

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, APRIL 19, 2018, AT 9:25 A.M., IN THE COMMISSIONERS ROOM, SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA

Managers present: Lucas Siemieniewski, Roger Zetocha, and Todd Stein. Absent: Korey Martinson and Bruce Speich Also present: Sean Fredricks, Attorney for the Board; Josh Hassell, Engineer for the Board; and the following landowners: Brian Vculek, Robert Banderet, and Paul Mathews.

**SOIL CONSERVATION DISTRICT:** Brandon Laddusaw, Wild Rice Soil Conservation District met with the board to discuss the prospect of partnering once again in 2018 with summer youth. In the past 200 hours have been allowed at \$20/hour plus supplies for summer work on the drains and dams. Manager Stein moved to approve 200 hours for summer youth to work in 2018. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Zetocha moved to approve the Board's minutes from March 15 and 23, 2018, and the March financial report. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Stein moved to approve payment of the following bills:

76874 Moore Engineering, Inc. General-725.45; Rasmussen, Heimbuch and Seyer applications-585.00; Shortfoot Creek Study-\$28,896.40; Dr#4-Hoistad -\$75.00; Dr#11-DMWRW RR discussion-\$170.00;  
= TOTAL

\$30,451.85

76875 Ohnstad Twichell	General-\$810.00; Shortfoot Creek Study-\$190.00; Gibbon/Koeppe-\$261.00; Dr#11-Mathews litigation-\$667.60; Bernie Vculek permit-\$226.89 = TOTAL	\$2,155.49
76876 Richland County WTB	Administration for RS#1	\$1,173.63
76877 Luke Siemieniewski	Travel	35.97
76878 Todd Stein	Travel	121.54
76879 Roger Zetocha	Travel	119.90
14840 Sherry Hosford	Salary less taxes 507.05	1692.95
14841 Roger Zetocha	Per Diem less 54.89 taxes	425.11
14842 Lucas Siemieniewski	Per Diem less 36.72 taxes	443.28
14843 Todd Stein	Per Diem less 45.90 taxes	554.10
DD Sargent County Bank	Withholding taxes	936.60

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

**TRANSFER OF FUNDS:** Manager Zetocha moved to authorize transfer of funds from Dr#2 to the General Fund to repay amount due of \$8,954.75 and transfer from Dr# 7 to Dr#7 I&S Fund to cover bond payments made in March the amount of \$107,611.46. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

**CD RENEWAL:** Manager Zetocha moved to approve renewal of CD #14417 for one year. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

**MAHRER/ELLEFSON COMPLAINT:** Conditions have not changed; the Board will keep this matter on its agenda.

**DRAIN NO. 4:** Josh Hassel indicated Moore will search the Dr#4 records regarding right of way on the area of drain that has been assessed a special assessment from Forman City and report back to the board with his findings.

**DRAIN 11 CLEANOUT WORK:** Josh Hassell reported that MEI has been in contact with DMVW and CP RR and they would like to have a meeting to discuss any future proposals for the railroad. MEI will schedule the meeting and let the board know so that someone can attend. Todd reported that Helwig Excavating, Inc., is available to remove silt and trees from the southwest branch of Drain No. 11. Manager Zetocha moved to allocate up to \$35,000 for maintenance of the southwest branch and hire Helwig Excavating, Inc., (a licensed contractor) to complete the work. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously. Regarding culverts on the north portion of the drain, Roger was unable to get out to check and will look when conditions allow.

**RICHLAND-SARGENT DRAIN NO. 1:** The Richland-Sargent Joint Water Resource District's Secretary-Treasurer, Monica Zentgraf, forwarded a copy of a bill for the Board's consideration from Interstate Engineering in the amount of \$14,825.96. Manager Stein moved to approve the bills. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously.

