

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, DECEMBER 21, 2017, AT 8:00 A.M., IN THE COMMISSIONERS ROOM, SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA

Managers present: Roger Zetocha, Bruce Speich and Todd Stein. Absent: Lucas Siemieniewski and Korey Martinson. Also present: Sean Fredricks, Board Attorney and Chris Gross, Board Engineer both via conference call; Robert Banderet, Cogswell and Gerry Bosse, Cogswell.

Approve November 16, 2017, minutes and November 2017 financial report. Manager Speich moved to approve. Manager Stein seconded the motion. Absent and not voting: Siemieniewski and Martinson. Upon roll call vote, the motion carried unanimously.

Manager Stein moved to approve payment of the following bills:

76353	James Bosse	Dr# 11 Beaver removal	50.00
76354	D. L. Barkie	Final Gwinner Dam Breach	\$6,546.90
76355	Fred Halverson	Soil Boring on Shortfoot Creek	3,000.00
76356	Jerry's Backhoe Service	Dr# 11 Beaver removal	225.00
76357	Paulette Lejer	Soil Boring on Shortfoot Creek	416.67
76358	Moore Eng. Inc.	General-\$571.75; Gwinner Dam - \$122.50; Shortfoot Creek Study - \$7,140.00; Dr#11-\$85.00; Quandt-Jackson Township-\$85.00	= TOTAL \$8004.25
76359	ND Water Resource Ass'n	6 Manager Handbooks	180.00
76360	Sandy Ohm	Soil Boring on Shortfoot Creek	416.66
76361	Ohnstad Twichell	General-\$450.00; Engineering Selection-\$367.78; Dr#7-MDU Pipeline-\$425.50; Dr# 4-Hoistad-\$389.50; Dr#11-Mathews-Right-of-Way-\$30.00	=TOTAL \$1,662.78
76362	Bruce Speich	Travel	26.75
76363	Todd Stein	Travel	315.22
76364	Patricia Swanson	Soil Boring on Shortfoot Creek	416.67
76365	Roger Zetocha	Travel	26.75
14362	Sherry Hosford	Salary less taxes	493.92
DD	Sargent County Bank	Withholding Taxes	678.92

Manager Speich seconded the motion. Absent and not voting: Siemieniewski and Martinson. Upon roll call vote, the motion carried unanimously.

GWINNER DAM BREACH: Chris Gross presented the Application for Final Payment of \$6,546.90 and stated that the project is in warranty period and the project area will be inspected in the spring for any touch-ups for seeding or erosion. Sherry was instructed to submit paper work to the ND State Water Commission for cost share.

DRAINAGE COMPLAINT FILED BY JACKSON TOWNSHIP/DAN DELAHOYDE AGAINST QUANDT BROTHERS: The Board next considered Jackson Township's DRAINAGE COMPLAINT against John Quandt and Quandt Brothers. At the Board's meeting in November, the Board discussed possible remedial measures John Quandt could take to avoid the necessity to fill in the drainage in Section 18. John Quandt and Paul Roney, the landowner in Section 18, proposed construction of a berm in the Southeast Quarter of Section 18 that would remove 24 acres from the larger 87.09-acre watershed. With completion of the berm, the work in Section 18 would no longer require a permit and would no longer be subject to the Board's jurisdiction under the complaint statute, N.D. Cent. Code § 61-32-07.

The Complaint filed by Jackson Township alleged illegal and unpermitted drainage in Sections 18, 19, and 20 of Jackson Township, the South Lateral to the Jackson Township Improvement District No. 1 Project. In early 2016, Moore Engineering investigated the Complaint and concluded the Project met the permitting criteria under N.D. Cent. Code § 61-32-03 regarding surface drainage permitting requirements; in other words, the project required a permit and the parties responsible failed to obtain a permit prior to construction. However, Mr. Quandt indicated his willingness and intent to submit a surface drainage permit application with the State Engineer's office to seek an after-the-fact surface permit for the Project. The Board held the matter in abeyance while Mr. Quandt sought his after-the-fact permit, and the Board monitored the status of the application, which the State Engineer's office ultimately forwarded to the Dickey-Sargent Joint Water Resource District in light of that Board's ownership and management of the Jackson Township Improvement District Project. The Dickey-Sargent Joint Water Resource District approved APPLICATION FOR SURFACE DRAIN NO. 4926 at its meeting on March 20, 2017, with conditions. Applicant John Quandt ultimately satisfied all of the conditions of the permit and, therefore, PERMIT NO. 4926 is in full force and effect.

