

Barnes County Water Resource District

Po Box 306

Valley City, ND 58072

701-845-8508

August 10, 2020

MEETING MINUTES

MEMBERS PRESENT: Chairman Jerry Hieb, Managers – Bruce Anderson, Bret Fehr, Daniel Buttke, Scott Legge, Chris Gross - Moore Eng. (via phone), Sean Fredricks – Ohnstad Twichell (via phone), Commissioner Shawn Olason

Also Present: See attached list

Chairman Hieb called the meeting to order at 9:00 a.m.

Manager Legge made the motion to approve the July 13, 2020 minutes, seconded by Manager Anderson. Motion carried; minutes approved. Motion to approve the July 27, 2020 Special Meeting Schroeder Tile Application minutes made by Manager Legge, seconded by Manager Anderson. Motion carried; minutes approved. Manager Anderson motioned to approve the July 27, 2020 Zacharias Emergency Drain minutes, seconded by Manager Buttke. Motion carried; minutes approved as printed.

OLD BUSINESS

Hobart Lake: Manager Anderson reported that the level is down according to the Real Time Gage. With the ongoing influx, water is still running, and we are slowly making headway. Water quality tests are coming back favorable to keep the drain open. Darren Bjornson brought maps for cattail spraying and agreed with Manager Anderson that water is running through the culverts constantly. Mr. Bjornson and Barry Borg are concerned water is currently 3-4 inches above the 2ft. culvert SW of the elevator, water cannot get to the culverts on the elevator property. They are concerned spraying will not be enough, discussed a past proposal to excavate that was denied. Mr. Borg asked if it would be possible to syphon water to the elevator culverts like what was done for Ed Thom, he feels by doing this it could take 2ft off the lake. The board explained the syphoning that took place for Ed Thom was not a WRD project, it was between the Thom's and the RR. Manager Anderson stated from the RR culverts on the elevator property to the spur North of the elevator up to the outlet of Hobart was cleaned out last fall, since then spraying has been done to keep the cattails from coming back and water is currently flowing through there. Mr. Borg brought up the culvert on the South side of CR#22 by Jody Jacobson's needing to be replaced, Manager Anderson stated right now the water is equalized on both sides of the road so it is working, after more discussion the board agreed this is a twp. issue. Manager Anderson expressed that the road closed sign is there for a reason, he

has noticed quite a few times the sign is moved. Mr. Borg stated it was him going around the road closed sign.

Kathryn Dam: Mr. Gross gave an update that Bob Koepplin is continuing with the historical research, he, and Josh H. (Moore Eng.) have worked on getting the Memorandum of Agreement to an agreeable state. Once Chairman Hieb signs the agreement Mr. Gross asked Secretary Manson to mail it directly to the COE and email him a copy of the signature page. Once the COE receives this, we anticipate the final two permits to come in short order after that. He explained that hopefully mother nature will work with us, and that VCSU goes back to in-person learning that way we can work with them to get a team out there to move the mussels. Then it is a matter of bidding out the project and hoping for some great fall weather leading into the winter. Chairman Hieb asked about the wording on the placard, Mr. Gross relayed that the historical research is going to provide this.

10 Mile Lake: Mr. Gross discussed the informational landowner meeting, alternatives and options were discussed. Ranking of alignments, the landowners chose going through south side of the City of Dazey. Mr. Gross explained they are continuing to move forward with the design, more signed 1026's is needed to gather and understand what kind of wetland impacts are going with this route. Once we get that information we can move forward, we are at a standstill until we get the 1026 info to keep the cost down. Mr. Abrahamson requested a list of the landowners he will follow up on those who have not signed yet. He then reported to the board that 10 Mile Lake is up 1.5 inches, the Spiritwood Aquifer is up .5 inches, he explained the pressure of underground water is significant. The full 10 Mile report is on file at the WRD office. There was discussion held on the Real Time Gage, also the Emergency Drain Application submitted by Lake Town & Edna Twp.'s Mr. Abrahamson asked about a time frame for the project, Mr. Gross and Mr. Fredricks explained there are three fundamental aspects to this project... funding, regulatory, and land if one falls through it is a huge setback to the project.

