

RICHLAND COUNTY WATER RESOURCE DISTRICT
Richland County Courthouse, Wahpeton, ND
October 15, 2019

The Richland County Water Resource Board ("RCWRB") met October 15, 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

Sheyenne River Erosion

Dan Zink, of Red River Valley & Western Railroad, met briefly with the Board to obtain their input regarding erosion on the bank of the Sheyenne River, in the E1/2 Section 7, Walcott West. Mr. Zink is very concerned water coming out of the river will adversely impact the railroad track.

Chr. Friskop reported he was contacted by David Braaten, who has already lost approximately 12 rows of corn because of this erosion. Mr. Braaten is concerned the erosion will continue.

The erosion is a result of the high water level in the river from on-going rain events. Discussion was held relative to who has jurisdiction over the Sheyenne River and what could be done to stop the erosion. It was suggested that Mr. Zink contact Mike Bassingthwaite, of Interstate Engineering, to confirm if the US Army Corps of Engineers ("USACE") has jurisdiction over this matter. He was also asked to provide the District with photographs of the eroded river bank. The District does not have a funding mechanism to provide financial assistance for river bank stabilization.

Mr. Zink left the meeting.

Minutes

The September 24, 2019 minutes were presented. A motion was made by Mgr. Burvee and seconded by Mgr. Haugen to approve the September 24, 2019 minutes as presented. The motion carried unanimously.

Financial Matters

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

- Bremer Bank Letter of Credit- 110% of the District's securities totaled \$7,161,560.24 on September 30, 2019; the existing Letter of Credit, in the amount of \$8,100,000 adequately covers the District's funds.

Applications

Application to Install a Subsurface Water Management System No. 19-047 for Corey and Kristie Theede in the Southeast Quarter of Section 36 in Waldo Township

The District reviewed an *Application to Install a Subsurface Water Management System No. 19-047* dated September 5, 2019, for Corey and Kristie Theede. Under the application, Applicants seek to install a 153-acre drain tile system in the Southeast Quarter of Section 36 in Waldo Township, Richland County, North Dakota. The project will include a pump outlet located in the northeast corner of the Southeast Quarter of Section 36; the pump will discharge to the north along the east boundary of the Northeast Quarter of Section 36, in the west township road ditch along 174th Avenue SE; at the northeast corner of the Northeast Quarter of Section 36, the tile discharge will turn east and flow under 174th Avenue; at the northwest corner of Section 31 of Devillo Township, the tile discharge will then turn

north and flow along the west boundary of the Southwest Quarter of Section 30, in the east road ditch along 174th Avenue.

The District provided THIRTY-DAY NOTICES to the downstream landowners in the Northeast Quarter of Section 36 of Waldo Township, the West Half of the Northwest Quarter of Section 31 of Devillo Township, and the Southwest Quarter of Section 30 of Devillo Township. The District also provided downstream notices to the Waldo and Devillo Township boards. None of the downstream landowners provided “technical evidence” to object to the project or to demonstrate how the project would result in adverse impacts to their properties. With that in mind, the District cannot require Applicants to obtain consent from any downstream landowners as a condition to the permit.

According to records submitted by Applicants, Corey and Kristie Theede own the Southeast Quarter of Section 36 of Waldo Township. With regard to downstream properties, Bruce Miller owns the Northeast Quarter of Section 36 of Waldo Township; Marlene Miller owns the West Half of the Northwest Quarter of Section 31 of Devillo Township; and Anita Muehler owns the Southwest Quarter of Section 30 of Devillo Township, subject to a life estate in Evangeline Muehler.

Manager Burvee moved, and Manager Moffet seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 19-047* dated September 5, 2019, for Corey and Kristie Theede in the Southeast Quarter of Section 36 in Waldo Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 19-047, 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 Waldo Township at any and all outlets into Waldo 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 Waldo 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 Devillo 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.

