

**TRAILL COUNTY WATER RESOURCE DISTRICT
RECURRENT MEETING
JULY 6, 2021 ~ 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. Manager's present were Joel Halvorson, Jason Lovas, Gary Thompson, and Andy Neset with Jason Siegert presiding as Chairman. Also present were Attorney Sean Fredricks (virtually) and Chris Gross of Moore Engineering, Inc.

AGENDA

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

MINUTES

Manager Thompson moved to approve the June 15th and the June 29th, 2021 meeting minutes as presented. Manager Halvorson 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 Halvorson to approve payment of the June 16 – July 6, 2021 bills and the electronic funds transfers as presented. Upon roll call vote, the motion carried unanimously.

GRAND FORKS-TRAILL JOINT WATER RESOURCE DISTRICT

(7-6-21) Chris Gross went over current project costs that have accumulated to date on the Thompson Drain No. 72 Improvement Project. Chris told the Board that a new cost-share request for additional funding has been submitted to the State Water Commission to cover cost-overruns. The Notice to Award the contract to Davidson Construction (who was determined the low bidder on June 3rd at the bid opening) will be on hold until this new cost-share request will be approved, and an amended agreement received back by the SWC.

SNAGGING & CLEARING

(7-6-21) The Board has opted for the contractor AEI, Inc. to perform the snagging and clearing work on both the Goose and Elm rivers for the 2021-2022 season. Attorney Fredricks has drafted the necessary agreement for both projects. After review, Manager Lovas moved to approve both agreements contingent on AEI, Inc. providing all necessary documentation as reflected in the agreements. Manager Neset seconded the motion. Upon roll call vote, the motion carried unanimously. Snagging & clearing efforts will commence for both the Goose and Elm Rivers in the fall/winter of 2021 through March 31, 2022.

DRAIN BUSINESS

Camrud Drain No. 79

(7-6-21) Chris Gross provided a construction progress update. As of July 1, channel excavation has been completed up to the NW corner of Stavanger Township, Section 23 and rock chute has been installed. Intercept culverts have been installed up to the NW ¼ of Belmont Township, Section 19. He stated that they will be meeting with the contractor on a weekly basis for the purpose of providing the Board with a construction status.

Hong Drain No. 81

(7-6-21) The Board revisited discussion on the proposed assessment district for the Hong 81 Drainage Improvement District No. 81 Project. The Public Hearing will be held at 9:30m on July 20, during the Boards regularly scheduled meeting. All ballots are to be received and tallied no later than 5:00pm on August 19, 2021.

Stavanger-Belmont Drain No. 52

(7-6-21) Jason Siegert told the Board that there is an intercept pipe in Section 15 of Stavanger Township that is rusted out. He added that he will look at it closer and bring his findings back to the next Board meeting.

(7-6-21) The Board questioned when the task for repairing a leak in a culvert in Section 8 will be completed. There is another contractor is in the vicinity that can possibly complete the work. Manager Siegert said he will be contacting them or another contractor to gauge their availability.

Blanchard-Norman Drain 23-40

(7-6-21) Manager Neset informed the Board that there are many trees that need to be removed in the SE ¼ of Section 24 of Mayville Township, and the SW ¼ of Section 19 of Norway Township. Manager Lovas moved to hire Chad's Excavating to do the work. Manager Siegert seconded the motion. Upon roll call vote, the motion carried unanimously. Andy Neset will contact Chad Hanson.

(7-6-21) The Board has proceeded with the RESOLUTIONS that were approved at the June 1st meeting to commence the assessment district process for the Blanchard-Norman vote. The public hearing was held on June 29th at 9:30am at the District office. Ballots are to be collected and tallied no later than Monday, July 19th at 5:00pm which will determine if the vote passed or failed.

Preston Floodway

(7-6-21) Discussion was revisited on the status of repairing three erosion sites in the Floodway. After further discussion, Manager Lovas moved to have a few board managers along with the contractor (KRB) look at the washouts and have the contractor prepare a bid to do the work, not to exceed \$35,000.00. Manager Neset seconded the motion. Upon roll call vote, the motion carried unanimously.

Greenfield-Bohnsack Drain No. 57A

(7-6-21) Discussion was held on the outlet that is in need of repair which has resulted in channel damage. The contractor (KRB) gave an estimate to do the work for \$82,110.03.00 which

includes cleaning the drain for 11 miles and to level the spoil when the crops are off. Manager Siegert suggested that a few managers take another look at the drain to determine how much work is actually needed on this drain and if the Board will accept the bid from the contractor. Manager Lovas moved to direct Moore Engineering, Inc. to purchase the outlet culverts as per the bid design. Manager Halvorson seconded the motion. Upon roll call vote, the motion carried unanimously.

