

MEETING Agenda

Meeting will be held Keith Nygaard's Shop 27820 180th Street, Starbuck, MN 56381 No Zoom Option USDA Service Center closed to public

Supervisory Board Meeting 7:00 am August 17, 2021

Attendance: Tom Talle, Keith Nygaard, Kelly Erickson, Randy Pederson, Randy Mitteness, Holly Kovarik, D. Gary Reents, Brad Randt and Earl Hauge

1. The meeting was called to order by Chairman Nygaard and the Pledge of Allegiance was recited.
2. D. Gary Reents made a motion to approve the agenda and Randy Pederson seconded the motion. The motion passed with all in favor.
3. Consent Agenda (approved by one motion)-*President*
 - o *July 2021 Board Meeting Minutes*
 - o *Resolutions-None*

<u>Number</u>	<u>Description</u>

- o *Contract/Applications for Approval-None*

<u>Number/Name</u>	<u>Description</u>	<u>Total Application \$\$</u>

- o *Appropriations/Payments*

	<u>Payee</u>	<u>Description of Payment</u>	<u>Amount</u>	<u>Payment Code/Description</u>
1.	WSN	Ravine Project	\$1,164.28	City of Glenwood CWF
2	UofM	Rosholt Nitrogen study	\$28,000	MDA grant
3.	UofM	Rosholt IXN Study	\$5,000	MDA grant

- o *Grant Payment/Project Approvals-*

<u>Contract Code</u>	<u>Grant Name</u>	<u>Landowner</u>	<u>Type of Project</u>	<u>Project Location</u>	<u>Amount</u>	<u>Payment</u>
CAPO2-19	City of Glenwood	Donna Hahn	Lined Channel	MAHS 6	\$27,125.00	
WS03-21	LWM	Sonja Hawn	Well Sealing	Bangor 6		\$375.00
WS04-21	LWM	Colton Isdahl	Well Sealing	Lake Johanna 6	\$500	

Randy Pederson made a motion to approve the consent agenda items as presented and Randy Mitteness seconded the motion. The motion passed with all in favor.

4. Commissioner Update-*Paul Gerde-no report*
5. Old Business
 - o Rosholt Field Day will be held on August 19th approximately 75 people are registered for the event.



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- Pope County Fair Follow up-2 rain barrels and 4 DQ gift certificates, 20 samples ran at nitrate clinic
 - Nathan and Angie Walter accepted Outstanding Conservationist nomination authorize staff to complete application and submit by the deadline. **D. Gary Reents made a motion to authorize the staff to complete and submit the nomination and Tom Talle seconded the motion. The motion passed with all in favor.**
 - COVID updates/discussion were shared with the board. The board decided by consensus at this time that we will continue to mask when in shared space, but no other protocols are being implemented with our staff at this time.
 - WCA Spot Check has been completed. We are waiting for an official report from BWSR which will be shared with the board. BWSR staff was here on July 29th to complete the spot check.
6. **New Business**
- September 14, 2021 Area II meeting notice and registration-Tom Talle, Keith Nygaard, Randy Pederson, D. Gary Reents, and Randy Mitteness all indicated interest in attending the event.
 - Danielson WASCOB project 1999 and USFWS-Kovarik shared that she was on site with the engineer and landowner and is working on gathering information on this project that we cost shared in the late 1990s. We will then sit down with USFWS and the landowner to discuss next steps to a remedy.
 - MCIT Dividend Notice 2021 Total Dividend \$2,951
 - RIM Haying/Grazing requests and discussions were shared with the board. We have had only a few requests on RIM. We have then set up plans for those landowners to hay or graze based on the current program rules. We do not have a drought provision for RIM. Kovarik shared that Representative Anderson had reached out inquiring about the program and interest from landowners. The group discussed the ongoing drought conditions in the County.
 - Pope and Stevens Water fest is set for September 24th
 - Conservation Day is set for September 30th
7. **Treasurer Report** D. Gary Reents made a motion to approve the Treasurer report and Randy Pederson seconded the motion. The motion passed with all in favor.
- Monthly Checking Account Report #11247
 - Monthly Savings Account Report #870903
 - Treasurer Report (3-year comparison)
8. **Reports**
- Holly Kovarik, Manager
 - Attended Sauk River Advisory Meeting
 - 2022 Appropriation Request Meeting went well. The SWCD asked for a 10% increase to the base appropriation and that was received favorably by the Commissioners.



