

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, MAY 19TH, 2022 AT 8:00 A.M. IN THE WATER BOARD CONFERENCE ROOM AT THE SARGENT COUNTY COURTHOUSE, FORMAN NORTH DAKOTA

Managers present: Chairman Luke Siemieniewski, Roger Zetocha, Todd Stein, and Michael Wyum. Also, in attendance were Nathan Trosen, Moore Engineering; Wendy Willprecht Secretary/Treasurer; Sargent County Commissioner Richard Ruch; Dickey-Sargent Board members Steven Hansen, Chairman, John Quandt, and Justin Gemar and Landon Evenson of the Wild Rice Soil Conservation. Others present via video conference were Sean Fredricks of Ohnstad Twichell, P.C., the Board's Attorney; Josh Hassell, Moore Engineering; attorney Kathy Tostenson, landowners Bob Banderet, Leon Mallberg, and Paul Mathews.

Manager Wyum moved to approve the April 21<sup>st</sup>, 2022 regular meeting minutes and the April 30<sup>th</sup>, 2022 financial statement. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Wyum moved to approve the following bills:

**Ohnstad Twichell-** Mahrer/Ellefson Complaint \$751.56; Meetings/Review letter from Dwyer Law \$1050; Jason Asche App. \$102.04; Vculek App. \$786.80; Chris Mathias App. \$535.80; Bruce Bosse App. \$575.04; Jason Bosse App. \$575.04; Bruce Bosse App. \$575.04; Drain No. 11 Eminent Domain \$7844.96/Improvement Project \$4783.05; Drain No. 7 Review permit/Correspondence \$267

**Total: \$17,846.33**

**Pearce Durick, PLLC-** Drain No. 11 assessment

**Total: \$3,415.00**

**Darren Ptacek-** (2) Beavers

**Total: \$100.00**

**Moore Engineering:** Mtgs. \$3902.57; SFC-Task 6 \$4012.50; Drain No. 4-Assessment \$1110.00; Drain No. 8-Update 2013 cost est. \$417.50; Drain No. 11- Utility Relocation \$890/ ROW \$1232.50/ Drain Reassess. \$14,067.50; Cogswell Tile Exhibit \$270=\$16,460.00; Drain No. 7-Design \$2450/ Utility Relocation \$85/ ROW \$2657.50/ Legal Descript. \$472.50/ Reassess. \$3347.50=\$9012.50; Crooked Creek- Task #3 \$8165.00

**Total: \$43,080.07**

**Michael and John Hayen-(2) Beavers**

**Total: \$100.00**

**Sargent County Teller-Drain No. 11 bid advertisement**

**Total: \$26.57**

**Glen Hofer- (2) Beavers**

**Total: \$100.00**

83539	Lucas Siemieniewski	Travel	\$65.52
83541	Todd Stein	Travel	\$28.08
83542	Michael Wyum	Travel	\$26.91
83543	Roger Zetocha	Travel	\$58.50
83540	Bruce Speich	Travel	\$52.65
DD	Lucas Siemieniewski	PD	
DD	Todd Stein	PD	
DD	Michael Wyum	PD	
DD	Roger Zetocha	PD	
DD	Bruce Speich	PD	
DD	Wendy Willprecht	Sec-Treas -Salary less taxes \$457.17	\$2042.83
DD	Stock Grower's Bank	Withholding Taxes	\$626.42
DD	ND State Tax Commission	State Tax	\$22.00
DD	Job Service ND	Unemployment Comp.	\$2.50

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

**DRAIN NO. 7:**

There is a culvert washed out 1 mile east of Milnor. The washed out crossing is used by a farmer to get to his field and this is his only access. The culvert is a 96 CSP. The county has an emergency declaration in place so they are able to

apply for FEMA funding. Trosen received a quote from True North Steel for the culvert. Manager Stein made a motion to purchase the culvert, to contract with JBX to install the culvert, and to authorize the Chair and Secretary-Treasurer to execute the agreement with JBX prepared by Fredricks, including a contractual 'not-to-exceed' amount of \$15,000. Manager Zetocha seconded the motion. Upon roll call, the motion carried unanimously. The culvert meets stream crossing standards. The SCWRD is responsible for its replacement because it is part of Drain No. 7. Trosen said that Moore Engineering will inspect the area of the culvert replacement both before and after installation as required for reimbursement from FEMA. JBX will have to sign and return the agreement before commencing work.

