

**MINUTES OF THE ROSEAU RIVER WATERSHED DISTRICT BOARD OF
MANAGERS MEETING HELD JULY 7, 2021**

The meeting was held at the Roseau River Watershed District office located at 714 6th Street SW, Roseau, MN 56751 and participation was available online via WebEx.

ORDER: Chairman Carter Diesen called the meeting to order at 8:00 a.m. and led the Pledge of Allegiance.

MANAGERS PRESENT: In person: Jason Braaten, Cody Schmalz, LaVerne Voll and Carter Diesen.

STAFF PRESENT: In Person: Watershed Specialist McCormack and Administrator Halstensgard.

OTHERS PRESENT: In Person: Mitch and Matt Magnusson. Via WebEx: Chad Reese and Melanie Benit, Institute for Justice; Terry Kveen; Deb Walchuk, NRCS; Keith Weston, RRRRA.

CONSULTING STAFF PRESENT: In person, Nate Dalager and Jake Huwe, HDR Engineering; Michelle Moren, Moren Law office.

AGENDA: A **motion** was made by Manager Voll, seconded by Manager Braaten to approve the agenda with changes to the consent agenda. Motion carried unanimously.

A **motion** was made by Manager Schmalz, seconded by Manager Braaten to adopt the resolution to close the meeting (see attached) for the purpose of discussing matters of litigation with legal counsel. Motion carried unanimously.

A **motion** to reopen the board meeting was made by Manager Schmalz, seconded by Manager Voll. Motion carried unanimously.

CONSENT AGENDA: A **motion** to approve the Consent Agenda was made by Manager Braaten and seconded by Manager Schmalz. The motion carried unanimously. Adoption of the Consent Agenda included approving the June 2, 2021 regular meeting minutes, the Treasurer's Report, Permits #21-07 and #21-08, and manager expense vouchers.

NEW BUSINESS: There was no new business for the Board at this meeting.

OLD BUSINESS:

- Specialist McCormack provided an update on the Duxby Levee / WD #3 culvert replacement. Two quotes were received. They were from Beito Repair for \$3,441.00 and Halverson Sand & Gravel for \$5,390.00. A **motion** was made by Manager Braaten, seconded by Manager Schmalz to contract with Beito Repair as the low bid. Motion carried unanimously.

Chairman Diesen asked if there were any comments on the Old Business item. There were no comments.

REPORTS:

ADMINISTRATOR: Administrator Halstensgard discussing the following:

- River Restoration Project Team meeting has been scheduled for July 14th at 10:00 am. Managers Braaten and Schmalz will plan to attend. Administrator Halstensgard will also extend an invitation to Commissioner Wicklund.
- The 2020 Audit is complete and a copy is available in the office
- The draft budget will be presented to the board next month.
- MAWD resolution packet is now available. The first MAWD Region I was held online June 22nd. Managers Braaten and Voll attended at the RRWD office. There is an effort to increase participation of Board members.

WATERSHED SPECIALIST: Specialist McCormack provided the following update to the Board:

- Roseau Lake mitigation site visit.
- Lost River / Arpin project – LCCMR funding was approved and the bill was signed by the Governor. Work Plan updates are in progress.
- WD #4 wetland delineation – formal application pending.
- WD #4 participated in a meeting between the viewers and landowners.
- WD #3 maintenance funding discussion.
- Norland timber sale – upon reviewing the recommendation from Doug Serrine, MN DNR the Board elected to wait until the timber is closer to maturity.
- Due to the dry conditions, Hay Creek / Norland haying area was extended so local landowners are able to access more hay. Whatever doesn't get hayed will be mowed prior to seed maturity.
- Hay Creek alfalfa seeding update.
- Spruce Valley 35 seeding – Marc Tveit has proposed some farming activities on the District's parcel. Specialist McCormack stated what he is proposing fits into the District's interest in managing the parcel. Manager Voll made a **motion** to direct Attorney Moren to draft a contract for Mr. Tveit, seconded by Manager Braaten. Motion carried unanimously.
- Kofstad drainage issue north of Warroad.
- City Center Site update.
- Update on the construction of the trap for CD 17 crossing south of the river (Lins culvert)
- Conservation Corps crews – have not been able to schedule their work in the river.
- Tony Brateng cleaning request. It was the suggestion of the board that Mr. Brateng apply for a permit to clean the ditch.

