

RICHLAND COUNTY WATER RESOURCE DISTRICT  
Richland County Courthouse, Wahpeton, ND  
July 30, 2019

The Richland County Water Resource Board ("RCWRB") met July 30, 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 23, 2019 minutes were presented. A motion was made by Mgr. Moffet and seconded by Mgr. Rostad to approve the July 23, 2019 minutes as presented. The motion carried unanimously.

### **Mail:**

- 1.) North Dakota State Water Commission ("ND SWC")- "*The Current*" newsletter
- 2.) Randy Gjesvtang, ND SWC- Email update of the July 24, 2019 ND SWC Subcommittee meeting. Of special interest was cost share funding for drainage projects and snagging and clearing projects.

### **FEMA Repairs**

●Proj #2- Erosion at FEMA Site #389, located in the NECR Section 26, Eagle South, has been completed by JAV Construction.

Erosion repairs at the following FEMA sites have not been completed:

Site #388, located in the SE1/4 Section 24, Colfax West

Site #391, located in the SE1/4 Section 24, Colfax West

JAV Construction indicated that, due to time restraints on other projects, they are unable to make repairs to the remaining two sites within the Board's requested timeline. They are willing to relinquish Sites #388 and #391 so the Board can reassign them to another contractor.

A motion was made by Mgr. Burvee and seconded by Mgr. Moffet to reassign Sites #388 and #391 to JBX. The motion carried unanimously. (RCWRD #19-015)

●Proj #5- The two FEMA sites previously reported but not yet assigned to a contractor are:

Site #402, located in the NE1/4 Section 20, Walcott East-  
Repair erosion

Site #405, located in the NECR Section 11, Walcott West-  
Remove debris

Appl #19-035 was completed to move the two FEMA sites from Appl #19-028. A motion was made by Mgr. Burvee, seconded by Mgr. Haugen, and unanimously carried to assign the repairs to Ehlert Excavating. (RCWRD #19-035)

●Proj #31- FEMA Site #381, located in the NWCR SW1/4 Section 21, Devillo Township- Road culvert washout

FEMA Site #385, located in the NW1/4 Section 20, Summit West- Driveway washing

No action required; recorded for purposes of removing the non-FEMA damages from Appl #19-011 and moving them to Appl #19-036.

●Proj #95- The six FEMA sites previously reported but not yet assigned to a contractor are:

Site #406, located in the NW1/4 Section 27, Antelope Township-  
Remove sediment

Site #407, located in the SW1/4 Section 36, Homestead Township- Remove debris  
Site #408, located in the SW1/4 Section 32, Antelope Township- Repair erosion  
Site #409, located in the SW1/4 Section 34, Antelope Township- Repair erosion  
Site #410, located in the SE1/4 Section 34, Antelope Township- Repair erosion  
Site #411, located in the SE1/4 Section 36, Antelope Township- Repair erosion

A motion was made by Mgr. Burvee and seconded by Mgr. Rostad to assign Sites #406 through #411 to Ehlert Excavating. The motion carried unanimously. (RCWRD #19-029)

### **Applications**

#### **Application to Install a Subsurface Water Management System No. 19-037 for The 2006 Murphey Inter Vivos Trust, Kelly Klosterman, and Kevin Klosterman in the Southwest Quarter of Section 24 and the Northwest Quarter of Section 25 of Homestead Township**

The Board reviewed an *Application to Install a Subsurface Water Management System No. 19-037* dated July 19, 2019, for The 2006 Murphey Inter Vivos Trust, Kelly Klosterman, and Kevin Klosterman. Under the application, Applicants seek to install a 312-acre drain tile system in the Southwest Quarter of Section 24 and the Northwest Quarter of Section 25 of Homestead Township, Richland County, North Dakota. The project will include a single pump outlet located in the northeast corner of the Northwest Quarter of Section 25 of Homestead Township; the pump will discharge to the east along the north boundary of the Northeast Quarter of Section 25 and the North Half of Section 30 of Antelope Township.

