

Barnes County Water Resource District

PO Box 306

Valley City, ND 58072

701-845-8508

April 11, 2016

MEETING MINUTES

Members Present: Chairman Jerry Hieb, Manager Bruce Anderson, Manager Sean Olauson, Manager Bret Fehr, Manager Dale Jorissen, Mike Opat – Moore Engineering, Sean Fredricks – Ohnstad Twichell.

Also Present: See Attached List

Chairman Hieb called the meeting to order.

Manager Fehr made a motion to approve the March Minutes as added. Manager Olauson second. Motion approved.

Wittenbureg/Shanenko Complaint - At March meeting both parties were going to meet and try to come to an agreement. Mr. Shanenko called Manager Anderson and brought maps for this meeting. Discussion followed. Attorney for Mr. Wittenberg has not contacted our Attorney Fredricks. If no information by May meeting we will schedule a hearing for this complaint.

Jerald Orn Complaints Against Greg Hazard – Drainage and Obstruction

Complaints

The Board next considered Jerald Orn's Complaint against Greg Hazard; Mr. Orn filed his Complaints on the new forms supplied by the State Engineer's Office, the COMPLAINT FOR WATER-RELATED ISSUES, and Mr. Orn's Complaint was dated February 1, 2016. With regard to the drainage issues, Mr. Orn alleged that Greg Hazard constructed two ditches in the Southwest Quarter of Section 22 of Pierce Township, Barnes County, North Dakota. According to records on file with the

Barnes County Recorder's office, Raymond Nelson owns the Southwest Quarter of Section 22 subject to a Contract for Deed in favor of Greg and Mary Lou Hazard.

The Board previously directed Mike Opat to investigate the allegations. Mike viewed the Southwest Quarter of Section 22 and found that, while there is evidence of new ditching constructed in that quarter, the watershed area impacted is less than 80 acres.

Sean Fredricks has advised the Board that if Mr. Hazard constructed any new ditching, or deepened or widened existing ditches, the 80-acre standard applies under Sections 61-32-03 and 61-32-07. In other words, if the watershed area drained by the new drainage or by the deepening or widening of existing drainage is 80 acres or more, the work would have required a permit under Section 61-32-03. Under Section 61-32-03, only drainage that impacts a watershed area of 80 acres or more requires a permit. In this instance, Mr. Opat found the watershed area impacted by the ditching constructed in the Southwest Quarter of Section 22 was less than 80 acres and, therefore, Mr. Hazard's ditching did not require a permit under North Dakota law. Sean advised the Board that, in light of that finding, the Board had no choice but to dismiss the Complaint regarding allegations of unpermitted drainage by Mr. Hazard.

With regard to the allegations of an obstruction to a drain or watercourse in violation of N.D. Cent. Code Section 61-16.1-51, Mike Opat also reviewed the Southwest Quarter of Section 22 to investigate. Mr. Orn alleges Mr. Hazard previously procured a contractor to bury a rock pile "that created a dam where the natural drain crosses through the section line prairie road." Under Section 61-16.1-51, the complaining party must demonstrate the responsible landowner, by negligent act or omission, installed or constructed "a barrier to a watercourse . . . or an artificial drain . . . which materially affects the free flow of waters in the watercourse or drain."

In this instance, Mike investigated and found no evidence of any barrier that materially affects the free flow of water in any watercourse or drain. With that in mind, the Board lacks jurisdiction to order removal of any material in the Southwest Quarter of Section 22.

Mr. Hazard was present at the meeting and indicated he would work with the Township regarding his concerns.

In light of the lack of jurisdiction over both Complaints, the drainage complaint and the obstruction complaint, the Board determined dismissal is the only option available for the Board. Manager Fehr, seconded by Manager Olauson, moved to dismiss the COMPLAINT FOR WATER-RELATED ISSUES filed by Jerald Orn due to lack of jurisdiction under Sections 61-16.1-51, 61-32-03 and 61-32-07. Upon roll call vote, the motion carried unanimously. The Board directed Sean Fredricks to prepare the requisite Notice of Decision and to send to the decision to the parties of record.