Application to Install a Subsurface Water Management System No. 19-049 for Teresa Braaten in the Southeast Quarter of Section 13 in Homestead Township

The District reviewed an *Application to Install a Subsurface Water Management System No. 19-049* dated August 19, 2019, and filed September 11, 2019, for Teresa Braaten. Under the application, Applicant seeks to install a 158-acre drain tile system in the Southeast Quarter of Section 13 in Homestead Township, Richland County, North Dakota. The project will include a pump outlet located along the south boundary of the Southeast Quarter of Section 13, along the north road ditch of County Highway 10; the pump will discharge into the north road ditch along County Highway 10 and will flow east along the south boundary of Section 18 of Antelope Township.

The District provided THIRTY-DAY NOTICES to the downstream landowners along the South Half of the South Half of Section 18 of Antelope Township, along with the Homestead and Antelope Township Boards, and to the Richland County Highway Department. None of the downstream landowners submitted any “technical evidence” to object to the project or to demonstrate how the project could result in adverse impacts to their properties. With that in mind, under Section 61-32-03.1, because none of the downstream landowners objected, the District cannot require Applicant to obtain any consent from downstream landowners as a condition to the permit.

According to records submitted by Applicant, Teresa Braaten owns the Southeast Quarter of Section 13 of Homestead Township. With regard to downstream properties, Steven and Sheila Haberman own the West Half of the Southwest Quarter of Section 18; Josh Facey owns a 1.12-acre tract in the Southeast Quarter of the Southwest Quarter of Section 18; Steven Haberman owns the east 82.83 acres of the Southwest Quarter of Section 18; Sherry Erbes owns a life estate in the Southeast Quarter of Section 18, with the remainder going to Marc Erbes, Cristina Hieb, Jennifer Mjones, Leo Erbes, and David Erbes. And Lance Haberman owns a small tract along the south boundary of the Southeast Quarter of Section 18.

Manager Haugen moved, and Manager Rostad seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 19-049* dated August 19, 2019, and filed September 11, 2019, for Teresa Braaten in the Southeast Quarter of Section 13 of Homestead Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 19-049, 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 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 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 Richland County to discharge into, or otherwise utilize, any of its County highway ditches;

- 2) 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;
- 3) That Applicant obtain written permission from the Antelope Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches;
- 4) 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
- 5) 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 #19-055, Wayne Anderson: N1/2 Section 28, Summit West A motion was made by Mgr. Burvee and seconded by Mgr. Moffet to defer the application pending Mr. Johnson's inspection. The motion carried unanimously.

Appl #19-056, Loff Farms: SW1/4 Section 18, Abercrombie West Mr. Loff's application was reviewed by the Board and it was noted that Mgr. Rostad and Mr. Johnson previously met with Dallas Loff regarding the work at this location. What this application actually includes (as outlined during the previous meeting with Mr. Loff) are the following items:

- 1) Replace the existing 24 inch cmp under 168th Avenue Southeast (a township road) with a 24 cmp. The culvert is located in the SW1/4 Section 18 in the natural waterway;
- 2) Mr. Loff wants the culvert (outlined in Item 1) raised approximately 16 inches;
- 3) Mr. Loff intends to clean/establish the north-south township road ditch in the SW1/4 Section 18 (south of the culvert outlined in Item 1) to allow water from the natural waterway to flow south into Proj #72;
- 4) Installation of an inlet culvert (with flap gate) into Proj #72 in the SWCR SW1/4 Section 18; and
- 5) Mr. Loff intends to build a berm 6 inches to 1 foot lower than the township road (168th Avenue Southeast) to direct the water into the township ditch (outlined in #3).

Mr. Loff's goal is to redirect the water from the natural channel into Proj #72, as he feels the water breaks out of the drain and therefore should go back into the drain. A conference call was held with Mr. Loff to discuss the project and to visit with him about the Board's concern for David Hendrickson's residence. Mr. Loff did not feel the Hendrickson property will be adversely affected by this work.

Upon conclusion of the conference call with Mr. Loff, a motion was made by Mgr. Rostad and seconded by Mgr. Burvee to approve a 24 inch x 20 foot inlet culvert and flapgate in the SWCR SW1/4 Section 18, West Abercrombie Township, contingent upon the signature of David Hendrickson filed in the RCWRD Office before work commences. Applicant responsible for any additional culvert length; culvert installation assigned to JBX. Items 1, 2, 3, and 5 to be completed prior to the installation of the inlet culvert/flapgate (Item 4). The motion carried unanimously.

