

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, AUGUST 18, 2016 AT 8:00 A.M., IN THE COMMISSIONERS ROOM, SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA

Managers present: Luke Siemieniewski, Roger Zetocha, Todd Stein, Korey Martinson and Richard Engst. Absent: None. Also present: Sean Fredricks, Board Attorney; Chris Gross, Board Engineer; and Scott Mahrer.

Approve the July 21, 2016 minutes and July financial statement. Manager Engst moved to approve. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Zetocha arrived at 8:15 a.m.

Manager Stein moved to approve payment of the following bills. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously.

73628	James Bosse	Dr 11 beaver removal	50.00	
73629	Comstock Construction Inc.	Drain # 2 cleaning and culvert installation	15,094.00	
73630	Dickey County WRD	D/S administrative expenses	438.03	
73631	Richard Engst	Travel	39.96	
73632	Helwig Excavating	Dr # 8 tree removal through Rutland City	2,085.00	
73633	Korey Martinson	Travel	54.00	
73634	Moore Eng. Inc.	Gwinner Dam-\$612.00; Shortfoot Creek-\$24,819.14; General Eng. Fees-\$339.50; Dr#8-\$80.00; Theresa Erickson application-\$249.75; Dr # 2-\$80.00; Storm Lake-\$750.00; Tewaukon Watershed - \$947.00	- TOTAL	27,877.39
73635	Ohnstad Twichell	General - \$871.50; Shuman Township permit-\$95.00; Dr#4-Hoistad-\$641.86; Mahrer-Ellefson - \$54.00; WCI/Dr # 7-\$198.00; Storm Lake-\$864.00 = TOTAL		\$2,724.36
73636	Quill Corporation	Ink cartridges	239.98	
73637	Lucas Siemieniewski	Travel		51.84
73638	Todd Stein	Travel	67.50	
73639	Roger Zetocha	Travel	99.90	
12520	Sherry Hosford	Salary less taxes	494.75	1505.25
12521	Richard Engst	8 PD less	99.19 taxes	860.81
12522	Roger Zetocha	6 PD less	112.33 taxes	607.67
12523	Lucas Siemieniewski	10 PD less	144.55 taxes	1055.45
12524	Korey Martinson	2 PD less	23.61 taxes	216.39
12525	Todd Stein	11 PD less	100.98 taxes	1219.02
DD	Sargent County Bank	Withholding Taxes		1486.07

GWINNER DAM: Chris Gross has not heard back from the State Water Commission (SWC) on what is involved in the permit process and asked the Board what direction they wanted to go. With the seven sites Chris feels that the Board is running out of options. Board members agreed to wait until they get a response from the SWC before moving forward.

DRAIN NO. 8: Manager Stein presented a bill for removal of trees on said drain and also indicated that some high spots were removed but the water did not drain. No work was conducted on the drain portion through Rutland City. There was too much water at the time and the city has asked the water board to place buried pipe in the roadway because there is the possibility of a home being built on the west side of the drain and access would be required. Currently there is a narrow approach and the city would like a 30 foot approach to gain access. Manager Zetocha moved to authorize Moore Engineering, Inc. to set the elevation for a pipe, provide a size and type of pipe for installation and costs to install said pipe. Manager Engst seconded the motion. Upon roll call vote, the motion carried unanimously.

BRIAN VCULEK: Brian Vculek arrived at the meeting regarding two applications to install subsurface drains in the East half of Section 13 and the SW1/4 of Section 13 all in Denver Township (132-58). Mr. Vculek reviewed the project plans and decided to withdraw the two applications and file one application for all described land. The new application was received and given to both Attorney Fredricks and Engineer Gross to review for the September meeting.

DRAIN NO. 7: Chris Gross informed the board that the project plans for Drain No. 7 were completed and the bid opening for the project has been set for August 30, 2016 at 2:00 p.m. Chris also reported that due to lack of recent land sales, Farmer's National recommend and the board agreed to use the appraisal information provided earlier this year for Drain No. 8. The amount per acre for Ag land was \$4,000 and for pasture land was \$1,750 per acre, both are prices for permanent/fee title acres. Manager Zetocha made a motion to set land values at \$4,000 per acre for tillable acres and \$1,750 per acre for pasture, and to authorize Moore Engineering Inc. to offer these amounts to the landowners in the Drain No. 7 project right of way. Manager Martinson seconded the motion. Upon roll call vote, the motion carried unanimously. There are 22.7 acres of fee title right of way and 31 acres of permanent easement required for this project.

