

Barnes County Water Resource District
PO Box 306
Valley City, ND. 58072
701-845-8508

07/09/2012
Regular Meeting Minutes

Present: Chairman Jeff McMillan, Duane Lettenmaier, Jerry Hieb, and John Koher
Sean Fredricks- Ohnstad Twitchell, Mike Opat- Moore Engineering

Absent: Vice Chairman Pat Hurley

Also Present: Donald Jorissen, Scott Legge, John Froelich, Roger Berntson, George Piatz, Amanda Brandt- NRCS District Conservationist,
Paul Abrahamson, Neil Amman, Jesse Pabst, George Pabst Jr., Dan Elston, John Schwehr, Shelly Nelson-Barnes County Soil Conservation
District and Ryan Motl- Manager Gavilon Grain

Chairman McMillan called the meeting to order at 8:00 AM.

Manager John Kohler moved and Manager Jerry Hieb seconded to approve the minutes of the June meeting. All were in favor. The motion carried.

Manager Hieb moved and Manager Kohler seconded to approve the revenue and expenditure reports for the month of June. All were in favor. The motion carried.

Stream Crossing Adequacy- Between Section's 9 & 10, Stewart Township

George Piatz, Stewart Township Chairman, requested that a Board Manager attend a meeting on site to determine the adequate culvert sizing for this crossing. This particular crossing was impacted by flooding during 2009, 2010 and 2011 and is also impacted by the natural flow of Eckelson and Fox Lake. It was agreed that Chairman McMillan would attend and that Mr. Piatz would line the meeting up. Mike Opat presented a culvert study that was completed last fall. This will be utilized during the meeting. Mr. Piatz stated that there was \$1,034.00 available from FEMA for repair work.

Legal Drain #2- Stewart Anderson Drain 2012 maintenance

Manager Kohler presented the bids that were received for the cleanout of the drain from the drop structure west to the former Beth Wieland farm. The quotes are as follows: Wade Klubben- \$2.00 per excavated foot, Star Enterprises- \$20,000.00 to \$25,000.00 total, CR Excavating- did not submit.

Discussion was held on what work the bid includes. It was decided to table this discussion until the August meeting. Manager Kohler will have the contractor's clarify their quotes. Discussion was held on the completion of the repair to the sloughing that occurred in the NE ¼ Section 32, Stewart Township. It was decided that this would be completed when the drain cleanout work is being done. Discussion held regarding the removal of trees in the drain. Jesse Pabst requested that the tree's on the east end left. It was decided that the trees would be removed within the right of way and where the drain passed through the tree claim back 120 feet. Discussion was held on cleaning only one mile of the drain this year to cut down on expenses. It was suggested by Don Jorisson that the drain be cleaned from the drop structure west one mile.

Legal Drain #2-Stewart Anderson Drain Extension

The Secretary presented a letter received from Kevin Harstad. Mr. Harstad owns the SW ¼ of Section 2, Potter Township. This area is under a 99 year USFWS easement. Mr. Harstad stated in his letter that he does not wish to mitigate any of the wetland acres with the USFWS and the NRCS to allow the drain extension to be open. Discussion was held. Chairman McMillan stated that in order to resolve this issue is to close the drain. Dan Elston stated that he was still going to go through the NRCS Wetland determination, so he did not want his portion of the drain closed. Discussion was held on leveling out the fence line. Both Kurt Tompkins-USFWS and Amanda Brandt-NRCS agreed that this would be ok. The Barnes County Water Resource District will fill in Harstads at the Boards Expense this fall. Discussion was held on outstanding bills. The Secretary presented the outstanding bills that totaled \$13,168.75 due to Lakeview Excavating. Manager Hieb moved and Manager Kohler seconded to rescind the previous motion made by Vice Chairman Hurley at the June meeting to pay the contractor and bill the responsible party. Discussion was held. Chairman McMillan called for a roll call vote. The results are as follows: Managers voting yes: Kohler, Hieb and McMillan. Managers absent and not voting: Hurley. Managers not voting due to conflict analysis: Lettenmaier. All were in favor. The motion to rescind carried. Vice Chairman McMillan stated that the bills should be paid by the party or parties to which benefit from the extension. Chairman McMillan asked Manager Lettenmaier to pay the outstanding bills. Manager Lettenmaier stated that he wanted to speak to his lawyer prior to making any payment commitment. Manager Hieb stated that the contractor needs to be paid. Discussion was held. Sean Fredricks advised that Board to not pay the bills if they do not feel responsible. Roger Berntson wanted it noted that comments made by any individual County Commissioner at a Water Board meeting was that individual Commissioners personal opinion and not the opinion of the entire commission. Don Jorisson stated that he felt that Manager Lettenamier should pay.

