**RED LAKE WATERSHED DISTRICT**

January 25, 2024

9:00 a.m.

# Agenda

| | | |
|---|---|---|
| 9:00 a.m. | Call to Order | Action |
| | Review and approve agenda | Action |
| | Requests to appear | Information |
| | January 11, 2024 Minutes | Action |
| | January 16, 2024 Minutes | Action |
| | Financial Report dated January 24, 2024 | Action |
| | Data Request Form – Updates | Action |
| 9:30 a.m. | Beltrami SWCD Forest Stewardship Funding Request | Action |
| | RLWD Project No. 180C Mud River Preliminary Design Proposal | Info/Action |
| | RLWD Project No. 46S Chiefs Coulee – RRWMB Funding | Information |
| | RLWD Project No. 45 Wild Rice Allocations | Info/Action |
| | RLWD Project No. 13 Moose River Project/JD #21<br>Channel Stability Memo | Information |
| | Badger 15, Polk County Ditch Blockage | Information |
| | RLWD Permit No. 23086 Star 18, Pennington County<br>Pump Outlet Violation | Information |
| | Summer Intern | Info/Action |
| ` | Administrators Update | Information |
| | Legal Counsel Update | Information |
| | Managers' updates | Information |
| | Adjourn | Action |

UPCOMING MEETINGS

| | |
|---|---|
| January 25, 2024 | RLWD Board Meeting |
| February 7-8, 2024 | Drainage Conference, Alexandria |
| February 8, 2024 | RLWD Board Meeting |
| February 20, 2024 | RRWMB Meeting, 10 am, Ada |
| February 22, 2024 | RLWD Board Meeting |

RED LAKE WATERSHED DISTRICT
Board of Manager's Minutes
January 11, 2024

Vice-President, Gene Tiedemann, called the meeting to order at 9:00 a.m. at the Red Lake Watershed District Office, Thief River Falls, MN.

Present: Managers: Gene Tiedemann, Terry Sorenson, Tom Anderson, Brian Dwight, LeRoy Ose, Grant Nelson, and Allan Page. Staff Present: Tammy Audette, Melissa Bushy, Elaine Rychlock, Erick Huseth, Nate Koland, Tony Olson, Corey Hanson, Lindsey Kallis, and Legal Counsel, Delray Sparby.

The Board reviewed the agenda. A motion was made by Anderson, seconded by Page, and passed by unanimous vote that the Board approve the agenda with the additional agenda item of Houston Avenue, Crookston, MN. Motion carried.

The Board reviewed the December 28, 2023, board meeting minutes. Motion by Anderson, seconded by Dwight, to approve the December 28, 2023, board meeting minutes, as presented. Motion carried.

The Board reviewed the Financial Report dated January 10, 2024. Motion by Dwight, seconded by Anderson, to table check# 41084. Motion carried. Motion by Ose, seconded by Sorenson, to approve the Financial Report dated January 10, 2024. Motion carried.

There was no information yet available to review for the 2023 General Fund as of December 31, 2023. This information will be reviewed at the January 25, 2024, board meeting.

Pennington County confirmed the appointment of Grant Nelson due to the resignation of Dale M. Nelson. Grant Nelson will complete the final year of Dale M. Nelson's 3-year term with the term expiring January 10, 2025. Polk County confirmed the reappointment of Manager Tiedemann, for a 3-year term on the Board. We are awaiting confirmation from Clearwater County on the reappointment of Manager Anderson.

Election of officers was conducted with Vice-President Tiedemann turning the meeting over to Secretary, LeRoy Ose.

Manager Ose called for nominations for President. Manager Page nominated Gene Tiedemann for President. Upon calling for further nominations three times, no further nominations were made. Motion by Page, seconded by Sorenson, for nominations to cease and that the secretary cast a unanimous ballot for Gene Tiedemann for President of the Board. Motion carried.

Secretary Ose turned the meeting over to President Tiedemann to conduct elections for the remaining Board positions.

Nominations were opened for Vice-President. Manager Dwight nominated Terry Sorenson, seconded by Anderson. Manager Page nominated Ose, for the position of Vice-President. There was not a second to this motion. Upon calling for further nominations three times, no further nominations were made. Motion by Dwight, seconded by Anderson, that the secretary cast the ballot for Terry Sorenson for Vice-President of the Board, motion carried with Manager Sorenson voting nay.

Nominations were opened for Secretary. Manager Anderson nominated LeRoy Ose. Upon calling for further nominations three times, no further nominations were made. Motion by Anderson, seconded by Sorenson, that the secretary cast a unanimous ballot for LeRoy Ose for Secretary of the Board. Motion carried.

Nominations were opened for Treasurer. Manager Page nominated Tom Anderson. Upon calling for further nominations three times, no further nominations were made. Motion by Dwight, seconded by Sorenson, that the secretary cast a unanimous ballot for Tom Anderson for Treasurer of the Board. Motion carried.

President Tiedemann reviewed the Advisory Committee members. Motion by Ose, seconded by Page, to approve the Advisory Committee members as proposed and presented. Motion carried.

The position of Delegate and Alternate to the Red River Watershed Management Board (RRWMB) was discussed. Manager Tiedemann stated that Manager Ose is currently the Delegate, just completing his third year of a 3-year term, with Manager Tiedemann as an Alternate, as well as the alternate position vacated by Dale M. Nelson. Motion by Ose, seconded by Anderson, to appoint Manager Grant Nelson to the open Alternate position, Manager Ose as the Delegate to the RRWMB, and Manager Tiedemann as the other Alternate. Motion carried. This will be the first year of a 3-year term for Ose.

Delegates and Alternate to the Minnesota Association of Watershed Districts were discussed. Motion by Ose, seconded by Dwight, to appoint Managers Ose and Tiedemann as Delegates and Manager Page as an alternate. Motion carried.

The Budget/Salary Committee was discussed by the Board. A motion was made by Dwight, seconded by Sorenson, to appoint Managers Dwight, Sorenson, and Page to serve on the Budget/Salary Committee. Motion carried.

The Board discussed representatives on the Grand Marais Creek Joint Powers Board. A motion was made by Page, seconded by Anderson, to appoint Managers Nelson, Tiedemann, and Page to the Grand Marais Creek Joint Powers Board, with Manager Sorenson as an alternate. Motion carried.

The committees for the Joint Ditch 100 and Joint Ditch 101 Joint Ditch Boards were reviewed. Motion by Sorenson, seconded by Page, to appoint Managers Sorenson and Anderson to the JD 2 and Joint Ditch 100 and 101 Joint Ditch Boards. Motion carried.

Discussion was held on the appointment of representatives to the Pine Lake Area and Black River Impoundment Project Work Teams. Motion by Dwight, seconded by Anderson, to dissolve both committees. Motion carried.

Discussion was held on the appointment of representatives to the 20% Flood Reduction Committee. Motion by Sorenson, seconded by Anderson, to appoint Managers Anderson, Ose, and Dwight to the 20% Flood Reduction Committee. Motion carried.

Discussion was held on the appointment of representatives to the Policy Committee and Advisory Committee for the Red Lake River One Watershed One Plan (1W1P). Motion by Dwight, seconded by Ose, to appoint Manager Tiedemann as Delegate and Manager Nelson as Alternate to the Policy Committee and Managers Nelson and Page to the Advisory Committee for the Red Lake River 1W1P. Motion carried.

Discussion was held on the appointment of representatives to the Policy Committee and Advisory Committee for the Thief River One Watershed One Plan (1W1P). Motion by Ose, seconded by Sorenson, to appoint Manager Ose as Delegate and Manager Nelson as Alternate to the Policy Committee and Managers Nelson and Dwight to the Advisory Committee for the Thief River 1W1P. Motion carried.

Discussion was held on the appointment of representatives to the Blackduck Lake Structure Joint Powers Board. Motion by Sorenson, seconded by Page, to appoint Managers Dwight and Anderson to the Blackduck Lake Structure Joint Powers Board. Motion carried.

Discussion was held on the appointment of representatives to the Permit Rules and Regulations Committee. Motion by Sorenson, seconded by Nelson, to appoint Managers Dwight, Page and Tiedemann to the Permit Rules and Regulations Committee. Motion carried.

Discussion was held on the appointment of representatives to the Policy Committee and Advisory Committee for the Clearwater River One Watershed One Plan (1W1P). Motion by Anderson, seconded by Dwight, to appoint Manager Anderson as Delegate and Manager Sorenson as Alternate to the Policy Committee and Manager Page to the Advisory Committee for the Clearwater River 1W1P. Motion carried.

Discussion was held on the appointment of representatives to the Mud River Project Work Team. Motion by Page, seconded by Anderson, to appoint Manager Ose as Delegate and Manager Dwight as Alternate to the Mud River Project Work Team. Motion carried.

Discussion was held on the appointment of representatives to the Policy Committee and Advisory Committee for the Upper/Lower Red Lake One Watershed One Plan (1W1P). Motion by Dwight, seconded by Nelson, to appoint Manager Dwight as Delegate and Manager Anderson as Alternate to the Policy Committee and as an Alternate for the Advisory Committee for the Upper/Lower Red Lake 1W1P. Motion carried.

Discussion was held on the appointment of representatives to the Turtle Connection Cross Lakes Project Work Team. Motion by Anderson, seconded by Page, to appoint Manager Sorenson as Delegate and Manager Anderson as Alternate to the Turtle Connection Cross Lakes Project Work Team. Motion carried.

A motion was made by Ose, seconded by Sorenson, and passed by unanimous vote that the regularly scheduled Board meetings be held at 9:00 A.M. at the Red Lake Watershed District Office on the second and fourth Thursdays of each month for 2024.

A motion was made by Sorenson, seconded by Ose, that the following institutions be designated as depositories for the RLWD: Northern State Bank of Thief River Falls, American Federal Bank, and Edward Jones with the following signatures on the signature cards at the financial institutions: Gene Tiedemann, Terry Sorenson, LeRoy Ose, Tom Anderson, Tammy Audette, and Elaine Rychlock. Motion carried.

The Conflict-of-Interest policy was reviewed by the Board. Motion by Sorenson, seconded by Nelson, to approve the Conflict-of-Interest Policy and have each Board member sign the Conflict-of-Interest policy and return it to staff member, Elaine Rychlock. Motion carried.

The Board reviewed information from the Minnesota Campaign Finance Board and its statement of interest requirements for agency's public officials.

Staff member Corey Hanson and Nate Koland, along with Engineer Tony Nordby, Houston Engineering, Inc., and a staff member from Braun Intertec met on site at the Houston Avenue Project. Additional information will be forthcoming.

Administrator Audette stated that the Clearwater 1W1P is requesting $1,269,742, with the Red Lake River 1W1P, requesting, $688,120 from the FY 22-23 WBIF Supplemental Funds Request. Deadline for submission is January 8, 2024.

Engineer Nate Dalager, HDR Engineering, Inc., was in attendance to discuss Task Order No. 3 for the Final Design of the Chief's Coulee Project, RLWD Project No. 46S. A motion was made by Ose, seconded by Nelson, to authorize the approval of Task Order No. 3 in the amount of $139,095. Motion carried.

The Board reviewed Change Order No. 1 for the Thibert Dam Replacement, RLWD Project No. 50G in the amount of $13,330. A motion was made by Page, seconded by Dwight to approve Change Order No. 1 for the Thibert Dam Replacement, RLWD Project No. 50G. Motion carried. The Board reviewed Pay Estimate No. 2 for the Thibert Dam Replacement, RLWD Project No. 50G in the amount of $13,330, to Olson Construction. Motion by Page, seconded by Anderson, to approve Pay Estimate No. 2 for the Thibert Dam, RLWD Project No. 50G, to Olson Construction. Motion carried.

Administrator Audette indicated that an error was determined in calculating the payment of remaining balance on the Fladeland Ring Dike, RLWD Project No. 129AX, and the Beich Ring

Dike, RLWD Project No. 129AY. A motion was made by Ose, seconded by Sorenson, to approve a payment in the amount of $1,014.78 to landowners, Robert and Nancy Fladeland, RLWD Project No. 129AX, and a payment in the amount of the $1,657.43 to landowners Terry and Sandra Beich, RLWD Project No. 129AY. Motion carried.

Administrator Audette stated that landowner Carol Zammert requested for the Land Rental Agreement for the Euclid East Impoundment, RLWD Project No. 60C, be transferred to her two children, Jacqueline Zammert and Anthony Zammert. Audette stated that the Land Rental Agreement needs to be transferred to allow Zammert to transfer the property into the FSA CRP program. A motion was made by Dwight, seconded by Sorenson, to approve the revised agreement with Jacqueline Zammert and Anthony Zammert, which will expire in 2029. Motion carried.

Staff member, Tony Olson, reviewed RLWD permit no. 23028. The Clearwater County Highway Department has requested an extension with this permit. A motion was made by Anderson, seconded by Page to approve the one-year extension. Morion carried.

The board reviewed the following permits for approval. Motion by Page, seconded by Anderson, to approve the following permits with conditions stated on the permit. No. 232236, Scott Tersteeg, Poplar River Township, Red Lake County; No. 24001, Luckow Farms, Fanny Township, Polk County; and No. 24002, Darin Carlstrom-Polk County Highway Department, Euclid & Angus Township, Polk County. Motion carried.

Administrators Update:

- Staff member, Erick Huseth, will be attending Survey training being offered by MnDOT.
- Administrator Audette will be attending the Red River Basin Commission Conference in West Fargo January 16-18, 2024.

Legal Counsel Sparby stated we have filed our Appeal Brief with the Supreme Court for the Improvement to Polk County Ditch 39, RLWD Project No. 179, and that the Amicus Brief has been filed as well. Dates have yet to be set for the time and location of oral arguments before the Supreme Court.

Motion by Anderson, seconded by Sorenson, to adjourn the meeting to the Red River Basin Commission Conference on January 16, 2024, at 1 pm, at the West Fargo Convention Center, located at 825 East Beaton Drive, West Fargo, ND, 58078. Motion carried.

_____

LeRoy Ose, Secretary

RED LAKE WATERSHED DISTRICT
Board of Manager's Minutes

Red River Basin Commission Conference
West Fargo Convention Center
825 East Beaton Drive
West Fargo, ND 58078
January 16, 2024
1:00 p.m.

Present were: Managers LeRoy Ose, Allan Page, Terry Sorenson, Gene Tiedemann, and Brian Dwight. Absent: Grant Nelson and Tom Anderson. Staff present: Tammy Audette.

President Gene Tiedemann called the Red Lake Watershed District Board Meeting to order at 1:00 p.m., to allow the Board to participate in the Red River Basin Commission Conference.

After the Red River Basin Commission Conference concluded, a motion was made by Sorenson, seconded by Page, to adjourn the meeting. Motion carried.

_____
LeRoy Ose, Secretary

**RED LAKE WATERSHED DISTRICT**
**Financial Report for January 24, 2024**

| Ck# | Check Issued to: | Description | | Amount |
|---|---|---|---|---|
| online | EFTPS | Withholding FICA,Fed & Medicare (1-17 -24 payroll) | $ | 4,380.80 |
| online | MN Department of Revenue | Withholding Taxes (1-17-24 payroll) | | 800.85 |
| online | Public Employees Retirement Asst. | PERA 1/17/24pp | | 2821.11 |
| 41093 | Olson Construction | Thibert Dam-Pay Estimate #2 - board approved 1-11-23 | $ | 13,330.00 |
| 41094 | Robert Fladeland | 129AX Fladeland Ring Dike Cost Revision | $ | 1,014.78 |
| 41095 | Terry Beich | 129AY Beich Ring Dike Cost Revision | $ | 1,657.43 |
| 41096-98 | VOID | | | |
| 41099 | Breezy Point Resort | 2024 MN Survey Tech. Workshop-Tony and Erick | $ | 1,080.00 |
| 41100 | East Polk SWCD | Lake monitoring | $ | 2,769.66 |
| 41101 | L & M Fleet | Cleaning Supplies | $ | 7.98 |
| 41102 | Minnesota Watersheds | 2024 Membership Dues | $ | 7,500.00 |
| 41103 | Page's Country Creations | River Watch Jackets | $ | 675.00 |
| 41104 | Rinke Noonan | Polk Co Ditch #39 - legal expenses | $ | 8,586.50 |
| 41105 | Corp Tech | Managed IT Services | $ | 1,995.00 |
| 41106 | Dahlen Brothers | Good Lake - remove beaver dam -maint structure | $ | 2,580.00 |
| 41107 | Kelly Dahlen | Good Lake - Inspection & Mowing | $ | 2,152.00 |
| 41108 | NCPERS | Staff Life Insurance | $ | 128.00 |
| online | City of Thief River Falls | Utilities | $ | 372.15 |
| online | Sun Life Financial | Staff Life Insurance | $ | 144.64 |
| online | Pure Water Technology | Office H2O | $ | 38.00 |
| online | MN Energy | Office Heat | $ | 125.01 |
| online | WEX | FSA - Medical (MB) | $ | 111.85 |
| online | WEX | FSA - Dependant Care (CH) | $ | 594.00 |
| online | WEX | FSA - Medical (MB) | $ | 56.51 |
| online | WEX | FSA - Medical (MB) | $ | 20.00 |
| online | WEX | FSA - Medical (MB) | $ | 780.99 |
| online | Intuit Quick Books | Monthly Fee | $ | 426.00 |
| | Staff Payroll | Pay Period 1/1/24 -1/12/24 | $ | 14,465.59 |
| | Myron's Payroll | Pay Period 1/1/24 -1/12/24 | $ | 897.62 |
| | **Total Checks** | | $ | 69,511.47 |

| | | | | |
|---|---|---|---|---|
| | **Northern State Bank** | | | |
| **Banking** | Balance as of January 11, 2023 | | $ | 268,805.60 |
| | Total Checks Written | | $ | (69,511.47) |
| | Rct# 25180 | Polk County | $ | 5,850.50 |
| | Rct# 25181 | Red Lake County | $ | 2,998.95 |
| | Rct# 25182 | Marshall County | $ | 6,317.95 |
| | Rct# 25183 | State of MN - Thief River 1W1P-2020 Final Payment | $ | 52,989.00 |
| | Rct# 25184 | Jason Cardinal - Pro.#129BB Cardinal Dike -Cost Share | | $10,691.52 |
| | Balance as of January 24, 2024 | Current interest rate is 3.25% | $ | 278,142.05 |
| | **American Federal Bank-Fosston** | | | |
| | Balance as of January 11, 2023 | | $ | 5,190,862.51 |
| | Balance as of January 24, 2024 | Current interest rate is 3.25% | $ | 5,190,862.51 |

| | | | | |
|---|---|---|---|---|
| **Investments** | | 12 month CD 4.85% | $ | 238,000.00 |
| | **Edward Jones** | Expiry 12-15-24 | | |
| | Balance | | | |
| | | 12 month CD 4.55% | $ | 238,000.00 |
| | **Edward Jones** | Expiry 12-15-24 | | |
| | Balance | | | |
| | | 12 month CD 4.75% | $ | 24,000.00 |
| | **Edward Jones** | Expiry 12-15-24 | | |
| | Balance | | | |
| | | 12 month CD 5.02% | $ | 237,000.00 |
| | **Edward Jones** | Expiry 5-07-24 | | |
| | Balance | | | |
| | | 12 month CD 5.02% | $ | 237,000.00 |
| | **Edward Jones** | Expiry 5-07-24 | | |
| | Balance | | | |
| | | 12 month CD 5.02% | $ | 26,000.00 |
| | **Edward Jones** | Expiry 5-07-24 | | |
| | Balance | | | |
| | | 6 month CD 5.25% | $ | 243,000.00 |
| | **Edward Jones** | Expiry 2-5-24 | | |
| | Balance | | | |
| | | 6 month CD 5.25% | $ | 243,000.00 |
| | **Edward Jones** | Expiry 2-5-24 | | |
| | Balance | | | |
| | | 6 month CD 5.15% | $ | 14,000.00 |
| | **Edward Jones** | Expiry 2-9-24 | | |
| | Balance | | | |
| | | 12 month CD 5.45% | $ | 241,000.00 |
| | **Edward Jones** | Expiry 9-19-24 | | |
| | Balance | | | |
| | | 12 month CD 5.5% | $ | 237,000.00 |
| | **Edward Jones** | Expiry 9-29-24 | | |
| | Balance | | | |
| | | 12 month CD 5.5% | $ | 33,000.00 |
| | **Edward Jones** | Expiry 9-29-24 | | |
| | Balance | | | |
| | | **Total Cash** | **$** | **6,980,004.56** |
| | | **Cash that has been received and earmarked for projects:** | | |
| | | 2022 Grant Thief River 1W1P Proj. #149A | $ | 264,946.00 |
| | | 2023 Grant Clearwater 1W1P Proj. #149B | $ | 487,363.00 |
| | | 2024 Grant Red Lake River 1W1P Proj. #149 | $ | 850,219.50 |
| | | Mid Point Grant Proj. #149 | $ | 25,000.00 |
| | | Chief Coulee Proj. #46S | $ | 214,375.00 |
| | | | $ | 1,841,903.50 |
| | | **Payables committed to by board action:** | | |
| | | TRF Reservoir Water Intake Proj. #63 | $ | 38,400.00 |
| | | Chief Coulee Proj. #46S | $ | 800,000.00 |
| | | | $ | 838,400.00 |
| | | **Total accessable cash (Est)** | **$** | **4,299,701.06** |

# Red Lake Watershed District

*1000 Pennington Avenue South*
*Thief River Falls, MN 56701*
*(218) 681- 5800*


## GOVERNMENT DATA PRACTICES

### *RIGHT TO ACCESS PUBLIC DATA*

The Data Practices Act (Minnesota Statutes, Chapter 13) presumes that all government data are public unless a state or federal law says the data are not public. Government data is a term that means all recorded information a government entity has, including paper, email, flash drives, CDs, DVDs, photographs, etc.

The Data Practices Act also provides that Red Lake Watershed District (RLWD) must keep all government data in a way that makes it easy for members of the public to access public data. The public has the right to look at (inspect), free of charge, all public data that RLWD keeps. The public also has the right to obtain paper or electronic copies of public data. The Data Practices Act allows RLWD to charge for copies.

Please be advised that members of the public can obtain certain data available at no charge by viewing or retrieving the data that the District has made available on their website: www.redlakewatershed.org This data includes, among other things, information relating to projects, water quality, permitting, board meeting minutes and mapping.

### *HOW TO MAKE A DATA REQUEST*

To look at data or request copies of data that RLWD keeps, the public must make a written request. Written requests for data must be made to the District Administrator by mail, fax or email using the data request form found at the end of this document. If the data request form is not used, the written request must include:

- A statement that the request for data is under the Data Practices Act, MN Statutes, Chapter 13;
- Whether the request is to look at the data, get copies of the data, or both; and
- A clear description of the data to be inspected and/or copied.

RLWD cannot require members of the public to identify themselves or explain the reason for the data request. However, depending on how the data request is to be processed (for example, emailed or mail), RLWD may need contact information. If no identifying information is provided, it will be the responsibility of the requesting party to contact RLWD to check the status of the request. If RLWD does not understand the request no contact information is provided, RLWD will not be able to begin processing the request.

### *HOW RED LAKE WATERSHED DISTRICT RESPONDS TO A DATA REQUEST*

Upon receiving a written request, RLWD will work to process it.

- If it is not enough specific information form the request, RLWD will ask for clarification.
- If RLWD does not have the data, the requestor will be notified in writing as soon as reasonably possible.
- If RLWD has the data but the data is not public, the requestor will be notified in writing as soon as reasonably possible of which Minnesota Statute requires such privacy.
- If RLWD has the data and the data are public, a response to requests will be provided appropriately and promptly, within a reasonable amount of time, by doing one of the following:

- Arrange a date, time, and place to inspect data for free if the request is for inspection; or
- Provide the requestor with copies of the data as soon as reasonably possible. Copies may be picked up, mailed, or emailed. We will provide electronic copies (e-mail) upon request if we keep the data in electronic format. Pre-payment is required.
- If the requestor does not understand some of the data (technical terminology, abbreviations, or acronyms), clarification will be provided upon request.

