

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, AUGUST 18TH, 2022 AT 8:00 A.M. IN THE WATER BOARD CONFERENCE ROOM AT THE SARGENT COUNTY COURTHOUSE, FORMAN NORTH DAKOTA

Managers present: Chairman Luke Siemieniewski, Michael Wyum, Roger Zetocha, Todd Stein, and Bruce Speich. Also, in attendance were Nathan Trosen, Moore Engineering; Wendy Willprecht Secretary/Treasurer; Sargent County Commissioner Richard Ruch; and Greg Schwab, Ransom County Landowner. Jon Peterson, NRCS, and Sue Schweitzer, Silver Lake Park Manager, were present for a portion of the meeting. Others present via video conference were Sean Fredricks of Ohnstad Twichell, P.C., the Board's Attorney; Attorney Charles Carvell of the Pearce Durick Law Firm; Josh Hassell, Moore Engineering; landowners Leon Mallberg, and Paul Mathews.

Manager Zetocha moved to approve the July 21st, 2022 regular meeting minutes and the June 30th, 2022 and July 31st, 2022 financial statements. Manager Stein seconded the motion to approve the minutes and financial statements. Upon roll call vote, the motion carried unanimously.

Manager Speich moved to approve the following bills:

084116 Ohnstad Twichell- Drain No. 11 Improv. Proj. \$2485.88/Eminent Domain \$8352.73; Attorney fees- Permits/mtgs./correspond.\$743.54/Ogdahl-Toyne Complaint \$250/Robert Lee Tile app. \$736/ Steve Hansen tile app. \$521; Drain No. 7 P/A and correspondence \$64.50
Total: \$13,153.65

084115 Moore Engineering- Silver Lake Dam facility inspect. \$186.25; Engineering fees \$2349.38; Ogdahl/Toyne Complaint \$2805; Short Foot Creek Task 6 \$3315; Drain No. 2 facility inspec. \$615.63; Drain No. 4 Assessment/proj. mgt. \$457.50; Drain No. 9 facility inspec. \$478.13; Drain No. 11-Phase 300 & 400 \$3750/Util. relocate/ROW \$1845/ Reassess. \$5170.63/ Tru North \$277.50; Drain No. 7-facilty inspec. \$475/Design \$2800/Util. reloc. /ROW \$595/ Mtgs./assessment/analysis \$2181.25; Tewaukon Watershed facility inspec. \$641.25; Crooked Creek task 3 \$11,591.25
Total: \$39,533.77

084122 Starion Bond Services- 2022B Origination fee \$500/2022A Origination fee \$500
Total: \$1000.00

084120 Southeast Water Users District- Drain No. 11 Utility Relocation
Total: \$24,978.00

084118 Sargent County Treasurer- Drain No. 11 Bond wiring fee
Total: \$15.00

084117 Pearce Durick, PLLC- Drain No. 11 Reassessment
Total: \$202.50

Manager Wyum seconded the motion. Upon roll call, the motion carried unanimously.

Drain No. 11:

- 1) Nathan Trosen, Engineer for Moore Engineering, said Moore had a pre-construction meeting with R J Zavoral. The schedule submitted by Zavoral, who was awarded the Drain No. 11 project, indicated Zavoral will begin mobilization beginning next week and construction to begin the week after. The construction storm water permit was submitted and the notice of coverage have been received. Southeast Water Users invoiced a bill for the pipe material costs to relocate a rural water line as a result of this project. The invoice is for pipe materials only and an additional invoice for construction costs will be submitted when the utility relocation is completed.
- 2) Reassessment:
Trosen met with landowner Lyle Bopp to address the concerns the landowner has brought regarding his Drain No. 11 assessment. After further review of all parameters, Trosen did not recommend any changes to the original assessment posed on Bopp's land.
Trosen also met with Ransom County landowner, Greg Schwab. Trosen toured the area Schwab is concerned about. Trosen said he did not observe any culverts or significant surface drainage ditches. Schwab added that the ground is highly permeable. It was also noted that Schwab's land in question is 14 miles from where the legal Drain starts. Schwab believes Drain No. 11 produces no benefit to his land in question.
Discussion was brought up amongst the SCWRD Managers regarding how soils were evaluated during the reassessment. Trosen offered that the SCWRD could have Moore's soil scientist review the online soil data for the entire watershed and provide a recommendation to accommodate differences in soil types if possible and feasible. The Managers agreed that it would be necessary to look closer into the soil types and will wait to approve the final assessment list until the soil investigation is complete.
Trosen said that he would be in touch with Schwab.
- 3) ND Game and Fish Easement and Easement Releases:
Attorney Fredricks said that he is trying to track down some older information regarding the easements and that no action was needed at this time. The Board will likely be in a position to release the old easements next meeting.
- 4) Drain No. 11 project was not discussed at the ND State Water Commission meeting August 11, 2022.
- 5) Proceeds received from the 2022A and 2022B bonds have been deposited.
- 6) Counsel for the appellants in the most recent appeal submitted a letter to Dan Gaustad, defense counsel for the Board.

