

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, JULY 20, 2017, AT 8:00 A.M., IN THE COMMISSIONERS ROOM, SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA

Managers present: Roger Zetocha, Korey Martinson, Lucas Siemieniewski, Bruce Speich and Todd Stein. Absent: None Also present: Sean Fredricks, Board Attorney; Chris Gross, Board Engineer; Bob Banderet, Cogswell; John Quandt, Oakes; Steve Kasowski and Blake and Brent, Landmark Drainage, LLC.

Approve June 14 and 15, 2017, minutes and June 2017 financial report. Manager Zetocha moved to approve. Manager Martinson seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Stein moved to approve payment of the following bills:

75564	David Hassebroek	Beaver removal-Dr#11	150.00
75565	Korey Martinson	Travel	55.64
75566	Moore Eng. Inc.	General-\$2034.60; Dr#7 I&S-\$16720.54; Gwinner Dam - \$2955.25;	
	Shortfoot Creek-\$16046.65;		=TOTAL 37,757.04
75567	Ohnstad Twichell	General-\$1,365.00; Dr#7 project-\$1234.10; Gwinner Dam-\$1427.00;	
	Rust tile application-\$505.55; O'Brien tile application-\$194.00; Vculek Surface permit extension-\$108.39;		
	Delahoyde/Quandt complaint-\$92.50;		=TOTAL 4,926.54
75568	Luke Siemieniewski	Travel	29.96
75569	Bruce Speich	Travel	101.65
75570	Todd Stein	Travel	17.12
75571	Roger Zetocha	Travel	53.50
13786	Bruce Speich	2 PD less 18.36 taxes	221.64
13787	Sherry Hosford	Salary less taxes 493.92	1506.08
13788	Roger Zetocha	2 PD less 23.19 taxes	216.81
13789	Luke Siemieniewski	1 PD less 9.18 taxes	110.82
13790	Korey Martinson	1 PD less 9.18 taxes	110.82
13791	Todd Stein	2 PD less 18.36 taxes	221.64
	DD Sargent County Bank	Withholding Taxes	830.63

Manager Speich seconded the motion. Upon roll call vote, the motion carried unanimously.

**DRAIN NO. 7 CHANNEL IMPROVEMENT PROJECT:** Brent and Blake with Landmark Drainage LLC were present at the meeting and reported that the culverts are all installed and most of the seeding is complete. Chris Gross explained Application for Payment No. 6 for \$126,550.14. Sean reminded the Board of its previous liquidated damages claim letter to reserve the right to assess liquidated damages for Landmark’s failure to meet the completion date of November 23, 2016. Further, at the Board’s June meeting, in accordance with the Board’s set-off rights under its construction contract with Landmark, the Board withheld 1 \$57,429.98 from Application for Payment No. 5. Pay Application No. 6 includes all work that is completed except the seeding and retainage, and includes the \$57,429.98 withheld from Application No. 5. The Board discussed some of Landmark’s deficiencies, including the installation of the last culvert; Landmark installed and removed the culvert twice before Landmark finally, at the request of the Board, contacted the culvert company and requested a new culvert that meets the contract specifications. Landmark plans to go back to the culvert company to recover some of the costs of remaking the culvert. Board members wanted to ensure its ability to assess liquidated damages by withholding at least a portion of the amount requested under Application No. 6. Landmark is well beyond the completion date; in fact, at the liquidated damages amount under the contract, \$2,000 per day, the Board could withhold the entire amount of Application No. 6, to ensure the Board has set-off enough to collect its liquidated damages, if the Board ultimately decides to assess liquidated damages. Blake provided the board with a summary of the days worked and description of the work completed and felt that de-watering was the biggest issue on the delay in the project besides the faulty culvert and other issues dealing with intercept culverts. Regarding the contractor delay overage, Chris Gross reported that Moore Engineering, Inc., has spent over \$60,000 of extra time addressing Landmark’s failure to meet its contractual deadlines, and Landmark’s other deficiencies. Moore has a contractual obligation to be present for testing, alignment of culverts, and when the road was shut down. Chairman Siemieniewski indicated that while the quality of work has been acceptable, the timeliness have been an issue, at the expense of the members of the Drain 7 assessment district, and the Board has incurred additional expenses as a result of Landmark’s failure to meet the November 23 completion date, beyond just Moore’s extra expenses. Manager Speich moved to withhold the full amount requested under Application for Payment No. 6, and to approve \$0, in accordance with the Board’s set-off rights under the contract. Manager Martinson seconded the motion. Upon roll call vote, the motion carried unanimously. Sean will provide a Notice of Set-Off to Landmark.

