

**BOIS DE SIOUX WATERSHED DISTRICT  
BOARD MEETING MINUTES  
July 15, 2021**

- CALL TO ORDER** The meeting was called to order by President Vavra at 8:00 a.m. Present in the District Office: Linda Vavra, Jason Beyer, Benjamin Brutlag, Doug Dahlen, Jerome Deal, Scott Gillespie, John Kapphahn, Steven Schmidt, Allen Wold. Also present in the District Office: District Engineer Chad Engels, Engineer James Guler, Engineer Technician Troy Fridgen, Attorney Lukas Croaker, and Administrator Jamie Beyer.
- AGENDA** Deal motioned, seconded by Dahlen and carried unanimously, to approve the agenda with the following additions: Monson Township ditch issues and TCD #38 Clean-Out.
- CONSENT AGENDA** Upon motion by Deal, seconded by Wold and carried unanimously, the Consent Agenda was approved.
- PUBLIC COMMENT** Under Public Comment, Stevens County Commissioner Ron Staples distributed a copy of the newly signed Minnesota Statute 103G.413, which provides an appeal process for Ordinary High Water Level determinations.
- OHWL APPEALS**
- TCD #9 PETITION T. CONROY** The Board reviewed the petition submitted by Landowner Trent Conroy to outlet the SW1/4 of Section 14, Redpath Township, Traverse County into TCD #9. Upon motion by Gillespie, seconded by Deal and carried unanimously, the petition was accepted and the Board ordered that the required public hearing be held during the Board's next regularly scheduled meeting.
- TCD #9 PETITION K. BERGER** The Board reviewed the petition submitted by Landowner Kelly Berger, represented by Chadd Berger, to outlet the SE1/4 of Section 9, Redpath Township, Traverse County into TCD #9. Upon motion by Beyer, seconded by Gillespie and carried unanimously, the petition was accepted and the Board ordered that the required public hearing be held during the Board's next regularly scheduled meeting.
- BWSR UPDATE** Pete Waller, Board Conservationist, presented a 2021 legislative update. Waller stated that the department has nearly met the state's CREP program goals with USDA, and that there is a new grant program for septic system upgrades for individual homes.
- TCD #9 PETITION K. BERGER** District Engineer Engels returned to the petition submitted on behalf of Kelly Berger. Engels stated that, because the parcel's surface and subsurface drainage does not currently flow to TCD #9, an evaluation of the capacity of the ditch will be needed in preparation for the required hearing. Upon motion by Gillespie, seconded by Wold and carried unanimously, the Board authorized engineering staff to determine the capacity of the drainage system.
- PERMIT APP. #21-066 ATF D. HOLTE** District Engineer Engels and Technician Fridgen met with landowners on-site in Section 32, Western Township in response to a severe lack of drainage maintenance on DNR managed land. Adjacent landowners reported that they feel they must create dikes to protect their land from overland flooding. District Engineer Engels recommended that letters be written by the District, Otter Tail County, and Western Township to request the DNR to initiate maintenance activities for the public safety and general welfare of residents in this area. Upon motion by Beyer, seconded by Dahlen and carried unanimously, staff are authorized to draft and send the letter.
- WCD #35 103E.101(4A) HEARING REESTABLISHMENT OF RECORDS** Upon motion by Deal, seconded by Dahlen and carried unanimously, the public hearing on the reestablishment of WCD #35 records was opened. The purpose of the public hearing was to discuss the Engineer's Report of Findings on the Alignment, Cross- Section, Profile, Hydraulic Structure Locations, Materials, Dimensions and Elevations, and/or Right-of-Way of the Drainage System as Originally Constructed or Subsequently Improved in accordance with Minn. Stat. § 103E.101. District Engineer Engels stated that this public hearing is necessary to reestablish the records of the ditch and the first step in preparation for the restoration of Doran Creek. Ultimately, the District would like to install side-inlet culverts on WCD #35 to reduce sediment transport to Doran Creek. Engineers used a formal survey, sediment details, and elevations of crossings, channels, and culverts to determine the probable design of the originally constructed drainage system. The reestablishment report provided details on the drainage system's alignment, channel geometry, channel profile, right-of-way, and hydraulic structures. Although the historical record does not include design or as-built cut sheets, it does include the original petition and viewers' report (with benefit and damage amounts); benefit and

damage amounts match closely the existing daylight locations of the drainage system. The current system is not considered a public waters, and features 3:1 side slopes and a 10' bottom.

