

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD  
HELD ON THURSDAY, MAY 17, 2012 AT 7:00 P.M., IN THE COMMISSIONERS ROOM,  
SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA

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

Approve April 19, 2012 minutes and April financial statement. (Engst/White, unanimous).

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

66007	James Bosse	Travel	53.28
66008	Richard Engst	Travel	77.70
66009	Moore Engineering, Inc.	Engineering fees	290.00
66010	Ohnstad Twichell	Attorney fees-\$2383.80 and Dr # 4 560.00 =	\$2943.80
66011	Roger White	Travel	22.20
7111	Sherry Hosford	Salary less 17.89 taxes	298.78
7112	Richard Engst	3 PD less 20.34 taxes	339.66
7113	Roger White	2 PD less 13.56 taxes	226.44
7114	Jim Bosse	5 PD less 33.90 taxes	566.10
7115	Chris McFarland	1 PD less 6.78 taxes	113.22
DD	Sargent County Bank	Withholding taxes	218.94

Jack Lalor, Tewaukon National Wildlife Refuge met with the Board regarding the letter that he received from Moore Engineering, Inc. for the Drain No. 4 Channel Reconstruction. The project is necessary to increase the hydraulic capacity of Drain No. 4 by improving the channel and crossings to provide improved drainage for the City of Forman and to provide additional agricultural drainage benefits. US Fish and Wildlife Service (USFWS) owns land in Section 5-130-55 that Drain No. 4 crosses through and the Board is seeking an easement from the (USFWS) for the reconstruction project. Mr. Lalor informed the Board that the federal government has a lengthy process for acquiring easements. Mr. Lalor asked if it would deter the project if the Water Board did not acquire the additional 40 feet of right of way from USFW. Chad Engels, Engineer felt it would not be a problem and felt that the existing easement would allow them to go in and clean out Drain No. 4 and not jeopardize the project. Chad suggested that they could stake the area when the project proceeds and Mr. Lalor agreed that it would be very helpful if that would be done.

**Application for Surface Drain No. 4007 for Tom Mund in the West Half of Section 28 of Willey Township**

The Board reviewed an *Application for Surface Drain No. 4007* dated April 19, 2012, for Tom Mund. Under the application, Applicant seeks to construct and install a drain pipe in the West Half of Section 28 in Willey Township, Sargent County, North Dakota. The project will include ten segments of pipe in various locations in the West Half of Section 28, installed in trenches constructed by Applicant. The system will ultimately outlet into a pond in the northeast corner of the Northwest Quarter of Section 28. The pond currently outlets into State Highway 13 right of way. The outlet into the Highway 13 right of way will not change.

Chad Engels reviewed the application, and the Board adopted his proposed responses to the eight elements under Section 89-02-01-09.2 of the North Dakota Administrative Code. The Board further determined no hearing was necessary and that the project will not result in adverse impacts under Section 89-02-01-09.1(2) of the North Dakota Administrative Code because the project will all be constructed on Applicant's property; the project will outlet into highway right of way without any alteration to the outlet; and the project will not discharge onto property owned by other landowners.

According to records on file with the Sargent County Recorder's Office, Tom and Shirley Mund own the West Half of Section 28 of Willey Township.

It was moved by Manager Bosse and seconded by Manager White to approve *Application for Surface Drain No. 4007* dated April 19, 2012, for Tom Mund in the West Half of Section 28 in Willey Township, subject to the conditions attached by the State Engineer's office, and subject to the following conditions:

- 1) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 2) That Applicant notify the Sargent County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;

3) That Applicant notify the Sargent County Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application; and

4) 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.

Motion to approve the First Amendment to the Joint Powers Agreement (Adopted on September 29, 2011) and the Operation and Maintenance Agreement as presented by Chad Engels and Sean Fredricks for the Drain No. 4 Forman City Floodwater Outlet Project between Sargent County Water Resource District and the City of Forman. (Engst/Bosse, unanimous) A copy of the Joint Powers Agreement, First Amendment and the Operation and Maintenance Agreement shall be filed in the Office of the Sargent County Water Resource District.

**Application to Install a Subsurface Drain for Mary Beth Anderson in the South Half of Section 14 in Weber Township**

The Board reviewed an *Application to Install a Subsurface Drain* dated May 9, 2012, for Mary Beth Anderson. The Board concluded the application 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). Under the application, Applicant seeks to install a drain tile system in the South Half of Section 14 in Weber Township, Sargent County, North Dakota. The project will include two gravity outlets. The first outlet will be located in the northwest corner of the property and will discharge directly into the Tewaukon Channel, and this outlet will discharge water from the Southwest Quarter. The second outlet will discharge into a natural watercourse along the Southwest Quarter/Southeast Quarter boundary; this outlet will discharge water from portions of the Southwest Quarter and approximately 20 to 25 acres of tiled property in the Southeast Quarter. The Sargent County Water Resource District owns and operates the Tewaukon Channel.

