

**MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, DECEMBER 20, 2007 AT 9:00 A.M. IN THE COMMISSIONERS ROOM, SARGENT COUNTY COURTHOUSE, FORMAN, ND**

Managers present: Mark Breker, Dan Jacobson, Richard Engst, Roger White and Jim Bosse. Absent none. Also present: Attorney Sean Fredricks and Chad Engels, Moore Engineering, Inc.

Approve November 15, 2007 minutes as presented and November financial statement. (Engst/Bosse, unanimous)

Approve payment of the following bills and authorize Secretary to cash CD #12376 and reinvest \$100,000 for twelve months and place the balance of said CD in the General Fund (Bosse/Jacobson, unanimous)

58414 Dan Bishoff	Dr # 9 beaver removal	50.00
58415 James Bosse	Travel	22.05
58416 Mark Breker	Travel	193.50
58417 Dave Titus Excavating	Bergh-Mclaen-\$1820; Dr#3-\$21,072.23; Dr#9-\$765.00; Dr#11-\$34,485.00; Dr#12-\$57,030.00; Tewaukon Watershed-\$16,734.50 - Total = \$131,906.73	
58418 Richard Engst	Travel	28.80
58419 Gwinner Farmers Elevator	Winter wheat-Tewk.Wtrshed	15.00
58420 Dan Jacobson	Travel	80.10
58421 Jerry's Backhoe Service	Dr#4-\$315.00; Dr#9-\$45.00; Dr#11-\$1005.00	
58422 Moore Eng., Inc.	WCI# 1 assessment list	2,000.00
58423 Ohnstad, Twichell	General-\$900, Kuehn/Mund-\$152.80, Mund-Kuehn-\$75.40; Lee/Heley-\$91.60; Bogart/Mund-\$101.10; Kraig-\$83.70; Craig Speich-\$90.80; Roger Gibbon-\$105.40 - Total = \$1600.80	
58424 Bismarck Ramkota Hotel	White lodging	110.00
58425 Sargent County	1/3 Kingston Twp culvert	309.72
58426 Sargent County Weed Board	Dr# 4 spraying	412.20
58427 Roger White	Travel	247.60
58428 WR Soil Consv. District	Drill rental-Tewk Wtrshed	205.10
1454 Mark Breker	8 PD less	48.96
1455 Dan Jacobson	4 PD less	24.48
1456 Sherry Hosford	Sec. salary plus extra work less taxes	\$167.90
		1098.77
1457 Richard Engst	2 PD less	12.24
1458 Roger White	5 PD less	30.60
1459 James Bosse	2 PD less	12.24
DD Sargent County Bank	Taxes and withholding	528.17

Motion to transfer from the General Fund to the following funds: Dr#3-\$26,905; Dr#11-\$128,100; Dr#12-\$18,460; Water Channel Imp. # 1-\$35,580; Tewaukon Watershed-\$20,390 (\$229,435 from General fund) and transfer to the General Fund from the following drains: Dr#2-\$1950; Dr#4-\$3180 and Dr#9-\$1190 (\$6320 to the General Fund) (Jacobson/Engst, unanimous)

Dave Titus, with Dave Titus Excavating Co. met with the Board to present pictures of projects that his company has completed on county drains. A lengthy discussion followed on Drain # 3 and County Road # 14 invoice for work by Titus. The amount was \$17,437.23. A meeting with the County Commissioners, the engineer and county road supt. has been scheduled for Tuesday, January 8 at 1:00 p.m. Water Board members and Mr. Titus will also plan to attend this meeting to discuss extra work on the project. Dave also discussed others billings for work completed on drains and FEMA projects.

Tom Mund, Milnor; Dick and Wade Kuehn, Milnor; Mary Engst, Craig Speich and Harlan Hogness, representing the Hall Township Board; Mel Breker, Rutland and Mike Walstead, County Commissioner arrived at the meeting. A discussion followed on the Tom Mund/Dick Kuehn Obstruction complaint. Richard Engst reported that Dick Kuehn had done a very good job of removing the cattle crossing and the fence and a small hump of built up sod that has since been removed. No pictures were taken but Richard commented that he did a good job on removing these obstructions. Some sediment had built up downstream from the cattle crossing which Mr. Kuehn also removed. Attorney Fredricks explained that the Board can ask Mr. Mund to withdraw this complaint or the Board can dismiss the complaint. Mr. Mund indicated that Mr. Kuehn had removed the obstructions, and agreed the Board could dispose of his obstruction complaint. Specifically, Mr. Mund asked that the Board move to dismiss the complaint as there are no more obstructions and no blockage materially affecting the flow of the water. Motion to dismiss the obstruction complaint filed by Tom Mund against Dick Kuehn. (Jacobson/White, unanimous)

Mark Bogart drainage complaint against Tom Mund was further discussed. Mr. Bogart was unable to attend the meeting today although Chairman Breker received a phone call from Mr. Bogart's brother. Richard Engst said that Mark Bogart said that Hall Township Board of Supervisors told Tom Mund to contact Mark Bogart about the work but Mr. Mund did not contact Mark Bogart. Attorney Sean Fredricks said that is a township issue and not an issue to consider for this Board. The only issue for the Board to consider was whether or not Mr. Mund created new drainage, and whether or not the drainage affected a pond, slough, lake, or sheetwater, with a watershed of 80 acres or more. Mr. Mund previously submitted evidence from the

