



**Sauk River Watershed District Regular Meeting
 MINUTES**

Tuesday, April 19, 2022

Located at: Sauk River District Office, Sauk Centre, MN at 6:00 p.m.

Managers Present:	Bill Becker, Paul Hartmann, Lee Bautch, Scott Wittkop, Kevin Lahr, David Zerr, Scott Klatt, Donavon McKigney, Curt Botner
Staff Present:	John Kolb, Attorney; Sarah Jo Boser, Water Resource Manager; Jon Roeschlein, Administrator and Interim Ditch & Permit Coordinator, Allison Lightfoot, Monitoring Coordinator
Guests Present:	Randy Neumann, Jerry Rapp, Tim Kalina, Cody Rogahn, Mike Zimmermann, Jason Weinerman, Jerry Gill
Manager’s Absent:	

1. **Call to Order and Pledge of Allegiance** – The meeting was called to order by President Becker at 6:00 p.m. The Pledge of Allegiance was recited.

2. **Additions/corrections to the agenda items** – President Becker asked for corrections or additions to the agenda. There were none. **Manager Bautch made a motion to approve the agenda as presented. The motion was seconded by Manager Zerr. The motion passed with all in favor.**

3. **Consent Agenda**
 - a. Financial Reports/Meeting Minutes
 1. Checks for March
 2. Receipt Book
 3. Revenue Guideline
 4. Cash Balances
 5. Expenditure Report
 6. March 15th, 2022 Regular Board Meeting Minutes
 7. Permit Status Summary

Manager Zerr made a motion to approve the consent agenda. The motion was seconded by Manager Lahr. The motion passed with all in favor.

4. **Reports – Action Items, Reports and Project Updates** – *Administrator Roeschlein and staff*
 - a. Projects
 - i. Projects/CWMP Update – Administrator Roeschlein presented a report on the projects. First, he gave an update on the Getchell Creek project, which is being paid for by the Middle Sauk River Protection grant. The construction site for the flood plain bench locations along Getchell Creek have been monitored for the last month on an every other day basis to determine when conditions will be fit for construction. The project will hopefully be finished by April 29, 2022, as that is the ending date of the grant. Next, Roeschlein spoke about the Comprehensive Watershed Management Plan (CWMP). He stated that the Education and Outreach Committee met on March 14th. The notes are included

in the board packet for the board to review. Lastly, he informed the board about the Lessard Sams Outdoor Heritage Council Funding for Phase III. It will be used to fund a wetland restoration in the JD 2 subwatershed. The Ellis Wetland Project is ready to go out for bid for the construction to restore significant wetlands in the upper reaches of the JD 2 watershed area. Because there are two different grant programs being used to complete that project, (NAWCA, which is a Federal program and Lessard Sams Outdoor Heritage Council, which is a state program) held by two different partners (the Nature Conservancy and the Sauk River Watershed District respectively) there may need to be an agreement on how we do the contracting for the construction and pay the contractors for that work. At this time, we have not received any feedback from the Nature Conservancy's legal counsel on what they propose. Roeschlein requested authorization to execute an agreement for this purpose upon satisfactory concurrence from our legal counsel, John Kolb, so as to not delay the bidding process and construction work. **President Becker made a motion to authorize Administrator Roeschlein to sign an agreement on behalf of the Sauk River Watershed District for this purpose upon satisfactory review and concurrence by legal counsel, John Kolb. The motion was seconded by Manager Hartmann. The motion passed with all in favor.**

b. Administration

- i. MS 103F.48 Buffer Violation –Zimmermann – Administrator Roeschlein presented the subject of the 103F.48 Buffer Violation for Kenneth and Julie Zimmermann. Mike Zimmermann, son of Ken and Julie, was in attendance at the meeting. Discussion of the current violation of the MS 103F.48 (buffer law) was held. The following is a transcription of this portion of the meeting:

ii.

John Kolb: Mr. Chair, could I ask Mr. Zimmermann a question?

President Becker: Oh, absolutely.

John Kolb: So, when you say you're willing to work with us, you're willing to work with the SWCD, are you saying that you would have no issue either installing the alternative practices or restoring the grass buffer or installing the grass buffer by June 1st which was the SWCD's recommendation?

Mike Zimmermann: I don't foresee an issue getting, depending which practice is determined.

