

APPROVED August 16, 2004

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**REGULAR MEETING OF THE BOARD OF MANAGERS OF THE  
MIDDLE- SNAKE-TAMARAC RIVERS WATERSHED DISTRICT  
HELD AT 453 NORTH MCKINLEY STREET, WARREN, MN  
6:30 P.M. JULY 19, 2004**

The meeting was called to order by President Doug Sorenson. Managers David Bakke, Arlyn Stroble, Doug Sorenson, Alvin Nybladh, Jim Johnson and Tracy Anderson were present. Manager Carl Green was not present. Ron Adrian, Blake Sobolik, Scott Oberg, Jim Stengrim and Wally Diedrich were also present.

Motion by Mr. Tracy Anderson, seconded by Mr. Arlyn Stroble that Ronald Adrian be appointed the recording secretary for purposes of keeping the minutes of the meeting. Motion unanimously carried.

Motion by Mr. David Bakke, seconded by Mr. Alvin Nybladh to approve the agenda as amended. Motion unanimously carried.

Motion by Mr. Alvin Nybladh, seconded by Mr. Arlyn Stroble to approve minutes of the June 21, 2004 meeting as corrected. Motion unanimously carried.

Motion by Mr. Tracy Anderson, seconded by Mr. Jim Johnson that the minutes of the special meeting held on June 30, 2004, be accepted as presented. Motion unanimously carried.

Motion by Mr. Tracy Anderson, seconded by Mr. Jim Johnson to approve the Treasurer's report subject to audit. Motion unanimously carried.

Motion by Mr. Alvin Nybladh, seconded by Mr. David Bakke that the bills be paid including the following: from the Administrative funds; checks numbered 12283 and 12284, and checks numbered 12291 through 12326 inclusive for a total of \$268,196.14, including the bank service charge; payroll checks 4000 through 4014 inclusive for a total of \$15,904.29; checks numbered 12285 through 12290 inclusive for a total of \$9,555.68; petty cash checks numbered 3068 through 3078 inclusive for a total of \$517.15 including the bank service charge, and from the ditch funds checks numbered 2031 through 2034 inclusive for a total of \$14,260.25. Motion unanimously carried.

Motion by Mr. Arlyn Stroble, seconded by Mr. Alvin Nybladh that the following permits be issued:

1. Permit (04-28) be issued to Tamarac Township to replace a 3'x5' box culvert on section line 20/21 with a 42" diameter culvert provided that adjacent landowners sign the permit;

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2. Permit (04-29) be issued to Brislet Township to replace the existing 36" CSP under the Wayne Torgerson driveway and the existing 36" CSP in the field crossing on ½ mile line each with a 36" CSP, at the same elevation and grade, provided that Wayne Torgerson signs the permit;
3. Permit (04-30) be issued to Rob Anderson to install (2) crossings each with 1 line of 18" CSP, one along the south side of Marshall County #28 and along east side of township road in the northwest quarter of the northwest corner of section 8 of Newfolden Township;
4. Permit (04-31) be issued to Canadian Pacific Railroad to repair railroad bridge over the Red River at Oslo, Minnesota, as requested in the permit dated June 17, 2004;
5. Permit (04-33) be deferred pending the receipt of additional information;
6. Permit (04-34) be issued to Chad Anvinson to move the crossing on section line 26/25 of Higdem Township to the ½ mile line with the same sized culvert.

Motion unanimously carried.

Motion by Mr. Arlyn Stroble, seconded by Mr. Alvin Nybladh that Permit (04-32) be issued to the Marshall County Highway Department to replace the culverts on County Ditch #41 as requested in the permit application dated July 14, 2004, except for culvert labeled "E" , on the quarter line of section 35 of Vega Township, be changed to a 71" x 47" CSPA and that culvert labeled "I" in the SE4 of section 36 of Vega Township be changed to a 64" x 43" CSPA. Motion carried, with Arlyn Stroble and Jim Johnson abstaining.