The Board, with the assistance of Chris Gross, previously concluded the vast majority of the drainage improvements that are the subject of Jackson Township's DRAINAGE COMPLAINT are permitted improvements under PERMIT NO. 4926. The only area not permitted under PERMIT NO. 4926 is that portion of the Southeast

Quarter of Section 18 where Mr. Quandt constructed improvements just outside the county highway road ditch? At the Board's meeting on July 20, 2017, the Board directed Chris Gross and Moore Engineering to investigate the drainage in the Southeast Quarter of Section 18 to determine if that portion of drainage improvements required a permit (i.e., if the ditch improvements in the Southeast Quarter of Section 18 drained an 80-acre watershed).

At the Board's September 21 meeting, Chris Gross reported the results of Moore Engineering's investigation. Chris noted Moore utilized LiDAR and topographic information provided by Mr. Quandt and Moore ultimately concluded the watershed area impacted by the drainage ditch improvements constructed in the Southeast Quarter of Section 18 is 87.09 acres. The Board discussed possible resolution to the matter with Mr. Quandt and Paul Roney, the owner in the Southeast Quarter of Section 18. Mr. Roney indicated that he did *not* want that portion of the ditch filled in and noted the benefits the ditch provides to the county highway. Chris Gross noted the ditch is just a few feet outside of county highway right of way. The Board considered their options, including ordering Mr. Quandt to fill in that portion of the ditch, or entertaining an after-the-fact permit application from Mr. Quandt just for this portion. The Board agreed to hold the matter in abeyance to allow Mr. Quandt to negotiate with Jackson Township.

At the Board's November 16 meeting, John Quandt and Paul Roney were again present, along with Dan Delahoyde from Jackson Township, and Dave Jacobson from the Sargent County Commission. Chris once again explained how Moore Engineering arrived at the 87.09-acre watershed determination. John Quandt and Paul Roney indicated their plan to construct a small berm that would prevent a portion of the watershed from draining west. The Board agreed that if Mr. Quandt took measures to remove 24 acres from the 87.09-acre watershed, and reduced the watershed area impacted or drained by the drainage improvements in the Southeast Quarter of Section 18, the Board would dismiss the matter. Manager Stein agreed to conduct a site visit following the remedial work by Mr. Quandt and Mr. Roney, and John Quandt agreed to provide berm elevation data to Moore Engineering.

Manager Stein reported that he conducted a site visit and confirmed Mr. Quandt and Mr. Roney did, in fact, construct the berm improvements discussed at the Board's November meeting. Manager Stein also spoke with Mr. Dan Delahoyde, who agreed the work was completed. Chris Gross reiterated that the construction of the berm removes 24 acres from the 87.09-acre watershed impacted and drained by the ditch improvements in the Southeast Quarter of Section 18, therefore reducing the watershed area impacted to 63.09 acres, less than the 80-acre permitting threshold. With that in mind, the drainage improvements constructed in the Southeast Quarter of Section 18 no longer require a permit.

Due to the fact that the vast majority of the drainage improvements in Section 18, 19, and 20 of Jackson Township are permitted improvements under PERMIT NO. 4926, and in light of the remedial work recently completed by Mr. Quandt and Mr. Paul Roney that removed 24 acres from the 87.09-acre watershed impacted by the unpermitted improvements in the Southeast Quarter of Section 18, the Board no longer had jurisdiction to order Mr. Quandt or any other party to close or fill the ditch improvements in the Southeast Quarter of Section 18. Manager Stein moved to dismiss Jackson Township's Complaint against John Quandt and the Quandt Brothers. Manager Speich seconded the motion. Upon roll call vote, the motion carried unanimously. Sean Fredricks will provide a NOTICE OF DECISION to the parties.

DRAIN NO. 4: Sean Fredricks reported to the Board that the real estate transaction with the City, contemplated under the parties' purchase agreement and Settlement Agreement from the Hoistad litigation, is now complete. Moore and Ohnstad Twichell are reviewing bills paid by the Board to determine which ones the City is responsible for paying under the Joint Powers Agreement and that are not precluded by the parties' Settlement Agreement. Sean and Chris can report back next meeting in terms of costs for the Board's discussion.

EMERGENCY ACTION PLANS: Plans are prepared for both Brummond/Lubke and Nelson Dams and are awaiting the final meeting of local personnel that will be involved in any emergency concerning these dams. A Doodle Poll has been sent out to those personnel and asked for dates and times that are preferred. Once this data is received, Chris will schedule a meeting to discuss the Emergency Action Plans.

CHAD AND TOM HEIMBUCH: Chad Heimbuch contacted Manager Stein regarding plans to expand the project permitted under an APPLICATION TO INSTALL A SUBSURFACE WATER MANAGEMENT SYSTEM approved by this Board September 15, 2017. Manager Stein will talk to the Heimbuchs and ask them to make an appointment for the January meeting to discuss this project.

