

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, FEBRUARY 15th, 2024 AT 8:00 A.M. IN THE WATER BOARD CONFERENCE ROOM AT THE SARGENT COUNTY COURTHOUSE, FORMAN NORTH DAKOTA

Managers present: Chairman Luke Siemieniewski, Managers Todd Stein, Michael Wyum and Roger Zetocha. Also in attendance was Wendy Willprecht Secretary/Treasurer, Nathan Trosen, engineer for Moore Engineering, Brian Fuder of the Red River Retention Authority, Randy Gjestvang and Yaping Chi, Department of Water Resources, Tim Faber, County Highway Supervisor and landowners Scott Mund and Darick Yagow. Present via video conference were Attorneys Sean Fredricks and Stephen Hilfer of Ohnstad Twichell, Manager Bruce Speich, Brady Woodward, engineer for Moore Engineering, Sargent County Commissioners Scott Johnson and Jason Arth, and landowners Paul and Kate Mund, Bob Banderet and Leon Mallberg.

Manager Wyum moved to approve the January 18th, 2024 regular meeting minutes and the January 2024 Financial Statement. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Speich moved to approve the bills.

Ohnstad Twichell- Brian Anderson Tile App. \$1046.01; Bd Mtg. \$528.00; 1099 prep \$180; Drain No. 11- Improv. Proj. \$243.00/Eminent Domain \$4337.06

Total: \$6,334.07

Moore Engineering-General \$2,173.28; Drain No. 11- Preliminary review of historical right-of-way records for portions of the South Lateral. Phone call with managers and landowners regarding assessment questions. Assisted with financial info request and review of recent tile permits near the Drain.\$2,922.50; Drain No. 12-Correspondence relating to cost questions \$410.00; Drain No. 7-Completed initial design of the access road including volume analysis of old road bed, preliminary plans and cost estimate \$4,927.50; Shortfoot Creek- Coordination and meetings with consultants and NRCS regarding updated economics, OMB summary, letters of support, etc. Assisted with creation of quarterly report \$4,459.50

Total: \$14,892.78

Bismarck Hotel & Conference Center-One night stay for Willprecht during Water Board convention

Total: \$109.00

Rutland Township- Culvert cost-share

Total: \$1,093.60

Manager Zetocha seconded the motion. Upon roll call the motion carried unanimously.

	Lucas Siemieniewski	Travel
	Todd Stein	Travel
	Michael Wyum	Travel
	Roger Zetocha	Travel
	Bruce Speich	Travel
DD	Lucas Siemieniewski	PD
DD	Todd Stein	PD
DD	Michael Wyum	PD
DD	Roger Zetocha	PD
DD	Bruce Speich	PD
DD	Wendy Willprecht	Sec-Treas -Salary less taxes
DD	Stock Grower's Bank	Withholding Taxes
DD	ND State Tax Commission	State Tax
DD	Job Service ND	Unemployment Comp.

Elections:

Chairman: Manager Wyum nominated Luke Siemieniewski to serve as SCWRD Chairman. Upon roll call vote, all Managers voted in favor.

Vice Chairman: Manager Zetocha nominated Michael Wyum to serve as SCWRD Vice-Chair. Upon roll call vote, all Managers voted in favor.

Secretary/Treasurer: Manager Stein nominated Wendy Willprecht to serve as SCWRD Secretary/Treasurer. Upon roll call vote, all Managers voted in favor.

Drain No. 11:

Project: Attorney Fredricks indicated the next bond payment for this drain is due in May. Under the Joint Powers Agreement between the Board and the Sargent County Commission executed in 2020, the County Commission agreed to pay 40% of all road crossing improvements necessary to accommodate the project, as required under N.D. Cent. Code § 61-16.1-43. Under the Joint Powers Agreement, instead of requesting a single lump-sum payment for the County's share, the Board agreed to include the County's share of crossing improvements in the Board's bond issue so the County could reimburse the Board over a course of the life of the bond. The Board already made the 2023 bond payment so the Board will request that the County reimburse the Board over the remaining five years of the bond. A motion was made by Manager Wyum and seconded by Manager Zetocha to direct Administrator Willprecht to submit a request to the County for its 40% of the crossing improvement costs, payable over five years, along with invoices. Upon roll call, the motion carried unanimously.