The Data Practices Act does not require RLWD to create or collect new data in response to a request if RLWD does not already have the data, or to provide data in a specific form or arrangement if RLWD does not keep the data in that form or arrangement. For example, if the data requested is on paper only, RLWD is not required to create electronic documents. If RLWD agrees to create data in response to requests, RLWD will work with the requestor on the details of the request, including cost and response time. In addition, the Data Practices Act does not require RLWD to answer questions that are not requests for data.

***REQUESTS FOR SUMMARY DATA***

Summary data are statistical records or reports that are prepared by removing all identifiers from private or confidential data on individuals. The preparation of summary data is not a means to gain access to private or confidential data. RLWD will prepare summary data if requests are made in writing and pre-payment for the cost of creating the data is received. Upon receiving written requests, the data request form at the end of this document may be used. RLWD will respond within ten business days with the data or details of when the data will be ready and how much will be charged.

***COPY FEES***

RLWD charges the requesting party for all costs associated with fulfilling the data request, including staff time, materials, and copy expenses. Charges are authorized under Minnesota Statutes, sections 13.03, subd 3c. and subd. 10. The charge for time is the actual cost of searching for and retrieving the data and making the copies or electronically transmitting the data. In determining the actual cost of making copies, RLWD factors in employee time, the cost of the materials onto which the data are copied (paper, CD, DVD, etc.), and mailing costs (if any). If requests are for copies of data that RLWD cannot reproduce internally, such as photographs, the actual cost paid to an outside vendor will be charged.

***RESPONSIBLE AUTHORITY***

Tammy Audette
1000 Pennington Avenue South
Thief River Falls, MN 56701
218.681.5800

***DATA PRACTICES COMPLIANCE OFFICIAL***

Melissa Bushy
1000 Pennington Avenue South
Thief River Falls, MN 56701
218.681.5800
RLWD@redlakewatershed.org

# Red Lake Watershed District

***1000 Pennington Avenue South***
***Thief River Falls, MN 56701***
***(218) 681 - 5800***


## Data Request Form

| A. TO BE COMPLETED BY REQUESTER | | | |
|---|---|---|---|
| Name: | | Phone Number: | |
| Street Address: | | Email Address: | |
| City, State, Zip: | | Date of Request: | |
| Signature: | | Date Needed By: | |

**According to MS§13.05, subd. 12, persons are not required to identify themselves, or state a reason for, or justify a request for public data.*

Description of the information requested (be as specific as possible):

Quantity:_____ Color Format: ☐ Color ☐ Black & White
Media: ☐Paper ☐Electronic(☐gif ☐eps ☐jpg☐ pdf) ☐ Other: _____

**MS§13.05, subd. 3, authorizes the District to charge fees to recover costs to provided copies of data, including cost associated with searching, compiling, copings, or otherwise transmitting data. Payment is required prior to receiving copies of data.*

| B. TO BE COMPLETED BY RLWD PERSONNEL | |
|---|---|
| Handled by: | Date Received: |
| Information Classified As:<br>☐ Public ☐ Private | Action:<br>☐ Approved ☐ Denied ☐ Approved in Part *(explanation below)* |

Remarks or basis for denial:

Costs to Requestor:

____Pages x $0.25 per black/white pages (Subd 3c.) =_____
____Pages x $1.00 per black/white page =_____
____Pages x $1.25 per color page =_____
____Employee time charged at billable rate =_____
Other Charges:_____ =_____

Total Cost: $_____

Authorized Signature: _____Date:_____

# BELTRAMI SOIL AND WATER CONSERVATION DISTRICT

Request for Funding

Forest Stewardship Plan Cost-Share

Aly Bergstrom
Beltrami SWCD
Conservation Technician

# Background Context

- The Beltrami SWCD has provided a forest stewardship cost-share program for private landowners since 2019
- Beginning in 2022, the Red Lake Watershed District has provided funds ($5,400/year) to support the program
- The intent of the RLWD contribution has been to “bridge the gap” until Upper/Lower 1W1P completion

Watershed

May 2021

# Upper/Lower Red Lake Watershed Restoration and Protection Strategy Report

MINNESOTA POLLUTION CONTROL AGENCY

EOR water ecology community

RED LAKE NATION

CLEAN WATER LAND & LEGACY AMENDMENT

Forest Stewardship Plans are an area of focus in the WRAPS

### 3.3.1.2 Forest protection programs

Water quality in this watershed is currently in good shape due to well managed forestlands, grasslands, and agricultural lands. Forestland ranks among the best land cover in providing clean water by absorbing rainfall and snow melt, slowing storm runoff, recharging aquifers, sustaining stream flows, filtering pollutants from the air and runoff before they enter the waterways, and providing critical habitat for fish and wildlife. In addition, forested watersheds provide abundant recreational opportunities, help support local economies, provide an inexpensive source of drinking water, and improve the quality of our lives.

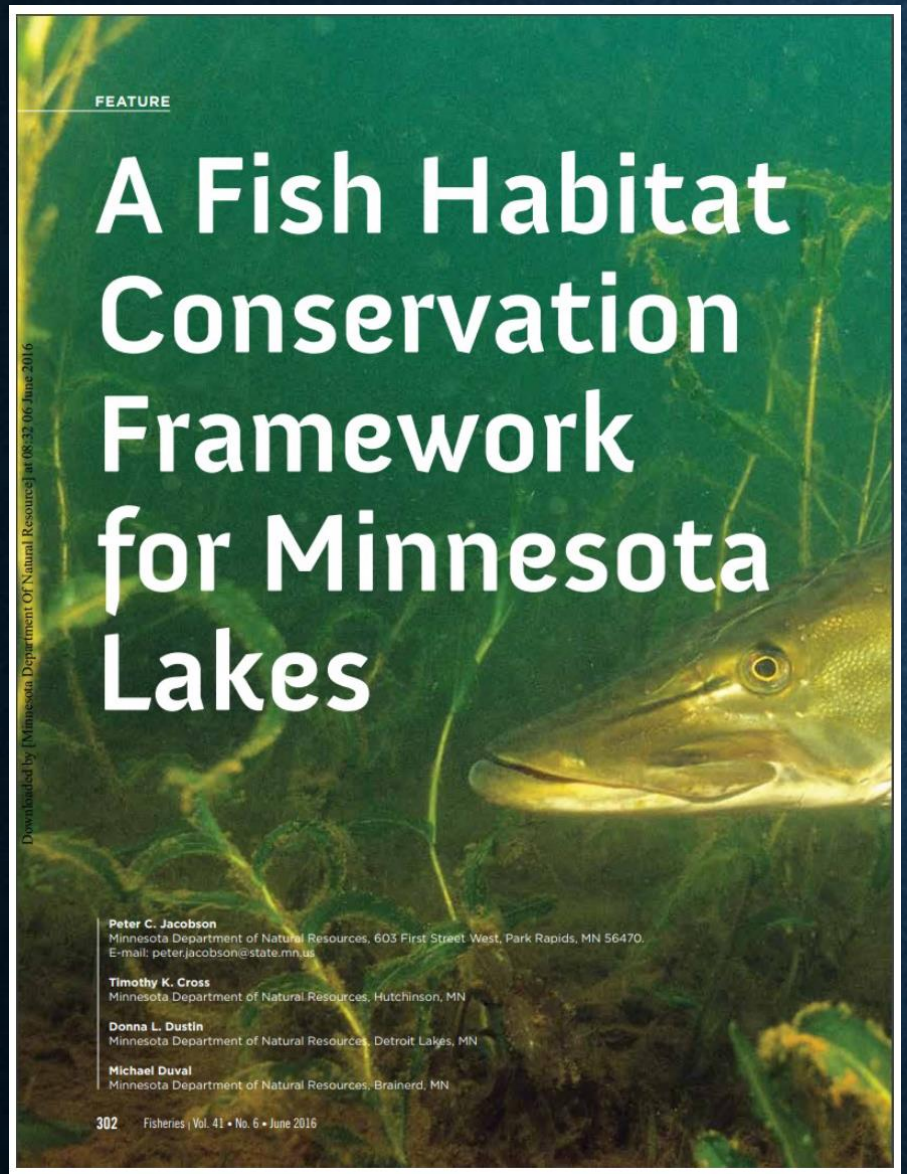
Minnesotans have strong conservation values. Citizens of Minnesota have long since recognized the value of forests and clean water by creating various legislative conservation programs to help conserve working land forests. There are many groups dedicated to helping protect water quality in this watershed including the RL DNR, Upper Red Lake Area Association, Beltrami County Lakes and Rivers Association, and others.

Fortunately, many minor watersheds are already forested in the ULRLW and are protected by public ownership (federal, tribal, state, and county) (Figure 29 and Figure 30). Forest protection programs play a major role in ensuring private forest lands stay working forest lands to provide optimal ecosystem services while providing landowners with a monetary incentive to keep the land forested. Table 14 outlines applicable forest protection programs that will help the ULRLW continue to maintain its biological integrity and provide healthy waters by promoting forest land stewardship. See the DNR

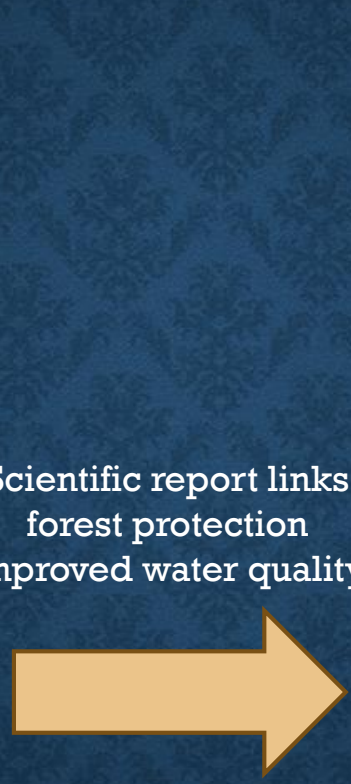
https://www.dnr.state.mn.us/foreststewardship/index.html

**Table 13. Forest protection programs for the Upper/Lower Red Lake Watershed.**

| Forest Protection Program | Applicability to Upper/Lower Red Lake Watershed |
|---|---|
| Forest Stewardship Plan | An instrumental plan for family forest landowners who own 20 acres or more of forestland. This voluntary plan offers land management recommendations to landowners based on their goals for their property from a natural resource professional. Plans are updated every 10 years to stay current with your needs and your woods. A Forest Stewardship Plan registered with the DNR qualifies you for woodland tax and financial incentive programs. |
| Sustainable Forest Incentive Act (SFIA) | SFIA is a tax incentive program available for landowners that have a registered Forest Stewardship Plan. This program offers an annual tax incentive payment per acre based off the amount of forest stewardship acres you have. Payments per acre range from the $9-16.50, based off the length of covenant the landowner decides to enroll into. SFIA restricts land use conversion and subdivision of the parcel(s). A minimum of 3 acres must be excluded from the SFIA program if there is a residential structure present, landowners can exclude more acres if they plan to make future improvements on the land. |
| Conservation Easements | Most, but not all conservation easements are perpetual. Some landowners want to ensure their land will never be developed or converted to another use by selling or donating a conservation easement. Conservation easements serve a variety of conservation purposes and are generally intended to protect important features of the property. They are voluntary, legally binding agreements by the landowner to give up some of the rights associated with their property such as the right to develop, divide, mine, or farm the land to protect the conservation features such as wildlife habitat, water quality, and forest health, to name a few |




Scientific report links forest protection improved water quality



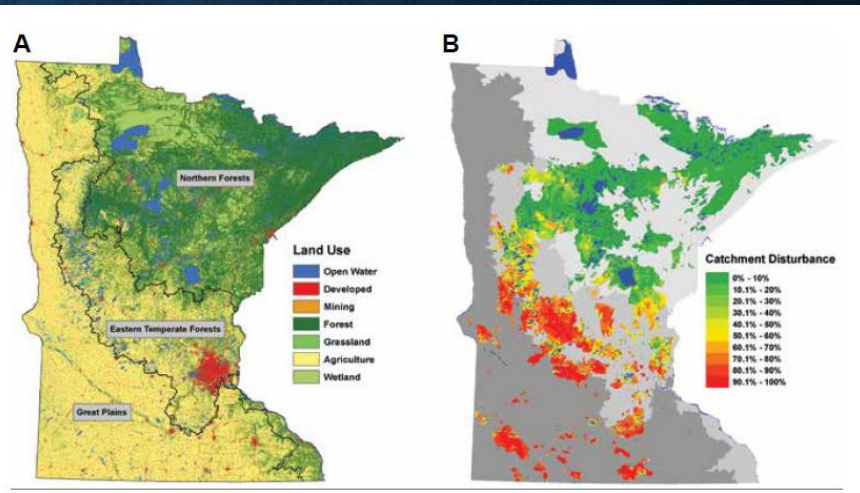



Figure 5. (A) National Land Cover Database 2001 land use in Minnesota and (B) land use disturbances for individual catchments of lakes greater than 40 ha managed for fish by Minnesota Department of Natural Resources Section of Fisheries. Disturbed land uses for panel B consisted of NCLD 2001 agricultural, urban, and mining categories. Only lakes with watersheds entirely contained within the state of Minnesota are displayed. Also displayed are Commission for Environmental Cooperation (1997) Level 1 ecoregions.

shallow lakes (Papst et al. 1980); and filamentous algal density (Maberly et al. 2002). Watershed land use is a primary driver of nonpoint nutrient loading in lakes with significantly higher concentrations of nutrients in runoff from agricultural, urban, and mining land uses than forests, grasslands, and wetlands (Heiskary et al. 1987; Wang et al. 2010; Cross and Jacobson 2013).

We quantified water quality effects of land use by calculating the relative amount of disturbed land within a watershed. A simple, yet direct watershed disturbance variable (percentage of urban, agriculture, and mining land uses in a catchment) was developed by Cross and Jacobson (2013) using National Land Cover Database 2001 land use GIS data. The percentage land use disturbance variable was significant in models predicting total phosphorus concentrations in Minnesota lakes (Cross and Jacobson 2013). Catchments with undisturbed land uses lie primarily in the Northern Forests ecoregion (CEC 1997; Level 1) and generally provide good water quality to lakes and streams in that region (Figure 5). Catchments within the agricultural Great Plains ecoregion have the highest disturbed land uses and appreciably poorer water quality (Heiskary et al. 1987; Ramstack et al. 2004). Catchments in the transition from forest to prairie in the Eastern Temperate Forests ecoregion have a wide range of disturbance values. Cross and Jacobson (2013) noted that phosphorus concentrations generally become elevated when watershed land use disturbance reached 25% and greatly increased when land use disturbances exceeded 60%. These disturbance values set the foundation for the identification of appropriate management strategies for water quality in lakes under this framework. Lakes with relatively undisturbed watersheds need protection, whereas lakes with heavily disturbed watersheds need restoration.

## HABITAT CONDITION FRAMEWORK

Faced with large numbers of lakes located across an expansive geographic area, we classified Minnesota lakes by habitat condition to facilitate prioritization and targeting of appropriate management strategies. The need to consider both physical and water quality habitat components simultaneously stems from experiences of nearshore physical habitat remediation being overwhelmed by water quality impacts emanating from the watershed (Jennings et al. 1999; Cross and McInerny 2005). Likewise, projects to ameliorate water quality impacts directed at watershed disturbances may not have the desired effect if significant disturbances to nearshore physical habitat also occur.

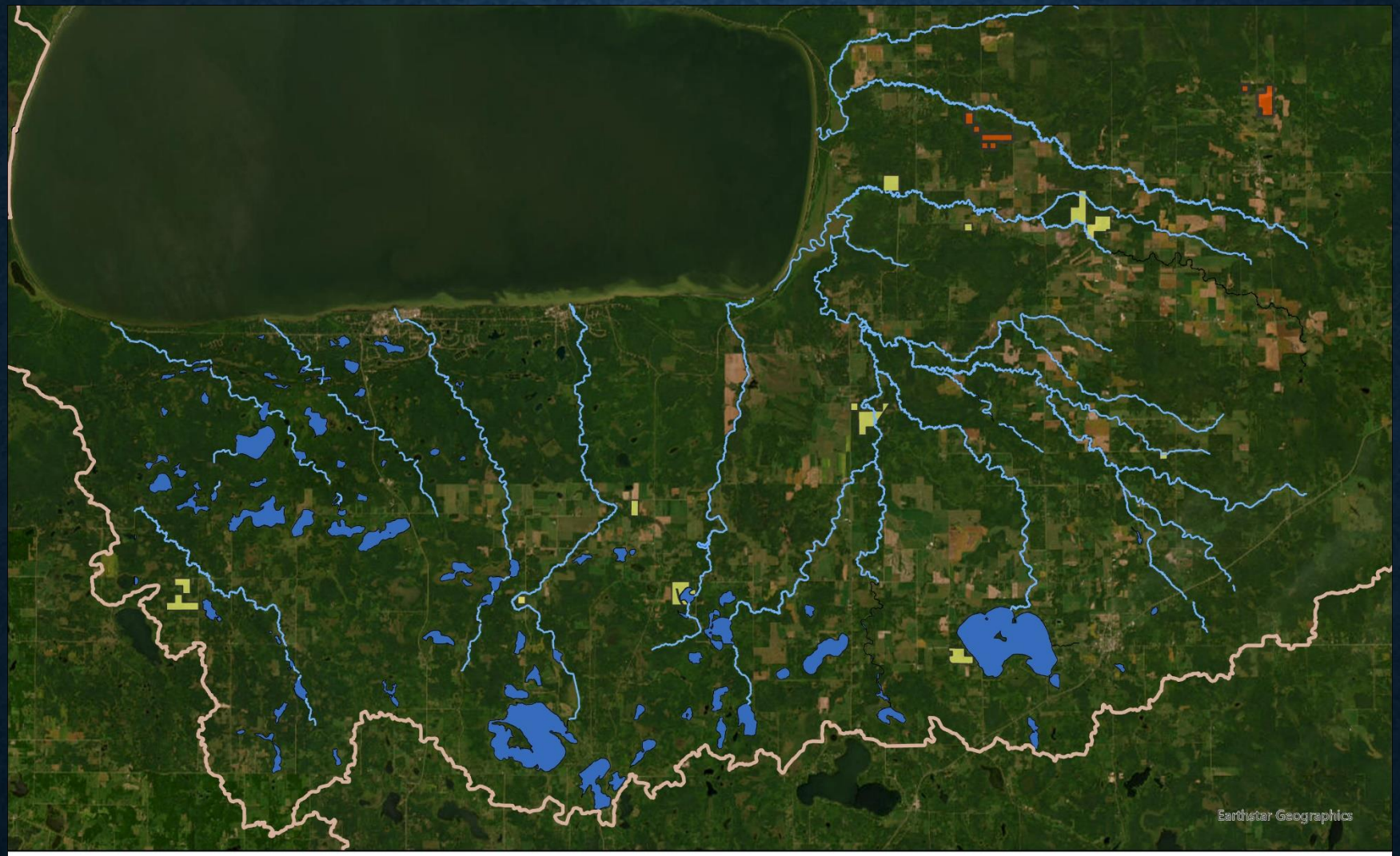
We developed a bivariate classification of physical and water quality habitat condition to facilitate the simultaneous consideration of both fish habitat components (Figure 6). Ligeiro et al. (2013) describe a similar approach for streams where catchment and local (riparian) stressor gradients are visualized in a "disturbance bi-plane" (48). Quadrants in the bivariate classification are defined by designations of levels of disturbance (percentage watershed disturbance and docks per kilometer) that are detrimental to habitat and fish communities. This classification distinguishes lakes identified with *restoration* priorities for water quality improvements (C) from lakes with physical habitat restoration tied to residential development (B) or both (D). Importantly, it identifies lakes with unimpaired fish habitat functionality (A) that warrant habitat *protection*, usually the most inexpensive and cost-effective strategy.

Fish habitat is intact and generally unimpaired in many Minnesota lakes (Figure 6). A full 50% of the assessed lakes throughout the state have minimal disturbances of both physical and water quality habitats, and only 9% had habitat

# 2023 Program Summary

| Total Property Acres | Forest Stewardship Acres | Cost-Share Amount |
|---|---|---|
| 320 | 241 | $1,344.00 |
| 40.43 | 40.43 | $392.06 |
| 162.96 | 159 | $961.20 |
| 40.38 | 40.38 | $391.82 |
| 122.27 | 100 | $678.00 |

TOTAL PROJECT ACRES: 580.81
TOTAL COST-SHARE: $3,767.08




## 2023 Red Lake Watershed Forest Stewardship Plans

Red Lake Watershed District funded $5,400 to support forest stewardship plans in Beltrami's portion of the Upper/Lower Red Lake Watershed.

Seven plans were written, totaling 580.81 acres. Total cost-share used: $3,767.08

2023 Forest Stewardship Plans
2022 Forest Stewardship Plans

N

0 1.25 2.5 5 Miles

Map created by Beltrami SWCD
1/24/2024

# Beltrami SWCD Request

- Carry over the remaining $1,632.92 from 2023 RLWD contribution to be used in the 2024 forest stewardship program
- Request an additional $4,000 from the Red Lake Watershed District to assist Beltrami County landowners within the Red Lake Watershed District
  - The additional $4,000 would bring the total amount available for cost-share to $5,632.92. This would equate to approximately 100 stewardship acres

# QUESTIONS?

References:

Final Upper/Lower Red Lake Watershed Restoration and Protection Strategy (WRAPS) Report
https://www.pca.state.mn.us/sites/default/files/wq-ws4-81a.pdf

A Fish Habitat Conservation Framework for Minnesota Lakes
https://www.researchgate.net/publication/303745823_A_Fish_Habitat_Conservation_Framework_for_Minnesota_Lakes

January 25, 2024

Tammy Audette, Administrator
Red Lake Watershed District
1000 Pennington Avenue South
Thief River Falls, MN 56701

**RE: Proposal – Mud River – Task Order #3 – Preliminary Design**

Dear Ms. Audette,

In response to your request for engineering services for the **Mud River Enhancement Project**, HDR Engineering, Inc. (HDR) is pleased to provide the following proposal for preliminary design of the Mud River Enhancement Project. Future tasks and services required to successfully complete the project may be identified separately as they arise, under additional task orders.

We look forward to the opportunity to work with you on this project. If you have any questions regarding the attached scope of services, please contact Nate at (218) 681-6100.

Sincerely,
**HDR Engineering, Inc.**

Nathan Dalager, P.E.
Project Manager

Christine Wiegert, Vice President
MN/WI Area Manager

Encl: Proposal, Task Order #3
HDR Engineering, Inc. Terms and Conditions for Professional Services

# Mud River Enhancement
# Engineering Services

## Proposed Action Description

HDR understands that the Red Lake Watershed District (RLWD) is interested in completing the preliminary design of an enhanced channel with natural resource enhancement, water quality, and flood damage reduction benefits on portions of the Mud River (Judicial Ditch 11 system) in Eckvoll Wildlife Management Area and Agassiz National Wildlife Refuge. In the previous phase of planning and alternatives analysis, the Project Team reached consensus and recommended further development of an enhanced channel with floodplain access. This scope of work includes tasks and deliverables that will enable the project sponsors (US Fish and Wildlife, MN Department of Natural Resources, and RLWD) to apply for funding, continue early coordination with permitting agencies, and hold a public hearing to establish the project.

## Proposed Project Team

The project team will consist of HDR staff that will provide engineering, evaluation, and relevant engineering project management-related services. Key members of the team may consist of the following staff:

| Role | Staff |
|---|---|
| Client and Project Manager | Nate Dalager, PE (MN) |
| Senior Civil Engineer | Glen Krogman, PE (SD) |
| Water Resources Engineer | Jacob Huwe, PE (MN) |
| Water Resources Coordinator | Aly Foty |
| Design/ Survey Technician | Randy Knott |
| Structural Engineer | Goran Stekovic |
| Geotechnical Engineer | Kerrie Berg, PE (MN) |
| Senior Geotechnical Engineer | Matt Schuster, PE (MN) |
| Environmental Scientist | Torin McCormack |

## Scope of Services

### 1.0 Project Management and Coordination

This task consists of the overall management of the project, project communication, and coordination conferences/meetings.

