

RICHLAND COUNTY WATER RESOURCE DISTRICT
Richland County Courthouse, Wahpeton, ND
February 9, 2021

The Richland County Water Resource Board ("RCWRB") met February 9, 2021 at 9:00 AM at the Richland County Courthouse.

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

THOSE ABSENT: None

Approval of Agenda

Chr. Burvee requested to add discussion regarding future office staffing to the agenda. A motion was made by Mgr. Moffet, seconded by Mgr. Fahsholz, and unanimously carried to approve the agenda as amended.

Minutes

The January 26, 2021 minutes were presented. A motion was made by Mgr. Friskop and seconded by Mgr. Arndt to approve the January 26, 2021 minutes as presented. Upon roll call vote, the motion carried unanimously.

Financial Matters

- **2020 Year End Financial Reports**- The 2020 year end financial reports were presented to the Board. Upon review, a motion was made by Mgr. Fahsholz and seconded by Mgr. Arndt to accept the reports as presented. Upon roll call vote, the motion carried unanimously.

- **January 2021 Financial Reports**- A motion was made by Mgr. Friskop and seconded by Mgr. Moffet to accept the January 2021 financial reports as presented. Upon roll call vote, the motion carried unanimously.

- **Bremer Bank Letter of Credit**- 110% of the District's securities totaled \$7,312,761.64. Bremer Bank's Letter of Credit in the amount of \$7,500,000 adequately covers the District's funds.

Proj #95

Mike Bassingthwaite, of Interstate Engineering, met with the Board to discuss his report regarding water which breaks out of Proj #95 and is causing erosion across the land in the S1/2 Section 31, Ibsen Township.

Mr. Bassingthwaite reported this portion of the legal drain is a meandering channel. Survey results show the channel is not close to the original design width and the meanders have moved outside the existing rights-of-way. He proceeded to explain there is not enough channel capacity to keep the water in the channel and suggested removing the sediment to restore the channel back to original construction width. Board consensus was for Mr. Bassingthwaite to prepare a cost estimate for sediment removal, including the additional rights-of-way needed for the areas where the channel has moved beyond the existing rights-of-way. (RCWRD #20-030)

Interstate Engineering General Engineering Services

Mr. Bassingthwaite presented Interstate Engineering's 2021 rate schedule and visited with the Managers about general engineering services provided by Interstate Engineering.

Mr. Bassingthwaite indicated he will have the Regional Conservation Partnership Program ("RCP") draft study (#16-017) to the Board in March and the Proj #66A study (#20-040) to the Board within the week.

Mr. Bassingthwaite left the meeting.

Mail

- 1) HDR- Notification of the North Dakota Department of Transportation's roadway improvement project scheduled for the 2023 construction season. The project will run from Section 9, Mooreton Township to Section 15, Abercrombie West, and is being done to extend the structural integrity of Interstate 29.
- 2) North Dakota State Engineer's Office- Notification of Water Permit Appl #7121 submitted by James Dotzenrod. The permit is to divert and appropriate ground water utilizing points of diversion in the NE1/4 Section 14, Freeman Township.
- 3) North Dakota State Engineer's Office- Notification of Water Permit Appl #7122 submitted by James Dotzenrod. The permit is to divert and appropriate ground water utilizing points of diversion in the SE1/4 Section 1, Wyndmere Township.
- 4) North Dakota State Water Commission ("ND SWC")- Notice of denial of the District's request for cost share assistance for the partial reconstruction of Proj #31. The ND SWC's decision is based on Attorney General Letter Opinion 2020-L-04 in which reconstruction projects constitute maintenance and therefore are not eligible for cost share assistance through the State. The District's legal counsel has arranged a video conference with several Water Resource District Managers to discuss the maintenance/reconstruction cost share issue in preparation for the ND SWC meeting scheduled for February 11th. Per Board consensus, Chr. Burvee will attend both meetings via video conference. (RCWRD #18-022)

Applications

Application to Install a Subsurface Water Management System No. 21-001 for Tyler Bjerke in the NE1/4 Section 23, Garborg Township

The District reviewed *Application to Install a Subsurface Water Management System No. 21-001*, dated December 22, 2020, and filed January 7, 2021, for Tyler Bjerke. Under the application, Applicant seeks to install a 152-acre drain tile system in the NE1/4 Section 23, Garborg Township, Richland County, North Dakota. The project will include a single pump outlet located in the northwest corner NE1/4 Section 23; the outlet will discharge into the west road ditch along 161st Avenue SE; the discharge will flow south in the west road ditch, along the east boundary of Section 23 until discharging into Richland County Drain #7 near the southeast corner Section 23. The Richland County Water Resource District owns and operates Drain #7.

