

Barnes County Water Resource District

PO Box 306

Valley City, ND 58072

701-845-8508

January 11, 2016

MEETING MINUTES

MEMBERS PRESENT: Managers - Chairman Jerry Hieb, Bruce Anderson, Shawn Olauson, Bret Fehr, Dale Jorissen; Joshua Hassel & Brady Woodard – Moore Engineering; Sean Fredricks – Ohnstad Twichell P.C.; & Commissioners Mike Metcalf & Rodger Berntson

Also Present: See Attached List

Linda McKenna, Secretary for the BCWRD, started the monthly water district meeting with the election of Chairman for the BCWRD. Jerry Hieb was elected Chairman with a unanimous roll call vote. Chairman Hieb then asked for Vice Chairman nomination's. Bruce Anderson was elected Vice Chairman with a unanimous roll call vote.

Chairman Hieb opened the meeting at 9:05 am.

Manager Anderson made a motion to leave Portfolio assignments the same Manager Fehr second. Motion approved with a roll call vote.

Manager Anderson made a motion to add Griggs/Barnes Joint Board Portfolio and assign to Managers Bret Fehr, Dale Jorissen and Shawn Olauson. Manager Fehr second. Motion approved with a roll call vote.

Manager Olauson made a motion to approve the December Minutes with corrections. Manager Jorissen seconded. Minutes approved as corrected.

Manager Fehr made a motion to approve 9 am on the 2nd Monday of each month as the meeting day for BCWRD. Manager Olauson second motion. Motion approved with a roll call vote.

OLD BUSINESS

Shanenko /Albert Wittenberg Complaint – Chairman Hieb had a discussion with Lori Frank on this complaint and she informed--you cannot have a water way drain into a legal drain. Sean Fredricks mentioned also that you cannot deepen drain but you can do slope improvements. Went over previous meeting discussions on this complaint.

Hovde/Storhoff Complaint - Sean Fredricks explained the districts position on this complaint from December's meeting. Mr. Hovde addressed the district and brought maps and information regarding his complaint. The district has ruled on this complaint at last month's meeting.

Shawn Anderson & Kevin Harstad Obstruction - Table till February WRD meeting.

Thordenskjold Drain Extention - Joshua Hassel addressed the managers and went over the updated survey profile maps of Thordenskjold Drain. Joshua also went over culvert study they did. Most reinforced concrete boxes are in pretty good shape, but all wing walls are in tough shape from water running/sitting around them for possibly 25 to 30 some years. 49th St concrete box is in really bad shape. Some of these wing walls could be repaired or reinforced for the most part. Manager Fehr made a motion for Moore Engineering too inspect and get ideas and costs for getting repairs done on the wing walls of the concrete boxes. Manager Olauson second. Motion approved with a roll call vote.

Hobart Lake Project – Joshua Hassell - FEMA needed additional information so Josh will get that so we can finalize phase one and on to phase two.

Paul Stenshoel sent a letter, last fall, with some questions in it and had not gotten any response to the questions. Josh will get this information to Mr. Stenshoel.

VC Little Dam - Joshua Hassall handed out preliminary design information on the VC Little Dam, from Barr Engineering, for the Managers to review. Ron from Barr Engineering will be at the February water district meeting with information on the Kathryn Dam Project and can answer any questions on the VC Little Dam Project at that time.

Joint Griggs/Barnes WRD – Manager Fehr informed district of the upcoming informational meeting at Hannaford Wildlife Club Building, Thursday, January 14, at 7 pm. All ballots have been mailed out to landowners of the project with a return deadline of Monday, January 25, 2016. Ballots will be counted at 4 pm on January 25, 2016 at the BC Highway Dept. Conference Room.

10 Mile Lake - Paul Abrahamson addressed the district with an update for 10 Mile Lake. **See attached Water Quality Summary for 10 Mile Lake.** Keith Weston looked over report also. Paul Abrahamson read a Summary Report from Peter Wax. Paul is still hoping for meetings with the Corp of Engineers.

NEW BUSINESS

James Storhoff addressed managers regarding Thordenskjold Drain questions. James had questions regarding the different government agencies involved with the drain. Discussion followed.

SHEYENNE RIVER SNAGGING AND CLEARING

Brady Woodard from Moore Engineering provided some background regarding how most water resource districts conduct snagging and clearing operations. Brady explained the process and provided rates from Industrial Builders and American Enterprises, two contractors several water resource districts in the region utilize for snagging and clearing projects. IBI has indicated they have crews available and could commence operations quickly. Brady explained water resource districts typically only enter into contracts for those portions of a river the Board believes the contractor can complete and then, weather permitting, the Board can consider the possibility of proceeding further if the contractor completes the initial reach. In this instance, Brady explained the reach of snagging and clearing proposed along the Sheyenne would cost under the

\$100,000 bidding threshold; therefore, the Board could approve an agreement with a contractor to complete the work without public bidding since the estimate is below the bidding threshold. Sean Fredricks can draft an agreement with a contractor to assure the contractor does not exceed that \$100,000 barrier. Brady again emphasized any additional reaches would be on a “weather permitting” basis. Brady also explained the practice of the contractors is to leave the roots of the trees along the bank so the removal of the roots does not cause erosion.