Drain No. 4:

The most current tax roll information has been requested from Sargent County to be used in the reassessment of the Drain.

Drain No. 7:

The most current tax roll information has been requested from Sargent County and Ransom Country to be used in the reassessment of the Drain.

We are still awaiting the signed purchase agreement from Brian Anderson. Manager Speich said he had called and left a message for Mr. Anderson to further discuss the P/A. Trosen said that as soon as the P/A is signed, the SCWRD can begin advertising for bids. This process was approved in a previous meeting. Commissioner Ruch said that the project needs to get done soon, otherwise the county would have to re-pave the CR-12 road crossing this fall. Manager Wyum said he would try and meet personally with Brian Anderson today to obtain Mr. Anderson's signature.

Drain No. 9:

No update.

Drain No. 8:

No update.

Drain No. 2:

Trosen said that the survey has been completed and presented a proposed grade to clean the Drain and to lower the CR-14 culvert. Trosen said the proposed grade would require a clean out upstream and in the downstream mile from CR-14. The grade downstream would stay the same. The grade upstream would go from .05% to .03%. If the cleanout results in more than just sediment being removed from the channel then a surface drain permit would be required. Trosen said that lead time to get a culvert could be a month.

The question was asked how to get access to the property that will be improved:

- 1) Temporary easement/access agreements will likely be necessary. Manager Speich will contact landowners to discuss access.
- 2) Trosen will look into existing ROW
- 3) The report from 2014 says that it would be allowable to either install (2) 24" pipes or replace the 42" pipe with one of the same dimension. Manager Speich suggested sticking with the 42" pipe.

A motion was made by Manager Stein and seconded by Manager Zetocha to purchase a 42" culvert and to submit a surface drain permit. Upon roll call, the motion carried unanimously.

Shortfoot Creek:

Josh Hassell of Moore Engineering said an exception request will be needed with the submittal of the final plan which includes the added environmental benefits. Hassell said they are currently finalizing the plan with updates to the economics and that he will have more information by the next meeting.

Borg Lake Complaint (Ogdahl/Toyne):

The hearing for this complaint is set for 9:00 a.m., August 30, 2022, at the Sargent County Courthouse. At the hearing, each party to the complaint will have an opportunity to present their side. The SCWRD, Attorney Sean Fredricks and Engineer Nathan Trosen will have an opportunity to ask questions, and Trosen will then present the results of the Board's investigation. Following the hearing, the SCWRD will take the matter under advisement and will later issue Findings and a decision regarding the complaint. Trosen estimated, using LiDAR, that around 130 acres of property have been affected by inundation due to this dam being built in the natural outlet.

Larson Spraying: It was noted that Larson has been spraying throughout the county for the SCWRD.

SCWRD Drain Tour:

The managers said that while on the Drain tour weed control was discussed. Manager Speich noted there is a beaver dam on Drain No. 7 that needs to be removed. Manager Stein said that the south loop of Drain No. 11 is not flowing well and that the whole south loop needs to be redone.

Application to Install a Subsurface Water Management System No. 2022-13 for Gary Anderson and Dennis Pherson in the Southeast Quarter of Section 3, the Northeast Quarter of Section 10, and the Northwest Quarter of Section 11 in Tewaukon Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2022-13*, filed July 25, 2022, by Applicants Gary Anderson and Dennis Pherson. Under the Application, Applicants seeks to install a 161-acre drain tile system in the Southeast Quarter of Section 3, the Northeast Quarter of Section 10, and the Northwest Quarter of Section 11 in Tewaukon Township, Sargent County, North Dakota. The project will include a single pump outlet located in the northwest corner of the Northwest Quarter of Section 11; the pump will discharge directly into a natural drain in the Northwest Quarter of Section 11. The portion of the system in the Southeast Quarter of Section 3 and the Northeast Quarter of Section 10 will connect to the system in the Northwest Quarter of Section 11 via a line under 142nd Avenue SE; the Section 3/Section 10 section line is not an improved road.

According to County tax roll information supplied by Applicants, the Dennis W. Pherson Family Trust owns the West Half of the Northwest Quarter of Section 11, the East Half and the Northwest Quarter of the Northeast Quarter of Section 10, and the Southeast Quarter of Section 3; Gary and Noreen Anderson own the Southeast Quarter of the Northwest Quarter of Section 11; Leslie and David Kiefer own the Northeast Quarter of the Northwest Quarter of Section 11, all in Tewaukon Township.

