

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, JULY 15TH, 2021 AT 8:17 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; Josh Hassell, Moore Engineering; Wendy Willprecht, Secretary/Treasurer, Charlie Faber of the WRSCD, and landowner Jeff Breker were also present at the courthouse. Others present via video conference were Sean Fredricks, the Board's Attorney; Norm Haak Dickey-Sargent Joint Board Manager, Paul Mathews; Bob Banderet and Leon Mallberg..

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

Manager Wyum moved to approve the June 17th, 2021 regular meeting minutes, the June 30th, 2021 special meeting minutes and the June 30th, 2021 Financial report. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Speich moved to approve the following bills:

82174 Ohnstad Twichell- Heimbuch Tile Application \$671.30; Drain No. 11 Revise affidavit/review eminent domain status/meetings/abstracts \$7360.70 =\$8988.67

Drain No. 11-Draft complaint; motion/review exhibits; interoffice conference; correspondence/research= \$10,569.55

Total: \$19,558.22

82175 Red River Basin Commission- Management planning/advocacy activities =\$1512.00

82173 Moore Engineering- Silver Lake Dam Construction services **\$826.00**; Engineering fees (board mtgs. \$1295.00/mileage \$106.40/Heimbuch and Hardy permit \$80=**\$1481.40**; SFC-NRCS Step 6 \$185.00; NRCS Step 7 \$900; J.L. Rooney Construction \$9350=**\$10,595.00** Drain No.7- Project Development **\$2047.50**; Drain No. 11-ROW \$2395/ Legal Descript. \$1042.50/ Permitting \$5495/ Drain Reassessment \$15,682.80=**\$24605.30**

Total: \$39,555.20

82189 Comstock Construction-Final pay application (Drain No. 12) **\$31,130.00**

82172 Pearce Durik Law-Banderet vs. SCWRD/AG opinion=**\$742.50**

82190 D.L. Barkie-Final pay application (Silver Lake Dam) **\$28,325.53**

82176	Lucas Siemieniewski	Travel	\$62.72
82178	Todd Stein	Travel	\$17.92
82179	Michael Wyum	Travel	\$22.40
82180	Roger Zetocha	Travel	\$56.00
82177	Bruce Speich	Travel	\$212.80
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 Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously.

Charlie Faber, Sargent County WRD:

Charlie Faber of the Sargent County WRD approached the Board. He said his crew has been working hard and would like more hours.

Faber said that there has been significant progress in cleaning out Drain No. 7, but there is still a lot to go. Drain No. 7 has a beaver dam that is causing water to raise quickly.

His crew is working down by Rutland now, Drain No. 8. Mr. Faber said that it appears someone sprayed the ditch on the north side of the highway.

Faber asked if the SCWRD would pay for mileage to go back and forth to the Drains when they are cleaning and bringing debris to the dump.

Manager Wyum made a motion to allow 300 additional hours to the WRD and to compensate the mileage cost. This includes any retroactive mileage that is submitted. Manager Speich 2nd the motion. Upon roll call, the motion passed unanimously.

Charlie Faber asked the SCWRD Managers about getting a shredder that would affix to the front of a Bobcat to shred debris on site. Could we rent one from A & W? Charlie said to date they have logged 17 hours with the Bobcat. Faber mentioned a helicopter sprayer could probably reach most of the area. Charlie said one week's worth of time and effort on Drain No. 7 would really clean things up.

A motion was made by Manager Speich and 2nd by Manager Wyum to get a Bobcat shredder for 1 week from A & W. Upon roll call, the motion carried unanimously.

Charlie added that next year helicopter spraying might be a better option.

Jeff Breker (Lease/Mob Grazing):

Jeff Breker approached the SCWRD Board regarding the farm lease contract he has that is set to renew on October 1, 2021. The Board and Breker agreed that the lease should continue to renew every 3 years and that the lease will be a 9-year lease. Breker has two boys that should be added to the lease as well, Gregory and Jacob Breker.

The SCWRD Board discussed mob grazing as pertaining to the lease with Breker. The grazing could begin early April and Breker said he would set up some kind of electric fencing to hold the cattle in. The Board said that if Breker does the fencing that they would not charge Breker for the mob grazing. Authority was given to Jeff Breker to set up a quality fence and it was suggested that Breker should let the Board know if the cost of the fence is high. Manager Speich said he would like to look at the fence after it is put up. The mob grazing would take place for about a week.

