

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, MAY 16, 2013 AT 7:00 P.M., IN THE COMMISSIONERS ROOM, SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA

Managers present: Chris McFarland, Jim Bosse, and Richard Engst. Absent: Mark Breker, Also present: Chad Engels, Moore Engineering, Inc.; Sean Fredricks, Ohnstad Twichell.

Approve April 18, 2013 minutes and April financial statement. (Bosse/ Engst, unanimous)

Approve payment of the following bills: (Engst/Bosse, unanimous)

67649 James Bosse	Travel	38.42
67650 Central Station	Flowers/Roger White funeral	75.00
67651 Dakota Improvement Inc.	Dr # 11 north of Brampton	537.50
67652 Richard Engst	Travel	96.05
67653 Moore Eng, Inc.	Frenier Dam-\$17,474.80; David Hassebroek Permit-\$135.00; Dr 4-Hoistad Dispute-\$5,240.00; Dr 8-Reconstruction Study-\$795.00; Dr 11-Assessment List Updates-\$270.00 = \$23,914.80	
67654 Leif Nelson	Beaver removal-Tewaukon Watershed	50.00
67655 Ohnstad Twichell	Shortfoot Creek-\$897.00; Dr No. 4-Hoistad Eminent Domain-\$208.00; General - \$1341.70; Dana Banish Permit-\$706.00; David Hassebroek Permit - \$213.00 = \$3,365.70	
67656 SC Teller	Frenier Dam Bid notice	195.91
8350 Sherry Hosford	Salary less 24.22 taxes	292.45
8351 Richard Engst	3 PD less 27.54 taxes	332.46
8352 Jim Bosse	3 PD less 27.54 taxes	332.46
8353 Chris McFarland	1 PD less 9.18 taxes	110.82
DD Sargent County Bank	Withholding taxes	177.59

FRENIER DAM: Sean Fredricks, Attorney reported to the Board that Brian Neugubauer from the Ohnstad Twichell Office is working on a grant anticipation bond for the Frenier repairs. Sean will have more information at the June meeting. Chad Engels reported that the Pre-construction conference was held with Comstock Construction, Inc., Wahpeton, ND and they project starting the Frenier Dam Improvements in three weeks. Authorize the Chairman to sign the construction contracts for the Frenier Dam Repairs. (Engst/Bosse, unanimous)

SHORTFOOT CREEK: Chad Engels provided an update on the soil borings and reported that one of the parties in the footprint is against this project completely and will not allow the soil borings on their land. Another landowner has not returned any of the calls to him from the engineers so at this point only Fred Halverson is willing to cooperate. After a lengthy discussion Chad did not recommend proceeding with the borings on only one piece of land. The Board concluded that they do not want to condemn any land to proceed with the project. The Shortfoot Creek Dam Retention Project was tabled.

APPLICATION FOR SURFACE DRAIN NO. 4170 for Roger Zetocha in the East Half of Section 30 of Vivian Township

The Board reviewed information from the State Engineer regarding APPLICATION FOR SURFACE DRAIN No. 4170 for Applicant Roger Zetocha. Under the application, Applicant seeks to construct a new surface drain in a portion of the Southwest Quarter of Section 20, a portion of the Southeast Quarter of Section 19, and in the East Half of Section 30 of Vivian Township. The purpose of the project is to construct a drain just outside of township road right of way along the north-south township road between Sections 19 and 20 and Sections 30 and 29, for safety purposes and to protect the township road right of way. The permitted drain will include channel improvements just east of the township road right of way and running north to south in the Southwest Quarter of Section 20; the water from the Southwest Quarter of Section 20 will flow through two existing culverts in the township road into the Southeast Quarter of Section 19. From there, the flow will continue in channel improvements in the Southeast Quarter of Section 19, just west of the township road right of way, in a channel running north to south. From there, the flow will travel through an existing culvert through North Dakota State Highway 13; the project will not include any channel improvements in NDDOT/Highway 13 right of way. The flow will travel through the existing culvert through Highway 13 south into the East Half of Section 30; the project will include channel improvements along the east boundary of Section 30, just west of the township road right of way, in a north to south channel along the east portion of Section 30 and concluding at the south boundary of Section 30, near the southeast corner of Section 30. The permitted drain will include channel improvements in the Southwest Quarter of Section 20, the Southeast Quarter of Section 19, and the East Half of Section 30 with a maximum cut of 4 feet; a maximum bottom width of 6 feet; and side slopes of 4 to 6 feet horizontal per foot vertical.

