

RICHLAND COUNTY WATER RESOURCE DISTRICT  
Richland County Courthouse, Wahpeton, ND  
August 1, 2017

The Richland County Water Resource Board (RCWRB) met August 1, 2017 at 8:00 AM at the Richland County Courthouse, Wahpeton, North Dakota.

THOSE PRESENT: Managers Arv Burvee, Gary Friskop, James Haugen, Don Moffet, and Robert Rostad, Engineering Technician Justin Johnson, and Secretary-Treasurer Monica Zentgraf.

THOSE ABSENT: None

### **Minutes**

The July 25, 2017 minutes were presented. A motion was made by Mgr. Burvee and seconded by Mgr. Rostad to approve the July 25, 2017 minutes as presented. The motion carried unanimously.

### **Mail**

- 1.) Attorney David Bliss- Copy of letter to Administrative Law Judge Dawson regarding concerns related to the District's Appeal of the State Engineer's permitting of the Fargo-Moorhead Flood Diversion inlet structure.
- 2.) Attorney David Bliss- Letter regarding the District's right to appeal the State Engineer's decision in the permitting of the Fargo-Moorhead Flood Diversion inlet structure. The District has until August 21, 2017 to appeal the decision; the matter was tabled until the August 15, 2017 RCWRD meeting.

### **Proj #2 Reconstruction/Extension**

A meeting was scheduled with a representative of Riley Bros Construction, at their request to discuss liquidated damages assessed by the District for delays associated with the reconstruction/extension of Proj #2. Prior to meeting with the contractor, the Managers met with Mike Bassingthwaite, of Interstate Engineering, to review the issues associated with the liquidated damages.

Larry Swan, of Riley Bros Construction, met with the Board and Mr. Bassingthwaite at this time. Mr. Swan told the Board they should have started the reconstruction project earlier but they brought in a lot of equipment when they did start to get the project done. Mr. Swan explained that Parts A and B went very well, but they ran into a very high water table on Parts C and D, with Part D being the worst. He further explained that even if the project had started earlier they would have needed to let the water table drop down, which would have caused a delay. They did not realize how wet and sandy the soil was when they bid the project. Mr. Swan also reminded the Managers of the considerable amount of rain the area received during the construction project, which added to the delay. Mr. Swan requested the Managers reconsider the liquidated damages as there was a lot of extra work on Part D because of the extremely wet conditions.

Upon conclusion of the meeting with Mr. Swan, the Managers further considered the request. A motion was made by Mgr. Burvee and seconded by Mgr. Haugen to reduce liquidated damages from \$22,500 to \$10,000. The motion carried unanimously. (RCWRD #10-079)

### **Proj #5(27) Reconstruction**

At the request of the Board, Mr. Bassingthwaite provided an update on the issues surrounding the removal of spoil material in the NW1/4 NE1/4 Section 21, Walcott East, as well as the condition of the haul road. Mr. Bassingthwaite will continue to work on resolving the matter. (RCWRD #140124)

### **Mail- Cont'd**

- 3.) Engineer Mike Bassingthwaite- Randy Thompson (and siblings) do not want field approaches in the SWCR Section 27 and SECR Section 28, Viking Township, on Proj #14. Mr. Bassingthwaite intends to create a berm in the ditch and install 18

inch x 30 foot culverts at both locations. The Managers had no objection to the change. (RCWRD #11-001)

- 4.) Engineer Mike Bassingthwaite- Recommendation for a culvert-to-culvert cleanout of Proj #72, Lateral B, in Section 32, Colfax East. The Managers directed Mr. Johnson to contact Red River Valley and Western Railroad and all adjacent landowners about access and spoil material that will need to be spread. The project will not be assigned to a contractor until those issues are resolved. (RCWRD #17-041)
- 5.) US Army Corps of Engineers (USACE)- Under the authority of Section 404 of the Clean Water Act, the USACE has jurisdiction over the North Branch Antelope Creek Watershed Project (RCPP Project). (RCWRD #16-017)

**APPLICATION FOR STATE SURFACE DRAIN No. 4941 for Minn-Kota Ag Products in the Northeast Quarter of Section 10 of Barney Township**

The Board reviewed information from the State Engineer regarding APPLICATION FOR SURFACE DRAIN No. 4941 for Applicant Minn-Kota Ag Products. Under the application, Applicant seeks to construct a new drainage ditch system for purposes of on-site drainage for Applicant's proposed rail facility on the Northeast Quarter of Section 10 of Barney Township. The drainage channels will provide interior drainage for the ag facility and the rail loop track. The project will include two outlets; the first will discharge into the north road ditch along North Dakota Highway 13, and the second will discharge directly into a lateral of Richland County Drain No. 95, a legal drain assessment component owned and operated by the Richland County Water Resource District.