1.1 **Project Management:** Monitor and control the project budget, scope of work and schedule; manage the project goals and objectives; manage and coordinate resources including staff scheduling and invoicing.

1.2 **Project Meetings:** Schedule, review, prepare, participate, and help conduct meetings and teleconferences. This includes RLWD Board of Managers meetings, one public hearing, landowner meetings, and project team meetings.

1.3 **Coordinate with Funding Partners:** HDR will provide assistance in coordinating with funding partners such as the Flood Damage Reduction Work Group and Red River Watershed Management Board.

**Deliverables:**

- Monthly invoices for each individual task and coordination with RLWD Administrator.
- Attendance at RLWD Board meetings, presentations, and updates to the Board.
- Attendance and presentation at one public hearing.
- Attendance at up to two landowner meetings.
- Attendance and presentation at up to three project team and two sub-committee meetings.

**Assumptions:**

- Duration of the task is 12 months.
- All meetings will be held in Thief River Falls and attended by one or two HDR team members.
- A total of three RLWD Board meetings are anticipated.

## 2.0 Preliminary Design

This task includes preliminary design analyses of the project concept for channel enhancement. Each subtask will have HDR internal quality control reviews and documentation. The following subtasks will be included:

2.1 **Enhancement design criteria:** This sub-task will define the criteria needed to design the Mud River Enhancement. HDR has completed preliminary modeling of an enhanced channel fitting normal criteria for stream restorations. Additional criteria may be beneficial to the Project, and continued coordination with DNR Ecological staff will help in clearly defining the proposed channel and its associated features.

2.2 **Alternative alignments:** Evaluate up to two alternative alignments for the enhanced channel. One option will be entirely on public lands.

2.3 **Data collection:** Field survey is required to establish design elevations and quantity calculations for the areas likely to be affected by the proposed project. Survey may include one day for up to 3 miles of existing ditch, structures and other miscellaneous Project features. Processing publicly available elevation data is included in this task. HDR will solicit soils borings by a third party, and then review and incorporate the data into the preliminary design of the Project.

2.4 **Hydraulics.** Perform modeling of the preliminary design for the 24-hour, 10-year precipitation event. This task includes updating the previously developed hydraulic models with preliminary design of channels, structures, and bypass structures.

2.5 **Hydraulic Structure Design:** Perform preliminary structure design including sizing/selection of hydraulic structures required for the preferred alternative and determined by the preliminary hydraulic model. The anticipated structures include two diversion weir structures and one gated control structure.

**Deliverables:**

- Deliverables for preliminary design are included in Task 4 – Engineer's Report.
- Field survey and topographic data.
- Hydraulic model.

**Assumptions:**

- Up to three coordination meetings will be held with be USFWS/DNR Ecological staff.

- Reference reach will not require additional study.
- Peak flows and volumes developed in previous phase of the project are sufficient for preliminary design and no additional hydrological analysis will be required.
- Additional design alternatives will be considered as additional services.
- RLWD will hire a third party to complete soil borings and lab testing.

## 3.0: Permitting and Environmental Compliance

This task involves support activities which are necessary for early coordination with the United States Army Corps of Engineers. The enhanced channel concept includes spoil materials that have potential for wetland impacts requiring mitigation under section 404 of the United States Code of Federal Regulations. The following sub-tasks will be completed in order to determine potential avoidance, minimization, or avoidance of wetland impacts associated with the project.

**3.1 Wetland Delineation:** HDR will perform level 2 wetland delineation as needed for the preferred alternative. HDR will delineate the proposed construction footprint and anticipated spoil disposal areas.

**3.2 Coordination Meetings:** Prepare technical data and solicit input from permitting agencies through early coordination meetings.

**3.3 Delineation Report:** This task includes completing a wetland report that can be submitted to the Technical Evaluation Panel.

**Deliverables:**

- Level 2 wetland delineation, wetland report, and basic application submittal.

**Assumptions:**

- Field delineation will be two HDR staff and up to 3 days of field work.
- One round of review to approve the delineation.
- Natural resource enhancement or water quality benefit calculations are not included in this task.
- A cultural resources survey will be done under separate task order and will not trigger any further investigations or design modifications.
- No mitigation plan will be included.
- Grant applications are not included but may be initiated under additional scope of work.

## 4.0: Engineer's Report

This task involves documentation of the preliminary design of the Preferred Alternative, including impact considerations and project implementation. Grant applications will be supported by providing preliminary plans, maps, and cost estimates.

**4.1 Preliminary Engineer's Report:** This task includes a preliminary report of the analyses of the preferred alternative. The resulting Engineer's Report will be compliant with MN Statutes 103D.711 for engineer's reports for watershed projects, and HDR will deliver a Preliminary Engineer's Report with information and results from Tasks 2 and 3 as well as recommendations.

**4.2 Preliminary Plans – 30%:** This task includes computer-aided drafting of preliminary plans of the Project. The plans will be drafted in AutoCAD Civil 3D. HDR will include civil site plans, estimated quantities, civil cross-sections, typical details, structural details, and civil plan and profile sheets. A total of 26 sheets are estimated for this task.

**4.3 Engineer's Opinion of Probable Construction Cost:** HDR will provide an engineer's opinion of probable construction costs for the preferred alternative. Costs will be at a conceptual level and based on 30% level of design.

**Deliverables:**

- One Electronic copy (PDF) and two bound versions of the Engineer's Report will be provided.

**Assumptions:**

- The report will be filed and submitted to MnDNR and BWSR prior to the public hearing to solicit review and comments.

# Cost Estimate

**The design fee estimates for the completion of Tasks 1 through 4 is $190,550, which will be performed on a time and materials not-to-exceed basis.** HDR will invoice monthly based on work progress. Our estimated costs are based upon our understanding of the scope of work and assumptions listed. Should the scope of work be modified, it may be necessary to review scope changes and our cost estimate.

# Future Task Orders – Engineering

The following tasks are anticipated for future phases of this project. *These tasks are not included in the price proposal provided herein*, and would be scoped, estimated, and authorized separately at such time as the Red Lake Watershed District (RLWD) elects to initiate them.

- Environmental Assessment
- USACE Individual Permit Application and Mitigation Plan
- Water Quality Certification
- Final Design and Plans for Construction
- Legal Boundaries and Property Right-of-Way Survey

## Notice to Proceed

Please indicate your acceptance of this proposal by signing the Notice to Proceed (below) and returning one copy of the signed proposal to HDR.

If you have any questions, please contact me (Nate) at 218.681.6100.

**NOTICE TO PROCEED**

| Client | Consultant |
|---|---|
| **Red Lake Watershed District** | **HDR Engineering, Inc.** |
| By: _____ | By: |
| Name: _____ | Name: Christine Wiegert |
| Tile: _____ | Title: Vice President/MN-WI Area Manager |

*Table 1. Budget Table*

| Task No. | Task/Title | Client and Project Manager | Senior Civil Engineer | Water Resources Engineer | Water Resources Coordinator | Design Technician | Structural Engineer | Geotechnical Engineer | Senior Geotechnical Engineer | Environmental Scientist | Hours | Labor Fee |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | **Hourly Rates** | **$245** | **$240** | **$180** | **$110** | **$160** | **$180** | **145** | **$180** | **$160** | | |
| 1 | Project Management and Coordination | 22 | 0 | 18 | 6 | 0 | 0 | 0 | 0 | 0 | 46 | $9,290 |
| 2 | Preliminary Design | 18 | 20 | 60 | 176 | 60 | 40 | 18 | 2 | 14 | 408 | $61,380 |
| 3 | Permitting and Environmental Compliance | 18 | 4 | 16 | 40 | 38 | 0 | 0 | 2 | 116 | 234 | $37,650 |
| 4 | Engineer's Report | 34 | 20 | 110 | 161 | 134 | 24 | 0 | 4 | 16 | 503 | $79,680 |
| | **Totals** | **92** | **44** | **204** | **383** | **232** | **64** | **18** | **8** | **146** | **1,191** | **$188,000** |
| | | | | | | | | | | | **HDR Labor Subtotal** | **$188,000** |
| | | | | | | | | | | | Mileage ($0.75/mile) | $300 |
| | | | | | | | | | | | GPS Rental ($350/day) | $2,100 |
| | | | | | | | | | | | Printing / Plotting | $150 |
| | | | | | | | | | | | **HDR Direct Expenses Subtotal** | **$2,550** |
| | | | | | | | | | | | **Total Fee** | **$190,550** |

# HDR Engineering, Inc.
# Terms and Conditions
# for Professional Services

1. **STANDARD OF PERFORMANCE**
Notwithstanding any other provision of any contract term between the ENGINEER and the CLIENT, the standard of care for all professional engineering, consulting and related services performed or furnished by ENGINEER and its employees under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under the same or similar circumstances at the same time and in the same locality. ENGINEER makes no warranties, express or implied, under this Agreement or otherwise, in connection with ENGINEER's services.

ENGINEER and CLIENT agree that no other party is an intended or unintended third-party beneficiary of this contract, and that ENGINEER's duties run solely to CLIENT.

2. **INSURANCE/INDEMNITY**
ENGINEER agrees to procure and maintain, at its expense, Workers' Compensation insurance as required by statute; Employer's Liability of $250,000; Automobile Liability insurance of $1,000,000 combined single limit for bodily injury and property damage covering all vehicles, including hired vehicles, owned and non-owned vehicles; Commercial General Liability insurance of $1,000,000 combined single limit for personal injury and property damage; and Professional Liability insurance of $1,000,000 per claim for protection against claims arising out of the performance of services under this Agreement caused by negligent acts, errors, or omissions for which ENGINEER is legally liable. Upon request, OWNER shall be made an additional insured on Commercial General and Automobile Liability insurance policies and certificates of insurance will be furnished to the OWNER. ENGINEER agrees to indemnify OWNER for claims to the extent caused by ENGINEER's negligent acts, errors or omissions.

3. **OPINIONS OF PROBABLE COST (COST ESTIMATES)**
Any opinions of probable project cost or probable construction cost provided by ENGINEER are made on the basis of information available to ENGINEER and on the basis of ENGINEER's experience and qualifications, and represents its judgment as an experienced and qualified professional engineer. However, since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s') methods of determining prices, or over competitive bidding or market conditions, ENGINEER does not guarantee that proposals, bids or actual project or construction cost will not vary from opinions of probable cost ENGINEER prepares.

4. **CONSTRUCTION PROCEDURES**
ENGINEER's observation or monitoring portions of the work performed under construction contracts shall not relieve the contractor from its responsibility for performing work in accordance with applicable contract documents. ENGINEER shall not control or have charge of, and shall not be responsible for, construction means, methods, techniques, sequences, procedures of construction, health or safety programs or precautions connected with the work and shall not manage, supervise, control or have charge of construction. ENGINEER shall not be responsible for the acts or omissions of the contractor or other parties on the project. ENGINEER shall be entitled to review all construction contract documents and to require that no provisions extend the duties or liabilities of ENGINEER beyond those set forth in this Agreement. OWNER agrees to include ENGINEER as an indemnified party in OWNER's construction contracts for the work, which shall protect ENGINEER to the same degree as OWNER. Further, OWNER agrees that ENGINEER shall be listed as an additional insured under the construction contractor's liability insurance policies.

5. **CONTROLLING LAW**
This Agreement is to be governed by the law of the state where ENGINEER's services are performed.

6. **CLIENT-PROVIDED SERVICES AND INFORMATION**
CLIENT will provide all criteria and information pertaining to the project in CLIENT's possession, and any requirements or budgetary limitations. The CLIENT agrees to bear full responsibility for the technical accuracy and content of CLIENT-furnished documents, information and services.

In performing services hereunder, it is understood by CLIENT that ENGINEER is not engaged in rendering any type of legal, insurance or accounting services, opinions or advice. Further, it is the CLIENT's sole responsibility to obtain the advice of an attorney, insurance counselor or accountant to protect the CLIENT's legal and financial interests.

7. **SUCCESSORS AND ASSIGNS**
OWNER and ENGINEER, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the covenants of this Agreement. Neither OWNER nor ENGINEER will assign, sublet, or transfer any interest in this Agreement or claims arising therefrom without the written consent of the other.

8. **RE-USE OF DOCUMENTS**
All documents, including all reports, drawings, specifications, computer software or other items prepared or furnished by ENGINEER pursuant to this Agreement, are instruments of service with respect to the project. ENGINEER and CLIENT retain joint ownership of all such documents. OWNER may retain copies of the documents for its information and reference in connection with the project; however, none of the documents are intended or represented to be suitable for reuse by OWNER or others on extensions of the project or on any other project. Any reuse without written verification or adaptation by ENGINEER for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, and OWNER will defend, indemnify and hold harmless ENGINEER from all claims, damages, losses and expenses, including attorney's fees, arising or resulting therefrom.

9. **TERMINATION OF AGREEMENT**
OWNER or ENGINEER may terminate the Agreement, in whole or in part, by giving seven (7) days written notice, if the other party substantially fails to fulfill its obligations under the Agreement through no fault of the terminating party. Where the method of payment is "lump sum," or cost reimbursement, the final invoice will include all services and expenses associated with the project up to the effective date of termination. An equitable adjustment shall also be made to provide for termination settlement costs ENGINEER incurs as a result of commitments that had become firm before termination, and for a reasonable profit for services performed.

10. **SEVERABILITY**
If any provision of this agreement is held invalid or unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term or condition shall not be construed by the other party as a waiver of any subsequent breach of the same provision, term or condition.

11. **INVOICES**
ENGINEER will submit monthly invoices for services rendered and OWNER will make prompt payments in response to ENGINEER's invoices.

ENGINEER will retain receipts for reimbursable expenses in general accordance with Internal Revenue Service rules pertaining to the support of expenditures for income tax purposes. Receipts will be available for inspection by OWNER's auditors upon request.

If OWNER disputes any items in ENGINEER's invoice for any reason, including the lack of supporting documentation, OWNER may temporarily delete the disputed item and pay the remaining amount of the invoice. OWNER will promptly notify ENGINEER of the dispute and request clarification and/or correction. After any dispute has been settled, ENGINEER will include the disputed item on a subsequent, regularly scheduled invoice, or on a special invoice for the disputed item only.

OWNER recognizes that late payment of invoices results in extra expenses for ENGINEER. ENGINEER retains the right to assess OWNER interest at the rate of one percent (1%) per month, but not to exceed the maximum rate allowed by law, on invoices which are not paid within thirty (30) days from the date of the invoice. In the event undisputed portions of ENGINEER's invoices are not paid when due, ENGINEER also reserves the right, after seven (7) days prior written notice, to suspend the performance of its services under this Agreement until all past due amounts have been paid in full.

**12. CHANGES**

The parties agree that no change or modification to this Agreement, or any attachments hereto, shall have any force or effect unless the change is reduced to writing, dated, and made part of this Agreement. The execution of the change shall be authorized and signed in the same manner as this Agreement. Adjustments in the period of services and in compensation shall be in accordance with applicable paragraphs and sections of this Agreement. Any proposed fees by ENGINEER are estimates to perform the services required to complete the project as ENGINEER understands it to be defined. For those projects involving conceptual or process development services, activities often are not fully definable in the initial planning. In any event, as the project progresses, the facts developed may dictate a change in the services to be performed, which may alter the scope. ENGINEER will inform OWNER of such situations so that changes in scope and adjustments to the time of performance and compensation can be made as required. If such change, additional services, or suspension of services results in an increase or decrease in the cost of or time required for performance of the services, an equitable adjustment shall be made, and the Agreement modified accordingly.

**13. CONTROLLING AGREEMENT**

These Terms and Conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, purchase order, requisition, notice-to-proceed, or like document. In resolving inconsistent or contradictory provisions between this Agreement and any other document or understanding, the terms of these Terms and Conditions shall control.

**14. EQUAL EMPLOYMENT AND NONDISCRIMINATION**

In connection with the services under this Agreement, ENGINEER agrees to comply with the applicable provisions of federal and state Equal Employment Opportunity for individuals based on color, religion, sex, or national origin, or disabled veteran, recently separated veteran, other protected veteran and armed forces service medal veteran status, disabilities under provisions of executive order 11246, and other employment, statutes and regulations, as stated in Title 41 Part 60 of the Code of Federal Regulations § 60-1.4 (a-f), § 60-300.5 (a-e), § 60-741 (a-e).

**15. CERTIFICATIONS**

The use of the word "certify" or "certification" by a registered professional engineer in the practice of professional engineering or land surveying constitutes an expression of professional opinion regarding those facts or findings which are the subject of the certification, and does not constitute a warranty or guarantee, either expressed or implied. Certification of analyses is a statement that the analyses have been performed correctly and in accordance with sound engineering practices. Certification of structural works is a statement that the works are designed in accordance with sound engineering practices and client approved design loads. Certification of "as built"' conditions is a statement that the structure(s) has been built according to specifically identified drawings, specifications and contract documents to the extent the structure(s) is readily observable, is in place, and is fully functioning. The definition and legal effect of any and all certifications shall be limited as stated herein.

**16. EXECUTION**

This Agreement, including the exhibits and schedules made part hereof, constitute the entire Agreement between ENGINEER and OWNER, supersedes and controls over all prior written or oral understandings. This Agreement may be amended, supplemented or modified only by a written instrument duly executed by the parties.

**17. LIMITATION OF LIABILITY**

In the event that any damage, loss, or claim is asserted by a third party, and said damage, loss, or claim arises out of or is in connection with the performance of ENGINEER'S services, including ENGINEER and its employees professional negligent acts, errors, or omissions, each party (ENGINEER and CLIENT) shall release, indemnify, and hold the other harmless, together with their agents, employees and assigns, PROVIDED THAT, said damage, loss, or claim is within the parties' combined limits of applicable insurance. In the event that any damage, loss or claim exceeds the parties' combined available limits of applicable insurance, then each party shall bear their own liability in direct proportion to their own individual fault.

**18. LITIGATION SUPPORT**

In the event ENGINEER is required to respond to a subpoena, government inquiry or other legal process related to the services in connection with a legal or dispute resolution proceeding to which ENGINEER is not a party, CLIENT shall reimburse ENGINEER for reasonable costs in responding and compensate ENGINEER at its then standard rates for engineering services when gathering information and documents and shall pay ENGINEER its standard rates for providing expert witness services when attending depositions, hearings, and trial.

If ENGINEER and CLIENT are made a party to any litigation concerning CLIENT's flood control structures, CLIENT and ENGINEER shall each bear their own costs and expenses for defense pending a final determination of each party' s liability. Upon a finding by a court of competent jurisdiction of any negligence, all of the parties' reasonable total costs for defense of the matter shall be combined, and the total reasonable defense costs of both parties shall be pro-rated between the parties based on their respective shares of fault.

**19. MAINTENANCE OF STRUCTURES AND SYSTEMS**

CLIENT agrees that structures and systems studied, reviewed, analyzed or designed by the ENGINEER's are dependent upon CLIENT's continued operation and maintenance of the project structures and systems in accordance with all, permits, laws and regulations that permit the construction and operations of the structure(s) and systems including any Engineer prepared operations and maintenance plans Should CLIENT fail to maintain the structures to be in full compliance permits, approvals, and operations and maintenance plans, ENGINEER shall have no liability to CLIENT, and CLIENT shall indemnify, release and hold ENGINEER and its employees harmless from any liability resulting from any direct or consequential damage resulting from such non-compliance, including but not limited to claims made by third-parties against ENGINEER.

**20. VISUAL INSPECTIONS**

For visual inspections, CLIENT hereby releases, holds harmless, indemnifies and agrees to defend ENGINEER against any claims, damages, losses, liabilities, expenses or costs arising out of any failure to detect hidden, covered, inaccessible, or internal structural or material defects, corrosion, or damages in components, embedment, reinforcing, anchorages and parts of equipment, structures, or mechanisms being inspected, that are not readily discernible by external visual inspection through reasonable efforts.

# Red Lake Watershed District



1000 Pennington Avenue South
Thief River Falls MN, 56701
218-681-5800
218-681-5839 FAX
E-mail: RLWD@redlakewatershed.org
www.redlakewatershed.org



January 8, 2024

Mr. John Finney, Chairman
Red River Watershed Management Board
11 5th Avenue East, Suite B
Ada, MN 56510

Dear Mr. Finney:

The Red Lake Watershed District (RLWD) is committed to Flood Damage Reduction both locally and regionally, along with solutions for improvement to water quality. The RLWD would like to present the Chief's Coulee Stormwater Project, located north and within the City of Thief River Falls. The city, RLWD, and Pennington SWCD have documented multiple issues with water quality and drainage along the Chief's Coulee drainageway. The Chief's Coulee Stormwater Project will address localized flooding concerns and serious water quality concerns on the north side of the city of Thief River Falls through a partial diversion of flow north of the City of Thief River Falls into a county ditch system, infrastructure installation, implementation of agricultural and stormwater BMP's, and installation of hydrodynamic separator structures.

The estimated project cost of the project is $2,300,000. In which, the District is requesting $300,000 from the Red River Watershed Management Board. The funding partners and amounts committed are listed below:

| Funding Partner | Amount Committed |
|---|---|
| BWSR Clean Water | $428,750 |
| City of Thief River Falls | $800,000 |
| Red Lake Watershed District | $800,000 |
| *RRWMB FDR (proposed)* | *$300,000* |
| **TOTAL POTENTIAL FUNDING** | **$2,328,750** |
| TOTAL ESTIMATED PROJECT COST | $2,300,000 |

Thank you for your consideration of the Chief's Coulee Stormwater Project.

Sincerely,

Tammy Audette

Tammy Audette
Administrator

Enclosure

# RRWMB APPLICATION FOR FDR PROJECT FUNDING

**Red River Watershed Management Board**

***Project Sponsors:*** *Submit this form to the RRWMB Executive Director when requesting RRWMB funding for FDR or FDR/NRE projects. This form must be accompanied by the Project Information Form (Part 1 or Part 2).*

| | | | |
|---|---|---|---|
| **Project Name:** | Chief's Coulee | | |
| **Phase (if applicable):** | | | |
| **Sponsor/Applicant:** | Red Lake Watershed District | | |
| **Contact Person:** | Tammy Audette | **Date:** | 01/03/24 |

This application is for the RRWMB Funding Procedure at (pick one): ☐ Step 1 ☐ Step 2 ☐ Step 3 ☒ N/A

Funding amount requested: **$200,000**

A funding application for the prior step was approved on (list date or "N/A"): **N/A**

Is this a revised application for a step that was approved previously? ☐ Yes ☒ No

**GENERAL CRITERIA:**

1. Would the proposed flood damage reduction project or program function within the Red River drainage basin? ☒ Yes ☐ No
2. Is the proposed flood damage reduction project or program recognized in the watershed district's water management plan as a component of its approved initiatives? ☒ Yes ☐ No
3. Does the project fit into at least one of the RRWMB's eligible categories for FDR and FDR/NRE projects? (*Check all that apply*):

| | |
|---|---|
| ☐ Wet dams or impoundments | ☐ Set back levees that increase floodplain storage |
| ☐ Dry dams | ☐ Culvert sizing to regulate downstream flow rates |
| ☐ On-stream dams or impoundments | ☐ Gating drainage ditches |
| ☐ Off-stream dams or impoundments | ☐ Flood water storage easements |
| ☐ Wetland restorations/creations that increase temporary storage | ☐ Non-structural flood damage reduction initiatives |
| ☐ Wetland restorations/creations that reduce flood volumes | ☐ Overtopping levees that reserve floodplain storage |
| ☐ Ring dikes | ☐ Natural resource enhancements |
| | ☒ Other (Requires 6 Affirmative Votes from RRWMB Managers) |

4. Is the project or program eligible for total federal or state funding? ☐ Yes ☒ No
5. Do the applicants have the ability to operate and maintain the proposed project when constructed? ☒ Yes ☐ No
6. Does the project meet the engineering and technical criteria listed in the RRWMB Governing Documents? ☒ Yes ☐ No
7. STar value of this project (attach worksheet): N/A
8. Cost per STar:
   a) Cost per STar for the funding amount requested from the RRWMB
   b) RRWMB's standard threshold for cost per STar in the current year
   c) Ratio of (a) divided by (b).

