

RICHLAND COUNTY WATER RESOURCE DISTRICT  
Richland County Courthouse, Wahpeton, ND  
April 19, 2016

The Richland County Water Resource Board (RCWRB) met April 19, 2016 at 8:00 AM at the Richland County Courthouse, Wahpeton, North Dakota.

THOSE PRESENT: Managers Arv Burvee, Gary Friskop, James Haugen, Don Moffet, Robert Rostad, Engineering Technician Justin Johnson, and Secretary-Treasurer Monica Zentgraf.

### **Minutes**

A motion was made by Mgr. Rostad and seconded by Mgr. Burvee to approve the minutes of the April 12, 2016 meeting as presented. The motion carried unanimously.

### **Mail**

- 1.) Richland County Commission- March 2016 meeting minutes.
- 2.) ND State Water Commission (ND SWC)- Email from Matt Lindsey and Jared Huibregtse regarding Ben Eisenschenk's ring dike in the NE1/4 Section 15, Walcott West. The Managers directed a letter be sent to Mr. Eisenschenk outlining the construction permit and floodplain development permit issues before scheduling a meeting with him. (Eisenschenk #10-050)

### **4 Wheeler**

Mr. Johnson owns a 4 wheeler he is willing to use for legal drain inspections. Discussion was held regarding reimbursement to Mr. Johnson. A motion was made by Mgr. Friskop and seconded by Mgr. Haugen to reimburse Mr. Johnson a flat rate of \$40 per day for use of his personal ATV without obligation for repairs. The motion carried unanimously.

Mgr. Friskop offered the use of his UTV and trailer to the District for times when survey equipment needs to be hauled to a site. Discussion followed regarding reimbursement to Mgr. Friskop. A motion was made by Mgr. Burvee and seconded by Mgr. Haugen to reimburse Mgr. Friskop a rate of 50 per day for use of his personal UTV with obligation for repairs. Mgrs. Burvee, Rostad, Moffet, and Haugen voted in favor of said motion; Mgr. Friskop abstained from voting. The motion carried.

Engineer Bassingthwaite joined the meeting.

### **Proj #5(37)- NW1/4 Section 9, Walcott West**

Engineer Bassingthwaite reported that David Braaten changed his mind and is not going to do the work he proposed and received approval for in the NW1/4 Section 9, Walcott West (under Appl #14-165). The work he intended to do was to clean and grade the ditch on the east side of the railroad track. Per his request, the Board approved and planned to install a field inlet culvert, but Mr. Braaten no longer wants this done. The contractor is on site doing culvert work previously approved by the RCWRB. Mr. Bassingthwaite recommended the following additional work be done at this time:

- Install two field inlet culverts in the SE1/4 Section 8, Walcott West
- Install two field inlet culverts in the NE1/4 Section 17, Walcott West
- Replace one 24 inch culvert between Sections 16/17, Walcott West
- Replace two 30 inch culverts between Sections 8/17, Walcott West

A motion was made by Mgr. Burvee and seconded by Mgr. Rostad to approve the culvert work per Mr. Bassingthwaite's recommendation and to assign the work to Comstock Construction. The motion carried unanimously.

### **Technician's Report**

Mr. Johnson reported the contractors are working on the District's projects.

### **Proj #65 Silt Berm Removal**

Derrick Rossow, Bruce Stein, Stan Stein, and Darin Prochnow met with the Board regarding the silt berm removal project in Sections 11, 14, 23, 26, and 35, Waldo

Township. The Managers asked to meet with Mr. Rossow to discuss the removal of silt berms on the slope of Proj #65 adjacent to property he operates in the NE1/4 Section 14, Waldo Township and the Board's desire to spread the spoil on his land. The operators of the land in the aforementioned sections were previously contacted and all have granted approval with the exception of Mr. Rossow and Bruce Stein (owner of the SE1/4 Section 14). Multiple concerns were brought forward by the group including, but not limited to the following:

- Purpose of the project.
- Debris that will come out of the spoil and be deposited on the field, i.e. trees, stumps, roots, rocks. Responsibility for cleaning debris off the fields and debris working to the surface in the future.
- Past experience with debris removal i.e. bridge buried by contractor continually working to the surface. Desire to have bridge material cleaned up.
- Where sediment came from.
- Potential damage by contractor's equipment to Mr. Stein's private dike/berm adjacent to the drain.
- Chemical makeup of the spoil material.
- Potential damage to Mr. Stein's drain tile main behind the private dike/berm, tile inlets and field culvert inlets into the drain and responsibility for repairs.
- Stake drain right-of-way and the one rod corridor the RCWRD is asking not to be farmed so the work can be done.
- Plans and specs for the work to be completed.
- Increased flow of water in the channel due to removal of silt berms.
- Incorrect statement in March 29, 2016 minutes stating "Mr. Johnson reported the affected landowners are in favor of the District removing silt berms on Proj #65 in Sections 11, 14, 23, 26, and 35, Waldo Township."
- Late notification of project; contact should have been made last winter.
- Board guarantees in writing.

The concerns were addressed by the Board. It was explained that the contractor was responsible for cleanup of the work area. Mr. Bassingthwaite asked Mr. Stein to look at the berm in the areas where the contractor has completed the work to provide an idea of potential damage to his dike/berm. Mr. Bassingthwaite was confident the contractor would not damage the drain tile or inlet culverts. The Managers directed Mr. Bassingthwaite to stake the drain right-of-way and the one rod corridor for the current project in Section 14.

