

**Minutes of the Regular Meeting of the Board of Managers
Of the Two Rivers Watershed District
Held: August 2, 2017 @ 8:00 a.m.**

The Board of Managers of the Two River Watershed District held their regular meeting beginning at 8:00 a.m. on Wednesday, August 2, 2017 at the District Office located in the Kittson County Courthouse in Hallock, Minnesota.

Managers present included President Darrel Johnson, Vice President Allen Brazier, Secretary Daryl Klegstad, Treasurer Paul Olsonawski, Roger Anderson, Jim Kukowski, & Gary Johnson. None were absent.

Others present included District Administrator Dan Money, Head Technician Matt Thompson, Attorney Jeff Hane, Engineer Blake Carlson, Engineer Nate Dalager, Kittson Co. Engineer Kelly Bengtson, Kittson Co. Commissioner Theresa Gillie and Richardville Township official Bruce Nielson.

The meeting was called to order by President D. Johnson. Johnson called for any additions or corrections to the proposed meeting agenda and also the meeting minutes from June 28, 2017. Today's meeting agenda and the minutes of the June 28, 2017 regular meeting were approved upon a **motion** by Brazier, **second** by Anderson, and **unanimous vote** of the Managers.

Treasurer's Report:

Money presented the treasurer's report including the fund balances, accounts listing, and deposit detail. It was noted that checks written for the month include check numbers 8212 through 8241 and electronic funds transfers to PERA, MN Dept. of Revenue, and Electronic Federal Tax Payment System, as reported and contained within the report.

The treasurer's report was then approved upon a **motion** by Kukowski, a **second** by Brazier, and a **unanimous vote** by the Board.

Administrator's Report:

District Administrator Money gave a report on the following and distributed a handout:

Legal Ditch Report:

Program Report:

Annual Report: The 2016 Annual report has been completed and was handed out. The report was approved upon a **motion** by Kukowski, **second** by Olsonawski, and **unanimous vote**. The report will be distributed to county commissioners, DNR, BWSR, and others interested.

Buffer Law 103F.48: The TRWD has assumed jurisdiction on legal ditches for which it is the ditch authority. The next step is to decide the method of enforcement, either through a rules revision or adoption of an administrative penalty order. In addition, a model memorandum of understanding was reviewed which would clarify the duties and authorities of the SWCD's and the TRWD.

A **motion** was made by Brazier to move forward with a Rules revision, and to enter into a memorandum of understanding. The **motion died for lack of a second**. The Board of Managers tabled the matter and will take it up again at their November 1, 2017 regular meeting. Administrator Money was directed to send an information letter to landowners adjacent to all WD ditches.

Budget Hearing: The 2018 budget hearing was set for 8:30 a.m. on Wednesday, September 6, 2017. Money was directed to prepare a proposed budget and advertise the meeting notice as required by law.

MN Dept. Ag Nitrate Rules: The MN Department of Agriculture is proposing rules governing the use of nitrogen fertilizer. The purpose is to prevent contamination of groundwater drinking water supplies. Comments are being taken until August 25th. Money was directed by the Board of Managers to review local public and private well data and make pertinent comments from the Watershed District.

Regional Meetings: Governor Dayton will be holding a water quality meeting in Crookston on September 5, 2017 to discuss his “25% reduction by 2025” initiative. Also, the MN BWSR will hold regional meetings across the state to discuss water related programs. The Managers were encouraged to attend if possible.

RRWMB: A report was given regarding Red River Watershed Management Board activities. The RRWMB set its 2018 levy at the maximum, and approved a budget for 2018. The RRWMB will be posting a job announcement seeking an executive director to replace Ron Harnack.

Project Report:

Klondike Clean Water Retention Prj. #11:

Braun Intertec – A letter was received regarding a bill from Braun Intertec that has been disputed by the TRWD. A meeting will be set up with Braun to discuss.

PL 566 - The District has completed review point 2 with the NRCS, and continues to work on review point 3.

Fen Team - The next meeting is scheduled for Monday August 14th to continue writing the fen plan, which was required by legislation in 2016. Both surface water and ground water monitoring is being done, and a land exchange plan will be written and submitted to the DNR.

Timeline / Schedule - The Engineer’s report has been completed and accepted, and comments are pending from the DNR and the BWSR. The next steps under MN Statute are to hold a public hearing to gather comments. Money recommended that a Big Swamp Project Work Team meeting be held prior to the hearing in order to present the Engineer’s report and discuss the project. Upon a **motion** by Olsonawski, **second** by G. Johnson, and **unanimous vote**, the public hearing was set for November 1 at 1:00 pm in the District office. Money was directed to post notice of the hearing as required by law.