*Note: At Step III a ratio greater than 1.0 in box 8(c) shall cause an application to be rejected, unless a variance is granted per the Funding Procedures in the RRWMB Governing Documents.*

9. Check a box under only one of the two categories below. Note: "Other interests" means funds received from sources other than the RRWMB tax levy that are secured to reduce the RRWMB/Watershed District commitment.

**Category 1:** The proposed project provides flood damage reduction **downstream to the outlet into the Red River** and funding is requested from the RRWMB for:

- ☐ From twenty-six to fifty percent of the total cost not funded by other interests
- ☒ Up to twenty-five percent of the total cost not funded by other interests

If the percentage requested is higher than fifty percent, please list the percentage here: ☐

**Category 2:** The proposed project provides flood damage reduction **at a point on the Red River downstream from all contributing Minnesota watersheds** and funding is requested from the RRWMB for:

- ☐ From fifty-one to sixty-seven percent of the total cost not funded by other interests
- ☐ From twenty-six to fifty percent of the total cost not funded by other interests
- ☐ Up to twenty-five percent of the total cost not funded by other interests

If the percentage requested is higher than sixty-seven percent, please list the percentage here: ☐

It is anticipated that construction can be accomplished and therefore funding will be required in:

- ☒ One to two years.
- ☐ Within one year.
- ☐ Three to five years.
- ☐ Two to three years.

We hereby certify the information listed above and request funding in the stated amount from the Red River Watershed Management Board.

| **Watershed District's Authorized Representative:** |
|---|
| Signature: Tammy Audette |
| Date Signed: 1/8/24 |

If funding is approved by the RRWMB, the RRWMB will prepare a funding agreement. RRWMB funding shall not be disbursed until an agreement has been executed by the RRWMB and District.

**Attachments:**

- RRWMB/FDRWG Project Information Form (either Part 1 or Part 2, as appropriate).
- Star Value Worksheet

**Houston Engineering, Inc.**
208 4th Street East ▪ Thief River Falls, MN 56701 ▪ Ph: 218-681-2951 ▪ Fax: 218-681-2987

October 12, 2007

Red Lake Watershed District
Attn: Myron Jesme, Administrator
P.O. Box 803
Thief River Falls, MN 56701

**SUBJECT: Clearwater River - Rice Grower Pump Calibrations**

Dear Myron,

The Red Lake Watershed District requested the services of Houston Engineering, Inc. to determine and/or verify the estimated discharges of several pumps for various Wild Rice Growers along the Clearwater River in both Clearwater and Polk Counties. The District Staff collected all field data for use in the analysis.

The analysis has been completed and the attached spreadsheet displays the estimated discharges applied to each pump.

The Spreadsheet includes several values. Each grower is highlighted by a different color code. Within each color code is a pump number which correlates with a respective discharge. Only those discharges within a color coded cell will apply. Cells with no color background were used for comparison purposes only and the discharge values displayed in these cells should not be used.

Considering the hydraulic conditions presented to the watershed district, three different discharge cases exist which require a separate analysis for determining the estimated discharges. These cases and the basis for each are as follows:

Case 1 – This condition displays a free discharge with no backwater effects. The traditional "Yardstick" method was used in this case, which applies the trajectory theory to the jet formed by the discharging water. Jet measurements of horizontal projection related to 12" of vertical fall were recorded and a corresponding discharge is developed. This method and applicable design chart were provided by the USGS, and has been the traditional method applied by the watershed district in determining pump discharges. District Staff has applied this procedure in the past with success. The current measurements and calculations from this case were performed by the District Staff, and Houston Engineering, Inc., verified that the calculations performed were accurate.

This method appears to be a suitable way of estimating discharges with limited availability of flow measuring devices.

Case 2 – This condition displays a free discharge with no backwater effects. Case 2 is different than Case 1 in that the vertical fall of the jet is too excessive to measure with the traditional devices used for Case 1. Case 2 generally displays a weak jet with little

projection. Case 2 assumes critical depth is occurring at the outlet edge of the discharge pipe. Since this depth was measured at the discharge point of the pipe, the critical depth is known and the discharge can therefore be determined from traditional open channel flow formulas relating to critical depth for a circular channel. This case is viewed as less accurate than case 1, but appears adequate for the purpose it is being developed.

This method has not been applied in the past but appears consistent with similar flow conditions in Case 1.

Case 3 – This condition displays an outlet which is partially or totally submerged. Trajectory measurements were taken of the jet prior to the outlet becoming submerged. With the measurements and data provided (including Horsepower rating of the pump, static head, outlet pipe diameter, and jet characteristics), a discharge was calculated as in Case 1 and an efficiency and energy loss factor were developed for each pump. This factor was then applied to the condition where the outlet was submerged, and a new discharge was developed considering the additional Static Head imposed with the outlet submerged. Although Case 3 is the most inaccurate of the cases considered, the resulting discharges appear to be somewhat consistent with previous values used. Considering the available data, the limited flow measuring devices available, and the unknown condition of the pumps and piping, the basis used for this condition appears to be the best available. The use of the discharge data developed for Case 3 does appear appropriate considering its application and use by the Watershed District.

The analysis for Case 3 has also not been applied in the past, but appears consistent with previous discharges for these pumps.

It is understood that these values are to be used to apportion water pumped from the Clearwater River during times of limited water supply. The discharge estimates provided should be adequate for use in this manner. Considering the variables introduced and the lack of control of consistency between all pumps and growers from year to year, additional efforts to improve discharge accuracy (i.e. flow measuring devices) may not be warranted. A simple review of anticipated costs and corresponding benefits may be worthwhile to assure the discharge data developed is the most feasible approach.

Please contact me if you have any questions or comments related to the analysis and recommended discharges provided. As always, we appreciate the opportunity working with you and your staff.

Sincerely,

HOUSTON ENGINEERING, INC.

Jeffery J. Langan, P.E.
JJL: hp
Encl.
G:\Jobs by Number\3655 RLWD\3655-058 Pump Calib

Pump Calibration Discharges

Skoe | N.Star | Sabo | Molden | Imle | Gunvalson

**Case 1** Use when H<12" Most Accurate

| Line No./Pump Number | ID (in) | H (in) | H/D | Correction Factor | X (in) | K | Q Factored (gpm) |
|---|---|---|---|---|---|---|---|
| 1/1 | 17.5 | 5.5 | 0.31 | 0.735 | 12 | 250.5 | 2210 |
| 2/2 | 17 | 10.25 | 0.60 | 0.375 | 6.5 | 236.4 | 576 |
| 3/3 | 22.5 | 9 | 0.40 | 0.627 | 8 | 414.1 | 2077 |
| 7/1 | 13 | 5.75 | 0.44 | 0.577 | 12.5 | 138.2 | 997 |
| 9/3 | 13.5 | 5.5 | 0.41 | 0.614 | 15.5 | 149.1 | 1419 |
| 10/4 | 13.5 | 6 | 0.44 | 0.577 | 16.5 | 149.1 | 1419 |
| 11/1 | 18 | 3 | 0.17 | 0.884 | 23 | 265.0 | 5389 |
| 12/2 | 18 | 6.75 | 0.38 | 0.651 | 19 | 265.0 | 3278 |
| 13/3 | 21 | 12 | 0.57 | 0.389 | 3 | 360.7 | 432 |
| 14/4 | 16.75 | 6.25 | 0.37 | 0.664 | 18.25 | 229.5 | 2781 |
| 15/5 | 19.25 | 10.25 | 0.53 | 0.462 | 10.25 | 303.1 | 1435 |
| 16/1 | 15 | 7.75 | 0.52 | 0.474 | 18 | 184.1 | 1570 |
| 17/2 | 20 | 2 | 0.10 | 0.948 | 20 | 327.2 | 6204 |
| 18/10 | 13 | 0 | 0.00 | 1.000 | 21 | 138.2 | 2903 |
| 19 | 15.25 | 0 | 0.00 | 1.000 | 19.75 | 190.2 | 3757 |
| 20 | 13 | 0 | 0.00 | 1.000 | 22.5 | 138.2 | 3110 |
| 21 | 15.25 | 0 | 0.00 | 1.000 | 29 | 190.2 | 5517 |
| 22 | 15.25 | 2.5 | 0.16 | 0.896 | 17 | 190.2 | 2898 |
| 23 | 15.25 | 0 | 0.00 | 1.000 | 22 | 190.2 | 4185 |
| 24 | 15.25 | 3.5 | 0.23 | 0.827 | 16.5 | 190.2 | 2596 |
| 25 | 15.25 | 1 | 0.07 | 0.968 | 22 | 190.2 | 4051 |
| 26/1 | 15.25 | 2 | 0.13 | 0.922 | 23 | 190.2 | 4034 |
| 27/1A | 15.25 | 2.5 | 0.16 | 0.896 | 21.75 | 190.2 | 3707 |
| 28/2 | 13.5 | 0 | 0.00 | 1.000 | 27.25 | 149.1 | 4062 |
| 29/6 | 14 | 1 | 0.07 | 0.968 | 18.5 | 160.3 | 2871 |
| 30/7 | 13.5 | 2 | 0.15 | 0.905 | 18 | 149.1 | 2429 |
| 31/8 | 18 | 6.25 | 0.35 | 0.688 | 13 | 265.0 | 2370 |
| 32/9 | 13 | 1.75 | 0.13 | 0.922 | 17.25 | 138.2 | 2199 |
| 33/10 | 15.75 | 0 | 0.00 | 1.000 | 30.5 | 202.9 | 6189 |
| | | | #DIV/0! | | | 0.0 | 0 |
| | | | #DIV/0! | | | 0.0 | 0 |
| | | | #DIV/0! | | | 0.0 | 0 |
| | | | #DIV/0! | | | 0.0 | 0 |
| | | | #DIV/0! | | | 0.0 | 0 |
| | | | #DIV/0! | | | 0.0 | 0 |
| | | | #DIV/0! | | | 0.0 | 0 |
| | | | #DIV/0! | | | 0.0 | 0 |
| | | | #DIV/0! | | | 0.0 | 0 |
| | | | #DIV/0! | | | 0.0 | 0 |
| | | | #DIV/0! | | | 0.0 | 0 |
| | | | #DIV/0! | | | 0.0 | 0 |

**Case 2** Use when H>>ID/2 (partially accurate)

| Line No./Pump Number | ID (in) | H (in) | dc (in) | dc/ID | A/D^2 (from Chart) | A (in^2) | b (in^2) | Q (gpm) |
|---|---|---|---|---|---|---|---|---|
| 1 | 17.5 | 5.5 | 12 | 0.69 | 0.5780 | 177 | 34 | 2048 |
| 2 | 17 | 10.25 | 6.75 | 0.40 | 0.2934 | 85 | 34 | 685 |
| 3 | 22.5 | 9 | 13.5 | 0.60 | 0.4920 | 249 | 45 | 2996 |
| 4/4 | 25 | 19.5 | 3.88905 | 0.16 | 0.1281 | 80 | 47 | 533 |
| 5/5 | 25 | 19.5 | 3.88905 | 0.16 | 0.1281 | 80 | 47 | 533 |
| 6/6 | 25 | 21 | 2.8284 | 0.11 | 0.0811 | 51 | 46 | 271 |
| 7 | 13 | 5.75 | 7.25 | 0.56 | 0.4526 | 76 | 26 | 670 |
| 8/2 | 24 | 17.5 | 6.5 | 0.27 | 0.1711 | 99 | 47 | 730 |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |
| | | | 0 | #DIV/0! | | 0 | 0 | #DIV/0! |

**Case 3** Use when outlet is submerged (least accurate)

| Line No./Pump Number | BHP (hp) | Efficiency/ Correction Factor | Static Head (ft) | Q (gpm) |
|---|---|---|---|---|
| 1 | 30 | 0.293 | 15.76 | 2210 |
| 2 | 30 | 0.074 | 15.27 | 576 |
| 3 | 60 | 0.138 | 15.78 | 2077 |
| 7 | ?? | #VALUE! | 9.19 | |
| 9 | 30 | 0.098 | 8.23 | 1419 |
| 10 | 30 | 0.099 | 8.29 | 1419 |
| 11 | 30 | 0.549 | 12.08 | 5389 |
| 12 | 30 | 0.354 | 12.82 | 3278 |
| 13 | ?? | #VALUE! | | |
| 14 | 30 | 0.254 | 10.85 | 2781 |
| 15 | 30 | 0.110 | 9.13 | 1435 |
| 16 | 30 | 0.163 | 12.33 | 1570 |
| 17 | 30 | 0.581 | 11.12 | 6204 |
| 18 | 30 | 0.371 | 15.16 | 2903 |
| 19/11 | 40 | 0.249 | 13.26 | 2972 |
| 20/12 | 30 | 0.306 | 12.20 | 2972 |
| 21/15 | 40 | 0.446 | 13.43 | 5256 |
| 22/16 | 30 | 0.313 | 13.45 | 2761 |
| 23/17 | 30 | 0.445 | 13.24 | 3984 |
| 24/18 | 30 | 0.260 | 12.52 | 2464 |
| 25/19 | 30 | 0.425 | 13.08 | 3855 |
| 26 | 50 | 0.303 | 14.86 | 4034 |
| 27 | 50 | 0.269 | 14.37 | 3707 |
| 28 | 40 | 0.435 | 16.95 | 4062 |
| 29 | 30 | 0.423 | 17.49 | 2871 |
| 30 | 50 | 0.215 | 17.47 | 2429 |
| 31 | 30 | 0.349 | 17.46 | 2370 |
| 32 | 30 | 0.307 | 16.55 | 2199 |
| 33 | 50 | 0.512 | 16.37 | 6189 |

HOUSTON engineering, inc.

# Technical Memorandum

**To:** Red Lake Watershed District
Board of Managers

**From:** Tony Nordby, PE
Houston Engineering, Inc.

**Subject:** Moose River/Judicial Ditch (JD) 21 Channel Stability – Summary of Opinions Memo

**Date:** January 23, 2024

**Project:** HEI Project No. 3655-0103

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am duly Licensed Professional Engineer under the laws of the State of Minnesota.

Tony A. Nordby 1/23/24
Tony A. Nordby Date
Reg. No. 51392

## INTRODUCTION

During the April 14, 2022, Red Lake Watershed District (RLWD) board meeting, the board directed Houston Engineering, Inc. (HEI) to prepare a summary of opinions outline for the above referenced project on the Moose River/JD 21 east of Marshall County Road 54 NW (MCR 54) to identify potential stream restoration and stabilization opportunities. Due to high water levels within the Moose River due to discharge from the Moose River Impoundment in 2022, detailed survey and sight review were not possible until late 2022 and into the 2023 growing season.

## BACKGROUND

The Moose River was altered during establishment of JD 21 in 1915 and overtime the channel has the appearance of degradation, areas of unstable banks, and field erosion from adjacent lands contributing to sediment deposit within the channel. The channel was flown with a drone to capture video, LiDAR, and imagery in the fall of 2022 to identify unstable and erosive areas. Staff from HEI and the RLWD met to review GIS maps that were created to identify these problem areas. On June 6, 2023, Corey Hanson of the RLWD and I conducted a field inspection to ground truth the areas mapped and the remainder of the channel east of MCR 54 to confirm the identified problem areas and prioritize locations for further investigation and opportunities to implement best management practices (BMPs) or channel stabilization strategies.

## SURVEY AND DITCH RECORD INVESTIGATION

The RLWD staff performed detailed survey of the channel bottom in late fall of 2023 east of MCR 54 to get a better understanding of degradation within the channel bottom where water levels limited the drone LiDAR survey abilities in the fall of 2022. That surveyed profile was then compared to the original 1915 design ditch grade and the 1981 ditch grade on file for outlet adequacy for the Moose River Impoundment Project. The vertical datum of these ditch grades differs from today's North American Vertical Datum of 1988 (NAVD 88), so adjustment was necessary to compare the current profile to historical ditch grades. One technique to determine the as-constructed grade in a modern vertical datum is to collect soil borings during the field survey to determine the as-built grade. This

technique only works for ditch systems that have changed due to sediment deposition. Multiple locations along JD 2 east of MCR 54 are degraded, or have experienced erosion over time, and the soil boring technique cannot be utilized. Instead, the 1915 design ditch grade and 1981 ditch grade were adjusted to represent NAVD 88 datum by overlaying the cut profile from 1915 and the 1981 surveyed natural ground profile with the south natural ground field profile from the 2022 drone LiDAR flight. The 1915 and 1981 ditch grades were adjusted proportionately along with the natural ground profiles and therefore give a good representation of those ditch grades in NAVD 88 datum. See **Sheet 1** comparing these grades.

## MOOSE RIVER BMP PRIORITIZATION RECOMMENDATIONS

### *BMP 1 – SIDE WATER INLETS*

Multiple agricultural fields have open channels with direct agricultural drainage that enters the Moose River/JD 21. Some fields have existing culverts that are either too short or beyond life expectancy where erosion is occurring on the downstream ends. These side water inlets are shown on **Sheets 2-8**. In the open channel locations, head cutting is occurring into the adjacent fields causing gully erosion along the riverbank/adjacent field and transferring sediment downstream.

Example Side Water Inlet Need

A conceptual cost range per site for implementing this practice would be approximately $4,000 to $5,000. If landowner cooperation can be achieved, it is recommended that this practice be the highest priority as it will be the most cost-effective approach for achieving immediate sediment load reduction.

## *BMP 2 – GRADE CONTROL STRUCTURES / BANK STABILIZATION*

The drone video showed multiple stretches of the Moose River/JD 21 where bank stabilization issues were occurring. The field investigation and channel bottom survey as shown on **Sheet 1** proved this correct where the channel bottom has degraded, and the channel toe areas are eroding and causing the banks to become unstable. I recommend that grade stabilization measures be addressed between Stations 660+00 to 756+00 and potentially between 882+00 to 972+00 where the 2023 surveyed channel profile is below the 1981 Moose River flow calculation profile. Since 1981, it seems evident that areas just downstream of locations where degradation has taken place, some aggregation is occurring within the channel bottom where the 2023 surveyed channel profile is above the 1981 Moose River flow calculation profile as shown on **Sheet 1**. It should be stated that the 1915 original grade is likely unfeasible to redevelop in most locations due to the excessive degradation and adequate outlet capacity grade identified in 1981 for the Moose River Impoundment Project. It is recommended that rock riffles be strategically placed to stabilize the 1981 ditch grade by acting as a control structure allowing the sediment capture upstream of the structures, allowing long term reestablishment of the ditch grade, prevention of further channel degradation (downward erosion), and improvement of streambank stability. Streambank stabilization could then be incorporated into the project at the potential locations outlined on **Sheets 2 – 8** where degradation is occuring.

Channel Degradation Potential

A conceptual cost range per site for implementing this practice would be approximately $10,000 to $15,000. This practice could be implemented with BMP 1 as this practice will reduce channel velocity and in channel sediment transfer downstream.

## *BMP 3 – RESTORATION OF HISTORICAL CHANNEL MEANDERS*

It is evident that the Moose River was straightened removing historic meanders when JD 21 was constructed. The attached **Sheets 2 - 8** show multiple locations where the old meanders are evident on both the north and south sides of the existing Moose River/JD 21 channel and adjacent roadway. Reestablishing the historic meanders on the north side of the roadway is likely not feasible due to the cost of large waterway openings needed to convey flow under the roadway within a public water but multiple locations along the south side of the channel provide opportunity for channel restoration and/or floodplain access. Reintroducing these historic meanders would increase flow travel time, reduce channel velocities, reduce in channel sediment transfer downstream, and improve road safety while addressing multiple bank stabilization locations identified on **Sheets 2 - 8**. Locations along the channel that seem the most practical and beneficial are along the Eric Sundberg and Timothy Foss properties in Section 5 of Northwood Township, Matthew Hennen property in Section 4 of Northwood Township, and multiple State lands in Northwood and North Beltrami Unorganized Townships.

The roadway adjacent to the Timothy Foss property has an extremely steep road slope into the Moose River/JD 21 channel where bank stabilization is an issue and large tree growth along the south road shoulder makes traffic safety a Beltrami County Highway Department concern. The historic meander at this location appears to be cut off from flow on the upstream end and has a culvert on the downstream end where the historic meander returns to the existing Moose River/JD 21 system. This culvert appears to be in poor condition with a flap gate that is silted shut and not in operation. Reintroducing flow into this historic meander would not only be a water quality benefit, but also allow the road authority to improve the road slope for traffic safety.

Timothy Foss Historical Meander Culvert (**Sheet 3**)

Multiple historic meander locations along the Erick Sundberg property and state properties have been cut off from flow south of the Moose River/JD 21. These meanders are still evident today and could be used as floodplain locations to help slow velocities in the channel or full restorations of the meanders to lengthen the channel.

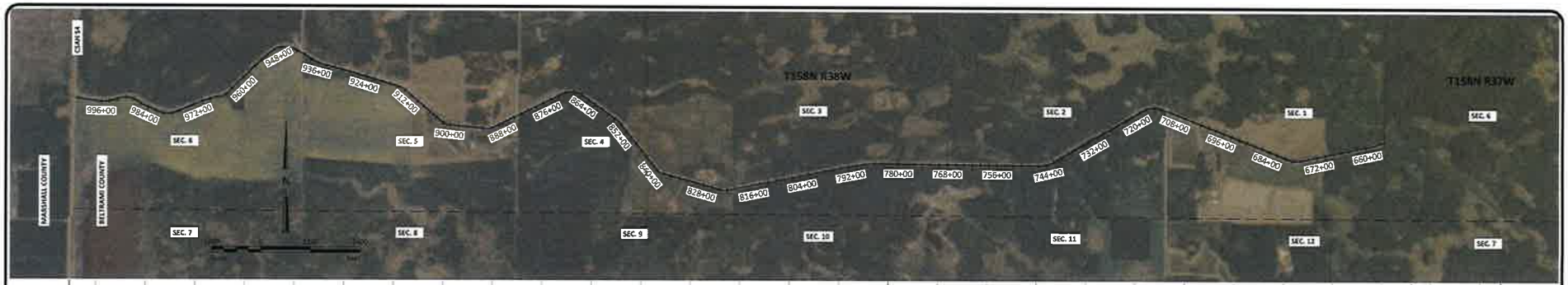
Erosion was evident in the agricultural field adjacent to the historic channel in the Hennen field east of the Northwood church. The historic meander is currently being farmed on the west side of the Northwood church driveway but is more evident on the east side and wasn't farmed through in June of 2023. Culverts were evident along this property where the historic meanders exit the Moose River/JD 21 system, providing an agricultural drainage outlet.