John Kolb: You get to choose.

Mike Zimmermann: Right, but some of them, some of them may be berming and others may just be grass.

John Kolb: Right.

Mike Zimmermann: The grass certainly, we just didn't, it won't get planted this spring. There'll be grass.

John Kolb: So, so you have no issues coming into compliance by June 1st?

Mike Zimmermann: I, I don't foresee a reason why not.

John Kolb: So would you have any issue with the, with the District supplementing its prior enforcement order and basically saying they're finding you in violation of 103F.48 and requiring you to come into compliance by June



1st by either implementing the alternative practice recommendations of the SWCD or establishing a grass buffer?

Mike Zimmermann: Not sure what the purpose of that would be?

John Kolb: The purpose of that is so that you have a date certain that you are required to do so, and if you don't, there is a consequence to that.

Mike Zimmermann: I, I just, I don't see an issue with it.

John Kolb: So, but you understand that their, their predicament is they went through this from 2000... 2019, in 2020 they asked your folks to come in, or your dad to come in to explain why they shouldn't issue an order of finding of violation. They sent a letter and refused to come. The board adopted an order for enforcement requiring the buffer to be in place by June 1st of 2021. It wasn't in place by 2021. You attended the July 21 meeting and said we want to explore an exception, an alternative practice. The board adopted a motion giving you the additional time to work with the SWCD to find alternative practice. You worked with the SWCD. They've come up with an alternative practice plan for you and provided you all the details on it as of January 25th of this year and now what you're saying, well we're willing to, we're willing to work with you but you already are under an enforcement order that's been suspended so do you have any problem with them reissuing the enforcement order requiring that you come into compliance by June 1st of this year?

Mike Zimmermann: I do not.

John Kolb: Ok

STATE OF MINNESOTA
 SAUK RIVER WATERSHED DISTRICT

<p>The matter of the violation of rules requiring grassed buffers adjacent to public drainage systems pursuant to Minnesota Statutes Chapters 103D and 103F on Stearns County Ditch 51 in sections 3 and 4 of Raymond Township and section 34 of Ashley Township, all in Stearns County, MN</p>	<p>Supplemental Findings and Order Regarding Buffer Violations and Corrective Action</p>
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The Board of Managers (Board) of the Sauk River Watershed District (District), at its regular meeting on April 19, 2022, reviewed conditions related the violation of buffer requirements established by District Rules in sections 3 and 4 of Raymond Township and section 34 of Ashley Township, all in Stearns County, MN. Based on the record before the Board, Manager Lahr moved, seconded by Manager Bautch, for adoption of the following **Findings and Order**:

1. The State of Minnesota established the Sauk River Watershed District in 1986 with the specific purpose of managing water quality and quantity issues within its jurisdictional boundary.
2. Pursuant to its enabling legislation, the Board of Managers adopted and has updated a Comprehensive Watershed Management Plan in order to (1) assess and document conditions in the watershed affecting water quantity and quality, soil and water management and land use activities affecting water management; (2) set goals, objectives and priorities for comprehensive water and watershed management; (3) establish standards for managing changes in the watershed affecting water management.
3. As required by statute, the Board has adopted administrative rules for the purpose of implementing the authorities of the District and to ensure that covered activities meet performance standards supportive of the goals, priorities and objectives of the watershed management plan.
4. In 2015 the State of Minnesota enacted the Riparian Protection Law by amendment to Minnesota Statutes Section 103F.48. The Riparian Protection Law, also known as the Buffer Law, requires landowners to establish and maintain a buffer area of perennial vegetation adjacent to certain public waterbodies and courses and adjacent to public drainage systems. The Buffer Law authorized Counties and Watershed District to elect jurisdiction to enforce the buffer requirements and to adopt ordinances or rules to implement the enforcement requirement.
5. The District's Board of Managers, by resolution #04-17, dated June 20, 2017, elected jurisdiction to enforce the provisions of the Buffer Law on all public drainage systems within the District's boundary for which it is the drainage authority.
6. In November of 2017, upon compliance with the requirements of statutes section 103E.341, the District adopted its buffer enforcement rule requiring a buffer of perennial vegetation, a least sixteen- and one-half feet in width be established and maintained adjacent to all public drainage systems within the jurisdictional boundary of the District by November 1, 2018.
7. In 2019 the District began inspections for buffer compliance. In a report dated September 2018, the District's inspector reported several violations of the buffer requirement on Stearns County Ditch 51 in Raymond and Ashley Townships in western Stearns County. Upon review of the report, the District's Board authorized delivery of violation and corrective action notices. Two of the individuals provided notices were Ken and Julie Zimmerman (a married couple), owners, both individually and jointly of parcels 27.16611.0000, 27.16614.000, 27.16616.0000 and 02.00553.000 in sections 3 and 4 of Raymond Township and section 34 of Ashley Township, Stearns County, Minnesota. All

