

**Minutes of the Regular Meeting of the Board of Managers
Of the Two Rivers Watershed District
Held: Thursday, April 7, 2022 @ 8:00 a.m.**

The Board of Managers of the Two Rivers Watershed District held their regular meeting beginning at 8:00 a.m. on Thursday, April 7, 2022. The meeting was held in the District office in the Kittson County Courthouse, 410 S. 5th Street, Hallock, MN.

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

Others present included District Administrator Dan Money, District Technician Tyler Coffield, Attorneys Jeff Hane and Kaitlyn Bjornson (Brink Lawyers), Engineer Jake Huwe (HDR Engineering), Engineer Blake Carlson (Widseth), Attorney Zach Burmeister (Rinke Noonan), and landowner Brian Dahl.

The meeting was called to order by President Sikorski. Sikorski then called for any additions or corrections to the proposed meeting agenda and the regular meeting minutes from March 10, 2022. Today's meeting agenda and the minutes of the March 10, 2022 regular meeting were approved upon a **motion** by B. Anderson, **second** by Klegstad, 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 9578 through 9605 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 Klegstad, a **second** by Klein, and a **unanimous vote** by the Board.

Administrator's Report:

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

Legal Ditch Report: A ditch maintenance schedule was distributed and discussed. Ditches proposed to be surveyed in 2022 include SD 85 Improvement, the North Branch Project, Middle Branch Project, and SD 50. It was noted that SD 50 is within the Klondike Clean Water Retention Project (KCWRP) and was recently turned over to the District.

With regard to SD 50 and the District's KCWRP, discussion was held regarding procedure under statute 103E to impound waters on a ditch system. Attorney Hane advised that the District, as the impoundment proposer, should submit a petition to itself as the ditch authority for SD 50. An engineer would need to be appointed by the Ditch Authority to review the project plans of HDR Engineering. The Board noted a new engineer not previously hired by the Board should be appointed. Upon a **motion** by B. Anderson, **second** by Johnson, and **unanimous vote**, the Board approved submitting a petition to SD 50 to impound waters on the

ditch and follow the procedure under MN Statute 103E.227. Money was directed to search for a consulting engineer to be appointed to review the plans on behalf of the ditch system.

Kittson Co. Ditch #10: Discussion was held regarding the ditch survey report presented at last month's meeting by Engineer Blake Carlson. He had recommended that information from soil borings, disaster related repairs, and recent survey information indicates the legal grade as described in the original ditch plans is not necessarily what is constructed on the landscape. In consultation with the District Attorney and Administrator, it appears that MN Statute § 103E.101 should be followed in order to re-establish the legal grade and cross section of the ditch. In order to do this, the Board of Managers should approve a resolution regarding the facts, the need, and the procedure to follow. A hearing would then be scheduled and properly advertised, and the Board would hear all comments and then make findings and an order on the matter. The Board generally agreed this should be done but noted the next month or two will be very busy. The matter was tabled until later in the summer of 2022.

Program Report:

KSWCD Cost Share: An update was given regarding the cost share program established earlier this year between the Kittson SWCD, Two Rivers WD, and landowners for erosion control. A project in Hill Township has undergone some design changes and ultimately lower cost share amounts. The new design and cost estimate was presented. This project will move forward for construction in 2022.

Enforcement of Rules: A question arose at last month's board meeting regarding enforcement of permits and specifically enforcement regarding contractors that perform work without a permit. Hane provided a memo discussing enforcement and explained that contractors are liable and the procedures and options to the District regarding enforcement.

2022 Legislature: An update was given regarding current bills being considered by the legislature that affect watershed districts. A bonding bill has been introduced for statewide funding of the flood hazard mitigation program at \$90 million, of which the TRWD has applied for \$13.5 million. Other bills include topics of eminent domain, watershed district levy limits, bills regarding the administration of legal ditches, and numerous other topics. Money encouraged each board member to email or call legislators to support the bonding bill.

Project Report:

North Branch Project: A status report was given regarding repair work that is needed to a grade stabilization project that was installed in the late 1960's. In 2021 a contractor had agreed to install a brace between the cement side walls that are beginning to lean inward. The contractor was contacted several times but did not get the work completed. This project will be a priority in 2022 and if the contractor is unwilling or unable to get the work done, staff will hire a different contractor.

Klondike Clean Water Retention Prj. #11:

- Engineering – Engineer Huwe presented information as a follow up from last month's meeting regarding the inlet structure at lateral 8 SD 72. He presented 4 options for various culvert configurations to be able to allow varying amounts of water from SD 72 and Roseau River to enter the impoundment. The Board discussed each and a **motion** was made by Klein, **seconded** by Johnson and **unanimously approved** to amend the project plans to include the replacement of

the in-place culvert with two 30" culverts and lower the flow line elevations by 3 feet. Money was directed to contact DNR regarding the permitting required for this culvert proposal. If this option is not viable, the Board indicated their second preference is to add a second 30" culvert to the existing one, but at the same flow line elevation.