The project would normally have required THIRTY-DAY NOTICES to downstream landowners within one mile of the pump outlet under N.D. Cent. Code § 61-32-03.1. In this case, however, Applicants obtained “notarized letters of approval” from downstream landowners in accordance with Section 61-32-03.1(2)(b). More specifically, the owners of the Northeast Quarter of Section 25 in Homestead Township and the North Half of Section 30 in Antelope Township all supplied NOTARIZED LETTERS OF APPROVAL to Applicants, and those NOTARIZED LETTERS OF APPROVAL obviate the need for any THIRTY-DAY NOTICES under Section 61-32-03.1. Worth noting is the NOTARIZED LETTER OF APPROVAL from Ms. Idette Jones, the owner of the Northeast Quarter of Section 25, included conditions and stipulations regarding ditch grading and culvert locations; the Richland County Water Resource District has no jurisdiction over any agreements between Ms. Jones and the Applicants.

According to records supplied by Applicants, Kevin and Kelly Klosterman own the Southwest Quarter of Section 24 of Homestead Township. Further, Kevin and Kelly Klosterman own the East Half of the Northwest Quarter of Section 25 of Homestead Township. Kevin Klosterman, Kelly Klosterman, and The 2006 Murphey Inter Vivos Trust all own undivided one-third interests in the West Half of the Northwest Quarter of Section 25 of Homestead Township. Idette Jones owns the Northeast Quarter of Section 25 of Homestead Township. Todd Heitkamp, Jeffrey Heitkamp, Beth Madson, and Chris Heitkamp own the North Half of Section 30 of Antelope Township.

Manager Rostad moved and Manager Burvee seconded the motion to approve *Application to Install a Subsurface Water Management System No. 19-037* dated July 19, 2019, for The 2006 Murphey Inter Vivos Trust, Kelly Klosterman, and Kevin Klosterman in the Southwest Quarter of Section 24 and the Northwest Quarter of Section 25 in Homestead Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 19-037, 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; and

2) 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 obtain written permission from the Antelope Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches;

3) That Applicants obtain written permission from Richland County to discharge into, or otherwise utilize, any of its County highway ditches; to install, operate, and maintain buried pipe in any of its County highway ditches; or to bore through its County highway ditches;

4) 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

5) 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. 19-030 for Mike and Mary Yaggie and Jeff and Janet Yaggie in the North Half and the Southeast Quarter of Section 21 of Summit (West) Township**

The Board reviewed an *Application to Install a Subsurface Water Management System No. 19-030* dated June 26, 2019, for Applicants Mike and Mary Yaggie and Jeff and Janet Yaggie. Under the application, Applicants seek to install a 460-acre drain tile system in the North Half and the Southeast Quarter of Section 21 of Summit (West) Township, Richland County, North Dakota. The project will include a single pump outlet located in the northeast corner of the Northwest Quarter of Section 21; the pump will discharge into the south road ditch of County Road 16, along the north boundary of the Northwest Quarter of Section 21; the tile discharge will flow west in the south road ditch of County Road 16, along the north boundary of the North Half of Section 20, until ultimately discharging into Richland County Drain No. 31. The Richland County Water Resource District owns and operates Drain 31. Application No. 19-030 is a modification to the project previously approved under SUBSURFACE DRAIN PERMIT NO. 16-084, approved by the Richland County Water Resource District in 2016 (Applicants never constructed the project approved under Permit No. 16-084).

The Board previously provided THIRTY-DAY NOTICES to the Richland County Highway Department regarding its County Road 16 right of way, as well as the owners of the North Half of Section 20 of Summit (West) Township, as required

under N.D. Cent. Code § 61-32-03.1. Neither the Highway Department nor the downstream landowners in the North Half of Section 20 submitted any “technical evidence,” to oppose the project or to demonstrate any potential adverse impacts the project might have on their properties. With that in mind, under the tile law passed during the 2017 legislative session, the Board cannot require Applicants to obtain any written approval from any of the downstream landowners as a condition to the permit. The Board can, however, require Applicants to install erosion protection in the County Road 16 ditch at the outlet.

According to records supplied by Applicants, Jeff and Janet Yaggie own a one-half interest in the East Half of Section 21 of Summit (West) Township, and Mike and Mary Yaggie own the other one-half interest. Mary Yaggie owns the Northwest Quarter of Section 21 where Applicants intend to install the tile project. The Richland County Highway Department owns its County Road 16 highway right of way. Robbie, Scott, and Jason Holthusen own the North Half of Section 20, subject to life estates in Myron and Sharon Holthusen.

