

**ORDER ESTABLISHING DEVILS AND LITTLE DEVILS LAKES
IMPROVEMENT DISTRICT**

The matter of establishing a Lake Improvement District came before the Otter Tail County Board of Commissions on the 4th day of October, 2011, upon a Resolution of the County Board #2011-42, and following a public hearing held at the Perham City Hall in Perham, Minnesota, on September 19, 2011. The Board, having considered the request for a Lake Improvement District, written comments provided, and the comments made at the public hearing, and being fully advised in the premises, makes the following Findings and Order:

FINDINGS

I.

The County Board adopted a Resolution of Intent to establish a Lake Improvement District, Devils and Little Devils Lakes, #2011-42, adopted August 9, 2011.

II.

Notice of the public hearing was published in the Fergus Falls Daily Journal on August 21 and August 22, 2011; and also published in the East Otter Tail Focus.

III.

All owners of property on Devils Lake and Little Devils Lake, including corporations and utilities, were given notice of the Resolution and the public hearing by mail, on August 11, 2011, as were the Townships of Edna, Hobart, Gorman and Perham, the East Otter Tail Soil and Water Conservation District, the Little McDonald Kerbs Paul Lakes Improvement District, the Minnesota Pollution Control Agency and the Department of Natural Resources.

IV.

The Department of Natural Resources and the Pollution Control Agency of the State of Minnesota were notified of the proposed Lake Improvement District, and the Department of Natural Resources provided its Advisory Report, dated September 15, 2011, which report was read into the record at the public hearing held September 21, 2011.

V.

The purpose and objective of the Lake Improvement District is to provide a means by which the property owners can meet and deal with specific needs relating to water quality and water management.

VI.

That the immediate problem facing Devils Lake and Little Devils Lake is high water. With the lakes overflowing their banks, and flooding residences such that they can't be occupied.

VII.

That all of the property included in the district will benefit by the establishment of the district. Agricultural lands are being excluded because they are not likely to benefit from the projects of the district.

VIII.

The formation of the district will not cause or contribute to the long range environmental pollution, but will provide an opportunity to address environmental concerns and limit pollution.

IX.

The establishment of the Lake Improvement District is appropriate and will promote the public welfare and will preserve, protect and improve the quality of the lakes.

X.

Lake Improvement Districts are authorized by Minnesota Stats. 103B.501 – 103B.581.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The name of the proposed Lake Improvement District shall be:

Devils and Little Devils Lakes Improvement District

2. The boundaries of the proposed lake improvement district shall include parcels that have lake frontage on Devils Lake and Little Devils Lake Otter Tail County, but shall exclude agricultural land.

As the use of agricultural lands within the 1,000 foot boundary of the district changes to non-agricultural use, the district shall, by confirming the change of use to the County Auditor and Assessor, and by notifying the owner of the property and the Administrator of the Otter Tail County Department of Land and Resource Management, include those formerly agricultural lands in the district.

3. The water and related land resource management programs to be undertaken by the district may include:

- a. Develop and implement a comprehensive plan to eliminate water pollution;
 - b. Receive financial assistance from and participate in projects or enter into contracts with federal and state agencies for the study and treatment of pollution problems and related demonstration programs;
 - c. Undertake research to determine the condition and development of the body of water included within the lake improvement district to transmit the studies of the Department of Natural Resources, the Minnesota Pollution Control Agency and other interested authorities;
 - d. Make cooperative agreements with the United States or state government or other county or city to effectuate water and related land resource programs;
 - e. Conduct programs of water improvement and conservation;
 - f. Implement a water monitoring system;
 - g. Serve as local sponsor for state and federal projects or grants;
 - h. Regulate water surface as deemed necessary and reasonable; or
 - i. Such other programs, plans, studies, developments or implementations as are allowed or permitted by law, and approved by the County Board from time to time.
4. The Otter Tail County Board delegates to the lake improvement district pursuant to Minnesota Statute §103B.551, Subd. 3, authority to:
- a. Acquire by gift or purchase, equipment, structures or control works that affects the level of waters in the district.
 - b. Construct and operate water control structures, equipment or control works that are approved by the commissioner of natural resources under section 103G.245
 - c. Undertake projects to change the course current or cross section of public waters that are approved by the commissioner of natural resources under section 103G.245.
 - d. Acquire property, equipment or other facilities, by gift or purchase to improve navigation.

- e. Contract with a board of managers of a watershed district within the lake improvement district or the board of supervisors of a soil and water conservation district within the district for improvements under chapters 103C and 103D.
 - f. Undertake research to determine the condition and development of the body of water and the water entering it and to transmit the results of the studies to the pollution control agency and other interested authorities.
 - g. Develop and implement a comprehensive plan to eliminate water pollution.
 - h. Conduct a program of water improvement and conservation.
 - i. Construct a water, sewer, or water and sewer system in the manner provided by section 444.075 or other applicable laws.
 - j. Receive financial assistance from and participate in projects or enter into contracts with federal and state agencies for the study and treatment of pollution problems and related demonstration programs.
 - k. Make cooperative agreements with the United States or state government or other counties or cities to effectuate water and related land resource programs.
 - l. Maintain public beaches, public docks and other public facilities for access to the body of water.
 - m. Provide and finance a government service of the county or statutory or home rule city that is not provided throughout the county or, if the government service is provided, the service is at an increased level within the district
 - n. Regulate water surface use as provided in sections 86B.205, 103G.605 and 103G.621.
5. Funding for the lake improvement district shall be:
- a. Start-up funds will be provided from the Devils Lake Association.
 - b. Lake improvement district activities may be funded by the levying of an ad valorem tax solely on property within the district. No establishment or increase in the ad valorem property tax will be allowed if it affects the county levy subject to state-imposed levy limits.
 - c. Lake improvement district activities may also be funded by assessment of costs of projects upon the benefitted property within the district in the manner provided under Minnesota Statutes Chapter 429.

- d. Lake improvement district activities may also be funded by imposition of service charges on users of the lake improvement district services within the district (Minnesota Statute §428A.05).
- e. The Lake Improvement District may also finance projects and services of the district by issuing obligations as provided in Minnesota Statute §429.091.
6. The Administrator of the Otter Tail County Department of Land and Resource Management shall be responsible for supervising the programs of the district.
7. The Board of Directors of the Lake Improvement District shall consist of five members. The Board members must own property within the Lake Improvement District, and a majority of the Directors must be residents of the District. The initial Directors will be appointed to alternating terms of one, two and three-year terms. No Director may serve more than two successive complete terms. Directors may be removed by a two-thirds vote of the remaining Board members, or by a majority of the property owners present at an annual meeting. Vacancies in the Board of Directors may be filled by a majority vote of the remaining Directors, subject to approval of a majority vote of the property owners present at the next annual meeting. A Director elected to fill a vacancy shall serve the unexpired term. Representation on the Board shall include at least two members from the west side of Devils Lake and two Members from the East side of Devils Lake. Property owners not present at the annual meeting may participate in the election of the District Board by absentee ballot.
8. This Order shall be published in the official newspaper of the County, and the effective date of the establishment of the Lake Improvement District shall be 30 days after publication.
9. A copy of the Order shall be filed with the Secretary of State, the Pollution Control Agency and the Commissioner of Natural Resources.

Dated: 10/04/2011

OTTER TAIL COUNTY

By John Lindquist
John Lindquist, Chair
Board of Commissioners

ATTEST:

Larry Krohn
Larry Krohn, Clerk