

RICHLAND COUNTY WATER RESOURCE DISTRICT  
Richland County Courthouse, Wahpeton, ND  
July 11, 2017

The Richland County Water Resource Board (RCWRB) met July 11, 2017 at 8:00 AM at the Richland County Courthouse, Wahpeton, North Dakota.

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

THOSE ABSENT: Robert Rostad

### **Minutes**

The June 20, 2017 minutes were presented. A motion was made by Mgr. Burvee and seconded by Mgr. Moffet to approve the minutes as presented. The motion carried unanimously.

### **Financial Matters**

●May 2017 Financial Reports- Secretary Zentgraf reported the motion for acceptance of the May 2017 financial reports was inadvertently left out of the June 6, 2017 minutes. She further reported that on June 6, 2017, the May 2017 financial reports were presented to the Board and a motion was made by Mgr. Burvee and seconded by Mgr. Haugen to accept the May 2017 financial reports as presented. The motion carried unanimously. At this time a motion was made by Mgr. Burvee and seconded by Mgr. Moffet to approve the June 6, 2017 minutes as amended herein. The motion carried unanimously.

●June 2017 Financial Reports- The June 2017 financial reports were presented for the Board's review. A motion was made by Mgr. Haugen and seconded by Mgr. Moffet to accept the June 2017 financial reports as presented. The motion carried unanimously.

### **Proj #14 Reconstruction**

A conference call was held with Mike Bassingthwaite, of Interstate Engineering. Mr. Bassingthwaite informed the Board of excess spoil in the SW1/4 and SE1/4 Section 29, Viking Township. Paul Langseth, owner of the SW1/4 and Bob Quam, owner of the SE1/4, would like the excess material for their personal use. The Engineer's reported the landowners do not want to move the material until the crops are harvested. If the spoil is spread within the temporary easement areas, the landowners told Mr. Bassingthwaite they may come in pull the topsoil off and mine some of the spoil at a later date. Mr. Bassingthwaite explained that if the excess spoil is not moved, the contractor will need to use a scraper to move the topsoil around the spoil and place it back on the drain bank so the seeding can be done. The additional cost to the drain for the scraper work would be approximately \$5,000. The option of allowing the landowners to mine some of the spoil at a later date was not acceptable to the Board. Mr. Bassingthwaite felt the Board could not wait until October to seed the drain bank due to the risk of erosion with no vegetation established before spring runoff. Much discussion was held regarding options available. Consensus of the Managers was that Mr. Langseth and Mr. Quam will need to move the excess spoil now, at their own expense, so the topsoil can be spread and the bank seeded or the two parties will have to pay the contractor for the additional cost of moving the topsoil around the spoil banks with a scraper. Both parties must agree on one plan. If they cannot agree or do not accept either alternative, the material will be spread within the temporary easement areas. (RCWRD #11-001)

### **Mail**

- 1.) Bank of New York Mellon- Pledged securities totaled \$6,482,831.32 on June 30, 2017.
- 2.) Red River Basin Commission- Natural Resources Framework Plan update.
- 3.) Judge Mark Blummer and subsequent Notice from Rob Stefonowicz, attorney for Cass County Water Resource District (CCJWRD)- A hearing will be heard by Judge Blummer on July 25, 2017 at 10:00 AM in the Courtroom at the Richland County Courthouse regarding CCJWRD's Application for Permit to Enter Land

and the RCWRD's **Motion to Intervene**. (Application for Permit to Enter Land is for the FM Diversion Project.)

- 4.) Mike Bassingthwaite, Interstate Engineering- Recommendation for replacement of culvert in the SWCR SW1/4 Section 33, Fairmount North. Upon review of the recommendation, a motion was made by Mgr. Burvee and seconded by Mgr. Haugen to approve Mr. Bassingthwaite's recommendation and assign the repair to Ehlert Excavating at Proj #35 expense. Completion date set for September 1, 2017. The motion carried unanimously. (RCWRD #17-029)
- 5.) Mike Bassingthwaite, Interstate Engineering- Report that the rusted out culvert on Proj #55, located in the SECR Section 19, Summit East, is only eleven years old and should not be in it's current deteriorated condition. Normal life of a culvert is thirty years. The Board believes the culvert is deteriorating abnormally fast due to runoff from Minn-Dak Cooperative's (Tyler) beet pile ground. Concern was also expressed that the two approach culverts are most likely in the same deteriorated condition. (The bottom of the two approach culverts cannot be seen due to eight to ten inches of standing muck in the bottom of the pipes.) The Managers felt the next higher gauge of steel should be used for the new pipe in an attempt to extend the life of the culvert. Board consensus was to forward a letter to Minn-Dak Cooperative advising them of the situation and requesting them to pay two-thirds of the material and labor cost to replace the existing culvert with a 12 gauge culvert of equivalent size and to put them on notice that the two approach culverts are most likely in the same deteriorated condition. The Managers also want to know what Minn-Dak is going to do to rectify the problem. (RCWRD #17-039)

