

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, NOVEMBER 20, 2014 AT 9:00 A.M., IN THE COMMISSIONERS ROOM, SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA

Managers present: Luke Siemieniewski, Jim Bosse, Roger Zetocha, and Richard Engst. Absent: Chris McFarland, Also present: Attorney Sean Fredricks; Mike Opat, Engineer; Jim and Scott Mahrer, Forman; Tom Jones, NRCS; Emeric Erickson, Milnor; Bernie Vculek, Oakes and Brian Vculek, Crete.

Approve the October 16, 2014 minutes and October financial statement. (Zetocha/Siemieniewski, unanimous)

Motion to approve payment of the following bills: (Zetocha/Engst unanimous)

70492 James Bosse	Travel	216.16
70493 Comstock Construction Inc.	Nelson Dam-\$18,930.00 and Dr # 7-98,782.37	117,712.37
70494 Dakota Improvement, Inc.	Drain No. 11 clean out	19,367.50
70495 Dickey County WRB	Per Diem and travel for Hope Jury on DS Jt Board	809.64
70496 Richard Engst	Travel	103.04
70497 Hewlett Packard Co.	Printer/Copier/Ink cartridges	1,000.76
70498 Chris McFarland	January-October travel	238.56
70499 Moore Eng., Inc.	Permit fees-\$88.52-Loren Ellefson/Edwin Erickson; \$88.52-Loren David; \$88.52-Dennis McLaen; \$177.04-Tom Mund; Dr # 2-\$748.55; Dr # 7 S & I Fund-\$4,602.24 Dr # 11-\$275.10; Tewaukon Watershed-\$250.00 – Total =	6318.49
70500 Ohnstad Twichell	General-\$945.00; Marc O'Brien Application-\$91.35; T Mund-\$340.00; Dathe-\$72.54; Dr # 12-\$85.00; Dr # 11 - \$510.00Total=	\$2241.97
70501 Quill Corporation	Calculator and supplies	252.38
70502 Lucas Siemieniewski	Travel & Dr # 12 beaver dam removal	230.64
70503 Sundale Excavation	Dr # 7 rock and clay	4,000.00
70504 True North Steel	Dr # 2 culverts	14,919.60
70505 Roger Zetocha	Travel	142.80
10206 Sherry Hosford	Salary less 24.22 taxes	292.45
10207 Richard Engst	6 PD less 56.66 taxes	663.34
10208 James Bosse	8 PD less 101.02 taxes	858.98
10209 Roger Zetocha	5 PD less 90.15 taxes	509.85
10210 Lucas Siemieniewski	3 PD less 27.54 taxes	332.46
DD Sargent County Bank	Withholding taxes	527.35

RS # 1: Mike Bassingthwaite, Interstate Engineering, Inc. Wahpeton; met with the Water Board to provide updates on the RS Legal Drain # 1 Extension and Channel Improvements. Mr. Bassingthwaite indicated he has had difficulty coordinating with CP Rail and that the Board may have to take formal action to direct CP to provide crossing improvements to accommodate the project. He provided an opinion of total probable project costs of \$1,000,000.00. The estimated total cost to the drain maintenance assessment district is shown at \$556,000.00.

PAUL MATHEWS RIGHT OF WAY ISSUE: A copy of the Notice of Entry of Judgment was received and reviewed by the Board. No further action.

BRUMMOND-LUBKE AND NELSON DAM REPAIRS: Mike Opat reported that the work has been completed on the Nelson Dam but the weather did not hold out for Comstock Construction Inc. to complete the Brummond-Lubke work. Brummond/Lubke Dam was winterized and work will be completed next spring. Rodney Nelson, Havana appeared before the Board and said he is concerned about water still running at the dam. Mike Opat will let Chris Gross know so it can check it out.

DRAIN NO. 7: Mike Opat presented Pay Request No. 2 for \$98,782.37 to Comstock Construction, Inc. for approval by the Board as well as Change Order No. 2, the final balancing change order for a decrease of \$24,489.59. Also presented was the Certificate of Substantial Completion that all work under the Contract Documents on the 2014 Sargent County Drain No. 7 Crossing Improvements except the acceptance of final vegetation establishing is completed. Motion for Vice Chairman Bosse to sign the documents. (Engst/Zetocha, unanimous) Richard Engst also informed the Board of work that was required in the northwest corner of Section 5-132-54 on the drain that was sloughing and needed rock and clay. Richard had Sundale Colony complete this work.

DRAIN NO. 11: Board members and Mike Opat, Engineer have been invited to attend the Ransom County Water Resource Board meeting on Monday, November 24 at 10:30 a.m. to discuss the Drain No. 11 watershed area in Ransom County.