NRCS that he only removed silt from the ditch. Mr. Fredricks indicated that, under the Administrative Code, a landowner does not need a permit for maintenance of a drain, and that removal of silt is defined as maintenance under the Code. The Board found that there was no evidence that Mr. Mund had done anything more than sediment removal. Motion to dismiss this complaint following Board's investigation and evidence in this matter revealed that Mr. Mund only removed sediment and silt buildup in the township road ditch. Sediment and silt removal are "maintenance" and do not require a permit. (Bosse/White, unanimous)

Dick Kuehn drainage complaint against Tom Mund was further discussed and Chairman Breker indicated that there was installation of a culvert in a township road and this Board has no jurisdiction over this act. Also Mr. Kuehn was concerned about the cleaning in the road ditch on the west side Section 30-132-53. Harlan Hogness stated that Mr. Mund called him about installing a culvert because the water on the east side was drowning out winter wheat. Mr. Mund wanted the water to go to the west side and it would not affect anyone but himself. Harlan Hogness said if other supervisors were OK it was fine with him. He was not asked about the ditch cleaning--only culvert installation. Craig Speich recalls the same conversation and the township did give approval before the culvert was installed. Tom Mund said he had approval to install the culvert at his own expense. The road ditch project Tom Mund said he did not think he needed permission to clean out the ditch and the contractor was there to do the culvert so he thought that doing this work did not need permission. Tom Mund admitted he did not ask permission but NRCS has marked the elevations and Dave Breker said it was fine but Tom Mund does not have that in writing. Richard Engst asked about the placement of the culvert. Mr. Mund stated that he does not have anything in writing. Marshall Braaten, Contractor said there is a section 200-300 feet long where he removed 12-14 inches of dirt from the bottom of the ditch. Mr. Mund was not aware of this. Mark Breker felt that the Board needs something in writing to substantiate this project. Mark Breker asked Mr. Mund to obtain the letter and documentation from NRCS with the elevations and his determination. Dave Breker from NRCS will not be available for the near future, but when he is, the Board will review his data regarding sediment and elevations. A determination on this complaint will be tabled until additional documentation is obtained.

Also discussed a letter sent by Sean Fredricks to the landowners who were requesting permission to clean out township right of way in Hall Township on the east side of Section 18-132-53. Craig Speich presented an Application to Drain and was instructed to send this application to ND State Water Commission for their review and conditions.

Sean also reported that he sent a letter to Troy Gilbertson, ND Dept. of Transportation regarding the three Requests for Drainage on Highway Right of Way from Craig Speich, Roger Gibbon and Speich Brothers. He explained in the letter that he has advised this Board to neither approve nor disapprove these requests as the Board lacks any jurisdiction or authority over NDDOT right of way for maintenance or cleanout issues. NDDOT appears to agree with that analysis and is in the process of reviewing its permission procedure. Attorney Fredricks is awaiting response from another official at NDDOT.

Steve McLaen, Application to Drain #3228 (SE1/4-34/129-56) was returned by the State Water Commission that this drainage does not involve drainage of state-wide or inter district significance. Mark Breker reviewed a map that he received from Mr. McLaen with the scope of the project. A public hearing on this matter is not necessary since there are no downstream landowners who will be adversely affected; this drainage will flow directly into a watercourse. The State Engineer's Office did not require any downstream easements. Also discussed other aspects of the application. Motion to approve Permit No. 3228 with the following conditions: 1) 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 and 2) that applicant protect all tile outlets from erosion with rip rap. (Jacobson/Engst, unanimous)

The Board recessed at 12:00 for lunch.

The Board reconvened at 1:05.

The Board proceeded to review the drainage complaint from Donald L. Lee versus Darwin Heley on the NE1/4-28-132-54. Chad Engels investigated the matter and found Darwin H. Heley did not construct drainage improvements beyond those allowed under Permit No. 3072. Mr. Heley applied for and received a permit (#3072) in 2005 from this Board. Mr. Lee did not provide any evidence that Mr. Heley constructed drainage improvements beyond those allowed under said permit. Motion to dismiss Mr. Lee's complaint due to insufficient evidence that more work transpired on the project than what was approved on Permit #3072. (Bosse/White, unanimous)

Mark Breker reported that Mary Jo Wohlwend constructed a dike (berm) south of Geneseo in Section 1-129-53 (Kingston Township along Drain No. 3). Mark Breker, Steve Wyum, Sargent County Commissioner and Tim Campbell, Richland County Commissioner inspected the site and noted the dike has blocked the natural

waterway in the Lateral for Drain # 3 by creating a berm on the east side which appears to be higher than the township road located between Richland and Sargent County. Ms. Wohlwend also built a dike along the north side of the drain which will obstruct the natural flow to the northwest.

Sean reported on the Tri-County Water Board insurance coverage requesting Ransom County to add an endorsement to its policy to add the Tri-County Joint Water Resource District or for the Tri-County Joint Water Resource District to obtain its own coverage from NDIRF.

Jim Bosse called Coyote Fencing regarding replacing the fence line on Nelson Dam. They will do the work next spring and Jim and Dan will meet with them prior to the project to explain the necessary work.

Roger White reported on the Annual Joint Water Convention held on December 5-6 in Bismarck.

New drain tile application forms were received from the State Engineer. This form will be used for all drainage tile applications.

The proposed 115kv transmission line in Sargent County for the Keystone pipeline requested from the Board information on test wells. They will be referred to the State Health Dept. for this information.

The Board read a letter from Interstate Engineering regarding Bridge 135-6 soliciting views for this project.

Approve \$1000 additional compensation for research of records to Sherry Hosford, Secretary. (Bosse/Engst, unanimous)

Meeting adjourned at 3:45 p.m.

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MARK BREKER - CHAIRMAN

ATTEST:

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SHERRY HOSFORD - SECRETARY