

WILD RICE WATERSHED DISTRICT
11 Fifth Avenue East
Ada, MN 56510

SPECIAL MEETING
JULY 1, 2010
Upper Becker, Permits, Etc.
APPROVED MINUTES

1. A special meeting of the Wild Rice Watershed District was held on Thursday July 1, 2010, at the office of the District located at 11 Fifth Avenue East, Ada, MN. The purpose of the meeting was to discuss Permits, Violations, Upper Becker and other issues. The following Managers were in attendance: Raymond Hanson, Mike Christensen, Diane Ista, Greg Holmvik, Duane Erickson, John Austinson and Dean Spaeth. Managers absent: None. In addition the following persons were in attendance: Administrator Tom Wollin, Assistant Administrator Loretta Johnson, Engineer Jerry Bents, Attorney Elroy Hanson, Brian Dwight, Mark Christianson, NCSWCD, Steve Green, Tom Bergren, Eric Zurn, Mick Alm and Derek Hendricks. Chairman Holmvik called the meeting to order at 8:35 a.m.

2. Brian Dwight, BWSR, Programs. Brian Dwight along with Mark Christianson, gave a presentation on a proposal regarding a project on the Jim Skaurud property in Section 29 of Fossum Township, in which RIM program can provide cost share funding on an existing easement. Christianson stated that cost estimate for the current plan is \$55,000 and with installation of a gated storage could provide 54 acre feet of storage, by using the current plan and a two foot bounce would provide 15-20 acre feet of storage. He also stated that there are 670 acres draining into this site. Brian Dwight stated that if the watershed district is interested in cost share funding, BWSR would need to be made aware of that soon. A recommendation was made to bring this idea to the Project Team meeting on July 28, 2010, in hopes of obtaining additional funding from agencies. Manager Erickson felt that the District should support the program and change the design to a dry dam type structure. A **motion** was made by Manager Christensen and **seconded** by Manager Erickson to table any action by the Board and bring it before the Project Team with the dry dam focus. **Carried.**

3. Upper Becker. Administrator Wollin updated the Managers on the appeal process from the City of Hendrum. Brian Dwight provided information from BWSR. Attorney Hanson stated that BWSR was holding the appeal from Hendrum under the board met on July 1. Manager Ista felt the board was sending mixed messages that if Plan D fails the Board would go back and do Plan A. She recommended a motion to the effect that actually Plan A is dead, as the current Board of Managers would not go back and approve Plan A. Norman County Commissioner and landowner operator, Steve Jacobson who lives southwest of Ada, expressed frustrations with the WRWD Board which he felt spent funds on Upper Becker, Plan A, dollars in engineering, and time and still doesn't come forth with a project. Jacobson questioned the Board on this matter. Landowners stated that the District moved the project forward without the direct knowledge of landowners. Manager Ista strongly disagreed and stated that several meetings were held in the project area and that landowners, themselves brought the project forward. Eric Zurn stated that landowners, however are in 100% approval of Project D as proposed, which has a smaller acre feet of storage but takes less property.

Attorney Hanson stated that with the Hendrum appeal in process the District cannot move forward with Plan D because we should not be moving forward with two things running parallel at the same time. Manager Ista made a **motion** authorizing the District to go back to Project A if Project D does not come to fruition as a result of mediation, funding and cost. Motion **failed** for lack of a second. A **motion** was made by Manager Austinson and **seconded** by Manager Spaeth stating that Project A was terminated at the May 12, 2010, meeting and that the Board now supports Project D of Upper Becker. **Carried with Manager Ista opposed.** A **motion** was made by Manager Spaeth and **seconded** by Manager Erickson authorizing Administrator Wollin to act as contact person for BWSR during the appeal process of Project A Upper Becker, by the City of Hendrum. **Carried.**

STATE OF MINNESOTA WILD RICE WATERSHED DISTRICT

In Re The Matter of the Establishment
Of Project #42 - Upper Becker Dam
Enhancement Project

**Order of the Board of Managers to Not
Establish Project #42 in its Present Design**

1. Pursuant to Minnesota Statutes §103D.605, the Wild Rice Watershed District held a public hearing to consider the establishment of Project #42-Upper Becker Dam Enhancement Project.

2. The managers provided notice by publication in the official newspapers of the District as provided by law and affidavits of publication were presented to the Board of Managers and incorporated into these Findings by reference.

3. The managers held the public hearing on February 17, 2010, at 10:00 a.m. at the VFW at 415 W. Main Street in Ada, Minnesota. The board heard all parties interested in the proposed project, but as the local share of funding for the proposed project was to be paid with a water management district (WMD), and BWSR had not yet acted on the watershed district's petition to amend its water management plan to allow a WMD, the board recessed that meeting and noticed that it would reconvene on March 25, 2010, at 1:00 p.m. at the Wild Rice Watershed District Office at 11 East 5th Avenue, Ada, Minnesota.