Mr. Leon Mallberg submitted an open records request to the Board dated January 31, 2024. In the letter, Mr. Mallberg requested financial information and the audio recordings of executive sessions conducted by the Board on May 18, 2017, and on June 16, 2022. Attorney Stephen Hilfer provided a letter response to Mr. Mallberg dated February 5, 2024. The letter is on file with the Secretary-Treasurer. In the letter, Mr. Hilfer notified Mr. Mallberg that the financial records provided by Wendy Willprecht on January 5, 2024, were responsive to Mr. Mallberg's requests for financial information. Mr. Hilfer further indicated the Board no longer has the recording from 2017, but that the Board was only required to retain the recording for six months, under N.D.C.C. § 44-04-19.2(5). With regard to the 2022 executive session recording, Mr. Hilfer notified Mr. Mallberg that the recording is a "closed record" under Section 44-04-19.2(5), only subject to public disclosure following a majority vote of the Board. To ensure full compliance with Section 44-04-19.2(5) and to provide clarification in response to Mr. Mallberg's request, Manager Wyum moved to prohibit release of the Board's executive session recording from June 16, 2022, and to continue to characterize the recording as a "closed record" under North Dakota law. Manager Zetocha seconded the motion. Upon roll call, the motion carried unanimously. Manager Wyum noted the Board only conducts executive sessions when necessary and that maintaining confidentiality is important for the Board and its operations.

Glen Thompson Utility Permit: No update.

Drain No. 4: No report.

Drain No. 7:

Hall Township: The bridge at the outlet crossing is being proposed to be removed and to have the access changed to the north side of the channel on top of the berm. Scott Mund of Hall Township said that the township understands this is a minimum maintenance road. However, Mund said the township has lost many structures over the years including 150th Ave. The waterflow has continued to increase upstream and the water gets close to going over the top of the county road. Mund suggested the access road needs to be built above grade of the county road in order to withstand the upstream flow.

Chairman Siemieniewski suggested getting a drone to get a video of the problematic issues in this area. Siemieniewski said that if this improvement is not done correctly, in 10 years the culverts will be rusted out and needing to be replaced. The goal is to get better flow.

Mund said the clean out needs to be south of the church before free flowing will be allowed. Manager Speich said that based on the lidar profile that was provided, if we get half way through Hogness's quarter, after that, there is a good drop.

Trosen of Moore Engineering provided a map utilizing lidar that showed Drain No. 7 all the way down to the Wild Rice River. Trosen agreed that the church is where there is an issue with flow.

Chairman Siemieniewski said that the SCWRD cannot clean this area because it is a natural drain. He then posed the question of making it a "legal" drain. Mund said that the best idea may be for the SCWRD to push the lower level of the mill levy to get the project done. Chairman Siemieniewski suggested doing a hydrology study on the crossings. Mund said that Hall Township has added a 48" culvert between sections 19 and 20 and a 30" culvert between the sections of 21 and 28. Mund is worried about the downstream roads in the township. Chairman Siemieniewski said we are holding back water to Highway 18 and that we need 4 ½ miles of clean out before the water will flow freely.

Trosen estimated the hydrology study to cost around \$12,000 or less.

Manager Wyum said that it sounds like Hall Township would like this to be a legal drain. Attorney Fredricks said that to form a legal drain, the board would need a 51% majority vote of votes submitted by owners of real property within the benefitted area. An assessment district would need to be developed first, including a benefit analysis. The board would need to make sure all crossings meet North Dakota Stream Crossing Standards. Trosen added that the permitting process would be expensive and lengthy if the end result is to make the channel into a Drain at a 10-year standard. If the board simply created a "maintenance district" by a vote of the landowners, simply to maintain the system, the process would be less expensive and would not take as long. Attorney Fredricks noted an assessment vote to create a "maintenance district" would still require a benefit analysis, and all landowners that would benefit would have the opportunity to vote the amount of their assessments.