Griggs-Barnes-Stutsman Joint WRD Report: Chairman Hieb reported this is proceeding along well. There is a meeting on August 17th via zoom, to explain design, cost, and lead up to a possible vote sometime this fall. He mentioned that this would end up draining into Bald Hill Creek.

VC Little Dam: Chairman Hieb had nothing new to report from last meeting. Mr. Gross reminded the board that if there is no progress with this by June 2021, we lose the cost share to finish the study with the SWC. There was discussion on meeting with the City of Valley City this winter.

Eckelson Lake: Manager Legge reported that it is full and flowing out. Fox Lake is still running into Eckelson Lake, it has about six inches to go before it will stop. Mr. Gross reported they are continuing to coordinate with NRCS to determine the draw down elevation.

Sanborn Lake: Manager Anderson reported he closed the drain on Aug. 3rd notification has been sent to SWC. He stated the elevation is 1426.61 (real time gage reading) it is below the requirement regarding the contract with the RR but could stand to be drained down more. He also mentioned the Texas crossing is working well. Chairman Hieb asked Mr. Gross his

thoughts on timeframe for the permanent permit? Mr. Gross explained to the board the permanent permit has been submitted, all conversations with the state are going well everyone is on board to grant the permit with the O&M provided. There have not been any indications when the permit will be approved. Discussion was held if this is a WRD project or County project, Mr. Fredricks forwarded the board the agreements with BNSF and the County.

Clausen Springs Dam: Mr. Gross reported he wants another month to accept the grass, he stated he is not comfortable accepting it as it is currently. Once that grass is grown, we can accept that and move towards project close out then the board can pay the remaining 5% that was withheld.

Thordenskjold Drain: Manager Anderson reported that Scott C. has not had a chance to get in the area to look at things for an estimate on the culvert project or cleanout.

Meadow Lake: Mr. Gross reported the cost share application has been submitted, once we hear back the board will be notified. Mr. Gross has been updating Delray Enger, he is going to visit with landowners in the area to see what kind of bond money commitment they are interested in. This led to more discussion on bond money, Mr. Gross explained that with Meadow Lake and Eckelson Lake there is an opportunity to get higher cost share, therefore not needing as much bond money from the landowners. We are waiting on approval of the cost share application and information from Mr. Enger, no action was taken by the board.

Drain Tile Application – Matthew Legge:

Application to Install a Subsurface Water Management System No. 2020-03 for Matthew Legge in the Northwest Quarter of Section 31 in Stewart Township

The District reviewed an *Application to Install a Subsurface Water Management System No. 2020-03*, dated June 9, 2020, and filed June 16, 2020, for Matthew Legge. Under the application, Applicant seeks to install a 108-acre drain tile system in the Northwest Quarter of Section 31 in Stewart Township, Barnes County, North Dakota. The project will include a pump outlet on the north boundary of the Northwest Quarter of Section 31 that will discharge into the south road ditch of 29th Street SE; the tile discharge will flow west, under 108th Ave. SE; the discharge will continue west, along the north boundary of the Northeast Quarter of Section 36 of Anderson Township, until discharging into a natural drain; the natural drain flows to the southwest across the Northeast Quarter of Section 36.

The Board previously provided a THIRTY-DAY NOTICE to the downstream landowner regarding the Northwest Quarter of Section 31, as required under N.D. Cent. Code § 61-32-03.1, and also sent copies of the THIRTY-DAY NOTICE to Stewart and Anderson Townships. The downstream landowner did not submit any “technical evidence” to object to the project and, therefore, under the tile law passed during the 2017 Legislative session, the Board cannot require Applicant to obtain any consent from downstream landowners as a condition to the permit. The Board can require Applicant to install and maintain erosion protection at the outlet into the road ditch along

29th Street. The Board cannot require Applicant to obtain Stewart Township or Anderson Township permission to discharge into or utilize any of their township road right of way. Barnes County and Stewart Township previously enacted ordinances regarding work within road right of way; Sean Fredricks will include the County's permit form with Mr. Legge's permit materials, and all future tile permit materials.

