

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

701-845-8508

October 14, 2013

**MEETING MINUTES**

PRESENT: Chairman Jerry Hieb; Manager Bruce Anderson; Manager Shawn Olauson; Manager Bret Fehr; Commissioner John Froelich; Sean Fredricks – Ohnstad/Twichell & Mike Opat – Moore Engineering.

Manager Ken Evenson - Absent

Also Present: See Attached List

Chairman Hieb called the meeting to order at 904 a.m.

Manager Olauson made a motion to accept the minutes. Manager Anderson seconded motion. Motion approved.

**NEW BUSINESS**

Pat Downs, Executive Director for the Red River Retention Authority, had not had a chance to visit one of our board meetings and decided it was a great opportunity. While Pat was at Big Iron he had a chance to visit LeRoy Triebold and Nyle Burchill. Nyle lives in Grand Prairie Township of Barnes County and informed Pat Downs of a great retention area, mostly on his property, in section 1. Pat had Mike Opat from Moore Engineering, do an analysis on this area and found it to be a good area for possible retention for the Maple River study. This information is for BCWRD to work with as a retention site.

Pat Downs is an advocate working for both North Dakota and Minnesota for the purpose of water retention on both sides up and down the Red River Valley.

Mike Opat and Sean Fredricks will bring this information for possible retention to the Maple River Board. Mike and Sean could maybe arrange a joint meeting to pursue this retention. Discussion followed for this project idea.

**Thordenskjold Drain Extention** - Mike Storhoff area, in southeast section of Thordenskjold Drain, has not been officially permitted into drain area. We need to make a resolution of necessity, Sean will write up, this would give Mike Opat authority to get the permit process started. District will be consistent as what the rest of the drain has, either permit or dead for the right of way. Sean and Mike will get this information ready for the November meeting.

### **10 Mile Lake**

Paul Abrahamson informed the district the hang up with this project is getting an elevation number. Paul has not had compliance letters from NRCS or Game & Fish. Keith Weston said that these letters are needed to proceed. Discussion on highest elevation, cost impact for all involved, and other items involved. Paul showed maps back to 1941 and what 10 Mile looked like back then and some elevation numbers also. Once compliance is met we can proceed, but Mike Opat asked if NRCS is involved thru Keith's office what actually is the roll of BC Water Resource District.

### **Fox Lake**

Mike Opat talked with Kerry Johnson, BCHD, and Fox Lake is equalizing very well and they may have a diver go down and check out to see what the issue was and see the condition of culvert. Mike Opat says it is time for survey work to get done before the snow comes. Mike says he will have to get access permission from area landowners to get this surveying done and maybe if anyone knows the people to help assist with getting access permission. DuWayne Didier will assist Mike with a list of names. Discussion of flow of Fox Lake. Commissioner Froelich brought up that the County Commission is looking into money from the state to fill in viaduct and put in a straight culvert, because of all the truck traffic coming

from Spiritwood project. Railroad is also looking into this area. Nothing to be done till next legislative session meets.

## **Sanborn Lake**

As of to date the contractor should show up to get started on: *Clean out of Legal Drain 2 sections 29 & 30. Kelly Marler water hole that is full of sediment from the Sanborn project. Offner/Jorissen return of their property to agreement and US Fish and Wildlife area back to its original condition.*

**Chairman Jerry Hieb has stated as of October 14, 2013, Barnes County Water Resource District has terminated the Sanborn Legal Drain project as a result of the inability to secure easements and a permanent permit to drain water through the US Fish & Wildlife Wetland.**

Discussion regarding this project.

Sean Fredricks reviewed the Board's agreement with BNSF regarding the Sanborn Outlet. The Board discussed Section 7 of the agreement regarding factors "beyond the District's control." Mr. Fredricks read Section 7, which provides:

7. The objective of the Project is to reduce the level of Sanborn Lake to 1,427 feet, and the District will design the Project accordingly. Unless factors beyond the District's control occur, the District will maintain the elevation of Sanborn Lake at an elevation not to exceed 1,427 feet.

The Board members agree the second sentence applies to this situation; more specifically, the Board members agree the Offner/Jorissen right of way issue, along with the USF&W issue, collectively constitute "factors beyond the District's control . . ." Mr. Fredricks indicated that, in his opinion, BNSF would not agree and would argue the Board had an obligation to acquire all requisite permits and to secure all right of way, by eminent domain if necessary, to ensure the Board's ability to operate the outlet. Mr. Fredricks referenced Section 3 of the agreement regarding the Board's obligations to obtain all licenses, permits, right of way, and other items. Mr. Fredricks voiced concern that, in the event the lake floods in the future to a level where BNSF believes the Board should operate the outlet, BNSF would likely sue the Board if the Board does not operate the outlet. Manager Fehr noted that if the Board did want to operate the outlet in the future, they would have to secure an additional emergency permit from the State Engineer's Office.

