

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

Managers present: Jim Bosse, Roger Zetocha, Chris McFarland, Richard Engst and Luke Siemieniewski. Absent: None. Also present: Chris Gross, Moore Engineering, Inc.; Sean Fredricks, Ohnstad Twichell, P.C and Al Carton, Forman.

The meeting was called to order by Sherry Hosford, Secretary and the Board proceeded to organize for 2014.

Oaths of Office were signed by Roger Zetocha, Stirum and Lucas Siemieniewski, Geneseo for three-year terms.

Nominations for Chairman. Motion for Chris McFarland. (Bosse/Zetocha, unanimous) Second and cast a unanimous ballot for McFarland.

Nominations for Vice-Chairman. Motion for Jim Bosse. (Zetocha/Engst, unanimous) Second and cast a unanimous ballot for Bosse.

Re-appoint Sherry Hosford as Secretary-Treasurer. (Engst/Zetocha, unanimous)

Approve 2014 meeting dates on the third Thursday of each month. All dates and times will be on file in the County Auditor's Office. (Bosse/Engst, unanimous)

Approve January 16, 2014 minutes and January financial statement. (Engst/Bosse, unanimous).

Approve payment of the following bills: (Zetocha/Engst, unanimous)

69064 James Bosse	Travel	28.00
69065 Richard Engst	Travel	72.80
69066 Moore Eng, Inc.	Dr # 7-\$270.00; 6 Drainage permits - \$1307.10; Dr # 11 - Paul Mathews right of way - \$2523.50 = Total	4100.60
69067 Ohnstad Twichell	General - \$479.00; Shockman Complaint - \$515.00; Permits – Quandt's - \$80.70; Dana Banish - \$306.00; Loren Ellefson - \$157.00; and Rick Hoistad – Dr # 4 – Eminent Domain - \$85.00 = Total	1622.70
69068 Wayne Trophies	Mark Breker Plaque	31.00
69069 Roger Zetocha	Travel	72.80
9267 Sherry Hosford	Salary less 24.22 taxes	292.45
9268 Richard Engst	3 PD less 27.54 taxes	332.46
9269 James Bosse	2 PD less 18.36 taxes	221.64
9270 Chris McFarland	1 PD less 9.18 taxes	110.82
9271 Roger Zetocha	2 PD less 23.61 taxes	216.39
DD Sargent County Bank	Withholding taxes	202.15

PAUL MATHEWS:/DRAIN NO. 11 RIGHT OF WAY: Sean Fredricks, Attorney, reported to the Board that the Judge ruled in favor of the Water Board regarding ownership and ordered the Board to conduct a metes and bounds survey to include in the final Order for the Court's signature. The survey will ensure clarity regarding ownership to avoid similar confusion in the future. Chris Gross informed the Board that the survey will cost approximately \$3,400. Motion to authorize Moore Eng. to prepare a certificate of survey as ordered by Judge Bradley A. Cruff on the Drain No. 11 right of way located in the SW1/4-23-130-57 not to exceed \$3,400. (Engst/Zetocha, unanimous) The legal description shall encompass all property south of the north boundary of the legal drain as it is currently located. The legal description must meet the recording requirements of the State of North Dakota.

Emeric Erickson, Milnor arrived at this time.

DRAIN NO. 4 VS RICK HOISTAD – Sean updated the Board regarding status. Ryan Contracting has cross-claimed against its materials supplier. The parties are still in discovery and none of the parties have filed the matter with the District Court. Sean Fredricks will keep the Board informed if anything progresses on this issue.

Sean Fredricks, Chris Gross, and Chad Engels discussed possible “statewide significance” issues regarding tile permits with the North Dakota State Engineer's Office and the Attorney General's Office. The ND Administrative Code (Section 89-02-01-09.2) and Section 61-32-03.1 of the North Dakota Century Code contain provisions regarding tile permits that may be of “statewide significance.” Particularly relevant regarding tile permits would be situations where a project drains a wetland or where a project converts a previously non-contributing area into a contributing area in