Engineer Bassingthwaite left the meeting.

The Managers informed the group no work would be done in Section 14 at this time, but they would need an answer from Mr. Rossow and Mr. Stein after the right-of-way was staked.

Upon conclusion of the meeting with the group, the Managers reconsidered their approval of the March 29, 2016 RCWRD meeting minutes pertaining to the following:

*"Mr. Johnson reported the affected landowners are in favor of the District removing silt berms on Proj #65 in Sections 11, 14, 23, 26, and 35, Waldo Township. It appears that there is no need to hold a meeting with the landowners adjacent to the channel."*

A motion was made by Mgr. Haugen and seconded by Mgr. Friskop to correct the March 29, 2016 minutes to read:

*"Mr. Johnson reported the operators of the land adjacent to Proj #65 in the E1/2 Section 11, SE1/4 Section 14, E1/2 Section 23, SE1/4 Section 26, and NE1/4 Section 35, Waldo Township, were contacted about spoiling the silt berm material on their land and were agreeable. It appears there is no need to hold a meeting with all of the operators to discuss the project." The operators for the NE1/4 Section 14, NE1/4 Section 26, and SE1/4 Section 35, Waldo Township, will be contacted this week."*

The motion carried unanimously. (RCWRD #15-125)

**Fargo-Moorhead Flood Diversion Project**

MnDak Upstream Coalition Members Craig Hertsgaard, Cash Aaland, Nathan Berseth, and Senator Larry Luick met with the Board for the purpose of discussing State Engineer Todd Sando’s March 17, 2016 letter to the Flood Diversion Board of Authority regarding the draft Construction Permit application from the United States Army Corps of Engineers for the Fargo-Moorhead Dam (FM Dam). In part, Mr. Sando requested “*evidence establishing a property right for the property that will be affected by the construction of the dam, dike, or other device*”. The letter stated “*approximately 10,380 acres of the area in North Dakota inundated by the FM Dam below 925 feet NAVD 88 are within Richland County. As Richland County is not a member of the Diversion Authority, it is uncertain whether the Diversion Authority has the power of eminent domain in Richland County. From a legal standpoint, an explanation of how the Diversion Authority will secure land rights from unwilling owners in Richland County is required by the OSE.*” Pertinent sections of North Dakota Century Code relevant to dam permitting and eminent domain were provided by the Coalition representatives.

The Coalition Members requested the RCWRB put the ND State Water Commission on notice that they desire to participate in the permitting process and that the District objects to Cass County Water Resource District instituting eminent domain proceedings in Richland County. Mr. Aaland volunteered to craft the letter along with Tim Fox, attorney for the Richland-Wilkin Joint Powers Authority. The Managers agreed that notice should be given to the Office of the State Engineer and accepted Mr. Aaland’s offer to prepare the letter for the Board’s consideration.

**Applications**

Appl #16-005, Ryan Hoefs & Group: Secs 3, 10, 11, Center West A motion was made by Mgr. Burvee and seconded by Mgr. Friskop to defer the application pending a recommendation by Interstate Engineering. The motion carried unanimously.

Appl #16-006, Eagle Twp Board of Supervisors: NW1/4 Sec 11, Eagle South Application filed for informational purposes only; Township Board jurisdiction.

Appl #16-007, 5K Farms, LLLP: SE1/4 Sec 34, Colfax West A motion was made by Mgr. Haugen and seconded by Mgr. Friskop to approve the installation of drain tile. Work at no cost to the drain. The motion carried unanimously. (Township Board approval for outlet submitted with application.)

Appl #16-008, Triple O Farm: NE1/4 Sec 10, Waldo Twp A motion was made by Mgr. Rostad and seconded by Mgr. Friskop to approve the field ditching and refer the work in the road ditches to the Waldo Township Board of Supervisors. Work at no cost to the drain. The motion carried unanimously.

Appls #16-009 and #16-010 were referred to the respective Township Boards of Supervisors; no action required by RCWRD Township Boards jurisdiction applies.

Appl #16-009	Paul Langseth	NE1/4 Sec 10, Antelope Twp
Appl #16-010	Larry Clark	NW1/4 Sec 31, Colfax East

Appl #16-011, Blake Ista & Larry Kensinger: W1/2 Sec 24, Colfax West Referred to the Colfax Township Board of Supervisors with the recommendation the Township Board require the signature of Paul Kummer. No other action required by RCWRD as Township Board jurisdiction applies.

Appl #16-012, Blake Ista: W1/2 Sec 24, Colfax West Referred to the Colfax Township Board of Supervisors with the recommendation the Township Board require the signature of Gordon Olson. No other action required by RCWRD as Township Board jurisdiction applies.

Appls #16-013 through #16-016 were referred to the ND Department of Transportation (ND DOT); no action required by RCWRD as ND DOT jurisdiction applies.

Appl #16-013	J&K Grain Farms	NW1/4 Sec 12, Barney Twp
Appl #16-014	J&K Grain Farms	SW1/4 Sec 9, Mooreton Twp
Appl #16-015	J&K Grain Farms/G. Friskop	N1/2 Sec 10, Mooreton Twp
Appl #16-016	Gary Friskop	SW1/4 Sec 11, Mooreton Twp

**Adjournment**

There being no further business to come before the Board, Chr. Moffet adjourned the meeting at 1:00 PM.

Respectfully submitted,

Monica Zentgraf  
Secretary

Don Moffet  
Chairman of the Board