

**TRAILL COUNTY WATER RESOURCE DISTRICT  
REGULAR MEETING  
NOVEMBER 21, 2017 ~ HILLSBORO, ND**

The District Board convened on this date and came to order at 8:00am at the office of the Trill County Water Resource District in Hillsboro, ND. Managers present were: Andy Neset, Joel Halvorson, Gary Thompson, and Jason Lovas with Chairman Jason Siegert presiding. Also present was: Chris Gross, Moore Engineering, Inc.

**AGENDA**

Manager Thompson moved to accept the agenda as amended. Manager Halvorson seconded the motion. Upon roll call vote, the motion carried unanimously.

**MINUTES**

Manager Lovas moved to approve the October 3, 2017 meeting minutes as presented. Manager Neset seconded the motion. Upon roll call vote, the motion carried unanimously.

**FINANCIAL**

It was moved by Manager Neset and seconded by Manager Halvorson to approve payment of the October 4 – November 21, 2017 bills and the electronic funds transfers, as presented. Upon roll call vote, the motion carried unanimously.

**DRAIN BUSINESS**

Discussion was held on the status of the **Thoreson Drain No. 64** project and the items that are yet to be completed. The Secretary presented notes in project engineer Bob Boone's absence. The Board expressed their concerns with the seeding status. Bob Boone indicated in his notes that he is confident that the seeding will be established in the next year or two. Mr. Boone also noted that there should be sufficient funds for the installation of drain tile next year as well. The final invoice from Bohlman Trenching was reviewed. Bob Boone has spoken with Mr. Bohlman who has agreed to pay final construction costs in the amount of \$4,048.99 if we close out the contract and would not request any additional compensation for items listed on invoice # 2017-039 in the amount of \$4,300.00. Manager Lovas moved to pay Bohlman Trenching's final invoice in the amount of \$4,048.99 and close out the contract. Manager Thompson seconded the motion. Upon roll call vote, the motion carried unanimously.

**Snagging & clearing** issues were discussed. American Enterprises will commence snagging & clearing on the Goose and Elm Rivers in the near future.

At 9:00am, Wayne Larson, Darrell Larson, Trevor Larson, and Michelle Larson along with **Stavanger-Belmont Drain 52** contractor Jim Viele met with the Board concerning culvert issues. Land trade and fee titles were also talked about. Wayne Larson gave field drawings of culverts that were installed for the Board to review. After further discussion, the Board directed engineer Chris Gross to bring in a new estimate to remove and reinstall new culverts to our next meeting. Questions were asked about who is responsible to pay for the mistakes that were made. The Board agreed that this question will be talked about at our next meeting when our attorney is

present. The Board is in agreement that something has to be done about this situation and will look at resetting the culverts next year.

Eric Knudsvig informed the Board that there are **washout issues** in the NW ¼ of Section 35 of **Norman Township**. The Board advised Mr. Knudsvig that this issue may not be in our jurisdiction due to the problem existing in the Elm River Diversion, but will address it at our next meeting when our attorney is present. Chris Gross was asked to provide the Board with an opinion after completing a right of way deed search for that area.

Eric Knudsvig told the Board that he would like to see a **culvert installed** in Section 32 of Mayville Township into the **Murray Drain No. 17**. The Board told him that we will have to see if funding will be available for this installation next year.

**Corey Martin, Traill County Highway Superintendent**, met with the Board to go over county road and bridge issues with the Board.

Chris Gross provided updates on the **Murray Drain No. 17 improvement project**. He told the Board that intercept piping along with the establishment of the seeding remain and will be completed in 2018. Right of way issues were discussed.

#### **DRAINAGE PERMITS AND COMPLAINTS**

##### **Application to Install a Subsurface Water Management System No. 2017-12 for Eric Knudsvig in the Northwest Quarter of Section 34 in Norman Township**

The Board reviewed an *Application to Install a Subsurface Water Management System No. 2017-12* dated November 7, 2017, for Eric Knudsvig. Under the application, Applicant seeks to install a drain tile system in the Northwest Quarter of Section 34 in Norman Township, Traill County, North Dakota. The project will include a gravity outlet that will discharge via an underground pipeline that will run along the north boundary of the Northeast Quarter of Section 34 and the Northwest Quarter of Section 35 until daylighting and discharging into the Elm River; the underground pipeline will run in the south road ditch of Fifth Street SE, a township road.

Because the project will discharge directly into a river, no THIRTY-DAY NOTICE was necessary to downstream landowners under N.D. Cent. Code § 61-32-03.1. Nevertheless, Applicant previously obtained an easement from one of the owners of the Northeast Quarter of Section 34 regarding installation and maintenance of an underground pipeline. In addition, Applicant obtained a “notarized letter of approval” from one of the owners of the Northwest Quarter of Section 35. The Board cannot require Applicant to obtain written permission from Norman Township regarding installation of a pipeline in the township road ditch; however, the Board will recommend that Applicant obtain permission from Norman Township.

According to property records supplied by Applicant, John M. Knudsvig and Helen B. Knudsvig, as co-Trustees of the John and Helen Knudsvig Family Irrevocable Trust, own the West Half of Section 34 of Norman Township. Further, Albert Elliott owns the Northeast Quarter of Section 34, and Marvin and Darlene Sand own the Northwest Quarter of Section 35.

It was moved by Manager Lovas and seconded by Manager Neset to approve *Application to Install a Subsurface Water Management System No. 2017-12* dated November 7, 2017, for Eric Knudsvig in the Northwest Quarter of Section 34 in Norman Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2017-12.

