

RICHLAND COUNTY WATER RESOURCE DISTRICT
Richland County Courthouse, Wahpeton, ND
April 28, 2020

The Richland County Water Resource Board ("RCWRB") met April 28, 2020 at 9:00 AM via teleconference.

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

THOSE ABSENT: None

Minutes

The April 14, 2020 minutes were presented. A motion was made by Mgr. Haugen and seconded by Mgr. Moffet to approve the April 14, 2020 minutes as presented. The motion carried unanimously.

Financial Matters:

●Vouchers- A listing of all checks written for the month of April, including amount of the payments, and funds charged was mailed to the Managers for their review prior to the meeting. A motion was made by Mgr. Fahsholz, seconded by Mgr. Burvee, and unanimously carried to approve Vouchers #18320 through #18352 and the electronic funds transfer for the IRS payment.

Mail

- 1) Richland County Commission- Minutes of the March 2020 meetings

Proj #1 Reconstruction

The Managers were informed Mike Bassingthwaite, of Interstate Engineering, estimated the cost for the economic analysis for the Proj #1 reconstruction to be in the area of \$5,000. The final cost will be dependent upon North Dakota State Water Commission (ND SWC) Staff questions the engineer will need to address.

The Secretary-Treasurer reported she spoke with Kelly Miller about the cost of the economic analysis, potential for ND SWC cost share assistance, and Mr. Miller's financial involvement in the project. After discussion concerning these issues, consensus of the Managers was to table the economic analysis pending a meeting with Sean Fredricks (Legal Counsel) to discuss the District's options. (RCWRD #17-017)

Gabe Bladow, of Houston Engineering, joined the meeting via teleconference. The following matters were discussed:

●Proj #7 2019 Reconstruction Warranty Work and 2020 Spring Damages

Photographs of damage in the reconstructed portion of the Proj #7 channel were forwarded to the Managers prior to the meeting for their review. Mr. Bladow reported he and Mr. Johnson inspected the drain last week; the following issues were identified and brought before the Board.

- 1) Lack of vegetative growth (grass)
- 2) Areas of minor erosion on portions of the slopes and over road crossing culverts
- 3) Areas of moderate erosion at ends of rock aprons and up the sideslopes
- 4) Bank sliding in the third mile of the reconstructed channel (SW1/4 Section 21, Garborg Township). It was noted that sliding started last fall due to poor existing soils in this area.
- 5) Siltation along the entire reconstructed portion of the channel, ranging from 0.25 inches to 6 inches with the majority of the siltation in the lower range.

6) Erosion where the new channel transitions to the old channel. Bank erosion is on the new side of the channel with toe erosion along the old channel for a distance of approximately 300 feet.

The following repairs/solutions were recommended by Mr. Bladow:

- 1) Grass- Contractor warranty claim to re-seed as identified
- 2) Minor Erosion- Contractor warranty claim to repair
- 3) Moderate Erosion- Contractor warranty claim for sideslope repair; additional riprap may be needed at end of rock aprons (District expense).
- 4) Bank Sliding- Monitor due to wet conditions. Houston Engineers believe the banks should stabilize with dryer conditions.
- 5) Siltation- Houston Engineers expect over seeding will grow in the channel bottom.
- 6) Erosion- Install rock drop to stabilize the grade (bring grade up to the grade of the existing channel) and repair sideslopes. (Obtain cost estimate from JAV Construction.)

Consensus was to meet on-site with Jim Viele, of JAV Construction, to discuss the identified issues so repairs and seeding can proceed as soon as possible. (Appl #20-010 was completed for repair of Proj #7.)

●**Proj #31 Reconstruction**

As directed at the April 14, 2020 meeting, Mr. Bladow visited with Mr. Fredricks regarding a new methodology Mr. Fredricks recommends for land acquisition for construction and/or reconstruction of legal drains. Mr. Fredricks recommends the District purchase permanent berm easements for the backslope of the drains rather than including the backslopes in temporary construction easements, which is the methodology currently used by the District. After much consideration, the Managers felt the permanent berm easement option should be considered on a project-by-project basis.

