

# WILD RICE WATERSHED DISTRICT

11 Fifth Avenue East – Ada, MN 56510

Phone: 218-784-5501

## REGULAR MEETING

1. The regular meeting of the Wild Rice Watershed District Board of Managers was held on Wednesday, July 14, 2004, at the office of the District, located at 11 Fifth Avenue East, Ada, Minnesota.
2. The following members were present: Warren J. Seykora, Robert E. Wright, James Wagner, Sr., Jim Skaurud, Diane Ista and Joe Spaeth. The following members were absent: Steve Dalen. In addition, the following persons were present: Administrator Jerry Bennett, Attorney Elroy Hanson and Loretta Johnson, recording secretary.
3. Chairman Seykora called the meeting to order at 8:40 a.m.
4. Doug Marcussen reviewed the monthly financial report of the District dated June 30, 2004. Upon a motion by Manager Spaeth and second by Manager Wright, the monthly Financial Report was approved for entry into the record. Carried.
5. Jerry Bents arrived at 9:00 a.m.
6. Steve Dalen arrived at 9:15 a.m.
7. Administrative Salary Survey. Accountant Marcussen distributed information from an administrative salary survey that he conducted with the various watershed districts from across the state. The survey conducted by Marcussen included hourly rate, hours of work per week, years of service, and size and work loads of the watershed. Marcussen stated that a couple of the watershed districts had not responded and he is working for this information. Marcussen stated that from the survey he felt that the Wild Rice Watershed District compared in the upper level for amount of funds utilized and overall complexity of their operations. It was felt by Manager Ista that Marcussen should obtain the information from some of the other watershed districts including the Red River Watershed Management Board to complete the salary survey information. It was the consensus of the Board to have Marcussen pursue with the districts that have not responded to obtain this data.
8. Annual Report 2003. Tim Halle distributed a draft copy of the 2003 Annual Report. Consensus of Managers was to provide any comments or changes prior to July 21, 2004. A motion was made by Manager Ista and second by Manager Wright to proceed with publication after receiving any remaining comments on the 21st. Carried.

9. The bills of the District were reviewed. Administrator Bennett provided an additional billing for beaver removal on Norman County Ditch #45, submitted by Eugene Hanson in the amount of \$225. Upon a motion by Manager Skaurud and second by Manager Wright, the bills were unanimously approved and ordered paid to include the additional billing from Sundal Township in the amount of \$225. Carried. A listing of the bills approved is attached at the end of these minutes.

10. Proposed 2005 Administrative Budget. Doug Marcussen discussed obtaining Board action to prepare a proposed 2005 Administrative Budget for consideration at the budget hearing in September. A motion was made by Manager Wright and seconded by Manager Skaurud appointing Accountant Doug Marcussen, Administrator Bennett and Manager Wagner, Treasurer to prepare a draft budget for consideration by the Board at their August regular meeting. Carried.

11. Wild Rice River COE Feasibility Study (WRRFS) WRR Off-Channel Storage Investigation. Administrator Bennett reported that letters were sent to all of the landowners within the six-mile off channel storage area on the Wild Rice River. The letter asked landowners to respond if they are willing to allow the watershed District to investigate the potential for flood storage on their land. Plans are also to schedule a landowner meeting to provide information and answer questions about the concept of off channel storage on the Wild Rice River Off Channel Storage Concept.

In connection with the South Branch Storage Investigation Administrator Bennett reminded Board members of the upcoming informational meetings scheduled for 7:00 p.m. on Thursday, July 15, 2004, at the Borup Community Hall and Tuesday, July 20, 2004, at the Ulen VFW Meeting Room.

Engineer Bents reviewed options to consider for the project modeling on the Wild Rice River Feasibility Study. Bents proposed 14 options to consider instead of the four being currently proposed by the COE. Houston Engineering wants to schedule a meeting with the COE next week to review the proposed options and discuss the additional costs. Manager Wagner asked about the diversion operation and the number of times it could be utilized. Bents stated that he would bring this up for further discussion at a future meeting, looking at the Hendrum gage and the number of times the water was above flood stage. A motion was made by Manager Dalen and seconded by Manager Wagner authorizing Managers attendance at the COE meeting in St. Paul next week to put together options for with project modeling. Carried.

Engineer Bents also reviewed the conceptual designs for the setback levee alignments. Manager Wagner felt that the proposed setback levee alignments should not be set too close to the old oxbows that could create future problems with erosion to the levees. Bents stated that Houston Engineering has plotted the levee alignments on aerial photos and discussed having Board members and Administrator Bennett review these alignments prior to the landowner meetings. A motion was made by Manager Dalen and seconded by Manager Skaurud authorizing Manager Wagner, Engineer Bents and Administrator Bennett to schedule a meeting and review the outline of the proposed levee alignments for any needed changes prior to the landowner meetings. Carried.

12. Norman County Highway Department County Road #19 Request. Administrator Bennett reported that County Board Chairman Steve Bommersbach requested that Chairman Seykora, Engineer Bents and Administrator Bennett attend the upcoming County Board meeting scheduled for Thursday, July 22, 2004, for the purpose of providing input on the permit approved by the District for the project.

