

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, MARCH 17TH, 2022 AT 8:00 A.M. IN THE WATER BOARD CONFERENCE ROOM AT THE SARGENT COUNTY COURTHOUSE, FORMAN NORTH DAKOTA

Managers present: Chairman Luke Siemieniewski, Roger Zetocha, Todd Stein, Bruce Speich and Michael Wyum. Also in attendance were Josh Hassell, Moore Engineering; Attorney Charles Carvell, Pearce Durik Law Firm; Wendy Willprecht, Secretary/Treasurer, landowners Bob Orn, Scott Mahrer, Mark Bopp, Lyle Bopp, Roger Bopp, Scott Bopp, Jerry Woytassek and Sargent County Commissioner Richard Ruch. Others present via video conference were Sean Fredricks of Ohnstad Twichell, P.C., the Board's Attorney; Bob Banderet; Leon Mallberg; Kathy Marquette; and Tyler Mahrer.

Manager Wyum moved to approve the February 17th, 2022 regular meeting minutes, the February 17th, 2022 executive session meeting minutes and the January 31st, 2022 financial statement. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Stein moved to approve the following bills:

83383 Ohnstad Twichell- Correspondence/Board Mtg./Complaint-\$1074.45; SFC Task Order review-\$70.00;

Total: \$1,144.45

Ohnstad Twichell-Drain No. 11-\$8774.64/Eminent Domain \$35,138.19

Total: \$43,912.83

83379 Farmers National Company- Consultation appraisal

Total: \$ 1500.00

83381 Moore Engineering: Board Meetings \$3489.56/Ellefson-Mahrer Complaint \$185=\$3674.56; SFC Task 6 \$9430.00; Drain No. 9- Assessment Questions \$92.50; Drain No. 11-ROW Game and Fish \$1032.50/culvert quote \$580.00/Reassessment \$37,382.14=\$38,994.64; Drain No. 7-Legal Descript. \$1492.50/Final design survey \$700= \$2192.50; Crooked Creek-Task 3 \$34,235.00

Total: \$ 88,649.20

83387 Sargent County Teller- Notice of public hearing \$107.63/Advertising for WRD positions \$23.00

Total:

\$130.64

833378 Colleen Carpenter-Warranty Deed \$2025/Temporary Easement \$217.50

Total: \$2,242.50

83380 John Hayen-Warranty Deed \$26,685/Permanent Easement \$17,010/Temporary Easement \$3,217.50

Total: \$46,912.50

83384	Lucas Siemieniewski	Travel	\$32.76
83386	Todd Stein	Travel	\$9.36
83388	Michael Wyum	Travel	\$11.70
83389	Roger Zetocha	Travel	\$29.25
83385	Bruce Speich	Travel	\$52.65
DD	Lucas Siemieniewski	PD	\$332.46
DD	Todd Stein	PD	\$110.82
DD	Michael Wyum	PD	\$110.82
DD	Roger Zetocha	PD	\$110.82
DD	Bruce Speich	PD	\$221.64
DD	Wendy Willprecht	Sec-Treas -Salary less taxes \$457.17	\$2042.83
DD	Stock Grower's Bank	Withholding Taxes	\$626.42
DD	ND State Tax Commission	State Tax	\$22.00
DD	Job Service ND	Unemployment Comp.	\$2.50

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

DRAIN NO. 7:

Kyle Nelson submitted the appraisal for Drain No. 7. Chairman Siemieniewski and Manager Speich did not agree with the land values. A poorly aligned culvert has contributed to high salt levels on this land making the land appear to have less value. Attorney Fredricks said that if the Board believes the land value range should be higher, the Board can make

the decision to increase it. Chairman Siemieniewski said that he will meet with landowner Matt Bogart to discuss the values presented and to come up with a solution.

SHORT FOOT CREEK:

Engineer Hassell said that Moore Engineering is still working on modifications to the watershed plan and they continue to work with the NRCS.