- Right of Way – Discussion was held regarding obtaining right of way. Money sent letters out to affected landowners but has not heard back from any as yet. The District would like to set up meetings with each landowner to explain the project, answer questions, and propose the purchase of a right of way easement. Money was directed to work with Hane and Bjornson regarding the right of way documents.
- Permitting – Mark Aanenson of Houston Engineering participated by phone call regarding the state and federal wetland permits. He informed the Board that an application will be submitted to the USACE in the near future. He also stated that additional field work is needed on the new proposed mitigation site to document wetland hydrology, soils, and vegetation. A quote was submitted to the Board for Houston Engineering to provide additional wetland permitting tasks that are needed. A total of 10 work items are listed at a price of \$72,253. Upon a **motion** by B. Anderson, **second** by Klegstad and **unanimous vote** approval was given to hire HEI at the quoted price.
 - EAW – Money discussed the environmental assessment worksheet process. The work on the document is nearing completion. DNR has asked to review the document prior to submission to the Environmental Quality Board, and Money asked for approval to submit the EAW. Upon a **motion** by Klein, **second** by Klegstad and **unanimous vote** it was approved for Money to submit the EAW on behalf of the District.
- Funding – Money discussed the status of funding. One item for the Board to consider would be the sale of lands owned by the District that will not be needed for the project. Discussion was held and the matter was tabled.

Permit Application 2022-06 – Brian Dahl:

Mr. Dahl was in attendance along with his attorney Zach Burmeister of Rinke Noonan law firm to discuss his permit application. This application is after the fact as it was installed in the fall of 2021 without a permit and is thus a permit violation. Dahl has been working with District staff on rectifying the problem by obtaining a permit.

Earlier this year he petitioned the District to add lands that were tiled to the benefitted area of Judicial Ditch 10. The Board granted the petition to add subsurface tiled water, but not additional surface water to JD 10, citing concerns with the adequacy of the ditch. In order to separate the surface water from the subsurface water, a pipe would need to be installed for 2,900 feet. Dahl would rather he be allowed to outlet all surface and subsurface water to the west via a private ditch system and into Kittson County Ditch #7. The Board would need to consider the concerns of the landowners along the private ditch, and Dahl would need to petition to be added to the benefitted area of KCD 7.

The District's permit review group has met and discussed the application. There are issues regarding ditch law, the adequacy of the outlet, and other matters. The general opinion of the group is that the best outlet is south within a road ditch into JD 10. If consideration is given to go west through a private ditch system into KCD 7, all landowners should be contacted for their comments to ensure they are fully aware of any potential impacts or maintenance issues. Burmeister mentioned how tile applications are handled in North Dakota,

utilizing USGS maps and designations of watercourses. Manager Klein commented about not only flowage, but water quality impacts that could occur with increased salts/chloride being transferred to downstream areas. Manager Sikorski questioned why a permit was not applied for prior to the installation and Dahl replied Ellingson Drainage was supposed to make the application but did not, however went ahead with the installation anyway.

Dahl submitted a petition to be added to the benefitted area of KCD 7. Upon a **motion** by Johnson, **second** by Klegstad and **unanimous vote**, the Board accepted the petition and scheduled a public hearing for the petition, pursuant to MN Statute §103E.401, for 7:00 a.m. Thursday, May 26, 2022 in the Kittson County Courthouse, Hallock, MN. Money was directed to advertise the hearing as required by statute.

The Board of Managers tabled the permit application until such time that the public hearing is held so findings of fact and an order can be issued and also until comments from all downstream landowners can be obtained. The applicant will provide a cost estimate to install 2,900 feet of pipe for the JD 10 outlet option and will also contact downstream landowners along the proposed KCD 7 outlet.

Attorney Hane advised the Board that for this and future applications like it, the Board may want to consider a policy regarding subsurface water, adequacy of both public and private outlets, and the procedure to obtain comments from affected property owners.

Permits:

Upon a **motion** by Klegstad, **second** by B. Anderson and **unanimous vote**, the Board acted on the following permits. The review and comments of the permit review group were carefully 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>
2022-04	DK Farms	Polonia 31	Tile Drainage	Approved
2022-05	Enbridge	Svea 24-25	Pipeline Maintenance	Approved
2022-06	Brian Dahl	Davis 25	Tile Drainage	Tabled
2022-07	Olsonawski	N Red River 2	Tile Drainage	Approved

With no other matters to come before the Board of Managers, the meeting was adjourned at 12:45 p.m.

Attest:



 Daryl Klegstad, Secretary



 Rick Sikorski, President