

**BOIS DE SIOUX WATERSHED DISTRICT
BOARD MEETING MINUTES
January 21, 2021**

CALL TO ORDER The meeting was called to order by President Vavra at 9:00 a.m. via conference call and screenshare pursuant to Minn. Stat. § 13D.021. Present in the District Office: Linda Vavra, Jason Beyer, Jerome Deal, Scott Gillespie, Steven Schmidt, and Allen Wold. Joined remotely: Doug Dahlen and John Kapphahn. Absent: Ben Brutlag. Also present remotely: Engineer Chad Engels, Engineer James Guler, Engineer Nathan Trosen, and Attorney Lukas Croaker. Also present in the District Office: Engineer Technician Troy Fridgen, Viewer Mark Dietz, and Viewer Dwight Vehldhouse.

ROLL CALL VOTE President Vavra stated that, because this meeting was being held by conference call and screenshare, all votes would be taken by roll call.

AGENDA Schmidt motioned, seconded by Deal, to approve the agenda with the following changes:

- Add After the Fact Permit #19-133, D. Stock
- Remove TCD #52 Update
- Add 2021 Engineering Rates
- Add Permit Application #21-002, Stevens County

Roll call vote: Wold – aye; Dahlen – aye; Deal – aye; Gillespie – aye; Schmidt – aye; Kapphahn – aye; Beyer – aye; Vavra – aye. Motion carried.

CONFLICT OF INTEREST No conflicts of interest were declared.

PUBLIC COMMENT No public comment was received.

CONSENT AGENDA Deal motioned, seconded by Wold, to approve the Consent Agenda. Roll call vote: Wold – aye; Dahlen – aye; Deal – aye; Gillespie – aye; Schmidt – aye; Kapphahn – aye; Beyer – aye; Vavra – aye. Motion carried.

2021 DITCH & WATERSHED PROJECT PLAN Gillespie motioned, seconded by Schmidt, to approve the 2021 Minn. Stat. Section 103E Ditches & 103D Watershed Project Priorities.

	<u>103E Ditches</u>	<u>103D Watershed Projects</u>
2020 Construction Carryover	WCD #9 Improvement JD #11 Repairs	Lake Samantha Outlet LTWQIP Phase No. 1
2021 Active Development	JD #6 WCD #Sub-1 Improv. TCD #35	LTWQIP Phase No. 2 LTWQIP Phase No. 3 Big Lake Outlet Redpath Impoundment Doran Creek Enhancement
2021 Prelim. Development	WCD #35	Moonshine Lakebed
2021 Minor Repairs	WCD #20 WCD #25 JD #12 Field Approaches	
Identified for Future	JD #12 TCD #8 TCD #52	Fivemile Creek Rehabilitation Western 32 Impoundment

Roll call vote: Wold – aye; Dahlen – aye; Deal – aye; Gillespie – aye; Schmidt – aye; Kapphahn – aye; Beyer – aye; Vavra – aye. Motion carried.

**UNPERMITTED
DIKING**

Unpermitted diking and permits for Mr. Roger Budke will be moved to the February board meeting.

**PERMIT APP.
#21-002
STEVENS COUNTY**

Board managers reviewed the details of a recent centerline culvert under Stevens County #20, as described in After-the-Fact Permit Application #21-002. There are two culverts in the project area:

- Culvert A – 44" x 27" arch pipe located immediately east of the county line
- Culvert B – 24" RCP located 500 – 600' east of Culvert A

Culvert A was replaced, but at a depth 3-4 tenths of a foot lower than the original culvert and therefore required an after-the-fact permit. District Engineer Chad Engels proposed two conditions that would need to be met by Stevens County for approval of the permit application:

- 1) A flap gate must be installed on the north side of the 24" culvert (Culvert B).
- 2) A concrete weir, with a height of 5 tenths of a foot, must be constructed across the apron, on the bottom of Culvert A.

