

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, APRIL 17, 2014 AT 7:00 P.M., IN THE COMMISSIONERS ROOM, SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA

Managers present: Jim Bosse, Luke Siemieniewski and Richard Engst. Absent: Chris McFarland and Roger Zetocha. Also present: Al Carton, Forman, Attorney Sean Fredricks, Chris Gross, Engineer, Brian and Cole Vculek, Crete and James and Scott Mahrer, Forman.

Approve the March 20, 2014 minutes and March financial statement. (Engst/Siemieniewski, unanimous)

Motion to approve payment of the following bills: (Engst/Siemieniewski, unanimous)

69351 James Bosse	Travel	109.76	
69352 Richard Engst	Travel	394.24	
69353 Moore Engineering, Inc.	Frenier Dam-\$274.70; Dr # 11-\$149.70; Dr # 7-\$5645.20; Permits – Farrar-\$768.70; EB Farms # 1-\$268.25, EB Farms SE1/4-5-\$268.25, H Klefstad-\$62.50, T Mund-\$135.00, Doug Harris-\$187.50, Gary Thornberg-\$62.50, Mahrer/Ellefson Complaint-\$413.25, Greg Nelson-\$135.00 = 2,300.95	Total	8370.55
69354 ND Dept of Emergency Services	Drain No. 7 2009 FEMA Repayment	2456.85	
69355 Ohnstad Twichell	General-290.00; Mahrer/Ellefson	-\$846.55;	Gary
Thornberg-\$348.30, T Mund-\$390.60, Doug Harris - \$327.82; Farrar - \$310.00, H Klefstad-\$264.40, Gladys Shockman-\$14.96, Frenier Dam-\$2575.25	Total	\$5367.88	
69356 Lucas Siemieniewski	Travel	122.08	
9502 Sherry Hosford	Salary less 24.22 taxes		292.45
9503 Richard Engst	9 PD plus 4 meals less 131.61 taxes	990.39	
9504 Jim Bosse	6 PD plus 2 meals less 60.36 taxes	680.64	
9505 Lucas Siemieniewski	4 PD plus 2 meals less 38.32 taxes	462.68	
DD Sargent County Bank	Withholding taxes	461.14	

**2015-2017 PROJECT INFORMATION AND PLANNING FORM:** Chris Gross reviewed the documents for submission to the ND State Water Commission which includes: Drain No. 7, 8, 11, 12, Channel Improvement Projects, Rural Flood Control Projects for Drain No. 11 and 12 and Dam Repair Projects for Nelson Dam and Brummond-Lubke Dam. Cost share requests have been included with the request for the above projects.

**BRUMMOND-LUBKE DAM REPAIRS:** Discussed necessary repairs to the drawn down intake on Brummond-Lubke Dam that the Board observed during the 2013 summer dam inspection. Chris Gross informed the Board that repairs would cost around \$13,500 and Nelson Dam also has a similar problem that needs to be repaired. Authorize Chris Gross to contact Tom Jones, NRCS to discuss the design and necessary repairs to the two dams and report back to the Board in May.

**TOM MUND PERMIT:** Tom Mund and Scott Mund were present to discuss Permit No. 4007. Sean Fredricks explained the Board approved the project originally for underground pipeline; Mr. Mund later contacted the Board and requested an amendment to allow surface ditching instead of underground pipeline; the Board reviewed the request and ultimately amended Permit No. 4007 with conditions, including downstream easements from landowners who would be adversely impacted. The Board provided a Notice of Decision regarding the amended permit and Mr. Mund later contacted the Board to request another amendment to again permit him to utilize underground pipeline. Mr. Mund voiced his disapproval of the easement requirements. Mr. Gross explained the impacts to downstream landowners as a result of the surface ditching project. Mr. Fredricks explained that, to the extent Mr. Mund wished to again utilize underground pipeline, he will have to apply for a new permit. Mr. Fredricks advised the Board not to simply amend the permit once again to allow underground pipeline simply to afford Mr. Mund an opportunity to avoid downstream easement requirements. Further, from a legal and administrative perspective, Mr. Fredricks was concerned the multiple amendments may be confusing for other parties of record, and he advised the Board to require a new application as required by the Administrative Code. The Board agreed and directed Sean Fredricks to send a letter to Mr. Mund requiring him to submit a new application to the extent that he wishes permission to utilize underground pipeline for his project in the West Half of Section 28 of Willey Township.

**DRAIN NO. 11 ANALYSIS AND PROPOSAL:** Chris Gross presented a proposal for providing engineering consulting services to the Board on Drain No. 11 to include four parts: Part 1 – Survey Data Collection-estimated cost=\$14,000; Part 2 – Hydrologic Analysis – estimated cost = \$7,000; Part 3 – Channel and Crossing Hydraulics - estimated cost = \$7,000; and Part 4 – CADD Drafting (Existing drain plan view, profile, crossings, and channel sections) – estimated cost = \$7,000 for a total estimated cost of \$35,000. Motion to approve all phases of the Drain No. 11 Analysis Proposal. (Engst/Siemieniewski, unanimous)

**DRAIN NO. 7 CROSSING IMPROVEMENTS AT 7<sup>TH</sup> AVENUE AND MAIN STREET (CR 10):** Board members present discussed the project on Drain No. 7 and made a motion to authorize Moore Engineering, Inc. to proceed with plans and specifications and advertise for bids for the project contingent on the Sargent County

Commission approval of the project. (Engst/Siemieniewski, unanimous) Two of the Board members will meet with the county commissioners on May 6<sup>th</sup> to discuss the county's portion of the project. The Board agreed no Joint Powers Agreement would be necessary.

