

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

Meeting Minutes

March 13, 2023 - 9:00 a.m.

MEMBERS PRESENT: Chairman Jerry Hieb, Managers Bruce Anderson, Scott Legge, Dan Buttke, Bret Fehr, Mike Opat Houston Engineering, Sean Fredricks Ohnstad Twichell (via WebEx), Shawn Olauson Barnes County Commissioner (via WebEx).

Chairman Hieb called the meeting to order at 9:12 a.m.

Manager Anderson moved to approve the minutes with the correction noted from the Board's meeting on February 13, 2023. Manager Fehr seconded the motion. Motion carried; minutes approved with the correction.

NEW BUSINESS

Drain Tile Application – Kohler Farms

Application to Install a Subsurface Water Management System No. 2023-01 for Kohler Farms in the Southeast Quarter of Section 3 in Springvale Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2023-01*, filed by Applicant Kohler Farms, a farm partnership, on February 23, 2023. Under the Application, Applicant seeks to install 128-acre drain tile system in the Southeast Quarter of Section 3 in Springvale Township, Barnes County, North Dakota. The project will include a single pump outlet, located along the east boundary of the Southeast Quarter of Section 3; the outlet will discharge directly into the west road ditch along 130th Avenue SE and will flow east, through an existing culvert under 130th Avenue; the discharge will daylight in the east road ditch and will continue to flow east, through existing man-made drains across the Southwest Quarter of Section 2 and a portion of the Southeast Quarter of Section 2, for just under a mile, until discharging into a USGS "blue line" natural watercourse in the East Half of the Southeast Quarter of Section 2.

According to County tax roll information, Lamonte and Patricia Johnson own the Southeast Quarter of Section 3 of Springvale Township. With regard to downstream parcels, Lamonte and Patricia Johnson own the Southwest Quarter of Section 2, and John Kohler owns the Southeast Quarter of Section 2. Once the project discharges into the natural watercourse in the Southeast Quarter of Section 2, the Barnes County Water Resource District no longer has jurisdiction over the tile discharge.

Manager Fehr moved, and Manager Anderson seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2023-01*, filed February 23, 2023, for Kohler Farms in the

Southeast Quarter of Section 3 in Springvale Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-01, subject to the following conditions:

1. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
2. 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.
3. Applicant will install and maintain erosion protection at any and all outlets into Springvale Township's road right of way.
4. Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Barnes Rural Water District has in the Southeast Quarter of Section 3 in Springvale Township under any blanket easements, or otherwise beyond Barnes Rural Water District's existing easement.
5. Applicant will remove silt or vegetation, or repair erosion or scour damages **directly** caused by Applicant's tile system, but only up to the discharge into the natural watercourse in the Southeast Quarter of Section 2 of Springvale Township.
6. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-01 in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

Upon roll call vote, the motion carried unanimously.

With regard to condition #5, Applicant's obligations to remove silt or vegetation, or to repair erosion or scour damages, will only arise upon submission of substantial evidence to the Board by a downstream landowner or road authority that Applicant's tile system **directly** caused accumulation of silt or vegetation, erosion, or scouring.

Under Section 61-32-03.1, the District 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. The Board recommends that Applicant obtain written consent from the Springvale Township Board of Township Supervisors to discharge into or utilize any of the Township's right of way.
2. The Board recommends that Applicant obtain and record an easement from the owners of the Southeast Quarter of Section 3 of Springvale Township to install and maintain tile on their property.
3. The Board recommends 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.

Sean Fredricks will provide copies of the Board's NOTICE OF DECISION, SUBSURFACE WATER MANAGEMENT PERMIT No. 2023-01, Applicant's downstream flow map, and the Barnes County Permit Form to the Department of Water Resources, Barnes Rural Water District, Springvale Township, Lamonte and Patricia Johnson, and Jessica Jenrich. Under North Dakota law, Applicant's detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

Fredricks further indicated he will include language in Applicant's NOTICE OF DECISION to notify Applicant that the project may require a DRAINAGE/DITCH CLEANING PERMIT from Barnes County regarding the discharge into Springvale Township's road right of way.