Ten Mile Lake Outlet

Paul Abrahamson had questions regarding the board's request for a petition and bond. Mr. Abrahamson requested a map of the area that listed the names of property owners. Mr. Abrahamson was informed that this would be an expense to the board and that the whole point of the petition and bonding was to alleviate any financial commitment from the board. Projects of this nature must be self supporting and not an expense of the District. Chairman McMillan asked if he had spoken to landowners and what their response was. Mr. Abrahamson stated that he has only spoken to some landowners and that there was a general consensus that they would be in favor of establishing an

assessment district. Mr. Abrahamson will be sending an email out to his contacts and report back to the board.

Eckelson Lake- Natural water course maintenance project

Currently the plan is to clean east of Mason slough and then move into the water course that flows through Grentholz's property. Discussion was held on possibly establishing an assessment district for this area.

Fox Lake

Local landowners are organizing to perform water course maintenance on the natural outlet of Fox Lake. Discussion was held in regarding permitting. Landowners were advised that a permit would be required if they were intending to drain 80 or more acres or if they were Deeping, widening, straightening, extending or redirecting the flow of water. The Landowners were advised that they need to be sure to contact the NRCS and the USFWS for permission. Landowners can, without a permit, perform maintenance of a water course. Maintenance is defined as the removal of cat tails, sediment and debris. The landowners were again advised to contact the NRCS and the USFWS for any required permits.

Red River Joint Water Resource District

Mr. Fredricks reported that the Red River Joint District would be meeting on July 11th in conjunction with the Summer Water Meetings to be held in Fargo. He also stated that all inter district significance permits are to be processed through the Red River Joint Water Resource District. He was going to check the policy and discuss this with the Red River Joint Board on the 11th.

Hobart Lake Outlet

FEMA has not made any grant award announcements. NDES has been reviewing the applications and have contacted the District's Engineer. NDES is requesting that the District respond to the NDOT concerns regarding downstream impacts. Discussion was held on the culvert sizing for the project and differing maintenance issues relating to a 24" and 36" culverts. Mr. Opat reported that in either case jetting would be used to remove any blockages so there really wouldn't be any difference in regards to maintenance. Discussion was held on realigning the outlet. This could reduce the cost of the project as it will shorten the length of required buried culvert. Manager Lettenmaier will talk with downstream landowners whom are concerned with culvert sizing and report his findings to the District's Engineer. Kurt Tompkins- USFWS, requested the invert elevation of the outlet. Mr. Opat reported 1414 and that this elevation coordinates with an approved NRCS drain in the NE ¼ of Section 22, Hobart Township. Manager's Kohler and Hieb reported that they had met with Darren Bjornson, Manger-Columbia Grain regarding the establishment of an assessment district. Mr. Bjornson was receptive of this idea and was going to work on a petition and bond. Mr. Fredricks was instructed to hold off on drafting any petition documents.

Sanborn Lake Outlet

Mr. Fredricks reported that he had sent a letter response to Fred Offner's attorney on June 20th and has not received a reply. Kurt Tompkins reminded the board that the portion of the water course that is under USFWS easement must be filled in by December 2012. It was decided to request cross sections of the parcel in question from Houston Engineering to establish the amount of fill that needs to be replaced.

Manager Lettenmaier reported that Kelly Marlar had contacted him and stated that his stock pond has filled with sediment from the outlet's operation. This stock pond is located at the junction of Legal Drain #2 and the outlet. It was decided to ask the contractors who are working on the Legal Drain #2 projects to complete the restoration work. Manager Kohler will ask them to include this in their bid price.

Warren Van Bruggen Application to Drain #3810

It was decided to table this until the August meeting. Manager Hurley will be asked to establish a reference point for the gate closure.

