

Barnes County Water Resource District

PO Box 306

Valley City, ND 58072

701-845-8508

July 29, 2019

SPECIAL MEETING MINUTES

PRESENT: Chairman Jerry Hieb, Manager Scott Legge, Manager Dan Buttke, Manager Bruce Anderson, Mike Opat – Moore Eng.

Also Present: See attached list

Chairman Hieb called the Special Meeting for Sanborn Lake to order at 9:00 a.m. He then introduced Mike Opat and turned the meeting over to him to explain the situation today. Mr. Opat started with an update and history, he stated that most everyone present today is aware what took place back in 2011. He explained everything from BNSF not being able to raise their tracks any higher due to clearance issues with bridges, to the agreement between BNSF and the WRD with the money put forward for a project that was put in. He also explained the board started to go through the process of obtaining a permanent permit for the project then come to find the project was of statewide significance – which means a lengthier permitting process. He discussed how the board came to the decision to move forward with the emergency permit, after it was issued shortly thereafter the project was operated. He explained the water levels dropped as hoped, after that there were some issues downstream that the WRD and landowners worked through in terms of repairs and those kinds of things. Following that over the course of eight years between the WRD and county there have been attempts to try to acquire some of the remaining flowage easements downstream.

This past year with the large snow melt run off and the repeated rainfalls that have taken place the water levels in the complex (Sanborn Lake complex encompasses the 4 basins that are interconnected) have continued to rise and are still going up. It is spilling over now naturally; the pipe has been closed now for some time. BNSF sent the WRD a letter stating they need to follow through with the agreement signed in 2011 to get the water back down to elevation 1427. Their situation is getting more critical they are within roughly a ½ foot of water going over the tracks, the high water will soon impact their signal system. The WRD took action by authorizing another submittal of an emergency permit application to again get the project to be able to operate short term, the application went through a review at the OSE they requested additional information to confirm this is an emergency situation. Last Thursday there was a Special Meeting held to go over the application, the OSE is taking this under advisement and sending it up the chain of command for review and possible approval. We believe it is favorable and hope they will issue an emergency permit if the board receives approval, they could begin to operate the pipe again. Mr. Opat explained the pipe does not have to be fully open, the board could open the gate partially and control

the flows and try to mitigate any downstream issues. Ideally, the WRD would like to get these remaining flowage easements wrapped up so everything is on paper and we have an understanding before additional water starts running.

The meeting was then opened to landowner questions/discussion. There was some discussion on if the water can be taken down lower than the 1427, it was pointed out that cattails are an ongoing issue in the natural channel. Manager Anderson stated that Kurt T. has given the board permission to spray the cattails on some of the properties, to keep the flow in the channel running naturally. Roger Triebold asked if the board is going to get a permanent permit? Mr. Opat explained that a big hurdle in this process is the USFWS easements, for the permanent permit the board needs to have a plan in place to address impacts or mitigating those easements somewhere which is not going to be easy or cheap. He also discussed water quality which has not been an issue back in 2011, but this is an issue we have acquired now. Manager Anderson stated the board has authorized water samples to be taken, we are waiting on results. Mr. Opat then brought up the importance of the operation plan and stated the plan will have protections in there for downstream landowners between the outlet and river. He gave some examples and expressed that the board doesn't have to operate the pipe fully open, he envisions opening it slowly to monitor downstream and then see if we can open it more making sure there are no adverse effects. There was some discussion on mitigating acres, Mr. Opat reported from what we found last time the only issue with USFWS was in Offner's on SW of sec 34 these should be the extent of any easement mitigation. There were no concerns with water after it flowed through the NE part of sec 34. There was a concern brought up on the Elaine Davies Trust property, there is some erosion along the twp road on sec 26 & the North side of sec 35.

The board asked each landowner present to discuss their concerns.