**APPLICATION FOR STATE SURFACE DRAIN No. 4874 for Steven Mauch/MC LLLP in the South Half of the South Half of Section 30 in Antelope Township**

The Board reviewed information from the State Engineer regarding APPLICATION FOR SURFACE DRAIN No. 4874 dated August 28, 2016, for Applicant Steven Mauch. This project was also the subject of a DRAINAGE COMPLAINT filed by John Nagel dated November 16, 2015. In the Complaint, Mr. Nagel alleged that Mr. Mauch constructed unpermitted and illegal drainage in the Southwest Quarter of Section 30 and the Northwest Quarter of Section 31 of Antelope Township in Richland County. Mike Bassingthwaite investigated the allegations and found Mr. Mauch had, in fact, constructed drainage and ditch improvements in both the Southwest Quarter of Section 30 and the Northwest Quarter of Section 31, improvements that required a permit under N.D. Cent. Code § 61-32-03. More specifically, as a result of Mike's investigation and report, the Board concluded Mr. Mauch constructed improvements to field ditches in the Southwest Quarter of Section 30, improvements to the township road ditch along the south boundary of the Southwest Quarter of Section 30 and the north boundary of the Northwest Quarter of Section 31, and ditch improvements by cutting the ridge between the township road ditch and the "Homestead Drain" in the Northwest Quarter of Section 31. In a NOTICE OF DECISION dated December 9, 2015, the Board ordered Mr. Mauch to return the field ditches and the township road ditches to their previous condition, and to fill the cut in the berm he previously constructed regarding the Homestead Drain. The Board set a deadline of January 11, 2016, for Mr. Mauch to close or fill the improvements. The NOTICE OF DECISION notified Mr. Mauch of his appeal and hearing rights under N.D. Cent. Code § 61-32-07.

Mr. Mauch submitted a timely hearing request, and the Board subsequently scheduled a hearing and notified the parties of the hearing date of March 21, 2016. However, Mr. Mauch later submitted a formal withdrawal of his appeal and his request for a hearing, and the Board canceled the hearing, and ultimately granted Mr. Mauch an extension to April 4, 2016, to close or fill the illegal drainage. Mr. Mauch later submitted an after-the-fact permit application to the State Engineer's office ("OSE"). The Board granted Mr. Mauch a number of extensions to close or fill the drainage to accommodate OSE's review of Mr. Mauch's application. Mr. Mauch notified OSE of amendments to his application and project plan. OSE then forwarded the new application, with Mr. Mauch's amended project plan, to the Board via cover letter dated September 20, 2016; the letter included notification of OSE's finding that the application was not "of statewide or interdistrict significance." Mr. Mauch later amended his project plan once again on January 3, 2017.

The Board forwarded Mr. Mauch's proposed amendments to OSE for review and to determine if the modifications would in any way impact OSE's previous finding that the project and the application are not "of statewide or interdistrict significance." Matt Lindsay, OSE staff member, contacted Monica Zentgraf and notified Monica OSE did not revise the statewide/interdistrict significance finding as a result of Mr. Mauch's amendments. With that in mind, the Board is now in a position to consider Mr. Mauch's application.

