

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD  
HELD ON THURSDAY, JULY 19, 2012 AT 7:00 P.M., IN THE COMMISSIONERS ROOM,  
SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA

Managers present: Jim Bosse, Mark Breker, Richard Engst, Chris McFarland and Roger White.  
Absent: None. Also present: Chad Engels, Moore Engineering, Inc.; Sean Fredricks,  
Ohnstad Twichell, P.C.; Tom Jones, NRCS and Al Carton, Forman.

Approve June 21, 2012 minutes and May financial statement. (Engst/White, unanimous).

Approve payment of the following bills: (Breker/Bosse, unanimous)

66318	James Bosse	Travel	324.12
66319	Mark Breker	Travel	159.29
66320	Richard Engst	Travel	149.85
66321	Moore Engineering, Inc.	Engineering fees-T.Mund-\$72.50 & Dr # 4-7,577.46	
66322	Ohnstad Twichell	Attorney fees-\$2674.40 and Dr # 4 3220.40 = \$5894.80	
66323	SGC Horizon LLC	Dr # 4 advertising	539.00
66324	Roger White	Travel	593.88
7279	Mark Breker	6 PD less 45.18 taxes	674.82
7280	Sherry Hosford	Salary less 17.89 taxes	298.78
7281	Richard Engst	10 PD less 126.30 taxes	1073.70
7282	Roger White	12 PD less 167.86 taxes	1272.14
7283	Jim Bosse	13 PD less 187.64 taxes	1372.36
7284	Chris McFarland	3 PD less 20.34 taxes	339.66
DD	Sargent County Bank	Withholding taxes	994.62

Chad Engels provided a LiDAR map of Drain No. 11 with suggested land that can be removed from the assessment area. After further review the Board moved to instruct Chad Engels to update the map and remove the following from Drain No. 11 assessment area: S1/12-19; S1/2-20; SW1/4-21; W1/2-28, Section 29; Section 30, Section 31; Section 32 and Section 33-129-57 and Section 25 and Section 36-129-58. (Bosse/Engst, unanimous).

Discussed Drain No. 9 and authorized Moore Engineering, Inc. to begin preparing the map and list for reassessment of this drain. (Bosse/Engst, unanimous)

Dana and Sandra Banish and Mike Paczkowski, Cayuga arrived at the meeting to discuss the drainage complaint filed in March 2012 by Robert E Lee, Donald Kiefer and Dennis Pherson, Jr. Several maps were presented by the Banish's for review and Mr. Paczkowski noted that the dike has been there since the early 1930s; the same pump has been in place since the early 1960s (Mr. Paczkowski's father had a smaller pump prior to the 1960s). Mr. Fredricks indicated dike permitting requirements did not go into effect until 1935, and then only under certain circumstances. The real issue regarding the dike, at least from the Board's perspective, is the dike does not allow water to back-up onto Mr. Paczkowski's property. Questions followed on whether the complaint filed was for drainage or time of pumping and, if pumping is the issue, whether or not there is "drainage" that would require a permit. The complainants did not return a Dam/Dike Complaint that Mr. Fredricks sent to them in June 2012. Mr. Fredricks will research the North Dakota Century Code regarding drain permitting requirements to determine if this project required a drainage permit. In addition, the Board will consider an Operation and Maintenance Plan if this dike/pump are located on the Board's drain right of way. Chad Engels will research the drain right of way to determine if, in fact, the structure is on the Board's right of way.

Jeff Breker, Havana met with the Board to discuss his upcoming Farm Lease Agreement with the Board. The 53.8 acre tract that is currently in CRP will be renewed for another 10 years and Mr. Breker would like the Board to approve the length of that portion of the Lease Agreement to ten years versus three years for the remainder of the land. The Board will have the opportunity to adjust the rent every three years. Motion to approve the ten year lease for Jeff Breker for the 53.8 acres of CRP in Section 9-129-54 LTL subject to adjustment of the rent amount every three years. (Bosse/White, unanimous)

Approve the Lease Agreements for Jeff Breker, Havana and Roger Nelson, Rutland for the 2013, 2014 and 2015 farm seasons at a rate of \$80/acre for the farmland; \$30/acre for the pastureland and \$30/acre for Mr. Breker's CRP and authorize the Chairman and Secretary to execute said leases. (Bosse/Engst, unanimous)

Steve McLaen, Forman arrived at the meeting to discuss an open ditch that is being proposed on Sargent Central School property, Brett Anderson property and Mae Bopp property. Mr. McLaen presented maps showing the location of the open ditch. The Board informed Mr. McLaen that a permit will be necessary for this project and he responded that the school will be the permitting agency. Mr.

McLaen also discussed a project in the NE1/4-10 of Rutland Township that involves reoccurring water over the roadway and no access. Mike Walstead, Rutland Township Supervisor arrived at the meeting and indicated that the township has continually built this roadway up and this is the first year that the water has not been over the road. Currently Mr. McLaen has installed a lift station that drains on the east side of the road to the north. Mr. McLaen wants a permanent outlet and proposes to bury non-perforated pipe from the north edge of the farmstead on this property north to Crooked Creek, which would flow northerly between Section 2 and 3 of Rutland Township. Mr. McLaen was given the proper application for applying for a permit for this project.

