

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, MARCH 20, 2008 AT 9:00 A.M. IN THE COMMISSIONERS ROOM, SARGENT COUNTY COURTHOUSE, FORMAN, ND

Managers present: Mark Breker, Dan Jacobson, Richard Engst, Roger White and Jim Bosse. Absent none. Also present: Scott Mund.

Approve February 21, 2008 minutes as corrected and February financial statement. (White/Breker, unanimous)

Authorize Secretary to reinvest CD # 12375 for 6 months when it matures on April 7, 2008. (Jacobson/Breker, unanimous)

Chad Engels, Moore Eng. met with the Board to discuss the reassessment of Drain No. 4. He provided a contoured elevation map that makes it easier to look at to discern any differences in elevation. He reviewed the map and explained Drain No. 4 and that there is 200' of fall from the top of the watershed to the bottom. The boundaries were downloaded from the SWC website. These give the Board a starting point to determine what the assessment area should look like. From this information the existing assessment districts were looked at (Drain No. 11 and Drain No. 1). Chad pointed out that the ND State Water Commission map is very close to the watershed map boundary. Two things that must be considered are the boundary and percentages that the Board has to review to determine an assessment area. He suggested that the Board take a map he provided and asked that they continue to look at the area and make notations on the map of the flow of the water. The percentage process is the most difficult but Mr. Engels presented a proposal for the district and explained his reasoning's. Chad discussed the reassessment procedure and indicated that all landowners will receive a letter in the mail inviting them to attend a hearing to discuss the boundary lines and percentages. A notice will be published in the paper with a map of the proposed assessment area. A time frame of holding the hearing in June and finalization of the district in July will allow the Board to certify the assessment maintenance before the August 20 deadline. Chad will prepare notices for landowners and publication notices.

Mike Bogart, Spring Grove, IL, presented a Drainage Complaint against Thomas Mund of drainage that occurred in the NW1/4 and NE1/4-30-132-53. Mr. Bogart contends that the volume of water and impact has already flooded lands in the NW1/4-30 in the fall of 2007 and adverse effects will most likely occur in years ahead from secondary salinization. Mr. Bogart's complaint addresses both Permit 3141 and 3156 issued to Tom Mund on September 21, 2006 and May 17, 2007 respectively. Mr. Bogart stated his complaint on both permits and these can be found in their entirety in the Office of the Sargent County Water Board. Mike was told by Dwight Comfort, ND State Water Commission, that they Board should have obtained easements from downstream landowners but Chad Engels commented that the Board has the prerogative of how far the easements should go downstream. Roger White commented that the state suggested downstream for one mile should be adequate for easements. Mr. Bogart said there is flowing in the north part of Section 30 and there is farmland that is flooding. The water sitting in the north part will continue to flood and cause problems on the land. He would like to move back to this area and the land in the NE1/4-30-132-53 will be under water and non livable. All the land that is owned by the Bogart's family is prime farmland but is in pasture now and could be broken up anytime for farm land. He is asking for an easement in both the NE1/4 30 and the NW1/4 30. He also commented on the water that is coming out of the west side of Section 25 that this should be considered inter district significance. On the permit that was approved to Tom Mund, the state has noted that it is not of inter district significance. Mike noted that the placement of the irrigation concerns him and he should not have to take additional water. Chad Engels asked if the swail had been silting in over time through the N1/2 of section 30-132-53. Mr. Bogart noted that he is sure that it has silted in over time but does not have any idea how much has silted in. He measured the area yesterday and noted four feet of depth and he does not understand why the Bogart's have to take on the Mund's water. Chad asked if a cleanout of this watershed would be helpful and is there interest with the Board to pursue cleaning out this area. There is approximately 4 miles from the Bogart's land to the Wild Rice River. Scott Mund asked if Mr. Bogart noticed where the water is flowing. Dan Jacobson asked Scott Mund if it would be possible to get a copy of the water quality report. Mr. Mund stated that the testing, which is done at NDSU, is actually cleaner than the water coming out of the irrigator. Chad Engels stated that tile drainage is a relatively new thing in North Dakota and before they had a traditional drainage application and we never heard anything from the State Engineer offices about a comment period or recommendation about getting flowage easements downstream. There has always been surface drainage but the unknown of water quality and swails that are always dry are wet for most of the year and difficult to cross and have water sitting in them. The adverse impacts are when we get a rain event and the river and streams are up. The tile flow of that is very hard to measure and the tile outlets are contributing such a small flow. Mr. Bogart still contends that there should be a flowage easement. Scott Mund asked if Mr. Bogart would give him a flowage easement and Mike Bogart said depends if he would give him one. He is more concerned about the water that is coming from the pump/lake versus the surface water that everyone expects with excessive rainfall. Mike Bogart pointed out on the back of the permit that the Board can