The Board noted the Managers have exerted a great deal of effort attempting to negotiate a suitable resolution with the Offners and Jorissens, short of pursuing eminent domain. With that in mind, the Board felt comfortable the language in Section 7 regarding factors “beyond the District’s control” does apply to this situation and, in light of the issues with the Offners, the Jorissens, and USF&W, the Board felt compelled to abandon the outlet project.

Manager Anderson made a motion, as stated by Chairman Hieb, as of October 14, 2013 that Barnes County Water Resource District will terminate the Sanborn Legal Drain project as a result of the inability to secure easements and a permanent permit to drain water through the US Game and Fish Wetlands. Manager Olauson seconded motion. Motion Approved.

### **Thordenskjold Drain**

Manager Anderson and Manager Olauson will meet with Scott Cummings sometime this week, for the clean out project and when he can get started. Discussion of what was to be done in Thordenskjold Drain. Sean recommends if we have any questions about what needs to be done, get it in writing from the necessary landowners.

### **Kathryn Dam**

Mike Opat, Moore Engineering, handed out two options of cost repair information for the Kathryn Dam project. One of the proposals would cost \$130,00.00 and another would cost \$190, 000.00. Discussion followed. State Water Commission would help with 65% funding with 35% BCWRD funding.

Barr Engineering, sent with Mike Opat, a drawing of what the proposed terraced stream, this would take the place of the dam. This would be a bigger cost, in the millions, but you would have more partnership funding with the different agencies (wildlife, safety, etc.) getting involved with this bigger project. Discussion followed. Maybe have a meeting of all interested agencies and others in December or January for this project.

Water District managers decided to hold off any further decisions for a few months, since nothing can get started till spring.

## **Hobart Lake**

Mike Opat informed the district that FEMA's physical year ended in September. BC Commission will continue support this project as they are the applicants named thru FEMA.

## **Legal Drain 2**

Manager Anderson met with Legal Drain 2 advisory board and all involved with this project. With a unanimous vote they wanted to raise assessments from \$2.00/acre, which the BCWRD increased and voted on September 9, 2013, to \$4.00/acre. Manager Anderson made a motion to increase the assessment from \$2.00/acre to \$4.00/acre. Manager Fehr seconded motion. Motion was accepted with a Roll Call Vote. Manager Evenson was absent. Linda will have to check with the Auditor's office to see if this assessment can be changed for this year, as the assessment information was already sent in, but it had the \$2.00/acre assessment figured in.

Friday 9-27-13 8:00 AM

Met at the control structures on Stewart  
drain #2, east end.

Scott Leggo  
Beverly Andersen  
Paul J. Amundson  
Donald Jorissen  
Shaun Anderson  
Duane Arngren  
Ryley Elts  
Walter Trebold  
Harold Wendell  
Tim Fisher  
Harold Gross  
Jesse Peltz

present at meeting

Meeting called to order 8:05 AM Sept. 27 2013

Discussion of raising levy to 4.00 per acre

Joe Kruse  
Matt Leggo  
Todd Wendell  
Alan Skokew  
Dwight Grothberg  
John Trebold

called in by phone in favor of raising

Motion was made to raise to raise to 4.00  
All in favor

Motion to Adjourn by Harold Wendell/  
Seconded by Donald Jorissen

## **Ed Thom**

Mike Opat had Railroad people look at this situation and from all their records they did not have any culverts in this area. When they looked at area, didn't feel there was any real pressing need so they wouldn't put a pipe in this area. Sean Fredricks informed district that to put a culvert in, the district would have to create a legal assessment drain. Discussion of how the BCWRD can help this situation. Manager Anderson was going to check with Moritz Excavating about what it would cost to bore under railroad tracks.

**Chairman Hieb** has a letter from the State Water Commission. Adam Weigel contacted the state commission and got a permit from the state to take water, from Lake Ashtabula, for dust control on his country road. Chairman Hieb found out it is illegal to take water from anywhere, even a slough, without a permit from the state, for any reason.

**Chairman Hieb** also informed the district about the upcoming court hearing for Buchholz/Nelson complaint. November 12th plea change and December 20th for trial.

Manager Fehr informed district that Griggs and Barnes County are continuing to meet (even after the over haul of Commissioners in Griggs) this afternoon here in Valley City.

Manager Olauson made a motion to pay the September bills. Manager Anderson seconded motion. Motion approved.

Chairman Hieb declared the meeting adjourned at 11:05 am.

Respectfully submitted,

Linda McKenna – Secretary /Treasurer  
Barnes County Water Resource District