

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

**Meeting Minutes**

November 13, 2023 – 9:00 a.m.

MEMBERS PRESENT: Chairman Jerry Hieb, Managers - Bruce Anderson, Bret Fehr, Scott Legge, Dan Buttke (via WebEx), Mike Opat - Houston Engineering, Sean Fredricks - Ohnstad Twichell (via Webex)

Chairman Hieb called the meeting to order at 9:01 a.m.

Manager Anderson moved to approve the minutes from the October 9, 2023 meeting. Manager Legge seconded the motion. Upon voice vote, the motion carried unanimously; minutes approved as printed.

**OLD BUSINESS**

**VC Little Dam**

Mike noted the Board previously authorized Mike and Heather to submit an SWC cost-share application as soon as all permits were approved; with all permits now in-hand, Mike submitted the cost-share application to the State Water Commission. During the Pre-Commission meeting last Thursday there were a couple of questions regarding the water trail features, Bob K. asked for some portage features, there will be no cost share for those items. Mike explained those items will be bid out separately. The project will be on the SWC's consent agenda for the December meeting; Mike will attend the meeting. Mike explained that, if approved, the SWC cost-share funding will be at 75%; there may also be some willingness to fund the portage stairs at 40% for recreation purposes. Discussion was held on the construction timeline and Mike discussed two different alternatives for the bidding documents. The Board agreed to wait on bidding until the SWC cost-share agreement is in place before proceeding with bidding. Sean previously prepared and provided with Affidavits for consideration to record the various project permits. After more discussion, Manager Legge moved to authorize Chairman Hieb to sign the Affidavits for the Conditional Water Permit No. 7317, the Construction Permit No. 2703, and the Sovereign Land Permit No. S-2392. Manager Anderson seconded the motion. Upon roll call vote, the motion carried unanimously.

**NRCS-RCPP: Ten Mile Lake**

Mike reported he met with NRCS staff on site to review the boundaries of Ten Mile Lake, to review wetland locations, and to inspect possible potential mitigation sites. NRCS' report suggested the project will require more mitigation, a decision that could limit any NRCS cost participation. Mike is meeting with NCRS this week to discuss NRCS' impact and mitigation conclusions.

### **Thordenskjold Drain**

Mike and Sean recommended the Board conduct the reassessment hearing at the Board's February meeting. Sean reported both Boards must approve the resolution setting the hearing. After discussion, Manager Fehr moved to hold the Reassessment Hearing during the regular meeting in February. Manager Legge seconded the motion. Upon roll call vote, the motion carried unanimously. Sean will draft Resolutions and related documents and will circulate for the Board to review at the December meeting, and for Ransom County WRD's review and approval.

At 9:30 a.m., Chairman Hieb called to order the Public Hearing regarding Surface Drain Permit Application No. 6221 for Mr. Pat Hurley.

### **Surface Drain Permit Appl. No. 6221- Pat Hurley Drain**

Sean began by explaining that this is an informational hearing that the Board elected to conduct, not required or mandated by law. Further, the drainage constructed by Mr. Hurley is also the subject of a drainage complaint filed by Mr. Les Hansen. In accordance with the Administrative Code, the Board concluded a public hearing would be helpful for interested parties and for the Board in considering Surface Drain Permit Application No. 6221, to afford interested parties the opportunity to submit any comments or evidence they wished the Board to consider, and to evaluate potential impacts from the project, if any. Sean indicated the Board would not make a decision today; rather, the Board wanted to hear comments and concerns from interested parties and to then consider any comments and evidence submitted while considering the application, and while considering the elements under Section 89-02-01-09.2 of the North Dakota Administrative Code. Sean then gave a brief history of Mr. Hansen's complaint and Mr. Hurley's permit application.