Application to Install a Subsurface Drain No. 2012-02 for Wayne Langer in the Northwest Quarter and the East Half of Section 36 of Green Township, the Southwest Quarter of Section 31 of Marsh Township, and the Northeast Quarter of Section 1 of Skandia Township

The Board reviewed *Application to Install a Subsurface Drain No. 2012-02* dated April 5, 2012, for Wayne Langer. The Board concluded the application does not propose drainage of statewide significance, so the Board has jurisdiction to approve the permit (without forwarding to the State Engineer's Office to consider and approve). Under the application, Applicant seeks to install a drain tile system in the Northwest Quarter of Section 36 and the East Half of Section 36 of Green Township; the Southwest Quarter of Section 31 of Marsh Township; and the Northeast Quarter of Section 1 of Skandia Township, all in Barnes County, North Dakota. The tile project will include two outlets; the first outlet will discharge directly into a natural watercourse in Section 36, and the second will outlet from the Southwest Quarter of Section 31 of Marsh Township across a portion of the Southeast Quarter of Section 31 of Marsh Township, and approximately 300 feet into the North Half of Section 6 of Nelson Township, where the tile discharge will outlet into a natural watercourse.

The Board indicated the tile outlet that will discharge directly into the natural watercourse in Section 36 of Green Township will require installation and maintenance of erosion protection by Applicant. With regard to the project that will discharge directly into the natural watercourse in Section 36, that portion of the project did not require a *Thirty-Day Notice* under N.D. Cent. Code Section 61-32-03.1, and the Board cannot require Applicant to obtain flowage easements from downstream landowners regarding that outlet.

With regard to the outlet that will discharge over a portion of the Southeast Quarter of Section 31 of Marsh Township and approximately 300 feet of the North Half of Section 6 of Nelson Township, the Board provided a *Thirty-Day Notice* to the owner of those parcels, Ms. Judith VonBank, in accordance with Section 61-32-03.1. Ms. VonBank did not submit any comments to the Board.

According to records on file with the Barnes County Recorder's Office, Applicant owns the parcels Applicant intends to tile, including the Northwest Quarter of Section 36 and the East Half of Section 36 of Green Township; the Southwest Quarter of Section 31 of Marsh Township; and the Northeast Quarter of Section 1 of Skandia Township. Judith VonBank owns the Southeast Quarter of Section 31 of Marsh Township and the North Half of Section 6 of Nelson Township.

It was moved by Manager Lettenmaier and seconded by Manager Kohler to approve *Application to Install a Subsurface Drain No. 2012-02* dated April 5, 2012, for Wayne Langer in the Northwest Quarter of Section 36 and the East Half of Section 36 of Green Township; the Southwest Quarter of Section 31 of Marsh Township; and the Northeast Quarter of Section 1 of Skandia Township, subject to the following conditions:

1) That Applicant obtain and record (with the Barnes County Recorder's office) flowage easements (and not just written consents), including language that permits saline water, from the owners of the following parcels in Marsh and Nelson Townships, Barnes County, North Dakota:

- a. Southeast Quarter of Section 31 of Marsh Township; and
- b. North Half of Section 6 of Nelson Township;

2) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;

3) That Applicant provide and maintain adequate erosion protection at any and all outlets into the natural watercourse in Section 36 of Green Township;

4) That Applicant notify the Barnes County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;

5) That Applicant notify the Barnes County Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application; and

6) 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.

Upon roll call vote, the motion carried unanimously.

Thordenskjold Drain- Reassessment of benefit

Manager's Kohler and Hurley will meet with the District Engineer to discuss reducing the assessment value/benefit on bodies of water located in the assessment district.

Meadow Lake Outlet

Mike Opat reported that the State Water Commission approved Manager Hurley's request for cost share.

Clausen Springs Dam

The North Dakota State Water Commission has completed a routine inspection of the dam. Mr. Opat reported that they were very pleased with the project. A report will be sent with a list of items that need attention. Mr. Opat noted that there were some noxious weeds that needed to be sprayed and that padelock needs to be placed on the spillway gate. It was decided to ask the Barnes County Weed Board to assist with the spraying.

Kathryn Dam

The Secretary has contact the USACE in regards to a possible funding opportunity. The Corps is looking to improve fish passages along the Sheyenne and may be interested in cost sharing the repairs to the dam.

Manager Reports

Manager Kohler reported that he and Manager Hurley attended the Upper Sheyenne Joint Water Resource District meeting and tour in Devils Lake. There were no other reports.

Summer Educational Tours

The Secretary was instructed to contact the North Dakota Water User's Association to offer assistance with the August tour of the Sheyenne River.

Bills

Manager Kohler moved and Manager Hieb seconded to pay the submitted bills. A roll call vote was taken and the results are as follows: Managers voting yes: Kohler, Hieb, Lettenmaier, and McMillan. Managers absent and not voting: Hurley. All were in favor. The motion carried.

Being no further business, Manager Kohler moved to adjourn. The motion was seconded by Manager Hieb. All were in favor. The motion carried.

Respectfully submitted,

Jamie Smith

Secretary