DON RUST APPLICATION TO INSTALL A SUBSURFACE WATER MANAGEMENT SYSTEM: The Board is still awaiting paperwork on the application in S1/2-23-130-58 from Mr. Rust. Manager Stein will ask Mr. Rust to call for an appointment at the January meeting to discuss this application.

RS#1: Board members received and read an update of proposed work on RS#1 from Mike Bassingthwaite as follows:

My plan and status as of now:

- I have a Corp permit ready to be sent in and will find Korey to sign it later this week or next week. It will then be sent in and you will get a copy of the transmittal.
- I will have plans and specs complete by mid-January including the SDDOT box culvert part and be ready to advertise for bid. I'm thinking mid-March bid letting would be good. We don't need to have the Corp permit in hand we just need to know it's moving along which we would by February.
- I expect to receive the SDDOT paperwork we are missing soon.
- I would like to secure the temp easements / right of entry / agreements or whatever we decide to use in February. I would expect to meet with the landowners individually with a board member as we've done in the past.

Mr. Bassingthwaite is proposing to have a board meeting mid to late January or very early February.

BUDGET AMENDMENTS: Drain No. 4 from \$70,000.00 to \$71,459.75; Drain No. 7 (aka WC#1 I & S) from \$740,000.00 to \$756,228.27; Jackson Improvement from \$175,000.00 to \$180,128.91. Manager Speich moved to approve. Manager Stein seconded the motion. Absent and not voting: Siemieniewski and Martinson. Upon roll call vote, the motion carried unanimously.

APPROVE TRANSFER OF THE FOLLOWING FUNDS: From General Fund to Shortfoot Creek - \$12,647.09 and from Drain No. 7 aka Water Channel Imp. # 1 to Drain No. 7 aka Water Channel Imp. # 1 I & S - \$57,254.21. Manager Stein moved to approve. Manager Speich seconded the motion. Absent and not voting: Siemieniewski, and Martinson. Upon roll call vote, the motion carried unanimously.

REAL ESTATE TAXES AND DRAIN TAXES ON CERTAIN LANDS IN DRAIN NO. 7 ASSESSMENT AREA AND DRAIN NO. 4 ASSESSMENT AREA: Sherry inquired about 2017 tax statements received from the Sargent County Treasurer regarding real estate taxes and drain maintenance taxes on parcels purchased for the Drain # 7 Improvement Project and the Drain No. 4 land acquisition. Sean Fredricks stated that Water Resource Districts are exempt from general real estate taxation. Robert Banderet asked why water boards are exempt and Sean referred to Section 57-02-08 of the North Dakota Century Code. With regard to general real estate taxes, the Sargent County WRD is a political subdivision (see NDCC 61-16-06). By state law, political subdivisions are exempt from general real estate taxes under NDCC 57-02-08, which provides:

“All property described in this section to the extent herein limited shall be exempt from taxation: ... (3)
All property belonging to any political subdivision and the leasehold interest in property leased by a political subdivision from another political subdivision.”

In terms of the Drain 7 maintenance levies (levied for the Sargent County WRD), the Sargent County WRD would be paying the County maintenance assessments for Drain 7, then the County would turn around and give the dollars right back to the Sargent County WRD. The Board agreed the administrative costs associated with processing maintenance levies of its own property seems like a waste of time and resources. The Board can eliminate those parcels from the maintenance levies next year, but the Board will simply have to approach the County to discuss how the County wants to handle the WRD paying its own drain maintenance levies. Tabled until next meeting.

SHORTFOOT CREEK WATERSHED RCCP: Chris Gross provided an update on the project and indicated that the Project Team is a year away from making any decisions and the following summary was provided to board members for information and review.

Project Sponsor: Sargent County Water Resource District

Project Watershed: Shortfoot Creek, tributary of Wild Rice River in ND

Project Location: Marshall County and Roberts County in SD, western Richland County in ND, and Sargent County, ND

Total Estimated Study/Plan Cost: \$940,000

Short Description of Watershed: The watershed to be studied covers 55,203 acres (86.3 square miles). The upper portion of the watershed has steeper slopes, allowing higher velocities of flow. The slopes become flatter further downstream. Various depressional wetlands exist in the sub watershed.

Draft Purpose Statement: The purpose of the project is to reduce upland erosion and flood damages within the Shortfoot Creek Watershed associated with spring snow melt and seasonal rains in order to minimize sedimentation and channel erosion, reduce ag damages, and reduce damages to private and public infrastructure.

