

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, JUNE 18, 2015 AT 7:00 P.M., IN THE COMMISSIONERS ROOM, SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA

Managers present: Jim Bosse, Roger Zetocha, Korey Martinson and Richard Engst. Absent: Luke Siemieniewski. Also present: Board Attorney Sean Fredricks; Chris Gross, Board Engineer; Frank Walker, Milnor; Kari Gregor and Cheryl Bohnenstingl, Erickson Farms, Milnor; Scott, Corey and James Mahrer, Forman; Al Carton, Forman; and Tom Jones, NRCS.

Approve the May 21, 2015 minutes and May financial statement. (Bosse/Engst, unanimous)

Motion to approve payment of the following bills: (Bosse/Engst, unanimous)

71530	James Bosse	Travel	82.80
71531	Comstock Construction	Brummond-Lubke Dam repairs	19,500.00
71532	Richard Engst	Travel	182.85
71533	Korey Martinson	Travel	297.85
71534	Moore Engineering Inc.	Ed Erickson Jr -\$160.60; Harlan Klefstad-\$160.60; Forman Golf Course-\$80.30; Beverly Kelley complaint-\$934.65; Dr # 2 survey and drawing-\$161.25; Dr # 11 culvert inspection - \$1257.30	TOTAL \$2754.70
71535	Ohnstad Twichell	General - \$1440.40; Roger Zetocha permit-\$99.49; Dr # 4 Rick Hoistad-Eminent Domain-\$1803.00	TOTAL 3342.89
71536	Roger Zetocha	Travel	514.63
71552	Standard & Poor's	Bond Maintenance fee	120.00
10943	Sherry Hosford	Salary less 123.72 taxes	966.28
10944	Richard Engst	17 PD less 301.39 taxes	1738.61
10945	James Bosse	12 PD less 189.49 taxes	1250.51
10946	Roger Zetocha	12 PD less 270.97 taxes	1169.03
10947	Lucas Siemieniewski	4 PD less 36.72 taxes	443.28
10948	Korey Martinson	13 PD less 299.15 taxes	1260.85
DD	Sargent County Bank	Withholding taxes	1843.81

**Lawrence and Doran Malpert, Jackson Township** met with the water board to discuss cleaning a ditch in the S1/2 of 26-130-58 and E1/2 of SE1/4-27-130-58. Upon review of the proposed project and requested work, the board advised the Malpert's to file an application for a Surface Drain permit. The Secretary provided the paperwork.

**GWINNER DAM:** The geo-technical engineer looked at the dam and conducted a seepage analysis and have opined that the board should not spend any more time other than the consideration to repair the dam in its current state. Classification of the dam and safety requirements as per state but no additional soil boring will be conducted. Phase 2 will be the next step and then on to the feasibility study.

**DRAIN 8** – Chris Gross reported that they are working on wetland issues with Fish & Wildlife and have been talking with several Prindiville family members to discuss where the drain could go. Next up is a date to discuss taking this to a vote of the people.

**DRAIN 11-** Update from Chris Gross with maps including the existing assessment district, the watershed area and the Preliminary assessment District. Percentage amounts in the 14 ½ mile long by 8 mile wide proposed Ransom County Assessment District range from 10 to 20 percent. In reviewing the preliminary assessment map, there are forty-one (41) square miles in the 20% area and at \$1.00/acre/year that would generate \$5,248/year. The 10% area contains 56 square miles and at \$1.00/acre/year that would generate \$3,584 for a total each year from Ransom County of approximately \$8,832 at \$1.00/acre. This is only a start to get something ready for the Board to present to Ransom County. Chris Gross asked board members to look over the maps and the above numbers and be prepared for a discussion at the July meeting.

Tom Mund, Milnor arrived at this time.

**Glenn Koeppe, Milnor** met with the Board to discuss placing a dike in Outlot C, Auditor's Plat (NW1/4-9-132-54) in Milnor City to keep the water from overflowing on his land and relocate into Drain No. 7. The Board informed Mr. Koeppe that he should apply to the State Water Commission for a permit to construct a dike.

**DRAIN NO. 2:** Tom Jones informed the Board that the landowner has been in contact with NRCS and the wetland issues are being studied and could take six weeks to two months.

**Application to Install a Subsurface Drain for Kent Carpenter in the SW 1/4 of Section 10 in Harlem Township**

The Board reviewed an *Application to Install a Subsurface Drain No. 201112* dated May 21, 2015, for Kent Carpenter. The Board reviewed the criteria in Section 89-02-01-09 of the North Dakota Administrative Code and concluded the project does not meet any of the “statewide” elements, and the Board concluded therefore the application does not propose drainage of statewide significance, so the Board has jurisdiction to approve the permit (without forwarding to the State Engineer’s Office to consider and approve). Under the application, Applicant seeks to install a drain tile system in the SW¼ of Section 10 in Harlem Township, Sargent County, North Dakota. The project will include a single pump outlet located in the southwest corner of the SW¼ of Section 10. The pump outlet will discharge via an underground pipeline that will run diagonally through and under the intersection of 86<sup>th</sup> Street and 123<sup>rd</sup> Avenue; the pipeline will then run approximately one-half mile to the west; the pipeline will daylight and discharge directly into Sargent County Drain 11.

Chris Gross reviewed the application and recommended that because the project will discharge directly into Drain 11, the Board should require Applicant to obtain a *UTILITY PERMIT*, including a requirement that Applicant install and maintain erosion protection to protect Drain 11. Because the project will discharge directly into Drain 11, the application did not require a *Thirty-Day Notice* under N.D. Cent. Code Section 61-32-03.1, and the Board cannot require Applicant to obtain any flowage easements from downstream landowners; however, the Board can require Applicant to obtain a pipeline easement regarding the underground pipeline.

