

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, JANUARY 21ST, 2021 AT 8:06 A.M. IN THE WATER BOARD CONFERENCE ROOM AT THE SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA.

Managers present: Lucas Siemieniewski, Todd Stein, Michael Wyum and Roger Zetocha. Present via video conference: Manager Bruce Speich, Sean Fredricks, the Board's Attorney; Chris McShane from Ohnstad Twichell; Pat Downs; Paul Mathews, Leon Mallberg; Bob Banderet and Kathy Marquette. Others present at the courthouse: Chris Gross, the Board's Engineer; Wendy Willprecht, Secretary-Treasurer; Sargent County Commissioner Richard Ruch; Clint McGlaughlin; Matt McLaen; Neil Planteen and Bernie Planteen.

DRAIN NO. 9:

An interest group spoke to the board regarding Drain No. 9. Commissioner Richard Ruch spoke and said the general consensus is that landowners want the Drain extended, but there are concerns downstream. It is suggested to have the Drain put along 5 to 6 miles of the Wild Rice River.

There was discussion about the possibility of combining Drains 9 and 11.

Chris Gross, Engineer, said that the assessment area would need to be established. Chairman Siemieniewski said that if the landowners want this Drain project, the Water Board needs to look at it. Manager Wyum stated that the Drain project makes sense, but the State Water Commission may not even consider the project due to funding issues taking place in the legislature right now. Chairman Siemieniewski said that regardless of the funding issues with the State Water Commission, the board needs to look at this project. Engineer Gross added that new Drain projects are not affected by the State Water Commissions funding issues.

Engineer gross said the next steps to take with this project are: 1) Draft a petition regarding the scope of work. 2) Complete a cost share application. 3) Make a bond request of landowners that would benefit from the project (as security for the costs of developing the project, in case an assessment vote was unsuccessful). 4) Initiate a more detailed project analysis.

The question was raised as to if there could be a merger of the assessment area for both Drain No. 9 and Drain No. 11. Chairman Siemieniewski mentioned that SD may want to be included in this project as well. Attorney Fredricks said that you can consolidate two Drains if they share an outlet.

Bernie Planteen (farmer/landowner) said that he spoke to Michael Anderson at the State Water Commission. Michael asked what Bernie's thoughts were. Bernie stated that he supports moving forward with the Drain No. 9 project but is concerned that Ransom County does not currently pay assessments.

Engineer Gross said that to get the project started landowners would have to be willing to commence a petition process. The more names on the petition, the better in terms of assuring a successful assessment vote. Commissioner Richard Ruch said he would get the petition started. Chris Gross advised Commissioner Ruch and the landowners to define the scope of the project and then Attorney Fredricks will draw up a petition. Then the State Water Commission can be approached for 45% cost-share regarding preliminary engineering costs.

Clint McGlaughlin (farmer/landowner) said that he was at the meeting to represent Taylor Township and said that those in Taylor want the Drain project.

The project would include the creation of a new legal drain system that would serve as an outlet to both Drain No. 11 and Drain No. 9. The project would be located along the current natural watercourse in Section 1, 2, 8, 9, 10, 11, and 15 in Taylor Township. The extents would start at the outlet of each existing legal drain and would continue east (downstream) until it converges with the Wild Rice River in Section 1 of Taylor Township.

Engineer Gross said he could prepare a cost share application for preliminary engineering for the State Water Commission to consider for the Commission's April meeting once the landowner determined the project's extents. Applications must be submitted to the SWC at least 45 days prior to their meeting. Gross said he would have to submit the application by the end of February in order to make the SWC's April meeting. Commissioner Ruch will work on getting signatures over the next couple of days.

Chairman Siemieniewski noted that Leon Mallberg has suggested the Drain 11 project could result in adverse impacts to his property, despite the Board's hydrology report that indicates otherwise. At any rate, Chairman Siemieniewski indicated a project of this nature should address any concerns of Mr. Mallberg so he asked for Mr. Mallberg's opinions regarding this proposed project. Mr. Mallberg stated that he has not yet formulated any position on Drain No. 9.

Manager Wyum moved to approve the December 17th, 2020 minutes and the December financial statement. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Wyum moved to approve payment of the following bills:

81494 Comstock Construction	Application for payment	\$498,283.70
81495 Moore Engineering	Silver Lake Improv.- \$942.50; Permit Filing -\$262.50; NRCS Step 6 Watershed-\$1595.00; Meetings-\$1814.50; ROW/Permitting-\$2685.00; Drain No. 9 Investigation-\$9204.00; Drain No. 11 SWC Coordination-\$2293.50/Reassessment-\$6882.50; Drain No. 12 Channel Improv.-\$5875.60; Drain No. 7 Proj. Dev.-\$402.50; Mileage \$117.00	TOTOAL\$32,074.60
81496 ND Water Resource Districts Association Dues		\$675.00
81497 ND Water Users Association Dues		\$300.00