Funding - An application to the RRWMB for step 2 funding is due on or before October 17, 2017. N. Dalager and D. Money will prepare the necessary application materials and make application on or before the deadline.

The District has been notified by DNR that no FDR grant funds will be awarded to the project this year, as funding requests far outweighed the amount of funds that were made available by the legislature.

Engineering - N. Dalager commented that both the BWSR and DNR comments have been received as of this morning. The BWSR comments do not raise any significant questions, but the DNR comments are in Dalager’s opinion overreaching and beyond what the statute intends. These problematic comments will need to be looked at and responded to.

Polonia Clean Water Retention Prj. #12: The NRCS has recently contacted the District and are beginning to work on the final engineering plan for the project. They have asked TRWD project engineer B. Carlson for details regarding the outlet structures, and Carlson has provided the requested information. It appears that NRCS may invite bids in 2018 to possibly

begin construction, however there has not been any project schedule or timeline proposed at this point. NRCS will let us know when they have plans ready.

Attorney's Report:

Attorney Jeff Hane of Brink, Sobolik, Severson, Malm, & Albright, P.A., gave an Attorney's report regarding the following items:

KCD #21 Improvement: Discussion was held regarding right of way that is existing and what is needed. The project will need to purchase ditch right of way wide enough to accommodate construction and establishment of a grass buffer strip. Discussion was held whether the ditch could use existing road right of way, to which Hane indicated it could not because the road right of way is for a different purpose than the ditch right of way.

Permit enforcement – a restoration order was discussed regarding a violation of the District's Rules. Specific items will be designed by B. Carlson and D. Money will send the violator a letter regarding. A permit fee will be due and if it is paid and mitigation measures installed, a permit will be sent to the individual. A deadline of August 30th will be adhered to, and if the matter is not resolved the TRWD will pursue legal action.

Buffer Law - Hane discussed the enforcement aspect of the buffer law, and now that the TRWD has elected to do the enforcement, they must choose how they will enforce. This can be done either through the establishment of an Administrative Penalty Order or by modifying the *Rules of the Two Rivers Watershed District* to incorporate the buffer law. Hane and Money recommended doing this through the District's Rules rather than by APO. The matter will be taken up at the November regular board meeting.

Appeal Hearing: The regular meeting was temporarily closed and a public hearing was called to order by D. Johnson at 11:00 a.m. to hear the appeal of Richardville Township regarding permit number 1485, which was issued to the Kittson County Highway Department.

- Attorney Jeff Hane gave an introduction into the hearing process, purpose, and explained how testimony will be taken.
- Administrator Money presented information regarding the permit and that it allows one 36" culvert and one 60" culvert to be removed and be replaced by three 65" span reinforced concrete pipes center line through County Road #56.
- Engineer Carlson presented information on culvert sizing, information that was considered in making the permit decision, and reasons for allowing the culverts. He stated that although allowing increased culvert sizes will allow for an increase in the peak flows, his professional judgement is that water elevations will likely only be less than 1" higher at the next downstream crossing, and less further downstream. This does not represent a significant effect to downstream locations, and therefore the permit was granted.
- Bruce Neilson, representing Richardville Township, stated their concern with the increase in culvert sizes. He stated for a 50 year design level the flow would be 311 cubic feet per second, however the permit allows for 390 cfs. He stated the next 5 crossings downstream are township roads, and they all have smaller capacities than the 390 cfs. He asked for further explanation of the why the larger culverts were allowed
 - Carlson replied by explaining the District's culvert sizing policy, reiterating the minimal (less than 1" increase) downstream impact, and explaining the factors considered in making the decision on the permit.
 - Neilson questioned if there is adequate storage capacity between CR 56 and the next township road, and whether it was calculated. Carlson responded he felt there was adequate storage for a 1" increase, but that he had not calculated it. Neilson would like to see the culverts sized at the 311 cfs capacity.

