



**MINUTES  
DEVILS LAKE WATER IMPROVEMENT DISTRICT  
REGULAR MEETING**

**DLWID OFFICE  
January 3, 2008  
6:00 P.M.**

**PRESENT:** Otis Winchester  
Jack Strayer  
Smokey Aschenbrenner  
David Juenke  
Brian Green

**ABSENT:** None

**AUDIENCE:** Raylene Erickson  
Bruce Polvi  
Jeff Oxford  
Pat Payne  
Barbara Landhuis  
Robert Landhuis  
Doug Pirie  
Kevin Moynahan (DSL)  
Don Sell  
Paul Katen

**STAFF:** Paul Robertson  
Kevin Erickson

**MEDIA:** None

The meeting was called to order at 6:00 p.m. by Chair Winchester.

**Minutes of Previous Meeting**

Minutes of the previous meeting were approved by Strayer and seconded by Juenke.

**Vote:** Unanimous. Motion passed.

## **Financial Report**

A few minor changes were explained by Robertson. No further questions.

## **Public Comment**

None

## **Special Order of Business**

### **DSL Representative**

Kevin Moynahan, Assistant Director of the Department of State Lands, in charge of Wetlands and Conservation Division, was a guest speaker. He described the hierarchy and duties of the State Lands Department and some of the laws as they relate to enforcement and compliance of removal and fill material on property of essential and non essential salmon habitat. Moynahan explained that his Department works in conjunction with the Federal Corps of engineers.

The law permits removal or fill of up to 50 cubic yards without approval except within essential salmon habitat, which Devils Lake is. Here the allowable volume of removal or fill is zero without a permit. There is thus no legal unpermitted removal or fill in Devils Lake. Removal and fill in wetlands that feed Devils Lake also constitute Essential Salmon Habitat, and thus no wetland fill or removal shall occur in wetlands around the lake without a permit. The Legislature has mandated that DSL must respond to a permit application for removal or fill within 120 days. It is now more difficult to perform compliance and enforcement of violations than before due to limited employee resources. Moynahan says that his coordinators do the best they can within this time period to enforce violations of the law. He would like to see more of the process occur within the website to allow more staff time for compliance and enforcement issues.

Moynahan said that the Department is doing a better job of retaining staff now with the new director and Kevin's assistance. In 2009, he and his staff will propose to the Legislature a request for more staff to enable them to prioritize efforts. Fiscal issues will be involved, and may therefore slow their progress. He has been in contact with the State police to request coordination. They will review this possibility. The Corps of Engineers has a full-time staff of compliance people who can help in the field. More violations need to be addressed. Currently, the penalties for a violation are from \$1,000 per day (up from \$600 in 2007), to \$10,000 per day. Regulations dictate the fines that are now commensurate with recent fee increases. They want to ensure that it is not less expensive to violate the law than it is for someone to pay an application fee. Each day a violation continues can be considered a separate offense. Moynahan assured the Board and audience that there will be more compliance and enforcement in the future.

Katen asked who should be contacted in the event of a violation. Moynahan replied that DSL remains responsible for compliance. Katen asked if there could be one permit rather than one for the State and one for the Corps. Moynahan replied that the State would have

to assume the program; however, the Legislature will not approve it. A joint SPGP permit from 2006 did not work, so it was discontinued. They continue to work on making the process as painless as possible.

Strayer asked about improving fish habitat in the lake. Moynahan said he would pursue research, but was not as familiar with lakes as he was with other bodies of water.

Robertson asked how entities could obtain information on the progress of applications. Moynahan replied that Legislative Bill 2106 established a maximum of 120 days for delineation reviews. The State intends to make all information available on-line in the future. Staff then spent time researching an application in progress to acquaint the audience with the process of on-line research.

Various questions from the audience were addressed by Kevin Moynahan.

He explained that when an application for delineating wetlands is completed; the State must concur within 120 days. Once concurrence is established, the land owner must then obtain a permit for removal and fill. Delineation is simply the identification of an area that needs concurrence. He stated that DSL has received about 80 complaints within Lincoln County in the last year; however, some may not be wetlands.

He explained that the 50-cubic yard limit was a per-year amount for removal; however, deposits are a one-time limit.

The State does not currently require a certification for wetlands surveyors. They are researching this issue at this time. Information can be obtained on the State's website.

Robertson asked if there is an appeal process for someone who disagrees with a concurrence. Moynahan replied that comments can be made during the application period; however, it is a final agency decision. An administrative hearing process might also be requested by writing to the Director of the agency, or an action could be filed in the local circuit court.

Robertson asked Moynahan if his Department would work with DLWID to create a letter that could be sent to contractors and land owners to educate and inform them. Moynahan asked Robertson to draft a letter and he will work with him.

## **Unfinished Business**

### **11<sup>th</sup> & EDLR**

Robertson reported that a copy of a letter from DSL was received that stipulated a \$3,000 fine against the contractor for this wetlands fill. It was based on a \$600 a day fine times five days, due to the contractor's previous knowledge of rules and regulations. This fine is due within 70 days from December 7, 2007.

### **Boat House/Docks**

Robertson sent a letter to Matt Spangler to renew some action because he had promised to address this issue after the first of the year. Discussion ensued about a dock request at the area of Horseshoe Bay. Sexton and the landowner have requested approval to install a dock 70 feet in a southwesterly direction into mouth of the canal. Robertson has filed a letter of objection on behalf of DLWID.

