

RICHLAND COUNTY WATER RESOURCE DISTRICT
Richland County Courthouse, Wahpeton, ND
June 27, 2016

The Richland County Water Resource Board (RCWRB) met June 27, 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. Friskop and seconded by Mgr. Haugen to approve the minutes of the June 21, 2016 meeting as presented. The motion carried unanimously.

Vouchers

A motion was made by Mgr. Burvee and seconded by Mgr. Rostad to approve Vouchers #17194 through #17227 and the electronic funds transfer for the IRS payment as presented. The motion carried unanimously.

Mail

- 1.) Attorney Sean Fredricks- Consent document relative to Ohnstad Twichell's legal representation of the Richland County and Cass County Water Resource Boards. Consensus of the Board was to table the matter.
- 2.) ND State Water Commission (ND SWC)- Water planning and budget development process meetings.
- 3.) Office of State Engineer (OSE)- Temporary Water Permit #ND2016-17555. Point of Diversion is the NW1/4NW1/4 Section 25, Brightwood Township.
- 4.) OSE- Temporary Water Permit #ND2016-17554. Point of Diversion is the NW1/4NW1/4 Section 30, Greendale Township.
- 5.) Interstate Engineering- Hydraulic study for replacement of culvert in the N1/2 Section 28, Abercrombie East. A motion was made by Mgr. Haugen and seconded by Mgr. Friskop to assign repairs at Sites #141 and #143 to JAV Construction including replacement of the culvert at Site #143 per Interstate Engineering's recommendation and to assign repair at Sites #142 to the Richland County Highway Department. JAV Construction's project completion deadline set for September 30, 2016. The motion carried unanimously. (RCWRD #16-032)
- 6.) Interstate Engineering- Hydraulic study for replacement of culvert in the NW1/4 Section 27, Garborg Township. A motion was made by Mgr. Rostad and seconded by Mgr. Burvee to assign the replacement of the field inlet culverts at Sites #171 and #172 to JAV Construction including replacement of the culvert at Site #171 with a 24 inch culvert per Interstate Engineering's recommendation. Project completion deadline set for September 30, 2016. The motion carried unanimously. (RCWRD #16-043)
- 7.) Interstate Engineering- Hydraulic study for replacement of the culvert in the NE1/4 Section 36, Sheyenne Township. A motion was made by Mgr. Burvee and seconded by Mgr. Haugen to assign the replacement of the culvert at Site #134 to JAV Construction per Interstate Engineer's recommendation. Project completion deadline set for September 30, 2016. The motion carried unanimously. (RCWRD #16-033)
- 8.) Interstate Engineering- Hydraulic study for replacement of the culverts in the SE1/4 Section 7, Summit East. A motion was made by Mgr. Burvee and seconded by Mgr. Friskop to assign the project to Ehlert Excavating per Interstate Engineering's recommendation for proper culvert sizing. Project completion deadline set for September 30, 2016. The motion carried unanimously. (RCWRD #16-044)

Proj #14

●Proj #14 Erosion Repair-

The Managers were informed that David Overboe provided a response to Engineer Bassingthwaite about the District's revised easement for the 0.42 acres of Mr. Overboe's

land located in the SECR Section 26, Barrie Township. Mr. Overboe told Mr. Bassingthwaite that he will grant the easement if the District either removes part of Section 8 and all of Section 9 from the easement document or they pay him \$5,000. Consensus of the Managers was to remove the language from Section 8 that Mr. Overboe objected to along with all of Section 9. Engineer Bassingthwaite will once again present the revised document to Mr. Overboe for his signature. (RCWRD #13-181)

•**SE1/4 Section 11, Viking Township**

Mr. Johnson reported that he inspected the right-of-way along Proj #14 on the east side of the SE1/4 Section 11, Viking Township, and found that the area had been seeded. No further action required on this matter. (RCWRD #15-028)

Proj #95

The Office was notified of leafy spurge growing along Proj #95, Lateral A, in the W1/2 Section 27, Antelope Township. Mike Larson, of Larson Helicopters, was contacted; he suggested making two passes when he sprays for broadleaf weeds. This will keep the spurge from going to seed, but it will continue to come back each year. Board consensus was to have Mr. Larson make two passes when spraying the drain.

Applications

A motion was made by Mgr. Friskop and seconded by Mgr. Rostad to approve CenturyLink Appls #16-045 and #16-046 for placement of fiber optic cable under Projs #18 and #41 conditioned upon execution of the RCWRD License. Fiber optic cable to be bored a minimum of 5 feet below the legal drains. Work at no cost to the drains. The motion carried unanimously.