DRAIN NO. 8: Chris Gross, Engineer and Lucas Siemieniewski, Board member, met with the county commissioners on November 6th to discuss Drain No. 8 improvements. Lucas reported to the Board that the county commissioners seemed favorable for this project and will let this Board know by February 1, 2015 what if any financial support they can provide.

LOREN ELLEFSON AND EDWIN ERICKSON JR. APPLICATION FOR SURFACE DRAINAGE NO. 4506 AND LOREN DAVID APPLICATION NO. 4539: These two projects have been determined by the State Engineer to be of statewide or interdistrict significance. Sean Fredricks explained that, in light of the State's findings, the Sargent County Water Resource District must conduct the statewide/interdistrict significance procedures for purposes of processing the applications, pursuant to NDCC 61-32-03 and Chapter 89-02-01 of the North Dakota Administrative Code. Attorney Fredricks proceeded to explain to Emeric Erickson (representing Loren David) and Paul Ellefson and Terry Erickson (representing Loren Ellefson and Edwin Erickson Jr.) what is involved in the statewide process. Sean indicated the statewide/interdistrict significance process requires several more steps, time, and potentially expense and the Board would like to know before they continue if the applicants are willing to incur the expenses. Emeric Erickson provided a revised plan for Mr. David and copies were given to Mike Opat to take back to Chris Gross for his review. Attorney Fredricks further explained that the applicant would be responsible to hire their own engineers to compile the background information required to determine downstream impacts, as required under the Administrative Code for statewide/interdistrict applications; Moore Engineering would then review what the applicants present, on the Board's behalf. Sean Fredricks explained the Red River Joint WRD would have some involvement; Sean would cover all legal aspects for the Board and the RRJWRD, including notice requirements and arranging the hearing. The Board directed Sean Fredricks will provide to each applicant an estimate of costs along with a brief agreement to reimburse the Board for its costs incurred in processing the applications; those agreements, if signed by the applicants, would provide the requisite evidence the applicants are willing to proceed.

Emeric Erickson and Brian Vculek questioned what elements or criteria the Board, the Board's engineer, and the State Engineer use to determine if a project is of statewide/interdistrict significance. Sean explained that, first of all, under North Dakota law, the first thing the Board has to determine when it receives a tile application is whether or not the project is of statewide or interdistrict significance; the statewide/interdistrict criteria are in the Administrative Code. Sean explained there are administrative provisions that trigger statewide/interdistrict determinations; one of the elements states that a project that will drain any ponds or sloughs with recognized fish and wildlife values is a statewide/interdistrict project; and a project that will convert a previously non-contributing watershed into a contributing watershed is a statewide/interdistrict significance project. Those are two of the common statewide/interdistrict elements triggered by proposed projects in Sargent County. The law does not provide specific tools to determine those factors, but the Board's engineer often utilizes the USF&W Wetland Inventory; similarly, on tile projects, when determining if a project discharges into a natural watercourse, the Board's engineer often utilizes USGS maps to determine if a "watercourse" is a Blue-Line watercourse. Sean and Mike both explained these are simply tools utilized by the Board, and that the Board also utilizes other tools. The Board has the discretion to utilize those tools and others for purposes of making its requisite determinations. Ultimately, the State Engineer must make a decision regarding whether or not a project is of statewide or interdistrict significance so even if a WRD concludes a project is a statewide/interdistrict significance project, the next step is to forward the application to the State Engineer's Office for an independent review. Sean explained that if the applicants disagree with a statewide or interdistrict significance finding, they can always appeal the WRD's decision or the State Engineer's decision.

DRAIN NO. 2: The culverts were delivered to the sites according to Richard Engst; however, Comstock Construction, Inc. was unable to install them due to the winter weather setting in too soon. The work will commence next spring.

FINAL COMPLIANCE REVIEW RESULTS FOR DISASTER RECOVERY (DR) 1907 (2010): The ND Department of Emergency Services contacted this Board that all small project worksheets for the 2010 disaster were reviewed and are considered 100% complete as written in the scope of work. This Board has paid the required 15% local cost share. No further action is required by the SC Water Board.

RELOCATION OF WATER BOARD OFFICE: Sherry Hosford, Secretary for the Board reported that the Water Board file cabinets have been moved to the new office located adjacent to the Veterans' Service Office on the main floor of the courthouse. New office hours will begin in December and a box ad will be placed in the Sargent County Teller informing the public of the move and new hours.

Meeting adjourned at 11:10 a.m.

JAMES BOSSE – VICE-CHAIRMAN

ATTEST:

SHERRY HOSFORD - SECRETARY