DRAIN NO. 9:

No update.

CROOKED CREEK WATERSHED PLAN:

Engineer Hassell said that Moore continues to work on modeling and investigation into historical data. The expectation is to start looking into potential alternatives and the next public meeting to be scheduled sometime around June.

Engineer Nathan Trosen requested approval of Task 13. Moore will continue to work on this project.

Manager Speich made a motion to approve the work. Manager Zetocha seconded the motion. Upon roll call, the motion carried unanimously.

CHRIS MATHIAS PERMIT APPLICATION:

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2022-02*, filed March 10, 2022, by Applicant Chris Mathias. Under the Application, Applicant seeks to install a 40-acre drain tile system in the West Half of the Northeast Quarter of Section 9 in Harlem Township, Sargent County, North Dakota. The project will include a single pump outlet located in the northwest corner of the Northeast Quarter of Section 9; the pump will discharge into the south road ditch along County Road No. 1; the discharge will flow west in the south road ditch along County Road No. 1, along the north boundary of the Northwest Quarter of Section 9, until discharging 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, Rodney Mathias and Chris Mathias own the West Half of the Northeast Quarter of Section 9 in Harlem Township. With regard to downstream properties, Janice Swanson owns the Northwest Quarter of Section 9.

Manager Stein moved, and Manager Zetocha seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2022-02*, filed March 10, 2022, for Chris Mathias in the West Half of the Northeast Quarter of Section 9 in Harlem Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-02, subject to the following conditions:

1. Applicant will install and maintain erosion protection at the outlet into Sargent County's highway right of way.
2. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
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 West Half of the Northeast Quarter of Section 9 in Harlem Township under any blanket easements, or otherwise beyond the Water District's existing easement.
4. Applicant must 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 remove silt or vegetation, or repair erosion or scour damages *directly* caused by Applicant's tile system, but only up to one mile downstream from Applicant's outlet.
6. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-02 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.

With regard to condition #5, 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 District cannot attach any additional conditions to Applicant's permit. 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. The District recommends that Applicant obtain written permission from the Sargent County Highway Department to discharge into, or otherwise utilize, any of the County's highway right of way.
2. The District 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. 2022-02 to the State Engineer's Office, Southeast Water Users District, the Sargent County Highway Department, and the owner of the Northwest Quarter of Section 9.

BRUCE BOSSE AND JASON BOSSE PERMIT APPLICATIONS:

Bruce Bosse filed two tile applications and Jason Bosse filed one tile application for the Board's consideration.

The Board first reviewed *Application to Install a Subsurface Water Management System No. 2022-03*, filed March 14, 2022, by Applicant Bruce Bosse. Under the Application, Applicant seeks to install a 76-acre drain tile system in the Northeast Quarter of Section 2 in Brampton Township, Sargent County, North Dakota. The project will include a single gravity outlet located along the south boundary of the Northeast Quarter of Section 2; the outlet 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, Deborah M. Bosse, Trustee of the Deborah M. Bosse Revocable Living Trust, owns the Northeast Quarter of Section 2 of Brampton Township.

The Board discussed approving SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-03, subject to the following conditions:

1. Applicant will install and maintain erosion protection at the outlet into Sargent County Drain No. 11.
2. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
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 Northeast Quarter of Section 2 in Brampton 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. 2022-03 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.

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2022-04*, filed March 14, 2022, by Applicant Jason Bosse. Under the Application, Applicant seeks to install a 288-acre drain tile system in the West Half of Section 12 in Brampton Township, Sargent County, North Dakota. The project will include a single pump outlet located along the north boundary of the Northwest Quarter of Section 12; the outlet 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, Deborah M. Bosse, Trustee of the Deborah M. Bosse Revocable Living Trust, owns the West Half of Section 12 of Brampton Township, less the Brampton townsite.

