

**TRAILL COUNTY WATER RESOURCE DISTRICT
RECURRENT MEETING
MAY 19, 2020 ~ HILLSBORO, ND**

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

AGENDA

Manager Neset moved to approve the order of the agenda. Manager Lovas seconded the motion. Upon roll call vote, the motion carried unanimously.

MINUTES

Manager Thompson moved to approve the May 5, 2020 recurrent meeting minutes as presented. Manager Lovas seconded the motion. Upon roll call vote, the motion carried unanimously.

SECRETARY-TREASURER'S REPORT

It was moved by Manager Neset and seconded by Manager Thompson to approve payment of May 6 – May 19, 2020 bills and the electronic funds transfers, as presented. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Lovas and seconded by Manager Thompson to approve the April 2020 checking and saving account statements. Upon roll call vote, the motion carried unanimously.

GRAND FORKS-TRAILL JOINT WATER RESOURCE DISTRICT

(5-19-20) The Official bid form has been signed and delivered to the brokerage firm for the Improvement Bond, today. The anticipated delivery of the bond money will be on or around June 1, 2020.

(5-5-20) The GF-Traill Joint WRD met at 9:00am to approve the *Resolution to Set the Bond* and to approve land values for the Thompson Drain No. 72 Project.

SNAGGING AND CLEARING

(5-5-20) Cost-share applications for the Elm River and Goose River will be submitted to the State Water Commission today for the 2020-2021 season. Public hearings will be scheduled later this month or next depending on the approval by the SWC for funding the projects.

DRAIN BUSINESS

Proposed Hong Drain No. 81

(4-21-20) Chris Gross mentioned that the cost-share application, etc. was forwarded to the State Water Commission on April 16, 2020.

(4-7-20) Chris Hong has submitted the petition and a \$20,000.00 bond to cover preliminary engineering and attorney costs. Chris Gross described the changes and revisions made for this proposed project. Chris Gross said that he is prepared to assemble the cost-share application forms. Manager Lovas moved to direct Chris to submit the cost-share application to the SWC on behalf of our Board. Manager Neset seconded the motion. Upon roll call vote, the motion carried unanimously.

Camrud Drain No. 79

(5-19-20) The Official Bid Form has been signed and delivered to the brokerage firm for the Improvement Bond, today. The anticipated delivery of the bond money will be on or around June 1, 2020.

(5-5-20) Following discussion, Manager Halvorson moved to approve the Resolution authorizing the issuance of bonds for the Camrud 79 project. The Series A bonds will be for 20 years; the Series B bonds are for the State Water Commission share. Manager Neset seconded the motion. Upon roll call vote, the motion carried unanimously.

Murray Drain No. 17

(5-19-20) Chris Gross said that he is finalizing an appeal letter to the SWC and will bring it to the Board for their approval prior to it being sent.

(8-20-19) A request for reimbursement for overrun project costs was submitted to the SWC in September of 2019 to cover construction costs not included in original project itinerary. Our office received a letter from the SWC recently which indicated that they will not be providing funding assistance for these overrun costs due to them not having prior approval. Today Chairman Siegert asked Chris Gross to work with SWC staff and to also draft a letter to the SWC to ask for an appeal to their decision.

McCoy Drain No. 14

(5-19-20) Chris Gross told the Board that he has been in contact with the contractor (Comstock Construction) for this project who indicated that there appears to be road restrictions in the area of the project. The Board directed Chris to tell the contractor to touch base with the Traill County Highway Department about when and where they may be able to mobilize their equipment to commence with this project.

(11-5-19) Chris told the Board that Comstock Construction has requested an extension for the project due to inclement weather. Manager Halvorson moved to approve Change Order No. 1 for the request to extend the completion date of the contract which will most likely transpire in 2020. Manager Neset seconded the motion. Upon roll call vote, the motion carried unanimously.

Norway Drain No. 38

(5-19-20) Chris Gross told the Board that bid packets have been delivered to five contractors for the purpose of repairing washouts in this drain. The bid form asks that they return the packet by Friday, May 29th. The bid forms will be reviewed at the board's June 2nd meeting and a contractor hired to do the work.

(5-5-20) Andy Neset said that the top of the drain is filling in due to sediment build-up. The Board all agreed that the entire drain needs a cleanout. After further discussion, Manager Lovas moved to direct Chris Gross to put together a bid packet and send to several contractors for estimates to clean the entire drain from culvert to culvert. Manager Thompson seconded the motion. Upon roll call vote, the motion carried unanimously.