Drain Tile Application – Dwight Grotberg

Application to Install a Subsurface Water Management System No. 2023-02 for Dwight Grotberg in the West Half and the Southeast Quarter of Section 18 in Eckelson Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2023-02*, filed by Applicant Dwight Grotberg, a farm partnership, on March 2, 2023. Under the Application, Applicant seeks to install a 163-acre drain tile system in the West Half and the Southeast Quarter of Section 18 in Eckelson Township, Barnes County, North Dakota. The project will include a gravity outlet near the northeast corner of the Northwest Quarter of Section 18; the outlet will discharge directly into a pond, as designated by USGS and the US Fish and Wildlife National Wetlands Inventory. The project will also include a pump outlet along the south boundary of the Southwest Quarter of Section 18; the pump will discharge directly into another pond, also designated by USGS and the US Fish and Wildlife National Wetlands Inventory. Applicant's project plan indicates Applicant may intend to install the pump in the north road ditch along County Highway 22. Further, Applicant's project plan indicates the project may include construction of a dike near or adjacent to the pump outlet. Recognize construction of a dike may require a permit from the North Dakota Department of Water Resources, in accordance with N.D. Cent. Code 61-16.1-38; the District's approval of *APPLICATION NO. 2023-02* does not and cannot legally include approval of any proposed dike.

According to County tax roll information supplied by Applicant, Dwight and Alison Grotberg own the West Half and the Southeast Quarter of Section 18 of Eckelson Township where Applicant intends to install the tile system.

Manager Fehr moved, and Manager Buttke seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2023-02*, filed March 2, 2023, for Dwight Grotberg in the West Half and the Southeast Quarter of Section 18 in Eckelson Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-02, subject to the following conditions:

1. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
2. Applicant will install and maintain erosion protection at any and all outlets into the ponds in the West Half of Section 18 of Eckelson Township.
3. 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.

4. Applicant will install and maintain erosion protection at any and all outlets into the Barnes County Highway Department's road right of way.
5. Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Barnes Rural Water District has in the West Half or the Southeast Quarter of Section 18 in Eckelson Township under any blanket easements, or otherwise beyond Barnes Rural Water District's existing easement.
6. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-02 in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

Upon roll call vote, the motion carried unanimously.

Under Section 61-32-03.1, the District 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. The Board recommends that Applicant obtain written consent from the Barnes County Highway Department to discharge into or utilize any of the County's Highway 22 road right of way.
2. The Board recommends that Applicant obtain written consent from the Barnes County Highway Department to install any project components in any of the County's Highway 22 road right of way.
3. The Board recommends 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.

Sean Fredricks will provide copies of the Board's NOTICE OF DECISION, SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-02, Applicant's downstream flow map, and the Barnes County Permit Form to the Department of Water Resources, Barnes Rural Water District, the Barnes County Highway Superintendent, and Jessica Jenrich. Under North Dakota law, Applicant's detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

Sean Fredricks further indicated he will include language in Applicant's NOTICE OF DECISION to notify Applicant that the project may require a DRAINAGE/DITCH CLEANING PERMIT from Barnes County regarding any proposed discharge into the County's Highway 22 road right of way, or to install any project components in the County's right of way.

OLD BUSINESS

VC Little Dam

Mike reported that he has been hearing back from agencies regarding permits. The COE has been reviewing the archaeology report and they are considering mitigation requirements; their requirements will likely be similar to Kathryn Dam. The DWR originally told us that we did not need a conditional water permit but they discovered that the current dam was never permitted so they will now require a new permit. Mike has been working on the application; once the surveyor signs the map, the application will be submitted. The project cannot proceed until we have all permits. Manager Anderson mentioned that Bob Koeplin has asked if the WRD could incorporate some kind of landing/port for kayakers with this project, but Mike noted the Board should await some of the permitting decisions first.

NRCS-RCPP Program

The Board previously indicated to NRCS interest in proceeding with Ten Mile Lake; an economic analysis will likely be necessary. Mike has been working with Christi Fischer at NRCS and her staff on the scope of work, and the WRD's responsibilities. Mike mentioned that Christi has to formally submit documentation to launch the official application process. Manager Fehr moved to authorize Chairman Hieb and Heather to sign and submit the requisite documentation to NRCS to commence the process. Manager Buttke seconded the motion. Upon roll call vote, the motion carried unanimously. Mike suggested moving forward with a request to the State Water Commission for \$45,000 in cost-share; the WRD would be responsible for the other half. Manager Fehr moved to authorize Mike and Heather to submit a cost-share request to the ND State Water Commission. Manager Anderson seconded the motion. Upon roll call vote, the motion carried unanimously.

Mike mentioned the Board cannot likely expect any approvals from NRCS until July, and he reminded the Board to continue to think of potential mitigation sites.

