

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD
HELD ON THURSDAY, MARCH 17, 2011 AT 9:00 A.M. IN THE COMMISSIONERS ROOM,
SARGENT COUNTY COURTHOUSE, FORMAN, ND

Managers present: Jim Bosse, Richard Engst, Chris McFarland and Roger White. Absent: Mark Breker
Also present: Sean Fredricks, Attorney and Tom Jones, NRCS.

Approve February 17, 2011 minutes and February financial statement. (Engst/McFarland, unanimous)

1 **Application to Drain with Drain Tile #3756 for Gary Thornberg**

The Board reviewed information from the State Engineer regarding Application to Drain with Drain Tile #3756 for Mr. Gary Thornberg. The Board previously approved Permit No. 3602 for Mr. Thornberg; under Application No. 3756, Mr. Thornberg intends to replace and modify the system previously approved under Permit No. 3602. More specifically, under Application No. 3756, Mr. Thornberg proposed to construct a tile system in the North Half of the Northeast Quarter, the Southwest Quarter, and a portion of the South Half of the Northwest Quarter, all in Section 23-129-55 of Weber Township. According to records on file with the Sargent County Recorder's Office, Gary and Mary Ann Thornberg own all of these parcels. The outlet will be in virtually the same location as proposed under No. 3602. Mr. Thornberg was present and discussed the project with the Board.

The project proposed under No. 3601 would actually flow over the McLaen property, the property subject to Tile Permit No. 3617 for Mr. Milton McLaen. These projects will both ultimately flow into the Wild Rice main stem; however, any downstream impacts will dissipate at approximately the Weber Township and Tewaukon Township line.

The Board reviewed correspondence from its engineer, Mr. Chad Engels, regarding Nos. 3601 and 3602. With regard to No. 3601, Mr. Engels previously recommended (and the Board required) downstream flowage easements from the owners of the Southeast Quarter of Section 13-129-55; the Southwest Quarter of Section 18-129-54; the Northwest Quarter of Section 18-129-54; and the South Half of Section 7-129-54, all in Weber Township. According to records on file with the Sargent County Recorder's Office, Gary and Mary Ann Thornberg are the record owners of the Southeast Quarter of Section 13-129-55. Therefore, no easement is necessary in that quarter-section, but the Board recommended to Mr. Thornberg under No. 3601 that he record his final permit with the Sargent County Recorder's Office to put all future owners on notice of the permit. With regard to the West Half of Section 18-129-54 and the South Half of Section 7-129-54, the Board required flowage easements, and will again require those easements.

With regard to No. 3602, Mr. Engels recommended (and the Board required) downstream flowage easements from the owners of the Southeast Quarter of Section 14-129-55; the Northwest Quarter of the Southwest Quarter of Section 13-129-55; the Northwest Quarter of Section 13-129-55; the Northeast Quarter of Section 13-129-55; the Southeast corner of Section 12-129-55; and the South Half of Section 7-129-54, all in Weber Township. According to records on file with the Sargent County Recorder's Office, Gary and Mary Ann Thornberg are the record owners of the Northwest Quarter of the Southwest Quarter of Section 13-129-55. Therefore, no easement is necessary for that parcel, but the Board recommended to Mr. Thornberg that he record his final permit with the Sargent County Recorder's Office to put all future owners on notice of the permit. With regard to the following parcels, the Board required (and will again require) flowage easements: Southeast Quarter of Section 14-129-55; the Northwest Quarter of Section 13-129-55; the Northeast Quarter of Section 13-129-55; the Southeast corner of Section 12-129-55; and the South Half of Section 7-129-54.

The tile projects will result in adverse impacts to property owners between the outlets and at approximately the Weber Township and Tewaukon Township line. As indicated in the engineer's responses to the eight-point questionnaire, there will be an increase in the total volume of water downstream of the outlets that will result in longer periods of wet conditions. While tile projects of this nature do not typically aggravate flooding problems, the additional water, and potentially the water quality from the discharge, will create adverse conditions for the properties downstream. Typically, those adverse conditions are negligible at the most beyond one mile downstream from the tile drain discharge. In this case, anything downstream further than the Weber/Tewaukon line would not suffer any adverse impacts.

To the extent the projects will utilize township and county road ditches, the applicant should obtain written permission from the road authorities (Weber Township Board and Sargent County Commission).

The Board adopted Chad Engels' proposed responses to the eight-point questionnaire and the eight elements under 89-02-01-09.2 of the North Dakota Administrative Code. The Board further determined no hearings were necessary under Section 89-02-01-09.1(2) of the North Dakota

Administrative Code because the Board will already require flowage easements from downstream landowners, and written permission from Sargent County to utilize its highway right of way. The Board agreed with the engineer's recommendations that the Board should require erosion protection at all outlets to prevent erosion and further adverse impacts downstream.

Manager White, seconded by Manager Engst, moved to approve Application to Drain with Drain Tile No. 3756 for Mr. Gary Thornberg, 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) 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. The Board directed Sean Fredricks to prepare a Notice of Decision, and to provide the Notice of Decision to the State Engineer, the applicant, and other parties of record.