Manager Burvee moved, and Manager Rostad seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 19-030* dated June 26, 2019, for Mike and Mary Yaggie and Jeff and Janet Yaggie regarding the North Half and the Southeast Quarter of Section 21 in Summit (West) Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 19-030, 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 Richland County at any and all outlets into Richland County’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 Richland County to discharge into, or otherwise utilize, any of its County highway 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.

### **Proj #7 Reconstruction**

Mr. Johnson reported that he contacted Ryan Johnson about the Board’s July 23, 2019 decision not to approve the installation of inlet culverts (requested by Ryan) in the SE1/4 Section 22 and the NE1/4 Section 27, both in Garborg Township. This decision was due to the financial status of the construction fund as well as the Board’s opinion that field ditching could be done to bring the water to existing inlets

in both quarters. Ryan offered to pay for the materials and labor for the culvert in the SE1/4 Section 22, if the Board will approve the work. After much discussion, a conference call was held with Brett Johnson, as Ryan was unavailable. Brett agreed there is a possibility to do some ditching to existing culverts. The Managers told Brett to let them know if there is an elevation problem and they will reconsider their decision. (RCWRD #17-016)

**Proj #66A**

The Managers viewed Mr. Johnson’s drone video showing corn planted within the District’s right-of-way in the SE1/4 Section 22, Mooreton Township, as reported at the July 23, 2019 meeting. Board consensus was to require the landowner to leave three rows of corn stubble (approximately 5 feet) to reduce the risk of erosion. The Managers will wait to see if the grass comes back before making a decision if the landowner needs to seed the right-of-way that was disturbed. A conference call was held with Chris Johnson, owner of the SE1/4 Section 22, to inform him of the Board’s decision. Appl #19-038 was completed to document the incident.

**Technician’s Report**

Mr. Johnson reported on the Metro Flood Diversion Authority meeting he attended July 25, 2019.

**2020 Budget**

The 2020 budget was reviewed by the Managers. A motion was made by Mgr. Moffet and seconded by Mgr. Rostad to approve the budget as presented and to request a levy of \$420,000 from the Richland County Commission. The motion carried unanimously.

**2019 Drain Maintenance and Excess Levies**

The Managers reviewed the financial status of all drain maintenance accounts. Discussion was held relative to fund balances, work pending, and work anticipated. A motion was made by Mgr. Burvee and seconded by Mgr. Moffet to approve the 2019 drain maintenance levies for the purpose of paying for work done in 2019 and anticipated expenses in 2020 and beyond, sinking funds for Drains #5, 7, 14, RS #1, and the excess levy for Bond #2.

**Drain Maintenance Levies**

<u>Drain #</u>	<u>Levy Amount</u>	<u>Drain #</u>	<u>Levy Amount</u>
Dr. #1	\$4.00 Weighted	Dr. #2	\$4.00 Weighted
Dr. #3	\$4.00 Weighted	Dr. #4	\$4.00 Weighted
Dr. #5	\$4.00 Weighted	Dr. #7	\$4.00 Weighted
Dr. #10	\$3.00 Weighted	Dr. #12	\$4.00 Weighted
Dr. #14	\$4.00 Weighted	Dr. #15	\$2.00 Weighted
Dr. #17	\$4.00 Weighted	Dr. #18	\$4.00 Weighted
Dr. #19	\$2.00 Weighted	Dr. #26	\$4.00 Weighted
Dr. #31	\$4.00 Weighted	Dr. #34	\$4.00 Weighted
Dr. #35	\$4.00 Weighted	Dr. #39	\$4.00 Across Board
Dr. #41	\$4.00 Weighted	Dr. #48	\$4.00 Weighted
Dr. #55	\$4.00 Weighted	Dr. #58	\$4.00 Weighted
Dr. #62	\$1.00 Weighted	Dr. #63	\$4.00 Weighted
Dr. #65	\$4.00 Weighted	Dr. #66	\$4.00 Weighted
Dr. #67-8	\$1.00 Weighted	Dr. #72	\$4.00 Weighted
Dr. #95	\$1.00 Across Board	Dr. #97	\$1.00 Across Board
CR #1	\$0.25 Weighted	RS #1	\$4.00 Weighted

The motion carried unanimously.

**Adjournment**

There being no further business to come before the Board, Chr. Friskop adjourned the meeting at 11:30 AM.

Respectfully submitted,

*Monica Zentgraf*  
Monica Zentgraf  
Secretary

*Gary Friskop*  
Gary Friskop  
Chairman of the Board