

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

Meeting Minutes

March 11, 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 Olauson – Barnes County Commissioner

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

Manager Anderson moved to approve the minutes from the February 12, 2024 meeting as printed. Manager Legge seconded the motion. Upon voice vote, the motion carried unanimously. Minutes approved as printed.

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

Mike discussed at the last meeting the Board agreed to give Mr. Hurley an opportunity to submit a written engineering analysis report for the Board to review at today's meeting, with the idea that Les Hansen would then have one week to submit his responses to the Board for consideration. Mr. Hurley was in attendance and stated that he has retained Burian & Associates to prepare a report, but they could not have it ready for today's meeting. Mr. Hurley requested a two-month extension to give Mr. Hurley's engineer time to complete the survey and submit the report. Discussion was held, Manager Legge moved to grant a 30-day extension for Mr. Hurley's report submittal. Manager Fehr seconded the motion. Upon roll call vote, the motion carried unanimously. Manager Fehr stated that at this point both sides will get the same representation, then we will make a decision with the best available information at the time. Jordan Prazak (Burian & Associates) stated that the proposed timeframe should be fine. Kale VanBruggen requested clarification on the 30-day extension, his understanding is that Mr. Hurley submits the report by April 8th, allowing Mr. Hansen to respond by April 15th, with the Boards review at the May meeting. The Board agreed.

Mr. Hansen was also present and asked the Board if he could have access to Mr. Hurley's property. Sean Fredricks explained that the Board does not have any authority to compel Mr. Hurley to afford Mr. Hansen access, but Mr. Fredricks indicated the Board is granting Mr. Hurley an extension and Mr. Hansen's request seems reasonable. Mr. Fredricks stressed that access is an issue between the parties and he

recommended that Mr. Hurley be present during any access but, ultimately, the parties will have to coordinate any access for each other, not the WRD.

VC Little Dam

Mike reported the bid opening for the project has been changed to March 14, to ensure compliance with state law regarding publication of the advertisement for bids. Mike and Sean will review the bids then share the results as soon as they have the bids tabulated. The Board can consider awarding the contract at the April meeting.

NRCS – RCPP: Ten Mile Lake

Mike has shared the depth measurement information with NRCS and they are currently working internally through some of their mitigation guidelines. Mike will keep the Board posted on those conversations. Mike also provided NRCS with a map showing what areas would be improved if the lake were to be drawn down to the requested elevation. The matter seems to be progressing.

Thordenskjold Drain

Mike reported the formal reassessment hearing was held last month during the February regular WRD meeting. He reviewed all the landowner comments received, he discussed the potential modifications with the Board, then discussion was held on the final approval process. Sean discussed the JPA agreement with Ransom County WRD; both WRDs will have to approve the final list. The Board agreed to first ensure that Ransom Co. is comfortable with the modifications and final assessment list before approving the final list. No action was taken by the Board today; the Board directed Sean and Mike to share the information presented today with Ransom Co. for their review and consideration. Sean explained the Board can consider final approval at the April 8th meeting. Mike mentioned that as this portion of the process wraps up, there has been discussion during past meetings of a master plan for future drain improvements, maintenance, culvert replacements, and other necessary Drain upgrades. After more discussion, the Board directed Mike to begin working on a master plan.

Clausen Springs Dam

Mike reported that TradeMark is continuing to fabricate the new trash rack, he will keep the Board posted on the progress. He mentioned that we still have not received a copy of the last dam inspection report from the DWR.

Sheyenne Riverbank Stabilization Study

Mike reminded the Board that the stakeholder meeting will be held at the annual Baldhill Dam operations meeting on March 20th at the VC Eagles, discussion on the findings and next steps of this potential project will be held at 12:30 pm.

2025-2027 Water Development Plan

The Board authorized Mike and Heather to put together a list of projects for approval at their regular April meeting. Mike discussed his suggestions: 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.

NEW BUSINESS

Drain Tile Application – Kohler Farms

Application to Install a Subsurface Water Management System No. 2024-01 for Kohler Farms in Section 4 in Norma Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2024-01*, filed by Applicant Kohler Farms on February 21, 2024. Under the Application, Applicant seeks to install a 432-acre drain tile system in Section 4 in Norma Township, Barnes County, North Dakota. The project will include a single pump outlet located near the southeast corner of Section 4; the pump will discharge into the west road ditch along 123rd Avenue SE; the discharge will flow east, through an existing culvert under 123rd Avenue, and will daylight in the east road ditch, near the southwest corner of Section 3; the discharge will continue east for approximately 700 feet across a portion of the Southwest Quarter of the Southwest Quarter of Section 3 until flowing into a pond, slough, or lake.

According to County tax roll information supplied by Applicant, John T. Kohler owns the Southeast Quarter of Section 4 in Norma Township, and Todd and Kristi Kohler own the West Half and the Northeast Quarter of Section 4. With regard to downstream property owners, KSW Farms owns the Southwest Quarter of the Southwest Quarter of Section 3 in Norma Township. Because the project discharges into a pond, slough, or lake in the Southwest Quarter of Section 3 in Norma Township, no additional 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. 2024-01*, filed February 21, 2024, for Kohler Farms in Section 4 in Norma Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-01, subject to the following conditions:

1. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
2. Applicant 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. Applicant will install and maintain erosion protection at any and all project outlets into Norma Township's road right of way.
4. Applicant must 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 pond, slough, or lake in the Southwest Quarter of Section 3 in Norma Township.
5. 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 Section 4 in Norma Township under any blanket easements, or otherwise beyond Barnes Rural Water District's existing easement.

6. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-01 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 #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 downstream landowners or Norma Township 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 Norma Township to discharge into or utilize any of the Township's road right of way.
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. 2024-01, Applicant's downstream flow map, and the Barnes County Permit Form to the Department of Water Resources, Barnes Rural Water District, Norma Township, Todd and Kristi Kohler, John T. Kohler, KSW Farms, 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.

Engineer Report

Mike discussed updates with the Cornell Twp. Improvement District No. 80 project. Manager Anderson discussed the possibility of opening Hobart Drain, the Board agreed, Manager Anderson will get the initial water testing set up with MVTL.

Legal Report

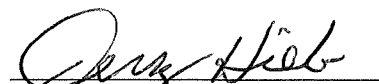
Sean reported on the Water Topics Committee meeting and discussed potential bills coming up in the next legislative session.

Bills

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

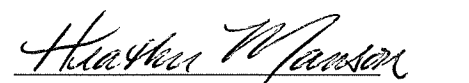
With nothing further to discuss the meeting adjourned at 10:25 a.m.

APPROVE:



Jerry Hieb, Chairman

ATTEST:



Heather Manson, Secretary-Treasurer

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

March 11th, 2024

PLEASE SIGN IN BELOW

Shawn Olayson
Rebecca Hanse
L. R.

BCC

Via Teams:
Kala Van Bruggen
Jordan Prazak