Scott Oberg discussed with the Board the operation of the gate on Angus Oslo #1 Impoundment. It was agreed that a letter would be sent to the individual downstream of the structure advising them not to interfere with the operation of the outlet structure.

Scott Oberg left the meeting at approximately 7:25 p.m.

Jim Stengrim asked several questions, including questions about the March Impoundment, the Middle River Site #7 Impoundment and the treasurer's report.

Adrian Weslowski joined the meeting at approximately 7:30 p.m.

Adrian Weslowski asked questions concerning the PL-566 project, the audit report and other items.

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Eldon Elseth joined the meeting at approximately 7:50 p.m.

Jim Stengrim, Adrian Weslowski, Eldon Elseth and Wally Diedrich left the meeting at approximately 7:53 p.m.

A discussion was held concerning the elevation of the roadway on the line common to sections 10 and 11 of Tabor Township.

A discussion was held concerning the water leaving the channel on Judicial Ditch #25-2, approximately 1 ½ miles downstream of the Angus Oslo Site #4.

Adrian Weslowski, Eldon Elseth, and Wally Diedrich returned to the meeting at approximately 7:57 p.m.

Adrian Weslowski left the meeting at approximately 8:00 p.m.

Mr. Adrian stated that he would prepare a survey to determine the works needed to be done to keep the water from leaving Judicial Ditch #25-2 channel.

A discussion was held concerning the copy policies/data practices act of the District. Correspondence was reviewed from and to Jim Stengrim and from and to Eldon Elseth concerning the request for copies or requests to review data. In addition, correspondence from the Information Policy Analysis Division of the Department of Administration concerning a request by Jim Stengrim and Wally Diedrich concerning recording of sessions while reviewing data was reviewed. In addition, a discussion was held concerning the posting of a notice in the office prohibiting recording of District staff.

Correspondence was reviewed from the June 11, 2004 issue of the Red River Reporter; from the Minnesota Department of Natural Resources concerning DNR Priority Water concerns and from Midwest Helicopter concerning the use of helicopters for spraying.

A discussion was held concerning sending out letters to the owners of property in which the grass strip has not been maintained, and about getting quotes for spraying by helicopter.

Motion by Mr. Tracy Anderson, seconded by Mr. Arlyn Stroble that: 1) the Board adopt the following Revised Rules:

Revised Rules of the  
Middle-Snake-Tamarac Rivers Watershed District  
Portions of Marshall, Polk, Pennington, Kittson & Roseau Counties

INTRODUCTION

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The Rules and Regulations of the Middle-Snake-Tamarac Rivers Watershed District are to effectuate the purpose of Minnesota Statutes Chapter 103D, and the authority of the Managers prescribed therein. These regulations are deemed necessary to implement and make more specific the law administered by them.

#### SECTION 1 GENERAL POLICY

The Managers accept the responsibilities with which they are charged as a governing body. While there is no intention to usurp the authority or responsibilities of other agencies or governing bodies, neither will they shirk their responsibilities. They will cooperate to the fullest extent feasible with persons, groups, state and federal agencies and other governing bodies. It is the intention of the Managers that no person shall be deprived or divested of any previously established beneficial use or right, by any rule or regulation of the District, without due process of law and that all rules and regulations of the District shall be construed according to said intention.

It is the intention of the Managers to promote the use of the waters and related resources within the District in a provident and orderly manner to improve the general welfare and public health for the benefit of its present and future residents.

#### SECTION 2 SEVERABILITY AND OTHER LAWS

If any part of these regulations is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of these regulations.

If any rules herein contained are inconsistent with the provisions of M.S. 103D, or other applicable laws of the State of Minnesota, the provisions of said Chapter 103D or other applicable law shall govern.

#### SECTION 3 DEFINITIONS

For the purpose of these regulations, certain words and phrases shall be defined as follows:

- A) District means the Middle-Snake-Tamarac Rivers Watershed District.
- B) Managers means the Board of Managers of the Middle-Snake-Tamarac Rivers Watershed District.

