

**Minutes of the Regular Meeting of the Board of Managers
Of the Two Rivers Watershed District
Held: August 6, 2020 @ 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 Thursday, August 6, 2020. Due to the ongoing COVID-19 pandemic the meeting was held in the upstairs meeting room of the Kittson County Courthouse in Hallock, MN with social distancing guidelines in place. The meeting was also held via “GoTo Meeting” to allow for the public to attend electronically either by phone or by computer.

Managers present included Vice President Roger Anderson, Secretary Daryl Klegstad, Bruce Anderson, Rick Sikorski, and Scott Klein. President Paul Olsonawski and Treasurer Joel Muir were absent.

Others present included District Administrator Dan Money, Head Technician Matt Thompson, Jeff Hane and Nick Kasproicz (Brink, Sobolik, Severson, Malm & Albright, P.A.), Engineers Nate Dalager and Jake Huwe (HDR Engineering), Engineer Blake Carlson (WSN Engineering), Shane Bothum, Lori Bothum, Dale Nelson, Brian Anderson, Kevin Klein, Curt Kraulik.

The meeting was called to order by Vice President Anderson. Anderson then called for any additions or corrections to the proposed meeting agenda and the regular meeting minutes from July 1, 2020. Today’s meeting agenda was **approved** upon a **motion** by Sikorski, **second** by B. Anderson and **unanimous vote** of the Board. The minutes of the July 1, 2020 regular meeting were **approved** upon a **motion** by Klein, **second** by Sikorski, 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 9134 through 9166 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 B. Anderson, a **second** by Klegstad, and a **unanimous vote** by the Board.

Permit #1864 Appeal Hearing:

The appeal of Scott Klein regarding permit number 1864 granted to Justin Osowski was held. The hearing was noticed according to procedures in the By-Laws of the Two Rivers Watershed District, and direct mailings were sent to the permit holder, the appellant, and immediately affected landowners.

The hearing was convened at 8:15 a.m. and Attorney Jeff Hane gave a brief overview of the procedures to be followed at the hearing. He pointed out that this is a formal hearing and the purpose is to discuss the permit and take testimony either for or against the permit that was issued. The Board will then deliberate and take appropriate action regarding the appeal.

Technician Matt Thompson gave a description of the permit, the process that was used to review the proposed work, and various documents in the permit file, including a findings of fact and recommendations of the permit committee.

Scott Klein spoke against the project, stating that currently problems are occurring downstream and that larger culvert capacity would tend to exacerbate the problems. He indicated an alternate solution would be to do ditch maintenance to keep water in a ditch rather than run out across cropland. He also indicated that he has discussed this with the applicant, Justin Osowski, and that this is an amicable option.

There were no persons in attendance to speak in favor of the project, and no further testimony was taken. The Board of Managers discussed the appeal, and upon a **motion** by Klegstad, **second** by

Sikorski and a 4-0 vote, permit #1864 was rescinded. Manager Klein abstained from voting. Technician Thompson was directed to send a letter to Osowski notifying him of the action taken by the Board of Managers and asking him to rescind the permit.

Hearing on Denial of Permit Application #2020-21:

The appeal of Roy Frame regarding the denial of permit application number 2020-21 was held. Attending the hearing were Roy Frame, Arnold Frame, Blake Weleski, Bruce Weleski, Erik Finney, Cody Schmalz, Leon Olson, Roland Larter, Dan Lyberg, and Gerald Karol.

The hearing was convened at 8:45 a.m. and Attorney Jeff Hane gave a brief overview of the procedures to be followed at the hearing. He pointed out that this is a formal hearing and the purpose is to discuss the permit and take testimony either for or against the permit that was issued. The Board will then deliberate and will take appropriate action regarding the appeal.

Technician Matt Thompson gave a description of the permit application, the process that was used to review the proposed work, and various documents in the permit file. Engineer Blake Carlson indicated some of the reasons the application was denied, including the cutting of a ridge, potential for erosion, and increasing the speed of the water by shortening the distance it would have to travel to get to Kittson County Ditch #14.

