

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, JUNE 16TH , 2022 AT 8:25 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; Dan Ogdahl Sr., Dan Ogdahl Jr., and William Ogdahl. Others present via video conference were Manager Bruce Speich; Sean Fredricks of Ohnstad Twichell, P.C., the Board's Attorney; Josh Hassell and Brady Woodard, Moore Engineering; landowners Leon Mallberg, Terry Malberg and Paul Mathews; and Ross Nilson of Nilson Brand Law

**Borg Lake Complaint:** A complaint has been filed by both William Ogdahl and Kasey Lien against Jim Toyne. The complaints allege that Jim Toyne installed or constructed a dam to block a natural outlet of the lake and has caused water to back up and flood a township road and pasture land, among other things. The area that has been dammed up is off the Cayuga County Road on the west side, 5 miles south of Milnor. Engineer Woodard of Moore Engineering shared drone photos of the area. Engineer Trosen of Moore Engineering said that a field survey would need to be completed and compared to Lidar. Manager Speich commented that there are a lot of weeds in this area right now. A motion was made by Manager Wyum and seconded by Manager Zetocha to direct Moore Engineering to investigate the complaint and prepare a report that will be discussed at the July 2022 meeting. Upon roll call, the motion passed unanimously.

**Drain No. 11:**

**Reassessment-**Trosen of Moore Engineering stated the assessment list is updated and preparation for the upcoming June 28 informational meeting is underway. The information presented on the 28<sup>th</sup> will show all the changes that have been made.

**EXECUTIVE SESSION**

Sean Fredricks indicated that, by law, he would have to read a script regarding the Board's potential Executive Session, and would have to record his reading of the script as well as the Executive Session; Mr. Fredricks read the requisite script regarding the Executive Session. Manager Wyum moved, and Manager Stein seconded the motion, to close the meeting, and to participate in an executive session, for purposes of discussing litigation strategies and attorney consultation regarding litigation related to the Sargent County Drain No. 11 Improvement Project, in accordance with N.D. Cent. Code §§ 44-04-19.1(2), (5), and (9), in the following matter:

Leon Mallberg, Robert Banderet, and Paul Mathews v. Sargent County Water Resource District, Civ. File No. \_\_\_\_\_.

Upon roll call vote, the motion carried unanimously. The executive session began at 9:01 a.m. The executive session was attended by Chairman Luke Siemieniewski; Board members Roger Zetocha, Todd Stein, Bruce Speich, and Michael Wyum; Wendy Willprecht, the Board's Secretary-Treasurer; the Board's project engineers from Moore Engineering, Nathan Trosen and Josh Hassell; and the Board's attorney, Sean Fredricks.

The executive session adjourned at approximately 9:54 a.m., and the Board returned to the public WebEx meeting, open to the public.

**Drain No. 11 (cont.):**

A motion was made by Manger Zetocha and seconded by Manager Wyum to issue the Notice to Proceed for the Drain No. 11 project. Upon roll call, Managers Zetocha, Stein, Wyum and Speich voted yes, Chairman Siemieniewski voted no. The motion passed.

Engineer Hassell is working with the Game and Fish Department regarding the right of way necessary through Game and Fish property. The easement has been reviewed by the necessary agencies and has been approved. The Game & Fish Department will require the District to pay for the easement first and then they will sign the easement.

A motion was made by Manager Stein and seconded by Manager Wyum to approve the easement agreement with the North Dakota Game & Fish Department and to issue the \$14,197.64 payment required under the agreement. Upon roll call the motion carried unanimously.

Lannae Johnson of Walock Insurance requested permission to provide a general liability loss report to NDIRF for the handling of the appeal by Mr. Mallberg, Mr. Banderet, and Mr. Mathews. Manager Wyum made a motion to give permission to Walock to provide the report to NDIRF. Manager Stein seconded the motion. Upon roll call, the motion carried unanimously.

Scott Mund entered the SCWRD meeting to discuss the issues at Borg Lake. Chairman Siemieniewski explained that the issue had been addressed earlier in the meeting and updates would be provided when they develop.

Manager Stein moved to approve the May 19th, 2022 regular meeting minutes. No financial statement was available due to financial reports not being available through the treasurer/auditor departments. Manager Zetocha seconded the motion to approve the minutes. Upon roll call vote, the motion carried unanimously.

