

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, JULY 16, 2015 AT 7:00 P.M., IN THE COMMISSIONERS ROOM, SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA

Managers present: Luke Siemieniewski. Jim Bosse, Roger Zetocha, Korey Martinson and Richard Engst. Absent: None. Also present: Board Attorney Sean Fredricks; Chris Gross, Board Engineer; Frank Walker, Milnor; Brian and Bernie Vculek, Oakes; and Tom Jones, NRCS.

Approve the June 18, 2015 minutes and June financial statement. (Zetocha/Bosse, unanimous)

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

71716	James Bosse	Travel	59.80
71717	Richard Engst	Travel	159.85
71718	Forman Drug	Pictures	3.84
71719	Korey Martinson	Travel	115.00
71720	Paul Martinson	Beaver removal – Dr # 7	300.00
71721	Ohnstad Twichell	General - \$1000.00; Kent Carpenter permit-\$298.00; Beverly Kelley	
	Complaint - \$391.00; Dr # 4 Rick Hoistad-Eminent Domain-\$68.00; Storm Lake/Dr # 7-\$85.00		
	TOTAL	1842.00	
71722	Spencer Peterson	Beaver removal – Dr # 7	350.00
71723	Quill Corp.	Black ink cartridge	107.17
71724	Lucas Siemieniewski	Travel	96.60
71725	Roger Zetocha	Travel	86.25
11039	Sherry Hosford	Salary less 123.72 taxes	966.28
11040	Richard Engst	4 PD less 36.72 taxes	443.28
11041	James Bosse	5 PD less 45.90 taxes	554.10
11042	Roger Zetocha	3 PD less 44.37 taxes	315.63
11043	Lucas Siemieniewski	3 PD less 27.54 taxes	332.46
11044	Korey Martinson	4 PD less 66.55 taxes	413.45
DD	Sargent County Bank	Withholding taxes	609.15

AFFIDAVIT OF APPLICANT REGARDING COSTS FOR SURFACE AND SUBSURFACE DRAINS:

The Board previously approved a new permit fee policy regarding all surface and tile permits. The Board indicated reviewing, considering, and processing each permit requires a mandatory legal and technical review to ensure the Board complies with relevant law regarding permit applications. The review includes property ownership, ‘statewide’ significance criteria, downstream impacts, and other items. The Board’s review results in costs that would normally be at the expense of the Board’s general fund, tax dollars intended to fund the Board’s general operations, along with construction of various water projects and complaint reviews. The \$500 permit fee previously in place was often sufficient to cover the costs of each application. However, in recent years the Board has considered more complex projects, applicants have modified their project plans, and the ‘statewide’ significance reviews have been more substantial due to the reduction in applicants who are mitigating wetland impacts to comply with Swampbuster. The Board concluded the higher fee schedule is necessary to protect the Board’s general fund, dollars the Board utilizes for the benefit of the entire county, and to require applicants who are benefitting from their own projects to be responsible for the costs of processing their applications. Further, under the Board’s new policy, the Board will refund any dollars not utilized. The SURFACE AND SUBSURFACE/TILE APPLICATION INFORMATION sheet will explain to applicants why the fees are necessary; how the process works; and how applicants can keep their costs low. Further, the Affidavit of Applicant Regarding Costs (one for surface applications and one for tile applications) will ensure the Board’s ability to collect those costs above the permit fees in light of many applicants’ failure to pay the costs of their applications. Motion to approve the SURFACE AND SUBSURFACE/TILE APPLICATION INFORMATION sheet and approve the Affidavit of Applicant Regarding Costs (one for surface applications and one for tile applications) as amended and are on file in the office of the secretary. (Zetocha/Bosse. Upon roll call vote, the motion carried unanimously)

APPLICATION FOR SURFACE DRAIN NO. 4720 for Bernard Vculek in the South Half and the Northeast Quarter of Section 13 of Denver Township

1The Board reviewed information from the State Engineer regarding APPLICATION FOR SURFACE DRAIN No. 4720 for Applicant Bernard Vculek. Brian Vculek and Bernie Vculek were both present to discuss the application with the Board. Under the application, Applicant seeks to construct channel improvements in the South Half of Section 13 of Denver Township, as depicted in the project map contained in the permit packet. The surface ditches will drain surface water in the South Half of Section 13 and will outlet via a pump station located in the Southwest Quarter of Section 13. The pump station will lift and discharge the surface drainage through a 36-inch underground pipeline that will run west along a portion of the Southwest Quarter of Section 13; Applicant intends to cut through the north-south township road along the Section 13/14 section line for purposes of installing and maintaining the pipeline; the pipeline will daylight on the west side of the township road right of way, in the Southeast Quarter of Section 14; from there, the underground pipeline will run

diagonally across the Southeast Quarter of Section 13 to the southwest to approximately the quarter line along the south boundary of the Southeast Quarter of Section 14; from there, the underground pipeline will run west in the township road right of way along the north road ditch of the township road that runs east-west, along the Section 14/23 section line; the pipeline will daylight along the south boundary in the southeast corner of the Southwest Quarter of Section 14; from there, the drainage will flow west until reaching Sargent County Drain No. 11. The surface ditching in the South Half of Section 13 will include 15,500 feet of surface ditches, all with a bottom width of 10 feet maximum; 3:1 side slopes; and a maximum cut of 11 feet.

