



**TITLE: DRAFT Regular Monthly Board Meeting Minutes**

**DATE: June 4, 2026**

**1. ATTENDANCE:**

Chairman Stuart Christian called the June 4, 2026, meeting to order at 8 AM at the District Office. Other managers attending were Clayton Bartz, Todd Peterson, Don Andringa and Shawn Brekke. Staff members present included April Swenby – Administrator and Donna Bjerk – Administrative Assistant. Others in attendance included Zach Herrmann – Houston Engineering (HEI). Attendees via remote technology included Scott Henderson and Kody Fossum – H2Over Viewers and John Kolb – Rinke Noonan.

**2. AGENDA APPROVAL:**

A **Motion** was made by Manager Andringa to approve the agenda with the addition of adding board direction regarding Mn Watershed’s proposed resolutions, **Seconded** by Manager Bartz. **The Motion was carried.**

**3. MINUTES:**

A **Motion** was made by Manager Andringa to approve the minutes from the May 7, 2026 meeting, **Seconded** by Manager Peterson. **The Motion was carried.**

**4. FINANCIAL REPORT:**

A **Motion** was made by Manager Peterson approving the May 2026 Treasurer Report, **Seconded** by Manager Andringa. **The Motion was carried.**

The managers reviewed their expense reports and reported on activities for the month. The following bills were reviewed.

April J. Swenby	150.80
EcoLab	60.88
First Community Credit Union	69.97
Garden Valley Telephone Company	148.95
H2Over Viewers	32,201.73
Houston Engineering	9,166.50
Jason Benbo	375.00
JC & J Trucking, Inc.	850.00
Lakes Community Cooperative	207.40
Liberty Township	345.00
Otter Tail Power Company	164.12
The Painter Lady	650.00
Wild Rice Electric	125.26
<b>TOTAL</b>	<b><u>44,515.61</u></b>

Additional bills presented included the City of Fertile water billing for \$47.38, Ashley Peterson for \$150.00 and Brady Martz. \$12,466.92.

A **Motion** was made by Manager Brekke to approve the bills to be paid, including the additional bills Swenby presented. **Seconded** by Manager Peterson. **The Motion was carried.**

The total amount of bills to be paid was \$57,179.91

## 5. ADMINISTRATOR REPORT:

**Web-site Accessibility:** Swenby shared that she has learned more about statutory requirements for having a site for local government units in the State of Minnesota and requirements with BWSR. Minnesota watershed districts are not explicitly required by statute to maintain or house a website. The minimum obligation is to "provide public access" to information such as public notice of meetings/hearings, maintain accessible records, make contact information available, adopt and publish rules, and maintain management plans and make them available for review. In practice, nearly all watershed districts use websites to meet these obligations.

The MN Board of Soil and Water PRAP (*Performance Review and Assistance Program*) does not require watershed districts to have a website. When BWSR does a PRAP organizational review if and how required information is submitted, shared, and whether or not it was completed on time and according to statute, policy, or agreements.

Swenby confirmed however that some grant agreements require website reporting requirements. BWSR has website grant reporting requirements listed on their website and Swenby provided that link to the managers. A quick review verified that Clean Water Funds require specific postings on websites. Swenby stated that if the district wants to keep CWF, the district must have a web-site.

Swenby reported that multiple vendors had been reviewed and she has personally met with them for website services. The current estimates suggest an increase annually of approximately \$5,000 per year above current costs, not including one-time set up fees for new platforms. The vendor offerings discussed included a new platform, accessibility monitoring, and documentation intended to show ongoing compliance efforts. Kolb stated that the added expense did not sound unreasonable if it provides meaningful risk reduction and support for compliance.

Counsel emphasized that the district should make and document a good-faith effort toward website accessibility compliance. Swenby added that new laws require state and local government web content to conform to WCAG 2.1 Level AA under federal Title II accessibility rules, with compliance deadlines for smaller local governments and special districts extended to 2028. Counsel advised against choosing not to act, noting that the district's insurer and litigation posture may be negatively affected if the district ignores the issue.

