

Red River Watershed Management Board

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Board of Managers

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RED RIVER WATERSHED MANAGEMENT BOARD MEETING

September 16,1997

Red Lake Watershed District Office, Thief River Falls, Minnesota

The RRWMB met on Tuesday, September 16, 1997, at the Red Lake Watershed District Office, Thief River Falls, Minnesota.

Chairman Ron Osowski called the meeting to order.

Members present were:

Vernon Johnson	Jerome Deal
John Finney	Curtis Nelson
Harley Younggren	Farrell Erickson
Sanford Moen	Daniel Wilkens

Others present were:

Don Ogaard, Executive Director
Naomi Jagol, Administrative Assistant, Sand Hill River WD
Dan Thul, Red River Coordinator
Rick St. Germain, Engineer, Houston Engineering
Ron Adrian, Engineer, Middle River-Snake River WD
Charlie Anderson, Engineer, JOR Engineering
Lowell Enerson, Administrator, Red Lake WD
Brent Johnson, Engineer, Houston Engineering
Steve Mikkelson, MPCA
Jerry Bennett, Administrator, Wild Rice WD
Maynard Pick, U.S. House of Representatives, Seventh District,
Congressman Collin Peterson's office
Dave Hayes, FEMA

Minutes of the August 19, 1997, meeting were read and approved with minor corrections. **Motion** to approve the minutes by Manager Younggren, **Seconded** by Manager Deal, **Carried**.

The Treasurer's report was presented by Manager Wilkens and it was approved as read. **Motion** by Manager Nelson, **Seconded** by Manager Finney, **Carried**.

A **Motion** to approve and pay bills by Manager Younggren, **Seconded** by Manager Nelson, **Carried**. For further reference, a copy of the bills approved are attached hereto in the Treasurer's Report.

Ogaard Report - Don Ogaard

A handout was distributed from Rob Sip, graduate assistant at NDSU, updating the Board on the status of the wetland "social value" delineation study. Rob indicated that he is currently conducting literature reviews for each wetland function as listed in the Minnesota Routine Assessment Method (MNRAM) for evaluating wetland functions.

Don updated the Board on the meeting in St. Paul with the COE on mitigation requirements in the permit for Wild Rice WD Project #11, Site #6. Don stated that there was virtually no headway obtained towards achieving any type of consensus. In the permit issued by the COE, 92 acres of total wetland mitigation is being requested which would involve purchasing a farm of approximately 350 acres or more to accomplish the mitigation required. Two factors need to be considered when determining if the COE's request is reasonable. The first is does the COE have the right or legal authority to demand mitigation. Secondly, is the methodology behind this request accurate? The COE denies that this is a precedent setting permit and they maintain that each permit received is reviewed on an individual basis. Lowell Enerson questioned why was the first challenge by the Center for Environmental Advocacy (CEA) initiated in the Court of Appeals rather than in a district court. Don confirmed that apparently the CEA was correct in bringing this case before the Court of Appeals.

The mediation process was discussed relative to the selection of the final three mediation firms by the mediation committee. Don stated that 12 request for proposals were received and reviewed by himself, Manager Wilkens, and Manager Deal. After selecting three firms, the selections were forwarded to the DNR. The firms selected and the reasoning behind their selections include the following:

1. Hallmark Pacific Group: This firm is based out of Oregon and offered such desired qualities as traveling to the area to meet locally with the participants, and spending twice as much time during the initial assessment phase which the mediation committee regarded as the most important phase.
2. Collaborative Decision Resources (CDR): This is a Colorado based firm and proposed the lowest cost for Phase I mediation which was \$16,297.00.
3. Howard S. Bellman: This arbitration and mediation firm is based out of Madison, Wisconsin and possessed the longest history of service and experience.

Manager Wilkens stated that the committee was faced with the decision of whether to hire a local firm or out of state. He indicated that after discussion, the committee felt that it was best to not have local representation to avoid any biases that may surface. Manager Deal noted that he felt very comfortable with the groups selected. He stressed that retaining an out of state firm was crucial to maintaining impartiality as certain groups may have background affiliations that would not be desired. Don stated that these groups were rated on an established point system that included the following criteria: understanding of objectives, work plan, cost detail, and assignment of personnel. The pay ranges for the first phase ranged from \$17,000 to \$48,000 and for both phases from \$70,000 to \$108,000. Don noted that he had been informed that the DNR mediation committee did not confer as a group but rather made individual recommendations. He also stated that there seems to be a general belief by the DNR that the Red River Basin has developed beyond it's sustainability and that a reversal needs to occur.

The Environmental Organizations Tour was discussed. The tour was held on Friday, August 22, 1997, and included a driving tour guided by Don. Don indicated that the environmental groups were very appreciative of the tour.