terms of drainage. In those instances, and in other situations that meet the “statewide” criteria, the Board must forward the tile application to the North Dakota State Engineer’s Office if the Board suspects the project might meet even one of the “statewide” criteria. The State Engineer’s Office will make a final decision regarding “statewide” significance. If the State Engineer’s Office determines the project is not of “statewide” significance, they will return it for the Board to process under the normal tile permitting rules. If, however, the State Engineer’s Office concludes the project is of “statewide” significance, the State Engineer’s Office will render its decision and will return the application to the Board and the Board must process the permit in accordance with the “statewide” procedures in the North Dakota Administrative Code. Sean and Chris explained the “statewide” process is more involved and can be more expensive than normal tile applications. Sean indicated that, under the Red River Joint WRD’s Joint Board Agreement, all member WRDs must forward any “statewide” permits to the RRJWRD for processing. With that in mind, the RRJWRD may pay some of the additional costs associated with “statewide” procedures. But moving forward, the Board, Sean, and Chris will have to review the “statewide” criteria for each application in more detail. |

Application to Install a Subsurface Drain for Harlan Klefstad in the Northwest Quarter of Section 25 of Taylor Township

The Board reviewed an *Application to Install a Subsurface Drain* dated December 17, 2013, for Harlan Klefstad. The Board previously had questions regarding whether or not this project would be of “statewide” significance since there are wetlands that would be impacted as a result of the project. Chris Gross spoke with Matt Lindsey from the North Dakota State Engineer’s office, and the two ultimately agreed that the larger slough on the property is already partially drained and that this project would not have any impacts on recognized fish and wildlife values as a result. With that in mind, the Board reviewed the criteria in Section 89-02-01-09 of the North Dakota Administrative Code and concluded the project does not meet any of the “statewide” elements, and the Board concluded therefore the application does not propose drainage of statewide significance, so the Board has jurisdiction to approve the permit (without forwarding to the State Engineer’s Office to consider and approve). Under the application, Applicant seeks to install a drain tile system in the Northwest Quarter of Section 25 of Taylor Township, Sargent County, North Dakota. The project will include a gravity outlet that will discharge on the west portion of the Northwest Quarter of Section 25 via an underground pipe heading west under the township road along the Section 25/26 section line; the underground pipe will extend east across and under the Northeast Quarter of Section 26 until daylighting and discharging directly into a branch of the Wild Rice River.

Because the project will discharge directly into a branch of the Wild Rice River, the application did not require a *Thirty-Day Notice* under N.D. Cent. Code Section 61-32-03.1 and the Board cannot require Applicant to obtain any flowage easements from downstream landowners. Chris Gross recommended the Board require Applicant to install and maintain erosion protection in the Wild Rice River where the project discharges into the river.

According to records on file with the Sargent County Recorder’s Office, the Harlan A. Klefstad Limited Partnership and the Lyla J. Klefstad Limited Partnership jointly own the Northwest Quarter of Section 25 and the Northeast Quarter of Section 26 of Taylor Township.

It was moved by Manager Engst and seconded by Manager Bosse to approve *Application to Install a Subsurface Drain* dated December 17, 2013, for Harlan Klefstad in the Northwest Quarter of Section 25 in Taylor Township, subject to the following conditions:

- 1) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 2) That Applicant provide and maintain adequate erosion protection at the outlet into the branch of the Wild Rice River (Applicant is solely responsible for any damages caused by the discharge into the Wild Rice River as a result of the tile project);
- 3) That Applicant obtain written permission from the Taylor Township Board of Township Supervisors to locate underground pipe under its township road or to otherwise bore through its township road right of way;
- 4) That Applicant notify the Sargent County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 5) 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;

6) That applicant must close all outlets during flood occurrences or under conditions that may cause adverse impacts to downstream landowners, as determined by the Board; and

7) 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.

Upon roll call vote, the motion carried unanimously.

DOUGLAS HARRIS – Chris reviewed this application and indicated the project may be of “statewide” significance. More specifically, Chris believes the project will drain wetlands on the Harris property, and could convert a previously non-contributing area into a contributing area. With that in mind, the Board directed Sean to forward the application to the State Engineer’s Office, in accordance with Section 61-32-03.1 for review. (Engst/Siemieniewski, unanimous)

1 **James Mahrer Drainage Complaint Against Loren Ellefson**

The Board next discussed the Mahrer-Ellefson Drainage Complaint and Mr. Ellefson’s surface drain permit, APPLICATION FOR SURFACE DRAIN NO. 4237. James, Scott, and Corey Mahrer, all of Forman were present; Paul Ellefson and Edwin Erickson, Jr., both of Milnor were also present.