Manager Stein moved to approve the following bills:

**Ohnstad Twichell-** Drain No. 11-Proj. Improv. \$643.96/Eminent Domain \$402; Attorney fees \$532; Drain No. 7-Review payment, appraisals \$2455.50

**Total: \$4,033.46**

**Forum Communications Co.-**Drain No. 11-Bids for project

**Total: \$284.31**

**Sargent County Abstract and Title Guarantee Company-**  
Glen Thompson abstract update

**Total: \$194.25**

**Moore Engineering:** Silver Lake Dam-close out \$85; Meetings \$6224.08; Short Foot Creek-Task 6 \$1981; Drain No. 2-Survey culvert crossing \$3013.11; Drain No. 4-Assessment/Analysis/Proj. Mgt. \$4465; Drain No. 11-Construction \$24,280/Utility relocation/ROW \$2967.50/ Reassessment \$6532.50; Thompson \$277.50; Drain No. 7-Wash out \$1732.50/Design-Construction \$4050/ ROW \$1902.50/Reassessment \$6247.50; Crooked Creek-Task 3 \$9497.50

**Total: \$74,294.77**

**Sargent County Teller-** Drain No. 11 Legals/Advertising for bids

**Total: \$90.57**

ND Game and Fish Department-Easement NE ¼ Section 20 and SE ¼ Section 17, all in Township 130 North, Range 57 West of The 5<sup>th</sup> P.M. Total: \$14,197.64

Manager Speich seconded the motion. Upon roll call, the motion carried unanimously.

83763	Lucas Siemieniewski	Travel	\$29.84
	Todd Stein	Travel	
83765	Michael Wyum	Travel	\$11.70
83766	Roger Zetocha	Travel	\$29.25
	Bruce Speich	Travel	
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

#### **DRAIN NO. 7:**

Engineer Trosen discussed the washed out culvert 1 mile east of Milnor. The culvert has not yet been replaced but the farmer in this area is able to get to his field.

Commissioner Richard Ruch said the Commission would agree to use of steel culverts instead of concrete under the County Road 3 crossing in order to get the project done and make the road safe again for motorists. The Drain is still full of water so there was no update on the clean out.

A motion was made by Manager Wyum and seconded by Manager Stein to authorize Moore to advertise for bids for the Project contingent on all purchase agreements being approved and signed. It was suggested to get bids with both steel and steel with coating. Upon roll call, the motion carried unanimously.

Trosen noted that we still need the purchase agreement from Brian Anderson. After we receive a signed agreement from Mr. Anderson, we will have all the purchase agreements needed.

Manager Zetocha made a motion to approve the Drain 7 purchase agreements, including agreements with Bogart, Anderson, Krieger, Mund, and the US Fish & Wildlife, and to allow Chairman Siemieniewski and Administrator Willprecht to sign the purchase agreements. Manager Wyum seconded the motion. Upon roll call, the motion carried unanimously.

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

Trosen attended the Rutland City Council meeting on June 6<sup>th</sup>. As requested by the City Council at the previous council meeting Trosen provided cost estimates for three project alternatives. The three options included filling in the channel with a 12" pipe, 24" pipe, and an 8" pipe with a pump. Trosen discussed the potential issues of each alternative and said a study would need to be conducted to determine the actual constructability of each.

The city of Rutland will digest what Trosen presented and Manager Wyum will follow up. The next step would be for Moore Engineering to a study to investigate each alternative. The city did say that they do not wish to abandon the Drain as a solution. This discussion was tabled for a later date.

### **DRAIN NO. 2:**

Moore surveyed the in-line crossings on the Drain and one mile North of the Drain. It appears the crossing on County Road 14 may be too high. Moore to compare surveyed elevations to as-built drawings if available.

### **SHORT FOOT CREEK:**

Hassell of Moore Engineering reported the draft watershed plan is nearly complete. Once the document is updated, a request will be submitted to the NRCS. Trosen and Hassell have filed for an extension of funding for this project with the Red River Joint Water Resource District.

