

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, JUNE 17TH, 2021 AT 8:56 A.M. IN THE WATER BOARD CONFERENCE ROOM AT THE SARGENT COUNTY COURTHOUSE, FORMAN NORTH DAKOTA

Managers present: Lucas Siemieniewski, Todd Stein, Roger Zetocha, Bruce Speich and Michael Wyum. Commissioner Richard Ruch; Chris Gross, the Board's Engineer; and Wendy Willprecht, Secretary/Treasurer were also present at the courthouse. Others present via video conference were Sean Fredricks, the Board's Attorney; Chris McShane, OT; Managers Norm Haak and Steve Hansen Dickey-Sargent Joint Board; Mary Engst-The Teller; Charlie Faber WRSCD; Paul Mathews; Bob Banderet; Leon Mallberg; Dale Mallberg. Present via telephone was Kathy Duttonhefner- *Natural Resources Coordinator/Biologist II, Head of the Mountain.*

The meeting was called to order by Water Board Chairman Lucas Siemieniewski.

Manager Wyum moved to approve the May 20th, 2021 regular meeting minutes and the June 3rd, 2021 and June 14th, 2021 special meeting minutes as well as the May 2021 Financial report. Manager Speich seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Zetocha moved to approve the following bills:

82112 Ohnstad Twichell- **Board meeting \$405; Drain No. 9-Draft Proj.,petition/bond documents \$735.00; Drain No. 11-Title opinions, research, conference calls, overlay of ownership proj., purchase agreements, meetings \$14,849.63** **Total: \$15,989.63**

82109 Farmers National Company-**Drain No. 11 Appraisals Gerald and Diana Bosse \$1600**

82111 Moore Engineering-**Silver Lake Dam Construction Services-\$80; Board meetings \$1771.40; SFC NRCS Steps 6 & 7 \$6740.00; Drain No. 11-ROW \$3972.50/ Permitting \$4117.50/ Legal Descriptions \$1555.00/ Reassessment-\$5815.00** **Total: \$24,561.58**

82110 James Hayen-Warranty deed \$26,100/Permanent Easement \$20,205/Temporary Easement \$2122.50=\$48,427.50

82115 SRT Excavation LLC-Drain No. 2 (Clean Drain/Bury Trees) \$4200.00

82113	Lucas Siemieniewski	Travel		\$94.08
82116	Todd Stein	Travel		\$26.88
82117	Michael Wyum	Travel		\$33.60
82118	Roger Zetocha	Travel		\$84.00
82114	Bruce Speich	Travel		\$185.36
DD	Lucas Siemieniewski	PD	Salary less taxes \$9.18	\$110.82
DD	Todd Stein	PD	Salary less taxes \$18.36	\$221.64
DD	Michael Wyum	PD	Salary less taxes \$18.36	\$221.64
DD	Roger Zetocha	PD	Salary less taxes \$9.18	\$110.82
DD	Bruce Speich	PD	Salary less taxes \$27.54	\$332.46
DD	Wendy Willprecht	Sec-Treas	-Salary less taxes \$275.23	\$1349.77
DD	Stock Grower's Bank	Withholding Taxes		\$552.78
DD	ND State Tax Commission	State Tax		\$12.00
DD	Job Service ND	Unemployment Comp.		\$1.63

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

Charlie Faber of the Sargent County WRD asked the board what areas around the county the Managers would like he and his crew to groom. The following sites were listed:

- City of Rutland on the west side
- Drain No. 9 on the south end
- Silver Lake Dam
- Dickey-Sargent Drain on the north and south side of Highway 11 (east of the pumps)
- North and west of Milnor-Drain No. 7

Faber asked the SCWRD Managers to draw out on a map exactly where his crew should go and what needs to be done. The SCWRD Managers will get Faber the map by next Tuesday. Chairman Siemieniewski told Faber to purchase their own chemical and to itemize the time and chemical used per site/Drain so we can apportion the bill.

DRAIN NO. 11: Next week Moore Engineering will travel throughout Sargent County and do ground truthing. Engineer Gross said he and Jim Guler compiled all of the comments and concerns they received from

landowners after the June 14th special meeting. Gross suggested having a meeting with Ransom and Dickey to discuss these comments and concerns. The Board requested that Administrator Willprecht reach out to the other two counties and begin coordinating a meeting for the week of June 28th.