Trosen said that all of the purchase agreements relating to the Drain No. 7 project have been sent out. The Krueger family needs all 3 sons to sign the agreement, and that agreement has not yet been returned.

Trosen presented quotes for the culvert project at the County 12 crossing. TrueNorth Steel's bid was for CSPA pipes and it could take two months or longer for the pipes to be fabricated. Box culverts would not be available until 2023. Trosen noted that there is minimal difference in the hydraulic capacity between the different types of culverts as both were sized to meet the District's and State's standards.

Commissioner Ruch will take the quotes presented at today's meeting and will bring them in front of the SC Commission. The county will do a 40% cost-share on this project.

The Board discussed the possibility of advertising the project for bids once purchase agreements were secured, but the Board ultimately agreed to hold-off on advertising, to discuss this next month, as water levels are high right now and we may know more from the County regarding their preference on the CR-12 crossing by then.

Reassessment:

1. There is assessment overlap between Drain No. 7 and the Tri-County Drain. Most of the overlap is in Ransom County. It was noted that as of right now, Ransom County is not currently in the existing assessment district for this Drain.
2. The next step of the reassessment will be to get the updated tax roll from the county auditor and develop the preliminary assessment list.
3. The Board directed Moore Engineering to include land that is tiled in the reassessment analysis similar to Drain 11.

Trosen said he will reach out to Ransom County to get on the agenda for their next meeting to discuss their part in the proposed reassessment of Drain No. 7.

#### **Drain No. 4:**

The assessment for Drain No. 4 will follow the same process utilized for the reassessment of Drain No. 11. Moore presented a draft map showing the proposed reassessment but the parcels within the city of Forman still need to be added to the reassessment. The SCWRD advised Trosen to leave the matrix parameters where they are and the Board will review; the matrix parameters are the same utilized for Drain 11. The Board directed Moore Engineering to include land that is tiled in the reassessment analysis similar to Drain 11.

#### **Drain No. 11:**

The SCWRD received bids from R.J. Zavoral and Sons, Inc. and Gladen Construction, Inc., for the Drain No. 11 project. Engineer Trosen said that based on the figures presented, the Board could go with the low bid for the Base Bid Section + ALT 1 option. Zavoral's bid for this option came in at \$1,952,291.85 and Gladen's bid was \$2,465,358.20. Manager Wyum moved, and Manger Zetocha seconded the motion, to award the construction contract to R.J. Zavoral as the lowest responsible bidder for the Base Bid Section + ALT 1, totaling \$1,952,291.85, and for Moore to issue a notice of award to Zavoral. Upon roll call vote, the motion carried unanimously.

The ND Game and Fish Department has agreed in principle regarding their easement agreement, but they are finalizing their review and approval. The Board recommended removing the construction timeline clause and instead including a notification of construction requirement.

Reassessment: Trosen of Moore Engineering provided an updated map.

Ron Greenmyer received a conditional water appropriation permit and asked the SCWRD if he could pull water out of Drain No. 11. The Board indicated the State approves appropriation permits but further indicated the Board has no objection to Mr. Greenmyer withdrawing water from Drain No. 11.

#### **DRAIN NO. 8:**

Trosen and Manager Wyum attended the last city council meeting in Rutland. Trosen ran through the project alternatives that have been analyzed in the past at that meeting. The city said it would prefer the buried pipe option, but would like to know the estimated cost of the project in order to make any decisions. Trosen will prepare a preliminary cost estimate and will attend the next Rutland city council meeting to further discuss.

Brandon Bell entered the meeting in progress and wanted permission to clean out a channel on his mother's (Stella Bell's) land. Through discussion it was found that Mr. Bell's questions related to Sargent County Highway Department right of way. Bell was going to get on the next SC Commissioner agenda to discuss his concerns.

