

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

**Meeting Minutes**

May 8, 2023 – 9:00 a.m.

MEMBERS PRESENT: Chairman Jerry Hieb, Managers Bruce Anderson, Bret Fehr, Mike Opat Houston Engineering, Sean Fredricks (via WebEx), Shawn Olauson Barnes County Commissioner

ABSENT: Manager Scott Legge & Manager Dan Buttke

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

Manager Anderson moved to approve the minutes from the Board's meeting on April 10, 2023, as printed. Manager Fehr seconded the motion. Motion carried; minutes approved as printed.

**OLD BUSINESS**

**VC LITTLE DAM**

Mike reported that we are waiting for permits before the parties can proceed with construction. DWR is requiring the Board to obtain a Conditional Water Permit since the Dam was not originally permitted. Sean reported on the Conditional Water Permit notification process; office performed deed searches for every parcel within a mile radius and sent notices out to those parties, as well as various public entities as required by statute. The notifications went out in the mail on May 5. Sean's office filed an Affidavit and evidence of the mailings to DWR, and DWR will handle the publication in the Times Record. Sean has no indication of publication date. Mike noted the goal is to hopefully get the other permits this summer so there is time to bid it out this fall and give the contractor the opportunity to work over the winter.

**NRCS-RCPP: TEN MILE LAKE**

Mike had no new updates, we are waiting to hear back from NRCS for official approval, this could be in June or July. Mike mentioned to the Board to keep in mind potential mitigation sites. The Board reviewed the proposed State Water Commission cost-share agreement for 45% reimbursement of eligible costs. After discussion, Manager Anderson moved to approve the State Water Commission cost-share agreement and to authorize Chairman Hieb to sign. Manager Fehr seconded the motion. Upon roll call vote, the motion carried unanimously. The Board also submitted a cost-share request to the RRJWRD. After discussion Manager Anderson moved to approve the draft cost-share agreement with the Red River Joint Water Resource District and to authorize Chairman Hieb and Heather to sign. Manager Fehr seconded the motion. Upon roll call vote, the motion carried unanimously.

### **THORDENSKJOLD DRAIN**

Mike and Chairman Hieb met with landowners from Ransom Co. along with two Board Members from the Ransom Co. WRD on April 21 in Nome. They talked through the slides that were presented at the February landowner meeting, along with recent updates. There was discussion on an area in section 5 in Ransom Co. along with an area in section 36 in Barnes Co. Mike is going to reach out to the landowner in section 5 directly to discuss concerns. If the Ransom Co. WRD agrees to the proposed reassessment, the two Boards will need an agreement regarding the process. Discussion was held on drain improvements. The Board agreed to finish the potential reassessment, then hold a public meeting to discuss a plan for improvements so there is no confusion. The WRD office received an open records request, Sean worked with Heather to get that information mailed out.

### **BANK STABILIZATION STUDY**

The last piece with this is the field review once the water levels drop, Mike will give an update at the next meeting.

### **CLAUSEN SPRINGS DAM**

Mike reported no new update with the trash rack repair; he will reach out to Trademark Tooling and have an update for the June meeting. Mike will be meeting with Tim T., Brad K., Jamie Smith, and Heather at the dam later today to review the inspection duties.

### **HOBART LAKE**

Manager Anderson reported that he opened the drain halfway on 4-23-23, MVTL did water testing, results came back favorable to have the drain wide open. We will continue to do testing every two weeks.

### **NEW BUSINESS**

#### ***Application to Install a Subsurface Water Management System No. 2023-09 for James Richman in the North Half and the Southwest Quarter of Section 33 and the Southwest Quarter of Section 28 in Weimer Township***

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2023-09*, filed by Applicant James Richman on April 17, 2023. Under the Application, Applicant seeks to install a 461-acre drain tile system in the North Half and the Southwest Quarter of Section 33 and the Southwest Quarter of Section 28 in Weimer Township, Barnes County, North Dakota. The system in the Southwest Quarter of Section 28 will connect to the system in the North Half of Section 33 directly, across, under, and through section line right of way. The project will include four gravity outlets, all located in the Northeast Quarter of Section 33; three of the outlets will discharge into USGS "blue line" watercourses and the fourth will discharge into a wetland identified as a slough by USGS and the National Wetland Inventory.

