

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, NOVEMBER 16<sup>TH</sup>, 2023 AT 8:00 A.M. IN THE WATER BOARD CONFERENCE ROOM AT THE SARGENT COUNTY COURTHOUSE, FORMAN NORTH DAKOTA

Managers present: Chairman Luke Siemieniewski, Managers Bruce Speich and Todd Stein. Also in attendance was Wendy Willprecht Secretary/Treasurer, Nathan Trosen, engineer for Moore Engineering, Sargent County Commissioner Wade Anderson and landowner Bruce Bosse. Present via video conference was Attorney Sean Fredricks of Ohnstad Twichell, and landowners Bob Banderet and Leon Mallberg.

Manager Stein moved to approve the October 19<sup>th</sup>, 2023 regular meeting minutes and the October 2023 Financial Statement. Manager Speich seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Speich moved to approve the bills.

**086085 Ohnstad Twichell-** Attorney fees \$479.26; Drain No. 11-Improv. Proj. \$168.00  
**Total: \$647.26**

**086083 Moore Engineering-** Drain 11 right-of-way coordination \$100/Assessment \$535; Shortfoot Creek \$4,860; General \$2,461.83; Drain 4 Assessment Assistance \$292.50; Drain 7 Construction Services \$4,625  
**Total: \$12,874.33**

**086086 Adler Paeper-** 1 beaver along Drain No. 11-Brampton Township Section 2  
**Total: \$50.00**

**086084ND Water Resource District Association-**dues  
**Total: \$675.00**

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

086087	Lucas Siemieniewski	Travel	\$36.68
086089	Todd Stein	Travel	\$10.48
	Michael Wyum	Travel	
	Roger Zetocha	Travel	
086088	Bruce Speich	Travel	\$26.20
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	\$2,475.05
DD	Stock Grower's Bank	Withholding Taxes	
DD	ND State Tax Commission	State Tax	
DD	Job Service ND	Unemployment Comp.	

**Drain No. 11:**

**Project:** Trosen stated that Industrial Builders, Inc., finished the 127<sup>th</sup> Ave SE culvert repair.

**Glen Thompson Utility Permit:** Manager Stein and Pat Downs of Moore Engineering have been communicating with the Thompson family to acquire the utility permit they requested and to proceed with closing on their right of way transaction. The Thompsons have indicated they intend to sign closing documents.

**Assessment:** The Board previously conducted reassessments for Drain No. 7 and Drain No. 11; the newly approved assessment lists for those drains include assessments in Ransom County. Administrator Willprecht called County Auditor Nicole Gentzkow of Ransom County a couple weeks ago. Ms. Gentzkow indicated the Ransom County Commission is refusing to levy assessments for Drain No. 7 and Drain No. 11. and would not be including the assessments on their tax rolls. Administrator Willprecht will ask Gentzkow for an official letter of denial.

**Drain No. 4:** The Board has not yet received a bill from the City of Forman for the Drain clean out.

**Drain No. 7:**

**Project:** Trosen of Moore Engineering said the construction of this project is estimated to come in \$50,000 under budget and that there are no further costs expected at this time. The overall Drain project will come in \$125,000 under budget.

Manager Speich said that he had been approached by a landowner regarding a bridge just off CR 12 by Cayuga, 81st Ave. SE, that a landowner believes needs to be removed. The bridge is believed to be structurally unsafe. If the bridge is removed an access road can be constructed on top of the north spoil bank of the Drain. Chairman Siemieniewski

suggested hiring Comstock for the project. Manager Speich said that landowner Dan Mund will use the road for field access. The County and the WRD might consider a cost-share for this type of project.

Manager Speich moved, and Manager Stein seconded the motion, to direct Moore Engineering to develop a plan to remove the bridge and build up the berm for field access. Upon roll call, the motion carried unanimously.

**Assessment:** Ransom County is refusing to levy assessments for Drain 7. Administrator Willprecht will request a letter of denial from County Auditor Nicole Gentzkow of Ransom County.

