

# WILD RICE WATERSHED DISTRICT

11 East 5<sup>th</sup> Avenue – Ada, Minnesota 56510  
Phone (218) 784-5501

## SPECIAL MEETING

1. A special meeting of the Wild Rice Watershed District Board of Managers was held on Friday November 18, 2005, at the office of the District located at 11 Fifth Avenue East, Ada, MN. The purpose of the meeting was to discuss and execute the Settlement Agreement with Furuseths on the Heiberg Dam Project.

2. The following members were present: Jim Skaurud, Steve Dalen, Diane Ista, James Wagner, Sr., Bob Wright, Joe Spaeth and Warren Seykora. The following members were absent: None. In addition the following persons were in attendance, Mark Aanenson, Interim Administrator; Loretta Johnson, recording secretary and Tim Halle, publicist.

3. Chairman Seykora called the meeting to order at 8:45 a.m.

Manager Wagner expressed concerns about getting into a long and drawn out situation with Furuseths as a result of this agreement. Manager Spaeth stated that it was his understanding that the land had already been taken by the District in proper fashion, and now they are still laying claim to that land and stating that they have rights to it. What does the District do if they later say that we built the dam on their property?

Chairman Seykora stated that the District did take the land at the hearing in Twin Valley, but it was done contingent on funding. Their claim is that we couldn't take this property because we didn't have the funding secure until now. Furuseths and their attorney drew up this agreement, which they have already signed. It stated that they would drop all of the lawsuits against the District but would maintain their interest in the property.

Manager Dalen felt that the attorneys who drew up the Settlement Agreement and worked with Furuseths in executing the document did a good job. Chairman Seykora stated that Attorney Hanson and Attorney Von Korff both felt that the District should enter into this agreement. Mark Aanenson questioned if the dam would have enough velocity for hydroelectric generating due to the reduced velocity needed for the fish passage.

Manager Wright stated that the document looked good to him and would allow the District to get on with the project. Manager Wagner stated that the District's main objective is to get the project done; some of these questions can be discussed at a later date. Chairman Seykora stated that the document also included the Board authorizing the District engineer a certain amount of time to work with Furuseths and their engineers on investigating the possible generating of electricity.

Attorney Hanson joined the meeting via telephone conference.

Manager Wagner expressed concerns to Hanson relating to the agreement. Attorney Hanson explained that the document does not legally obligate the District to anything, although he suggested that the Board authorize 20 hours of time to the District engineer to work with Furuseths and their engineers on the hydroelectric generating.



Hanson went on to say that the District will have a few other costs and expenses with Attorney Von Korff and himself, but that will be small comparing to the \$20,000 discussed in payment for the Furuseth share of the property. He felt the District would be money ahead by executing the Settlement Agreement.

Manager Wagner asked Attorney Hanson if there was any way that after executing the agreement Furuseths could stop the project if the District is into construction. Hanson stated that he cannot guarantee anything but he is quite sure they cannot stop the construction. Hanson stated that the cost of the hydroelectric generators would be at the Furuseths expense and could not move forward unless the District indicates that their plan is excellent and would be a good idea. Manager Wagner stated that his main concern is to get the project done.

Manager Wright questioned Attorney Hanson regarding the verbage "dismissing the lawsuits, without prejudice." Hanson stated that the District may go back and take the property if necessary.

Attorney Hanson stated that he has reviewed the Settlement Agreement with Attorney Jerry Von Korff and both agree that this is a good thing; he would recommend to the Board that they make a motion to sign it so that it is in effect. If the Board signs this agreement they can proceed immediately with the project, with the understanding that we have exercised some good faith effort to listen to what the Furuseth engineers have to say regarding they generating of hydroelectricity.

Manager Spaeth questioned the status of the eminent domain hearing. Hanson said that the hearing was scheduled for Wednesday, November 16 but because Furuseths signed the agreement, and if the board executes the agreement the hearing will be dismissed without prejudice. Attorney Hanson stated that the District will have the Heiberg Dam project and will own a 50 percent interest in the land with Furuseths; the District will be a tenant in common, which is not a bad deal, no additional funds will be paid out.

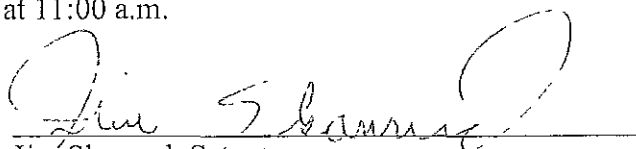
Hanson stated that at the hearing for the Heiberg Project in September of 2004, the District authorized the project before the funding was identified, and was taking an interest in somebody's property before they actually had a project. Mark Aanenson asked Attorney Hanson, if the District could be forced in future years to modify the dam for hydroelectricity, which would interfere with the fish passage. Hanson stated that the only thing that the District is obligated to do in the document is what we are in agreement with.

Attorney Hanson left phone conference at 9:45 a.m.

Manager Skaurud made a motion on the advice of counsel to execute the Settlement Agreement with Furuseths. Seconded by Manager Wagner. Carried. Chairmans Seykora will sign the agreement.

A motion made by Manager Wagner and seconded by Manager Wright authorizing Engineer Bents a total of 20 hours to work with Furuseths and their engineers on hydroelectric generating. Carried.

A motion was made by Manager Dalen and seconded by Manager Skaurud to adjourn the meeting. Carried. Chairman Seykora adjourned the meeting at 11:00 a.m.

  
Jijn Skaurud, Secretary

# Project 31 Petition

Name

Bruce Tipton

Steve Lowman

Dwight Heitman

Bob Brundt Permit

Name

Chapman

Bob Brundt

David Sorenson

Ken Kammison

