

RICHLAND COUNTY WATER RESOURCE DISTRICT  
Richland County Courthouse, Wahpeton, ND  
September 14, 2021

The Richland County Water Resource Board ("RCWRB") met September 14, 2021 at 8:00 AM at the Richland County Courthouse.

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

THOSE ABSENT: Mark Fahsholz

### **Approval of Agenda**

A motion was made by Mgr. Arndt, seconded by Mgr. Moffet, and unanimously carried to approve the agenda as presented.

### **Minutes**

The August 24, 2021 minutes were presented. A motion was made by Mgr. Moffet, and seconded by Mgr. Arndt to approve the August 24, 2021 minutes as presented. Upon roll call vote, the motion carried unanimously.

### **Financial Matters**

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

● **Bremer Bank Collateral Report**- 110% of the District's securities totaled \$7,580,708.78; Bremer Bank's collateral in the amount of \$9,105,737.00 adequately covers the District's funds.

### **Mail**

- 1) Richland County Commission- Minutes of the August 2021 meetings.
- 2) WBI Energy Transmission- Notice of September 15, 2021 landowner meeting regarding the Wahpeton natural gas transmission pipeline system expansion project. The project will involve constructing approximately 60 miles of 12 inch diameter pipeline from the Mapleton Compressor Station to a new delivery station at Wahpeton. This project will allow WBI Energy to transport an additional 20 million cubic feet of natural gas/day to help meet growing demand for natural gas in southeastern North Dakota. Mr. Johnson will attend the meeting.
- 3) North Dakota Department of Water Resources ("ND DWR")- Notice of Joe Wettstein's applications, #7175 and 7176, for the appropriation of water from groundwater sources. Application #7175 is for irrigation purposes in the SW1/4 Section 36, Liberty Grove Township, and Application #7176 is for irrigation purposes in the SW1/4 Section 4, Grant Township.
- 4) ND DWR- Cost Share Agreement between the North Dakota State Water Commission and RCWRD for the \$100,000 Sheyenne River Snagging and Clearing Project. Cost share assistance is in the amount of \$50,000. A motion was made by Mgr. Arndt, seconded by Mgr. Friskop, and unanimously carried authorizing Chr. Burvee to execute the Cost Share Agreement. (RCWRD #21-069)

### **Applications**

#### **APPLICATION FOR SURFACE DRAIN No. 5919 for Lance Meyer in the S1/2 Section 31, Fairmount South Township**

The Board reviewed information from the State Engineer regarding APPLICATION FOR SURFACE DRAIN No. 5919 for Applicant Lance Meyer. Under the Application, Applicant seeks to construct ditch improvements to re-route

surface drainage in the SW1/4 Section 31 to the north township road ditch along 102nd Street SE; the drainage will flow east in the road ditch, along the south boundary of Section 31. The project will include installation of a ditch plug in the existing field ditch to re-direct the drainage to the south to the road ditch. The township road ditch improvements would intersect a field approach in the SW1/4 Section 31, where Applicant intends to lower the existing approach culvert by 0.87 feet. The project will include approximately 1,000 feet of ditch improvements, a maximum cut of 4.6 feet, a maximum bottom width of 7 feet, and 3:1 side slopes.

According to records on file with the Richland County Recorder's office, Leander Braun and Betty Braun, as Trustees of the Leander Braun Living Trust; and Betty Braun and Leander Braun, as Trustees of the Betty Braun Living Trust, collectively own the SW1/4 Section 31. Further, Joseph Sauter owns the SE1/4 Section 31.

Fairmount Township submitted a letter signed by their Chairman, Francis Rubish, consenting to Applicant's project.

The Board reviewed Mike Bassingthwaite's draft responses to the eight elements under Section 89-02-01-09.2 of the North Dakota Administrative Code. Mr. Bassingthwaite concluded the project will not result in adverse impacts; he indicated the project will not alter the volume of drainage since the project will simply re-route flow. In light of the Township's consent to the project, and Mr. Bassingthwaite's conclusion that the project will not result in adverse impacts, the Board concluded no hearing was necessary under Section 89-02-01-09.1(2) of the North Dakota Administrative Code, and further concluded easements will not be necessary.

