

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD  
HELD ON THURSDAY, APRIL 19, 2012 AT 7:00 P.M., IN THE COMMISSIONERS ROOM,  
SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA

Managers present: Jim Bosse, Mark Breker, Richard Engst, and Roger White. Absent: Chris McFarland. Also present: Chad Engels, Moore Engineering, Inc.; Sean Fredricks, Ohnstad Twichell, P.C.; Tom Jones, NRCS; Mark Bopp, Mayor, Forman City; Richard Ruch, Cogswell and Al Carton, Forman.

Approve March 15, 2012 minutes and March financial statement. (Engst/White, unanimous).

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

65802	Ryan Contracting Co.	Forman Floodwater Project-Dr \$ 4	22,800.00
65881	James Bosse	Travel	47.54
65882	Mark Breker	Travel	67.41
65883	Richard Engst	Travel	160.35
65884	Garrett Hayen	Beaver removal – Dr # 11	100.00
65885	Ohnstad Twichell	Attorney fees-\$2632.51 and Dr # 4 480.00	= \$3112.51
65886	Red River Basin Commission	2012 allocation	960.00
65887	Roger White	Travel	184.10
7004	Mark Breker	4 PD less 27.12 taxes	452.88
7005	Sherry Hosford	Salary less 17.89 taxes	298.78
7006	Richard Engst	6 PD less 45.18 taxes	674.82
7007	Roger White	2 PD less 13.56 taxes	226.44
7008	Jim Bosse	4 PD less 27.12 taxes	452.88
DD	Sargent County Bank	Withholding taxes	303.24

Discussed briefly items under unfinished business with no Board action taken.

**Application to Install a Subsurface Drain for Kevin Willprecht in Section 13 in Ransom Township - Amendment**

The Board previously approved *Application to Install a Subsurface Drain* dated August 15, 2011, for Kevin Willprecht; under the original approved permit, Applicant sought approval to install a drain tile system in the North Half of the Northwest Quarter of Section 13 of Ransom Township. The Board provided notice of its decision by letter dated September 23, 2011. Recently, Mr. Willprecht requested permission to amend his permit to add an additional 80 acres in the Northeast Quarter and the north 22 acres of the South Half of Section 13. The project will include a gravity outlet that will discharge directly into a natural watercourse on the Applicant's property. Originally, Applicant contemplated an outlet into NDDOT right of way, but Applicant indicated the project will only include the gravity outlet in the natural watercourse on Section 13. The additional acreage will simply contribute to the existing project tile discharge.

The Board concluded the requested amendment does not propose drainage of statewide significance, so the Board has jurisdiction to approve the permit (without forwarding to the State Engineer's Office to consider and approve). Further, the Board concluded Applicant must obtain either easements or some other form of written permission (easements will provide better protection for Applicant) from the owners of the 80 acres in the Northeast Quarter and the north 22 acres of the South Half of Section 13 where Applicant intends to install the tile system. The project will include the same components, but will simply add the additional 102 acres of tiled acreage.

According to records on file with the Sargent County Recorder's office, Arlen and Janet Willprecht are the record owners of the North Half of the Northwest Quarter of Section 13, and the portion of the Northeast Quarter of Section 13 north of the railroad right of way where Applicant seeks to install the tile system; Kevin Willprecht is purchasing the property in the North Half of Section 13 from Arlen and Janet Willprecht under a Contract for Deed. With regard to the property in the South Half of Section 13 where Applicant seeks to install the tile system, ownership is split between Lillian Bodding (life estate); Rebecca Ann Bodding; Christopher Norton, Max Norton, Angela Norton, and Bretta Norton; and Andrew and Mathew Woltjer.

It was moved by Manager Engst and seconded by Manager White to approve an amendment to *Application to Install a Subsurface Drain* dated August 15, 2011, for Kevin Willprecht in the North Half of the Northwest Quarter of Section 13; 80 acres in the Northwest Quarter of Section 13; and 22 acres in the North Half of the South Half of Section 13 of Ransom Township, Sargent County, North Dakota, subject to the following conditions:

- 1) That Applicant obtain written permission from Arlen and Janet Willprecht to construct the tile system on the North Half of the Northwest Quarter of Section 13;

2) That Applicant obtain easements or written permission, to install and maintain the tile system, from the owners of the 80 acres in the Northwest Quarter of Section 13 and the 22 acres in the North Half of the South Half of Section 13 of Ransom Township, where Applicant intends to install the tile system;

3) That Applicant otherwise obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;

4) That Applicant notify the Sargent County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets; and

5) 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.