Manager Wyum moved, and Manager Speich seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2022-13*, filed July 25, 2022, for Gary Anderson and Dennis Pherson in the Southeast Quarter of Section 3, the Northeast Quarter of Section 10, and the Northwest Quarter of Section 11 in Tewaukon Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-13, subject to the following conditions:

1. Applicants will install and maintain erosion protection at the outlet into the natural drain or watercourse in the Northwest Quarter of Section 11 of Tewaukon Township.
2. Applicants will re-establish any areas disturbed installing or maintaining Applicants' tile system.
3. Applicants will not install Applicants' tile system within 20 feet, on either side, of any rural water lines Southeast Water Users District has in the Southeast Quarter of Section 3, the Northeast Quarter of Section 10, or the Northwest Quarter of Section 11 in Tewaukon Township under any blanket easements, or otherwise beyond the Water District's existing easement.
4. Applicants will turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the Sargent County Water Resource District.
5. Applicants must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-13 in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

Upon roll call vote, the motion carried unanimously.

Under Section 61-32-03.1, the Board cannot attach any additional conditions to Applicants' permit. However, for Applicants' protection, and to ensure protection of Applicants' tile system, the Board will recommend that Applicants comply with the following:

1. The Board recommends that Applicants obtain written consent from the Tewaukon Township Board of Township Supervisors to install any project components with any of its statutory section line right of way or any of its road right of way.
2. The Board recommends that Applicants obtain and record easements regarding any property not owned by Applicants where Applicants intend to install and maintain tile project components.
3. The Board recommends that Applicants 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.

Sean Fredricks will provide copies of the Board's NOTICE OF DECISION and SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-13 to the Department of Water Resources, Tewaukon Township, Leslie and David Kiefer, and Southeast Water Users District.

Application to Install a Subsurface Water Management System No. 2022-12 for Paul Bergh in the Northwest Quarter of Section 36 in Taylor Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2022-12*, filed July 27, 2022, by Applicant Paul Bergh. Under the Application, Applicant seeks to install a 154-acre drain tile system in the Northwest Quarter of Section 36 in Taylor Township, Sargent County, North Dakota. The project will include a single gravity outlet that will discharge via a pipeline in the south road ditch along County Road 7; the pipe will commence in the northwest corner of the Northwest Quarter of Section 36 and will run west approximately 4,000 feet in the south road ditch along County Road 7, along the north boundary of Section 35; the pipeline will daylight and discharge into a tributary of the Wild Rice River along the north boundary of the Northwest Quarter of Section 35.

According to County tax roll information, Paul R. Bergh and Carolyn Bergh as Co-Trustees of the Paul R. & Carolyn Bergh Joint Revocable Trust, own the Northwest Quarter of Section 36 of Taylor Township. With regard to properties where Applicant intends to install the pipeline and outlet, Kim and Sandy Rasmussen Land Partnership, LLLP, owns the North Half of Section 35, adjacent to the County's highway right of way.

Manager Stein moved, and Manager Wyum seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2022-12*, filed July 27, 2022, for Paul Bergh in the Northwest Quarter of Section 36 in Taylor Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-12, subject to the following conditions:

1. Applicant will install and maintain erosion protection at the outlet into the tributary to the Wild Rice in the Northwest Quarter of Section 35 of Taylor Township.
2. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
3. Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Southeast Water Users District has in the Northwest Quarter of Section 36 in Taylor Township under any blanket easements, or otherwise beyond the Water District's existing easement.
4. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-12 in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

Upon roll call vote, the motion carried unanimously.

Under Section 61-32-03.1, the Board cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the Board will recommend that Applicant comply with the following:

1. The Board recommends that Applicant obtain written consent from the Sargent County Highway Department to install and maintain a pipeline and tile outlet in the County's County Road 7 right of way.
2. The Board recommends 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.

Sean Fredricks will provide copies of the Board's NOTICE OF DECISION and SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-12 to the Department of Water Resources, the Sargent County Highway Department, and Southeast Water Users District.