Chairman Siemieniewski asked Moore Engineering if they could fly a drone over the area next week and if a simple clean out could help.

The hydrology study would help determine if there is something that could be done regarding the culverts in this area. A motion was made by Manager Stein and seconded by Manager Zetocha to conduct a drone flight over this area and to complete a hydrology study to include the road crossings, payable with general fund dollars. Upon roll call, the motion carried unanimously.

Project: Trosen of Moore Engineering said that we are in a holding pattern with this project.

404 Permit: No update.

Drain No. 9 Extension: Trosen suggested holding a public information meeting for landowners who would benefit from this extension project. The SCWRD agreed and directed Moore Engineering to send out physical invitations after a date and venue could be solidified. As of now, the Board anticipates conducting the meeting March 27 or 28.

Drain No. 8: Trosen said that in the fall of 2022, DES was able to access hazardous mitigation funds. Trosen submitted the study for this drain and the Cogswell Tile project for consideration under this grant; these proposed projects would benefit communities and would likely qualify for funding. The federal funding for the grant ran out, but the feds received some additional dollars to use towards the consideration of a handful of projects in the state, and the Drain 8 project and the Cogswell Tile project are two that are being considered. Trosen said with this consideration by the federal government, the SCWRD needs to send a local commitment letter because the cost share being offered is 75/25 (federal/local). The SCWRD will also have an opportunity to apply for cost-share through the SWC. Trosen said it would take 5-10 hours to prepare the project details to submit to the DES for each study. Manager Wyum made a motion, seconded by Manager Stein, to authorize and direct Trosen of Moore Engineering to prepare and send local commitment letters on behalf of the SCWRD and to submit applications for both the Cogswell Tile and Drain 8 project. Upon roll call vote, the motion carried unanimously.

Cogswell Tile: Please see the Drain 8 discussion.

Drain No. 2: Discussion was had regarding money owed to landowners Warren and Aaron Lyons and Darrel Foertsch due to lost farmland along Drain No. 2. The Managers discussed damage reimbursement to the landowners at \$1000/acre. This will be further discussed at the March 21, 2024, SCWRD meeting.

Drain No. 12: No update.

Short Foot Creek: Trosen said the Red River Retention Authority sent a letter in support of this project to the NRCS. Trosen added that it could be a month or two before we hear from the NRCS regarding the exemption request. For now, we will wait to see whether the NRCS approves the submitted exemption request.

City of Stirum: No report.

NEW BUSINESS:

Drain inspection by drone: Chairman Siemieniewski invited Brady Woodard from Moore Engineering to attend the meeting to discuss drone inspection of the SCWRD legal drains and dams. Siemieniewski thought the drone footage would be very beneficial moving forward and that the board should consider flying all the drains and dams each spring to see what needs to be done. Woodard said he estimates the cost to acquire the drone footage to be around \$22,000, but it could be less. This fee could be split between all the drains/dams respectively.

Darrick Yagow, Willey Township: Trosen of Moore Engineering has done a hydrology study for this township for culvert replacement between sections 2 and 11 on 79th St. There is currently a 48"x50' culvert in place. The township would like to install a new 48"x60' culvert. Yagow said they found out that the culvert was wrecked after removing rocks that had fallen, blocking the culvert. Trosen said the analysis showed that a 48" culvert meets the Stream Crossing Standards. So, a 48"x60' culvert replacement would be appropriate under North Dakota law. Yagow said the culvert would cost roughly \$8400. The SCWRD will provide cost-share for the cost of the culvert at one-third of the cost, with the County and Willey Township paying the remaining two-thirds. A motion was made by Manager Zetocha and seconded by Manager Stein to provide cost-share reimbursement for one-third of the cost of the culvert. Upon roll call, the motion carried unanimously. The Board will reimburse the Township upon evidence of the cost of the culvert.