Vice President R. Anderson called for any comments for or against the project and the following comments were heard:

- Roy Frame spoke for the project. He stated water currently backs up and his fields located to the east cannot drain. The water cannot get through Kittson County Road #4 and the road acts like a dike. He stated the project would lower 3 culverts and is only intended to take top water through the cut to the west. Normal flows would continue as they do now. He stated that the county ditch located to the east is plugged, and this adds to his problem, which has been getting worse over the years. He would like to cut the south road ditch of County Road 4 about 2 feet to an elevation of 1005' for a distance of about ½ mile and lower 3 culverts to this grade.
- Gerald Karol commented on County ditch #11, located to the south and upstream of the area of the permit application. He stated he grew up in the area and roughly 25 years ago the ditch was cleaned. Prior to this there were many cuts in the berm alongside the ditch to allow water to drain into it. When the ditch was cleaned the spoil was piled alongside the ditch and the cuts in the berm were plugged. This has caused a detrimental effect as the water cannot drain into ditch 11 and runs overland. He would like to see the old cuts in the spoil restored.
- Eric Finney commented that he lives 2.5 miles from the project proposal and farms in the area. He noted that some neighbors are for the project and some are against it. He noted the magnitude of the problem and that water sometimes sits on the land for 2 to 4 weeks. He indicated that there is a need to study the situation in order to come up with a project that will get all landowners some help. The water needs to get moving instead of stagnating.
- Roland Larter is a landowner in the area who owns land south of CSAH #4 near County Ditch #14 and stated that he is terrified by the thought of cutting a ridge. He stated his land also was drowned out, and he cannot take any more water. He noted that County Ditch #14 is maintained well, but it can only handle a limited amount of water, and it is not an adequate outlet for this project. He stated he objects to the project but offered an alternate proposal for consideration. He suggested a larger culvert be installed under CSAH 4 to take water on its present course to the north, and then clean or construct a ditch to take the water north to State Ditch #84.
- Bruce Weleski is also a landowner in the area and commented in favor of the project. He stated that Mr. Larter's idea would not work because the water goes to County Ditch #14. There are numerous maintenance issues and the water cannot flow. He pays ditch tax, but he has not seen where the ditches have been maintained and would like to see Kittson County perform ditch cleaning and maintenance. He submitted several photos of the recent flooding conditions in the area.

- Cody Schmaltz commented that something needs to be done because there has been no ditch maintenance for 60 plus years. He stated Roseau County cleans their ditches however Kittson County does not. The North Branch Two Rivers by Glen Anderson's seems to always be low, and questioned why it could not carry more water?
- Blake Weleski spoke in favor of the project and indicated that survey data should be examined. He stated road projects have re-sloped the ditches along CSAH #4 to the east but not in the stretch of road where this project is proposed. Things therefore need to be looked at and a plan put together for better drainage.
- Leon Olson, a Kittson County Commissioner, stated that an adequate outlet is needed and if there is not one then one needs to be established. He noted that the County does not clean out county road ditches.

There were no other persons wishing to give testimony, and R. Anderson closed all testimony. Attorney Hane indicated that it seems there were several questions that needed to be answered, including 1) is the land to be improved in a ditch benefitted area?, 2) is there adequate capacity in the south road ditch of CSAH #4?, and 3) is there an adequate outlet?

More information is needed in order to address these questions. Manager Klein indicated that more time is needed so the District can obtain further information and analyze it in order to look for a solution that all can live with. Upon a **motion** by Klein, **second** by Klegstad, and **unanimous vote** of the Managers, it was decided to **table** the matter, **recess** the hearing, and **re-convene** it on September 3, 2020 at 8:30 a.m. The hearing was closed at 9:55 a.m.