Manager Stein made a motion to approve the farm lease contract with Jeff Breker, that will include the names of Jacob and Gregory Breker, mob grazing parameters, fencing and no increase in the rental contract. Manager Zetocha 2nd the motion. Upon roll call, the motion carried unanimously.

Attorney Fredricks will draw up a new lease that reflects the changes listed in the above motion. The lease will add Gregory and Jacob as tenants; rent will remain as-is; "reasonable" mob grazing will be permissible, subject to the Board's directives, and not including Head of the Mountain areas; Brekers may retain all CRP payments; and the lease will run through 2029.

DRAIN NO. 11:

Project Update:

Josh Hassell of Moore Engineering said there has not been any changes to the reassessment matrix as of yet. Moore is waiting for more comments from Ransom County. Once the comments are received, the matrix will be reevaluated. Hassell added that the comment responses have been submitted to the Corps, but Moore Engineering has not heard anything back to date.

Manager Siemieniewski and Manager Zetocha suggested bringing Dickey and Ransom counties together again for another meeting to further discuss the matrix. Manager Wyum said he was hesitant to bring everyone together to set parameters without a commitment to accept becoming part of the assessment.

DRAIN NO. 7:

At the last meeting it was said that the Sargent County Commission wanted this project bid both ways (steel culvert and concrete box culvert). Engineer Hassell said that the project can be bid both ways. This project has been submitted for cost share with the State Water Commission and no comments were received at the SWC sub-committee meeting. Hassell said the cost-share request would be discussed at the August 12th, 2021, SWC meeting. Hassell asked to have SCWRD Managers present at the SWC meeting to give support. Hassell also said we should get a letter of support from the Commission and possible attendance at the SWC meeting to support the project.

DRAIN NO. 12: Engineer Hassell presented the final pay application and final balancing change order. The change order reduction was \$3,986.30 and the final construction cost for this project is \$529,413.70. The remaining amount due to Comstock Construction is \$31,130.00 which has been approved earlier in this meeting.

A motion was made by Manager Wyum and 2nd by Manager Speich to approve the change order for the Drain No. 12 project. Upon roll call, the motion carried unanimously.

We received a check for \$385.92 from Moore Engineering because of a reduction in cost for this project.

SILVER LAKE DAM:

Engineer Hassell reported that we have received the final pay application for this project. There was a reduction in the contract price. The change order reduction was for \$13,154.50. The final cost for this project is \$181,510.50. A final payment of \$28,325.53 is due to D.L.Barkie. This payment was approved earlier in this meeting.

A motion was made by Manager Speich and 2nd by Manager Zetocha to approve the change order for the Silver Lake Dam project. Upon roll call, the motion carried unanimously.

SHORT FOOT CREEK:

Engineer Hassell said that the economic analysis is done for the dam. The design documents are about 95% complete. Modifications to the environmental document will begin once a review of similar plan comments is completed to allow for more efficient drafting of the document.

DRAIN NO. 9 EXTENSION:

Cost share was submitted for this project. No comments or questions were sent by the SWC subcommittee. This project will be discussed at the August 12th, 2021 SWC meeting.

CROOKED CREEK WATERSHED PLAN:

The first phase to initiate the plan is underway. A planning team is being put together. The planning team will come up with a public input plan. No action is required at this time.

TEXAS CROSSING: No action needed at this time.

DRAIN NO. 16:

Manager Stein said that he found a gap in the tile along Drain No. 16. Ellingson has looked at the gap and said that if we allow \$20,000, we could put a camera in the Drain to check for silt and dig in a few spots. The tile split itself would cost around \$3-5,000 to repair. A motion was made by Manager Stein and 2nd by Manager Speich to have Ellingson come out and scope the drain with fees to not exceed \$20,000. Upon roll call, the motion carried unanimously.

Application to Install a Subsurface Water Management System No. 2021-07 for Dorn Malpert/Three M Farms in the South Half of Section 26 in Jackson Township:

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2021-07*, dated June 15, 2021, filed with the Board on June 17 by Applicant Dorn Malpert. Under the Application, Applicant seeks to install a 300-acre drain tile system in the South Half of Section 26 in Jackson Township, Sargent County, North Dakota. The project will include a pump outlet in the northwest corner of the Southwest Quarter of Section 26; the pump 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 the County tax roll information supplied by Applicant, the Lawrence J. and Angelique Malpert Family Limited Partnership; Alan H. and Shannon Malpert; and Dorn and Traci Malpert all own interests in the South Half of Section 26 in Jackson Township.

