

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, OCTOBER 20TH, 2022 AT 8:17 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; and Sargent County Commissioner Richard Ruch. 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; Mike Manstrom of Colliers Bond Service; landowners Leon Mallberg and Paul Mathews.

**Colliers Bond Service-Mike Manstrom:** Mr. Manstrom with Colliers has been working on the bond issue for Drain No. 7, and indicated the bonds actually went to three local banks. The interest rate will be 4.3%; Mike indicated rates have increased but this rate is still fairly reasonable in light of the likelihood for additional rate hikes in the near future. The funds will likely be available to the SCWRD by November 8, 2022, if the board approves the resolution today.

Attorney Fredricks explained the Drain 7 assessment district is security for the Series C bonds, while the State Water Commission cost-share agreement and the County's share are security for the Series D bonds.

Manager Wyum moved to authorize administrator Willprecht to sign the Declaration of Official Intent, and to approve the resolution authorizing the bond issue. Manager Stein seconded the motion. Upon roll call, the motion carried unanimously.

**Drain No. 11 Reassessment:** Nathan Trosen of Moore Engineering handed out the RESOLUTION APPROVING FINAL REASSESSMENT LIST for the Drain No. 11 reassessment prepared by Attorney Carvell. Attorney Carvell reviewed sections of the resolution.

Manager Wyum moved to approve the RESOLUTION APPROVING FINAL REASSESSMENT LIST for the Drain No. 11 reassessment. The motion for the adoption of the foregoing RESOLUTION was duly seconded by Manager Zetocha. On roll call vote the following managers voted aye: Siemieniewski, Wyum, Zetocha, Stein, Speich. The motion carried unanimously, and the RESOLUTION was duly adopted.

Manager Speich moved to approve the September 15th, 2022 regular meeting minutes and the September 22nd, 2022 special meeting minutes and the August 31<sup>st</sup>, 2022 financial statement. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Stein moved to approve the following bills:

**084393 Ohnstad Twichell-** Kelley/Mathews/Hemminger complaint \$215/Mtgs. \$280/Ogdahl complaint \$2310.84/Anderson-Pherson Tile App. \$542.12/P. Bergh Tile App. \$600.70; Drain No. 11 Improv. Project \$2601.50/Eminent Domain \$3132.36; Drain No. 7-Title exam/conference \$2395.38

**Total: \$12,077.90**

**084391 Moore Engineering-** Mtgs.\$1710.00/Permits \$92.50/Ogdahl-Lien Toyne Complaint \$2036.25; SFC Task 6 \$2172.50; Drain No. 2 Correspondence \$185; Drain No. 4 Reassessment \$1195; Drain No. 11 Construction \$22,400/Util. Reloc. \$1844.38/ROW \$85/Reassessment \$1952.50; Drain No. 7 Design \$9500/Util. Reloc. \$255/ROW \$255/Reassessment \$2290

**Total: \$45,973.13**

**084400 Sargent County Teller-** Advertising for Drain No. 7 Proj. **Total: \$274.24**

**084398 Starion Bank Services-** 2020B fees **Total: \$450.00**

**084395 Sargent County Abstract & Title Guarantee Co.-** Bogart \$194.25/Anderson \$249.25 **Total: \$443.50**

**084389 Forum Communications Company-**Drain No. 7 bid advertising **Total: \$281.88**

**084394 Pearce Durick, PLLC-** Drain No. 11 Reassessment Mtg./call **Total: \$135.00**

**084401 Wendy Willprecht-** Postage to mail minutes to Pearce Durick/Drain No. 11 **Total: \$11.70**

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

**Drain No. 11:**

**Project:** Construction of the Project is ongoing by the contractor, R J Zavoral. They are expected to finish most earthwork and culvert installations east of the County Road by the end of the week. Next week they intend to begin the earthwork west of the County Road. Chairman Siemieniewski said the project is looking great. Trosen of Moore Engineering said that they are satisfied with the work completed by Zavoral to date as well.

The appeal regarding the Board's award of the construction contract is ongoing and is being handled by attorney Dan Gaustad. There was also a recent hearing on the eminent domain suit; the District Court awarded the defendants approximately \$141,000 in attorneys' fees.