He also confirmed that in a prior written judgement regarding the project area, the assigned judge anticipated that there would be flapgates in the future and that these conditions are not contrary to the earlier legal decision. Schmidt motioned, seconded by Beyer, the permit is approved with the recommended conditions. Board managers requested that the District Engineer include in the conditions a deadline for installation. Roll call vote: Wold – aye; Dahlen – aye; Deal – aye; Gillespie – aye; Schmidt – aye; Kapphahn – aye; Beyer – aye. Vavra – aye. Motion carried.

**PERMIT APP.
#20-164
ELDORADO
TOWNSHIP**

Schmidt motioned, seconded by Gillespie, to authorize staff to meet with Dollymount Township officials to discuss the permit application and potential conditions for permit application #20-164 Eldorado Township. Roll call vote: Wold – aye; Dahlen – aye; Deal – aye; Gillespie – aye; Schmidt – aye; Kapphahn – aye; Beyer – aye; Vavra – aye. Motion carried.

**PERMIT APP.
#19-133
D. STOCK**

Attorney Lukas Croaker informed the board that Permit No. 19-133 conditions are being violated. The permit was filed by Mr. David Stock on behalf of Landowner Mr. David Bakke. Beyer motioned, seconded by Deal, to authorize President Vavra to sign an Administrative Compliance Order that includes an April 14, 2021 deadline for the applicant to remedy the violations; failure to do so will result in a hearing before the board on April 15, 2021, at the board's regular meeting. Schmidt – aye; Wold – aye; Gillespie – aye; Kapphahn – aye; Beyer – aye; Deal – aye; Dahlen – aye; Vavra – aye. Motion carried.

**HEARING ON
PARTIAL
ABANDONMENT
OF TCD #52**

At 9:30 AM, Beyer motioned, seconded by Gillespie, to open the Public Hearing to Consider the Partial Abandonment of a Portion of Traverse County Ditch No. 52, specifically Lateral 3. Petitions were received from landowners for the affected area (James E. Graham Estate in the NE1/4 of Section 7, Parnell Township and Helen B. Toso Trust in the SE1/4 of Section 7, Parnell Township. Farm operator Ben Anderson, neighboring landowner Dale Haukos, neighboring landowner Roger Nosbusch, and landowner Carrie Joyce Kruger and her son Tom Krueger discussed drainage issues in the region. Landowners were unaware that the lateral was part of the legal drainage system until the DNR Buffer Map was published. Landowner Roger Nosbusch is in the process of designing a tile system that he originally intended to outlet to this lateral, and board managers discussed several alternative options. District Engineer Chad Engels theorized that, because of the erosion at the TCD #52 outlet, there may have been reluctance to complete clean-outs of the system. Landowner Carrie Joyce Kruger requested written confirmation of the BdSWD's obligation to maintain the ditch, but staff assured landowners that it is clear in MN Statutes Chapter 103E. Gillespie motioned, seconded by Wold, to deny the petitions and direct engineering staff to investigate the original grade line, evaluate whether this portion could benefit from a clean-out, and report back to the board at the next meeting. Roll call vote: Wold – aye; Dahlen – aye; Deal – aye; Gillespie – aye; Schmidt – aye; Kapphahn – aye; Beyer – aye; Vavra – aye. Motion carried. Gillespie motioned, seconded by Deal, to close the public hearing. Roll call vote: Wold – aye; Dahlen – aye; Deal – aye; Gillespie – aye; Schmidt – aye; Kapphahn – aye; Beyer – aye; Vavra – aye. Motion carried.

**RECONVENED
JD #6 HEARINGS**

Upon motion by Beyer, seconded by Deal, President Vavra reconvened the final hearing on the redetermination of benefits and damages and the repair petition for JD #6. Attorney Croaker discussed the final hearing procedure outlined under Minn. Stat. §§ 103E.335 and 103E.341 and informed the Board managers that there would be discussion and potentially final action on the

Petition, Amended Viewers' Report, and Engineer's Repair Report. Viewers Dietz and Veldhouse were present.