The Board previously provided THIRTY-DAY NOTICE to the owner of the SE1/4 Section 23, as required under N.D. Cent. Code § 61-32-03.1. In addition, the Board provided a THIRTY-DAY NOTICE to Garborg Township regarding the discharge into the township's road right of way. None of the downstream parties submitted any objection to the project. With that in mind, the Board does not have any legal authority to require Applicant to obtain consent from any downstream landowner. The Board will require Applicant to install and maintain erosion protection at the outlet into the Township's ditch.

Southeast Water Users District indicated they do not have any water lines in the NE1/4 Section 23.

According to records supplied by Applicant, Bjerke Holdings, LLLP, owns the NE1/4 Section 23, Garborg Township; Tyler and Becky Bjerke are the general partners of Bjerke Holdings, LLLP. With regard to downstream property, Daniel Dahlgren owns the SE1/4 Section 23.

Manager Fahsholz moved, and Manager Arndt seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 21-001*, dated December 22, 2020, and filed January 7, 2021, for Tyler Bjerke regarding a proposed tile system in the NE1/4 Section 23, Garborg

Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT No. 21-001, subject to the following conditions:

- 1) that Applicant notify the Richland County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 2) that Applicant install and maintain erosion protection at the outlet into Garborg Township's road right of way; and
- 3) that Applicant 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 Board cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the Board will recommend that Applicant comply with the following:

- 1) 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;
- 2) that Applicant obtain written consent from Garborg Township to discharge into or otherwise utilize its Township road right of way; 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.

Appl #21-004, Dallas Loff: S1/2NE1/4 Section 8, Abercrombie West The RCWRB acknowledged the application for drain tile was filed for notification purposes only. No State Subsurface Water Management Permit is required and no action is required by the RCWRB as the project involves less than 80 acres.

Appl #21-002, Jeff Erbes: SE1/4 Section 14, Nansen Township: The Board further considered Mr. Erbes' application for cleaning a portion of Proj #72 in the SE1/4 Section 14, Nansen Township. Information provided by Mr. Bassingthwaite was reviewed with the Board. A motion was made by Mgr. Friskop and seconded by Mgr. Arndt to defer the application until the channel can be inspected in the spring. Upon roll call vote, the motion carried unanimously. (See also minutes of January 26, 2021 for background information.)

Wild Rice River Snagging and Clearing- \$131,500 Project

Secretary Zentgraf reported the North Dakota State Engineer's office has taken the temporary hold off small cost share projects (\$150,000 and under) and they are preparing the documents for the District's Wild Rice River snagging and clearing project. The Secretary recommended the Board authorize the Chairman to sign the cost share agreement when it is received so the contractor can proceed with the work as soon as the agreement is signed. At this time a motion was made by Mgr. Moffet and seconded by Mgr. Fahsholz authorizing Chr. Burvee to sign the ND SWC cost share agreement for the \$131,500 Wild Rice River snagging and clearing project. Upon roll call vote, the motion carried unanimously. (RCWRD #20-069)

Legislative Update

Office Staff reported HB 1437 (drain tile bill) was heard this past week by the House Ag Committee. No action was taken by the Committee as there were some issues which needed to be addressed by the authors of the bill. A conference call was held yesterday to discuss the issues and Office Staff is waiting to hear from Representative Schreiber-Beck and Levi Otis about what the grower groups opinions are regarding the proposed changes.

SB 2208 appears to be headed to an interim study. The Senate Ag Committee is working on outlining which portions of the surface drainage law should be included in the study.

Future Office Staffing

Brief discussion was held regarding the timeline for hiring future office staff.

Adjournment

There being no further business to come before the Board, Chr. Burvee adjourned the meeting at 11:55 AM.

Respectfully submitted,

Monica Zentgraf
Monica Zentgraf
Secretary

Arv Burvee
Arv Burvee
Chairman of the Board