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| 084119 | Lucas Siemieniewski | Travel | \$105.00 |
| 084123 | Todd Stein | Travel | \$126.25 |
| 084124 | Michael Wyum | Travel | \$328.58 |
| 084125 | Roger Zetocha | Travel | \$31.25 |
| 084121 | Bruce Speich | Travel | \$25.00 |
| DD | Lucas Siemieniewski | PD | |
| DD | Todd Stein | PD | |
| DD | Michael Wyum | PD | |
| DD | Roger Zetocha | PD | |
| DD | Bruce Speich | PD | |
| DD | Wendy Willprecht | Sec-Treas -Salary less taxes \$457.17 | \$2042.83 |
| DD | Stock Grower's Bank | Withholding Taxes | |
| DD | ND State Tax Commission | State Tax | |
| DD | Job Service ND | Unemployment Comp. | |

CROOKED CREEK WATERSHED PLAN:

The goal of the Crooked Creek Watershed study is to investigate potential projects that could provide benefits to the watershed. The current project types that were identified by the project team do not have justifiable economic benefit, so discussion was had on if there is potential to incorporate recreational benefits to any potential projects to help justify the economic analysis (EA). Jon Peterson of the NRCS was in attendance and reiterated that the project types identified by the project team do not provide a positive EA but recreational benefits can be very high and could help any potential project have a positive EA. Trosen said that if we can't find other benefits, like recreation, to add to the formula, the NRCS cannot will more than likely not want to continue to provide the 90% cost share of the study.

Sue Schweitzer, Silver Lake Recreation Area Manager as well as Commissioner Richard Ruch were asked their thoughts about the potential of making Buffalo Lake into a public recreational area. If so, would the county ever consider taking on another recreational area to manage. Commissioner Ruch said that he would need to bring the idea to the entire Commission to get their thoughts, but his opinion was that the likelihood of the Buffalo Lake Recreational Project coming to fruition to be low. Schweitzer commented that there is a lot of gravel roads to be driven out to Buffalo Lake and

thought the local residents would be more apt to drive south to Silver Lake than Buffalo Lake, but was not opposed to exploring the idea. She added that it would be better for Sargent County residents to develop the area west of the gun club down at Silver Lake. Schweitzer said she would be willing to consider taking on a recreational area at Buffalo Lake but added that it takes a lot of money to get a camp site going.

If the SCWRD cannot prove a positive economic benefit for a potential project resulting from the Crooked Creek Watershed study, the NRCS will cancel it. It was noted that the data collected and efforts on the study to date have been valuable information that could be used to set up a maintenance district for Crooked Creek. Trosen added that moving forward, there could be potential to go to the state for funding with a maintenance district in place.

Peterson of the NRCS said that if a recreational project to Buffalo Lake moved forward, the NRCS would fund 50% of the land purchase and 50% of the construction and continue funding the study at 90%.

Trosen said that reports will be finished for the current phase of the Crooked Creek study. He wants to get to a point where the maps are done, the analysis is done and all information collected is properly documented. He added that the entire Buffalo Lake watershed was included in the Crooked Creek study.

The SCWRD said they would like the County Commission and Park Board to further discuss the option of Buffalo Lake before completely giving up on the Crooked Creek study.

RS #1:

| | | |
|--|----------------|---------------------|
| 1) Revenue : | | |
| July taxes | | \$101.76 |
| ND DWR Cost Share #21-002 | | \$5,358.91 |
| | Total : | \$5,460.67 |
| Expenditures : | | |
| Larson Helicopter #18938 | | \$3,850.00 |
| Moore Engineering, Inc. #18948 | | \$11,908.88 |
| | Total : | \$15,758.88 |
| RS #1 Maintenance Checking Acct. Balance | | \$.50 |
| RS #1 Maintenance Savings Acct. Balance | | \$421,525.75 |
| Total Maintenance fund balance as of April 30th, 2022- | | \$421,526.25 |

Manager Wyum said that landowner Duane Baldwin attended the RS#1 meeting and asked to have the spoil left from the Drain clean out to be pushed closer to the Drain. The area of spoil is less than 1/4 mile long. Manager Wyum said it was decided to move the dirt for Baldwin but he does not want it done until next spring.

DICKEY-SARGENT JOINT BOARD:

The following bills were presented for approval and payment:
Bills:

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| 084001 DVEC - electricity - | \$1433.00 |
| Moore Engineering- Coordination with Terracon | \$ 95.00 |
| Agtegra- drip oil | \$ 46.00 |
| Gerner Ag Inc- Copper Sulfate | \$ 343.00 |
| **Special Assessments received: | \$0 |

- 1) **Maintenance Account: \$ 22,885.30**
- 2) **Improvement Account: \$122,636.41**

The above balances are as of June 30th, 2022

Manager Zetocha made a motion to approve the bills. The motion was seconded by Manager Stein. Upon roll call, the motion carried unanimously.

The meeting adjourned at 10:48 a.m.

APPROVED:

LUCAS SIEMIENIEWSKI, CHAIRMAN

ATTEST:

WENDY WILLPRECHT SECRETARY-TREASURER