4. The managers again provided notice by publication in the official newspapers of the District, together with affidavits of publication thereof which are incorporated into these findings by reference, of the reconvening of the recessed meeting on March 25, 2010. At that meeting, the board concluded that the proposed WMD method of financing Project #42 was no longer acceptable and that instead the project be funded with up to 75% from the State of Minnesota, that up to a 10% maximum local share by the existing Wild Rice Watershed District Red River Construction account, and the balance be funded through the Red River Water Management Board or other outside sources. Accordingly, the Board of Managers again recessed the establishment hearing to April 21, 2010.

5. The managers again provided notice by publication in the official newspapers of the District as provided by law, together with related affidavits of publication which are incorporated into these findings by reference, regarding the reconvening of the Project #42 Establishment Hearing until April 21, 2010, at 10:00 a.m. at the Wild Rice Watershed District Office at 11 East 5th Avenue, in Ada, Minnesota.

6. At the hearing on April 21, 2010, the board again heard all parties interested in the proposed project regarding any additional/new comments/information which such interested parties desired to present in light of the change in financing for said Project #42.

7. At the April 21, 2010, public hearing, there were two board members absent and the Board of Managers concluded that a recess of the meeting would be in order until May 12, 2010, with the hope that all seven members of the Board of Managers be present at the meeting. Accordingly, the meeting was again recessed until May 12, 2010, at the Wild Rice Watershed District Office at 11 East 5th Avenue in Ada, Minnesota, with the managers providing notice by publication in the official newspapers of the District as provided by law, together with affidavits of publication relative to said notice being incorporated into these findings by reference.

8. Members of the public were present at the public hearing on February 17, 2010, at the reconvened meeting on March 25, 2010, at the reconvened meeting on April 21, 2010, and at the reconvened meeting on May 12, 2010.

9. Minutes were kept of the Project Hearing, with separate minutes relating to the February 17th, March 25th, April 21st, and May 12th public hearings of the establishment hearing and the minutes of said hearings are incorporated into this order by reference.

10. The board has considered the presentations made by the District's engineer on February 17th, March 25th, April 21st, and May 12th regarding the project and a copy of the engineer's computer/projector presentation at each of said meetings are incorporated into this order by reference.

11. The board considered the opposition to the proposed design of Project #42 of landowners who own property within the area needed for Project #42-Upper Becker Dam Enhancement. Specifically, many of the property owners expressed a refusal to voluntarily convey their property and that the district would be required to exercise eminent domain if Project #42 as proposed is to proceed.

12. The board considered the testimony expressed at the meetings/hearings of property owners whose land would be needed for the Project and that taking such land would adversely impact their farming/ranching operations.

13. The board considered testimony from the downstream residents including especially the Hendrum area, and their desire to see upstream storage projects such as Project #42 established as it will reduce flooding and erosion.

14. The board considered testimony from property owners that the Project #42 as proposed would result in a flow reduction in the stream gauge at Hendrum of about 1/4" and that while such a reduction is in the right direction, it is not significant enough to justify exercising eminent domain to take the land of unwilling property owners.

15. The board is aware of the significant flooding and erosion problems within the watershed district, and especially within the area immediately affected by the proposed Project. #42.

16. The board finds that Project #42 will provide limited flood control benefits, will reduce erosion, and will help protect public and private infrastructure, but that such benefits are outweighed by the lack of local landowner support in the area where the footprint of Project #42 would exist.

17. The board is aware that Project #42 is an incremental approach to flood control within the WRWD, but that property owner support for such a project is important.

18. The board heard testimony from property owners in the footprint area of the proposed Project #42 that their opposition to the project would turn to support if an alternate design of said project were pursued by the board and that the district may have little, if any, eminent domain to exercise.

19. The board is aware that funding for Project #42 appears available and that to explore another design for Project #42 may affect funding, but the lack of local landowner support results in a negative impact on promoting the general welfare of the district generally, and the Project #42 area specifically.

20. The board finds that an alternate design of Project #42 with increased local property owner support as was presented by Manager Erickson should be explored as such an alternate design may better promote the general welfare of the area.

21. Based upon the foregoing, the board voted, and it is hereby ORDERED by the managers to not establish Project #42 in its present design.

22. Based on the foregoing, it is further Ordered that Project #42 is continuing consistent with what was presented by Manager Erickson and the district's engineer is instructed to prepare an alternate design(s) for Project #42 and present the same to the board when ready for further consideration by the board.

Dated: _____, 2010

WILD RICE WATERSHED DISTRICT

BY: _____

_____, its President

The foregoing Order was adopted by the Board of Managers at its public hearing held _____ 2010, at the Wild Rice Watershed District Office in Ada, Minnesota.