Red River Joint Water Resource District: Randy Gjestvang and Yaping Chi, representing the Red River Water Resource District (RRJWRD), and Brian Fuder of the Red River Retention Authority were in attendance to discuss the partial membership fee paid by the SC Commission to RRJWRD. Under a bill recently passed in the legislature (SB 2372, passed in '23), WRDs have a statutory mandate to be a member of a joint WRD within the Board's watershed. Sargent County is indeed within the RRJWRD's watershed and the Board is therefore obligated to participate in the membership and pay the fees associated with this membership. More importantly, the Sargent County Water Resource District has been a member of the RRJWRD for decades, since its inception. Randy Gjestvang provided a detailed 9-page summary of projects the SCWRD has received RRJWRD cost-share for in the past as well as anticipated cost-share for upcoming projects. Gjestvang also provided information on many other services provided by the RRJWRD for members. Sargent County has received substantial cost-share from RRJWRD over the decades and receives other significant benefits as a member.

A question had been raised by the SC Commission as to whether any of these membership fees were allocated to the Fargo Diversion Project. Gjestvang confirmed that none of the RRJWRD membership fees are used for the Diversion Project.

SC Commission Chairman Scott Johnson asked why the membership fee jumped from \$36,000 to over \$56,000. Gjestvang thought that the error came from the previous evaluation of the drainage from Sargent County; previously, RRJWRD calculated that only 60% of Sargent County was within the Red River watershed and Sargent only paid a pro-rata share at 60%; more recent analysis indicates 93% of the county is actually within the watershed. Gjestvang added that this error benefitted the county for decades as the RRJWRD did not go back and try to collect the difference after the error.

The SCWRD was not aware that the RRJWRD budget was cut until receiving a letter from the Joint Board discussing possible cost-share denial based on the WRD's full membership not being paid.

Chairman Johnson asked the RRJWRD representatives to attend the SC Commissioner meeting on February 20th, 2024, to explain to the entire Commission what these membership dollars are used for. Both Gjestvang and Fuder said they would be willing to attend the Commissioner meeting. SCWRD Manager Stein and Administrator Willprecht will attend as well.

ND Hazard Mitigation Fund-Project funding opportunity: The NDDES is currently accepting hazard mitigation project ideas from local and tribal communities that are interested in applying for low-interest loans from the ND Hazard Mitigation Fund which could help them complete their proposed mitigation projects. The NDHMF is a newly created revolving loan fund that will utilize federal and state monies awarded through the Safeguarding Tomorrow through Ongoing Risk Mitigation (STORM) Act. If approved, applicants can receive up to a \$5 million loan per project from the NDHMF. All loans only have a 1% interest rate, and can be paid back over a 20-year repayment period (or 30 years for low-income communities).

Eligible mitigation projects are activities that will help prevent damages from natural hazards such as floods, severe storms, wildfires, etc. Some examples of eligible mitigation projects include constructing floodwalls and levees, drainage improvements, storm shelter installation, vegetative debris removal, flood prone property acquisitions, slope stabilizations, developing mitigations plans, and community planning/capacity building activities.

Administrator Willprecht reached out to Justin Messner, Disaster Recovery Chief at the state, to ask if legal drain projects would qualify for funding under this loan opportunity. Messner responded saying that yes, they would, as long as it can be shown that the proposed project will help reduce or eliminate damages from a natural event, like a flood or severe storm.

Trosen of Moore Engineering said that if there are projects the SCWRD would like to submit for consideration under this opportunity, Moore would put some ballpark figures together as to what the projects would cost. These projects would be ones that may be initiated in the next 2-3 years. Some suggestions were Drain 11, Drain 8, Cogswell Tile and Phase 4 of RS1.

Drainage on highway ROW-Tyler Speich:

At its meeting on September 21, 2023, the Board approved APPLICATION TO INSTALL A SUBSURFACE WATER MANAGEMENT SYSTEM NO. 2023-12 for Tyler Speich regarding his tile system in Section 17. In this REQUEST FOR DRAINAGE ON HIGHWAY RIGHT OF WAY, Tyler is requesting NDDOT permission to bore under Highway 13 to accommodate his proposed tile system in Section 8 that would connect to his tile system in Section 17. Tyler has indicated that, if NDDOT approves his REQUEST FOR DRAINAGE ON HIGHWAY RIGHT OF WAY, he plans to apply for a new permit that would cover his entire tile system in Sections 8 and 17. NDDOT requires water resource districts to approve any REQUEST FOR DRAINAGE ON HIGHWAY RIGHT OF WAY. Sean Fredricks prepared a draft cover letter to provide to NDDOT in the event the Board approves the request.

