

RICHLAND COUNTY WATER RESOURCE DISTRICT
Richland County Courthouse, Wahpeton, ND
May 26, 2020

The Richland County Water Resource Board ("RCWRB") met May 26, 2020 at 8:00 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 May 19, 2020 minutes were presented. A motion was made by Mgr. Haugen and seconded by Mgr. Fahsholz to approve the May 19, 2020 minutes as presented. The motion carried unanimously.

Financial Matters

●**Vouchers**- A listing of all checks written for the month of May, including amount of the payments, and fund accounts charged was mailed to the Managers for their review prior to the meeting. A motion was made by Mgr. Burvee and seconded by Mgr. Fahsholz to approve Vouchers #18353 through #18372 and the electronic funds transfer for the IRS payment. The motion carried unanimously.

Mail

- 1) Richland County Commission- Minutes of the April 2020 meetings.

Proj #2 Right-of-Way- SE1/4 Section 22 and NE1/4 Section 27, East Colfax Township

The Secretary-Treasurer reported the right-of-way documents have been prepared by Legal Counsel for the transaction pertaining to Proj #2 as agreed upon between the Board and Brad Hage per the February 25th and May 14th meetings.

For record purposes, the following background is provided for the transaction now before the Board and pertaining to the aforementioned matter.

In February 2016 the RCWRD purchased a permanent easement from the Claudette Hage Family for 0.97 acres of right-of-way lying in the SE1/4 Section 22, East Colfax Township. The right-of-way was purchased for reconstruction of Proj #2.

On April 23, 2019, Bradley Hage and Monte Gylland met with the Board and via Appl #19-013, requested the berm of Proj #2 be built up in the NE1/4 Section 27, East Colfax Township, because water flowed out of the legal drain during past flood events causing erosion damage to adjacent property and threatening Mr. Gylland's farmstead. The District proceeded with the berm raise during the summer of 2019. After the project was completed conversation was held between Mr. Hage and Mike Bassingthwaite, engineer for the project. The conversation centered around whether Mr. Hage could farm the 0.97 acres of right-of-way the District no longer used because the backslope material was removed from the right-of-way and used for raising the berm. Mr. Bassingthwaite reported his conversation to the Board and the Board subsequently passed a motion to offer the 0.97 acres to Mr. Hage at the 2016 purchase price of \$5,500 per acre.

Mr. Hage met with the Board on February 25th to discuss the Board's offer and to voice concerns with the drain, reconstruction project, and berm raise. Of relevance to the Board's offer to sell the acreage back to the Hage Family was an issue of dirt from Mr. Hage's field, in the NE1/4 Section 27, having been taken without his permission and without compensation and used for raising the berm and an issue of the newly raised berm now extending beyond the District's right-of-way into Mr. Hage's field in the NE1/4 Section 27 and, again, without compensation. (The

amount of Mr. Hage's land taken out of production was later determined to be 0.49 acres.) The Managers were not aware that dirt was removed from the field or that the berm encroached into Mr. Hage's field. To resolve the matter, the Managers offered to return the 0.97 acres of right-of-way in the SE1/4 Section 22 to the Claudette Hage Family in exchange for Bradley and Leslie Hage deeding the 0.49 acres in the NE1/4 Section 27, to the District. The 0.49 acres along with the dirt the District removed from the Hage property were considered to be an equal trade for the 0.97 acres.

To finalize this matter, the Release of Easement (from the RCWRD) to the Claudette Hage Family for 0.97 acres lying in the SE1/4 Section 22, East Colfax Township, and the Warranty Deed (from Bradley and Leslie Hage) to the RCWRD for 0.49 acres lying in the NE1/4 Section 27, East Colfax Township, were both presented to the Board.

At this time a motion was made by Mgr. Haugen and seconded by Mgr. Moffet to approve the agreement as outlined above and to authorize Chr. Friskop to sign the aforementioned Release of Easement. The motion carried unanimously. The Warranty Deed will be presented to Mr. and Mrs. Hage for their signature. (Hage/Gylland Appl #19-013)

Technician's Report

Mr. Johnson provided the following reports:

●Proj #62

Mr. Johnson contacted Rick Bladow, owner of the NE1/4 Section 21, West Abercrombie Township, regarding the boat dock placed across the legal drain. Mr. Bladow informed Mr. Johnson that he rents the land to Dallas Loff and that Mr. Loff installed the dock. Mr. Johnson contacted Mr. Loff and asked him to remove the dock as directed by the RCWRB at their May 18, 2020 meeting. Mr. Loff does not want to remove the dock. Mr. Loff does not feel the dock poses any more liability risk than an approach and in fact, he feels it poses less risk. Mr. Loff was willing to remove the dock for the winter months.

Upon hearing of Mr. Johnson's discussion with Mr. Loff, Secretary-Treasurer Zentgraf contacted Sean Fredricks, the District's Legal Counsel, for his opinion regarding this matter. Mr. Fredricks advised that any structure or mode of access over a drain creates major liability concerns. He also advised that by law, the District only has an obligation to provide a landowner with access if the District severs the landowners property with a drain. The District has no legal obligation to provide access to drain tile outlets (that were installed after construction of the legal drain.) Mr. Fredricks provided a sample "Access Agreement" he recommended the District require the landowner sign if the dock is allowed to remain in place.

After considerable discussion, a motion was made by Mgr. Burvee and seconded by Mgr. Fahsholz directing an "Access Agreement" between the landowner and the RCWRD be prepared by Legal Counsel and if the landowner is not willing to sign the agreement, the District will order the dock removed. Upon roll call vote, Mgrs. Moffet, Fahsholz, Burvee, and Friskop voted in favor of said motion; Mgr. Haugen voted against said motion. The motion carried.

(The June 5, 2020 deadline for removal of the dock no longer applies based on today's motion.) (RCWRD #20-013)

●Proj #95

Mr. Johnson reported that he spoke with Bill Mauch regarding dirt removed along the right-of-way of Proj #95, in the SW1/4 Section 33, Antelope Township. Mr. Johnson asked Mr. Mauch to stay out of the grassed area and if he was intending to remove additional dirt, to stay 8 feet beyond the grassed area, as this is part of the drain right-of-way. Mr. Johnson explained to Mr. Mauch that the Board does

not want water breaking out of the drain. Mr. Mauch did not intend to remove any additional dirt and will level out the disturbed area.

● Drain Inspections

Mr. Johnson provided a brief update of drains he inspected that do not have damage.

● Contractor Updates

Mr. Johnson provided an update on contractor assigned projects. Concern was expressed relative to completion of projects assigned to JAV Construction in 2018 and 2019. JAV Construction has a number of bid projects to complete and is scheduled to begin reconstruction of the Tri-County drain on July 15th. The Board wants the projects completed before July 15th and directed Mr. Johnson to contact Jim Viele to get a firm date for completion. If JAV Construction is too busy to do these projects, the Managers will reassign them to other contractors.

Adjournment

There being no further business to come before the Board, Chr. Friskop adjourned the meeting at 9:00 AM.

Respectfully submitted,

Monica Zentgraf
Monica Zentgraf
Secretary

Gary Friskop
Gary Friskop
Chairman of the Board