Public comment was received in the form of a question as to when construction would begin. District Engineer Engels replied that this process will certainly establish the limits to what the ditch can be cleaned to in the future, but the anticipated project at this time is to correct specific locations that contribute higher sediment loads and require side inlet culvert installations. District Engineer Engels stated that, in prior meetings with landowners, landowners were not supportive of a large repair project, but were interested in side inlet culvert installations if cost-share was available. Gillespie asked if the culverts could be placed in anticipation of a larger repair project, so that they would not need to be reset. District Engineer Engels responded that this objective could be included as a guiding design project goal but may not be possible in all instances.

Upon motion by Beyer, seconded by Dahlen and carried unanimously, the Finds of Fact and Order were approved. Upon motion by Beyer, seconded by Deal and carried unanimously, the public hearing was closed.

**PERMIT APP.  
#21-075  
L. VIPOND**

Board managers reviewed outlet options for the project described in the permit application, which would include a change of flow between subwatersheds; flow could remain within the subwatershed and be directed to the west, but would transverse many private fields, making its way to Grant County Ditch #21 (which needs repair) and subsequently to the Mustinka River. The applicant has proposed that the flow be directed to the east, into an existing slough, which outlets to the Mustinka River via land with a permanent conservation easement. Engineer Technician Fridgen relayed that no comments were received from area landowners. Permit applicant Larry Vipond stated that he had spoken with the first downstream landowner two years ago, and that the landowner did not voice opposition to the project. Upon motion by Gillespie, seconded by Dahlen and carried unanimously, the permit was approved.

**UNPERMITTED  
DIKE  
R. BUDKE**

Attorney Will Budke, representing his father Roger Budke, presented information on a ditch and fence line in Section 30 of East Lake Valley Township. The matter had come before the board on August 15, 2019, when the board directed landowners to find a common solution to natural flooding water paths that cross four separate parcels. Engineer Technician Troy Fridgen began mediating an agreement on August 15<sup>th</sup>, when landowners reached a consensus to have an 18" culvert installed on a swale on Mr. Budke's property, and that the path to the culvert would be scraped with a ditcher. Both would be paid for by neighbor Lance Lundquist. Later, in response to complaints from Mr. Budke, Engineer Technician Troy Fridgen worked with township officials and downstream landowners to complete a cleanout of a culvert on the north side of Section 30, under the road between Sections 19 and 30. He also had several beaver dams removed.

Mr. Budke says he never agreed to the August 15<sup>th</sup> plan, and instead installed a 12" culvert. The 12" culvert has been removed.

Attorney Will Budke stated that the elevation of the property's fenceline has been built-up over time due to farming practices and erosion, and that soil from a ditch created 9-10 years ago was added; his request was for, at this point, the watershed district to cease mediation activities and allow the private landowners to pursue future matters at their own discretion. Board managers agreed to do so.

**SAMANTHA/  
ELBOW LAKE**

District Engineer Chad Engels has looked more closely at the options available to Grant County in their pursuit to protect roads adjacent to Lake Samantha, and requested that a joint meeting be coordinated with Grant County representatives. Upon motion by Gillespie, seconded by Beyer and carried unanimously, staff are authorized to set and attend a joint meeting with Grant County representatives. President Vavra, Board Manager Brutlag and Board Manager Kapphahn were recommended for attendance.

**WBIF  
REIMBURSE-  
MENTS**

Board managers reviewed the District's Watershed Based Implementation Funding Grant Budget and Expense Report, along with a reimbursement request for eligible District expenses through June 30, 2021. Upon motion by Dahlen, seconded by Brutlag and carried unanimously, the District's request for \$21,824.84 was approved for reimbursement.

