

November3(a)2014.min

**APPROVED (as corrected November 17, 2014)  
REGULAR MEETING OF THE BOARD OF MANAGERS OF THE  
MIDDLE- SNAKE-TAMARAC RIVERS WATERSHED DISTRICT  
HELD AT 453 NORTH MCKINLEY STREET, WARREN, MN  
4:00 P.M. NOVEMBER 3, 2014**

The meeting was called to order by President Ben Kleinwachter. Managers Roger Hille Ben Kleinwachter, David Bakke, Tom Neibauer, Marvin Hedlund, Jim Jubie and John W Nelson were present. Ron Sorvig, Nick Drees, Connie Kujawa, Tony Nordby, Danny Omdahl, Ron Adrian, LeRoy Vonasek, Danny Vasek, PJ Schiller, Lien Schiller, Matt Waterworth, Dean Danielski, Brad Knudson, Peter Erickson, Earl Hill and others were also present.

Motion by Mr. Roger Hille, seconded by Mr. Tom Neibauer to approve the agenda as presented. Motion unanimously carried.

Motion by Mr. Marvin Hedlund, seconded by Mr. John W Nelson that the minutes of the October 20, 2014 meeting be approved, as corrected. Motion unanimously carried.

Matt Waterworth and Alice Klink informed the Board about the Natural Resource Conservation ACEP programs that are available to landowners who have a participating partner, such as the Watershed District. They stated the first step in the process is for the landowner(s) or entity to apply for eligibility and if eligible, meetings would then be scheduled with the entity, landowner and the NRCS.

Matt Waterworth and Alice Klink left the meeting at approximately 4:17 p.m.

Eric Johnson joined the meeting at approximately 4:20 p.m.

The Board took no action on the following permits since no additional information from the applicants has been received:

1. (14-065) Joe Bienek to install 127 acres field drain tile; 3/8" coefficient; 100' spacing; 7.5 VFD (1100 GPM) pump located in SW corner draining into East township road ditch; clean sediment from the east township road ditch along the SW4 and clean a stretch of the north township road ditch in SE4 SE4 of section 33, Wright Township, pending adjacent landowner signs the application for the ditch cleaning.
2. (14-128) to Mark Yutzenka to install 200 acres drain tile; 1/4" coefficient; 80' spacing to lift station; 7.5 HP (950 GPM) VFD pump in the southerly 120 acres of NW4 and the NW4 NE4, Section 36, Middle River Township.

Permit (14-119) Robert Wesolowski to install a culvert (size TBD) under CSAH #38 between NW4 of section 5 and NE4 of section 6; NW4, Viking Township, was withdrawn by the applicant.

A lengthy discussion was held concerning the permit (14-152) application of Eric Johnson/Dwight Peterson.

Richard Kuzel joined the meeting at approximately 4:25 p.m.

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Motion by Mr. Roger Hille, seconded by Mr. David Bakke that the permit (14-152) of Eric Johnson/Dwight Peterson to (1) increase the capacity of 24" culvert, SW4 of section 31 of Brandt Township and (2) to remove an 18" culvert in NW corner of NW4 of section 6, Angus Township be denied. Motion unanimously carried

In denying the permit the Board made the following findings:

- (1) Removing the culvert as requested would prevent water from the County Ditch #43 benefitted area from draining into County Ditch #43;
- (2) The Board considered all of the same facts and arguments when it previously ruled on this permit as last issued;
- (3) The Board agrees that County Ditch #35 is sized for smaller events, that it often operates without sufficient capacity, and that the Board should not take actions which put more water into that system; and,
- (4) That when considering high events, no evidence has been presented which is more compelling than the data presented by staff. In other words, the evidence offered by the various parties concerning water flow during high water events is too unreliable to use as the basis for a change.

Eric Johnson stated he has exhausted all means with the District in securing approval for the requested permit.

Eric Johnson, Danny Vasek, Ron Kmecik, Richard Kuzel, Dean Danielski and others left the meeting at approximately 5:05 p.m.

Norman Lindemoen joined the meeting at approximately 5:05 p.m.

Motion by Mr. Roger Hille, seconded by Mr. David Bakke that Permit (14-002) of Peter Erickson to Amend said permit to allow for (2) 10 HP (2,780 GPM) tile pumps to begin pumping in the SW4, Section 6, Viking Strip Township prior to completion of ditch sediment removal operations in the SE4 of section 1 Comstock, **be denied** since the original conditions of the permit have not been met. Motion carried, with Mr. John W Nelson opposing.

Peter Erickson, Brad Knudson and Earl Hill left the meeting at approximately 5:40 p.m.