RRWMB: Manager Braaten reviewed the funding commitments and the progress on the LiDAR outreach update. A meeting with the DNR Commissioner's office was held to discuss funding through the Flood Hazard Mitigation program.

Administrator Halstensgard spoke about participating in a MAWD committee to bring issues to the DNR Commissioner's office. Manager Schmalz asked about a drainage issue along the county line. Administrator Halstensgard and Manager Schmalz will discuss it after the meeting.

Chairman Diesen asked if there were any comments on the Reports. Matt Magnusson stated that he felt if Tony Brateng was willing to pay to do the ditch cleaning, that was a good thing.

PROJECTS:

Roseau Lake – Administrator Halstensgard reviewed the previously provided funding information to the Board and discussed the potential allocation of SD #51 funds to the

Construction Fund for the Roseau Lake project. After discussion, the board will discuss this further at the August meeting.

The board took a brief break prior to the advertised bid opening for the CD #16 Improvement project.

Manager Braaten recused himself for the CD #16 discussion.

At 10:00 AM, Attorney Moren stated that the Board would no longer be accepting bids. Chairman Diesen stated that a contract would not be awarded today and proceeded with opening the bids received. Bids were received from four contractors they are as follows:

Contractor	Bid (ditch)	Bid (SWI)	Total
Davidson Construction	\$ 962,248.45	\$ 131,958.45	\$ 1,094,206.90
Gladen	\$ 1,202,416.51	\$ 114,496.22	\$ 1,316,912.73
RJ Zavoral	\$ 921,855.30	\$ 117,008.40	\$ 1,038,863.70
Kern & Tabery	\$ 1,194,812.41	\$ 112,222.96	\$ 1,307,035.37

Attorney Moren stated that the Board would make a decision on the bids no later than their September 1, 2021 board meeting.

Whitney Lake: --

- Public hearing follow-up: A **motion** was made by Manager Braaten, seconded by Manager Schmalz to accept and approve the written response document to the questions asked at the public hearing. Motion carried unanimously. A **motion** was made by Manager Braaten, seconded by Manager Schmalz to approve the June 9, 2021 Special Meeting minutes as amended. Motion carried unanimously.

After discussion, a **motion** was made by Manager Braaten, seconded by Manager Voll, to adopt the Findings & Order for the Establishment of the Roseau River Watershed District Whitney Lake Retention Site A project. Motion carried unanimously. A **motion** was made by Manager Braaten, seconded by Manager Voll, to adopt the Findings & Order for the Establishment of the Roseau River Watershed District Whitney Lake Retention Site C project. Motion carried unanimously.

- State grant agreement: Administrator Halstengard talked about the concerns that have been raised with the new version of the agreement from the Minnesota Management and Budget office. Administrator Halstengard is working with other administrators in the Valley and Andrew Graham to see if changes can be made for future contracts. A **motion** was made by Manager Braaten, seconded by Manager Schmalz to accept, and authorize signing of, the State Grant Agreement. Motion carried unanimously.

- There was discussion on the comments received from Dave Jones on the RCPP Environmental Assessment and options moving forward. Keith Weston, RRRRA, also spoke about the program and path forward. Staff and HDR will have a conversation with NRCS to determine a path forward and present it at the August meeting.

Chairman Diesen asked if there were any comments on the Projects. The questions from the audience were as follows:

- Terry Kveen requested that the DNR and landowners get together to discuss options for the Roseau Lake project area. Mr. Kveen also made a statement about the proposed project's effects on land to the south side of the river.
- Matt Magnusson asked about the written comments from the Whitney Lake hearing. Administrator Halstensgard stated they would be emailed out to those who requested a copy.
- Melanie Benit, Institute for Justice, asked for the most updated available Operating Plan, Maintenance Plan, and any other documents available. Documents will be provided via email or website.
- Mitch Magnusson asked about the bids for CD #16 Improvement project. It was stated that it was a large file and email was not an option to provide it to landowners. Administrator Halstensgard offered to send them a Google drive link. Mitch Magnusson stated he couldn't open documents that were sent to them. Mitch Magnusson will bring in a flash drive for staff to provide the documents.

Other Items: Attorney Moren mentioned that the statewide state of emergency has expired and with that the Open Meeting Law is back in effect. The board will need to decide if they want to continue to provide online meeting availability. This will be an agenda item for the August meeting.