Project Update:

Engineer Gross indicated the Corps is still considering the 404 permit. Moore Engineering plans to submit final comments to the Corps in response to the public comments received.

There were no purchase agreements to approve.

Ohnstad Twichell attorney Chris McShane filed the eminent domain action and the landowners were served last week. Judge Schmitz has been assigned. Once Ohnstad Twichell receives the affidavits of service, Chris McShane will likely request a scheduling conference. Kyle Nelson will be updating the appraisals on these parcels to ensure accurate and recent appraisals for trial.

DRAIN NO. 7: Engineer Gross presented a preliminary cost estimate for this improvement project. The improvement is to the County Road 12 crossing. We are not likely in a position to begin construction of this project in 2021. We will not know if we receive cost-share from the SWC until August. An assessment of \$4.00/acre would bring in around \$145,000. Gross reminded the Board that we cannot obligate the Drain 7 assessment district beyond the maximum amount the Board can collect in six years; the max 6-year levy is \$870,000. We would need 4 years of levy for the corrugated pipe or 5 years of levy for the concrete box culvert.

Engineer Gross said that if the county can make a case of safety for this project to the SWC, there could be an opportunity to collect full funding, but there is no guarantee.

Manager Wyum asked Commissioner Richard Ruch if the county would be willing to pay more towards this project. Commissioner Ruch said that the county would need to look at the project during their budgeting meeting to see if there is funding available. He commented that he knows the structure needs to be replaced. Manager Zetocha added that this area is a main inter-county arterial roadway.

Gross stated that the deadline to submit a cost share application is June 28th, 2021. Chairman Siemieniewski said that he feels we need to apply for the cost share and continue to work with the county in the meantime to address the funding of this project. Gross reminded the group that we can always withdraw the cost share request if the finances don't come together. The Board requested that Engineer Gross submit the cost share application and to request the full amount based on safety and longevity.

We have one bond payment left in 2022 for prior projects on Drain 7.

DRAIN NO. 12: Engineer Gross said that the contractors are working on the final pay application. The seeding was found to be acceptable.

Commissioner Ruch commented on the bridge that has been taken out. He said the refuge would like the bridge replaced and wants over \$200,000 from the county towards the replacement.

SILVER LAKE DAM: D.L. Barkie was the contractor for this project. The contractor needs to remove the rock check in order for the project to be closed out. This will be done in the next couple of weeks when they are in the area for another project. When this is complete, we will need to do a final cost share request.

SHORT FOOT CREEK: The environment analysis is complete and we are waiting for a report from the NRCS.

DRAIN NO. 9 EXTENSION: Commissioner Richard Ruch said that he had nothing to report. Ruch said there is a lot of interest among the landowners for the project. Engineer Gross brought a preliminary cost share application. Gross again reminded the group that submitting the application does not obligate any entity to this project. It was requested that Chairman Siemieniewski sign the application to move the project forward with a 45% grant request.

A motion was made by Manager Stein and seconded by Manager Zetocha to have Chairman Siemieniewski sign the cost share request and forward it to the SWC for this project. Upon roll call, the motion passed unanimously.

CROOKED CREEK WATERSHED PLAN: No action needed at this time.

TEXAS CROSSING: No action needed at this time.

HEAD OF THE MOUNTAIN: Kathy Duttonhefner, Natural Resources Coordinator for HOM, joined the meeting via telephone. Kathy said the biologists did a site visit. The woodlands are pretty dry. The weeds have been sprayed. A goal for 2021 was to get the border signs replaced. This will hopefully be done by the end of the year.

Kathy referred us to the Articles of Dedication as well as the lease she had submitted previously. The State concluded that the minor changes would not require a public hearing. Instead of renewing each year, the renewal will now take place every 3 years. We will still have annual discussions every June. Duttonhefner added that each year the HOM relooks at hunting and decides if it can be allowed for that year. Kathy asked to have the SCWRD Board review the edited Articles of Dedication and the lease and return the signed lease back to her by early July.

A motion was made by Manager Stein and seconded by Manager Zetocha to authorize Chairman Siemieniewski to sign the HOM lease, contingent upon review and approval from attorney Sean Fredricks. Upon roll call, the motion carried unanimously.