Manager Wyum moved, and Manager Zetocha seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2021-07* dated June 15, 2021, for Dorn Malpert in the South Half of Section 26 in Jackson Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2021-07, subject to the following conditions:

- 1) that Applicant set and install any drain tile pump at least 25 feet from the top of the back slope of Sargent County Drain #11, with a pipe buried from the pump to Drain #11;
- 2) that Applicant install and maintain erosion protection at any and all outlets into Sargent County Drain #11;
- 3) that Applicant re-establish any areas disturbed installing or maintaining Applicant's tile system, including re-seeding any Sargent County Drain #11 right of way disturbed;
- 4) that Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Southeast Water Users District has in the South Half of Section 26 in Jackson Township under any blanket easements, or otherwise beyond the Water District's existing easement;
- 5) 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; and
- 6) that Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2021-07 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.

Upon roll call vote, the motion carried unanimously.

Under Section 61-32-03.1, the District cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the District will recommend that

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, SUBSURFACE WATER MANAGEMENT PERMIT NO. 2021-07, and Applicant's downstream flow map to the State Engineer's Office and Southeast Water Users District.

Application to Install a Subsurface Water Management System No. 2021-08 for Dorn Malpert in the East Half of the Southeast Quarter of Section 27 in Jackson Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2021-08*, dated June 15, 2021, filed with the Board June 17 by Applicant Dorn Malpert. Under the Application, Applicant seeks to install a 72-acre drain tile system in the East Half of the Southeast Quarter of Section 27 in Jackson Township, Sargent County, North Dakota. The project will include a pump outlet in the southeast corner of the Southeast Quarter of Section 27; the pump will discharge into the west road ditch along 118th Avenue SE; the discharge will flow north and will ultimately flow into Sargent County Drain No. 11, a legal assessment drain owned and operated by the Sargent County Water Resource District.

According to the County tax roll information supplied by Applicant, the Lawrence J. and Angelique Malpert Family Limited Partnership; Alan H. and Shannon Malpert; and Dorn and Traci Malpert all own interests in the East Half of the Southeast Quarter of Section 27 in Jackson Township.

Manager Zetocha moved, and Manager Stein seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2021-08* dated June 15, 2021, for Dorn Malpert in the East Half of the Southeast Quarter of Section 27 in Jackson Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2021-08, subject to the following conditions:

- 1) that Applicant install and maintain erosion protection at any and all outlets into Jackson Township's right of way;
- 2) that Applicant re-establish any areas disturbed installing or maintaining Applicant's tile system;
- 3) that Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Southeast Water Users District has in the East Half of the Southeast Quarter of Section 27 in Jackson 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; and
- 5) that Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2021-08 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.

Upon roll call vote, the motion carried unanimously.

Under Section 61-32-03.1, the District cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the District will recommend that Applicant comply with the following:

- 1) that Applicant obtain written consent from Jackson Township to discharge into or otherwise utilize any of the Township's right of way; and
- 2) 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.

Sean Fredricks will provide copies of the Board's NOTICE OF DECISION, SUBSURFACE WATER MANAGEMENT PERMIT NO. 2021-08, and Applicant's downstream flow map to the State Engineer's Office, Jackson Township, and Southeast Water Users District.

RS #1:

A motion was made by Manger Speich and seconded by Manager Stein to approve the payment of the bill to Larson Helicopters LLC, as well as pay for cattail spraying. Upon roll call, the motion carried unanimously.

1) Revenue:	
-Sargent Cty Tax & Business	\$ 182.31
-Richland Cty Tax & Business	\$ 474.88
	\$ 657.19
Expenditures:	
-Larson Helicopters LLC (RS #1 Needs to be sprayed)	\$3396.60
2) Balance as of June 30th, 2021	\$342,203.22

DICKEY-SARGENT JOINT BOARD: The following Dickey-Sargent Joint WRD bills were presented for approval by Wendy Willprecht, Secretary-Treasurer:

82153	Dakota Valley Electric-Electricity	
	(June 2021)	\$164.00
82170	Ohnstad Twichell-Review bond documents	\$210.00
82169	Moore Engineering-Bond sale	\$92.50
82171	Starion Bond Services	\$2,906,955.51

General Irrigation- 3/25/21 Remaining Balance- \$1,825.63

The motion to approve these bills was made during the Dickey-Sargent Joint Board meeting preceding the meeting of the SCWRD.

Meeting adjourned at 10:02 a.m.

LUCAS SIEMIENIEWSKI, CHAIRMAN

ATTEST:

WENDY WILLPRECHT SECRETARY-TREASURER