A report on the Red River Basin Board progress to date was given by Don. The results of the executive committee election were as follows: Chairman - Morris Lanning, Mayor of Moorhead, Secretary - Bruce Furness, Mayor of Fargo, and Treasurer - Donald Ogaard, RRWMB. Manager Nelson inquired about the status of North Dakota's share of funding. Don stated that \$60,000 has been pledged and is on the way from the State Water Commission with \$100,000 from the state health department coming shortly. Don noted that no funds have been received from the Canadians yet as they are waiting for North Dakota to fund their share first. Don stated the need for establishing a methodology for a basin-wide plan in order to prioritize water retention issues.

The annual meeting of the Rivers Council of Minnesota scheduled for September 19th and 20th was discussed. Don Ogaard is scheduled to speak on agricultural uses of the Red River. Don stated that he has two concerns with groups of this nature conducting a tour of the area. The first concern is having them analyzing whether or not watershed districts are spending money in an appropriate manner. Secondly, having these groups offer watershed districts another answer to reduce flooding, not understanding that hydrology methods are limited. Manager Wilkens was asked to fax copies of the meeting notice to the Buffalo-Red River Watershed District and MPCA for their information.

The monthly board meetings of BWSR were discussed. Lowell Enerson stated the need for getting watershed districts involved. Manager Wilkens added that he believed that BWSR should be representing both watershed districts and soil and water conservation districts. Manager Johnson indicated that Ray Bohn from MAWD is usually in attendance at the BWSR board meeting and that the soil and water conservation districts always have a representative there. Don Ogaard inquired whether a delegate is needed from the RRWMB to attend the monthly BWSR board meetings. Manager Johnson suggested having two representatives as this would be very professional. **Motion** to approve one Board Manager and the Executive Director to attend the monthly BWSR board meeting by Manager Wilkens, **Seconded** by Manager Nelson, **Carried**. The Board decided to designate Vernon Johnson as the Board Manager representative and he would accompany Don Ogaard, Executive Director.

Red River Coordinator Report - Dan Thul

Dan distributed and reviewed the minutes from the last Technical Advisory Committee (TAC) meeting. Dan stated that the purpose of this committee was to discuss and evaluate the technical aspects of the issues facing the RRWMB in order to provide better information for the Board to make decisions. The committee discussed the make-up of the TAC and came up with the following recommendations:

- 1) Five members to include Ron Adrian, Rick St. Germain, Brent Johnson, Charlie Anderson, and Dan Thul.
- 2) RRWMB pay expenses of the committee (except Dan)
- 3) Meet at least before every Board meeting and one full day each month, (approximately \$5,000 per month)

The first action item for the TAC was to draft a letter in response to a DNR 1997 flood report. The published report claimed that the flood at Grand Forks could have been reduced below the 100 year discharge if a non-gated impoundment was available just upstream. The simulated impoundment was claimed to require 1.3 million

acre-ft of floodwater storage. The TAC feels considerable less storage volume would be necessary if a gated outlet was incorporated. Charlie had agreed to do some calculations and draft the letter. A copy of this letter was distributed to the Board and Ron Osowski's signature was obtained.

A draft of the RRWMB's TAC comments on the DNR Comment Letter on Wetland Restoration Permit Guidelines was distributed. The TAC recommended that a proposal be prepared and signed by Charlie Anderson of the TAC and Ron Osowski, Chairman of the RRWMB. Charlie Anderson is very familiar with the issues and is on both the TAC and the DNR negotiating team. Charlie stated that this item will be on the agenda for discussion at the next joint meeting scheduled for September 19, 1997.

The International Joint Commission's (IJC) gauge at Caribou was discussed by Dan. Dan stated that the IJC is considering dropping funding for this gauge site, but that the Roseau River WD Board has not yet made a decision. Dan stated that the Canadian interest is high to keep this gauge functional. The TAC recommended that the RRWMB wait and see what the Roseau River WD decides before determining if any funding is needed.

TIC Report - No report was available this month.

FEMA Activities Report - Dave Hayes

Mr. Hayes updated the Board on the proposal in the 105th Congress to eliminate watershed damages entirely. Should this proposal pass, Hayes stated that watershed districts would no longer be recognized by the government, federal funds would no longer be available, NRCS funds would dwindle, and the burden of disasters would rest with the districts. Jerry Bennett, Administrator of Wild Rice WD (WRWD), inquired whether the passage of this proposal would affect the County ditch systems. Hayes indicated that it would not.