It was further noted Items 1, 2, and 3 are under the jurisdiction of the Abercrombie Township Board of Township Supervisors. The RCWRB has no jurisdiction over those matters and the District has no jurisdiction over Item 5 as Mr. Loff indicated

the berm will not hold back over 50 acre-feet of water. Accordingly, the Board took no action on Items 1, 2, 3, and 5.

Mike Bassingthwaite, of Interstate Engineering, met with the Board at this time. The following matters were discussed:

- Sheyenne River Bank Erosion- Mr. Bassingthwaite was informed of the discussion with Dan Zink, of Red River Valley & Western Railroad, regarding his concern about the river bank erosion. Mr. Bassingthwaite indicated the USACE has jurisdiction over the Sheyenne River. He further indicated attempts have been made to stop erosion on various rivers in the past by installing riprap from the toe of the slope to the top of the bank. This can be a very expensive process, depending on the amount of erosion. It was suggested the adjacent landowner, David Braaten, contact NRCS for possible assistance because of damage to his agricultural land. Chr. Friskop will visit with Mr. Braaten about contacting NRCS (and the USACE).

- Proj 3 Reconstruction- The Board reviewed Mr. Bassingthwaite's September 9th email outlining costs for reconstructing the SW1/4 Section 4 and W1/2 Section 9, Lamars Township. This 1.5 miles is in addition to the .5 miles in the NW1/4 Section 16 which the Board had previously obtained a cost estimate for. Considerable discussion followed relative to the possible need for eminent domain proceedings to acquire the land needed for the project, as the owners of the land in the W1/2 Section 9 and NW1/4 Section 16 previously advised that they were not willing to sell the District any right-of-way for this project. Consensus of the Board was to allow Chr. Friskop, Mgr. Burvee, and Mr. Bassingthwaite to meet with the tenants of the NW1/4 Section 4 to explain the project to them, to see if they support the project, and ask if they would be willing to talk to their landlords about the project and selling the District the right-of-way needed along their land. (The landlords live out of state and the Managers felt it may be better for the tenants to make the initial contact). (RCWRD #18-004)

- North Branch Antelope Creek Watershed Study ("RCPP")- Mr. Bassingthwaite recommended tabling the public meeting for the RCPP project until January due to the adverse weather and farming conditions. Mr. Bassingthwaite's timeline for completion of the study was reviewed with the Board; his intention is to submit the final Watershed Plan to NRCS in the Spring of 2020. Considerable discussion was held relative to the benefits of the preliminary design concepts if the District would stop the study at this point. Mr. Bassingthwaite suggested meeting with the Board and Keith Weston to review the benefits of having the final plan. Consensus of the Board was for Mr. Bassingthwaite to prepare for a meeting with the Board on short notice in the coming week or two, if weather conditions do not allow the Managers to work in the fields. (RCWRD #16-017)

Casey Johnson and Aaron Gaither of the US Forest Service ("USFS") met with the Board for the purpose of discussing a "Special Use Permit" for Proj #10, for the portion of the drain on USFS land. Scott Olerud, of the Ransom County Water Resource Board, and Mr. Bassingthwaite were also present.

The RCWRD was engaged in conversations several years ago in an attempt to obtain the Permit. Mr. Johnson assured the Board he is in favor of completing the process and working with the Board to accomplish this as quickly and easily as possible.

Mr. Johnson explained the portion of the drain south of Highway 27 is covered under warranty deeds previously secured by the RCWRD and therefore no Special Use Permit is required for that portion. The land north of Highway 27 in Section 5, Freeman Township, and Sections 32, 31, and 30, Sheyenne Township, is not covered under Warranty Deeds and requires a Permit. The Permit would cover the drain's continued use and maintenance; it would valid for 30 years, which is the USFS maximum time allowed under a permit. A new permit would be required at the end of the 30 years. The District must complete an application and submit it to

the USFS; Mr. Johnson will then determine the scope of a National Environmental Protection Agency ("NEPA") Study that will be required before the Permit can be issued. Mr. Johnson indicated he is willing to waive Agency Recovery Costs for the permit and NEPA Study, unless something unforeseen surfaces which would increase costs substantially. He feels the District should have a permit within one year.

