

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, JANUARY 18TH, 2024 AT 8:28 A.M. IN THE WATER BOARD CONFERENCE ROOM AT THE SARGENT COUNTY COURTHOUSE, FORMAN NORTH DAKOTA

Managers present: Chairman Luke Siemieniewski, Managers Todd Stein, Michael Wyum and Roger Zetocha. Also in attendance was Wendy Willprecht Secretary/Treasurer, Nathan Trosen, engineer for Moore Engineering and Sargent County Commissioner, Scott Johnson, Mike Brandenburg, Robert Eberle and Jim Dotzenrod. Present via video conference was Attorney Sean Fredricks of Ohnstad Twichell, Manager Bruce Speich, Josh Hassell, engineer for Moore Engineering, RS 1 Civil Technician, Justin Johnson, and landowners Bob Banderet and Dale Mallberg.

Manager Wyum moved to approve the December 21st, 2023 regular meeting minutes and the December 2023 Financial Statement. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Wyum moved to approve the bills.

086428 Ohnstad Twichell- Executive session/correspondence/ditch permit \$840/M. Hayen permit \$76.92; Drain No. 11- Improv Proj \$450/Eminent Domain \$1476.23

Total: \$2,843.15

086427 Moore Engineering- Meetings/correspondence \$1,884.76; SFC task 6 \$3830.00; Drain No. 11 ROW \$50/Correspondence \$1950; Drain No. 7 correspondence \$682.50/drafting of access road \$1198.37

Total: \$9,595.63

086429 Pearce Durick, PLLC- Drain No. 11 assessment \$765; Drain No. 7 assessment \$765

Total: \$1,530.00

086426 JBX- Drain No. 12 berm repair \$9450/clean out \$31,550

Total: \$41,000.00

Manager Zetocha seconded the motion. Upon roll call the motion carried unanimously.

086430 Lucas Siemieniewski	Travel	\$45.38
086431 Todd Stein	Travel	\$10.72
086432 Michael Wyum	Travel	\$13.40
086433 Roger Zetocha	Travel	\$33.50
	Bruce Speich	Travel
DD	Lucas Siemieniewski	PD
DD	Todd Stein	PD
DD	Michael Wyum	PD
DD	Roger Zetocha	PD
DD	Bruce Speich	PD
DD	Wendy Willprecht	Sec-Treas -Salary less taxes
DD	Stock Grower's Bank	Withholding Taxes
DD	ND State Tax Commission	State Tax
DD	Job Service ND	Unemployment Comp.

Drain No. 11:

Project: Attorney Fredricks stated the Supreme Court remanded the eminent domain case to the District Court. More generally, and beyond this particular case and project, as a result of the Supreme Court decision, WRDs will have to adjust how they finance and fund legal assessment drain reconstruction and improvement projects. As a result, WRDs must now count assessment funds on-hand against each drain's 6-year borrowing capacity.

Representative Mike Brandenburg asked what he could do to help. Chairman Siemieniewski suggested looking at increasing the maintenance levy threshold from the current maximum of \$4 per acre to help compensate for the higher costs of cleaning, maintaining and extending legal drains. The group noted that the maintenance levy threshold had not been increased since 2009; with inflation, even minor repair costs have increased exponentially since the last levy increase.

Glen Thompson Utility Permit: No update.

Drain No. 4: No report.

Drain No. 7:

Project: Trosen stated the cost of the outlet project came in less than expected. The project would address the bridge at the outlet crossing that needs to be removed. The plan would be to build an access road on top of the berm. The road

would be 20ft. wide with 3in. of gravel and it would tie into the existing section line. Trosen said it could be possible to use the old roadbed material to make the new roadbed. Trosen noted the construction costs would be around \$40,000. This is significantly cheaper than replacing the culverts (which would cost around \$115,000). The cost to remove the bridge is expected to be around \$10,000.

Trosen listed the following next steps:

1. Reach out to Comstock.
2. Hold a meeting with the Sargent County Commissioners, Hall Township and the SCWRD.
3. Draft an agreement with Hall Township to use the old roadbed material.

404 Permit: No update.

Drain No. 9 Extension: Trosen connected with landowner Brad Hoistad. Hoistad said he believes there is landowner interest in this project. The SCWRD suggested holding a landowner meeting. Trosen said we would need to discuss the cost-share timeline. The SCWRD suggested holding the meeting this spring. The Board will provide meeting notices to landowners in the vicinity of the project in advance of any public meeting.

Drain No. 8: No report.

Cogswell Tile: No report.

Drain No. 2: The SCWRD needs to further discuss the crop damage claims from landowners Lyons and Foertch.

Drain No. 12: The clean out of the drain went well. A suggestion was made to feather back the corners and take a drone to plant some grass in the spring. The landowners along the drain have asked about the SW lateral back slopes (4 to 1). Some landowners want to extend the drain project another 1 ¼ miles, and may also want the Board to consider realigning the drain.