Chairman Hieb indicated he lives along the course of the proposed snagging and clearing project. Mr. Fredricks indicated the Board could conduct conflict analysis for this proposed project to address any perceived benefit Chairman Hieb may realize as a result of the project.

Mr. Fredricks explained the conflict analysis the Board should conduct regarding Chairman Hieb’s potential conflict. Section 44-04-22 of the North Dakota Century Code provides the relevant standard. That statute provides:

A person acting in a legislative or quasi-legislative or judicial or quasi-judicial capacity for a political subdivision of the state who has a direct and substantial personal or pecuniary interest in a matter before that board, council, commission, or other body, must disclose the fact to the body of which that person is a member, and may not participate in or vote on that particular matter without the consent of a majority of the rest of the body.

Mr. Fredricks indicated the North Dakota Supreme Court and the Attorney General’s Office have taken a narrow view of situations where a public official can abstain from participating in a matter. A public official must have a direct and substantial personal or pecuniary interest in the matter. The mere appearance of a conflict is not enough to allow the public official to refrain from participating. The North Dakota Supreme Court adopted a rule of necessity that requires public officials to participate in matters before their respective boards. The public policy rationale is that public officials have a duty to vote on issues before them, and cannot avoid participation simply to avoid the appearance of impropriety.

The Section 44-04-22 test requires a multi-step analysis. First, a public official concerned about a conflict of interest should confer with the Board's attorney to determine if a direct and substantial personal or pecuniary interest conflict exists under Section 44-04-22. If the public official's review with the governing entity's attorney is not dispositive, the remainder of the governing entity's Board should vote to determine if a conflict exists by a majority vote. If the remaining members conclude a conflict does exist (or if the member and the Board's attorney concludes a conflict exists), the remainder of the Board should next vote on whether or not the public official should participate in or vote on that particular matter In other words, even if a conflict does exist (even if the official does have a direct and substantial personal or pecuniary interest in the matter), if the governing entity concludes the public official should still participate despite the conflict, the official must participate.

With regard to Chairman Hieb's property adjacent to the snagging and clearing project, Mr. Fredricks indicated the situation may not necessarily create a legal conflict situation since Chairman Hieb would not benefit financially from the project; however, Mr. Fredricks indicated the removal of dead trees and related debris along the bank of Chairman Hieb's property could benefit his property. However, the remaining members of the Board voted unanimously to require Chairman Hieb to continue to participate in all project-related matters. The Managers noted that Chairman Hieb is familiar with the area and with the proposed project, he understands the local issues better than any other managers, he knows the landowners in the area, and the Board did not believe Chairman Hieb's personal interest in land has in the past or would in the future impact Chairman Hieb's judgment. Specifically, Manager Anderson, Manager Olauson, Manager Fehr, and Manager Jorissen all voted to require Chairman Hieb to continue to participate.

The Board agreed entering into an agreement with Industrial Builders regarding snagging and clearing operations is necessary. Manager Fehr moved to approve an agreement with Industrial Builders to conduct snagging and clearing operations of the Sheyenne River along the course designated in the map provided by Brady Woodard. Manager Anderson seconded the motion. Upon roll call vote, the motion carried unanimously.

Upper Maple River Watershed – Jerry Garrahy addressed the district regarding information on the Upper Maple River Watershed. Manager Olauson is also on this board. Discussion followed.

Conference Room Improvement – The Highway Dept. is doing some updating of the office and conference rooms and wondered if the water district would contribute to the update. Discussion followed and Manager Fehr made a motion NOT to contribute in the cost of the updating project. Manager Jorissen second. Motion approved with a roll call vote.

BILLS

Managers went over the December bills. Manager Olauson made a motion to pay bills in the amount of \$4,921.63. Manager Jorissen second. Motion approved with a roll call vote.

Manager Olauson made a motion to adjourn second by Manager Jorissen.
Adjourned 12:38 pm.

Respectfully submitted,



Linda McKenna

Secretary/Treasurer

Barnes County Water Resource Board

10 Mile Lake Water Quality Summary
By Michael Hargiss
Environmental Scientist/Red River Basin Coordinator
Watershed Management Program
North Dakota Department of Health, Division of Water Quality
Fargo, ND
January 8, 2016

The following is a preliminary analysis of water quality samples that were collected from 10 Mile Lake and analyzed by MVTL for the Barnes County WRD. The purpose of the sampling was to evaluate the potential impact of an outlet and drain on downstream receiving waters. Therefore, this data analysis and interpretation is based on the water quality of 10 Mile Lake and its potential to impact the water quality of the Sheyenne River and Lake Ashtabula and applicable water quality standards.

