

1MINUTES OF SARGENT COUNTY WATER RESOURCE DISTRICT MEETING  
SARGENT COUNTY COURTHOUSE,  
FORMAN, NORTH DAKOTA  
JUNE 19, 2008

The Sargent County Water Resource District met at a regularly scheduled meeting on Thursday, June 19, 2008, at 7:00 p.m., at the Sargent County Courthouse, Forman, North Dakota.

Present were James Bosse, Chairman; Dan Jacobson, Mark Breker, Roger White, and Richard Engst, Managers; Chad Engels, engineer for the Board; Sean M. Fredricks, attorney for the Board; and various members of the public as noted below.

**Envirothon Team - Sargent Central**

John Breker, Maria Breker, and Amanda Slykerman attended the Board's meeting to discuss a Sargent Central Envirothon Team trip to Envirothon finals in Flagstaff, AZ. The group is a student group that competes in environmental and water competitions, including competitions in aquatics. The Sargent Central Envirothon Team is requesting financial support for educational purposes in the amount of \$500.00. Manager Engst moved that the Board contribute \$500.00 to support water education for the Envirothon Team. Manager Jacobson seconded the motion. On roll call, the motion passed unanimously.

**Keystone Pipeline - Easement or Permit Over Drain Right-of-Way**

Kerwin Kostad from Ellis and Associates, and Company conducting right of way acquisition for Keystone Pipeline requested an easement or other access for the Keystone Pipeline to cross Sargent County Drain No. 11 in Section 11, Southwest Township. Mr. Kostad explained the project would entail a 30-inch steel pipe conveying crude oil. Mr. Engels explained the crossing should be by horizontal boring with at least five feet of cover, and that he would have other conditions to attach to any permit or easement. Mr. Kostad indicated Keystone Pipeline would prefer an easement. Mr. Fredricks explained that the Board's policy is to only give utility permits to cross drain right of way since the Board must protect its right of way and must retain the ability to force utilities to move at their expense, if necessary, in the future. Mr. Kostad indicated Keystone Pipeline would accept an easement that contains all of Sargent County's utility permit terms and conditions, including a provision that would require Keystone Pipeline to move at their own expense. Mr. Fredricks will review the draft easement and other documentation provided by Keystone Pipeline, and will provide comments or alternatives.

**Keith Saunders's Proposed Tile Drainage Project**

Keith Saunders explained he is considering a tile drainage project on his property. Ellingson Drainage has quoted him \$50,000.00 as an estimate to do a tile drainage project to drain surface water from a slough into Drain No. 3. Mr. Fredricks explained Mr. Saunders should obtain a drainage permit if he does proceed with the project, and Chairman Bosse agreed.

Mr. Saunders explained there is 100-year-old tile there now that is approximately six inches in diameter. He explained his predecessors installed the six-inch tile some time between 1907 and 1913 to drain the slough. Mr. Saunders explained he has approached the Township for their permission, though the Township has not yet met to consider his request.

Mr. Engels asked if there would be any protection at the discharge point into the drain, and explained that if the Board does approve a permit for Mr. Saunders, it should include a condition that would protect the discharge point, possibly including a rip rap.

Ellingson Drainage is proposing a 12-inch pipe in this matter, which would be an increase in drainage since the existing pipe is only six inches. Mr. Saunders will consider his options and let the Board know if he is proceeding, and he will file a drainage permit.

**Head of the Mountain Nature Preserve Lease Agreement - ND Parks Department**

Ms. Kathy Duttonhefner participated in a conference call with the Board. Ms. Duttonhefner is a representative with the North Dakota Parks Department. The parties have an existing lease agreement regarding the head of the mountain nature preserve in the east half of Section 8, Township 129 North, Range 54 West. The lease is currently a year-to-year lease, which the Board could cancel at any time at its convenience. Ms. Duttonhefner explained the North Dakota Parks Department suggests that deer hunting (by bow, rifle, or muzzleloader) should be permitted, and the Board agreed. Next, Ms. Duttonhefner indicated North Dakota

Parks does not want upland game bird hunting or waterfowl bird hunting on the premises. The Board agreed to the North Dakota Parks' suggestion.

