

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, AUGUST 15, 2019, AT 8:00 A.M. IN THE COMMISSIONERS ROOM AT THE SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA.

Managers present: Lucas Siemieniewski, Todd Stein, Michael Wyum, Roger Zetocha and Bruce Speich. Absent: None. Also present: Chris Gross, the Board's engineer; Sean Fredricks, the Board's attorney and Sherry Hosford, Secretary-Treasurer. Others present were: Paul Mathews, Robert Banderet, Richard Ruch, and Leon Mallberg.

Manager Zetocha moved to approve the Board's July 18, 2019 minutes and the June and July 2019 financial statements. Manager Speich seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Speich moved to approve payment of the following bills:

79085	Dakota Improvement Inc.	Clean out culvert by Lloyd Ptacek's	200.00
79086	Larson Helicopters	Inspection from airplane-\$400.00; Drain No. 9-\$1568.00; Frenier Dam-\$530.40 and Nelson Dam \$132.60 = TOTAL	2,631.00
79087	Ohnstad Twichell	General-\$1,057.18-meetings; Steve Hanson permit-\$228.10; Phil Hanson permit-\$195.00; and Drain No. 12 Imp. Project-\$1,131.00 = TOTAL	2,611.28
79088	Lucas Siemieniewski	Travel	146.74
78089	Bruce Speich	Travel	297.54
79090	Todd Stein	Travel	198.94
78091	Michael Wyum	Travel	280.72
78092	Roger Zetocha	Travel	58.00
16765	Sherry Hosford	Salary less taxes 560.48	1,639.52
16766	Roger Zetocha	2 PD less 18.36 taxes	221.64
16767	Lucas Siemieniewski	5 PD less 45.90 taxes	554.10
16768	Todd Stein	3 PD less 27.54 taxes	332.46
16769	Bruce Speich	3 PD less 27.54 taxes	332.46
16770	Michael Wyum	4 PD less 36.72 taxes	443.28
DD	Sargent County Bank	Withholding taxes	1,035.64

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

APPLICATION TO INSTALL A SUBSURFACE WATER MANAGEMENT SYSTEM NO. 2019-12 IN THE SE1/4-20-129-56 for WILL RUST:

The Board reviewed an *Application to Install a Subsurface Water Management System No. 201912* dated August 15, 2019, for William Rust; Will Rust was present to discuss the project with the Board. Under the application, Applicant seeks to install a 97-acre drain tile system in the Southeast Quarter of Section 20 in Taylor Township, Sargent County, North Dakota. The project will include a gravity outlet that will discharge directly into Sargent County Drain No. 9. The Sargent County Water Resource District owns and operates Drain 9.

Because the project will discharge directly into a legal assessment drain, no THIRTY-DAY NOTICE was necessary to downstream landowners under N.D. Cent. Code § 61-32-03.1. Under the tile law passed during the 2017 Legislative session, the Board can attach conditions to protect Drain 9, including erosion protection requirements. However, the Board cannot require Applicant to obtain any consent from any downstream landowners.

According to records submitted by Applicant, William Rust owns the Southeast Quarter of Section 20 of Taylor Township.

Manager Wyum moved, and Manager Stein seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2019-12* dated August 15, 2019, for William Rust in the Southeast Quarter of Section 20 in Taylor Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2019-12, subject to the following conditions:

- 1) That Applicant provide, install, and maintain adequate erosion protection at any and all outlets into Sargent County Drain No. 9;

2) That Applicant notify the Sargent County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets; and

3) That Applicant must reseed any of the District's right of way disturbed by Applicant's activities, and must maintain any reseeded areas for a period of one year from the date of completion to ensure the seeding adequately repairs any disturbed areas.

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 consider complying with the following:

1) That Applicant notify the Sargent County Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application; 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.

SILVER LAKE DAM: During the annual drain and dam inspection, board members inspected Silver Lake Dam and agreed that a fence should be installed from the top of the dam and east along the south edge for safety concerns. Sherry will contact Dakota Fence Co. and get them in touch with Lucas to get information about installing a fence.

DRAIN NO. 11: Lucas and Todd met with the Dickey County Water Board regarding reassessment of Drain No. 11. Both water managers felt the meeting was productive and Dickey County will let them know next month their decision on whether they are interested in proceeding with a reassessment to include any Dickey County properties that may be in the watershed.