**Glen and Mavis Thompson Utility Permit:** Glen Thompson contacted Pat Downs and indicated they will not proceed with closing until they get some assurance, through easement or Utility Permit, that they will have the right to locate a portion of their planned tile project on the right of way the Board is acquiring from them.

Attorney Fredricks drafted a Utility Permit for the Thompsons; Pat Downs provided the Utility Permit to the Thompsons for review and signatures but we have not heard back from them.

#### **Drain No. 4:**

**Reassessment:** Moore Engineering has received tax roll information relating to the Drain No. 4 reassessment and now has a preliminary list prepared. The same reassessment methodology used for Drain No. 11 will be used for Drain No. 4. No non-contributing analysis has been added at this time.

The previous assessment of this Drain did not include the City of Forman but Trosen indicated the City does benefit so the preliminary list includes the City. Administrator Willprecht will coordinate with city auditor, Trish Pearson, to reserve the Forman City Hall for either November 29<sup>th</sup> or 30<sup>th</sup> to conduct an informational meeting with members of the assessment district and those owners who the Board will likely include in the assessment district through the reassessment. Moore Engineering will handle sending out the invitations to the meeting.

#### **Drain No. 7:**

**Project:** A pre-construction meeting took place this week. The contractor, Comstock Construction, plans to start the project by the end of October 2022. The contractor submitted a change proposal to change the Milestone 1 date from October 28<sup>th</sup>, 2022 to November 16<sup>th</sup>, 2022. A motion was made by Manager Stein and seconded by Manager Zetocha to approve the change order. Upon roll call, the motion carried unanimously. A motion was made by Manager Speich and seconded by Manager Stein to approve a 1-year extension on the Drain No. 7 surface permit. Upon roll call, the motion carried unanimously.

Commissioner Richard Ruch said the county is waiting for permits from the Corps to clean out Drain No. 7.

**Reassessment:** Moore Engineering has received updated tax roll information from both Sargent and Ransom Counties relating to the proposed reassessment district of Drain No. 7 and has drafted a preliminary list. Similar reassessment methodology used for Drain No. 11 will be used for Drain No. 7 and the proposed district includes all properties within the Drain 7 watershed.

An informational public meeting will be set up to discuss the proposed reassessment. Administrator Willprecht will coordinate a meeting space with the Milnor Senior Citizens building for either November 29<sup>th</sup> or 30<sup>th</sup>. Moore Engineering will assist with sending out the invitation to the meeting to all properties in the proposed assessment district.

#### **Drain No. 9:**

No update.

#### **Drain No. 8:**

Trosen reached out to the Department of EMS regarding funding for a potential study on Drain No. 8. He was told by the state that there should be another round of funds released in the next few months through the Hazard Mitigation Grant Program. Moore Engineering sent an estimated scope and cost for a feasibility study to the Department of EMS. The Department of EMS requested a letter from the District committing to fund the local costs of the study as there would be an 85/15 cost share split, with the SCWRD responsible for 15%. Trosen estimated the cost of the study would be \$40,000 which would mean the SCWRD would contribute \$6,000. The information collected in the study could be used at any time to direct a future project to Drain 8 should the SCWRD choose to move forward.

The study will identify possible alternatives and costs for a project to the Drain such as filling in the Drain with a pipe and or adding a pump station. These studies can be utilized in the future when federal funding opportunities arise relating to construction. Any preliminary information that is collected can be sent to the State Water Commission for possible cost-share opportunities if federal funding is not pursued. The study will allow a chance to look at the economic side of things, as well as the benefits of the project.

**Cogswell Tile:** The Cogswell Tile project will also qualify for funding for a feasibility study by the Department of EMS. Trosen estimated the cost of the study would be \$65,000 with the local match being \$9,750. The study will identify possible alternatives and costs for a project to repair or improve the tile.

Manager Stein made a motion, seconded by Wyum, to send a local match support letter to the Department of EMS regarding both Drain No. 8 and the Cogswell Tile studies. Upon roll call, the motion carried unanimously.

#### **Drain No. 2:**

The DWR recently circulated a solicitation of views to various agencies regarding the Board's permit application for this cleanout. Once DWR completes the solicitation of views, DWR will forward the final permit application to the Board for review and approval in accordance with state law. The contractor, JBX Excavating, submitted a quote for the cleanout

and to install the CR-14 culvert which totaled \$61,700. Manager Wyum made a motion to approve the contractor's quote. Manager Speich seconded the motion. Upon roll call, the motion carried unanimously.