**DON KIEFER AND ROBERT LEE:** Mr. Kiefer and Mr. Lee arrived at the meeting to discuss the elevation of the Dana Banish drain and operation of his pump system. Sean Fredricks explained to those in attendance that the elevation is set at 1164.8 feet. Under the conditions of his permit, Mr. Banish may not operate the pump below elevation 1,164.8 when the water in the Drain 12 lateral is outside of its channel. Another condition to his permit required Mr. Banish to install an elevation marker visible from County Road 12 that clearly designates elevation 1,164.80; he has done that and the parties agreed the marker is helpful.

**BRIAN AND COLE VCULEK:** Brian asked questions about his permit regarding the time frame for pumping; under his amended Tile Permit 3656, Mr. Vculek may not operate his pump from December 1 of each year until at least ten days after the spring runoff flood crest at the USGS flood gage in Mantador. Both Attorney Fredricks and Engineer Gross explained to Mr. Vculek that these are standard conditions that apply to all permits and the Board would more than likely not consider any exceptions. The Board agreed the condition is necessary.

**MAHRER/ELLEFSON COMPLAINT:** Colin Stockstad, David Lunneborg and Trevor Stockstad, Shuman Township; Ed Erickson, Jr., Milnor and Loren Ellefson, Milnor arrived at the meeting. Sean Fredricks, Attorney for the Board informed all those present of the complaint filed and the decision made by this Board on the Ellefson draining project and the conditions to Mr. Ellefson's Surface Drain Permit No. 4237. The Board recently provided a NOTICE OF DECISION to the parties of record regarding Mr. Mahrer's complaint; in it, the Board concluded the Project was an unpermitted surface drain in violation of NDCC 61-32-03 and 61-32-07 since Mr. Ellefson had not satisfied the conditions of his permit, and ordered Mr. Ellefson to close or fill the drain. However, the Board also indicated it would not take action regarding the closure or filling of the drain if Mr. Ellefson did not operate the pump, to afford the parties sufficient opportunity to resolve the matter amicably. Colin Stockstad explained to the Board a project that was completed with FEMA funding to fix a township roadway that was underwater and, according to Mr. Stockstad, FEMA suggested installing a pipe to meter the water to the county road, which was supposed to be built up. James Mahrer commented that the land is so flat and the Mahrer's proposed an alternate route for the water to flow through Edwin Erickson, Jr. land in the SW1/4-8-131-54. Mr. Erickson replied that he is working on a Surface Drain Application for a drainage project and also a dam permit which may help solve this problem; the plan under his application will route the water a different direction and will not include any drainage over Mr. Mahrer's property. The Board agreed to refrain from procuring a contractor to close or fill all of the drainage constructed by Mr. Ellefson to allow the parties additional opportunity to arrive at a mutually-acceptable resolution. The Board will await Mr. Erickson's surface application from the State Water Commission; Mr. Ellefson agreed he will not operate his pump.

**DOUGLAS HARRIS PERMIT:** Jay Harris met with the Board to ask what makes his application of "statewide significance". Attorney Fredricks explained the criteria under the Administrative Code regarding "statewide significance" findings, including impact to recognized Fish and Wildlife values, as well as draining of sloughs that render previously non-contributing areas as contributing areas. Mr. Fredricks and Mr. Gross further explained their multiple interactions with the State Engineer's Office and the Attorney General's Office that triggered the statewide significance finding. Mr. Harris indicated they do not plan to proceed with their proposed project as a result.

**HEAD OF THE MOUNTAIN NATURE PRESERVE:** Trace Hanson, Soil Conservation Service and Joe and Jeff Breker, Havana met with the Board with some suggestions regarding the Nature Preserve near Frenier Dam in Tewaukon Township. The suggestions made were to: identify cooperators and funds/sponsors; grass and forbs management; possible hiking trails (signage); possible geocaching; species identification (grass, forbs, trees, wildlife); possible water recreation and rehabilitation and retention; primitive camping (outhouse); outdoor classrooms; what are other ND State Park functions; does foot traffic allow horses; who would manage additional activities. The Board informed those present of a lease and management agreement that is in force with the ND Parks and Recreation and also the annual meeting that is conducted with that department and this Board. It was agreed that when the annual meeting is scheduled that the Board will invite Ms. Hanson and the Breker's to that meeting to inquire about these activities.

**LOREN DAVID APPLICATION TO INSTALL A SUBSURFACE DRAIN:** Board members, Attorney Fredricks and Engineer Gross reviewed the application but due to the lateness of receipt of the application it was tabled until the May meeting.

**OPEN MEETING ISSUES:** Attorney Fredricks reviewed Open Meetings requirements, including the Attorney General's opinions that manager and board member emails amongst each other qualify as "meetings" subject to open meetings statutes. Emails between a quorum of board members constitutes a "meeting" and must be posted as such. Mr. Fredricks advised board members to refrain from sending any emails to each other, and he further explained manager interactions that might constitute meetings.

Meeting adjourn at 10:45 p.m.

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JAMES BOSSE – VICE-CHAIRMAN

ATTEST:

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SHERRY HOSFORD - SECRETARY