According to records on file with the Sargent County Recorder's office, Bernard Vculek, as Trustee of the Bernard L. Vculek Revocable Trust, and Marlene Vculek, as Trustee of the Marlene Vculek Revocable Trust, own the Southeast Quarter of Section 13; Wayne and Dianne Witkowski own the Southwest Quarter of Section 13, subject to a Contract for Deed in favor of Julie Vculek; and Wayne and Dianne Witkowski own the South Half of Section 14, all in Denver Township.

The Board reviewed responses to the eight elements under Section 89-02-01-09.2 of the North Dakota Administrative Code prepared by Applicant's engineer, Houston Engineering. The Board approved the responses, subject to review by the Board's engineer. The Board 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 the property where Applicant intends to construct the surface drainage and to install and construct the underground pipeline; in addition, the Board will require Applicant to obtain permission from Denver Township to bore through its township road and to otherwise locate underground pipeline within township road right of way. The Board concluded that, in light of these measures, the project will not result in any further adverse impacts.

Manager Zetocha, seconded by Manager Engst, moved to approve APPLICATION FOR SURFACE DRAIN No. 4720 for Bernard Vculek, 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) an easement (and not just written consent) from the owners of the Southwest Quarter of Section 13 in Denver Township, Sargent County, North Dakota, for purposes of constructing, operating, and maintaining surface ditches;
- 2) That Applicant obtain and record (with the Sargent County Recorder's office) easements (and not just written consents) from the owners of the Southwest Quarter of Section 13 and the South Half of Section 14 in Denver Township, Sargent County, North Dakota, for purposes of installing, constructing, operating, and maintaining an underground pipeline, but only upon those portions of the properties where Applicant installs and maintains the underground pipeline;
- 3) That Applicant will not construct or improve the surface ditches in any manner that exceeds the dimensions indicated in the application, including surface drain length of 15,500 feet; a 10-foot bottom width; 3:1 side slopes; and a maximum cut of 11 feet;
- 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 obtain written permission from the Denver Township Board of Township Supervisors to bore through its township road and to install, construct, operate, and maintain underground pipeline within its township road right of way;
- 6) 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
- 7) 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.

BILLING PROCESS FOR PERMITS AND GENERAL TIME AT MEETINGS: A discussion on unpaid drain permit bills was held as per a request for clarification of charges that are billed for both engineer and attorney during board meetings. Sean Fredricks explained that while at board meetings he does not charge landowners for time when visiting with individuals on drainage questions or permit applications; rather, he bills the Board on his 'general file' for attending meetings of the Board, at a reduced rate. In other words, Mr. Fredricks is on a retainer with the Board during meeting time. Any time incurred on permits is after the meeting when title searches are conducted, Notice of Decision is prepared and other tasks performed on permits or complaints. Chris Gross, however, explained that he is not on a retainer with the Board and charges in one-half hour increments for any time that is spent at meetings. This includes discussions on individual drain applications, legal drain research and/or improvements, and drainage complaints that are discussed during a

Luke Siemieniewski, Chair

ATTEST:

Sherry Hosford
Secretary-Treasurer

Dated: July 16, 2015

DRAIN NO. 11 CULVERT REPLACEMENT: 1) Discussed a location in Southwest Township at the intersection of 22/23/27/28-129-58 to replace a culvert. Motion to authorize the purchase of a culvert and contact a contractor to complete the work up to \$6,000 for the total project. If project exceeds \$6,000, a special meeting will be called. (Zetocha/Bosse. Upon roll call vote, the motion carried unanimously) 2) Culvert problems were discussed at two different locations along Drain No. 11. Jim Bosse and Roger Zetocha both explained the need to replace the culverts located south of the church in the NE1/4-35 in Denver Township and west of Jan Swanson's between Sections 4/9/5/8 in Harlem Township. The recent culvert study on the drain was reviewed and sizes were determined. Motion to approve the purchase of the culverts and authorize Roger Zetocha to meet with the contractor to discuss the project. (Zetocha/Bosse. Upon roll call vote, the motion carried unanimously)

COST-SHARE AGREEMENT/RED RIVER JOINT WATER RESOURCE DISTRICT(RRJTWRD)/UPPER WILD RICE WATERSHED STUDY AND GWINNER DAM: Motion to authorize the Chairman and Secretary-Treasurer to sign the two agreements with RRJTWRD to provide a maximum of \$88,725 cost share (65% of non-federal, non-state costs of eligible items) regarding a watershed study of the Upper Wild Rice Watershed, including hydrologic and hydraulic analyses of the watershed, with the objective of reducing localized flooding and minimizing increased downstream flows, including flows within the jurisdictional boundaries of other members of the Joint Board, and potential development of retention projects within Sargent County Water Resource Board's jurisdictional boundaries that will feature retention as a significant purpose of the project; and a second cost-share agreement with the RRJTWRD to provide up to a maximum of \$51,718.23 cost share (65% of non-federal, non-state costs of eligible items) regarding a feasibility study that will include a study of the Gwinner Dam watershed hydrology and dam hydraulics, a risk assessment report to determine impact to downstream properties and infrastructure in the event of a breach or full removal, and a study of repair and improvement options. (Engst/Bosse. Upon roll call vote, the motion carried unanimously)