Ms. Dutenhefner next requested a cost share for fencing and a kiosk. North Dakota Parks has \$2,300.00 this biennium for the cost of purchasing the fencing. She asked if the Board would consider a request for cost share on the fencing. The Board indicated they would check with the adjacent landowner to see if he would participate in fencing. Ms. Dutenhefner indicated she needs an answer by May of 2009, or the North Dakota Parks Department will lose the \$2,300.00 appropriated for fencing this biennium.

### **Federal Aid Bridge Replacement Project**

Mr. Mike Bassingwaite from Interstate Engineering attended on behalf of the Sargent County Commission. The County is conducting a federal aid bridge replacement project north of the Clarence Breker farm in Section 32 of Tewaukon Township over the Wild Rice River. Federal Aid Program has several requirements associated with the bridge replacement project, and will not allow a straightening of the road in question. There will be additional costs associated with this change in plans; the County is realigning the road to the west to accommodate the Tewaukon Wildlife Refuge as required by the Federal Aid Program. The County is procuring additional right of way for that purpose. The Federal Aid Program is paying 80% of the proposed project, and the County is asking for 50% of the remaining 20% of local costs from the Water Resource District. Mr. Bassingwaite indicated bids would be in February. The Board indicated they would like to discuss the matter with the County Commission before committing 50% of the local 20%.

### **Michael Bogart Appeal**

Tom Mund and Scott Mund were present to discuss the Michael Bogart appeal with the Board. Mr. Fredricks explained what has transpired since the Board's last meeting. Mr. Bogart attempted to file an appeal with the State Engineer's Office regarding the Board's decision to dismiss his drainage complaint against Tom Mund's two tile drainage projects. Mr. Fredricks referred to the memorandum he previously prepared and that the Board attached to its May meeting minutes. Mr. Fredricks also explained his two letters to the State Engineer's Office in which he has requested immediate dismissal of the attempted appeal. Mr. Fredricks agreed to continue to provide copies of any correspondence to Mr. Mund.

### **Approval of May 15, 2008, Minutes and Financial Report**

Manager Breker moved to approve the Board's May 15, 2008, meeting minutes, as well as this month's financial report. Manager Jacobson seconded the motion. Upon roll call vote the motion passed unanimously.

### **Bills**

Manager Engst moved to approve the bills as presented. Manager White seconded the motion. Upon roll call vote the motion passed unanimously.

59264 Jim Bosse	Travel	127.35
59265 Mark Breker	Travel	219.15
59266 Dave Titus Excavating	Drain No. 12	950.00
59267 Richard Engst	Travel	60.30
59268 Dan Jacobson	Travel	27.00
59269 Moore Eng.	Applications to Drain	437.50
59270 Ohnstad Twichell, P.C.	\$1750-General; Gary Thornberg-\$150;	
Bogart/Mund-\$151.80; Breker/Woytassek-\$133.70; Drain #4-\$495		2680.50
59272 WR Soil Conservation Service	Envirothon Team	500.00
59273 Roger White	Travel	94.50
2130 Mark Breker	7 PD less 43.42 +7.50 meal	524.08
2131 Dan Jacobson	5 PD less 31.18 + 7.50 meal	376.32
2132 Sherry Hosford	Secretary PD less 20.40	246.27
2133 Richard Engst	4 PD less 25.06 + 7.50 meal	302.44
2134 Roger White	4 PD less 25.06 + 7.50 meal	302.44
2135 Jim Bosse	8 PD less 49.54 + 7.50 meal	597.96
DD Sargent County Bank	Withholding taxes	391.45

### **Midwest Helicopters**

Midwest Helicopters is offering \$250.00 per sprayed mile on legal drains, plus the cost of chemicals. The Board directed Secretary-Treasurer to talk to Midwest Helicopters to clarify the proposed estimate. Specifically, is the \$250.00 per mile estimate for every mile or only

every sprayed mile? Mr. Engels suggested the Board request "Clear Cast" as an alternative spray.