For the Proj #31 reconstruction, Mgr. Burvee suggested purchasing permanent right-of-way to the toe of the backslope rather than a permanent berm easement. The Board directed Mr. Bladow recalculate the acreage based on Mgr. Burvee's suggestion to minimize the required right-of-way by steepening the backslopes. Mr. Bladow will report his findings to the Board. (RCWRD #18-022)

●**Proj #72 Erosion Damage**

As reported at the April 14, 2020 meeting, there is considerable erosion damage in the NW1/4 Section 12 (Site #434) and SW1/4 Section 1 (Site #435), all located in Abercrombie West, along Pitcairn Creek, which serves as the outlet for Proj #72. This area is part of the legal drain, however, there is no right-of-way for the approximate last 3 miles of the drain. Mr. Bladow feels the focus should be on trying to stop further erosion, rather than repairing the damage to pre-existing conditions. Discussion included methods to stop further erosion, access needs, contractor and engineering costs, and possible funding sources.

Mr. Bladow suggested the Board authorize surveying and preliminary engineering so they can determine what work should be done. Mr. Bladow estimated approximate surveying and preliminary engineering costs to be between \$12,000 and \$16,000.

The Managers directed Mr. Johnson to contact the tenants for both quarters to see if the landowners want repairs made and if so, if they would be expecting compensation for the land required for the repairs. If the landowners want repairs made and compensation is not requested, Mr. Bladow was directed to proceed with preliminary engineering work. (RCWRD #20-009)

Mr. Bladow left the meeting.

Technician's Report

● Proj #65 Wirtz Lateral- Jerry Wirtz contacted Mgr. Burvee regarding the new fence the District installed in conjunction with the construction of the Wirtz Lateral in 2007. The lateral drain (and fence) are located in the S1/2 Section 26, Waldo Township. The District paid for the fence conditioned upon an agreement signed April 30, 2007, whereby Norman and Lois Wirtz agreed to accept responsibility for future maintenance of the fence. They also agreed no livestock will be allowed to graze within the right-of-way of the drain. Jerry Wirtz asked Mgr. Burvee if the District will take over maintenance or remove the fence on the north side of the drain as they no longer graze cattle in that area and the fence is deteriorating and getting in the way of haying operations. Mr. Wirtz also expressed his dissatisfaction with, what he called, "poor quality fence posts" used when the fence was installed. The 2007 agreement was reviewed with the Managers and the Managers concluded the District has no maintenance responsibilities for the fence. Discussion concerning removal of the fence followed; consensus was the fence is to be maintained and not removed, as livestock could be grazed in this area in the future. (RCWRD #06-086)

● Carson Klosterman Drain Tile Application #11-040- Based on concern expressed by Mgr. Moffet at the April 14, 2020 meeting, Mr. Johnson was directed to inspect Mr. Klosterman's drain tile project (located in the NE1/4 Section 19, Antelope Township) for the direction of the water flow from the pump. Photographs taken by Mr. Johnson were forwarded to the Managers for their review prior to today's meeting. Photographs show the existing berm and the water flowing east as outlined in Mr. Klosterman's tile application. Mr. Johnson indicated during higher water events the water will break over the berm and head south. He further reported the ditch, from the tile pump to the culvert which runs under County Road 3, has some vegetation and could possibly use a small amount of cleaning. Mgr. Moffet felt the berm also needs to be raised. Given the current drain tile law, it was suggested Mgr. Moffet personally visit with Mr. Klosterman to work this out between the two of them.

Bridge Crossing on Antelope Creek and Culverts on Rivers/Natural Channels

Jesse Sedler, Richland County Engineer, notified the Office the bridge over Antelope Creek, located between Sections 28/33, Nansen Township, sustained damage during the recent spring event. Mr. Sedler inquired about cost share assistance from the RCWRD for the improvements; estimated cost of the project is approximately \$200,000. Office Staff also reported Township Supervisors for two Township Boards contacted the Office regarding the District's obligation for repair of (a total of 5) culverts in rivers/natural channels which are not on legal drains. Office Staff contacted Mr. Fredricks to inquire about the District's legal obligation to share the cost of the aforementioned structures. Mr. Fredricks advised that the District has no legal obligation to provide any cost-share assistance in such instances. Consensus of the Managers was to not provide cost-share assistance for the bridge project or the township culverts.

2019 FEMA Disaster Final Report

Office Staff reported all 2019 FEMA repairs were completed in 2019, Project Worksheets have been approved by FEMA, and the District received final payment for eligible expenses. \$65,969.85 was received and dispersed to Projs #2, 31, 65, 95 and RS #1 as shown on the report.