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- Becker IXN Study AR \$669.79
- Irrigation Methods AR \$464.10
- Audit scheduled week of August 30 for the 2020 year end.
- Sauk River Comp Plan proposal with BWSR Board end of August
- MDA IXN Study AR \$6,033.00
- MAWQCP AR \$4,829.85
- 2019 Local Capacity Amendment to shift funds into more project funds completed
- MDA Rosholt Nitrogen Study AR \$41,101.19
- Johnson project
- 2021 LWM close to fully expended
- Presented at AVL Lake Assn meeting there were about 30 people in attendance.
- Appropriation meeting with County
- CRWA Meeting August 20, 2021 with presentation from Houston Engineering
- Quarterlies are being done.
- Gerry Maus project was mentioned as it is almost complete.

o Kelly Erickson, Technician

- Sales Program Updates-He is working on mowing CRP sites. He pre-ordered weedfabric for 2022 as prices were going up.
- Irrigation Water Management-He continues to manage pivots for soil moisture and to complete the spreadsheets for IWM.
- WCA-BWSR was here for the audit.
- He has been working on 2 mitigations and 2 notice of decisions. ARE farms is one of the NOD's.
- WCA -ARE Farm Bangor 31 Application Irrigator Crossing Exemption Follow up
- The irrigator has been running a lot at Rosholt with the drought conditions.
- He sprayed the soybeans at Rosholt.
- He has observation wells to monitor this month.

o Nicole Brede, District Technician (see written report)

- o Jeff Helleman, NRCS-He is working on CRP plans for the 2021 sign up. He has been working on 1 very large CSP contract. He has worked with the Conservation Planner Outreach and CSP acre reviews. He may end up teleworking again based on COVID numbers.

- o Alexander Fellbaum, FSA CED will be our CED from now on.

9. Board Member Meeting Reports

- o Randy Pederson-North Fork Watershed IWIP meetings & staff update, Glacial Lakes Trail -The policy meeting will be on September 1st in Litchfield.
- o Randy Mitteness-Chippewa River Watershed Board & staff update-There will be a meeting on Friday.



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- o D. Gary Reents-Sauk River Watershed IWIP Committee meetings & staff update.-We are waiting on BWSR to review and approve the plan.

10. Upcoming Meetings:

<u>Meeting Date</u>	<u>Meeting Description</u>	<u>Meeting Location</u>	<u>Meeting Time</u>
9-21-21	Pope SWCD Regular Board Meeting	Keith Nygaard's Shop	7:00 a.m.

11. FYI Items- none

12. Public Comment:

Earl Hauge arrived at 8:25 a.m. and Brad Randt was also in attendance to talk about the Notice of Decision for an Irrigator Crossing in Bangor Township Section 31. The two are part of ARE Farm that own the property. Earl provided a letter to the board and those in attendance at the meeting. He read the letter. See letter below:

Pope County Soil and Water Board

I know I have made your life as a board member more difficult these past two years. It has not been easy for me either. But I hold no ill will against any of you because I know you were doing what you felt was your duty as a board member. I suspect that having to enforce laws is your least desirable part of the job.

I know each of you is determined to be the best board member possible and have acted as such. Just as I am determined to be a responsible citizen of this county and have acted as such.

I think our conflict has resulted from our understanding of "what are actual duties of Pope County Board of Soil and Water". As I see it, the county Soil and Water Boards are an entity created by law to protect the Soil and Water of each county. In so doing, board is to work with all stakeholders in every situation regarding our soil and water to find reasonable solutions in determining what works best. They should look first at what is best for the soil and water, then all stakeholders, which would be the landowners, the people of our state, and other governing units.

When I was a State Representative I worked on similar legislation. Had I been the State Representative in 1991, I would have voted for the 1991 Wetland Preservation Act. I think it is a good law, and was needed to protect the wetlands which are a community resource of the citizens of this state.

This law was to be administered in each county by a board with five citizens of each county. The Statute says the Board is to work with all stakeholders in administering the law. In talking this over with a lawyer and also with a person who was a judge for over 30 years, it appears to me there are three levels of law a judge will consider. First what was the intent of the Law. Second is to look at the wording of the law and consider how it fulfills the intent. Third a judge would look at other guidelines which were later proposed by different agencies to help in administering this law. These guidelines would likely be adopted by the legislature and become part of "the law".

