

**MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD
HELD ON THURSDAY, OCTOBER 15, 2009 AT 7:00 P.M. IN THE COMMISSIONERS
ROOM, SARGENT COUNTY COURTHOUSE, FORMAN, ND**

Managers present: Jim Bosse, Mark Breker, Roger White, Richard Engst and Dan Jacobson. Absent. None

Dave Titus met with the Board to present bills for his company regarding work on Drain Nos. 4,8,11 and 12. Mr. Titus reviewed all the bills and explained work completed on these drains. Other work was discussed and the Board will check on additional work when conditions improve.

Attorney Sean Fredricks joined the meeting via conference call.

Applications to Drain With Drain Tile No. 3446 for Jon Bergh

Jon Bergh was in attendance to discuss Tile Applications No. 3446 and 3447. The Board reviewed information from the State Engineer regarding these Tile Applications. With regard to Application 3446, Mr. Bergh indicated he simply plans to install tile at the bottom of existing ditches. The tile will be on the Southwest Quarter of Section 7 in Rutland Township, with portions of the physical tile also on the Southeast Quarter of Section 7. The applicant owns the Southwest Quarter, and his brother, Ronald Bergh, and Carla Bergh owns the Southeast Quarter of Section 7. Jon Bergh indicated Ronald and Carla have already given him verbal permission to construct tile on their property.

The tile system will not intersect any township or county road right of way, and it will not utilize or discharge into any road ditches. The tile will ultimately discharge into a slough in the Southeast Quarter of Section 7. The Board indicated that because portions of the physical tile system and the discharge for the tile will be in the Southeast Quarter of Section 7, property not owned by the applicant, Jon Bergh should obtain a flowage easement from Ronald and Carla Bergh, the owners of the Southeast Quarter of Section 7.

The Board adopted Chad Engel's proposed responses to the eight elements under 89-02-01-09.2 of the North Dakota Administrative Code. The Board further determined no hearing was necessary under 89-02-01-09.1(2) of the North Dakota Administrative Code because the Board determined a flowage easement is necessary from the record owners of the Southeast Quarter of Section 7. There are no other adverse impacts to any other landowners.

Manager Engst, seconded by Manager Jacobson, moved to approve Application to Drain with Drain Tile No. 3446 for Jon Bergh, subject to the following conditions:

That applicant obtain and record (with the Sargent County Recorder's office a flowage easement (and not just a written consent) from the owners of the Southeast Quarter of Section 7, Rutland Township, Sargent County, North Dakota; the flowage easement should contain language permitting saline water, and should contain language that permits the applicant to physically construct the tile system on the Southeast Quarter.

2. That the applicant obtains written permission from the owner of any other land, besides land owned by applicant, on which the applicant will physically construct the tile system.
3. That the 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 government entities.

The Board directed Sean Fredricks to prepare a Notice of Decision, and to provide the Notice of Decision to the State Engineer, the applicant, and other parties of record. Upon roll call vote, the motion carried unanimously.

Application to Drain With Drain Tile No. 3447 for Jon Bergh

The Board then reviewed Mr. Bergh's Application to Drain with Drain Tile No. 3447. This Application is very similar to 3446. Mr. Bergh plans to construct two separate tile systems in the Southeast Quarter of Section 17 of Rutland Township, property owned by the applicant. The Board reviewed the aerial photo/map provided by the State Engineer's office. Mr. Bergh clarified that the tile system will **not** flow into any road ditches. Rather, the tile systems will flow in the other direction, away from road right of way and will discharge into two separate sloughs in the Southeast Quarter of Section 17. Mr. Bergh assured the Board that neither of the separate tile systems will include any construction inside any road right of way. Mr. Bergh owns the Southeast Quarter, both of the physical tile systems will be located in the Southeast Quarter, and both will discharge into sloughs in the Southeast Quarter. With that in mind, neither of them will have any adverse impacts on any other landowners or entities.

The Board adopted Chad Engels' proposed responses to the eight elements under 89-02-01-09.2 of the North Dakota Administrative Code. The Board further determined no hearing was necessary under 89-02-01-09.1(2) of the North Dakota Administrative Code because there are no adverse impacts to any other landowners or entities.

Manager Engst, seconded by Manager Jacobson, moved to approve Application to Drain with Drain Tile No. 3447 for Jon Bergh, subject to the following conditions:

1. That applicant obtains written permission from the owner of any land, besides land owned by applicant, on which the applicant will physically construct a tile system.
2. That the 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 government entities.

The Board directed Sean Fredricks to prepare a Notice of Decision, and to provide the Notice of Decision to the State Engineer, the applicant, and other parties of record. Upon roll call vote, the motion carried unanimously.

Application to Drain With Drain Tile No. 3448 for Brian Bergh

Brian Bergh was in attendance to discuss Tile Application No. 3448. The Board reviewed information from the State Engineer regarding this Tile Application. Mr. Bergh intends to install tile in the Northwest Quarter of Section 5 of Rutland Township, on property he owns, with a discharge directly into Drain 4, a legal assessment drain owned and operated by the Board. There will actually be three discharges into the legal drain in the Northeast corner of the Northwest Quarter. The tile will not cross any other properties and will not discharge onto any other properties. The tile will not utilize or discharge into any township or county road ditches.

The Board expressed some concern regarding the three discharges into the Board's legal drain. Even if the three discharges are somewhat minimal, over time the cumulative effect could be damaging to the legal drain. With that in mind, the Board indicated they would require riprap or other adequate erosion control at the location of each of the three discharges.

