

**PROCEEDINGS OF ROSEAU COUNTY & KITTSON COUNTY BOARDS OF  
COMMISSIONERS STATE DITCH NO. 72 JOINT DITCH AUTHORITY**

January 11, 2007

State Ditch No. 72 Joint Ditch Authority comprised of Commissioners of the Kittson County Board of Commissioners and the Roseau County Board of Commissioners met at the Roseau County Courthouse at 9:30 a.m. on January 11, 2007. Members present were: Kittson County Commissioners Craig Spilde and Leon Olson and Roseau County Commissioners Alan Johnston and Mark Foldesi. Also present were Two Rivers Watershed Board Directors Richard Novacek, John Younggren, and Jim Kukowski; Two Rivers Watershed Administrator Dan Money; Two Rivers Watershed District Engineer Blake Carlson of JOR Engineering; Two Rivers Watershed District Technician Boyd Johnson; Roseau County Engineer Brian Ketring, Assistant Roseau County Engineer Tim Erickson; and Kittson County Engineer Kelly Bengston.

Roseau County Commissioner Alan Johnston called the meeting to order at 9:30 am and reviewed the agenda which included a general discussion on water management, a review of activities that each entity is undertaking and discussion on ditching, flood control, water quantity and water quality.

Two Rivers Watershed District (TRWD) Administrator Dan Money gave a power point presentation on water issues in the Two Rivers Watershed District.

The group discussed flooding issues that have been problematic in both Kittson and Roseau County. Kittson County Engineer Kelly Bengston noted that various ditch projects and impoundments have been extremely controversial and suggested a better solution might be to engage the cooperation of landowners who would be willing to hold water and compensate them.

TRWD Board Manager Dick Novacek noted that the drainage systems in place can handle the water in most circumstances, however when the Roseau River overflows it creates flooding problems that impact the TRWD. Mr. Novacek stated that the big swamp, located in Juneberry & Polonia townships of Roseau County and Peatland and Klondike townships of Kittson County, is where most of the land is located that would benefit from holding water. Novacek added that the real issue is that the water is coming faster, indicating that the ditch cleaning and repair projects in Roseau County have impacted the flow of water.

Kittson County Engineer Kelly Bengston asked how other watershed districts in the state are handling this type of situation and asked if they are building impoundments, diversions, or compensating land owners to hold water? TRWD Administrator Dan Money answered that there is no standard solution. TRWD Board Manager Jim Kukowski added that waffle projects are being used in some areas but would be less effective here because the terrain is so flat.

TRWD Board Manager John Younggren asked if the Department of Natural Resources (DNR) is willing to use public land to hold water. TRWD Administrator Dan Money answered that they would be in certain situations, but if holding the water caused damage to habitat, that would change the equation.

Roseau County Commissioner Alan Johnston noted that if the Joint Ditch Authority wanted to work with the DNR, they would need a plan that creates a win-win situation and a demonstration that the plan will work.

TRWD Administrator Dan Money reviewed the Overall Plan of the Two Rivers Watershed District which was revised July 6, 2005.

TRWD Administrator Dan Money reviewed the Two River Watershed District Permit Violation report that is the result of the 1999 disaster ditch system cleanup and repair done by Roseau County. This report identifies five specific ditch violations and recommended action. These include: 1.) Dewey 5 Ditch permit violation; 2.) Lateral 1 State Ditch 95 ditch and Lateral 8 State Ditch 72 permit violations; 3.) Lateral 4 State Ditch 91 ditch permit violation; 4.) Lateral 9; State Ditch 91 permit violation; and 5.) Lateral 1 State Ditch 95 ditch and Lateral 8 State Ditch 72 permit violations. A copy of full report is on file in the Coordinator's Office.

JOR Engineer Blake Carlson, TRWD consulting engineer, reviewed state drainage law noting that if a drainage authority is going to repair a ditch to its legal cross section measurements that a permit is not required. Mr. Carlson added that state ditch law does not preclude deepening or widening a ditch, but does require a permit from the watershed district to insure that the ditch enhancement project does not have a negative impact downstream.

Roseau County Engineer Brian Ketring stated that there appears to be a misunderstanding in the distinction between ditch maintenance and ditch improvement. Mr. Ketring continued that Roseau County is not deepening or widening ditches and increasing bottom channels. Mr. Ketring added that the biggest complaint his office is receiving is that Roseau County is not improving ditches when they have an opportunity. Roseau County is not improving the ditches because the scope of work document approved by FEMA is very specific about what work can and cannot be done as part of the project.

It was noted that TRWD frustration with Roseau County is that they are going ahead with projects and not providing the watershed with the cross section numbers and plans.