**RRWMB FHM  
RESOLUTION**

Board Managers reviewed the legislative Resolution of Support for Flood Hazard Mitigation Project Funding for Red River Watershed Management Projects. Gillespie motioned to approve the resolution,

with the addition that encouraged the Red River Watershed Management Board to determine the most workable state organization/agency to serve as the pass through agent. The motion was seconded by Dahlen and carried unanimously.

**DRAINAGE  
EASEMENT  
RESOLUTION**

District Administrator Beyer reported that Big Stone and Steven County Commissioners have begun a practice of delaying land purchased by US Fish and Wildlife in order to provide time to downstream landowners to acquire drainage easements with the current landowner(s). Board managers supported staff efforts to bring to the August meeting a draft resolution from the District to Grant, Otter Tail, Traverse, and Wilkin Counties to encourage them to implement similar processes, and to relay the District's support to Big Stone and Stevens Counties.

**2022 BUDGET  
HEARINGS**

Manager Gillespie motioned, seconded by Dahlen and carried unanimously, to hold a Public Hearing on the 2022 General Budget, Construction Fund, and the levies for the Drainage Ditch Systems during the next regularly scheduled board meeting at the District Office.

**LAPTOP  
PURCHASE**

District Administrator Beyer reported that the missing laptop, provided by former employee Michelle Swenson upon her resignation, had been located by the Wheaton Police Department, in their custody. Because the League of Minnesota Cities Insurance Trust provided compensation for the laptop, they request the return of the laptop to them or the purchase of the laptop by the District. Upon motion by Gillespie, seconded by Dahlen and carried unanimously, the District agreed to purchase the laptop at a price no greater than \$400.

**JD #11  
REPAIR**

A culvert was damaged during buffer mowing completed by Traverse SWCD; they will see that the culvert is fixed, at their cost.

**JD #6  
RAILROAD  
CROSSING  
AGREEMENT**

Board managers reviewed a written agreement with the Soo Line Railroad, at a cost not to exceed \$50,000, for the railroad to: install a new 48" steel culvert with riprap at outlets, provide grading and erosion control within their own right-of-way, flag/track protection, and any other incidental work required. Upon motion by Gillespie, seconded by Dahlen and carried unanimously, the agreement was approved.

**LTWQIP #1  
PHASE 2  
103D.605  
HEARING**

Upon motion by Deal, seconded by Gillespie and carried unanimously, the Minn. Stat. § 103D.605 Lake Traverse Water Quality Improvement Project No. 1 Phase 2 Project Hearing was opened. Engineer Guler presented the project location, scope, and means of financing. It is anticipated that bids would be collected in September, and construction could begin in November. There were no landowners in attendance. Board managers and staff relayed the positive comments received on Phase 1 construction, the continued need for Phase 2 and Phase 3 construction, and the success of Phases 1 and 2 to qualify for outside financial support from BWSR and RRWMB. Engineer Guler summarized the actions requested in advisory reports from BWSR and the DNR.

District Attorney Croaker read the Findings and Fact and Order, which declares the managers find that the project will be conducive to public health, promote the general welfare, and is in compliance with the watershed management plan and the provisions of MN Statutes Chapter 103D. The next step will be for approval from the BWSR Board. Upon motion by Gillespie, seconded by Schmidt and carried unanimously, the Order was approved. Upon motion by Gillespie, seconded by Schmidt and carried unanimously, the hearing was closed. Gillespie motioned, seconded by Dahlen and carried unanimously, to amend the Order to include authorization for staff to advertise for bids.

**WCD #9  
IMPROVEMENT**

Engineering staff reported that vegetation planted in the riparian buffer has started to fill-in; staff recommend that more time be given to assess whether it meets the 70% cover requirement of the construction contract. At this point, the vegetation is enough to prevent erosion.

Board managers discussed performance of the contractor, and asked that a summary of the project timeline and expenses be presented at the August board meeting, indicating what costs occurred after the substantial completion date expired.

