

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, FEBRUARY 21, 2019, AT 8:00 A.M., IN THE COMMISSIONERS ROOM, SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA

Managers present at the courthouse: Lucas Siemieniewski and Todd Stein. Managers present via conference call: Michael Wyum and Roger Zetocha. Absent: Bruce Speich. Also present via conference call: Chris Gross, Board Engineer and Sean Fredricks, Board Attorney. Others present at the courthouse were Robert Banderet, Cogswell; Paul Mathews, Cogswell; Brandon Laddusaw, Wild Rice Soil Conservation District; and Board Secretary-Treasurer Sherry Hosford.

The meeting was called to order by Sherry Hosford, Secretary-Treasurer and the Board proceeded to organize for 2019.

The Oath of Office was signed by Todd Stein-reappointed for three-year term-ending February 10, 2022. Michael Wyum was also reappointed to the Board with the same term.

**Nominations for Chairman.** Motion for Lucas Siemieniewski. Zetocha/Stein. No other nominations. Motion to cast a unanimous ballot for Siemieniewski. (Wyum/Zetocha. Motion carried.)

**Nominations for Vice-Chairman.** Motion for Michael Wyum. Stein/Zetocha. No other nominations. Motion to cast a unanimous ballot for Wyum. (Zetocha/Stein. Motion carried.)

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

Approve 2019 meeting dates on the third Thursday of each month beginning at 8:00 a.m. All dates and times will be on file in the County Auditor's Office. (Stein/Zetocha, unanimous)

Approve following appointments to other boards which members serve: DICKY/SARGENT JOINT BOARD – Members- Zetocha, Siemieniewski and Stein – alternates – Wyum and Speich; RED RIVER JOINT BOARD – Member – Siemieniewski – alternate - Speich; RICHLAND/SARGENT # 1 – Members – all; TRI-COUNTY BOARD – Member – Speich – alternate - Siemieniewski. (Stein/Wyum, unanimous)

Manager Zetocha moved to appoint Sean Fredricks, Ohnstad Twichell Law Office as the Board Attorney. Manager Wyum seconded the motion. Upon roll call vote, the motion carried unanimously.

**WILD RICE SOIL CONSERVATION DISTRICT SUMMER WORKERS:** Brandon Laddusaw met with the board to discuss hiring summer workers again in 2019. In the past the board has initially approved 200 hours and if necessary increased the hours. Board members discussed various locations of work necessary for 2019. Mr. Laddusaw reported that there were 306 hours worked by the summer workers in 2018. The board committed to another 200 hours for 2019 and will visit if more hours are necessary.

Approve January 17, 2019, minutes and January 2019 financial report. Manager Wyum moved to approve. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Stein moved to approve payment of the following bills:

78343	Moore Eng. Inc.	General-\$255.00; Shortfoot Creek Study - \$2,753.50; Brummond-Lubke Dam Preliminary Eng.-\$4,483.20; BL-Geo-Tech-\$1,114.75; BL-R-O-W Negotiations-\$330.00; Silver Lake Dam Feasibility Study - \$2,134.75	TOTAL =	11,071.20
78344	Ohnstad Twichell	Kelley-Mathews-Hemminger- \$340.36; Brian Vculek Tile-\$430.52	=	
	TOTAL			770.88
76345	Lucas Siemieniewski	Travel		32.48
76346	Todd Stein	Travel		9.28
16037	Sherry Hosford	Salary less taxes	560.48	1639.52
DD	Sargent County Bank	Withholding Taxes		723.52

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

**BRUMMOND-LUBKE AND NELSON DAM INSPECTION REPORT:** Karen Goff, P.E., Dam Safety Program Manager with the Office of the State Engineer mailed a summary of the inspection report conducted on these two dams in September 2018. Both Manager Stein and Wyum accompanied Ms. Goff on the inspection. Chris Gross reported that he met with Ms. Goff in October 2018 and reviewed the inspection and informed her of the proposed project on Brummond-Lubke Dam and Chris assured the Board that repair to the eroded areas and placing riprap on the upstream slopes of both the main embankment and the north embankment as well as investigating options to address the separation of the joint near the outlet of the principal spillway conduit will be addressed during the Brummond-Lubke Dam Improvement Project. No action taken on the Nelson Dam inspection.

