

RICHLAND COUNTY WATER RESOURCE DISTRICT
Richland County Courthouse, Wahpeton, ND
February 25, 2020

The Richland County Water Resource Board ("RCWRB") met February 25, 2020 at 9:00 AM at the Richland County Courthouse, Wahpeton, North Dakota.

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

THOSE ABSENT: Gary Friskop, Don Moffet

Proj #2 Right-of-Way- Section 22, Colfax East

The Managers held a brief discussion regarding the right-of-way on Proj #2, located in Section 22, Colfax East, for the purpose of preparing for the meeting scheduled later in the day with Brad Hage.

Minutes

The February 11, 2020 minutes were presented. A motion was made by Mgr. Fahsholz and seconded by Mgr. Haugen to approve the February 11, 2020 minutes as presented. The motion carried unanimously.

Financial Matters

●Vouchers- Vouchers for the month of February 2020 were presented for the Board's review and approval. A motion was made by Mgr. Haugen and seconded by Mgr. Fahsholz to approve Vouchers #18282 through #18297 and the electronic funds transfer for the IRS payment. The motion carried unanimously.

Mail

- 1) US Army Corps of Engineers ("USACE")- News release announcing the USACE received \$100 million to continue work on the Fargo-Moorhead Flood Risk Management project. "These funds will allow the St. Paul District to complete a gated structure on the Wild Rice River, award an initial contract for the southern embankment in North Dakota, complete the Diversion Inlet Structure, and continue design, environmental investigation and monitoring programs related to this project."

Mike Bassingthwaite, of Interstate Engineering, joined the meeting.

- 2) North Dakota State Engineer's Office- Notice of the City of Wahpeton's Application #1822 for change in points of diversion from ground water. The application requests authorization to divert and appropriate water from ground water utilizing points of diversion located in the S1/2 Section 2, Dwight West. The current permit authorizes points of diversion in the N1/2 Section 20, Dwight East.
- 3) North Dakota State Engineer's Office- Notice of the City of Wahpeton's Application #1898 for change in points of diversion from ground water. The application requests authorization to divert and appropriate water from ground water utilizing points of diversion located in the S1/2 Section 2, Dwight West. The current permit authorizes points of diversion in Section 20, Dwight East.

\$275,000 Temporary Maintenance Levy Improvement Bonds of 2019, Series B- Bond Call

The Secretary-Treasurer requested the Managers consider calling the \$275,000 Temporary Maintenance Levy Improvement Bonds of 2019, Series B, which were issued for the Proj #7 reconstruction. She suggested calling the bonds if the District receives a tax payment of at least \$12,500 in March. A motion was made by Mgr. Fahsholz and seconded by Mgr. Haugen to call the \$275,000 Temporary Maintenance Levy Improvement Bonds of 2019, Series B, contingent upon receipt of a tax payment of \$12,500 in March. The motion carried unanimously.

Future Snagging & Clearing Projects

The Office recently received a call from Pat Fridgen and Beth Nangare, of the ND SWC, regarding future snagging and clearing projects. If more than one reach is submitted to the ND SWC for cost share assistance they will be considered one project and will require approval of the Commission if the combined total cost is in excess of \$150,000; they will not be considered separate projects eligible for approval by the State Engineer. Mr. Fridgen also advised that snagging and clearing projects are subject to the economic analysis requirement if the project cost is \$200,000 or more.

Proj #2 Right-of-Way- Section 22, Colfax East

Brad Hage met with the Board at his request to discuss the price set by the Board for the one acre of drain right-of-way, in the S1/2 Section 22, Colfax East, which the District no longer needs for the berm along Proj #2. (In August 2019 the price was set at \$5,500 which is the amount previously paid to the Hage Life Estate for the District's purchase of this ground in 2016 for the Proj #2 reconstruction.)

Several issues were raised by Mr. Hage, including:

- *Quality of the land (in the S1/2 Section 22) - Is the quality the same as before reconstruction or has it been negatively impacted by the reconstruction?

- *Burden bore compared to others in the assessment district- (West end vs east end of the drain)

- *Mowing ditch banks along the drain after reconstruction without compensation- 6.5 miles of ditch to mow compared to others who had 0.5 miles, etc. Mr. Hage did acknowledge that he rents the land where he had to mow.

- *Dirt from his field (in the NE1/4 Section 27) was used to build up the berm- Can the District enter onto his land to take dirt from his field?

- *Compaction/repairs needed on his property (NE1/4 Section 27) from contractor equipment used for berm raise and where dirt was removed from the field- No compensation, including for crop damage, tillage, fertility. Mr. Hage estimated 7 acres were impacted.

- *Seeding- Area of berm (S1/2 Section 22 and NE1/4 Section 27) raised should have been seeded.

- *Drain berm (NE1/4 Section 27) extends into his field beyond the District's right-of-way- Loss of land with no compensation.

Considerable discussion was held, most specifically regarding the removal of dirt from his field, repairs he had to make, and extension of berm beyond the District's right-of-way. The Board was unaware of these issues; compensation/settlement was discussed. An offer of \$2,100 was made (\$150 per acre for 2 years for 7 acres) for the use of Mr. Hage's property in the NE1/4 Section 27; the amount was calculated in the same manner as Temporary Construction Easements for reconstruction projects. Mr. Hage also asked for crop damages, but since the berm raise was done before Mr. Hage planted his crop, the Board would pay for an easement. An easement is similar to a rental payment and is paid for 2 years as the District recognizes the land will still not be at full production the 2nd year; the District does not pay for both an easement and crop damage.

