

**TRAILL COUNTY WATER RESOURCE DISTRICT
RECURRENT MEETING
SEPTEMBER 3, 2019 ~ HILLSBORO, ND**

The District Board convened on this date and came to order at 7:00am at the office of the Traill County Water Resource District in Hillsboro, ND. Managers present were: Joel Halvorson, Gary Thompson, Jason Lovas and Andy Neset with Jason Siegert presiding as Chairman. Also present were: Sean Fredricks, Attorney for the Board, and Chris Gross, Moore Engineering, Inc.

AGENDA

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

MINUTES

Manager Thompson moved to approve the August 20, 2019 recurrent meeting minutes as presented. Manager Lovas seconded the motion. Upon roll call vote, the motion carried unanimously.

FINANCIAL

It was moved by Manager Neset and seconded by Manager Neset to approve payment of the August 21 ~ September 3, 2019 bills and the electronic funds transfers, as presented. Upon roll call vote, the motion carried unanimously.

DRAIN BUSINESS

Proposed Grand Forks WRD/Traill County Line Project

(No new updates) Discussion was revisited on the status of the JPA (Joint Powers Agreement) between Grand Forks and Traill County. Sean Fredricks told the Board that he has been in contact with Grand Forks WRD attorney Dan Gaustad regarding this and will keep us informed of the status.

Proposed Thompson Drain No. 72

Discussion was revisited on the Agreement between the Traill and Grand Forks WRDs. Sean Fredricks, Traill County Attorney, has been in communication with Grand Forks Attorney Dan Gaustad who is suggesting that forming a joint board between Traill and Grand Forks WRD's would be in the best interest of both counties.

Proposed Camrud Drain No. 79

The Board reviewed the Resolutions Sean Fredricks presented necessary in the preparation and creation of the Camrud Drain No. 79 project. Manager Lovas moved to approve the following Resolutions:

- Resolution of Necessity
- Resolution Approving Engineer's Report
- Resolution Determining Benefitted Property
- Resolution to Set Public Hearing (for October 1, 2019)

Manager Neset seconded the motion. Upon roll call vote, the motion carried unanimously.

McCoy McCradie 4-14

Chris told the Board that the culverts are on order for the McCoy Drain No. 14. He anticipates the project will be completed this fall.

Snagging & Clearing

(No new updates) Public hearings for the Goose and Elm Rivers and the Buffalo Coulee will be held in early 2020 to stress the importance of snagging and clearing projects to the Commissioners and the land patrons. The ND State Water Commission is allowing for cost-sharing these projects again.

Stavanger-Belmont Drain No. 52

Chris Gross stated that the headwall should be installed this week by contractor JAV Construction. It was discovered that the side slopes don't match the in-slope of the drain, but the township appears to be satisfied with the outcome. After further discussion, Manager Lovas moved to approve Contractor's Application for Payment No. 5 payable to JAV Construction, Inc. in the amount of \$29,091.60. Manager Halvorson seconded the motion. Upon roll call vote, the motion carried unanimously.

Mayville Airport (S. Mayville Drain No. 9)

Andy Neset told the Board that he has spoken to Lance Fugelberg, Mayville Airport Authority, who indicated that they are willing to give the TCWRD an easement to perform any work that needs to be done on the property since FAA's regulations do not allow them to convey ownership of any airport land. A draft easement from the Airport to the Board will be prepared to circulate for review and for signatures.

Hillsboro Drain No. 26

Jason Siegert said that the culvert has been installed and the dirt work at the outlet is complete. The County Highway Department dirt work is yet to be done and vegetation still needs to be established.

Manager Lovas moved to approve Change Order No. 1 and the Contractor's Application for Payment No. 1 payable to JAV Construction, Inc. in the amount of \$54,536.47. Manager Thompson seconded the motion. Upon roll call vote, the motion carried unanimously.

Murray Drain No. 17

Chris Gross told the Board that he had a conversation with SWC staff regarding the recent denial by the SWC to cover overrun costs for this project. Chris and the SWC staff recommends resubmitting a new letter requesting that the project cost overrun be funded using 2019-2021 biennium budget dollars, specifically from the rural flood control bucket.

Corey Martin, Traill County Highway Department, said that they will be installing the culvert in Section 32 of Mayville Township this fall.

