

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD
HELD ON THURSDAY, JUNE 16, 2011 AT 8:00 P.M. IN THE COMMISSIONERS ROOM,
SARGENT COUNTY COURTHOUSE, FORMAN, ND

Managers present: Jim Bosse, Mark Breker, Richard Engst and Chris McFarland. Absent: Roger White. Also present: Sean Fredricks, Attorney, Onstad, Twichell; Al Carton, Rust Farms, Brampton, ND; James Mahrer, Forman; Arlen Hanson, Forman and Tom Jones, NRCS.

Approve May 19, 2011 minutes and May financial statement. (McFarland/Breker, unanimous)

Approve payment of the following bills: (Breker/McFarland, unanimous)

64309 Dan Bishoff	4 beavers – Dr # 9	200.00
64310 Deb Bosse	1 beaver-Dr# 9; 2 beaver-Dr # 11	150.00
64311 James Bosse	Travel	207.57
64312 Mark Breker	Travel	169.32
64313 Richard Engst	Travel	63.75
64314 David Hassebroek	1 beaver – Dr # 11	50.00
64315 Elliot Hayen	1 beaver – Dr # 11	50.00
64316 Greg Huffman	1 beaver – Dr # 11	50.00
64317 Chris McFarland	Travel	11.22
64318 Ohnstad,Twichell, P.C.	General	872.73
64319 SC Envirothon Team	Education	1500.00
64320 Kurt Wipf	1 beaver – SCWC#1	50.00
5927 Mark Breker	6 PD plus \$20 meals less 49.98	690.02
5928 Sherry Hosford	Sec. salary less 17.89 taxes	298.78
5929 Richard Engst	3 PD less 20.34	339.66
5930 James Bosse	14 PD less 213.09	1466.91
5931 Chris McFarland	1 PD less 6.78	113.22
DD Sargent County Bank	Withholding taxes	556.05

UNFINISHED BUSINESS:

Several items were reviewed including the Silver Lake Dam Study (no contact); kiosk at Frenier Dam; tree piles on Drain No. 9; Paul Mathews right of way on Drain No. 11; deed to Joe Breker - need metes and bounds description from Joe; cost share on Bridge 123-20 – waiting for engineers update; Kenny Hamilton and Breker culvert installation; spraying of drains and other areas; culvert under State Highway 13 west of Gwinner.

Discussion was held on the Brampton Township drain extension requested at the May meeting. Chad Engels, Engineer for the Board has indicated he can put together a cost estimate. Drain No. 4 through Forman City was also discussed and Chad Engels will prepare some options and cost estimates.

Rebecca Wirtz and Keith Wisnewski, Cogswell met with the Board regarding a water problem in Cogswell. They are concerned about a neighbor who constructed a new building and covered up a drainage ditch. This has obstructed the flow of water and allowed more water to flow through their yard. Keith Wisnewski has put up a dike and was informed that he is not allowed to do this but he feels to save his animals and property he will build up his driveway. Sean Fredricks advised them to file an Obstruction to Drain form and the Board would then investigate. Jim Bosse commented that he looked at the area this spring and only found a dike 6 inches high but one of the other landowners agreed to cut a ditch to remove the water. Sean suggested that the Board's engineer look at Lidar maps to see what the elevation was in 2008 and today.

Wendell and Linda Schutt, Milnor and Emeric Erickson, Milnor met with the Board regarding the Tile Permit No. 3801 filed by Emeric Erickson in early April 2011. Linda Schutt provided background information on drainage in the SE1/4-2-131-55. The Schutt's were led to believe that the drainage was for equalization of the water not a tile drain. A culvert was installed in early July 2010 and ditching began on said quarter. The Schutt's do not feel it is acceptable for Emeric Erickson to drain water onto their land. Emeric Erickson filed and received approval from this Board for the tile drain permit with the condition that he obtain flowage easements from the Schutt's (NE1/4-11-131-55) and Loren Hanson (N1/2 of NW1/4-12-131-55). Flowage easements have not been obtained at this time. The Schutt's would like to hear from the Board and their attorney what is right. Sean Fredricks reiterated the condition to obtain flowage easements and if they are not obtained the permit is not valid. Tom Jones, NRCS explained in the SE1/4-2-131-55 the equalizer culvert was for an old drain and that there was not a culvert under the road until Emeric Erickson installed it. The purpose of the culvert was to correct a natural balance to the road safety. The tile drain will push more water through the culvert. The Board has no jurisdiction over this matter unless a complaint is filed—then the Board must

investigate. Attorney Fredricks suggested that the parties try to work something out amongst them. The Schutt's and Mr. Erickson left the meeting and gathered in the courthouse rotunda for more discussion.

Lee Ann and David Even, Cogswell met with the Board. Lee Ann reported that Cogswell City appointed a committee to work on resolution of the water situation in Cogswell. The city proposes to place a 4' culvert under State Highway # 11 and send all the water south. Hazard mitigation and Garrison Diversion Conservancy District funding has been involved in the planning process. LeeAnn's purpose for attending this meeting is to inform this Board of their engineer's plans to move this water. This Board would be involved in the regulatory process when a plan is developed. Ms. Even assured the Board that she will keep them updated of any activity on this project.

Emeric Erickson returned to the meeting and asked the Board to refrain from issuing the approved permit until he determines whether or not to proceed with the project in light of the unlikelihood of obtaining flowage easement from the Schutt's.

Mark Bopp, Mayor, Forman City met with the Board to request a letter to the DVMW and CP railroad regarding a culvert. Authorize the Chairman to sign a letter addressed to DVMW and CP railroad regarding installation of a culvert in the SE1/4-36-131-56. The Board has no objection to a culvert or culverts of sufficient size being located in such location to minimize additional flood damage to the City of Forman from a grade raise to the railroad bed. No additional permits or permission is needed from this Board for placement and installation of the culvert(s) in the railroad grade.

