

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD  
HELD ON THURSDAY, MAY 19, 2011 AT 7:00 P.M. IN THE COMMISSIONERS ROOM,  
SARGENT COUNTY COURTHOUSE, FORMAN, ND

Managers present: Richard Engst, Chris McFarland and Roger White. Absent: Jim Bosse, Mark Breker. Also present: Sean Fredricks, Attorney, Ohnstad, Twichell, P.C. and Tom Jones, NRCS.

Approve April 21, 2011 minutes and April financial statement. (White/Engst, unanimous)

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

64249	Richard Engst	Travel	64.77
64250	Dale Hoffer	Beaver removal	150.00
64251	David Hoffer	Beaver removal	250.00
64252	James Hoffer	Beaver removal	50.00
64253	John Hoffer	Beaver removal	50.00
64254	Phillip Hoffer	Beaver removal	50.00
64255	Jacobson Plumbing and Heating	Drain No. 8 snow removal	450.00
64256	Chris McFarland	Travel	39.27
64257	Moore Eng., Inc.	Engineering Services	1157.10
64258	Ohnstad, Twichell, P.C.	G Thornberg permit - \$492 and General-\$577.50	
64259	Roger White	Travel	131.58
5845	Mark Breker	14 PD plus \$7.50 meal less 215.27 taxes	1472.23
5846	Sherry Hosford	Sec. salary less 17.89 taxes	298.78
5847	Richard Engst	10 PD plus \$7.50 meal less 131.15 taxes	1076.35
5848	Roger White	6 PD less 46.85 taxes	673.15
5849	Jim Bosse	19 PD less 329.24 taxes	1950.76
5950	Chris McFarland	5 PD less 33.90 taxes	566.10
DD	Sargent County Bank	Withholding taxes	1297.30

UNFINISHED BUSINESS:

Discussed Bruce Speich's water problems and Tom Jones reported that he is very confident that Bruce will receive funding for a dike that will control water that has been backing up on the area of concern for the past few years.

Richard and David Ruch, Kelly Cooper and Tom and Chad Heimbuch met with the Board to inform the Board of extensive flooding in Brampton Township which has been a problem for many years. Only one legal drain (Drain No. 11) is located in the township and hits the north edge only of the township. Many roads are under water—85% of the township is under water. Drain # 9, which is located in Taylor Township, was stopped from original construction in the southern part of Brampton Township by landowners who did not want to pay for the drain. The landowners present are requesting a feasibility study to see if it would be beneficial to hook on to either of Drain No. 9 or 11 to allow this water to flow out of the township. Sean Fredricks suggested that engineer Chad Engels look at the area and make a recommendation to the Board. According to Tom Jones there will be wetland issues that will affect the drain extension.

Arlen Hanson and Steve McLaen, Forman met with the Board to discuss water problems in Forman Township. Maps were reviewed and depth of sediments in constructed or natural drainage ditches showed depths of 4 inches to 15 inches. Arlen and Steve want to know what can be done to alleviate the water problem and after a lengthy discussion it was agreed that the Board will contact Chad Engels, Moore Engineering, Inc. to inspect Drain No. 4 and inform the Board of options for increasing the capacity of the drain tile.

Steve McLaen also discussed a water problem in the NE1/4-10-130-55 to place tile in the east edge of Section 3-130-55. It does not exceed 80 acres of physical tile so according to Sean Fredricks and recently passed legislation, a permit is not necessary. The Board advised Mr. McLaen to get flowage easements from affected landowners and also permission from the road authority.

The Board reviewed a request from Dunbar Township for cost share on a 48" culvert to be placed on the south side of Section 33-131-55. After looking at the Hydraulic Study prepared by Interstate Engineering, it was unclear which alternative the township had selected. Instructed the Secretary to contact Dunbar Township for more information on their request. Tabled until next meeting.

