

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, SEPTEMBER 19, 2019, AT 8:45 A.M. IN THE COMMISSIONERS ROOM AT THE SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA.

Managers present: Lucas Siemieniewski, Todd Stein, Michael Wyum, and Bruce Speich. Absent: Roger Zetocha. Also present: Chris Gross, the Board's engineer; Sean Fredricks, the Board's attorney and Sherry Hosford, Secretary-Treasurer. Others present were: Robert Banderet, Richard Ruch, and Gerry Bosse.

Manager Stein moved to approve the Board's August 15 and August 26, 2019 minutes and the August 2019 financial statement. Manager Speich seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Speich moved to approve payment of the following bills:

79361	Comstock Construction Inc. Brummond-Lubke Dam Imp. Project	240,470.60
79362	Helwig Excavating Cleaning and leveling spoil-Dr#9	16,503.75
79363	Moore Eng. Inc. (July and August billings) Silver Lake Feasibility Study - \$1857.55; Gwinner Dam-\$425.00; Silver Lake Dam-\$2331.50; Silver Lake Dam Inspection-\$169.90; August Board meetings - \$357.55; Permits- 4757, 5284, 2019-06 and 2019-07-\$187.55; Kelley-Mathews-\$102.55; July Board meeting - \$510.00; Lovell project-\$127.50; Steve Hansen permit-\$127.50; Phil Hansen permit-\$127.50; Kelley-Mathews-\$85.00; Shortfoot Creek-\$8717.50 and \$3852.50; Dr#2 inspection-\$309.90; Dr#4 inspection-\$140.00; Dr#9 inspection-\$309.90; Dr#11 Right of Way and permitting-\$250.00; Dr#16/Dr11 tile analysis-\$8826.45; Dr#11 inspection-\$6295.45; Dr#11 Right of Way & permitting-\$650.00; Dr#12-SWC cost share-\$1037.05; Dr#12-Permit 5284-\$127.50; Dr#12 inspection-\$680.00; Dr#7 inspection-\$394.25; Tewaukon Watershed-BL right of way-\$85.00; Tewaukon Watershed-Brummond-Lubke Const. Eng.-\$13,346.66; Tewaukon Watershed-inspection-\$493.35; and Tewaukon Watershed-BL Improvements - \$2768.23 = TOTAL	54,692.84
79364	Ohnstad Twichell General-\$1,531.00-meetings; Steve Hanson permit-\$292.50; Phil Hanson permit-\$292.50; Justin Quandt permit-\$674.85; John Schroeder permit-\$108.95; Paul Roney permit-\$370.50; Mathews Litigation-\$546.00; ; and Drain No. 12 Imp. Project-\$569.25 = TOTAL	4,385.55
79365	Lucas Siemieniewski Travel	131.08
78366	Bruce Speich Travel	23.20
79367	Starion Bond Services Dr#7 interest and fees	4,036.25
79368	Wild Rice SCS Summer youth - Dr#3-\$43.65; Dr#8-\$381.89; Dr#9-\$3770.67; Dr#7-\$2339.05; Tewaukon Watershed-\$274.59 = TOTAL	6,809.85
79369	Michael Wyum Travel	66.12
16863	Sherry Hosford Salary less taxes	1,639.52
16864	Lucas Siemieniewski 5 PD less 45.90 taxes	554.10
16865	Bruce Speich 2 PD less 18.36 taxes	221.64
16866	Sherry Hosford DSJTB Secretary less taxes	1,195.80
16867	Michael Wyum 3 PD less 27.54 taxes	332.46
DD	Sargent County Bank Withholding taxes	1,152.48

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

DRAIN NO. 9: Todd provided an update on Drain #9 and marked a map of areas which Helwig Excavating Inc. cleaned and leveled. Todd noted that there are many trees in the S1/2 of 30 that need to be removed to allow the water to flow. Manager Wyum moved to authorize Todd to contact and procure a contractor to remove the trees, not to exceed \$10,000. Manager Speich seconded the motion. Upon roll call vote, the motion carried unanimously.

Bill Anderson, County Commissioner arrived at the meeting.