Mr. James Mahrer submitted a Drainage Complaint against Mr. Loren Ellefson in June of 2013. Mr. Ellefson had previously approached the Board regarding a perforated pipe/subsurface tile project that he indicated would be under 80 acres. The Board at that time simply reiterated the law that subsurface tile projects with a physical footprint under 80 acres do not require a tile permit under N.D.C.C. § 61-32-03.1. Mr. Ellefson did not indicate the project would include any surface inlets and did not indicate the project would include any surface ditching.

Mr. Ellefson’s Complaint was with regard to drainage constructed in the North Half of Section 7 of Shuman Township, Sargent County, North Dakota. Chris Gross and Chad Engels reviewed the allegations and found the project constructed in the North Half of Section 7 included a series of ditching, underground pipeline, a pump station, and use of culverts installed by Sargent County to ultimately drain into Buffalo Lake, but over property owned by other private landowners. The underground pipe and perforated pipelines include surface inlets. Chad and Chris indicated this project easily exceeds a watershed area of over 80 acres, the threshold for whether or not a surface project requires a drainage permit under Section 61-32-03.

The Board invited Mr. Loren Ellefson to explain the project and to discuss any issues Mr. Mahrer was having regarding the project. The parties all attended a meeting of the Sargent County Water Resource District on July 18, 2013. At that time, Mr. Ellefson agreed he would implement an operation and maintenance plan; he would apply for a surface drainage permit in light of the surface inlets; and he would not operate his pump while he awaited approval of any surface permit. Mr. Ellefson did subsequently apply for a surface permit.

The North Dakota State Engineer’s office originally concluded the project was of “statewide significance,” but later determined otherwise. With that in mind, the Sargent County Water Resource District had final decision-making authority regarding the permit. Under the application, Applicant sought a permit for his previously-constructed project in the North Half of Section 7 of Shuman Township, Sargent County, North Dakota. The Sargent County Highway Department previously constructed culvert improvements in the East Half of Section 18, on Mr. James Mahrer’s property, to provide relief to the county highway between Sections 7 and 18 in Shuman Township. Mr. Ellefson subsequently constructed a drain on the north boundary of Section 7. The drain includes both open ditches and underground pipeline to lower the water elevation in certain sloughs in the North Half of Section 7; the project connects all drainage basins in the North Half of Section 7. The project runs along the north boundary of Section 7 on township road right of way; the project runs to the east and drains everything to the northeast corner to a pump station; from there, water is pumped via underground pipeline for approximately one-third of a mile, south along the east boundary of Section 7, along the unimproved section line between Sections 7 and 8 to the next wetland to the south; the water then flows south via a buried pipe running south to the next wetland; the discharge then flows via open ditch to the next wetland located in the southeast corner of Section 7 adjacent to the county highway. The water then continues south through the culverts under the county highway and through Section 18, via the culvert improvements constructed by the county, until the discharge ultimately outlets into Buffalo Lake in the North Half of Section 19.

The project drains wetlands in the West Half of Section 8; the Southeast Quarter of Section 7; the East Half of Section 18; and the Northeast Quarter of Section 19. At the time the Board considered Mr.

Ellefson's surface permit, Chad Engels indicated the project results in adverse impacts along all of those quarters since the project introduces increased volume all the way to Buffalo Lake. The Board ultimately required Mr. Ellefson to obtain certain easement rights from landowners along the course of the project. In addition, Chad Engels indicated the project results in adverse impacts to Buffalo Lake itself, and he suggested the Board require Mr. Ellefson to comply with an operation plan to avoid adverse impacts to the lake and to other downstream landowners.

The Board conducted deed searches to identify landowners along the course of the project. According to records on file with the Sargent County Recorder's office, Loren and Patricia Ellefson own the North Half of Section 7; Edwin Erickson owns the Southeast Quarter of Section 7; James and Llona Mahrer own all of Section 18, with the exception of portions of the East Half of the East Half of Section 18, owned by Michael Kulzer and William and Mary Woytassek. James and Llona Mahrer own certain portions of the Northeast Quarter of Section 19 (Lot 6). With regard to Lot 5 in the Northeast Quarter of Section 19, Gerald Woytassek, Gina Nosal, Alan Woytassek, Patrick Woytassek, Amy Jo Mann, Catherine Larson, and Robert Woytassek all own Lot 5, all subject to a life estate in William and Mary Woytassek. Michael and Diane Kulzer own the Northwest Quarter of Section 8, and Terrence Erickson owns the Southwest Quarter of Section 8.