Chris Gross, MEI, updated the board on ongoing work on the Drain No. 11 Improvement project. No date has been set for the landowners meeting; MEI is waiting for a response from the COE regarding whether or not a Section 404 permit is required. The design for the final alignment of the project is 95% complete and construction could begin next summer.

DRAIN NO. 16: Chris would like to know what the board is looking for MEI to present. A question on whether landowners wishing to tile into this drain could be charged fees for maintenance; Sean indicated the Board could charge a connection fee to cover the costs of the connection and related expenses. No decisions made.

Paul Roney arrived at the meeting to present a Subsurface Application for approval.

APPLICATION TO INSTALL A SUBSURFACE WATER MANAGEMENT SYSTEM NO. 2019-09 IN THE SE1/4-18-130-58 for PAUL RONEY:

The Board reviewed an *Application to Install a Subsurface Water Management System No. 201909* dated July 28, 2019, for Paul Roney. Under the application, Applicant seeks to install a 150-acre drain tile system in the Southeast Quarter of Section 18 in Jackson Township, Sargent County, North Dakota. The project will include a single pump outlet located along the south boundary of the Southeast Quarter of Section 18; the pump will discharge directly into the South Lateral of the Lovell Improvement Project.

Under N.D. Cent. Code § 61-32-03.1, the application would normally have required a THIRTYDAY NOTICE to downstream landowners in the Southwest Quarter of Section 18; however, in this case, Applicant previously obtained a FLOWAGE EASEMENT from Allen Hansen, the owner of the Southwest Quarter of Section 18, to accommodate the South Lateral. With that in mind, no THIRTY-DAY NOTICE was necessary to downstream landowners.

According to records supplied by Applicant, Paul and ReNae Roney own the Southeast Quarter of Section 18 of Jackson Township. Further, Allen Hansen owns the Southwest Quarter of Section 18.

Manager Zetocha moved, and Manager Wyum seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2019-09* dated July 28, 2019, for Paul Roney in the Southeast Quarter of Section 18 in Jackson Township, and to authorize the Secretary/Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2019-09, subject to the following conditions:

- 1) That Applicant notify the Sargent County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets; and
- 2) That Applicant must turn off any pump outlets and otherwise close all outlets during “critical flood periods,” as determined by the District.

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 consider complying with the following:

- 1) That Applicant obtain written permission from Lovell Improvement Project, LLC, to discharge into, or otherwise utilize, the South Lateral of the Lovell Improvement Project;
- 2) That Applicant notify the Sargent County Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application; and
- 3) 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.

CULVERT EXTENSIONS BETWEEN SECTIONS 21/28-HARLEM TOWNSHIP: Chris reported on costs for extensions on the culvert located by Lloyd Ptacek’s (Section 21/28-Harlem Township). Options to install the extensions include 1) cutting the culvert in half and putting another culvert in the center of the road to extend the length (\$3,700) or 2) cutting off one edge, adding the extensions and then this would lose the length of the pipe which is mitered to 3:1 (\$6,500). Manager Zetocha moved to order a pipe to place in the middle of the crossing not to exceed a cost of \$5,000. Manager Speich seconded the motion. Upon roll call vote, the motion carried unanimously. Board members will talk to a contractor to see who is available to do the work and get an estimate for installation.

Gerry Bosse arrived at the meeting.

BRAMPTON DRAINAGE PROJECT: Chris provided a Plan and Profile of this area from Brampton north to Drain No. 11. The map was reviewed and the board agreed that the affected landowners should be invited to the next meeting to get their thoughts on this project. A meeting will be scheduled at the September 19 regular board meeting and all those adjacent landowners invited to attend.

DRAIN NO. 11 REASSESSMENT-LEON MALLBERG: Mr. Mallberg addressed the board with comments regarding his request for a reassessment of Drain No. 11. Board explained to Mr. Mallberg that they were in the process of reassessing when a lawsuit was filed against the Board regarding Drain 11. Mr. Mallberg’s request is to have a third party conduct the reassessment. The Board indicated they would be open to considering the possibility of retaining a third party to conduct the benefit analysis for the Board, similar to ‘viewers’ in Minnesota. However, the Board noted the Board and its engineer conducts reassessments on an objective basis, based on their investigation and information available, and that landowners may similarly be unhappy with an additional third party viewer’s conclusions and recommendations. Mr. Mallberg commented that if a third party firm is used, the board will not hear from him again on this subject. With regard to potential involvement by Dickey and Ransom Counties, Michael Wyum and Bruce Speich are scheduled to meet with the Ransom County Water Board on August 22nd, and Michael and Lucas agreed to meet with the Marshall County, SD county commissioners to discuss the proposed reassessment. Commissioner Ruch also agreed to accompany Chairman Siemieniowski and Manager Wyum to talk to Marshall County. Sean Fredricks indicated he is in the process of procuring outside counsel to represent Sargent, Ransom, and Dickey Counties regarding matters related to any reassessment since he represents all three WRDs, and in light of the potential for litigation from third parties.