Swenby is hopeful by next month she'll be able to share their proposals and scopes with the board. She was not comfortable presenting proposals yet and wanted to continue vendor review for website accessibility services, with attention to scope, hidden costs, monitoring, and documentation of compliance efforts.

**Annual Report:** Swenby shared a draft annual report for 2025 that she worked on throughout the month of May. Swenby asked the managers to read through the report and let her know of any changes or items for modification regarding the representation of the watershed. She stated she would like to have it printed by the 3<sup>rd</sup> week of June so it is ready for distribution at the Polk County Fair. Swenby asked for Manager feedback by June 19. Manager Andringa suggested that the report indicate locations of projects where applicable to let the reader know the general location of the areas being highlighted in the report.

**Project Team:** Project Team meetings were held May 28 for the Bear Park Dam and the SH River Flood Storage Solutions Teams. Outcomes of the meeting directed staff to work towards the finalization of purpose and need statement, and the drafting of a project scope for engineering for presentation at the July board meeting for board approval.

**Ditch Inspections:** Ditch inspections are scheduled for June 5. Manager Peterson will come along to learn.

**TMDL Technical Memo:** Due to time restraints for a comment period from MPCA, Swenby authorized Houston Engineering to provide technical memorandum in response to the TMDL draft. This response was provided to the managers. Herrmann reviewed with the managers the response given to MPCA.

**FDRWG Meeting:** The FDRWG meeting will be held in Fertile on June 23. There will be tour of the district project team sites (west). They are looking for RSVP's for attendance for lunch. Manager Andringa would like to attend.

**Contractor/Neighbor Staging area:** Next month the neighboring landowner has asked to be placed on our agenda to discuss with the board a request for rent money for staging during the building process.

**Project # 27:** The Union Lake Pump Project was not selected for bonding. After speaking with Johnson's office, it was learned that a path forward depends heavily on the November elections and who holds majority in the House/Senate. Additionally, typically (but not always) bonding and budget years alternate, so it may be entirely possible that next year is a budget year.

Swenby stated directed the managers to an action item on the board agenda that directs staff to move forward with permit modifications. To operate the pump for Project # 27 until permanent funding is available, a modification to the operation and maintenance plan for seasonal operation is required. This modification will restrict discharge to times of the year when zebra mussel larvae would not be transported or introduced into another water body by the outlet. Temperature would need to be taken at 4-6 feet of water depth near the location of the siphon, and the temperature would need to be recorded at 48 degrees or lower. Swenby informed the managers that ZM veliger sampling will need to be conducted if we use this method.

Swenby reported that the dive team performed their inspection on May 20. Manager Andringa was present. The divers were not able to do the video of screens being burst with air because their underwater drone was broke. They are willing to come back after it is fixed if the district would like this. It was reported that the screens are full of Zebra Mussels and the team did not attempt to clean it off. The screen to the northwest is pitched over at a 45 and they gave the USLID members a mounting bolt that was broken. Prior inspections have indicated that the district is monitoring the saddles. Swenby would like board approval to consult with a specialized contractor on a repair plan with Herrmann; pending the districts action take today with the permitting for operations. Houston Engineering was planning on looking at a repair for the saddles that the diving team has noticed in the past and Swenby thought that now would be a good time to add this to the maintenance needs. Swenby affirmed hiring an outside firm to do a more formal inspection will provide a recommendation for the repairs and a firm cost estimate.

## 6. REDETERMINATION OF BENEFITS.

H2Over Viewers and John Kolb were in attendance to present a status update of the ROB for the Sand Hill Ditch and various ditches.

H2Over presented **draft** viewer's reports for all the ditch systems in Group 1. The board was asked to review the ditch alignment and parcels within those areas to ensure accuracy. H2Over stated they had some issues in the past with ditch alignments being slightly off or mislabeled and landowners getting damage payments when they shouldn't and suggested that the district review this.

