

**Barnes County Water Resource District  
Po Box 306  
Valley City, ND 58072  
701-845-8508**

May 10<sup>th</sup>, 2021

**MEETING MINUTES**

**MEMBERS PRESENT:** Chairman Jerry Hieb, Managers – Bret Fehr, Scott Legge, Bruce Anderson, Dan Buttke, Chris Gross - Moore Engineering, Josh Hassell – Moore Engineering (via phone), Sean Fredricks – Ohnstad Twichell (via phone), Barnes County Commissioner Shawn Olason

Also Present: See attached list

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

Manager Fehr motioned to approve the April 12<sup>th</sup>, 2021 minutes. Seconded by Manager Anderson. Motion carried; minutes approved as printed.

**OLD BUSINESS**

**10 Mile Lake:** Chris Gross passed out a Preliminary Assessment District map for the board to review. Joel Lees and John Schock both from Stutsman Co. WRD were present to discuss the possibility of a Joint Powers Agreement, they had concerns of the number of parcels in the assessment map. Chris Gross explained how the map was determined, and how that during high water events there is the potential of a small amount of water coming across #9 and going into 10 Mile which is why the 5% percentage of benefit was assigned in Stutsman Co. After more discussion, Mr. Lees and Mr. Schock stated the Stutsman Co. WRD will look over and discuss the draft Joint Powers Agreement at their next meeting.

**Hobart Lake:** Manager Anderson reported that he closed the drain on May 7<sup>th</sup> due to high sulfate levels in the river.

**Kathryn Dam:** Chris Gross reported that Moore Eng. is still working with the contractor on the final pay application. He stated that Veit is meeting onsite this week, Moore Eng. will continue to work with Veit moving towards project closeout.

**VC Little Dam:** Chris Gross gave a report on the meeting with the City of Valley City. He stated that he felt the City does not have a desire to remove the dam in its entirety, they want something done to provide safety and keep a level of water elevation for the park. He explained that the City wants to see dollar estimates, they are nervous about taking on another project without numbers. Discussion was held on the three options, Chairman Hieb stated he feels the City wants the WRD to do the work and they get the benefit. There was discussion on the possibility of transferring ownership. Sean Fredricks explained the WRD could possibly enter into an agreement with the City of Valley City to convey the operation and maintenance obligations of the dam to the City, with the WRD having the statutory obligation of owning the dam. After more discussion, Manager Anderson motioned to direct Moore Eng. to submit a cost share application to SWC. Seconded by Manager Buttke. Upon roll call vote, the motion carried unanimously.

Discussion then led to the dams in Barnes County that the WRD owns. Sean Fredricks stated it is the same as the VC Little Dam, the board has a statutory obligation of owning the dams but can convey the operation and maintenance obligations to the landowners.

**Sanborn Lake:** Chris Gross discussed the revised/updated O&M Plan that reflects language from ND Game & Fish, the OSE requested this language be incorporated in the O&M to reflect how the board is going to operate the gate. After more discussion, Manager Legge motioned to approve the revised O&M Plan dated 5-10-2021 and authorized to send it to the SWC. Seconded by Manager Fehr. Upon roll call vote, the motion carried unanimously.

**Legal Drain 2 – culverts:** Chris Gross reviewed drain plan sets that were found, there is not a definitive answer if the culverts on 112<sup>th</sup> Ave SE & 29<sup>th</sup> ST SE are part of the plan set. More time was requested to review and research with assessment funds being involved; the board agreed. Culverts have been ordered for the replacement at the Offner and Diemert sites, discussion was held on contractors. Manager Legge motioned to have Moore Eng. draft and send bid documents to the two contractors for the board to review at the June meeting. Seconded by Manager Anderson. Upon roll call vote, the motion carried.

**Boom – VanBruggen Complaint:** Sean Fredricks reported that the notice of decision was sent out to the landowner to close the drain by 5pm on May 31<sup>st</sup>, 2021. This will stay on the agenda to discuss at the June meeting.

## **NEW BUSINESS**

### **Donovan Zacharias Tile Application:**

#### **Application to Install a Subsurface Water Management System No. 2021-07 for Donovan Zacharias in the Northeast Quarter of Section 13 in Thordenskjold Township**

The District reviewed an *Application to Install a Subsurface Water Management System No. 2021-07*, dated and filed April 14, 2021, for Donovan Zacharias. Under the application, Applicant seeks to install a 113-acre drain tile system in the Northeast Quarter of Section 13 in

Thordenskjold Township, Barnes County, North Dakota. The project will include a single pump outlet near the southwest corner of the Northeast Quarter of Section 13; the pump will discharge on Applicant's property and will flow into a slough.

Because the project will discharge across Applicant's property and will ultimately discharge into a slough, no THIRTY-DAY NOTICES were necessary to any downstream landowners under N.D. Cent. Code § 61-32-03.1. The Board cannot require Applicant to install any erosion protection in the slough, but will recommend that Applicant do so. The project will not include any discharge into any township or county road ditches so the County's road ditch permit will not likely apply to this permit.