STORM LAKE OUTLET PROJECT: The Board and others proceeded to the Sargent County Courtroom to hold the public hearing regarding the potential formation of the STORM LAKE DAM MAINTENANCE DISTRICT. This hearing is a statutory hearing regarding the District's creation of a maintenance assessment district for purposes of operating and maintenance of the Storm Lake Dam, in accordance with the District's obligations under North Dakota Law. Among those present were the five Sargent County Commissioners, as well as representatives from the Milnor City Council and their attorney and engineer and other concerned citizens. A list of the attendees is attached to these minutes. Chairman Siemieniowski opened the hearing and presented Chris Gross to present the proposed federal maintenance district. Chris Gross reviewed a map of the preliminary assessment district and explained that the Sargent County Water Resource District is the owner of the Storm Lake Dam and is therefore responsible for maintenance; however the board does not have a funding mechanism available for purposes of Storm Lake Dam O&M, the only funding option is the Board's general fund. Forming an assessment district would allow the board to collect funds from properties that benefit from Storm Lake Dam specifically for operation and maintenance of the Storm Lake Dam, as opposed to using tax dollars from landowners throughout the entire county for a project that only benefits those within this particular watershed.

Chris explained the process for forming a federal maintenance district under North Dakota law. The legislature previously promulgated a statute that requires water resource districts to operate and maintain water infrastructure constructed by federal agencies when the federal agencies no longer maintain them. The legislature later recognized the significant burden these O&M obligations would have on water resource district general funds, and implemented the federal maintenance district process. Chris further explained the Board would administer a separate Storm Lake Dam maintenance district fund, and the Board could only use those funds for Storm Lake Dam O&M, and for no other purpose. There is no specific proposed project at this time, but creation of the federal maintenance district would enable the Board to finance larger projects through its borrowing capacity created by the maintenance district, if necessary. Chris further explained how other monies could be requested for flood control through cost share from the North Dakota State Water Commission and the Red River Joint Water Resource District; those cost-share dollars the Board can access would significantly reduce the amount local landowners would have to pay towards projects. Chris also explained the process for assessing lands within the proposed maintenance district. After today's hearing the water board and county commissioners must both vote on formation of the district and each board must approve creation of the federal maintenance district by two thirds (2/3) majority. Other discussion followed including: past work on the dam; removing the structure; placing a restrictor gate on the existing 54" culvert; but again those in attendance were reminded that there are no dollars to fund any type of these suggestions. There are no federal dollars available but the Board could request cost share from both the ND State Water Commission (up to 60% cost-share) and the Red River Joint Water Resource District (65% of the non-state share); if the Board could create this federal maintenance district and leverage those cost-share opportunities, the local share could be as low as 14 cents on the dollar for a project. Without the Board's involvement and without creation of the federal maintenance district, those cost-share dollars may not be available, certainly not RRJWRD cost-share. Other questions and comments were made asking why the northwest portion of Milnor is not included in the district and were reminded that Storm Lake Dam provides flood control benefits and the Board cannot assess landowners for drainage benefits through this federal maintenance district process. The Storm Lake Dam was originally a recreation dam when it was built according to the Milnor City engineer. The city attorney said that the dam was a low hazard dam and was not originally constructed for flood protection purposes. Chris indicated that, regardless of what the City believes the original intent of the Dam may have been, the Storm Lake Dam currently provides flood protection benefits for the City and those are the benefits the Board can assess. Chris indicated, and the Board agreed, that if the Board creates the federal maintenance district, the Board would most certainly confer with the City before pursuing a project.