Henderson stated that the next steps include H2Over beginning the process for preparing the property owner's report. The property owner's report highlights the individual's property and describes the benefits and any damages that might occur by the ditch transversing their property. A landowner packet will be sent to every landowner within the watershed boundary of the ditch that has benefits and/or damages. Non-benefitted properties will not receive a landowner packet. The packet will consist of a property owner's report that shows a breakdown of damages (if applicable) and benefits for an individual parcel, a map of that parcel, the overall landclass map and a FAQ sheet. If a landowner owns more than one parcel, they will receive a landowner packet for each parcel. When H2Over mails out the landowner packets, there will be language that tells them the time and location of the landowner's meeting and the final hearing (if you want the final hearing announced

at this time). Due to the size and the amount of information within the spreadsheet, H2Over suggests directing land owners to the district website, where they can view Exhibit A online and can print or download it on their device.

H2Over provided images of the watersheds for the referenced ditch systems and the overlap with the WD boundary. In some instances, the amount of benefits was questionable that would come into the watershed, especially with the whole parcels that would need to be changed. It might be better to remove those acres from the benefitted area in lieu of incurring costs to change the boundary. The board was asked to decide whether to pause and go through boundary adjustment proceedings, at added cost, or just exclude those lands as beyond the authority or jurisdiction of the Board.

Kolb stated that viewers are to provide the district with the total benefitted acres, total dollar benefits for the system, total benefitted acres outside of boarder, total dollar benefits outside of boarder for comparison. If the percentage of acres and percentage of dollar benefits is small, it may be advisable to just exclude the acres.

Kolb also stated that from a boundary adjustment perspective, the district should see, by parcel, where the benefits lay. The district cannot include part-parcels in the boundary for taxation reasons (the district cannot tax only part of the a tax parcel). For watershed boundary adjustments, watersheds usually will include a parcel only if more than 50% of it is within the hydrologic boundary. For example, if only 49% of it is considered within the hydrologic boundary, it would not be included. Even though there might be benefitted acres outside of the current boundary, that alone might likely does not justify a boundary adjustment to include a parcel where less than 50% of the parcel is within the hydrologic boundary. Kolb recommended that the board consider hiring HEI to perform an analysis and provide recommendations regarding the boundary.

The board discussed the following with John Kolb to continue the discussion on the Redetermination of Benefits:

**Sand Hill Ditch Right of Way and Buffer Guidance:** Swenby provided to the managers correspondence to the district attorney, with supporting records, asking for a recommendation for the buffer purchase along the SH Ditch. The basis to the following discussion was related to this correspondence.

John Kolb advised that the available records did not show evidence that a separate buffer was originally acquired when the Sandhill Ditch was constructed. If no historic buffer was acquired, the current redetermination process under Minnesota drainage law may require viewers to determine damages for the buffer and for the drainage authority to acquire it. Counsel also explained that Minnesota's riparian buffer law independently requires a vegetated buffer adjacent to public drainage systems, creating a practical overlap between Chapter 103E and Chapter 103F. Public drainage systems generally require a 16.5-foot continuous buffer under the buffer law.

Counsel's recommendation was to value and acquire the 16.5-foot buffer based on where the ditch bank sits today. He stated that as the ditch bank shifts over time, the buffer follows the bank. He further stated that natural widening or movement of the ditch is generally borne by the adjoining landowner, provided the district continues to exercise its maintenance authority reasonably and addresses conditions that may destabilize the system.

On potential claims that the district failed to maintain the ditch, counsel advised that such claims are fact-specific and not automatic. He noted that drainage systems are dynamic and affected by weather and changing conditions. He indicated that the district's practice of inspection, prioritization, and decision-making within available financial resources supports a defense based on reasonable exercise of discretion and may support immunity protections, even though litigation can still be filed.

