



Please note the meeting will be held 7:00pm, **MONDAY**, November 19, 2018 in the County Board Room at the Carver County Government Center, 602 East 4th Street, Chaska, MN.

LOWER MINNESOTA RIVER WATERSHED DISTRICT

Executive Summary for Action

Lower Minnesota River Watershed District Board of Managers Meeting

Monday, November 19, 2018

Agenda Item

Item 5. A. - Public Hearing - Continued The matter of the None Foot Channel Permanent Disposal Sites Acquisition and Development Basic Water Management Project

Prepared By

Linda Loomis, Administrator

Summary

Tonight is a continuation of the September 17th hearing at which the Board heard testimony from the public. After hearing from all those present and wishing to speak, the Board continued the hearing to November 19, 2018 and directed staff to arrange a meeting of the interested parties. A meeting was held October 16, 2018 and benefitted property owners were invited to attend. Approximately 30 people attended and staff answered questions.

The public hearing is the next step in the process begun in September 2015, when the Board adopted resolution 15=12. The Board then commissioned Burns & McDonnell to prepare an estimate of the costs the District could expect to incur managing dredge material and maintaining the Vernon Avenue Dredge Material Placement site over the course of the next 25 years. This report was received by the Board in February of 2017.

The Board also commissioned a report of the special benefit the 9-foot Navigation Channel has on real property that has access to the Channel. Mr. Clay Dodd of Patchin Messner Dodd & Brumm was retained to prepare this report, which the Board received in October of 2017. The proposed project was then sent to the MN DNR and BWSR (Board of Water & Soil Resources) for comment. DNR provided comments, none of which were negative and BWSR responded that they had no comments. The LMRWD responded to the comments from the DNR.

Because this is a continued hearing no additional notice was sent. At the continued hearing on November 19th, the Board will take additional testimony and answer questions from those in attendance at the hearing wishing to speak. After everyone wishing to speak has had an opportunity to do so, the Board will close the public comment portion of the hearing. The Board will then deliberate, taking into consideration the engineer's report, the consulting appraiser report, comments received, agency review comments staff recommendations and any other information relevant to the project.

Possible options for the Board, include, but are not limited to the following:

1. make a motion ordering the establishment of the project
2. make a motion to abandon the process (or take no action)

If the Board determines to order establishment of the project, the order must include findings. Because the project might be funded in part by benefitted lands assessment findings must include a determination of each benefitted properties portion of any funds to be raised by assessment. Legal Counsel will be presented to offer guidance to the Board.

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Attachments

Resolution 15-12 Directing Initiation of Proceedings to Modify the Nine Foot Channel Permanent Disposal Sites Acquisition and Development Basic Water Management Project
Per parcel benefit allocation spreadsheet
[Estimate of Probable Cost](#) (found online)
[Special Benefit Study](#) (found on line)

Recommended Action

Motion to order establishment of project and articulate findings.

Manager Shirk introduced the following resolution and moved its adoption:

LOWER MINNESOTA RIVER WATERSHED DISTRICT

RESOLUTION 15-12

RESOLUTION DIRECTING INITIATION OF PROCEEDINGS TO MODIFY THE NINE FOOT CHANNEL PERMANENT DISPOSAL SITES ACQUISITION AND DEVELOPMENT BASIC WATER MANAGEMENT PROJECT

WHEREAS, the Lower Minnesota River Watershed District was established with a purpose, in part, to serve as the local project sponsor for a Federal navigation project authorized by Congress in 1958; and

WHEREAS, the Federal project authorized the dredging of a 9-foot deep by 100-foot wide channel from the confluence of the Minnesota and Mississippi Rivers, 14.7 miles upstream; and

WHEREAS, the project was conditioned on local sponsorship to furnish lands and rights-of-way for the disposal of dredge materials, make changes to roads, and hold the United States harmless of any damages caused by the construction; and

WHEREAS, after its establishment, the District adopted a watershed management plan. The watershed management plan included the project as an improvement and basic water management project of the District to be undertaken jointly by the District and the U.S. Army Corps of Engineers (Corps); and

WHEREAS, on August 22, 1962, the District adopted a resolution giving its assurance to the Secretary of the Army that the Board would fulfill its obligations as local sponsor of the project. In its resolution, the Board identified both regional (district wide) and direct (individual property) bases of benefit for the project; and

