

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, SEPTEMBER 16<sup>TH</sup>, 2021 AT 8:00 A.M. IN THE WATER BOARD CONFERENCE ROOM AT THE SARGENT COUNTY COURTHOUSE, FORMAN NORTH DAKOTA

Managers present: Roger Zetocha, Bruce Speich and Michael Wyum. Chris Gross, Moore Engineering; Wendy Willprecht, Secretary/Treasurer, were also present at the courthouse. Others present via video conference were Manager Todd Stein, Sean Fredricks, the Board's Attorney; Charles Carvell, the Board's conflict counsel for the Drain 11 reassessment; Paul Mathews, Bob Banderet, and Leon Mallberg.

The meeting was called to order by Water Board Vice-Chairman Michael Wyum.

A motion was made by Manager Speich and seconded by Manager Zetocha to enter into executive session. Upon roll call, the motion carried unanimously.

## LITIGATION

### EXECUTIVE SESSION

**Under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2, the Board closed the meeting to the public and went into executive session for purposes of attorney consultation relating to:**

\*Drain No. 11 Reassessment

At 8:10 a.m. the SCWRD Board entered executive session for the purposes outlined in its adopted motion.

### EXECUTIVE SESSION

#### MEMBERS PRESENT:

Michael Wyum	Vice-Chairman
Roger Zetocha	SCWRD Manager
Bruce Speich	SCWRD Manager
Wendy Willprecht	SCWRD Administrator
Chris Gross	Moore Engineering, Engineer

#### MEMBERS PRESENT VIA TELECONFERENCE:

Todd Stein	SCWRD Manager
Charles Carvell	Pearce Durick, PLLC- SCWRD Attorney

During the executive session, the Board was provided information from its attorney. The executive session adjourned at 8:40 a.m.. No formal action was taken.

The regular SCWRD meeting reconvened at 8:44 a.m.

Manager Zetocha moved to approve the August 19<sup>th</sup>, 2021 regular meeting minutes and the August 31<sup>st</sup>, 2021 special meeting minutes. Manager Speich seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Speich made a motion to approve the August 31<sup>st</sup>, 2021 financial statement. Manager Zetocha seconded the motion. Upon roll call the motion carried unanimously.

Manager Speich moved to approve the following bills:

**82482 Ohnstad Twichell-** Troy Jacobson Permit \$660.40; Kevin Peterson Permit \$592.90; Dorn Malpert Permit \$546.00/\$643.90; Review Board notes \$135.00; Special Mtg. \$310.50; Board Mtg. \$456.50; Drain #11- Correspondence, draft warranty deed, edit title opinions, review discovery requests \$7186.90  
**Total: 10,532.10**

**82486 Sargent County Abstract and Title Guarantee Company-**New abstract Lamb  
**\$958.25**

**82481 Moore Engineering-** Silver Lake Dam close out \$1410.00; Meetings/Labor \$722.50; SFC-Tasks (3-6) \$2,913.00; Drain #11 ROW \$585.00; Permitting \$182.50 Reassessment \$3419.20; Tile pipe discussion \$92.50  
**Total: 9324.70**

82481 **Moore Engineering-** SLD-Close Out \$160.00; Engineering Fees (Mtgs./Misc.) \$1306.40; SFC-Task 5 \$92.50; Drain No. 9-Project Devel. \$1951.70; Drain No. 11-Drain Reassess. \$13,898.92, ROW \$1047.50, Permitting \$730  
**Total:\$15,676.42**

82478 Helwig Excavating- Drain No. 11- 9/6/21 level spoiling \$810.00

82479 Fred Huffman- Drain No. 11 Easement \$11,575.00

82480 Michael Huffman- Drain No. 11 Easement \$11,575.00

82484 Robert Peters- Drain No. 11 Easement \$11,575.00

82477 Diane Dahl- Drain No. 11 Warranty Deed \$20160.00/Permanent Easement \$18,337.50/  
Temporary Easement \$1365.00 Total: \$39,862.50

82476 Jason Bosse- Drain No. 11 Channel Easement \$8595/ Permanent Easement \$11,092.50/  
Temporary Easement \$1365.00 Total: \$21,052.50

