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These are DRAFT minutes, subject to amendment before final approval by the Barnes County Water Resource District.

Meeting Minutes

April 8, 2024 – 9:00 AM

MEMBERS PRESENT: Chairman – Jerry Hieb, Managers – Scott Legge, Bret Fehr, Bruce Anderson, Mike Opat – Houston Engineering, Sean Fredricks – Ohnstad Twichell (via Microsoft Teams), Shawn Olason – Barnes County Commissioner

Chairman Hieb called the meeting to order at 9:04 a.m.

Manager Legge moved to approve the minutes from the March 11, 2024 meeting. Manager Anderson seconded the motion. Upon voice vote, the motion carried unanimously.

OLD BUSINESS

Hansen/Hurley Complaint

This is continuing to be held in abeyance while the Board processes the Hurley Surface Drain Permit Application.

Surface Drain Permit Appl. No.6221 – Pat Hurley

Ross Nilson, attorney for Mr. Hurley, and Kale Van Bruggen, attorney for Mr. Hansen, were both present via Teams. At the Board's March meeting, the Board agreed to give Mr. Hurley an opportunity to submit a written engineering analysis report for the Board to review by today's meeting, with the idea that Mr. Hansen would then have the opportunity to respond, and the Board would then review at the May meeting. Ross Nilson requested additional time for Mr. Hurley's engineer to prepare their report, with a proposed deadline of April 17. Mr. Nilson indicated they are having difficulties with completing the survey due to the frozen ground and snow conditions in the area. After discussion, the Board agreed to grant Mr. Hurley an extension until April 17; Mr. Hansen will then be allowed a week to submit comments. Mike will then review and, at a minimum, have an update at the May meeting. The Board will likely be in a better position to make a decision during the June meeting.

VC Little Dam

Mike reported the bids were opened on March 14. The bid package included two alternate bids; one with a substantial completion date of October 2024, the other with a substantial completion date in 2025. Comstock Construction submitted bids on both alternates, with the same bid number for both options, at \$818,400. Mike has drafted the notice of award to reflect that we will accept their bid for alternate one and move forward. After more discussion, Manager Legge moved to award the construction contract to Comstock Construction for Alternative #1 in the amount of \$818,400, to authorize Chairman Hieb to sign the agreement, and to authorize Houston Engineering to issue the notice to proceed, contingent upon receipt of the requisite evidence of insurance from Comstock Construction. Manager Fehr seconded the motion. Upon roll call vote, the motion carried unanimously.

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Mike provided an Engineer's Statement of Probable Construction Cost and discussed the budget, after bid opening. Mike reminded the Board USFWS has committed to grant funding in the amount of \$50,000.

ND Game & Fish prepared and submitted a proposed grant agreement regarding their \$15,000 grant contribution. After discussion, Manager Legge moved to approve the agreement with ND G&F. Manager Anderson seconded the motion. Upon roll call vote, the motion carried unanimously.

Sean Fredricks and Katie Schmidt then discussed potential bond issuance options for the Board's consideration. Katie explained that Colliers is proposing a two-year bond issue, based on proposed construction timing and cost-share reimbursement plans. Principal payments will be due annually with the interest payments due semiannually. The Board has two options for interest payments: the Board could utilize the funding from the County committed under the parties' Joint Powers Agreement, or the Board could capitalize the interest and roll it into the bond issue. BC Commissioner Olauson stated that the \$340,000 committed by the County under the JPA is set aside for this project. After discussion, the Board directed Katie Schmidt to work with Colliers on a bond issue that includes capitalized interest. Katie will put together a resolution based on discussion today and the Board can consider it at the next meeting.

NRCS – RCPP: Ten Mile Lake

Mike reported that H.E. Inc has completed our side of the fieldwork and related efforts, NRCS has done the same. NRCS has set up a meeting for later this week to discuss findings and mitigation. Mike stated we will see how it goes; he will let the Board know the status update.

Thordenskjold Drain

Sean reported that Ransom Co. WRD has approved the Joint Resolution along with the final reassessment list, we have all that paperwork on file. After discussion, Manager Legge moved to formally adopt the Joint Resolution and approve the final reassessment list. Manager Anderson seconded the motion. Upon roll call vote, the motion carried unanimously. With this approval, both WRDs have now approved the reassessment and the final list, as required under the parties' Joint Powers Agreement. With that in mind, the reassessment is concluded.

Clausen Springs Dam

Mike reported that the new trash rack fabrication is complete, TradeMark is waiting until conditions are favorable to do the installation. BC Commissioner Olauson asked about ownership of the dam, he stated that ND G&F owns the body of water and the land where the park is located, why don't they own the dam as well. Sean Fredricks reviewed past files/agreements back from the 1960's construction permit, the 1993 spillway repair, and the 2012 permit. He then explained the dam ownership documents indicate the WRD owns the dam. Under a 1966 cost-share agreement between the County, the State Water Commission, and North Dakota Game & Fish, NDG&F owns the recreation area but Barnes County has O&M obligations.