Ms. Benit provided an additional comment stating that she had found a copy of the Roseau Lake Operating Plan that had been sent to her, but could not find the Maintenance Plan. Ms. Benit also asked about the status of the plans stating she knew the Board had voted to approve the Operating Plan and had met in a "private" meeting on the Maintenance Plan. Attorney Moren clarified that no Board meetings are "private" and the meeting Ms. Benit was referring to was an open Board work session with the purpose of discussing the Maintenance Plan where no action was taken. Ms. Benit concurred with that statement. Administrator Halstensgard then clarified that the Board has not approved the Operating Plan, the draft plan was accepted for review at a regular board meeting. No action will be taken on those plans until the Record of Decision has been provided on the Environmental Assessment Worksheet (EAW).

A **motion** was made by Manager Braaten, seconded by Manager Voll, to adopt the resolution to close the public meeting for the purpose of acquisition of land identified as portions of Section 11, Ross Township (T162N, R41W), Roseau County; and lands under consideration include portions of Sections 7-8, 12-14, 23-24 and 26, Dieter Township (T163N, R41W), Roseau County and Sections 20-22 and 28-29, Unorganized Township (T163N, R40W), Roseau County.


A **motion** was made to reopen the regular meeting by Manager Voll, seconded by Manager Schmalz. Motion carried unanimously.

The next meeting will be August 4th at 8:00 a.m. at the RRWD office. After a **motion** by Manager Voll and second by Manager Schmalz, the meeting was adjourned at 11:39 a.m.

Respectfully submitted,



 Cody Schmalz, Secretary



 Tracy Halstensgard, Administrator

RRWD July 2021 Bills & Receipts

RRWD Checkbook Balance as of June 30, 2021	\$394,902.58
Receipts:	
Roseau County -- share of taxes	\$ 339,786.90
Marshall County -- share of taxes	\$ 58.67
Marshall County -- share of taxes	\$ 278.21
Lake of the Woods County -- share of taxes	\$ 671.11
City Of Roseau -- City Center Site grant	\$ 32,900.00
Citizens State Bank -- interest 5-17-21	\$ 3.22
Total:	\$ 373,698.11
Bills:	
Tracy Bergstrom -- wages	\$766.33
Tracy Halstensgard -- Salary and Insurance	\$5,039.64
Torin McCormack -- Salary and Insurance	\$5,486.64
Jason Braaten -- Per Diem and Expenses	\$314.01
LaVerne Voll -- Per Diem and Expenses	\$450.04
Carter Diesen -- Per Diem and Expenses	\$220.54
Cody Schmalz -- Per Diem and Expenses	\$287.74
Internal Revenue Service -- Withholding	\$4,123.24
Minnesota Department of Revenue -- Withholding	\$630.00
PERA -- Employer / Employee Contribution	\$1,811.25
Cardmember Services -- monitoring equipment, postage, & misc.	\$658.79
City Of Roseau -- utilities	\$232.61
Marco -- Copier agreement	\$162.66
Minnesota Energy -- Natural Gas	\$27.73
Patrick Moren Law Office -- Legal Fees	\$3,643.75
Roseau Electric Co-op -- Int/phone --	\$154.60
SuperOne - supplies	\$43.31
Multi Office Projects, Inc -- paper	\$88.01
Verizon Wireless -- Trimble	\$40.01
Smith Partners -- legal fees	
	\$1,980.00
RRWMB - share of taxes	\$75,927.75
R&Q Contracting -- CD 18 Outlet repair / Hay Creek	\$22,199.00
TruNorth Steel -- WD 3 flap gates	\$355.89
Davidson Construction -- debris removal at Mickelson	\$3,125.00
Environmental Systems Research Institute, Inc. -- ArcGIS annual maintenance	\$2,047.77
Quality Printing -- envelopes	\$256.50
Houston Engineering -- River Restoration through May 22 & June 19 (2 invoices)	\$26,445.25
Brady Martz -- 2020 audit	\$7,500.00
HDR -- Whitney Lake invoices 1200351560 & 1200351558	\$22,277.39
HDR -- CD 16 Improvement invoice 1200351653 & Roseau Lake invoice 1200350822	\$72,565.44
Total:	\$258,094.56

RESOLUTION CLOSING BOARD MEETING

WHEREAS, the Minnesota Open Meeting Law, Minn. Stat. § 13D.05, subd. 3(b) states that “meetings may be closed if the closure is expressly authorized by statute or permitted by the attorney-client privilege;” and

