

**MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD  
HELD ON THURSDAY, NOVEMBER 19, 2009 AT 9:00 A.M. IN THE  
COMMISSIONERS ROOM, SARGENT COUNTY COURTHOUSE, FORMAN, ND**

Managers present: Jim Bosse, Richard Engst, Dan Jacobson and Roger White. Absent: Mark Breker. Also present: Attorney Sean Fredricks, Ohnstad, and Twichell

Approve October 15, 2009 minutes and October financial statement. (Engst/White, unanimous)

Richard Engst provided the Board with an update of the culvert installation on Drain No. 7 east of Milnor City. Gladen Construction, Inc., the contactor is hoping to have the work completed by November 23 or 24<sup>th</sup>. The contractor did remove the culvert instead of the Milnor City employee and Richard questioned the amount of \$1996 that was charged on the first request for payment. Mr. Fredricks suggested that the Board removed that amount from the bill and discuss this with Chad Engels, Project Engineer, Moore Engineering, Inc. when he arrives for today's meeting.

Approve payment of the following bills with the exception of the \$1996 payment to Gladen Construction, Inc.: (Engst/Jacobson, unanimous)

61598 James Bosse	Travel	53.35
61599 Bowen Township	Culvert Section 24/25	408.94
61600 Richard Engst	Travel	101.20
61601 Gladen Const., Inc.	Drain No. 7 (SCWC#1)	11003.40
61602 Hancock Concrete	Culvert-Dr # 7 (SCWC#1)	74740.86
61603 Dan Jacobson	Travel	6.60
61604 Moore Eng., Inc.	Drain tile permits	250.00
61605 Ohnstad Twichell	General	808.30
61606 SC Weed Board	Spraying Dams	627.12
61607 Roger White	Travel	282.70
3919 Danny Jacobson	2 PD less 18.36	221.64
3920 Sherry Hosford	Sec. salary less 24.22	292.45
3921 Richard Engst	6 PD less 55.08	664.92
3922 Roger White	5 PD less 46.48 + meal	561.02
3923 James Bosse	4 PD less 36.72	443.28
DD Sargent County Bank	Withholding taxes	362.99

**Application to Drain with Drain Tile No. 3460 for Todd Bergh**

The Board reviewed Mr. Bergh's Application to Drain with Drain Tile No. 3460. Mr. Bergh requests a permit to install drain tile in NE1/4-27-129-55. It appears that the area of tiling will be 20 acres while the drainage area affected appears to be 246 acres. The outlet from the tile field will discharge into another tile drain (Drain Permit #3367) using its outlet as well.

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 will require written permission from other impacted landowners and entities, and because there are no adverse impacts to any other landowners or entities.

Manager Jacobson, seconded by Manager Engst, moved to approve Application to Drain with Drain Tile No. 3460 for Todd 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 applicant obtains written permission from the owner of the Southeast Quarter of Section 22 of Weber Township, Sargent County, North Dakota, to discharge the tile system into the quarter.
3. That the applicant obtains written permission from Weber Township to utilize any of its township road ditches or to cross any of its roads.
4. 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. 3389 for Emeric Erickson**

The Board then reviewed Mr. Erickson's Application to Drain with Drain Tile No. 3389. Mr. Erickson requests a permit to install drain tile in SW1/4-11-132-54. It appears that the area of tiling will be 16 acres while the drainage area affected appears to be 116 acres. The outlet will be an 8 inch pipe used to convey the discharge to the legal drain in the middle of Section 11 by gravity. Ellingson Companies has designed this project and will be the installing contractor.

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. 3389 for Emeric Erickson, 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.

Board members reviewed unfinished business including no report on Silver Lake Dam study. Roger White will talk with the State Water Commission at the annual convention in December in Bismarck. Mark Breker reported via phone that the fence has been installed at Head of the Mountain Nature Preserve but he has not had a chance to inspect it. Mark will look at it prior to the December meeting and make a report at that time. Richard Engst assured the Board that the work on the 2007 FEMA projects on Drain No. 7 will be completed before December 31, 2009. Jim Bosse has signed off on the Drain No. 12 FEMA project for 2009 and all work has been completed.

Sherry Hosford read a letter from David Morten, Midwest Helicopters stating that he was unable to get any cattail spraying done in Sargent County in 2009. His brother went down in a helicopter crash

in August and David was needed to assist with his brothers spraying. With the weather and other problems, Mr. Morten was unable to get to Sargent County and apologized for this.