Blanchard-Norman Drain No. 23-40

Discussion continued on what options are viable for this drain to function properly. Chris Gross said the cost estimate for 2.5 miles of channel improvements to include one road crossing and one drop structure may need to be revised. Jason Siegert told the Board that several landowners have approached him about re-voting the reconstruction of this drain since the first vote failed in

May 2019. Chris suggested that the managers visit with landowners in their district and gage the interest in initiating another voting process.

Buxton Drain No. 68

Chris Gross has identified 4 areas in Sections 22, 23 and 24 that have erosion issues. He has asked several contractors to do the work with Bohlman Trenching having the lowest bid. Manager Lovas moved accept the bid of \$17,009.00 from Bohlman Trenching and hire them to do the repairs in said sections. Manager Thompson 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.

Kelso Floodway

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.

Steenerson Drain No. 20

Manager Thompson moved to amend the August 6th, 2019 meeting minutes to reflect a price increase because of dirt work and rock that needed to be placed at the outlet in Sections 2 into 11 of Herberg Township. Manager Halvorson seconded the motion. Upon roll call vote, the motion carried unanimously. The total cost of the project increased from \$10,000.00 to \$36,888.70.

Mowing and Spraying of Drains

The spraying of the weeds has been finished in the legal drains. Spraying of the trees will be completed this week.

PERMITS

APPLICATION FOR SURFACE DRAIN NO. 5293 - PAULSON DRAIN NO. 7 CHANNEL IMPROVEMENT PROJECT

The Board reviewed information from the State Engineer regarding APPLICATION FOR SURFACE DRAIN NO. 5293, previously submitted by the Traill County Water Resource District regarding a channel improvement project for Paulson Drain No. 7. The Traill County Water Resource District owns, operates, and maintains Paulson Drain No. 7 as a legal assessment drain.

The project will include channel improvements along 164th Avenue NE and 5th Street NE, in the East Half and South Half of Section 5, the East Half of Section 8, and the East Half of Section 17 in Eldorado Township in Traill County. The project will include side slopes improvements from 2:1 to 4:1.

The State Engineer concluded the project is not “of statewide or interdistrict significance.” The Board adopted Moore Engineering’s proposed responses to the eight elements under 89-02-01-09.2 of the North Dakota Administrative Code. The Board further determined no hearing was necessary under 89-02-01-09.1(2) of the North Dakota Administrative Code; the Board will obtain any right of way necessary to accommodate the project and the landowners in the area support the project.

Manager Lovas moved to approve APPLICATION FOR SURFACE DRAIN NO. 5293 regarding the

improvements to Paulson Drain No. 7, subject to any conditions attached by the State Engineer, and to authorize the Secretary-Treasurer to sign PERMIT FOR SURFACE DRAIN NO. 5293. Manager Thompson seconded the motion. Upon roll call vote, the motion carried unanimously. The motion passed. Sean Fredricks will send the permit materials to the State Engineer's Office.

Application to Install a Subsurface Water Management System No. 2019-07 for Paul Moen in the Southwest Quarter of Section 28 in Morgan Township

The Board reviewed an *Application to Install a Subsurface Water Management System No. 2019-07* dated September 3, 2019, for Paul Moen. Under the application, Applicant seeks to install a 120-acre drain tile system in the North Half of the Southwest Quarter of Section 28, and the North Half of the South Half of the Southwest Quarter of Section 28, in Morgan Township, Traill County, North Dakota. The project will include a gravity outlet that will discharge directly into North Mayville Drain No. 8. The Traill County Water Resource District owns and operates North Mayville Drain No. 8.

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 Applicant to obtain consent from any downstream landowners as a condition to the permit. The Board will require Applicant to install and maintain erosion protection to protect Drain 8.

According to records supplied by Applicant, Paul and Jean Moen own the North Half of the Southwest Quarter of Section 28, as well as the North Half of the South Half of the Southwest Quarter of Section 28.

Manager Lovas moved, and Manager Thompson seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2019-07* dated September 3, 2019, for Paul Moen in the Southwest Quarter of Section 28 in Morgan Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2019-07, subject to the following conditions:

- 1) That Applicant provide, install, and maintain adequate erosion protection at any and all outlets into North Mayville Drain No. 8;
- 2) That Applicant notify the Traill County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets; and
- 3) That Applicant must reseed any of the District's right of way disturbed by Applicant's 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 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 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 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.

