

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, MAY 18TH, 2023 AT 8:27 A.M. IN THE WATER BOARD CONFERENCE ROOM AT THE SARGENT COUNTY COURTHOUSE, FORMAN NORTH DAKOTA

Managers present: Chairman Luke Siemieniewski, Vice-Chairman Michael Wyum, Managers Bruce Speich and Todd Stein. Also, in attendance was Wendy Willprecht Secretary/Treasurer, Nathan Trosen, engineer for Moore Engineering, Landon Evenson-Wild Rice Soil Conservation, and Sargent County Commissioner Wade Anderson. Present via video conference was Attorney Sean Fredricks of Ohnstad Twichell, Attorney Cassie Tostenson and Leon Mallberg.

Landon Evenson of the Wild Rice Soil Conservation office asked if the SCWRD Managers know of any projects they need help with this summer. Manager Speich said that there is maintenance needed in Milnor. Manager Stein said that Drain No. 11 needs some cleaning out. Chairman Siemieniewski asked Evenson if he would ride along with the managers during the drain tour and they could decide what drains needs assistance. Evenson agreed with this and will plan to attend the tour.

Manager Speich moved to approve the April 20th, 2023 regular meeting minutes, the May 10th Drain 4 public hearing minutes, the May 10th, 2023 Drain 7 public hearing minutes, and the March 2023 Financial Statement, as well as the April 2023 Financial Statement. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Speich moved to approve the following bills:

085351 Ohnstad Twichell- meetings/calls \$390.00; Drain No. 4 Reassessment \$770.18; Drain No. 11 Eminent Domain \$10,091.55

Total: \$11,251.73

085349 Moore Engineering-Board meetings \$3162.67; SFC Task 6 \$2180.00; Drain No. 4 reassessment \$487.50; Drain No. 7 construction \$1908/legal descripts. \$85/reassessment \$4555.00

Total: \$12,450.17

085358 Sargent County Teller- Drain No. 7 Reassessment hearing **Total: \$455.44**

085352 Sargent County Clerk of District Court- Drain No. 11 defendant attorney fees **Total: \$141,250.59**

085343 Elliot Hayen- Drain No. 11 Beaver **Total \$50.00**

085344 Helwig Excavating, Inc.- snow removal at Drain No. 11 **Total: \$800.00**

085341 Jeremy Bixby- 2 beavers Drain No. 11 **Total: \$100.00**

085355 Ryan Smith- 1 beaver Drain No. 7 **Total: \$50.00**

085345 Lance Hogness- 1 beaver Drain No. 7 **Total: \$50.00**

085347 Dave Kohoutek- 1 beaver Drain No. 12 **Total: \$50.00**

085348 John Maniknowski- 2 beavers Drain No. 12 **Total: \$100.00**

085353 Tom Siemieniewski- 1 beaver Drain No. 12 **Total: \$50.00**

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

Drain No. 11:

Project: Nathan Trosen of Moore Engineering said they are working with the contractor on finishing the remaining punchlist items from the construction last fall. Some of these items are the addition of flap gates, rip rap and cleaning out sediment from the culverts as well as grass establishment. Trosen said the water level is high right now and the drain is running full. The contractor will need to wait for the water level to recede before finishing the above list. Manager Stein said that the improvements to the drain are proving to be a huge help with the overland flooding. Trosen reminded the group that \$50,000 was held back from the contractor until the punchlist items are completed. We want to make sure the grass grows before issuing the final payment.

Manager Stein said there is a 30” culvert at 95th St. that need replacing because it is all rusted out. Trosen said he reviewed the study that was done in 2016, and it would be within the findings of the study to reinstall a new 30” culvert. Manager Stein said he happens to have a new 30” pipe at his farm. He added that Helwig is willing to install it.

Manager Stein made the motion to purchase the 30” culvert and hire Helwig to install it. Manager Wyum seconded the motion. Upon roll call, the motion carried unanimously.

Glen Thompson Utility Permit: The Board is waiting for a response from Mr. Thompson regarding the utility permit he requested to accommodate his proposed tile project. Mr. Thompson has indicated he would like to resolve his tile access before closing on the Drain 11 right of way acquisition for his property.

Summit Carbon Solutions: A representative reached out to the SCWRD regarding drains that will need to be crossed should the pipeline be approved. Summit has already started the utility permit process and Trosen said he is working on recommendations for this permit. Trosen added there will be two crossings. The first in Section 33 of Harlem Township under Drain 11 and the second will be under Drain No. 2 as well. The Board discussed how they would prefer if the crossings were installed via boring rather than open cut.