Roger White reported on an obstruction to Drain No. 11. A stockade panel has been installed in Drain No. 11 in the SW1/4-4-130-57 on Tim Hayen land and according to taxpayers in the Drain No. 11 assessment area in the north end; this is holding back water from flowing down the drain. The Secretary was directed to send a letter to Mr. Hayen requesting removal of this stockade panel before freeze up. (White/Engst, unanimous)

The Sargent County Commission requested cost share on a culvert replacement located in Section 23 of Whitestone Hill Township. The plan is to remove a 6'x3' box culvert and remove and salvage a 48" culvert and replace these with one 60" corrugated metal pipe. This site was previously a bridge and later had the concrete box culvert installed. Since the October 22, 2009 request from the commission, Sherry Hosford reported that Whitestone Hill Township officials are questioning this project and have scheduled a meeting with the county commission, engineer for the county, county road supervisor and Whitestone Hill Township officials to meet to discuss other options. The Water Board will attend this meeting in March, 2010.

Bowen Township requested one-third cost share to replace a 48 inch culvert that had collapsed between Section 24 and 25. Total cost to this Board is \$408.94. County commissioners approved their cost share pending approval by this Board. Approve cost share. (Jacobson/Engst, unanimous)

The Board received an informational letter from Jack Lalor, Tewaukon Refuge Officer addressed to Steve McLaen, Forman; regarding a wetland easement on the SW1/4-1-130-56. Said letter was read and filed.

Chad Engels, Engineer, Moore Engineering, Inc. arrived at 10:50 a.m.

Richard Engst asked Mr. Engels about the billing from Gladen Construction for the culvert removal. Mr. Engels stated that the contract bid was for removal and disposal of the old culvert and the contractor did bid to do the removal and disposal for \$1996. According to Chad Engels the contractor is hired to do the job and we can't decide the value of the job unless they did not do the work. Richard agreed that the contractor did the work and amended his motion to include payment of the \$1996 to the contractor. Manager Jacobson agreed to the amendment and the amount on Estimate No. 1 will be paid to Gladen Construction, Inc.

Mike Walstead, county commissioner stopped by briefly at the meeting.

John and Jason Quandt arrived at the meeting.

**Application to Drain with Drain Tile Nos. 3443 and 3444 for Quandt Brothers**

The Board then reviewed the Quandt Brothers Applications to Drain with Drain Tile Nos. 3443 and 3444. Jason and John Quandt were both present to present the applications. Application 3443 requests a permit to install drain tile in the N1/2-17-129-58. It appears that the area of tiling will be 230 acres while the drainage area affected appears to be 1707 acres. The outlet will be in the S1/2 of the SW1/4-8-129-58 with a pump during irrigation season to recycle the water; otherwise they will be piping it to the NE1/4-13-129-59 to store for future irrigation. Application 3444 requests a permit to install drain tile in the South 2/3 of Section 8-129-58 and the W1/2 of SW1/4-9-129-58. It appears that the area of tiling will be 400 acres while the drainage area affected appears to be 2761 acres. The outlet will be in the S1/2 of the SW1/4-8-129-58 with a pump during irrigation season to recycle the water; otherwise they will be piping it to the NE1/4-13-129-59 to store for future irrigation. They have included an easement from the landowner for them to tile it. The outlets from both of these permits will be in common.

The applications involve three tiling areas. The Quandt's own the NE¼ of Section 13 in Lowell Township, Dickey County, where they plan to store water when not irrigating (e.g., during fall and early spring months), so no written permission required for the storage area. Chairman Bosse asked if water will infiltrate in Section 14. John Quandt indicated it will not; he said there is a natural barrier (a high spot and tree line) in Section 13 that will prevent water from flowing west into 14. Sean Fredricks indicated he will provide a copy of the Board's Notice of Decision to the owner to the West in Section 14, Mr. Mathew Claeys.

John Quandt indicated the Quandt's are purchasing the Northeast Quarter of Section 17 from Howard and Linda Shelton by contract for deed. The Board indicated the Quandt's should obtain easements from Howard and Linda Shelton that permits construction and installation of the tile, and that permits installation of the pipeline.

There is a township road along the north-south border between South West Township in Sargent County and Lowell Township in Dickey County. The pipe that will transport water to the storage area in the NE¼ of Section 13 in Lowell Township will cross the road. South West Township operates and maintains that road. The applicant must obtain written permission from the South West Township Board to cross its township road.