According to records on file with the Richland County Recorder's office, Poppy Land Company, LLC, a Minnesota limited liability company, owns the Northeast Quarter of Section 10 of Barney Township, with the exception of a 2.39- acre tract owned by the Richland County Water Resource District regarding Drain 95. Poppy Land Company, LLC, appears to serve as a holding company for Minn-Kota Ag Products; Minn-Kota Ag Products, Inc., is a Minnesota corporation, and shares a registered address with Poppy Land Company, LLC.

Mike Bassingthwaite prepared responses to the eight elements under Section 89-02-01-09.2 of the North Dakota Administrative Code; the Board reviewed and approved those responses. The Board further determined no hearing was necessary under Section 89-02-01-09.1(2) of the North Dakota Administrative Code because the Board will require Applicant to obtain permission from the North Dakota Department of Transportation (NDDOT) regarding the project's outlet into Highway 13 right of way. The State Engineer's office provided a copy of the application to NDDOT, and NDDOT expressed concerns regarding the volume and velocity of discharges into its right of way. However, since the Board will require Applicant to obtain permission from NDDOT, no hearing is necessary for purposes of addressing NDDOT's concerns. Further, the project will discharge directly into a component of Drain 95, and the Board concluded the volume of water discharging into Drain 95 will not change as a result of the project since the discharge from this quarter will essentially remain the same. The Board concluded that, in light of these measures and these considerations, the project will not result in any further adverse impacts.

Manager Burvee, seconded by Manager Moffet, moved to approve APPLICATION FOR SURFACE DRAIN No. 4941 for Minn-Kota Ag Products, subject to the conditions attached by the State Engineer, and subject to the following conditions:

- 1) That Applicant obtain written permission from Poppy Land Company, LLC, to construct, own, and operate a surface drain on property owned by Poppy Land Company, LLC;
- 2) That Applicant will not construct or improve the drainage system in any manner that exceeds the dimensions indicated in the application, including a total drain length of 7,900 feet; a maximum 10-foot bottom width; 4:1 side slopes; a maximum cut of 3 feet; and a fill volume of 40,000 cubic yards;

- 3) That Applicant obtain an easement from the owner of any land, besides land owned by Applicant, on which Applicant will construct the drain;
- 4) That Applicant obtain written permission from the North Dakota Department of Transportation to discharge into its Highway 13 road ditch, or to otherwise utilize any of its highway right of way;
- 5) 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; and
- 6) 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.

Upon roll call vote, the motion carried unanimously. The Board directed Sean Fredricks to prepare the requisite NOTICE OF DECISION and to provide the NOTICE to all parties of record. (Minn-Kota Ag Products #17-048)

**Sheyenne River Debris Removal**

Rock Rustad recently contacted the District about tree debris in the Sheyenne River, located in the N1/2 Section 13, Barrie Township. Mr. Rustad reported logs are pushing the water west and south, causing the river bank to erode. Mr. Rustad was willing to remove the debris and subsequently submitted a bid to the District, on behalf of Rustads LLC, in the amount of \$2,500. After viewing photographs provided by Mr. Rustad, Appl #17-049 was completed and a motion was made by Mgr. Rostad and seconded by Mgr. Haugen authorizing Rustad’s LLC to remove the debris at Waterways expense. The motion carried unanimously.

**2018 Budget**

The 2018 budget was presented to the Board. Upon review, a motion was made by Mgr. Moffet and seconded by Mgr. Burvee to approve the 2018 budget as presented. The motion carried unanimously.