Bommersbach also requested that Engineer Bents address the issue of impacts to the Green Meadow Dam due to the culvert changes in Section 13, Green Meadow Township. Administrator Bennett reported on the recent County Board meeting held on Tuesday, July 6, 2004, where a number of landowners were in attendance expressed concerns over the culvert changes. Manager Wagner expressed concerns over increased flows that could impact the Green Meadow Dam. Bennett stated that the County Highway Department has agreed to have their engineer review the permit application again; Mick Alm did complete hydraulic studies of the proposed changes. Bennett stated that the Green Meadow Dam was discussed at the County Board meeting and it was reported that the Board of Managers authorized Midwest Testing to conduct an analysis of the safety of the structure by conducting a geotechnical analysis. Chairman Seykora stated that the District has already approved the permit application so any changes now would need to be proposed by the County. Manager Wagner stated that the Board did not get all of the facts in reviewing the permit. Engineer Bents stated that the changes proposed in the permit by Norman County were determined to be reasonable and that part of the permit review process Mick Alm had went over every mile of the project and the changes to the culverts. Manager Ista stated that the District would not be able to take any action until the Norman County Highway Department proposed a change to the current permit application. Manager Ista stated that at the initial meeting held with landowners and the County Engineer, Mick Alm indicated that there were changes as a result of landowner concerns. Ista continued that the District engineer has indicated that the Green Meadow Dam may be unstable and felt that increase in culvert sizes on County Highway #19, in her opinion, may affect the Green Meadow Dam. Ista stated that she also questioned Mick Alm if the increase in culvert sizes were reverted to their original condition, would it affect his road project, to which he replied that it would not. Engineer Bents stated that he continues to stand behind his original decision regarding the permit application recommendation and feels that what the county proposed was determined to be reasonable. Manager Wagner stated that he drives by the project frequently and at the last flood event high water came into the Green Meadow Dam so fast that it washed out the road coming into the dam, and now the increased culvert sizes along County Road #19 would cause additional water to flow faster into the dam. Engineer Bents stated that it is not the Watershed District's position to design the county road project, as the changes would not have a significant effect on the Green Meadow Dam Project. A motion was made by Manager Spaeth and seconded by Manager Ista authorizing Engineer Bents to prepare a letter to the Norman County Commissioners to reaffirm the permit decision and to address the effect on Green Meadow Dam as it relates to the changes on County Road #19, along with approval for Administrator Bennett, Warren Seykora and Engineer Bents to attend the upcoming County Board meeting. Carried.

13. Farmstead Ring Dikes. Engineer Bents updated the Managers on the status of the ring dike projects, and reported on the recent walk through held by Managers Skaurud and Wagner and Mike Buerkley, Houston Engineering. Bents recommended holding the final pay requests for the Askegaard and Docken ring dikes until items on the checklist are completed. Upon a motion by Manager Wright and second by Manager Spaeth, Final Pay Request in the amount of \$2,738.35 to Roger Hennen for the Charles Hilde ring dike was approved. Carried. Upon a motion by Manager Ista and second by Manager Skaurud, Final Pay Request in the amount of \$1,268.10 to Ziegler Construction for the Brian Rasmusson ring dike was approved. Carried. Upon a motion by Manager Spaeth and second by Manager Wagner, Partial Pay Request #2 in the amount of \$234 to Geray Dozing and Excavating for the Jan Self ring dike was approved. Carried. Upon a motion by Manager Ista and second by Manager Spaeth, Partial Pay Request #2 in the amount of \$23,673.60 to Geray Dozing and Excavating for the Deb Ruebke ring dike was approved. Carried.

14. FEMA 2002. Upon a motion by Manager Skaurud and second by Manager Wright, Final Pay Request in the amount of \$2,301 to All Seasons Construction for FEMA 2002 repairs was approved. Carried. Upon a motion by Manager Spaeth and second by Manager Wagner, Final Pay Request in the amount of \$3,124 to Ziegler Construction for FEMA 2002 repairs was approved. Carried. Upon a motion by Manager Spaeth and second by Manager Skaurud, Final Pay Request in the amount of \$4,362.75 to All Seasons Contracting for FEMA 2002 repairs was approved. Carried. Upon a motion by Manager Wright and second by Manager Ista, Final Pay Request in the amount of \$10,219.52 to Roger Hennen for FEMA 2002 repairs was approved. Carried.

15. Judicial Ditch #56. Upon a motion by Manager Ista and second by Manager Spaeth, Pay Request #2 in the amount of \$25,939.44 to RBR Development for work on Judicial Ditch #56 was approved. Carried.

16. Heiberg Dam. Administrator Bennett reviewed the status of the Heiberg Dam FEMA repair project. Bennett stated that the revised cost estimate is approximately \$825,000 and these costs do not include land acquisition. The items related to the repair of the dam back to its original condition, is approximately \$385,000. The balance of the costs, which would be for fish passage, may not be covered by FEMA. Bennett stated that the USFWS has two possible grants, one for \$70,000 and \$40,000 and there is a possibility of obtaining \$50,000 from the DNR fisheries budget. Mike Swan of the White Earth Tribe has indicated that they are submitting a grant to the U.S. Fish & Wildlife Service which could possibly provide \$100,000. Bennett stated that for the construction costs, he was not suggesting collecting the funding shortfall through a local assessment, but rather trying to obtain the remaining funding from outside sources. Bennett noted that the project under the FEMA guidelines require the local sponsor to prepare the project plans and therefore the assessed area may need to cover these costs. Manager Dalen questioned if the District could use local funds to get the project started this fall and then be reimbursed once the grants are executed. Bennett stated that normally the grants need to be in place prior to starting the project, which would mean delaying construction until a funding package has been determined.

In connection with land acquisition, Attorney Hanson stated that the City of Twin Valley has the majority of the property and they have already been contacted about providing the Watershed District with a deed to the property. Norman County indicated that they would provide the District with a deed to the property, that they have in their ownership. Juel and Bjorn Furuseth and Phillip Ellingworth are private property owners and have yet to be contacted. A motion was made by Manager Spaeth and seconded by Manager Wagner authorizing Managers Seykora and Skaurud to meet with Phillip Ellingworth and Juel and Bjorn Furuseth to explain the project and determine their interest in providing the District with fee title ownership or an easement. Attorney Hanson will also continue working with the City of Twin Valley and Norman County to finalize the property acquisitions. Carried.

17. Janis Jensen and Don Vellenga arrived at 1:45 p.m. Mark Harless, Curt Jacobson and Lee Ann Hall arrived at 2:00 p.m. Ed Miller and Mark Chase arrived at 2:10 p.m.