Administrator's Report:

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

Legal Ditch Report: The following ditches and projects were reported upon and status updates were given:

North Branch Project – Money gave an inspection report, and 3 damage sites were identified as a result of the recent extreme rains and summer flooding. The Board authorized staff to hire contractors to repair areas where the ditch was sloughed, consult with the engineering firm of Widseth, Smith & Nolting to determine extent of work on a damaged grade stabilization structure and hire a local contractor to do the repair work.

Kittson County Ditch #7 – the repair of a slough was put on hold because of the rains and flooding, and this will be completed as soon as conditions have improved. Twamley Construction has been contacted to do the work.

JD 3 side water inlets – Money continues to hold discussions with landowners, and most are hesitant to sign onto the project. Discussion will continue.

JD 10 Branch B – Twamley will also be working on removal of sediment upstream and downstream of MN Hwy 220 once conditions are workable.

Kittson County Ditch #21 - Kraulik Excavating was hired to do sediment removal along 8,000 feet at the downstream end. As noted at the July meeting, staff were directed to seek an estimate to complete the rest of the ditch. Technician Thompson discussed with Kraulik and an estimate of \$55,000 was provided. Since this is more than what funding is currently available in the ditch fund, the Board **tabled** the matter to be discussed at the September meeting. Options will be looked at and discussed at that time.

Roseau County Ditch #4 – a potential petition may be submitted from a landowner who currently is not in the benefitted area but would like to do an improvement project to better drain the land to the ditch. A permit cannot legally be approved unless the lands are added to the benefitted area. The potential need for a redetermination of benefits was discussed. The matter was **tabled** pending submission of a petition.

Ditch Spraying – maps of all ditches needing spraying for cattails and brush were distributed. Larson Helicopters have been hired to do the spraying and this will be done in August.

Surveys – ditch surveying has been delayed by the flooding; however, SB 10 and JD 10 main are still scheduled to be completed this year.

Program Report:

One Watershed One Plan: The planning group is continuing to work on section 5, which focuses on each of the 11 subwatershed planning zones. Descriptions of each zone and the issues and solutions for each will be contained in this section. The Policy Committee is scheduled to meet on August 20 to discuss this section. Section 6 will need to be started, which is the funding section. A joint powers agreement or a memorandum of understanding will be needed between the two counties, the two SWCD's, and the TRWD. More information will be supplied in the coming months.

Buffer Strip Enforcement: Kittson SWCD has provided a list of properties along watershed district ditches that are not compliant with the buffer law. In accordance with the agreed to enforcement procedures and the Rules of the TRWD, the TRWD will now inform the landowners they are in non-compliance and enforcement procedures will be enacted. Marshall SWCD and Roseau SWCD have not yet provided lists of properties in those counties.

Twistal Swamp: a meeting is scheduled with the City of Karlstad and the DNR to discuss water issues in and around town, Twin Lakes, and Twistal Swamp. Project work team meetings were held in the mid 2000's to discuss these issues, however no substantial project came out of those meetings. The recent flooding has brought the issues to the forefront once again.

Water Quality Monitoring: Three sample runs have been completed at 10 separate locations within the District. Field measurements and lab results will be compiled, and a report of findings will be written at the end of the open water sampling season.

Project Report:

Klondike Clean Water Retention Prj. #11:

- Engineering –
 - HDR Engineering has substantially completed the economic analysis they were hired to do with regard to the RCPP planning process. J. Huwe presented information and results of the analysis.
 - A meeting has been scheduled with the MPCA and DNR to begin preliminary discussions on an operating plan. NRE features proposed are to provide low flow augmentation for fish and to address water quality, and therefore technical information will be discussed.
- Permitting – Houston Engineering has substantially completed the field work necessary to identify wetland impacts and will now begin the process of writing both the federal and state the permit applications.