The Sargent Central Envirothon Team is requesting a monetary donation to represent North Dakota at the National Canon Envirothon Competition in Sackville, New Brunswick, Canada. This is the fourth consecutive year that the team has won the state competition. Motion to approve \$1500 for this education experience for the Sargent Central Envirothon Team. (McFarland/Engst, unanimous)

The Red River Joint Board (RRJTB) in preparation of their 2012 budget informed the Board that they will be requesting 60% of 2 mills or approximately \$24,200 from Sargent County. They are willing to meet with this Board or the county commission to answer any questions. Motion to support the request of the RRJTB. (Engst/McFarland, unanimous)

Lyle R Bopp, Sargent County States Attorney sent a letter to the Board seeking comments with respect to making future application from the North Dakota Water Commission for continuation of the open ditch which operates to drain excess water from Buffalo Lake into the Wild Rice River through a services of drains and township culverts. Attorney Sean Fredricks will respond to Mr. Bopp indicating that while this Board was involved in the State Engineer's deliberations regarding approval of the emergency permit, the Board is not a "sponsor" of the project and that the County Commission is solely responsible for determining if a permanent project is necessary. The letter will also indicate that if the County opts to seek a permanent drainage permit/project, the County will have to acquire all requisite permanent right of way. This Board's role is only regulatory in nature, as required by statute.

Vivian Township is requesting cost share for a 54" x 46' culvert between Section 1 and 12-132-57. According to Chris McFarland, Whitestone Hill Township Board members have been in contact with him of potential problems with this culvert. Tabled for more information.

FEMA projects have been identified and the local share will be 15%. FEMA would like to get these sites fixed correctly so they do not show up with every emergency.

Don Rust would like permission to clean a ditch on Drain No. 11 located in Section 23-130-58. It is approximately $\frac{3}{4}$ of a mile and was surveyed by Moore Engineering in 2009. Al Carton with Rust Farms would like to do the work himself with a laser. The Board is concerned about approving the work without a bonded contract. No action taken.

Jerry Bohnenkamp will be hired to fix the culvert problem on Drain No. 9 by the Al Dahl residence in Taylor Township. It will include a three foot extension, a band and a cap.

1 **1APPLICATION TO INSTALL A SUBSURFACE DRAIN for Betty and Leo Rust**

The Board reviewed APPLICATION TO INSTALL A SUBSURFACE DRAIN dated June 13, 2011, for Betty and Leo Rust. This is the first drain tile application the Board has considered under the new tile legislation from the 2011 legislative session. Under the new process, applicants submit their applications directly to the Sargent County Water Resource District; under the old system, the State Engineer's Office reviewed applications first and attached conditions, then forwarded them to the Board for final review and approval. Also, the new legislation only permits flowage easements up to one-mile downstream of a tile outlet, and then only if the project does not discharge directly into a legal assessment drain, river, lake, and other bodies of water identified in the legislation.

Chad Engels reviewed the application and submitted recommendations to the Board. Under this application, 1Applicants seek to construct a tile system, consisting of less than 80 acres of physical tile, in the East Half of Section 23, Jackson Township (T130-R58), Sargent County, North Dakota. Applicant proposes to locate the gravity outlet in the Northeast Quarter of the Southeast Quarter of Section 23, where the project will discharge directly into Sargent County Drain No. 11. Because the project will discharge directly into Drain 11, Mr. Engels did not recommend any flowage easements. However, Mr. Engels did recommend that the Board require Applicant to install and maintain erosion protection to protect Drain 11.

According to records on file with the Sargent County Recorder's Office, the Betty J. Rust Revocable Trust owns the Northeast Quarter of Section 23. Betty and Leo Rust are purchasing the Southeast Quarter of Section 23 from Karven and Shelva Nepstad under a contract for deed.

The Board concluded the application does not propose drainage of statewide significance, so the Board has jurisdiction to approve the permit. Manager McFarland, seconded by Manager Engst, moved to approve APPLICATION TO INSTALL A SUBSURFACE DRAIN dated June 13, 2011, for Betty and Leo Rust, subject to the following conditions:

- 1) That Applicant obtain written consent from the record owner of any property not owned by Applicant where Applicant seeks to physically construct the tile system.
- 2) That Applicant provide and maintain adequate erosion protection at the outlet(s).
- 3) 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 a copy of the Notice of Decision and approved permit to the State Engineer, the applicant, and other parties of record.

Gordon Paul Anderson requested approval for Drainage on Highway Right of Way for a tile drain of 52 acres in the SE1/4-2-132-56 with drainage exiting into Highway 32 ditch. The Board received this request and sent it to NDDOT for their consideration and approval. Mr. Anderson initially applied for a tile drainage project in 2007 that was approved by this Board pending flowage easements from the owners of the NW1/4-1-132-56 and had also received approval to drain into the highway ditch by NDDOT. Mr. Anderson was never able to obtain the flowage easement from the Johnson brothers. The project was and is to be a 52 acre project and with the new regulations, a permit is not required. Mr. Anderson plans to complete this project this summer/fall but has the potential of not being done until next spring (2012).

Other items discussed included a survey of the silt in Drain No. 8 south of Rutland, a low water crossing request from Kevin Throener and tile drain application to LuVerne and DeLano Colby which was approved by the Tri-County Drain Board.

The Board received a copy of the Wild Rice River and Wild Rice Creek E. coli Bacteria TMDL report from the ND Dept. of Health for review and comment.

Meeting adjourned at 11:30 p.m.

JAMES BOSSE – CHAIRMAN

ATTEST:

SHERRY HOSFORD - SECRETARY