18. South Branch Repairs, Sections 31-35, Winchester Township. Shawn Crompton, Kevin Anderson and Brian Borgen met with Managers at 1:00 p.m. to discuss a request by landowners for repairs in Sections 31-35 of Winchester Township, Norman County. Engineer Bents reported that the survey data prepared by Houston Engineering indicates that the ditch should be cleaned to the originally construction gradeline and also the side slopes restored to their original cross-section in Sections 31, 32, 33, 34 and 35 of Winchester Township, Norman County. The proposed repair would restore the hydraulic capacity of the channel to when it was originally constructed. The total cost of the proposed repair is estimated to be approximately \$576,000, which does not include costs for construction easements, spoil leveling estimated to be approximately 175 acres. Bents indicated that the intent is to stabilize the side with vegetation, however, during construction; there is a time period that the project may be susceptible to erosion. Bents stated that they would try to eliminate this potential problem by having the contractor work on a mile or so at a time and then seed the area prior to opening up the next mile. Kevin Anderson stated that he farms land that drains into the South Branch and during a major runoff event the field drains do not function properly. Anderson stated that originally the field drains had a drop pipe design, which was later changed to a straight pipe. Anderson stated that the current inlet design causes sediment to build up at the pipe outlet. Brian Borgen discussed additional downstream problems where the last two miles of the South Branch Channel do not have any levees and questioned if they could petition for an improvement or through a permit, obtain equal protection on the downstream end of the project. Attorney Hanson stated that the petition process has certain legal requirements including addressing the outlet for the improvement. Shawn Crompton asked if it is correct to say that these repairs would be placing the ditch system back to the original condition and not causing additional flows downstream from the original project. Engineer Bents stated that the work proposed would be to only put the project back to its original condition. Administrator Bennett stated that another consideration is the A.C. Heiraas request on the South Branch for repairs that could be addressed during the hearing for repairs in Winchester Township. In response to Brian Borgen's concerns, Engineer Bents stated that there are a couple of different avenues to consider in regard to his downstream issues, including applying for a permit or petition for a project similar to what was done on the Dalen Coulee Project. Manager Dalen suggested that the Managers provide Borgen assistance to explain the process. A motion was made by Manager Ista and seconded by Manager Wagner authorizing Board and staff to schedule a meeting with Brian Borgen and other interested landowners to look at the downstream area and provide assistance on how he may be able to proceed with project formulation. Carried. Borgen, Anderson and Crompton left the meeting at 2:10 p.m.

19. Concerned Citizens Wild Rice Watershed District (CCWRWD) Presentation on Flooding Solutions. Don Vellenga, CCWRWD, gave a PowerPoint presentation on the CCWRWD vision of flood control in the Wild Rice Watershed District. Vellenga began the presentation by thanking the Managers for time on the agenda. Information in the presentation included costs as a result of flooding and sedimentation, including economic impacts, property loss figures, costs of SBA loans following flood events and crop loss damage figures. Vellenga provided information that in the opinion of the CCWRWD, they believe that there needs to be approximately 125,000 acre-feet of storage on the Wild Rice River mainstem and 30,000 acre-feet of storage on the South Branch of the Wild Rice River. Vellenga said that small storage sites will not reduce the flow of water enough to make a major impact and that storage sites need to be strategically placed. Small sites will require too many acres and flood storage areas need to be maximized by holding water 10-25 feet deep on every acre used for floodwater storage. Sites identified for possible storage include WRR Faith site (16,000 A.F.); Twin Valley Dam (44,300 A.F.); Marsh Creek Site #6 (2,500 A.F.); Coon Creek (13,000 A.F.); along with sites on Mashaug Creek, Spring Creek and tribal lands. Ed Miller questioned the total number of acre feed needed stating that the CCWRWD did not bring any new ideas to the table.

Manager Wagner asked how this storage could be achieved, including permits, and funding of the projects. Vellenga illustrated a map of possible locations for storage and stated that this storage must be strategically located to do the most good. Climatologists' predictions are that flooding will only get worse and we must be ready for our next disaster. This is achieved by effective leadership at a county level, Watershed District Managers, County Commissioners and willing citizens who will take a proactive role in flood control and stated that the presentation given is their vision of flood control and questioned what the Watershed District's vision is for reducing flooding. Curt Jacobson questioned the Board if they have a plan or a vision for future projects that they can request the assistance of Congressman Collin Peterson.

Manager Ista replied that she felt the District has a vision and a plan to address the flooding and said that it has been an eye opener for her working with the process and the different agencies. Ista felt that everyone, including the Concerned Citizens, County Commissioners and Watershed Districts all need to work together. Ista stated that the District is currently working on the WRR COE Feasibility Study, which is being cost shared with the COE. At the conclusion of the study the District will have detailed information that can be used to make decisions on the projects that can be supported for congressional funding. Some of the solutions being considered include the setback levees, storage and diversion. Ista stated that the Watershed District is the authority to implement the solutions, although she agreed that she would like to see it done a lot faster. Ista commented that she understood and appreciated the efforts by the Concerned Citizens and stated that there is a need to develop relationships in the eastern part of the Watershed District and along the South Branch of the Wild Rice River if we are going to be successful. Ista felt that organizations such as the Concerned Citizens can assist with finding sites and stated that she didn't think there is anyone here who doesn't want the same thing as the Concerned Citizens.

Ed Miller stated that it was his understanding that he was going learn something new, but indicated he did not hear anything from the Concerned Citizens that he had not heard before. Manager Dalen questioned Curt Jacobson about the time frame to implement the CCWRWD vision for storage. Jacobson replied about ten years. Dalen felt the large on-channel storage site would take in his opinion a minimum of at least 50 years requiring a lot of changes. Manager Seykora felt if it couldn't be done in the 70s, it would be unrealistic that it can be done under the current environmental climate. Janice Jensen asked if a meeting with the DNR attended by a large group of citizens would help in obtaining permits. Vellenga discussed other areas, which have accomplished flood control projects such as Warren and Roseau and felt the Managers need to listen to people who are frustrated with the flooding and want the best for the community. Ed Miller stated that a major part of the Warren Project included a diversion and not just storage. Miller asked the CCWRWD if they supported a diversion for the WRR. Curt Jacobson stated that he is not opposed to the diversion but felt the storage was needed to address the problems with sediment and erosion from the beach ridge area. Vellenga also commented that the Concerned Citizens do not necessarily need a large Twin Valley Dam, but small projects would also be beneficial. Vellenga requested that the Board authorize the Concerned Citizens to present this PowerPoint presentation to the Project Team. A motion was made by Manager Ista and seconded by Manager Wagner authorizing the CCWRWD time on the agenda at the upcoming Project Team meeting. Carried. Concerned Citizens and County Commissioners left the meeting at 3:00 p.m.