An email was received from landowner Leon Mallberg suggesting the SCWRD mishandled funding for this drain project, based on the recent Supreme Court decision. The Board proceeded with this project prior to the recent Supreme Court decision, and funded and financed that project the way WRDs have funded and financed drain reconstruction and improvement projects for decades. The Board used Drain 12 funds on-hand and borrowed against the Drain 12 assessment district six years. The low bid was \$533,400, about \$70,000 more than the engineer's estimate. There was a possibility of a \$4,383 shortfall in funding after utilizing the existing drain funds and borrowing six years ahead; the Board considered utilizing general fund dollars to cover that shortfall if that became necessary. However, the cost estimate included \$53K in contingencies and Moore was confident a large portion of those contingency dollars would not be used (there were no utilities impacted and there were not many unknown issues from a construction perspective). Ultimately, the project came in nearly \$27K under budget and there was no shortfall.

Of course, in accordance with the recent Supreme Court decision, WRDs must now count legal drain funds on-hand against their six-year borrowing capacity so if the Board were to proceed with this project today, the Board would not have been in a position to proceed with the same project without an excess levy vote.

Short Foot Creek: Trosen said an exemption letter has been sent to the local NRCS staff for their review. The letter was sent back with comments. Once updated the letter will be sent to the NRCS headquarters for approval.

City of Stirum: No report.

NEW BUSINESS:

BOARD APPOINTMENTS: Manager Bruce Speich has agreed to run for another term. The auditor's office did not receive any additional applications. The auditor's office will send Speich the necessary information to sign.

Moore Engineering/Ohnstad Twichell Rate Increases:

Trosen of Moore Engineering spoke of the 2024 rate increases at Moore Engineering. The engineering market is competitive and after analysis, Moore will be increasing their fees 5% on average.

Fredricks of Ohnstad Twichell requested a \$10 increase for 2024. The rate for meetings and general counsel will increase from \$150 to \$160 and rates for file-specific matters (drain projects, permits, and complaints) will increase from \$225 to \$235.

A motion was made by Manager Stein and seconded by Manager Wyum to approve the rate increases. Upon roll call, the motion carried unanimously.

Application to Install a Subsurface Water Management System No. 2024-01 for Robert Orn in the North Half of Section 32 in Vivian Township

The Board next reviewed *Application to Install a Subsurface Water Management System NO. 2024-01*, filed December 28, 2023, by Applicant Robert Orn. Under the Application, Applicant seeks to install a 121-acre drain tile system in the North Half of Section 32 in Vivian Township, Sargent County, North Dakota. The project will include a single pump outlet located along the south boundary of the Northwest Quarter of Section 32; the pump will discharge into a slough in the Northwest Quarter of Section 32.

According to County tax roll information supplied by Applicant, Brian and Lindy Orn own the Northwest Quarter of Section 32 in Vivian Township, and Robert and Mary Orn own the Northeast Quarter of Section 32 in Vivian Township.

Because the project will discharge into a slough, the permit does not require notice to any downstream parties, in accordance with N.D. Cent. Code § 61-32-03.1.

Manager Stein moved, and Manager Zetocha seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2024-01*, filed December 28, 2023, for Robert Orn in the North Half of Section 32 in Vivian Township, and to authorize the Secretary/Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-01, subject to the following conditions:

1. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
2. Applicant will install and maintain erosion protection at any and all project outlets.
3. Applicant will turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the Sargent County Water Resource District.
4. Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Southeast Water Users District has in the North Half of Section 32 in Vivian Township under any blanket easements, or otherwise beyond the Water District's existing easement.
5. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-01 in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

Upon roll call vote, the motion carried unanimously.

Under Section 61-32-03.1, the Board cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the Board recommends that Applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Sean Fredricks will provide copies of the Board's NOTICE OF DECISION, SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-01, and Applicant's downstream flow map to the Department of Water Resources, Brian and Lindy Orn, and Southeast Water Users District.

Notice of Application of Water from Ground Water-Brian Vculek: There were no comments to be solicited by the SCWRD.

Under-80 Notifications - Sub-Surface Drain Projects-Brian Vculek: The two drain projects submitted by Brain Vculek are less than 80 acres and therefore require no action by the SCWRD. However, as these projects may affect county road ditches, attorney Fredricks suggested forwarding the tile applications onto County Road Supervisor, Tim Faber of which Administrator Willprecht will do. Fredricks will also send Mr. Vculek a copy of the County's permit in case Mr. Faber concludes a County permit is necessary.

DSJTB bills for approval –

DSJTB bills for approval

086340 DVEC – electricity –	\$ 375.00
086425 Agtegra- drip oil	\$ 23.00

These bills were approved during the Dickey-Sargent Joint Board meeting.

Balances as of December 31st, 2023

Maintenance Account Balance:	\$ 29,895.70
Improvement Account Balance:	\$ 235,821.60

The next Dickey-Sargent Joint Board meeting will be held in April 2024.

**Richland-Sargent Drain #1
Maintenance Fund Financial Statement**

A Richland-Sargent Joint Board meeting was held at 9:00 a.m. on this date. Separate joint board meeting minutes were taken. Administrator Willprecht will work with the Sargent County Auditor's department to move the accounts payable and receivable accounts to this office.

The meeting adjourned at 10:24 a.m.

Lucas Siemieniewski, Chairman

Wendy Willprecht, Secretary/Treasurer