

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, JUNE 15, 2017, AT 8:00 A.M., IN THE COMMISSIONERS ROOM, SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA

Managers present: Roger Zetocha, Korey Martinson, Lucas Siemieniewski, and Todd Stein. Absent: Bruce Speich. Also present: Sean Fredricks, Board Attorney; Chris Gross, Board Engineer; and Bob Banderet, Cogswell.

Approve May 18, 2017, minutes. Manager Martinson moved to approve. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Martinson moved to approve payment of the following bills:

75430	Daily News	Gwinner Dam Ad	283.86
75431	Jerry's Backhoe Service	Dr#9 beaver dam removal	150.00
75432	Korey Martinson	Travel	128.94
75433	Moore Eng. Inc.	General-\$640.50; Don Rust permit-\$91.50; Dr#11-\$981.00; Dr#7 I&S-ROW-\$525.00 and Contractor Delay-\$11,028.95; Dr#7 - \$91.50 Gwinner Dam - \$4,808.00; Shortfoot Creek-\$45,743.65; Brummond-Lubke Dam EAP-\$221.50; Nelson Dam EAP-\$161.50 = TOTAL	64,293.10
75434	Ohnstad Twichell	General-\$1,495.47; Dr#11 reassessment-\$187.10; Dr#11 Imp Project-\$132.50; Dr#11-Mathews Litigation-\$1128.50; Dr#4-\$200.00; Dr#7 project-\$1544.27 =TOTAL	4,687.84
75435	Quill	Envelopes	47.99
75436	S&P Global Market	Annual Mtc. Fee	99.00
75437	Luke Siemieniewski	Travel	89.88
75438	Todd Stein	Travel	34.24
75439	Roger Zetocha	Travel	80.25
75440	Landmark Drainage LLC	Dr# 7 Payment No. 5	57,171.50
13666	Sherry Hosford	Salary less taxes	493.92
13667	Roger Zetocha	3 PD less 44.37 taxes	315.63
13668	Luke Siemieniewski	3 PD less 27.54 taxes	332.46
13669	Korey Martinson	3 PD less 44.37 taxes	315.63
13670	Todd Stein	4 PD less 36.72 taxes	443.28
	DD Sargent County Bank	Withholding Taxes	951.26

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

**DRAIN NO. 7 CHANNEL IMPROVEMENT PROJECT:** Brent with Landmark Drainage LLC was present at the meeting. Chris Gross explained Application for Payment No. 5 for \$107,429.98. Chris also explained Change Order No. 4, to allow a change of seed mix near Richard Engst's residence from drain mix to residential seed mix, at a cost of \$5,869.50. Chris also explained Change Order No. 5, for 3-inch rock and filter fabric installation at the last crossing, in the amount of \$1,302.00. The Application for Payment does not include the Change Order amounts. Sean reminded the Board of its previous liquidated damages claim letter to reserve the right to assess liquidated damages for Landmark's failure to meet the completion date of November 23, 2016. Chairman Siemieniewski indicated that while the quality of work has been acceptable, the timeliness has been an issue, and the Board has incurred additional expenses as a result of Landmark's failure to meet the November 23 completion date. Moore Engineering extra costs alone regarding additional inspections and other issues as a result of Landmark's failure to meet the November 23 deadline are in excess of \$38,000.00. Brent indicated Landmark should complete the last culvert within the next couple of days. Manager Zetocha suggested the possibility of paying approximately half now and reserving a decision regarding liquidated damages following Landmark's completion of the final culvert. The Board agreed a setoff would be appropriate to ensure proper completion of the final culvert and seeding. Brent indicated he understood the Board's rationale. Manager Stein moved to approve Change Orders No. 4 and 5. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously. Manager Zetocha next moved to approve \$50,000.00 in payment regarding Application for Payment No. 5, and to withhold \$57,429.98 as setoff. Manager Martinson seconded the motion. Upon roll call vote, the motion carried unanimously. As a result of the approval of the two Change Orders and the approval of \$50,000.00 on the Application for Payment, the Secretary-Treasurer will issue a check to Landmark in the amount of \$57,171.50 (\$50,000.00 from the Application for Payment, \$5,869.50 regarding Change Order No. 4, and \$1,302.00 from Change Order No. 5).

**GWINNER DAM BREACH:** Chris Gross explained the results of the bid opening from June 14 at Moore Engineering's office in West Fargo. Six bidders submitted bids, and the apparent low bidder was D.L. Barkie Construction, Inc., with a bid of \$33,938.00. D.L. Barkie's bid was less than the \$40,000.00 estimate for the project. Chris indicated D.L. Barkie does a significant amount of work for Crystal Sugar. Chris and Sean recommended that the Board not award any construction contract until the Board has signed Access Agreements in hand to complete the work. Chris explained there are three landowners from whom the Board is attempting to obtain access, and Brady Woodard and Pat Downs are working with those landowners. The Board

may be in a position to award the construction contract next month, though if the landowners return signed Access Agreements before then, the Board could conduct a special meeting to award the construction contract.

**DRAIN NO. 7 EXTENSION:** Luke reported that Emeric Erickson is still attempting to organize a landowner meeting to explain the project and to determine if there is landowner interest.

**MAHRER/ELLEFSON COMPLAINT:** The Ellefson's previously installed one plug, but the location of the second plug required by the Board remains under water. The Board will keep this matter on its agenda to ensure placement of the second plug once conditions permit.

**DRAIN NO. 7 CULVERT REQUESTS:** The Board will keep this matter on its agenda, though the Board has not received any extension requests at this time.