20. Manager Dalen left the meeting at 3:00 p.m.

21. USFWS Presentation on Land Use Changes with CREP. At 3:00 p.m. Mark Chase, USFWS, gave a presentation to the Managers on promoting land use changes with CREP for the purpose of preserving and restoring natural resources including bird and duck habitat. The Power Point presentation illustrated a vast amount of information using GIS layering, on birds, habitat suitability, grassland bird population, Prairie Chickens and grassland birds. Putting all of these layers together provides a tool to be used when purchasing and restoring valuable wetland and waterfowl areas. Chase requested that he shows the presentation at a future Project Team meeting and felt that in discussions about CREP and targeting CREP, it would be beneficial to the Project Team and the Watershed District. Chase left the meeting at 3:45 p.m.

22. A.C. Heiraas South Branch Repairs. Manager Wright abstained from the discussion. Engineer Bents reported that he is in the process of preparing a conceptual proposal and cost estimates for the Heiraas bank stabilization/restoration. Attorney Hanson stated that the Heiraas lawsuit remains a separate issue from the bank stabilization/restoration issue. If considered as a repair on the South Branch project, it would need to meet the same requirements as any other repair. Attorney Baer feels convinced that the bank stabilization can be justified as a repair on the project. Attorney Hanson recommended that Engineer Bents provide some options to Attorney Baer on possible repair options and costs.

Engineer Bents also discussed with the Board the FEMA repairs in Section 31, Winchester Township on the South Branch. Bents reviewed additional work beyond the FEMA repair to reduce the future maintenance costs. A motion was made by Manager Skaurud and seconded by Manager Ista authorizing the additional measures for an estimated cost of \$20,000 on the FEMA repair site in Section 31, Winchester Township. Carried. Manager Wright abstained.

23. Upper Reaches Project. Managers discussed unauthorized work done by an unknown party who raised a portion of the levee in Section 35, Hegne Township. Manager Wagner felt that the landowner should be contacted, notifying him that the District will be restoring the levee back to its original condition and that the cost related to the restoration will be charged to the landowner. A motion was made by Manager Wagner and seconded by Manager Spaeth authorizing Houston Engineering to investigate the complaint and perform any needed restoration in Section 35, Hegne Township, and for Attorney Hanson to notify the landowner that they will be charged for the restoration costs. Carried.

Administrator Bennett reported on a request from Thor Gilbertson to perform levee restoration in Section 22 of McDonaldsville Township. A motion was made by Manager Spaeth and second by Manager Ista authorizing Houston Engineering to investigate the request by Gilbertson. Carried.

24. Brian Borgen left the meeting at 4:45 p.m.

25. A.C. Heiraas South Branch Repairs. Attorney Hanson reviewed a letter received from Zenas Baer with a request for Attorney Hanson, a representative from Houston Engineering, Jack Cousins, Clay County Highway Department Engineer and Attorney Zenas Baer and A.C. Heiraas to meet on site to discuss the bridge replacement by Clay County as it relates to the concerns by Heiraas for channel work and bank stabilization. Consensus of Managers was for Engineer Bents and Attorney Hanson to meet with Baer, Heiraas and Cousins.

26. Upper Felton Ditch Storage Site. Manager Wright abstained from discussion. Administrator Bennett reported on securing the option for the Wright property and the related issue of the purchase, replacement or moving of a 44' x 80' pole shed, which is within the flood storage easement area. Wright is in the process of obtaining quotes for moving and building or its replacement.

27. Moccasin Creek. Managers discussed a draft letter proposed by Curtis Borchert, Norman County SWCD, to be sent to landowners in the Moccasin Creek area. Borchert is scheduling the meeting to discuss a possible project development in this area and to determine the interest by local landowners. It was the consensus of the Board to support sending the letter as drafted by Borchert.

28. Marsh Creek Site No. 6. Attorney Hanson reported that the response from the DNR on withdrawing of the permit application was that permission from the District is not necessary before they withdraw the application, however they agreed to hold off on taking any action until the next legislative session.

29. Chairman Seykora recessed the meeting at 5:20 p.m. to be reconvened on Tuesday, July 27, 2004.

30. Chairman Seykora reconvened the meeting at 8:45 a.m. on Tuesday, July 27, 2004. The following members were in attendance: Jim Skaurud, Bob Wright, James Wagner, Sr., Steve Dalen, Joe Spaeth and Diane Ista. In addition the following persons were in attendance: Attorney Elroy Hanson, Administrator Jerry Bennett and Loretta Johnson, recording secretary.

31. Annual Report. Copies of the 2003 Annual Report were distributed to the Managers. A motion was made by Manager Spaeth and seconded by Manager Skaurud authorizing publication and distribution of the 2003 Annual Report. Carried.

32. A.C. Heiraas South Branch Repairs. Attorney Hanson reported on the on site meeting held with Hanson, Engineer Bents, Clay County Highway Department Engineer Jack Cousins, A.C. Heiraas and Attorney Zenas Baer. Hanson stated that Attorney Baer is acknowledging that there be no significant work done on the north side, but the south side is severely eroded and Heiraas is still requesting that the District connect reach one and reach two and continue with reach two up to the County bridge project. Manager Wagner raised concerns about the requests from Heiraas continue to change. Manager Dalen questioned if there are still FEMA funds available for the repair and also asked if there would be a way that downstream landowners including Brian Borgen's request for repairs could be combined for a larger package and work at obtaining outside funding for a larger project. Attorney Hanson suggested that A.C. Heiraas and Attorney Zenas Baer be invited to discuss their concerns at the August regular meeting.