Sean Fredricks reminded the Board that, at the Board's meeting on September 21, 2023, the Board conducted conflict analysis regarding Tyler's tile system; the Board concluded Manager Speich had a conflict and voted to preclude him from voting on that matter. The same conflict analysis applies to this matter since the NDDOT REQUEST FOR DRAINAGE ON HIGHWAY RIGHT OF WAY involves that tile system. With that in mind, Manager Speich will not participate in any votes regarding Tyler Speich's REQUEST FOR DRAINAGE ON HIGHWAY RIGHT OF WAY.

Manager Zetocha moved to approve Tyler Speich's NDDOT REQUEST FOR DRAINAGE ON HIGHWAY RIGHT OF WAY and to direct the Secretary-Treasurer to notify NDDOT with the cover letter prepared by Sean Fredricks. Manager Stein seconded the motion. Upon roll call, the motion carried unanimously.

ND Water Resources-Water Development Plans Request: Manager Zetocha made a motion to allow Nathan Trosen of Moore Engineering to submit a project list to the ND Water Resource Department as related to the timeframe of 2025-2027. Manager Wyum seconded this motion. Upon roll call, the motion carried unanimously.

Application to Install a Subsurface Water Management System No. 2024-04 for Chris Mathias in the South Half of Section 9 in Harlem Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2024-04*, filed January 24, 2024, by Applicant Chris Mathias. Under the Application, Applicant seeks to install a 124-acre drain tile system in the South Half of Section 9 in Harlem Township, Sargent County, North Dakota. The project will include a single pump outlet located along the south boundary of the Southwest Quarter of Section 9; the pump will discharge directly into Sargent County Drain No. 11, a legal assessment drain owned and operated by the Sargent County Water Resource District.

According to County tax roll information, Chris Mathias owns the South Half of Section 9 in Harlem Township where Applicant intends to install the tile system. Because the project will discharge directly into a legal assessment drain, no downstream notices are necessary under N.D. Cent. Code § 61-32-03.1.

Manager Wyum moved, and Manager Stein seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2024-04*, filed January 24, 2024, for Chris Mathias in the South Half of Section 9 in Harlem Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-04, subject to the following conditions:

1. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
2. Applicant will set and install Applicant's drain tile pump at least 25 feet from the top of the back slope of Sargent County Drain No. 11, with a pipe buried from the pump to Drain No. 11.
3. Applicant will install and maintain erosion protection at any and all outlets into Sargent County Drain No. 11.
4. Applicant will turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the Sargent County Water Resource District.

5. Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Southeast Water Users District has in the South Half of Section 9 in Harlem Township under any blanket easements, or otherwise beyond the Water District's existing easement.
6. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-04 in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

Upon roll call vote, the motion carried unanimously.

Under Section 61-32-03.1, the Board cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the Board recommends 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.

Sean Fredricks will provide copies of the Board's NOTICE OF DECISION and SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-04 to the Department of Water Resources and Southeast Water Users District.

Application to Install a Subsurface Water Management System No. 2024-02 for Dan Mund in the Northwest Quarter of Section 29 in Hall Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2024-02*, filed January 24, 2024, by Applicant Dan Mund. Under the Application, Applicant seeks to install a 97-acre drain tile system in the Northwest Quarter of Section 29 in Hall Township, Sargent County, North Dakota. The project will include five gravity outlets that will all discharge directly into a tributary of the Wild Rice River.

According to County tax roll information, Dan Mund owns the Northwest Quarter of Section 29 in Hall Township, subject to a life estate in Mary Alice Mund. Because the project will discharge directly into a natural watercourse, no downstream notices are necessary under N.D. Cent. Code § 61-32-03.1.