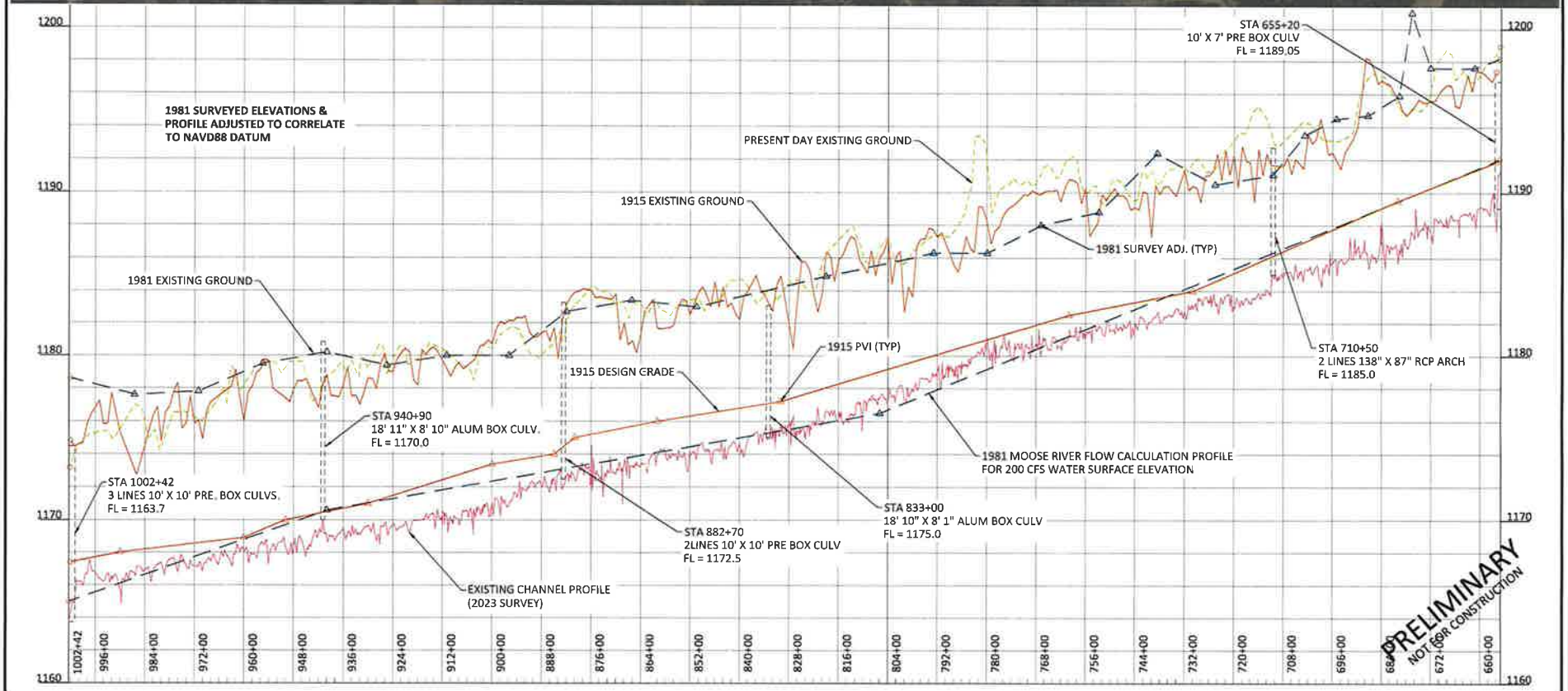
A conceptual cost range per channel restoration site for implementing this practice would be approximately $100,000 to $200,000. Cost would be dependent on the overall length of the restoration and if it's a full or partial restoration where all water is diverted to the historic meander or only partial high flows and the existing channel is still used adjacent to the roadway.

Matthew Hennen Historical Meander East of Northwood Church (**Sheet 4**)

## CONCLUSION

The original proposal discussed 5 types of stream restoration/stabilization practices, but through field review it appears that subsurface seepage drains, and channel slope armoring of high velocity channel areas are not a fit for this system. It's recommended that the RLWD and project partners pursue moving forward with BMP 1 and 2 listed above while investigating interest from adjacent landowners and the Department of Natural Resources on the potential of implementing BMP 3 where feasible.




| No. | Revision | Date | By |
|---|---|---|---|
| | | | |

HOUSTON engineering, inc.

| Drawn by | Date |
|---|---|
| TJO | 1-4-2024 |
| Checked by | Scale |
| TAN | AS SHOWN |

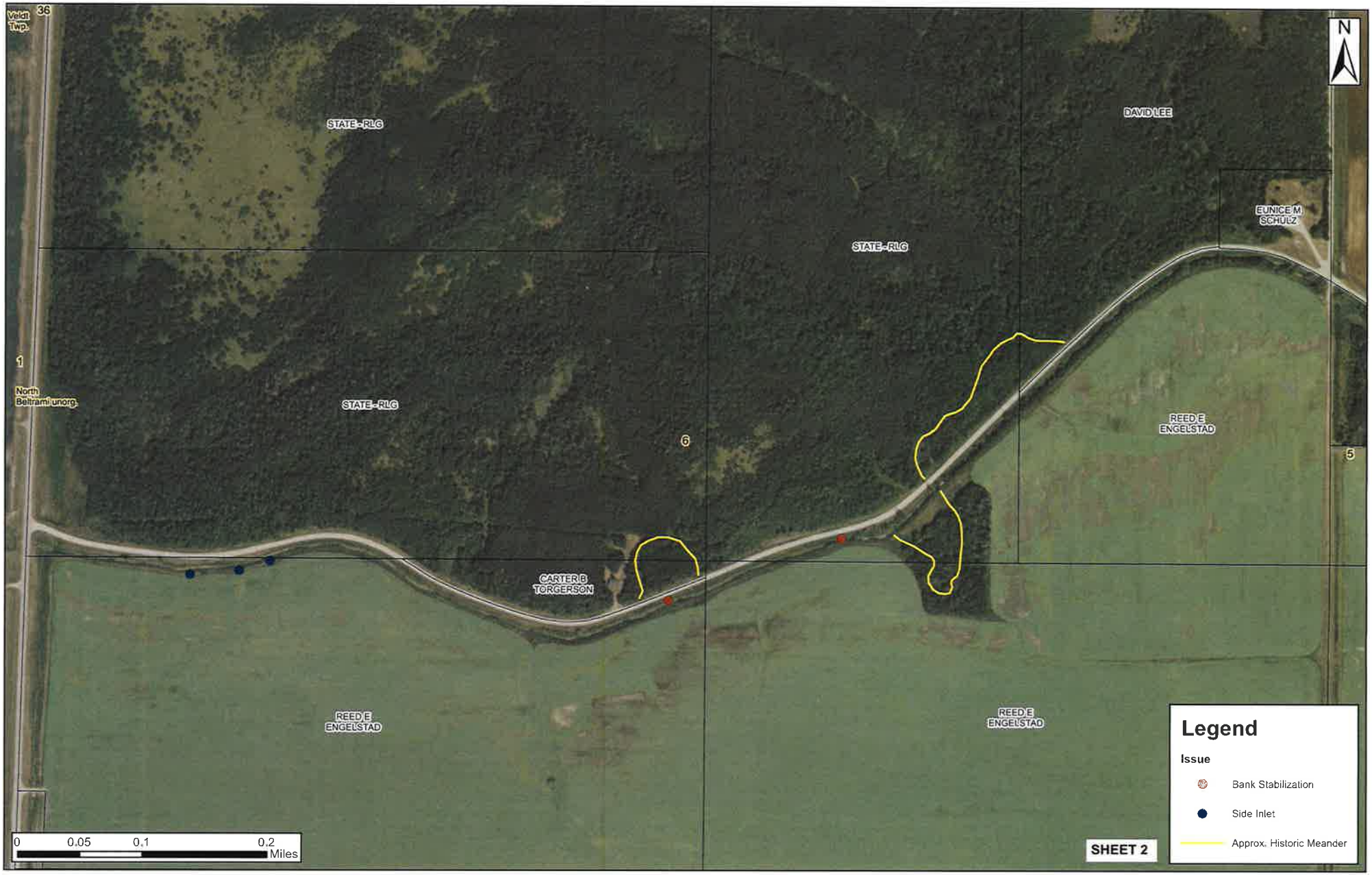
JD 21 CHANNEL
RED LAKE WATERSHED DISTRICT
MOOSE RIVER

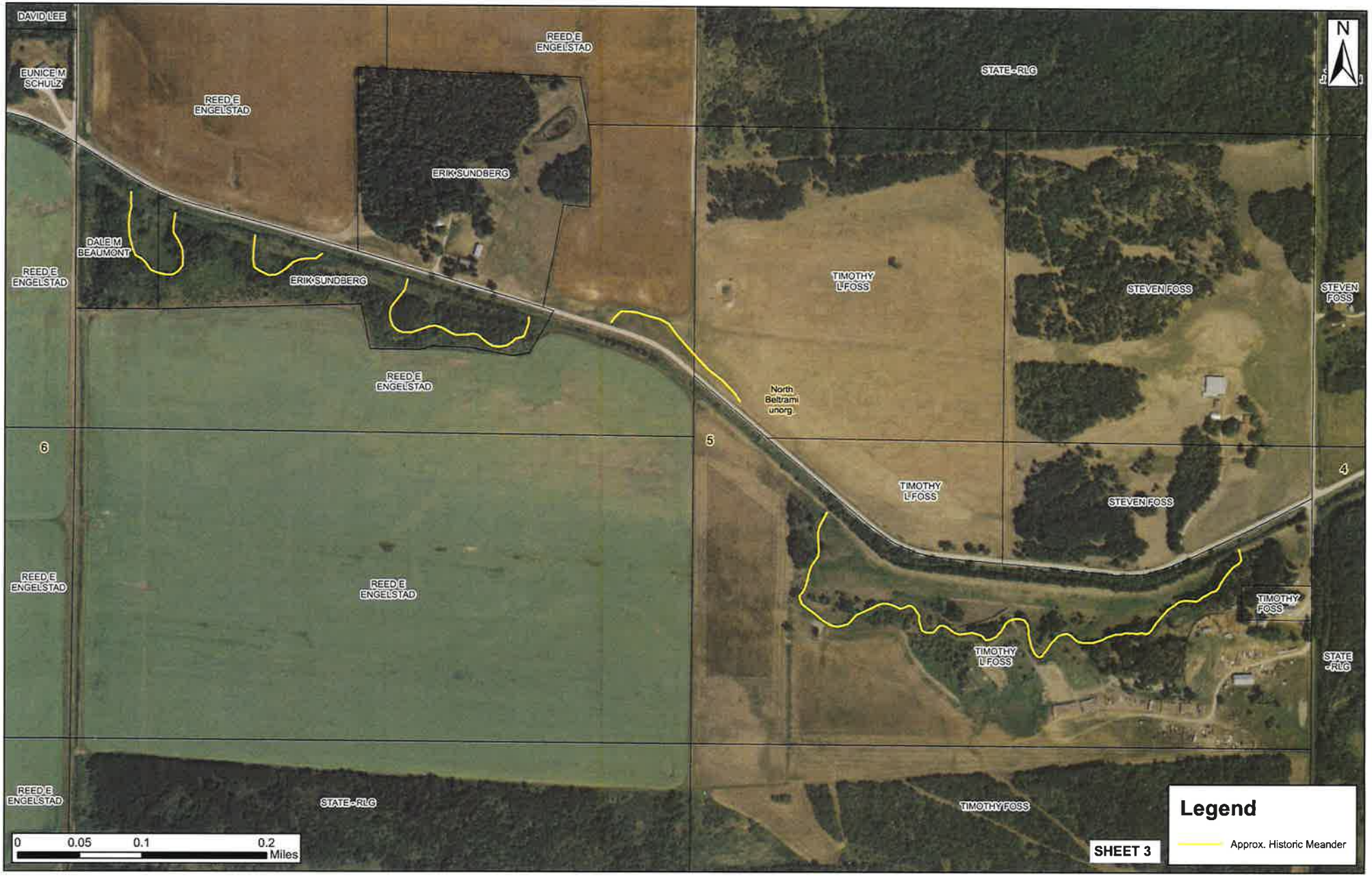
P & P

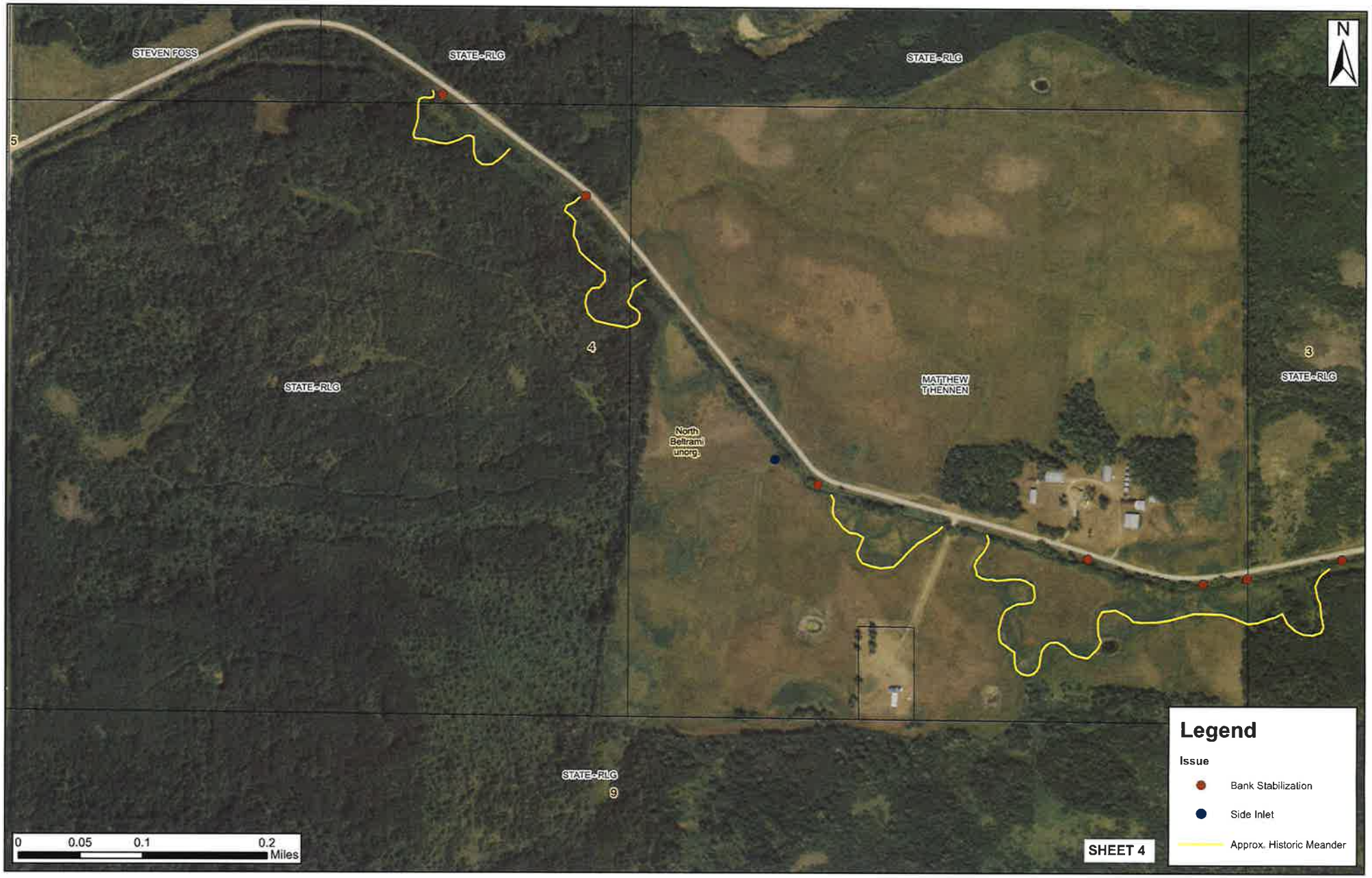
PROJECT NO. 3655-0103

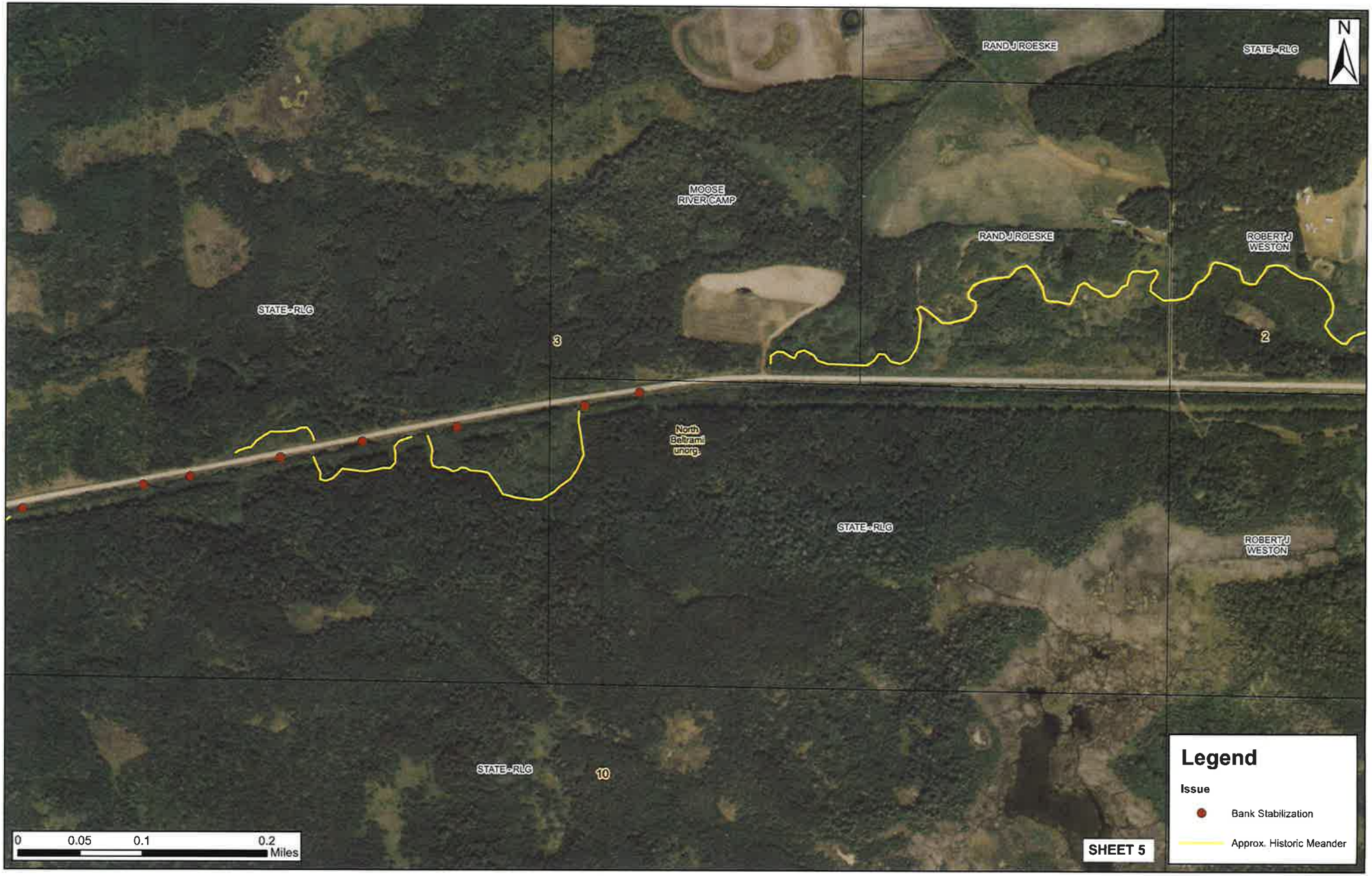
SHEET 1

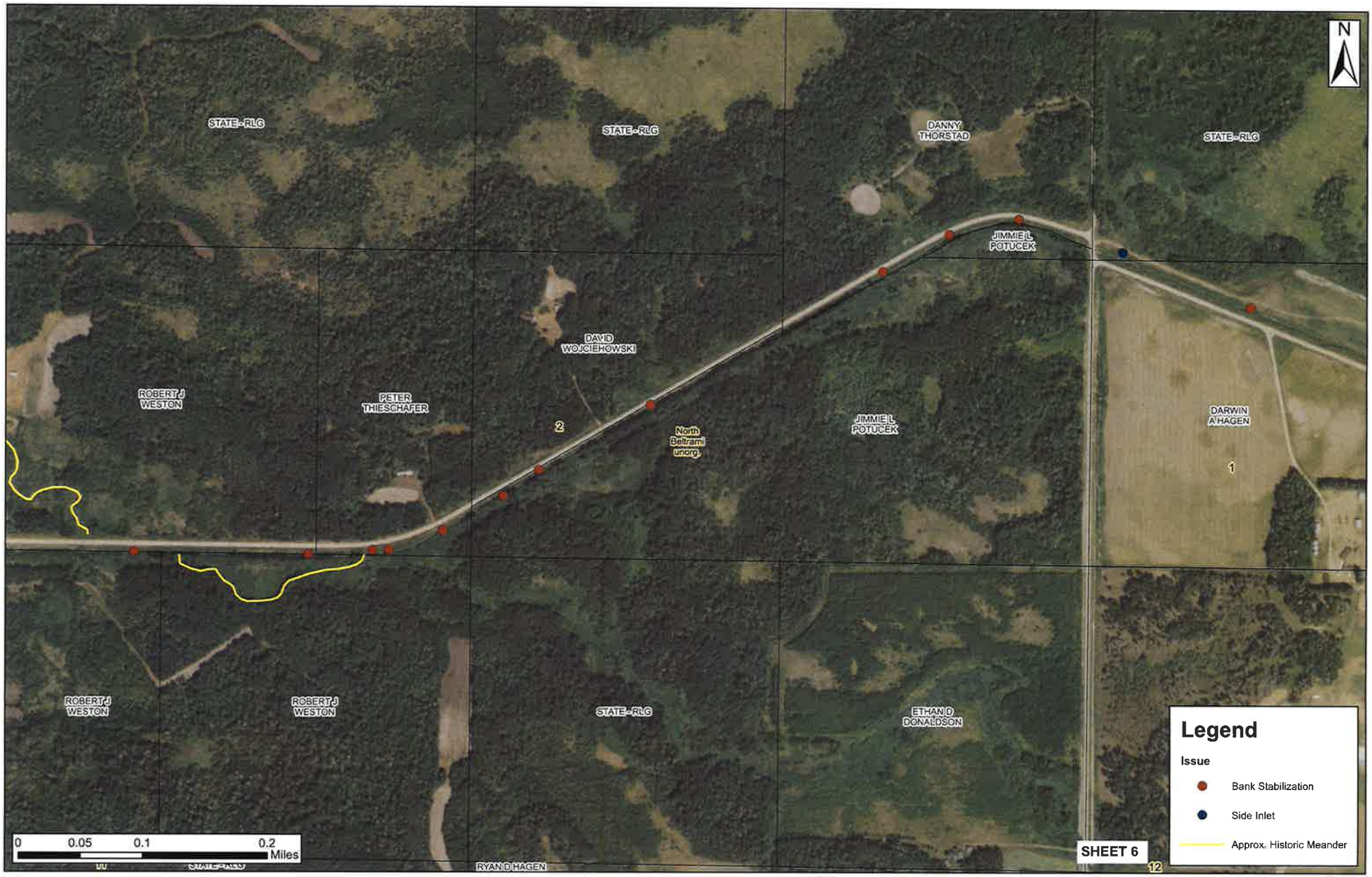
H:\WK\3600\3655\3655-0103 Moose River JD 21 Channel Stability\CAD\JD 21 - TJD dwg-P & P-1/5/2024 11:29 AM (johnn)