**Buffer Enforcement along the SH Ditch:** The discussion covered situations where a landowner farms or cultivates into the required buffer. Counsel stated that once the buffer is acquired under Chapter 103E, enforcement options are stronger under the drainage code. Until then, enforcement may proceed under Chapter 103F and the district's watershed authority under Chapter 103D, if the district has adopted the applicable enforcement rule. He explained that a formal process should include notice to the landowner, an opportunity to respond, an order if a violation is found, a restoration timeline, and further enforcement if the violation is not corrected.

Counsel stated that enforcement under Chapters 103D and 103E may allow recovery of attorney fees and other costs, while enforcement solely under Chapter 103F may not provide the same recovery. The current practice of informal outreach first, such as a call, text, or letter, was discussed as an effective first step and preferable when voluntary compliance can be achieved.

**Kittleson Diversion and Polk County Ditch 95 Record Correction:** Swenby raised a concern about a short segment near the Kittleson Diversion that district records appear to show as part of Polk County Ditch 95, even though the water currently flows into the Sandhill Ditch through the diversion. Counsel stated that, for redetermination of benefits, the practical movement of water is the key issue and that this apparent record gap should not materially affect the viewers' work.

Counsel recommended a corrective order to clarify that the omitted segment should have been transferred as part of the Kittleson Diversion when the diversion was constructed as part of the 1956 project. He stated that, if Polk County agrees, the correction may be handled as a record correction without a hearing. He also recommended identifying the applicable construction stations to improve clarity in the order and reviewing whether any additional connected segment should also be addressed.

An alternative option discussed was to leave the segment uncorrected and allow it to function as a natural channel. Concerns were raised that abandonment may not be favored by landowners and could complicate future maintenance and coordination with adjoining public lands. Swenby indicated the matter would be brought to the board for discussion and possible action in today's action items.

**Potential Consolidation of Western Drainage Systems:** The group revisited the possible future consolidation of Project 17, Project 20, Ditch 119, and Ditch 9 during the broader redetermination work. Counsel stated that the district is currently in a holding pattern and that consolidation cannot occur until the necessary redetermination steps are complete. He noted that a resolution of intent had already been adopted.

The next preparatory step discussed was development of an engineering-based description of what the consolidated system would look like, including the main ditch, laterals, branches, and naming or relabeling conventions. Once the redeterminations are complete, the district can proceed to notice and hearing on any proposed consolidation.

## 7. ENGINEER'S REPORT.

**FEMA 2022 Disaster Mitigation Funding:** The initial grant expires in July. The district continues to work with FEMA to provide a mitigation plan; however, recent correspondence indicates that FEMA is looking for full construction specs and contractor quotes before approving a mitigation plan. Herrmann is apprehensive about incurring such extravagant costs at the risk of FEMA not approving mitigation work.

**Project Teams:** Herrmann attended and presented at both project teams. He will develop a plan of work to have a better understanding of costs and timelines for each project team.

**MPCA Climate Action Grant:** The district was awarded an MPCA Climate Action Grant which has a deadline of June 30, 2026. Herrmann will be completing this report this month.

## 8. ACTION ITEMS.

**Streamgage:** Swenby provided a joint-funding agreement from USGS (US Geological Survey) for a cost share for the gage at Climax. For FY 26, they propose a 2.3% or \$150 increase to help keep up with inflationary costs. The contract is for the period of October 1, 2025, through September 30, 2026, in the amount of \$6,530 from the district. The U.S. Geological Survey contributions for this agreement are \$5,300 for a combined total of \$11,830. A **Motion** was made by Manager Brekke enter into a cost share joint-funding agreement with USGS for \$6,530, **Seconded** by Manager Andringa. **The Motion was carried.** Manager Brekke asked if USGS has a contingency plan for when the bridge at Climax is replaced. Swenby will follow up with USGS.

**Retention Program:** A local landowner continues to pursue storage for irrigation along the Kittleson. The landowner is working with HEI and Rita Weaver from BWSR (Board of Soil and Water Resources). The landowner was reminded that our board already looked small storage grants in this area and declined to pursue due to downstream benefit vs. local cost.