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- C) Person means an individual, firm, partnership, association or corporation except where the context clearly indicates otherwise does not include the District.
- D) Public Corporation means a County, Town, School District or political subdivision or agency of the state. Public Corporation except where the context clearly indicates otherwise does not include the District.
- E) The word "shall" is mandatory, not permissive.
- F) Legal Drainage System means a watershed, county, judicial or other drainage system established under Minnesota Statutes Chapter 103D or Minnesota Statutes Chapter 103E.
- G) Private Drainage System means an artificial drainage system constructed on private property.
- H) Drainageway means an artificial or natural channel which provides a course for water flowing continuously or intermittently.
- I) Public Health means any act or thing tending to improve the general sanitary conditions of the District.
- J) General Welfare includes any act or thing tending to improve or benefit or contribute to the safety or well being of the public or benefit the inhabitants of the District.
- K) Work or works means any construction, maintenance, repairs or improvements by a person or a public corporation.
- L) Waste means garbage, municipal refuse, sewage sludge, chemical, agricultural wastes or other substances which may or tends to cause pollution of the waters of the District. Waste does not include animal manure when used as a fertilizer, earthen fill, rocks, boulders or other materials normally used in construction operations.
- M) Water pollution means the contamination of any waters as to create a nuisance or render such waters unclean or noxious or impure so as to be actually or potentially harmful or detrimental or injurious to the public health, safety or welfare.
- N) Marsh means a lowland covered with shallow and sometimes temporary or intermittent waters. This includes wetlands as described in the U.S. Fish and Wild Life Circular Number 39 excluding Type 1 and Type 2. Generally a marsh is an area where the soil is either

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waterlogged or covered with six inches or more of water during the growing season.

- O) Domestic purposes refers to the use of water for common household and farm uses. The number of individual people served at any one time is limited to twenty-five.
- P) Normal High Water Mark means the mark delineated by the highest water level which has been maintained for a sufficient period of time to leave evidence on the landscape.
- Q) Dike - Any embankment or structure placed which has or is likely to cause change in the flow of water.
- R) Bed - That portion of a drainageway which is below the normal high-water mark.
- S) Wetland Reclamation - Wetland Reclamation shall be defined as any attempt to modify the hydrology of the Watershed for purposes of restoring or increasing wetland areas, including, but not limited to, plugging culverts, constructing dams or dikes, or any other method or procedure which would modify the hydrology of a watershed which would restore or increase wetland areas.
- T) Wetland - Wetland means a lowland covered with shallow and sometimes temporary or intermittent water. This includes wetlands as described in U.S. Fish and Wildlife Circular No. 39 including Types 1 thru Type 8.

#### SECTION 4 RELATED ORDINANCES

The Managers will cooperate with public corporations and state and Federal agencies in the application of ordinances and rules concerning water and related resources within the District.

- A) Copies of proposed county, municipal and town ordinances relating to surface water drainage, land use zoning, shoreland use and floodplain and waste disposal shall be submitted to the Managers at least thirty days prior to the first public hearing for their review and comment.
- B) Copies of county, municipal and town ordinances relating to surface water drainage, land use zoning, shoreland use, floodplain zoning and waste disposal shall be submitted to the Managers within forty-five days of their effective date.

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- C) The Managers will endeavor to inform and assist any resident of the District with regards to filing applications for State and Federal permits for projects or works approved by the Board of Managers.

## SECTION 5 PERMITS

The requirement for a permit from the Managers for certain uses of water or for certain works within the District is not intended to delay or inhibit development, rather the permits are needed so that the Managers are kept informed of planned projects. The Managers can advise, in some cases provide assistance and insure that development of the resources of the District is orderly and in accordance with the overall plan of the District.

### A) General Instructions

An application for a permit must be submitted by the owner or owners of the lands involved or their agent. If the applicant is a public corporation the application may be submitted by the person designated to oversee the activity for which a permit is requested.