The pipe that will transport water to the storage area in the NE¼ of Section 13 in Lowell Township from the tile area will cross the North Half of Section 18 in South West Township. The applicant should obtain pipeline easements from owners in the North Half of Section 18, including Roger and Margaret Dehoet and Houghton Grazing Association.

Portions of the tile will be on the South Half of Section 8 in South West Township. Beth Wentworth owns the Southeast Quarter of Section 8, and the Quandt's indicated they own the Southwest Quarter of Section 8. The Board indicated the applicant should obtain an easement to construct the tile in the Southeast Quarter of Section 8.

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 will require written permission or easements from other impacted landowners and entities, and 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. 3443 and 3444 for Quandt Brothers, 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 applicant obtain and record (with the Sargent County Recorder's Office) easements (and not just written consents) from the owners of the following parcels for construction of tile on the parcels: the Northeast Quarter of Section 17, South West Township; and the Southeast Quarter of Section 8, South West Township.
3. That applicant obtain and record (with the Sargent County Recorder's Office) easements (and not just written consents) from the owners of the following parcels for construction and installation of a pipeline for purposes of transporting tile discharge water on, under, and through the parcels: the North Half of Section 18, South West Township.
4. That applicant obtains written permission from South West Township to utilize any of its township road ditches or to cross any of its roads.
5. 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 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 Nos. 3453, 3454, 3455, and 3456 for Quandt Brothers**

The Board then reviewed the Quandt Brothers' Applications to Drain with Drain Tile Nos. 3453, 3454, 3455 and 3456. The applicant is Quandt Brothers for the West ½ Northwest ¼ and West ½ Southwest ¼-10-129-58; the South ½ and East ½ NE1/4-9-129-58; North ½-16-129-58 and West ½ NW1/4-15-129-58. These drain applications are for tile drainage and appear to be in mimicry of the surface drain flows, as the applicant appears to want to improve the operation of the circle irrigation units with leveling the ground for better irrigation reliability while maintaining drainage flow directions to the previous outlet sites.

John and Jason Quandt presented four possible options for the permits, as described below. All will include construction and installation of tile in Section 9, the West Half of the Northwest Quarter of Section 15, and the North Half of Section 16 of South West Township, all owned by the Quandt's.

**Option One**

The first option is for the tile to discharge into the south road ditch of the east-west County Road 5 ditch from the Northeast Quarter of Section 10, South West Township, and east all the way to Drain 11. The Quandt's own the West Half of the Northwest Quarter of Section 10; Phil Hanson owns the East Half of the Northwest Quarter of Section 10; Gerald McGregor owns the Northeast Quarter of Section 10; the State of North Dakota owns the Northwest Quarter of Section 11; and the discharge would flow into Drain 11 in the Northeast corner of the Northwest Quarter of Section 11. This option would require written permission from the Sargent County Commission for use of the County Road 5 road ditch, and flowage easements from the owners of the East Half of the Northwest Quarter of Section 10, the Northeast Quarter of Section 10, and the Northwest Quarter of Section 11 (Phil Hanson, Gerald McGregor, and the State of North Dakota). The Quandt's indicated that if they can obtain the requisite easements, they will construct the tile in this manner.

**Option Two**

If the Quandt's cannot obtain the easements for the first option, the Quandt's indicated they will attempt their second option. The second option will include overland tile discharges to the East to Drain 11, originating from discharges in the West Half of the Southwest Quarter of Section 10, owned by Quandt's. The discharges would flow east, over the Southeast Quarter of Section 10 (owned by Phil Hanson), and over the Southwest Quarter of Section 11 (owned by Rehborg), where the water will discharge into Drain 11. This option would require flowage easements from those landowners.

### **Option Three**

If the Quandt's cannot obtain the requisite flowage easements for the first two options, the Quandt's will transport the tile discharge to Section 13 in Lowell Township, Dickey County, with the same pipes they will utilize for transporting under Permits 3443 and 3444 above. In that case, the same conditions the Board attached to Permits 3443 and 3444 would apply.

### **Option Four**

Finally, the Quandt's indicated that if they can only obtain some easements, but not others, they may construct a hybrid combination of overland flows (either option one or two above), while piping some water to Section 13 for storage (option three above). In that case, the same conditions that apply above to options one or two above, plus those conditions applicable to option three above, would apply to this fourth option, the hybrid option.