The Board adopted Chad Engels= proposed responses to the eight elements under 89-02-01-09.2 of the North Dakota Administrative Code. The Board further determined no hearing was necessary under 89-02-01-09.1(2) of the North Dakota Administrative Code because the Board determined the tile will not be located upon and will not discharge onto property of any other landowners, and that, therefore, there are no adverse impacts to other landowners.

Manager Engst, seconded by Manager Jacobson, moved to approve Application to Drain with Drain Tile No. 3448 for Brian Bergh, subject to the following conditions:

That applicant constructs and installs adequate erosion protection at all three outlets of the tile system.

4. That the applicant obtains written permission from the owner of any other land, besides land owned by applicant, on which the applicant will physically construct the tile system.
5. That the 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 government entities.

The Board directed Sean Fredricks to prepare a Notice of Decision, and to provide the Notice of Decision to the State Engineer, the applicant, and other parties of record. Upon roll call vote, the motion carried unanimously.

Todd Bergh met with the Board to seek permission to add an additional tile system to an existing approved permit. Attorney Fredricks along with Board members encouraged Mr. Bergh to file an application with the State Water Commission on the additional tile project. Todd also asked about cleaning out the natural drain in Section 22 and 27-129-55. The Board assured him that they plan to continue with cleaning in this area when conditions are favorable.

Discussed Applications to Drain Nos. 3443 and 3444 from John Quandt of Quandt Brothers, Oakes, ND. Attorney Fredricks addressed several questions that the Board asked and also reviewed the eight point questionnaire that Chad Engels, Moore Engineering, Inc. prepared. The Board instructed the Secretary to invite Mr. Quandt to the November 19 meeting to discuss these applications.

Kurt Lysne, Moore Engineering, Inc. mailed to the Board the Notice of Award on the Drain No. 7 Crossing Improvement for the Chairman's signature. Other documents requiring signatures included the Construction Contract between Sargent County Water Resource Board and Gladen Construction, Inc. and the Notice to Proceed. Attorney Fredricks reviewed the documents and informed the Board the documents were acceptable for signing. Authorize the Chairman to sign and execute said documents. (Engst/Breker, unanimous)

Approve September 17, 2009 minutes and September 2009 financial statement. (Jacobson/White, unanimous)

Approve payment of the following bills: (Engst/Breker, unanimous)

61343 James Bosse	Travel	95.70
61344 Mark Breker	Travel	19.80
61345 Richard Engst	Travel	51.70
61346 Dan Jacobson	Travel	83.05
61347 Moore Engineering	WCI#1	10,000.00
61348 Ohnstad Twichell	General Attorney fees-\$936.04	Drain
No. 7-\$135.00		1,071.04
61349 Roger White	Travel	161.70
61476 Titus Excavating	Dr# 4-\$30,958.64; Dr# 11-\$43,080.30;	
Dr#12-\$4,684.00 and Dr# 8, \$80.00		78,802.94
3798 Mark Breker	1 PD less 9.18	110.82

3799	Danny Jacobson	5 PD less 45.90	554.10
3800	Sherry Hosford	Sec. salary less 24.22	292.45
3801	Richard Engst	4 PD less 36.72	443.28
3802	Roger White	5 PD less 46.48 plus \$7.50 meal	561.02
3803	James Bosse	8 PD less 77.44	882.56
DD	Sargent County Bank	Withholding taxes	477.15

Approve reinvestment of CD #14228 for 12 months. (Jacobson/Engst, unanimous)

UNFINISHED BUSINESS: Nothing from the State Water Commission on the Silver Lake Dam study. North Dakota Parks and Recreation Dept. (NDPR) have completed the kiosk for the Head of the Mountain Nature Preserve at Frenier Dam and will deliver to Mark Breker or leave at the Fort Ransom State Park. The fencing project has not been completed and there is no timeframe on the money-NDPR reallocated previous funding for this project but equal funding replaced the past funding. The tree piles along Drain No. 9 will be removed when conditions allow for removal. The Board has not received any billings from the county weed board or for helicopter spraying. Board members are not sure if spraying occurred on the drains.

FEMA representatives met earlier today with Jim Bosse and Dan Jacobson. FEMA is requesting a statement from the Water Board approving all culvert work that the townships and the county may be doing as part of FEMA projects. Motion to authorize Attorney Fredricks to prepare a letter to Emergency Manager Sandra Hanson stating that the Sargent County Water Resource District lacks jurisdiction over the culverts at issue; therefore the Sargent County Board cannot grant "approval" as requested by FEMA. However, FEMA, Sargent County, and all townships in Sargent County should be aware of their obligation to simply provide notice to the Sargent County Board when reconstructing or installing culverts in county and township roads. (Jacobson/White, unanimous) The letter prepared by Attorney Fredricks is attached to these minutes.

The Board reviewed the Project Worksheet (PW) for Drain No. 12 including pit run rock and rip rap for the Texas Crossing in Section 8-129-53 LTL and also furnishing and installing a 20'L x 108" diameter CMP section with a skewed or straight bevel cut for a culvert located in Section 7-129-53 LTL. The work has been completed on the Texas crossing but the culvert work was a project that the county road department agreed to do. Board members agreed to meet with the county commissioners on October 20th to discuss this portion of the PW and then decide whether to have it rewritten by FEMA or proceed with the repairs.

Approve reimbursing one teacher from each of the three schools in Sargent County that want to attend the 2010 Project WET Discover Today's ND Central Missouri River Watershed Institute at a cost of \$250 per teacher. (Breker/Engst unanimous)

The meeting adjourned at 10:15 p.m.

JAMES BOSSE - CHAIRMAN

ATTEST:

SHERRY HOSFORD - SECRETARY