Then the judge would look to the person on trial. What is their situation? What was going on when they were breaking the law. What could be done in this situation that would best help this person and keep society safe. In other words, what would be considered justice (or fair) in this case. That is what would people consider a fair outcome to the person and fair outcome to society.

In Pope County, you have Lynda Ponting as an advisor. I can still hear her telling you how "you must vote the way I tell you because that's the law and if you don't, you will be breaking the law." I have never heard her quote verbatim the actual words of the law, so she is actually giving you her interpretation of the law. (Several times I have asked her to send me the actual wording of the law. When she did, I would come to a much different conclusion of what the



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was told that he had an approved Exemption request and that he should follow the conditions in the permit. There should be no excavation in the wetland as he has not purchased credits or completed a replacement plan.

- 13. Adjourn-Randy Mitteness made a motion to adjourn at 9:05 a.m. and Randy Pederson seconded the motion. The motion passed with all in favor.

Keith Nygaard *Rep Sec'd* 9-21-21
Chair

Randy Pederson 9-21-21



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law actually said.) It appears to me she gives her interpretation of what she wishes the law would say.

Secondly if you vote differently from her directive, you are not breaking the law. The Wetland Protection Act gives the county boards authority to interpret the intent of the law while they work with all the stakeholders in their county. You the board are charged with protecting the Soil and Water in Pope County. In doing so when you are acting with good intent, you can't be charged with breaking the law. Because your decision is the law in each situation.

The State Board of Soil and Water may disagree with you, but that would be extremely unlikely because you will have diligently decided what is a justice resolution

in every situation.

When Lynda says "that's the law", you must require her to show you the actual words of the law. You are for Pope County soil and water what the judge is in Court. It is your job to interpret the actual words of the intent of the law and to work with all stakeholders toward a reasonable solution. Government and laws are basically guidelines for us all to live peacefully together.

What has been so distressing to me, and now to my partners with ARE Farm, is how you have Lynda and Kelly going around dictating, telling us what we must do. (Being a surfer is the condition of a tenant farmer bound to a hereditary plot of land and to the will of a landlord). There was no mention by Lynda or Kelly, of what would be best for the soil and water in Pope County. There was no mention of our rights as stakeholders. There was no suggestion of working to find a reasonable solution with the elected board. Even if we tried to meet with you, the board, what good would it do?

We think you believe you must do what Lynda says. That is why we were left so angry and frustrated by the two visits from your office. You, the Pope County Soil and Water Board appear to us as a rubber stamp for whatever Lynda says and so why do we even need a board.

I don't expect you to take my word for defining the law that created the county board and what your powers are supposed to be. I think it would be a good idea to have a person from Bowser with a legal background to bring you a clear understanding of your duties.

In the meantime, we ask that you let our case return to its status before May 1st, or make a decision on our case based on what is best for the water and soil in Pope County, what is best for our interests, and what is best for the people of Minnesota in preserving wetlands.

Now as to creating new rules for all landowners in Pope County, your guidelines from Bowser state you should hold public hearings so the people of the county can have their input. I have always thought the statement by Thoreau which says "That government is best which governs least" is appropriate. What is the big problem you are trying to correct in creating new laws regarding irrigation roads across wetlands?

This spring we bought 80 acres from a neighbor. That land had a Fish and Wildlife easement on it which meant we were under restrictions in building irrigation roads. That Fish and Wildlife easement lowered the price we paid by \$40,000. How much value will you be taking from all wetland owners by your rules when there is no problem. Establishing rules gets very complex because the rules would depend on the wetland being underlain with clay soils or gravel soils. Also, with the water table going up or down by 4 to 5 feet makes the height of the road's problematic. We at ARE Farm are experimenting with different ways putting in the roads which will have less of an impact. Finally, why are you so ready to inflict your rules on all irrigators when the law directs you to work with all stakeholders. Creating new laws is more Big Brother dictating what we must do, rather than a government that works with its people.

After reading his letter there was discussion with the landowner. Kovarik asked Mr. Hauge why he did not share his concept for a turnaround in the application. He stated he didn't think of it at the time. Kovarik also responded to Earl that the board members have been through training to understand their role and responsibility as a board member. Mr. Hauge shared his thoughts about the culverts and felt they were unnecessary. Kovarik pointed to the NOD that states why the culverts are needed and a condition of his permit. The board took no action to rescind their decision from the July board meeting. Mr. Hauge