

RICHLAND COUNTY WATER RESOURCE DISTRICT  
Richland County Courthouse, Wahpeton, ND  
October 22, 2019

The Richland County Water Resource Board ("RCWRB") met October 22, 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

#### **North Branch Antelope Creek Watershed Study ("RCPP")**

Finances for the RCPP project were discussed. Consensus of the Managers was to notify Interstate Engineering that no money will be allowed for the RCPP Study over and above the current contract of \$824,000. This includes any revisions needed after NRCS reviews the preliminary report. (RCWRD #16-017)

#### **Minutes**

The October 15, 2019 minutes were presented. A motion was made by Mgr. Haugen and seconded by Mgr. Moffet to approve the October 15, 2019 minutes as presented. The motion carried unanimously.

#### **Financial Matters**

- Vouchers- Vouchers for the month of October 2019 were presented for the Board's review and approval. A motion was made by Mgr. Moffet and seconded by Mgr. Burvee to approve Vouchers #18191 through #18213 and the electronic funds transfer for the IRS payment. The motion carried unanimously.

#### **Proj #7 Reconstruction**

Mr. Johnson provided the Managers with several drone photos of the Proj #7 reconstruction (SE1/4 Section 20, S1/2 Sections 21, 22, and 23, all in Garborg Township). A conference call was held with Gabe Bladow, of Houston Engineering, for the purpose of discussing the status of Proj #7 and closing out the project. Comments/concerns of note are:

- Grass- Not much progress has been seen with the growth of grass; however, Mr. Bladow and engineers he consulted with from Houston Engineering do not have a lot of concern as they feel the grass should fill in next year.

- Sloughing- As a result of excessive rains the area has been receiving and the high water table, there are areas of sloughing which will need to be repaired in the spring. Attempting to make any repairs this fall may result in more damage.

- Transition Line- Mr. Bladow suggested installing riprap up both slopes at the point of transition between the non-reconstruction/reconstruction line in the spring.

Mr. Bladow feels JAV Construction has completed the Proj #7 reconstruction per the plans and specifications; issues being seen appear to be weather related. Mr. Bladow recommended the Board accept the project and close it out with the anticipation of some repairs in the spring.

At this time a motion was made by Mgr. Burvee, seconded by Mgr. Rostad, and unanimously carried to accept the Proj #7 reconstruction as complete and to proceed with closing out the contract with JAV Construction. The Managers thanked Mr. Bladow and the staff of Houston Engineering for the good work on the project.

The conference call concluded at this time. (RCWRD #17-016)

## **Mail**

- 1) Starion Bond Services- A "Paying Agent and Registrar's Agreement" has been put in place by Starion Bond Services to comply with regulatory requirements which govern transfer agents. The Secretary reported Agreements have been issued for the Richland County Water Resource District and the Richland-Sargent Joint Water Resource District as there are bonds on the books for both Districts. The District's Legal Counsel has reviewed and approved both documents. A motion was made by Mgr. Moffet, seconded by Mgr. Haugen, and unanimously carried authorizing the Secretary-Treasurer to sign the Agreements for the Richland County Water Resource District and Richland-Sargent Joint Water Resource District. (It was noted that the Sargent County Water Resource Board authorized the Secretary-Treasurer to sign the Agreement for the Joint District at their October 17<sup>th</sup> meeting.)

## **Applications**

### **Application to Install a Subsurface Water Management System No. 19-050 for Tom English and Eleanor English in the Southwest Quarter of Section 27 in Garborg Township**

The District reviewed an *Application to Install a Subsurface Water Management System No. 19-050* dated August 14, 2019, and filed September 19, 2019, for Tom English and Eleanor English. Under the application, Applicants seek to install a 148-acre drain tile system in the Southwest Quarter of Section 27 in Garborg Township, Richland County, North Dakota. The project will include a single pump outlet located in the northwest corner of the Southwest Quarter of Section 27; the tile discharge will flow to the northwest through a diagonal culvert under 159<sup>th</sup> Avenue SE; the tile discharge will then flow north through the west township road ditch along 159<sup>th</sup> Avenue, along the east boundary of the Northeast Quarter of Section 28; the tile discharge will continue north through the west road ditch and under 70<sup>th</sup> Street SE through an existing culvert; the tile discharge will ultimately outlet into Richland County Drain No. 7, a legal assessment drain owned and operated by the Richland County Water Resource District.

The District provided THIRTY-DAY NOTICES to the downstream landowners in the Northeast Quarter of Section 28 of Garborg Township, and also provided notices to Southeast Water Users and Garborg Township. None of the downstream recipients submitted any "technical evidence" to object to the project or to suggest the project could result in adverse impacts to their properties. With that in mind, in accordance with Section 61-32-03.1, the District cannot require Applicants to obtain any consent from downstream landowners as a condition to the permit. The Board can, however, require Applicants to install and maintain erosion protection at the outlet into Garborg Township's road right of way.