The Board discussed approving SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-04, subject to the following conditions:

1. Applicant will install and maintain erosion protection at the outlet into Sargent County Drain No. 11.
2. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
3. Applicant must 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 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 West Half of Section 12 in Brampton Township under any blanket easements, or otherwise beyond the Water District's existing easement.
5. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-04 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.

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2022-05*, filed March 14, 2022, by Applicant Bruce Bosse. Under the Application, Applicant seeks to install a 147-acre drain tile system in the Northwest Quarter of Section 27 in Sargent Township, Sargent County, North Dakota. The project will include a single gravity outlet located in the North Half of the Northwest Quarter of Section 27; the outlet 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, Deborah M. Bosse, Trustee of the Deborah M. Bosse Revocable Living Trust, owns the Northwest Quarter of Section 27 of Sargent Township.

The Board discussed approving SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-05, subject to the following conditions:

1. Applicant will install and maintain erosion protection at the outlet into Sargent County Drain No. 11.
2. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
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 27 in Sargent 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. 2022-05 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.

Manager Zetocha moved, and Manager Stein seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2022-03*, for Bruce Bosse in the Northeast Quarter of Section 2 in Brampton Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-03, subject to the conditions above; to approve *Application to Install a Subsurface Water Management System No. 2022-04*, for Jason Bosse in the West Half of Section 12 in Brampton Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-04, subject to the conditions above; and to approve *Application to Install a Subsurface Water Management System No. 2022-05*, for Bruce Bosse in the Northwest Quarter of Section 27 in Sargent Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-05, *Application to Install a Subsurface Water Management System No. 2022-03*, for Bruce Bosse in the Northeast Quarter of Section 2 in Brampton Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-03, subject to the conditions above. Upon roll call vote, the motion carried unanimously.

Sean Fredricks will provide copies of the Board's NOTICE OF DECISION letters on each permit and all three SUBSURFACE WATER MANAGEMENT PERMITS to the Department of Water Resources, to Southeast Water Users District, and to other parties of record.

BRUCE AND RANDALL WURST STREAM CROSSING REQUEST:

The Dwyer Law Firm, on behalf of Bruce and Randall Wurst, requested that the Board exercise its authority to request a stream crossing determination from the Department of Water Resources. The Wursts allege 102nd Street SE along Section 33 in Weber Township is not adequately sized. Under North Dakota law, water resource districts can request sizing determinations. The Board does not otherwise have any jurisdiction over the Wurst/Weber Township issue, but the Board does feel they should exercise their authority to try to resolve water issues when they can. With that in mind, Manager Stein moved to direct Secretary-Treasurer Willprecht to submit a letter to the Department of Water Resources to request a stream crossing determination. Manager Wyum seconded the motion. Upon roll call, the motion carried unanimously. Attorney Fredricks and Moore Engineering will assist with the letter.

BRIAN VCULEK SURFACE DRAIN APPLICATION:

The Board reviewed information from the State Engineer regarding APPLICATION FOR SURFACE DRAIN No. 5958 for Applicant Brian Vculek. Under the application, Applicant proposes to construct a number of surface drainage improvements, including surface ditches and underground pipelines, in the East Half and the Southwest Quarter of Section 13 and in the South Half of Section 14 in Denver Township, Sargent County, North Dakota. The project proposed under APPLICATION FOR SURFACE DRAIN No. 5958 will incorporate the drainage improvements permitted under SURFACE PERMIT NO. 4720, previously approved by the Sargent County Water Resource District for Bernard Vculek; SURFACE PERMIT NO. 5958 will ultimately supplant SURFACE PERMIT NO. 4720. The new channel improvements will commence in the Northeast Quarter of Section 13; near the boundary between the Northeast Quarter and the Southeast Quarter of Section 13, the ditch improvements will discharge into the existing channel improvements permitted under SURFACE PERMIT NO. 4720. The channel improvements will outlet via a 36" pipe with a pump at the upstream end, commencing near the center of the Southwest Quarter of Section 13; the pipe will run west, under 119th Avenue SE; the pipe will then run to the southwest, diagonally across the Southeast Quarter of Section 14 to the south boundary of the Southeast Quarter of Section 14; from there, the underground pipeline will run west in the north township road ditch along 81st Street SE until approximately the half-section line where the pipeline will daylight; the discharge will continue west in the north road ditch until ultimately reaching Sargent County Drain No. 11.