revoke or modify the rights granted under the permit to protect the public health, safety and welfare, to protect property; or to ensure the orderly control of water resources. Chairman Bosse noted that the Board has to make a determination on this within 120 days. Scott Mund asked if it has to be considered because Mike Bogart is not the legal landowner. Chairman Bosse indicated that the Board's attorney would be reviewing the legality of the complaint. Richard Engst asked Mike Bogart if there was a cleanout of the land north of Section 30 to the Wild Rice River would that solve the problem. Mike Bogart commented that if this water would go and get to the river, it would make it easier to handle. Chad Engels noted that the Board would have to figure out if a snag and clearing project would generate enough money to do the project. This Board and the county commission would have to agree and \$.50 per acre could be levied to complete this project. There are other procedures that must be met. Mike Bogart asked about Permit 3156 and who answered the questions 2-8 in the evaluation of application and factors considered and why the ** notations were made on the application. The Board will take this complaint under advisement and visit with the Board attorney.

Approve payment of the following bills: (Jacobson/Breker, unanimous)

58816 James Bosse	Travel	124.20
58817 Mark Breker	Travel	54.90
58818 Richard Engst	Travel	42.30
58819 Dan Jacobson	Travel	154.80
58820 Ohnstad Twichell	Attorney fees - General-\$500, Kuehn/Mund-\$45,	
Drain No. 4-\$285		830.00
58821 Roger White	Travel	15.30
1794 Mark Breker	11 PD less 91.65	788.35
1795 Dan Jacobson	7 PD plus meals less 44.37	535.63
1796 Sherry Hosford	Sec. salary less taxes	246.27
1797 Richard Engst	6 PD less 36.72	443.28
1798 Roger White	8 PD less 48.96	591.04
1799 James Bosse	13 PD less 122.89	917.11
DD Sargent County Bank	Taxes and withholding	664.45

UNFINISHED BUSINESS:

Gary Anderson and Ray Brickzin, Cayuga met with the Board and presented maps showing an area that has a drain that is being cleaned in Sections 13 and 14-129-54. Lois Brakke has a drain on her land that is a privately dug ditch and this water comes to the ditch that the Herman's and Banish's are cleaning. It shows a definite drainage area but it is not a legal drain. The drainage project went through the section line and into land owned by Mr. Brickzin and then it stops and the water stays on the Brickzin land. The problem is there is no outlet and floods this land. Chad Engels asked if they dug it deeper than the original ditch and both Mr. Brickzin and Mr. Anderson states that yes it is bigger and deeper. Most of the work was completed last fall but the section line road has all the dirt there - nothing has been leveled off. The Brickzin land ponds the water and Gary Anderson tried to move the ditch block but the landowner tried to stop the removal of dirt. Mark Breker looked at the area yesterday and invited Mr. Brickzin and Mr. Anderson to the meeting to discuss the problem. The law allows you to go in and clean out but to make it deeper you have to have a permit. The Brickzin land is in the Drain No. 12 assessment area and he pays 90% assessment. This privately dug drain is in this assessment area also but no jurisdiction for this Board. Chad Engels suggested that Mr. Brickzin apply for a drainage permit and get permission from the Board.

Cari Wefel sent an email to the Board asking whether the Sargent County Water Board opened up the side of the lateral allowing the water to leave the lateral and flow north onto Mary Jo Wohlwend and why. Board members were not aware of this work being done and made a motion to send a letter to Ms. Wefel that this Board did not open the lateral. (White/Breker, unanimous)(**SEE ADDITIONAL COMMENTS IN APRIL 17, 2008 MINUTES.**)

Wes Wiedenmeyer, State Conservation Engineer, USDA-NRCS sent an email to the Board stating that the North Dakota Century Code requirement for an emergency action plan (EAP) is associated with the storage capacity of dams. All dams having a storage capacity of more than 1000 acre feet at the top of the dam meet the criteria established by the state for an EAP. Nelson Dam has a capacity of approximately 500 acre feet while Frenier and Brummond Lubke Dam both have storage capacities exceeding 2000 acre feet and would meet the EAP requirement. NRCS field office staff will participate in the annual O & M inspections for these structures. This assistance will be coordinated through the local filed office. If additional resources are required to address dam safety concerns, NRCS will provide the service of an engineer, as needed.

Drain No. 3 fund balance was reviewed and discussion followed on combining this drain with Richland County Drain No. 11 to form the Richland-Sargent Bi-County Drain. A motion was made to borrow funds from the general fund to zero out the negative balance so the merger can be considered at the next meeting. (Jacobson/White, unanimous)

The ND State Water Commission provided forms to be filled out for Project Information and Cost-Share Planning to assist the SWC staff with updating the State Water Management Plan. A motion made to submit Nelson Dam, Frenier Dam and Brummond-Lubke Dam for repairs at \$200,000 for each dam. (Jacobson/Engst, unanimous)

Motion to adjourn at 12:35 p.m. (White/Breker, unanimous)

JAMES BOSSE - CHAIRMAN

ATTEST:

SHERRY HOSFORD - SECRETARY