

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD  
HELD ON THURSDAY, JUNE 19, 2014 AT 7:00 P.M., IN THE COMMISSIONERS ROOM,  
SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA

Managers present: Luke Siemieniewski, Chris McFarland, Roger Zetocha and Richard Engst. Absent: Jim Bosse. Also present: Al Carton, Forman; Tom Jones, NRCS, Forman; Attorney Sean Fredricks, Chris Gross, Engineer, and Randy Bergh, Forman.

Approve the May 15, 2014 minutes and May financial statement. (Siemieniewski/Zetocha, unanimous)

Motion to approve payment of the following bills: (Zetocha/Siemieniewski, unanimous)

69685	Cusip Service Bureau	Bond Issue Mtc. Fee	100.00
69686	Richard Engst	Travel	61.60
68687	The Forum	Drain No. 7 advertising for bids	232.56
69688	Ohnstad Twichell	General-\$1330.00; Farrar - \$45.60, Greg Nelson-\$64.00,	
	Mahrer/Ellefson Complaint - \$85.00, Dr # 7-\$156.00 =	Total	\$1680.60
69689	The Sargent County Teller	Drain No. 7 advertising for bids	74.72
69690	Lucas Siemieniewski	Travel	24.64
69691	Roger Zetocha	Travel	95.20
9680	Sherry Hosford	Salary less 24.22 taxes	292.45
9681	Richard Engst	2 PD less 18.36taxes	221.64
9682	Chris McFarland	1 PD less 9.18 taxes	110.82
9683	Roger Zetocha	5 PD less 90.15 taxes	509.85
9684	Lucas Siemieniewski	1 PD less 9.18 taxes	110.82
DD	Sargent County Bank	Withholding taxes	259.51

Richard Engst arrived at this time.

**APPLICATION FOR SURFACE DRAIN NO. 4486 for the Forman Park Board in the Northeast Quarter of Section 1 of Forman Township**

The Board reviewed information from the State Engineer regarding APPLICATION FOR SURFACE DRAIN No. 4486 for Mr. Randy Bergh, as a representative on behalf of the Forman Park Board. Under the application, Applicant seeks to construct a flood outlet project in the Northeast Quarter of Section 1 of Forman Township that will ultimately discharge into a slough in the Northwest Quarter of Section 1. The project will include an 18-inch buried pipeline that will commence just north of Highway 11 right of way in the southwest corner of the Northeast Quarter of Section 1; the buried pipeline will run approximately 1,500 feet north along the west boundary of the Northeast Quarter of Section 1; the buried pipeline will ultimately discharge into a slough in the Northwest Quarter of Section 1. The pipe will include a canal gate; the Applicant will operate the canal gate in accordance with an operation and maintenance plan approved by the City of Forman. Applicant's intent is to improve surface drainage and to minimize flooding in and around the Forman Golf Course.

According to records on file with the Sargent County Recorder's office, Hanson Brothers Farms Limited Partnership, a North Dakota limited partnership, owns the Northwest Quarter of Section 1 of Forman Township; Applicant intends to install and maintain a portion of the buried pipeline in the Northwest Quarter, and the slough into which the project will outlet is in the Northwest Quarter of Section 1. With regard to the property along the course of the buried pipeline, a platted subdivision known as "First Addition to the City of Forman" in the Northeast Quarter of Section 1, Sargent Central Special School District owns all of Blocks 39, 40, 41, 42, 55, and 56 along the course of the pipeline; Brett and Sheila Anderson own Lots 3 and 4 in Block 29 and Lots 5-8 in Block 30; and Richard and Stella Bell, Jodi D. Meyer, Travis Bell, Richard Bell, Monty Bell, Brennan Bell, Skye Hanna, and Sierra Hanna own Lots 1 and 2 in Block 29 and Lots 1-3 and Lots 9-12 in Block 30.