Dated this _____ day of _____, 2010.

_____, Secretary

4. Manager Austinson left the meeting at 10:00 a.m.

PERMIT APPLICATIONS

5. Derek Hendricks, Section 30, Wild Rice Township. Derek Hendricks met with Managers to discuss his permit application. A **motion** was made by Manager Spaeth and **seconded** by Manager Hanson to **table** Permit Application #7-1-10-8 of Derek Hendricks to remove a driveway and approach with a 12" culvert and 24" culvert and notice landowners in the south Half of Section 30, Wild Rice Township for the August meeting. **Carried.**

6. A **motion** was made by Manager Christensen and **seconded** by Manager Spaeth to approve the following permit applications with recommendations by staff. **Carried.**

- Anthony Township, Sections 16, 17, Anthony Township. Permit Application #7-1-10-1 to replace a damaged 48" culvert with a new 48" culvert with the condition that the culvert is installed at the same elevation and location as the existing culvert.
- Aaron Borge, Section 31, Mary Township. Permit Application #7-1-10-2 to install a field approach with a 36" culvert.
- Georgetown Township, Section 20, 21, Georgetown Township. Permit Application #7-1-10-5 to replace two 36" RCPs with a single arch pipe with the condition that the equivalent sized arch pipe (65" x 40" inches) is used.
- Andy Guttormson, Section 2, Viding Township. Permit Application #7-1-10-6 to lower an existing culvert 1.5 feet with the condition that the adjacent landowner approves the project.
- Carol Halvorson, Section 31, Hendrum Township. Permit Application #7-1-10-7 to install a field approach with a 30" or a 36" culvert.
- Steve Hlubek, Section 36, Waukon Township. Permit Application #7-1-10-9 to move a field approach with a 24" culvert north approximately 1,000 feet.
- Lynn Johnson, Section 28, Pleasant View Township. Permit Application #7-1-10-11 to install subsurface drain tile.
- Tim Ness, Section 4, McDonaldsville Township. Permit Application #7-1-10-13 to install a driveway with a 30" or a 36" culvert.

- Ruud Farms, Inc., Section 23, Flom Township. Permit Application #7-1-10-14 to install subsurface drain tile with the condition that the applicant installs adequate erosion control measures at the outlet of the tile systems and with a recommendation that the applicant obtains approval from MN DNR for any work within protected waters.
- Stumbo Brothers, Section 13, Goose Prairie Township. Permit Application #7-1-10-15 to install a field approach with a 22" culvert with the condition that a 24" road pipe or the equivalent size is used.
- Stumbo Brothers, Section 34, Goose Prairie Township. Permit Application #7-1-10-16 to install a field approach with an 18" culvert.

7. A **motion** was made by Manager Spaeth and **seconded** by Manager Hanson to **table** the following permit applications with recommendations by staff. **Carried.**

- Mark Chisholm, Section 18, Strand Township to install subsurface drain tile and notice the East Half of Section 13 of Green Meadow and the Southwest Quarter of Section 18 of Strand Township.
- Mark Chisholm, Section 14, Green Meadow Township to install subsurface drain tile and notice Section 14 of Green Meadow Township.
- Ken Jirava, Section 20, Beaulieu Township to install subsurface drain tile and a water and sediment basin and request a tiling plan from the applicant.
- Mahnomen County Highway Department, Sections 8, 9, 16, 17, 20, 21, 28, 29 Island Lake Township to make culvert changes in the highway approaches and notify adjacent landowners.

8. Managers discussed who should assist with permit review. Consensus was for Technician Mark Aanenson to contact the District office which will make a determination for a Manager to assist. Mick Alm also stated that he would like notification of permit applications that are for tiling in Norman County.

9. Complaints/Violations. Engineer Bents distributed a packet of information on the Mike Gillis complaint in Section 14 of Lake Ida Township against Bob Brandt. It was determined that no violation occurred.

- Terry Guttormson filed a complaint against Paul and Andy Borgen for ditch work in Section 12 of Georgetown Township. Upon investigation by staff technicians it was determined that it was a violation of District rules. A **motion** was made by Manager Spaeth and **seconded** by Manager Hanson to report the offense to the Clay County Sheriff's office and request that they pursue it as a criminal case and restore it back to its original condition. **Carried with Manager Erickson opposed.**

10. Community Ring Dikes/Hendrum/Perley. Administrator Wollin brought forth discussion from the Finance Committee meeting regarding cash flow funding for the construction. It was thought that a line of credit borrowing of \$500K as a revolving construction account, using the MN DNR Grant as funding collateral would be appropriate. A **motion** was made by Manager Hanson and **seconded** by Manager Spaeth authorizing Administrator Wollin to establish this construction loan for up to \$500,000. **Carried.**

A **motion** was made by Manager Ista and **seconded** by Manager Spaeth authorizing acquisition of land and executing options at staff recommendation for the City of Hendrum Community Ring Dike and the Perley Community Ring Dike with Hendrum being the first for construction. **Carried**. Engineer Bents reported that utility relocation costs are less than originally anticipated. A **motion** was made by Manager Ista and **seconded** by Manager Christensen that authorized entering into a relocation agreement with the Red River Valley Coop for relocation of utilities. **Carried**. It was also reported that the landowner on the east side of Perley is not included in the levee system and he felt he should be. Consensus was to contact him and indicate that he is free to come to the July regular meeting to discuss his request, at which time it will also be determined if he is actually living on the premises.