81498	Ohnstad Twichell, P.C.	Attorney Fees-\$2783.10; Hansen App.-\$512.50; Wehlander App.-\$468.70; Nelson App.-\$512.50; Rasmussen App.-\$518.80; Zetocha App.-\$144.00; Board Meeting-\$626.60; Drain No. 9 Public Meeting-\$410.00; Drain No. 11 P/A SWC Mtg./Tile Abstract-\$3518.50; Drain No. 11 Mathews/Delahoyde Prof. Services-\$ 656.00; Drain No. 12 Construction Contract-\$241.00; Drain No. 7 Meeting w/ Moore/Permit-\$433.60	TOTAL \$ 8042.20
81499	Sargent County Teller	Drain No. 9 Special Mtg.	\$39.00
81500	Sargent County Treasurer	Drain No. 4 Real Estate Tax	\$651.80
81501	Luke Siemieniewski	Travel	\$64.96
81502	Todd Stein	Travel	\$18.48
81503	Michael Wyum	Travel	\$11.20
81504	Roger Zetocha	Travel	\$28.00
81505	Ohnstad Twichell, P.C.	Jackson Improv.-Board Meeting.	\$102.50
DD	Roger Zetocha	Salary less taxes \$30.62	\$329.38
DD	Luke Siemieniewski	Salary less taxes \$45.90	\$554.10
DD	Todd Stein	Salary less taxes \$55.08	\$664.92
DD	Michael Wyum	Salary less taxes \$64.26	\$775.74
DD	Wendy Willprecht	Salary less taxes \$275.23	\$1349.77
DD	Sargent County Bank	Withholding taxes	\$776.18
DD	ND State Tax Commission	State Tax	\$12.00
DD	Job Service ND	Unemployment Comp.	\$1.63

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

Sargent County Treasurer Toepke had asked if the Board would like to renew CD #15075 as it is coming due on 1/28/21. A motion was made by Manager Stein and seconded by Manager Zetocha to renew CD #15075 for another year. Secretary-Treasurer will follow up with Toepke regarding the renewal.

DRAIN NO. 11:

- 1) Project update-Engineer Gross said that the State Water Commission's cost-share subcommittee met and discussed the possible extension of the Board's cost-share for the project. The full State Water Commission will meet on 2/11/21 and will make a final decision.
- 2) There were no new purchase agreements presented.
- 3) Reassessment update-Chris Gross said that Task 1 has been completed. He is working with Sidwell regarding 75 parcels that do not have data attached. By February the Sargent County Water Board should see output and benefit analysis.
- 4) The culvert south of the church is gone.
- 5) Televising of Drain No. 16 tile - At this time due to the distance of the manholes from each other, televising companies would not be able to provide a quality inspection of the pipe. The board took no action on this item at this time.

TEXAS CROSSING-Nothing new to report. It was suggested to revisit this Crossing in April 2021.

DRAIN NO. 7: Engineer Gross met with Damon DeVillers, the County's engineer. The Sargent County Commission would have a statutory obligation to pay for a share of this project. They are suggesting a box culvert. Gross has a cost estimate. The project will be subject to the State Water Commission's Economic Analysis process prior to any cost-share approval.

A motion to direct Moore Engineering to conduct the Water Commission's economic analysis and submit cost share to the State Water Commission was made by Manager Stein and seconded by Manager Zetocha. Upon roll call the motion carried unanimously.

Manager Wyum asked to discuss the letter that Paul Mathews wrote to Pat Downs of Moore Engineering, dated January 12th, 2021. A copy of this letter was made available to the Sargent County Water Board Managers. Chris McShane from Ohnstad Twichell spoke about Mr. Mathews' letter. Mr. Mathews had asked Moore Engineering to look at records from 100 years ago to determine what payment, if any, was made regarding the Board's right of way on Mr. Mathews' property. Mr. McShane noted that was an issue raised by Mr. Mathews at the trial regarding the "right of way" over Mr. Mathews' property. The District Court already addressed this issue in its opinion. Ultimately, the Supreme Court ruled the Board has a "right of way" over Mr. Mathews' property, and not fee simple ownership.

DRAIN NO. 12 IMPROVEMENT PROJECT: Chairman Siemieniewski said he hasn't heard a single complaint regarding this project and that it looks beautiful! To date, \$498,283.70 is eligible to Comstock. Discussion was had regarding the potential for assessing Comstock liquidated damages. It was the Board's decision, along with the recommendation of Engineer Gross, to not assess LD's because the project turned out great and there could be additional projects with Comstock in the future. A motion was made by Manager Stein and seconded by Manager Wyum to pay \$498,283.70 to Comstock Construction. Upon roll call, the motion carried unanimously.

Comstock knows that seeding continues to be their responsibility. The project is anticipated to come in \$65,000 under budget with the local share then being approximately \$26,000 less.