Mike presented slides that described the permit application, DWR's review and decisions regarding the application, and Mr. Hurley's project. Mike's slides are on-file with the Board's Secretary-Treasurer. Mike noted his investigation regarding the construction of this drain. Mr. Hurley's family originally constructed the drain in the early 1960s and Mr. Hurley indicated he completed some deepening and widening activities in 2021, with NRCS permission. Mike utilized North Dakota Risk Assessment MapService (NDRAM) Base Level Engineering (BLE) floodplain mapping, IWI data, aerial and topographic maps, data provided by DWR, and other data when reviewing the project.

Pat Hurley was present; he provided a history of the area back to the 1960s and the project. Mr. Hurley noted that, following the submission of Mr. Hansen's complaint, Mr. Hurley then submitted his surface drainage permit application. DWR circulated a solicitation of views to several agencies and other interested parties, including NRCS, the Corps of Engineers, ND Game and Fish, and others.

Kale Van Bruggen, counsel for Les Hansen, noted the Board's review of the application would have to include examination of the volume of water the project drains. He further indicated the Board's review would have to include consideration of sustained flows as a potential adverse impact.

Mike noted the Record of Decision (“ROD”) from DWR and the data Mike has gathered address both volume and potential adverse impacts. For example, Mike noted that DWR concluded the project will not result in significant impacts downstream of the project; Highway 46 is the county line and DWR found that the application is not of statewide or interdistrict significance, and will not result in adverse impacts in LaMoure County.

Others in attendance agreed that there are widespread issues throughout this watershed, and that the activities conducted by Mr. Hurley (and as proposed under the permit application) were reasonable.

Mr. Hansen plans to submit additional materials from Barr Engineering. The Board indicated they will take that information under advisement, along with the comments offered at the hearing. Mike will prepare proposed responses to the elements under Section 89-02-01-09.2 of the North Dakota Administrative Code and the Board will discuss in more detail at the December meeting.

The Hearing adjourned at 12:31 p.m.

### **Sheyenne River Bank Stabilization Study**

Mike reported that this project has been closed out, the Board previously agreed to hold a meeting with stakeholders to review the report and to determine if there is interest in moving this project forward. Mike suggested an option might be to hold the meeting in March in conjunction with the Upper Sheyenne Meeting. The Board agreed.

### **Clausen Springs Dam**

Mike reached out to Tom M. with Strata; Strata plans to be on-site next week to do the void repair. Mike will have a rep from Houston onsite to observe. Mike also reached out to Torrey M. with TradeMark Tooling, they are finalizing their drawings on a three-piece set up, those will be sent to Mike for review. The Board still hopes to proceed with a winter installation if the ice conditions are favorable. More discussion at the next meeting.

### **Hansen/Hurley Complaint**

No new update with this, continuing to be held in abeyance while the DWR and the Board process the Hurley surface drain application permit.

### **Tomahawk Dam – update**

Mike reported a walk-through was completed last week; the project is complete for the most part.

Manager Anderson got a call from Scott Cummings about his bid for the project with Legal Drain 2, he mentioned the price of rock will be increasing significantly, and the Board has an opportunity to purchase rock for the project at a reduced price. Discussion was held on Legal Drain 2 funds, the drain accounts borrowing capacity at \$167,000, along with the recently completed interim stabilization

project. Manager Anderson is going to talk with Scott C. to get his thoughts and more information then and report back at the next meeting.

**Engineer Report**

Mike had nothing new to report. He mentioned the Water Conference in December, Heather completed the registration.

**Legal Report**

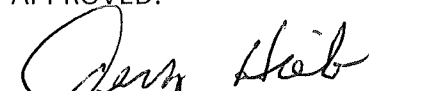
Sean had nothing new to report.

**Bills**


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

With nothing further to discuss the meeting adjourned at 12:53 p.m.

APPROVED:

  
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Jerry Hieb, Chairman

ATTEST:

  
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Heather Manson, Secretary-Treasurer

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

November 13<sup>th</sup>, 2023

PLEASE SIGN IN BELOW

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Rochelle Hans

Les Rn

Jay Cinda

Bruce Hawley

Tom Buehl

Glenda Hurley