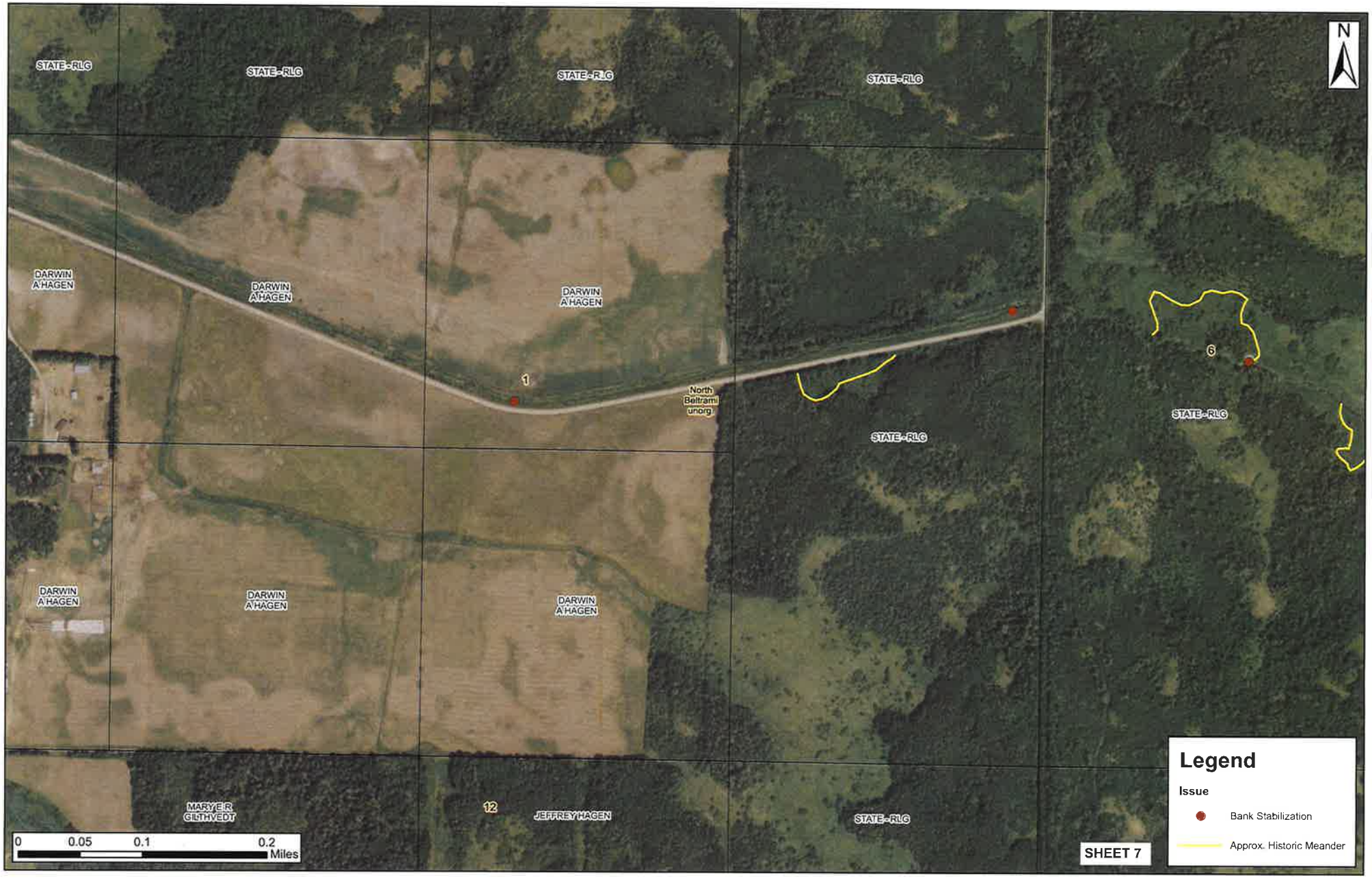

Veldt Twp.
36
STATE - RLG
DAVID LEE
EUNICE M SCHULZ
STATE - RLG
1
North Beltrami unorg.
STATE - RLG
6
REED E ENGELSTAD
5
CARTER B TORGERSON
REED E ENGELSTAD
REED E ENGELSTAD
N
0 0.05 0.1 0.2 Miles
SHEET 2
Legend
Issue
Bank Stabilization
Side Inlet
Approx. Historic Meander

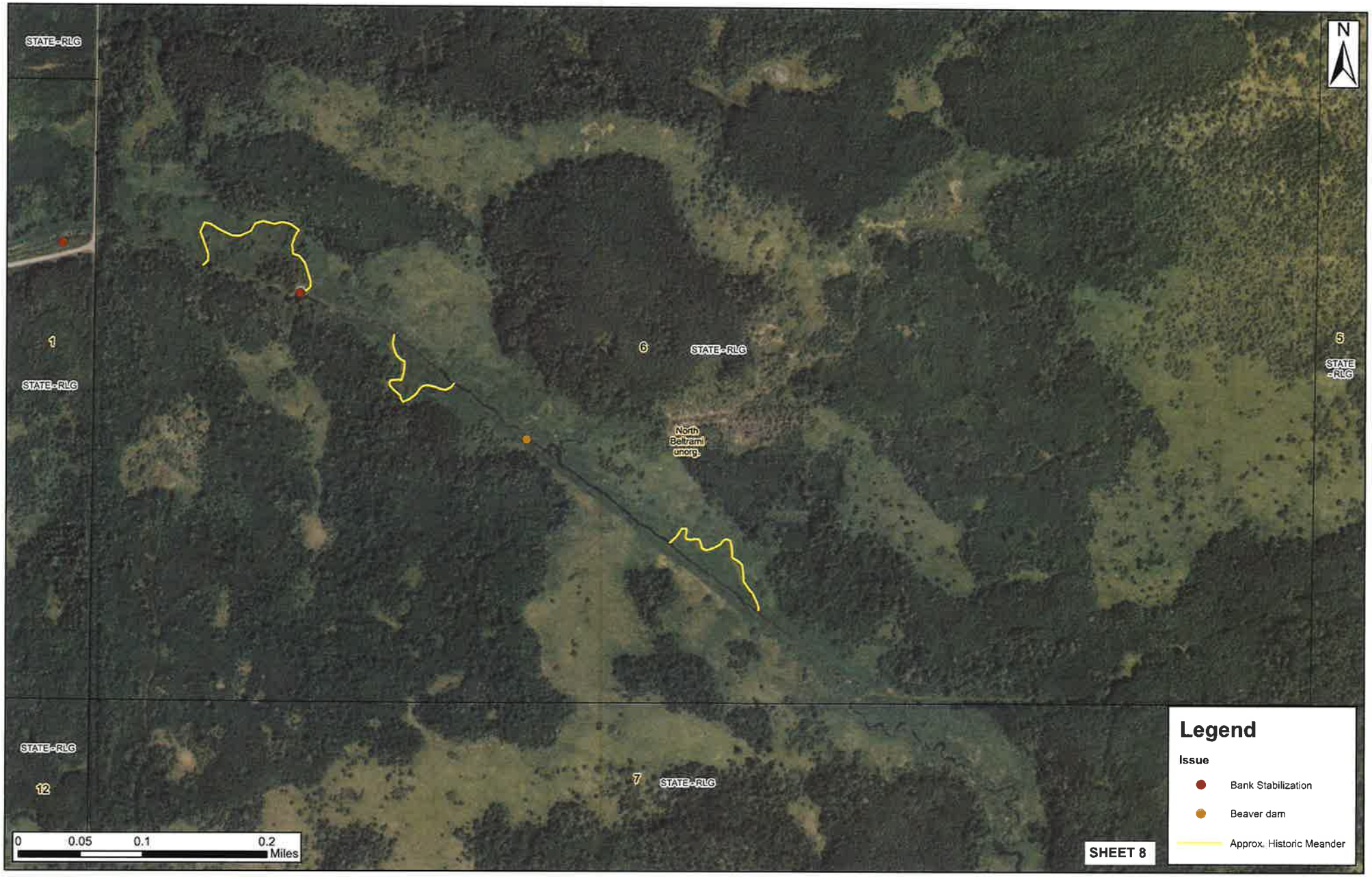

DAVID LEE
EUNICE M SCHULZ
REED E ENGELSTAD
REED E ENGELSTAD
ERIK SUNDBERG
DALE M BEAUMONT
REED E ENGELSTAD
ERIK SUNDBERG
REED E ENGELSTAD
6
REED E ENGELSTAD
REED E ENGELSTAD
REED E ENGELSTAD
STATE - RLG
STATE - RLG
TIMOTHY L FOSS
STEVEN FOSS
STEVEN FOSS
North Beltrami unorg
5
TIMOTHY L FOSS
STEVEN FOSS
4
TIMOTHY FOSS
TIMOTHY L FOSS
STATE - RLG
TIMOTHY FOSS
N
0 0.05 0.1 0.2 Miles
SHEET 3
Legend
Approx. Historic Meander


STEVEN FOSS
STATE - RLG
STATE - RLG
5
4
3
STATE - RLG
MATTHEW THENNEN
STATE - RLG
North Beltrami unorg.
STATE - RLG
9
N
0 0.05 0.1 0.2 Miles
Legend
Issue
Bank Stabilization
Side Inlet
Approx. Historic Meander
SHEET 4


N
RAND J ROESKE
STATE - RLG
MOOSE RIVER CAMP
RAND J ROESKE
ROBERT J WESTON
STATE - RLG
3
2
North Beltrami unorg.
STATE - RLG
ROBERT J WESTON
STATE - RLG
10
0 0.05 0.1 0.2 Miles
SHEET 5
Legend
Issue
Bank Stabilization
Approx. Historic Meander


N
STATE - RLG
STATE - RLG
DANNY THORSTAD
STATE - RLG
JIMMIE L POTUCEK
DAVID WOJCIEHOWSKI
ROBERT J WESTON
PETER THIESCHAFER
2
North Beltrami unorg.
JIMMIE L POTUCEK
DARWIN A HAGEN
1
ROBERT J WESTON
ROBERT J WESTON
STATE - RLG
ETHAN D DONALDSON
RYAN D HAGEN
0 0.05 0.1 0.2 Miles
SHEET 6
12
Legend
Issue
Bank Stabilization
Side Inlet
Approx. Historic Meander


STATE - RLG
STATE - RLG
STATE - RLG
STATE - RLG
DARWIN A HAGEN
DARWIN A HAGEN
DARWIN A HAGEN
1
North Beltrami unorg
STATE - RLG
6
STATE - RLG
DARWIN A HAGEN
DARWIN A HAGEN
DARWIN A HAGEN
MARY E R GILTHVEDT
12
JEFFREY HAGEN
STATE - RLG
0 0.05 0.1 0.2 Miles
N
Legend
Issue
Bank Stabilization
Approx. Historic Meander
SHEET 7


STATE - RLG
1
STATE - RLG
6
STATE - RLG
North Beltrami unorg.
5
STATE - RLG
STATE - RLG
12
7
STATE - RLG
N
0 0.05 0.1 0.2 Miles
SHEET 8
Legend
Issue
Bank Stabilization
Beaver dam
Approx. Historic Meander

# Red Lake Watershed District



1000 Pennington Avenue South
Thief River Falls MN, 56701
218-681-5800
218-681-5839 FAX
E-mail: RLWD@redlakewatershed.org
www.redlakewatershed.org



January 15, 2024

Robert Mayer

Re: Non-Permitted Diking Activity

Dear Robert Mayer:

It has been brought to the attention of the Red Lake Watershed District (District) that there has been a block/plug/dike installed on a private ditch located in Section 15 of Badger Township.

The District has specific permitting rules which cover and apply to diking activity. A District permit is required for the same. The Permit Rules state:

DEFINITIONS.
Dike shall mean a bank or mound of earth, berm or obstruction that is built or placed in a manner which will affect the flow of water and especially to protect an area from flooding.

2. REGULATION
A. A permit must be obtained from the District before undertaking any of the following:
i. Excavation of a new private drainage way located within any public right of way;
ii. Work below the top of bank of an existing public, legal or private drainage way located within any public right of way that disturbs soil or alters the dimensions or hydraulic profile of the channel;
iii. Constructing, installing, or altering a road or utility crossing beneath or over a public or legal drainage way; or
iv. Constructing, altering, or removing a dike which alters the flow of water.

3. SURFACE DRAINAGE.
F. The proposed activity may not adversely affect downstream water quality or quantity.

4. DIKES.

The following criteria apply to the construction, alteration, or removal of a dike:
A. The dike may not unreasonably restrict flow onto down gradient property.

This letter is to inform you that the work that has been performed was unauthorized and not permitted. By Minnesota Statute, a violation of the District Permit rules constitutes a misdemeanor criminal violation. The District is also authorized by Minnesota Statute to civil and injunctive relief in order to remedy the permit violation.

Please be advised, the District Board of Managers permitting policy states, in part, that work done without a permit may be subject to Administrative fees and/or, that the work already done, be restored to its recent original condition. Please make immediate arrangements for the removal of the unpermitted block/plug/dike. If the same has not been removed within a reasonable time period, the District will arrange for a contractor to remove the same this Spring and the charges related to the same will be placed upon the tax assessments related to said real property.

This blockage will need to be removed by January 24th, 2024 or the District will have a contractor remove the blockage and the landowner will be responsible for all costs incurred.

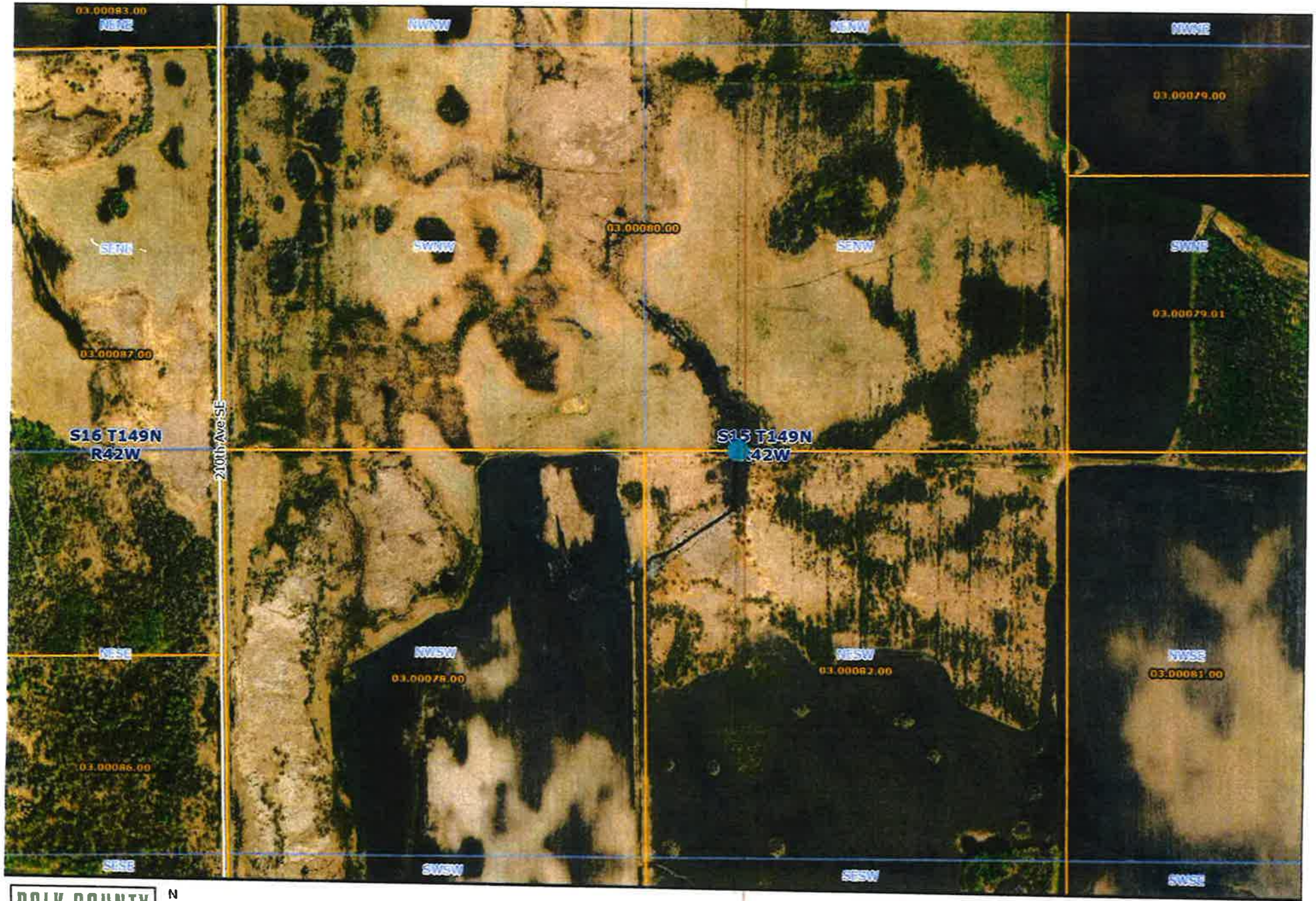
If you have any questions, please call our office and speak to Administrator, Tammy Audette, or myself.

Sincerely,

Tony Olson
Engineering Specialist

Enclosures:
Pc: Allan Page – RLWD Board Manager – Red Lake County

Badger Township Section 15 Facing North.
Standing in existing ditch looking at the
overgrown "block or plug" which is located
directly behind the yellow staff gauge
laying on the ground.




POLK COUNTY GIS

N

1/17/2024


POLK COUNTY GIS

N

1/17/2024

# Red Lake Watershed District



1000 Pennington Avenue South
Thief River Falls MN, 56701
218-681-5800
218-681-5839 FAX
E-mail: RLWD@redlakewatershed.org
www.redlakewatershed.org



January 15, 2024

Aaron and Jody Miller
16758 390th Avenue NE
Goodridge, MN 56725

Re: Non-permitted work (Permit Violation) – Pennington County, SE1/4, Section 18, Star Township

Dear Aaron and Jody:

As directed by the Red Lake Watershed District (RLWD) Board of Managers, this letter is a first, and only warning, pertaining to unauthorized/unpermitted work, regarding the installation of a drain tile pump that was approved to be a gravity outlet on the original permit application numbered #23-086.

RLWD has received your application for an "after the fact" permit. It will be processed and presented to the Board for review at the next scheduled meeting on January 11th 2024. RLWD Staff was notified of the changes made to this project by a Star Township Board Member.

RLWD will need the outlet pipe of the drain tile pump lowered closer to the ground with fabric and rock at the outlet for energy dissipation. It is stated on the first "bullet point" on the permit application that "All subsurface tile drainage systems must protect from erosion". This will need to be fixed before the pump is activated next spring.

The current location of the pump outlet will cause erosion at its current location that would result in a public safety issue for motorists traveling on that road. In the future, if you plan to do any work that requires a permit application, submit a permit to our office in a timely manner so appropriate inspection and review can be completed prior to the actual work.

Permit applications are available via postal mail or on our web site at www.redlakewatershed.org. I have enclosed a copy of the RLWD permit and drainage rules.

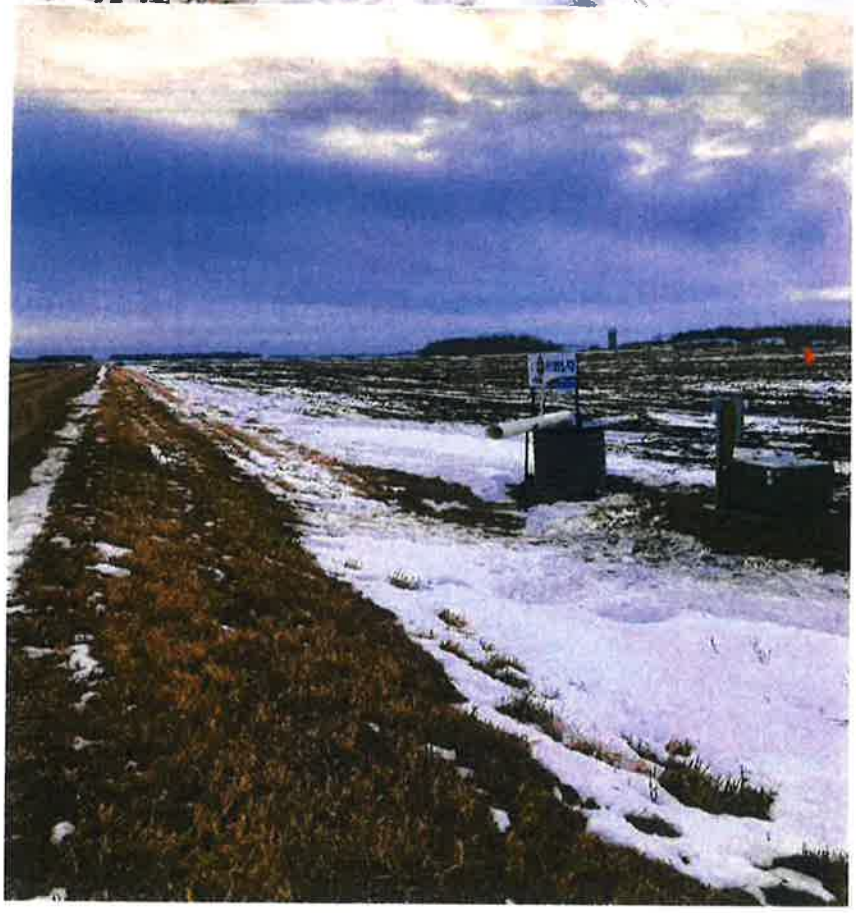
Please keep in mind, that if there is a second violation of work being done without a proper permit application, the RLWD Board of Managers permitting policy states, in part, that work done without a permit may be subject to administrative fees and/or, that the work already done, be restored to its recent original condition.

If you have any questions, please call our office and speak to myself or Administrator Tammy Audette.

Sincerely,
Tony Olson
Engineering Specialist

Enclosures:
Pc: Grant Nelson-RLWD Board Manager
Field Drainage Inc. Brooks, MN
Ronald Kotrba-Star Township Clerk


AELD
ADS



# Job Description

| | |
|---|---|
| Job Title: | **Summer College Intern** |
| Classification: | Part Time |
| Location: | Thief River Falls District Office |
| Work Hours: | 8:00-4:30 |
| Salary: | $19.00/hr |
| Responsible to: | Administrator or Full-Time staff as directed by Administrator |
| General Function: | Assist full time staff with various district activities and projects |
| Examples of work: | (Illustrative only) |
| | Field Surveys, assisting in water quality monitoring, deployment of water quality equipment, maintenance of rain garden, office tasks/maintenance, and stream gauging. |

# Administrator's Report

January 25, 2023

**Houston Avenue:** District staff finished surveying the Houston Avenue project located in Crookston and will turn their survey data over to Houston Engineering. More information to follow.

**Drainage Coordination Discussion:** Included in the packet is information on the Drainage Coordination discussion I participated in with Rob Sip, RRWMB and other administrators throughout the RRWMB.

**BWSR Drainage Work Group**: Included in the packet is information submitted to BWSR on behalf of the Drainage Work Group.

**Cardinal Ring Dike:** The District received the landowners cost share on the Cardinal Ring Dike. Staff will proceed with obtaining quotes for construction.

**RRWMB:** Included in the packet is information from Rob Sip regarding the 2024 Legislative session.

**Pine Lake:** Due to the mild winter, lake levels at Pine Lake were above winter target elevation (winter target elevation is 1282.5). District staff pulled one stoplog on December 15th as the lake level was at 1282.8 and climbing. Staff will reinstall when elevations are at or below winter elevations. As of January 22, 2024 the elevation was 1282.55.

