

**BOIS DE SIOUX WATERSHED DISTRICT
BOARD MEETING MINUTES
May 16, 2024**

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, Doug Dahlen, Scott Gillespie, John Kapphahn, Steven Schmidt, Allen Wold, and Ben Brutlag (arrived later). Absent: Jerome Deal. Also present: Engineer Chad Engels, Engineer James Guler, Engineer Technician Troy Fridgen, Administrator Jamie Beyer, Attorney Lukas Croaker (remotely), Project Manager Garrett Monson (remotely), and Attorney Sarah Wear (arrived later – remotely).

AGENDA Upon motion by Wold, seconded by Gillespie and carried unanimously, the agenda was approved with the following additions: Order for GCD #21 Final Hearings; Order for Lake Traverse Water Quality Project No. 1, Phase 3 Final Hearing; Order for Redpath Phase 2A Final Hearing; Order for Lightning Lake Final Hearing; Order for WCD #Sub-1 Final Hearing.

CONFLICT OF INTEREST Board Manager Kapphahn declared a conflict of interest with Lake Samantha and Board Manager Beyer declared a conflict of interest with WCD #39 Outlet.

CONSENT AGENDA Upon motion by Wold, seconded by Kapphahn and carried unanimously, the Consent Agenda was approved.

Manager Brutlag arrived at the meeting.

PUBLIC COMMENT No public comment was stated.

103E.261 PRELIM SURVEY HEARING BDSWD #5 Upon motion by Beyer, seconded by Dahlen and carried unanimously, the Minn. Stat. Sec. 103E.261 Hearing on the Preliminary Survey Report for BdSWD Ditch #5 was opened. Attorney Lukas Croaker provided the hearing order of events. Engineer James Guler described the location, history, and current condition of the proposed project area, and the need to improve the drainage system to meet modern standards and flood protection; in this case, a 10-year flood protection design standard was used, in accordance with the 1998 Mediation Agreement. A TCD #37 landowner meeting was held earlier in the week to provide project notification and proposed design information due to the proposed use of TCD #37 as an outlet.

Members of the public were given an opportunity to provide comments on the need for the project and certain design aspects related to the proposed project. Hydrologic modeling confirmed that the retrofitted design of TCD #37, Lateral 1 can handle the flow proposed for 10-year flood events.

Current condition: Excess precipitation flows over bare and cropped ground. During 5-year flood events (and larger), 630th Avenue overtops, sending uncontrolled flows in excess of the current culvert capacity. The project area is used to grow crops that in most areas, can only be accessed by low-elevation dirt roads. Roads become impassable and crops are damaged regularly from small, frequent in-season precipitation events. Landowners also reported that one farmstead is regularly threatened by spring flooding, along with at least one downstream farmstead.

Proposed condition: The project would direct excess precipitation flows to a centralized, grassed, edge-of-field channel connected to TCD #37, Lateral 1. The proposed condition would reduce the overtopping of 630th Avenue, controlling flow and reducing peak flows on 10-year flood events (and larger). The project area would benefit significantly from a ten-year level of flood protection to prevent road damage and overtopping, and crop yield loss – both of which are happening regularly from small, frequent precipitation events. The proposed channel bottom would include an 8' bottom width, to match the width of downstream TCD #37, Lateral No. 1. There would be two easements utilized to provide the District limited land rights:

Permanent Ditch Channel Easement: Applies to the area encompassed by the road, ditch channel and berm, and buffer area. Landowners will be compensated for the amount of this land that is currently being cultivated at a sales-price rate determined by independent viewers. This land shall not be cultivated in the future.

Because 140th Street is not true and parallel to the section line, some additional right of way will be obtained to create a ditch buffer that is parallel to the section line, so that it is easy to legally describe and maintain.

Permanent Backslope Easement: Landowners will be compensated at a rental-price rate determined by independent viewers, payable for two growing seasons to compensate landowners for the use of the area for two years of construction. Following construction of the project, the District will have the right to periodically use the land for future maintenance, repairs, and spoils, but District activities cannot damage crops without compensation.

Flows ultimately outlet into Twelvemile Creek. Twelvemile Creek, prone to substantial spring flooding, would benefit in a variety of ways: the project would include side inlet culverts to transport surface runoff off the field in a controlled manner, and direct flows through grassed channels behind grassed berms – reducing sediment and nutrient transport. Spring flooding along Twelvemile Creek tends to be slow moving and volume-driven; hydrologic modeling of the proposed project indicates a small change in the timing of peak flows and a reduction in peak flows from larger events.

Construction estimates were not provided on a per-acre basis, as this project does not have an existing assessment district. A preliminary cost estimate of \$1,675,000 was presented. This amount does not include any deductions for possible Clean Water and Culvert Sizing cost share programs. This preliminary cost estimate does include an assumed \$250,000 outlet/connection fee (this amount will ultimately be determined by independent viewers). Because the project uses TCD #37, Lateral No. 1, which was retrofitted in 2017, the new system will be assessed a catch-up fee to compensate TCD #37 for historical ditch expenses (including the 2017 project costs). The new assessment district will also be assigned a benefit value, and be included in annual TCD #37 maintenance assessments. It is not known at this time how parcels will be treated that have been separately added to the TCD #37 tax district through independent Minn. Stat. Sec. 103E.401 petitions.