SILVER LAKE DAM IMPROVEMENTS: Engineer Gross said that we now have a final cost summary after D.L. Barkie submitted their final bill. The total project cost around \$235,000, which is around \$40,000 under budget. The reduced project cost was due to contingences. The local share will be around \$12,000-16,000 less than expected. The project is said to have gone well. D.L. Barkie and Comstock did a good job. The remaining balance of some \$57,000 will be covered by the Red River Joint Board at 65% and then the Sargent County Commission and the Sargent County Water Resource Board will go 50/50 on what remains. It is anticipated to issue a final payment this spring.

SILVER LAKE DAM FENCE: Chairman Siemiemiewski reported that he continues to pursue bids for this project.

SHORT FOOT CREEK: With the assistance of Engineers Gross and Hassell, Water Board Administrator Willprecht sent a request for extension to Pat Fridgen at the ND State Water Commission on 1/11/21. Willprecht also stated that we are waiting for about \$13,000 in cost share from the State Water Commission. One payment dates back to the 1st quarter of 2020. She will continue to follow up on receipt of the funds.

CROOKED CREEK WATERSHED PLAN: Engineer Gross met with NRCS last Tuesday. The cost proposal is partially approved. The group is trying to remove tasks to bring down the cost analysis. When the review is complete, the plan will be brought to the Board. The project budget is being worked on as we need to cut \$100,000-200,000. No action is needed at this time.

Engineering Selection: Attorney Fredricks put together a criteria list that the Managers must use to rate both Interstate Engineering and Moore Engineering, the two entities that interviewed. It was suggested to have each Manager complete the criteria listing and then forward it to Administrator Willprecht, which will in turn be forwarded to Attorney Fredricks. Fredricks will compile all of the results and provide a report at the February 2021 meeting for the Board's review.

Chairman Siemiemiewski said that he had talked to Monica Zentgraf, Richland County, regarding the RS-1 project/engineer selection. It was decided to hold off 1 more year before doing the selection as there are no submissions for cost share likely in the near future. Therefore, the Boards are not obligated to go through the selection process at this time.

ND TRUST LANDS: We received the final executed easement from the ND Trust Lands for Drain 11. This easement is on the State's form. A motion was made by Manager Stein to have Chairman Siemiemiewski sign the paperwork and have it returned. Manager Wyum seconded the motion. Upon roll call the motion carried unanimously.

RED RIVER RETENTION AUTHORITY/KEITH WESTON: Sargent County was requested to provide documentation to the Red River Retention Authority regarding non-NRCS watershed studies. The Authority is looking for how many studies have been done. Engineer Gross said that he plans to meet with Weston sometime regarding ALL the boards Moore Engineer represents, to provide the information being requested for the watershed studies.

DICKEY-SARGENT JOINT BOARD:

A motion was made by Wyum and seconded by Manager Zetocha to pay the DVEC bill of \$810.00. Upon roll call Manager Speich was unreachable, all other Managers voted unanimously. Motion passed. Administrator Willprecht commented that she had talked with Manager Steve Hansen of the Dickey Water Resource Board and he reported that the pumps are still working and he will continue to keep an eye on them.

JACKSON IMPROVEMENT PROJECT: Attorney Fredricks reported that yesterday the Dickey Water Resource Board approved Permit #5503. Fredricks said that the Sargent County WRD should provide consent for the project since portions will be in Jackson Township Project No. 1 right of way. A motion was made by Wyum and seconded by Stein to approve utilization of the Jackson Improvement right-of-way. Upon roll call, Manager Speich was unreachable, all other Managers voted unanimously. Motion passed.

Attorney Fredricks will forward a copy of the Vculek transcript to Administrator Willprecht to include with the October 15th, 2020 minutes.

The utility permit for Chris Mathias has been signed by him, Chairman Siemiemiewski and Administrator Willprecht.

RICHLAND-SARGENT NO. 1: The Richland-Sargent Joint Board Secretary provided the following RS #1 bills for consideration and approval as follows:

Interstate Engineering	Professional Services/Travel	\$ 2127.40
JAV Construction	Reconstruction Richland-Sargent Drain No. 1	35,736.18

Manager Wyum made a motion to approve the RS #1 bills. Manager Zetocha seconded it. Upon roll call, motion carried unanimously.

Defensive Driving Course- Manager Wyum and Speich have completed the course. Managers Stein, Zetocha and Siemieniewski still need to complete the course.

DRAIN NO 8: Manager Wyum commented that the Board should wait until we see how funding sits with the State Water Commission before getting the ball rolling on this project. Manager Wyum will continue to communicate with the affected Rutland residents/landowners.

With no further business to discuss, the Board adjourned the meeting at 9:52 a.m.

LUCAS SIEMIENIEWSKI – CHAIRMAN

ATTEST:

WENDY WILLPRECHT - SECRETARY-TREASURER