



Please note the meeting date has changed from Wednesday to Monday and the meeting will be held at the Scott County Law Enforcement Center, 301 Fuller Street South, Shakopee

LOWER MINNESOTA RIVER WATERSHED DISTRICT

Executive Summary for Action

Lower Minnesota River Watershed District Board of Managers Meeting
Monday, September 17, 2018

Agenda Item

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

Prepared By

Linda Loomis, Administrator

Summary

This item is the next step in the process the LMRWD began in September 2015. The Board of Managers adopted Resolution 15-12 initiating the process. 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. 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. Comments were received from both agencies in 2018.

The next step in the process is to hold a public hearing. A public hearing was called at the August 15, 2018 meeting of the Board of Managers of the Lower Minnesota River Watershed District. Notice of the hearing was published in the August 26, 2018 and September 2, 2018 editions of the Star Tribune newspaper. Notice was also emailed to all the MN DNR, BWSR counties and cities that have portions of its jurisdictions within the LMRWD and affected property owners (those properties for which the LMRWD had emails). All affected properties were sent notices via US Postal Service using the address of record at the County in which the affected property is located.

At the hearing on September 17th, the Board will open the public hearing, take 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 then decide its next step. Possible steps include, but are not limited to the following:

1. Closing the hearing and make a motion to proceed with the project
2. Continuing the hearing and provide direction to staff as to next steps

Attachments

Resolution 15-12 Directing Initiation of Proceedings to Modify the Nine Foot Channel Permanent Disposal Sites Acquisition and Development Basic Water Management Project

Comments from MN DNR

[Estimate of Probable Cost](#) (found online)

[Special Benefit Study](#) (found online)

Recommended Action

Staff will bring a list of possible actions for the Board to take to the hearing

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

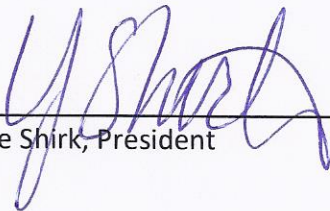
WHEREAS, the Board also desires to clarify the status of the previously established project as a basic water management improvement of the District.

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

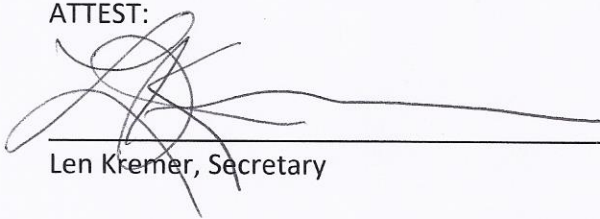
1. The Board initiates proceedings under Statutes section 103D.605 to modify the previously established Nine Foot Channel Permanent Disposal Sites Acquisition and Development Basic Water Management Project.
2. The proceedings shall follow the requirements of Statutes sections 103D.605 and 103D.715 – .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.

June 14, 2018

Linda Loomis
Administrator, Lower Minnesota River Watershed District
6677 Olson Memorial Highway
Golden Valley, MN 55427

Re: Engineer's Report: Lower Minnesota River Watershed District - Dredge Management Project Update

Dear Linda Loomis,

On behalf of the Director of the Division of Ecological and Water Resources of the Minnesota Department of Natural Resources (DNR), I offer the following comments on the Engineer's Report for the above-cited project, in accordance with Minnesota Statutes section 103D.605, subdivision 2.

The dredge material management site is subject to the Channel Maintenance and Management Plan (CMMP) for the Navigation System on the Upper Mississippi, Minnesota, and St. Croix Rivers. There does not appear to be significant changes in the project that would be inconsistent with the CMMP.

We understand that the Lower Minnesota River Watershed District (District) evaluated the following changes to the current Dredge Management Project:

- Reconfigure the dredge placement site from one cell to two cells;
- Add two water control structures (one per cell);
- Add a culvert along Vernon Avenue;
- Vernon Avenue upgrade;
- Change the access site for private slip dredge material unloading.

In relation to the project site, as stated within the project report, the site lies within the Minnesota River floodway. The update memo does not include a detailed stage increase analysis under the floodplain section. The DNR expects that the no-rise modeling and analysis will be provided as part of the CUP amendment process and that the analysis will adequately demonstrate how the District will meet FEMA and the City of Savage's requirements related to floodway fill. The DNR will review the amendment request when the City routes it for review and comment. The District has stated a request will be made to remove the CUP condition to remove fill during flood events. We expect there will be an analysis certifying that any dredge fill left in place will not cause a rise, as required by the City of Savage and FEMA regulations.

In relation to state-listed Threatened and Endangered species, while the DNR doesn't have any concerns regarding the proposed modifications, it is unclear whether potential impacts to state-listed species were considered in the original plan. To ensure compliance with the Minnesota Endangered Species Statute and Rules, the DNR recommends that all watershed projects involving new disturbance include an assessment of potential impacts to state-listed species. Please visit the [NHIS webpage](#) for information on how to request a Natural Heritage Review or enter into a license agreement with the DNR for the use of the Rare Features Data.

Thank you for your consideration of these comments.

Sincerely,


Dan Lais
Regional Manager

- CC: MN DNR - Bill Huber
- MN DNR - Jennie Skancke
- City of Savage – Jesse Carlson
- BWSR – Ben Carlson

Website Address:

The website address for Minnesota DNR’s Natural Heritage Information System webpage is:
<https://www.dnr.state.mn.us/nhnrp/nhis.html>.