Mgr. Arndt moved, and Mgr. Moffet seconded the motion, to conclude no hearing was necessary, to adopt Interstate Engineering's responses to the eight elements under Section 89-02-01-09.2 of the North Dakota Administrative Code, and to approve APPLICATION FOR SURFACE DRAIN No. 5919 for Lance Meyer, subject to the conditions attached by the State Engineer, and subject to the following conditions:

1) that Applicant will not construct or improve the drain in any manner that exceeds the dimensions indicated in the application, including 1,000 feet of ditch improvements, a maximum cut of 4.6 feet, a maximum bottom width of 7 feet, and 3:1 side slopes; and

2) that Applicant notify the Richland County Water Resource District in advance of any proposed improvements to the drain, including any increase in the capacity or drainage area affected, and, if necessary, submit an additional permit application.

Upon roll call vote, the motion carried unanimously. In addition to those conditions, the Board will also recommend 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, if any.

The Board directed Sean Fredricks to prepare the requisite NOTICE OF DECISION, and to serve the NOTICE on all parties of record, as required by law. (L. Meyer #21-035)

**Application to Install a Subsurface Water Management System #21-076 for Wanda Muehler in the E1/2NW1/4 and Gov't Lots 1-2, Section 19, Brightwood Township**

The Board reviewed *Application to Install a Subsurface Water Management System #21-076*. Under the application, Wanda Muehler seeks to install a 99-

acre drain tile system in the E1/2NW1/4 and Gov't Lots 1-2 Section 19, Brightwood Township. The project will include a single pump outlet located on the east boundary of the NW1/4. The Board reviewed the application, design plan, water flow map, and all accompanying data submitted as part of the application.

Mgr. Arndt moved, and Mgr. Friskop seconded the motion, to approve Appl #21-076 and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT #21-076, subject to the following  conditions:

- that Applicant install and maintain proper erosion protection at all outlets;
- that Applicant re-establish all disturbed areas to previous conditions, including re-seeding;
- that Applicant will not install Applicant's tile system within 20 feet, on either side of any rural water lines under any blanket easements, or otherwise beyond any existing easements the Rural Water District has for Applicant's property being tiled;
- that Applicant must turn off any pump outlets and control structures during "critical flood periods," as determined by the Richland County Water Resource District;
- that Applicant must apply for an amendment to this SUBSURFACE WATER MANAGEMENT PERMIT in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system;
- that Applicant remove silt or vegetation, or repair erosion or scour damages **directly** caused by Applicant's tile system, but only up to one mile downstream from a project outlet, unless the distance to the nearest assessment drain, natural watercourse, slough, or lake is less than one mile downstream of the proposed outlet, in which case the Applicant remove silt or vegetation, or repair erosion or scour damage only between the outlet and the discharge into the nearest assessment drain, natural watercourse, slough, or lake.

With regard to this condition, Applicant's obligations to remove silt or vegetation, or repair erosion or scour damages, will only arise upon submission of substantial evidence to the Board by a downstream landowner or road authority that Applicant's tile system **directly** caused accumulation of silt or vegetation, erosion, or scouring.

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 recommends Applicant consider complying with the following .

- 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.

Drain Tile Notification Appl #21-077 was reviewed at this time. No action was required by the RCWRB as the project involves less than 80 acres of drain tile. No disclosure of information is allowed per NDCC § 61-32-03.1.

**Application to Install a Subsurface Water Management System #21-078 for 5K Farms LLLP, in the E1/2 SW1/4 and Gov't Lots 3-4, Section 30, Abercrombie West Township**

The Board reviewed *Application to Install a Subsurface Water Management System #21-078*. Under the application, 5K Farms LLLP seeks to install a 165-acre drain tile system in the E1/2 SW1/4 and Gov't Lots 3-4, Section 30, Abercrombie West Township. The project will include a single pump outlet located on the south boundary of the SE1/4 SW1/4. The Board reviewed the application, design plan, water flow map, and all accompanying data submitted as part of the application.

Mgr. Friskop moved, and Mgr. Moffet seconded the motion, to approve Appl #21-078 and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT #21-078, subject to the following  conditions:

- that Applicant install and maintain proper erosion protection at all outlets;
- that Applicant re-establish all disturbed areas to previous conditions, including re-seeding;
- that Applicant will not install Applicant's tile system within 20 feet, on either side of any rural water lines under any blanket easements, or otherwise beyond any existing easements the Rural Water District has for Applicant's property being tiled;
- that Applicant must turn off any pump outlets and control structures during "critical flood periods," as determined by the Richland County Water Resource District;
- that Applicant must apply for an amendment to this SUBSURFACE WATER MANAGEMENT PERMIT in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system;
- that Applicant remove silt or vegetation, or repair erosion or scour damages **directly** caused by Applicant's tile system, but only up to one mile downstream from a project outlet, unless the distance to the nearest assessment drain, natural watercourse, slough, or lake is less than one mile downstream of the proposed outlet, in which case the Applicant remove silt or vegetation, or repair erosion or scour damage only between the outlet and the discharge into the nearest assessment drain, natural watercourse, slough, or lake.