The Board approved an eight-point questionnaire under Section 89-02-01-09.2 of the North Dakota Administrative Code, including language regarding easements for construction, operation and maintenance of an open ditch and a buried pipeline system, and regarding requisite easements from parcels where the project drains wetlands. The Board also addressed O&M requirements that prohibit Mr. Ellefson from pumping in the spring until ten days after the spring runoff flood crest at the USGS stream gauge at Mantador. The Board attached these conditions and others in an effort to mitigate adverse impacts caused by the project constructed by Mr. Ellefson. More specifically, the Board approved the permit, subject to the conditions attached by the State Engineer and subject to the following conditions:

- 1) That Applicant obtain and record (with the Sargent County Recorder's office) an easement (and not just written consent) from the owners of the Southeast Quarter of Section 7, Shuman Township, Sargent County, North Dakota, for purposes of constructing, operating, and maintaining a surface drain and a pump station:

- 2) That Applicant obtain and record (with the Sargent County Recorder's office) easements (and not just written consents) from the owners of the following parcels in Shuman Township, Sargent County, North Dakota, for purposes of draining or otherwise impacting the following properties as a result of Applicant's project:

- a. The Northwest Quarter of Section 8;
- b. The Southwest Quarter of Section 8;
- c. The East Half of Section 18; and
- d. The Northeast Quarter of Section 19;

- 3) That Applicant will not construct or improve the drain in any manner that exceeds the dimensions indicated in the application, including a 12-inch maximum diameter for Applicant's buried pipe;

- 4) That Applicant obtain an easement from the owner of any land, besides land owned by Applicant, on which Applicant will construct the drain; and

- 5) That Applicant must operate the pump in the following manner:

- a. Applicant cannot operate the pump from December 1 of each year until at least ten days after the spring runoff flood crest at the USGS stream gage in Mantador;

- 6) That Applicant obtain written permission from the Shuman Township Board of Township Supervisors to install, construct, operate, and maintain surface drain components and underground pipeline components in its township road ditch along the north boundary of Section 7, and along the unimproved section line between Sections 7 and 8;

- 7) That Applicant obtain written permission from Sargent County to install, construct, operate, and maintain any of its surface drain, buried pipeline, or pump components in any of Sargent County's highway right of way;

- 8) That Applicant notify the Sargent County Water Resource District in advance of any proposed improvements to any drain components, including any relocation of surface drain, underground pipeline, or pump components; and including any increase in the

capacity or drainage area affected, and, if necessary, to submit an additional permit application; and

9) 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 provided all parties of record with a NOTICE OF DECISION and all other application documents regarding the approved permit. Sean Fredricks indicated the significance of the fact that Mr. Ellefson did not appeal the Board's decision regarding APPLICATION FOR SURFACE DRAIN NO. 4237; Mr. Fredricks provided the NOTICE OF DECISION on October 17, 2013, including a detailed description of what the project constructed by Mr. Ellefson entails, including surface ditches and underground pipelines with surface inlets. Mr. Fredricks noted the appeal period regarding APPLICATION FOR SURFACE DRAIN NO. 4237 has long since expired.

Mr. Mahrer later contacted the Board and indicated he had not heard from Mr. Ellefson and that, in his opinion, Mr. Ellefson had not otherwise satisfied the conditions of his permit. At the Board's November meeting, the Board directed Sean Fredricks to notify Mr. Ellefson that if he did not meet the conditions of his permit by December 18, 2013, the Board would have no choice but to declare the permit ineffective in light of Mr. Ellefson's failure to satisfy all of the conditions of his permit. The Board was particularly concerned that Mr. Ellefson had not even contacted Mr. Mahrer regarding the condition that he obtain an easement from Mr. Mahrer. In a letter dated December 4, 2013, Sean Fredricks notified Mr. Ellefson of his obligation to complete or meet all of the conditions of his approved permit by December 18. Mr. Ellefson did not contact the Board nor did he meet the conditions of his permit. In light of poor weather and Mr. Ellefson's travels, the Board agreed to table the matter until its February meeting. Mr. Ellefson's son and Mr. James Mahrer, as well as others, attended the Board's February 20 meeting.