Ten Mile Lake is classified in the Standards of Quality for Waters of the State "North Dakota Administrative Code (NDAC) § 33-16-02.1" as a Class IV lake. Class IV lakes are characterized as being a marginal fishery capable of supporting a fishery on a short-term or seasonal basis (generally a "put and take" fishery). The Standards of Quality for Waters of the State (WQS) for lakes is the same beneficial use and numeric criteria as Class 1 streams, including the State standard for dissolved nitrate as N, of 1.0 mg/L. The Sheyenne River either above Lake Ashtabula or below Lake Ashtabula is a Class IA stream. Class IA streams have the same physical and chemical criteria as Class I streams with the following exceptions: Chlorides 175 mg/L and sulfate 450 mg/L maximum limit. There is one site specific standard for the Sheyenne River from its headwaters to one-tenth mile downstream from Baldhill Dam for sulfate of 750 mg/L only when Devils Lake outlet is running.

Water quality samples were collected from 10 Mile Lake on October 26, 2015 from three locations. One sample was collected from a location on the north end of the lake, one sample was collected from the middle region and one sample was collected from a location in the south end. All samples were analyzed for general chemistry, which includes the major cations and anions, pH and conductivity; nutrients, which includes nitrate-nitrite, ammonia, Total Kjeldahl Nitrogen and total phosphorus; and trace elements, which includes iron, manganese, zinc, boron, arsenic, barium, cadmium, chromium, copper, lead, nickel, selenium, and silver.

The pH levels of the samples collected from 10 mile Lake are within the WQS criterion which is a range of 7-9 pH the results of the samples were 7.9 to 8.2 pH. Total Dissolved Solids are high ranging from 1960 to 2000 mg/L based on the EPA Secondary Drinking Water Standard the levels at 500 mg/L. Chlorides fell below the WQS criterion of 100 mg/L with a range of 60.3 to 61.6 mg/L. Fluoride was also below the WQS of 4.0 mg/L with sampling site values ranging from 0.16 to 0.17 mg/L. The water quality results for Total Sulfates were high, ranging in values of 976 to 1020 mg/L and should be factored into the water management plan for 10 Mile Lake.

The nutrient results indicate that there is a significant concentration of Total Phosphorus in 10 Mile Lake and this should be factored into the water management plan of the Lake since nutrients, in particular Total Phosphorus, can impact the water quality of downstream areas by increasing the occurrence of algal blooms (blue-green algae) and also affect municipal water treatment resulting in further treatment of the water for drinking. Nitrate levels ranged from 0.2 to 0.44 mg/L which does fall below the WQS of 1.0 mg/L, but since this is also a nutrient that can stimulate algal growth and cause further municipal water treatment the recommendation will be the same as Total Phosphorus.

The trace elements that were analyzed by MVTL seemed to fall below WQS. The only trace element to stand out was Total Iron, the water quality result for the north area of the lake had a result of 3.1 mg/L, while the south and mid results were 0.11 and 0.34 mg/L, respectfully. I could not come up with an explanation for the high Iron concentration in the north area sample. This could be a spot where ground water is feeding into 10 Mile Lake and it would be prudent to investigate further.

Table 1. Sulfate results for 10-Mile Lake and Lake Ashtabula in 2013-2014

Location	Sulfates	Units	Location	Sulfates	Units
10 Mile Lake North	997	mg/L	Lake Ashtabula East of Hannaford (average)	487 ¹	mg/L
10 Mile Lake Middle	1020	mg/L	Lake Ashtabula @ Sibley Crossing (average)	503 ¹	mg/L
10 Mile Lake Southeast	976	mg/L	Lake Ashtabula @ Ashtabula Crossing (average)	454.8 ¹	mg/L
			Sheyenne River (average)	480 ¹	
Standards of Quality for Waters of the State					
Water Quality Standard for the Sheyenne River	450	mg/L	Water Quality Standard Sheyenne River	450	mg/L
Water Quality Standard for Lake Ashtabula	250	mg/L	Water Quality Standard for Lake Ashtabula	250	mg/L

¹Data collected by State Water Commission between 1/22/13 and 7/16/14 (N= 33)

In summary, sulfate is the element of primary concern. The sulfate criterion for the Sheyenne River and Lake Ashtabula is 450 and 250 mg/L, respectively, and the waters in 10-Mile Lake is substantially higher at 976 to 1020 mg/L. Additionally, the anti-degradation policy within the WQS prevents any anthropogenic action to decrease the assimilative capacity of any State water by more than 15 percent and there is very little to zero assimilative capacity in either the Sheyenne River or Lake Ashtabula.

Barnes County Water Resource District

PO Box 306

Valley City, ND 58072

January 11, 2016

MEETING ATTENDANCE

PLEASE SIGN BELOW

Libby Trebble

David Winkler

Daniel Hood 770112, N.D. 58062

Mike Metcalf

Egred Hunter

Paul Anderson

Paul Stenshoel

KURT TOMPKINS

Jim Stachoff

Jerry Garrahy

Rodger Berntson