Chad Engels reviewed the application and recommended that the Board should require Applicant to install and maintain erosion protection to protect the Tewaukon Channel. Because one outlet will discharge into a legal facility and the other will discharge into a natural watercourse, the application did not require a *Thirty-Day Notice* under N.D. Cent. Code Section 61-32-03.1, and the Board cannot require Applicant to obtain any flowage easements from downstream landowners.

According to records on file with the Sargent County Recorder's Office, Mary Beth Anderson owns the Southwest Quarter of Section 14 and that portion of the Southeast Quarter of Section 14 Applicant intends to tile.

It was moved by Manager Engst and seconded by Manager Bosse to approve *Application to Install a Subsurface Drain* dated May 9, 2012, for Mary Beth Anderson in the South Half of Section 14 in Weber Township, subject to the following conditions:

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

2) That Applicant provide and maintain adequate erosion protection at any and all outlets into the Tewaukon Channel (Applicant is solely responsible for any damages to the Tewaukon Channel as a result of the tile project);

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

4) That Applicant notify the Sargent County Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application; 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.

The Board proceeded to open bids for several pieces of used 24 inch dual wall corrugated poly pipe that was removed from Drain No. 4 during the outlet project. One bid was received from Richard Ruch, Cogswell for \$5033. Motion to accept the bid from Mr. Ruch. (White/Engst, unanimous)

The Board asked Attorney Fredricks to send a letter to Mike Paczkowski, Cayuga to inquire whether he had received a dike permit to install a dike that is located in the NW1/4 of NW1/4-7-129-53 LTL which is of concern to Robert Lee, Dennis Pherson, and Don Kiefer as per a complaint filed on March 28, 2012.

**Application to Install a Subsurface Drain for Loren David in the Southeast Quarter of Section 12 in Hall Township**

The Board reviewed an *Application to Install a Subsurface Drain* for Loren David submitted in early 2012. The Board concluded the application 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). Under the application, Applicant seeks to install a drain tile system in the Southeast Quarter of Section 12 in Hall Township, Sargent County, North Dakota. The project will include a gravity outlet on the east section line of the Southeast Quarter of Section 12; the outlet will discharge into the west township road ditch where the discharge will flow north along the east boundary of the Northeast Quarter of Section 12, until the tile discharge flows into the Tri-County Drain.

The project will require permission from Hall Township since the project will discharge into Hall Township's road ditch. The Board provided a *Thirty-Day Notice* to the owners of the East Half of the Northeast Quarter of Section 12 of Hall Township as required under N.D. Cent. Code § 61-32-03.1. Karla Dusek, Kristie Johnson, and Jeffrey Halmrast contacted the Board in response to the *Thirty-Day Notice* to voice their opposition to any tile discharge flowing over their property without a flowage easement. The Board agreed the project would require the Applicant to obtain a flowage easement from the owners of the East Half of the Northeast Quarter of Section 12 in light of adverse impacts to that property as a result of prolonged wetness that will likely occur as a result of the tile discharge.

According to records on file with the Sargent County Recorder's Office, Applicant owns the Southeast Quarter of Section 12. Further, Karla Dusek, Kristie Johnson, and Jeffrey Halmrast own the East Half of the Northeast Quarter of Section 12.

It was moved by Manager Bosse and seconded by Manager Engst to approve *Application to Install a Subsurface Drain* for Loren David in the Southeast Quarter of Section 12 in Hall Township, subject to the following conditions:

- 1) That Applicant obtain and record (with the Sargent County Recorder's office) a flowage easement (and not just written consent), including language that permits saline water, from the owners of the East Half of the Northeast Quarter of Section 12 of Hall Township, Sargent County, North Dakota;
- 2) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 3) That Applicant obtain written permission from the Hall Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches;
- 4) That Applicant notify the Sargent County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 5) That Applicant notify the Sargent County Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application; and
- 6) 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.

Discussed the farm contracts between the Sargent County Water Board and Jeff Breker and Roger Nelson. The contracts will terminate in October 2012. A new Lease Agreement has been prepared by Attorney Fredricks and will be implemented for the 2013-2015 lease term. Motion to increase the

rental amounts from \$50 to \$80 per acre for the farmland; from \$20 to \$30 per acre for pastureland and the CRP acres will remain at \$30/acre. (White/Engst, unanimous)

Motion to adopt a Resolution of Necessity Regarding Drainage Improvements to Sargent County Drain No. 4 as filed in the Office of the Water Board Secretary. (Bosse/Engst, unanimous)

Board members will join Tom Jones, NRCS on June 5<sup>th</sup> at 8:00 a.m. to conduct the Annual Dam Inspection and meet with Chad Engels at the site of the Shortfoot Retention Dam in southeastern Sargent County.

Meeting adjourned at 9:35 p.m.

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CHRIS MCFARLAND – CHAIRMAN

ATTEST:

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SHERRY HOSFORD - SECRETARY