#### **SHORT FOOT CREEK:**

Moore Engineering is updating the planning documents based on the comments that have been received. The comments are those that have come from other watershed plans that have already received comments. An exemption request letter

will be needed because the benefit cost ratio for this study is below 1. Moore Engineering is working on evaluating the comments received.

#### **DRAIN NO. 9:**

Commissioner Ruch said that most of the money has been collected from landowners to pay for the study for this project. One landowner has requested that the proposed improvement project go all the way to Silver Lake. Cost-share has been approved for this project. Before moving forward, it was suggested to include the Silver Lake option as a proposed project component. Ruch said that by the June meeting he hopes to have collected all the money the project needs to move forward with the study. Fredricks will prepare a revised Petition/Bond document.

#### **CROOKED CREEK WATERSHED PLAN:**

The feasibility study is complete. The modeling is just about done. Moore will prepare maps showing the inundated areas.

The Board reviewed DWR's notice of application of change in point of diversion for Philip Hansen. No comment or action was necessary.

Cindy Schreiber-Beck submitted a "Notification" regarding a tile project under 80 acres in Section 36 in Shuman Township. Trosen confirmed the project will not modify or impact benefits or assessments in any legal assessment drain so no action necessary by the Board.

Landowner Duane Baldwin said that after the clean out of Drain No. 3 last year, dirt was pushed way out and not put back along the Drain. This has created a berm in his field. The areas that Duane is referring to are sections 11 and 34 along County Road 14. Both Chairman Siemieniewski and Manager Wyum commented and said the area looks like it was put back together properly and that everything looks good.

The temporary water permit submitted by Brian Vculek did not warrant further action.

#### **BRIAN VCULEK APPLICATION FOR SUBSURFACE WATER MANAGEMENT SYSTEM NO. 2022-06:**

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2022-06*, filed May 18, 2022, by Applicant Brian Vculek. Under the Application, Applicant seeks to install a 145-acre drain tile system in the Southeast Quarter of Section 12 in Denver Township, Sargent County, North Dakota. The project will include a single pump outlet located along the south boundary of the Southeast Quarter of Section 12; the outlet will discharge to the south over a portion of the North Half of Section 13; the discharge will outlet into existing drainage ditches previously permitted by the Sargent County Water Resource District, including the surface ditch in Section 13 permitted under SURFACE DRAIN PERMIT NO. 5958. The discharge will ultimately reach Sargent County Drain No. 11 via SURFACE DRAIN PERMIT NO. 5958, described as follows:

...Under [SURFACE DRAIN PERMIT NO. 5958], Applicant proposes to construct a number of surface drainage improvements, including surface ditches and underground pipelines, in the East Half and the Southwest Quarter of Section 13 and in the South Half of Section 14 in Denver Township, Sargent County, North Dakota. The project proposed under APPLICATION FOR SURFACE DRAIN No. 5958 will incorporate the drainage improvements permitted under SURFACE PERMIT NO. 4720, previously approved by the Sargent County Water Resource District for Bernard Vculek; SURFACE PERMIT NO. 5958 will ultimately supplant SURFACE PERMIT NO. 4720. The new channel improvements will commence in the Northeast Quarter of Section 13; near the boundary between the Northeast Quarter and the Southeast Quarter of Section 13, the ditch improvements will discharge into the existing channel improvements permitted under SURFACE PERMIT NO. 4720. The channel improvements will outlet via a 36" pipe with a pump at the upstream end, commencing near the center of the Southwest Quarter of Section 13; the pipe will run west, under 119th Avenue SE; the pipe will then run to the southwest, diagonally across the Southeast Quarter of Section 14 to the south boundary of the Southeast Quarter of Section 14; from there, the underground pipeline will run west in the north township road ditch along 81st Street SE until approximately the half-section line where the pipeline will daylight; the discharge will continue west in the north road ditch until ultimately reaching Sargent County Drain No. 11.