**Drain No. 9 Extension:** Trosen will reach out to landowner Brad Hoistad to see if there is still interest amongst landowners to proceed with a project.

**Drain No. 8:** No report.

**Cogswell Tile:** No report.

**Drain No. 2:** Chairman Siemieniewski said the board will table the discussion of reimbursement to the County for spoil hauled until the Drain No. 12 embankment replacement issue gets resolved.

**Drain No. 12:** Discussion continued regarding the embankment that was removed by the County along this Drain. Chairman Siemieniewski said that the landowners along the Drain are frustrated by the damages and loss of crop they have suffered as a result of the removal of embankment. The County was only planning to remove half of the berm instead of the entire berm. Commissioner Anderson said he does not believe the Road Department has the manpower to replace the embankment before the end of the year, and they are looking at trying to arrange the replacement next spring. Chairman Siemieniewski said it would take about two days to replace the embankment using a payloader, excavator and dump truck. He estimated the cost of replacement to be around \$7-8,000. Chairman Siemieniewski called JBX Excavation during the meeting to see if they would have the time to take this job on yet this year. The replacement is needed a 1/2 mile south of the Texas Crossing. Commissioner Anderson said he will put this topic on the Commissioner agenda for November 20<sup>th</sup> to further discuss. A motion was made by Manager Stein and seconded by Manager Speich to approve the hiring of JBX Excavation to replace the berm along the Drain, pending County Commission approval. Upon roll call, the motion carried unanimously.

**Field Inlet Culvert:** Chairman Siemieniewski said there is a field inlet culvert on Robert Lee's land that is rusted out. The culvert has been dug out as to get to the tile pump. Kingston Township has an 18" culvert on hand. Manager Speich moved, and Manager Stein seconded the motion, to purchase the 18" culvert from Kingston Township. Landowner Robert Lee will install the culvert himself.

**Short Foot Creek:** Trosen said the E/A analysis and cost estimate has been updated for the project. Since the benefit cost ratio is less than 1.0 Moore to work with NRCS on submitting an exemption letter. Once submitted it is estimated to take a couple months for the NRCS to review. If the exemption request is approved the project plan can be finalized. Trosen said we will have one more meeting with the necessary agencies and will then send the plan back to the NRCS headquarters for final approval.

**Frenier Dam:** Manager Speich received a call from Jeff Breker regarding hunting regulations in this area. Chairman Siemieniewski said that he believes this has always been a public hunting ground and Speich added that there was no reason to believe that the public access had been changed.

Chairman Siemieniewski said that he and another Manager should go and meet with the landowners in this area to discuss the infrastructure changes that have been previously discussed. If there was an improvement project in this area, it would need to be initiated and paid for by the landowners themselves.

**City of Stirum:** No report.

**NEW BUSINESS:**

**Amendment to Subsurface Water Management Permit No. 2022-05 for Bruce Bosse in the Northwest Quarter of Section 27 in Sargent Township**

The Board previously approved a tile permit for Bruce Bosse at the Board's meeting on March 17, 2022, SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-05. Mr. Bosse recently requested an amendment of the permit to include a pump outlet; the Board originally approved the permit with a gravity outlet. Under SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-05, the Board approved a 147-acre drain tile system in the Northwest Quarter of Section 27 in Sargent Township, Sargent County, North Dakota. The project footprint will remain the same but will instead include a single pump outlet located in the North Half of the Northwest Quarter of Section 27 that will discharge directly into Sargent County Drain No. 11, a legal assessment drain owned and operated by the Sargent County Water Resource District.

As noted in the original NOTICE OF DECISION dated March 30, 2022, according to County tax roll information, Deborah M. Bosse, Trustee of the Deborah M. Bosse Revocable Living Trust, owns the Northwest Quarter of Section 27 of Sargent Township.

