

SAND HILL RIVER WATERSHED DISTRICT
VESLEDAHL WETLAND BANKING
INFORMATIONAL MEETING
August 17, 2017

1. Attendance:

Sand Hill River Watershed District Administrator Daniel Wilkens the Vesledahl Wetland Mitigation informational meeting to order at 7:00 PM August 17th at the Winger Community Center. Other SHRWD managers present were Stuart Christian, Scott Balstad and Phillip Swenson. District staff member April Swenby – Administrative Assistant and acting District engineer Jeff Langan were present. Agencies represented were: Dave Weirens – Board of Soil and Water Resources, Rita Albrecht – MN DNR, Rod Gunderson - MnDOT, John Williams - MN DNR, and Emily Hutchinson – MN DNR, Gerald Jacobson and Joan Lee, Polk County Commissioners. Others in attendance were Richard Kriewald, Alvin Rost, Dan Espeseth, LeRoy Johnson, Carsten Zahl, Bob Vesledahl, Gary Sonsteli, Mike Gunderson, Tim Gunderson, Karen Espeseth, Dan Hertwig, Gregory Basargin, Lori Lucken, Ron Lucken, Dan Vesledahl, Orie, Flermoen, Gerald Paulson, Glenn Paulson, Scott Willoughloy, Jeff Bratager, Milton Carlson, Marvin Gunderson, Jean Uhler, Ken Pederson, , Kim Hedlund, Travis Fuchs, Mark Morvig, Dennis Matveen, Richard Larson, SE Vesledahl, Cheryl Byrne, and Scott Olson. Everyone present stated their name and if they were affiliated with an agency.

2. BWSR Report

Dave Weirens – BWSR Representative, explained that the Vesledahl Wetland Mitigation Project was a combined effort between MnDOT and the MN BSWR to develop and restore wetlands that serve as a “bank” for wetland credits that could be used to replace or offset wetland losses and impacts due to state, county, city, and township road projects. The MN DNR was also a partner in this project.

Wetland credits are necessary to meet the requirements of the state Wetland Conservation Act and Section 404 of the Clean Water Act which is overseen by the US Army Corps of Engineers. Both programs require replacing wetland losses due to road construction projects.

Dave Weirens explained that this project began in 1998. An agreement was made among BWSR, MnDOT and the MN DNR and original acquisition of the property as made by MnDOT in 1999.

BWSR developed plans for the restoration of the site and began construction in 2000. It was completed in 2003. The final approval of the wetland credits by the COE was given in 2010.

3. MN DNR Report:

John Williams explained that long term ownership of the area did not get transferred to the MN DNR as initially proposed. The process of transferring the ownership was delayed until unresolved issues with the project were completed. There are still several unresolved issues remaining.

It has recently been decided that the MN DNR has changed their position on ownership and no longer would like to take ownership of the property. The cost of WMA project maintenance is concerning and the values of the land doesn't fit their acquisition profile. Due to these circumstances, the MN DNR is planning to recommend that MnDOT sell the land when the remaining issues are resolved.

7. MnDOT Report:

Rod Gunderson - MnDOT has concurred that the land would be put up for sale sometime in the future. According to Statute 161.44, MnDOT will first offer the land to another agency, then the previous owners or spouse, then the adjoining property owners before the land is placed out for bids to the general public. The price would be set based on the appraised market value with the easements in place.

Dan Vesledahl commented that if he or other landowners were told in the early initial stages of this project that the responsible agencies were never going to maintain the project or take responsibility for water management, the project would have failed and credits wouldn't have been received. Mr. Vesledahl felt that the local landowners were deceived in an effort for the agencies to obtain credits.

8. Audience Questions and Answers:

Q: Orre Flermoen: Why did it take 17-18 years to come to this point that the MN DNR did not want the land and why did plans not come to fruition?

A: John Williams stated that the MN DNR was waiting for unresolved issues to be rectified.

Q: Gerald Paulson: Who owns the property now?

A: MnDOT owns the property. The permanent easement is held by BWSR and runs with the land forever.

Q: Richard Larson: What makes this land different than another WMA's?

A: This land has more restrictions than other WMA's, such as burning, due to plastic water control structures and there are no provisions for power equipment to be used on the site for spraying, tree removal, etc. There are higher maintenance issues involved.

Q: Allen Ross: Does the next owner assume the restrictions?

A: Yes, the restriction goes with the property.

Q: Richard Larson: Does anyone have the original contract and whose responsibility is maintenance currently? Mr. Larson stated he would like a copy of the original contract.

A: BWSR and MnDOT have a copy of the original contract. (The question of whose responsibility the maintenance is, was not answered).

Q: Gerald Paulson: Are inholding, (other wetland easements held by BWSR or other agencies) subject to the BWSR easement?

A: No

Q: Dan Vesledahl: Is MnDOT just "pushing" the responsibility of maintenance on adjoining landowners? Because of this project all adjoining landowners are affected and it isn't just one ditch it is multiple ditches that drain into one private ditch that was fully functional prior to the project being built. Mr. Vesledahl would also like to have a copy of the original contract as the verbal conversations he recollects state that this project was not intended to affect local, adjoining landowners.

A: Dave Weirens stated that these conversations are the primary reason for this meeting tonight.

Q: Richard Larson: How many acres were mitigation? Will they always be wetlands or will they ever be farmable?

A: From the project, 1,485 wetland credits were obtained and the permanent easement prevents the land from ever being farmable.

Q: Jerry Jacobson: Have all the credits been received? Do the credits go with the sale?