Sheyenne Riverbank Stabilization Study

Mike reported on the stakeholder meeting held on March 20th at the VC Eagles, he mentioned that attendance was good, there was some interest with other entities on potentially moving forward with a bigger effort. Mike is scheduled to give an update on this at the RRJWRD Full Board meeting on April 10th.

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2025-2027 Water Development Plan

The Board authorized Mike and Heather to submit projects to the DWR by April 30th for the 2025-2027 Water Development Plan. Mike discussed the Lower Sheyenne, Thordenskjold Drain, Stewart – Anderson Drain, Brown Dam, Sheyenne River Snagging/Clearing, Ten Mile Lake, Clausen Springs Dam (Geotech), Meadow Lake, with a secondary list to include Eckelson Lake and Island Lake. Deadline for the submittal to the DWR is April 30th, 2024.

Manager Anderson reported that Hobart Drain was opened on 3-15-24. Water quality tests have come in with high numbers, with the current rain the Board agreed to test one more time to see what the numbers show.

NEW BUSINESS

Drain Tile Application – Winter Farms

Application to Install a Subsurface Water Management System No. 2024-02 for Winter Farms Family Partnership in the Southwest Quarter of Section 18 in Weimer Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2024-02*, filed by Applicant Winter Farms Family Partnership on March 20, 2024. Under the Application, Applicant seeks to install a 137-acre drain tile system in the Southwest Quarter of Section 18 in Weimer Township, Barnes County, North Dakota. The project will include 13 gravity outlets, all of which will discharge directly into a USGS blue line waterway in the Southwest Quarter of Section 18; the waterway flows to the east, into the Southeast Quarter of Section 18.

According to County tax roll information supplied by Applicant, the Allen and Katherine Gross Trust owns Southwest Quarter of Section 18 in Weimer Township; Applicant indicated Winter Farms Family Partnership rents the Southwest Quarter of Section 18 from the Allen and Katherine Gross Trust. Because the project discharges into a USGS blue line waterway, no downstream notices are required under N.D. Cent. Code § 61-32-03.1.

Manager Legge moved, and Manager Fehr seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2024-02*, filed March 20, 2024, for Winter Farms Family Partnership in the Southwest Quarter of Section 18 in Weimer Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-02, 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 project outlets into the USGS blue line waterway in the Southwest Quarter of Section 18 in Weimer Township.

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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 Southwest Quarter of Section 18 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. 2024-02 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 owners of the Southwest Quarter of Section 18 in Weimer Township to install and maintain tile components.
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. 2024-02, Applicant's downstream flow map, and the Barnes County Permit Form to the Department of Water Resources, Barnes Rural Water District, the Allen and Katherine Gross Trust, 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.

Drain Tile Application – James Richman

Application to Install a Subsurface Water Management System No. 2024-03 for James Richman in Sections 1 and 2 in Alta Township and in the Southwest Quarter of Section 6 in Oriska Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2024-03*, filed by Applicant James Richman on March 26, 2024. Under the Application, Applicant seeks to install a 1,014-acre drain tile system in the East Half of Section 2 in Alta Township, Section 1 in Alta Township, and the Southwest Quarter of Section 6 in Oriska Township, Barnes County, North Dakota. The project will include 4 gravity outlets, as follows:

- Outlet No. 1: This outlet will be located in the Northeast Quarter of Section 1 in Alta Township and will discharge directly into a USGS blue line watercourse.
- Outlet Nos. 2 and 3: These outlets will both be located in the Southwest Quarter of Section 6 in Oriska Township and will both discharge directly into a USGS blue line watercourse.

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- Outlet No. 4: This outlet will be located along the north boundary of the Northwest Quarter of Section 1 in Alta Township and will discharge into the south road ditch along 30th Street SE; the discharge will flow to the east, along the north boundary of Section 1 and the Northwest Quarter of Section 6 in Oriska Township.

The project will require lines through and under Alta Township's right of way and Oriska Township's right of way to connect Applicant's system, specifically including 125th Avenue SE and 126th Avenue SE.

According to Barnes County tax roll information supplied by Applicant, WFFP LLLP owns Northeast Quarter of Section 2 in Alta Township; Kevin Eugene and Betty Jo Rohde own the Southeast Quarter of Section 2 in Alta Township; Jon and Andrea Richman own the West Half of Section 1 where Applicant intends to install the tile system; Jeanette M. Satrom, as Trustee of the Jeanette M. Satrom Revocable Living Trust, and Maynard and Jeanette Satrom, LLLP, own the East Half of Section 1 in Alta Township and the Southwest Quarter of Section 6 in Oriska Township. With regard to downstream landowners, Richard D. Grosz and Arlyss Grosz, as Trustees of the Grosz Living Trust, own the Northwest Quarter of Section 6 in Oriska Township (downstream of the outlet in the Northwest Quarter of Section 1 in Alta Township). Because the other three gravity outlets all discharge directly into USGS blue line watercourses, no other downstream notices are necessary under N.D. Cent. Code § 61-32-03.1.