Drain No. 4:

Reassessment: A public hearing was held on May 10th, 2023 at the Forman City Hall. There was about twelve people in attendance. Trosen summarized the comments that were received. The Board directed Moore to perform surveys to verify the watershed in the areas where watershed comments were received. The Board also directed Moore to add tile consideration to the benefits of the property in the N ½ of the SE ¼ of Section 5, Forman Township as tile was recently installed there. The Board will not approve a final list until they have had the opportunity to consider and address those issues.

Drain No. 7:

Project: Trosen said that the contractor will mobilize when the water level goes down, hopefully in the next few weeks.

Reassessment: A public hearing was held on May 10th, 2023 at 2:00 p.m. at the Milnor Senior Center. Trosen summarized the comments that were received. Trosen asked the SCWRD board if they would want to remove Tom Mund tile benefit from the assessment since he never installed the tile project that was permitted. The board all agreed the benefit should be removed. The Board also directed Moore to perform surveys to verify the watershed in the areas where watershed comments were received. The Board will not approve a final list until they have had the opportunity to consider and address those issues.

Drain No. 9 Extension: No report.

Drain No. 8: No report.

Cogswell Tile: No report

Drain No. 2: Manager Speich said he started moving some of the spoil along the drain but found it is too wet. He said the removal is a work in progress and he will need to wait until condition dry out to continue the removal.

Short Foot Creek: Trosen reported that there is a final scoping meeting with the NRCS regarding another watershed plan scheduled later this month. Once comments are received from that meeting Moore can then proceed with updating the Shortfoot Creek Watershed Plan accordingly.

085354	Lucas Siemieniewski	Travel	\$62.88
085357	Todd Stein	Travel	\$98.25
085359	Michael Wyum	Travel	\$42.58
	Roger Zetocha	Travel	
085356	Bruce Speich	Travel	\$26.20
DD	Lucas Siemieniewski	PD	\$831.05
DD	Todd Stein	PD	\$207.77
DD	Michael Wyum	PD	\$623.30
DD	Roger Zetocha	PD	\$207.77
DD	Bruce Speich	PD	\$207.77
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.	

NEW BUSINESS:

Application to Install a Subsurface Water Management System No. 2023-05 for Dorn Malpert in the Northeast Quarter of Section 26 in Brampton Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2023-05*, filed May 1, 2023, by Applicant Dorn Malpert. Under the Application, Applicant seeks to install a 154-acre drain tile system in the Northeast Quarter of Section 26 in Brampton Township, Sargent County, North Dakota. The project will include a single pump outlet located near the southeast corner of the Northeast Quarter of Section 26; the pump will discharge into the west road ditch along County Road 4; the discharge will then flow south in the west road ditch, along a portion of the east boundary of the Southeast Quarter of Section 26; the discharge will then drain into a natural watercourse that flows east, through an existing culvert through and under County Road 4, then across the South Half of Section 25. On the east boundary of Section 25, the natural watercourse discharges into Sargent County Drain No. 9, a legal assessment drain owned and operated by the Sargent County Water Resource District.

According to County tax roll information, Lawrence and Angelique Malpert own the Northeast Quarter of Section 26 of Brampton Township where Applicant intends to install the tile system. With regard to downstream parcels, Robert L. and Janice L. Carlson, Trustees of the Robert L. & Janice L. Carlson Revocable Trust, own the Southeast Quarter of Section 26 of Brampton Township. Once the project discharges into the natural watercourse in the Southeast Quarter of Section 26, the Sargent County Water Resource District no longer has jurisdiction over the tile discharge.

Manager Wyum moved, and Manager Speich seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2023-05*, filed May 1, 2023, for Dorn Malpert in the Northeast Quarter of Section 26 in Brampton Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-05, subject to the following conditions:

1. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
2. 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 26 in Brampton Township under any blanket easements, or otherwise beyond the Water District's existing easement.
3. Applicant will install and maintain erosion protection at any and all outlets into the County's highway right of way.
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 the project discharge into the natural watercourse in the Southeast Quarter of Section 26 in Brampton Township.
6. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-05 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.

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 County Highway 4 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. 2023-05, and Applicant's downstream flow map to the Department of Water Resources, the Sargent County Highway Department, Lawrence and Angelique Malpert, Robert L. and Janice L. Carlson, and Southeast Water Users District.