Red River Retention Authority Meeting

Mgr. Fahsholz reported on the Red River Retention Authority meeting he attended (via teleconference) on April 15th.

Larson Helicopters

Office Staff reported a Certificate of Insurance has been received for Larson Helicopters for spraying the District's legal drains. The agreement between the District and contractor requires liability limits of \$500,000 per person and \$1,000,000 per occurrence. Larson Helicopters currently carries a \$300,000 per

occurrence limit. The Managers directed Mr. Larson be contacted and asked if he is willing to increase his limits as required in the agreement.

Applications

Application to Install a Subsurface Water Management System No. 20-004 for the Ronald Conzemius Revocable Trust and the Mary Conzemius Revocable Trust, in the Southeast Quarter of Section 5 in Center West Township

The District reviewed an *Application to Install a Subsurface Water Management System No. 20-004* filed March 17, 2020, for the Ronald Conzemius Revocable Trust and the Mary Conzemius Revocable Trust. Under the application, Applicants seek to install a 118-acre drain tile system in the South Half of the Southeast Quarter of Section 5, and the South Half of the North Half of the Southeast Quarter of Section 5 in Center West Township, Richland County, North Dakota.

The project will include a single pump outlet located in the northeast corner of the South Half of the North Half of the Southeast Quarter of Section 5; the outlet will discharge directly into the west road ditch along 176th Avenue SE; the tile discharge will flow north, along the east boundary of Section 5 of Center West Township, until ultimately discharging into a natural drain prior to crossing into Section 33 of Dwight West Township.

The Board previously provided THIRTY-DAY NOTICES to all landowners within one mile of the outlet of the proposed project, as well as to Center Township, as required under N.D. Cent. Code § 61-32-03.1. None of the downstream landowners submitted “technical evidence,” as that phrase is defined under Section 61-32-03.1, to demonstrate Applicants’ project will result in adverse impacts to their properties. As a result, under the tile law passed during the 2017 Legislative session, the District cannot require Applicants to obtain any consent from downstream landowners. However, the District can require Applicants to install and maintain erosion protection in the township road ditch.

According to records supplied by Applicants, Ronald Conzemius as Trustee of the Ronald Conzemius Revocable Trust, and Mary Conzemius as Trustee of the Mary Conzemius Revocable Trust, own the South Half of the Southeast Quarter of Section 5, and the South Half of the North Half of the Southeast Quarter of Section 5 in Center West Township. With regard to downstream properties, Dustin Mumm is purchasing the North Half of the North Half of the Southeast Quarter of Section 5, and Northeast Quarter of Section 5 in Center West Township from Dale and Bonnie Mumm.

Manager Fahsholz moved, and Manager Burvee seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 20-004* filed March 17, 2020, for the Ronald Conzemius Revocable Trust and the Mary Conzemius Revocable Trust, regarding their proposed tile system in the South Half of the Southeast Quarter of Section 5, and the South Half of the North Half of the Southeast Quarter of Section 5 in Center West Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 20-004, subject to the following condition:

- 1) That Applicants notify the Richland County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 2) That Applicants provide, install, and maintain riprap or other ditch stabilization materials satisfactory to Center Township at any and all outlets into Center Township’s road right of way; and
- 3) That Applicants must turn off any pump outlets and otherwise close all outlets during “critical flood periods,” as determined by the Richland County Water Resource District.

Upon roll call vote, the motion carried unanimously.

Under Section 61-32-03.1, the District cannot attach any additional conditions to Applicants’ permit. However, for Applicants’ protection, and to ensure protection of

Applicants' tile system, the District will recommend that Applicants consider complying with the following:

- 1) That Applicants notify the Richland 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;
- 2) That Applicant obtain written permission from the Center Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches; and
- 3) That Applicants 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.

Appl #20-011, Donald & Diana Klosterman: SW1/14 Section 11 and NW1/4 Section 14, Garborg Township A motion was made by Mgr. Moffet, seconded by Mgr. Burvee, and unanimously carried to defer the drain tile application pending the 30 day notification to downstream landowners.

Adjournment

There being no further business to come before the Board, Chr. Friskop adjourned the meeting at 12:30 PM.

Respectfully submitted,

Monica Zentgraf
Monica Zentgraf
Secretary

Gary Friskop
Gary Friskop
Chairman of the Board