33. Marsh Creek Site #6. Attorney Hanson reported that Larry Kramka, DNR, stated that the DNR is withdrawing the DNR permit on the Marsh Creek Site #6 Project without prejudice. Hanson also reminded Managers that options on the Doug Spaeth property for use of wetland banking and several other purchase options will be lapsing. Manager Ista suggested formulation of a chronological history on the Marsh Creek Site #6 Project. Chairman Seykora felt that there is a cost to preparing this information and did not feel it was necessary at this time. After discussion, a motion was made by Manager Ista and second by Manager Spaeth authorizing Manager Ista and Tim Halle to work on a written history of the Marsh Creek Site #6 Project. Carried.



34. Heiberg Dam. A motion was made by Manager Skaurud and seconded by Manager Dalen to set the hearing date on the Heiberg Dam Project for 7:00 p.m. on Wednesday, September 15, 2004, at the Community Center in Twin Valley, Minnesota. Attorney Hanson will take care of the official notice for the project. Carried.

35. Permit Application of C.P. Railroad in Section 8, of Popple Grove Township. Attorney Hanson stated that Leon Stalboerger, a ditch viewer appointed for Mahnomen County Ditch #3, called the office with a complaint that C.P. Railroad signed a certification that they had contacted property owners downstream of the bridge installation, but Stalboerger is claiming they did not contact the correct property owners. Because a requirement of the permit approved by the District is that C.P. Railroad obtain the signatures of downstream landowners to T.H. #113. Stalboerger stated that he was unhappy with the C.P. Railroad project and felt that the wrong people were contacted. Stalboerger felt that the impacts continue farther downstream than T.H. #113. Administrator Bennett stated that Leon Stalboerger wanted to come into the board meeting to address the issue, however since the permit has already been approved, the appropriate action would be to appeal the permit. Attorney Hanson stated that in his opinion, this may no longer be an option, since the time for their appeal has passed. A motion was made by Manager Ista and seconded by Manager Dalen to request C.P. Railroad provide the needed signatures to validate the permit issued by the Board. Carried.

36. Managers Special Interest Items.

37. Meeting Minutes vs. Meeting Notes. Attorney Hanson discussed the issue of whether the notes taken at the meeting are assessable under the Data Practices Act. Hanson stated that the meeting notes would in his opinion be public data, however a problem with this is that the notes are just for preparation of meeting minutes and do not construe or replace office minutes that are reviewed and approved by the Board. Another option discussed was to record the meetings, however this would be quite an expense. The minutes that become the official meeting record utilize considerable input and evaluation in preparation of the draft that goes back to the Board. Manager Wagner questioned if portions of the minutes are being deleted and felt the minutes need to be complete. Wagner stated that there is a responsibility of the person preparing the minutes to be complete and because some Managers do not take notes, it is difficult to remember. Wagner stated that there have been questions about items left out of the minutes. Manager Dalen stated that it was his understanding that the notes are now available for Managers review, so this should no long be an issue. Manager Ista stated that after not being able to attend a recent meeting, she requested the notes from the meeting, to which Attorney Hanson indicated that they would be available. Ista felt the notes were extremely valuable to her and stated that she does not provide them to the public, but rather for her own use. Manager Wagner stated that he felt the notes from every meeting should be kept on file in the District office. Manager Skaurud stated that he has not seen a problem with the preparation of the minutes. Administrator Bennett stated that the minutes the Board receives are a draft and if Managers find inaccuracies, they should be addressed prior to formally adopting them by the Board. Attorney Hanson also cautioned against disseminating the notes to be the formal record of the meeting.

38. Rotating Officers. Administrator Bennett stated that there had been questions raised about rotating officers for the District. Manager Ista commented that in looking at other organizations, their bylaws include the number of years that you can stay in office, although there are always exceptions. Attorney Hanson stated that the bylaws of the District would have to be changed or amended if the District intends to make this a mandatory requirement. Attorney Hanson stated that the bylaws require a majority vote of the Board to select its officers. Ista commented that when you work with a board, you do not want controversy and it can be very difficult to change officers if it is not mandated by the bylaws. Manager Dalen stated that changes to the officers can be put to a vote at the annual reorganizational meeting.

39. Board Communications and Open Meeting Law. Attorney Hanson reviewed the requirements to comply with the open meeting law, which prohibits discussion on watershed business when there is a majority of the Manager present. If there are fewer than four Board members together, it is allowable to discuss Watershed District business. Manager Ista commented that she felt all of the Board members are diligent in avoiding the violation of the open meeting law. Ista did comment on communication and noted that often she hears of discussions outside of Board meetings and felt that she is left out of certain discussions. Manager Skaurud stated that he also is hearing that Manager Ista does a lot of emailing and contacts with various organizations outside of the Board meetings, which is in effect doing the same thing. Ista commented that if Managers didn't want her making outside contacts she would not do so, but stated that she is not making decisions but rather gathering information. Manager Wagner did not see communications as a big problem and commented that all decisions are made by the Board by a majority vote.

40. WRWD Board Assessment. Administrator Bennett stated that at a prior meeting the Board authorized Chairman Seykora to prepare a self-evaluation form for the Board of Managers to use for an internal evaluation. Chairman Seykora is currently working on the evaluation form. Bennett stated that approximately a year ago the District applied for a challenge grant for outside funding to support an internal planning session for the Managers. Manager Skaurud stated that he recently met with the Norman County SWCD with Brian Dwight and Ron Shelito and indicated to them that if the Soil and Water Conservation Districts did not use the self assessment as recommended by Dwight and Shelito to the Watershed District, he would not agree to doing the self assessment. Skaurud stated that the SWCD board of supervisors agreed with him. Manager Wright commented that he had attended a retreat in Mahanomen and found it to be very helpful. Manager Dalen stated that he would support Manager Ista in having a retreat to get the Board to come together on common issues and address those where there is a lack of agreement. Manager Wagner stated that he does not have a problem with any kind of an evaluation. Bennett stated that he attended a session given by Susan Senko, Department of Administration, on strategic planning and felt that she did a good job. A motion was made by Manager Dalen and seconded by Manager Wright to contact Susan Senko to determine the cost of a session on strategic planning to assist the Board with addressing the roles and responsibilities of board and staff in project implementation and report back to the Board at the August meeting. Carried. Managers Skaurud, Seykora and Spaeth opposed.