Swenby asked the board if there was interest in starting a program to assist local landowners in small retention projects. She suggested that a program could be implemented similar to what was done with the partnerships with SWCD's (Soil Water Conservation District) and the Sediment Basin Programs the district historically funded, only the watershed would be the local partner working directly with the landowners. Discussion included ideas for the watershed paying a percentage for projects that landowners want to complete for small storage, setting parameters to guide the criteria for a program, performance-based funding, incentives (Flood storage, Peak flow reduction, nutrients/sediment, etc.), identification of requirements to meet funding, landowner expectation for operations and maintenance, and ideas for working to remove the district from any liability.

A **Motion** was made by Manager Andringa to table moving forward at this time and continue to brainstorm ideas of how this could be of public benefit and what criteria the board may require for an internal program such as this, **Seconded** by Manager Peterson. **The Motion was carried.**

**Project # 27 – Permitting for Temperature Regulation:** Swenby asked for board direction for moving forward with permitting modifications and operations and maintenance plan amendments for Project # 27. For reference Swenby provided the BRWD's (Buffalo Red Watershed District) operating manual for a pump that they operate with temperature regulations due to zebra mussel. As a reminder Swenby also provided an e-mail from the MnDNR stating all requirements to proceed forward with temperature-controlled permitting.

A **Motion** was made by Manager Brekke proceed forward with the permitting and the implementation of a revised Operations and Maintenance manual for temperature-controlled pumping for Project # 27, **Seconded** by Manager Andringa. **The Motion was carried.**

**Project # 27 – Repair:** A **Motion** was made by Manager Brekke authorize Herrmann to hire a specialized team to inspect, provide repair recommendations, and a cost estimate for the repair needs on Project # 27 pump and underwater infrastructure, **Seconded** by Manager Andringa. **The Motion was carried.**

**SH Ditch Water Sampling:** Quotes were provided from the International Water Institute (IWI) for water sampling on two sites on the Sand Hill River. Each sampling even would cost \$355. Sampling results could benefit the district for future grant dollars and would also act as a guide to educate the managers on the needs of the district.

A **Motion** was made by Manager Brekke partner with the IWI for sampling the SH River at two locations (S004-358 and S003-130) adding a location downstream with Herrmann's recommendation for 2026 and 2027, authorizing no more than four events each year, **Seconded** by Manager Andringa. **The Motion was carried.**

**Engineering Actions (ROB):** Discussion surrounded the draft assessed area for the Sand Hill Ditch. Swenby suggested a culvert review on Project # 11, suggested that the district consult with HEI to provide a technical review of proposed area and the ditch alignment parcels for ROW, and a review with recommendations of the boundary as presented by H2Over Viewers. She suggested that the review compare culvert/tiling applications in the district to ensure that all culverts and tiling work was accounted for in relation to proposed assessed areas.

A **Motion** was made by Manager Brekke authorizing HEI to perform a culvert review of Project #11, a technical review of the proposed area, with ditch alignment parcels for ROW, and boundary reviews, **Seconded** by Manager Andringa. **The Motion was carried.** Herrmann's team will move forward and provide recommendations to the board for consideration.

**Kittleson Diversion:** Swenby suggested that the district consider moving forward with pursuing a corrective order to clarify that ¼ mile of Kittleson Diversion was initially intended to be in the jurisdictional boundaries of

the SH Ditch. This water was diverted into the SH Ditch when the Kittleson Diversion was construction, however formal records indicate that this ¼ mile is of the legal jurisdiction of County Ditch 95.

A **Motion** was made by Manager Peterson move forward with pursuing a corrective order to clarify that the omitted segment should have been transferred as part of the Kittleson Diversion, and to explore east of the diversion related to Polk County Ditch 95, **Seconded** by Manager Bartz. **The Motion was carried.**

**Bear Park Channel Survey Extension:** The project team has suggested that the board consider extending the survey of the channel further east to the Mahnomen/Polk County line. Herrmann estimates that this will cost under \$5,000.

