

Barnes County Water Resource District

PO Box 306

Valley City, ND 58072

701-845-8508

May 9, 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 Olauson made a motion to approve the April Minutes as added too. Manager Anderson second. Motion approved.

Harold Pross Complaint – No information from State Highway Dept.

Shanenko/Wittenberg Complaint – Parties are still trying to work out a settlement. Sean Fredricks will send parties a letter advising them if this complaint is not settled by June, BCWRD will schedule a June hearing.

Legge, Anderson & Harstad Complaints – We have no elevation information available on this last mile. Discussion followed. Manager Anderson made a motion to have Moore Engineering survey the area of the complaint. Manager Jorissen second. Motion Approved with a roll call vote.

Dolliver Drain Tile App. – Sean Fredricks informed the district that 30 day Notices had been sent out on this project. Discussion regarding Mr. Cummings complaint that includes a natural water way. Will have Mr. Dolliver, Devin Winters and Mr. Cummings come to June water district meeting.

Fred Offner email – Sean Fredricks updated district on these damages from back in 2009. Kurt Tompkins had photos and written memo from back then. Kurt gave this information to Mr. Fredricks. A letter was sent April 19, 2016, to Mr. Offners Attorney and no word yet.

Application to Install a Subsurface Drain for Allan Skogen in Section 30 of Hobart Township

The Board reviewed *Application to Install a Subsurface Drain* dated March 13, 2016, for Allan Skogen. The Board reviewed the criteria in Section 89-02-01-09 of the North Dakota Administrative Code and concluded the project does not meet any of the “statewide” elements, and the Board concluded therefore the application does not propose drainage of statewide significance, so the Board has jurisdiction to approve the permit (without forwarding to the State Engineer’s Office to consider and approve). Under the application, Applicant seeks to install a drain tile system in several portions of Section 30 of Hobart Township, Barnes County, North Dakota. The project will include a single pump outlet that will discharge via an underground pipeline beginning in the North Half of the Southeast Quarter of Section 30 and running north across the West Half of the Northeast Quarter of Section 30 until ultimately discharging into a natural watercourse in the Northeast Quarter of Section 30. The natural watercourse ultimately discharges into Sanborn Lake.

Mike Opat, the Board’s engineer, reviewed the application and indicated the project will discharge directly into a natural watercourse; Mike recommended that the Board require Applicant to install and maintain erosion protection in the natural watercourse. Because the proposed project will discharge directly into a natural watercourse, the application did not require a *Thirty-Day Notice* under N.D. Cent. Code Section 61-32-03.1, and the Board cannot require Applicant to obtain any flowage easements from downstream landowners; however, the Board can require Applicant to obtain a pipeline easement where Applicant will install an underground pipeline on property not owned by Applicant.

According to records on file with the Barnes County Recorder's Office, Applicant owns those portions of Section 30 where Applicant intends to install the tile system, with the exception of the Northeast Quarter of Section 30 owned by the Melvin and Ardell Skogen Family Trust. Wayne Brock owns the North 750.5 feet of the Northwest Quarter of Section 30; however, Applicant does not intend to install the tile system on property owned by Mr. Brock. Further, Dennis and Kimberly Bredeson own 23 acres in the North Half of the Southeast Quarter of Section 30 across which Applicant will install portions of the underground pipeline.

Manager Anderson moved, and Manager Fehr seconded the motion, to approve *Application to Install a Subsurface Drain* dated March 13, 2016, for Allan Skogen in Section 30 of Hobart Township, all subject to the following conditions:

- 1) That Applicant obtain and record (with the Barnes County Recorder's office) an easement (and not just written consent) to allow Applicant to install and maintain a tile system from the owners of the Northeast Quarter of Section 30 in Hobart Township, Barnes County, North Dakota;
- 2) That Applicant obtain and record (with the Barnes County Recorder's office) a permanent easement (and not just a written consent) that permits Applicant to install, operate, and maintain a buried pipe from the owner of the North Half of the Southeast Quarter of Section 30, Hobart Township, Barnes County, North Dakota;
- 3) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 4) That Applicant provide and maintain adequate erosion protection at any and all outlets into the natural watercourse in the Northeast Quarter of Section 30;
- 5) That Applicant must operate the pump in the following manner:

Applicant cannot operate the pump if the water levels in Sanborn Lake are at or above the invert elevation of the inlet pipe on the Sanborn Lake outlet structure located in the SW ¼ of Section 7 in Hobart Township;

- 6) That Applicant notify the Barnes County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 7) That Applicant notify the Barnes County Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application;
- 8) That Applicant must close all outlets during flood occurrences or under conditions that may cause adverse impacts to downstream landowners, as determined by the Board; and
- 9) 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.

Upon roll call vote, the motion carried unanimously.

Snagging and Clearing Project – Chairman Hieb passed around pictures of trees still in the river and discussion followed. Manager Fehr made a motion to set the hearing for a new Snagging & Clearing District for 9:30 am during our next WRD meeting on June 13th. Manager Olauson second. Motion approved with a roll call vote.

THORDENSKJOLD DRAIN NO. 1 EXTENSION

The Board next reviewed information from the State Engineer regarding APPLICATION TO DRAIN No. 4831, previously submitted by the Barnes County Water Resource District regarding the THORDENSKJOLD DRAIN No. 1 EXTENSION PROJECT.

The District previously approved a RESOLUTION OF NECESSITY TO EXTEND THORDENSKJOLD DRAIN No. 1 dated July 14, 2014. The District has obtained all of the requisite right of way to accommodate the extension project and, following approval of a drainage permit, the District will execute an Order to officially extend the Thordenskjold Drain. The extension will include improvements in Sections 23 and 24 of Thordenskjold Township. The District submitted a drainage permit

application regarding the Thordenskjold Drain extension project to the State Engineer's office, as required under North Dakota law. The State Engineer forwarded Application to Drain No. 4831 to the District, including the State Engineer's conclusion the project is not of either "statewide or interdistrict significance."

The Board reviewed and adopted Moore Engineering's proposed responses to the eight elements under 89-02-01-09.2 of the North Dakota Administrative Code. The Board further determined no hearing was necessary regarding APPLICATION TO DRAIN NO. 4831 under 89-02-01-09.1(2) of the North Dakota Administrative Code because the Board is acquiring the requisite right of way to accommodate the project, and the right of way acquisition will eliminate adverse impacts to private landowners. In addition, the District is designing the Project to correspond to the natural drainage path of the drain with the same discharge point, and in a manner that will minimize any potential downstream impacts.

Manager Olauson moved to approve APPLICATION TO DRAIN NO. 4831 for the Barnes County Water Resource District, subject to any conditions attached by the State Engineer. Manager Fehr second the motion. Upon roll call vote, the motion carried unanimously.

Sean Fredricks will prepare a final Order for the Board's consideration and approval at the Board's June meeting.

Hobart Lake - Mike Opat said we are still waiting to hear from the State, and since the last meeting there was a sight visit from the Corp of Engineers, FEMA & DHS, as they had different staff and needed to be updated to this project. No other update.

Kathryn Dam – Mike Opat explained hand out information on high range estimate and midrange estimate. Moore and Barr Engineering working to submit cost

share estimate to the SWC. We need to approve so we can get in on their next scheduled meeting so we keep the project moving forward. Manager Fehr made a motion to submit the cost share to the State Water Commission. Manager Jorissen second. Motion approved with a roll call vote.

Little Dam – Mike Opat updated that he had been in contact with the City Administrator Schelkoph and that the Schelkoph would pass this information on to the City Commissioners. Discussion followed. This project put on hold till further information is brought forward with the City.

SWC Project Requests have been sent in for the next Biennium.

Albert Wittenburg Complaint – Questions on his complaint. Nothing was done at this meeting and if Albert has not heard about his permit from the state. The district can extend the deadline of June 1st. Discussion followed. Manager Olauson made a motion to extend June 1st deadline till permit from the state is obtained. Manager Fehr second. Motion approved with a roll call vote.