JD #6 DESIGN CHANGES

Engineering staff described changes to the repair design that were suggested during the comment period:

- 1) A landowner suggested that, in Section 27, a culvert that directs flow east, that is currently slated for elimination, be retained and installed at a higher elevation to direct high flows.
- 2) The Traverse and Wilkin County Townships associated with grass roads between Sections 35 and 36 in Traverse County and between Sections 2 and 35 in Wilkin County have been notified of an opportunity to install gravel above the road base that will be fortified by the drainage system project. We have not received a notice that either township will be pursuing the option.
- 3) A landowner has requested additional culverts on the north side of the east-west portion of the drainage system in Section 35.

Gillespie motioned, seconded by Beyer, to amend the engineering plans to include a standard driveway approach at the quarter-line in Section 35 and notify the landowner. Roll call vote: Wold – aye; Dahlen – aye; Deal – aye; Gillespie – aye; Schmidt – aye; Kapphahn – aye; Beyer – aye; Vavra – aye. Motion carried.

Viewers Dwight Veldhouse and Mark Dietz described changes to the Viewers' Report for the Redetermination:

130-46-26 NESW 1/4 Remove \$20,260 in damages
130-46-27 NESE 1/4 Add \$20,260 in damages
MnDOT: Hwy 55 Reduced benefits from \$28,647.12 to \$9,480.00
MnDOT: Requested that road benefits not be assessed into both Judicial Ditch #11 and Judicial Ditch #6. Viewers removed road benefits for south Section 27.

Landowners were given an opportunity to provide comment. No comment was received.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

Attorney Lukas Croaker read the drafted Findings of Fact, Conclusions of Law, and Order. Gillespie motioned, seconded by Beyer, to approve the Amended Viewers' Report, Amended Engineer's Repair Report, the redetermination of benefits and damages, the establishment of the repair project, and to order easement acquisition pursuant to the approved Findings and Order for JD #6. Roll call vote: Wold – aye; Dahlen – aye; Deal – aye; Gillespie – aye; Schmidt – aye; Kapphahn – aye; Beyer – aye; Vavra – aye. Motion carried.

INLINE RR CROSSING

Engineer James Guler asked board managers how they would like to deal with the inline railroad crossing culvert, indicating that the railroad has expressed an interest in completing the construction themselves. Board managers stated concerns that their work may not be done in a timely fashion. Gillespie motioned, seconded by Beyer, to order that District engineering staff be present on-site when the railroad installs the culvert. Roll call vote: Wold – aye; Dahlen – aye; Deal – aye; Gillespie – aye; Schmidt – aye; Kapphahn – aye; Beyer – aye; Vavra – aye. Motion carried.

JD #6 FINAL PLANS & SPECS

Wold motioned, seconded by Gillespie, to authorize staff to prepare final plans and specs and advertise for construction bids. Roll call vote: Wold – aye; Dahlen – aye; Deal – aye; Gillespie – aye; Schmidt – aye; Kapphahn – aye; Beyer – aye; Vavra – aye. Motion carried.

HEARING CLOSED

Beyer motioned, seconded by Deal, to close the hearing. Roll call vote: Wold – aye; Dahlen – aye; Deal – aye; Gillespie – aye; Schmidt – aye; Kapphahn – aye; Beyer – aye; Vavra – aye. Motion carried. Moore Engineering will host a pre-bid contractor meeting to discuss project details before bids are submitted; and Board Manager Wold requested that board managers be invited to the pre-bid meeting.

GILLESPIE LEAVES

Scott Gillespie left the meeting.

TILING MEETING

Board Manager John Kapphahn requested that a general rules meeting be organized with region drainage tile installers, and it may be an opportunity to get feedback before the District completes its review of its rules and policies.