The parties discussed potential options for resolving the dispute. At one point, Mr. Ellefson suggested the project did not require a permit since it is a subsurface project under 80 acres. Sean Fredricks indicated and noted the project includes surface ditching, and the underground perforated pipe includes surface inlets. The State Engineer, Moore Engineering, and Sean Fredricks have all reviewed perforated pipe/subsurface projects with surface inlets and have all concluded those projects qualify as surface projects that require permits under Section 61-32-03 of the North Dakota Century Code. Therefore, the 80-acre watershed threshold under N.D. Cent. Code §§ 61-32-03 and 61-32-07 apply.

Chad Engels and Chris Gross previously conducted a site visit, they reviewed aerial images, they reviewed USGS Topo Maps, they reviewed LiDAR to review the alleged drainage, and they calculated the watershed area affected. Chad and Chris previously agreed the project very clearly drains well beyond the 80-acre watershed threshold; Chris Gross reiterated those findings at the Board's February 20 meeting. The Board also found the project drains "sheetwater" as that term is defined under Section 61-32-03, as well as ponds and sloughs.

Manager Zetocha asked if the Board could order Mr. Ellefson to refrain from operating the pump to allow the parties more time to resolve the matter. Mr. Fredricks indicated the Board could order the project closed or filled under Section 61-32-07; however, the Board could allow Mr. Ellefson a reasonable amount of time to try to reach a resolution with Mr. Mahrer before the Board would actually require Mr. Ellefson to close and fill all of the surface ditches.

With that in mind, at its meeting on February 20, 2014, the Sargent County Water Resource District declared APPLICATION FOR SURFACE DRAIN NO. 4237 ineffective; found the drainage system constructed in the North Half of Section 7 of Shuman Township is unpermitted (and therefore illegal) drainage in violation of N.D. Cent. Code §§ 61-32-03 and 61-32-07; found the drainage system drains sheetwater, ponds, and sloughs, and drains a watershed of more than 80 acres; and ordered Mr. Ellefson to close or fill the drain. In the short-term, and in light of winter conditions, as long as Mr. Ellefson, and all other parties, refrain from operating the pump, the Board will not immediately procure a contractor to close or fill the drainage, to allow Mr. Ellefson and Mr. Mahrer an additional opportunity to resolve this matter. Otherwise, if the parties cannot resolve the matter within a reasonable amount of time, and if Mr. Ellefson does not close or fill the drainage, the Sargent County Water Resource District will have no choice but to procure a contractor to close or fill the unpermitted drainage constructed in the North Half of Section 7 in Shuman Township and to assess the North Half of Section 7 for the Board's costs. The Board will discuss this matter at its April meeting to determine progress between the parties; if the parties have not resolved the matter by the Board's April meeting, the Board will procure a contractor to close or fill the drainage.

The Board concluded Mr. Ellefson had in fact constructed an unpermitted drain in violation of N.D. Cent. Code §§ 61-32-03 and 61-32-07; while the Board did approve an after-the-fact permit for Mr. Ellefson, the permit included several conditions, several of which Mr. Ellefson has not satisfied. The system, which includes surface ditches, underground pipelines, surface inlets into subsurface drainage, and a pump system, drains sheetwater, ponds, and sloughs, and the project drains well beyond a

watershed of 80 acres. With that in mind, Manager Zetocha, seconded by Manager Siemieniewski, moved to declare APPLICATION FOR SURFACE DRAIN NO. 4237 ineffective in light of Mr. Ellefson's failure to meet the conditions of his permit; to declare the drainage system in the North Half of Section 7 as unpermitted and illegal; and to order Mr. Ellefson to close or fill the drainage within a reasonable amount of time. Upon roll call vote, the motion carried unanimously.