According to records supplied by Applicant, Matthew and Tania Legge own the Northwest Quarter of Section 31 of Stewart Township, and Gerald Wendel owns the Northeast Quarter of Section 36 of Anderson Township.

Manager Legge moved, and Manager Buttke seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2020-03*, dated June 9, 2020, and filed June 16, 2020, for Matthew Legge, regarding a proposed tile system in the Northwest Quarter of Section in Stewart Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2020-03, subject to the following conditions:

- 1) that Applicant notify the Barnes County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;

- 2) that Applicant install and maintain adequate erosion protection at the outlet to protect Stewart Township's road ditch; and

- 3) that Applicant must turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the Barnes County Water Resource District.

Upon roll call vote, the motion carried unanimously. The Board cannot enforce any ordinances enacted by Barnes County or Stewart Township, but the Board will notify both of Mr. Legge's permit.

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 consider complying with the following:

- 1) 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;

2) that Applicant obtain permission from Stewart Township and from Anderson Township to discharge into, or otherwise utilize, any of their road right of way; and

3) 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.

Drain Tile Application – Winter Farms / Devin Weber:

Application to Install a Subsurface Water Management System No. 2020-04 for Winter Farms Family Partnership and Devin Weber, in the Northeast Quarter of Section 22 in Noltimier Township

The District reviewed an *Application to Install a Subsurface Water Management System No. 2020-04*, dated June 19, 2020, and filed June 22, 2020, for Winter Farms Family Partnership and Devin Weber. Under the application, Applicants seek to install a 98-acre drain tile system in the Northeast Quarter of Section 22 in Noltimier Township, Barnes County, North Dakota. The project will include a gravity outlet in the northeast corner of Section 22, and will discharge to the northeast, under 124th Ave SE; the discharge will continue to flow to the northeast, across a portion of the West Half of Section 14 of Noltimier Township, until ultimately discharging into a natural watercourse in the West Half of Section 14.

The Board previously provided a THIRTY-DAY NOTICE to the downstream landowner in the West Half of Section 14, as required under N.D. Cent. Code § 61-32-03.1. In addition, the Board provided a copy of the THIRTY-DAY NOTICE to Noltimier Township. The downstream landowner did not object to the project and, with that in mind, the Board cannot require Applicants to obtain consent from the owner of the West Half of Section 22 as a condition to the permit. However, the Board can and will require Applicants to install and maintain erosion protection at the outlet into Noltimier Township's road right of way. Under the tile law passed during the 2017 Legislative session, the Board cannot require Applicant to obtain any consent from Noltimier Township to discharge into its township road right of way as a condition of Applicants' tile permit. However, Barnes County and Noltimier Township previously enacted ordinances regarding work within road right of way; Sean Fredricks will include the County's permit form with Applicants' permit materials.

According to records supplied by Applicants, WFFP, LLLP, owns the Northeast Quarter of Section 22, subject to a life estate in Kathleen Winter. With regard to the downstream property, Noeske Real Estate, LLP, owns the West Half of Section 14.

Manager Anderson moved, and Manager Legge seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2020-04*, dated June 19, 2020, and filed June 22, 2020, for Winter Farms Family Partnership and Devin Weber, regarding a proposed tile

system in the Northeast Quarter of Section 22 in Noltimier Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2020-04, subject to the following conditions:

- 1) that Applicants notify the Barnes County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets; and
- 2) that Applicants provide, install, and maintain riprap or other ditch stabilization materials satisfactory to Noltimier Township at any and all outlets into Noltimier Township's road right of way.

Upon roll call vote, the motion carried unanimously. The Board cannot enforce any ordinances enacted by Barnes County or Noltimier Township, but the Board will notify both entities of the permit.

Under Section 61-32-03.1, the Board cannot attach any additional conditions to Applicants' permit. However, for Applicants' protection, and to ensure protection of Applicants' tile system, the Board will recommend that Applicants comply with the following:

- 1) that Applicants 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;
- 2) that Applicants obtain a flowage easement from the owner of the West Half of Section 14 regarding tile discharge over that property;
- 3) that Applicants obtain written permission from the Noltimier Township Board of Township Supervisors to discharge into, or to otherwise utilize, any of its road right of way; and
- 4) that Applicants 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.