**JOHN QUANDT APPLICATION(S) TO INSTALL A SUBSURFACE WATER MANAGEMENT SYSTEM:** John Quandt and Steve Kasowski were both present at the meeting to discuss three new tile applications. John reviewed each application with the board. 1) S1/2-7-130-58; 2) NW1/4 and N1/2 of SW1/4-17-130-58 and 3) N1/2-19-130-58. John provided information on each application. The Board explained the new items required for a “complete” application under the new tile application from the State Engineer’s Office.

John will supply the tile plans, including detailed maps of the tile plans and the tile discharge, along with detailed information regarding culverts and outlets. The board requested these plans from John and tabled any decision on his applications until the August meeting. One of the plans would normally require a 30-day notice under the new tile law, but John indicated he plans to obtain a flowage easement from the downstream landowner, and indicated a 30-day notice will not be necessary.

**DELAHOYDE/QUANDT COMPLAINT:** The Delahoyde/Quandt complaint was briefly discussed. There is one small portion of property not covered under John's recent surface application approved by the Dickey-Sargent Board. Moore Engineering, Inc. will conduct a watershed delineation of this area and Chris will present the results to the Board at the August meeting. In the meantime, the Board previously notified the parties of the Board's decision to hold the Complaint in abeyance. John also requested cost share from the water board on a 42x29 culvert which will be placed under County Road 3 between Sections 18 and 19 in Jackson Township and has been approved by the county commission. A hydraulic analysis has been prepared by Houston Engineering, Inc. for this location. John will prepare a written request for cost share and provide that to the Board and the county commission for their August meetings.

**WILD RICE SOIL CONSERVATION SUMMER YOUTH:** Raina Ruch, Supervisor of the summer youth met with the board to update the board on work completed to date by the summer youth. Drain No. 2, Drain No. 11, Drain No.8, Drain No. 9 and Silver Lake removal of trees have been worked on by the youth. The trees at Silver Lake are taking a lot of time and the 200 hours have been used up by the youth. Raina requested another 200 hours. Board members requested that the youth move to Drain No. 7 through Milnor City, as Korey was unable to get anyone to do come in and remove the trees within the drain. Raina agreed to have the youth cease at Silver Lake for this year and give their attention to the Milnor Drain until they are done for the summer. Manager Speich moved to approve an additional 150 hours for the summer youth to complete this work and if additional hours are needed to contact Chairman Siemieniewski to authorize additional hours. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

**GWINNER DAM BREACH:** Chris Gross informed the board that MEI is still waiting for Steve Melroe to sign the Access Agreement with a couple changes that need to be negotiated with Steve Melroe. Manager Speich moved to authorize the Chairman to sign the Access Agreements for Steve and Barb Melroe; Delores Johnson-Jeff Johnson, Attorney in Fact; and Dan Qual. Manager Martinson seconded the motion. Upon roll call vote, the motion carried unanimously. The Board next reviewed the low bid from D.L. Barkie Construction Inc., West Fargo, ND, for \$33,938.00. Manager Martinson moved to authorize the Chairman to sign the Notice to Proceed and Notice of Award for the Gwinner Dam Breach, upon receipt of all signed Access Agreements from the landowners. Manager Zetocha seconded the motion. Upon roll call vote, the following voted yes: Martinson, Zetocha, Speich, and Siemieniewski. Voting No: Stein. Motion carried.

**DRAIN NO. 7 EXTENSION:** There have not been any landowner meetings at this time. The board asked Chris Gross if Brady Woodard, MEI, would fly the drain with a drone to see if the blockages can be determined. It was mentioned to fly over Bogart's, Kit Mund's and Jim Toyne's. Chris will check with Brady.