Application to Install a Subsurface Water Management System No. 2023-08 for Dorn Malpert in the South Half of Section 13 in Brampton Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2023-08*, filed May 11, 2023, by Applicant Dorn Malpert. Under the Application, Applicant seeks to install a 272-acre drain tile system in the South Half of Section 13 in Brampton Township, Sargent County, North Dakota. The project will include a single pump outlet located along the west boundary of the Southwest Quarter of Section 13; the pump will discharge into the east road ditch along County Road 4; the discharge will then flow north in the east road ditch, along a portion of the west boundary of the Northwest Quarter of Section 13; the discharge will then flow west, under County Road 4 through an existing culvert; the discharge will flow west through an existing drain that flows northwest, across a portion of the Northeast Quarter of Section 14; the discharge will flow under County Road 5, through an existing culvert, and will continue in the existing drain, across the Southeast Quarter of Section 11.

According to County tax roll information, the Lawrence & Angelique Malpert Family Limited Partnership owns the South Half of Section 13 of Brampton Township where Applicant intends to install the tile system. With regard to downstream parcels, Jeff Roy Quast, 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 Stein moved, and Manager Speich seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2023-08*, filed May 11, 2023, for Dorn Malpert in the South Half of Section 13 in Brampton Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-08, subject to the following conditions:

1. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
2. 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 South Half of Section 13 in Brampton Township under any blanket easements, or otherwise beyond the Water District's existing easement.
3. Applicant will install and maintain erosion protection at any and all outlets into the County's highway right of way.

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 of Applicant’s project outlet.
6. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-08 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 Sargent County Highway Department to discharge into or otherwise utilize any of its County Highway 4 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. 2023-08, and Applicant’s downstream flow map to the Department of Water Resources, the Sargent County Highway Department, Lawrence and Angelique Malpert, Jeff Roy Quast, Glenn Cooper, and Southeast Water Users District.

Application to Install a Subsurface Water Management System No. 2023-06 for Gary Anderson in the East Half of Section 13 in Tewaukon Township and the West Half of Section 18 in Marboe Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2023-06*, filed May 11, 2023, by Applicant Gary Anderson. Under the Application, Applicant seeks to install a 123-acre drain tile system in the Southeast Quarter of the Northeast Quarter of Section 13 and the Northeast Quarter of the Southeast Quarter in Section 13 in Tewaukon Township; and in the Southwest Quarter of the Northwest Quarter of Section 18, the East Half of the Northwest Quarter of Section 18, and the Northwest Quarter of the Southwest Quarter of Section 18 in Marboe Township, Sargent County, North Dakota. The system in Section 13 in Tewaukon Township connects to the system in Section 18 in Marboe Township via a line under County Highway 12. The project will include a single pump outlet located along the north boundary of the East Half of the Northwest Quarter of Section 18 in Marboe Township; the pump will discharge into the south road ditch along 100th Street SE and will flow north, under 100th Street, in a natural drain that flows across the Southwest Quarter of Section 7 of Marboe Township before flowing into Sargent County Drain No. 12, a legal assessment drain owned and operated by the Sargent County Water Resource District.

According to County tax roll information submitted by Applicant, Gary and Noreen Anderson and the Raymond Brickzen Land Trust own the Southeast Quarter of the Northeast Quarter of Section 13 and the Northeast Quarter of the Southeast Quarter in Section 13 in Tewaukon Township, the Southwest Quarter of the Northwest Quarter of Section 18 and the Northwest Quarter of the Southwest Quarter of Section 18 in Marboe Township; and Donald Kiefer owns the East Half of the Northwest Quarter of Section 18 in Marboe Township. With regard to downstream property, Donald Kiefer owns the Southwest Quarter of Section 7, less the farmstead owned by Zachary Boice and Emerae Strege. Once the project discharges into Sargent County Drain No. 12, the Sargent County Water Resource District no longer has jurisdiction regarding downstream parties.