**TCD #35  
IMPROVEMENT**

Engineer Jim Guler gave a report on the Minn. Stat. § 103E.261 Preliminary Hearing held on July 13, 2021 with TCD #35 landowners, who had positive comments seeing how the project design had changed in response to landowner suggestions. The Order, which also appointed Viewers', was passed at the meeting.

Culverts are on-site, ready for installation by Whaley Excavating.

There are existing tiling projects in Section 18 and 19, Monson Township that outlet and cross through Section 17 and into TCD #27. Engineer Technician Fridgen has been working with landowners upstream and downstream of the tile; the water should flow west and into a public water and into Mud Lake, but because the public water has not been cleaned-out, during high water it flows east and then south to TCD #27. There are two township culverts in the immediate flow path, but one is plugged. Due to the flooding problems, a great deal of maintenance has been completed recently: landowners and Monson Township supervisors spent a significant amount of money to clean-out a township ditch in the vicinity, and MnDOT has plans to replace an associated culvert. Recently, Traverse County Highway Department was in the process of replacing two culverts, and presented an opportunity to evaluate the hydrologic capacity of the crossing to determine the number and size of appropriate culverts. Board Manager Deal relayed that a new ditch had been proposed for the area, at one time in the past, and that a petition had been circulated. Engineering staff will size the culvert when the after-the-fact permit is received. Many of the problems in the region are associated with a lack of maintenance on DNR lands.

**TCD #38**

Manager Beyer motioned, seconded by Deal and carried unanimously, to authorize staff to clean-out portions of TCD #38.

**SOUTHERN BOUNDARY**

The engineers explained that the purpose of the informal landowner meeting was to build accuracy in the location of the boundary. Engineering staff feel prepared to host the hearing on the boundary adjustment that BWSR will order. Upon motion by Beyer, seconded by Dahlen and carried unanimously, the Resolution in Support of the Boundary Adjustment and the Petition for a Boundary Adjustment Hearing were approved. The next step is for BWSR to order and hold the statutorily required hearing.

**640<sup>TH</sup> AVE ROAD RAISE DOLLYMOUNT & ELDORADO TOWNSHIPS**

Engineering staff have put together preliminary plans for the 640<sup>th</sup> Ave Road Raise Project, between Eldorado and Dollymount Townships. The District's Road Raise Cost-Share policy will be used to cover engineering and construction costs, due to the flood damage risk reduction benefits that will be achieved through this project, and added storage. The northern ½ mile would be raised ½' - 1', and a culvert will be lowered in Section 7 in the NW1/4. The project will feature a 5' ditch bottom with a 0.05% slope. Existing culverts will be replaced with arch pipes. There will also be a clean-out of the ditch on the west side of the road, adjacent to Section 12, Dollymount Township. There is an existing dike in Section 7 that will be lowered to maintain a 1' separation between the dike elevation and the road elevation. The estimate of cost for construction is \$173,052.50.

Engineering staff met with Mr. Jonathan Mathias and Ms. Marilyn Mathias in a separate meeting to discuss components of the proposed project.

The Bois de Sioux Watershed District's role in the project is not as owner or operator; this is Dollymount Township's project, so an agreement is recommended to define the District's role for cost-share and design. Upon motion by Beyer, seconded by Gillespie and carried unanimously, staff are authorized to draft an agreement for future consideration.

**ELDORADO DRAINAGE ISSUES**

District Attorney Croaker and District Engineers Engels and Guler have been discussing the drainage issues in Eldorado Township, Stevens County, and how to make sure solving some degree of their drainage problems will not negatively effect TCD #37 landowners. Staff recommend that a new Minn. Stat. Chapt. 103E ditch be created, which outlets into TCD #37 (the flow goes there now); a new ditch requires a petition and bond. District Attorney Croaker recommended that the landowners hire separate legal counsel to draft the petition. Engineer Guler asked if landowners in Stevens County – who have already petitioned into TCD #37 and paid their respective outlet fee – would be included with the new ditch assessment. The consensus was that they could be removed from TCD #37 upon being brought into the new drainage assessment district upon requesting to be withdrawn pursuant to Minn. Stat. § 103E.805. Engineering staff will work with township officials to relay the identified process.