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

The Board previously approved Application to Drain with Drain Tile #3756 for Mr. Gary Thornberg. The Board provided notice of its decision by letter dated April 6, 2011. Recently, Mr. Thornberg requested permission to amend his permit to include a second outlet directly into the Tewaukon Watershed Ditch, a facility owned and operated by the Sargent County Water Resource District. Applicant will retain his original outlet in the Northeast Quarter, but will add his second outlet via buried pipe in the Southeast Quarter of the Southeast Quarter of Section 15 of Weber Township and a small corner of the Southwest Quarter of Section 14 of Weber Township; the buried pipe will ultimately discharge into the Tewaukon Watershed Ditch. Applicant also intends to clean out approximately 1,000 feet in the Tewaukon Watershed Ditch to accommodate the tile discharge. The new outlet will ultimately accommodate tile discharge from the North Half of the Northwest Quarter of Section 23.

The Board was concerned about silt build up on the Tewaukon ditch and about erosion in the ditch. The Board will require applicant to install and maintain adequate erosion protection to protect the ditch.

The Board approved Permit No. 3756 under the old permitting system; to the extent applicant wished to submit a new application for this additional outlet, applicant could potentially qualify for approval under the new permitting system. With that in mind, the Board followed the new permitting process under N.D.C.C. § 61-32-03.1 to consider, and ultimately approve, applicant's request for an amendment.

According to records on file with the Sargent County Recorder's Office, Gerald and Patricia Woytassek own the Southeast Quarter of Section 15, and Mary Beth Anderson owns the Southwest Quarter of Section 15. The Board will require applicant to obtain easements from those land owners to install and maintain buried pipe on their parcels to convey tile discharge to the Tewaukon Watershed Ditch.

Because the project will discharge from the buried pipe into a legal facility owned and operated by the Water Resource District, no 30-day notice was necessary to downstream land owners. Manager Breker, seconded by Manager Engst, moved to approve an amendment to Application to Drain with Drain Tile No. 3756 for applicant Gary Thornberg, subject to the conditions attached to the original permit, and subject to the following conditions:

- 1) that applicant obtain and record (with the Sargent County Recorder's Office) easements (and not just written consents) to permit installation and maintenance of underground pipeline to convey tile discharge from the owners of the following parcels in Weber Township, Sargent County, North Dakota:
  - a. Southeast Quarter of the Southeast Quarter of Section 15, Weber Township, 129-55; and
  - b. The Southwest Quarter of the Southwest Quarter of Section 14, Weber Township, 129-55;
- 2) that applicant provide and maintain adequate erosion protection at any and all outlets into the Tewaukon Watershed Ditch (applicant is solely responsible for any damages to the Tewaukon Watershed Ditch as a result of the project).

Upon roll call vote, the motion carried unanimously.

Charles and Jon Anderson, Havana met with the Board to explain a tile project they are anticipating. The Anderson's were given a Subsurface Application to complete and return to the Board. Said project is located in the SW1/4-14 of Weber Township.

Motion to instruct the attorney and engineer to begin acquiring right of way for the next phase of Drain No. 4 east of Forman. The total acres needed would be 9.00 for permanent and 3.34 for temporary. The Board agreed to offer \$3,000 per acre by deed to purchase the right of way and \$300 per acre for temporary easements during construction. (Breker/Engst, unanimous. Roll call vote: Aye: Breker, Engst, Bosse, White. Nay: None. Absent: McFarland. Motion carried) Deed searches will be conducted and purchase agreements prepared and sent to the landowners for signatures.