The new surface ditch improvements will include 6,280 feet of new surface channel improvements, with a maximum bottom width of 12 feet; a maximum cut of 6 feet; and 3:1 side slopes. The project also includes 4,700 feet of existing surface channel improvements with a maximum bottom width of 10 feet; a maximum cut of 8 feet; and 4:1 side slopes. The project will include approximately 4,100 feet of pipeline. In total, the drain will extend 15,080 feet.

According to records on file with the Sargent County Recorder's Office, Bernard L. Vculek, as Trustee of the Bernard L. Vculek Revocable Trust, and Marlene Vculek, as Trustee of the Marlene Vculek Revocable Trust, own the East Half of Section 13 in Denver Township; Julie Vculek owns the Southwest Quarter of Section 13; and Wayne V. Witkowski, Trustee of the Wayne V. Witkowski Revocable Family Trust, and Dianne F. Witkowski, Trustee of the Dianne F. Witkowski Revocable Family Trust, own the South Half of Section 14.

The Board reviewed Nathan Trosen's draft responses to the eight elements under Section 89-02-01-09.2 of the North Dakota Administrative Code; Nathan concluded the project will actually reduce inundation within the project watershed, and that any downstream impacts will be minimal due to the limited pump capacity of approximately 20 cfs and the 36" pipe capacity. The Board will require Applicant to obtain permission from Denver Township to install any

project components in Township right of way. The Board will also require Applicant to obtain easements from landowners where Applicant will construct project components. With this in mind, the Board determined no hearing was necessary under Section 89-02-01-09.1(2) of the North Dakota Administrative Code, and concluded the project will not result in adverse impacts.

Manager Wyum moved, and Manager Speich seconded the motion, to approve APPLICATION FOR SURFACE DRAIN No. 5958 for Brian Vculek, subject to the conditions attached by the State Engineer, and subject to the following conditions:

1. Applicant will not construct or improve the drain in any manner that exceeds the dimensions indicated in the application.
2. Applicant will obtain written permission from the Denver Township Board of Township Supervisors to construct, operate, and maintain any project components in any Township right of way.
3. Applicant will obtain and record easements from the owners of any land, besides land owned by Applicant, on which Applicant will construct any drain components.
4. Applicant will notify the Sargent County Water Resource District in advance of any proposed improvements to the drain, including any increase in the capacity or drainage area affected, and, if necessary, will submit an additional permit application.

Upon roll call vote, the motion carried unanimously.

In addition to those conditions, the Board will also recommend 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.

The Board directed Sean Fredricks to prepare the requisite NOTICE OF DECISION and to provide the NOTICE to all parties of record.

MAHRER/ELLEFSON COMPLAINT:

The Board discussed this complaint last month and directed Sean Fredricks to send a letter to the parties to explain the status of the matter, and the strong likelihood that the Board would have to dismiss the complaint this month. The Board recognized the matter has spanned nearly ten years and the Board wanted to afford the parties the opportunity to attend the meeting if they wish before the Board takes final action. Attorney Fredricks sent a letter to the parties dated February 24, 2022; the letter explained the procedural background of the matter and also provided a legal explanation for why the Board will likely have to dismiss the complaint. Scott Mahrer was present. Attorney Fredricks noted the Board's discussion in February; the February minutes provide, in relevant part:

This complaint first came into the Board in 2013. At the time, the tile permitting threshold was similar to the surface permitting threshold: if the drainage improvements drained a watershed of 80 acres or more, the project required a permit. The project included underground perforated pipe with surface inlets, two pumps, and some surface ditches. At that time, projects with surface inlets were permitted and governed under the surface permitting statute. At the time, Chad Engels and Chris Gross reviewed the watershed area drained by the project and concluded the project did, in fact, drain over 80 acres of watershed. The Board found the project required a permit; however, the Board did not order Mr. Ellefson to close or fill the project at that time. Rather, the Board wanted to afford the parties the opportunity to reach a mutually acceptable resolution to the matter so the Board directed Mr. Ellefson not to operate the pumps while the parties attempted to work towards a solution. Mr. Ellefson has not operated the project pumps. The Board later approved a surface permit for Mr. Ellefson for the project; however, Mr. Ellefson was not able to meet all of the permit conditions and the Board later had to order Mr. Ellefson to plug the pipes installed for the project. Mr. Ellefson successfully plugged one of the pipes but, due to high water, was unable to install the second plug. The high water persisted for years and the Board has periodically revisited the complaint.

Since then, the Legislature has amended the law regarding tile permitting. In 2017, the Legislature amended the tile permitting statute and one of the changes was the permitting threshold; the 2017 legislation modified the permitting threshold from the 80-acre watershed determination to 80 acres of physical tile (the tile footprint). The new legislation in 2021 retained that footprint threshold for permitting, and went further by including all surface inlets. More specifically, the new law from the 2021 session, NDCC 61-32-03.1, provides:

“...Installation of a subsurface water management system comprising eighty acres [32.37 hectares] of land area or more requires a permit ... Subsurface water management systems that use surface intakes or lift stations must be permitted exclusively under this section....”

Under the new tile law, the “tile” portion of this project, including the surface inlets and pumps, fall under the tile permitting statute, and if the physical footprint is under 80 acres, the project does not require a permit under 61-32-03.1. This project only includes a 16-acre footprint. Last week, Mr. Ellefson submitted an Under-80 Tile Notification.

Nathan Trosen also investigated the surface drain improvements that were part of Mr. Ellefson's project. Nathan found the watershed area drained by those surface improvements was 35 acres or less, far below the 80-acre watershed surface permitting threshold. With this issues in mind, the project no longer requires a permit and the Board no longer has jurisdiction over the project under the complaint statute.

The Board directed Sean Fredricks to send out a notice to the parties in the complaint, to notify them of these recent developments and to inform them that the Board will likely dismiss the drainage complaint at the Board's March meeting.

The Board had no discretion in terms of jurisdiction over the matter at this point. In light of the Board's lack of jurisdiction over the matter, Manager Speich moved to dismiss the complaint. Manager Zetocha seconded the motion. Upon roll call, the motion carried unanimously.

WATER DEVELOPMENT PLAN FOR THE 2023-2025 BIENNIUM AND BEYOND:

Moore Engineer Josh Hassell presented a water development plan for Sargent County. After review, it was the direction of the SCWRD to have the plan submitted to the state. The plan is due in April.

JASON ASCHE PERMIT APPLICATION:

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2022-01*, filed March 9, 2022, by Applicant Jason Asche. Under the Application, Applicant seeks to install a 92-acre drain tile system in the North Half of Section 22 in White Stone Hill Township, all in Sargent County, North Dakota. The project will include a single gravity outlet located on the south boundary of the Northeast Quarter of Section 22 that will discharge directly into a pond on the Northeast Quarter.

According to a deed supplied by Applicant, Jason and Hollie Asche own the North Half of Section 22 in White Stone Hill Township where Applicant intends to install the tile system.

Manager Zetocha moved, and Manager Speich seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2022-01*, filed March 9, 2022, for Jason Asche in the North Half of Section 22 in White Stone Hill Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-01, subject to the following conditions:

1. Applicant will install and maintain erosion protection at the outlet into the pond in the Northeast Quarter of Section 22 in White Stone Hill Township.
2. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
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 North Half of Section 22 in White Stone Hill 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. 2022-01 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 District cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the District will recommend 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. 2022-01 to the State Engineer's Office and Southeast Water Users District.

