

RICHLAND COUNTY WATER RESOURCE DISTRICT
Richland County Courthouse, Wahpeton, ND
August 20, 2019

The Richland County Water Resource Board ("RCWRB") met August 20, 2019 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.

THOSE ABSENT: None

Minutes

The July 30, 2019 minutes were presented. A motion was made by Mgr. Burvee and seconded by Mgr. Rostad to approve the July 30, 2019 minutes as presented. The motion carried unanimously.

Financial Matters

● July 2019 Financial Reports- A motion was made by Mgr. Haugen and seconded by Mgr. Moffet to accept the July 2019 financial reports as presented. The motion carried unanimously.

● Bremer Bank Letter of Credit- 110% of the District's securities totaled \$7,414,227.72 on July 31, 2019; Bremer Bank raised the Letter of Credit on July 22, 2019 to \$8,100,000 which adequately covers the District's funds.

Mail:

- 1.) Richland County Board of Commissioners- Minutes of the July 2019 meetings.
- 2.) Red River Joint Water Resource District- Notification of community input meetings for a potential Water Education and Research Center. This is an International Water Institute and River Keepers project.
- 3.) Interstate Engineering- Hydraulic study for replacement of the three 96 inch damaged culverts in Proj #5(37), located in the SW1/4 Section 8, Walcott East. Upon review of the report the Managers tabled action pending input from Richland County Engineer Jesse Sedler later in the day. (RCWRD #19-028)
- 4.) Interstate Engineering- Recommendation for repairing damages to Proj #5(64) located in the NE1/4 Section 27, Walcott West. Damages resulted from a drain tile company lowering approximately 500 to 600 feet of the legal drain to accommodate a gravity flow drain tile outlet. A telephone call was placed to the Engineer, Mike Bassingthwaite, to discuss his report, but he was unavailable. The matter was tabled pending discussion with Mr. Bassingthwaite later in the day. (RCWRD #19-024)

Proj #5(37) Culvert Replacement

Mr. Sedler met with the Board to discuss the culvert replacement project in the SW1/4 Section 8, Walcott East (Mail Item #3). The Managers informed Mr. Sedler they wished to replace the three 96 inch culverts with three pipe of the same size. Mr. Sedler agreed with the Managers; costs will be shared on a 60% (WRD)/40% (County Highway Department) cost share basis. Upon conclusion of the meeting with Mr. Sedler, a motion was made by Mgr. Burvee, seconded by Mgr. Moffet, and unanimously carried authorizing JAV Construction to replace the three 96 inch culverts with three culverts of like size. (RCWRD #19-028)

Proj #5(64)

The Managers accepted a call from Mike Bassingthwaite. Purpose of the call was to discuss options for repairing the damages on Proj #5(64), located in the NE1/4 Section 27, Walcott West (Mail Item #4). Consensus was to make repairs by importing fill material and installing a medium grade erosion control blanket with grass seed embedded in the blanket to hold the fill in place. A meeting will be scheduled with the landowner, Stephen Anderson, to discuss repairs, cost, and the

need for him to replace his gravity flow drain tile outlet with a pump. (RCWRD #19-024)

Continuation of Mail:

- 5.) Interstate Engineering- Recommendation for repairing erosion damage on Proj #65, located in the SE1/4 Section 26, Brandenburg Township (Site #415). Upon review of the report, the matter was tabled pending discussion with Mr. Bassingthwaite on August 27th. (RCWRD #19-033)

Applications

Application to Install a Subsurface Water Management System No. 19-032 for Timothy and Mary Ellen Jones in the West Half of Section 27 in Homestead Township