**CLIFTON TOWNSHIP FLOOD PROTECTION**

Board Manager Deal and engineering staff have been working with Clifton Township Officials Kevin Deal, Jeff Young, and Chad Bruns to discuss road elevations and frequent flooding from Fivemile Creek in Clifton Township Sections 12, 13, and 14. A previous WSN study established where flooding overtops roads; the study recommended road elevations. Engineering staff directed township officials

to maintain the road elevations described in the WSN study along the north and west side of Section 13, and proposed that a portion of the first downstream road along the west side of Section 12 could be lowered to more efficiently move the flow and offer some protection for two nearby farmsteads.

Upon motion by Beyer, seconded by Deal and carried unanimously, engineering staff are authorized to author and provide a hydraulic study to Clifton Township that includes the potential impacts of the proposed solution. Board managers noted that this action would be the same if a permit application were submitted to lower the affected road.

**NORTH OTTAWA  
AGREEMENT**

The District has received the revisions requested by DNR Attorney Sherri Enzler to the 10-Year Operations and Maintenance Plan, but the revisions have not been evaluated by Attorney Croaker yet.

**REDPATH &  
MUSTINKA  
REHAB PROJECTS**

District Engineer Engels relayed that the LCCMR grant application was scored highly, and was selected for a follow-up presentation. Engineer Jim Guler is responding to the first and second round of DNR project comments in pursuit of permitting. Attorney Croaker and President Linda Vavra worked with the Bartells family to confirm signature of closing documents. A grant application will be submitted to BWSR and a grant application has been submitted to the RRWMB for the Mustinka River Rehabilitation Project. The amount needed for the Impoundment that would be available from the Flood Hazard Mitigation Program is a concern.

**COUNTY  
EXEMPTION TO  
PERMITTING OF  
LIKE-SIZED  
CULVERTS**

Board Manager Beyer asked for discussion on a change to require counties to acquire a permit to replace a culvert, because if they are replacing a culvert with a like-sized culvert, the size could continue to be incorrect, in some cases – and the replacement is a waste of taxpayer funds and the District may be missing an opportunity to achieve its flood storage goals. Engineering staff relayed that sometimes counties often aim to conserve costs on their projects and may be trying to maximize the number of bridges installed in order to maximize eligibility in state bridge cost-share programs. Board Manager Brutlag reported that many of Otter Tail's culverts are currently undersized at 15". Engineer Technician Fridgen stated that, in the past, Monson Township had requested to replace a 15" culvert with an 18" culvert, and the former administrator denied the request; an 18" no longer requires a permit at all.

**FLOOD DAMAGE  
REDUCTION  
WORKGROUP  
REQUEST**

President Vavra reported that the District has made a request to the Flood Damage Reduction Work Group to increase eligibility for 50-50 Project Team Grant Funds for Project Team management of North Ottawa, but the initiative has not been supported by a Flood Damage Reduction Work Group Representative designated by the RRWMB.

**DRAINAGE WORK  
GROUP REQUEST**

President Vavra and Board Manager Wold attended a Drainage Work Group meeting in which BWSR Coordinator Tom Giles requested that BdSWD provide feedback on the importance of the Multipurpose Drainage Management grant program.

**MAWD EVENTS**

MAWD will hold its summer conference online on June 22, 2021. There is an upcoming MAWA/MAWD Region 1 meeting on August 3, 2021.

**RRWMB MTG.**

RRWMB will host its monthly meeting on August 17, 2021 at BdSWD.

**WILKIN SWCD**

Board Manager Wold reported that he attended the Wilkin SWCD Field Day.

**TRAVERSE  
ORDINANCES**

Board Manager Deal stated that the Traverse County Planning Commission has proposed revisions to shoreline ordinances, and recommended that staff consider a review of the revisions.

**BUFFER  
COMMITTEE  
UPDATE**

The Buffer Committee met and has set dates to get together with landowners in August to discuss parcels reported by Grant and Traverse SWCD's as non-compliant.

Vavra adjourned the meeting.