11. Farmstead Ring Dikes. A **motion** was made by Manager Spaeth and **seconded** by Manager Ista to Pay Request #1 in the amount of \$19,314.63 to All Seasons Contracting for the Kevin Anderson Ring Dike. **Carried**. Also discussed was a time extension requested by Roger Hennen Construction for the Leon Miiller and Terry Guttormson ring dikes. A **motion** was made by Manager Spaeth and **seconded** by Manager Hanson to deny the request due to the fact that a delay would interfere with the NRCS contract and therefore payment on the Guttormson ring dike, all farm dike contracts were to be completed by date stated in signed agreement and engineering will notify contractor. **Carried**.

12. FEMA 2006 Project #30 Appeal. Engineer Bents reported that the appeal by the District to FEMA for additional funding on the Project #30 was approved in the amount of \$274,000 to backstop the ditch. Due to the size of the project and statute 103D635 it may be necessary to hold a mandatory hearing. A **motion** was made by Manager Ista and **seconded** by Manager Hanson authorizing the hearing and for staff to begin the process. **Carried**.

13. FEMA Rural Home Acquisition 2009 DNR Grant. A **motion** was made by Manager Ista and **seconded** by Manager Christensen to approve the DNR grant in the amount of \$209,360 for the DNR cost share funding for the rural home acquisition buyouts and the following resolution. **Carried**.

Exhibit B

Local Government Resolution

BE IT RESOLVED that WILLIE WATKINS hereinafter referred to as the "Applicant" act as legal sponsor for the project contained in the Flood Damage Reduction Grant Assistance Program Application to be submitted on JULY 1, 2010 and that WILLIE WATKINS is hereby authorized to apply for the Department of Natural Resources for funding of this project on behalf of the Applicant.

BE IT FURTHER RESOLVED that the Applicant has the legal authority to apply for financial assistance, and the institutional, managerial and financial capability to ensure adequate acquisition, maintenance and protection of the proposed project.

BE IT FURTHER RESOLVED that the Applicant has not incurred any costs, and has not entered into any written agreements to purchase property proposed by this project.

BE IT FURTHER RESOLVED that the Applicant has not violated any Federal, State, or local laws pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest or other unlawful or corrupt practice.

BE IT FURTHER RESOLVED that upon approval of its application by the state, the Applicant may enter into an agreement with the State of Minnesota for the above-references project, and that the Applicant certifies that it will comply with all applicable laws and regulations as stated in the contract agreement.

NOW, THEREFORE BE IT RESOLVED that GUZMAN HOLMUEK is hereby authorized to execute such agreements as are necessary to implement the project on behalf of the applicant.

I CERTIFY THAT the above resolution was adopted by the Board of Managers of WILLIE WATKINS on JULY 1, 2010.

SIGNED:

[Signature]
Chair
7-1-10

WITNESSED:

[Signature]
West
7-1-10

14. Finance Committee Meeting. Administrator Wollin brought forth information discussed at the Finance Committee Meeting held at 7:30 a.m. July 14, 2010, stating that several items were on the agenda including making some changes as recommended by the State Auditor: using Jon Schauer for training staff on Quick Books, either via phone or on site; banking procedures including reconciliation of checking account in office; having bank statements come directly to the District office for reconciliation and authorizing chairman, or treasurer or an additional person review and/or do the reconciliation of bank statements periodically. A **motion** was made by Manager Christensen and **seconded** by Manager Erickson to proceed with these accounting changes. **Carried.**

15. Meeting Minutes. A **motion** was made by Manager Spaeth and **seconded** by Manager Hanson to approve the regular meeting minutes for June 9, 2010, with the correction of adding Manager Christensen as being in attendance. **Carried**. A **motion** was made by Manager Ista and seconded by Manager Spaeth to approve the minutes of the Hendrum and Perley Hearings with the addition of the Orders for the Hearings. **Carried**.

16. There being no further business to come before the Board of Managers a **motion** was made by Manager Hanson and **seconded** by Manager Erickson to adjourn the meeting. **Carried**. Chairman Holmvik adjourned the meeting at 12:20 p.m.


John Austinson, Secretary