COST-SHARE AGREEMENT/STATE WATER COMMISSION/UPPER WILD RICE WATERSHED STUDY: Motion to authorize the Chairman to sign an Agreement for Cost-Share reimbursement between the State of North Dakota by and through the State Water Commission and the Sargent County Water Resource District to provide the District with cost share, not to exceed \$73,500, to reimburse 35% of the actual eligible costs incurred in the District's Upper Wild Rice Watershed Study contingent on availability of funds and conditions of the agreement. (Engst/Zetocha. Upon roll call vote, the motion carried unanimously)

SHUMAN TOWNSHIP APPLICATION FOR AN EMERGENCY SURFACE DRAIN: The Office of the State Engineer received Emergency Drain Application No. 4714 on June 22, 2015 from Shuman Township for drainage of a wetland on the verge of inundating township road 85th Street SE between Section 6 and 7-131-54. Upon review of the Application, the State Engineer concluded this is not an emergency at the proposed drain site. Therefore, the State Engineer denied Emergency Drain Application No. 4714. Details provided by the State Engineer's Office regarding its denial of the Application are on file in the office of the water board secretary.

THREE M FARMS PARTNERSHIP: Information from the Office of the State Engineer (OSE) was reviewed by the water board regarding an Application for Surface Drain from Three M Farms, Hecla, SD; to clean out silted road ditches in the S1/2 of Section 26 and SE1/4 of Section 27-130-58 (Jackson Township). The purpose of the project is surface drainage. The applicant informed the OSE that the project intent is to clean out silt that had accumulated in the road ditch. Upon review the OSE determined that the application as submitted constitutes maintenance under ND Administrative Code and therefore, does not require a surface drain permit. In light of the OSE's findings, the Board does not have any authority to require Three M Farms to submit a permit application, nor does the Board have any jurisdiction to force Three M Farms to comply with any conditions. Of course, if Three M Farms does more than mere maintenance, as defined by North Dakota law, any party may file a drainage complaint with the Board.

ANNUAL DAM INSPECTION: Tom Jones, DC NRCS presented the CPA O & M Inspection Annual Report. The inspection was held on June 10, 2015 with the following attending: Tom Jones, DC; Richard Engst, Luke Siemieniewski, Korey Martinson, Jim Bosse and Roger Zetocha.

No structural or safety issues were identified. The only issues involved noxious weed and tree removal.

- 1) Bergh-McLaen CAT – Damage from unknown runoff event has eroded center crossing structure on the downstream side and damaged fencing around the culverts. Summer crew from WRSCD will be working to correct this issue.
- 2) Tewaukon – Channel Improvement No. 1 No issues identified. Bridge in the County road that crosses the project is scheduled to be replaced.
- 3) Tewaukon – Channel Improvement No. 2 – no problems are observed.
- 4) Tewaukon – Floodwater Retarding Structure T-7 Nelson Dam – Need a key to operate the maintenance drawdown on the structure which was repaired in the past 12 months.
- 5) Tewaukon – Floodwater Retarding Structure T-1A Brummond-Lubke Still some tree issues on this structure that the SCWB is working to resolve. Trees should all be removed and controlled in the future. Drawdown structure repaired in the past 12 months. We need a key to operate the drawdown in place on the structure.
- 6) Tewaukon – Floodwater Retarding Structure T-2 Frenier Dam – No issues.
- 7) Tewaukon – Silver Lake Recreation Development - All facilities and structures are being well maintained, all are in good condition.

8) Tewaukon – Channel Improvement No. 3 – Texas crossing between sections 8 and 17 has been turned over to the township.

9) Wild Rice Creek – Channel 9 –Sec. 31 Willow and cottonwood encroachment on this drain continues to be a problem. Crew from WRSCD will be working on tree issues along the drain. No other issues identified.

Board members also inspected legal drains throughout the county.

DRAIN NO. 7: Korey Martinson had been contacted by John Buskohl, who owns property along the drain through Milnor. Mr. Buskohl would like to expand an existing shed but it appears it would be in the drain right of way. The Board suggested that Korey inform Mr. Buskohl that he should build off the front of his shed and not the backside as this could interfere with future cleaning. Richard Engst asked about removing trees in Drain No. 7 and was advised to get an estimate for the board to review at the August meeting.

Meeting adjourned at 11:00 p.m.

LUCAS SIEMIENIEWSKI – CHAIRMAN

ATTEST:

SHERRY HOSFORD – SECRETARY-TREASURER