41. County Road #19 Permit. Administrator Bennett provided Managers with correspondence by Engineer Bents regarding the permit decision by the Watershed District on the County Road #19 Project. Bennett also distributed a letter by Engineer Mick Alm who prepared an additional response based on the drainage area and impacts to the road project. Chairman Seykora stated that unless there is a request to revise the permit application, there is no action to be taken by the Board.

42. Ohnstad Twichell Letter. Managers discussed correspondence received from Attorney Jay Carlson of the Ohnstad Twichell firm on behalf of his client, Curt Jacobson, regarding the private contractor agreement with J.B. Asc. Ltd. Carlson is requesting an oral deposition with Chairman Seykora and Administrator Bennett and has indicated that they will request declaratory relief action in state court to determine the legality of the contract. Hanson stated that he feels that the contract with J.B. Asc. Ltd. is a legal contract agreement, however he stated that the board is in a gray area and if you control the manner and method of how he performs his job, it takes on an employee relationship. However, the issue with an independent contractor agreement usually stems from a liability issue where the contractor does not have insurance. Hanson stated that this is not an issue with J.B. Asc. Ltd. as he does carry workmen's compensation insurance and general liability coverage. Hanson discussed options in addressing the Carlson letter. Options include a response to Carlson and just go into court; the District to consider making Jerry Bennett an employee; contact the Attorney General's office for a formal decision; or provide a legal response to the Carlson letter. Hanson stated that the gist of the letter from Attorney Carlson is that they want the administrator of the District to be an employee. Manager Wagner asked Attorney Hanson what he would recommend. Hanson stated that he did not know if the Board is ready to make a decision today or not. Manager Dalen questioned the time frame of an Attorney General opinion. Manager Ista stated that this is not a lawsuit; the decision today by the board is if they want to reply to Mr. Carlson, or agree to Bennett and Seykora taking oral depositions or go to court and take the court's decision. Administrator Bennett stated that Dorsey Whitney Law Firm was contacted and they did not recommend the Attorney General opinion due to the time frame involved. Attorney Hanson stated the Board may need to engage in an outside legal firm since he may have a conflict of interest, as he could be called to testify as a witness on behalf of the District. Chairman Seykora suggested that Attorney Hanson provide the necessary legal response and engage an outside legal firm if Hanson determines that is needed. A motion was made by Manager Dalen and seconded by Manager Skaurud for Attorney Hanson to engage outside legal council if necessary, to address the Carlson letter. Carried. A motion was also made by Manager Wright and seconded by Manager Ista authorizing Attorney Hanson to provide a response to Attorney Carlson that the District is rejecting the request for a deposition and responding to the points raised in his letter. Carried.

43. Complaints/Investigations/Violations. Consensus of Managers was for Attorney Hanson to notify Duane Erickson via certified mail on payment of the balance of the costs related to his violation within seven days. Administrator Bennett reported that Lloyd Jirava has filed a complaint against Jerry Matter for alleged work in Section 33 of Popple Grove Township, Becker County. Jirava is contending that a seepage ditch constructed by Matter along the east edge of his property is causing seepage onto his property. It was noted that both Attorney Hanson and Chairman Seykora have a conflict of interest regarding this complaint. A motion was made by Manager Spaeth and seconded by Manager Wagner authorizing an investigation into the complaint filed by Jirava. Carried. A motion was also made by Manager Dalen and seconded by Manager Spaeth authorizing an on site meeting with Matter and Jirava in an attempt to settle the original complaint by Matter. Carried.

44. Manager Dalen left the meeting at 11:40 a.m.

45. Attorney Hanson left the meeting at 11:55 a.m.

46. Acquisition 2002. Manager Skaurud reported that there is still a horse and many cats on the Kuehn property, which was purchased by the District as part of the 2002 Acquisition program and is scheduled for demolition. Consensus of the Managers was for Attorney Hanson to notify Kuehns that they need to remove the animals immediately or the District will take appropriate legal action. Dick Sundberg reported that Gwins and Borge have requested time extensions for removing the buildings on their properties. A motion was made by Manager Ista and seconded by Manager Wagner to notify Gwin of an extension until September 1 and Borge until September 15, 2004, as requested. Carried. It was discussed that the environmental assessment could proceed even if the personal property is not removed. A motion was made by Manager Wagner and seconded by Manager Spaeth authorizing Houston Engineering to proceed with a contract with Angstrom Analytical for the environmental assessment of the acquisition properties, which are ready for demolition. Carried.

47. Acquisition/Demolition. Chairman Seykora reported that he completed an inspection of the 2001 demolition properties and found that the grass is very good, but there is a lot of thistle. There is some additional cleanup that should be done on a couple of properties. A motion was made by Manager Ista and seconded by Manager Wright authorizing Warren Seykora to work with a contractor and obtain a cost to clean up the properties, including mowing and spraying if necessary, followed by notification to Dakota Bridge that they either complete the work or they will be billed the costs incurred by the District in cleaning up the property. Carried.

48. Mick Alm arrived at 1:00 p.m.

#### PERMIT APPLICATIONS

49. Norman County Highway, Section 10, Home Lake Township. Upon a motion by Manager Skaurud and second by Manager Wagner, Permit Application No. 7-28-04-1 of the Norman County Highway Department for road construction in Section 10, Home Lake Township, was approved. Carried.

50. Mick Alm reported to the Managers that regarding the County Road #19 Project, Kevin Jensen requested the plans, engineer's reports and hydraulic data on Norman County Highway #19 Project. Alm presented a list of the material made available to Jensen.

51. Administrator Bennett requested a breakdown of the costs related to the low water crossing installation in Section 36 of Winchester Township to be used for a request for FEMA funding assistance. Mick Alm will provide the information. A motion was made by Manager Ista and seconded by Manager Wagner authorizing staff to contact Sharon Kelly, DEM, and request the local cost share not covered with bridge replacement dollars in the amount equal to \$8,684. Carried.