JD #11 OUTLET	At the February meeting, Braun Intertec will have a recommendation to repair the outlet of JD #11.
WCD #9 PAY REQUEST	No pay request was submitted by the contractor for WCD #9. To date, only one pay request has been submitted. Turf establishment is the last punchlist item.
WCD #SUB-1	Board Manager Beyer has a petition signed by 50% of landowners, but wants more time to meet with additional landowners. District Engineer Chad Engels suggested that a landowner meeting be held in March in order to confirm landowner interest prior to BWSR grant submission.
LTWQIP #1 PAY REQUEST #2	Beyer motioned, seconded by Deal, to approve Pay Request No. 2 for the Lake Traverse Water Quality Improvement Project Phase No. 1 in the amount of \$107,836.92. Roll call vote: Wold – aye; Dahlen – aye; Deal – aye; Schmidt – aye; Kapphahn – aye; Beyer – aye; Vavra – aye. Motion carried.
LTWQIP #2 GRANTS	The District was notified that it was not awarded a grant for Phase No. 2 through MnDOT, but was awarded a BWSR Clean Water Projects and Practices grant in the amount of \$418,235. In addition, funding will likely be available through the RRWMB, 1W1Plan, and District Construction Fund.
BIG LAKE EAW	Board Manager Doug Dahlen has been discussing the Big Lake Project with affected landowners, and has received positive feedback. District Engineer Chad Engels discussed project design details with farm operator Larry Vipond. Beyer motioned, seconded by Deal, to authorize staff to advertise the EAW for 30-day public comment. Roll call vote: Wold – aye; Dahlen – aye; Deal – aye; Schmidt – aye; Kapphahn – aye; Beyer – aye; Vavra – aye. Motion carried.
SAMANTHA LAKE	Board Manager John Kapphahn reported that the Samantha Lake outlet is working well. District Engineer Chad Engels stated that there is some channel work remaining between Samantha and Elbow Lake that will be completed in 2021.
REDPATH IMPOUNDMENT PROJECT FLOW REDUCTIONS	Engineer James Guler presented the draft Redpath Impoundment Engineer’s Report. The project will reduce Mustinka River breakouts to the Rabbit River, provide significant flow reduction along the Mustinka River, compliment the flood storage provided by the Lake Traverse flood control project, and rehabilitate 5.5 miles of the Mustinka River. The flow reduction benefits of the project were modeled for six 24-hr events, three 10-day events, a 100-yr runoff event, a 100-yr snowmelt event, and four 1,000-yr dam safety events. The project will provide a 74% reduction in peak flow and 49% reduction in flood volume for the 25-yr 10-day event on the Mustinka River near Norcross, MN. Additionally, the project would provide a 26% reduction in peak flow and 33% reduction in flood volume for the 100-yr 10-day event.
REDPATH DESIGN	The design for the project includes: <ul style="list-style-type: none"> • a one-mile long approach channel from Hwy 9 to the inlet structures • two inlet structures – one inlet structure to the bypass, one inlet structure into the impoundment • bypass channel with low-flow corridor • levies all the way around the impoundment • outlet primary spillway • auxiliary earthen spillway • 19,000 acre feet of gated storage at the auxillary spillway elevation. • Two upstream emergency overflow spillways to prevent the overtopping of levees • The interior flood storage area will be farmed • JD #14 will traverse through the impoundment, but will have berms to prevent interior flooding to the 10-yr 24-hr rainfall event
IMPOUNDMENT AT HIGHWAY 9	Landowner Dwight Veldhouse asked if the railroad next to Highway 9 restricts streamflow prior to entering the proposed impoundment. Engineering staff completed computer modeling to determine the capacity of the approach channel and crossings upstream of the impoundment. The modelling accounts for the scheduled replacement of the Highway 9 bridge by the DOT and existing railroad crossing; the improvements to Highway 9 and the approach channel will increase conveyance to the impoundment. Engineer Technician Fridgen relayed complaints from area landowners that there are also remnants of old pilings under the railroad crossing that catch branches and debris and dam the flow. District Engineer Chad Engels stated that, as the channel is a Minn. Stat. Section 103E ditch, the District can order that the area under the railroad be cleaned-out in anticipation of the project.

**ADMINISTRATOR
ARRIVES**

Administrator Beyer entered the meeting.

REDPATH COST

Engineering staff presented the Opinion of Probable Cost based on 95% design plans. With contingency, the amount remaining to complete the project is \$37,600,000. Board managers discussed benefits, benefit areas, and potential funding sources. The RRWMB has recommended that Redpath receive \$500,000 of the \$1.5 million allocated for the Red River Valley for the Flood Hazard Mitigation Program, and the DNR has offered an additional \$300,000 in leftover funds. Beyer motioned, seconded by Deal, to complete a Flood Hazard Mitigation application for the funds.