WHEREAS, the 1962 resolution, combined with correspondence between the District and the Corps, constitute a Project Agreement under which construction or implementation is to be paid by the Corps but the rights-of-way, legal, and general expenses of the improvement are to be paid by the District; and

WHEREAS, the District undertook proceedings, held hearings and established the Nine Foot Channel Permanent Disposal Sites Acquisition and Development Basic Water Management Project (dredge project), specifically identifying the dredge project as a "basic water management project" with "basic water management features;" and

WHEREAS, the District has historically levied an additional ad valorem tax within the District to pay for management of the project as an improvement of basic water management; and

WHEREAS, in the original establishment of the project, the bases of benefits articulated by the Board included both generalized statements regarding the economic welfare of the region and specific reference to increased property values and economic benefit to interests adjacent to the river; and

WHEREAS, the District did not conduct proceedings to determine benefits to properties affected by the project for the purpose of allocating a portion of the project costs to assessments to properties benefitted by the project; and

WHEREAS, the Board of Managers finds that the dredge project, and specifically the management of dredge spoils, is necessary to minimize public capital expenditures needed to correct flooding and water quality problems; to protect and improve surface water quality; to prevent erosion of soil into surface water systems; to protect and enhance water recreational facilities; and to secure other benefits associated with the proper management of surface water; and

WHEREAS, the District has performed analysis documenting benefits of the dredge project to industrial properties on the river that utilize the improved river channel for barge transportation. The District's analysis documents an estimated \$22.5 million of total annual savings to industry by using barge transport versus other forms of transportation. The barge transport is made possible by the dredge project; and

WHEREAS, the Board of Managers desires to investigate the possibility of a project assessment to properties benefitted by the dredge project in order to pay a portion of the cost of establishing, developing and maintaining the dredge spoil disposal sites for the project; and

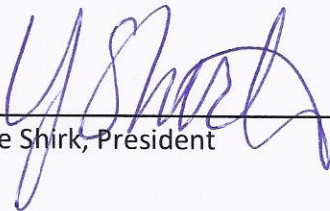
WHEREAS, the Board also desires to clarify the status of the previously established project as a basic water management improvement of the District.

NOW, THEREFORE, BE IT RESOLVED by the Board of Managers of the Lower Minnesota River Watershed District as follows:

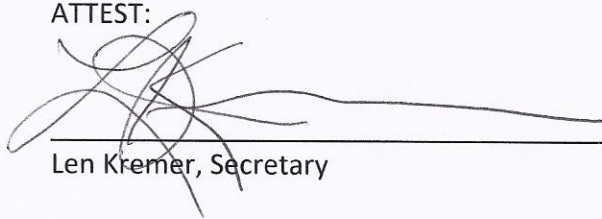
1. The Board initiates proceedings under Statutes section 103D.605 to modify the previously established Nine Foot Channel Permanent Disposal Sites Acquisition and Development Basic Water Management Project.
2. The proceedings shall follow the requirements of Statutes sections 103D.605 and 103D.715 – .731 as appropriate.
3. Concurrent with the Statute section 103D.605 proceedings, the District shall also undertake proceedings under Statutes section 103B.251 to include the Nine Foot Channel Permanent Disposal Sites Acquisition and Development Basic Water Management Project as a capital improvement project of the District.

4. The Secretary is authorized to coordinate with staff and to take all actions necessary to implement this resolution, except those actions reserved by statute to the Board of Managers.

Adopted by the Board of Managers of the Lower Minnesota River Watershed District
this 16th day of September, 2015



Yvonne Shirk, President

ATTEST:


Len Kremer, Secretary

The motion for the adoption of the foregoing resolution was seconded by Manager Murphy and upon a vote being taken thereon, the following voted in favor thereof: 4; and the following voted against the same: 0. Whereupon said resolution was declared passed and adopted, this 16th day of September, 2015 signed by the President and his signature attested by the Secretary.