Application to Install a Subsurface Water Management System No. 2019-06 for Leon Sand in the Southwest Quarter of Section 22 in Norman Township

The Board reviewed an *Application to Install a Subsurface Water Management System No. 2019-06* dated June 27, 2019, filed August 19, 2019, for Leon Sand. Under the application, Applicant seeks to install a 157-acre drain tile system in the Southwest Quarter of Section 22 in Norman Township, Traill County, North Dakota. The project will include a single pump outlet that will discharge via an underground pipeline leaving the southeast corner of the Southwest Quarter of Section 22; the pipeline will run across the south boundary of the Southeast Quarter of Section 22 until daylighting and discharging into a natural watercourse.

Because the project will discharge directly into a natural watercourse, 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, because the project will discharge into a natural watercourse, the Board cannot require Applicant to obtain consent from downstream landowners. Further, the Board cannot require Applicant to install erosion protection at the outlet into the natural watercourse.

Applicant supplied a document entitled “DEED GRANTING EASEMENT” signed by Shawn and Kathy Knudson regarding installation of the pipeline and pump across a portion of the Southeast Quarter of Section 22. In addition, Applicant provided a “FLOWAGE EASEMENT AGREEMENT” signed by Reuben and Jennifer Rud regarding use of a tile pump located in the Northeast Quarter of Section 27 of Norman Township. Neither of those documents meets the legal requirements for an easement or a deed, and neither document is a recordable instrument. The Board will notify the Applicant of the document deficiencies.

According to records supplied by Applicant, Applicant owns the Southwest Quarter of Section 22 of Norman Township. Shawn and Kathy Knudson own the Southeast Quarter of Section 22 of Norman Township.

Manager Halvorson moved, and Manager Neset seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2019-06* dated June 27, 2019, filed August 19, 2019, for Leon Sand in the Southwest Quarter of Section 22 in Norman Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT No. 2019-06, subject to the following conditions:

- 1) That Applicant notify the Traill County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets; and
- 2) That Applicant 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 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 written permission from the Norman Township Board of Township Supervisors to utilize any of its township road ditches, including installation of any buried pipe;
- 2) That Applicant obtain and record a Pipeline Easement from the owner of the Southeast Quarter of Section 22 of Norman Township to install, operate, and maintain Applicant's buried pipeline;
- 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.

Request for Drainage on Highway Right of Way

James Aarsvold submitted a Request for Drainage on Highway Right of Way application to clean the ditch on the south side of Section 20 in Blanchard Township to the river. After review, Manager Lovas moved to acknowledge the application brought forth. Manager Thompson seconded the motion. Upon roll call vote, the motion carried unanimously. After the Chairman's signature, the Secretary will forward to Troy Gilbertson at the ND DOT for his review and approval.

COMPLAINTS

The Board revisited discussion on the installation of a 36" diagonal culvert from Section 36 of Hillsboro Township into Section 31 of Herberg Township going into the Nelson Drain No. 28. This corresponds to a complaint filed against Dalrymple Farms by Tom McNamee. Dalrymple Farms has agreed to have this additional culvert installed and split the cost with the water board. The Board asked Chad Hanson to perform the work.

A complaint filed in April 2017 by Curt Reimer against LaVerne Koenig was revisited by the Board. In the complaint, Mr. Reimer alleges Mr. Koenig installed or constructed obstructions to natural drains in the NW ¼ of Section 25 of Blanchard Township. After many attempts to notify Mr. Koenig failed, along with Mr. Koenig missing the deadline to file an appeal after the Notice of Decision was filed, Manager Lovas moved to hire Chad's Excavating to remove the ditch block on Mr. Koenig's property. Manager Neset seconded the motion. Upon roll call vote, the motion carried unanimously.

OTHER BUSINESS:


The Board reviewed a Bond Agreement between Starion Bond Services and the Traill County Water Resource District. Attorney Fredricks indicated the agreement is fine, with one exception. Section 17 is an indemnification provision. Under North Dakota law, water resource districts cannot agree to indemnify another party. He will contact the Starion Bond Services with

his findings and ask that they strike Section 17 from the agreement. Manager Thompson moved to approve the agreement contingent on the indemnity provision. Manager Neset seconded the motion. Upon roll call vote, the motion carried unanimously.

Having no further topics to discuss, the meeting adjourned at 10:35am without objection.



Jason Siegert, Chairman



Nettie Johnson, Secretary