Roseau County Engineer Brian Ketring stated that this perception needs to be straightened out. TRWD is looking for as-builts. Roseau County has had trouble obtaining these documents from their consultant. Mr. Ketring added that the as-builts they have received have been incorrect.

It was asked if the as-builts provided were consistently bigger or smaller. Mr. Ketring responded that the only thing consistent in the information received is that they were consistently wrong.

Roseau County Engineer Brian Ketring was asked if the numbers have been provided to date. Mr. Ketring responded that they are still waiting.

TRWD Consulting Engineer Blake Carlson stated that the watershed is getting complaints that the ditches are being over built and they need data to demonstrate that

this is not the case. Mr. Carlson added that he advised the TRWD Board that until they get the data they have requested that no more permits be issued to Roseau County.

Roseau County Engineer Brian Ketring stated that a problem that is getting in the way of the TRWD Board and Roseau County being able to work collaboratively is the fact that TRWD Administrator Dan Money was instructed to contact FEMA to get the data. Mr. Ketring noted that it was very upsetting to get a call from FEMA asking what was going on. Mr. Ketring added that he believed that action to be inappropriate and that instead the watershed should have called a meeting like the one being held today to discuss the situation. Mr. Ketring added that not doing so has created bad feelings and harmed the working relationship between the two entities.

TRWD Board Manager John Younggren asked what the watershed was supposed to do after repeated attempts to get the data from Roseau County.

Roseau County Commissioner Alan Johnston stated that Roseau County is frustrated as well. Roseau County's consultant has repeatedly failed to provide the county with the data it was hired to produce.

TRWD Administrator Dan Money stated that the watershed was promised that the cross section and survey data would be delivered and it has still not been. He added that of the data that has been provided, the legal ditch grade has not been identified.

Roseau County Engineer Brian Ketring stated that Roseau County will provide the as-is data on the ditch in its damaged or current state and the project plan data but does not intend on providing the original legal cross section data. Mr. Ketring stated that Roseau County would request respect and understanding noting that Roseau County does want to have a collaborative working relationship with TRWD.

TRWD Board Manager John Younggren asked why Roseau County does not just get a new consultant. Roseau County Engineer Brian Ketring responded that it is too late in the game. Roseau County is withholding payment which is the legal mechanism provided in the contract.

TRWD Consulting Engineer Blake Carlson stated that the watershed would like the data they receive from Roseau County to include the original as-built data for that ditch so that it could be ascertained whether in fact the project was repair or improvement.

Kittson County Commissioner Leon Olson stated that Kittson County was able to solve a number of issues with the watershed by holding smaller meetings to deal with specific concerns.

TRWD Administrator Dan Money concurred and suggested that planning meetings be scheduled to hash through issues in a setting where the focus could be narrowed to a specific issue.

TRWD Consulting Engineer Blake Carlson stated that he is not in favor of having meaningless meetings. He continued that the disaster repair project issues noted in the Permit Violation Report need to be dealt with immediately. Mr. Carlson requested that Roseau County write a letter to the consultant on the project requesting a reply in writing

that addresses how the consultant intends to solve the problem and get the correct data provided to Roseau County in a timely manner. It was noted that the TRWD would be satisfied with a letter.

Kittson County Engineer Kelly Bengston suggested that a meeting be scheduled where the consultant could be invited to address the full Joint Ditch Committee and an answer from the consultant could be provided.

Roseau County Commissioner Johnston suggested that an even broader meeting be set up where all the players were invited to the table including the Roseau River Watershed, the Two Rivers Watershed, Roseau County Board of Commissioners and Kittson County Commissioners.

TRWD Board Manager John Younggren asked if the cleaning project on SD #91 is going to cause additional flooding to the west – a negative impact downstream.

Roseau County Engineer Brian Ketring stated that the project is not going to make the flooding any worse. He added that what Roseau County did on the ditch #91 project is just a cleaning and repair project, it is not going to make anything worse and it is also not going to make things better.

TRWD Board Manager Jim Kukowski stated that they are not concerned about the water caused by spring rains, they are concerned about the \$150 per acre investment in agricultural land over the growing season.

TRWD Consulting Engineer Blake Carlson stated that he did not agree that the #91 project would not make things worse. He added that ditch cleaning in the east results in less water being ponded up in the east and the water moving more efficiently and therefore faster to the west. He added that if you are digging a deeper ditch and increasing capacity more water will flow quicker.

The meeting returned to reviewing the specific allegations in the permit violation report.

Roseau County Engineer Brian Ketring stated that the data used in this report is not the data that should be used. He stated that in the instances noted that Roseau County did not take the ditch from its originally recorded legal measurements to what is shown. He added that the ditch was not in the as-is state that is indicated and may never have been. Either ditch repair work has been done that was not recorded, or the actual as-built was not ever what is shown.