The Board discussed adverse impacts and the eight elements under Section 89-02-01-09.2 of the North Dakota Administrative Code; the Board directed Chris Gross to prepare responses to the 8-point questionnaire accordingly. The Board further determined no hearing was necessary under Section 89-02-01-09.1(2) of the North Dakota Administrative Code because the Board will require Applicant to obtain easements from the owners of property where Applicant intends to install and construct the buried pipeline, and from the landowner of the Northwest Quarter of Section 1, the location of the slough where Applicant intends to discharge the project. Further, the Board will require Applicant to prepare an operation and maintenance plan and to obtain written approval of the plan from Sargent Central Special School District, an adjacent landowner. In addition, the Board will require Applicant to install and maintain inlet and outlet protection and, as a result, the project will not result in adverse impacts downstream of the project. Further, U.S. Fish and Wildlife provided a letter to Mr. Randy Bergh dated June 12, 2014; in the letter, U.S. Fish and Wildlife indicated that, to the extent Applicant constructs the project in accordance with the plans submitted, the project would not

result in drainage of easement wetlands and therefore would not result in a wetland easement violation. With these issues in mind, the Board concluded the project will not result in any other adverse impacts.

Manager Siemieniewski, seconded by Manager Zetocha, moved to approve APPLICATION FOR SURFACE DRAIN No. 4486 for the Forman Park Board, by and through Mr. Randy Bergh, subject to the conditions attached by the State Engineer, and subject to the following conditions:

1) That Applicant obtain and record (with the Sargent County Recorder's office) easements (and not just written consents) from the owners of the following parcels in Forman Township, Sargent County, North Dakota, for purposes of installing, constructing, operating, and maintaining a buried pipeline:

- a. Northwest Quarter of Section 1;
- b. Blocks 39, 40, 41, 42, 55, and 56, First Addition to the City of Forman;
- c. Lots 3 and 4 in Block 29 and Lots 5-8 in Block 30, First Addition to the City of Forman;
- d. Lots 1 and 2 in Block 29 and Lots 1-3 and Lots 9-12 in Block 30, First Addition to the City of Forman;

2) That Applicant obtain and record (with the Sargent County Recorder's office) an easement (and not just written consent) from the owner of the Northwest Quarter of Section 1 in Forman Township, Sargent County, North Dakota, for purposes of discharging into and otherwise utilizing the existing slough in the Northwest Quarter of Section 1 for purposes of an outlet for Applicant's project;

3) That Applicant will not construct or improve the drain in any manner that exceeds the dimensions indicated in the application, including an 18-inch non-perforated, dual wall pipeline;

4) That Applicant obtain an easement from the owner of any land, besides land owned by Applicant, on which Applicant will construct the drain; and

5) That Applicant install a canal gate on the project, and that Applicant operate and maintain the canal gate in accordance with an operation and maintenance plan mutually approved by Applicant and by the City of Forman;

6) That Applicant install and maintain adequate erosion protection at the outlet into the slough in the Northwest Quarter of Section 1, and that Applicant otherwise install and maintain project inlet and outlet protection;

7) That Applicant notify the Sargent County Water Resource District in advance of any proposed improvements to the drain, including any increase in the capacity or drainage area affected, and, if necessary, submit an additional permit application; and

8) 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 the requisite NOTICE OF DECISION and to provide the NOTICE to all parties of record.

**HEAD OF THE MOUNTAIN NATURE PRESERVE:** Kathy Duttonheffner, ND Parks and Recreation, met with the Board via conference call for the annual overview of Head of the Mountain Nature Preserve at Frenier Dam. Joe Breker, Havana and Trace Hanson, Forman, both representing the Wild Rice Soil Conservation Service and Doug Speiker, Havana also were present during this portion of the meeting. Ms. Duttonheffner explained that the ongoing lease agreement with the Sargent County Water Resource Board and the ND Parks and Recreation is up for renewal and has a term of five years. Sargent County owns this land and the Parks and Recreation Dept. manage the land with the adopted Articles of Dedication. She would like this lease in place by August 1, 2014. The tasks listed for 2014 include: 2014 site assessment; fence assessment with repair and replacement costs; noxious weed spraying, burn plan; updated plant checklist; create bird and wildlife checklist; update the brochure. Discussion followed on the grass stand and Mr. Breker stated that the grass stand this spring was degraded with brome and he felt the best solution was grazing. While grazing is prohibited under the Articles of Dedication, Ms. Duttonheffner indicated that a control burn could be a solution to this problem. There was concern by the Board of burning in this area. It was asked if horseback riding is allowed in the preserve and Ms. Duttonheffner responded that it is mainly for foot traffic but would be possible to obtain a permit for horseback riding on an individual basis. Mr. Breker indicated that the Wild Rice Soil Conservation District went on record to assist in the managing of the nature preserve but they would like to see more development in the Nature Preserve. The Board asked

Attorney Fredricks to review the lease and Articles of Dedication for the Board to review and discuss at the July meeting.