Manager Stein moved, and Manager Speich seconded the motion, to approve an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-05 for Bruce Bosse in the Northwest Quarter of Section 27 in Sargent Township, and to authorize the Secretary-Treasurer to sign an amended SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-05, subject to the following conditions:

1. Applicant will install and maintain erosion protection at the outlet into Sargent County Drain No. 11.
2. Applicant will set and install the tile pump at least 25 feet from the top of the back slope of Sargent County Drain No. 11, with a pipe buried from the pump to Drain No. 11.
3. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
4. 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 27 in Sargent Township under any blanket easements, or otherwise beyond the Water District's existing easement.
5. 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.
6. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-05 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 District cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the District will 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.

Sean Fredricks will provide copies of the Board's NOTICE OF AMENDED DECISION, amended SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-05 to the Department of Water Resources and to Southeast Water Users District.

**Application to Install a Subsurface Water Management System No. 2023-14 for Mike Hayen in the Southeast Quarter of Section 22 in Harlem Township**

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2023-14*, filed October 31, 2023, by Applicant Mike Hayen. Under the Application, Applicant seeks to install a 126-acre drain tile system in the Southeast Quarter of Section 22 in Harlem Township, Sargent County, North Dakota. The project will include a single pump outlet located along the south boundary of the Southeast Quarter of the Southeast Quarter of Section 22; the pump will discharge into the north road ditch along 88th Street SE; the discharge will then flow east in the north road ditch for a short distance; at the corner of the Southeast Quarter of Section 22, the discharge will flow through an existing diagonal culvert, through and under 88th Street, and will daylight in the northwest corner of the Northwest Quarter of Section 26; from there, the discharge will flow east in the south road ditch along 88th Street, along the north boundary of Section 26.

According to County tax roll information, Michael and Lujana Hayen own the Southeast Quarter of Section 22 in Harlem Township where Applicant intends to install the tile system. With regard to downstream properties, Michael and Lujana Hayen own the West Half of the Northwest Quarter of Section 26, Rick Hoistad and Carolyn Abbot own the East Half of the Northwest Quarter of Section 26, and Scott and Jonda Stofferahn own the Northeast Quarter of Section 26.

Manager Stein moved, and Manager Speich seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2023-14*, filed October 31, 2023, for Mike Hayen in the Southeast Quarter of Section 22 in Harlem Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-14, subject to the following conditions:

1. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
2. Applicant will install and maintain erosion protection at any and all outlets into Harlem Township's road right of way.
3. 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.
4. 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 of Applicant's project outlet.
5. 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 22 in Harlem Township under any blanket easements, or otherwise beyond the Water District's existing easement.
6. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-14 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, the motion carried unanimously.

With regard to condition #4, 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 Harlem Township to discharge into or otherwise utilize any of its road 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. 2023-14, and Applicant's downstream flow map to the Department of Water Resources, Harlem Township, Rick Hoistad, Carolyn Abbot, Scott and Jonda Stofferahn, and Southeast Water Users District.

**Application to Install a Subsurface Water Management System No. 2023-15 for Garrett Hayen in the Northeast Quarter of Section 18 in Sargent Township**

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2023-15*, filed October 31, 2023, by Applicant Garrett Hayen. Under the Application, Applicant seeks to install a 113-acre drain tile system in the Northeast Quarter of Section 18 in Sargent Township, Sargent County, North Dakota. The project will include a single pump outlet located in the northeast corner of the Northeast Quarter of Section 18; the pump will discharge into the south road ditch along 92nd Street SE; the discharge will then flow west in the south road ditch, along the north boundary of the Northwest Quarter of Section 18; at approximately the quarter-quarter line, the discharge will turn north and will flow through an existing culvert under 92nd Street; the discharge will daylight in the north road ditch along 92nd Street, along the south boundary of the Southwest Quarter of Section 7; the discharge will then flow north, across a portion of the Southwest Quarter of Section 7 until flowing into a natural watercourse in the Southwest Quarter of Section 7.