The Board reviewed an *Application to Install a Subsurface Water Management System No. 19-032* dated June 27, 2019, filed July 15, 2019, for Timothy and Mary Ellen Jones. Under the application, Applicants seek to install a 306-acre drain tile system in the West Half of Section 27 of Homestead Township, Richland County, North Dakota. The project will include two pump outlets. The first pump outlet will be located in the northeast corner of the Northwest Quarter of Section 27; the pump outlet will discharge directly into Richland County Drain #95; the Richland County Water Resource District owns and operates Drain #95. The second pump outlet will be located in the Southeast Quarter of the Southwest Quarter of Section 27, into the north road ditch along 77th Street SE; the tile discharge will flow east in the north road ditch to an existing culvert through 77th Street in the southeast corner of the Southwest Quarter; the tile discharge will flow under 77th Street to the south road ditch through the existing culvert and will then flow east in the south road ditch along the north boundaries of the Northeast Quarter of Section 34 of Homestead Township and the Northwest Quarter of Section 35.

With regard to the pump that discharges into Drain #95, no THIRTY-DAY NOTICE was necessary to downstream landowners under N.D. Cent. Code § 61-32-03.1 since Drain #95 is a legal assessment drain. With regard to the pump in the Southeast Quarter of the Southwest Quarter of Section 27, the Board provided THIRTY-DAY NOTICES to the owners of the Northeast Quarter of Section 34, and the owner of the North Half of the Northwest Quarter of Section 35.

The downstream landowners did contact the Richland County Water Resource District to voice their concerns about the project. However, none of the downstream landowners submitted "technical evidence" as required under Section 61-32-03.1. As a result, despite some of the objections from downstream landowners, in the absence of a "technical evidence" report from the downstream landowners, the Board cannot require Applicants to obtain consent from any of the downstream landowners.

According to records submitted by Applicants, Joyce Shorma, as Trustee of the Joyce Shorma Revocable Trust, owns the Northeast Quarter of Section 34 of Homestead Township. Craig David owns the North Half of the Northwest Quarter of Section 35 of Homestead Township.

The Board provided a THIRTY-DAY NOTICE to Southeast Water Users District, and Southeast Water indicated they own blanket easement rights regarding the West Half of Section 27. Applicants and Southeast Water entered into a letter agreement under which the parties agreed Applicants would ensure a 20-foot separation between any tile lines and Southeast Water's water lines.

Manager Rostad moved, and Manager Burvee seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 19-032* dated June 27, 2019, filed July 15, 2019, for Timothy and Mary Ellen Jones in the West Half of Section 27 in Homestead Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT No. 19-032, subject to the following conditions:

- 1) That Applicants provide, install, and maintain adequate erosion protection at any and all outlets into Richland County Drain #95;
- 2) That Applicants notify the Richland County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 3) That Applicants must reseed any of the District's right of way disturbed by Applicants' activities, and must maintain any reseeded areas for a period of one year from the date of completion to ensure the seeding adequately repairs any disturbed areas;
- 4) That Applicants provide, install, and maintain riprap or other ditch stabilization materials satisfactory to Homestead Township at any and all outlets into Homestead Township's road right of way;
- 5) That Applicants will not install Applicants' tile system within 20 feet, on either side, of Southeast Water Users District's rural water line on the West Half of Section 27; and
- 6) That Applicants must turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the 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 obtain written permission from the Homestead Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches;
- 2) 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; 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.

Application to Install a Subsurface Water Management System No. 19-039 for Darrel and Julianne Wahler in the Southwest Quarter of Section 28 in Barney Township

The Board reviewed an *Application to Install a Subsurface Water Management System No. 19-039* dated July 31, 2019, for Darrel and Julianne Wahler. Under the application, Applicants seek to install a 110-acre drain tile system in the Southwest Quarter of Section 28 in Barney Township, Richland County, North Dakota. The project will include two gravity outlets that will both discharge directly into the south branch of Antelope Creek, both in the North Half of the Southwest Quarter of Section 28.

Because the project will discharge directly into a natural watercourse, no THIRTY-DAY NOTICE was necessary to downstream landowners under N.D. Cent. Code § 61-32-03.1. Under the tile law passed during the 2017 Legislative session, the Board cannot require Applicants to obtain easements or any consent from downstream landowners, nor can the Board require Applicants to install erosion protection to protect Antelope Creek or any downstream landowners, though the Board will recommend erosion protection.