Harold Pross-Dam/Dike Complaint - Discussion on the information received from John Thompson – NDDOT regarding this block. Harold Pross gave a short background of how this block was approved back in 1998. Don Jorissen also added information regarding the block. LeRoy Triebold added information to keep this block in. Discussion followed. Manager Jorissen made a motion to have the ditch block taken out. Manager Anderson second. Motion approved with a unanimous roll call vote. Linda will send a letter to Mr. Thompson at NDDOT asking if the DOT would remove the block. Harold Pross was willing to withdraw his complaint, after the block is removed he will send the district a letter of withdrawal.

Thordenskjold Drain Maintenance – Mike brought the managers up to date on what is being worked on. IBI went out and looked at culverts & wing walls in the system. BCWRD was concerned about the high culverts in the middle of the drain and getting those taken care of this year and coming back to wing walls next year. Brady came up with not to exceed \$30,000, for the lowering of these culverts, for IBI. Discussion followed to see if Scott Cummings d/b/a CR Excavating would also like to bid this project for the BCWRD.

Manager Fehr made a motion to have Sean Fredricks make up a contract with Scott Cummings d/b/a CR Excavating for lowering the three culverts for \$7300 with a max of \$10,000, providing no other hidden costs come up. Also clean

other small area through Jim Storhoff's land. Manager Anderson second. Motion Approved with a unanimous roll call vote.

Discussion of a culvert in need of fixing on 45th St. SE in Norma Twp. This culvert is not in the Thordenskjold Drain therefore not under our authority to use our funds to fix.

Snagging & Clearing Update - Mike Opat went over the map handout and explained where they finished up with the project and budget will be used up. Mike will start the process for a New Snagging and Clearing Project for next year or maybe this. Discussion on including the Sheyenne River north of Valley City. Mike will submit new cost share information, for a new district. Our water district will have to okay the new project, have the County Commission okay and a Public Hearing, but no vote is necessary. Sean Fredricks will bring in a new Resolution for May meeting.

10 Mile Lake – Mike Opat asked for any questions from draft proposal he handed out at last meeting. Josh and Mike will put together some costs and will work with level numbers from NRCS for May meeting. Dale Jorissen explained some points that he and Paul Abrahamson talked about making progress on this project and will we ever get something in place before another high water event. Manager Jorissen is questioning whether we should spend more money on this project. Paul will present a second draft with financial estimates to the Concerned Citizens group for any suggestions before BCWRD May Meeting.

Hobart Lake - Not much to update. Still trying to finalize Phase 1 and get started on Phase 2. Discussion on easements.

Kathryn Dam – Will move forward with plans the district chose. Mike will have proposal at May meeting.

Little Dam – Design options need to be chosen by the district. Maybe by May meeting district can decide option and get a community meeting date set up.

SWC Project Planning 2017-2019 – Mike Opat handed out Project Information & Planning Forms and discussed all five projects that our district would like the SWC to be aware of. They will get forms prepared and sent to Linda then she can send off to SWC.

Legge, Anderson, Harstad Obstruction Complaint – Manager Anderson gave information he got from Matt Daily, with Alliance Pipeline. Brad Bellmore will not share the information with the BCWRD. Kurt Tompkins addressed the district on his status on this complaint. Discussion followed. Tabled till May meeting.

Legal Drain 2 - Discussion on the 2 gates that were removed from the drain. Scott Legge, from Advisory Board, addressed the district. Discussion followed. Scott Legge will make sure the two gates get put back into the drain before fall.

Joint Griggs/Barnes WRD – Manager Fehr told district of the upcoming meeting. No more to report at this time. Still trying to finalize voting.

NEWS BUSINESS

Doliver Tile App. – will have information at May meeting.

Matt Gast Tile App. – will have information at May meeting.

Fred Offner – Chairman Hieb gave a short back ground on this issue. Discussion followed. Sean Fredricks will send a letter to Offner’s Attorney.

Bills - Manager Fehr made a motion to approve the payment of the bills in the amount of \$23,636.24. Manager Anderson second.

Motion approved

Respectfully submitted,



Linda McKenna

Secretary

BC Water Resource District