Manager Stein moved, and Manager Wyum seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2024-02*, filed January 24, 2024, for Dan Mund in the Northwest Quarter of Section 29 in Hall Township, and to authorize the Secretary/Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-02, subject to the following conditions:

1. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
2. Applicant will install and maintain erosion protection at any and all outlets into the natural watercourse in the Northwest Quarter of Section 29 in Hall Township.
3. Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Southeast Water Users District has in the Northwest Quarter of Section 29 in Hall Township under any blanket easements, or otherwise beyond the Water District's existing easement.
4. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-02 in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

Upon roll call vote, the motion carried unanimously.

Under Section 61-32-03.1, the Board cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the Board recommends 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.

Sean Fredricks will provide copies of the Board's NOTICE OF DECISION and SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-02 to Mary Alice Mund and Southeast Water Users District.

Application to Install a Subsurface Water Management System No. 2024-03 for Dan Mund in the Northwest Quarter of Section 10 in Hall Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2024-03*, filed January 24, 2024, by Applicant Dan Mund. Under the Application, Applicant seeks to install a 152-acre drain tile system in the Northwest Quarter of Section 10 in Hall Township, Sargent County, North Dakota. The project will include a single pump outlet in the northwest corner of the Northwest Quarter of Section 10; the pump will discharge through, over, and across Red River Valley & Western Railroad's right of way; the discharge will then flow east, on the north side of RRV&W's tracks, along the north boundary of Section 10; the discharge will continue east across the north boundary of Section 11 until flowing into the TriCounty Drain.

According to County tax roll information, Daniel and Dawn Mund own the Northwest Quarter of Section 10 in Hall Township, subject to a life estate in Mary Alice Mund. With regard to downstream landowners, Red River Valley & Western Railroad Company owns its right of way, A. Dale Kjos owns the West Half of the Northeast Quarter of Section 10, and Joel Helmer Halvorson owns the East Half of the Northeast Quarter of Section 10.

Manager Stein moved, and Manager Wyum seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2024-03*, filed January 24, 2024, for Dan Mund in the Northwest Quarter of Section 10 in Hall Township, and to authorize the Secretary/Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-03, subject to the following conditions:

1. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
2. Applicant will install and maintain erosion protection at any and all outlets into Hall Township's road right of way.
3. Applicant will turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the Sargent County Water Resource District.
4. Applicant must remove silt or vegetation, or repair erosion or scour damages *directly* caused by Applicant's tile system, but only up to one mile downstream of Applicant's project outlet.
5. Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Southeast Water Users District has in the Northwest Quarter of Section 10 in Hall Township under any blanket easements, or otherwise beyond the Water District's existing easement.
6. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-03 in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

Upon roll call vote, the motion carried unanimously.

With regard to condition #4, Applicant's obligations to remove silt or vegetation, or to repair erosion or scour damages, will only arise upon submission of substantial evidence to the Board by a downstream landowner or road authority that Applicant's tile system *directly* caused accumulation of silt or vegetation, erosion, or scouring.

Under Section 61-32-03.1, the Board cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the Board recommends that Applicant comply with the following:

1. The Board recommends that Applicant obtain written consent from Hall Township to discharge into or otherwise utilize any of its road right of way.
2. The Board recommends that Applicant obtain written consent from Red River Valley & Western Railroad Company to discharge into or otherwise utilize any of its railroad right of way.
3. The Board recommends 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.

Sean Fredricks will provide copies of the Board's NOTICE OF DECISION and SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-03 to the Department of Water Resources, Hall Township, Red River Valley & Western Railroad Company, A. Dale Kjos, Joel Helmer Halvorson, Mary Alice Mund, and Southeast Water Users District.

Application to Install a Subsurface Water Management System No. 2024-05 for Loren Ellefson in the Northwest Quarter of Section 30 in Milnor Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2024-05*, filed January 30, 2024, by Applicant Loren Ellefson. Under the Application, Applicant seeks to install a 106-acre drain tile system in the Northwest Quarter of Section 30 in Milnor Township, Sargent County, North Dakota. The project will include a single pump outlet located in the northeast corner of the Northwest Quarter of Section 30; the pump will discharge into the south road ditch along North Dakota Highway 13; the discharge will flow east in the south road ditch for a short distance, along the north boundary of the Northeast Quarter of Section 30 until flowing into a natural watercourse; the natural watercourse flows north, under Highway 13, and across the Southeast Quarter of Section 19 in Milnor Township.