Chad Engels presented the Board with the results of the bid opening on Drain No. 4 Channel Improvement east of Forman City. Four bids were received and the low bid was from JAV Construction, Inc., Walcott, ND at \$220,582.00. The engineers estimate was \$250,000. Motion to award the contract to the low bidder JAV Construction, Inc. (Breker/Engst, unanimous) Attorney Fredricks is working with Bond Counsel to acquire funding for this project. The total project cost including engineering, contingencies, right of way and utilities is \$360,000 with \$110,173 committed from the ND State Water Commission and \$38,642 the county share for culverts and crossings which leaves \$211,185 as the balance for the Water Board.

Also reviewed was Final Payment No. 4 for the Drain No. 4 Floodwater Outlet Improvement project. The total amount of the request to Ryan Contracting Co. was \$55,553.96 which included a Final Balancing Change Order # 6 of (\$6,329.52) for decrease and increase amounts as well as asphalt patch that was used. There was also a decrease of \$1500 to account for the damages caused by the Contractor working outside of the project right-of-way. The acceptance of this deduction does not constitute a waiver of the indemnity rights in the Contract and those rights shall survive according to the Contract. Motion to approve the Change Order # 6 (Engst/Breker, unanimous) Motion to approve payment of \$55,553.96 (pending receipt of the Bituminous Paving payroll report from the contractor) to Ryan Contracting Co. (Engst/White, unanimous)

Motion to authorize the Chairman and Secretary to execute the Joint Powers Agreement between the Sargent County Water Resource District, Sargent County and City of Milnor for the construction of the Project necessary to provide hydraulic benefits to Drain No. 7; that improvements to Drain 7 will provide drainage benefits for public infrastructure owned by the Water Board, Sargent County and Milnor City and that the Project will benefit the parties' constituents, including residents and properties within the Drain 7 assessment district, resident and properties within Milnor City and residents and properties outside the City's municipal boundaries. (Engst/Bosse, unanimous) Both Sargent County and Milnor City approved and signed their portion of the Joint Power Agreement. The bid opening for the project is scheduled for August 15, 2012 at 10:00 a.m. at the Moore Engineering, Inc. office in West Fargo.

The Board discussed the Rick Hoistad matter. Mr. Hoistad's attorney has informed Mr. Fredricks that they will proceed with litigation. The Board is in the process of considering its right of way needs in this vicinity; more specifically, this situation arose as a result of narrow right of way, so the Board will consider whether or not the Board must acquire the additional acreage. Sean and Chad Engels were instructed to continue working on this matter.

The North Dakota State Water Commission approved the Agreement for Cost-Share Reimbursement for the Preliminary Soils Analysis and Hydraulic Study not to exceed \$47,500, as approved by the State Engineer, to reimburse 50% of the actual eligible costs incurred in this Board's Shortfoot Creek Study. Motion to accept the terms of the agreement and authorize the Chairman to execute said agreement. (Engst/White, unanimous) Chad Engels then reviewed a series of maps and explained Sites 5C, 9 and 10B which had been inspected by Chad and Board members in June 2012. Chad will continue preparing information on these sites for further review with the Board.

Mr. Tom Jones, DC NRCS presented the CPA O & M Inspection Annual Report. The inspection was held on June 26, 2012 with the following attending: Tom Jones, DC; Jordaan Thompson, SC; Richard Engst, Mark Breker, Chris McFarland and Jim Bosse. 1) The **Bergh-McLaen CAT** – all structures look good. **Tewaukon – Channel Improvement No. 1** – Some minor sedimentation beginning to show up. Area is stable and in good shape. **Tewaukon – Channel Improvement No. 2** – no problems are observed. **Nelson Dam** – Good limited grazing. Additional riprap has been placed around the outlet structure to limit access of cattle and a conversation was held with the operator regarding methods he could use to get the cattle out of the bottom of the creek in the outlet area. **Brummond-Lubke Dam** – Trees present on the downstream side of the embankment. Trees should be removed and controlled to avoid possible long-term structure failure. Trees were removed and stumps treated from the upstream side of the structure, but many have resprouted and need to be treated. **Frenier Dam** – Good grass cover, leafy spurge is under control. New signs have been installed. High water has caused damage to the pool side of the structure through erosion of the riprap. This will need to be repaired. **Silver Lake Recreation Development** – All facilities and structures are being well

maintained, all are in good condition. **Tewaukon Channel Improvement No. 3** – No problems observed. **Wild Rice Creek – Channel 9** – Section 31 – All corner and “no cultivation” signs are in place. All legal drains were inspected and noted that trees need to be sprayed in many drains and maps were prepared and forwarded to the helicopter sprayer.

Sean Fredricks presented the Utility Permit requested by Joe Breker to install and maintain underground fiber optic cables on right of way owned by this Board and located in the SW1/4-9-129-54 of Tewaukon Township. Motion to approve the permit and authorize the Chairman and Secretary to execute said permit. (Breker/Bosse, unanimous). Mr. Fredricks provided the Permit to Joe Breker, but Mr. Breker has not yet returned a signed Permit.

Roger White reported on the progress of Dakota Improvement on cleaning Drain No. 11. The contractor began cleaning at Meszaros Slough and continued north to just west of Jan Swanson’s-approximately 7 miles. (From Section 9 and 4 in Sargent Township to between Sections 4, 5, 8 and 9 of Harlem Township)

Meeting adjourned at 11:00 p.m.

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CHRIS MCFARLAND – CHAIRMAN

ATTEST:

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SHERRY HOSFORD - SECRETARY