**MAHRER/ELLEFSON COMPLAINT:** The Ellefsons previously installed one plug, but the location of the second plug required by the Board remains under water. The Board will keep this matter on its agenda to ensure placement of the second plug once conditions permit.

**DRAIN NO. 7 CULVERT REQUESTS:** The Board will keep this matter on its agenda, though the Board has not received any extension requests at this time.

**HELICOPTER SPRAYING OF DRAINS:** Following the annual dam and drain inspection, board members reviewed and marked the drain map of the areas that should be flown and sprayed where necessary. The drains include: 4, 8, 9, 11, and 12. Sherry will contact Larson Helicopters to see if they are available and also request them to spray the face of Frenier Dam. Information requested was cost to fly the drains, cost for application and chemicals that would be applied. The county weed control officer will also be contacted to spray Drain No. 4 within Forman city limits and Drain No. 7 within Milnor city limits. Discussion continued on the possibility of snagging and clearing the Wild Ricer River. Chris Gross explained that, as a result of HB 1374 during the 2017 Legislative Session, the State Water Commission can no longer provide cost-share for this type of work. They board could request to set up a maintenance district for the Wild Rice River and assess the landowners. This would also have to be approved by the county commission by a 2/3 vote. The maximum amount that can be charged is 50 cents per acre.

**DRAIN NO. 11:** Todd Stein suggested that the southwest branch of Drain No. 11 be cleaned out. There is no water in the drain and now would be a good time to do the work. Manager Zetocha made a motion to authorize up to \$20,000 for cleaning Drain No. 11 from Meszaros Slough south and through the southwest branch of the drain. Manager Stein seconded the motion. The following voted yes: Zetocha, Stein, Speich, and Siemieniewski. Voting No: Martinson. Motion carried. Todd and Roger will drive the drain, decide what needs to be cleaned and hire a contractor to proceed with the work.

**HEAD OF THE MOUNTAIN NATURE PRESERVE:** Kathy Duttenhefner, 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. Ms. Duttenhefner explained that the ongoing lease agreement with the Sargent County Water Resource Board and the ND Parks and Recreation was renewed in 2014 and automatically renews from year to year for successive terms of five years. Sargent County owns this land and the Parks and Recreation Dept. manage the land with the adopted Articles of Dedication (Revised May 1, 2006). There is still no grazing allowed at the preserve. Ms. Duttenhefner informed the board that her department sprayed wormwood and leafy spurge on June 27 and 28. There were two patches of thistle and wormwood that were not within the boundary of the reserve that did not get sprayed. They also noted at that time that the fence on the west side had been cut and opened approximately 20 feet. A sign was down so the technicians on site repaired the fence and put the sign back up. There appeared to be tracks where ATV's were accessing the area. Kathy also indicated that the kiosk was in good condition. Her department will do a summary at the end of the year and provide a report to this board.

**RS #1 BILLS:** Monica Zentgraf previously contacted Sherry Hosford regarding a bill for \$3025.00 for Larson Helicopters to spray 11 miles of RS#1. The board approved payment of this bill as well as approval for spraying of cattails later this summer.

**OTHER:** The board reviewed the new form for subsurface (tile) applications as prescribed by the State Water Commission and instructed the Secretary on which documents should be given to applicants. Chris Gross reminded board members to open the valve at Frenier Dam and run water to assure that the dam is working correctly. Due to rain the night before the annual dam inspection, board members were unable to open the valve at that time. Luke agreed to stop and check it out. Many years ago the board purchased several pieces of sheet piling which is stored at the fairgrounds near the county shop. Board members discussed possible uses for the piling and agreed that they would keep it for now and not interested in selling any of the piling. Sherry informed the board that she had a request from Jeff Breker to sign a form for 2017 Emergency Grazing of the 51 acres of CRP which Jeff leases from the board.\_

Meeting adjourned at 11:07 a.m.

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LUCAS SIEMIENIEWSKI, CHAIR

ATTEST:

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SHERRY HOSFORD  
SECRETARY-TREASURER