Discussed the Drain # 4 project including the railroad where the water flows under the railroad between Section 5-130-55 and Section 32-131-55. Motion to authorize Chad Engels, Moore Engineering, Inc. to prepare an engineer's report of the railroad crossings to determine if the existing crossing is adequate for the new project. (Engst/White, unanimous)

Jim Bosse presented a map of a proposed new assessment area for Drain No. 9 that was reviewed by the Brampton Township Board. Chad Engels stated that it would cost about \$7500 to do a reassessment of this drain. Jim and Sherry will compare the map prepared by Brampton Township with the current Drain No. 9 and also Drain No. 11 maps to see what areas might be pulled into the assessment area. Land that does not drain into Drain No. 9 but drains to the south into South Dakota will also be marked for removal consideration from the drain.

Discussion was held on the proposed Operation and Maintenance Agreement for Sargent County Drain # 4 also known as the Forman Floodwater Outlet Project. Board members and Mayor Bopp discussed possible changes to the draft and Chad Engels will make those changes and present the agreement for approval at the May meeting.

Chad Engels informed the Board that he is preparing the Water Development Report for 2013-2015 for this Board and will have it submitted by the April 30, 2012 deadline.

The used tile that was removed from Drain # 4 was discussed next and Board members agreed after much discussion that an advertisement should be placed in the paper for any interested people to place a bid to the Board to purchase all of the tile. The Board will review bids at the May 17 meeting and removal of the tile must be completed within 30 days.

A drainage complaint from Robert Lee, Denny Pherson and Don Kiefer was reviewed. The complaint states that a dike was built by Mike Paczkowski in the NW1/4 of NW1/4-7-129-53-LTL and is resulting in flooding of land owned by Kiefer and Lee and crop losses and lower insurance coverage the following year. There is no existing dike permit on file at the State Water Commission Office. Sean and Chad will inspect the site and Mark will ask the complainants if they know the date that the dike was installed.

Discussed options to drain water from Section 1-130-56 (Forman Township) and Attorney Fredricks noted that upon his research he found wildlife easements in the W1/2 of Section 1-130-56 in favor of the US Fish and Wildlife significantly limiting any drainage activities. In fact, the easement completely prohibits any draining or permitting the drainage of any surface water by ditching or any other means. The Board directed Attorney Fredricks to send a letter to Steve McLaen and Arlen Hanson with his findings.

Board members along with Chad Engels and Sean Fredricks reviewed a letter from Vogel Law Firm who has been retained by Rick A Hoistad, Forman to assist with some drainage and damage concerns pertaining to Mr. Hoistad's property located in Section 6 of Rutland Township and the Forman Floodwater Outlet Project. Several allegations were listed in the letter and a response letter to the Vogel Law Firm will be prepared by Attorney Fredricks.

The Board reviewed information from the State Engineer's office regarding a dike/dam permit for Bruce Speich, Milnor, ND. Sean Fredricks and Chad Engels explained that the State Engineer's office ultimately approves or denies these permit forms, but that the Sargent County Board could certainly submit comments for the State Engineer's consideration if they were inclined. The Board had no comments on this permit.

Motion to approve a Cost Share Agreement between Red River Joint Water Resource District (RRJWD) and Sargent County Water Resource District for the next phase of the Shortfoot Creek Study. RRJWD has approved cost share of \$30,875 for said project. Motion to authorize the Chairman and the Secretary to sign this agreement. (Breker/Engst, unanimous)

Wallace Johnson met with the Board to express his displeasure with the maintenance assessment that he is paying on Milnor # 7 specifically in the SW1/4-12-132-54. Mr. Johnson shared pictures of his land and Richard Engst informed Mr. Johnson that he has been visiting with NDDOT about a larger culvert under ND # 13. Chad Engels agreed to contact Troy Gilbertson with NDDOT about this problem.

Mark reported that Bohnenkamp Construction has agreed to level the spoil bank in the Tewaukon Watershed.

Richard informed the Board that Tri-County Drain is working on a new reassessment of the area which intends to bring in an additional 18,565 new acres for a total of 85,000. Public hearings are being scheduled.

The annual dam inspection is scheduled for June 7<sup>th</sup> at 8:00 a.m.

Meeting adjourned.

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JAMES BOSSE – VICE-CHAIRMAN

ATTEST:

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SHERRY HOSFORD - SECRETARY