WHEREAS, a copy of a “Judicial Appeal of Order for Improvement of ‘Ditch 16’ dated August 5, 2020” (“Appeal”) was delivered to the Administrator of the Roseau River Watershed District (“RRWD”) on May 14, 2021;

WHEREAS, the Appellant, Burl Peckman individually and in his capacity of Trustee of the Burl W. Peckman Living Trust, seeks a declaratory judgment against the RRWD declaring that, among other things, that the RRWD has exceeded its authority and lacks jurisdiction, said Appeal further requests an injunction from awarding bids, a restraining order and a trial on costs and benefits, if applicable;

WHEREAS, the RRWD seeks to meet with its attorney, to discuss the threatened litigation; and

WHEREAS, it would be detrimental to the interests of the Board of Managers of the RRWD to hold a public discussion with its attorney regarding the strengths and weaknesses of its legal position(s), strategy, and potential settlement position where an opposing party or opposing attorney could listen to or be made aware of the RRWD’s positions; and

WHEREAS, there is an absolute need for the RRWD Board of Managers to obtain confidential legal advice regarding the threatened litigation and potential settlement in order to maintain the attorney-client privilege.

BE IT RESOLVED by the Board of Managers of the Roseau River Watershed District as follows:

1. The Roseau River Watershed District Board of Managers hereby closes this meeting based upon the attorney-client privilege pursuant to Minn. Stat. § 13D.05, subd. 3(b);

2. The specific subjects to be discussed, pursuant to Minn. Stat. § 13D.01, subd. 3, are the legal strategy in responding to the threatened litigation (Appeal) against the RRWD and potential settlement position.

Dated this 7th day of July, 2021.



Chairman



Secretary

**ROSEAU RIVER WATERSHED DISTRICT
ROSEAU, MINNESOTA, BY ITS BOARD
OF MANAGERS**

**RE: ESTABLISHMENT OF
THE ROSEAU RIVER
WATERSHED DISTRICT
WHITNEY LAKE RETENTION
SITE A PROJECT**

A public hearing/final hearing was held on, June 9, 2021, at 8:00 o'clock A.M. at the Roseau City Center located at 121 Center Street East, Roseau, Minnesota 56751, with respect to the above described project. At the hearing the Board of Managers heard all persons present interested in the proposed project. Following the public hearing/final hearing the Board of Managers made the following Findings of Fact.

FINDINGS OF FACT

After conclusion of the above described project hearing, held on June 9, 2021 at 8:00 o'clock A.M. the Board of Managers made the following Findings of Fact:

The Roseau River Watershed District has submitted a copy of the project plan to each of the Minnesota Board of Water and Soil Resources and the Director of Division of Waters of the Minnesota Department of Natural Resources, each of whom have reviewed the same and responded with a favorable report to the Roseau River Watershed District. Said reports have been reviewed by the Board of Managers of the Roseau River Watershed District. That public notice necessary under Minnesota law to validate the establishment of this project has been given. (A copy of said notice is appended hereto as Exhibit "A".)

That the proposed project above described will be conducive to public health, promote the general welfare, and is in compliance with the Roseau River Watershed District Management Plan and with the provisions of Chapters 103D of Minnesota Statutes.

That the estimated cost of the Whitney Lake Retention Site A is \$6,000,000.

The method by which the cost of the project is to be paid is as follows:

- (1) Seventy-five percent (75%) of said cost is proposed by the RRWD to be paid by the State of Minnesota.
- (2) Twenty-five percent (25%) of said costs is proposed by the RRWD to be paid by the Roseau River Watershed District and the Red River Watershed Management Board.
- (3) Federal funding may also be obtained through the Natural Resource Conservation District's Regional Conservation Partnership Program.

ORDER ESTABLISHING PROJECT

Upon motion duly made, seconded, and unanimously carried, the Board of Managers of the Roseau River Watershed District hereby orders the establishment of the Roseau River Watershed District Whitney Lake Retention Site A Project and further orders the project to proceed. This Order includes the Board of Managers above described Findings of Fact.

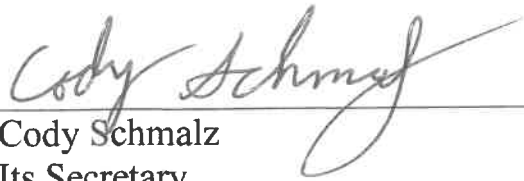
Dated this 7th day of July, 2021.