Kelso Floodway

(9-3-19) Several bids were received to clean the drain in Sections 23 into 24 with Northern States Excavating having the lowest bid. Manager Thompson moved to accept their bid of \$6,300.00 per mile for approximately 6 miles. Manager Neset seconded the motion. Upon roll call vote, the motion carried unanimously. Sean Fredricks will prepare an agreement for the contractor to sign and fulfill any requirements the agreement holds prior to starting the project.

Stavanger-Belmont Drain No. 52

(4-21-20) Jason Siegert told the Board that the rock check on the bottom of this drain worked very well this spring. But added that there are washouts on the top side, forcing water to go over the township roads. Manager Lovas moved to hire a contractor to repair the washouts on this drain as well as all other drains that are in need, up to and not to exceed \$10,000.00, per drain. Manager Thompson seconded the motion. Upon roll call vote, the motion carried unanimously.

(2-4-20) \$5,000.00 is being retained until the seeding can be established this year.

Mayville Airport (S. Mayville Drain No. 9)

(5-5-20) Discussion was revisited on the status of the agreement with the Mayville Airport Authority. The Board discussed several options to try to bring this ordeal to a conclusion. Manager Neset moved to direct Chris Gross to assemble a cost estimate for the possible rerouting of the S. Mayville Drain No. 9. Manager Lovas seconded the motion. Upon roll call vote, the motion carried unanimously.

(4-21-20) Jason Siegert asked Andy Neset to reach out to Lance Fugleberg to set up a meeting to go out and look at the area in question so to get this settled once and for all.

(2-4-20) Lance Fugleberg, President of the Airport Authority, was here this morning to speak with the Board about the difficulty they are having with signing the easement agreement. The WRD is proposing to acquire a 25' easement. The Airport Authority feels that the agreement benefits the water board and excludes any for the Airport Authority. Mr. Fugleberg added that they are unwilling to give up any land as they have little to build on already but are willing to work with the water board and allow them to work there when necessary. Sean Fredricks said that he will revise the agreement to make it more palatable for all parties involved and will also work with their legal counsel on agreement matters.

(3-3-20) Chris Gross said that the survey crew has placed stakes in the ground which will give the Airport Authority an opportunity to visualize on the ground what the easement boundary is. Hopefully, this will lead them to granting an easement once they see the impacts are non-existent.

Buxton Drain No. 68

(5-5-20) Chris Gross told the Board that the contractor was on site last week. There is still standing water, so he anticipates commencing with the work at the end of May, weather permitting.

Kelso Floodway

(5-5-20) Chris Gross told the Board that the contractor was on site last week. There is still standing water, so he anticipates to commencing with the work next week, weather permitting.

Preston Floodway

(5-5-20) Chris Gross told the Board that the contractor anticipates commencing with the work late May, weather permitting.

Greenfield-Bohnsack Drain 57A

(5-5-20) Chris Gross told the Board that the contractor anticipates commencing with the work late May, weather permitting.

Paulson Drain No. 7

(9-17-19) Jason Siegert said that most of the berm-spoil has been levelled on this drain with only a mile and a half mile left to clean, spoil, and place a culvert.

(9-17-19) Discussion was revisited on the possibility of putting in some approaches in Section 5. (This was a request made by Neil Pulskamp). Jason Siegert said he will provide an estimate to have the work done.

Hillsboro Drain No. 26

(4-7-20) Discussion was revisited on what to do with the dirt on this drain. The Chair asked Chris Gross to be in contact with Northern Improvement regarding the removal of the dirt from the berm.

(4-7-20) The Board reviewed the SWC cost-share agreement received recently for this project. The SWC is approving 45% of actual costs for the improvements of this drain in the amount of \$72,041.00. Manager Lovas moved to approve the agreement and direct the Secretary return it to the SWC today. Manager Halvorson seconded the motion. Upon roll call vote, the motion carried unanimously.

Viking-Lindaas Drain No. 44

(5-5-20) Gary Thompson said that he recently spoke to Spencer Enrud who informed Gary that he will be doing the survey himself for this culvert in the near future.

(4-21-20) Discussion was held on the replacement of a culvert from this drain in the NW ¼ of Section 30 of Lindaas Township. Manager Neset moved to direct Gary Thompson to hire Rod Flaten to do the work, not to exceed \$10,000.00. Manager Lovas seconded the motion. Upon roll call vote, the motion carried unanimously.