Hayes stated that most agencies aren't aware of the funding programs offered through FEMA. He further added that it's not necessarily anyone's fault but rather an awareness problem regarding what damages are eligible and what are not. Hayes indicated that as an applicant, the federal government says they are entitled to some relief and it is the FEMA representative's responsibility to see that these funds get administered. Hayes noted that the applicant has 60 days from the notice of intent (NOI) to identify sustained damages. He added that FEMA does not strictly adhere to these guidelines and that if a representative is available then the damages will be reviewed.

Hazard mitigation was discussed. Hayes cited an example that if a damage site gets damaged continually each year, FEMA would rather spend \$100,000 up front to fix the problem instead of spending \$50,000 year after year. Hayes indicated that FEMA has no limits or ceilings on mitigation.

A handout was distributed by Mr. Hayes that was a Minnesota County Emergency Management Directory.

Manager Johnson inquired that if County damages have already been repaired, could these be eligible for reimbursement. Hayes stated that if supporting documentation can be provided, that it would not be too late to apply for damage reimbursement.

Hayes commented on COE involvement. He stated that a key document dated 9/96 has surfaced which is getting no attention. This document describes how the COE, NRCS, and FEMA interface in day-to-day activities. Jerry

Bennett, WRWD, stated that in order for the COE to become involved, a letter of interest needs to be prepared. Jerry inquired that after a letter of interest is activated, are any other programs available other than COE disaster assistance program 84-99. Hayes indicated that the COE will identify if the damages meet their criteria and stressed the importance of getting the COE out to the damage site to do an inspection. Don Ogaard concurred that it is crucial to have the COE view the source of the problem.

Lowell Enerson stated his appreciation for Dave Hayes educating the watershed districts on the procedures to be followed when applying for FEMA reimbursement. Lowell also noted the importance of getting MAWD involved to address these issues.

Later in the afternoon, Dave Hayes called from his cell phone and reported to Manager Wilkens that he had been in contact with State FEMA representatives who indicated that if local officials had a good reason for not filing for damage assistance by the deadline, their cases could still be opened. Hayes asked that all watershed districts check with their local County representatives to bring this matter to their attention.

District Reports:

- The Red Lake WD reported that bids were opened on two ditch improvement projects, Project No. 113- Winsor/Hangaard Clearwater County Petitions, and Project No. 122 - City of TRF Drainage Ditch. They are in the process of awarding the contracts for these two projects.
- The Bois de Sioux WD reported that work will be postponed on the Traverse County Ditch #27 until the 1998 construction season due to acquiring right-of-way difficulties with MnDOT. Ditch spraying is underway in the district. Final numbers will not be available on the total amount sprayed until later this fall.
- The Buffalo-Red River WD reported that regarding the Economic Development Administration Grant for the Moorhead, Dilworth and Hawley Projects, construction of the concrete lined channel is continuing west of Dilworth. Also, the District has received about 30 applications for ring dikes. A meeting was held last week to prioritize the applications for construction this fall.
- The Two Rivers WD reported that work is proceeding well on the outlet structure for the Nereson Project. The sheet piling is now in place and work will continue. Work on the sub impoundment, which has been slowed over the past few years by unusually wet weather, will begin September 20th and continue through the fall. The sub impoundment should be finished by next summer.
- The Roseau River WD reported that construction of the Lins farmstead ring dike has been completed except for the installation of a flap gate and the final inspection. Also, the Board held its yearly budget hearing and approved the 1998 budget.
- The Wild Rice WD reported that the District is pursuing ring dike construction. The District is placing high priority on expediting ring dike construction with a goal of completing as many as possible this fall. Interest in the program continues to escalate.
- The Sand Hill River WD reported that regarding Project No. 11 - Beltrami Flood Control & Diversion, the contractor was scheduled to begin work on September 15, 1997. Landowners on the south side who were previously not going to receive any spoil bank have decided that they do so desire spoil after all. The District

is in the process of having easements prepared. Houston Engineering has sent information to the Polk County Highway Department regarding Polk County Highway #1 as to ditch grades and has made recommendations for pipe sizes as per request. The District is requesting Step III approval from the Red River Watershed Management Board today.

- The Middle River-Snake River WD reported that the Board initiated a cost share program for the construction of farmstead ring dikes. This cost share program within the Middle River-Snake River WD will require the landowners to pay 20% of the cost of the construction of the farmstead ring dike. The District mailed out 380 letters to the apparent owners of the building sites in the five townships along the Red River and the five adjacent townships. In four days approximately 43 responses have been received. This brings the total to 67.

Litigation Ratification Resolutions - Progress Report

Ogaard indicated that resolutions are needed from individual districts. He stated that the pursuit of the litigation would authorize a challenge of the RRWMB to establish a precedent. If the litigation were decided in favor of the RRWMB, the COE could not request mitigation under similar circumstances. Don commended the Buffalo-Red River Watershed District on the excellent resolution received from their Board. Don noted that to date, he has received resolutions from the Buffalo-Red River WD and the Sand Hill River WD.