BRUCE BOSSE/DON RUST REPORT ON KELLEY-MATHEWS COMPLAINT: Bruce Bosse and Don Rust arrived at the meeting. Bruce Bosse presented a map of their project in Jackson Township with present landowners shown and provided a history of what had transpired; he further indicated that approval was given by the Jackson Township Board to do work in the road ditch. He feels that everyone was notified of the project and approval granted by the State Water Commission. The Board informed Mr. Bosse that they inspected the area last month and will have the engineer go out and inspect the area to make sure there are no new field ditches once the corn has been harvested. Chris Gross explained to Mr. Bosse that drainage can be allowed if a permit is received.

BRUMMOND-LUBKE DAM IMPROVEMENT PROJECT: Work began about 2-1/2 weeks ago and it is slow going.

SILVER LAKE DAM PROJECT: Chris will have the final GEO-Tech report today or tomorrow and will provide options for the board to consider at the September meeting. Following that, the county commissioners will be invited to the October meeting to discuss the project, where funding will come from and make a request for cost-share.

DRAIN NO. 2: Bruce Speich reported that following the inspection of the drain, board members agreed that removal of the trees would be too costly so they will plan to do only simple cleanouts as funding allows. Bruce will contact contractors to obtain estimates of work for a simple clean out and present at the September meeting.

DRAIN NO. 7: Bruce Speich mentioned a plugged box culvert on the airport road. The board decided that Todd will contact General Irrigation to get a cost estimate to jet out the culvert to remove the silt.

DRAIN NO. 12 IMPROVEMENT PROJECT: Mike Wyum and Chris reported on the SWC cost share meeting that they attended in Bismarck on August 8. The project was not approved for cost share due to placement on the agenda and the new cost-benefit analysis. The Tri-County Drain project preceded Drain 12 on the SWC agenda and, due to the cost-benefit analysis for that project and questions from the SWC on cost-share funding for similar projects, the SWC did not consider Drain 12 at the meeting. Considerable discussion followed on how to address the shortcomings in the State's current cost-benefit analysis model and Chris indicated that he will make a recommendation to place this project back on the SWC's agenda for cost-share consideration at the next SWC meeting. The SWC Cost-Share Subcommittee meeting will be held on September 12th and the cost share meeting on October 10th. Both Mike and Lucas agreed to attend with Chris.

APPLICATION TO INSTALL A SUBSURFACE WATER MANAGEMENT SYSTEM NO. 2019-07 IN THE SW1/4-6-129-58 FOR PHIL HANSEN:

The Board reviewed an *Application to Install a Subsurface Water Management System No. 201907* dated July 14, 2019, for Phil Hansen. Under the application, Applicant seeks to install a 125-acre drain tile system in the Southwest Quarter of Section 6 in Southwest Township, Sargent County, North Dakota. The project will include a pump outlet located along the south boundary of the Southwest Quarter of Section 6; the pump will discharge directly into the Lovell Improvement Project.

The Board provided a THIRTY-DAY NOTICE to all downstream landowners within one mile of the outlet of the project, as required under N.D. Cent. Code § 61-32-03.1. Lovell Improvement Project, LLC, has not obtained all of the right of way for the project. With that in mind, the Board provided THIRTY-DAY NOTICES to the owners of the East Half of Section 12 of Southwest Township. None of the owners submitted "technical evidence" to object to the project. With that in mind, the Board cannot require Applicant to obtain consent from any downstream landowners.

According to records submitted by Applicant, the Philip A. Hansen Revocable Living Trust owns the Southwest Quarter of Section 6 of Southwest Township. With regard to downstream landowners, Steve and Judy Hansen own the Southeast Quarter of Section 12, and Colin and Kahri Finley own the Northeast Quarter of Section 12 of Lovell Township in Dickey County.