Property	Owner	PID	County		Gross Benefit	Net Benefit
A	Cargill	26-908018-0	Scott		\$820,149.00	\$410,074.50
	Cargill	26-908020-0	Scott		<u>\$2,369,851.00</u>	<u>\$1,184,925.50</u>
				Total Benefit - Property A:	\$3,190,000.00	\$1,595,000.00
B	CHS	26-909025-0	Scott		<u>\$1,506,000.00</u>	<u>\$753,000.00</u>
				Total Benefit - Property B:	\$1,506,000.00	\$753,000.00
C	Riverland Ag Corp.	26-050002-2	Scott		\$3,100,000.00	\$1,550,000.00
	Riverland Ag Corp.	26-050002-3	Scott		<u>\$190,000.00</u>	<u>\$95,000.00</u>
				Total Benefit - Property C:	\$3,290,000.00	\$1,645,000.00
D	Superior Minerals	26-067001-0	Scott		\$40,000.00	\$20,000.00
	Superior Minerals	26-067002-0	Scott		\$114,000.00	\$57,000.00
	Superior Minerals	26-067003-0	Scott		\$220,000.00	\$110,000.00
	Superior Minerals	26-067003-1	Scott		\$680,000.00	\$340,000.00
	Acell, LLC	26-067004-1	Scott		\$480,000.00	\$240,000.00
	Superior Minerals	26-909026-0	Scott		\$200,000.00	\$100,000.00
	Superior Minerals	26-067005-0	Scott		\$1,200.00	\$600.00
	Superior Minerals	26-067006-0	Scott		<u>\$80.00</u>	<u>\$40.00</u>
				Total Benefit - Property D:	\$1,735,280.00	\$867,640.00
E	GNS III (US), LLC	26-375002-0	Scott		<u>\$1,600,000.00</u>	<u>\$800,000.00</u>
				Total Benefit - Property E:	\$1,600,000.00	\$800,000.00
F	Cargill	26-375001-0	Scott		\$5,200,000.00	\$260,000.00
	Cargill	26-283001-0	Scott		\$720,000.00	\$360,000.00
	Cargill	02-02910-50-030	Dakota		\$6,520.00	\$3,260.00
	Cargill	02-03210-30-020	Dakota		\$36,520.00	\$18,260.00
	Cargill	02-03210-45-020	Dakota		\$28,520.00	\$14,260.00
	Cargill	02-03210-63-020	Dakota		<u>\$36,280.00</u>	<u>\$18,140.00</u>
				Total Benefit - Property F:	\$6,027,840.00	\$3,013,920.00

Property	Owner	PID	County		Gross Benefit	Net Benefit
G	Port Marilyn, LLC	02-02800-01-012	Dakota		\$30,600.00	\$15,300.00
	Port Marilyn, LLC	02-02800-01-013	Dakota		<u>\$186,400.00</u>	<u>\$93,200.00</u>
				Total Benefit - Property G:	\$217,000.00	\$108,500.00
J	Burnsville Sanitary L	02-15275-00-010	Dakota		<u>\$326,250.00</u>	<u>\$163,125.00</u>
				Total Benefit - Property J:	\$326,250.00	\$163,125.00
K	Kraemer Mining & M	02-02800-51-011	Dakota		\$144,216.00	\$72,108.00
	Kraemer Mining & M	02-02910-76-010	Dakota		\$105,389.00	\$52,694.50
	Kraemer Mining & M	02-02910-86-010	Dakota		<u>\$42,895.00</u>	<u>\$21,447.50</u>
				Total Benefit - Property K:	\$292,500.00	\$146,250.00
L	Freeway Transfer	02-156000-00-030	Dakota		\$19,233.00	\$9,616.50
	Quarry Property	02-156000-02-020	Dakota		<u>\$59,142.00</u>	<u>\$29,571.00</u>
				Total Benefit - Property L:	\$78,375.00	\$39,187.50
Other	City of Bloomington	29-027-24-33-0001	Hennepin		\$58,972.00	\$29,486.00
	City of Bloomington	30-027-24-44-0001	Hennepin		\$73,488.00	\$36,744.00
	City of Bloomington	31-027-24-11-0001	Hennepin		\$139,718.00	\$69,859.00
	City of Bloomington	31-027-24-12-0002	Hennepin		\$22,681.00	\$11,340.50
	City of Bloomington	31-027-24-12-0003	Hennepin		\$41,552.00	\$20,776.00
	City of Bloomington	31-027-24-21-0001	Hennepin		<u>\$136,089.00</u>	<u>\$68,044.50</u>
				Total Benefit - Bloomington-Owned	<u>\$472,500.00</u>	<u>\$236,250.00</u>
				TOTAL	\$18,735,745.00	\$9,367,872.50