(10-15-19) Spencer Endrud has requested a culvert be installed in Section 30 of Lindaas Township. Chris Gross provided a map of contours for the Board to review.

Red Owl Drain No. 55

(10-1-19) Chris Gross specified that he has sent Harlan Erickson maps, preliminary drawings, and a cost estimate for the possible reconstruction of this drain. Mr. Erickson will be speaking to landowners to gauge their interest in moving forward with this project.

Carson Drain No. 10

(5-19-20) Chris Gross stated that the survey will be done today.

(4-21-20) Chris Gross told the Board his office was unable to locate existing survey data for this drain. Manager Lovas moved to direct Chris to put together a proper profile on the entire drain to correctly size all culverts. Manager Halvorson seconded the motion. Upon roll call vote, the motion carried unanimously.

Blanchard-Norman Drain 23-40

(5-19-20) Manager Halvorson said that Randy Kyllö reported to him that a drop structure needs to be rebuilt as it is in bad shape. After discussion, the Board determined that nothing can be done at this time due to lack of funds in the maintenance account but will be looked at again in the future.

(5-19-20) Andy Neset told the Board that the flares on the end of a culvert in the SE ¼ of Section 5 of Blanchard Township has fallen off and is laying under a bridge. The Board directed Andy to contact a contractor to fill that area with rock for stabilization purposes.

Roseville Drain No. 19

(11-5-19) Discussion was revisited on Pete Haugen's request to find a solution to drainage problems that are occurring on his land due to the condition of this drain. Chris Gross provided a quad map of the area of the drain that was proposed to be reconstructed in 2007 but failed. The Board suggests having Mr. Haugen visit with landowners who are assessed into this drain and gauge the interest in reconstructing it. Chris will work with Pete Haugen on these issues and report back to the Board.

ELM RIVER DAMS

(5-19-20) Discussion was held on the Augustadt Dam and the status of public access for recreational purposes. No trespassing signs were placed at the dam in 2014, but it has been reported that the signs are not in clear view. The Board is concerned about liability issues and will be looking at this situation on their drain tour in June or July.

(5-19-20) The cost-share agreement for the funding of the Elm River Watershed Study between the Red River Joint WRD and the Traill County WRD was reviewed by the Board. After further discussion, Manager Neset moved to approve the Agreement as presented. Manager Thompson seconded the motion. Upon roll call vote, the motion carried unanimously.

(5-5-20) Cost-share requests have been submitted to the SWC and the RRJWRD with a request for funding an Elm River Watershed Study.

(4-7-20) Chris Gross told the Board that he is attempting to develop a scope along with looking at modifications for all the dams located in Traill, Steele and North Cass counties and to identify the downstream impacts and what the costs will be. Once all the facts are gathered to study the alternatives, Chris will schedule a joint board meeting to discuss all the data.

TRAILL COUNTY HIGHWAY DEPARTMENT

(5-5-20) Corey Martin, Road Superintendent, met with the Board regarding 2 bridges (327 & 332) that are eroding due to the cleaning of the invert culverts. Manager Lovas moved to direct Chris Gross to prepare a recommendation for replacing both bridges with culverts. Manager Thompson seconded the motion. Upon roll call vote, the motion carried unanimously.

PERMITS

Application to Install a Subsurface Water Management System No. 2020-01 for Rick Pladson and Clyde Pladson in the Northeast Quarter of Section 21 in Garfield Township

The District reviewed an *Application to Install a Subsurface Water Management System No. 2020-01* dated March 23, 2020, and filed May 7, 2020, for Rick Pladson and Clyde Pladson. Under the application, Applicants seek to install a 145-acre drain tile system in the Northeast Quarter of Section 21 in Garfield Township, Traill County, North Dakota. The project will include a gravity outlet that will discharge via an underground pipeline that will run under 147th Avenue NE; the pipeline will cross portions of the Northwest Quarter of Section 22, then under 15th Street NE; the pipeline will discharge directly into Hatton Drain No. 45, a legal assessment drain owned and operated by the Traill County Water Resource District.

Because the project will discharge directly 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 consent from downstream landowners since the project will discharge into a legal assessment drain, nor can the District require Applicants to obtain a pipeline easement from the owners of the Northwest Quarter of Section 22; however, the Board will recommend that Applicants obtain a pipeline easement from the owner of the Northwest Quarter of Section 22. The Board can require Applicants to install and maintain erosion protection in Hatton Drain no. 45.