Manager Stein moved, and Manager Zetocha seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2019-07* dated July 14, 2019, for Phil Hansen in the Southwest Quarter of Section 6 in Southwest Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2019-07, subject to the following conditions:

1) That Applicant notify the Sargent County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets; and

2) That Applicant must turn off any pump outlets and otherwise close all outlets during “critical flood periods,” as determined by the District.

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 consider complying with the following:

1) That Applicant obtain written permission from Lovell Improvement Project, LLC, to discharge into, or otherwise utilize, the Lovell Improvement Project;

2) That Applicant notify the Sargent County Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application; and

3) 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.

APPLICATION TO INSTALL A SUBSURFACE WATER MANAGEMENT SYSTEM NO. 2019-06 IN THE SE1/4-31-130-58 FOR STEVE HANSEN:

The Board reviewed an *Application to Install a Subsurface Water Management System No. 201906* dated July 14, 2019, for Steve Hansen. Under the application, Applicant seeks to install a 135-acre drain tile system in the Southeast Quarter of Section 31 in Jackson Township, Sargent County, North Dakota. The project will include a single pump outlet located in the southwest corner of the Southeast Quarter of Section 31; the pump will discharge directly into Lovell Improvement Project.

The Board provided a THIRTY-DAY NOTICE to all downstream landowners within one mile of the outlet of the proposed project, as required under N.D. Cent. Code § 61-32-03.1. Lovell Improvement Project, LLC, has not acquired all of the right of way for the Lovell Improvement Project; with that in mind, the Board provided THIRTY-DAY NOTICES to the downstream landowners in the East Half of Section 6 of Southwest Township. None of those downstream landowners submitted “technical evidence” to object to the project. With that in mind, the Board cannot require Applicant to obtain any consent from downstream landowners as a condition to the permit.

According to records submitted by Applicant, Steve and Judy Hansen own the Southeast Quarter of Section 31 of Jackson Township. Further, Michael and Pamela Quandt, Jeffrey and Jeanette Quandt, Jason and Jessica Quandt, and James Quandt own the East Half of Section 6 of Southwest Township.

Manager Stein moved, and Manager Zetocha seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2019-06* dated July 14, 2019, for Steve Hansen in the Southeast Quarter of Section 31 in Jackson Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2019-06, subject to the following conditions:

1) That Applicant notify the Sargent County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;

2) That Applicant must turn off any pump outlets and otherwise close all outlets during “critical flood periods,” as determined by the District.

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 consider complying with the following:

- 1) That Applicant obtain written permission from Lovell Improvement Project, LLC, to discharge into, or otherwise utilize, the Lovell Improvement Project;
- 2) That Applicant notify the Sargent County Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application; and
- 3) 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.

RICHLAND-SARGENT NO. 1: Monica Zentgraf, Secretary-Treasurer RS #1 requested board approval for the 2019 RS#1 maintenance levy to remain at \$4.00 per weighted method due to the outstanding bond. Manager Speich moved to approve the Richland-Sargent No. 1 levy. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

DICKEY-SARGENT JOINT WATER RESOURCE DISTRICT: Sherry Hosford, Secretary-Treasurer for DSJWRD provided DSJWRD bills for consideration and approval as follows:

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| 1. DVEC | \$687.00 (Electricity) |
| 2. Dawson Insurance Agency | \$1,164.00 (Annual liability premium) |
| 3. General Irrigation | \$150.00 (Repair Jackson pump cooling fan) |
| 4. Terracon | \$3,100.00 (Sampling and Analysis) |

Manager Stein moved to approve the DSJWRD bills. Manager Wyum seconded the motion. Upon roll call vote, the motion carried unanimously.

Chris Gross also reviewed and explained the reporting system for the water sampling. A Dickey-Sargent Joint Water Resource Board meeting will be called for Thursday, September 19 to discuss issues regarding repair and seeding; sloughing in the drain and cattail spraying and any other business which comes before the board.

COMPUTER UPGRADE: Sherry informed the Board that due to misinformation from NRG on the computer program change, that it was more cost effective to wait until the beginning of January 2020 and order a new computer/program to replace the existing system which will be outdated and due for replacement.

With no further business to discuss, the Board adjourned the meeting at 11:35 a.m.

LUCAS SIEMIENIEWSKI, CHAIR

ATTEST:

SHERRY HOSFORD, SECRETARY-TREASURER