A: All the credits are accounted for and deposited into the "Wetland Bank". No additional credits can be generated on this site. Credits do not go with the sale of the property but are rather deposited into the wetland bank.

Q: Does the easement restrict motorized vehicles for cleaning the ditch?

A: The easement allows for ditch cleaning and maintenance at the other property owners expense. However, trails cannot be made and ATV use is limited for maintenance only and is heavily restricted to minimal use.

Q: If small tracks are sold, can roads be constructed and building erected?

A: The easement requires the area to be a wetland area. No roads can be added to access the property.

Q: Dan Espeseth: What prevents US Fish and Wildlife from purchasing the property?

A: There is no purpose for US Fish and Wildlife to purchase the property as it already contains a wetland easement which is the goal of the US Fish and Wildlife.

Q: What will the property tax be for the new owner of the property?

A: The property tax will be based off the appraised value. No tax is currently being paid now. Sand Hill River Watershed District Manager Scott Balstad stated that in his conversations with Michelle Cote of Polk County, he was told this property receives \$10,000 per year in lieu of taxes. MnDOT did not think they were paying taxes on the property now.

Q: Orre Flermoen: Has the transfer of ownership to DNR been an issue with other WMA's? Mr. Flermoen

commented that this sounds like "Buyer's Remorse".

A: Weirens stated that this is rare.

Q: Allen Ross: Do you already have perspective buyers?

A: MN Statute sets the process for land sales.

Q: Lori Lucken: If the land is not sellable and a buyer is not found, will MnDOT take responsibility for it?

A: The question of the land not being sellable has not been explored.

Q: Dennis Matve: If a private owner buys the land is it private land and can signage be used?

A: There is no right to public access with this easement. A fence can be used to restrict trespassing as long as the area is restored if damaged during fence construction. Trails cannot be added.

9. Conflict and Resolution:

The following conflicts have been determined resolved:

1. Six areas needed maintenance in 2011 and were resolved
2. Inspection and maintenance was done in 2002
3. Boundary issues were resolved
4. Seepage was solved in small areas (not all according to Dan Vesledahl)

The following conflicts are unresolved:

1. LeRoy Johnson's property has severe seepage across his land.
2. Mark Morvig and Dave Weirens disagreed about what was solved on Mark's property.

3. Greg Basargin concurred that his farmyard is soaked and he was forced to move his garden, He also is having issues with water in his basement. Dave Weirens was not aware of Mr. Basargin's unresolved issues and would note it.
4. The ditch system through the Vesledahl property is in severe need of a clean out.

10. Legal Ditch System:

Dan Wilkens, Sand Hill River Watershed District Administrator concurred that in the past, landowners worked with each other to solve drainage issues along private ditches. Because there is no guarantee that future private landowners will take responsibility for their own drainage and maintaining drainage through their property, MN Statute 103E has a process to establish a public drainage system.

Wilkens explained the process of private landowners submitting a petition to the watershed district to construct a new ditch system. A minimum of 60% of the landowners of the 40-acre tracts over which the ditch passes need owner's signatures. Wilkens stated that someone would need to take the lead, and have a petition developed and then bring it to landowners for signature. A bond would also be required to cover the costs of the legal process. Wilkens explained that BWSR recently approved using the balance of \$29,000 towards establishing a legal ditch system. This could be used to meet the bond requirement.

Q: Richard Larson: How many petitioners does it take to have the ditch cleaned after it is a legal ditch system?

A: Marv Gunderson – Norman County Engineer stated that in Norman County one was required. Administrator Wilkens stated that it isn't the policy of the SHRWD to require a petition for cleaning a legal ditch system. The district inspects all ditches every year and does necessary maintenance.

Q: Kenny Pederson: How does cleaning the ditch affect the wetlands?

A: The restored wetlands shouldn't be affected with the maintenance of the ditch systems. The wetlands were not restored in the ditch systems. They were built along side and away from the main drainage ways. It is a violation of federal law to reduce the wetlands.

Q: Gerald Paulson: As the owner of the permanent easement (BWSR), isn't it your duty to maintain the ditch?

A: No BWSR does not have the duty to maintain the ditch.

Q: Does the legal ditch always have to be a landowner's responsibility? Why can't the agencies who created the problem be responsibility for footing the bill to create a legal ditch system?

A: Dave Weirens commented by questioning what a reasonable expectation for private landowners would be.

Q: Greg Basargin: Doesn't MnDOT have to be responsible to maintain the ditch?

A: No, MnDOT is a private landowner.

Q: Joan Lee: How much land does BWSR own? Joan Lee states that the plat book shows ownership in Section 18.

A: BWSR was unaware that they owned any land in this project. Dave Weirens will check into this.

Comment: Dan Vesledahl commented that verbal agreements in the past say that this project wouldn't affect the local landowner's drainage, but now that the project has been completed and you've gotten your credits, the landowners are being affected. Roads are affected. Dan Vesledahl would have liked to have had the original engineer, Tom Wentzel present at the meeting. Dan

Vesledahl would like a copy of the original contract.

Response: Weirens state that the purpose of this meeting tonight is to reconnect and revisit how to manage water on this property and in the community.

Comment: Gerald Paulson commented that should a legal ditch system be implemented, it would all drain into the Sand Hill River and asked that all involved would pay attention to where the water drains into. Currently, east of Rindal he reported minimal flow and stagnant water in the Sand Hill River.

11. **Adjournment:**

The next regular meeting will be held Thursday **at 7 PM on September 21, 2017** at the Winger Community Center. It was requested by the public to have the same representatives present at the next meeting to continue the conversation with reviewing things that were already discussed tonight.

April Swenby, Administrative Assistant