According to records submitted by Applicants, Clyde Pladson owns the West Half of the Northeast Quarter of Section 21 of Garfield Township; Rick Pladson and Clyde Pladson are purchasing the East half of the Northeast Quarter of Section 21 under a Contract for Deed from Russell and Jean Pladson. Further, Lori Kritzberger owns the Northwest Quarter of Section 22 where Applicants intend to install the underground pipeline.

Manager Neset moved, and Manager Thompson seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2020-01* dated March 23, 2020, and filed May 7, 2020, for Rick Pladson and Clyde Pladson in the Northeast Quarter of Section 21 in Garfield Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2020-01, subject to the following conditions:

- 1) That Applicants notify the Traill County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets; and
- 2) That Applicants install and maintain erosion protection at any and all outlets into Hatton Drain No. 45.

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 and record a pipeline easement from the owners of the Northwest Quarter of Section 22 where Applicants intend to install the underground pipeline;
- 2) That Applicants obtain written permission from the Garfield Township Board of Township Supervisors to install, operate, and maintain buried pipe in any of its township road ditches, or to bore through any of its township roads;
- 3) That Applicants 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 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. 2020-03 for Michael Kozojed and Dale Nelson in Section 11 in Bloomfield Township

The Board reviewed an *Application to Install a Subsurface Water Management System No. 2020-03* dated May 6, 2020, for Michael Kozojed and Dale Nelson. Under the application, Applicants seek to install a 360-acre drain tile system in the East Half of the Northwest Quarter and in the South Half of Section 11 in Bloomfield Township, Traill County, North Dakota. The project will include a pump outlet in the southwest corner of Section 11 that will discharge directly into Burke Drain No. 16. The Traill County Water Resource District owns and operates Burke Drain No. 16.

Because the project will discharge directly 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 Board can attach conditions to protect its legal assessment drain, but cannot require Applicants to obtain consent from any downstream landowners as a condition to the permit. The Board will require Applicants to install and maintain erosion protection to protect Drain 16.

According to records supplied by Applicants, Michael Kozojed and Teresa Miller own the East Half of the Northwest Quarter of Section 11, and Dale Nelson owns the South Half of Section 11 in Bloomfield Township.

Manager Neset moved, and Manager Thompson seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2020-03* dated May 6, 2020, for Michael Kozojed and Dale Nelson in the East Half of the Northwest Quarter and in the South Half of Section 11 in Bloomfield Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2020-03, subject to the following conditions:

- 1) That Applicants provide, install, and maintain adequate erosion protection at any and all outlets into Burke Drain No. 16;
- 2) That Applicants notify the Traill County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets; and
- 3) That Applicants must reseed any of the District's right of way disturbed by Applicants' activities, and must maintain any reseeded areas for a period of one year from the date of completion to ensure the seeding adequately repairs any disturbed areas.

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 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
- 2) 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.

COMPLAINTS

(5-5-20) Sean Fredricks told the Board that the District Court dismissed Koenig's complaint and the next step may be that it goes to the Supreme Court.

(4-2017) Discussion was revisited on the Reimer vs. Koenig complaint and the status of recovering attorney fees and engineering costs incurred due to this complaint. The District is entitled to assess the Koenig property to recover its costs under Section 61-16.1-51.

At our meeting on January 7th, 2020 the Board and attorney Fredricks discussed the Koenig-Reimer expenses. Mr. Fredricks was planning on directing Traill County to levy assessments against the Koenig property to collect the Board's costs. However, in the meantime, Dan Gaustad (appointed by NDIRF to defend the Board in Koenig's attempted appeal of the Board's cost decision) filed a Motion to Dismiss Koenig's attempted appeal for failure to properly and timely serve the Board.

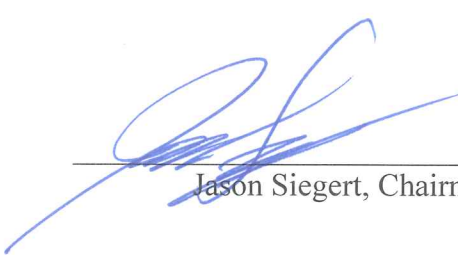
This matter will be re-addressed when we know the Court's decision on the motion before directing the County to levy.

OTHER BUSINESS

None.

ADJOURNMENT

Having no further topics to discuss, the meeting adjourned at 9:50am without objection.



Jason Siegert, Chairman

Nettie Johnson, Secretary