The following permits were unanimously approved:

3. (14-143) to Kasprick Farms to install a field crossing with a 18" culvert, south line of the SW4 SE4, Section 28, Angus Township, with the District to set the grade. (Motion by Mr. John W Nelson seconded Mr. Marvin Hedlund)
4. (14-144) to Kasprick Farms to install a field crossing with a 24" culvert on west line of NW4 NW4, section 34, Angus Township, with the District to set the grade. (Motion Mr. John W Nelson, seconded Mr. Tom Neibauer)
5. (14-147) to Brian Jensen to install 60 acres field drain tile; ¼" coefficient; 50' spacing, 10 HP (1,081 GPM) pump in SE4, draining into east CSAH #13 ditch, S2 SW4 of section 20 Augsburg Township. (Motion Mr. David Bakke, seconded Mr. Jim Jubie)

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6. (14-148) to Lein Schiller to repair (3) Middle River levee washout areas by constructing levee to original height, NW4 and NW corner of NW SE section 6, Middle River Township, provided approval is received from the Marshall County Water Planning Office. (Motion Mr. Roger Hille, seconded Mr. Tom Neibauer)
7. (14-149) to Chuck Steer to lower a 24" township road centerline culvert ~ 1', between SW4 SW4 of section 14 and SE4 SE4, section 15, Brandt Township. (Motion Mr. Marvin Hedlund, seconded Mr. David Bakke)
8. (14-151) to Dean Peterson to add 8 acres rain tile to existing system, W2 of section 25, Brislet Township. (Motion by Mr. Roger Hille, seconded Mr. Marvin Hedlund)
9. (14-153) to Kim Kapping to install 38 acres drain tile in SW4 SW4 and Lot 4 of section 3, Newfolden Township, and Lot 1 of section 4 Newfolden Township and the S2 of SE4, section 34, New Maine Township, provided Township approval is granted. (Motion by Jim Jubie, seconded Mr. John W Nelson)
10. (14-154) to Ronald Magnusson to install a field crossing with a 18" culvert, West Marshall County #1 road ditch, NE4 Section 35, Alma Township, provided the District or County set elevation.. (Motion Mr. John W Nelson, seconded Mr. David Bakke)
11. (14-155) to Wayne Torgerson to clean sediment from East township road ditch and set field crossing to grade in SW4 and NW4, Section 5 Angus Township. (Motion Mr. Tom Neibauer, seconded Mr. Jim Jubie)
12. (14-156) to Wayne Torgerson to install 36 acres drain tile, NW4, Section 9, Angus Township. (Motion Mr. John W Nelson, seconded Mr. Jim Jubie)

The following permit was Administratively approved and reviewed:

13. (14-145) to Marshall County Highway Department to remove a 72" culvert and replace with 72" culvert, CSAH #21 in JD #16, section line 36/31, Vega/Warrenton Township.
14. (14-146) to Gayle Stoltman to install a field crossing with 18" culvert, north Marshall CSAH #19 ditch, SW4 SE4, section 24 Middle River Township.

The following permit was tabled pending additional information is received:

15. (14-150) of Dean Peterson to construct a dike along Marshall County road #35, SE4, section 21 of McCrea Township. (Motion Mr. Roger Hille, seconded Mr. John W Nelson)

Chairman Mr. Ben Kleinwachter called to recess the regular meeting for purposes of conducting the scheduled hearing on the Petition of Jill Hall to remove lands from the benefitted area of Judicial Ditch #15.

The regular meeting was recessed at approximately 6:01 p.m.

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Jeff Hane informed the Board and the public of the hearing process. The hearing was recorded and testimony was heard from those wishing to address the petition.

After hearing testimony, on a Motion by Mr. Tom Neibauer, seconded by Mr. David Bakke the Board adopted the following:

FINDINGS AND ORDER ON THE PETITION OF JILL HALL  
TO REMOVE LANDS FROM THE  
BENEFITTED AREA OF JUDICIAL DITCH #15

The above-entitled matter came before the Board of Managers pursuant to a petition presented by Jill K Hall under Minnesota Statute § 103E.805 for the removal of property from the drainage system. The Petition, dated April 7<sup>th</sup>, 2014, and received at the District office on April 10<sup>th</sup>, 2014, was before the Board at a hearing convened for that purpose on Monday, November 3, 2014, after due notice. Petition was presented by the Watershed staff, followed by testimony in support of the Petition from Jill K Hall. Oral testimony, in the form of comments and questions, was also heard from other individuals present. The land at issue is described in the attached Petition.

The Board of Managers, having considered all of the items in the record together, with the Petition and the relevant testimony, hereby makes the following:

FINDINGS OF FACT

- 1) That the waters from the land at issue have been diverted from Judicial Ditch #15 and no longer drain into Judicial Ditch 15;
- 2) That the property, at issue, is not benefited by Judicial Ditch #15 and does not use or affect the drainage system; and
- 3) That removing the property from the drainage system will not prejudice the property owners and property remaining in the system.