SUMMIT CARBON SOLUTIONS-UTILITY PERMIT:

Summit Carbon Solutions has been doing some initial canvassing for an upcoming pipeline project. In review of the map provided by Summit, it appears the pipeline will cross Drain No. 11. As a result, Summit will need to get a Utility Permit from the Board; the Utility Permit will contain indemnity protection for the Board, will require Summit Carbon Solutions to repair any damages to Drain 11, and will be responsible for future costs regarding any relocations necessary to accommodate any future repairs, improvements, or reconstruction of Drain 11. The Utility Permit may contain other conditions unique to the pipeline. No action necessary by the Board until Summit submits a Utility Permit application.

DRAIN NO. 11 PROJECT:

Josh Hassell from Moore Engineer reported that, due to the various delays on this project over the last several years, construction costs have increased. Due to the delays, the Board has not been in a position to bid the project. Moore Engineering will provide an updated project cost estimate. Hassell added that Game and Fish Department has agreed to the terms for their easement and will likely sign their agreement soon.

Manager Stein brought up the fact that the landowners who cooperated and voluntarily signed their purchase agreements for the Drain 11 project were paid less for their acres in comparison to those that were part of the most recent lawsuit. Manager Stein believes the Board should compensate those landowners at the same rate and the Board agreed. Attorney Fredricks noted the Board may want to wait to see if the parties in the lawsuit appeal the District Court decision before the Board takes action to increase compensation with the other landowners.

DRAIN NO. 11 OVERLAP:

During the course of the Drain No. 11 reassessment, the Board found that some parcels that will be added to the Drain 11 assessment district are already in the assessment districts for Drain No. 4 or Drain No. 7. An invitation to attend today's meeting to discuss the overlap was sent to the landowners that are affected.

The SCWRD wants to find a way to avoid double assessing parcels that are in more than one assessment area if at all possible. After much discussion the Board agreed the best route is to commence the reassessment process for both Drain No. 7 and Drain No. 4. That way, the Board can ensure that parcels are only within the assessment districts for the drains that benefit each parcel. Manager Wyum moved to direct Moore Engineering to begin the benefit and assessment analysis necessary to begin the assessment process for both Drain No. 4 and Drain No. 7. Manager Speich seconded the motion. Upon roll call vote, the motion carried unanimously.

If the reassessments of all three Drains is not complete by October 2022, and select parcels are double assessed, the Board indicated reimbursement checks will be issued to the landowners for the overlap.

DRAIN NO. 11 TRIAL:

Attorney Fredricks reported that District Court Judge Schmitz issued an oral opinion on March 10. Judge Schmitz ruled that the Board has authority to use eminent domain for the Drain 11 project; that there is no evidence the Board will obligate the Drain 11 assessment district beyond the four-year maximum levy over six years; and that the Board followed the statutory process for the eminent domain proceedings. On valuations, Judge Schmitz agreed with Kyle Nelson's valuations on the channel acres (\$6,750 per acre) and on temporary easement acres (\$200 per acre per year). On berm easement acres, Judge Schmitz determined those valuations should have increased 33%, like the channel and TCE acres, and awarded \$2,250 per acre for berm acres. Judge Schmitz awarded the Bosses an additional \$40,000 in damages for loss of trees. Judge Schmitz directed Attorney Robert Hoy to prepare draft Findings, Conclusions of Law, and an Order for the Court's consideration. Once the Judge signs the Order, the Board can deposit funds. The values are as follows:

Gregory S. Beck and Carol L. Beck, as Co-Trustees of the Gregory S. Beck and Carol L. Beck Revocable Living Trust dated September 8, 2020:

Channel Easement Acres: \$39,555 (5.86 acres x \$6750 per acre)
Berm Easement Acres: \$16,943 (7.53 acres x \$2250 per acre)
Temporary Easement Acres: \$1,086 (1.81 acres x \$200 per acre x 3 years)
Total: \$57,584

Gerald P. Bosse and Diana Bosse, as Co-Trustees of the Gerald and Diana Bosse Irrevocable Land Trust dated the 13th day of January, 2021:

Channel Easement Acres: \$550 (.08 acres on Section 1 x \$6,750 + \$10 for sliver of land on Section 16)
Berm Easement Acres: \$450 (.2 acres x \$2,250 per acre)
Temporary Easement Acres: \$102 (.17 acres x \$200 per acre x 3 years)
Total: \$1,102

Matthew J. Bosse, subject to a Life Estate in favor of Gerald P. Bosse and Diana Bosse, husband and wife:

Channel Easement Acres: \$27,270 (4.04 acres x \$6,750 per acre)
Berm Easement Acres: \$13,388 (5.95 acres x \$2,250 per acre)
Temporary Easement Acres: \$1,740 (2.9 acres x \$200 per acre x 3 years)
Total: \$42,398

Brent P. Bosse, subject to a Life Estate in favor of Gerald P. Bosse and Diana Bosse, husband and wife:

Channel Easement Acres: \$8,235 (1.22 acres x \$6,750 per acre)
Berm Easement Acres: \$5,468 (2.43 acres x \$2,250 per acre)
Temporary Easement Acres: \$570 (.95 acres x \$200 per acre x 3 years)
Tree Damage: \$40,000
Total: \$54,273

The Estate of Nancy I. Mathews, Phyllis Delahoyde, and Daniel G. Delahoyde:

Channel Easement Acres: \$29,700 (4.4 acres x \$6,750 per acre)
Berm Easement Acres: \$12,848 (5.71 acres x \$2,250 per acre)
Temporary Easement Acres: \$1,440 (2.4 acres x \$200 per acre x 3 years)
Total: \$43,988

Manager Wyum moved to authorize five checks at the values above for deposit with the Court. Manager Speich seconded the motion. Upon roll call, the motion carried unanimously.

DRAIN NO. 11 REASSESSMENT:

Moore Engineering Josh Hassell provided a number of documents for the board to consider including an update proximity map, results of field survey and an updated matrix which adjusted the weight of the hydrologic soil group from 5% to 10% and decreased the proximity weight from 60% to 55%. Josh provided the Board with an explanation of the maps and also updated the Board on the progress of the evaluation of the non-contributing areas. No additional changes were made at this time.

DRAIN NO. 8:

Manager Wyum brought up the water issue on the south side of Rutland. A suggestion was made to bury a pipe for a distance that is financially feasible. Moore Engineering will bring back information from previous work for additional discussion.

RS #1:

1) Revenue:	Richland Taxes	\$5,455.14
	Sargent Taxes	\$18,013.85
	Total:	\$23,468.99

Expenditures:

RS #1 Maintenance Checking Acct. Balance	\$ 4.28
RS #1 Maintenance Savings Acct. Balance	\$377,056.31
Total Maintenance fund balance as of January 31st, 2022-	\$377,060.59

DICKEY-SARGENT JOINT BOARD: The following Dickey-Sargent Joint WRD bills were presented for approval by Wendy Willprecht, Secretary-Treasurer:

DVEC - electricity - **Total: \$131.00**

83382 Moore Engineering- Board Mtg. \$185; Manual update \$185; Assessment question/assistance \$90.00
Total: \$367.50

**Special Assessments received:

- 1) Maintenance Account: \$4585.19
- 2) Improvement Account: \$34,389.28

The motion approving these bills was handled during the Dickey-Sargent Joint Board meeting.

Meeting adjourned at 10:20 a.m.

LUCAS SIEMIENIEWSKI, CHAIRMAN

ATTEST:

WENDY WILLPRECHT SECRETARY-TREASURER