### **Drain 11 State Water Commission Funding**

The North Dakota State Water Commission provided a \$15,709.00 payment for Drain 11. State Water Commission indicated this was the final payment on the project.

### **Transfer of Funds from Drain No. 1 to the General Fund**

Drain No. 1 previously borrowed \$35,580.00 to conduct certain repairs. Manager Engst moved that Drain 1 reimburse the general fund in the amount of \$35,580.00. Manager Breker seconded the motion. On roll call vote the motion passed unanimously.

### **Robert Lotzer Highway Right-of-Way Cleanout**

The Board received a request to cleanout ND DOT right of way. The Board will simply receive and file the application, and sign the ND DOT form as "reviewed by WRD". The Board noted that if the applicant is deepening or widening the road right of way, and not just maintaining, and the watershed is 80 acres or more, a drainage permit is required.

### **Joe Breker Tile Drainage Permit No. 3278**

The Board received application to Drain No. 3278 from the North Dakota State Engineer's Office (Joseph C. Breker applicant). This application requests a permit to install tile drain in the Southeast Quarter of Section 22, Weber Township. Mr. Engels explained this proposed tile project drains into a manmade ditch that eventually empties into Sprague Lake. He explained that because the tile project discharges into an existing channel, the tile will not have any adverse impacts on downstream landowners. The Board agreed. Mr. Engels further explained the channel is downstream of a dam; SCS constructed this channel when it built the dam. This channel is actually part of the Sargent County Water Resource District Tewaukon Watershed District, which the Board Maintains.

The Board noted that Mr. Breker is not the record owner of the property, and indicated Mr. Breker should obtain written permission from the record owner as a condition to the permit.

Manager Breker indicated concern regarding the outlet of the project, and suggested that erosion protection should be a condition to the permit to protect the Board's channel.

Manager Engst moved that application to Drain No. 3278 should be approved, without the necessity for a public hearing, subject to the conditions attached by the State Engineer's Office, and subject to the following conditions: 1) that the applicant obtains written consent from the record owner of the property; 2) that the applicant provides adequate erosion protection at the outlet(s); 3) that the applicant obtains written permission from the owner of any land, besides land owned by applicant, on which applicant will construct the tile system; and 4) that the applicant obtains all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable government entities. Manager Jacobson seconded the motion. Upon roll call vote the motion passes unanimously.

Manager Breker also indicated that if a project requires any ditch cleanouts, the applicant should approach the Board first. Mr. Fredricks indicated he would include that caveat in the notice of decision to the applicant.

### **Drain 4 Reassessment**

Mr. Engels summarized the comments made by landowners at the Drain 4 Reassessment hearing. He indicated that with regard to the boundary, there were comments that Sections 17, 19, and 20 of Bowen Township flow into Drain 11. Upon a review of the elevation maps, Mr. Engels concurred with those comments. There is a ridge through these sections, and they do in fact drain into Drain 11. The Board agreed that those sections should not be included in the drain reassessment.

With regard to Sections 20, 28, and 29 of Dunbar Township. Mr. Engels indicated he will conduct a review of these parcels before the next meeting. There were several comments from landowners from these sections. The Board will consider Mr. Engels's findings at its next meeting.

With regard to percentage benefits, there were many comments regarding wildlife easements. Mr. Engels will review all parcels with wildlife easements within the proposed

assessment boundary. The Board will discuss what impact, if any, wildlife easements should have on percentage benefits at its next meeting.

**Adjournment**

There being no further business for the Board to consider, the meeting adjourned.

APPROVED:

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James Bosse  
Chairman

ATTEST:

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Sean M. Fredricks  
Acting Secretary