

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD  
HELD ON THURSDAY, AUGUST 18, 2011 AT 7:00 P.M. IN THE COMMISSIONERS ROOM,  
SARGENT COUNTY COURTHOUSE, FORMAN, ND

Managers present: Jim Bosse, Mark Breker, Richard Engst and Chris McFarland. Absent: Roger White. Also present: David L Jacobson, Forman; Sean Fredricks, Attorney, Onstad, Twichell; Tom Jones, NRCS; Al Carton, Rust Farms, Cogswell.

Approve July 21 and 26, 2011 minutes and July financial statement. (Engst/ Breker, unanimous)

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

64747	James Bosse	Travel	198.39
64748	Mark Breker	Travel	210.12
64749	Richard Engst	Travel	186.15
64750	Jacob Haag	WET Registration	250.00
64751	Chris McFarland	Travel	48.96
64752	Ohnstad, Twichell, P.C.	Rust-\$315; Ellick Erickson-\$222.74; Emeric Erickson-\$135; Joe Breker-\$45 and General-\$1353.97	2071.71
6148	Mark Breker	15 PD less 234.87 taxes	1565.13
6149	Sherry Hosford	Sec. salary less 17.89 taxes	298.78
6150	Richard Engst	20 PD less 356.02 taxes	2043.98
6151	Roger White	1 PD less 6.78 taxes	113.22
6152	James Bosse	18 PD less 301.46 taxes	1858.54
6153	Chris McFarland	8 PD less 87.41 taxes	872.59
DD	Sargent County Bank	Withholding taxes	1599.71

Discussion followed on Silver Lake dam and Board members were informed that emergency repairs were made by the county road department on July 28 in anticipation of flooding from White Lake Dam in South Dakota. Total cost of the 12 loads of dirt and installation was \$4,308.99 paid to Bernard Mahrer Construction by Sargent County. The Secretary was instructed to review the agreement between this Board and the State Water Commission regarding repairs to the dam and submit the bill to that office and request cost share for these repairs.

Mark Breker reported that the signs have arrived for the kiosk at Head of the Mountain Nature Preserve and he is working on getting everything installed.

Motion to approve 1/3 cost share of the 48" x 64' culvert for Dunbar Township installed along the south side of Section 33-131-55. (McFarland/Engst, unanimous)

Jim Bosse has received a bid from Dakota Improvement, Inc., Oakes to clean out Drain No. 11 (23-130-58) and also the culvert work on the Huffman land. Authorize Dakota Improvement to complete the work. (McFarland/Engst, unanimous) Jerry Bohnenkamp has agreed to install the flap gates on Drain No. 9 by Al Dahl's.

The Drain complaints received by Wendell and Linda Schutt, Milnor and James Mahrer, Forman against Emeric and Calvin Erickson have been investigated. These complaints are both with regard to work the Erickson's' constructed in the SE1/4-2-131-55 (both Emeric and Calvin Erickson are record owners of the parcel), so the Board considered them together. Chad Engels, the Board's engineer, conducted a site visit with Managers Breker and Engst to inspect the alleged drainage activity. Mr. Erickson was also on-site and discussed the matter with Mr. Engels and Managers Breker and Engst. Mr. Engels provided a report to the Board to disclose his findings, as follows: 1) Mr. Erickson constructed open ditches and buried pipe with surface inlets on the SE1/4-2-131-55; 2) the project consists of new drainage (and not maintenance of an existing drain), that drains floodwater and basic sheet water (water that floods land not normally subject to standing water); 3) the watershed area that drains into this drain is well over 80 acres. Therefore, Mr. Erickson was required to first obtain a drainage permit before constructing this drain under Sections 61-32-03 and 61-32-07. The Board considered, and ultimately concurred with, Mr. Engels' report.