Manager Anderson reported he has been visiting with Wade Bruns on a modified tile application. Mr. Fredricks explained to the board that the Notice of Decision was sent out last week on the previous tile application, a new application was

submitted from Mr. Schroeder, but it was not a complete application. He stated more than likely 30-day notices will need to be sent with the new application, assuming the additional information required will be submitted. There was discussion on the thirty-day appeal period regarding the original tile application.

NEW BUSINESS

Complaint - Kathleen Houge Rehder/Howard Borg: Mrs. Rehder was present to explain her situation reported on the complaint. She stated that Mr. Borg has done some “dirt work” he has excavated and leveled off the top of his lake lot for water to drain onto her property, she is concerned with saturated ground and more water coming this area is prone to hill slides. Mr. Borg had called in stating that water is going exactly where it always has, and that Mrs. Rehder is draining on his property. Discussion was held if this is a WRD issue or Planning/Zoning. Mr. Fredricks explained that the only time WRD’s have jurisdiction over surface drainage on a complaint is if the watershed being drained is 80 acres or more, his recommendation to the board is to instruct Mr. Gross to conduct a preliminary investigation and then proceed based on the outcome of the acreage determination. After lengthy discussion, Manager Fehr made the motion to have Mr. Gross do a preliminary LIDAR investigation to see if further investigation is warranted, seconded by Manager Legge. Upon roll call vote, the motion carried unanimously.

Complaint – Doris Aas/Bradley Maasjo: Jeff Aas was present on behalf of Doris Aas, he explained the NE ¼ of their farm is getting a lot of water from the neighbor’s land. He understands there has been wet years and especially this year, he asked if there is a way to find out if this excessive water flow is natural or are neighboring landowners draining. Bradley Maasjo was also present he owns the property to the east of the Aas farm, he agreed with it being very wet the last few years. He stated the previous landowner of his property had drained a few sloughs and filled back in, there has been no manipulation of the drainage area since. NRCS has signed off on this, they are in compliance. Manager Anderson drove through the area, he observed the still standing corn on both sides of the Aas farm and mentioned that holds a lot of snow and water. Both parties are unsure, after discussion Manager Fehr made the motion to have Mr. Gross investigate and generate a report. Seconded by Manager Legge. Upon roll call vote, the motion carried.

Drain Tile Application – Daniel Latt, Robert Latt & Wayne Smith:

Application to Install a Subsurface Water Management System No. 2020-05 for Robert Latt, Daniel Latt, and Wayne Smith, in the North Half of Section 23 and the Northeast Quarter of Section 9 in Svea Township

The District reviewed an *Application to Install a Subsurface Water Management System No. 2020-05*, filed July 20, 2020, for Robert Latt, Daniel Latt, and Wayne Smith. Under the application, Applicants seek to install a 159-acre drain tile system in the North Half of Section 23 in Svea Township, Barnes County, North Dakota. The project will include a gravity outlet in the

northeast corner of Section 23, and will discharge into the south road ditch of 45th Street SE; the discharge will flow east, under 107th Ave SE, and will continue east for approximately 700 feet before ultimately flowing into a natural watercourse in the Northwest Quarter of Section 24.

The Application normally would have required a THIRTY-DAY NOTICE to downstream landowners Gregory and Karla Nelson, as owners of the Northwest Quarter of Section 24; however, the Nelsons signed a "Notarized Letter of Approval" to consent to the project, and, therefore, no THIRTY-DAY NOTICE was necessary under N.D. Cent. Code § 61-32-03.1. The Board can and will require Applicants to install and maintain erosion protection at the outlet into Svea Township's road right of way. Under the tile law passed during the 2017 Legislative session, the Board cannot require Applicant to obtain any consent from Svea Township to discharge into its township road right of way as a condition of Applicants' tile permit. However, Barnes County and Svea Township previously enacted ordinances regarding work within road right of way; Sean Fredricks will include the County's permit form with Applicants' permit materials.

