

**MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, APRIL 17, 2008 AT 7:00 P.M. IN THE COMMISSIONERS ROOM, SARGENT COUNTY COURTHOUSE, FORMAN, ND**

Managers present: Mark Breker, Richard Engst, Roger White and Jim Bosse. Absent Dan Jacobson. Also present: Keith Saunders, Bruce Speich, Scott Mund, Tom Mund, Dave Breker, Mike Bogart, Todd Bergh, Travis Bergh, Attorney Sean Fredricks and Chad Engels, Eng., Moore, Eng. Inc.

Keith Saunders, Cayuga met with the Board and presented two maps and explained that there is a blockage between Sections 27/28 in Kingston Township. There is an existing 6 inch clay tile in the east side of the road ditch that has collapsed and he is proposing to put in a new larger tile. The water flows into Drain No. 3. After further discussion, the Board agreed to discuss this project with Attorney Fredricks and see if it is necessary to file an application with the State Water Commission. After further discussion with the Board attorney, the Secretary was instructed to send a letter to Mr. Saunders inviting him to the May 15 meeting to bring the following information for the Board to review: 1)written permission from all downstream landowners; 2)decide on size of the new tile and prepare a map with the exact location route of the project;3)written permission from the township to work in the road ditch and 4)be prepared to discuss other issues such as tile entering the drain and possible sloughing.

Approve March 20, 2008 minutes. (Breker/Engst, unanimous)

Approve the March financial statement and the following bills: (Breker/White, unanimous)

58816 James Bosse	Travel	124.20
58817 Mark Breker	Travel	54.90
58818 Richard Engst	Travel	42.30
58820 Ohnstad Twichell	Attorney fees - General-\$500, Kuehn/Mund-\$45,	
Drain No. 4-\$285		830.00
58821 Roger White	Travel	15.30
1913 Mark Breker	4 PD less 25.63 + meals-\$15	309.37
1914 Danny Jacobson	3 PD less 19.51 + meals-\$15	235.49
1915 Sherry Hosford	Sec. salary less taxes	246.27
1916 Richard Engst	4 PD less 25.63 + meals-\$15	309.37
1917 Roger White	5 PD less 31.75 + meals-\$15	383.25
1918 James Bosse	6 PD less 37.87 + meals-\$15	475.13
DD Sargent County Bank	Taxes and withholding	323.71

Gary Thornberg, Havana, Dave Breker, NRCS and Max Fuxa, Ellingson Tile Companies met with the Board to discuss Application to Drain No. 3215. Mr. Thornberg previously asked the Board to table this application. Mr. Thornberg submitted this to the State Water Commission and they have determined this project to not be of either statewide or interdistrict significance. This Board has the responsibility to review this application to drain. Dave Breker stated that there might be some areas that must be mitigated. Todd Bergh has also requested to tile a small area and Dave Breker does not know if there is a wetland in this area but cautioned against doing any work until a wetland determination is completed. If Mr. Bergh converts an obvious wetland, that would be a violation. Todd Bergh arrived to explain his proposed project. He would like to place tile at the end of Gary Thornberg's project to allow the water to flow under the township road and drain an area in the northwest corner of the NE1/4-26-129-55. The area would involve about 11 acres. Mr. Bergh reported there were no wetlands according to the map in 1986 - he does not get a crop on this but there is no surface water and it drains well but is an alkali area that builds up. There are two coulees that come out of the land to be drained. Todd Bergh said he has asked adjacent landowner Charles Anderson to sign a flowage easement and he agreed to sign one and also Gary Thornberg agreed to sign an easement for this project. Board members will discuss with Attorney Fredricks about Mr. Bergh's request. Gary Thornberg contacted the State Engineer's Office to request an amendment to his application to include 80 acres of the SE1/4-23-129-53 in the permit. The Board's Secretary-Treasurer also spoke with the State Engineer's Office about the request to amend. The State Engineer's Office indicated the Board could amend the application, and simply asked that the Board include the additional acreage in its letter of decision it provides to the State Engineer's Office, for their records. Mr. Thornberg previously provided a copy of the flowage easement obtained from Charles and Mary Beth Anderson, record owners of the Southeast Quarter of Section 14. In addition, Mr. Thornberg provided a copy of the written permission obtained from Weber Township for use of its ditches and/or for boring. No public hearing is necessary since Mr. Thornberg has already obtained a downstream flowage easement. The easement addresses adverse impacts downstream. A motion was made to approve Gary Thornberg's Permit No. 3215 to include the additional south 80 acres of the SE1/4-23-129-53 and the original acres - south 80 acres of the NE1/4 and the north 80 acres of the SE1/4 and report these additional 80 acres through a letter to the State Water Commission, contingent upon the conditions attached by the State Engineer's Office, that Mr. Thornberg obtain all other necessary permits and abide by the permission granted by Weber Township Board. (Breker/Engst, unanimous) After further discussion with the Board's attorney, the Board moved to amend Application No. 3215 to include Todd Bergh's 11 acres in the northwest

corner of the NE1/4-26-129-55, subject to all of the conditions attached to the Permit above, and contingent upon the Board's receipt of written permission from Mr. Thornberg to attach to his tile drainage system, written permission from the Weber Township Board to utilize its road ditches and/or to bore if necessary, and written approval from Charles and Mary Beth Anderson. The Board's attorney will notify the State Engineer's Office of the amendment along with Notice of Decision on the Permit. (Breker/White, unanimous)

