

RED LAKE WATERSHED DISTRICT  
Board of Manager's Minutes  
October 13, 2005

President Orville Knott called the meeting to order at 9:00 a.m. at the Red Lake Watershed District office, Thief River Falls, MN.

Present were: Managers Orville Knott, Vernon Johnson, Lee Coe, Arnold Stanley, Dale M. Nelson, and Gene Tiedemann. Absent: Allan Carlson. Staff present: Myron Jesme and Arlene Novak, and Legal Counsel Delray Sparby.

The board reviewed the agenda. A motion was made by Nelson, seconded by Tiedemann, and passed by unanimous vote that the Board approve the agenda.

Arlene Novak read the minutes of September 22, 2005. A motion was made by Johnson, seconded by Stanley, and passed unanimously that the Board approve the minutes as printed.

The board reviewed the Financial Report as of October 12, 2005. A motion was made by Nelson, seconded by Coe, and passed by unanimous vote that the Board approve the Financial Report dated October 12, 2005.

The update on the funding of the current ring dikes being constructed was given by Administrator Jesme.

Administrator Jesme read a letter from Ralph Lee, Grygla, requesting payment of damages for crop loss from flood events occurring along the Moose River in May and June 2005, also referred to as Marshall-Beltrami Judicial Ditch #21 (MBJD #21), and Mr. Lee's opinion of how this flood was attributed to the Moose River Impoundment. Administrator Jesme then presented a timeline of gate openings and closings, documented rain falls, and water elevations of ditch systems near the Moose River Impoundment during the rain events. After considerable discussion was had in regard to this matter, President Knott noted that it was 9:30 a.m., the time scheduled for a final payment hearing. Mr. Lee's request was delayed for further discussion after the hearing.

At 9:30 a.m., the final payment hearing for Olson Construction TRF, Inc. was called to order. RLWD Legal Counsel Sparby stated that the hearing had been advertised. There was no one in attendance objecting to the final payment. Project Engineer Jim Hest, NW MN Joint Powers Board, stated that the project is substantially complete; therefore he recommends final payment of \$39,953.46 bringing the total contract cost to \$160,201.94. Motion by Nelson, seconded by Johnson, and motion carried to approve the final payment to Olson Construction TRF, Inc. The hearing was videotaped and is on file at the RLWD office.

Jim Hest reported that the earthwork of the Geist Project near Burnham Creek has been completed and the remaining work will be completed next construction season. The anticipated total project costs appear to be less than originally budgeted.

At approximately 9:45 a.m., President Knott stated that the board would continue the discussion with the letter request from Ralph Lee. Legal Counsel Sparby addressed the Board with his concerns on issues of causation relating to the damages to the crop. President Knott requested that Red Lake Watershed District employee Loren Sanderson join the meeting to explain the operating plan and to add his insight to the events of May and June 2005. Mr. Sanderson indicated that there is an additional 46 square miles of uncontrolled drainage from areas north as well as south of the property owned by Mr. Lee. Mr. Sanderson also indicated that there was a time during the June rainfall event that there was a field crossing along the east side of Marshall County Road 54 that was flooding and therefore breaking out across Mr. Lee's field thus exiting into MBJD #21. Mr. Lee stated the ditch systems in the area had approx. 4 feet of sediment in each of the three box culverts on MBJD #21 under Marshall County Road 54 in the vicinity of his property, and he believed this to be a contributing factor. Mr. Lee also indicated that two locations south of the MBJD #21 where culverts were removed during road construction and is now flowing north to his property, instead of originally passing in a westerly direction through what he thought were legal ditch systems. Motion by Johnson to table any further decision until Mr. Lee could provide more information that the flooding to his property was directly caused by the Moose River Impoundment or its operation, seconded by Nelson. Motion carried. Manager Coe offered to visit with the county commissioner to address the drainage issues of the area.

The resolutions committee of the Minnesota Association of Watershed Districts (MAWD) requested of watershed districts resolutions for presentation at the MAWD annual meeting in December. Legal Counsel Sparby presented a resolution regarding State of Minnesota Department of Natural Resources refusal to pay any ditch assessment taxes on State owned consolidated conservation lands. A motion was made by Stanley, seconded by Tiedemann, and passed unanimously to submit the following resolution:

WHEREAS, The Red Lake Watershed District is a watershed district duly created pursuant to Minnesota Statutes Chapter §103D; AND

WHEREAS, The Department of Natural Resources is an agency designated as a department of the State of Minnesota pursuant to Minnesota Statutes §15.01; AND

WHEREAS, Certain legal drainage systems in the State of Minnesota contain State owned consolidated conservation lands within the drainage systems benefited area; AND

WHEREAS, The Department of Natural Resources is charged with the management, operation and control of State owned consolidated conservation lands located within the benefited area of legal drainage systems in the State of Minnesota; AND

WHEREAS, The benefits to the State of Minnesota in these consolidated conservation lands were all determined pursuant to proper and legal drainage law procedures and the State had the right to participate in and appeal the benefit assessment the same as any other land owner; AND

WHEREAS, In certain cases the State of Minnesota Department of Natural Resources had paid ditch tax assessments for a number of years under the drainage code assessments; AND

WHEREAS, The Department of Natural Resources is now refusing to pay any ditch assessment taxes on State owned consolidated conservation lands unless they are agreed to and certified by the Commissioner of Natural Resources, even though the benefit assessment had been properly determined under the legal drainage code. Said refusal is based upon Minnesota Statute §84A.55, Subd. 9, which grants the commissioner of the Department of Natural Resources the power to determine the amount of benefits to consolidated conservation lands of existing drainage system repairs and to authorize the imposition of assessments to consolidated conservation lands in any amount the commissioner determines; AND

WHEREAS, The failure of the Department of Natural Resources to pay its ditch system assessments on State owned consolidated conservation land impairs the ability of private landowners to repair and maintain the legal drainage systems and requires the private landowners in some cases to pay a higher pro-rated assessment than that determined by the drainage system viewers; AND

WHEREAS, It is deemed unfair to private landowners to have the State Department of Natural Resources treated any differently than any other private landowner, when there is a specific statutory process under the drainage code which allows for notice, hearing and rights of appeal;

AND WHEREAS, The only way to remedy this unfair anomaly is by legislative action.