Manager Zetocha directed Sean Fredricks to notify the parties that, in the short term, as long as Mr. Ellefson does not operate his pump, the Board will refrain from procuring a contractor to enforce its order to close or fill the drainage. Manager Zetocha would like to allow the parties an opportunity to work out a mutually-acceptable solution. If by spring, the parties have not resolved the matter, the Board can re-visit the matter and the Board can then enforce its order to close or fill the drainage constructed, if Mr. Ellefson has not done so himself.

Sean Fredricks will prepare a NOTICE OF DECISION and will provide the NOTICE OF DECISION to all parties of record.

Amendment to Application to Drain With Drain Tile No. 3602 for Gary Thornberg in the West Half of Section 24 in Weber Township

Mr. Gary Thornberg recently submitted a request to amend one of his tile permits, Application No. 3602, originally approved in 2010. Mr. Thornberg is requesting permission to include 36 additional acres as part of his tile system under Permit No. 3602. Chris Gross reviewed the request and concluded the addition of 36 acres from the West Half of Section 24 as part of the permitted system under Application No. 3602 would not require any additional easements, would not require any other additional conditions, and would not result in any additional adverse impacts. Further, the addition of 36 acres would not render the project a "statewide significance" project, so the Board has jurisdiction to approve the proposed amendment to Permit No. 3602.

According to records on file with the Sargent County Recorder's Office, Mr. Gary Thornberg owns those acres in the West Half of Section 24 he seeks to include under Permit No. 3602.

It was moved by Manager Zetocha and seconded by Manager Bosse to amend its previous decision regarding *Application to Drain With Drain Tile No. 3602* for Mr. Gary Thornberg to include 36 additional acres in the West Half of Section 24 in Weber Township, subject to the original conditions attached by the State Engineer's Office, and subject to the following conditions originally attached by the Sargent County Water Resource District:

1 Conditions Regarding Application 3602

- 1) that applicant obtain and record (with the Sargent County Recorder's Office) flowage easements (and not just written consents) that include language permitting saline water from the owners of the following parcels in Weber Township, Sargent County, North Dakota:
 - a. Southeast Quarter of Section 14, Weber Township, 129-55;
 - b. Northeast Quarter of Section 13, Weber Township, 129-55;
 - c. Northwest Quarter of Section 13, Weber Township, 129-55;
 - d. Southeast corner of Section 12, Weber Township, 129-55; and
 - e. South Half of Section 7, Weber Township, 129-54.
- 2) that applicant obtain written permission from the owner of any land, besides land owned by applicant, on which applicant will construct the tile system;
- 3) that applicant obtain written consent from the Weber Township Board of Township Supervisors to utilize any of its township road right of way;
- 4) that applicant obtain written consent from the Sargent County Commission to utilize any of its highway right of way;
- 5) that applicant provide and maintain adequate erosion protection at all outlets; and
- 6) 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.

Upon roll call vote, the motion carried unanimously.

DRAIN NO. 7 CULVERT IMPROVEMENTS: Chris Gross provided crossing improvement plans and profile for said drain and explained the project including the estimated cost. The cost includes a 40% cost share with Sargent County due to the drain flowing under County Road # 10 in Milnor City. The engineer's opinion of probable cost is approximately \$607,310 with a county share of \$115,870 and Drain No. 7 cost of \$491,440. The project includes replacing the culvert on Main Street (County # 10) and 7th Avenue with an 8' x6' RCB culvert at both locations. After discussion it was decided and agreed to invite the Sargent County Commissioners and the Milnor City Council to the March 20th Water Board meeting to discuss the scope of this project and the cost.

Other permits discussed and tabled included Katie Vculek, Farrar Farm Family Irrevocable Trust, EB Farms, Inc., Greg Nelson and Brian Vculek # 3656. Some are awaiting more information and others are waiting for the Thirty Notice to expire. These will be placed on the March 20, 2014 agenda.

