

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, DECEMBER 20, 2018, AT 8:00 A.M. IN THE COMMISSIONERS ROOM AT THE SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA.

Managers present: Lucas Siemieniewski, Todd Stein, Michael Wyum and Bruce Speich. Absent: Roger Zetocha. Also present: Chris Gross, Engineer for the Board; Sean Fredricks, Attorney for the Board. The following residents and landowners were present: Paul Mathews, Brian Vculek and Justin Quandt.

Manager Stein moved to approve the Board's November 15, 2018 minutes and the October and November financial reports. Manager Wyum seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Speich moved to approve payment of the following bills:

78084	Jerry's Backhoe Service	Beaver dam removal - Dr#9-\$75.00; Dr#11-\$525.00; Tewaukon Watershed - \$75.00	= TOTAL	\$675.00
78085	Moore Engineering, Inc.	Shortfoot Creek Study-\$30,544.00; Dr#11-\$322.50-culvert replacement; Brummond-Lubke Dam-\$1,318.25; Kelley/Mathews Et.al vs Hemminger/Thompson Et.al-\$85.00; = TOTAL		\$32,269.75
78086	Ohnstad Twichell	General-; \$287.50; Kelley/Mathews/Hemminger complaint-\$2,104.13; Delahoyde-Quandt complaint - \$152.00; Dr#7-\$227.50-Engst deed	= TOTAL	\$2,771.13
78087	Richland County WRB	67% Administrative Expenses-RS#1		\$1,144.41
78088	Lucas Siemieniewski	Travel		71.94
78089	Bruce Speich	Travel		114.45
78090	Todd Stein	Travel		70.85
78091	Michael Wyum	Travel		373.42
15791	Sherry Hosford	Salary less taxes	562.57	1,637.43
15792	Sherry Hosford	DSJTB Secretary less taxes	371.51	2,170.99
DD	Sargent County Bank	Withholding taxes		1,301.12

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

BUDGET AMENDMENTS: Drain No. 7 I & S (aka WC#1 I & S) from \$200,000.00 to \$203,928.08 and Drain No 7. Maintenance Fund from \$15,000.00 to \$22,192.86. Manager Speich moved to approve. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

APPROVE TRANSFER OF THE FOLLOWING FUND: From Drain No. 7 aka Water Channel Imp. # 1 to Drain No. 7 I & S (aka Water Channel Imp. # 1 I & S) - \$2,851.27. Manager Wyum moved to approve. Manager Speich seconded the motion. Upon roll call vote, the motion carried unanimously.

BEVERLY KELLEY/PAUL MATHEWS, JACKSON TOWNSHIP DRAINAGE COMPLAINT APPEAL: The Board previously issued a Notice of Decision to the parties to notify them of the Board's decisions regarding the complaint filed by Beverly Kelley, Paul Mathews, and Jackson Township. With regard to the allegations of illegal and unpermitted field drainage in the Northeast Quarter of Section 13, the Board ordered Randy Hemminger, Donald Rust, Phyllis Thompson, James Bosse, and Bruce Bosse to close or fill the drainage improvements by 5 p.m. on November 15, 2018. Todd Stein investigated the field ditches and found the parties did not sufficiently close or fill those field ditches; instead, the parties simply installed ditch blocks instead of returning the property to its previous condition. The Board directed Sean Fredricks to send a letter to the parties to provide them a deadline of July 1, 2019, to complete the corrective actions.

BRUMMOND-LUBKE DAM: Motion by Manager Stein to authorize Chairman Siemieniewski to sign the Agreement for Cost-Share Reimbursement between the State Water Commission and Sargent County Water Resource District. Manager Speich seconded the motion. Upon roll call vote, the motion carried unanimously. Chris Gross reported that his office had met with Boyd Brummond, landowner by the Brummond-Lubke Dam and he provided good information on where to do the soil borings, was very receptive of the project and requested no compensation. Motion by Manager Stein to authorize the Chairman and Secretary to sign the Access Agreement between this Board and Boyd P. and Teresa R. Brummond, as Trustees of the Teresa R. Brummond Trust to grant temporary access and right of entry in, on, over and across real property in the N1/2-35-129-55 for purposes of conducting borings. Manager Speich seconded the motion. Upon roll call vote, the motion carried unanimously.

SILVER LAKE DAM: The Red River Joint Water Resource Board has approved \$16,168.75 cost share for the Silver Lake Dam project and the Board is still waiting to hear from the State Water Commission. Manager Wyum moved to approve a cost-share agreement with the Red River Joint Water Resource District. Manager Speich seconded the motion. Upon roll call vote, the motion carried unanimously. Board members also discussed the local share and instructed Sean Fredricks to prepare a Joint Powers Agreement between this Board

and the Sargent County Commission/Sargent County Park Board for sharing in the local costs for this Feasibility Study.

FRENIER DAM REPORT OF BEAVER DAMS: Lucas plans to call General Irrigation to blow out the culvert that has beaver dams and get the water flowing.

APPLICATION TO INSTALL A SUBSURFACE WATER MANAGEMENT SYSTEM NO. 2018-14 FOR BRIAN VCULEK IN SECTION 1 OF DENVER TOWNSHIP IN SARGENT COUNTY AND THE SOUTH HALF OF SECTION 31 IN ALLEGHANY TOWNSHIP IN RANSOM COUNTY

The Board reviewed an *Application to Install a Subsurface Water Management System No. 2018-14* dated November 8, 2018, for Brian Vculek; Mr. Vculek was present to discuss the application with the Board. Under the application, Applicant seeks to install a 375-acre drain tile system in portions of Section 1 of Denver Township in Sargent County and the South Half of Section 31 in Alleghany Township in Ransom County. Under North Dakota law, because “a majority of the land area” Applicant intends to tile is in Sargent County, the Sargent County Water Resource District must process the application. The project will include several surface inlets, all with a 3/8-inch coefficient. The project will include several pump outlets that will ultimately discharge via an underground pipeline along the south boundary of the Southeast Quarter of Section 1 of Denver Township. The tile discharge will flow south through an existing 24-inch culvert under 79th Street SE and will run south across portions of the East Half of Section 12 of Denver Township.