Some still contended Storm Lake provides drainage benefit and not flood protection. Sean Fredricks indicated the Board cannot legally simply designate the Storm Lake Dam as a "lateral drain"; there is no mechanism under North Dakota law to do that. If the City or others want to pursue a legal lateral drain process, that would require an assessment vote of landowners who already benefit from the Dam and who may not be inclined to tax themselves for benefits they already receive. Mr. Kent Sundseth, Refuge Manager for Tewaukon Wildlife Refuge informed those in attendance that the dam was built by US Fish and Wildlife Service in the 1930's and any work on said dam needs to be coordinated with F&W. He asked approximately how much money has been spent on this dam in the last 20 years. There were FEMA dollars spent during the flooding of the city but the only dollars spend by the water board was \$1750 or one half of the total bill for cleaning out the ditch with a backhoe by the city in 2005. If the water board would convey the ownership of the Storm Lake Dam to the City of Milnor, a process that would require State approval, the City would not have a federal maintenance district available and would have to finance O&M on its own. After discussion, the City indicated they would not prefer to take over ownership of the Storm Lake Dam. Chris Gross also commented that he did calculate the benefit of the Dam to any downstream landowners up to mile west of the Wild Rice River. The benefits receded to near zero shortly downstream of the City of Milnor. No other comments were received and the hearing closed at 10:30 a.m.

SHUMAN TOWNSHIP SURFACE DRAIN PERMIT APPLICATION NO. 4742: Theresa Erickson, Trevor Stockstad and David Lunneborg, Shuman Township Board Supervisors met with the board as per the

request of this board to discuss Application to Drain No. 4742. James and Scott Mahrer, landowner, Forman also was present for this portion of the meeting. According to the application, the drainage would occur in the E1/2-7-131-54 (Shuman Township) for the purpose of taking the pressure off the township grade. Chris Gross explained that the application has been reviewed by the State Engineer's Office and OSE concluded the project does not involve drainage of state-wide or interdistrict significance. However, the board must consider the factors in the 8-point Evaluation of Application sheet provided by OSE and must attach conditions based on the Board's findings regarding impacts. No hearings were required but an eight point factor sheet must be completed by the township and downstream impact considered. After further discussion, the township board members stated that they would be draining less than 80 acres and according to law not required to obtain a permit. Chris and Sean indicated the Board could not make a less-than-80 finding and that the Township would be proceeding at their own risk. The water board asked the township board to submit a letter withdrawing their application and to also send a copy to the State Engineer. The township board agreed to reimburse the water board for any expenses incurred on this application.

NRCS – O & M SPONSORSHIP AND INTRO TO DAM WATCH: Shane Ice, P.E., Assistant State Engineer, NRCS, Bismarck met with the board to discuss the board's role as a sponsoring local organization in the Operation and Maintenance (O&M) of NRCS watershed flood control structures. Sargent County has four dams that are currently under an agreement with NRCS. Mr. Ice introduced the board to the NRCS Dam Watch tool which has been developed as an effective means for managing watershed projects. This is a web-based dam monitoring tool and provides a "one-stop" source for critical documents for dams such as drawings, historical photographs, and emergency action plans. Following the presentation the board agreed that the secretary would be the local user and the board members could be users as well as Moore Engineering, Inc. for review and updates for the Emergency Action Plans for the dams. Mr. Ice will send out an email once the accounts are set up confirming approval as a user and access to Dam Watch is granted.

DRAIN NO. 11 CULVERT CONCERNS: Chris Gross informed the board that the two sites (south of Lloyd Ptacek's and between Section 4 and 9 in Harlem Township) have been investigated and the design meets the standards. Manager Zetocha felt that for safety purposes the culvert between Section 4 and 9 needs a longer length. According to Chris Gross the road is 16 feet wide and has less than two feet of cover. The county is requesting the pipe length to meet standards and should be 94 feet long. Chris is working with a contractor to see what is required to lengthen these culverts. It was suggested that the bevel ends be removed and extensions put in place. Manager Zetocha agreed to meet with Moore Engineering Inc. following this meeting to determine what would be a safe length for these culverts.

DRAIN NO. 4 – RICK HOISTAD: Manager Siemieniewski met with the Forman City Council in August and the city would like to move the lagoon access road and requested that the water board pay for the culverts. The City and the Board previously entered into a purchase agreement under which the City agreed to sell land to the Board to accommodate the outlet/Drain 4 project. Under the new arrangement proposed by the City, the City would convey the property to the Board; the Board would grant the City an easement over the property for purposes of operating and maintaining the City's access road; the Board would pay the expenses of providing the pipe extensions under the road; and the Board will keep the \$2,400 previously submitted to the City under the Purchase Agreement that the City returned in May of 2016. Sean will prepare an addendum to the purchase agreement that will contain the terms of the new agreement.

