

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD
HELD ON THURSDAY, MARCH 15, 2018, AT 8:00 A.M., IN THE COMMISSIONERS
ROOM, SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA

Managers present: Lucas Siemieniewski, Roger Zetocha, and Bruce Speich; Manager Todd Stein participated by phone. Absent: Korey Martinson. Also present: Sean Fredricks, Attorney for the Board; Josh Hassell, Engineer for the Board; and the following landowners: David Rasmussen, Robert Banderet, and Paul Mathews.

Manager Speich moved to approve the Board's minutes from February 15, 2018, and the February financial report. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Speich moved to approve payment of the following bills:

76658 Moore Engineering, Inc.	General-924.40; Vculek application-97.35; Shortfoot Creek Study-\$27,213.60; Dr#4-Hoistad survey-\$595.00; Dr#11-Litigation-\$825.00 and Dr#16 plans-\$2189.80; Dr#7 specials payoff-\$97.35 = TOTAL	\$31,942.50
76659 Ohnstad Twichell	General-\$103.50; Shortfoot Creek Study-\$266.00; Dr#4-Hoistad property-\$545.50; Dr#11-Mathews litigation-\$251.00 = TOTAL	\$1166.00
76660 Luke Siemieniewski	Travel	67.58
76661 Bruce Speich	Travel	114.45
76662 Starion Bond Services	Dr# 4-final-\$71,247.00 and	Dr#7-\$196,709.75
76663 Roger Zetocha	Travel	92.65
14718 Sherry Hosford	Salary less taxes 507.05	1692.95
14719 Roger Zetocha	Per Diem less 32.71 taxes	327.29
14720 Lucas Siemieniewski	Per Diem less 27.54 taxes	332.46
14721 Bruce Speich	Per Diem less 27.54 taxes	332.46
DD Sargent County Bank	Withholding taxes 1021.57 less 79.70 DSJTB	941.87

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

SOIL CONSERVATION DISTRICT: The Board will invite the Soil Conservation District to attend the Board's April meeting to discuss the prospect of partnering once again in 2018.

Application to Install a Subsurface Water Management System No. 2018-02 for David Rasmussen in the Southwest Quarter of Section 25 and the Southeast Quarter of Section 26 in Taylor Township

The Board reviewed an *Application to Install a Subsurface Water Management System No. 2018-02* dated February 18, 2018, but submitted on March 15, 2018, for David Rasmussen. Under the application, Applicant seeks to install a drain tile system in the Southwest Quarter of Section 25 and the Southeast Quarter of Section 26 in Taylor Township, Sargent County, North Dakota. The project will include a single gravity outlet that will discharge directly into the Wild Rice River.

Because the project will discharge directly into the Wild Rice River, no THIRTY-DAY NOTICE was necessary to downstream landowners under N.D. Cent. Code § 61-32-03.1. Under the tile law passed during the 2017 Legislative session, the Board could require Applicant to install a control structure on Applicant's gravity outlet, but the District concluded the project will not result in adverse impacts to the Wild Rice River and will not require a control structure.

According to records provided by Applicant, Applicant owns all of the land Applicant intends to tile system in the Southwest Quarter of Section 25 and the Southeast Quarter of Section 26 in Taylor Township.

Manager Speich moved, and Manager Zetocha seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2018-02* dated February 18, 2018, but submitted March 15, 2018, for David Rasmussen in the Southwest Quarter of Section 25 and the Southeast Quarter of Section 26 in Taylor Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2018-02. Upon roll call vote, the motion carried unanimously.

Under Section 61-32-03.1, the District cannot attach any conditions to Applicant's permit, with the exception of a potential control structure requirement. However, for Applicant's protection,

and to ensure protection of Applicant's tile system, the District will recommend that Applicant consider complying with the following:

- 1) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 2) That Applicant notify the Sargent County Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application; and
- 3) 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.

MAHRER/ELLEFSON COMPLAINT: Conditions have not changed; the Board will keep this matter on its agenda.

DRAIN NO. 4 BOND PAYMENTS: Secretary-Treasurer Sherry Hosford previously indicated the Board must make a final payment to Starion regarding the Drain 4 bond issue in the amount of \$71,247.00. In addition, two bond payments are due to Starion regarding Drain 7, the first in the amount of \$87,669.75 (two years remaining), and the second in the amount of \$109,040.00 (four years remaining). Manager Stein moved to approve all three bond payments. Manager Speich seconded the motion. Upon roll call vote, the motion carried unanimously.

BRIAN VCULEK PERMIT EXTENSION: At the Board's February meeting, Brian Vculek requested that the Board submit an extension request to the State Engineer's office regarding Bernie Vculek's APPLICATION FOR SURFACE DRAIN NO. 4826, a surface permit application the State Engineer previously determined "is drainage of statewide or interdistrict significance," a finding that triggers statewide significance hearing procedures under North Dakota law. Brian explained he had been in contact with the State Engineer's office, and they requested an extension request from the Water Resource District. With that in mind, the Board previously directed Sean Fredricks to submit an extension request to the State Engineer's office. Sean prepared and submitted an extension request regarding APPLICATION FOR SURFACE DRAIN NO. 4826 dated March 7, 2018, and previously provided a copy of the letter to the Board. Sean will let the Board know if he hears anything from the State Engineer's office.