An offer was also made regarding the right-of-way Mr. Hage lost due to the berm raise. The offer was to deed the one acre of right-of-way, which is no longer needed by the drain, back to the Hage Life Estate in even exchange for the right-of-way Mr. Hage lost and for the field dirt used for the berm. It was noted the right-of-way Mr. Hage lost was estimated to be approximately 0.25 to 0.50 acres compared to the one acre that would be returned to the Life Estate.

Mr. Hage verbally agreed to the Board's offer. The Managers will inspect the site when conditions allow in the spring and deeds will be prepared for the land exchange. (Engineering fees for determining the acreage and preparing land descriptions and legal fees for document preparation will be paid by the District.)

Mr. Hage also spoke briefly with the Managers about removal of snow from the drain in the spring. He cautioned that most likely snow will need to be removed

during the spring thaw. Mr. Hage will need to contact the District if it appears there will be a problem. He was cautioned not to remove the snow and submit a bill to the District after the fact, as the District does not reimburse for such action.

Mr. Hage left the meeting.

A brief call was made to Mgr. Moffet to inform him of the discussion and outcome of the meeting with Mr. Hage.

North Dakota State Water Commission (“ND SWC”) Water Development Plan Projects

Mr. Bassingthwaite met with the Board for the purpose of choosing future legal drain projects to submit to the ND SWC for potential cost share assistance for the 2021-2023 biennium and beyond. Consensus of the Managers was to submit the following projects:

- Proj #1 Partial Reconstruction
- Proj #3 Partial Reconstruction
- Proj #5(37) Reconstruction
- Proj #12 Partial Reconstruction
- Proj #14 Partial Reconstruction
- Proj #18 Reconstruction
- Proj #31 Partial Reconstruction
- Proj #65 Partial Reconstruction
- Richland-Sargent Phase 3 Reconstruction
- Antelope Creek Snagging & Clearing
- Wild Rice River Snagging & Clearing
- Sheyenne River Snagging & clearing
- Red River Watershed Retention Project-NRCS RCPP Project
- Mantador Dam

It was made clear these are identified as potential projects. Interstate Engineering will complete the necessary paperwork for all of the aforementioned projects except the Proj #31 reconstruction which will be prepared by Houston Engineering.

Mr. Bassingthwaite left the meeting.

Regional Conservation Partnership Program (“RCPP”) North Branch Antelope Creek Watershed Study

The Managers were informed additional information was required by the ND SWC for the District’s cost share request for the \$50,000 overrun on the RCPP North Branch Antelope Creek Watershed Study. Office Staff requested the consultant, Interstate Engineering, provide the additional data to the District. The data was received and forwarded to the SWC. At this time the data was reviewed by the Managers. (RCWRD #16-017)

Applications

Application to Install a Subsurface Water Management System No. 20-003 for Selzer Family Farm Property LLLP in the Northeast Quarter of Section 31 in Homestead Township

The District reviewed an *Application to Install a Subsurface Water Management System No. 20-003* dated January 31, 2020, and filed February 19, 2020, for Selzer Family Farm Property LLLP. Under the application, Applicant seeks to install a 126-acre drain tile system in the Northeast Quarter of Section 31 in Homestead Township, Richland County, North Dakota. The project will include two outlets; the first will be a pump outlet located along the north boundary of the Northeast Quarter of the Northeast Quarter of Section 31; the pump will discharge into the south road ditch along 77th Street SE; the tile discharge will flow west in the south road ditch until discharging into Richland County Drain No. 67. The second outlet will be a gravity outlet located in the southwest corner of the Northeast Quarter of Section 31; the outlet will discharge directly into Drain 67.

The Richland County Water Resource District owns and operates Richland County Drain No. 67.

Because the project will discharge directly into a legal assessment drain, 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 District cannot require Applicant to obtain any written consent or flowage easements from downstream landowners since the project will ultimately discharge directly into Drain 67, a legal assessment drain. However, the District can require Applicant to install and maintain erosion protection to protect Drain 67.

According to records on file with the Richland County Recorder's Office, Selzer Family Farm Property LLLP owns the Northeast Quarter of Section 31 of Homestead Township. Southeast Water Users has a blanket easement for purposes of water lines in the Northeast Quarter of Section 31.

Manager Haugen moved, and Manager Fahsholz seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 20-003* dated January 31, 2020, and filed February 19, 2020, for Selzer Family Farm property LLLP in the Northeast Quarter of Section 31 in Homestead Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT No. 20-003, subject to the following conditions:

- 1) That Applicant provide, install, and maintain adequate erosion protection at any and all outlets into Richland County Drain No. 67;
- 2) That Applicant notify the Richland County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 3) That Applicant must reseed any of the District's right of way disturbed by Applicant's 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 Applicant 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 Applicant will not install Applicant's tile system within 20 feet, on either side, of Southeast Water Users District's rural water line on the Northeast Quarter of Section 31; and
- 6) That Applicant 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 Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the District will recommend that Applicant consider complying with the following:

- 1) That Applicant 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 Applicant 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 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.

Technician's Report

●Tree and Shrub Grubbing- Mr. Johnson has been inspecting some of the drains for larger trees and will forward that information to JBX, LLC as they may do some grubbing yet this winter.

Adjournment

There being no further business to come before the Board, Vice Chr. Burvee adjourned the meeting at 12:00 Noon.

Respectfully submitted,

Monica Zentgraf
Monica Zentgraf
Secretary

Arv Burvee
Arv Burvee
Vice Chairman of the Board