Because portions of the project will be located in Ransom County, the Board provided a THIRTY-DAY NOTICE to the Ransom County Water Resource District for their information and potential feedback. The Ransom County Board did not provide any comments. Further, the Board provided a THIRTY-DAY NOTICE to all landowners within one mile of the ultimate outlet of the proposed project, as required under N.D. Cent. Code § 61-32-03.1. More specifically, the Board provided THIRTY-DAY NOTICES to the owners of the East Half of Section 12 of Denver Township. None of those landowners submitted any comments or objections to the project, and none of them provided any “technical evidence,” as that phrase is defined under Section 61-32-03.1, to demonstrate potential impacts the project may have on their properties. With that in mind, the District cannot require Applicant to obtain any easements or written consent from those downstream landowners as a condition to the Board’s approval of the permit.

According to records supplied by Applicant, Bernard Vculek, as Trustee of the Bernard L. Vculek Revocable Trust, and Marlene Vculek, as Trustee of the Marlene Vculek Revocable Trust, own Section 1 of Denver Township and the South Half of Section 31 of Alleghany Township. With regard to downstream landowners, Paula Brummund owns the Northeast Quarter of Section 12 in Denver Township, and Lone Tree Holdings LLLP owns the Southeast Quarter of Section 12 in Denver Township.

Manager Stein moved, and Manager Speich seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2018-14* dated November 8, 2018, for Brian Vculek in Section 1 in Denver Township in Sargent County and the South Half of Section 31 in Alleghany Township in Ransom County, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2018-14, subject to the following conditions:

- 1) That Applicant notify the Sargent County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 2) That Applicant provide, install, and maintain riprap or other ditch stabilization materials satisfactory to Denver Township at any and all outlets into Denver Township’s road right of way; and
- 3) That Applicant must turn off any pump outlets and otherwise close all outlets during “critical flood periods,” as determined by the District.

Upon roll call vote, the motion carried unanimously.

Under Section 61-32-03.1, the District cannot attach any additional conditions to Applicant’s permit. However, for Applicant’s protection, and to ensure protection of Applicant’s tile system, the District will recommend that Applicant consider complying with the following:

- 1) That Applicant obtain easements from the owners of Section 1 of Denver Township and the South Half of Section 31 of Alleghany Township to install, construct, and operate the tile system;
- 2) That Applicant obtain written permission from the Denver Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches; to install, operate, and maintain buried pipe in any of its township road ditches; or to bore through its township road;

3) That Applicant notify the Sargent County Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application; and

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 governmental entities.

LOVELL IMPROVEMENT PROJECT, LLC – REQUEST FOR COST SHARING ON CULVERTS:

Justin Quandt was present to request cost-share on several culverts to accommodate the Lovell Improvement Project. Three locations are located on Sargent County Road # 5 and one location at 115th and 95th Avenue between Jackson and Southwest Township. The culverts that are being installed are HP Storm TW and HDPE DW (plastic pipe). Chris Gross reviewed the parties' hydrology report and indicated the crossings would comply with the North Dakota Stream Crossing Standards. Sean Fredricks noted the Board does not have legal authority to provide public funds to private parties. Mr. Quandt indicated Lovell Township is actually constructing the project and will provide a formal cost-share request to the Board. Manager Speich made a motion to provide 1/3 cost-share for the costs of the culverts, contingent upon Sargent County Commission approval and receipt of a written request for reimbursement from Lovell Township. Manager Wyum seconded the motion. Upon roll call vote, the motion carried unanimously.

RICHLAND-SARGENT NO. 1: Monica Zentgraf, Secretary-Treasurer RS #1 provided RS #1 bills for consideration and approval as follows:

1. Interstate Engineering, Inc. \$5,796.50 (Construction Engineering and Staking RS#1)
2. JAV Construction Inc. \$104,600.76 (Progressive Estimate No 4)
3. True North Steel \$2,687.00 (42' culvert and band)
4. JAV Construction \$1,716.00 (Culvert Installation)

Manager Speich moved to approve the Richland-Sargent No. 1 bills. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

DICKEY-SARGENT JOINT BOARD: Sherry Hosford, Secretary-Treasurer DSJTWB provided DSJTWB bills for consideration and approval as follows:

1. DVEC \$154.00 (Utilities)
2. Dakota Improvement \$3,000.00 (Culvert Extensions by Terry Zimbleman's)
3. Moore Engineering, Inc. \$632.50 (General Services-executive session meeting, create application exhibit map for utility permit, follow-up on Lambert abstract location and review Pat Roney reassessment request)
4. Ohnstad Twichell \$5,983.86 (Settlement calls, conferences and title opinion, special meeting to discuss settlement and edit closing documents)

Manager Wyum moved to approve the DSJTWB bills. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

UNFINISHED BUSINESS: Luke asked for explanation on liquidated damages for contractors versus engineers and discussion followed. Mike asked about all the tile projects that have been constructed and whether this is creating problems for the legal drains. Sean stated that the 2017 Legislature indicated, on the record, that tiling does not damage legal assessment drains or natural watercourses. However, Sean noted the North Dakota Water Users are advocating new tile legislation that could address downstream impacts of tile.

With no further business to discuss, the Board adjourned the meeting at 9:25 a.m.

LUCAS SIEMIENIEWSKI, CHAIR

ATTEST:

SHERRY HOSFORD - SECRETARY-TREASURER