Copies of the May 10, 2024 Advisory Letter from the Department of Natural Resources were provided, and content was read by Engineer James Guler. DNR Representatives have determined that the Preliminary Survey Report is inadequate, and a number of issues and recommendations were provided. The primary issue raised by DNR representatives is a concern that the proposed project would redirect the majority of existing flow away from a public water mapped in Dollymount Section 24.

Attorney Lukas Croaker stated his need to leave the meeting, and recommended that, following public comment, the Board consider a motion to recess the hearing and authorize staff to work with DNR Representatives to address project concerns. Attorney Lukas Croaker left the meeting and Attorney Sarah Wear arrived at the meeting (remotely).

District Engineer Technician Troy Fridgen and Landowner David Horning stated that a primary purpose of the project, to prevent frequent impassability and overtopping of 140th Street and 630th Avenue, should be more urgently emphasized. District Engineer Chad Engels stated that the focus of the project is to protect private and public property from 10-year flood events, and that having enough materials to build-up 140th Street is a concern.

Upon motion by Dahlen, seconded by Kappahn and carried unanimously, staff are authorized to meet with DNR representatives to discuss project details and design to remedy DNR concerns. Upon motion by Kappahn, seconded by Beyer and carried unanimously, the hearing was recessed.

**COVER CROP
PROGRAM
UPDATE**

Wilkin SWCD Resource Specialist Kimberly Melton provided an update of the Cover Crop Program Suite offered in their district and regionally. Across Wilkin SWCD programs, enrollment has grown from 700 acres to 10,000 acres within five years. The District's annual \$5,000 cost-share is used to provide a lower-risk option for producers, requiring a one-year commitment. Wilkin SWCD representatives work with producers to plan cover crop types, seeding rates, and seeding timelines; Wilkin SWCD have sought and been awarded variances from the State of Minnesota to NRCS policies. Board Manager Gillespie stated support for the ability to change broadly set parameters that don't work in the field – such as hard deadlines, given precipitation and weather conditions.

**DORAN CREEK
EAW & SURVEY**

Project Manager Garrett Monson stated that following the closure of the Doran Creek Environment Assessment Worksheet comment period, the District received a comment letter from the Minnesota

Indian Affairs Council. The District's EAW Comment Exhibit has been updated to reflect this receipt; the comments further support the District's recognized need for a proposed cultural survey.

Attorney Lukas Croaker returned to the meeting (remotely).

Project Manager Garrett Monson described possible next preparatory steps, to include: visual inspection for best management practice siting (dependent on current land use) conducted by Moore Engineering staff; topographical survey follow-up where needed by Moore Engineering staff; and cultural survey with shovel testing and optional participation from tribal representatives conducted by In Situ subcontractor staff. The shovel testing will be conducted every 200', with a 40 centimeter hole, walking across the entire project. Project Manager Garrett Monson estimated that Moore Engineer's portion of the project will cost \$50,000 and the price quote by In Situ is for \$48,941.

Upon motion by Kapphahn, seconded by Dahlen and carried unanimously, the following was approved: Amended EAW comments, authorization for legal counsel to draft right of entry agreements, and In Situ professional services subcontract.

GCD #3 REPAIR

Engineer James Guler has been in contact with Grant County Highway staff regarding the repair of GCD #3. Grant County Highway staff have requested that their two project culverts be separated into a project that can be designed to qualify for state aid. Upon motion by Beyer, seconded by Gillespie and carried unanimously, staff are authorized to separate the county culvert replacement into a separate bid project.

**FINAL HEARINGS:
LTWQIP NO. 1
PHASE #3**

Upon motion by Beyer, seconded by Gillespie and carried unanimously, the Board will reconvene the GCD #21 final hearing on June 17, 2024 at 10:30 AM at the Herman Community Center, Herman, Minnesota.

LIGHTNING LAKE

**MUSTINKA REHAB
& REDPATH
PH. 2A**

Repairs have been made to private tile that was damaged by heavy rocks and hauling enroute to the Lake Traverse Water Quality Improvement Project No. 1, Phase 3 construction site. Traverse SWCD will finish seeding the project. District Engineer Jim Guler recommended that the final hearing to close out the project be held in June, and recommended that Lightning Lake and Redpath Phase 2 also be held at the same meeting. Upon motion by Gillespie, seconded by Kapphahn and carried unanimously, final hearings were ordered for Lake Traverse Water Quality Improvement Project No. 1, Phase 3, Lightning Lake Outlet Project No. 1, and Phase 2A of the Mustinka River Rehabilitation and Redpath Flood Impoundment. A final hearing for the improvement of WCD #Sub-1 will likely be ordered in June to be held as part of the July board meeting.

**BUFFER & ALT.
PRACTICES
IMPLEMENTATION**

District Administrator Jamie Beyer reported that she has not received a professional services contract from the individual contacted in April to assist landowners and District staff with state-required 16.5' riparian buffer and alternative practice implementation. She will collect additional references with the goal of presenting a professional services contract to the board at the June board meeting. District Attorney Lukas Croaker will also draft corrective action notices.

The meeting was adjourned at 11:47 am.