Protected Waters Issues

A handout was distributed from Jerry Bennett, Administrator of Wild Rice WD, discussing two permit applications that were denied by the Minnesota Department of Natural Resources. Jerry stated that a demand for a formal hearing was filed in accordance with Minn. Stat. 1036.311. To assist in resolving this matter and similar requests involving the excavation of fill from natural waterways, the WRWD is requesting the RRWMB to consider obtaining a legal opinion to determine under what circumstances permits would be granted. **Motion** to pursue this effort by Manager Wilkens, **Seconded** by Manager Johnson, **Carried**. Jerry requested back-up information from each watershed district in order to obtain supporting documentation for the public hearing. Don Ogaard offered to write a letter to each watershed district further explaining the issue involved.

Proposal to develop presentation on - Red River Basin Flooding

Lowell Enerson stated that a workshop is being conducted on Friday afternoon from 2:00-3:00 p.m. at the MAWD annual meeting on the history of the flood of 1997 documenting its progression from Traverse County to the Canadian border. A panel composed of Mark Deutschman, Kent Lokkesmoe, Don Ogaard, and Charlie Anderson will be on hand to answer questions and offer expertise. Lowell proposed engaging the services of Susan Gilbert of Loyd Gilbert & Associates to prepare a slide presentation documenting the flood for use at the workshop and also at individual watershed districts in an effort to educate the entire red river basin that something can be done about flooding. **Motion** to engage the services of Susan Gilbert to develop a slide presentation by Manager Wilkens, **Seconded** by Manager Erickson, **Carried**.

District's Funding Requests:

1. Sand Hill River WD - Step Three Submittal for Project #11, Belli ami Flood Control and Diversion

Project: The Sand Hill River WD is asking for payment at this time in the amount of \$136,735.00. On August 19, 1997, the Step II proposal for this project was approved with the following cost sharing formula:

Red River Watershed Management Board	\$136,735.00 or 66.7%
Sand Hill River WD	\$ 68,265.00 or 33.3%
Total Request	\$205,000.00 or 100%

Construction is scheduled to begin the week of September 15, 1997 and the contract completion date is November 15, 1997. **Motion** for Step Three approval by Manager Wilkens, **Seconded** by Manager Moen, **Carried**.

2. Buffalo-Red River WD - Economic Development Administration (EPA) Grant (Moorhead, Dilworth, and Hawley Projects): 3rd partial request. Allocation by breakdown as follows:

Project No. 32, Hawley Flood Control Diversion	\$ 2,738.25
Project No. 33, Clay County Ditch No. 50	12,597.75
Project No. 34, Clay County Ditch No. 41	3,346.75
Project No. 36, Clay County Ditch No. 41 - Lateral No. 2	2,012.27
Project No. 37, Clay County Ditch No. 41 - Lateral No. 1	9,428.73
Total:	\$30,123.75

Motion to approve the 3rd partial request by Manager Nelson, **Seconded** by Manager Deal, **Carried**.

Farmstead Ring Dikes

Manager Osowski stated that during the spring flood event, a number of ring dikes within the Middle River-Snake River Watershed District were overtopped or close to it. This summer repairs were done on the ring dikes and now Manager Osowski was concerned that these would not qualify for ring dike reimbursement. Lowell Enerson stated the first year watershed districts need to be cautious with regard to applying for reimbursement so that next year, funding could be easily obtained if need be. Enerson suggested that the Middle River-Snake River Watershed District apply for reimbursement during the second go around.

MAWD

Manager Johnson stated that MAWD has obtained funds from the McKnight Foundation and also from LCMR. Johnson added that this was a major accomplishment.

Manager Johnson also suggested mailing the monthly newsletter distributed by Loyd Gilbert to all the MAWD Board members. Don Ogaard stated that the mailing list has really expanded and now includes members and alternates of the Red River Basin Board as well.

The MAWD 1998 Annual Summer Tour was discussed. Several tour destinations were discussed and the Board agreed that they would recommend to MAWD that the watershed districts to be toured this year should include the Joe River, Roseau River, and Two Rivers.

Annual March Conference

The Board discussed utilizing this year's annual conference as a type of training session for County and Emergency Services representatives. There is a need to maximize the utilization of the federal system with regard to what types of programs are available to fund disasters and the correct procedures to follow.

The next meeting will be held on October 21, 1997, at 9:30 a.m. at the Red Lake WD office in Thief River Falls, Minnesota.

There being no further business, the meeting was adjourned at 3:30 p.m.

Respectfully submitted,

E. Harley Younggren
Secretary

Naomi L. Jagol
Administrative Assistant