52. Clearwater County Retention Grant Proposal. A motion was made by Manager Ista and seconded by Manager Wagner to approve the grant application of Clearwater County Soil and Water Conservation District in the amount of \$6,000. Carried.

53. Ryan Braulick, USDA and Ron Spiering, Student Trainee, arrived at 1:30 p.m.

54. Leo Roy and Russell Slininger, Section 23, Lake Ida Township. A motion was made by Manager Ista and seconded by Manager Spaeth, to approve Permit Application No. 7-28-04-2, of Leo Roy and Russell Slininger to install bank erosion protection on the Wild Rice River, in Section 23, Lake Ida Township. Carried. Braulick and Spiering left the meeting at 2:00 p.m.

55. SWCD Flood Storage Grant Program. It was reported that Molly McGregor, MPCA, has indicated interest in submitting a 319 application for floodwater storage implement being pursued by the SWCDs. A motion was made by Manager Ista and seconded by Manager Spaeth authorizing Administrator Bennett to work the MPCA on a funding request. Carried.

56. Clay County Soil and Water Conservation Funding Request. Correspondence was received from the Buffalo Red River Watershed District indicating they had approved funding up to \$1,000 as requested by Clay County to be used for well sealing. Consensus of Managers was to take no action on the Clay County Soil and Water Conservation funding request at the present time, considering that the Districts funds are very tight right now.

57. Comprehensive Local Water Management Planning. Administrator Bennett stated that the Norman County SWCD is in the process of updating the Comprehensive Local Water Management Plan and has provided an input request form for the District. A motion was made by Manager Ista and seconded by Manager Wright to contact Borchert and let him know that the priorities and implementation strategies in its updated Overall Plan should be used for the SWCD's plan updates. Carried.

58. City of Ada Levee Repairs/ Section 205 Study. Administrator Bennett reported that correspondence was sent to the City of Ada and provided to Mayor Ellefson regarding the requirements of acting as the local sponsor for the Section 205 Study for the City of Ada. Bennett stated that in discussions with council member, Darren Ramey, he has stated that they are in the process of providing the information to the City Engineer, Moore Engineering and deciding if they want to act as their own local sponsor.

59. Neal WMA Update. Managers Skaurud and Wagner reported on a meeting held with Harold Bergstrom to determine if Bergstrom is interested in selling his land in Section 13, Rockwell Township for the proposed project by the DNR and Ducks Unlimited. Bergstrom indicated that he would not sell a quarter section of his property, although he may trade land for another quarter section in close proximity to his land. Wagner and Skaurud stated that although the DNR is stating they need 160 acres for the entire project, they felt that Bergstrom might sell a smaller portion of the land and suggested discussing this with the DNR. A motion was made by Manager Skaurud and seconded by Manager Wagner authorizing Manager Wagner to contact the Jon Schneider, Ducks Unlimited, with the information. Carried.

60. Drainage System Repair and Maintenance. Administrator Bennett distributed a list of the July 2004 Ditch Repair Requests for review and consideration. A motion was made by Manager Skaurud and seconded by Manager Ista authorizing the beaver dam removal contract with Jim Wagner to be amended to include removal in Section 21, Pleasant View Township, on Project No. 30 and Becker Dams beaver removal and Clay County Ditch #18. Carried.

A motion was made by Manager Skaurud and seconded by Manager Wagner to approve the new repair requests as listed on the July repair report. Carried.

61. Clay County Ditch #14. Administrator Bennett reported that Houston Engineering has determined the grade line of Clay County Ditch No. 14 in Sections 14, 15 and 16 of Georgetown Township and have prepared a cost estimate of \$14-\$18,000 for the two-mile reach. Discussion was held about scheduling a landowner meeting. Consensus of Managers was to develop a mailing list followed by scheduling the date.

62. Chad Guttormson arrived at 2:30 p.m.

63. Upper Reaches Non-Federal Levee Inspection Program. Administrator Bennett discussed correspondence received from the U.S. Army Corps of Engineers regarding levees on the Upper Reaches Project that may not be eligible for assistance under the Section 205 Program due to the levees not being kept up to the standards established as part of the program. Managers felt that a site visit by COE officials for a tour of the area might be beneficial. A motion was made by Manager Ista and seconded by Manager Wagner authorizing staff to invite COE personnel to the Watershed District for a site inspection of the levees on the Upper Reaches Project area for later this fall. Carried.

#### PERMIT APPLICATIONS

64. Chad Guttormson, Section 2, Felton Township. Upon a motion by Manager Ista and second by Manager Wright, Permit Application No. 7-28-04-3 of Chad Guttormson to install a 36-inch culvert with a flap gate in Section 2, Felton Township, was approved. Carried. Guttormson left the meeting at 3:15 p.m.

65. Ken Aldrich, Section 30, Hendrum Township. Upon a motion by Manager Spaeth and second by Manager Wagner, Permit Application No. 7-28-04-4, of Ken Aldrich to install an approach in Section 30, Hendrum Township was approved. Carried.

66. Tom Borgen, Section 8, Hegne Township. Upon a motion by Manager Skaurud and second by Manager Ista, Permit Application No. 7-28-04-5 of Tom Borgen to install a field approach with a 24-inch culvert was approved. Applicant must obtain county approval. Carried.

67. Perry Ellingson, Section 31, Mary Township. Upon a motion by Manager Ista and second by Manager Wright, Permit Application No. 7-28-04-6 of Perry Ellingson to install a field approach in Section 31, Mary Township, was approved. Carried.

68. City of Mahanomen, Section 2, Pembina Township. Upon a motion by Manager Wagner and second by Manager Wright, Permit Application No. 7-28-04-7 of the City of Mahanomen to install a storm sewer in Section 2 of Pembina Township was approved. Carried.

69. Mahanomen County Highway, Section 10, Pembina Township. Upon a motion by Manager Spaeth and second by Manager Wagner, the permit application of the Mahanomen County Highway Department for a bridge replacement in Section 10, Pembina Township was tabled pending additional information. Carried.