Amendment to Application for Surface Drain No. 4007 for Tom Mund in the West Half of Section 28 of Willey Township

The Board previously approved *Application for Surface Drain No. 4007* for Tom Mund on May 17, 2012. Under the application, Mr. Mund proposed to construct a project consisting of ten segments of underground pipe in various locations in the West Half of Section 28, a project that would connect and drain various sloughs on the West Half of Section 28. Mr. Mund contacted the Sargent County Water Resource District in late 2013 to notify the Board of his plan to modify his proposed project from an underground pipeline project to surface ditching. The surface ditch system would include ditches in the exact same locations where Mr. Mund originally planned to install underground pipeline. The project will still connect the various ponds and sloughs in the West Half of Section 28, and will still outlet into a pond in the northeast corner of the Northwest Quarter of Section 28. The project will then outlet into State Highway 13 right of way and will flow east through the Highway 13 right of way along the north boundary of Section 28; the discharge will flow through a culvert in an approach located on the north boundary of the Northeast Quarter of Section 28, property owned by LaVerne and Carolyn Colby. The discharge will travel through the approach and will continue east along the north boundary of the Northeast Quarter of Section 28 and along the north boundary of the Northwest Quarter of Section 27. However, when the water is high, the water will also flow north under Highway 13 through a culvert between the Northeast Quarter of Section 28 and the Southeast Quarter of Section 21.

The Board and their engineer reviewed the potential impacts of the project and concluded the modified plan for surface ditches will result in higher volume of water than the original underground pipeline plan. Mr. Chris Gross prepared an amended eight-point evaluation as required under Section 89-02-01-09.2 of the North Dakota Administrative Code; the eight-point evaluation includes discussion of the adverse impacts as a result of the surface system. The Board agreed no hearing was necessary under Section 89-02-01-09.1(2) of the North Dakota Administrative Code because the Board will require Applicant to obtain downstream flowage easements from adversely affected landowners and will require Applicant to obtain permission from NDDOT.

According to records on file with the Sargent County Recorder's Office, Tom and Shirley Mund own the West Half of Section 28 of Willey Township. Further, LaVerne and Carolyn Colby own the Northeast Quarter of Section 28, and LaVerne Colby owns the Northwest Quarter of Section 27 of Willey Township. In addition, David McFarland owns the Southeast Quarter of Section 21 of Willey Township.

It was moved by Manager Engst and seconded by Manager Bosse to amend the Board's previous approval of *Application for Surface Drain No. 4007* for Tom Mund in the West Half of Section 28 in Willey Township, subject to the conditions originally attached by the State Engineer's office, and subject to the following conditions:

1) That Applicant obtain and record (with the Sargent County Recorder's office) flowage easements (and not just written consents) from the owners of the following parcels in Willey Township, Sargent County, North Dakota, for purposes of discharging surface water:

- a. The North Half of the Northeast Quarter of Section 28;
- b. The North Half of the Northwest Quarter of Section 27; and
- c. The South Half of the Southeast Quarter of Section 21;

2) That Applicant will not construct or improve the surface drain in any manner that exceeds the following dimensions: maximum width of all surface ditches may not exceed an 8-foot bottom width; 4:1 side slopes; maximum cut of surface ditches between 2 feet and a maximum of 8 feet; open ditches only in locations of proposed underground pipeline identified in original approved permit.

- 3) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 4) That Applicant notify the Sargent County Water Resource District in advance of any proposed improvements to any of the surface drains, including any increase in capacity or drainage area affected and, if necessary, submitting an additional permit application;
- 5) That Applicant obtain written permission from the North Dakota Department of Transportation to discharge into or otherwise utilize any of its Highway 13 road ditch; and
- 6) 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.

Upon roll call vote, the motion carried unanimously.

The 2015-2017 Project Information and Planning Form received by the Board from the ND State Water Commission was reviewed and the Board authorized Chris Gross, Moore Engineering, Inc. to complete the form on behalf of the Board.

Chris Gross updated the Board on the Dickey/Sargent Joint Water Resource District Application to Drain # 4029. The application was recently approved by the State Water Commission with conditions and future meetings will be scheduled to discuss the conditions and prepare for the vote on the project.

Board members discussed repairs to Brummond/Lubke Dam as discovered on the annual dam inspection tour last summer. Repairs will be scheduled when weather conditions allow.

Chris Gross presented an Agreement for Engineering Services between the Sargent County Water Resource District and Moore Engineering, Inc. The agreement provides a fee schedule for hourly engineering services requested by the Board. Motion to authorize the Chairman to sign the agreement. (Zetocha/Engst, unanimous)

The meeting adjourned at 1:20 p.m.

CHRIS MCFARLAND – CHAIRMAN

ATTEST:

SHERRY HOSFORD - SECRETARY