WILD RICE RIVER WATERSHED DISTRICT: Rick Smith, Kidder, SD; Doug Chapin, Britton, SD and Ivan Quamen, Britton, SD members of said district met with the water board to discuss how maintenance assessments are collected in Sargent County. Luke and Mike met with the Marshall County Commissioners last month about a possible joint powers agreement for Drain No. 11. The watershed district members explained how they are limited to charging 35 cents per acre for 6000 acres that drain into the Wild Rice River Watershed District. None of these 6000 acres are part of the Drain No. 11 watershed. The SD group was interested in the process for ND drains and accepted maps showing the drains that are assessed in Sargent County. Without a Joint Powers Agreement between Sargent County and Marshall County, SD, no action can be taken.

BRAMPTON WATER GROUP: Approximately twenty landowners and interested persons attended an informational meeting to get input and make comments about a potential surface drainage project near Brampton. The meeting was called by the board at the request of several landowners is being held to gather information on the existing drainage issues in the area and to discuss potential improvements in the area. Chris Gross opened the meeting and provided maps of approximately 1.5 miles that were surveyed. This is a closed water basin with nowhere for the water to go. Road issues were mentioned as well as keeping the Ag land in production. All of this land is in the Drain No. 11 assessment area and several landowners commented that it should be drained as that is what they pay the maintenance assessment. Also mentioned is the culverts are undersized and would need upgrading. Chris continued that this potential project will not stop the spring flooding but attempt to get the higher areas down to a controlled level for storage to hold the water until Drain No. 11 can take it. A permit would be necessary for this project and downstream impacts would have to be examined as part of the permitting process. There is standing water in the Village of Brampton and would require a lower ditch behind the fertilizer plant. Chris indicated that data could be collected as design criteria for a project. Chris stated that no project cost is available since the Board has not developed a final project; the Board is only collecting information at this time but a project of this sort could be eligible for 45% North Dakota State Water Commission grant monies for engineering, utility relocation, right of way purchase and construction. If the project would move forward there would be preliminary drawings, a cost estimate and then design approval. The board would conduct one more informational meeting and then determine the local cost of this project and if they would move forward. The majority present at the meeting are in favor of pursuing this project. (A list of those attending the meeting is attached to the official minutes)

COGSWELL CITY DRAIN NO. 11 ASSESSMENT: Lee Ann Even, attorney for Cogswell City met with the board to inquire how the amount that the city is billed for Dr# 11 maintenance assessment is computed. Chris explained that back in 1996 when Dr# 11 was reassessed, there was a factor of 6 used in the computation of 240 acres which comprises the city (3400' x 3050' = 238.60 acres). This computes to \$1,440 at the \$1.00 maintenance assessment and \$5,760 per year at the \$4.00 assessment. The Board informed Ms. Even that a reassessment of the drain is being planned in the future. She will visit with the Cogswell City council about her findings.

DRAIN NO. 11: Mike and Bruce reported that the Ransom County Water Board still feels that there are numerous wetland easements and do not feel that properties in Ransom County receive much benefit from Drain #11. Marshall County, South Dakota water flows into Dr# 9 so no benefit from Dr# 11 and Dickey County hasn't contacted the board about whether or not they have any issues with the Board including Dickey County properties in the Dr# 11 maintenance district. The Board discussed township road widths, culvert lengths, and wetland mitigation concerns. No date for the public informational meeting was set. Chris provided information on costs associated with hiring Third-Party Reviewers to conduct the preliminary benefit analysis for purposes of a reassessment of Dr# 11. Board members are concerned about the estimated costs of \$2.00-\$4.00/acre for the Reviewers to conduct the benefit analysis (319 sections of land in the assessment district @ 640 acres per section equals 204,160 acres @ 2.00/acre = \$408,320 or @ \$4/acre = \$816,640). The Reviewers could conduct desktop viewing, as opposed to filed investigations at more cost; a "desktop review" would require modeling information from Moore Engineering, Inc. The board asked Chris to contact 2 or 3 Reviewers and either invite them to the October meeting or bring back information for the board to review.