70. Canadian Pacific Railroad, Section 23, Pembina Township. Upon a motion by Manager Ista and second by Manager Spaeth, the permit application of the C.P. Railroad for a bridge replacement in Section 25, Popple Grove Township was tabled pending notification of landowners in Sections 15, 16, 21, 22, and 23 of Popple Grove Township. Carried.

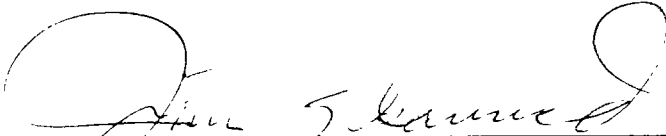
71. Special Meeting Date. A motion was made by Manager Ista and seconded by Manager Spaeth authorizing a special meeting date for the purpose of reviewing permits scheduled for 8:30 a.m. on Wednesday, August 25, 2004. Carried.

72. Complaints/Investigations. Administrator Bennett reported that Ken Visser made a \$100 payment to the Watershed District for costs incurred as a result of a permit violation. Visser also raised concerns in a letter dated July 13, 2004, regarding the permit of Paul Larson to build a ring dike. Engineer Bents is to investigate the complaint. Consensus of Managers was to contact Scherping and Pazderniks to determine the status of the complaint filed by Scherping against Pazdernik and to notify Keith Danks requesting a response in ten business days on the status of the restoration of his violation. Bennett also stated that William Tommerdahl notified the District that he had done the unauthorized raising of the levees in Section 35, of Hegne Township, on the Upper Reaches Project.

73. USACE Coordination Meeting July 23, 2004. Administrator Bennett provided a handout, which provided an overview of the optional plans discussed at the July 23, 2004, coordination meeting held in St. Paul with the COE. Managers will review the information and move for consideration at the August regular monthly meeting the preferred option for the H&H modeling on the COE WRRFS. Plan A includes 4 options for a 23 mile diversion with setback levees; Plan B includes everything in Plan A with additional off channel storage and major flow split; Plan C includes a 23 mile diversion with setback levees, off channel storage and a major flow split. Engineer Bents felt that Plan B gives the Board a considerable amount of options along with increased NRE benefits.

74. Dalen Coulee Project. Chairman Seykora presented a video of a recent onsite visit to the Dalen Coulee Project that included personnel from the Clay County Soil and Water Conservation District. Several areas were indicated in which landowners are encroaching the project right of way with farming practices. Manager Skaurud stated that he felt the Board needs to take a stand in not allowing the encroachment and suggested restaking the boundaries of the project in the fall following crop removal. Seykora stated that the grass cover is firmly established and the weeds are under control.

75. There being no further business to come before the Board of Managers, Chairman Seykora adjourned the meeting at 4:40 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>				
07/14/2004	8297	All Seasons		6,663.75
07/14/2004	8298	AmeriPride	Cleaning Services	27.39
07/14/2004	8299	Aquila	Utilities	14.89
07/14/2004	8300	Bits & Bytes	Computer Consultation	24.00
07/14/2004	8301	City of Ada	Utilities	258.85
07/14/2004	8302	Clay County Auditor	Dalen Coulee	5.00
07/14/2004	8303	Cudmore Construction	Class IV Riprap FEMA	5,000.00
07/14/2004	8304	Dakota Mailing	Supplies for Postage meter	163.69
07/14/2004	8305	Diane Ista	Per Diem and Expense	306.24
07/14/2004	8306	Francotyp-Postalia, Inc	Postage Meter Rental	83.07
07/14/2004	8307	Houston Engineering, Inc.	Engineering Fees	92,279.32
07/14/2004	8308	James Wagner, Sr.		3,979.53
07/14/2004	8309	JB Associates, Ltd., Inc.	Administrative Fees	18,538.92
07/14/2004	8310	Jim Skaurud	Per Diem and Expenses	622.43
07/14/2004	8311	Joe Spaeth	Per Diem and Expense	379.83
07/14/2004	8312	Kenneth Holum	Mileage	129.00
07/14/2004	8313	Loretel Systems	June Billings	344.04
07/14/2004	8314	Mahnomen Soil & Water Cons District	Environmental Notes	264.36
07/14/2004	8315	Marcussen Accounting	Accounting Fees	730.00
07/14/2004	8316	Norman County Auditor/Treasurer		127.50
07/14/2004	8317	Norman County Index	Billings	619.14
07/14/2004	8318	North Star Water	Water/Office	16.65
07/14/2004	8319	Oliver & Carol Sorenson	Marsh River Debris Clearance	200.00
07/14/2004	8320	Petty Cash	Petty Cash	180.07
07/14/2004	8321	Prairie Restorations, Inc	Site mow with tractor	592.26
07/14/2004	8322	RBR Development, Inc	Clay #56 Repair	25,939.44
07/14/2004	8323	Robert E. Wright	Per Diem and Expenses	616.26
07/14/2004	8324	Sjoldal Hardware	Supplies	4.45
07/14/2004	8325	Steve Dalen	Per Diem and Expenses	263.95
07/14/2004	8326	Sundal Township	Beaver Removal	225.00
07/14/2004	8327	Tim Halle	Press Release, 03 Annual Rep, Lake Lore & 6/30 Press Release	740.00
07/14/2004	8328	US Postal Service	Envelopes	419.85
07/14/2004	8329	Wambach & Hanson	June Billings	2,908.48
07/14/2004	8330	Warren J Seykora	Per Diem & Expenses	1,527.17
07/14/2004	8331	Ziegler Construction	FEMA 2002 Final Pay Request	3,124.00
07/16/2004	8336	Geray Dozing		23,907.60
07/16/2004	8337	Roger Hennen	Hilde Ring Dike Final Pay Req	2,738.35
07/16/2004	8338	Ziegler Construction	Final Pay Request, Rasmusson	1,268.10
07/16/2004	8339	Roger Hennen	FEMA 02 Final Pay Request	<u>10,219.52</u>
<b>TOTAL</b>				<b>205,452.10</b>