Brian Vculek was present to discuss the matter further with the Board. He indicated he had been attempting to modify the Project so it would not trigger any statewide significance criteria. The State Engineer's office recently suggested to Brian that their documents show the Jackson Township Improvement District No. 1 Project does not cross into the Southeast Quarter of Section 20, a significant fact regarding the statewide significance finding on Mr. Vculek's application. However, Josh Hassell explained the ORDER sent to the State Engineer's office by the Dickey-Sargent Joint Water Resource District does, in fact, show the project crosses into the Southeast Quarter of Section 20. Josh recently discussed this with the State Engineer's office. Josh will forward a copy of the ORDER to Brian Vculek for Brian's discussions with the State Engineer's office.

RICHLAND-SARGENT DRAIN NO. 1: The Richland-Sargent Joint Water Resource District's Secretary-Treasurer, Monica Zentgraf, forwarded copies of bills for the Board's consideration, including a bill from the *Sargent County Teller* for \$110.35, a bill from Interstate Engineering in the amount of \$6,491.00, and a bill from the *Wahpeton Daily News* in the amount of \$144.42. Manager Speich moved to approve the bills. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

JBX EXCAVATING: Chairman Siemieniowski indicated the owner of JBX Excavating contacted him to offer services regarding tree control along legal assessment drains. The Board agreed JBX could be a viable option for tree control along legal drains in the future.

Application to Install a Subsurface Water Management System No. 2018-01 for Chad, Josh, and Tom Heimbuch in the Northwest Quarter of Section 8 in Brampton Township

The Board reviewed an *Application to Install a Subsurface Water Management System No. 2018-01* dated March 8, 2018, for Chad, Josh, and Tom Heimbuch; the Heimbuchs were present to discuss the application with the Board. Under the application, Applicants seek to install a drain tile system in the Northwest Quarter of Section 8 in Brampton Township, Sargent County, North Dakota. The project will include a pump outlet in the northwest corner of the Southwest Quarter of Section 8 via an existing pump outlet that is a component of a tile project owned and operated by Chad and Tom Heimbuch permitted by the Board at its meeting on March 16, 2017. The new project will now include tile discharge from the Southwest Quarter of Section 8, as well as the Northwest Quarter of Section 8; the Southwest Quarter of Section 8 was previously included in the tile permit approved in March of 2017. The lift station will discharge to the west along the south boundary of the Northeast Quarter of Section 7 and will continue to flow west through existing culverts in County Road 5, and along the south boundary of the Northeast Quarter of Section 12 of Southwest Township until ultimately discharging into Sargent County Drain No. 11.

According to records provided by Applicants, Thomas and Kathleen Heimbuch own the West Half of Section 8 and the Northeast Quarter of Section 7 in Brampton Township; John and Patricia Wentworth own the Northwest Quarter of Section 7 in Brampton Township and the Northeast Quarter of Section 12 in Southwest Township.

The Wentworths supplied a NOTARIZED LETTER OF APPROVAL to Applicants regarding the tile discharge over the Northwest Quarter of Section 7 in Brampton Township and the Northeast Quarter of Section 12 in Southwest Township; with that in mind, no THIRTY-DAY NOTICE was necessary to downstream landowners under N.D. Cent. Code § 61-32-03.1. Under the tile law passed during the 2017 Legislative session, the Board cannot require Applicants to obtain any easements and cannot attach any other conditions to the permit, with the exception of pumping prohibitions when flooding is occurring downstream.

Manager Speich moved, and Manager Zetocha seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2018-01* dated March 8, 2018, for Chad, Josh, and Tom Heimbuch in the West Half of Section 8 in Brampton Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2018-01, subject to the following condition:

- 1) 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 easements from the owner of any land, besides land owned by Applicants, on which Applicants will construct the tile system;
- 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.

DRAIN 11 CLEANOUT WORK: Chairman Siemieniewski indicated areas of Drain 11 are in desperate need of some cleanout work and some culvert replacements. Manager Zetocha concurred and also indicated there is a railroad crossing in severe disrepair. Josh Hassell and Chris Gross will contact DMVW to discuss the railroad crossing issue. The Board will discuss Drain 11 more next month to consider and more closely investigate possible cleanout needs and to identify culverts that require repair or replacement. Manager Stein will contact a contractor to discuss pricing. Chairman Siemieniewski noted these repairs and culvert replacements are completely separate from the reconstruction project that is the subject of ongoing litigation with Mr. Banderet and Mr. Mathews.

There being no further business to discuss, the meeting adjourned.

LUCAS SIEMIENIEWSKI, CHAIR

ATTEST:

SEAN M. FREDRICKS
ACTING SECRETARY