According to County tax roll information, the Maynard & Jeanette Satrom LLLP, a North Dakota limited liability limited partnership, owns the North Half and the Southwest Quarter of Section 33 in Weimer Township. Further, Richard D. Grosz and Arlyss Grosz, as Trustees of the Grosz Living Trust, own the Southwest Quarter of Section 28. Once the project discharges into the natural watercourses and the slough, 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. 2023-09*, filed April 17, 2023, for James Richman in the North Half and the Southwest Quarter of Section 33 and the Southwest Quarter of Section 28 in Weimer Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT No. 2023-09, 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 natural watercourses and at any and all outlets into the slough in the Northeast Quarter of Section 33 in Weimer Township.
3. 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 North Half of Section 33, the Southwest Quarter of Section 33, or the Southwest Quarter of Section 28 in Weimer Township under any blanket easements, or otherwise beyond Barnes Rural Water District's existing easement.
4. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-09 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 and record easements from the owners of the North Half and the Southwest Quarter of Section 33 and the Southwest Quarter of Section 28 in Weimer Township to install and maintain tile components.
2. The Board recommends that Applicant obtain written consent from the Weimer Township Board of Township Supervisors to install and maintain any tile components in any of the Township's 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. 2023-09, Applicant's downstream flow map, and the Barnes County Permit Form to the Department of Water Resources; Barnes Rural Water District; Maynard & Jeanette Satrom LLLP; Richard D. Grosz and Arlyss Grosz, as Trustees of the Grosz Living Trust; Weimer Township; and Jessica Jenrich. Under the new tile law, Applicant's detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

**Application to Install a Subsurface Water Management System No. 2023-10 for Mike Berntson in the Northwest Quarter of Section 25 in Green Township**

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2023-10*, filed by Applicant Mike Berntson on April 24, 2023. Under the Application, Applicant seeks to install a 113-acre drain tile system in the Northwest Quarter of Section 25 in Green Township, Barnes County, North Dakota. The project will include a single gravity outlet along the east boundary of the Northwest Quarter of Section 25; the discharge will flow through and across approximately 900 feet of the Northeast Quarter of Section 25 before flowing into a USGS blue line waterway in the Northeast Quarter of Section 25.

According to County tax roll information, Inez and Donald Olson own the Northwest Quarter of Section 25 of Green Township, though the County identifies Raymond Berntson and Michael Berntson as the taxpayers regarding the Northwest Quarter. With regard to downstream property, Gregory C. Hansen, Trustee of the WR Hansen Family Trust, owns the Northeast Quarter of Section 25. Once the project discharges into the USGS blue line waterway in the Northeast Quarter, the Barnes County Water Resource District no longer has jurisdiction over the tile discharge.

Manager Anderson moved, and Manager Fehr seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2023-10*, filed April 24, 2023, for Mike Berntson in the Northwest Quarter of Section 25 in Green Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-10, 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 project outlets.
3. 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 Northwest Quarter of Section 25 in Green Township under any blanket easements, or otherwise beyond Barnes Rural Water District's existing easement.
4. 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 USGS blue line waterway in the Northeast Quarter of Section 25 of Green Township.
5. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-10 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, Managers Anderson and Fehr voted in favor of the motion. Chairman Hieb voted no. The motion passed.

With regard to condition #4, 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 owner of the Northeast Quarter of Section 25 regarding Applicant's tile discharge.
2. 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. 2023-10, Applicant's downstream flow map, and the Barnes County Permit Form to the Department of Water Resources, Barnes Rural Water District, Inez and Donald Olson, Raymond Berntson, Gregory C. Hansen, 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.

#### **Legal Drain 2 (Stewart Anderson Drain)**

Manager Anderson presented photos taken of the area downstream of the drop structures, the photos show scouring and erosion issues. Work was completed in this area late last fall, it looks as though vegetation did not get a chance to establish, and a lot of material has been moved/lost. Manager Anderson mentioned that a few Advisory Board members are quite upset with this situation, and how much this cost the drain fund account. Manager Anderson and Manager Legge will reach out to Wade Klubben to get his thoughts on addressing this situation. They will update the Board at the June meeting.

#### **ENGINEER REPORT**

Mike mentioned the USFWS issued a notice to proceed on the Tomahawk Dam project, they are looking at a potential June construction date. Mike also reminded the Board of the Hansen/Hurley complaint that was agreed by all parties to be held in abeyance until spring. With Mike being in the area after the meeting, he will see if conditions are favorable to conduct his investigation, he will try to have a report for the June meeting.

#### **LEGAL REPORT**

Sean reported that the legislative session wrapped up; he stated it was an interesting, yet pretty successful session. He touched base on SB2037 and SB2036. He explained with HB1391 beginning August 1, 2023, we must have draft meeting minutes posted on the County website within 10 days after a meeting.

Commissioner Olauson mentioned to the Board that the 2024 budget request paperwork will be sent out next month.

#### **BILLS**

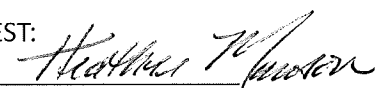
Manager Anderson moved to approve the bills as presented. Manager Fehr seconded the motion. Upon roll call vote, the motion carried unanimously.

With nothing further to discuss, the meeting was adjourned at 10:21 a.m.

APPROVED:

  
Jerry Hieb, Chairman

ATTEST:

  
Heather Manson, Secretary-Treasurer

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

May 8<sup>th</sup>, 2023

PLEASE SIGN IN BELOW

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*Shawn Olson*

*BCC*