The Board discussed what measures, if any, Mr. Erickson could include in a drainage project that might render the project more acceptable to the Board in terms of potentially approving a permit. The Board concluded: 1) The project is not permitted, illegal drainage and should be ordered closed; 2) If Emeric Erickson submits an application following compliance with the Board's order, the Board can review it; 3) A drainage application would have to include conditions that address downstream concerns, such as a gate with an Operation and Management Plan, or the Board will have to require downstream flowage easements, which the Schutt's are not likely to provide; 4) If the permit is approved with conditions, then the drainage project can be re-opened. The Board determined this is

unpermitted drainage. Motion to order Emeric and Calvin Erickson to close the unpermitted, illegal field drainage on the SE1/4-2-131-55 within thirty days or the Board will close the drain and assess the charges against the Erickson's' property taxes. (Breker/McFarland, unanimous)

Letters received from Tewaukon National Wildlife Refuge were read and discussed. There are jurisdictional issues concerning this Board and according to Attorney Fredricks, this Board does not have specific statutory jurisdiction to "manage" the elevation referred to in the letters prepared by Tewaukon National Wildlife Refuge. This would likely require joint powers arrangement with all the parties involved. Sean Fredricks will submit a letter to the Refuge to clarify some items contained in their letters.

Brian Vculek, Crete arrived at this time and requested that this Board consider increasing the capacity of Drain No. 11. Sean Fredricks explained that it would require permits with the State Engineer and likely with federal agencies (Corps of Engineers and NRCS). The Board commented that the drain is already taking more water than it can handle and there aren't finances for a reconstruction project of this magnitude without an excess levy vote. Discussion followed on impacts to downstream landowners but Brian added that he wants the Board to consider it for benefits upstream. Brian next discussed the possibility of constructing a dike on the north edge of the NE1/4-16-131-57 to keep the water off his land and in Drain No. 11. This would require a dike permit and not be allowed on the drain right of way. Brian is also considering a dike on the north edge of the S1/2-35-132-58 to keep water in Drain No. 11. He proposes to put the dike south of the drain with a flap gated culvert in the township road ditch. He wants to pump the water from the south side of the dike in the road ditch to the north side of the dike back towards Drain No. 11. The Board again recommended that Mr. Vculek file for a dike permit.

The State Water Commission approved an Emergency Application to Drain to Miles L Johnson, Gwinner in the SE1/4-1-131-56 as the water is affecting the sewer system. Since the approval, Mr. Johnson has learned that the water actually flows a different direction than stated in the application. However, Mr. Dwight Comfort with the State Engineer's Office indicated at the time the permit would also apply to the scenario now occurring. Mr. Johnson is going to file an NRCS emergency permit to drain.

David Jacobson inquired about the plans for Forman City Floodwater Outlet and reconstruction of Drain No. 4. The preliminary plans have been forwarded to the State Water Commission for their consideration. The next State Water Commission meeting is September 22. Mr. Jacobson also discussed an upcoming city meeting regarding the drain.

Authorize the Chairman to sign letters to the US Congressional delegates regarding the Clean Water Restoration Act EPA and Corps of Engineers Clean Water Guidance.

Motion to appoint Mark Breker as the Board's representative and Jim Bosse as his alternate to the Red River Joint Water Resource District to replace Roger White, in light of Roger's health situation. (Engst/McFarland, unanimous)

Kathy Duttonhefner, Coordinator/Biologist, ND Parks and Recreation informed the Board that while a technician was spraying at the Head of the Mountain Nature Preserve, he noticed someone has cut through the new fence on the west side. She is looking for the Boards suggestions for action for repair. Mark Breker agreed to inspect the area and report at the September meeting.

Emeric Erickson, Milnor arrived at the meeting and inquired about his drain project. The Board informed him that they had ordered his drain closed. Mr. Erickson says there is no way that he can get flowage easements that were conditioned on his permit that he withdrew. The Board realizes this and is trying to make it possible for him to apply for a drainage permit that will not affect the downstream landowners. Mr. Erickson has received an application to drain form from the State Water commission and plans to complete it and send it in for their consideration.

Meeting adjourned at 9:45 p.m.

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JAMES BOSSE – CHAIRMAN

ATTEST:

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SHERRY HOSFORD - SECRETARY