**2017 Drain Maintenance and Excess Levies**

The Managers reviewed the financial status of all drain maintenance accounts. Discussion was held relative to fund balances, work pending, and work anticipated. A motion was made by Mgr. Rostad and seconded by Mgr. Moffet to approve the drain maintenance levies for the purpose of paying for drain work done in 2017 and anticipated expenses in 2018 and beyond and excess levies for Bonds #2, 5, and 14, as herein recited:

<u>Drain #</u>	<u>Levy Amount</u>	<u>Drain #</u>	<u>Levy Amount</u>
Dr. #1	\$4.00 Weighted	Dr. #2	\$4.00 Weighted
Dr. #3	\$4.00 Weighted	Dr. #4	\$4.00 Weighted
Dr. #5	\$4.00 Weighted	Dr. #7	\$4.00 Weighted
Dr. #10	\$2.00 Weighted	Dr. #12	\$4.00 Weighted
Dr. #14	\$4.00 Weighted	Dr. #15	\$4.00 Weighted
Dr. #17	\$4.00 Weighted	Dr. #18	\$4.00 Weighted
Dr. #19	\$3.00 Weighted	Dr. #26	\$4.00 Weighted
Dr. #31	\$4.00 Weighted	Dr. #34	\$4.00 Weighted
Dr. #35	\$4.00 Weighted	Dr. #39	\$4.00 Across Board
Dr. #41	\$4.00 Weighted	Dr. #48	\$4.00 Weighted
Dr. #55	\$4.00 Weighted	Dr. #58	\$4.00 Weighted
Dr. #62	\$4.00 Weighted	Dr. #63	\$4.00 Weighted
Dr. #65	\$4.00 Weighted	Dr. #66	\$4.00 Weighted
Dr. #67-8	\$4.00 Weighted	Dr. #72	\$4.00 Weighted
Dr. #95	\$4.00 Across Board	Dr. #97	\$2.00 Across Board
CR #1	\$0.25 Weighted	RS #1	\$4.00 Weighted

The motion carried unanimously.

**North Dakota Water Users Board Meeting, Summer Meeting, and Executive Briefing Reports**

Secretary Zentgraf provided a report on the North Dakota Water Users Board Meeting and Mgr. Haugen, Secretary Zentgraf, and Technician Johnson reported on the Summer Meeting and Executive Briefing. The meetings were held July 13 and 14, 2017 in Minot.

**Technician’s Report**

Mr. Johnson provided the following reports:

**Proj #14**

Site #269: SE1/4 Section 30, Viking Township- Erosion by mainline culverts. A motion was made by Mgr. Burvee and seconded by Mgr. Rostad authorizing Interstate Engineering to provide a hydraulic study for replacement of two 42 inch culverts through Paul Hegseth’s driveway. The motion carried unanimously. (RCWRD #17-037)

**Fargo-Moorhead Flood Diversion Board of Authority Meeting**

Mr. Johnson provided a report on the July 27, 2017 meeting.

**Applications**

The Managers reviewed and took the following action on applications submitted to the District:

Appl #17-050, Mill Farms: SE1/4SW1/4 Section 27, Devillo Twp A motion was made by Mgr. Burvee and seconded by Mgr. Rostad to approve the field ditching contingent upon the signature of Theede Farms. Work at no cost to Proj #31. The motion carried unanimously.

Appl #17-051, Mill Farms: SW1/4 Sec 29, Fairmount North A motion was made by Mgr. Burvee and seconded by Mgr. Moffet to approve the field ditching contingent upon the signature of Jim Miller. Work at no cost to Proj #34. The motion carried unanimously.

Appl #17-052, Mill Farms: Section 6, Summit East A motion was made by Mgr. Burvee and seconded by Mgr. Haugen to approve the field ditching contingent upon the signature of Thimjon Farms. Work at no cost to Proj #55. The motion carried unanimously.

Appls #17-053 through #17-061, for field ditching, were reviewed and a motion was made by Mgr. Haugen and seconded by Mgr. Burvee to approve the applications at no cost to the drains. The motion carried unanimously.

Appl #17-053	Mill Farms	S1/2 Section 31, Center East
Appl #17-054	Mill Farms	NE1/4 Section 13, Devillo Township
Appl #17-055	Mill Farms	SE1/4 Section 31, Fairmount North
Appl #17-056	Mill Farms	SW1/4 Section 1, Summit West
Appl #17-057	Mill Farms	SW1/4 Section 11, Summit West
Appl #17-058	Mill Farms	Section 13, Summit West
Appl #17-059	Mill Farms	S1/2 Section 16, Summit West
Appl #17-060	Mill Farms	NE1/4 Section 24, Summit West
Appl #17-061	Mill Farms	NW1/4 Section 35, Summit West

**Adjournment**

There being no further business to come before the Board, Chr. Friskop adjourned the meeting at 11:30 A.M.

Respectfully submitted,  
*Monica Zentgraf*  
Secretary

*Gary Friskop*  
Chairman of the Board