**EAPs:** Chris Gross reported the EAPs are complete, and he is attempting to schedule a meeting with all the stakeholders for this fall or winter. At the meeting, the parties will discuss their responsibilities in the event of a dam failure. Chris indicated he will not distribute the EAPs until the meeting to ensure all of the parties understand their roles.

**ANNUAL DAM AND DRAIN INSPECTION:** The Board discussed how to handle spraying and ultimately indicated Sherry Hosford should contact the County Weed Board to spray the drains that are not within municipalities. With regard to Drain No. 7 within Milnor, Monte Haugen previously contacted Sherry and indicated there is leafy spurge on drain right of way through the City. Chris Gross indicated Pro Landscapers handles spraying in town for other boards. Manager Zetocha moved to authorize Manager Martinson to procure Pro Landscapers to conduct spraying of Drain No. 7 right of way within Milnor city limits up to a maximum of \$1,000.00. Manager Martinson seconded the motion. Upon roll call vote, the motion carried unanimously. The Board is confident the cost will be less than \$1,000.00 but recognized Manager Martinson would need a cap. Raina Ruch arrived at the meeting to discuss the possibility of summer youth once again conducting spraying for the Board. Last year, the Board contracted for 200 hours of work by the youth. Raina indicated the kids could do at least 200 hours of work once again this year. Manager Stein moved to approve payment up to 200 hours of work for youth spraying. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously. The Board suggested to Raina that if they complete the work, they could certainly return to the Board to seek additional approvals.

**SURFACE DRAIN PERMIT FEE POLICY.** Sean Fredricks explained the Board's previous permit fee policy covered both surface and tile permit applications. In light of H.B. 1390 from this last session, the Board previously approved a RESOLUTION OF POLICY regarding permit fees for tile projects since H.B. 1390 capped tile permit fees at \$150.00. Sean prepared a new RESOLUTION OF POLICY specific to surface permit applications. Manager Zetocha moved to approve the RESOLUTION OF POLICY REGARDING SURFACE DRAINAGE PERMIT FEES. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

**RS #1 BILLS:** Monica Zentgraf previously contacted Sherry Hosford regarding a bill for \$3,488.00 for Carlson McCain. Chairman Siemieniowski contacted Monica Zentgraf, Secretary-Treasurer for the Richland-Sargent Joint Water Resource District, to discuss the bill and to inquire into Carlson McCain's services. Monica indicated Carlson McCain conducted field wetland delineations at all of the bridge crossings along the project. Monica was not certain of Sargent County's share relative to Richland County's, but simply asked for approval of this amount for now. In addition, Monica indicated Interstate Engineering, Inc., submitted a bill for \$2,245.00. Manager Martinson moved to approve the bill from Carlson McCain in the amount of \$3,488.00 and the bill for Interstate Engineering in the amount of \$2,245.00. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

**RED RIVER JOINT WATER RESOURCE DISTRICT – MILL LEVY:** Sean Fredricks explained the Red River Joint Water Resource District met on June 14 and discussed its mill levy requests from its member districts. RRJWRD previously sent a letter requesting 2 mills from all of its districts, but Sean indicated at the June 14 meeting the Joint Board agreed to reduce its request to 1.5 mills. RRJWRD will submit a new letter very soon. The Board discussed benefits of its membership on Red River Joint Water Resource District, including cost-share for retention projects, administration of statewide significance permits, representation before the Legislature and the State Water Commission, and other benefits. Manager Stein moved to authorize the Secretary-Treasurer to draft a letter to the Sargent County Commission in support of the Board's request to the County Commission for 1.5 mills regarding its membership on RRJWRD. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously.

**Application to Install a Subsurface Drain for Marc and Patrick O'Brien in the Southeast Quarter of Section 23 in Tewaukon Township**

Marc and Patrick O'Brien were present and submitted to the Board an *Application to Install a Subsurface Drain* dated June 15, 2017. Under the application, Applicants seek to install a drain tile system in the Southeast

Quarter of Section 23 in Tewaukon Township, Sargent County, North Dakota. The project will include nine gravity outlets that will all discharge into a natural watercourse in the Southeast Quarter of Section 23. A portion of the tile footprint will be located across the southern boundary, in South Dakota, but all of the outlets are located in the Southeast Quarter of Section 23 in Tewaukon Township.

Because the project will discharge directly into a natural watercourse, no THIRTY-DAY NOTICE was necessary to downstream landowners under N.D. Cent. Code § 61-32-03.1. Under the tile law passed during the 2017 Legislative session, because the project will discharge directly into a natural watercourse, the only condition the Board can attach is a condition that would require Applicants to install control structures on all nine outlets to ensure Applicants close the outlets during “critical flood periods.” Applicants indicated they were willing to include installation of control structures on their outlets to meet this condition.

According to records on file with the Sargent County Recorder’s Office, Applicants own the Southeast Quarter of Section 23 of Tewaukon Township.

It was moved by Manager Stein and seconded by Manager Zetocha to approve *Application to Install a Subsurface Drain* dated June 15, 2017, for Marc and Patrick O’Brien in the Southeast Quarter of Section 23 in Tewaukon Township, subject to the following condition:

- 1) That Applicants must install and maintain control structures on all outlets, and must close all outlets during “critical flood periods,” as determined by the District.

Upon roll call vote, the motion carried unanimously.

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

- 1) That Applicants obtain easements from the owner of any land, besides land owned by Applicants, on which Applicants will construct the tile system;
- 2) That Applicants 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
- 3) That Applicants 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.

Meeting adjourned at 10:45 a.m.

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LUCAS SIEMIENIEWSKI, CHAIR

ATTEST:

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SHERRY HOSFORD  
SECRETARY-TREASURER