APPLICATION TO INSTALL A SUBSURFACE WATER MANAGEMENT SYSTEM NO. 2019-13 FOR JASON BOSSE AND DONALD RUST IN NW1/4-2-129-57; W1/2 OF THE W 80 ACRES OF THE NE1/4-2-129-57; N1/2-3-129-57; SE1/4-34-130-57 AND SW1/4-35-130-57

Donald and Will Rust and Jason Bosse arrived at the meeting to discuss said application. The Board reviewed an *Application to Install a Subsurface Water Management System NO. 201913* dated September 19, 2019, for Jason Bosse and Donald Rust. Under the application, Applicants seek to install a 473-acre drain tile system in the North Half of Section 2 and the North Half of Section 3 in Brampton Township, and the Southeast Quarter of Section 34 and the Southwest Quarter of Section 35 of Sargent Township, in Sargent County, North Dakota. The project will include two gravity outlets, both located in the Northeast Quarter of Section 2 in Brampton Township, and both of which will discharge directly into Sargent County Drain No. 11, a legal assessment drain owned and operated by the Sargent County Water Resource District.

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, because the project will discharge directly into a legal assessment drain, the Board cannot require Applicants to obtain consent from any downstream landowners. However, the Board can require Applicants to install and maintain erosion protection to protect Drain 11 from erosion and to protect downstream landowners.

According to records supplied by Applicants, the Deborah M. Bosse Revocable Living Trust owns the Northeast Quarter of Section 2 of Brampton Township, the Southeast Quarter of Section 34 of Sargent Township, and the Southwest Quarter of Section 35 of Sargent Township. The Rust Family Limited Partnership owns the Northwest Quarter of Section 2 and the North Half of Section 3 of Brampton Township.

Manager Wyum moved, and Manager Stein seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2019-13* dated September 19, 2019, for Jason Bosse and Donald Rust in the North Half of Section 2 and the North Half of Section 3 in Brampton Township, and the Southeast Quarter of Section 34 and the Southwest Quarter of Section 35 of Sargent Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2019-13, subject to the following conditions:

- 1) That Applicants provide, install, and maintain adequate erosion protection at any and all outlets into Sargent County Drain No. 11;
- 2) That Applicants notify the Sargent County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets; and
- 3) That Applicants must reseed any of the District's right of way disturbed by Applicants' 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 Applicants' permit. However, for Applicants' protection, and to ensure protection of Applicants' tile system, the District will recommend that Applicants consider complying with the following:

- 1) That Applicants obtain written permission from either the Brampton Township Board of Township Supervisors or the Sargent Township Board of Township Supervisors (whichever township board is responsible for 96th Street SE) to install, operate, and maintain any buried pipe into any of its township road ditches; or to bore through its township road;
- 2) That Applicants 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 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.

APPLICATION TO INSTALL A SUBSURFACE WATER MANAGEMENT SYSTEM NO. 2019-14 FOR JASON BOSSE IN THE E1/2-34-130-57 AND SW1/4-35-130-57

The Board reviewed an *Application to Install a Subsurface Water Management System No. 201914* dated September 19, 2019, for Jason Bosse and Gerald Bosse. Under the application, Applicants seek to install a 366-acre drain tile system in the East Half of Section 34 and the Southwest Quarter of Section 35 in Sargent Township, Sargent County, North Dakota. The project will include a single gravity outlet located in the Northwest Quarter of Section 35 that will discharge directly into Sargent County Drain No. 11, a legal assessment drain owned and operated by the Sargent County Water Resource District.

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, because the project will discharge directly into a legal assessment drain, the Board cannot require Applicants to obtain consent from any downstream landowners. However, the Board can require Applicants to install and maintain erosion protection to protect Drain 11 from erosion and to protect downstream landowners.

According to records supplied by Applicants, the Jason Bosse Living Trust owns the Northeast Quarter of Section 34; and the Deborah M. Bosse Revocable Living Trust owns the Southeast Quarter of Section 4 and the Southwest Quarter of Section 35 of Sargent Township.

Manager Wyum moved, and Manager Stein seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2019-14* dated September 19, 2019, for Jason Bosse and Gerald Bosse in the East Half of Section 34 and the Southwest Quarter of Section 35 in Sargent Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2019-14, subject to the following conditions:

- 1) That Applicants provide, install, and maintain adequate erosion protection at any and all outlets into Sargent County Drain No. 11;
- 2) That Applicants notify the Sargent County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets; and
- 3) That Applicants must reseed any of the District's right of way disturbed by Applicants' 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 Applicants' permit. However, for Applicants' protection, and to ensure protection of Applicants' tile system, the District will recommend that Applicants consider complying with the following:

- 1) That Applicants obtain written permission from the Sargent Township Board of Township Supervisors to install, operate, and maintain any buried pipe into any of its township road ditches; or to bore through its township road;
- 2) That Applicants 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 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.