According to records supplied by Applicants, Darrel and Julianne Wahler own the Southwest Quarter of Section 28 of Barney Township.

Manager Burvee moved, and Manager Haugen seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 19-039* dated July 31, 2019, for Darrel and Julianne Wahler in the Southwest Quarter of Section 28 in Barney Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 19-039, 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.

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 install and maintain erosion protection at any and all outlets into the south branch of Antelope Creek;
- 2) 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; 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.

Application to Install a Subsurface Water Management System No. 19-040 for 5K Farms, LLLP; Joan Carlson; Dawn Keiselbach; and Heather Allickson in the North Half of Section 25 in Nansen Township

The Board reviewed an *Application to Install a Subsurface Water Management System No. 19-040* dated July 19, 2019, for 5K Farms, LLLP; Joan Carlson; Dawn Keiselbach; and Heather Allickson. Under the application, Applicants seek to install a 310-acre drain tile system in the North Half of Section 25 in Nansen Township, Richland County, North Dakota. The project will include a single pump outlet located in the northeast corner of the Northeast Quarter of Section 25; the pump will discharge to the north through an existing culvert under 70th Street SE; from the southeast corner of Section 24, the tile discharge will flow east in the north road ditch along 70th Street SE; the tile discharge will flow east through an existing culvert under 168th Avenue SE and will continue east along the south boundary of Section 19 of Abercrombie (West) Township.

The application would normally have required a THIRTY-DAY NOTICE to downstream landowners under N.D. Cent. Code § 61-32-03.1. However, in this case, Applicants obtained a "NOTARIZED LETTER OF APPROVAL" from the owners of all property at least one mile downstream of the project outlet, and, therefore, under Section 61-32-03.1, no THIRTY-DAY NOTICES were necessary. Further, under the

tile legislation passed during the 2017 Legislative session, the Board cannot require Applicants to obtain any additional consents from downstream landowners, nor can the Board require Applicants to obtain permission from Nansen Township or Abercrombie (West) Township to discharge into or otherwise utilize their township road ditches.

According to records supplied by Applicants, 5K Farms, LLLP, owns the Northwest Quarter of Section 25, the East Half of the East Half of the Northeast Quarter of Section 25, and the West Half of the West Half of the Northeast Quarter. Joan Carlson owns the East Half of the West Half of the Northeast Quarter of Section 25. Dawn Keiselbach and Heather Allickson jointly own the West Half of the East Half of the Northeast Quarter of Section 25. Jay and Cara Myers own the southeast corner of Section 24 of Nansen Township, the Southwest Quarter of Section 19 of Abercrombie (West) Township, and the South Half of the Southeast Quarter of Section 19.

Manager Burvee moved, and Manager Rostad seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 19-040* dated July 19, 2019, for 5K Farms, LLLP; Joan Carlson; Dawn Keiselbach; and Heather Allickson in the North Half of Section 25 in Nansen Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 19-040, subject to the following conditions:

- 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 Nansen Township at the outlet into Nansen 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 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 obtain written permission from the Nansen Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches;
- 2) That Applicants obtain written permission from the Abercrombie (West) Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches;
- 3) 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; and
- 4) 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 #19-041, Wieser Family LLP: NE1/4 Section 25, Waldo Township The RCWRB acknowledged the installation of 75 acres of drain tile in the NE1/4

Section 25, Waldo Township. No State Subsurface Permit is required as the project involves less than 80 acres.