**For Discussion Only - DRAFT**

DEPARTMENT OF NATURAL RESOURCES

# PUBLIC DRAINAGE SYSTEM IMPROVEMENT PROJECTS

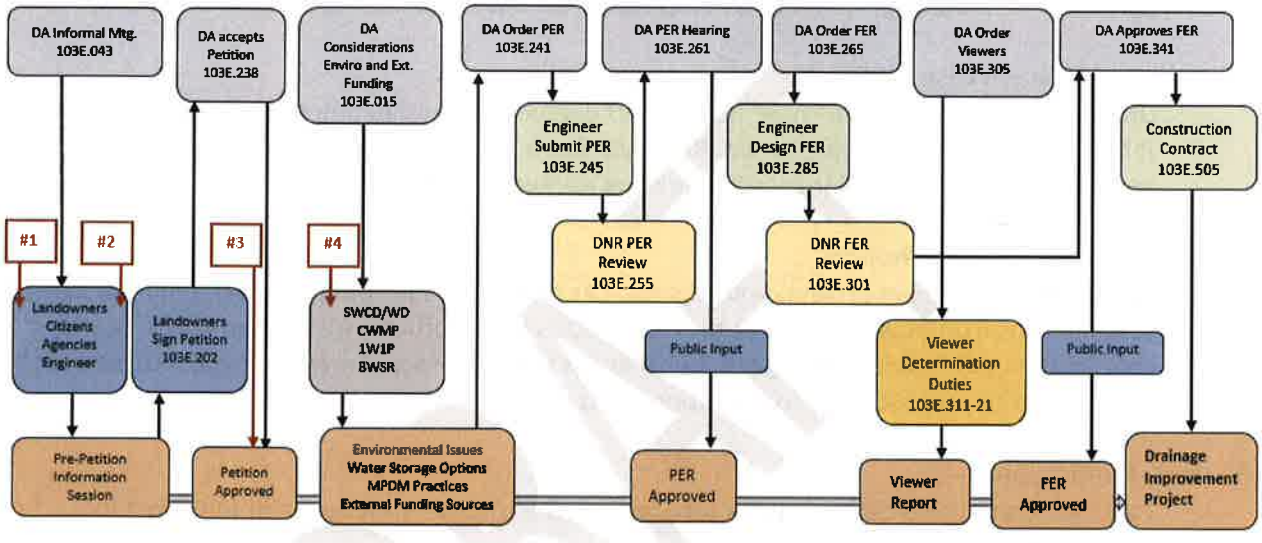
# COORDINATION OPPORTUNITIES

Discussions at the local level and at the Drainage Work Group (DWG) have concluded that communication and coordination are key to reducing costs, confusion, and delays and ensuring better outcomes for petitioners, affected landowners in the drainage shed, affected lands downstream of the drainage shed, and addressing the statute's environmental considerations (103E.015).

Statute 103E.015 identifies DNR's review and comment responsibilities for the Preliminary (PER) and Final Engineering Reports (FER) as noted in the graphic below (103E.255 and .301). Because of the increased complexity of drainage system design, modeling requirements, and broader interest in drainage projects, it was no longer feasible for the DNR to effectively review and comment within ~30-45 days when Area Hydrologists and Environmental Review staff had no or little knowledge of the drainage project. When DNR received multiple proposals simultaneously, it created further challenges to effectively review and comment.

But the relatively narrow timeframe was not the only issue. In some cases, natural resource information that was pertinent to the design or administration of the project only became known to the Drainage Authority after the PER submittal. This information and the potential plan changes added to the costs and timeline of the project.

The DNR identified four earlier times (#1-#4) in the drainage improvement process where information could be provided by the DNR based on what information was made available by the landowners and drainage authorities to the DNR. Communication and coordination is not limited to these points, but these were identified by DNR as points in the process where new information could be generated and shared.



At the June 2023 DWG, the DNR offered to discuss early coordination options and potential early coordination pilots. Calls with several members of the DWG were held June-August. This document discusses the input provided by those entities listed on the following page. DNR staff in some or all of these discussions included Randall Doneen, Tim Gieseke, and Haley Byron. DWG members included:

1. John Biren, Lyon County, P & Z Administrator
2. Jan Voit, MAWS Exec Dir.; Rob Sip, Red River Basin Exec Dir.
3. Amanda Bilek, Corn Growers Assn; Alex Trunnell, Corn Growers; Kaytlin Bemis, Farm Bureau; Bruce Klevens, Wheat Growers
4. Heron Lake Watershed District. Mark Bartosh, Board Member
5. Brian Martinson, AMC Policy Analyst
6. Blue Earth County Drainage Staff. Mark Manderfeld, Craig Austinson, Ryan Hiniker
7. Minnesota River Coalition. Carly Griffin, MCEA; Mark Ten Eyck, Phil Solseng
8. Waseca County - Commissioners Dee Malterer and Brad Krause, and staff Chris Howard, Brian Zabel, and Eric Miller

**Suggestions, recommendations and themes that emerged:**

1. Defining Early Coordination Locally
   - There was general consensus that coordinating earlier than at the time PER is sent to the DNR could benefit the project process. With that said, the stakeholders stated that rather than having state statute define earlier coordination, the LGUs could establish how earlier coordination could occur to meet their specific needs from a local perspective.

2. Sharing Information in a Timely Manner
   - Some issues in previous drainage projects arose due to the drainage authority not having all the information related to natural resource concerns, permit requirements, or hydrological modeling. Identifying what information may be available, who could provide it, and when it could be available in the drainage process would be helpful. (List of information is provided on the following page)

3. Coordinating Field Data Collection Needs
   - Some issues may require field-obtained data. It was suggested by an LGU that cross-sections and assessments of drainage outlets may help create the baselines needed for later decisions.

4. Early Coordination Case Studies
   - Drainage projects in the past have had various degrees of coordination throughout the process. John Biren, Lyon County and Rob Sip, Red River Basin have offered to share some of their experiences with how earlier coordination has worked and where it could have worked better.

5. Early Coordination Pilot Projects
   - Early coordination pilot projects will be sought as projects are proposed. It was generally agreed that the logical order would be that the case studies would provide insights on how an early coordination pilot could be designed, but that it is not necessary to wait for the conclusion of the case studies to propose early coordination pilots.

6. Early Notification
   - Early notification was discussed as a separate issue and outside the scope of the effort to coordinate earlier. It was removed from documents and discussion to avoid any conflation of the two topics.

## Information Sharing based on #1-#4 Earlier Coordination Opportunities

### EC #1 - Drainage Authority hosts Informal Meeting (§103E.043)

- Drainage Authority notifies DNR prior to the Informal Meeting

Information to be provided by Drainage Authority:

- Drainage watershed under consideration for an improvement project
- Location, current map of the drainage system, and potential drainage goals if known.
- Issues identified in related county comprehensive water plans or 1W1P

Information that could be provided (but not limited to) by DNR to Drainage Authority:

- Any public waters associated with the project
- If receiving water is a drinking water source (MDH/Private Wells/ Status of Groundwater)
- Are there any culturally sensitive lands in or downstream from the project area
- Wetland Conservation Act wetlands or significant habitats present in/near the drainage watershed
- Ordinary High Water (OHW) level and present runout elevation surveys are needed to determine effect on public water basins
- Calcareous fens within, downstream, or otherwise within the project's area of influence
- Threatened and endangered (T&E) species may be impacted
- State-owned land in the subwatershed, or public land or conservation easements are within or downstream from the project area
- Condition of existing outlet
- State-level documents (e.g., TMDL/WRAPS/Nutrient Reduction Strategy)

### EC #2 - Drainage Authority hosts Informal Meeting (§103E.043)

- Drainage Authority notifies DNR after the Informal Meeting

Information to be provided by Drainage Authority:

- All information listed above
- Any findings, inputs, support, etc. learned at the informal Meeting

Information that could be provided (but not limited to) by DNR to Drainage Authority:

- All information listed above
- Any information related to the findings, inputs, support, etc. learned at the informal Meeting

### #3 - Drainage Authority Approves Petition (§103E.238)

- Drainage Authority notifies the DNR that a petition has been approved

Information to be provided by Drainage Authority:

- All information listed above (EC #1 and #2)
- Petitioners of the project
- Effected and Benefiting Landowners of the project
- Estimated total costs and average cost/acre
- Drainage attorney, drainage engineer, and drainage viewers assigned

Information that could be provided (but not limited to) by DNR to Drainage Authority:

- All information listed above from EC #1 and EC #2
- Other

**#4 - Drainage Authority Considerations (§103E.015)**

- Information to be provided by Drainage Authority:

- All information listed above (EC #1, #2, and #3)
- 103E.015 Considerations
- SWCDs input to complete 103E.015 requirements.
- Description of information used to evaluate environmental, land use, and multipurpose water management criteria, potential use of external sources of funding and technical assistance, and determining the public utility, benefit, or welfare.
- Identify potential impacts and alternative practices to mitigate impacts.

Information to be provided (but not limited to) by the DNR

- Potential need for public waters work permit
- Resource of concerns
- Condition of outlet and downstream conditions

## Potential Next Steps

1. Gather feedback from the initial groups of stakeholders that provided input (12/14/2023)
2. Inquire and reconfirm interest from Rob Sip and John Biren to discuss case studies of early coordination (Dec 2024-Jan 2024)
3. Seek interest from Drainage Authorities for pilot projects on earlier coordination (2024-25)



For input and comments connect with Tim Gieseke [tim.gieseke@state.mn.us] 507-308-0712 or Randall Doneen [randall.doneen@state.mn.us]

December 22, 2023

Mr. Tom Gile, BWSR and Drainage Work Group Administrator,

We, the undersigned, would like the following message to be sent to the full Drainage Working Group as it relates to the premature ending of the notification subcommittee:

As three of seven participates in the notification subgroup, established to aid the DWG in their work to respond to the legislative request to, "evaluate and develop recommendations on . . . public notice requirements for proposed public drainage activities, including a drainage registry portal", **we are extremely disappointed that two members of the group have declared the conversation over.**

The notification subcommittee met four times between November 1 and December 19, with a fifth meeting scheduled for December 21. One member, Carly Griffith, MCEA, had a conflict, but encouraged us to move forward. Unfortunately, less than 90 minutes before our meeting time, we received a message from Mr. Suss that he and Mr. Arnosti had, "decided that there is very little if any possibility of progress at another meeting . . . Therefore, we will not be participating. . ." We and Randall Doneen, DNR, still met briefly but were not in a position to resolve issues without the other participants. We have since reviewed the message from Mr. Suss and Mr. Arnosti to the DWG declaring our work over.

We would like to offer these additional comments to the DWG.

The subcommittee had productive conversations that helped give all parties a better understanding of how each group's constituency interacts with public notice requirements within 103E. Our focus was the legislative charge, "public notice". There was general agreement that we could do more for public awareness of key drainage projects. The key points of discussion were about timing, content, and method of notice.

It was clear early that some level of electronic or web-based approach would be preferred. In our third meeting, drainage authorities and agricultural interests and the coalition representing MCEA, IWL, and FMNV each offered ideas to address this public notice matter at either the drainage authority or state level. We left that meeting with an understanding that parties could most likely come to an agreement that would involve an e-notice for which individuals could sign up on the DNR website to receive an email sent out by DNR when they received a preliminary engineers report. We offered to bring to the fourth meeting a proposal focused on that concept. We also acknowledged that this approach would leave some of additional issues aside, but that all were interested in continuing to work on those in the future.

This fourth meeting, December 19, included vigorous conversation related to the state-based notice and things that were and were not addressed by the proposal. However, all agreed to a meeting on December 21. To follow up we were asked to consider amending 103E to give the DNR 45 days to review preliminary engineering reports. Between the 19th and the scheduled December 21st meeting, we discussed the request with our stakeholders and developed a proposal that would amend 103E to address minimum review time of PER for the DNR. We were looking forward to that conversation and remained optimistic toward agreement.

It is unfortunate that we were not able to meet on December 21, especially knowing that they walked away based on erroneous information that we had not changed our position.

Current law provides public notice at various times and ways, usually newspaper or website postings, additional opportunities for the public to be informed are available directly through drainage authorities. Mr. Suss and Mr. Arnosti's message refers to the broadening, timing, information, and review period of public notice. **To be clear, the DNR-based notice that was on the table provided a broader, earlier, easier to access public notice on drainage projects than is currently available.** The remaining issue of review time was still on the table, with an offer pending from our organizations.

We felt that the subcommittee had productive dialogue and that even though we had met for less than two months and could have concluded with a consensus agreement. The premature ending of the subcommittee was a lost opportunity.

With that being said, we have attached our proposal to this email. We respectfully request that this item be on the agenda for the Drainage Work Group consensus discussion. It was the DWG's charge to address this matter and it put its trust in a small group to deliver recommendations for its consideration. With conversations cut-off, it is imperative that the full DWG be given the opportunity that the small group was not, to review and consider this proposal.

We would ask that this document be included in the DWG report if the message from Mr. Suss and Mr. Arnosti is included.

| | | |
|---|---|---|
| Brian Martinson | Alex Trunnell | Jan Voit |
| Association of Minesota Counties | Minnesota Corn Growers | Minnesota Watersheds |

**Centralized Email Notification System**

Email notification system managed by the Department of Natural Resources (DNR). DNR provides e-notification with signup through the DNR's website, according to current statutory requirements and timelines.

*(This is a modernization of notice that is currently not in place and had not been formally considered or recommended prior to the subcommittee conversations. There may be a preference to enact it in law, or at minimum include it in the drainage manual.)*

Timeframe to establish and implement system: August 1, 2024

Within five days of receipt of a preliminary engineer's report (PER) for a drainage project under 103E.251, DNR will send an email notification that includes:

- the name of the drainage authority;
- the date that the preliminary engineer's report was filed;
- information for a local contact that can provide additional information;
- the date and location of the preliminary hearing if known; and
- weblink to project information, if available.

Within five days of notice of a re-establishment of records hearing under 103E.101 subd. 4a(c), according to current statutory requirements and timelines, the DNR shall send an email notification that includes:

- the name of the drainage authority;
- the date and location of the re-establishment of records hearing;
- information for a local contact that can provide more information; and
- web link to issue resources if available.

Message information and other project data would not be posted or maintained on the DNR website.
Allow people to sign up for email notifications by geographic area, i.e. Administrative Region.

**DNR Review of PERs**

We acknowledge that there is no clear statutory language that lays out the review period for the DNR in the statute.

There appears to be a de-facto minimum of 16 days.

- The filing date.
- 5-day notice DNR notice period from which the DNR may request additional review time of up to two weeks.
- 10-day notice requirement petitioners, owners of property, and political subdivisions.

*(In theory the drainage authority could deliver the 5-day and 10-day notice at the same time, but it would run the risk of having to resend mail notice if the DNR does request more time.)*

If the DNR requests the full two weeks to review the PER, the timeframe could be up to 30 days.

We think it is reasonable that a formal minimum review be established for the DNR. We propose that it be set for 30 days.

- We expect the time for review will continue be a longer period as it is currently, but the timeframe could not be shorter.
- There would no longer be an extension request because a formal minimum is established.

*(30 days follows what many other permitting and comment timelines follow – NPDES, STS, Environmental Review and so on)*

By default, this will be the timeframe for notice to the public, which is still much in advance of the mailed notice of ten days to "direct" stakeholders.

Minnesota Watersheds
For more information, contact Jan Voit
507-822-0921

# Memorandum

DATE: December 11, 2023

TO: Tom Gile, Board of Water and Soil Resources

FROM: Jan Voit, Executive Director

**RE: Outlet Adequacy Communication**

I'm writing to you with Rob Sip's concurrence. Minnesota Watersheds (MW) and the Red River Watershed Management Board (RRWMB) understand that at this week's meeting, you will need to bring some closure to the Drainage Work Group's consideration in order to meet the timeline for the DWG/BWSR report to the Legislature as to "the definition and application of outlet adequacy as provided in Minnesota Statutes, section 103E.261." I want to let you know where MW/RRWMB thinking is on the question that you have noted for discussion, the scope of the term "outlet adequacy." You may circulate this to DWG stakeholders if you think it will help the DWG's orderly conduct of its business.

MW and the RRWMB have not given the draft technical report of the outlet adequacy committee an independent technical review. However, we express appreciation to the committee members (and particularly the committee chair) for their work, and support the report as an important effort to establish a methodological framework for evaluating outlet adequacy under Minnesota Statutes §§103E.015 and 103E.261, with respect to outlet conveyance capacity and channel stability. A technical consensus around the framework, and the development of a practice based on its use by drainage authority engineers over time, will ensure that adequacy determinations are methodologically sound, provide for consistency of determinations, and reduce costly legal challenges to such determinations.

Some DWG stakeholders have put forward that the term "outlet adequacy" should be defined as broader than outlet conveyance capacity and channel stability, and should encompass wetlands, water quality, fish and wildlife resources, groundwater and other environmental impacts as listed at §103E.015, subdivision 1, paragraphs (5) thru (9). As we have advised previously, MW and the RRWMB do not find a basis for this proposition. The term "outlet adequacy" is not explicitly defined in the drainage code. But we are advised by legal counsel that when the legal principles of interpreting statutes are applied, it is clear that the Legislature intended the scope of meaning to which the technical committee has spoken. The basis for this conclusion includes:

- The common meaning of the term "adequacy"
- Independent and parallel directives that the drainage authority consider effects on wetlands, water quality, fish and wildlife resources, groundwater, and other environmental considerations
- The Legislature's choice, in 2014, to integrate reference to outlet adequacy with text about hydraulic and flooding considerations

We could ask counsel to present this analysis more fully; however, to our knowledge, those who are asking the DWG to read the term more broadly haven't presented any reasoning to support such a reading. Our counsel also advises that the several reported Minnesota cases on drainage project appeals about outlet adequacy all concern questions of conveyance capacity and channel stability. While the courts in these cases have not specifically ruled on the scope of the term, there is no evidence that anyone has argued to a Minnesota court that the scope is broader than that.

We concur in the technical committee's logic that "outlet adequacy" should take account of certain water quality impacts related to capacity and stability, such as those that follow from scour and sedimentation. We concur as well that the term doesn't encompass water quality or environmental impacts that bear no relation to the drainage system's ability to perform its conveyance function over time. We also observe that even if the technical committee had taken on the broader scope that some stakeholders seek, it would have been well beyond the committee's capacity to develop a set of standard methodologies to assess the "adequacy" of water quality, wetland, habitat, or other impacts.

Therefore, with a consensus of the technical committee in the final report, we believe that the DWG will have responded to the Legislature's direction.

The only difficulty that the DWG faces lies in the Legislature's infelicitous phrasing, directing that the DWG evaluate and develop recommendations on "***the definition*** and application of outlet adequacy as provided in Minnesota Statutes, section 103E.261."

Regarding the word "definition," the Legislature's directive is ambiguous. Is the DWG to develop recommendations on what the definition of the term is ***as now used*** in §§103E.015 and 103E.261? Or is the directive to develop recommendations on what the definition of the term ***should*** be?

- If the former, the DWG is not a competent body to render an opinion. Determining the meaning of a term in statute that the statute doesn't explicitly define is a matter of divining what meaning the Legislature intended the term to have. It's a legal exercise based on legal principles of reading statutes. It's argued by attorneys and decided by a judge in a case where it is raised. Even if DWG stakeholders were to reach a consensus on what we think the term means (a very unlikely prospect), this wouldn't carry legal weight and wouldn't be relevant to a judge deciding a case. Perhaps we should be honored that the Legislature would like our opinion on this, but the collective DWG stakeholder opinion has no practical bearing.
- If the latter, MW and the RRWMB are at a bit of a loss to understand how broadening the definition of "outlet adequacy" in §103E.015, subdivision 1, paragraph (4), to include the environmental impacts in paragraphs (5) through (9), would alter what the drainage authority has to do at the preliminary or final hearing. It would simply require the drainage authority to assess these impacts under paragraph (4), and then repeat that under paragraphs (5) through (9). In short, discussing whether the definition of "outlet adequacy" should be broader is pointless because, the way the Legislature has structured §§103E.015 and 103E.261, this wouldn't change how a drainage authority is required to assess these impacts.

Finally, it could be conjectured, we suppose, that the Legislature is asking the DWG to offer a view as to whether drainage authorities ***should*** consider wetland, water quality, fish and wildlife resource, groundwater and other environmental impacts differently than they now are required by §§103E.015 and 103E.261 to do (and how the drainage code would be revised to achieve this). If it is, the request was communicated very indirectly. This would be a much broader topic, encompassing questions of roles, procedures, and levels of drainage authority scrutiny that all would need to be captured in drainage code revisions. This is not an exercise that has been suggested for the DWG agenda, and if it did reach the agenda, it would be a subject that would take a good deal of time to develop.

MW and the RRWMB believe that the committee has performed the work that the Legislature has asked the DWG to do, and it is just a matter of understanding the Legislature's phrase "the definition and application of outlet adequacy" as consonant with the scope of work that the technical committee has completed.

**Summary**

MW and the RRWMB summarize our view as follows:

- We believe that an assessment of "outlet adequacy" under Minnesota Statutes §§103E.015 and 103E.261 plainly requires the engineer's review of outlet conveyance capacity and channel stability. We believe there is a DWG stakeholder consensus that "outlet adequacy" encompasses these two considerations.
- We appreciate the work of the technical committee (and of the BWSR engineer in chairing the committee), to develop methodologies that drainage authority engineers can use to evaluate "outlet adequacy" in the context of public drainage project proceedings. We believe that a consensus final report of the committee fulfills the DWG's work.
- We don't see a basis to say that the term "outlet adequacy" is broader than outlet conveyance capacity and channel stability, or extends generally to questions of impacts on wetlands, water quality, fish and wildlife resources, groundwater, or other environmental impacts.
- Regardless, the meaning of "outlet adequacy" as used in the drainage code is a question of what the Legislature intended, and is a legal question. We aren't aware of a judicial decision to date where a project appeal has rested on a drainage authority's failure to assess environmental impacts under "outlet adequacy." When such an appeal is brought, attorneys will argue the definition of the term, and a judge will decide it. Even if DWG stakeholders were able to form a consensus view, the judge would not care about our view.
- The Legislature directed that the DWG and BWSR evaluate and develop recommendations on "the definition and application of outlet adequacy as provided in Minnesota Statutes, section 103E.261." The DWG/BWSR report can advise that there is a consensus as to the potential impacts that the term "outlet adequacy" encompasses; that the DWG, through its technical committee, has developed recommendations on a methodology to evaluate these impacts; and that there is sentiment among some DWG stakeholders that certain other impacts should be assessed under "outlet adequacy," but there is not consensus on this.

Please let me know if you think it would be useful to discuss the above, or if you think that MW and the RRWMB otherwise can help move the DWG forward on completing its present work.

# Drainage Work Group
# Process Summary

## Purposes

The stakeholder Drainage Work Group (DWG) has been meeting since 2006 for the following purposes:

- Foster science-based, mutual understanding about drainage topics and issues; and
- Develop recommendations for drainage system management and related water management, with a focus on updates of Minnesota Statutes Chapter 103E Drainage and related provisions.

## Membership

- Open to all drainage stakeholders who are willing to invest time in DWG meetings and associated work on behalf of a drainage stakeholder organization they represent.

## General Work Process

- The Board of Water and Soil Resources (BWSR) coordinates the DWG in accordance with MN Statutes Section 103B.101, Subd. 13. **Drainage stakeholder coordination**, as recommended by the DWG.
- The DWG generally meets monthly on second Thursdays of the month between legislative sessions, but can add or cancel meetings as necessary and workable.
- DWG work involves a group decision-making, informed consent process. Members can participate in identification of priority topics / issues and associated investigation, development and refinement of recommendations or other applicable documentation of DWG work and conclusions (products).
- The DWG uses subgroups for some topics between DWG meetings to best utilize time and expertise of members and others to investigate topics and provide recommendations to the full DWG.
- Topic experts are invited to present information to the DWG to inform and enhance topic discussions.
- When the DWG began in 2006, it agreed to operate by consensus for its products. Full consensus provides the Legislature, Governor and all stakeholders the best assurance that recommendations have been fully vetted by stakeholders, and is a DWG goal. The need for an alternative to full consensus has arisen. If, after extensive DWG discussion and subgroup efforts, full consensus cannot be achieved, a consensus report and non-consensus report option can be used to deliver DWG products to stakeholder organizations and the Legislature.
- A timing goal is to typically have policy recommendations complete by November 15 to enable effective stakeholder and legislator communications before the next legislative session.

## Definition of Consensus

- A drainage stakeholder member and the organization(s) s/he represents **can live with** the applicable DWG recommendations, which can involve compromise.
- A drainage stakeholder member and the organization(s) s/he represents **will not oppose** the applicable DWG consensus recommendations.