four parcels border Stearns County Ditch 51 and are subject to the riparian protection (buffer) requirements of the District's rule and statutes section 103F.48.

8. Upon further inspection after harvest in 2020, the inspector noted no correction of the buffer violations on the Zimmerman parcels noticed in 2019 and no compliance with the corrective actions outlined in the notice letters.
9. The District's inspector provided a further report of violations to the District Board. In response to the second report of violations, the Board initiated enforcement actions.
10. By letters dated January 21, 2021, the District's inspector, as directed by the Board, instructed Zimmermans of the opportunity to appear at the Board's March 23, 2021, regular meeting, by remote means due to the COVID 19 pandemic, to show cause or offer reasons why the Board should not find them in violation of the buffer rule and proceed with further enforcement.
11. The Zimmermans, by letter from their attorney, refused to attend and gave no reason or justification for the documented violation of the buffer requirements.
12. By Order, dated April 20, 2021, the Board found:
 - a. that no buffer areas of perennial vegetation, as required by District rule and statutes section 103F.48 had been established or were being maintained on the Zimmerman properties, parcels 27.16611.0000, 27.16614.000, 27.16616.0000 and 02.00553.000 in sections 3 and 4 of Raymond Township and section 34 of Ashley Township, Stearns County, Minnesota.
 - b. that violations of the buffer requirement have existed since the effective date of the requirement, November 1, 2018.
 - c. that, though given notice, instruction and adequate time to establish the buffer areas, the Zimmermans have made no attempt to comply with the requirement.
13. In its April 20, 2021, Order, the Board concluded that violations of District rules and state law existed on the property owned by Ken and Julie Zimmerman (a married couple), both individually and jointly, on parcels 27.16611.0000, 27.16614.000, 27.16616.0000 and 02.00553.000 in sections 3 and 4 of Raymond Township and section 34 of Ashley Township, Stearns County, Minnesota.
14. The Board ordered Ken and Julie Zimmerman (a married couple), owners, both individually and jointly of parcels 27.16611.0000, 27.16614.000, 27.16616.0000 and 02.00553.000 in sections 3 and 4 of Raymond Township and section 34 of Ashley Township, Stearns County, Minnesota, to plant buffer areas of perennial vegetation, at least sixteen- and one-half feet in width adjacent to the top bank of the open channel of

Stearns County Ditch 51 on the above-described parcels no later than June 1, 2021, as is necessary to be compliant with the District's administrative rules and state law.

15. The Board, further, authorized the initiation of enforcement actions against Zimmermans if the corrective actions were not completed by the date specified in the order.
16. The Board caused its order to be served on the Zimmermans by the Stearns County Sheriff on April 27, 2021.
17. Zimmermans did not complete the corrective actions by June 1, 2021. Rather, Mike Zimmerman, the Zimmermans' son appeared before the Board at its July 20, 2021, meeting and requested additional time to explore the implementation of alternative practices as allowed by statutes section 103F.48.
18. The Board adopted a motion to suspend enforcement actions in order to allow Zimmermans time to work with the Stearns County Soil and Water Conservation District (SCWD) to evaluate the implementation of alternative practices.
19. By letter dated January 12, 2022, the SWCD confirmed, upon a site visit, (1) that the buffer violations determined by the District still existed and (2) that alternative practices could be implemented to gain compliance with statutes section 103F.48 and the District rule.
20. Upon a request from Zimmermans to provide a detailed plan and costs associated with the implementation of the required alternative practices, the SWCD prepared a letter, dated January 25, 2022. The SWCD's supplemental letter included specific location and alternative practice details, estimated costs and scopes of work for the required actions.
21. The SWCD recommended an implementation date of June 1, 2022 for either the alternative practices or establishment of compliant perennial buffer.
22. The Board finds Zimmermans are in continued violation of the District buffer rule and statutes section 103F.48 on the Zimmerman properties, parcels 27.16611.0000, 27.16614.000, 27.16616.0000 and 02.00553.000 in sections 3 and 4 of Raymond Township and section 34 of Ashley Township, Stearns County, Minnesota