Discussion was held relative to fencing the drain to eliminate livestock damage; fencing would be covered separately from the Special Use Permit. Again, Mr. Johnson indicated his willingness to work with the District on the fencing; it is possible there may need to be some off-site water sources. Drain reconstruction was also addressed. Mr. Johnson explained that reconstruction would have to be addressed at the time of reconstruction.

Appl #19-057 was completed and a motion was made by Mgr. Haugen, seconded by Mgr. Rostad, and unanimously carried authorizing Interstate Engineering to complete the USFS Special Use Permit application for Proj #10 land on USFS property.

The meeting concluded; Mr. Johnson, Mr. Gaither, and Mr. Bassingthwaite left the meeting.

Mail

- 1) Richland County Commission- September 2019 meeting minutes.
- 2) North Dakota Water Users Assn- Agenda for annual convention scheduled for December 4th and 5th.
- 3) Maple River Water Resource District- The Maple River Water Resource Board looked into repairs needed on the existing outlet structure of Cass-Richland Drain #1 ("CR #1") and determined it would be best to relocate the structure a short distance upstream at the Rustad driveway. Relocating the structure will help protect the integrity of the structure. Estimated project cost is \$250,000. Due to the cost of the project the Maple River Board took action to increase the 2019 maintenance levy for CR #1 to \$4.00 per acre based on the weighted method of assessment. The assessment was previously set at \$0.25 per acre by both Boards. A motion was made by Mgr. Rostad and seconded by Mgr. Burvee to increase the 2019 CR #1 maintenance levy to \$4.00 per acre based on the weighted method of assessment. The motion carried unanimously.
- 4) Houston Engineering- Hydraulic study for replacement of a culvert on Proj #55, located in the N1/2 Section 18, Summit East. Upon review of the report a motion was made by Mgr. Burvee and seconded by Mgr. Haugen to approve Alternate #2 (Replace the 1-36 Inch CMP and 1- 42 Inch CMP with 1- 71 Inch x 47 Inch CMPA) and assign the project to Comstock Construction. The motion carried unanimously. (Pausch #19-045)

Technician's Report

- Tree Grubbing- Mr. Johnson updated the list of drains requiring tree and shrub removal and sent a new work order to JBX. This is a continuation of the work assigned to JBX in 2018 which did not get completed due to adverse winter weather conditions. (RCWRD #19-035)
- Beaver Dams- Mr. Johnson is working with Animal Damage Control on numerous beaver dams.
- Proj #4(32)- Mr. Johnson found an appearance of dirt work done on the berm along the east side of Section 2, Antelope Township. Photographs of the berm were reviewed with the Managers. No action taken.

Proj #3- NW1/4 Section 21, Lamars Township

Mgr. Burvee reported the bottom of the culvert on Proj #3, located in the NW1/4 Section 21, Lamars Township, has rusted out and created two holes and a separation on the edge of the road. Due to extremely wet conditions, consensus

was to fill the holes and separation now but wait until spring to replace the culvert. Mgr. Burvee further reported that Ted Luick offered to make the temporary repairs. It was also noted that a hydraulic study is required and should be done this fall so the project can move forward as early as possible in the spring.

Appl #19-058 was completed and a motion made by Mgr. Burvee, seconded by Mgr. Moffet, and unanimously carried authorizing Ted Luick to proceed with road repairs. Mr. Luick to be paid on a time and materials basis. Hydraulic study assigned to Houston Engineering.

Adjournment

There being no further business to come before the Board, Chr. Friskop adjourned the meeting at 12:45 P.M.

Respectfully submitted,

Monica Zentgraf
Monica Zentgraf
Secretary

Gary Friskop
Gary Friskop
Chairman of the Board