**BRUMMOND-LUBKE DAM IMPROVEMENT PROJECT:** Chris Gross reported that the Geo-Tech report is complete and MEI plans to visit with the landowner in March. Chris said he will have plans for the project 100% complete and ready for the Board to review at the March meeting and go to the bidding process.

**SILVER LAKE DAM FEASIBILITY STUDY:** Chris Gross reported that work is progressing on the study but the snow has made it challenging. Next Monday the geotechnical engineer will bring in an ATV mounted drill rig to get to the dam to finish the soil borings. Sean Fredricks prepared a Joint Powers Agreement (JPA) between this Board, the County Commission, and Sargent County Park Board to share in the cost of the Feasibility Study. Sean indicated this would be the first of two JPAs; this first JPA is strictly limited to the parties' obligations related to the feasibility study, including the Park Board's cost-share obligations. Once the study is complete, the parties can select an option and, if they agree to proceed further, the parties will enter into a second JPA that will outline the parties' obligations for the project. The Water Board approved a motion on September 20, 2018, to proceed with the study, contingent upon the Park Board's agreement to pay 50% of the local costs of the study, which the parties anticipated would be less than \$10,000. Manager Zetocha moved to authorize the Chairman and Secretary to sign the JPA. Manager Wyum seconded the motion. Upon roll call vote, the motion carried unanimously. Luke and Todd agreed to meet with the Park Board and the Commission on March 19<sup>th</sup> to explain the study to the three new commissioners and get signatures on the JPA. Once the study is complete, another JPA will be prepared for the construction of a project, if the parties can agree on an option.

**DRAIN NO. 11 (OLD TILE DRAIN 16) FROM COGSWELL CITY SOUTH:** Todd Stein asked Chris Gross about flow capacity of the tile. Chris replied that he would have to look at hydraulic analysis, inlet capacity and what the tile can handle. There was discussion about allowing landowners to install new tile projects into the existing tile. Sean Fredrick indicated the Board has a legal obligation to protect the drain and to ensure it remains open and in good repair; if the tile cannot handle more water, the Board can limit access. If the Board elects to proceed with improvements, the Board could apply for a permit from the State Engineer's Office. With many unknowns about the existing tile from Cogswell City to the outlet in Section 23 of Sargent Township, Manager Stein moved to authorize Moore Engineering, Inc. to work with the secretary to review old reports and plans and specifications to analyze the tile project, hydraulics and capacity of the tile and report back to the Board. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously.

**DRAIN NO. 11 – SECTIONS 21 AND 28 IN HARLEM TOWNSHIP:** Manager Zetocha inquired about the crossing between Section 21 and 28 and the narrow roadway that is causing safety issues for larger equipment. He suggested the Board look at this site and decide what is needed to remedy the problem. This will be added to the agenda for future inspection.

**TRANSFER ORDER:** Due to a deficit in the Short Foot Creek (SFC) Fund, Manager Wyum moved to transfer \$35,000 from the General Fund to the SFC fund. This is a portion of the \$100,100 amount allocated for local share for the SFC Project and should have been transferred before the end of 2018. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously. The amount remaining to meet the local share is \$9,987.71.

**BRUMMOND-LUBKE AND NELSON DAM:** The Board received the following email from Erica Althoff, P.E., Area Engineer with NRCS in Jamestown:

The NRCS State Conservation Engineer, Christi Fischer has until March 15 to get the ND Watershed Rehabilitation Request put together for FY19. The way the program has been managed over the last five years, funding has been separately authorized for planning, design, and construction- however successful completion of one phase all but guarantees funding for the subsequent phase.

If your WRDs feel able and ready, you could apply for funding to complete a PL-566 Rehabilitation Plan for Tewaukon T-1A (Brummond-Lubke) and Tewaukon T-7 (Nelson Dam). To be clear there are ~6 other high hazard dams in the state that would rate higher in priority for selection, however I do not know if they will all be applying or where ND sits in relation to other state requests. Certainly we would not want to apply if you weren't ready to commit to a project, however. We would want to handle this through a Cooperative Agreement between NRCS and the WRD, where you would hire an engineering firm of your choice and then bill NRCS ~70% of invoiced technical costs up to an agreed upon maximum (i.e. the estimate you would submit over the next month) for the plan. The 30% investment on the part of the WRD in planning, of course, would be credited to overall Sponsor contribution for the PL-566 project. In order to proceed with an application, we would need a letter of interest, SF-424, proposed project schedule, and cost estimate for completion of the planning work. I can provide examples of those documents, if you decide you would like to apply.