**REDPATH VS.
DORAN CREEK**

The differences between the Mustinka River and Doran Creek were also discussed. Doran Creek has experienced significant sedimentation, but minimal straightening (as opposed to the Mustinka River which has been straightened and is experiencing severe erosion). The Doran Creek project design will be reviewed by the DNR, and engineering staff will be collecting additional field data this spring to complete the design. The EAW and Public Waters permits are scheduled for Fall 2021. Funding partners will be identified in 2021 – 2022, with construction possible in 2023.

**NORTH OTTAWA
MOA**

The DNR has presented their comments on the draft North Ottawa Memorandum of Agreement. Administrator Beyer has sorted through the comments and will have Attorney Croaker review the document. It will then be distributed to board managers for review and comment.

FARMLAND BIDS

Board managers reviewed the results of the farmland lease bid. Kapphahn motioned, seconded by Schmidt, to approve the high bid submitted for all non-North Ottawa land, and to order that the Moonshine leases include a clause to compensate renters for crop damage if a tile main is installed on District parcels.

**NORTH OTTAWA
BIDS**

North Ottawa had restricted acres (small grain or corn silage) and unrestricted acres for lease. Tie bids for unrestricted acres were submitted. Wold motioned, seconded by Deal, to allow the two top bidders to submit a second bid within 10 days to break the tie. Roll call vote: Wold – aye; Dahlen – aye; Deal – aye; Schmidt – aye; Kapphahn – aye; Beyer – aye; Vavra – aye. Motion carried.

**EOY JOURNAL
ENTRIES**

Beyer motioned, seconded by Deal, to approve the end of year journal entries for reallocation of general ditch expenses, reallocation of staff expenses, reallocation of board manager expenses, and interest earned/charged. Roll call vote: Wold – aye; Dahlen – aye; Deal – aye; Schmidt – aye; Kapphahn – aye; Beyer – aye; Vavra – aye. Motion carried.

**PROPERTY TAX
EXEMPTIONS**

Board managers reviewed property tax exemptions for District owned parcels not put into agricultural production. Beyer motioned, seconded by Schmidt, to submit the corresponding property tax exemption requests. Roll call vote: Wold – aye; Dahlen – aye; Deal – aye; Schmidt – aye; Kapphahn – aye; Beyer – aye; Vavra – aye. Motion carried.

BOARD MILEAGE

Board managers reviewed mileage reimbursement rates. Board Manager Doug Dahlen stated that his mileage is 25 miles, one way. Schmidt motioned, seconded by Deal, to approve the mileage rates as amended. Roll call vote: Wold – aye; Dahlen – abstained; Deal – aye; Schmidt – aye; Kapphahn – aye; Beyer – aye; Vavra – aye. Motion carried.

**EDUCATION
POLICY**

Wold motioned, seconded by Beyer, to approve the District Education Policy. Roll call vote: Wold – aye; Dahlen – aye; Deal – aye; Schmidt – aye; Kapphahn – aye; Beyer – aye; Vavra – aye. Motion carried.

**1W1PLAN
ADOPTION**

Deal motioned, seconded by Dahlen, to pass the Resolution Officially Adopting the Bois de Sioux – Mustinka Comprehensive Watershed Management Plan. Roll call vote: Wold – aye; Dahlen – aye; Deal – aye; Schmidt – aye; Kapphahn – aye; Beyer – aye; Vavra – aye. Motion carried.

**ENGINEERING
RATES**

District Engineer Chad Engels described changes to Moore Engineering Hourly Rates for 2021. Dahlen motioned, seconded by Wold, to approve the rate schedule. Roll call vote: Wold – aye; Dahlen – aye; Deal – aye; Schmidt – aye; Kapphahn – aye; Beyer – aye; Vavra – aye. Motion carried.

The meeting was adjourned at 2:05 pm.