ORDER

Therefore, it is hereby ordered, That the lands, at issue, be removed from the Judicial Ditch #15 benefited area, and that said lands shall not be affected by the drainage system, at any later proceeding, for the repair or improvement of the drainage system, and that a drainage lien or assessment for repairs or improvements for Judicial Ditch #15 may not be made against the property that has been removed on or after November 3, 2014.

Motion unanimously carried.

The hearing was closed at 6:30 p.m. and the regular meeting was reconvened.

Jill Hall and other left the meeting at approximately 6:30 p.m.

Danny Omdahl reported:

1. the seeding of the grass strip has begun on Judicial Ditch #25-1;

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2. the petition of Don Diedrich to remove certain lands and abandon certain lands from the benefitted area of Judicial Ditch #25-1 has been reviewed by legal counsel and said petition is sufficient;

Motion by Mr. Roger Hille, seconded by Mr. John W Nelson that the Hearing on the Petition of Don Diedrich to remove certain lands and abandon certain lands from the benefitted area of Judicial Ditch #25-1 be scheduled for December 1, 2014, at 6:00 p.m., at the District office, and that notice be given as required by Minnesota Statute. Motion unanimously carried.

Danny Omdahl informed the Board that some individuals have not cashed the checks issued for damages on Judicial Ditch #25-1 for seeding of the grass strip. He inquired if the checks should be cancelled and new checks issued. It was the consensus of the Board to send a letter to those individuals inquiring if they received their checks.

Danny Omdahl reported that the sediment removal has begun on County Ditch #175; and that the Natural Resources Conservation Service assisted a landowner with the installation of side inlet culverts and traps on Judicial Ditch #14. He stated the landowner appears to be in violation of Watershed District permit requirements. Danny Omdahl was directed to gather more information regarding this matter.

Danny Omdahl was directed to furnish the Board with documentation regarding a proposed rule on haying the grass strips on District property.

It was announced that the hearing on the open meeting lawsuit filed by Loren Zutz and Elden Elseth against the District is scheduled to be heard on December 8, 2014, at the Marshall County Courthouse.

It was the consensus of the Board to expend additional funds for accessories on an automated external defibrillator, for a total cost of \$1,798.95.

Motion by Mr. John W Nelson, seconded by Mr. Roger Hille that the official designated delegates to the Minnesota Association of Watershed District annual meeting be Mr. Tom Neibauer and Mr. David Bakke and Mr. Jim Jubie be designated the official alternate delegate. Motion unanimously carried.

Correspondence from the Polk County Commissioners regarding the Distribution of Managers and the Confirmation of Comments submitted to the Proposed Clean Water Act Rule prepared by the law firm of Rinke-Noonan were distributed.

The next regular meetings are scheduled for November 17, 2014 and December 1, 2014 at 4:00 p.m., at the District office, and the 2014 Advisory Committee meeting is scheduled for November 17, 2014, at 1:30 p.m., at the Bremer Bank, Warren, Minnesota.

By unanimous consent, the meeting was adjourned at approximately 7:05 p.m.

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Connie Kujawa  
Recording Secretary

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Marvin Hedlund  
Secretary

## **Project Coordinator Report**

**November 17, 2014**

### **RRWMB –**

1. Next meeting Tuesday at Ada (Wild Rice WD) 9:30.
  - a. BTSAC's Briefing Paper No. 3
  - b. Project Implementation Strategy
2. Last RRWMB Meeting – Karlstad (Two Rivers WD)
  - a. Two Rivers WD – Tour of Klondike Clean Water Retention Project #11.
    - i. Funding Issues
  - b. NRCS – Farm Bill 2014 (RCPP and \$50M allocation)
  - c. 32<sup>nd</sup> Annual Red River Basin – Land & Water International Summit Conference, January 20-22, 2015 Winnipeg
3. Flood Damage Reduction Group meeting Wednesday at Thief River Falls.
  - a. Received approval for Acceleration Grant to pay for soil borings on Como Twp WRP.
  - b. Project Team Expenses – distribution.

### **Lands –**

1. Crops have been harvested.

### **Oslo Access –**

2. MnDot and Houston Engineering Agreement has been signed by MSTRWD – awaiting MnDot signature.

### **WRAPS –**

1. Lower Red River (Tamarac River) – Nothing new
2. Grand Marais Coulee and Snake River – Nothing new

### **Project Teams –**

1. Tamarac River – October 23<sup>rd</sup> Project Team meeting in Strandquist.
2. Others – JD #14/Lilac Ridge – meeting planned with NRCS (Alice Klink)

### **Projects/Ditches**

1. JD #25-I and JD #14 Redetermination of Benefits