ROSEAU RIVER WATERSHED DISTRICT



Carter Diesen
Its Chairman

Attest:



Cody Schmalz
Its Secretary

**ROSEAU RIVER WATERSHED DISTRICT
ROSEAU, MINNESOTA, BY ITS BOARD
OF MANAGERS**

**RE: ESTABLISHMENT OF
THE ROSEAU RIVER
WATERSHED DISTRICT
WHITNEY LAKE RETENTION
SITE C PROJECT**

A public hearing/final hearing was held on, June 9, 2021, at 8:00 o'clock A.M. at the Roseau City Center located at 121 Center Street East, Roseau, Minnesota 56751, with respect to the above described project. At the hearing the Board of Managers heard all persons present interested in the proposed project. Following the public hearing/final hearing the Board of Managers made the following Findings of Fact.

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That the proposed project above described will be conducive to public health, promote the general welfare, and is in compliance with the Roseau River Watershed District Management Plan and with the provisions of Chapters 103D of Minnesota Statutes.

That the estimated cost of the Whitney Lake Retention Site C is \$2,000,000.

The method by which the cost of the project is to be paid is as follows:

- (1) Seventy-five percent (75%) of said cost is proposed by the RRWD to be paid by the State of Minnesota.
- (2) Twenty-five percent (25%) of said costs is proposed by the RRWD to be paid by the Roseau River Watershed District and the Red River Watershed Management Board.
- (3) Federal funding may also be obtained through the Natural Resource Conservation District's Regional Conservation Partnership Program.

ORDER ESTABLISHING PROJECT


Upon motion duly made, seconded, and unanimously carried, the Board of Managers of the Roseau River Watershed District hereby orders the establishment of the Roseau River Watershed District Whitney Lake Retention Site C Project and further orders the project to proceed. This Order includes the Board of Managers above described Findings of Fact.

Dated this 7th day of July, 2021.

ROSEAU RIVER WATERSHED DISTRICT


Carter Diesen
Its Chairman

Attest:


Cody Senmalz
Its Secretary

RESOLUTION CLOSING BOARD MEETING

WHEREAS, the Minnesota Open Meeting Law, Minn. Stat. § 13D.05, subd. 3(c) (3) states that:

“A public body may close a meeting:

To develop or consider offers or counteroffers for the purchase or sale of real or personal property.

Before holding a closed meeting under this paragraph, the public body must identify on the record the particular real or personal property that is the subject of the closed meeting. The proceedings of a meeting closed under this paragraph must be tape recorded at the expense of the public body. The recording must be preserved for eight years after the date of the meeting and made available to the public after all real or personal property discussed at the meeting has been purchased or sold or the governing body has abandoned the purchase or sale. The real or personal property that is the subject of the closed meeting must be specifically identified on the tape. A list of members and all other persons present at the closed meeting must be made available to the public after the closed meeting. If an action is brought claiming that public business other than discussions allowed under this paragraph was transacted at a closed meeting held under this paragraph during the time when the tape is not available to the public, Section 13D.03, subdivision 3, applies.

An agreement reached that is based on an offer considered at a closed meeting is contingent on approval of the public body at an open meeting. The actual purchase or sale must be approved at an open meeting after the notice period required by statute or the governing body’s internal procedures, and the purchase price or sale price is public data.”

WHEREAS, the Roseau River Watershed District will be developing or considering offers or counteroffers for the purchase of the following described real property:

Site C - Lands under consideration include portions of Section 11, Ross Township (T162N, R41W), Roseau County (see attached map).

Roseau Lake - Lands under consideration include portions of Sections 7-8, 12-14, 23-24 and 26, Dieter Township (T163N, R41W), Roseau County and Sections 20-22 and 28-29, Unorganized Township (T163N, R40W), Roseau County (see attached map).

On July 7, 2021, during the regular board meeting commencing at 8:00 a.m., at the Roseau River Watershed District Board office located at 714 6th Street SW, Roseau, Minnesota, 56751; and

BE IT RESOLVED by the Roseau River Watershed District Board as follows:

1. The Roseau River Watershed District Board hereby closes this meeting pursuant to Minn. Stat. § 13D.05, subd. 3(c)(3) to develop or consider offers or counteroffers for purchase of the above described real property;
2. That any agreement reached based upon an offer considered at this meeting shall be contingent upon approval of the Roseau River Watershed District Board at an open meeting and the actual purchase or sale must be approved at an open meeting after the notice period required by statute or the Roseau River Watershed District Board's internal procedures and the purchase price or sale price as public data.