The Notice of Decision will contain a reminder of the conditions regarding Permit No. 3601, as follows:

- 11) 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. Southwest Quarter of Section 18, Weber Township, 129-54;
 - b. Northwest Quarter of Section 18, Weber Township, 129-54; and
 - c. 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.

Larry Albertson, Mayor, Cogswell City, met to inquire about possible flooding and in the event of removing water out of the city to protect the lift station and protect citizens, will it be OK to pump water under Highway 11 to the South. Sandy Hanson, EMS was also present. There was concern about water on adjacent landowner. Attorney Fredricks indicated that this Board does not have any jurisdiction over this request—this would be a ND Dept. of Transportation decision and also there is an emergency drainage permit that can be obtained from the State Water Commission for these purposes. Tom Jones, NRCS reviewed a map of Cogswell City and discussion followed on where the water would flow if the roadway was not present. The City of Cogswell is wondering how they know that they are getting relief from the tile drain. Roger White responded that the water was moving between Cogswell and Todd Stein’s in Section 12. Jim Bosse said this fall they had checked the tile and the water was going down. The City wants information to assure them that this drain is working because they pay a special assessment tax to use this drain. Suggestions were made on how to see if the Board can measure how much water is flowing. Larry would like support from this Board for options to get the water flowing. Other suggestions were discussed for removing water. Mr. Albertson will contact the State Water Commission to inquire about an Emergency Drain Permit and the Board will contact Chad Engels, Moore, Eng. to inquire about installing a flowage meter to check the water level.

Joe Breker, Havana, met with the Board to further discuss the access roadway to property located in Section 9-129-54 LTL to accommodate a roadway to a new lodge. Chris McFarland and Mark Breker looked at the site, which is adjacent to land that is owned by the Sargent County Water Board. Chris said that the road that is there, the poles would have to be moved but Chris doesn’t see any benefit as access is already there and feels it is not necessary to install another roadway. Joe Breker was informed by Tewaukon Township that they passed a resolution that they will not allow development of this roadway because of safety issues. Joe Breker presented pictures of the roadway involved and the Board discussed what options are available. The Board can sell this portion to Joe or issue an easement. It was agreed that the Board will meet at the site on March 29 with Joe Breker and Attorney Fredricks and make a decision at that time.

Joe Breker also inquired about applying for a Tile Drain permit. Discussion followed on the necessity of downstream easements. The Board advised Joe to proceed to apply for a permit.

Jerry Bosse, Cogswell met with the Board regarding snow removal in Drain 11 north of Brampton. He sees that the work has begun and inquired about how far they plan to clean. Jim Bosse explained that they plan to continue 2 miles to the east by Rick Bosses’. Jerry Bosse was pleased that the Board proceeded with this project.

Duayne Baldwin, Geneseo, was invited to the meeting by Roger White to discuss the retention dam study and possible construction of a dam. Tom Jones explained where the project is at this time and he has talked to landowners with potential sites. The Board has sent a request to several agencies for cost share on the retention study. Roger White will call Chad Engels, Moore Eng. to discuss the progress of the project.

Duayne Baldwin asked the Board about a Texas crossing on Drain No. 12 south of Lake Tewaukon. He feels the culverts that FEMA approved will not hold with the excess water and would rather see it continue as a Texas Crossing that they can drive across. The Board told Mr. Baldwin that FEMA officials indicated that 2010 is the last time they will inspect this site for repairs.

The county commissioners informed the Water Board that they would participate in 50% of the local share for the retention dam study.

Jim Bosse updated the Board on the Paul Mathews right of way in that Paul says that the 5.1 acres sold was owned by a Board member on the Drain Board when the drain was constructed in the early 1900’s and the Board needed more land for right of way but the check was not cashed so he feels it was a temporary easement. After further discussion and review of recorded Right of Way Deeds, a motion was made to authorize Attorney Sean Fredricks to send a letter to Paul Mathews inquiring if Mr. Mathews plans to continue farming this right of way, which is owned by the Sargent County Water Board, he should contact the Board for a lease. (White/Engst, unanimous)

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

63893 Jim Bosse	Travel	250.92
63894 Richard Engst	Travel	94.86
63895 Chris McFarland	Travel	35.70
63896 Moore Engineering, Inc.	Dr # 11 right of way (Mathews)	585.00
63897 Ohnstad Twichell	Attorney fees	1000.00
63898 Roger White	Travel	554.66

5628	Sherry Hosford	Sec. salary less taxes 17.89	298.78
5629	Richard Engst	6 PD plus meal less 48.03 taxes	679.47
5630	Roger White	8 PD plus meals less 90.76 taxes	884.24
5631	James Bosse	9 PD plus meals less 110.37 taxes	977.13
5632	Chris McFarland	2 PD less 13.56 taxes	226.44
DD	Sargent County Bank	Payroll taxes	538.54

Meeting adjourned at 12:20 p.m.

JIM BOSSE – CHAIRMAN

ATTEST:

SHERRY HOSFORD - SECRETARY