



REBECCA OTTO  
STATE AUDITOR

## STATE OF MINNESOTA OFFICE OF THE STATE AUDITOR

SUITE 500  
525 PARK STREET  
SAINT PAUL, MN 55103-2139

(651) 296-2551 (Voice)  
(651) 296-4755 (Fax)  
[state.auditor@state.mn.us](mailto:state.auditor@state.mn.us) (E-mail)  
1-800-627-3529 (Relay Service)

April 23, 2009

Mr. Steven Dalen, Administrator  
Wild Rice Watershed District  
11 Fifth Avenue East  
Ada, Minnesota 56510

Dear Mr. Dalen:

The Office of the State Auditor has received a number of concerns regarding the Wild Rice Watershed District ("Watershed District"). In this letter, we want to clarify the status of the Watershed District's request for an audit by the Office of the State Auditor and to address the concerns we have received.

### **Request for Watershed District Audit by the Office of the State Auditor**

The Watershed District is audited each year by a private auditing firm. However, in a letter dated May 28, 2008, you notified the Office of the State Auditor that the Watershed District was interested in having the Office of the State Auditor perform an audit of the Watershed District. The correspondence stated that the Watershed District Board of Managers made a "motion" at its May 2008 regular meeting "to request a state audit be performed on the district's financial activity." The correspondence also mentioned that the Board of Managers was aware of the cost of the audit request.

On August 11, 2008, this Office spoke directly with you about the Watershed District's audit request. During that conversation, we explained that Minnesota statutes require a local government to submit a formal resolution requesting an audit by our Office and a certified request form.<sup>1</sup> As we noted in a follow-up email to you on August 11, 2008, instructions about the process and a sample request form are available on our website at: <http://www.auditor.state.mn.us/default.aspx?page=20040809.001>.

As of the date of this letter, we have not received the documents required to initiate an audit of the Watershed District by the Office of the State Auditor.

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<sup>1</sup> See Minn. Stat. § 6.55.

## **Matters in Litigation**

We received allegations that the Watershed District violated the Minnesota Open Meeting Law. The Office of the State Auditor does not review Open Meeting Law matters. Rather, the Information Policy Analysis Division of the Minnesota Department of Administration has the authority to issue advisory opinions on that topic.<sup>2</sup>

The Office of the State Auditor also does not review matters that are the subject of current litigation. Therefore, this Office will not review concerns about whether the Watershed District approved certain land acquisitions in advance of the purchases, whether the transactions were subsequently ratified, or whether there was an Open Meeting Law violation during the land acquisitions.<sup>3</sup>

## **Watershed District Meeting Minutes**

We received concerns about the completeness and accuracy of the Watershed District's meeting minutes. For example, concerns were raised that resolutions adopted for Minnesota Department of Natural Resources ("DNR") grants were not reflected in the Watershed District's meeting minutes.<sup>4</sup>

We recommend that the Watershed District take care to distinguish between "motions" and "resolutions" in its meeting minutes. We also recommend that the Watershed District pass a "resolution" for all grants requiring a resolution by the governing body to be submitted with the grant request. All resolutions should be memorialized in the meeting minutes.

Similarly, concerns were raised that the minutes did not reflect the approval of expenditures in 2008 from the 96 FEMA Fund or the transfer of monies among funds.

The Watershed District pools its cash.<sup>5</sup> This means that all monies coming into the Watershed District are generally deposited into one account and all disbursements are made from that one account. This is not unusual and is generally recommended. Having all monies maintained in one account maximizes interest earnings and decreases

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<sup>2</sup> Information on how a governing body or any individual may obtain an advisory opinion is found on the Information Policy Analysis Division's website at:  
<http://www.ipad.state.mn.us/opinions/index.html>.

<sup>3</sup> See *Marijo Vik v. Wild Rice Watershed District, Steve Dalen, and Warren J. Seykora*, Norman County District Court File No. 54-CV-08-454.

<sup>4</sup> See, e.g., DNR Contract # B03513, Attachment 3 (referencing Resolution adopted on May 9, 2007). The May 9, 2007, meeting minutes reflect that a "motion" was passed (Item 8). See, e.g., DNR Contract # A94301, Exhibit B (referencing Resolution adopted on September 14, 2005). The September 14, 2005, meeting minutes reference a "motion" to request funding (Item 9). Authorization to execute the DNR grant agreement appears in the September 13, 2006, meeting minutes (Item 14).

<sup>5</sup> See *Watershed District Financial Statements (December 31, 2007)*, page 11, note 1.H.

administrative time to reconcile more than one account. The Watershed District has a book of accounts consisting of various accounting funds where its financial transactions are recorded. The Watershed District's accounting funds consist of the general fund, a capital project fund, and a special fund.<sup>6</sup> Receipts and disbursements are recorded in the Watershed District's books in the applicable funds and accounts.

In response to the concerns about the 2008 expenditures from the 96 FEMA fund, we contacted the Watershed District and learned that the remaining 96 FEMA funds were used to help purchase a computer server. The purchase was approved at the Watershed District's January 9, 2008, meeting (Item 9), and the billing from Minkota Technologies, Inc., for the server installation was approved at the March 11, 2008, meeting.<sup>7</sup>

To increase transparency, we recommend that the transfer of monies among funds be approved by the Watershed District Board and reflected in the meeting minutes. Similarly, identifying in the meeting minutes the source of funds for purchases above a certain dollar amount would also increase transparency.<sup>8</sup>

We understand that the Watershed District's meetings are now being recorded, which should minimize disputes regarding what actions were taken at the meetings. To assist the Watershed District with the drafting of meeting minutes in the future, we have enclosed a copy of our Statement of Position on Meeting Minutes.<sup>9</sup>

### **Receipts for Credit Card Purchases**

We received concerns that the Watershed District was not maintaining proper receipts for purchases made with the Watershed District's credit card. We noted that the Watershed District's Financial Statements for the year ended December 31, 2007, recommended that the Watershed District should adopt a credit card use policy and maintain supporting documentation for all purchases made with the credit card. We agree with that recommendation. A copy of our Statement of Position on Credit Card Use and Policies is enclosed.