Palace Drain No. 80

(7-6-21) Jason Lovas told the Board that East Central Rural Water District (ECRWD) is installing a new water line through this drain. Attorney Fredricks informed the Board that they will be required to obtain a utility permit from the Board and follow its terms before working in this drain. The Secretary was directed to provide them with the permit and bring it to the Board for their approval once it has been received back by ECRWD.

Murray Drain No. 17

(11-3-20) Discussion was held on a rusted culvert in the NE ¼ of Section 33 of Mayville Township through County Road 11. Manager Neset said that the culvert is 30" x 50' but thinks it should be longer. This will be investigated further.

ELM RIVER DAMS

(7-6-21) Chris Gross provided updates on the status of the Elm River Watershed Study which involves the Augastadt Dam in Traill County, the Steele County Dam, and the North Cass County Dam. He stated that because of the substantial costs to conduct this Study an amendment to the previously approved cost-share agreement has been submitted to the State Water Commission (SWC) for their review/approval in the amount of \$108,000.00 (an increase of \$36,000.00). Upon completion of the Study, the JWRD will evaluate alternatives and determine the next steps in addressing the deficiencies.

TRAILL COUNTY HIGHWAY DEPARTMENT

COMPLAINTS

COMPLAINT FOR WATER-RELATED ISSUES - Obstruction to Drain Complaint filed by Darrell Stormoe against Elkhorn Farms

(7-6-21) The Board next considered Darrell Stormoe's COMPLAINT FOR WATER-RELATED ISSUES filed against Elkhorn Farms. In the Complaint, Mr. Stormoe alleges Elkhorn Farms caused an obstruction to Garfield Drain No. 32 in the Northwest Quarter of Section 12 and the Southwest Quarter of Section 1 in Garfield Township, in violation of N.D. Cent Code § 61-16.1-51.

According to records on file with the Traill County Recorder's office, and according to Traill County tax records, Kenneth Johnson is the record owner of the Northwest Quarter of Section 12 and the Southwest Quarter of Section 1 in Garfield Township, with the exception of acres owned by the Stormoes and Drain No. 32 acres. According to the North Dakota Secretary of State's Office, Kenneth Johnson is also the principal of Elkhorn Farms, LLP.

Sean Fredricks indicated the standard for obstruction complaints under Section 61-16.1-51 is whether or not the landowner or tenant, by negligent act or omission, caused a “barrier . . . which materially affects the free flow of waters” in a natural watercourse or artificial drain.

The Board inspected the alleged obstruction while conducting their annual drain inspections and found Elkhorn Farms had very clearly farmed right through Drain 32, on both the Northwest Quarter of Section 12 and the Southwest Quarter of Section 1 in Garfield Township. The Board found that, as a result, sediment erosion builds up and significantly obstructs flow in Drain 32. More specifically, the Board concluded Elkhorn Farms’ activity farming through Drain 32, and the resulting buildup, materially affects the free flow of water in Drain 32. The Board further concluded Elkhorn Farms’ activities at least qualified as a “negligent act or omission” that caused the obstruction.

The Board discussed the timing of the removal of the obstruction and recognized crops on the Johnson property would preclude immediate remedial activity. The Board concluded a November 1 deadline would be appropriate, to accommodate Elkhorn Farms’ crops but also to ensure removal prior to winter conditions.

Manager Neset moved, and Manager Thompson seconded the motion, to order Kenneth Johnson and Elkhorn Farms to remove and otherwise remedy the obstruction caused by farming through Drain 32 in the Northwest Quarter of Section 12 and the Southwest Quarter of Section 1 in Garfield Township, Traill County, North Dakota, by 5:00 p.m. on November 1, 2021. Upon roll call vote, the motion carried unanimously.

Sean Fredricks will prepare the required Notice of Decision and will provide copies to Kenneth Johnson/Elkhorn Farms and to Darrell Stormoe.


PERMITS

(6-15-21) The Board revisited a Surface Drain Permit Application submitted by Earle Lien. The Office of the State Engineer (OSE) has reviewed the application and has determined that the proposed application may be drainage of statewide or inter-district significance. The OSE requires that any comments or information regarding the application be submitted to the OSE. After further discussion, the Board directed the Secretary-Treasurer to respond to the OSE that the Board holds “no comment”. The OSE will move forward with the review and if no statewide or inter-district significance is discovered then the permit will be approved and issued.

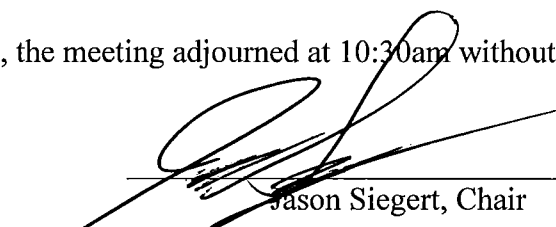
OTHER BUSINESS

ADJOURNMENT

Having no further topics to discuss, the meeting adjourned at 10:30am without objection.



Nettie Johnson, Secretary-Treasurer



Jason Siegert, Chair