Based on the foregoing findings, the Board of Managers adopts the following **Order**:

- a. The Board orders Ken and Julie Zimmerman (a married couple), owners, both individually and jointly of parcels 27.16611.0000, 27.16614.000, 27.16616.0000 and 02.00553.000 in sections 3 and 4 of Raymond Township and section 34 of Ashley Township, Stearns County, Minnesota, by June 1, 2022, to either: (1) plant buffer areas of perennial vegetation, at least sixteen- and one-half feet in width adjacent to the top bank of the open channel of Stearns County Ditch 51 on the above-described parcels as is necessary to be compliant with the District's administrative rules and state law; or (2) implement the

alternative practices detailed and discussed in the SWCD letters dated January 12 and 25, 2022.

- b. Further, if the actions above are not completed within the time specified, the Board directs and authorizes its staff, with the assistance of the District's attorney, to initiate enforcement actions pursuant to statutes section 103D.545.

After discussion, the President called the question. The question was on the adoption of the foregoing Findings and Order. The motion passed and the Findings and Order were adopted by a vote of 9 yes and 0 no.

Dated this 19th day of April, 2022.

SAUK RIVER WATERSHED DISTRICT BOARD OF
MANAGERS

By _____
President, Board of Managers

- iii. Ditch and Permit Manager Hired – Administrator Roeschlein reported that Galen Gruber has accepted the position of Ditch and Permit Manager and is in attendance at the meeting. Galen was asked to introduce himself and give a bit of background.
- iv. Water Resource Manager Position Update –Roeschlein updated the board on the Water Resource Manager Position. He reported that 1 application was received. He will forward the application information to the committee, President Becker and Manager Zerr, and likely schedule an interview. He also noted that we may have to repost the position again if the District is unsuccessful this round.
- v. Workshop Topic – 2-stage Ditches-Design and Maintenance – Roeschlein presented topics for board workshops and suggested that at the June 21st meeting, the District have a workshop presented by legal counsel John Kolb on the topic of board powers and duties. He then suggested that the next workshop on July 19th is about 2-stage ditch design. A presenter has been lined up to discuss the details of what a 2-stage ditch is, how they are designed, constructed and maintained. The board agreed with Roeschlein's suggestions and directed him to schedule the board workshops for June 21st and July 19th as suggested.
- vi. 2021 Annual Report – Roeschlein presented a board memo from Adam Hjelm, the Public Outreach Coordinator. The Sauk River Watershed District 2021 Annual Report is complete and included in the board packet. The Education and Outreach Committee reviewed the report prior to publication. Circulation in local newspapers proved to be cost prohibitive. Hjelm recommended that the District continue to share it in its regular outreach channels as has been done in the past. He also said that he would work with some of the newspapers to do

smaller, individual articles from the Annual Report on a focused basis to target specific areas within the District.

- vii. Public Outreach and Education-recent articles and web analytics – Hjelm shared a recent article from a local publication in the board packet, as well as the February and March website analytics.

- c. Committees

- i. Citizen Advisory Committee – No report
- ii. Water Quality/Projects – Managers Becker, Hartmann, McKigney – Meeting in May
- iii. Rules – Managers Bautch, Klatt, Lahr - No report
- iv. Public Relations/Education – Managers Botner, Wittkop, Zerr - Agenda item V

- 5. **Items for Upcoming Meetings or of Interest**

- a. Board Workshops – June 21st and July 19th

- 6. **Upcoming Meetings to be Announced**

- a. Regular Board Meetings
 - 1. Tuesday, May 17th, 2022 – Regular Board Meeting, 6 p.m.
 - 2. Tuesday, June 21st, 2022 – Regular Board Meeting, 6p.m.