10 Mile Lake – Mike Opat handout Moore Engineering proposal for Ten Mile Project and explained it.

Tasks were main purpose of this proposal: (Briefly from handout)

1 - Preliminary survey data so preliminary design and cost estimating purposes. Time for landowners to get all paper work submitted to other agencies involved.

2 – Lake & Wetland Elevation Determinations & Impacts Analysis especially along the route/ditch whichever is finally decided. Landowners cooperation.

3 – Water Quality Analysis which has greater limitations on the possible impacts with testing and modeling for discharge. Lake Ashtabula is a Class III lake and will be difficult to discharge the type of water quality, from the previous tests, of 10 Mile Lake water.

4 – Benefit Analysis, Assessment District Maps & Assessment List. Look at preliminary assessment district boundary map. Conduct informal meetings

and getting complete tax roll for all areas in 10 Mile Lake boundary area. Get ruff idea of cost estimate.

5 – Preliminary Design & Cost Estimate would take to getting design the district would vote on and also work on what is needed for permitting process.

6 – Permitting completion and submittal that is required by the State Engineer.

7 – Benefit analysis, Assessment District Maps and lists. Finalize preliminary assessment district and voting process with the landowners.

If the district would like to approve this proposal, it is a small enough project, would go directly to State Engineer.

Commissioner Froelich mentioned the Devils Lake would stop pumping at 1448.

Manager Anderson made a motion to have Moore Engineering submit cost share proposal to State Engineer. Manager Olauson second. Motion approved with a roll call vote. The District will hold off with voting for the Engineers Proposal for Services on 10 Mile Lake till they hear from the State on cost share.

Paul Abrahamson is still staying in touch with Keith Weston and the elevation they purpose of 1432. Paul reminded district in 2011 the lake bounced 6 ft. (Historic high was 1435) maybe we should be discussing a lower elevation to account for bounce in a high water year. The Corp may be willing to adjust elevation a little lower for permitting purposes. This topic has been on the agenda so long and is of State Wide Significance. To accelerate the permitting process we should work with State Conservationist. Paul will keep monitoring the water quality. Current elevation of 10 Mile Lake is 1431.6.

Joint Griggs/Barnes WRD – Managers Fehr and Jorissen updated the progress of the Silver Creek Drain #1 project. Mr. Mutschler added information regarding the plate installed on culvers back in 2000/01. Manager Jorissen is not happy on how this project has moved forward on here say and without documentation. Joint meeting coming up on Monday, May 16, 2016, 10am at BCHD Conference Room.

NEW BUSINESS

Arvid Winkler addressed the Managers regarding Albert Wittenburg situation, using the township road as a dam and brought up court cases that were 50 years ago. Sean Fredricks explained about these cases, and that back in the 90's the court ruled that townships have jurisdiction on culverts in township roads. Legislature formed the Stream Crossing Standards to deal with townships using a road as a dam. Townships have 10 year minimum standard where if they construct or reconstruct a road or crossing and a landowner has problems with this road acting as a dam, and the landowner gets no assistance from the township to correct this problem, they can take township to court. Water Districts only have jurisdiction if the road or crossing is in a Legal Assessment Drain.

Utility Permit – Jerry Hieb heard about this utility permit that other water districts have been using and it was written by Sean Fredricks. Managers were inquiring if we should have a utility permit for all tiling applications under 80 acres. Sean explained you have a utility permit for tiling under 80 acres if it outlets into a legal assessment drain. This permit is available to the district if we wish.

Mike Clemens Drain Tile – Manager Jorissen commented that these separate applications all end up draining into 10 Mile Lake. Mike Opat explained these two applications were under 80 acres each, and our district requests that we be notified, of tiling projects under 80 acres. Discussion followed. No further action taken.

Bills

Manager Anderson made a motion to pay the bills in the amount of \$ 85,206.13. (Minus the Renaissance Engineering bill.) Manager Jorissen second. Motion approved on a roll call vote.

Meeting adjourned.

Respectfully submitted,

A handwritten signature in cursive script that reads "Linda McKenna". The signature is written in black ink and is positioned above the printed name.

Linda McKenna

Secretary

BC Water Resource District