Once this information is available in report form, Money will begin preparation of the EAW. All three permit processes are anticipated to be submitted in 2020.
- Funding – Money applied for \$3.25 million in funding through the Lessard Sams Outdoor Heritage Council. This grant program focuses in on habitat, and therefore the grant application stated that flow augmentation for fish habitat and protection and enhancement of the rich fen would be accomplished. Out of 53 applications ours was ranked 4th and the LSOHC is inviting the TRWD to give them a presentation later in the month.
- Natural Resources Enhancements – These tie together with the funding application to LSOHC and with the operating plan mentioned above. The NRE committee has focused in on 1) fish habitat/flows, 2) prairie rich fen protection and enhancement, and

3) water quality impairments and algae blooms in Lake Bronson. Significant funding is available for these items, and work will continue to include these in the project.

Kittson County Ditch #7: Landowners/operators Kevin Klein, Curt Kraulik, and Brian Anderson were in attendance to discuss issues along Kittson County Ditch #10. They have experience severe flooding issues and crop loss as a result of the above average rainfall that has occurred this summer. They are looking for solutions and indicated that ditch #7 is not handling the water as well as systems located both to the north and to the south are. These issues have been discussed with this group in the past.

A capacity analysis was authorized in 2000 by the TRWD and done by engineer Blake Carlson. He discussed the report and its findings. The ditch is undersized and to address the issues the ditch section along the entire length of the ditch would need to be wider, deeper, or both.

In order to do this on a legal ditch, a petition is needed from at least 26% of the landowners that the ditch passes over, along with a bond for at least \$10,000. The petition and bond need to be submitted to the TRWD, who would then appoint an engineer to determine whether the outlet is adequate and to propose the new dimensions of the ditch.

Discussion was held regarding the specific items that would be needed, the current land features, hydraulics and hydrology, and culverts at various locations along the ditch. The landowners noted the large acreage of cropland that was lost, and it seems the ditch cannot handle as much as a 2.5" rainfall. Discussion was also held that adjacent lands are impacted once the ditch fills up because the water does not flow fast enough and cannot get through the ridge located in the downstream section of the ditch.

The landowners asked questions regarding the adequacy of the outlet and the chances of a petition making it all the way through the process to construction. They are seeking relief via ditch improvements but were hesitant to supply the bond. They requested the District fund a study help answer the question of an adequate outlet. Discussion was held and the Board of Managers requested that Carlson prepare an estimate of what that would cost and present it for consideration at the September Board meeting.

Shane & Lori Bothum: A report of a permit violation was received regarding a dike that was constructed by Tom Green to divert water away from cropland to protect it from flooding. The project is negatively impacting the Bothum farmstead residence. Technician Thompson has performed site visits, collected survey information, and taken photos. A permit application has subsequently been submitted and the permit committee is looking at alternatives where the dike could be allowed if it does not cause any harm to neighboring property. Shane Bothum objected to the project stating it is causing damage to his home, septic system, and property. He also stated an existing gravel pit road adds to the problem, is not needed anymore and should be removed.

Discussion was held regarding remediation for this and other permit violations in the interim while after the fact applications are being reviewed. Consideration should be given that since the work done is after the fact and not permitted, it should be partially or fully restored while the application is being evaluated. Manager Klein suggested that for this and other unpermitted projects, full or partial restoration could be required within 2 weeks of the District providing notification of the violation to the landowner. For a first-time offender, if compliance is achieved within the 2 weeks, part of the permit fee could be waived. If the landowner does not comply, the amount of the permit fee could be increased and/or other enforcement action taken. Hane noted what other actions could be required of the landowner according to statutes.

Upon a **motion** by Klegstad, **second** by Klein, and **unanimous vote** of the Managers, the following requirements were approved:

1. Mr. Green must be notified immediately in writing that he needs to either breach the dike or restore it to pre-project conditions within 2 weeks.

2. Although an after the fact permit application has been submitted, after the fact permit fees must be paid before the permit application will be processed further. These fees shall include a \$500 base fee and any time spent by staff, consultants, or Board members for reviewing the project incurred prior to the time that the application was made (using the fee schedule in the Rules of the Two Rivers Watershed District).
3. In the event Green does not breach the dike or pay the application fee, complete restoration will be required, and further enforcement action may be taken by the Board.

