted periodic eligibility inspections of the levees and provided cost share for maintenance activities. Since 1978, the District has conducted \$2,422,119 in levee repairs with federal assistance.

As constructed, the levees provide somewhat better flood protection at areas on the north side of the Wild Rice River. An inspection report from 2000 indicated top of levee elevation differences of over five feet in some areas. The elevation differences, however, are not consistent and, in some reaches, better protection is afforded to the south side of the river.

The District's engineering consultant had indicated a greater need for protection on the north side of the river. Breakouts to the north have a higher potential of causing severe flood damage. Additionally, breakouts to the north do not generally return to the Wild Rice channel and tend to continue to cause flood damage over a greater area as they flow north and west, eventually joining the Marsh channel.

The historical record of the levees indicates a pattern of decisions and actions by the District consistent with treatment of the levees as flood control works of the District.

Norman County Commissioner Steve Jacobson requested that a copy of the Findings and Repair Policy be mailed to all townships that are affected.

13. Brian Borgen Complaint. Also discussed was a complaint filed by Brian Borgen regarding maintenance on the Upper Reaches Project. As recommended by Attorney Kolb, a **motion** was made by Manager D Spaeth and **seconded** by Manager Holmvik to provide a copy of the correspondence to Borgen in response to his complaint regarding maintenance of the levees on the Upper Reaches Project. **Carried.**

14. Project #31 Heitman Coulee. Dwight Heitman and Bruce Tufte discussed the continued problems associated with the outlet of the Heitman Coulee into the Wild Rice River and the recurrent flooding of the cropland due to this. They expressed frustration in seeking a resolution. A **motion** was made by Manager Ista and **seconded** by Manager Austinson to schedule a meeting for 8:00 a.m. on June 23, 2009, at the office of Houston Engineering with landowners invited and Managers Ista, Erickson and Engineer Bents to work on a solution to the problem. **Carried.**

15. BWSR RIM Project Wild Rice River. Curtis Borchert, NCSWCD and Brian Dwight, BWSR, met with Managers to discuss the RIM program which has \$400,000 that designated the area along the Wild Rice River near the confluence of Project #31 and the Wild Rice River as a priority area. Also discussed was a motion made earlier by the Managers in which they agreed to pay an additional 20% above appraised market value of the land after all other programs had been included. Brian Dwight stated that this would be an opportunity for the District to assist with the acquisition of property if this was intended to be used later for a project. Borchert stated that in discussions with landowners prior to the project they indicated that they didn't want to sign up for the program due to the perpetual easements. A **motion** was made by Manager D Spaeth and **seconded** by Manager Austinson to rescind the previous motion by the Board authorizing the additional 20%. **Carried.**

16. John Beckwith, NRCS. John Beckwith, State NRCS representative met with Managers. Beckwith stated that he was asked by Dave White, Federal NRCS, to meet with Managers in an attempt to assist with some planning funds from the NRCS for projects. Beckwith stated he did not have any recommendations at this time.

17. State of Minnesota Audit. Loretta Johnson stated that she had contacted Kim Durbin, Drees, Risky, and Vallager, to determine if their firm would agree to withdraw from their contract with the Watershed District to do the 2008 audit. Durbin agreed with the stipulation that the District pay the minimal costs incurred to date. A **motion** was made by Manager Ista and **seconded** by Manager Erickson to proceed with the State Audit and pay fees owed to Drees Risky Vallager Ltd. **Carried.**

18. Administrator for WRWD. Curtis Borchert met with Managers and presented a proposal for a joint administrator for the District and his current position at the NCSWCD. Borchert stated that he would also consider a six month proposal. Manager Ista stated that she wanted to hire an engineer and Manager Holmvik stated that he didn't feel it was necessary for the District to hire an engineer. Holmvik stated that at this time there were too many unanswered questions. Consensus of managers was to not take any action at this time.

19. Joint Meeting with WRWD, NRCS, BWSR, and County Boards. Curtis Borchert and Brian Dwight discussed preparations for a joint meeting to discuss coordination of projects with representatives from all agencies. Dwight stated that he envisioned approximately 50-60 attendees. Consensus was to proceed with the planning meeting.

20. Minnesota Pollution Control Agency (MPCA) Meeting. A **motion** was made by Manager Ista and **seconded** by Manager Austinson authorizing all Managers to attend the MPCA meeting scheduled for the District office on June 19, 2009. **Carried.**

21. Project #42 Property Acquisition. Adam Ripple, Rinke Noonan, joined the meeting via teleconference at 3:15 to discuss the Hogetvedt and Richards land acquisition. A **motion** was made by Manager Holmvik and **seconded** by Manager Austinson to execute the second purchase agreement with Richards and pay the additional \$36,000 for the property. **Carried.** A **motion** was made by Manager Austinson and **seconded** by Manager Erickson authorizing Attorney Ripple to negotiate with Hogetvedt to rescind the current agreement with them and that Chairman Christensen be authorized to execute the agreement. **Carried.**

22. Approval of Billings. A **motion** was made by Manager Austinson and **seconded** by Manager Ista to approve the billings for June 10, 2009, as distributed along with Managers per diems and expenses. **Carried.**

23. Vik Lawsuit Strategy. Loretta Johnson stated that Kristy Albrecht was unable to attend today's meeting and asked Board members if they would like to invite her to come to the reconvened meeting on June 17, 2009, to update the Managers and discuss strategy of the Vik Lawsuit. Consensus of Managers was for Johnson to contact Albrecht and invite her to the meeting.

24. WRWD Insurance. Kari Kujava reported to Managers that John Hoffman ICS, just contacted her and informed her that no other carrier had picked up the District for insurance. Consequently the District will stay with AIG. A **motion** was made by Manager Ista and **seconded** by Manager D Spaeth to accept the submittal by AIG and make the payment of \$5,939 for the insurance. **Carried.**

25. Pay Requests. Engineer Bents submitted the following pay requests: Pay Request #2 to D.J. Construction for the Kane ring dike in the amount of \$3,013.20; Pay Request #4 to D.J. Construction for the Grothe ring dike in the amount of \$9,638.66; Pay Request #3 to All Seasons for the repair of J.D. #53, including a Change Order in the amount of \$3,230 for \$11,345. A **motion** was made by Manager J Spaeth and **seconded** by Manager Ista to approve all pay requests. **Carried.**

26. Five Year Bonding Plan. A **motion** was made by Manager Ista and **seconded** by Manager Austinson to approve the Five Year Bonding Plan as distributed with the removal of C.D. #18. **Carried.** Engineer Bents will submit to the RRWMB.

27. Chairman Christensen recessed the meeting at 4:30 p.m. to be reconvened at 8:30 a.m. on Wednesday June 17, 2009.