The Board received Application to Drain No.3253 from Clayton Halmrast. Dave Breker indicated there is one correction about a statement made on the application from Dave Breker. Mr. Breker said he agrees with the elevation of culvert in the highway from elevation shots as long as they got permission from NDDOT and this Board. The culvert can be lowered six inches. The other culvert in Halmrast's Driveway did not get Breker's permission but the landowner said the culvert was rusted out and the culvert was replaced before Mr. Breker could investigate. The application was referred to Attorney Fredricks for review for the Board's next meeting.

Mark Breker reported that he investigated the area on the Drain No. 3 in the southeast corner of the NE1/4-1-129-53 the area of concern by Cari Wefel at the March 2008 meeting. Upon investigation Mark determined that the area of concern was right where the township road ditch and the Board had their contractor clean in 2006. The spoil bank was placed on the south side and it flooded again in 2007 and Titus Excavating Inc. cleaned out the sediment in the township road ditch to the north.

Unfinished Business: The Secretary was instructed to call the ND State Water Commission to inquire on the investigation of seepage control for Silver Lake Dam. Annual Dam inspection was discussed and a date will be selected at the May meeting. Board members received a copy of the "new" Application to Drain with Drain Tile form dated 2/19/08.

Travis Berg, Havana met with the Board to ask permission to drain the west half of Section 19-129-55 along ND State Highway 32. He does not plan to deepen the ditch but plans to clean out the sediment. The Board provided Mr. Bergh with a NDDOT Request for Drainage on Highway Right of Way, and indicated that if his project will include deepening or widening of the ditch, and the watershed area is 80 acres or more, he would need a drainage permit.

The Michael Bogart/Thomas Mund Drainage Complaint has been reviewed and Attorney Fredricks commented on several issues that are stated in the attached memorandum prepared by Mr. Fredricks. The Board concurred with Mr. Fredricks' conclusions contained in his memorandum. The most significant issue before the board is the complaint process under Section 61-32-07 is a mechanism to complain against landowners who are constructing drainage without first obtaining permits. In this case, Mr. Mund did obtain a permit for his tile drainage under permit 3141, he did obtain a permit for proposed tile drainage under Permit 3156, and Mr. Mund has not even constructed the tile drainage at issue under Permit 3156. A motion was made to dismiss Mr. Bogart's complaint based on the conclusions provided by Attorney Fredricks in his memorandum, which is attached. **(A copy attached to these minutes)** (White/Breker. Roll call. Aye: White, Breker, Bosse, Engst. Nay: none. Motion carried.) Attorney Fredricks will provide the Board's Notice of Decision to the parties.

Roger Gibbon, Milnor filed a Request for Drainage on Highway Right of Way to clean a road ditch on the east side of Section 18-132-53 and Craig Speich filed the same form to lower a culvert and clean about one-fourth mile of road ditch in Section 18-132-53. It was noted on Mr. Gibbon's request that this area is a township road ditch and not a state highway road ditch. It was noted that the Water Resource District has no authority over these requests unless the applicant is deepening or widening an existing ditch, and then only if the total drainage basin is 80 acres or more, the applicant must apply for an application to drain. Both requests were received and filed.

Chad Engels, Eng. presented the Board with a proposed re-assessment list for Drain No. 4. He discussed the assessed acres and the work that is needed on some acreage determinations. Chad Engels and Secretary Hosford will work out these problems and he will prepare another list for the Board to review. Chad also presented a map of the Wild Rice Dam Study that Southeast Cass and Richland County are pursuing.

The Board received an Application to Drain with Drain Tile from Joseph C. Breker, Havana and Gerald W. Woytassek for tile in the SW1/4-6-129-54 LTL. The State Engineer's Office has assigned #3268 to this application and determined that it does not involve drainage of state-wide or inter-district significance. Attorney Fredricks and Chad Engels, Eng. will review this application for the May meeting.

Meeting adjourned at 11:15 p.m.

---

JAMES BOSSE - CHAIRMAN

ATTEST:

---

SHERRY HOSFORD - SECRETARY