NOW THEREFORE, The Red Lake Watershed District requests the specific amendment or deletion of Minnesota Statute 84A.55, Subd. 9, to remove the absolute veto power of the Commissioner of Natural Resources in regard to legally established and approved drainage system assessments.

Administrator Jesme indicated that the second regularly scheduled Board meeting date in November falls on Thanksgiving Day. Motion by Nelson, seconded by Coe, and passed unanimously to change the meeting date to Tuesday, November 22, 2005.

The Board reviewed permits for approval. A motion was made by Nelson, seconded by Stanley, to approve the following permits with conditions stated on the permits: No. 05129 from Michael Gasper, Louisville Township, Red Lake County; No. 05132 from Agder Township, Marshall County; Nos. 05133 and 05134 from GMG Farms, Euclid

Township, Polk County; No. 05135 from Gary Salentiny, Belgium Township, Polk County; No. 05136 from Pat Gerszewski, North Township, Pennington County; No. 05137 from Jeremiah Johnson, Emardville Township, Red Lake County; Nos. 05138 and 05139 from Gene Tiedemann, Euclid Township, Polk County; and No. 05140 from Kev-Rich Farms, Sullivan and Keystone Townships, Polk County. Motion carried.

Permit No. 05043, applied for by Wendell Tieglund, Goodridge Township, Pennington County, was presented to the Board for denial. Motion by Stanley, seconded by Johnson, and passed unanimously to deny RLWD Permit No. 05043 applied for by Wendell Tieglund.

Gary Lee, Brooks, requested an extension on his Permit No. 04098. A motion was made by Nelson, seconded by Tiedemann, to approve the extension of Permit No. 04098 to Gary Lee. Motion approved with Arnold Stanley opposed.

Administrator Jesme presented a request to purchase a new computer from Hewlett Packard in the amount of \$2400 plus an additional \$400 to purchase Microsoft Office software. A motion was made by Nelson, seconded by Johnson, to approve purchasing the hardware and software as presented. Motion carried.

Administrator Jesme, on behalf of Water Quality Coordinator Corey Hanson, presented a September 2005 Water Quality Program Progress Summary.

Administrator Jesme read his written report: The State Ditch 83 spot cleaning/maintenance expenses to date are \$46,795.55. It would be difficult to find an area to repair that would stay under the maximum allowable dollar amount of \$50,000; Administrator Jesme is working on the land acquisitions of small parcels that may be needed for the improvements to road ditches in the vicinity of the Euclid East Impoundment Site of RLWD Proj. No.60B. A meeting is scheduled at 9:30 a.m. on October 28, 2005 with interested landowners to discuss options on how to better drain lands in and around the proposed Impoundment. A draft copy of the "Evaluation of Predicted Wetland Impact for the Brandt Impoundment Project" has been distributed to the Army Corps of Engineers (Corps), Board of Water and Soil Resources (BWSR), Soil and Water Conservation District (SWCD), Natural Resources Conservation Service (NRCS) and MN Department of Natural Resources (MN DNR) for their review. A meeting is scheduled on October 24, 2005 in Golden Valley at 1:30 p.m. to review the draft copy; Corey Hanson attended RiverNight 2005 at which the Red River Basin River Watch program was presented with the Citizen Volunteer Monitoring Program of the Year Award; BWSR has received a \$100,000 appropriation for Beaver Damage Control Grants. Dave Weirens of BWSR indicated that information on the program will be available in early November; A meeting was held on September 22, 2005 with agency personnel from MN DNR to explain the Preliminary Plan and Outlet Structure Design of the Pembina Ridge Structure (Goose Lake); Three quotes were opened on September 22, 2005 for the Cwikla ring dike located in Thief Lake Township of Marshall County. RBR Development from Middle River was the low bidder on the ring dike and he will

complete the ring dike when weather conditions are conducive; The Louisville Parnell berm repair will be completed by RBR Development when the Cwikla ring dike is completed; The application for the Dam Safety permit for the Seeger Dam repair has been applied for and if received in time and weather conditions are conducive, completion of the project will be completed this fall; and RLWD Ditch No.11 Engineer, Jerry Pribula, Pribula Engineering, will present the Preliminary Engineer's Report on RLWD Ditch No. 11, RLWD Proj. No. 167, at the October 27, 2005 RLWD Board meeting.

Legal Counsel Sparby stated that updates to some abstracts have been completed for the lands to be acquired for the Brandt and Euclid East Sites of the Grand Marais Creek Subwatershed Project and the title opinions will be completed.

Manager Johnson stated that North Central Joint Powers Board Engineer, John Hodgson, is working on the Preliminary Engineer's Report for the repair of Silver Creek.

A motion was made by Nelson, seconded by Johnson, to adjourn the meeting.  
Motion carried.

  
Vernon Johnson, Secretary