Thordenskjold Drain

Mike presented maps of the draft assessment district boundaries with the potential added area, along with potential benefit percentages. Discussion was held on laterals; Sean explained the process for adding a lateral project to the assessment drain, as well as the process for a private landowner lateral project. The Board then discussed improvements needed within the drain, future maintenance, culvert replacement and minimum design standards. The Board has considered proceeding with a reassessment of the drain, and developing a master plan to address what improvements need to be done to meet the needs of the drain. Mike and Chairman Hieb will be attending the Ransom Co. WRD meeting to give an update on the landowner informational meeting and to discuss the benefits to Ransom County properties. Before proceeding with the formal reassessment process, the Board would want to enter into an agreement with the Ransom County WRD.

RRJWRD-bank stabilization

Mike reported we are waiting for the snow melt this spring to complete the site spot check, ground photos will be taken and included with additional information collected for the final report.

Clausen Springs Dam:

Mike reported that the final version of the EAP Update is complete, signatures from planholders have been collected, and paper copies will be ready to distribute this week. Heather will distribute the paper copies to involved departments. Mike mentioned when conditions improve, he still plans to meet with Tim Tangen and Brad Knutson at the dam for training. Mike called Karen Goff for an update on the dam inspection report, a draft was not ready for today's meeting. The Board is waiting for the final inspection report from the DWR. At the last meeting the Board requested additional quotes for the trash rack repair. Mike reached out to different fabricators and requested quotes for today's meeting, the Board reviewed quotes submitted. After discussion Manager Legge moved to hire Trademark Tooling for the trash rack repair and installation. Manager Anderson seconded the motion. Upon roll call vote, the motion carried unanimously.

Snagging/Clearing:

Mike reported that IBI worked until funding ran out, they stopped about six miles north of the county line. The final two invoices are submitted for approval today, Mike and Heather will work on and submit the cost share reimbursement request. Mike mentioned that the DWR is meeting this week, there will be discussion on cost-share funding for snagging/clearing. The Highway Dept. has data on the importance for these types of projects, Heather will get that information to Mike. Manager Anderson will call in to the SWC meeting to answer any questions the Commission has regarding the importance of these projects.

I-94 Drainage Project

Mike reported at the last meeting the Board authorized Sean to draft a Quit Claim Deed to transfer the property to the City, and authorized Chairman Hieb and Heather to sign the deed. Sean prepared the deed; Chairman Hieb and Heather signed the deed; and the City now has the original. This needs to be approved by the City Commission, we are waiting to hear back from them.

Baldhill Dam Operation Meeting

The Baldhill Dam operations will be discussed at the annual Upper Sheyenne Meeting on Wednesday March 15th, 2023 at the Valley City Eagles Club.

Engineer Report

Mike mentioned that Jason Sjostrom contacted Chairman Hieb about a potential tiling project adjacent to the Hobart Lake Outlet project. Mr. Sjostrom asked about connecting with the Hobart Drain pipe, or possibly routing under or over the pipe. Sean explained the purchase agreement with Mr. Sjostrom for the Hobart Lake Outlet project confirms that he has the right to discharge into the project, but there is no specific language regarding his ability to connect directly to the pipe or to cross the pipe with his project. It was mentioned that this potential project will more than likely be under 80 acres. After discussion the Board agreed not to allow Mr. Sjostrom to tie into the Hobart Drain pipe, but to allow him to go over/under, with the caveat that if the pipe is damaged he is responsible for repairs. Sean suggested that the Board require Mr. Sjostrom to submit a Utility Permit application. Chairman Hieb will contact Mr. Sjostrom to request a project plan. Once we have the plan, Sean will prepare a Utility Permit application for Mr. Sjostrom's signature for the Board's consideration.

Legal Report

Sean reported on SB2037, SB2036, SB2326, HB1391, & HB1462, the primary WRD bills currently under consideration at the Legislature. SB 2037 failed on the Senate floor. Sean will email the Board regarding any Action Items that come up on the remaining bills. Sean will draft an informational summary of the water related bills in this legislative session to be handed out at the BC Township Officers meeting.

Bills

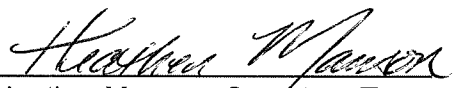
Manager Legge moved to approve the bills as presented. Manager Anderson seconded the motion. Upon roll call vote, the motion carried unanimously.

With nothing further to discuss, the meeting was adjourned at 11:13 a.m.

APPROVED:


Jerry Hieb, Chairman

ATTEST:


Heather Manson, Secretary-Treasurer

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

March 13th, 2023

PLEASE SIGN IN BELOW

Kevin Ussatis - via phone