Kittson County Engineer Kelly Bengston added that the technology that was available in 1910 would have made it extremely difficult to actually build the ditches as designed. Mr. Bengston stated that the 1910 surveys are hard to use as a benchmark as they could be off by a foot or two and that there are no as-builts for the original ditches to use.

TRWD Consulting Engineer Blake Carlson agreed that the legal ditch grade is not necessarily what makes sense as the right measurement, but that an acceptable ditch elevation needs to be established.

Roseau County Engineer Brian Ketring reiterated that Roseau County is committed to providing the data on what is there and what Roseau County plans to do.

TRWD Consulting Engineer Blake Carlson stated that this is not sufficient. Roseau County needs to work with the watershed to establish an acceptable legal ditch and get it recorded so it is on record for the future. Mr. Carlson continued that it is their request that before Roseau County moves forward on a project that an acceptable legal definition be established.

Roseau County Engineer Brian Ketring stated again that Roseau County is going to provide existing conditions and what the plan is for the future.

TRWD Administrator Dan Money stated that the TRWD Board has a responsibility to assess whether the existing condition is acceptable as a parameter before a project can be done. TRWD Board's concern is that the ditch is already deeper and wider than it is supposed to be and a project would simply magnify the problem.

Roseau County Engineer Brian Ketring stated that things are being done differently at Roseau County now that he is the engineer. Roseau County is not going to intentionally do any project that is not in alignment with the overall ditch system objectives. He stated again that he as the engineer is going to provide as-is conditions and data on the proposed plan.

TRWD Administrator Dan Money stated that the watershed wants the third line included which shows the legal ditch dimensions as recorded.

Roseau County Engineer Brian Ketring stated that TRWD sees every project that Roseau County does whether or not it is considered maintenance or a project.

Roseau County Commissioner Johnston added that it may not be appropriate to go back to the 1910 data in every case. Mr. Johnston noted that the most important thing is to establish the legal ditch data for the future. Previous to our current county engineer, Roseau County has not updated or kept corrected records and therefore the only records are original plans. The repair projects that Roseau County did as part of disaster recovery are only a small portion of the work that needs to be done to bring the ditches into condition to prevent water degradation and provide needed protection to farmland.

Roseau County Commissioner Foldesi requested that the group discuss the permit concern regarding the culvert in State Ditch #72 along the Roseau County and Kittson County line. He stated that a permit was given to Polonia Township to remove one of two culverts.

Roseau County Engineer Brian Ketring asked who gave permission for the culvert in question to be removed. Mr. Money stated that the watershed gave the permit because the road authority applied for it. He added that the permit clearly states that the permit requires approval of all other boards or agencies with authority over the ditch.

TRWD Board Manager Dick Novacek asked who approved the original installation of the culverts. It was noted that there is no data on the original placement of the culverts.

Roseau County Commissioner Foldesi asked if a study on the impact of the removal of the culvert was done before the permit was granted.

Kittson County Engineer Kelly Bengston stated that if there are no documents that the two culverts in question were ever legally installed that they should not be there in the first place.

TRWD Consulting Engineer Blake Carlson requested clarification on the issue. He asked whether this is an issue with TRWD for issuing the permit or with the applicant for not getting the other required approvals.

Roseau County Commissioner Foldesi stated that when an entity gets a permit from the watershed that they assume they can go forward. He noted that there is not enough education to the applicant about what their responsibility is before they can actually do the project.

TRWD Administrator Dan Money stated that this is a wrong assumption by the applicant and that the permit is very clear. Mr. Money stated that before the permit is approved that comment sheets are sent to the affected entities. Mr. Money stated that a copy of the permit and a comment sheet was sent to the county board member in the district. In this case it was sent to Roseau County Commissioner Mark Foldesi. When no reply was received, the Watershed District acted on the permit assuming Roseau County as the ditch authority had no problems with it.

Roseau County Commissioner Mark Foldesi requested that a comment sheet also be sent to the County Engineer.

The group discussed the meeting day that is scheduled for the Two Rivers Watershed Board to meet. It was noted that it is held on the same day as both the Kittson County and Roseau County board meetings and makes it impossible for members of the Roseau County Board to attend the meetings.

TRWD Administrator Dan Money stated that the date of the meeting is established in the by-laws and the by-laws would have to be changed. It was discussed that in order to facilitate the collaboration that is needed between the watershed district and the two county boards that the watershed district should consider revising its by-laws to select a meeting date that would be more accommodating.

A follow up meeting was scheduled for February 7, 2007 at 9:30 am.

Upon motion carried, the meeting adjourned at 1:00 p.m.

Attest

Date: \_\_\_\_\_

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Teresa Klein  
County Coordinator

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Jack Swanson  
Board Chairman