SPRAYING OF DRAINS BY HELICOPTER: Larson Helicopters had notified the secretary that he will be spraying approximately 7.5 miles of legal drains and about 50 acres on the dams that were designated. Manager Engst asked the board for approval to include four miles of Drain No. 7 in this year's helicopter spraying. He has inspected the drain and found several areas that need spraying. Manager Engst moved to authorize Larson Helicopters to spray 4 miles of Drain No. 7. Manager Martinson seconded the motion. Upon roll call vote, the motion carried unanimously. The secretary will mail to Larson Helicopters a map with the additional miles.

ANNUAL DAM INSPECTION: NRCS provided a copy of the CPA O & M Inspection Annual Report. The inspection was held on June 20, 2016 with the following attending: Tom Jones, DC for NRCS; Erica Althoff, NRCS Area Engineer; Tyrell Macheledt, SC NRCS; Richard Engst, Luke Siemieniewski, Todd Stein and Roger Zetocha and Brady Woodard, Moore Engineering, Inc. Another inspection followed on June 27, 2016 by Blake Johnson, Ag Engineer, NRCS and Ron Thom, ET, NRCS. 1) The **Bergh-McLaen CAT** – Good job on previous maintenance on trees/willows. Rock should be placed under the pipe, it has moved downstream; **Tewaukon – Channel Improvement No. 2 and 3** – Trees growing at culverts in road in Section 8. Trees growing in channel in various locations. Cattails growing in various locations in bottom of channel. Beaver dam in Section 8. Sloughing of bank when the bank is steeper in Section 20, south of the culvert crossing. Minor trees in channel that could be sprayed. South of second (south) crossing, closer to dam there is about 100 feet of larger trees in the channel that should be removed. Minor sloughing along the bank, the closer to the dam as the channel gets deeper. Good buffer along the channel. **Frenier Dam** – The low water draw down was silted in when we arrived. They worked at removing the silt and opened the valve. It was flowing when we left. Recommend removing the trees at the outlet pipe and also along the fence line/toe of the dam. There are no problematic areas in the upstream and downstream face of the dam. Emergency spillway has trees, buck brush, and wormwood that needs to be removed. **Nelson Dam** – There is not a "key" to operate the valve on the

low level drawn down. This was requested in 2015. The low level draw down was repaired in the last 2 years. Board will watch for any erosion under the new access for the low level draw down valve. Producer has been flash grazing the dam face in the past few years and it looked really good. No weeds present. When walking through the ES, we noted buck brush and 1 small tree. The buck brush should be sprayed and the tree should be removed. There are no problematic areas in the upstream and downstream face of the dam. West toe drain outlet has a small trickle of water coming out of the outlet and the outlet pipe is damaged. **Brummond-Lubke Dam** –The fence is cut in at least one location and the dam is not being grazed as it should be. The agreement was to “flash” graze it. Because of the livestock access there is some additional erosion near the principal spillway. The water board is going to write the producer a letter about fixing the fence and grazing it as agreed upon. The emergency spillway has poor grass establishment, the cover is estimated at around 70% cover. This could pose a problem if the emergency spillway is activated during a flooding event and should be addressed. There is quite a bit of wormwood and buck brush in the ES and on the upstream and downstream faces of the dam. The water board will have this sprayed. There are several trees on the downstream face of the dam that need to be removed. Erosion directly upstream of the principal spillway as the result of too much grazing. There is a three foot cut in the embankment. The low level drawdown was repaired in the last two years. There is a not a “key” to operate the drawdown on site. It was requested last year and didn’t happen. The drawdown inlet appears to not be directly in line with the valve. Moore Eng. will check the as built information to see if this is how it was constructed or not. If it was constructed to be straight, there may be issues with the draw down inlet pipe. There are several larger trees at and above the outlet of the principal spillway. The water board will have these removed. There are two Russian olive trees on the downstream embankment of the dam that the water board will have removed. In 2015 the water board had some small trees removed from the ES and there is about six inches of the tree sticking up. They aren’t growing, but they should be cut flush at ground level. The outlet pipe has a depression about it. This should be investigated by digging around and see it is from an animal or water runoff. There is toe drains on this dam and the toe drains outlet on both sides of the principal spillway pipe. This pipe can be accessed because it is large enough. It is suggested the inside of the pipe is looked at to determine the condition of the pipe. **Wild Rice Creek – Channel 9** – Cattails growing in channel in Section 17 and turn in channel and east in Section 30. Russian olive trees on the side slopes in Section 30. The farmer sprayed the vegetation on the side slopes while spraying the field. Grass needs to grow on the side slopes and should be re-seeded in SW1/4-29. Sloughing on the east bank and near east and west field inlets in N1/2 of Section 30. Several legal drains were inspected and noted that several areas have trees growing and will be included in the helicopter spraying this fall.