### **Petty Cash Policies**

We received concerns that the Watershed District was not maintaining proper receipts for purchases made from the Watershed District's petty cash fund. We recommend that the Watershed District adopt a petty cash policy and maintain supporting documentation for

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<sup>6</sup> *Id.*, pages 5, 6 and 9, note 1.B. The FEMA funds, for example, are part of the capital project fund.

<sup>7</sup> Each year the expenditures from the 96 FEMA fund are reflected in the Watershed District's audit. The audit for the year ending December 31, 2008, has not yet been completed.

<sup>8</sup> The information could also be provided at each meeting in the claims list or the financial report.

<sup>9</sup> The Statements of Position are also available on our website: <http://www.auditor.state.mn.us>.

all purchases made from the petty cash fund. A copy of our Statement of Position on Petty Cash (Imprest) Funds is enclosed.

### **Per Diem Payments**

We received concerns that Watershed District Chair Warren Seykora received per diem payments from both the Watershed District and from the Minnesota Association of Watershed Districts for conferences he attended on February 21 – 22, 2006, and on March 13 – 14, 2007. We also received concerns that Chair Seykora received two \$75 per diem payments from the Watershed District for March 15, 2006, and for March 14, 2007.

Minnesota law provides that a watershed district manager's compensation for meetings and the "performance of other necessary duties" must not exceed \$75 per day.<sup>10</sup> It is less clear whether a watershed district manager may also receive per diem payments from another entity for attendance at a function for which the watershed district paid a per diem. This issue is further complicated where the manager holds a leadership position with the second entity.

We recommend that the Watershed District adopt a policy on per diem payments clarifying what meetings and duties are "necessary" for the watershed district managers. We recommend that the Watershed District seek reimbursement if it paid more than \$75 per day in per diems to a Watershed District manager. We also recommend that the policy prohibit per diem payments for meetings unless authorization for attendance at the meeting and a subsequent report on the meeting are contained in the Watershed District's meeting minutes. We recommend that the policy prohibit the managers from receiving separate per diem payments from two separate watershed-related entities for work conducted on the same day or for the same meeting. A copy of our Statement of Position on County Commissioner Per Diem Payments is enclosed for guidance.

### **Loan from Red River Watershed Management Board**

We received concerns that the Watershed District received a loan from the Red River Watershed Management Board ("RRWMB") that exceeded the loan limit found in Minn. Stat. § 103D.335, subd. 17. The statute provides:

The managers may borrow funds from an agency of the federal government, a state agency, a county where the watershed district is located in whole or in part, or a financial institution authorized under chapter 47 to do business

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<sup>10</sup> See Minn. Stat. § 103D.315, subd. 8. The subdivision provides: "The compensation of managers for meetings and for performance of other necessary duties may not exceed \$75 a day. Managers are entitled to reimbursement for traveling and other necessary expenses incurred in the performance of official duties."

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in this state. A county board may lend the amount requested by a watershed district. A watershed district may not have more than a total of \$600,000 in loans from counties and financial institutions under this subdivision outstanding at any time.<sup>11</sup>

In our view, the statutory limit does not apply to loans from the RRWMB because the RRWMB is not a county or financial institution.

### **Vehicle Use Policy**

Finally, we received concerns that the Watershed District was not maintaining a vehicle mileage log for a vehicle owned by the Watershed District. We noted in the Watershed District's December 10, 2008, meeting minutes that the Watershed District's auditor suggested that a vehicle policy be implemented. We agree with that recommendation.

### **Conclusion**

The Office of the State Auditor appreciates the difficult work performed by the Watershed District. By its nature, the Watershed District's work can be controversial. We also appreciate the interest that members of the public have taken in the operation of the Watershed District.

We understand the Watershed District is receiving assistance in developing a vehicle use policy and a credit card policy. We hope the recommendations contained in this letter will help the Watershed District to further improve its operations.

The Office of the State Auditor has closed its files on these matters. If you have any questions about any of the matters discussed in this letter, please feel free to contact me at (651) 297-5853.

Sincerely,

*/s/ Nancy J. Bode*

Nancy J. Bode  
Assistant Legal Counsel  
Office of the State Auditor

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<sup>11</sup> In 2008, the loan amount was raised from \$200,000 to \$600,000.

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cc: Warren Seykora, Wild Rice Watershed District Manager, Chair  
Mike Christensen, Wild Rice Watershed District Manager  
Greg Holmvik, Wild Rice Watershed District Manager  
Diane Ista, Wild Rice Watershed District Manager  
Joe Spaeth, Wild Rice Watershed District Manager  
Dave Vipond, Wild Rice Watershed District Manager  
Bob Wright, Wild Rice Watershed District Manager  
Elroy Hanson, Attorney for Wild Rice Watershed District  
Douglas Marcussen, Accountant for Wild Rice Watershed District  
Drees, Risky & Vallager, Ltd., Auditors for Wild Rice Watershed District

Enclosures