### **Native Revegetation: Jack Strayer**

Strayer has been working on trying to obtain information about enhancing fish habitat in the lake. He has been in contact with people from the director of natural resources in West Virginia to the conservation director in Oregon. He is obtaining a CD on vegetation—a PowerPoint presentation, which he will review with Robertson to determine if it is feasible to show to the Board.

### **Chinook Winds Water Rights**

Robertson received a letter from Water Resources Division stating the casino had voluntarily extended their hold on their well application until June 2008. Chinook Winds is cooperative and Robertson will continue working with them on alternative sources of water for irrigation of the golf course.

### **Boat Launch Signage**

Robertson has learned from Deputy Ballentine that no ordinances exist regarding 100-foot no-wake zones. Therefore, no enforcement can be implemented at the City, County or State levels. Boat motor noise is regulated, but the noise ordinance does not indicate any other types of sounds. A nuisance complaint might address an issue of stereo noise. Signs are in the process of being created. Discussion then began on the best locations for signage. It was determined that they would be placed at Regatta, Holmes Road and possibly at Blue Heron. The launch on East Devils Lake is at the State campgrounds, and would require State approval; Sandpoint launch is not very busy.

### **Office Rental Discussions**

Bruce Polvi, owner of the building, passed out to the Board a proposal for the office remodeling. Polvi said he is willing to absorb the additional cost of installing the sink and improving the office and would be willing to increase the rent \$385 for the extra 500 feet of space. He explained that his new tenants are paying \$1 per square foot. His goal is to have the project completed within 30 days. Polvi said that the restroom beneath the east wall of the office would make it fairly simple to tie into that plumbing, thus the sink would be placed on the east wall. A small, instant water heater would be installed.

Currently, DLWID rents on a month-to-month basis at \$716 for approximately 1,000 square feet. Polvi said he would be willing to sign a lease for a one- or two-year period. Green asked when he would need a response and Polvi replied that he was flexible; however, he will proceed with the contractor on the expansion. Winchester said that the Board would go into Executive Session after the meeting and respond to Polvi as soon as possible.

### **GIS & Data Management Update**

Kevin Erickson reported that he has received much new data from the City that would have cost the District a considerable amount of money to obtain from another entity. Erickson demonstrated a color-coded elevation map, depicting various codes of classification for properties. Most of it is classified as site development. Erickson worked with Sandy Gruber from the City on the “key” to the classifications. Erickson has created templates for maps of the lake with “zoom-in” capability. He compiled reams of paper in PDF format for presentation or reviewing purposes. There are 47 items listed in the bibliography. There are 40-plus hours remaining on his contract, and Erickson reports that 85 or 90 percent of the available data has been installed. The Board commended him for doing such a great job.

### **www.DLWID.org**

Robertson demonstrated information now available on the website. Many changes and improvements have been made. Robertson proposed a \$100-per-year expenditure to create a hotlink to the Lincoln City Chamber of Commerce website. Strayer asked if the Google site could determine where clicks to the DLWID website were coming from and Erickson responded, “Yes.” Robertson will research this capability so that he can relay this information to the Board. The Board agreed to the expenditure.

## **New Business**

### **Budget Calendar & Budget Officer**

Green moved and Winchester seconded appointing Robertson as Budget Officer.

**Vote:** Unanimous. Motion carried.

Discussion followed regarding the DLWID budget and compliance of Oregon Budget Law. Oregon Budget Law establishes the requirement for a budget officer who brings the budget draft to the budget committee. It must be presented to the public simultaneously to going to the budget committee. Green suggested that the auditor would be the person to inform the Board if they are not in compliance with Oregon Budget Law.

Strayer stated that he would like to see funds identified in the budget for re-vegetating the lake. Robertson explained that the budget draft is available on April 24, when it goes to the budget committee for first review; the budget committee meets May 1. Robertson stated that he will identify the budget committee at the February board meeting.

## **Non-Agenda Items**

Raylene Erickson stated that since the area has a large Hispanic population and this is a tourist area, Oregon Parks and Recreation Department has suggested the advantage of icon-type signage. Raylene suggested that the Board consider adding icons to their signs to communicate with other nationalities.

She stated that PADL has created a wake-boat committee and invited any interested persons to join the committee. Robertson suggested that people get together to work on identifying icons and other projects.

Erickson suggested research into some type of nature-preservation license plate that would go toward wetlands restoration. Winchester said that \$10 of the special plates fees are normally channeled to the designated groups. Erickson would like to identify a wetlands animal and a wetlands plant.

### **Public Comment**

None

### **Announcements**

Robertson will speak on KBCH 1400 am at 7:00 a.m. next Tuesday, January 8.

Robertson reported that the next conference of lake management will be held at Wallowa Lake, with the following year scheduled for Devils Lake. The chair of the organization wants to come to Lincoln City to review the long-term data issue—ten years after grass carp. Approximately 50-60 people would be involved in the conference. Aschenbrenner suggested that special arrangements should be made for this prestigious group.

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At 8:35 pm the Board went into Executive Session to discuss the rent proposal issue.

At 8:45 pm the Board came out of Executive Session.

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Green moved and Juenke seconded Robertson propose to Polvi a five-year lease—after water is installed and construction completed—with an annual increase of 3% annually for each subsequent four years, to include utilities.

The Board meeting adjourned at 8:50 p.m.

Respectfully submitted,

Linda Burt