With regard to this condition, Applicant's obligations to remove silt or vegetation, or repair erosion or scour damages, will only arise upon submission of substantial evidence to the Board by a downstream landowner or road authority that Applicant's tile system **directly** caused accumulation of silt or vegetation, erosion, or scouring.

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 recommends Applicant consider complying with the following .

- that Applicant obtain written permission from all applicable road authorities to discharge into, or otherwise utilize, any township, county, or state road ditches; to install, operate, and maintain buried pipe in any township, county, or state road

ditches; or to bore or cut through any township, county, or state roads and road ditches; and

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.

### **Technician's Report**

●Dr. #31 Reconstruction- A brief discussion was held about language to be used in the permanent deeds; deeds will be prepared as in the past. The Managers previously agreed to offer \$5,000/acre for permanent acres; however, the Board did not come to a consensus on the price to offer for temporary acres. After consideration of this matter, the consensus was to offer \$200/acre for temporary acres. Right-of-way descriptions will be forwarded to Legal Counsel for preparation of deeds and temporary easements. (RCWRD #18-022)

●Kube Drain Cleanout- Before proceeding with discussion of the matter, Mgr. Friskop indicated he owns land directly affected by the cleanout and that he is directly involved in the project. While there is no action to be taken by the Board on this matter, it was proper for Mgr. Friskop to indicate his personal involvement; he also indicated he would only speak to the matter on his own behalf.

Chr. Burvee proceeded to update the Managers on issues which arose this past week regarding the cleanout (by private landowners) in Section 22, NW1/4 Section 27, and the E1/2 Section 28, all in Mooreton Township. Chad Hinkle, a landowner adjacent to a portion of the area being cleaned, contacted the Office with concerns about wildlife and the amount of work being done. The landowners involved in the project, as well as Chr. Burvee, met with Mr. Hinkle on September 8<sup>th</sup>. Mgr. Friskop indicated the matter has been resolved.

### **RS #1 Cleanout**

The Secretary reported she was in contact with Luke Siemieniewski, a member of the Sargent County Water Resource Board, regarding a cleanout of RS #1 in the S1/2 Section 34, E1/2 Section 3, and W1/2 Section 2, all in Marboe Township, Sargent County. Mgr. Siemieniewski suggested this portion of the drain be cleaned by JBX, LLC; he thought the cost for cleaning and spoil leveling would be approximately \$25,000. RS Appl #21-001 was completed and a motion was made by Mgr. Friskop, seconded by Mgr. Moffet, and unanimously carried to approve cleaning RS #1 with costs not to exceed \$25,000 and to assign the project to JBX, LLC. It was noted that the Sargent County Water Resource Board will take action on this matter at their September 16<sup>th</sup> meeting.

### **Request for Engineering Services (RFQ)**

## **RICHLAND COUNTY WATER RESOURCE DISTRICT AGENCY SELECTION COMMITTEE – SECOND REPORT September 14, 2021**

In accordance with the NORTH DAKOTA DEPARTMENT OF WATER RESOURCES PROJECT FUNDING POLICY, PROCEDURE, AND GENERAL REQUIREMENTS (the "DWR Policy"), and in accordance with Chapter 54-44.7 of the North Dakota Century Code, the Richland County Water Resource District (the "District") previously prepared and approved an INITIAL REPORT dated August 10, 2021. In the INITIAL REPORT, the District appointed all five of its members as the "Agency Selection Committee" for purposes of conducting the requisite engineering selection process (as specifically required under Section I(E) of the DWR Policy and under N.D. Cent. Code § 54-44.7-03(1)). Further, the

District concluded engaging more than one firm would be more economically advantageous for the District and for the residents and property owners within the District's geographical boundaries. With that in mind, the District elected to proceed with the engineering selection process with the objective of selecting more than one qualified firm to act as consultant engineers for the District. The Committee then developed the following "description for the proposed project" as required under Section 54-44.7-03(2)(a):