Technician's Report

●Proj #7 Reconstruction- Chr. Friskop, Mgr. Haugen, and Mr. Johnson took part in the final inspection of the Proj #7 reconstruction with Gabe Bladow, of Houston Engineering, on August 1st. Seeding, erosion repair, removal of sediment in part of the reconstructed area, and tree removal were identified as final items to be completed. The Managers were pleased with the outcome of this project. (RCWRD #17-016)

●Proj #7 Inlet Culvert- Mr. Johnson reported a 15 inch inlet culvert, located in the SE1/4 Section 20, Garborg Township, has collapsed (Site #420). He recommended replacing it with an 18 inch culvert and flap gate. A motion was made by Mgr. Burvee and seconded by Mgr. Rostad to approve Mr. Johnson's recommendation and assign the project to JAV Construction. The motion carried unanimously. (RCWRD #19-025)

●Proj #31 Cost Estimates for Holthusen Driveway Alternatives- Comstock Construction provided the following cost estimates for the alternatives being considered for the Holthusen driveway, located in the NW1/4 Section 20, Summit West:

Alternative #1 (Upsize existing crossing to 2-128"x83" cmpa)	\$34,000*
Alternative #2 (Build north-south driveway)	\$44,300

*It was noted that Alternative #1 did not include the cost of the culvert materials.

Considerable discussion was held and Mr. Johnson was directed to inspect the site to see if a 78 inch cmp will fit in the existing crossing. He will provide a report at the next meeting. (RCWRD #19-036)

●Proj #72-Spring damages found by Mr. Johnson were:

Site #414, located in the SE1/4 Section 5, Abercrombie West-
Rusted out 18 inch cmp.

Site #418, located in the SWCR Section 13, Nansen Township-
Rusted out 56 inch x 77 inch cmpa.

Mr. Johnson reported that the 18 inch inlet culvert should be replaced with a culvert of the same size; no hydraulic study required. Interstate Engineering did a hydraulic study on the Site #418 culvert in 2005 and determined the existing 56 inch x 77 inch cmpa meets stream crossing standards and therefore should be replaced with a culvert of the same size.

At this time Appl #19-042 was completed and a motion was made by Mgr. Burvee, seconded by Mgr. Moffet, and unanimously carried to replace the culverts at Sites #414 and #418 as reported by Mr. Johnson and to assign the projects to Ehlert Excavating.

●Drain Inspections- Mr. Johnson provided a brief update on various drain inspections he completed; no damages were found.

●Cattail Spraying- Office Staff provided a breakdown of cattail spraying for 2018 and 2019. There were approximately 30.5 more miles of drains sprayed this year than in 2018. Mike Larson, of Larson Helicopters, would like to meet with the Board this winter to discuss the timing for spraying cattails and a new chemical to try.

City Drain #1- The Managers were informed of discussions with City Staff regarding the City's responsibility for maintenance of City Drain #1. When the legal drain was constructed the City of Wahpeton agreed to maintain the drain in lieu of establishing an assessment district. Recently a culvert needed to be replaced and the City disputed their responsibility for the culvert, since it does not drain city land and because it involved a county road. North Dakota Century Code

requires a 60% (Maintenance District)/40% (County Highway Department) split. The matter was resolved between City Mayor Dale and Richland County Engineer Sedler. Costs will be split based on North Dakota Century Code.

2020 Budget

The Managers were informed the Richland County Commission is considering reducing the RCWRD's levy for 2020. Discussion was held relative to the District's budget and need for the full 4 mills. A meeting will likely be held with the Commission within the coming weeks.

Snagging and Clearing

The Managers inquired about the status of bids from American Enterprises for snagging and clearing projects on the Sheyenne and Wild Rice Rivers this winter. American Enterprises has been contacted several times; they indicated they have not been able to fly the rivers because of weather conditions and high water levels prohibiting them from seeing all the debris. The Managers are concerned about getting bids submitted to the North Dakota State Water Commission for cost share assistance. American Enterprises will be contacted again.

Adjournment

There being no further business to come before the Board, Chr. Friskop adjourned the meeting at 11:50 AM.

Respectfully submitted,
Monica Zentgraf
Monica Zentgraf
Secretary

Gary Friskop
Gary Friskop
Chairman of the Board