James and Scott Mahrer, Forman, Terry Erickson, Milnor and Tom Mund, Milnor arrived at the meeting at this time.

**JAMES AND SCOTT MAHRER AND TERRY ERICKSON:** The Mahrer's were concerned about additional water flowing onto their land from a project which has not been approved by this Board. Mr. Erickson explained that he and his brother Edwin Erickson, Jr. are waiting on the State Engineer's Office to return their request for a permit to this Board so the Water Board can act on it. Attorney Fredricks stated that no complaint has been filed by anyone at this time on this work and if only cleaning a ditch and not deepening or widening has taken place, these are within the parameters of the law. James Mahrer asked about removal of sheet water from his land because of erosion on the edges. The Board informed him that he would have to request a Surface Drainage permit and talk to NRCS about other issues that may be of concern in this area.

**TOM MUND:** Tom Mund met to ask questions on previous drainage applications that he has presented to the State Engineer and this Board. Attorney Fredricks explained the amendment process and also the changes to statewide significance criteria and suggested that Mr. Mund apply for a new Surface Drainage permit with the State Engineer.

**DRAIN NO. 11 WEEDS ON RIGHT OF WAY IN SECTION 23-130-57:** Roger Zetocha reported that he and Jim Bosse inspected the right of way along Drain No. 11 regarding the Paul Mathews litigation. There is a weed problem and this should be sprayed according to Zetocha and Bosse. Chris Gross stated that they are still trying to get a metes and bounds description of this area as per the recommendation of the court and will check to see if the Board can enter this area to spray the weeds.

**ANNUAL DAM INSPECTION:** Discussed the Gwinner Dam, Brummond-Lubke Dam and also the inlet tower at Nelson Dam and agreed that the Board will visit all these sites on June 24<sup>th</sup> during the annual dam inspection.

**LOREN DAVID APPLCIATION TO INSTALL A SUBSURFACE DRAIN:** Engineer Chris Gross informed the Board that after conferring with Chad Engels from his firm, it is their recommendation to the Board that the Loren David Subsurface Drain project be considered of statewide significance due in part to potential impacts the proposed slough drainage on recognized fish and wildlife values. There is also concern whether or not the project would "convert previously noncontributing areas (based on twenty-five year event – four per cent change) into permanently contributing areas" – Section 89-02-01-09(05). Motion to instruct Attorney Fredricks to send a letter to the State Engineer to request a finding on the statewide issue. (Engst/Zetocha, unanimous)

**DRAIN NO. 7 BID OPENING:** Chris Gross reminded Board members that the bid opening for the Drain No. 7 crossing Improvements will be on Tuesday, June 24 at 2:00 p.m. at the Sargent County Courthouse. He explained that there could be a possible utility relocation and asked for approval from the Board for Chairman McFarland and Secretary Hosford to sign a Change Order if necessary. Motion to authorize the signatures up to \$3,000 on a change order if necessary. (Zetocha/Siemieniewski, unanimous) Following the bid opening, Chris will meet with Attorney Fredricks to review the bids and a Special Meeting was scheduled for Wednesday, June 25<sup>th</sup> at 2:00 p.m. with a conference call originating from the office of Ohnstad Twichell Law Firm to review the bid tabulation and accept a bid.

**TEXAS CROSSING ADJACENT TO DRAIN NO. 12:** Roger Zetocha reported that Duayne Baldwin had contacted him regarding the Texas Crossing between the NW1/4 and NE1/4 of Section 17 in Marboe Township. Discussion followed on removing the culverts and sheet piling that this Board placed in this area to try to alleviate the problem. The Board members will investigate this site during the annual dam inspection on June 24<sup>th</sup>.

**JULY MEETING DATE:** Due to scheduling conflicts the July regular meeting of this Board will be held on Monday, July 21 at 9:00 a.m. in the commission room of the Sargent County Courthouse, Forman.

The meeting adjourned at 10:06 p.m.

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CHRIS MCFARLAND – CHAIRMAN

ATTEST:

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SHERRY HOSFORD - SECRETARY