Appl #16-045	CenturyLink	SW1/4 Sec 11, Center West
Appl #16-046	CenturyLink	SW1/4 Sec 7, Center West

Appl #16-047, CenturyLink: SE1/4 Sec 12, Center West A motion was made by Mgr. Burvee and seconded by Mgr. Haugen to approve placement of fiber optic cable under SW #1 conditioned upon execution of the RCWRD License. Fiber optic cable to be bored a minimum of 10 feet below the legal drain. Work at no cost to the drain. The motion carried unanimously.

Appl #16-048, Robb Dohman: NW1/4 Sec 24, Center W The RCWRB acknowledged receipt of the application. No action required by RCWRB; application referred to the Center Township Board of Supervisors as work is within Center Township right-of-way.

Attorney Sean Fredricks met with the Board. The following matters were discussed:

John Nagel Complaint- Steve Mauch's deadline for closing or filling the ditch and/or drain improvements constructed on the SW1/4 Section 30, Antelope Township, was previously extended to July 1, 2016. Mr. Mauch recently contacted the RCWRD to advise that the OSE called him regarding his surface drain permit, but the OSE has not completed their investigation. Because the permit has not been processed, a motion was made by Mgr. Burvee and seconded by Mgr. Friskop to extend Mr. Mauch's deadline to September 1, 2016. The motion carried unanimously. Mr. Fredricks will notify the parties of the Board's action. (Nagel #15-194)

Ivadell Woytassek Complaint of Illegal Drainage Against Steven Mitlyng

Ivadell Woytassek previously submitted a Drainage Complaint against Mr. Steven Mitlyng regarding Mitlyng's wells in the Southwest Quarter of Section 7 of Grant Township in Richland County, North Dakota. Under the Complaint, Ms. Woytassek alleges water from the Southwest Quarter of the Southwest Quarter of Section 7, property owned by Mr. Mitlyng, causes access issues for Ms. Woytassek on the east side of the Southwest Quarter. The District investigated the matter further and found the source of water on Mr. Mitlyng's property is from wells within Mr. Mitlyng's bait business that he is pumping. More specifically, Mr. Mitlyng is evidently pumping water from four wells inside a building on his property that he utilizes for his bait business. Ms. Woytassek alleges the water from the pumping overflows a pond on Mr. Mitlyng's property, which then outlets across Ms. Woytassek's property. For his part, Mr. Mitlyng alleges any pond overflowing onto the Woytassek property is simply the result of high levels in the ponds west of Mr. Mitlyng's property. In addition, Mr. Mitlyng indicated there

is a dead approach installed in the road ditch just north of his property; Mr. Mitlyng believes the approach is backing water up and causing part of Ms. Woytassek's problems.

Ms. Woytassek does not allege construction of any ditching or any drainage improvements by Mr. Mitlyng. Rather, Ms. Woytassek's concern is Mr. Mitlyng's pumping of his wells. The Board previously attempted to convince the parties to resolve the matter amicably, but the parties could not reach an agreement.

Sean Fredricks indicated the Board lacks jurisdiction under North Dakota law regarding appropriation of water; rather, the North Dakota State Engineer's office has jurisdiction regarding water appropriations and pumping under Chapter 61-04 of the North Dakota Century Code. The Board has jurisdiction over drainage under Chapter 61-32 of the North Dakota Century Code; Chapter 61-32 only grants water resource districts jurisdiction over construction of drainage improvements that drain or impact ponds, sloughs, lakes, sheetwater, or any series of those sources of water. In this instance, Mr. Mitlyng's pumping of his wells is not within the Richland County Water Resource District's jurisdiction under Chapter 61-32. Rather, the State Engineer's office has jurisdiction over Mr. Mitlyng's use of his wells.

In light of the lack of any drainage improvements and the Board's lack of jurisdiction over Mr. Mitlyng's pumping of his wells, the Board had no choice but to dismiss Ms. Woytassek's Drainage Complaint. Manager Burvee moved to dismiss Ms. Woytassek's Drainage Complaint for lack of jurisdiction. Manager Friskop seconded the motion. Upon roll call vote, the motion carried unanimously. Sean Fredricks will provide a Notice of Decision to the parties of record, with a copy to the State Engineer's office. (Woytassek #16-021)

Drain Tile Laws- Discussion was held with Mr. Fredricks about current drain tile permitting laws. The Cass County Joint Water Resource District Tile Committee is meeting June 30, 2016 to discuss changes to be brought before the 2017 Legislative Assembly. Ms. Zentgraf and Mr. Johnson will attend the meeting.

ND Water Topics Committee Meeting- Mr. Fredricks reported on the recent ND Water Topics Committee Meeting he testified at in regard to Water Resource Districts Quick Take authority and the matter coming before the 2017 Legislative Assembly. He also advised the Board that he addressed several questions associated with the Fargo-Moorhead Diversion Project.

Adjournment

There being no further business to come before the Board, Chr. Moffet adjourned the meeting at 10:30 AM.

Respectfully submitted,

Monica Zentgraf
Secretary

Don Moffet
Chairman of the Board