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

Commissioner Ruch said that the original Drain extension project has been requested to be extended downstream to the Silver Lake Dam. Ruch said he had been working with Nathan Trosen and that Sean Fredricks prepared an amended petition to include the extension. The amount being requested from the petitioners was updated to include the additional work to extend the project and the new bond amount required is now \$31,000. Trosen recommended a request to update the cost share agreement with the State Water Commission once the project's footprint is finalized. He added that the request will not likely have to go to the entire Commission and he will hold off until we have all of the landowner petition funds in hand. The study will investigate impacts of the new design.

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

The modeling for this project is done. Maps are being created. Moore Engineering will present the information to the project team at the next upcoming project team meeting.

The SCWRD Managers discussed hiring the Wild Rice Soil Conservation to do drain clean outs. It was decided to check back with the Conservation office at a later date as all the drains are currently full of water.

The following modifications were made to the SCWRD 2023 budget:

1. Drain No. 8: Annual levy per acre will now be \$1.00 for 2023
2. Tewaukon Watershed: Annual levy per acre will now be \$0.00 for 2023

Manager Wyum made a motion to accept the 2023 budget modifications. Manager Zetocha seconded the motion. Upon roll call, the motion carried unanimously.

### **Application to Install a Subsurface Water Management System No. 2022-07 for Alan Malpert and Shannon Malpert in the Southwest Quarter of Section 12 in Southwest Township**

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2022-07*, filed May 23, 2022, by Applicants Alan Malpert and Shannon Malpert. Under the Application, Applicants seek to install a 136-acre drain tile system in the Southwest Quarter of Section 12 in Southwest Township, Sargent County, North Dakota. The project will include a single pump outlet located along the north boundary of the Southwest Quarter of Section 12; the outlet will discharge directly into Sargent County Drain No. 11, a legal assessment drain owned and operated by the Sargent County Water Resource District.

According to County tax roll information supplied by Applicants, Alan Malpert and Shannon Malpert own the Southwest Quarter of Section 12 of Southwest Township.

Manager Stein moved, and Manager Zetocha seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2022-07*, filed May 23, 2022, for Alan Malpert and Shannon Malpert in the Southwest Quarter of Section 12 in Southwest Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-07, subject to the following conditions:

1. Applicants will install and maintain erosion protection at the outlet into Sargent County Drain No. 11.
2. Applicants will re-establish any areas disturbed installing or maintaining Applicants' tile system.
3. Applicants will not install Applicants' tile system within 20 feet, on either side, of any rural water lines Southeast Water Users District has in the Southwest Quarter of Section 12 in Southwest Township under any blanket easements, or otherwise beyond the Water District's existing easement.

4. Applicants will turn off any pump outlets and otherwise close all outlets during “critical flood periods,” as determined by the Sargent County Water Resource District.
5. Applicants must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-07 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.

Under Section 61-32-03.1, the Board cannot attach any additional conditions to Applicants’ permit. However, for Applicants’ protection, and to ensure protection of Applicants’ tile system, the Board will recommend 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.

Sean Fredricks will provide copies of the Board’s NOTICE OF DECISION and SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-07 to the Department of Water Resources and to Southeast Water Users District.

A motion was made by Manager Stein and seconded by Manager Zetocha to approve the application as laid out above. Upon roll call, the motion carried unanimously.

Larson Helicopter had reached out to Administrator Willprecht asking if the SCWRD had any spraying they wanted done. Once again, the Managers stated the drains are too full of water right now to determine what needs to be sprayed. The Managers will discuss, again, at either the August or September meeting.

The SCWRD will schedule a drain inspection tour in the near future.

**RS #1:**

Moore Engineering has surveyed the Drain now that the water level has dropped. The engineers are working on the preliminary engineering.

1) **Revenue :**

	<b>Total :</b>	<b>\$0.00</b>
<b>Expenditures :</b>		
RS #1 Maintenance Checking Acct. Balance		\$ .88
RS #1 Maintenance Savings Acct. Balance		\$439,263.74
Total Maintenance fund balance as of April 30th, 2022-		<b>\$439,264.62</b>

**DICKEY-SARGENT JOINT BOARD:**

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

1. **DVEC – electricity Bills: \$919.00**

The motion approving these bills was handled during the Dickey-Sargent Joint Board meeting.  
Meeting adjourned at 10:47 a.m.

APPROVED:

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LUCAS SIEMIENIEWSKI, CHAIRMAN

ATTEST:

\_\_\_\_\_  
WENDY WILLPRECHT SECRETARY-TREASURER