Manager Fehr moved, and Manager Legge seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2024-03*, filed March 26, 2024, for James Richman in the East Half of Section 2 in Alta Township, Section 1 in Alta Township, and the Southwest Quarter of Section 6 in Oriska Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT No. 2024-03, 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 into Alta Township's road right of way.
3. Applicant will install and maintain erosion protection at any and all project outlets into the USGS blue line watercourses in the Northeast Quarter of Section 1 in Alta Township and the Southwest Quarter of Section 6 in Oriska Township.
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 East Half of Section 2 in Alta Township, Section 1 in Alta Township, and the Southwest Quarter of Section 6 in Oriska Township, under any blanket easements, or otherwise beyond Barnes Rural Water District's existing easement.
5. With regard to the outlet along the north boundary of the Northwest Quarter of Section 1 in Alta Township, Applicant must remove silt or vegetation, or repair erosion or scour damages **directly** caused by Applicant's tile system, but only up to one mile downstream from the outlet.

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6. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-03 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 the Alta Township Board of Township Supervisors or downstream landowners 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 recommends that Applicant comply with the following:

1. The Board recommends that Applicant obtain written consent from the Alta Township Board of Township Supervisors and the Oriska Township Board of Township Supervisors to install any lines or other project components on, under, or through any of their respective road right of way.
2. The Board recommends that Applicant obtain written consent from the Alta Township Board of Township Supervisors to discharge directly into any of the Township's road right of way.
3. The Board recommends that Applicant obtain an easement or other written consent to install and maintain tile components from the owners of any land not owned by Applicant.
4. 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. 2024-03, Applicant's downstream flow map, and the Barnes County Permit Form to the Department of Water Resources; Barnes Rural Water District; WFFP LLLP; Kevin Eugene and Betty Jo Rohde; Jon and Andrea Richman; Jeanette M. Satrom Revocable Living Trust; Maynard and Jeanette Satrom, LLLP; Richard D. Grosz and Arlyss Grosz; 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.

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Drain Tile Application – Bob Latt, Daniel Latt & Wayne Smith

Application to Install a Subsurface Water Management System No. 2024-04 for Bob Latt, Daniel Latt, and Wayne Smith in the North Half and the Southeast Quarter of Section 23 in Svea Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2024-04*, filed by Applicants Bob Latt, Daniel Latt, and Wayne Smith on March 27, 2024. Under the Application, Applicants seek to install a 127-acre drain tile system in the North Half and the Southeast Quarter of Section 23 in Svea Township, Barnes County, North Dakota. The project will include a single pump outlet, located along the west boundary of the Southeast Quarter of Section 23; the pump will discharge directly into a USGS blue line waterway that flows to the west.

According to County tax roll information supplied by Applicants, the Nicole R. Latt Living Trust owns the North Half of Section 23 in Svea Township; and the Gregory J. Nelson and Karla J. Nelson Joint Revocable Trust owns the Southeast Quarter of Section 23 in Svea Township. Because the project will discharge into a USGS blue line waterway, no downstream notices are required under N.D. Cent. Code § 61-32-03.1.

Manager Fehr moved, and Manager Legge seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2024-04*, filed March 27, 2024, for Bob Latt, Daniel Latt, and Wayne Smith in the North Half and the Southeast Quarter of Section 23 in Svea Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-04, subject to the following conditions:

1. Applicants will re-establish any areas disturbed installing or maintaining Applicants' tile system.
2. Applicants will turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the Barnes County Water Resource District.
3. Applicants will install and maintain erosion protection at any and all project outlets into the USGS blue line waterway in the Southeast Quarter of Section 23 in Svea Township.
4. Applicants will not install Applicants' tile system within 20 feet, on either side, of any rural water lines Barnes Rural Water District has in the North Half and the Southeast Quarter of Section 23 in Svea Township under any blanket easements, or otherwise beyond Barnes Rural Water District's existing easement.
5. Applicants must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-04 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.

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Under Section 61-32-03.1, the District 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. The Board recommends that Applicants obtain written consent from the owners of any land not owned by Applicants to install and maintain tile components.
2. The Board recommends 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.

Sean Fredricks will provide copies of the Board's NOTICE OF DECISION, SUBSURFACE WATER MANAGEMENT PERMIT No. 2024-04, Applicants' downstream flow map, and the Barnes County Permit Form to the Department of Water Resources, Barnes Rural Water District, the Nicole R. Latt Living Trust, the Gregory J. Nelson and Karla J. Nelson Joint Revocable Trust, and Jessica Jenrich. Under North Dakota law, Applicants' detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

Engineer Report

Mike had nothing else to add. No lake gauge readings as of this time.

Legal Report

Sean had nothing more to add. He did mention that he is working with legislators on some pro drainage legislations.

Bills

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

With nothing further to discuss the meeting adjourned at 10:17 a.m.

APPROVE:

Jerry Hieb, Chairman

ATTEST:

Heather Manson, Secretary-Treasurer