Sean Fredricks presented the new Application to Install a Subsurface Drain and proposed policies for consideration by this Board. Motion to adopt the Thirty-Day Notice to Downstream Property Owners Regarding Subsurface Drains. As shown below: (White/Engst, unanimous)

**1THIRTY-DAY NOTICE  
TO DOWNSTREAM PROPERTY OWNERS REGARDING  
APPLICATION TO INSTALL A SUBSURFACE DRAIN  
(Sent by Certified Mail)**

TO: Downstream Landowners

FROM: Sargent County Water Resource District

RE: Proposed Tile Drain Project

NAME OF TILE DRAINAGE APPLICANT: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

---

The Sargent County Water Resource District (the “District”) provides this Thirty-Day Notice to you in accordance with North Dakota law regarding a proposed tile drainage project upstream of your property. Enclosed is a copy of an “APPLICATION TO INSTALL A SUBSURFACE DRAIN” dated \_\_\_\_\_ (the “Application”), submitted by the applicant identified above (“Applicant”). Under the Application, Applicant is requesting a permit from the District to install subsurface drainage, commonly referred to as tile drainage, on property owned by Applicant located upstream of property you own. Applicant’s proposed project would include a tile drain outlet located within at least one mile of your property.

The District provides this Notice to you as a downstream landowner so you may consider any potential impacts to your property that might arise as a result of Applicant’s proposed project. If you believe this proposed project would result in adverse impacts to your property, you have a right to notify the District of the potential adverse impacts for the District’s consideration as it processes the Application.

Under North Dakota law, in the course of processing the Application, the District has legal authority to require Applicant to obtain flowage easements from owners of property up to a maximum of one mile downstream of the outlet of the proposed project. If the District concludes the project will, in fact, result in adverse impacts to properties within one mile of the proposed project, the District may require Applicant to obtain flowage easements from those landowners as a condition to any approved permit. You have thirty days from the date of this Notice to provide any evidence or *written* comments to the District to demonstrate how the project proposed in the Application will flood or adversely affect your property. The District will not make a final decision regarding whether or not to approve a permit for Applicant until at least thirty days have elapsed from the date of this Notice.

You may submit any evidence or written comments you wish the District to consider in the course of processing the Application by submitting the evidence or written comments to the District at the following address:

Sargent County Water Resource District  
355 Main Street South Suite 1  
Forman ND 58032

Sincerely,

SARGENT COUNTY WATER RESOURCE DISTRICT

Sherry Hosford  
Secretary-Treasurer

**Application to Drain with Drain Tile #3792 for Ellick Erickson**

The Board reviewed information from the State Engineer regarding Application to Drain with Drain Tile #3792 for Mr. Ellick Erickson. Under the Application, applicant seeks to construct a tile system in the Northeast Quarter of Section 1 of Hall Township. Applicant proposes a pumped outlet in the southeast corner of the Northeast Quarter of Section 1. The discharge will then flow south through the

west road ditch along the north-south township road on the east boundary of Section 1, over the East Half of the Southeast Quarter of Section 1, until the discharge reaches the Tri-County Drain.

Records on file with the Sargent County Recorder's office show that Ellick Erickson owns the Northeast Quarter of Section 1 of Hall Township; and John Bullis owns the East Half of the Southeast Quarter of Section 1. The Board will require Mr. Erickson to obtain written permission from the Hall Township Board and a Flowage Easement from Mr. Bullis. Mr. Erickson previously obtained an Easement from Mr. Bullis and submitted a copy along with his application.

The discharge of the tile project into the township road ditch and over Mr. Bullis' property will result in adverse impacts, including an increase in the total volume of water downstream of the outlet that will result in longer periods of wet conditions, and could potentially require additional maintenance by the township board. While tile projects of this nature do not typically aggravate flooding problems, the additional water will likely create adverse conditions for the Southeast Quarter of Section 1. With that in mind, the Board will require written permission from the township board and from the owner of the East Half of the Southeast Quarter of Section 1.

The project will ultimately discharge into the Tri-County Drain, owned and operated by the Tri-County Joint Water Resource District. Applicant should obtain written permission from the Tri-County Board to discharge into the Tri-County Drain.

The Board adopted Chad Engels' proposed responses to the eight-point questionnaire and the eight elements under 89-02-01-09.2 of the North Dakota Administrative Code. The Board further determined no hearings were necessary under Section 89-02-01-09.1(2) of the North Dakota Administrative Code because the Board will require a flowage easement from the impacted downstream landowner, written permission from the Hall Township Board of Township Supervisors to utilize its road right of way, and written permission from the Tri-County Water Resource District to discharge into the Tri-County Drain.