82483 Pearce Durick PLLC- Drain No. 11 Reassessment \$1372.50

	Lucas Siemieniewski	Travel	
	Todd Stein	Travel	
82489	Michael Wyum	Travel	\$22.40
82490	Roger Zetocha	Travel	\$112.00
82487	Bruce Speich	Travel	\$249.20
DD	Lucas Siemieniewski	PD Salary less taxes \$9.18	\$110.82
DD	Todd Stein	PD Salary less taxes \$18.36	\$221.64
DD	Michael Wyum	PD Salary less taxes \$18.36	\$221.64
DD	Roger Zetocha	PD Salary less taxes \$9.18	\$110.82
DD	Bruce Speich	PD Salary less taxes \$27.54	\$332.46
DD	Wendy Willprecht	Sec-Treas -Salary less taxes \$275.23	\$1349.77
DD	Stock Grower's Bank	Withholding Taxes	\$552.78
DD	ND State Tax Commission	State Tax	\$12.00
DD	Job Service ND	Unemployment Comp.	\$1.63

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

**DRAIN NO. 11:**

Moore Engineer Chris Gross said that we are waiting on the Corps to review the final permit.

**REASSEMENT:**

Engineer Gross presented a map that included edits from the comments that have been made in the past including the most recent three county meeting.

Gross presented the final benefit matrix.

Gross said that the county(s) assessment breakdown, following this matrix, would roughly be:

Dickey County-\$15,000 @ \$4.00/acre max

Ransom County-\$71,000 @ \$4.00/acre max

Sargent County-\$357,000 @ \$4.00/acre max (the current assessment for Sargent County is just over \$283,000)

Engineer Gross and Water Board Administrator Willprecht, along with Attorney Carvell, will come up with a hearing date. The meeting will take place in the next couple of months.

**DRAIN NO. 7:**

Chairman Siemieniewski and Manager Speich, along with Engineer Gross, met with the Water Commission regarding the Drain No. 7 project. There is currently no additional funding available through the ND DOT and no additional economic benefit could be found through the additional cost analysis that was done with Dr. Duane Pool at the ND DWR. The reality is that we are not likely to receive additional funding as a water resource district for this project.

A side comment was made while discussing No. 7 that the temporary pipes that were installed by the County Highway Department are really short. It was recommend that the Sargent County Commission be asked to extend these pipes before the Drain No. 7 project starts.

**DRAIN NO. 12:**

This project is at the close out phase.

**SILVER LAKE DAM:**

We are awaiting cost share reimbursement from the State Water Commission.

**SHORT FOOT CREEK:**

There are currently six studies taking place in the state that resemble this type of watershed planning effort. The NRCS is working through the economics of all six of these plans. Once the NRCS has an opportunity to complete the review of other final reports, they will move forward with their review on this planning effort. Moore indicated they don't want to spend money updating a final report until comments are received on other final reports throughout the state so those comments can be addressed prior to final submittal. We need the comments from the NRCS before investing in getting a final report from the state. This project is expected to come in under budget.

#### **DRAIN NO. 9 EXTENSION:**

Manager Speich made a motion to approve the cost share agreement with the North Dakota State Water Commission. Manager Zetocha seconded the motion. Upon roll call, the motion carried unanimously. After vice-chairman Wyum signs the agreement, administrator Willprecht will forward it to the State.

The SCWRD is waiting for Commissioner Richard Ruch to submit the bond dollars from interested landowners. We are hoping to receive this bond in the next 35-40 days. Moore does not intend to start any work prior to the bond being received.

#### **CROOKED CREEK WATERSHED PLAN:**

Engineer Gross reported that Moore has talked with the list of landowners that was compiled at the August SCWRD monthly meeting to be project team members. All seem excited to participate.

Next Steps:

1. An agency scoping meeting will be set up.
2. We will need to have a public meeting and send out public notices to let residents/landowners know that we are starting the project.
3. We can hold the agency and public meeting together. The suggested location for this meeting is Forman City Hall due to the technical capability of the facility.

The SCWRD Managers agreed that having the meetings together would work well and would hope to have the meeting scheduled for the early part of October, 2021.

#### **TEXAS CROSSING:**

Manager Stein said there was no report as there is still corn to take off of the field.

#### **APPLICATION FOR SURFACE DRAIN NO. 5556 for Brian Vculek in the North Half and the Southeast Quarter of Section 20 of Verner Township**

The Board reviewed information from the State Engineer regarding APPLICATION FOR SURFACE DRAIN No. 5556 for Applicant Brian Vculek. Under the application, Applicant proposes to construct a number of ditch improvements in the North Half and the Southeast Quarter of Section 20 in Verner Township, Sargent County, North Dakota. The ditch improvements would completely drain a series of sloughs and would ultimately discharge into the "North Lateral" of the JACKSON TOWNSHIP IMPROVEMENT DISTRICT NO. 1 PROJECT, permitted under Surface Drain Permit No. 4030. The permitted drain improvements will include 13,250 feet of channel improvements; a maximum bottom width of 12 feet; a maximum cut of 5.5 feet; and 3:1 side slopes.