**Drain No. 12:**

No update.

**Shortfoot Creek:**

Trosen reported, per the guidance from the NRCS, that the next submittal for the plan is on hold until comments from other RCPP studies have been received since these comments will need to be addressed on the Shortfoot Creek study as well.

**CROOKED CREEK WATERSHED PLAN:**

Commissioner Richard Ruch said that there is no interest by the county to take on another park area. Trosen said that the current phase of the planning study will be wrapped up and the data collected will be available for future projects and ideas.

**Unfinished Business:**

**Borg Lake Complaint (Ogdahl/Toyne):**

The township removed more of the dam and reduced lake elevation a second foot. The SCWRD is looking at this as a township issue moving forward. The SCWRD has incurred over \$15,500 in fees relating to this complaint. The Board discussed options for recovering those costs. Manager Wyum suggested sending a summation of all the bills incurred by the SCWRD for this complaint to Mr. Toyne. Manager Siemieniowski made a motion to authorize Administrator Willprecht to send a letter and a copy of all the bills incurred for this complaint, by the SCWRD, directly to Mr. Toyne. Manager Wyum seconded the motion. Upon roll call, the motion carried unanimously.

**New Business:**

**Application to Install a Subsurface Water Management System No. 2022-14 for Gerald Bosse in the Southeast Quarter of Section 14 in Brampton Township**

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2022-14*, filed September 29, 2022, by Applicant Gerald Bosse. Under the Application, Applicant seeks to install an additional 120 acres of tile to an existing 75-acre drain tile system, for a total of 195 acres, in the Southeast Quarter of Section 14 in Brampton Township, Sargent County, North Dakota. The project will include a single pump outlet located in the northeast corner of the Southeast Quarter of Section 14; the pump will discharge into the west road ditch along County Highway 4; the discharge will flow north in the west road ditch, along the east boundary of the Northeast Quarter of Section 14 until flowing into a natural drain that flows north, under County Highway 5, and into the Southeast Quarter of Section 11 of Brampton Township.

According to County tax roll information supplied by Applicant, Gerald and Diana Bosse own the Southeast Quarter of Section 14 of Brampton Township. With regard to downstream parcels, Jeff Roy Quast, as Trustee of the Naffziger Trust, owns the Northeast Quarter of Section 14 of Brampton Township, and Glenn Cooper owns the Southeast Quarter of Section 11 of Brampton Township.

Manager Wyum moved, and Manager Zetocha seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2022-14*, filed September 29, 2022, for Gerald Bosse in the Southeast Quarter of Section 14 in Brampton Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-14, subject to the following conditions:

1. Applicant will install and maintain erosion protection at the outlet into the Sargent County Highway Department's road right of way.
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 Southeast Quarter of Section 14 in Brampton Township under any blanket easements, or otherwise beyond the Water District's existing easement.
4. Applicant 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. Applicant must remove silt or vegetation, or repair erosion or scour damages *directly* caused by Applicant's tile system, but only up to one mile downstream from the project outlet.
6. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-14 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, Managers Siemieniewski, Zetocha, and Wyum voted in favor of the motion. Managers Speich and Stein voted in opposition to the motion. The motion passed.

With regard to condition #5, Applicant's obligations to remove silt or vegetation, or to repair erosion or scour damages, will only arise upon submission of substantial evidence to the Board by a downstream landowner or road authority that Applicant's tile system *directly* caused accumulation of silt or vegetation, erosion, or scouring.

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 discharge into or otherwise utilize any of its highway 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, SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-14, and downstream flow map to the Department of Water Resources, the Sargent County Highway Department, downstream landowners, and Southeast Water Users District.

**Chris Mathias Tile Application less than 80 acres:**

This is an "Under 80" notice for the SE ¼ of Section 21 Township 132 Range 37 for a project less than 80 acres. No action required by the Board.

**Solicitation of Views for ND Hwy 32 (major rehabilitation project):**

The SCWRD did not have any comments.