Manager White, seconded by Manager Engst, moved to approve Application to Drain with Drain Tile No. 3792 for Mr. Ellick Erickson, subject to the following conditions:

- 1) that applicant obtain and record (with the Sargent County Recorder's Office) flowage easements (and not just written consents) that include language permitting saline water from the owner of the East Half of the Southeast Quarter of Section 1 in Hall Township, Sargent County, North Dakota;
- 2) that applicant obtain written permission from the owner of any land, besides land owned by applicant, on which applicant will construct the tile system;
- 3) that applicant obtain written consent from the Hall Township Board of Township Supervisors to utilize any of its township road right of way;
- 4) that applicant obtain written consent from the Tri-County Drain to discharge water into said drain;
- 5) that applicant provide and maintain adequate erosion protection at all outlets; 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. The Board directed Sean Fredricks to prepare a Notice of Decision, and to provide the Notice of Decision to the State Engineer, the applicant, and other parties of record.

#### **Application to Drain with Drain Tile #3801 for Emeric Erickson**

The Board reviewed information from the State Engineer regarding Application to Drain with Drain Tile #3801 for Mr. Emeric Erickson. Under the Application, applicant seeks to install a tile system in the Southeast Quarter of Section 2 of Dunbar Township. Applicant proposes two outlets in the south edge of the Southeast Quarter of Section 2. The first is a gravity outlet near the half section line along the southern boundary. The discharge from the gravity outlet will flow south into a natural drain that flows southeast over the Northeast Quarter of Section 11 of Dunbar Township. The second outlet is a pump outlet on the southern boundary of the Southeast Quarter of Section 2 near the east section line. This pumped outlet will similarly flow south into the same existing natural drain in the Northeast Quarter of Section 11. From there, the discharge from both outlets will flow south and east through the natural drain and into the North Half of the North Half of Section 12 of Dunbar Township.

Records on file with the Sargent County Recorder's office show Emeric and Calvin Erickson own the Southeast Quarter of Section 2 of Dunbar Township; Wendell and Linda Schutt own the Northeast Quarter of Section 11 of Dunbar Township; and Loren Hanson owns the North Half of the North Half of Section 12. In light of the discharges into the natural drain that flows across the Schutt and Hanson parcels, the Board will require applicant to obtain flowage easements from those landowners. The tile project will result in additional water in the natural drain, though tile projects of this nature do not typically aggravate flooding problems. However, those adverse conditions will dissipate between half mile and one mile downstream from the tile drain discharges. To the extent the project will utilize township road ditches; the applicant should obtain written permission from the Dunbar Township Board.

The Board adopted Chad Engels' proposed responses to the eight-point questionnaire and the eight elements under 89-02-01-09.2 of the North Dakota Administrative Code. The Board further determined no hearings were necessary under Section 89-02-01-09.1(2) of the North Dakota Administrative Code because the Board will require flowage easements from the impacted downstream landowners, and written permission from the Dunbar Township Board of Township Supervisors if the project will include utilization of any township road right of way.

Manager White, seconded by Manager Engst, moved to approve Application to Drain with Drain Tile No. 3801 for Mr. Emeric Erickson, subject to the following conditions:

- 1) that applicant obtain and record (with the Sargent County Recorder's Office) flowage easements (and not just written consents) that include language permitting saline water from the owners of the following parcels in Dunbar Township, Sargent County, North Dakota:
  - a. Northeast Quarter of Section 11, Dunbar Township; and
  - b. North Half of the North Half of Section 12, Dunbar Township.
- 2) that applicant obtain written permission from the owner of any land, besides land owned by applicant, on which applicant will construct the tile system;
- 3) that applicant obtain written consent from the Dunbar Township Board of Township Supervisors if the project will utilize any township road right of way;
- 4) that applicant provide and maintain adequate erosion protection at all 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. The Board directed Sean Fredricks to prepare a Notice of Decision, and to provide the Notice of Decision to the State Engineer, the applicant, and other parties of record.

Rutland Township requested permission and cost share to install a 48 inch by 40 foot culvert between Section 8 and 9 of said township. This crosses a township road that was washed out this spring as a result of the grade raise on ND State Highway 11 near the site. A 24 inch by 40 foot culvert had been installed last year as suggested by a hydraulic study done before the grade raise. The road cannot handle the water and a new study prepared by Interstate Engineering, Inc. dated May 9, 2011 suggests installing a 48 inch culvert with a total waterway opening of 12.56 square feet. These standards would pass a 100 year plus event with 6.0 feet head water and 100 cfs. Motion to approve cost share of this culvert if it is not a FEMA site. (Engst/White, unanimous)

Meeting adjourned at 10:20 p.m.

---

CHRIS MCFARLAND – VICE-CHAIRMAN

ATTEST:

---

SHERRY HOSFORD - SECRETARY