- 1) Applications submitted by a property owner on behalf of a lessee must be countersigned by the lessee.
- 2) Applications shall be filed with the Secretary or Engineer for the District.
- 3) A plan should accompany the application; if a plan lacks important information the Managers may request the applicant to furnish whatever additional information they deem appropriate.
- 4) All applications should be substantially in a form prescribed by the Managers which form the Managers reserve the right to change from time to time. A copy of the application form to be used at present is attached to these Rules.

### B) General Conditions

- 1) No use or works requiring a permit from the Managers shall begin prior to the issuance of the permit.
- 2) Unless specified in the permit, works for which a permit is given must be completed within one year.
- 3) All permits shall be in writing and signed by the President of the Board of Managers or a person designated by him.
- 4) No permit shall be issued until the applicant has paid all fees and met all conditions under M.S. Chapter 103D.345.
- 5) The Managers will act upon a permit request within 60 days from the date the application and required data are received.

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C) Additional Authorization

Obtaining a permit from the Managers does not relieve the applicant of the responsibilities of obtaining any other authorization required by law, or regulation or alter the applicant's responsibility or liability under statutory or common law.

D) Permit Fees

- 1) Application Fee - The Managers reserve the right to charge an application fee as set forth under Minnesota law.
- 2) Field Inspection Fee - If the nature of a permit application involves extraordinary expenses of the District the applicant shall pay the field inspection fee as determined by the Board pursuant to MSA 103D.345, Subd. 2.
- 3) Monitoring Fee - If the nature of an activity or works is such that, in the opinion of the Board, monitoring the activity or works is necessary the applicant shall pay as a condition of the permit all costs and expenses incurred for such monitoring as the Board deems appropriate.

SECTION 6 FLOOD CONTROL AND DRAINAGE

Every person shall use his land reasonably in disposing of surface water and may turn into a natural drainageway all the water that would naturally drain there. Surface water shall not be artificially removed from upper land to and across lower land without adequate provisions being made on the lower land for its passage, nor shall the natural flow of surface water be obstructed so as to cause an overflow into the property of others.

- A) No person or public corporation shall cut an artificial drainageway across a subwatershed and thereby deliver water into another subwatershed without a permit from the Managers.
- B) No person or public corporation shall divert water to or cast water by an artificial means into any legal drainage system without securing a permit from the Managers.
- C) No person or public corporation shall make any alteration or repair on any legal drainage system without a permit from the Managers.
- D) No person or public corporation shall construct a dike or levee without a permit from the Manager.
- E) No person or public corporation may construct, remove, abandon or alter the effectiveness of any reservoir of five acres or more without a permit from the Managers.
- F) No person or public corporation shall construct or reconstruct a bridge across a drainageway or place a culvert in a drainageway without a permit from the Managers.

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- G) No person or public corporation shall make any change in the bed, banks or shores of any drainageway, lake or marsh without a permit from the Managers.
- H) No person or public corporation shall place obstructions such as trees, rocks and debris into a drainageway without a permit from the Managers.
- I) No person or public corporation shall perform any wetland reclamation works as said term is defined in Section 3 above without first obtaining a permit from the Managers.
- J) Any other acts that, in the opinion of the Watershed District, may tend to alter the quantity of runoff, affect the public health, or have any impact, whether adverse or not, upon the surface water or ground water resources of the District shall require a permit from the District.

#### SECTION 7 WASTE DISPOSAL

In the interest of sanitation and public health and to prevent the pollution of the waters of the District, no wastes shall be disposed of directly or indirectly into a drainageway, lake, wetland or shall be placed in any location where the same would be caused to enter any of the waters of the District without a permit from the Managers.