Following the submission of the application by Applicants and Ellingson Drainage, the District learned that the tile discharge may differ from the tile discharge map submitted by Applicants, due to the removal of a berm in the Northeast Quarter of Section 28. The District's Secretary-Treasurer inquired into potential modifications of the tile discharge with Ellingson Drainage, to ensure the application materials were still accurate and to determine whether or not additional downstream notices would be necessary under Section 61-32-03.1. Ellingson Drainage assured the District's Secretary-Treasurer that the tile discharge would, in fact, match the original discharge map submitted with the application. With that in mind, the District considered the original application materials and did not provide any additional THIRTY-DAY NOTICES to any other downstream landowners. Of course, to the extent the tile discharge differs in some way from the tile discharge map originally offered by Applicants, the project could be subject to a drainage complaint in the future.

According to records submitted by Applicants, Eleanor English, as the Trustee of the Eleanor J. English Revocable Living Trust, and Thomas English, as Trustee of the Thomas J. English Revocable Living Trust, own the Southwest Quarter of Section 27. With regard to downstream properties, Loren and Tammy Hegseth own the Northeast Quarter of Section 28.

Manager Burvee moved, and Chairman Friskop seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 19-050* dated August 14, 2019, and filed September 19, 2019, for Tom English and Eleanor English in the Southwest Quarter of Section 27 in Garborg Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT No. 19-050, 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 Garborg Township at any and all outlets into Garborg 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, Managers Rostad, Burvee, and Friskop voted in favor of the motion; Managers Haugen and Moffet voted against the motion. The motion carried.

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 Garborg Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road 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.

**Application to Install a Subsurface Water Management System No. 19-059 for Carson Klosterman and D.D.A.H. Klosterman Limited Partnership in the Northwest Quarter of Section 7 in Antelope Township**

The District reviewed an *Application to Install a Subsurface Water Management System No. 19-059* dated October 21, 2019, for Carson Klosterman and D.D.A.H. Klosterman Limited Partnership. Under the application, Applicants seek to install a 157-acre drain tile system in the Northwest Quarter of Section 7 in Antelope Township, Richland County, North Dakota. The project will include a single pump outlet located in the northeast corner of the Northwest Quarter of Section 7; the pump will discharge into the south road ditch along 74<sup>th</sup> Street SE, along the north boundary of the Northwest Quarter of Section 7; the discharge will flow to the west through the south road ditch until crossing under 74<sup>th</sup> Street SE through an existing culvert, then discharging into Richland County Drain No. 15 on the north side of 74<sup>th</sup> Street, along the south boundary of the Southwest Quarter of Section 6. The Richland County Water Resource District owns and operates Drain 15.

Because the project will discharge over Applicants' property, then 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 Applicants to obtain any

consent from downstream landowners since the project ultimately discharges into a legal assessment drain, nor can the District require Applicants to obtain written permission from Antelope Township as a condition to the permit. However, the District can require Applicants to install and maintain erosion protection in Antelope Township's road ditch.

According to records supplied by Applicants, D.D.A.H. Klosterman Limited Partnership, a North Dakota limited partnership, owns the Northwest Quarter of Section 7 of Antelope Township.

Manager Rostad moved, and Manager Moffet seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 19-059* dated October 21, 2019, for Carson Klosterman and D.D.A.H. Klosterman Limited Partnership in the Northwest Quarter of Section 7 in Antelope Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT No. 19-059, 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 Antelope Township at any and all outlets into Antelope 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 Antelope Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road 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.

### **Technician's Report**

●Repair Projects Pending- Mr. Johnson is prioritizing projects for the remainder of the construction season. Some work will not be completed this year due to saturated conditions.

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

Mgr. Burvee reported Ted Luick made temporary repairs to the culvert on Proj #3, located in the NW1/4 Section 21, Lamars Township, as authorized at the October 15<sup>th</sup> meeting. Mr. Luick checked the site this morning and notified Mgr. Burvee that the fill washed out due to heavy rains the last two days. Discussion followed about how to make temporary repairs that will hold until spring. Mr. Johnson suggested installing fabric and riprap on the inlet end of the crossing; the Managers agreed.

A motion was made by Mgr. Burvee and seconded by Mgr. Haugen authorizing JBX to make temporary repairs to the damage site in the NW1/4 Section 21, Lamars Township. The motion carried unanimously. (Appl #19-058)

**Adjournment**

There being no further business to come before the Board, Chr. Friskop adjourned the meeting at 10:30 A.M.

Respectfully submitted,

*Monica Zentgraf*  
Monica Zentgraf  
Secretary

*Gary Friskop*  
Gary Friskop  
Chairman of the Board