The assessment involves a physical inspection, hydrologic, hydraulic, and stability analysis to determine what would be required to bring the structure into compliance with current Dam Safety (both NDSWC and NRCS) criteria. It also includes conceptual alternatives, cost estimates, population at risk, and risk index computation. This would be the first step towards an eventual rehab project in the future.

In addition, I feel it is prudent to finish up assessments on the remainder of high and significant hazard dams in the state this year. That would include Tewaukon T-1A (Brummond-Lubke) and Tewaukon T-7 (Nelson Dam). We will do that via the national IDIQ contract option, given there are 24 of them scattered around the state. As with the previous ones we have had done, there is no cost to the WRD, we would simply ask that the dam be mowed right before the field inspection this summer/fall. Let me know if that is okay, I don't think I need any paperwork on those.

Chris Gross and his staff have been in contact with Christi Fisher, NRCS State Engineer, and Chris explained to the Board that the assessment on both dams would be at no cost to the water board. After the assessment is completed, the NRCS would provide an assessment report and provide rehabilitation recommendations for the Board to consider. If there is a project selected by the Board, it would be funded with 70% Federal and 30% local funds. SWC and Red River Joint Board cost share may be sought to help pay the local share. If this Board decides not to do anything, then the Board would be waiving any future federal cost-share on these two dam structures. Chris Gross recommended that the Board move forward with the free assessment that will provide a great decision making tool in the future. Manager Wyum moved to approve moving forward with the free assessment of both Brummond-Lubke Dam and Nelson Dam and upon completion of the assessment, the NRCS will report back to the Board. 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:

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|----------------------------|---------------------------------|
| 1. DVEC                    | \$130.00 (Utilities)            |
| 2. Moore Engineering, Inc. | \$165.00 (Water Quality Review) |
| 3. Ohnstad Twichell        | \$976.00 (Settlement issues)    |

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

**APPLICATION TO INSTALL A SUBSURFACE WATER MANAGEMENT SYSTEM NO. 2019-01 FOR THOMAS, CHAD, AND JOSH HEIMBUCH IN THE NORTHEAST QUARTER OF SECTION 4 IN BRAMPTON TOWNSHIP:**

The Board reviewed an *Application to Install a Subsurface Water Management System No. 2019-01* dated February 14, 2019, for Thomas, Chad, and Josh Heimbuch. Under the application, Applicants seek to install a 133-acre drain tile system in the Northeast Quarter of Section 4 in Brampton Township, Sargent County, North Dakota. The project will include a pump outlet located in the middle of the Northeast Quarter of Section 4; the pump will discharge via an underground pipeline that will run south on the quarter-quarter line through the South Half of the Northeast Quarter of Section 4 and through the Southeast Quarter of Section 4; the pipeline will run under 97<sup>th</sup> Street SE and will daylight in the south township road ditch; the tile discharge will then flow to the west in the south road ditch along 97<sup>th</sup> Street until reaching the northwest corner of the Northwest Quarter of Section 9; the tile discharge will then flow south in the east road ditch along 122<sup>nd</sup> Avenue SE for approximately a quarter of a mile; from there, the tile discharge will flow through a buried pipeline commencing in the east road ditch of 122<sup>nd</sup> Avenue that will run under the township road and west across the Northeast Quarter of Section 8 until discharging in an open ditch along the half section line between the Northeast Quarter of Section 8 and the Northwest Quarter of Section 8; from there, the tile discharge will flow south in the open ditch until reaching the half section line in Section 8 and flowing west in an open ditch.

The District originally provided THIRTY-DAY NOTICES to the Jodi A. Bosse Revocable Living Trust as a downstream owner in the Northeast Quarter of Section 8 of Brampton Township, and to Brampton Township simply as a courtesy. However, subsequent to the THIRTY-DAY NOTICE issued by the Board, Applicants secured and provided a copy of an easement from the owners of the Northeast Quarter of Section 8. The easement obviated the need for THIRTY-DAY NOTICES and, with that in mind, the Board was in a position to approve the permit.