- A) Municipal Sewers - All municipal sewer systems in operation on January 1, 2004, shall by January 1, 2007, obtain a permit from the Managers for the disposal of these wastes.
- B) Sanitary Landfills - No person or public corporation shall operate or construct a sanitary landfill without obtaining a permit from the Managers. All Sanitary Landfills in operation on January 1, 2004, shall by January 1, 2007, obtain a permit from the Managers for the operating these landfills.
- C) Other Waste Disposal Systems - No person or public corporation shall construct or operate any waste disposal facility which may or is likely to cause pollution to the waters of the District without obtaining a permit from the Managers.
- D) The Board of Managers may, at its discretion, require each person or public corporation discharging wastes directly into any stream, lake or drainageway within the district to file with the Board a copy of its current NPDES permit issued by the Minnesota Pollution Control Agency describing the effluent standards and limitations prescribed by the Agency. The Board of Managers or its designate may enter upon any lands of the district for the purposes of inspection, monitoring, and testing the quantity and quality of the discharge, and may install whatever hydrological recording and testing devices it may deem necessary.

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## SECTION 8 WATER USES

All water used other than domestic use requires a permit from the Managers.

## SECTION 9 UTILITIES

In order to minimize the effects the placement of utilities has on the drainageways; no utilities shall be constructed or placed across any drainageway, lake or marsh without a permit from the Managers. No underground utilities shall be constructed or placed within the District without a permit from the District.

## SECTION 10 EROSION AND SEDIMENTATION

Runoff of needed moisture from sloping lands carrying with it sediment from those fields and from the banks of natural drainageways, constitutes a serious problem. It shall be the policy of the Managers to encourage the adoption of proper land use practices and other methods as outlined in the Watershed Management Plan of the District, to control and alleviate soil erosion and the siltation of the drainageways and lakes of the District:

- A) All drainageways therein shall be constructed with side slopes and grade as determined by proper engineering practice, so as to reasonably minimize soil erosion.
- B) Side slopes, above the low water mark, shall be planted with permanent grasses and no agricultural practices other than those required for maintenance of permanent growth of grass shall be permitted. The area to be planted to grass, as herein provided, is a minimum requirement and may be enlarged in any work of improvement or new construction. All works or repairs on any drainage system except private, will require the foregoing practice. Harvest of grass in any manner not harmful to the grass or the drainageway shall be the privilege of the owner or his assigns.
- C) Sloping lands, abutting drainageways, lakes, ponds, wetlands or reservoirs shall be used in such a manner so as to provide reasonable control of sediment.
- D) Erosion and sedimentation shall be considered by the Managers when issuing a permit. If necessary, erosion and sedimentation control measures will be made a part of the permit, if approved.

## SECTION 11 ENFORCEMENT

In the event of a violation or a threatened violation of these Rules, the laws of the State of Minnesota or an order, the Managers may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations as provided for by Minnesota Statutes.

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- A) A violation of Minnesota law, of these rules, order or a stipulation agreement made or a permit issued by the Managers is a misdemeanor.
- B) Any provision of these rules, order or a stipulated agreement made or a permit issued may be enforced by the Managers by criminal prosecution, injunction, action to compel performance, restoration, abatement and other appropriate action as determined by the Managers.
- C) In any civil action arising from or related to these rules, order or stipulation agreement made or a permit issued or denied by the Managers, the Court may award the prevailing party reasonable attorneys' fees and costs.

#### SECTION 12 APPEAL

Any party aggrieved by the adoption or enforcement of these rules and regulations or by any order of the Managers may appeal in accordance with the appellate procedures and review as provided in the Minnesota Statutes.

#### SECTION 13 EFFECTIVE DATE AND REPEAL OF EXISTING RULES

These rules and regulations shall become effective upon the passage by the Board of Managers and publication and hearings as required by law. These rules were hereby adopted pursuant to Minnesota Statutes on 19<sup>th</sup> day of July 2004.

2) and that notice be given to those persons and organizations required to receive one, and 3) that the adopted rules be filed with the County Recorders in Marshall, Polk, Pennington, Roseau and Kittson counties. Motion unanimously carried.

Jerome Potucek joined the meeting at approximately 8:45 p.m.