- Kittson County Highway Engineer Kelly Bengtson stated he looked at many factors in designing the culverts, including the upstream drainage area to the outlet at the North Branch Two Rivers. He used conservative numbers to get state aid funding and also stated the overtopping elevation was calculated at 370 cfs. He also stated he had done some computations on the downstream culverts and found some deficiencies that could be improved upon.
- Neilson questioned several factors, including channel capacities.
- Manager Kukowski asked that deliberations cease the Board hold a closed session to make their decision. Attorney Hane advised against citing the open meeting law.
- A **motion** was made by Kukowski and **seconded** by Brazier to approve the permit and deny Richardville Township's request to overturn the decision.
- The board discussed the motion, and the following points were provided in support of the motion;
 - Based on the consulting engineer's best professional judgement, there will be less than 1" higher water elevations in downstream areas, which is considered insignificant.
 - Although appellant stated that downstream roads would be at risk no information showing overtopping frequency or duration to support the claim was provided.
- Bengtson stated the KCHD could address some of the concern by adding about 6" of gravel to the road, which would reduce the overtopping.
- Neilson asked for a written finding in the motion that there will be no substantial downstream impact. He also stated that notice was not given to the township nor to downstream affected landowners regarding this permit.

Manager Brazier left the meeting at 11:45 a.m.

- A **vote** was held on the motion to approve the permit, and it was **passed upon a 6-0 vote** of the Managers

Manager Kukowski left the meeting at 11:58 a.m.

Permits:

Board reviewed the following permits that have been acted upon by the permit committee. Conditions, if any, are listed on the permit sent to the individual.

| <i>App. #</i> | <i>Applicant</i> | <i>Location</i> | <i>Purpose</i> | <i>Action</i> |
|---------------|--|-----------------|------------------------------------|---------------|
| 2017-26 | Kurt Aakre Applicant requested to provide further information | Springbrook 2 | Tile | Tabled |
| 2017-27 | Adam Aakre | Springbrook 11 | Tile | Approved |
| 2017-28 | Lloyd Johnson Farms | Springbrook 27 | Tile | Approved |
| 2017-24 | Hapka | Norway 8 | crossing / 18" | Approved |
| 2017-22 | Laager | Poppleton 11 | crossing / 30" | Approved |
| 2017-21 | Davidson | Stokes 25 | 2-35"x25"; ditch | Approved |
| 2017-23 | Otto | Stafford 31 | 4 separate culverts; improve ditch | Approved |
| 2017-25 | Davidson | Stokes 25 | replace 30" w/49"x33" | Approved |
| 2017-44 | Svoboda | Skagen 4-5 | 3-24" & 2-18" SWI | Approved |
| 2017-45 | Svoboda | Skagen 4 & 9 | 24" SWI; 18" xing | Approved |
| 2017-47 | Knife River Materials | Norway 5 | water appropriation | Approved |
| 2017-48 | Halfmann Farms | Springbrook 32 | tile drainage | Approved |
| 2017-49 | Juhl | Dewey 14 | tile drainage | Approved |
| 2017-46 | Meisner | St. Joseph 5 | 36" cmp through road | Approved |
| 2017-50 | Davis Twp | Davis 16 | replace 2-36" w/1-54" | Approved |


| | | | | |
|---------|---|---------------------|-----------------------------|----------|
| 2017-51 | Meisner | St. Joseph 29 | replace 24 w/30" | Approved |
| 2017-52 | Poppleton Twp | Poppleton 11 | crossing w/18" | Approved |
| 2017-53 | Meisner | St. Joseph 30-31fra | enlarge road culverts | Tabled |
| | Permit committee is reviewing application | | | |
| 2017-54 | Lawrence | McKinley 31 | crossing w/ 18" | Approved |
| 2017-55 | Lawrence | McKinley 31 | crossing w/ 18" | Approved |
| 2017-56 | Wilebski | Richardville 15 | install 24" cmp in driveway | Approved |

With no other matters to come before the Board of Managers, the meeting was adjourned.

Attest:



 Daryl Klegstad, Secretary



 Darrel Johnson, President

BEFORE THE BOARD OF MANAGERS
TWO RIVERS WATERSHED DISTRICT

ORDER FOR OUTLET FEES
REGARDING KITTSOON COUNTY DITCH NO. 10
AND SPRINGBROOK PL 566-PROJECT #10

The above-entitled matter came on before the Board of Managers for hearing on the 6th of September, 2017, pursuant to Minn. Stat. § 103D.915 and Minn. Stat. § 103E.651 for the annual adjusting of ditch fund levies.

The Managers noted at the hearing that pursuant to the Viewer's Report submitted October 31, 2012, on Springbrook PL 566-Project #10, which Viewer's Report was accepted and incorporated into the Findings and Order on Final Hearing at the hearing on Wednesday, February 6, 2013, the Viewer's Report specifically set forth that an outlet annual fee of up to \$5,100.00 per year will be charged to Kittson County Ditch No. 10 System at the discretion of the Two Rivers Watershed District to be used as a maintenance annual fee. It further specifically sets forth that the Springbrook PL 566-Project # 10 will be charged an annual outlet fee of up to \$7,800.00 as determined at the discretion of the Two Rivers Watershed District, to be paid to the Judicial Ditch# 10 system.