Duttonhefner added that she will send the 2021 annual report to the SCWRD as soon as it complete. We should have it in the next couple of weeks.

JEFF BREKER: Manager Siemieniewski said he had been approached by Breker to renegotiate his agreement with the district every 3 years. The topic of mob grazing was brought up. Should it be allowed to let the cows mob graze in April every year? Manager Siemieniewski said that Breker will come to the next meeting to come up with a plan. It was suggested that if the mob grazing occurs on a yearly basis that it would be suggested to do it early so the grass can rebound.

MICHAEL HARTY - Application to Install a Subsurface Water Management System No. 2021-09: The Board next reviewed *Application to Install a Subsurface Water Management System No. 2021-09*, dated and filed June 14, 2021, filed with the Board by Applicant Michael Harty. Under the Application, Applicant seeks to install a 140-acre drain tile system in the Northwest Quarter of Section 19 and the Northwest Quarter of the Southwest Quarter of Section 19 in Verner Township, Sargent County, North Dakota. The project will include a pump outlet in the Northwest Quarter of the Southwest Quarter of Section 19 ; the pump will discharge via a buried pipeline that will run to the south, under and across the West Half of the Southwest Quarter of Section 19; the pipeline will discharge along the south boundary of the Southwest Quarter into the drain permitted under Surface Permit No. 5503 issued to the Dickey County Highway Department. The surface drain permitted under Permit No. 5503 provides drainage to protect County Road 3, and drains to the east across the south boundary of the Southwest Quarter of Section 19, then across the North Half of Section 30 of Verner Township; at the east boundary of Section 30, the drain turns south in the west road ditch along 115th Avenue SE; the drain runs south in the west road ditch, along the east boundary of the Northeast Quarter of Section 30; at the northeast corner of the Southeast Quarter of Section 30, the drain runs under 115th Avenue into the east road ditch in the northwest corner of the Southwest Quarter of Section 29; the drain ultimately discharges into Jackson Township Improvement District No. 1 near the southwest corner of the Southwest Quarter of Section 29.

According to the County tax roll information supplied by Applicant, Michael Harty owns the Northwest Quarter of Section 19 in Verner Township, and Nathan and Emma Quandt own the Southwest Quarter of Section 19, where Applicant intends to install the buried pipeline to accommodate the project outlet. The tax rolls do not indicate if the County owns its highway right of way or if the County relies on the statutory 33-foot easement for County Highway 3. With regard to landowners one mile downstream, Charles and Kausha Magill own the Northwest Quarter of Section 30 in Verner Township, and Maxine Ehrlin owns the Northeast Quarter of Section 30.

Manager Stein moved, and Manager Wyum seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2021-09* dated and filed June 14, 2021, for Michael Harty in the Northwest Quarter of Section 19 and the Northwest Quarter of the Southwest Quarter in Section 19 in Verner Township, and to authorize the Secretary-Treasurer to sign Subsurface Water Management Permit No. 2021-09, subject to the following conditions:

- 1) that Applicant install and maintain erosion protection or other ditch stabilization materials at any and all outlets into the ditch permitted under Surface Permit No. 5503/County Road 3;
- 2) that Applicant re-establish any areas disturbed installing or maintaining Applicants' tile system;
- 3) that Applicant will not install Applicants' tile system within 20 feet, on either side, of any rural water lines Southeast Water Users District has in the West Half of Section 19 in Verner Township under any blanket easements, or otherwise beyond the Water District's existing easement;
- 4) that Applicant must turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the Sargent County Water Resource District;
- 5) that Applicant must apply for an amendment to Subsurface Water Management Permit No. 2021-09 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; and
- 6) that Applicant remove silt or vegetation, or repair erosion or scour damages *directly* caused by Applicants' tile system, but only up to one mile downstream the project outlet.

Upon roll call vote, the motion carried unanimously.

With regard to condition #6, Applicants' obligations to remove silt or vegetation, or to repair erosion or scour damages, will only arise upon submission of substantial evidence to the Board by a downstream landowner or road authority that Applicants' tile system *directly* caused accumulation of silt or vegetation, erosion, or scouring.

Under Section 61-32-03.1, the District cannot attach any additional conditions to Applicant's permit. However,