Draft Need Statement: The Shortfoot Creek watershed is a part of the Wild Rice River basin and then the Red River Basin which have histories of spring snow melt and seasonal rains resulting in frequent overland and

overbank flooding resulting in recurring damages. This flooding causes damages to fields due to upland and channel erosion, flushing nutrients, crop losses, and delayed planting. The flooding also causes disruptions to transportation by overtopping and washing out roads, and damaging bridges and culverts. Additionally, the existing conditions have resulted in new previously non-contributing areas now contributing, and degraded water quality with increased sediment, nutrient loading and known high bacteria levels.

Purpose and Need statement – no current updates or changes.

Reporting Period: May 21, 2017 through November 20, 2017

RCPP watershed plan agreement was signed on April 25, 2016.

Main activities in this reporting period:

- **Technical Advisory Team / Project Team Meetings/Landowner Meetings**
 - Landowner meetings; Aug 4 & Sept 8, 2017
 - Meeting with USFWS – Consulted with USFWS on water levels and easement effects.
- Wetland field review was conducted for alternative site #7
- Fieldwork continued for detailed analysis of alternatives including topographical survey in site areas
- Submitted alternative development and review report to NRCS for review point #3
- Consulted with the ND Game & Fish Department on water levels of Park Lake and effects to G&F lands. Waiting for a definitive direction in relation to their land.
- Bathymetric survey was done on alternative site areas
- Economic crop modeling is being developed for alternative sites

Main activities in **previous** reporting periods:

- **Technical Advisory Team / Project Team Meetings/Landowner Meetings**
 - January 31, 2017
 - March 2, 2017
 - March 23, 2017
 - April 12, 2017
 - June 15, 2016; July 28, 2016; August 30, 2016
- Reviewed alternatives, narrowed and screened alternatives that can meet the purpose and need.
- Project team selected 4 alternatives for further review and analysis.
- Further refined the HEC-RAS modeling to outline inundation areas to better define and confirm problem areas. Inundation mapping also assists the project team to confirm problem areas.
- Continued preliminary HEC-HMS modeling for the various watershed conceptual alternatives (as outlined by the Project Team), including wetland restoration, floodways, temporary storage, ground cover and best management practices.
- Fieldwork has begun for detailed analysis of alternatives
- **Status of Study/NRCS Review Points:**
 - Approved draft purpose and need statement – Review Point #1
 - Project goals stated
 - Strategy evaluation
 - Reviewed proposed alternatives
 - Preliminary HEC-RAS modeling and HEC-Modeling for the watershed
 - Affected environment draft submitted – approved for review point #2

Cost Incurred within Reporting Period: Approximately: \$ 71,000

ENGINEERING SELECTION PROCESS: Due to weather conditions and the resulting absence of Chris Gross and Sean Fredricks in person as well as two managers, the Board agreed postponing the Moore Engineering interview until January would be appropriate. Manager Stein moved to approve the AMENDED SECOND REPORT prepared by Sean Fredricks. Under the AMENDED SECOND REPORT, the Board is rescheduling the Engineering Selection interview with Moore Engineering, Inc., until the January 2018 meeting. Manager Speich seconded the motion. Absent and not voting: Siemieniowski and Martinson. Upon roll call vote, the motion carried unanimously.

DICKEY-SARGENT JOINT WATER BOARD: Manager Zetocha informed the board that Nannette Severson, Secretary-Treasurer for the Dickey-Sargent Joint Water Resource District, has resigned that position.

Discussion followed on problems which had occurred with unpaid invoices and that Chris Gross is reconciling billings and invoices paid with Wanda Shepard, Dickey County Auditor, who has been processing payments for the joint board. Manager Zetocha asked Sherry Hosford if she would be interested in assuming the duties of the joint board and briefly explained the duties. Roger explained all meetings are "special meetings" the joint board will call until the project is ultimately complete. Chris felt that the time commitment would be approximately 5 hours per month. Sherry gave her verbal acceptance of this position. Manager Zetocha and Manager Stein, who represent Sargent County on the joint board, will relay this information to Norm Haak, a Dickey County water manager and Chair of the joint board, and follow-up with Sherry at a later date. Nannette Severson has returned all paperwork and keys to Sargent County.

KRAFT SLOUGH: Gerry Bosse, Cogswell, asked Chris Gross questions regarding Kraft Slough and if it would be possible to provide flood protection, create a recreation component and promote fishery activities. Gerry's idea is to use the county road as a dam and raise the water level of the lake and not drain out the water. Chris said this would require meetings with landowners, ND Game and Fish and possibly US Fish and Wildlife. Chris does not believe the county road can be used as a dam. Sean Fredricks added Gerry Bosse to the agenda for the next Dickey-Sargent Joint Water Board meeting to present this idea to that board.

Meeting adjourned at 9:35 a.m.

ROGER ZETOCHA, VICE- CHAIRMAN

ATTEST:

SHERRY HOSFORD
SECRETARY-TREASURER