According to records supplied by Applicants, Thomas and Kathleen Heimbuch own the East Half of Section 4, the Southwest Quarter of Section 4, the North Half of Section 9, and the West Half of Section 8. Jodi A. Bosse and Bruce E. Bosse, co-Trustees of the Jodi A. Bosse Revocable Living Trust, own the Northeast Quarter of Section 8.

Manager Stein moved, and Manager Zetocha seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2019-01* dated February 14, 2019, for Thomas, Chad, and Josh Heimbuch in the Northeast Quarter of Section 4 in Brampton Township, and to authorize the Secretary-

Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2019-01, subject to the following conditions:

- 1) That Applicants notify the Sargent County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 2) That Applicants provide, install, and maintain riprap or other ditch stabilization materials satisfactory to Brampton Township at any and all outlets into Brampton Township's road right of way; and
- 3) That Applicants 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 Applicants' permit. However, for Applicants' protection, and to ensure protection of Applicants' tile system, the District will recommend that Applicants consider complying with the following:

- 1) That Applicants obtain written permission from the Brampton 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;
- 2) That Applicants 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
- 3) That Applicants 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.

**APPLICATION TO INSTALL A SUBSURFACE WATER MANAGEMENT SYSTEM NO. 2019-02 FOR THOMAS, CHAD, AND JOSH HEIMBUCH IN THE NORTHEAST QUARTER OF SECTION 4 IN BRAMPTON TOWNSHIP:**

The Board reviewed an *Application to Install a Subsurface Water Management System No. 2019-02* dated February 14, 2019, for Thomas, Chad, and Josh Heimbuch. Under the application, Applicants seek to install a 311-acre drain tile system in the Northeast Quarter of Section 4 in Brampton Township, Sargent County, North Dakota. The project includes a single pump outlet located in the south road ditch in 97<sup>th</sup> Street SE, along the north boundary of the Northeast Quarter of Section 9; from there, the tile discharge will then flow to the west in the south road ditch along 97<sup>th</sup> Street until reaching the northwest corner of the Northwest Quarter of Section 9; the tile discharge will then flow south in the east road ditch along 122<sup>nd</sup> Avenue SE for approximately a quarter of a mile; from there, the tile discharge will flow through a buried pipeline commencing in the east road ditch of 122<sup>nd</sup> Avenue that will run under the township road and west across the Northeast Quarter of Section 8 until discharging in an open ditch along the half section line between the Northeast Quarter of Section 8 and the Northwest Quarter of Section 8; from there, the tile discharge will flow south in the open ditch until reaching the half section line in Section 8 and flowing west in an open ditch.

The District originally provided THIRTY-DAY NOTICES to the Jodi A. Bosse Revocable Living Trust as a downstream owner in the Northeast Quarter of Section 8 of Brampton Township, and to Brampton Township simply as a courtesy. However, subsequent to the THIRTY-DAY NOTICE issued by the Board, Applicants secured and provided a copy of an easement from the owners of the Northeast Quarter of Section 8. The easement obviated the need for THIRTY-DAY NOTICES and, with that in mind, the Board was in a position to approve the permit.

According to records supplied by Applicants, Thomas and Kathleen Heimbuch own the East Half of Section 4, the Southwest Quarter of Section 4, the North Half of Section 9, and the West Half of Section 8. Jodi A. Bosse and Bruce E. Bosse, co-Trustees of the Jodi A. Bosse Revocable Living Trust, own the Northeast Quarter of Section 8.

Manager Stein moved, and Manager Zetocha seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2019-02* dated February 14, 2019, for Thomas, Chad, and Josh Heimbuch in the Northeast Quarter of Section 4 in Brampton Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2019-02, subject to the following conditions:

- 1) That Applicants notify the Sargent County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 2) That Applicants provide, install, and maintain riprap or other ditch stabilization materials satisfactory to Brampton Township at any and all outlets into Brampton Township's road right of way; and
- 3) That Applicants 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 Applicants' permit. However, for Applicants' protection, and to ensure protection of Applicants' tile system, the District will recommend that Applicants consider complying with the following:

- 1) That Applicants obtain written permission from the Brampton 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;
- 2) That Applicants 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
- 3) That Applicants 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.

Meeting adjourned at 9:00 a.m.

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LUCAS SIEMIENIEWSKI - CHAIRMAN

ATTEST:

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SHERRY HOSFORD  
SECRETARY-TREASURER