According to County tax roll information, Loren and Patricia Ellefson own the Northwest Quarter of Section 30 in Milnor Township where Applicant intends to install the tile system. With regard to downstream landowners, NDDOT owns its highway right of way. Joan N. Tuma and Robert A. Tuma, Trustees of the Robert and Joan Tuma Living Trust, own the Northeast Quarter of Section 30 in Milnor Township. Once the project discharges into a natural watercourse in the Northeast Quarter of Section 30 in Milnor Township, no additional downstream notices are necessary under N.D. Cent. Code § 61-32-03.1.

Manager Zetocha moved, and Manager Stein seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2024-05*, filed January 30, 2024, for Loren Ellefson in the Northwest Quarter of Section 30 in Milnor Township, and to authorize the Secretary/Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-05, subject to the following conditions:

1. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.

2. Applicant will install and maintain erosion protection at any and all outlets into the North Dakota Department of Transportation's Highway 13 right of way.
3. Applicant will turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the Sargent County Water Resource District.
4. Applicant must remove silt or vegetation, or repair erosion or scour damages *directly* caused by Applicant's tile system, but only up to the discharge into the natural watercourse in the Northeast Quarter of Section 30 in Milnor Township.
5. Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Southeast Water Users District has in the Northwest Quarter of Section 30 in Milnor Township under any blanket easements, or otherwise beyond the Water District's existing easement.
6. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-05 in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

Upon roll call vote, the motion carried unanimously.

With regard to condition #4, Applicant's obligations to remove silt or vegetation, or to repair erosion or scour damages, will only arise upon submission of substantial evidence to the Board by a downstream landowner or road authority that Applicant's tile system *directly* caused accumulation of silt or vegetation, erosion, or scouring.

Under Section 61-32-03.1, the Board cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the Board recommends that Applicant comply with the following:

1. The Board recommends that Applicant obtain written consent from the North Dakota Department of Transportation to discharge into or otherwise utilize any of NDDOT's Highway 13 right of way.
2. The Board recommends 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.

Sean Fredricks will provide copies of the Board's NOTICE OF DECISION, SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-03, and downstream flow map to the Department of Water Resources, the North Dakota Department of Transportation, Joan N. Tuma and Robert A. Tuma, and Southeast Water Users District.

DSJTB bills for approval –

DSJTB bills for approval

086467 DVEC – electricity – \$ 141.00
Ohnstad Twichell-Joint Board Meeting \$ 48.00

Manager Wyum made a motion to pay the Dickey-Sargent Joint Board bills. Manager Zetocha seconded the motion. Upon roll call, the motion carried unanimously.

Balances as of January 31st, 2024:

Maintenance Account Balance: \$ 35,072.91
 Improvement Account Balance: \$ 319,404.11

The next Dickey-Sargent Joint Board meeting will be held in April 2024.

**Richland-Sargent Drain #1
 Maintenance Fund Financial Statement**

Trosen of Moore Engineering said that a few of the Brickson property owners are left to sign easements. Trosen added that he is having difficulty getting a hold of the land attorney for the Patty Boyer Trust, but he is currently working with

the land renter to get additional information. Moore Engineering is working on updating the economic analysis to account for the base bid and alternative scenarios.

Trosen ask that the joint board meet next month for a project update.

Manager Stein made a motion to approve the RS 1 bills. Manager Wyum seconded the motion. Upon roll call, the motion carried unanimously.

<u>Ohnstad Twichell-</u> ROW \$741.00; Joint Board Mtg. \$117.00	\$ 858.00
<u>Moore Engineering-</u> Design \$1,127.50;ROW \$1,590	\$ 2,717.50
January 31 st , 2024 Account Balance:	\$ 46,222.15

The meeting adjourned at 10:31 a.m.

Lucas Siemieniewski, Chairman

Wendy Willprecht, Secretary/Treasurer