According to records on file with the Sargent County Recorder's office, Applicant owns the East Half of Section 30 and the Southwest Quarter of Section 20. Dorne Meyer owns the Southeast Quarter of Section 19, subject to a life estate in Marvin Meyer and Iris Meyer.

Chad Engels prepared draft responses to the eight elements under Section 89-02-01-09.2 of the North Dakota Administrative Code; the Board reviewed, approved, and adopted the draft responses. The Board further determined no hearing was necessary under Section 89-02-01-09.1 (2) of the North Dakota Administrative Code because the Board will require Applicant to obtain an easement from the owners of the Southeast Quarter of Section 19. Further, the Board will attach conditions that will not permit Applicant to drain any wetlands nor to change any culvert sizes. The Board concluded that, in light of these measures, the project will not result in any adverse impacts.

Manager Engst, seconded by Manager Bosse, moved to approve APPLICATION FOR SURFACE DRAIN No. 4170 for Roger Zetocha, subject to the conditions attached by the State Engineer, and subject to the following conditions:

- 1) That Applicant obtain and record (with the Sargent County Recorder's office) an easement (and not just written consent) from the owners of the Southeast Quarter of Section 19 of Vivian Township to construct, operate, and maintain a surface drain;
- 2) That Applicant will not construct or improve the drain in any manner that exceeds the dimensions indicated in the application, including a maximum cut of 4 feet; a bottom width of 6 feet; and side slopes of 4 to 6 feet horizontal per foot vertical;
- 3) That Applicant obtain an easement from the owner of any land, besides land owned by Applicant, on which Applicant will construct the drain;
- 4) That to the extent the project will include any channel improvements in township road right of way, Applicant must obtain written permission from the Vivian Township Board of Township Supervisors to construct, operate, and maintain a surface drain in its township road ditch, or to otherwise utilize its township road ditch;
- 5) 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;
- 6) That Applicant may not drain any wetlands in conjunction with the construction, operation, or maintenance of the drain;
- 7) That Applicant may not change any culvert sizes in conjunction with the construction, operation, or maintenance of the drain; and
- 8) 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 requisite NOTICE OF DECISION and to provide the NOTICE to all parties of record.

Lee Ann Even, Even Law Office, PLLC, Attorney for Cogswell City and Dennis Dockter Mayor of Cogswell and Erik Gilbertson, Engineer, Kadmas, Lee and Jackson presented information to the Board regarding the upcoming proposed flood control operating plan for Cogswell City. Cogswell City has received a Community Development Block Grant and is trying to acquire more funding from the ND State Water Commission and ND Health Dept. The proposal is to dig a channel and install new culverts under the railroad tracks in the north end of the city with the water flowing south to the state highway and installing a lift station. The Emergency Operation plan is when the water levels exceed 1296.0; the city shall operate the pumps on a continuous basis to reduce the flooding around the community. Pumps shall terminate emergency status when the water levels are below 1295.0. The Seasonal Operation plan is when the water levels surrounding Cogswell are below 1296.0, the pumps shall operate only in October, to reduce impact to downstream farmland. Water levels shall be reduced to the regulation level. At no time will the water levels be pumped below the regulation elevation. No action is required when water levels are below 1294.0 and the pumps will not be operated. This is the same project that was proposed over a year ago but no funding was available but now there is funding. Estimated cost is \$425,000. All landowners in this area are on board and would provide a flowage easement. NDDOT has not been contacted but will be to get approval to bore under State Highway 11 as well as environmental assessment. The Water Board would be involved when the project is prepared and a drainage permit would be needed.

The Cogswell delegation asked the Board about the condition of tile – is it working? Jim Bosse stated that there is water going in the tile and flowing out. He does not know if it is flowing to capacity. Inspection holes were installed but not marked properly but there is one by Kent Carpenter’s that has been checked frequently and the water is flowing.

Discussed the Gary Bohnenstingl drainage complaint. Chad presented a Lidar map of the area and Sean suggested that someone drive out to the site and inspects and also takes pictures of the present conditions. Jim Bosse agreed to visit with NRCS about any approved drains in the past.

Adjourn at 8:55 p.m.

CHRIS MCFARLAND – CHAIRMAN

ATTEST:

SHERRY HOSFORD - SECRETARY