**SARGENT COUNTY HISTORICAL SOCIETY REQUEST FOR DRAINAGE ON HIGHWAY RIGHT**

**OF WAY:** The Sargent County Historical Society applied to NDDOT for approval to clean-out Highway 32 right of way adjacent to the Historical Society's museum at 8987 Highway 32. NDDOT forwarded the Historical Society's REQUEST FOR DRAINAGE ON HIGHWAY RIGHT OF WAY (NDDOT's application form) to the Board for consideration and approval. Also drainage improvements between the museum buildings. The Historical Society plans to use a pipe between the buildings or an open ditch to connect a drain that was previously installed. Sean Fredricks explained NDDOT requires WRD approval to comply with federal DOT rules, and that the Board's "approval" should be a qualified approval that includes a cover letter to NDDOT and the Historical Society that explains the Historical Society may also need to obtain a surface drainage permit if their activities meet the criteria under N.D. Cent. Code §61-32-03, the state surface drainage permitting statute. Manager Zetocha moved to approve the request and to direct the Secretary-Treasurer to send a cover letter to NDDOT and the Historical Society that outlines the Historical Society's obligation to also obtain a surface permit if their activities meet the permitting criteria. The motion was seconded by Manager Stein. Upon roll call vote, the motion carried unanimously.

**AMENDMENT I TO THE AGREEMENT FOR COST-SHARE REIMBURSEMENT ON GWINNER**

**DAM BREACH:** The State Water Commission notified the board that the agreement for cost-share on the Gwinner Dam has been amended from \$31,125 to \$44,364. Manager Stein moved to authorize the chairman to sign the amendment. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously. The amendment was due to an overrun on the dam breach and will offset additional costs to the board.

**OTHER CORRESPONDENCE:**

Sean updated board members on a proposed revision to State Water Commission cost-share policy to have separate Project Priorities Guidance for 1) Water supply; 2) Flood control and 3) General Water Management and Irrigation. He also spoke on the 2019 Red River Joint Water Resource District 2019 budget and the request for 1.5 mills (as opposed to the maximum 2 mills). A new Surface Drain Application has been adopted by the State Engineer's Office and provided to the various boards for future surface drain application permits. Board members also were informed that TransCanada will be conducting routine cathodic protection surveys over Keystone Pipeline rights of way on or near our property in April 2018 and ending in June 2018.

**UPDATE ON RS#1 RECONSTRUCTION OF RICHLAND AND SARGENT DRAIN NO. 1 (PHASE 2):**

Mike Bassingthwaite provided an update on Phase 2 and appears that JAV Construction has the low bid at just under \$680,000. He has been in contact with landowners and working on right of way discussions. He's still waiting to hear back from the SD Department of Transportation Railroad before the board awards the project as they are reviewing the bids for their portion of the project.

**SHORT FOOT CREEK:**

Josh Hassell presented a paper from Duerr West Township and landowners in Richland County with signatures of 3 township supervisors and 4 landowners stating that they express opposition to any and all planning and executing of channeling, diverting, or impounding water of proposals of Shortfoot Creek Watershed RCPP as it would pertain, or include, lands that fall within the borders of Duerr West Township in Richland County. Josh assured the board that he and others working on the Shortfoot Creek project are continuing with other options and locations that have been discussed.

**BRIAN VCULEK PUMPING RESTRICTIONS ON DRAINAGE PERMITS:**

Brian Vculek met with the board to ask clarification on permits which he has received in the past, specifically those with pumping restrictions. Board members and Sean discussed the new tile law that only allows pump operations restrictions on subsurface drainage permits that require applicants to close their gravity projects or to turn off their pumps when flood conditions are occurring downstream. Under the old tile law, the Board included conditions that required applicants to turn off their pumps from December 1 of each year until at least 10 days after the spring flood crest. Brian provided a list of permits which he is requesting removal of that restriction. After further discussion, the board agreed to table his request until next month to give Sean time to review ALL permits with this pumping restriction so the board can review prior to their decision.