It was decided that these procedures should generally be applied to all after the fact permits / violations. It was also noted that each situation has its own set of circumstances and that depending upon the case these procedures may need to be flexibly applied in accordance with the Rules of the Two Rivers Watershed District.

Permits:

The Board acted on the following permits. The review and comments of the permit committee were carefully considered and taken into consideration. Any comments provided by members of the committee, road authorities, or affected landowners have been recorded and filed with the permit documentation in the District office. 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>
2020-16	Rodger Johnson	Springbrook 3	alter CR61 project	Tabled
2020-18	Jim Weleski	Poppleton 17	¼ mi drainage ditch	Tabled
2020-25	Deerwood Township	Deerwood 27	install gate on inplace 36"	Tabled
2020-26	Louis Cater	Davis 28	road w/ 18	Approved
After the fact permit approved by committee; \$500 fee was waived by the board, however a \$150 inspection fee was charged.				
2020-32	Enbridge Energy	Various sites	Line 3 Replacement	
2020-30	Travis Anderson	Springbrook 16	dike / diversion	Denied
Motion Klein, Second Klegstad & approved; findings were that the proposed dike would cause unreasonable have to upstream adjacent lands and the road ditch outlet is inadequate because it is undersized.				
2020-33	Brandon Kuznia	Polonia 25	Tile Drainage	Tabled
2020-34	Brandon Kuznia	Polonia 36	Tile Drainage	Tabled
2020-35	Brandon Kuznia	Polonia 12	Tile Drainage	Approved
Motion Klegstad, second Sikorski and approved; conditional upon a 3" gap between riser and outlet pipe according to diagram in permit file.				
2020-36	Julian Andrade	Jupiter 28	replace 18" w/24"	Tabled
2020-37	Chad Spilde	Norway 34	culvert size TBD	Tabled
2020-38	Springbrook Twp	Springbrook 9	impoundment	Tabled
2020-39	Nathan Kraulik	Springbrook 10	Tile Drainage	Tabled
2020-40	Rick Sikorski	Moose 31	Ditch; 18" cmp w/trap	Approved
Motion Klein, second B. Anderson & approved; Sikorski abstained				
2020-41	Bryce Evans	Dewey 13	Ditching; 3 culverts	Tabled
2020-42	Enbridge	S. Red River 25	Pipeline Maintenance	Approved
Motion Klegstad, second B. Anderson & approved				
2020-43	Tom Green	Deerwood 4	Dike; divert water	Incomplete
2020-44	Kevin Hanson	Teien 29	Tile Drainage	Tabled
2020-45	Justin Dagen	Jupiter 28	Tile Drainage	Tabled
2020-46	Middle River Fm	Lind 36; East Pk 1& 12	Drainage, Culverts	Tabled
2020-47	Ristad Farms	Hazelton 17	Remove field crossings	Tabled

The following permits were previously acted on by the Permit Committee and are listed here for information.

<i>App. #</i>	<i>Applicant</i>	<i>Location</i>	<i>Purpose</i>	<i>Action</i>
22020-22	Terry Osowski	S. Red River 13	remove existing crossing	Approved
2020-23	Teien Township	Teien 112	increase culvert size	Approved
2020-24	KC Hwy Dept.	Hill 26	replace 36" & 48" w/ 73" span	Approved
2020-27	Dean Carlson	Tegner 27	Tile Drainage	Approved
2020-28	Keith Burkel	Hereim 21	Replace 15" w/ 24"	Approved
2020-29	Craig Halfmann	Springbrook 32	Tile Drainage	Approved
2020-31	Rodney Potrament	Poppleton 22	crossing w/ 36" cmp	Approved

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

Attest:


Daryl Klegstad, Secretary


Paul Olsonawski, President