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 will require written permission or easements from other impacted landowners and entities, and because there are no adverse impacts to any other landowners or entities.

Manager Jacobson, seconded by Manager White, moved to approve Application to Drain with Drain Tile No. 3453, 3454, 3455, and 3456 for Quandt Brothers, subject to the following conditions:

If the Quandt's construct Option One above, the following conditions apply:

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 applicant obtain and record (with the Sargent County Recorder's Office) flowage easements (and not just written consents) that include language permitting saline water from the owners of the following parcels for the discharge of tile discharge water on, under, and over the following parcels: the East Half of the Northwest Quarter of Section 10, the Northeast Quarter of Section 10, and the Northwest Quarter of Section 11, all in South West Township.
3. That applicant obtains written permission from Sargent County to utilize the road ditch along Sargent County Highway 5.
4. 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 government entities.

If the Quandt's construct Option Two above, the following conditions apply:

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 applicant obtain and record (with the Sargent County Recorder's Office) flowage easements (and not just written consents) that include language permitting saline water from the owners of the following parcels for the discharge of tile discharge water on, under, and over the following parcels: the Southeast Quarter of Section 10, and over the Southwest Quarter of Section 11, both in South West Township.

3. 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 government entities.

If the Quandt's construct Option Three above (underground conveyance of tile discharge water to Section 13 in Lowell Township, Dickey County, with the infrastructure under Permits 3443 and 3444) the following conditions apply:

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 applicant obtain and record with the Sargent County Recorder's Office) easements (and not just written consents) from the owners of the following parcels for construction and installation of a pipeline for purposes of transporting tile discharge water on, under, and through the parcels: the North Half of Section 18, South West Township.
3. That applicant obtains written permission from South West Township to utilize any of its township road ditches or to cross any of its roads.
4. 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 government entities.

If the Quandt's construct Option Four above, a hybrid of overland discharge and underground pipes (for storage in Section 13 of Lowell Township, Dickey County, with the infrastructure under Permits 3443 and 3444) the conditions attached to Options One or Two, as applicable, and Option Three above apply.

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. 3449 for Kasowski-Russet LLP**

The Board then reviewed the Kasowski Russet, LLP, Application to Drain with Drain Tile No. 3449. John and Jason Quandt appeared on behalf of Kasowski Russet; they indicated they rent this land. This application requests a permit to install drain tile in two systems in Section 32-130-58 (Jackson Township). Kasowski Russet, LLP, owns the majority of Section 32, and all of the property the applicant will tile. It appears that the area of tiling will be 140 acres while the drainage area appears to be 753 acres. The tile will be installed by the applicant and is not in a grid pattern. The hope is to lower the water table and stabilize the sandy soil. They hope to contain the runoff and reuse it for irrigation of the lands during the growing season. The primary intent is to remove the water in a non-erosive way to preserve their field soils from overland water erosion. The ND State Water Commission notified Mr. Steve Kasowski that they may also need construction permits for the proposed dikes. Part of the project is to pump water into a dike storage area in Section 29-130-58, which belongs to Dean and Joleen Schmit. The Board should make sure that Mr. Kasowski provides an easement signed by the Schmit's prior to taking action on this application. There is a written permission document from the township included with this application, for crossing the road right-of-way with pipe to the proposed storage site in section 29-130-58.

There will be two tile discharge outlets. The first will flow north across the Township Road into the Southwest Quarter of Section 29, property owned by the Schmit's. The other outlet will discharge south into the Southwest Quarter of Section 32, land owned by Kasowski Russet, in the same storage area covered by Jason Quandt's tile permit 3426.

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 will require written permission or easements from other impacted landowners and entities, and because there are no adverse impacts to any other landowners or entities.

Manager White, seconded by Manager Engst, moved to approve Application to Drain with Drain Tile No. 3449 for Kasowski-Russet, LLP, 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 applicant obtain and record (with the Sargent County Recorder's Office) a flowage and water storage easement (and not just written consent) that includes language that permits flowage of saline water; permits construction of dikes, levees, and berm for purposes of storing and retaining tile discharge water; and permits storage of water, from the owners of the Southwest Quarter of Section 29, Jackson Township.
3. That applicant obtains written permission from Jackson Township to utilize any of its township road ditches or to cross any of its roads.
4. 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 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.

Adjourn at 12:15 p.m.

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JAMES BOSSE - CHAIRMAN

ATTEST:

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SHERRY HOSFORD - SECRETARY