According to County tax roll information, Dale and Arlis Christenson, as Trustees of the Christenson Family Trust, and Garrett Hayen own the Northeast Quarter of Section 18 in Sargent Township where Applicant intends to install the tile system. With regard to downstream properties, Michele Greenmyer owns the Northwest Quarter of Section 18; and Beverly Kelley, Trustee of the Beverly B. Kelley Living Trust, owns the Southwest Quarter of Section 7.

Manager Speich moved, and Manager Stein seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2023-15*, filed October 31, 2023, for Garrett Hayen in the Northeast Quarter of Section 18 in Sargent Township, and to authorize the Secretary/Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-15, subject to the following conditions:

1. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
2. Applicant will install and maintain erosion protection at any and all outlets into Sargent Township's road right of way.
3. 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.
4. Applicant must remove silt or vegetation, or repair erosion or scour damages *directly* caused by Applicant's tile system, but only up to the natural watercourse in the Southwest Quarter of Section 7 (less than one mile downstream of Applicant's project outlet).

5. 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 Northeast Quarter of Section 18 in Sargent Township under any blanket easements, or otherwise beyond the Water District's existing easement.
6. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-15 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 #4, 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 Sargent Township to discharge into or otherwise utilize any of its road 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. 2023-15, and Applicant's downstream flow map to the Department of Water Resources, Sargent Township, Dale and Arlis Christenson, Michele Greenmyer, Beverly Kelley, and Southeast Water Users District.

**Application to Install a Subsurface Water Management System No. 2023-13 for Arlen Hanson in the West Half of Section 21 in Whitestone Hill Township**

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2023-13*, filed October 26, 2023, by Applicant Arlen Hanson. Under the Application, Applicant seeks to install a 202-acre drain tile system in the West Half of Section 21 in Whitestone Hill Township, Sargent County, North Dakota. The project will include a pump outlet that will discharge into a pond, slough, or lake in the Southwest Quarter of Section 21, and a second pump outlet that will discharge into a pond, slough, or lake in the Northwest Quarter of Section 21, a natural body of water that extends into the Northeast Quarter of Section 21 and into Section 16 in Whitestone Hill Township.

According to County tax roll information submitted by Applicant, Hanson Brothers Farms Limited Partnership owns the West Half of Section 21 in Whitestone Hill Township. No downstream notices are required under N.D. Cent. Code § 61-32-03.1 because the project outlets both discharge directly into ponds, sloughs, or lakes.

Manager Speich moved, and Manager Stein seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2023-13*, filed October 26, 2023, for Arlen Hanson in the West Half of Section 21 in Whitestone Hill Township, and to authorize the Secretary/Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-13, subject to the following conditions:

1. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
2. Applicant will install and maintain erosion protection at any and all outlets into ponds, sloughs, or lakes in the West Half of Section 21 in Whitestone Hill Township.
3. 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.
4. 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 West Half of Section 21 in Whitestone Hill Township under any blanket easements, or otherwise beyond the Water District's existing easement.
5. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-13 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 Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the Board will 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.

Sean Fredricks will provide copies of the Board's NOTICE OF DECISION and SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-13 to the Department of Water Resources and Southeast Water Users District.

**FSA Committee Election Ballot:** A motion was made by Manager Speich and seconded by Manager Stein to submit a ballot to the FSA in support of Jennifer Gulleason. Upon roll call, the motion carried unanimously.

**DSJTB bills for approval –**

**DSJTB bills for approval**

<b>86075 DVEC – electricity –</b>	<b>\$ 619.00</b>
<b>086083 Moore Engineering-assessment</b>	<b>\$ 470.00</b>

A motion was made by Manager Speich and seconded by Manager Stein to approve the bills. Upon roll call, the motion carried unanimously.

Balances as of October 31<sup>st</sup>, 2023

Maintenance Account Balance:	<b>\$ 24,303.21</b>
Improvement Account Balance:	<b>\$ 182,212.43</b>

**Richland-Sargent Drain #1  
Maintenance Fund Financial Statement**

No October financials were provided by Richland County.

The meeting adjourned at 9:05 a.m.