According to records on file with the Sargent County Recorder’s Office, Colleen Carpenter owns the SW¼ of Section 10 of Harlem Township; Cole Vculek is purchasing the SW¼ of Section 10 from Ms. Carpenter under a Contract for Deed. Julie Vculek owns the NE¼ of Section 16 of Harlem Township.

It was moved by Manager Bosse and seconded by Manager Martinson to approve a *UTILITY PERMIT* regarding Applicant’s proposal to discharge into Drain 11, and to approve *Application to Install a Subsurface Drain* dated May 21, 2015, for Kent Carpenter regarding the SW¼ of Section 10 in Harlem Township, subject to the following conditions:

- 1) That Applicant obtain and record (with the Sargent County Recorder’s office) an easement (and not just written consent) to install, construct, operate, and maintain buried pipeline from the owner of the NE¼ of Section 16 in Harlem Township, Sargent County, North Dakota;
- 2) That Applicant obtain and record (with the Sargent County Recorder’s office) a permanent easement (and not just a written consent) that permits applicant to install, construct, operate, and maintain a subsurface tile drainage system from the record owner of the SW¼ of Section 10 in Harlem Township, Sargent County, North Dakota;
- 3) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 4) That Applicant provide and maintain adequate erosion protection at any and all outlets into Sargent County Drain No. 11 (Applicant is solely responsible for any damages to Sargent County Drain No. 11 as a result of the tile project);
- 5) That Applicant must operate the pump outlet in the following manner:

Applicant cannot operate the pump from December 1 of each year until at least 10 days after the spring runoff flood crest at USGS flood gage 05051600 at Rutland;
- 6) That Applicant obtain written permission from the Harlem Township Board of Township Supervisors to bore through its township road and to install, operate, and maintain a buried pipeline within any of its township road right of way;
- 7) That Applicant notify the Sargent County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 8) That, upon a determination by, and notice from, the Sargent County Water Resource District that Drain No. 11 is full or otherwise unable to accommodate the discharge of water from Applicant’s tile system, Applicant must turn off any and all pumps;
- 9) That Applicant 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;
- 10) That Applicant must close all outlets during flood occurrences or under conditions that may cause adverse impacts to downstream landowners, as determined by the Sargent County Water Resource District;
- 11) That Applicant obtain an approved *UTILITY PERMIT* from the Sargent County Water Resource District regarding any and all outlets into Sargent County Drain No. 11; and

12) 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.

**Beverly Kelley Drainage Complaint Against Randy Hemminger, Donald Rust, Phyllis Thompson, and James Bosse**

The Board next considered Beverly Kelley's Drainage Complaint against Randy Hemminger, Donald Rust, Phyllis Thompson, and James Bosse. At the Board's May meeting, the Board found the parties had, in fact, constructed drainage improvements (beyond mere maintenance of a road ditch). Mr. Don Rust was present and indicated his willingness to close or fill the drainage previously constructed. Mr. Rust subsequently contacted Manager Roger Zetocha to inform Manager Zetocha that he had, in fact, remedied the drainage. Manager Zetocha had pictures of the work conducted by Mr. Rust and indicated that the parties had filled in the drainage they had previously constructed.

Sean Fredricks and Chris Gross indicated that, had the responsible parties not filled in the drainage, the Board would have had no choice but to order the parties to close or fill the unpermitted drainage. However, in light of the remedial work by the responsible parties, the Board no longer has any jurisdiction since the previously-constructed drainage would no longer require any permit.

In light of the lack of jurisdiction over this project since the parties remedied the drainage originally constructed, the Board determined dismissal is the only option available. Manager Martinson, seconded by Manager Engst, moved to dismiss the Drainage Complaint due to lack of jurisdiction under Sections 61-32-03 and 61-32-07. Upon roll call vote, the motion carried unanimously. Manager Bosse abstained in light of the Board's previous conflict analysis. The Board directed Sean Fredricks to prepare the requisite Notice of Decision and to send the decision to the parties of record.

**BRIDGE NOS. 135-05.0 AND 135-05.1 OVER THE WILD RICE RIVER:** The Board received and read a letter from the Sargent County Commissioners requesting cost share on the above named bridges. The project proposes to remove five (5) bridges and replace two (2) of those bridges with box culverts at their current location on 149<sup>th</sup> Ave SE, a graveled township roadway. Over a half (0.5) mile of this township roadbed is to be raised 5 feet as part of the project to reduce flood potential. Actual project length is approximately 0.70 miles. As part of the funding agreement with NDDOT, the county will be removing Bridge No. 135-05.2 and Bridge No. 135-06.0 as a participating part of the project and Bridge No. 136-05.1 with their own funds. Estimated cost of this project is \$1.35 million dollars. Federal monies would reimburse 80% or \$1,080,000, leaving \$270,000 for local share. Motion to authorize 50% cost share of the 20% local cost. (Engst/Bosse. Upon roll call vote, the motion carried unanimously)

**DESIGNATION OF APPLICANT AGENT:** Motion to authorize Lucas Siemieniewski, Chairman as the Applicant Agent for Sargent County Water Resource District, to file the authorization form with the Department of Emergency Services, Division of Homeland Security for the purpose of obtaining Federal financial assistance under the Disaster Relief Act, or otherwise available from the President's Disaster Fund. (Martinson/Engst, unanimous)

Tom Mund inquired whether the board had received his Request for Drainage on Highway Right of Way on the W1/2-28-132-55. Nothing has been received according to the board's records. Mr. Mund agreed to send a copy to the Board Secretary for the file.

The meeting adjourned at 9:10 p.m.

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ROGER ZETOCHA – VICE-CHAIRMAN

ATTEST:

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SHERRY HOSFORD – SECRETARY-TREASURER