RESOLUTION AUTHORIZING THE ISSUANCE OF \$635,000 MAINTENANCE LEVY IMPROVEMENT BONDS FOR 2016, PRESCRIBING THE TERMS AND COVENANTS THEREOF, AND CREATING A FUND FOR THE PAYMENT THEROF: Manager Engst introduced the above resolution to issue \$635,000 Maintenance Levy Improvement Bonds regarding the Drain 7 project. The motion for the adoption of the resolution was duly seconded by Manager Stein and upon roll call vote, the following voted in favor: Engst, Stein, Martinson, Zetocha and Siemieniewski. A copy of the resolution is on file in the office of the board’s secretary-treasurer.

DICKEY/SARGENT – LOVELL PROJECT: Attorney Fredricks presented a JOINT RESOLUTION SETTING HEARING REGARDING LOVELL IMPROVEMENT PROJECT APPLICATION TO DRAIN NO. 4757. Even though the Dickey County Water Resource District is acting as the lead agency, both boards will have to process the application jointly since there are project components in both counties. Manager Stein moved to adopt the resolution. Manager Engst seconded the motion. Upon roll call vote, the motion carried unanimously. A copy of the resolution is on file in the Dickey/Sargent Joint Board file. The hearing is October 11 at the Oakes Armory.

DRAIN NO. 12: Manager Siemieniewski reported to the board that just south of the Robert E. Lee’s residence, Marboe Township cut off a culvert in the drain, poured cement, removed a beaver dam and is asking the water board to reimburse the township for 4-5 hours of work. This was not authorized prior to work being done and cannot be paid after the fact.

STORM LAKE DAM MAINTENANCE DISTRICT: Manager Engst moved to create a federal project maintenance district for Storm Lake Dam for purposes of generating revenue to properly operate and maintain Storm Lake Dam. Manager Martinson seconded the motion. On roll call vote the following voted yes: Engst, Martinson and Zetocha. The following voted no: Stein and Siemieniewski. Motion failed. Manager Siemieniewski stated that he had misunderstood the motion and instead thought it was to give the dam to Milnor City. He said he is in favor of the maintenance district. Manager Engst moved to reconsider the motion. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously. Manager Engst moved to create a federal project maintenance district for Storm Lake Dam for the purpose of generating revenue to properly operate and maintain Storm Lake Dam. Manager Martinson seconded the motion. On roll call vote the following voted yes: Siemieniewski, Engst, Martinson and Zetocha. The following voted no: Stein. Motion carried.

2017 BUDGET: The Board reviewed the 2017 budget and moved to approve \$290,300 for the General Fund and the following for the individual drains: #2-\$3,500, #4-\$70,000, #8-\$30,000, #9-\$2,000, #11-\$700,000, #12-

\$40,000, Water Channel # 1 aka Drain # 7-\$15,000; Water Channel Sinking and Interest Fund-\$740,000, Tewaukon Watershed-\$15,000, Shortfoot Creek Watershed Study - \$350,000. Motion by Manager Zetocha to approve the 2017 preliminary budget. Manager Engst seconded the motion. Upon roll call vote, the motion carried unanimously.

RS # 1: Board members reviewed bills presented by the RS # 1 secretary for payment. Authorize payment of the bill for \$941.00 to Ohnstad Twichell for 2014 Extension; \$1,234.50 to Banish Brothers for crop damage in Section 6; \$6,330.13 to Banish Brothers for crop damage in Section 31; \$1,230.00 to Andy Fettig for crop damage in Section 8; \$455.10 to Alan Murack for crop damage in Section 6 and \$2,251.08 to Alan Murack for crop damage in Section 5 and 6.

Meeting adjourned at 1:35 p.m.

LUCAS SIEMIENIEWSKI – CHAIRMAN

ATTEST:

SHERRY HOSFORD – SECRETARY-TREASURER