## Member Responsibilities

- Attend DWG meetings to represent their stakeholder organization(s) and perspectives. Review meeting materials, provide input, and communicate with their stakeholder organization and others between meetings, as appropriate. Participation is necessary to have a voice and to respect the DWG process.
- Respect the perspectives of DWG members, including taking turns speaking at meetings, actively listening to differing viewpoints, and helping to resolve disagreements by finding common ground.
- Support the goal of full consensus for DWG recommendations and honor the definition of consensus above. State any opposition early and clearly, including explanation. If full consensus can't be achieved, respect the consensus report and non-consensus report process.
- Share DWG consensus recommendations, non-consensus report (if applicable), and associated information with the stakeholder organization the member represents and legislators, as appropriate.

**Process Notes:**

1) When the consensus report and non-consensus report option is used, the consensus report shall include consensus of the Drainage Work Group members representing:
   - *Drainage Authorities:* Association of Minnesota Counties (AMC), and Minnesota Association of Watershed Districts (MAWD)
   - *Environmental Group:* Minnesota Center for Environmental Advocacy (MCEA)
   - *Farm Groups:* Minnesota Farm Bureau (MFB), Minnesota Farmers Union (MFU), Minnesota Corn Growers Association (MCGA), and Minnesota Soybean Growers Association (MSGA)
   - *State Agencies:* Minnesota Department of Natural Resources (DNR), Minnesota Department of Agriculture (MDA), Minnesota Pollution Control Agency (MPCA), Minnesota Department of Transportation (MnDOT), and Board of Water and Soil Resources (BWSR)
2) When the consensus report and non-consensus report option is used:
   - The non-consensus member(s) are responsible to prepare a non-consensus report in a timely manner, including their concerns, rationale and alternatives to the consensus report recommendations they can't live with. Assistance will be provided by the DWG Coordinator to help clarify and verify pertinent facts.
   - The consensus report and non-consensus report should be provided together to drainage stakeholder organizations and the Legislature.

**Tammy Audette**

**From:** Jan Voit <jvoit@mnwatersheds.com>
**Sent:** Tuesday, January 23, 2024 1:54 PM
**Subject:** BWSR Buffers Soils and Drainage Committee Meeting
**Attachments:** BWSR Report to the Legislature.pdf; BWSR OA and Notice report edits.docx; 2024-01-22 Buffer Soils and Drainage Committee meeting notes.pdf

Watershed District Drainage Authorities,

On January 22, BWSR's Buffers Soils and Drainage Committee recommended that the BWSR Board accept a revised version of the report to the legislature regarding outlet adequacy and public notice.

Attached are the following items:

- The draft BWSR report.
- The changes that were adopted at yesterday's committee meeting.
- The notes from the committee meeting.

The BWSR Board will act on the report at their meeting tomorrow.

Please let me know if you have any questions.

--

**Jan Voit**
*Executive Director*
507-822-0921
New Email: jvoit@mnwatersheds.com

BOARD OF WATER AND SOIL RESOURCES

# Report to the Minnesota Legislature

Minnesota Drainage Work Group
January 24, 2024

This report has been prepared for the Minnesota State Legislature by the Minnesota Board of Water and Soil Resources (BWSR) in pursuant to Minnesota Statutes, section103B.101, subdivision 13 and Minnesota Laws 2023, Chapter 60, Article 1, section 4, paragraph (d).

Prepared by: Tom Gile, BWSR Resource Conservation Section Manager, tom.gile@state.mn.us.

The estimated cost of preparing this report (as required by Minn. Stat. 3.197) is:

Total staff time: 202 hours
Production/duplication: N/A
Total: $46,266

BWSR is reducing printing and mailing costs by distributing reports and information to wider audiences in digital, online formats. This report can be made available in alternative formats upon request.

## Table of Contents

**Introduction and Overview** ..... **3**

**Definition and Application of Outlet Adequacy** ..... **4**

**Public Notice Requirements for 103E Activities** ..... **6**

Clarifying and Aligning Notice Requirements ..... 6

Broader Notice. ..... 7

# Introduction and Overview

During the 2023 legislative session the following language was enacted (Laws 2023, Chapter 60, Article 5, section 21):

> *(a) The Board of Water and Soil Resources [BWSR] and the Drainage Work Group [DWG] established under Minnesota Statutes, section 103B.101, subdivision 13, must evaluate and develop recommendations on the following subjects:*
>
> *(1) the definition and application of outlet adequacy as provided in Minnesota Statutes, section 103E.261; and*
>
> *(2) public notice requirements for proposed public drainage activities, including a drainage registry portal.*
>
> *(b) The Board must submit the report to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over environment and natural resources by February 1, 2024.*

The DWG was also directed to complete another task as provided in Laws of Minnesota Chapter 60, Article 1, section 4, paragraph (d):

> *The Drainage Work Group must review a drainage authority's power under Minnesota Statutes, Chapter 103E, to consider the abandonment or dismantling of drainage systems; to re-meander, restore, or reconstruct a natural waterway that has been modified by drainage; or to deconstruct dikes, dams, or other water-control structures.*

This report addresses each of the directives identified above and also presents the DWG recommendation for the sunset language in Section 103E.729.

It is important to note that there is not a consensus recommendation at this time with respect to legislative action for either "outlet adequacy" or "public notice" requirements for proposed public drainage activities. There is reasonable agreement that more time would be needed to effectively bring forward potential policy recommendations on these two topics.

Other tasks completed by the DWG during the past season include:

1) The DWG initiated efforts to assess Drainage Authority Powers during the past year which was legislatively directed and which does not require a legislative report.
2) While not a required part of this report, the DWG is supporting a recommendation to extend the sunset provision of 103E.729 for an additional 5 years via legislative action during the 2024 Legislative Session.

# Definition and Application of Outlet Adequacy

Drainage law specifies in Section 103E.261, subd. 4, that in order to authorize a new public drainage system or an improvement to an existing one, the drainage authority must determine that the "outlet" into which the system discharges will be "adequate." Neither of these terms is explicitly defined, leading to uncertainty and disagreement as to both the scope of what is to be assessed and what is sufficient to show "adequacy".

Short of providing more clarity in the statute, a common understanding among those involved in proposing or reviewing potential projects of both scope and assessment could improve the administration of drainage projects.

the DWG began discussions related to the use of "outlet adequacy" in October 2022.

The DWG agreed to convene a technical subcommittee to assess outlet adequacy which would examine the topic in more detail and provide preliminary assessment for the full DWG to consider. This report was intended to be a starting point for what would likely be an iterative process covering several detailed topic areas that fall under the concept and framework of "outlet adequacy".

The technical subcommittee consisted of 16 individuals selected by state agencies, drainage authorities, watershed districts, agricultural organizations, and environmental groups. This subcommittee was charged to look at terms and methods used to evaluate outlets for drainage projects and if appropriate provide options and recommendations to make the evaluation of an outlet a more repeatable and defensible process. . The efforts of the technical subcommittee should be commended as an important first step in the assessment of and future discussions on outlet adequacy by the DWG. Those efforts culminated in a technical report that was delivered to the DWG.

While a deadline for the technical subcommittee's discussion in 2023 was not originally envisioned, the Technical Subcommittee Report was provided to the DWG on December 12, 2023, for their review and consideration. Areas of technical agreement and disagreement are presented in that report, with the intent that all topics may be discussed further by the full DWG and may require further assessment.

As of the writing this legislative report, the DWG discussed the following items from the Technical Subcommittee Report: hydrograph duration, model calibration, approaches to modeling private drain tile, and if/how to model future conditions.

These items had consensus on the general scope and importance to a preliminary engineer's report and the considerations of outlet adequacy. Members of the DWG generally agree that further development of consensus language addressing these topics should be completed by the DWG for inclusion in the Minnesota Public Drainage Manual. While there is consensus on these items, not all participating members of the DWG have indicated they are willing to move forward in considering application of those changes until they feel there is sufficient agreement on the larger assessment of outlet adequacy.

Items that did not have consensus at the subcommittee level included : how to consider water quality outside of channel scour, requirements if the existing outlet is unstable, and how the project may affect downstream conditions at times other than peak flow from the storm event.

The DWG did not have time to discuss these items prior to the preparation of this report, but they are planning to discuss each outstanding item and determine a path forward for each. This plan may include deciding the topic and adding recommendations to the Multi-Purpose Drainage Management, convening another subcommittee to discuss the topic further, or working through policy changes to address the item. At this time, the DWG does not have specific policy recommendations; however, there was strong support expressed at its last meeting for continued dialoged by the DWG to continue this work.

The efforts put into the technical subcommittee report and importance of the outlet adequacy assessment for drainage projects lead many members to support further work by the DWG to clarify and advance the overall understanding of the definition and application of outlet adequacy as provided in Minnesota Statutes, section 103E.261.

# Public Notice Requirements for 103E Activities

The legislative directive has been separated into two parts for the purposes of DWG deliberations and this report.

1) **Clarifying and Aligning Notice Requirements** "to evaluate and develop recommendations on public notice requirements for proposed public drainage activities".
2) **Broader Notice** "to evaluate and develop recommendations on public notice including a drainage registry portal".

## Clarifying and Aligning Notice Requirements

As the statute has been amended over time, these sections read differently and, in some places, are ambiguous in describing the form of notice, the timing of notice, and who is to receive notice.

With a number of different activities requiring notice of a hearing and variation in timing and methods, it can be challenging to communicate and implement notice in a predictable manner. This is important from the perspective of informing the public and providing due process.

Variation and inconsistency in timing and methods also increases potential for administrative error which could imperil both the proposed project and due process. Administration of the drainage code would benefit by standardizing and bringing clarity to these many disparate notice provisions.

The DWG spent time at each meeting from June through December 2023 reviewing forms of notice and their application in 103E. That assessment identified 37 different sections of Chapter 103E that specify some form of public notice for a matter before the drainage authority. The type of notice, timing of notice, and who receives notice is specific in each of these 37 sections of statute.

The DWG assessed each of the 37 sections that specify notice and sought to assess the forms and extent of notice that are warranted given the impact of the associated drainage activity on the physical system and its taxation/assessment consequences. This effort was valuable for the members to better understand the scope of drainage authority actions that currently require some form of notification.

Attorneys working with the DWG stakeholders also reviewed constitutional due process requirements so that modernization revisions of chapter 103E proposed by the DWG pass legal/constitutional muster for any future recommendations.

The DWG's work on this topic started with identifying specific areas to be evaluated:

- Establishing a more adaptable and uniform set of definitions for notice.
- Establishing a more uniform timing and method for giving notice.
- Incorporating these definitions and this consistent timing framework into the 37 sections of statute that currently call for notice.

Based on the above identified areas of evaluation, the DWG developed the following recommendations for future work to establish consensus on these items:

- DWG will consider an overarching notice framework to streamline timing and methods of notice.

- The DWG will begin reviewing application of that framework to the 37 sections of chapter 103E currently requiring notice in order to work towards a set of recommended statutory revisions for future legislative consideration.
- The DWG will bring forward any future recommendations to the legislature to modify 103E.

## Broader Notice.

Notice requirements for proceedings under the drainage law focus on landowners who pay for and benefit from drainage systems and to public agencies tasked with overseeing drainage activity that may have an impact on the state's natural resources. Some, including those who may be downgradient of a drainage system and those with a generalized interest in environmental resource protection, indicate that broader interested public may desire an awareness of drainage system proceedings in a way that allows them to participate meaningfully.

During the 2022 legislative session, a bill was introduced to establish a "Drainage Registry Portal". The language requested a searchable electronic database of all documents initiating proceedings and non-petitioned repairs under Minnesota Statutes, Chapter 103E. This bill was introduced without consideration by the DWG. The bill was not adopted by the legislature.

After the legislative session, this subject was on each DWG meeting agenda in June 2022 through February 2023. The DWG discussed many options including statutory notice requirements, reports to state agencies, repairs, early coordination, drainage authority websites, email notification through drainage authority websites, and email notification through a state agency process. Revisions were discussed on the language introduced in the prior legislative session as well; however, DWG consensus was not achieved.

A revised bill was introduced during the 2023 legislative session but was not adopted.

Instead, the legislature directed the DWG to consider public notice requirements for proposed public drainage activities, including a drainage registry portal.

.

When it became apparent the scope of the notice assessment was quite expansive, the Drainage Work Group formed a subcommittee to discuss public notice requirements for proposed public drainage activities as well as the drainage registry portal concept of early public notice. The subcommittee included representatives from Association of Minnesota Counties (AMC), Minnesota Watersheds (MW), Minnesota Center for Environmental Advocacy (MCEA), Friends of the Minnesota River Valley, the Minnesota Corn Growers Association, and the Minnesota Department of Natural Resources (DNR).

The subcommittee was tasked to respond to the legislative mandate to "to evaluate and develop recommendations on public notice including a drainage registry portal". That subcommittee met in November and December 2023.

As a set of recommendations was being developed, several members of the committee ceased participation in the subcommittee meetings with the committee and it discontinued meeting. Therefore, the subcommittee concluded deliberations without bringing forward a set of recommendations. The DWG did not have an opportunity to consider further options given no specific recommendations from the subcommittee and the deadline associated with the legislative report.

Specific areas of evaluation on this topic included: modification of notice to include web-based or electronic notice or to create a centralized database; timing of broadened notice, duration of notice (i.e., whether specific notice duration provide greater opportunity for comment and feedback); and information that should be made available via notice.

The DWG also has and may continue to consider ways to advance web-based or electronic notice but did not fully vet ideas due to some members ceasing to participate in discussions on this topic.

Are these items that could be considered for mutually agreed to changes?

Board Order, Clause 3:

> ~~and~~ The Board must submit ~~the~~ a report to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over environment and natural resources by February 1, 2024.

Board Order, Clause 8:

> The attached report was developed in coordination with the DWG including ~~three~~ opportunities for feedback on ~~earlier~~ two previous drafts from the participating members of the DWG.

Title Page:

> ~~Minnesota Drainage Work Group~~Minnesota Public Drainage Outlet Adequacy and Public Notice

Introduction and Overview, report page #3:

> ~~It is important to note that there is not a~~There are no consensus recommendations at this time with respect to ~~legislative action for either~~ "outlet adequacy" or "public notice" requirements for proposed public drainage activities."

Outlet Adequacy section, report page 4, last sentence: delete the fourth "the" and insert "a"

Public Notice section, report page 6:

> 1) **Clarifying and Aligning Notice Requirements** ~~"to evaluate and develop recommendations on public notice requirements for proposed public drainage activities".~~
> 2) **Broader Notice** ~~"to evaluate and develop recommendations on public notice including a drainage registry portal".~~

Public Notice, Clarifying and Aligning Notice Requirements section, report page 6: The way this starts is confusing. It might be helpful to move paragraph #4, ahead of the current paragraph #1.

Public Notice, Clarifying and Aligning Notice Requirements section, report page 6:

> Based on the above identified areas of evaluation, the DWG ~~developed~~ identified the following ~~recommendations~~ for future work to establish consensus on these items:

Public Notice, Clarifying and Aligning Notice Requirements section, report page 7:

- The DWG will ~~begin reviewing~~ consider application of ~~that~~ the public notice framework to ~~the 37 sections of~~current ~~required notifications in~~ chapter 103E ~~currently requiring notice in order to work towards a set of recommended statutory revisions for future legislative consideration.~~
- The DWG will bring ~~forward~~ any ~~future~~ consensus recommendations ~~to the legislature~~ to modify 103E to the legislature.

Public Notice, Broader Notice section, report page 7:

~~Some, including those who may be downgradient of a drainage system and those with a generalized interest in environmental resource protection, indicate that broader interested public may desire an awareness of drainage system proceedings in a way that allows them to participate meaningfully.~~ There is ~~a request to~~interest in ~~improve~~improving options for notice of drainage projects to the general public that allows interested parties opportunity to engage in the process.

Public Notice, Broader Notice section, report page 7:

As a set of recommendations was being developed, several members of the committee ceased participation in the subcommittee meetings ~~with~~ and the committee ~~and it~~ discontinued meeting at that time.

Public Notice, Broader Notice section, report page 8:

Specific areas of evaluation on this topic included: modification of public notice ~~by drainage authorities~~ to include web-based or electronic notice or to create a centralized database; timing of broadened notice, duration of notice (i.e., whether specific notice duration provide greater opportunity for comment and feedback); and information that should be made available via notice.

Public Notice, Broader Notice section, report page 8:

The DWG ~~also~~ has and may continue ~~to consider~~considering ways to advance web-based or electronic notice but did not fully vet ideas ~~due to some members ceasing to participate in discussions on this topic~~before ~~needing to finalize~~finalizing this report.

## Buffers Soils and Drainage Meeting

January 22, 2024

Following the welcome and introductions, Tom Gile, Board of Water and Soil Resources (BWSR) gave an overview of the agenda. Introductions were done. The minutes of the May meeting and the agenda were approved.

### BWSR Draft Legislative Report

Tom Gile noted M.S. 103B.101, Subd. 13 that authorizes the Drainage Work Group (DWG). He explained the DWG's purpose and process. He gave an overview of the past work that has been done through the DWG, including the Minnesota Public Drainage Manual as well as developing consensus recommendations for updating M.S. Chapter 103E. He also explained the DWG's consensus process.

He gave an overview of the draft legislative report and the authorizing legislation. There is no consensus recommendation with respect to outlet adequacy or public notice. There is reasonable agreement that more time would be needed to effectively bring forward potential policy recommendations on these two topics. The dollar amount shown on the title page includes only staff time for Tom Gile and Rita Weaver.

*Discussion*

- Was there consensus to bring something to the DWG after the group quit meeting? There are still conversations happening. There was interest in bringing recommendations forward, but they were not ready in time for this report.
- Ron Staples said that some subcommittee members thought they were making progress. If one of the proposals had moved forward, there could have been a new public notice that is earlier than what is currently in statute.
- John Jaschke noted that there is no way to guarantee that with more time the subcommittee would have gotten to any different result. BWSR has a timeline and deadline to submit the report.

Brian Martinson was asked to present report clarifications on behalf of Ron Staples and the Association of Minnesota Counties. As an overall comment, BWSR and Tom faced a challenge to assemble this report. The DWG continued working until the time to finalize the drafting of the report. It is unfortunate that the legislature didn't recognize the amount of time needed to develop a report of this magnitude.

The proposed edits to clarify the report were sent to several DWG representatives. Minnesota Watersheds, Minnesota Corn Growers Association, and Friends of the Minnesota River have indicated their support. *At the time of the meeting, Brian had not heard from Minnesota Center for Environmental Advocacy (MCEA). (Following the meeting, he did receive email confirmation that MCEA was in support of the proposed edits.)*

Within the last week, participants that stopped attending the subcommittee have reached out with an interest in re-engaging in that discussion.

*Discussion*

- Did the Department of Natural Resources (DNR) provide feedback on the proposed edits? Brian indicated that DNR had not.
- Do the proposed edits substantially change the report? Tom responded that the edits do not propose any substantive changes to the report.
- John Jaschke stated that the proposed edits and comments were very helpful and well done.
- The idea for the drainage registry portal is that public notices would be posted to a central location that anyone could access. The subcommittee discussed the portal and other ideas to improve or enhance opportunities for the public that would make obtaining information easier. The report doesn't make any judgments on which avenue should be pursued. It is only stating what was evaluated.

- Drainage authorities include both counties and watershed districts.
- The legislative charge was for BWSR and the DWG to make recommendations for public notice. The subcommittee was looking at options to improve public notice by enhancing drainage authority websites or providing an electronic notice by drainage authorities or a state agency. The subcommittee wasn't restricted to considering only a drainage portal concept. The report notes that the subcommittee considered options besides a centralized notice.
- John Jaschke explained that the report is stating what was evaluated. It is not making any recommendations.
- Is there a possibility that some members of the DWG have no intention of coming to consensus? John Jaschke responded that this is exactly where he thought the DWG would be. BWSR's responsibility with this report is to describe the process that was used and to explain that work will continue. The report is a status report. Tom explained that the outlet adequacy task began before the legislative mandate was in place. He didn't anticipate that there would be a solution by this time. The intention for the report was to accurately capture the deliberations that happened given the multiple opinions that were represented.
- John Jaschke noted that at the DNR Roundtable meeting, he spoke with a lobbyist that would prefer to have the DWG cease to exist.
- Neil Peterson stated that the discussions got further than he thought they would. The subjects that needed to be discussed were difficult, as was the timeline.
- Ted Winter said that the legislature was asking for more than could be accomplished in the amount of time allowed.
- Is extending the sunset provision extending the DWG for another five years? John Jaschke explained that it is removing the current sunset date for M.S. 103E.729 for an additional five years. This statutory language allows drainage authorities the option to assess benefits and damages based on runoff, rather than the traditional process of benefits and damages. It was noted that it took three years for the DWG to gain consensus on this topic.

It was recommended that the committee act on the board order and the report separately. The motion to approve the board order passed unanimously.

Tom Gile explained that the committee could approve the report as distributed, approve it with some or all the changes provided by Commissioner Staples, or make changes of their own. Jason Garms expressed concerns about not meeting the legislative directive to "evaluate and make recommendations". The report indicates no consensus and no recommendations. He asked if subheadings should be added to indicate that there was good conversation about topics and more work is necessary. John Jaschke responded that the legislature already knows the report is coming and what it will say. It is BWSR's responsibility to ensure that the process that is in statute for the DWG continues. Specific to Jason's concerns, BWSR will express optimism that the work will continue, but there is no recommendation at this time. BWSR will convey this message orally.

Tom Gile explained that there are members of the DWG that was everything that is included in outlet adequacy and notification, instead of working for consensus on small portions of those topics. It will be important to communicate that the intention is to move forward as statutorily authorized. The motion carried unanimously.

Tom Gile will work with the committee chair to set the next meeting date.

The meeting adjourned at 12:36 p.m.

Meeting notes by Jan Voit

**Tammy Audette**

| | |
|---|---|
| **From:** | Rob Sip <rob.sip@rrwmb.us> |
| **Sent:** | Tuesday, January 23, 2024 4:38 PM |
| **To:** | 'bdswd@frontiernet.net'; Tara Jensen; Tammy Audette; 'Morteza Maher'; 'Dan Money'; 'rrwd@mncable.net' |
| **Cc:** | ian@parkstreetpublic.com; molly@parkstreetpublic.com |
| **Subject:** | Update on RRWMB Legislative Prep |

Just wanted to share a status update about where things are at regarding RRWMB prep for the 2024 session:

1. The RRWMB Legislative Committee meets next week to finalize 2024 recommendations – we will be working on drafting bills soon and getting authors/signatures.
2. At the RRWMB's February 20, 2024 regular meeting, the Managers will hear Legislative Committee recommendations and will set the 2024 legislative policies.
3. Correspondence has been sent to Red River Basin legislators about the governors $6 million FHMP request for 2024. I'm working with Ian and Molly to determine what other legislators should be contacted.
4. Meeting with Governors Water Policy Staff held today with MN Watersheds and RRWMB staff and lobbyists to discuss the $6 million.
5. A letter to the Governor on the $6 million request is in the works.
6. Radio interviews forthcoming with AM890, Red River Farm Network, and KFGO.
7. Packet of materials/factsheets for the legislative session and MN Watersheds legislative conference forthcoming.
8. RRWMB meeting with legislators on day 2 of MN Watersheds legislative conference – individual WD meetings with legislators as needed.
9. MN DNR known needs list for the FHMP – you saw the updated draft yesterday and guessing another version is forthcoming soon.
10. RRWMB videos set to be ready – general organizational overview, water quality program, and drainage issues.
11. Weekly coordination meeting (electronic) with RRWMB and MN Watersheds set to begin next week and throughout the 2024 session.
12. BWSR weekly partners coordination meeting (electronic) to be held with RRWMB, MN Watersheds, AMC, MASWCD and others – likely to begin close to the start of the session.

I'm probably missing something but rest assured we are workign on it! 😊

Robert L. Sip
Executive Director
Red River Watershed Management Board

Office Address:
11 5Th Avenue East, Suite B
Ada, MN 56510

Rob.sip@rrwmb.us
www.rrwmb.us
https://www.facebook.com/RedRiverWatershedManagementBoard