According to records supplied by Applicant, Donovan Zacharias owns the Northeast Quarter of Section 13, less a 6.68 acre tract.

Manager Fehr moved, and Manager Buttke seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2021-07*, dated and filed April 14, 2021, for Donovan Zacharias, regarding a proposed tile system in the Northeast Quarter of Section 13 in Thordenskjold Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2021-07, 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; and
- 2) 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.

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 comply 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 install and maintain erosion protection at the discharge into the slough in the Northeast Quarter of Section 13; 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.

**Fred Schroeder Tile Application:**

**Application to Install a Subsurface Water Management System No. 2021-08 for Fred Schroeder, in the North Half and the Southwest Quarter of Section 30 and the Northwest Quarter of Section 31 in Oriska Township**

The District reviewed an *Application to Install a Subsurface Water Management System No. 2021-08*, dated and filed April 20, 2021, for Fred Schroeder. Under the application, Applicant seeks to install a 125-acre drain tile system in the North Half and the Southwest Quarter of Section 30 and the Northwest Quarter of Section 31 in Oriska Township, Barnes County, North Dakota. The project will include three gravity outlets that will all discharge via pipelines that will run from the south boundary of the Southwest Quarter of Section 30, under 35th Street SE, and across a portion of the Northwest Quarter of Section 31; all three pipelines will daylight and discharge into the natural watercourse in the Northwest Quarter of Section 31. The watercourse flows to the southeast.

Because the project will discharge directly into a natural watercourse, no THIRTY-DAY NOTICES were necessary to any downstream landowners under N.D. Cent. Code § 61-32-03.1. Further, because the project will discharge into a natural watercourse, the Board cannot require Applicant to obtain consent from downstream landowners as a condition to the permit, nor can the Board require Applicant to install erosion protection at the outlet into the natural watercourse. However, the Board will recommend that Applicant obtain permission from Oriska Township to install pipelines through and across any of its right of way. In addition, the Board will recommend that Applicant install and maintain erosion protection at any outlets into the natural watercourse in the Northwest Quarter of Section 31, to protect the natural watercourse and to protect downstream landowners.

According to records supplied by Applicant, the Fred and Dorothy Schroeder Land Partnership, LLLP, owns the North Half and the Southwest Quarter of Section 30 and the Northwest Quarter of Section 31 of Oriska Township.

Manager Legge moved, and Manager Buttke seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2021-08*, dated and filed April 20, 2021, for Fred Schroeder, regarding a proposed tile system in the North Half and the Southwest Quarter of Section 30 and the Northwest Quarter of Section 31 in Oriska Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2021-08, subject to the following condition:

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

Upon roll call vote, the motion carried unanimously.

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 comply 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 written consent from Oriska Township to install pipelines through or across any of its right of way;
- 3) that Applicant install and maintain erosion protection at any outlets into the natural watercourse in the Northwest Quarter of Section 31; and
- 4) 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.

**Wolsky - Carpenter Complaint:** Both parties were present, the board gave them each a few minutes to explain their situation. After discussion, Manager Legge motioned to direct Chris Gross to investigate and generate a report for the next meeting. Seconded by Manager Anderson. Upon roll call vote, the motion carried unanimously.

**Engineer Selection Process:** Sean Fredricks explained under SWC cost share rules WRD's need to go through an Engineer Selection Process to qualify for cost share with engineering costs on legal projects. Discussion was held on the pros and cons of a "pool" option for engineering services. After lengthy discussion Manager Legge motioned to approve the Initial Report, to publish and advertise for one engineering firm. Seconded by Manager Buttke. Upon roll call vote, Managers Fehr, Legge, Anderson and Buttke voted yes, Chairman Hieb voted no. Motion carried with four yes votes.

**Engineer Report:** Chris Gross had nothing else to report.

**Legal Report:** Mr. Fredricks explained the new tile permitting process to the board, he stated this new tile permit process is effective immediately. Any applications received today must follow these new guidelines.

**Bills:** Manager Legge motioned to pay bills as presented. Seconded by Manager Anderson. Upon roll call vote, the motion carried unanimously.

Mike Opat mentioned to the board that the syphon's located in the slough by Ed Thom's have been damaged by ice, Manager Anderson will pass this information along.

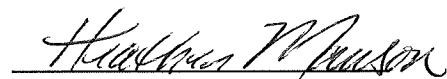
Chris Gross updated the board on the potential legal drain project in LaMoure Co., he explained that board has approved a percentage of the cost to move the project forward. Some LaMoure Co. landowners have been in contact with Barnes Co. residents in the southern part of the county.

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

May 10<sup>th</sup>, 2021

PLEASE SIGN IN BELOW

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Donald Jorussen

Shawn Olson

BCC

Pete Brun

Joel Lees

SCWB

Dean Carpenter

Aavid Winkler