The Richland County Water Resource District (the "District") is seeking general engineering services and consulting to assist, advise, and act on behalf of the District regarding all proceedings and projects of the District, including regular attendance at meetings of the District; surveys; inspection and maintenance of existing projects, including assessment projects, drains, and retention projects; development, study, survey, design, bidding, contract administration, and right of way acquisition regarding new projects, improvements to the District's existing projects, and snagging and clearing projects; administration and negotiation of land and right of way acquisition on behalf of the District; assistance regarding permit administration, including surface drainage, subsurface drainage, dam, and dike permitting; investigation and assistance regarding administration of dike, dam, drainage, and obstruction complaints; assessment district development; negotiation with road authorities, railroads, and other entities on the District's behalf; regular cooperation and interaction with the District's staff, legal counsel, and other consultants; and otherwise performing all other tasks as necessary to act on the District's behalf.

In accordance with the Committee's INITIAL REPORT, and as required under the DWR Policy and Chapter § 54-44.7 of the North Dakota Century Code, the Committee performed the following tasks:

1. the Committee developed and approved "a formal invitation to firms for submission of information" (a Request for Qualifications) as required under Section 54-44.7-03(2)(c);
2. the Committee concluded a single publication in *The Daily News* would appropriately, adequately, and sufficiently invite Qualification Statements;
3. the Committee procured publication of its invitation/RFQ in *The Daily News* on August 22, 2021; and
4. the Committee's invitation/RFQ indicated the deadline for submitting Qualification Statements to the Richland County Water Resource District was 4:30 p.m. on September 13, 2021.

#### **Qualification Statements Submitted:**

The following firms timely submitted Qualification Statements to the District:

1. Houston Engineering
2. Interstate Engineering
3. Moore Engineering

In accordance with the DWR Policy and Section 54-44.7-03(4), the Committee must conduct interviews with at least three firms the Committee deems most qualified based on the information contained in the firms' Qualification Statements. If less than three firms submit Qualification

Statements, the Committee may either re-advertise or conduct interviews with firms that submitted Qualification Statements. In this case, three firms submitted Qualification Statements, the firms are qualified applicants, and the Committee concluded all three of the firms that submitted Qualification Statements are entitled to interviews, and that re-advertising is unnecessary. The Committee will extend invitations to the firms to notify them of the date, time, and place of the interviews.

### **Interviews:**

The Committee will conduct interviews at the Richland County Courthouse on September 28, 2021, at 9:30 A.M.; 10:15 A.M.; and 11:00 A.M. The Committee will evaluate the firms interviewed on the basis of the following criteria:

1. Past performance, including past performance on behalf of the District;
2. Qualifications and ability of professional personnel;
3. Ability and willingness to meet time and budget requirements;
4. Location, with higher priority given to firms headquartered in North Dakota;
5. Recent, current, and projected workloads;
6. Related experience on similar projects; and
7. Recent and current work for the District.

Following the interviews, the Committee will prepare a written report in which the Committee will rank the firms interviewed in priority order. The District will select the top-rated firms and will ultimately approve the "final" report; the District will provide written notice of its decision, including the priority order of the firms, to all firms that submitted Qualification Statements; and the District will provide a copy of the final report to the Director of the Department of Water Resources. The District will then enter into negotiations with at least the two top-rated firms, and possibly the three top-rated firms; the District will ultimately enter into contracts with more than one firm. The District will then notify the Department of Water Resources of the firms with which the District has entered into contracts.

### **EPA 319 Grant**

Jennifer Klostreich, of the Richland County Soil Conservation District, recently inquired about getting a letter of support from the Board for an EPA 319 Grant. Consensus of the Board was to forward a letter of support to Mrs. Klostreich.

### **2022 Budget**

The Secretary reported the Richland County Commission recently approved the County's 2022 budget. The Commission included 2.75 mills for the RCWRD for 2022.

### **Secretary-Treasurer Position**

Jenna Anderson submitted her letter of resignation to the District on September 10, 2021. Ms. Anderson had been hired to replace Ms. Zentgraf upon her retirement. It was the consensus of the Managers to grant Ms. Anderson 8 hours vacation time for the month of September. A motion was made by Mgr. Arndt, seconded by Mgr. Friskop, and unanimously carried to accept Ms. Anderson's resignation.

The Board proceeded to discuss the Secretary-Treasurer position. The consensus was to advertise the position immediately.

### **Adjournment**

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

Respectfully submitted,  
*Monica Zentgraf*  
Monica Zentgraf  
Secretary

*Arv Burvee*  
Arv Burvee  
Chairman of the Board