The new surface ditch improvements will include 6,280 feet of new surface channel improvements, with a maximum bottom width of 12 feet; a maximum cut of 6 feet; and 3:1 side slopes. The project also includes 4,700 feet of existing surface channel improvements with a maximum bottom width of 10 feet; a maximum cut of 8 feet; and 4:1 side slopes. The project will include approximately 4,100 feet of pipeline. In total, the drain will extend 15,080 feet.

According to County tax roll information and deeds provided by Applicant, Brian and Julie Vculek own the Southeast Quarter of Section 12 of Denver Township. With regard to downstream properties, Bernard L. Vculek, as Trustee of the Bernard L. Vculek Revocable Trust, and Marlene Vculek, as Trustee of the Marlene Vculek Revocable Trust, own the East Half of Section 13 in Denver Township; Julie Vculek owns the Southwest Quarter of Section 13; and Wayne V. Witkowski, Trustee of the Wayne V. Witkowski Revocable Family Trust, and Dianne F. Witkowski, Trustee of the Dianne F. Witkowski Revocable Family Trust, own the South Half of Section 14.

Manager Wyum moved, and Manager Zetocha seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2022-06*, filed May 18, 2022, for Brian Vculek in the Southeast Quarter of Section 12 in Denver Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-06, subject to the following conditions:

1. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.

2. Applicant will turn off any pump outlets and otherwise close all outlets during “critical flood periods,” as determined by the Sargent County Water Resource District.
3. Applicant will not install Applicant’s tile system within 20 feet, on either side, of any rural water lines Southeast Water Users District has in the Southeast Quarter of Section 12 in Denver Township under any blanket easements, or otherwise beyond the Water District’s existing easement.
4. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-06 in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

Upon roll call vote, the motion carried unanimously.

Under Section 61-32-03.1, the District cannot attach any additional conditions to Applicant’s permit. However, for Applicant’s protection, and to ensure protection of Applicant’s tile system, the Board will recommend that Applicant comply with the following:

1. The Board recommends that Applicant comply with the conditions attached to SURFACE DRAIN PERMIT NO. 5958 and by the North Dakota Department of Water Resources.
2. The Board recommends 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.

Sean Fredricks will provide copies of the Board’s NOTICE OF DECISION and SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-06 to the Department of Water Resources and to Southeast Water Users District.

Jeff Breker has fenced in Frenier and his cattle are mob grazing. One of the managers will go out and see how the mob grazing is going prior to the next meeting.

After review of the documentation presented by Administrator Willprecht, Manager Zetocha approved the 2023 budget. Manager Wyum seconded the motion. Upon roll call, the motion carried unanimously.

**RS #1:**

Robert Lee has received a bill for \$1500 relating to a field inlet culvert installation with JBX. The SCWRD said that this should be our bill and that it should be reviewed and approved by RS1. A motion was made by Manager Wyum and seconded by Manager Stein to pay the \$1500 bill to JBX. Upon roll call, the motion carried unanimously.

<b>1) Revenue :</b>	Richland Taxes	\$26.01
	Sargent Taxes	\$2,269.59
	NDIRF	\$265.00
	<b>Total :</b>	<b>\$2,560.60</b>

**Expenditures :**

RS #1 Maintenance Checking Acct. Balance	\$ .28
RS #1 Maintenance Savings Acct. Balance	\$436,806.52
Total Maintenance fund balance as of April 30th, 2022-	<b>\$436,806.52</b>

**DICKEY-SARGENT JOINT BOARD:**

The following bills were presented for approval and payment:  
Bills:

DVEC – electricity –	<b>\$877.00</b>
<b>General Irrigation-</b> Field Net Subscription	<b>\$225.00</b>
<b>Ohnstad Twichell-</b> Board Mtg.	<b>\$64.50</b>

The motion approving these bills was handled during the Dickey-Sargent Joint Board meeting. Meeting adjourned at 10:42 a.m.

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LUCAS SIEMIENIEWSKI, CHAIRMAN

ATTEST:

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WENDY WILLPRECHT SECRETARY-TREASURER