A **Motion** was made by Manager Andringa honor the request of the project team and continue the channel survey to the Mahnomen/Polk County line, using the Data and Acquisition fund to perform the survey, **Seconded** by Manager Brekke. **The Motion was carried.**

**Exterior Flowers:** Swenby stated that in the past the district considered participating in the beautification of main street with flowers. The district has never opted with that, because we do not have regular office staff to ensure they are watered daily. The managers were provided with a proposal from Fertile Garden Center, who maintains and cares for the Fertile Veterans memorial flowers. For care and maintenance for 2-6 pots, the charge would be \$500 for the season. This includes watering, fertilizing, taking flowers out and planting mums for fall (mum plants included in this price), and taking the flower pots back to the greenhouse in the fall for storage for the next year. For the first year, each pot would be between \$200-\$300 for the pot, soil, and flowers. The first year the cost is higher because of the price of the post and the soil. Future years, would be less per pot because the pots would be owned and the soil would be in place.

A **Motion** was made by Manager Brekke to not allocate expend dollars for flowers, **Seconded** by Manager Bartz. **The Motion was carried.**

**103D.905 Subd 3 Petition Levies:** Swenby will be meeting with the Polk County Commissioners in July to present the annual report for 2025 and present the proposed petition levies using MSA 103D.095 Subd3. Last year the amount levied for each category of our petitions was \$154,629.71 for petitions "Water Quality and Erosion" and "Water Management and Retention" and \$100,000 for the petition for "Studies and Agency Support". The district's new tax capacity allows for a max levy amount of \$164,595.30 per petition for 2027. Swenby presented a spreadsheet of all petitions and possible budgetary items for each category.

A **Motion** was made by Manager Andringa to approve two presented petitions at the new tax capacity of \$164,595.30 for petitions "Water Quality and Erosion" and "Water Management and Retention" and \$100,000 for the petition for "Studies and Agency Support", **Seconded** by Manager Peterson. **The Motion was carried.**

## 9. MANAGER REPORTS

There were no manager reports.

## 10. OTHER BUSINESS/PARTNERING AGENCY INFO.

The managers received information Mn Watershed's regarding their legislative update and the Mn Watershed's Summer Tour.

Extensive discussion was held regarding the potential impacts of the proposed changes to the MN Plumbing Code. As the Clean Water Council representative representing the watersheds in Minnesota, she has attended several meetings regarding this issue. The plumbing board meets June 21 to being the process of rule making. The impacts to the rule change could impact irrigation and tiling, and it also would be counter productive to the millions of dollars spent using Clean Water Funds for the reuse of stormwater. Mn Watershed's is asking the CWC, the DWG, the RRWMB all to write letters to the Plumbing board, in addition to state legislators. I have contacted our legislators. A copy of that e-mail was sent to the board managers.

Manager Andringa asked for board review of Mn Watershed's proposed resolutions. Each resolution was presented to the board and feedback was provided to Manager Andringa for representation.

#### 11. PERMITS:

As per the terms of permit 25-17, an inspection was made. Herrmann will provide a recommendation, if any based on the stipulations of the permit approval.

Swenby informed the managers that a permit violation was made east of Winger in Section 16 of Sletten Township. Action was stopped and work was put back to original condition. Permits will be applied for.

Swenby provided correspondence regarding drainage cleaning and wetland permit dispute. Swenby asked for direction for drainage authority obligations. The Wetland Conservation Act has defaulted to strictly following NRCS certified determinations. It appears the area in question is classified as "W" wetland, meaning it can't be drained. Preliminarily, Mark Aanenson from HEI offered suggestions to pass to the landowner.

While the landowner has not applied for a district permit, Swenby stated that she would like to draft a letter providing this limited assistance with these suggestions.

#### 12. ADJOURNMENT:

The next regular meeting will be held July 2, 2026, at 8 AM. As there was no further business to come before the board, a **Motion** was made by Manager Brekke to adjourn the meeting at 1:09 PM, **Seconded** by Manager Bartz. **The Motion was carried.**

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Donna Bjerk, Administrative Assistant

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Shawn Brekke, Secretary