According to records supplied by Applicants, Robert and Nicole Latt own the North Half of Section 23, and Gregory and Karla Nelson own the West Half of Section 24.

Manager Legge moved, and Manager Fehr seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2020-05*, filed July 20, 2020, for Robert Latt, Daniel Latt, and Wayne Smith, regarding a proposed tile system in the North Half of Section 23 in Svea Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2020-05, subject to the following conditions:

- 1) that Applicants notify the Barnes County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets; and

- 2) that Applicants provide, install, and maintain riprap or other ditch stabilization materials satisfactory to Svea Township at any and all outlets into Svea Township's road right of way.

Upon roll call vote, the motion carried unanimously. The Board cannot enforce any ordinances enacted by Barnes County or Svea Township, but the Board will notify both entities of the permit.

Under Section 61-32-03.1, the Board cannot attach any additional conditions to Applicants' permit. However, for Applicants' protection, and to ensure protection of Applicants' tile system, the Board will recommend that Applicants comply with the following:

1) that Applicants 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;

2) that Applicants obtain written permission from the Svea Township Board of Township Supervisors to discharge into, or to otherwise utilize, any of its road right of way; and

3) that Applicants 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.

Stewart – Anderson Drain: Manager Anderson reported the land Kevin Harstad farms the pipe coming into that area has rusted out, there was discussion if this area is considered a lateral of Legal Drain 2 or part of the main drain. Don Jorissen explained how the water flows in that area and how the drain works, his understanding is that it is part of the main drain. It has been stated in past advisory meetings that the laterals are the landowner's responsibility. Chairman Hieb and Manager Legge both agreed the WRD maintains the main drain and 33 ft on each side. The board asked the secretary to check back in the beginning years of minutes for direction. Manager Anderson mentioned the only way to get this changed, if the landowners want the laterals to be considered part of the Legal Drain, is to have it voted on at the annual meeting.

Engineer Report: Mr. Gross had nothing more to add.

Legal Report: Mr. Fredricks had nothing more to add.

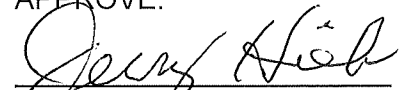
Chairman Hieb discussed the bills presented, he gave a history on the Sanborn Lake Outlet Project. He discussed the agreements with BNSF, the County, and the JPA regarding Hobart Lake Outlet Project. Mr. Fredricks clarified for the board with the Sanborn Lake project the agreement with BNSF was with the WRD, the agreement with the County states that the County will acquire the rest of the ROW at their expense. The WRD has an obligation to continue to operate and maintain the project. The board has concerns that the agreement is not as direct as the Hobart Lake JPA, discussion was held on negotiations of the Sanborn Lake agreement. After lengthy discussion, the board decided to start conversation with the County to decide whose project it is and negotiating the agreement.

Bills: Manager Legge made the motion to pay all the bills except for ones dealing with the Sanborn project. Seconded by Chairman Hieb, the roll call vote on the motion was as follows: Manager Buttke-yes, Manager Anderson-no, Manager Legge-yes, Manager Fehr-no, Chairman Hieb-yes. Motion carried.

Manager Anderson visited with Wade Bruns he had asked about starting an assessment drain in his area, Manager Anderson gave him information Mr. Bruns will do prelim work and present it to the board later.

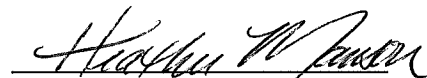
With nothing further to discuss the meeting was adjourned at 11:40 a.m.

APPROVE:



Jerry Hieb, Chairman

ATTEST:



Heather Manson
Secretary - Treasurer

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

August 10th, 2020

PLEASE SIGN IN BELOW

Donald Jorissen

Brad Masjo

Barry Berg

Darren Bjornson

Gjllas

Paul Rehder

Kathy (Houge) Rehder

Jessica Jennich P+Z

Daniel Latt

Andrew Rickman

Shan Olsun

Shel Winter
Dewey Weber