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 easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 2) That Applicant obtain written permission from the Norman Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches; or to install, operate, and maintain buried pipe in any of its township road ditches;
- 3) That Applicant notify the Traill 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 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.

#### **COMPLAINT FOR WATER-RELATED ISSUES filed by Curt Riemer against Laverne Koenig**

The Board next considered Curt Riemer's COMPLAINT FOR WATER-RELATED ISSUES against Laverne Koenig dated April 18, 2017. Under the Complaint, Mr. Riemer alleges Laverne Koenig installed or constructed obstructions on the Northwest Quarter of Section 25 of Blanchard Township, Traill County, North Dakota. The Board previously directed Moore Engineering to conduct an investigation. Chris Gross presented a report prepared by Josh Hassell from Moore Engineering regarding Moore's investigation into the matter.

Josh Hassell's report noted that Moore approached Laverne Koenig to request access to Mr. Koenig's property to investigate the Complaint. Mr. Koenig denied access for Moore Engineering or the Board. The Board considered their options and, instead of seeking a court order to compel access, the Board ultimately directed Moore Engineering to conduct a ground survey of the Riemer property, and to supplement the ground survey with LiDAR elevation review and to investigate via drone photographs. Josh Hassell's report outlines the results of the investigation.

Property ownership will be an issue in this instance since Mr. Koenig and Stacey Riemer both own parcels in the Northwest Quarter of Section 25, and Moore's report indicates there are obstructions on both parcels. More specifically, Stacey Riemer owns a 23.417-acre parcel in the

North Half of the Northwest Quarter of Section 25. Laverne Koenig owns a smaller parcel within the North Half of the Northwest Quarter of Section 25.

Moore Engineering's report indicates Mr. Koenig installed or constructed an obstruction to a natural drain on Mr. Koenig's property in the North Half of the Northwest Quarter of Section 25. Further, Moore's report indicates Mr. Koenig also constructed a second obstruction at the fence line between Mr. Koenig's property and Stacey Riemer's property, with portions of the obstruction located on both parcels.

Sean Fredricks previously informed the Board the standard regarding obstruction complaints under N.D. Cent. Code § 61-16.1-51 is whether or not the obstruction is a "barrier . . . which materially affects the free flow of waters in the watercourse . . . ." Moore Engineering's report indicates there is evidence the obstructions are manmade, they are barriers within a natural drain, and they both "materially affect the free flow of water" in the natural drain. Further, Moore Engineering concluded, and the Board agrees, that Mr. Koenig very clearly constructed or installed these structures intentionally. With that in mind, the Board had no choice but to order their removal under Section 61-16.1-51.

Mr. Riemer has access to Stacey Riemer's property and can remove that portion of the obstruction that straddles the Riemer property and the Koenig property at the fence line. With regard to the obstruction solely on Mr. Koenig's property, the Board discussed the timing of the removal of the obstruction solely on Mr. Koenig's property, and that portion on Koenig's property that also straddles the fence line onto Stacey Riemer's property, and concluded Mr. Koenig can certainly remove those obstructions by May 1, 2018; the delay will afford Mr. Koenig sufficient opportunity to remove these obstructions following harvest and following winter conditions, yet prior to spring flooding. With that in mind, the Board indicated Mr. Koenig must complete removal by 5:00 p.m. on May 1, 2018.

Manager Neset, seconded by Manager Lovas, moved to order Laverne Koenig to remove the obstruction solely located on Mr. Koenig's property in the North Half of the Northwest Quarter of Section 25 in Blanchard Township, and to remove that portion of the second obstruction located on the fence line between Mr. Koenig's property and Stacey Riemer's property in the North Half of the Northwest Quarter of Section 25, by 5:00 p.m. on May 1, 2018. Upon roll call vote, the motion carried unanimously.

The Board next discussed the costs they have incurred investigating this Complaint. Sean Fredricks previously indicated the Board can recover its costs from Mr. Koenig in accordance with Section 61-16.1-51(3). Sean will include notice to Mr. Koenig in the NOTICE OF DECISION that, at the conclusion of this matter, the Board will issue a final notice regarding costs and Mr. Koenig will have an obligation to reimburse the Board for those expenses. That way, the Board's final notice of costs will include the costs of preparing the NOTICE OF DECISION and any appeal in the matter.

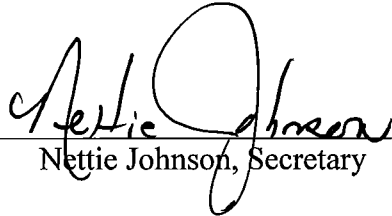
### **OTHER BUSINESS**

Discussion was held on **cost-share issues** and potential drain improvements and/or construction projects. Chris Gross described the steps that would be necessary prior to any projects being

initiated in the next biennium. There are 2 potential projects (Thompson Drain and Camrud Drain) that are on hold pending the availability of cost-share funding by the State Water Commission beginning in 2019.

The Board revisited discussion on the **Engineering Services Selection Process** required under Section I(C) of the State Water Commission policy and under N.D. Cent. Code § 54-44.7-03(1)). Manager Lovas moved to approve the SECOND REPORT to identify the firms that applied, and to set interviews. Manager Halvorson seconded the motion. Upon roll call vote, the motion carried unanimously.

Having no further topics to discuss, the meeting adjourned at 11:35pm without objection.

  
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Jason Siegert, Chairman  
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Nettie Johnson, Secretary