According to records on file with the Sargent County Recorder's Office, Bernard L. Vculek, as Trustee of the Bernard L. Vculek Revocable Trust, and Marlene Vculek, as Trustee of the Marlene Vculek Revocable Trust, own the North Half and the Southeast Quarter of Section 20 in Verner Township.

The Board reviewed Moore Engineering's draft responses to the eight elements under Section 890201-09.2 of the North Dakota Administrative Code. Applicant has obtained permission from the owners of the property where Applicant intends to construct the project. None of the improvements will be in road right of way, and the discharge will not adversely impact the Jackson Township project. With this in mind, the Board determined no hearing was necessary under Section 890201-09.1(2) of the North Dakota Administrative Code, and concluded the project will not result in adverse impacts.

Manager Speich moved, and Manager Zetocha seconded the motion, to approve APPLICATION FOR SURFACE DRAIN No. 5556 for Brian Vculek, subject to the conditions attached by the State Engineer, and subject to the following conditions:

- 1) that Applicant will not construct or improve the drain in any manner that exceeds the dimensions indicated in the application, including 13,250 feet of channel improvements; a maximum bottom width of 12 feet; a maximum cut of 5.5 feet; and 3:1 side slopes;

2) that Applicant obtain written permission from the Verner Township Board of Township Supervisors and/or the Sargent County Highway Department in the event Applicant intends to construct, operate, and maintain any portions of the surface drain within any of their respective road ditches, to install any culverts through any of their roads, or to otherwise utilize any of their road ditches;

3) that Applicant operate the drain in accordance with the operating conditions applicable to the Jackson Township Improvement District No. 1 project and to the operating conditions applicable to the drain constructed under SURFACE PERMIT NO. 4030;

4) that Applicant obtain permission from the Dickey-Sargent Joint Water Resource District to discharge into the Jackson Township Improvement District No. 1 Project, via the drain constructed under SURFACE PERMIT NO. 4030; and

5) that Applicant notify the Sargent County Water Resource District in advance of any proposed improvements to the drain, including any increase in the capacity or drainage area affected, and, if necessary, submit an additional permit application.

Upon roll call vote, the motion carried unanimously.

In addition to those conditions, the Board will also recommend 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.

The Board directed Sean Fredricks to prepare the requisite NOTICE OF DECISION and to provide the NOTICE to all parties of record.

The Dickey County Water Resource District passed a motion to consent to the application and project at their meeting on September 15, with the intent of providing the requisite approval or consent on behalf of the Dickey-Sargent Joint Water Resource District, once approved by the Sargent County Water Resource District.

**RS #1:**

1) Balance as of July 31<sup>st</sup>, 2021                      \$342,203.22

A motion was made by Manager Speich and seconded by Manager Zetocha to pay the \$700 Larson Helicopter bill. Upon roll call, the motion carried unanimously.

A motion was made by Manager Speich and seconded by Manager Zetocha to allow clean out of the RS#1 Drain using JBX and to not exceed \$25,000. Upon roll call, the motion carried unanimously.

A joint board meeting will be set up for sometime in October to talk about the phase 3 construction and the request for qualifications.

**DICKEY-SARGENT JOINT BOARD:** The following Dickey-Sargent Joint WRD bills were presented for approval by Wendy Willprecht, Secretary-Treasurer:

**DVEC – electricity – \$154.00**

**Sargent County Treasurer-bond fund wiring fee-\$15.00**

**Ohnstad Twichell-Consult attorney Lukas; electronic correspondence with attorney Gruchala \$138; bond counsel \$7000.00** **Total: \$7138.00**

**Starion Bond Services-origination fee (bond)-\$900.00 \*\*Steve successfully got this bill waived**

**Starion Bond Services- Bond interest \$10,474.13/Fees \$490** **Total: \$10,964.13**

**Dakota Helicopter- \$3,552.30**

**Moore Engineering- July meeting \$185.00**

**General Irrigation- \$1,360.38 (Balance remaining in pre-pay \$465.25)**

Manager Zetocha made a motion to approve payment of the Dickey-Sargent bills. Manager Speich seconded the motion. Upon roll call, the motion carried unanimously.

Meeting adjourned at 9:41 a.m.

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MICHEAL WYUM, VICE CHAIRMAN

ATTEST:

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WENDY WILLPRECHT SECRETARY-TREASURER