- b. Other Meetings
 - 1. None

- 7. **Adjournment of the Regular Meeting - Manager Bautch made a motion to adjourn the regular meeting at 6:45 p.m. The motion was seconded by Manager Klatt. The motion passed with all in favor.**

**Regular Drainage Authority Meeting
MINUTES**

- 1. **The Drainage Authority meeting was called to order by President Becker at 6:45 p.m.**
- 2. **Additions/corrections to the agenda item** – President Becker asked if there were changes or additions to the agenda. There were none. **Manager Zerr made a motion to approve the agenda as presented. The motion was seconded by Manager Hartmann. The motion passed with all in favor.**
- 3. **Drainage Specific Public Comment Period** – There were none.
- 4. **Reports**
 - a. Pope CD 6 and Pope/Stearns JD 1 Repairs – Administrator Roeschlein presented a board memo about the Pope/Stearns JD 1 and Pope CD 6 repairs. He provided a table showing the payments made for temporary damages in the right-of-way needed to spread the spoils for those repairs. The table lists all of the landowners that received temporary damage payments. Roeschlein also reported that the temporary right-of-way will be

staked as soon as possible so that landowners don't plant in that area to avoid any kind of undue expenses. The rest of the staking of the repair work will also be done at the same time and if it turns out that the repairs are completed prior to spring planting, those landowners would be allowed to plant that area and farm it as if it was done normally. The District held a preconstruction meeting with the contractor, MBC Drainage, on April 7th. All landowners that were paid temporary damages were invited to attend to gain first-hand knowledge of how the repair will proceed. There were 3 landowners in attendance. Staking is tentatively set for the week of April 18th. The contract states that the repairs are to be finished by June 30th, 2022. Weather will be the biggest factor in dictating the schedule. All staking will be completed by the engineering firm ISG because the Ditch & Permit Manager position was not filled before April 18th, 2022. The Ditch & Permit Manager will participate in staking and construction oversight as much as possible. Roeschlein also reported that a mailing was sent to all of the landowners on CD 6 and 11 and JD 1 with an initial update for the repairs that will be happening this spring. The mailing was sent out on February 16th, 2022. No other memos will be mailed to landowners as work progresses but progress reports are being circulated through the District's list serve. All landowners were encouraged to subscribe to that if they wished to keep informed on how the repairs were progressing.

- b. CD 15-Jerry Gill Crossing Repair – Roeschlein presented a memo indicating that the crossing on Jerry Gill's driveway over CD 15 is failing. He also noted that in 2014 when the repair was completed, those private crossings that were in need of repair were repaired under the overall ditch repair contract. At that time, this crossing was still functioning adequately and replacement was delayed. After inspection, it is determined that the time is now to replace this culvert and repair the crossing before catastrophic failure occurs. Roeschlein recommended that the CD 15 ditch system cover the cost to replace this culvert and repair the crossing as soon as conditions allow. **Manager Zerr made a motion to authorize Roeschlein to proceed with repairing the private crossing over CD 15 on the Jerry Gill driveway as soon as conditions allow and cover the expense through the CD 15 ditch fund. The motion was seconded by Manager Lahr. The motion passed with all in favor.**
- c. CD 9-Meyer/Klaphake Tile Connection Repair – Landowners Karl Meyer and John Funk contacted the District in regards to a private tile connection to Branch 1 of Stearns County Ditch 9 that has failed and is in need of repair. Roeschlein indicated that he will be meeting with a contractor on-site to devise a plan for repairing this connection. The failure for this connection is located where the private connection was made under the tile replacement completed in 2018. Roeschlein indicated that he doesn't anticipate requiring board action to complete that repair because he expects the estimate will be within the ditch inspector's authorization parameters per the drainage authority drainage policy.
- d. Interim Ditch and Permit Manager
 - i. Monthly Report – Roeschlein highlighted discussion about the JD 2 sediment ponds as that had not been discussed prior. He reported that staff visited the project on Monday, April 4th and pulled up the inlet fish barrier and cleaned it. The outlet fish barrier was clear. Water levels were high and everything appears to be functioning normally with no issues noted.

5. Items for Upcoming Meetings - None



6. **Upcoming meetings to be announced**
 - i. Tuesday, May 17th, 2022 – Regular Drainage Authority Meeting
 - ii. Tuesday, June 21st, 2022

7. **Adjournment of Drainage Authority Meeting – Manager Hartmann made a motion to adjourn the meeting at 7:10 p.m. The motion was seconded by Manager McKigney. The motion passed with all in favor.**