Manager Wyum moved, and Manager Stein seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2023-06*, filed May 11, 2023, for Gary Anderson in the East Half of Section 13 in Tewaukon Township and the West Half of Section 18 in Marboe Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-06, subject to the following conditions:

1. Applicant will re-establish any areas disturbed installing or maintaining Applicant’s tile system.
2. 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 the Northeast Quarter of Section 13 and the Northeast Quarter of the Southeast Quarter in Section 13 in Tewaukon Township; or in the Southwest Quarter of the Northwest Quarter of Section 18, the East Half of the Northwest Quarter of Section 18, and the Northwest Quarter of the Southwest Quarter of Section 18 in Marboe Township under any blanket easements, or otherwise beyond the Water District’s existing easement.
3. Applicant will install and maintain erosion protection at any and all outlets into Marboe Township’s road right of way.
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 the project discharge into the natural watercourse in the Southeast Quarter of Section 26 in Brampton Township.
6. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-06 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 an easement or some other written consent from the owners of any property not owned by Applicant where Applicant intends to install tile or tile components.
2. The Board recommends that Applicant obtain written consent from the Sargent County Highway Department to install a line or any other project components within its County Highway 12 right of way.
3. The Board recommends that Applicant obtain written consent from the Marboe Township Board of Township Supervisors to discharge into or otherwise utilize any of its Township road right of way.
4. 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. 2023-06, and Applicant's downstream flow map to the Department of Water Resources, the Sargent County Highway Department, Marboe Township, Tewaukon Township, Donald Kiefer, the Raymond Brickzen Land Trust, Zachary Boice and Emerae Strege, and Southeast Water Users District.

Josh Heimbuch Application to Construct No. C02713:

Heimbuch is applying to construct an agricultural pond to be used for irrigation. Trosen said he worked with Heimbuch to submit a permit for the project. The pond would be in Section 4 of Brampton Township. Comments have been requested by the Department of Water Resources. If all goes well, Heimbuch plans to construct the pond later this year. This is not an item that requires any action by the Board; this is a DWR permit.

Frenier Dam:

Landowner Jeff Breker contacted the SCWRD regarding a Tewaukon Township road that gets flooded out when the dam is full. Chairman Siemieniewski suggested we help fund repairs to the township road since it is the SCWRD's dam that keeps flooding it out. Siemieniewski said that Breker had mentioned possibly moving the road. Siemieniewski suggested meeting with Breker when the managers go on the drain tour. At that time they can all look at options together. Attorney Fredricks cautioned approving funding for either maintenance of or moving the township road as a precedent could be set. He added that if the board does agree to help fund this project, the board would want to reimburse the township after the work is complete as opposed to any upfront payment or any payment to a contractor since this is a township project. The Board will also want to set a maximum amount

The drain tour is scheduled for June 13th, 2023 at 8:00 a.m.

Budget:

Much discussion was had regarding the proposed 2024 budget.

A motion was made by Manager Speich and seconded by Manager Wyum to approve the following special tax levies for 2024:

Drain No. 11	\$4.00
Drain No. 7	\$4.00
Tewaukon Watershed	\$0.00
Drain No. 12	\$4.00
Drain No. 8	\$1.00
Drain No. 9	\$4.00
Drain No. 2	\$4.00
Drain No. 4	\$0.50

Upon roll call, the motion carried unanimously.

DSJTB bills for approval –

DSJTB bills for approval

DVEC – electricity –	\$ 448.00
Dakota Improvement- drain clean out	\$ 800.00

Moore Engineering- board meeting

\$ 97.50

Balances as of April 30th, 2023

Maintenance Account Balance: \$ 32,812.66
Improvement Account Balance: \$ 189,458.57

Bills were approved in the Dickey-Sargent Joint Board meeting that proceeded the SCWRD meeting on 5/18/23.

Richland-Sargent Drain #1 Maintenance Fund Financial Statement

BEGINNING BALANCE April 1st, 2023

REVENUE:

Rt. #23-025 Sargent Co. Tax & Business \$5,717.71
Rt. #23-028 Richland Co. Tax & Business \$ 357.50

TOTAL REVENUE RECEIVED: \$6,075.21

EXPENDITURES:

Ck. #20029 Moore Engineering, Inc. \$15,697.50

TOTAL EXPENDITURES: \$15,697.50

TOTAL BALANCE April 30th, 2023 \$437,180.67

RS#1 MAINTENANCE CHECKING ACCOUNT BALANCE: -\$15,696.97

RS#1 MAINTENANCE SAVINGS ACCOUNT BALANCE: \$452,877.64

TOTAL MAINTENANCE FUND BALANCE April 30th, 2023 \$437,180.67

The meeting adjourned at 10:30 a.m.

APPROVED:

LUCAS SIEMIENIEWSKI, CHAIRMAN

ATTEST:

WENDY WILLPRECHT SECRETARY-TREASURER