CULVERT EXTENSIONS BETWEEN SECTIONS 21/28-HARLEM TOWNSHIP: A Purchase Order was presented for approval to purchase the culverts for \$4,925.32. Board members agreed to delay ordering the culverts until Manager Zetocha has had an opportunity to contact contractors for price estimates to install said culverts.

BRUMMOND-LUBKE DAM IMPROVEMENT PROJECT: The project is about 95% complete and a Payment Application No. 1 was presented for payment for \$240,470.60. Chris encouraged board members to look at the site before winter. Chris is also concerned that the cattle are still grazing the spillway and asked if the board has an agreement with Boyd Brummond on grazing and the fence line. No grazing is allowed on the emergency spillway. Sherry will research the minutes and files for an agreement.

SILVER LAKE DAM PROJECT: Chris had a draft copy of the Feasibility Study Report and will present the Final Report next month to the board along with his recommendation to install a toe drain to save the dam and provide decades of use for recreational purposes.

DRAIN NO. 2: Manager Stein moved to authorize Bruce Speich to hire SRT Excavating to conduct a simple clean out of Drain No. 2 not to exceed \$5,000. Manager Wyum seconded the motion. Upon roll call vote, the motion carried unanimously. Sherry will provide Bruce with a copy of the right of way easement in Section 2.

DRAIN NO. 7: A plugged box culvert on the airport road in Dr# 7 was discussed. Manager Stein moved to hire General Irrigation to jet out the culvert not to exceed \$1,500. Manager Speich seconded the motion. Upon roll call vote, the motion carried unanimously. The board received notice that the State Water Commission approved additional cost share on Dr# 7 of \$114,227. Manager Speich moved to authorize Chairman Siemieniewski to sign the amendment for the cost share. Manager Wyum seconded the motion. Upon roll call vote, the motion carried unanimously.

DRAIN NO. 12 IMPROVEMENT PROJECT: Chris gave an update on the Dr# 12 cost share. The state is still requesting an economic analysis for this project and Chris has been gathering information on the site to substantiate this project. Once this is all put together it can be presented at the next SWC cost share meeting in December. Chris will not be available for the December meeting in Bismarck so Josh Hassell will make the presentation along with a board member. Sherry was instructed to send a message to the SWC requesting that this project be placed on the December meeting agenda.

RICHLAND-SARGENT NO. 1: Monica Zentgraf, Secretary-Treasurer RS #1 provided RS #1 bills for consideration and approval as follows:

1. Interstate Eng., Inc. \$5,499.90 (Const. Eng. through 8-31-19)
2. Interstate Eng. Inc. \$1,206.34 (Hydraulic Study and FEMA Coordination 8-22-24-19)
3. Interstate Eng. Inc. \$3,405.06 (Const. Eng. 7-7-19 - 8-3-19)
4. Interstate Eng. Inc. \$1,071.40 (Hydraulic Study and FEMA Coordination 8-2-10-2019)
5. JBX LLC \$29,626.00 (Install new 90' culvert)
6. Starion Bond Services \$3,235.00 (Interest and Fees due on Bond of 2018-Series A)
7. Michael Anderson \$500.00 (Removing beaver dams on Short Foot Creek)
8. Al Lawrence \$50.00 (Beaver removal)
9. JAV Construction \$19,551.00 – Pay Estimate No. 7)

Manager Stein moved to approve the Richland-Sargent No. 1 bills. Manager Wyum seconded the motion. Upon roll call vote, the motion carried unanimously.

GWINNER DAM FEASIBILITY STUDY: There are unused cost share funds that were allocated by the SWC for the Gwinner Dam Feasibility Study. No other work is planned on this project and the Secretary was instructed to send a letter to the state with the final request for cost share and to inform them that they may deobligate any unused funds.

STARION BOND SERVICES: Sean explained to the Board that Starion is updating the form of Paying Agent and Registrar's Agreement in order to comply with the regulatory requirements that govern all transfer agents. Paper work will be arriving and will need to be signed. Manager Speich moved to authorize Sherry Hosford, Secretary-Treasurer to sign and execute the agreement upon Sean's review. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

With no further business to discuss, the Board adjourned the meeting at 12:50 p.m.

LUCAS SIEMIENIEWSKI, CHAIR

ATTEST:

SHERRY HOSFORD, SECRETARY-TREASURER