A Draft "Amended 2004 Updated Watershed Management Plan" was passed out for review by the Board.

Mr. Adrian reported that he had nothing additional to report on Angus Oslo #4.

A discussion was held concerning the operation of the gate on Angus Oslo Site #1. It was agreed that Mr. Adrian would survey the existing route and a new route following the east/west section line.

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It was reported that we expect to get the decision by the Court of Appeals concerning the appeal of the Agassiz Valley Water Management Project.

A discussion was held concerning Phase 2 of the PL-566 project. It was reported that the construction of Phase 3a has been completed and that the release has been sent out for signature; that the installation of the structure on Trunk Highway #75 is scheduled to begin on July 26, 2004; that there is no reported change in the schedule for the construction of the bridge on the Burlington Northern Sante Fe Railroad; that the notice of award has been delivered to KGM Contractors, and that the pre construction meeting for Phase 3b has been scheduled for July 28, 2004.

Loren Zutz joined the meeting at approximately 9:00 p.m.

A discussion was held concerning the abandonment of roads by Comstock Township in the vicinity of sections 14 and 15 of Comstock Township.

A letter from the City of Warren to the District concerning notifying the City when the contractor needs to have the City Water line shut off was reviewed.

The mailing list used to distribute the 2003 Annual Report/Annual Audit was passed out for review by the Board.

A letter dated July 15, 2004 from the Office of the State Auditor concerning the 2003 audit of the District was reviewed.

It was reported that the Lyle Nelson farmstead ring dike has been completed, that the Neil McGlynn ring dike is essentially complete, that the farmstead ring dike grant agreement #6 has been completed, and that on ring dike grant agreement #7 there remains approximately \$50,000 of state funds available for the cost share on farmstead ring dikes.

Loren Zutz left the meeting at approximately 9:20 p.m. Wally Diedrich left the meeting at approximately 9:20 p.m.

It was announced that the area owned by the District, consisting of approximately 27 acres in section 1 of Boxville Township is currently being advertised for rent with the bids to be opened at 4:30 p.m. on July 26, 2004.

It was reported that the finalizing of the transfer of lands in section 33 of Comstock (*should be Como Township not corrected*) Township is underway.

A discussion was held concerning the rental of the 40 acre tract owned by the District in section 22 of Brandt Township.

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Mr. Adrian was directed to have the lease agreement prepared where the cost of the seeding is paid by the renter, however, the renter also gets whatever cost share is available from the Farm Service Agency for the seeding of the CRP next year.

Mr. Adrian reported that he has received no additional information from the State concerning the agricultural levees.

It was announced that the Red River Watershed Management Board meeting is scheduled for 9:30 a.m., on July 20, 2004, at Fertile, Minnesota.

The activity report prepared by Mr. Adrian was reviewed.

Motion by Mr. Tracy Anderson, seconded by Mr. Alvin Nybladh that Mr. Adrian be given the authority to have the south spoil on Watershed Ditch #5, in the vicinity of section 9 of Esther Township rebuilt to the plan height, and that Mr. Adrian be given the authority to repair the slide on Judicial Ditch #16 in the vicinity of the north end of the north/south quarterline of section 33 of Warrenton Township. Motion unanimously carried.

Motion by Mr. Jim Johnson, seconded by Mr. Alvin Nybladh that Mr. Adrian prepare a proposed budget for the year 2005. Motion unanimously carried.

Motion by Mr. Alvin Nybladh, seconded by Mr. Arlyn Stroble that Mr. Adrian modify the proposal to hire an Administrative Engineer, and advertise for the hiring of this individual as soon as possible. Motion unanimously carried.

The next regular meeting was scheduled for 6:30 p.m., August 16, 2004, at the District office.

Motion by Mr. Arlyn Stroble, seconded by Mr. David Bakke that the meeting be adjourned. Motion unanimously carried.

The meeting was adjourned at approximately 9:54 p.m.

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Ronald Adrian  
Recording Secretary

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Carl Green  
Secretary