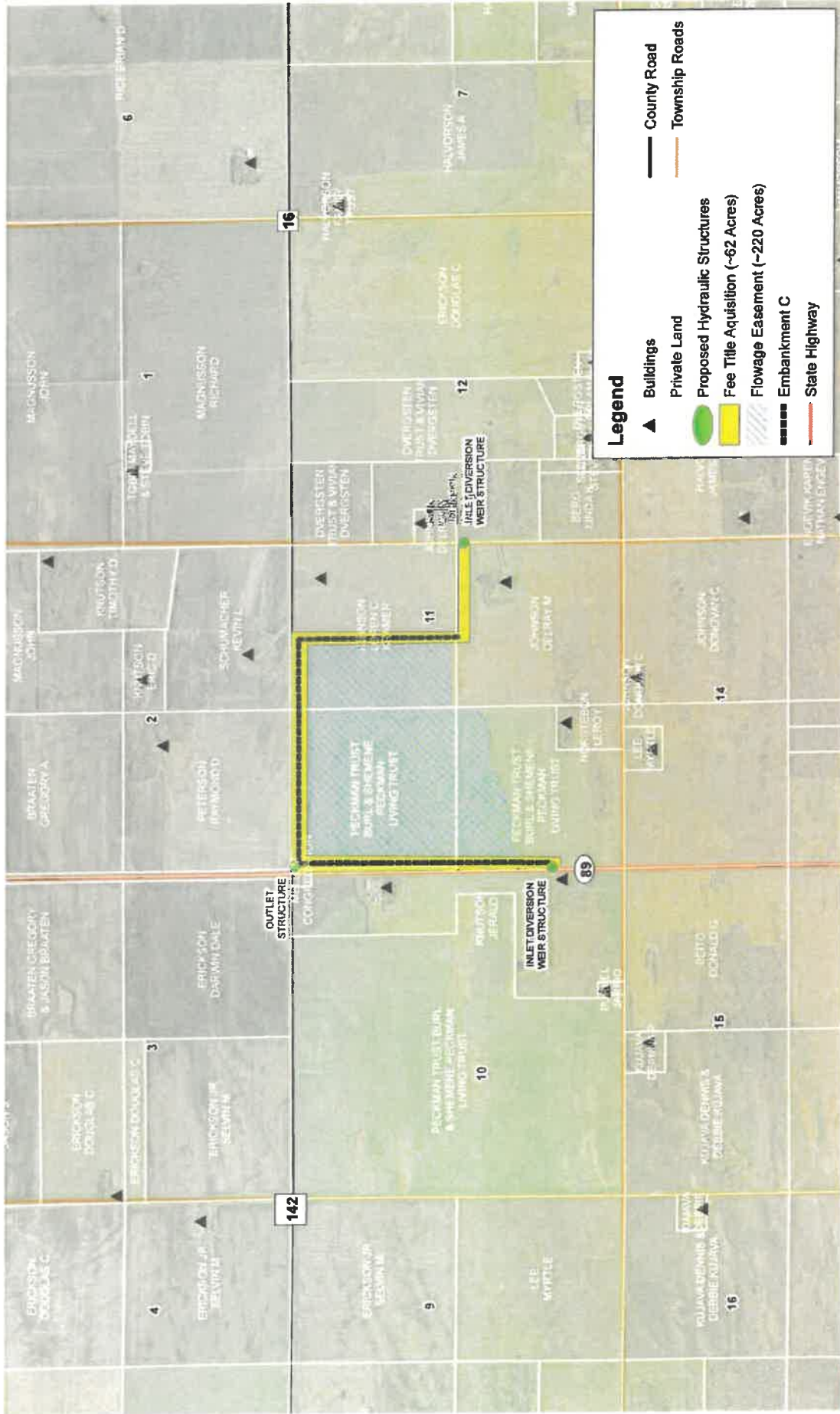
Dated this 7th day of July, 2021.



Chairman



Secretary



FEE TITLE AND FLOWAGE EASEMENT ACQUISITION



NOT TO SCALE. THIS MAP IS FOR INFORMATIONAL PURPOSES ONLY. THE INFORMATION ON THIS MAP IS NOT TO BE USED FOR ANY OTHER PURPOSES.