**Application to Install a Subsurface Water Management System No. 2022-15 for Robert Barr in the Northwest Quarter of Section 3 in Sargent Township**

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2022-15*, filed October 11, 2022, by Applicant Robert Barr. Under the Application, Applicant seeks to install a 122-acre drain tile system in the Northwest Quarter of Section 3 in Sargent Township, Sargent County, North Dakota. The project will include a single pump outlet located in the southwest corner of the Northwest Quarter of Section 3; the pump will discharge into the north road ditch along North Dakota State Highway 11; the discharge will flow west in the north road ditch, across the south boundary of the Northeast Quarter of Section 4 and a small portion of the Southeast Quarter of the Northwest Quarter of Section 4, until discharging into Sargent County Drain No. 11.

According to County tax roll information supplied by Applicant, Robert and Darlene Barr own the Northwest Quarter of Section 3 of Sargent Township where Applicant intends to install the tile system. With regard to downstream parcels, Robert Peters, and Fred Huffman and Michael Huffman, as Trustees of the William A. Huffman Trust, own the Northeast Quarter of Section 4 of Sargent Township, less an 8.1-acre parcel owned by the City of Cogswell; and Sharon Hayden owns the Northwest Quarter of Section 4 of Sargent Township.

Manager Speich moved, and Manager Stein seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2022-15*, filed October 11, 2022, for Robert Barr in the Northwest Quarter of Section 3 in Sargent Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-15, subject to the following conditions:

1. Applicant will install and maintain erosion protection at the outlet into the North Dakota Department of Transportation's Highway 11 road right of way.
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 3 in Sargent Township under any blanket easements, or otherwise beyond the Water District's existing easement.
4. Applicant 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. Applicant must remove silt or vegetation, or repair erosion or scour damages *directly* caused by Applicant's tile system, but only up to one mile downstream from the project outlet.
6. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-15 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.

With regard to condition #5, Applicant's obligations to remove silt or vegetation, or to repair erosion or scour damages, will only arise upon submission of substantial evidence to the Board by a downstream landowner or road authority that Applicant's tile system *directly* caused accumulation of silt or vegetation, erosion, or scouring.

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 North Dakota Department of Transportation to discharge into or otherwise utilize any of its Highway 11 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, SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-15, and Applicant's downstream flow map to the Department of Water Resources, the North Dakota Department of Transportation, Sargent Township, downstream landowners, and Southeast Water Users District.

084396 Lucas Siemieniewski	Travel	\$326.25
084399 Todd Stein	Travel	\$10.00
084402 Michael Wyum	Travel	\$12.50
084403 Roger Zetocha	Travel	\$31.25
084397 Bruce Speich	Travel	\$56.25
DD Lucas Siemieniewski	PD	\$712.95
DD Todd Stein	PD	\$356.47
DD Michael Wyum	PD	\$356.47
DD Roger Zetocha	PD	\$354.12
DD Bruce Speich	PD	\$534.70
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.	

**Richland-Sargent Drain #1 Maintenance Fund Financial Statement August 1st, 2022**

Trosen reported that the State Water Commission approved the cost share application for the final design of the Project.

Beginning balance September 1 <sup>st</sup> , 2022	\$410,792.50
Revenue:	\$0
Total Revenue Received:	\$0
Expenditures:	
Ck# 18996 Moore Engineering, Inc.	\$5,284.50
Ck# 18988 Larson Helicopters	\$2,845.50
Total Expenditures:	\$8,130.00
Total Balance September 30 <sup>th</sup> , 2022	<u>\$402,662.50</u>
RS#1 Maintenance Checking Account Balance	\$0.75
RS#1 Maintenance Savings Account Balance	<u>\$402,661.75</u>

Total Maintenance Fund Balance September 30<sup>th</sup>, 2022

\$402,662.50

**DICKEY-SARGENT JOINT BOARD:**

The following bills were presented for approval and payment during the Dickey-Sargent Joint Board meeting.

Bills:

**DSJTB bills for approval -**

DVEC - electricity -	\$ 524.00
084392 Moore Engineering- Assessment list assistance	\$ 185.00
084390 Lovell Improvement-Aquaneat/Teton	\$2224.25

**\*\*Special Assessments received: \$0**

1) Maintenance Account:	\$ 19,888.06
2) Improvement Account:	\$123,032.51

**The above balances are as of August 31st, 2022**

The meeting adjourned at 9:45 a.m.

APPROVED:

\_\_\_\_\_  
LUCAS SIEMIENIEWSKI, CHAIRMAN

ATTEST:

\_\_\_\_\_  
WENDY WILLPRECHT SECRETARY-TREASURER