Don Vig signed a purchase agreement back in 2011 with the elevation of Pearl Lake to be at 1420, he stated it is too high his 165 acres is pretty much the lake itself. He has lost about 10 acres of farmland on the SW ¼ of sec 5 and 3-4 acres on sec 7. Mr. Opat stated this could be something to consider including the 15-20 acres of unusable farmland in the easement for payment, that might help offset those impacts. Chairman Hieb suggested spraying the cattails, Manager Legge pointed out that once things are signed it becomes the WRD drain and the board will take care of the spraying.

Allen & Janelle Skogen signed back in 2011, Don Vig stated water does impact the very NW corner of sec 5 on this parcel also. Mr. Opat stated he will take another look at these and quantify it for the board. Karen Wendel, Chad Farnquist, and Todd Wendel have all signed back in 2011.

Walt Jorissen was present he stated he will not give the board an easement but will sign an agreement to let the water go through his 12ft channel. If cattails come up, they should be the WRD responsibility if the board agrees to that he does not have a problem.

Allen Triebold was present he has a concern on the north/south twp road then go west 30ft, the cattails are silted in and he would like them to be cleaned/cleared out. Manager Legge and Manager Anderson both stated this is dependent on the USFWS easement on that parcel, the board wants the information of the perimeter of the easement from Kurt T. before any work will be done there. Mr. Triebold informed the board of some spoil piles on the Elaine Davies Trust land, he stated the cleanout that was done around 6 yrs. ago the spoil piles are holding the water back. This board did not recall any work being done on this parcel.

Allen Marler was present, and he stated the spoil piles on the Davies land is the issue he has with his watering hole for his cattle. If those piles were leveled off then his watering hole would not silt in. He would like it written in his easement that the water hole will be kept cleaned out.

Don Schlotman was present he stated he had no reason not to sign his easement.

Pete Paulson was also present he agreed with Mr. Schlotman.

The board discussed that if the state does issue an emergency permit, they can operate the pipe at some level as soon as the permit comes the board intends to open the pipe slowly and continue to work on acquiring the easements downstream.

Manager Legge made the motion on the Allen Marlar parcel to monitor the water hole to make sure it is not filling in with sediment, and to have the landowner notify the board when he feels it is silting in so the WRD can take some type of action. Seconded by Manager Anderson. Upon roll call vote, the motion carried unanimously.

Manager Anderson made the motion to level off the spoil piles on the Elaine Davies Trust land, so they don't hinder any access to the property. Seconded by Manager Legge. Upon roll call vote, the motion carried unanimously.

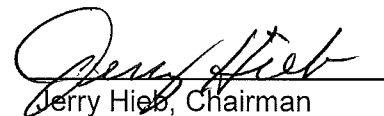
Manager Anderson made the motion to spray cattails along the channel that Kurt T. allowed with the wildlife easements. All the way from Jorissen's through Offner's, Wendel's, Triebold's and Davies land to keep the water flowing. Seconded by Manager Legge. Upon roll call vote, the motion carried unanimously.

Manager Anderson made the motion to amend the previous motion on the leveling of spoil piles on the Elaine Davies Trust land to include cleaning the ditch along the twp road to address issues on 29th St. SE. Seconded by Manager Buttke. Upon roll call vote, the motion carried unanimously.

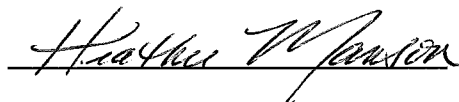
Chairman Hieb talked about the last meeting and the easements, he expressed to the landowners and the board that we are going to use the easements prepared by our legal. Manager Anderson made the motion to use the easements prepared by Sean M. Fredricks with Ohnstad Twichell. Seconded by Manager Buttke. Upon roll call vote, the motion carried unanimously.

With nothing further to discuss the meeting adjourned at 11:00 a.m.

APPROVE:


Jerry Hieb, Chairman

ATTEST:



Heather Manson
Secretary-Treasurer

Barnes County Water Resource District
PO Box 306
Valley City, ND 58072

July 29th, 2019
Special Meeting Attendance

PLEASE SIGN IN BELOW

Aaron Vig

Gerald Wenzel

Allen Mankin

Roger Triebold

Don Leblanc

Pete Pappas

Don Vey