The Managers also made note of a resolution made by the Board of Managers on September 6, 2017, numbered 2017-04, setting an annual outlet fee of \$1,500 to be charged to the City of Karlstad and deposited in the Kittson County Ditch #10 maintenance fund. This outlet fee allows the City to use KCD #10 as an outlet to drain its storm sewer and sanitary sewage treatment ponds.

The Board, having heard the testimony of its engineer, and having considered once again the Viewer's Report, the aforementioned resolution, the comments from the administrator, the comments of counsel, and the testimony of any witnesses appearing at the hearing, hereby ORDERS as follows:

1. That there is now assessed an outlet fee for the year 2018 of \$5,100.00 to Kittson County Ditch No. 10 for its discharge into Springbrook PL 566-Project # 10. In addition, the Board orders that there is hereby assessed an outlet fee for the year 2018 of \$5,100.00 to be assessed against Springbrook PL 566-Project # 10 to compensate for its discharge into Judicial Ditch No. 10.

2. That the annual outlet fee to the City of Karlstad for its discharge into Kittson County Ditch #10 is hereby adjusted from \$1,000 (Resolution 2005-01) per year to \$1,500 (Resolution 2017-04) per year.

3. Incorporated by reference are the Findings of Fact set forth in the Findings and Order on Final Hearing adopted by the Board on Wednesday, February 6, 2013 and the Findings and Order adopted at the final hearing on Springbrook #10 PL 566 project, and the TRWD resolution #2017-04 approved by the Board on September 6, 2017.


Dated this 6th day of September, 2017.

TWO RIVERS WATERSHED DISTRICT

ATTEST:



Daryl Klegstad, Secretary



Darrel Johnson, President

Two Rivers Watershed District

In Roseau, Kittson, & Marshall Counties



*Board of Managers: President-Darrel Johnson, V.P.- Allen Brazier, Secretary-Daryl Klegstad, Treasurer-Paul Olsonawski
Manager-Roger Anderson, Manager- Jim Kukowski, Manager-Gary Johnson*

Staff: Dan Money, District Administrator; Matt Thompson, Head Technician

410 5th Street S., Suite 112, Hallock, MN 56728 - Phone (218) 843-3333 - Email: daniel.money@mn.nacdnet.net

World Wide Web: www.TwoRiversWD.com

September 6, 2017

Motioned by Manager Olsonawski, **seconded** by Manager Anderson, the following resolution, numbered 2017-04, **passed upon a 6-0 vote** of the Board of Managers of the Two Rivers Watershed District.

RESOLUTION OF THE BOARD OF MANAGERS OF THE TWO RIVERS WATERSHED DISTRICT SETTING KITSON COUNTY DITCH #10 OUTLET FEE

WHEREAS, the Two Rivers Watershed District is a political subdivision within the State of Minnesota, and

WHEREAS, the District is the “ditch authority” for Kittson County Ditch #10, regulated by Minnesota Statute 103E, otherwise known as the Drainage Code, and

WHEREAS, although the City of Karlstad is not within the “benefited area” of Ditch #10 and as such is not assessed for the use of the ditch, it does use the ditch as an outlet for its storm and sanitary sewers, and

WHEREAS, an agreement has been in place since 1996 between the Two Rivers Watershed District and the City of Karlstad setting an “outlet fee” which allows the City to use Ditch #10 as an outlet to drain its storm and sanitary sewers, and

WHEREAS, this outlet fee has been adjusted from time to time to compensate for increased maintenance costs along the ditch system, with the last amendment done in 2005.

NOW, THEREFORE, BE IT RESOLVED that the Board of Managers of the Two Rivers Watershed District hereby increases the outlet fee for the use of Kittson County

Ditch #10, charged to the City of Karlstad from \$1,000 per year to \$1,500 per year, beginning in 2018.

BE IT FURTHER RESOLVED that this increase is to account for inflation and increased costs for the maintenance of the ditch.

BE IT FURTHER RESOLVED that this increase in outlet fee will be reviewed on an annual basis and adjusted if deemed necessary.

I certify that the above resolution was adopted by the Two Rivers Watershed District Board of Managers on Wednesday, September 6, 2017.



Dan Money

District Administrator