**AMENDMENT FOR SURFACE DRAIN NO. 4720:**

1The Board originally approved APPLICATION FOR SURFACE DRAIN No. 4720 for Bernard Vculek at its meeting on July 16, 2015. The Board notified the parties of record in a NOTICE OF DECISION dated July 27, 2015. The Board later amended its original decision in an AMENDED NOTICE OF DECISION dated July 30, 2015. The Board later granted Applicant a one-year extension at its meeting on May 18, 2017, and notified all of the parties of record in a NOTICE OF EXTENSION dated May 26, 2017. Brian Vculek was present to explain that Applicant has modified the plans for the surface drainage project and offered a project map, along with a map of the original plan as permitted by the Board, for the Board's review. The Board reviewed the plan and noted the changes are minor and will not trigger any additional impacts to any other parties.

As noted in the project plan submitted by Mr. Vculek, the surface ditches will drain surface water in the South Half of Section 13 and will outlet via a pump station located in the Southwest Quarter of Section 13. The pump

station will lift and discharge the surface drainage through a 36-inch underground pipeline that will run west along a portion of the Southwest Quarter of Section 13; Applicant intends to cut through the north-south township road along the Section 13/14 section line for purposes of installing and maintaining the pipeline; the pipeline will daylight on the west side of the township road right of way, in the Southeast Quarter of Section 14; from there, the underground pipeline will run diagonally across the Southeast Quarter of Section 13 to the southwest to approximately the quarter line along the south boundary of the Southeast Quarter of Section 14; from there, the underground pipeline will run west in the township road right of way along the north road ditch of the township road that runs east-west, along the Section 14/23 section line; the pipeline will daylight along the south boundary in the southeast corner of the Southwest Quarter of Section 14; from there, the drainage will flow west until reaching Sargent County Drain No. 11. The surface ditching in the South Half of Section 13 will include 15,500 feet of surface ditches, all with a bottom width of 10 feet maximum; 3:1 side slopes; and a maximum cut of 11 feet. The project plan will otherwise drain surface water in the South Half of Section 13 and will outlet via a pump station located in the Southwest Quarter of Section 13.

Manager Stein moved, and Manager Zetocha seconded the motion, to amend the Board's approval of APPLICATION FOR SURFACE DRAIN NO. 4720 for Bernard Vculek to permit the modified project plan, with all of the same conditions originally attached to the permit, as follows:

- 1) 2That Applicant obtain and record (with the Sargent County Recorder's office) an easement (and not just written consent) from the owners of the Southwest Quarter of Section 13 in Denver Township, Sargent County, North Dakota, for purposes of constructing, operating, and maintaining surface ditches;
- 2) 3That Applicant obtain and record (with the Sargent County Recorder's office) easements (and not just written consents) from the owners of the Southwest Quarter of Section 13 and the South Half of Section 14 in Denver Township, Sargent County, North Dakota, for purposes of installing, constructing, operating, and maintaining an underground pipeline, but only upon those portions of the properties where Applicant installs and maintains the underground pipeline;
- 3) That Applicant will not construct or improve the surface ditches in any manner that exceeds the dimensions indicated in the application, including surface drain length of 15,500 feet; a 10-foot bottom width; 4:1 side slopes; and a maximum cut of 11 feet;
- 4) That Applicant obtain an easement from the owner of any land, besides land owned by Applicant, on which Applicant will construct the drain; and
- 5) That Applicant obtain written permission from the Denver Township Board of Township Supervisors to bore through its township road and to install, construct, operate, and maintain underground pipeline within its township road right of way;
- 6) That Applicant 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, submit an additional permit application; and
- 7) 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. The Board directed Sean Fredricks to prepare the request NOTICE OF DECISION and to notify the State Engineer's office and other parties of record.

---

LUCAS SIEMIENIEWSKI, CHAIR

ATTEST:

---

SHERRY HOSFORD-SECRETARY-TREASURER