Under the application, Applicant seeks an after-the-fact permit regarding improvements constructed in the road ditch along the south boundary of the South Half of Section 30 of Antelope Township; replacement of the existing 18-inch culvert through the approach located between the Southwest Quarter and the Southeast Quarter of Section 30, within township right of way, with a new 18-inch culvert with a screw gate (installed for purposes of preventing the flow of water during flooding downstream, between the project and Drain No. 95); installation of an 18-inch culvert within township road right of way in the southeast corner of Section 30 to drain water through the township road to the northeast corner of Section 31 (the culvert will be outside county right of way); improvements to two field ditches that will run north-to-south on the Southwest Quarter of Section 30, into the improved township road ditch on the south boundary of the quarter; and improvements to a field ditch in the Southwest Quarter of Section 30 that will run from east-to-west and will discharge into a slough located on the Southwest Quarter. The permitted drain will include 5,200 feet of channel improvements; a bottom width of 12 feet maximum; 4:1 side slopes; and a maximum cut of 10 feet. With the exception of the field channel that will flow west into the slough on the Southwest Quarter of Section 30, the channel and ditch improvements will ultimately convey water to the east along the south boundary of Section 30 until reaching the southeast corner of Section 30; from there, the drainage will flow south through the 18-inch culvert in the southeast corner of Section 30 onto the northeast corner of Section 31; from there, the drainage will flow east through an existing culvert in the northeast corner of Section 31, and will continue east along the north boundary of Sections 32 and 33 until ultimately discharging into Drain No. 95.

According to records on file with the Richland County Recorder's office, MC LLLP, a North Dakota limited liability partnership, owns the Southwest Quarter of Section 30 of Antelope Township; according to records on file with the North Dakota Secretary of State's office, Steven Mauch is one of the managing partners of MC LLLP. Further, Madonna and Eric Haberman own the Southeast Quarter of Section 30; Madonna and Curtis Haberman own the Northeast Quarter of Section 31; Thomas M. Vertin, Trustee of the Pantheon Land Trust, Michael Hoffert, and Robert Hoffert are the owners of the Northwest Quarter of Section 32 and the Northeast Quarter of Section 33; Donald D. Moffet owns the North Half of the Northeast Quarter of Section 32; and Gregory M. Christopher owns the North Half of the Northwest Quarter of Section 33.

Mike Bassingthwaite prepared draft responses to the eight elements under Section 89-02-01-09.2 of the North Dakota Administrative Code; the Board reviewed and adopted the draft 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 flowage easements from the owners of the property along the course of the drain until reaching Drain No. 95 (Applicant has already obtained easements). In addition, the Board will require Applicant to obtain permission from Antelope Township to construct, operate, and maintain improved channels in the township's road ditches. The Board will require Applicant to obtain permission from Antelope Township to remove the 24-inch culvert installed in the fall of 2015 in the southeast corner of the Southwest Quarter of Section 30 that discharges into the northeast corner of the Northwest Quarter of Section 31, and to install an 18-inch culvert through its township road in the southeast corner of Section 30 into the northeast corner of Section 31. Finally, the Board will require Applicant to obtain permission from Antelope Township to replace the existing 18-inch culvert through the field approach in the road ditch along the south boundary of Section 30, between the Southwest Quarter and the Southeast Quarter, with a new 18-inch culvert and to install a screw gate on the new culvert (Applicant has already obtained some consents from Antelope Township). In light of these measures, the Board concluded the project will not result in any further adverse impacts.

Manager Burvee, seconded by Manager Haugen, moved to approve APPLICATION FOR SURFACE DRAIN No. 4874 for MC LLLP, Steven Mauch as Managing Partner, subject to any conditions attached by the State Engineer, and subject to the following conditions:

1) That Applicant obtain and record (with the Richland County Recorder's office) flowage easements (and not just written consents) from the owners of the following parcels in Antelope Township, Richland County, North Dakota, for purposes of permitting surface discharge:

- a. The South Half of the Southeast Quarter of Section 30;
- b. The North Half of the Northeast Quarter of the Northeast Quarter of Section 31;
- c. The North Half of the Northwest Quarter of Section 32;
- d. The North Half of the Northeast Quarter of Section 32;
- e. The North Half of the Northwest Quarter of Section 33; and
- f. The North Half of the Northeast Quarter of Section 33.

2) That Applicant will not construct or improve the channel improvements in any manner that exceeds the dimensions indicated in the application, including 5,200 feet of channel improvements; a maximum bottom width of 12 feet; 4:1 side slopes; and a maximum cut depth of 10 feet;

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 Antelope Township Board of Township Supervisors to construct, operate, and maintain surface channel improvements within its township road ditches; to install a north-south 18-inch culvert in the southeast corner of Section 30 and the Northeast Quarter of Section 31; to remove the 24-inch culvert installed in the fall of 2015 in the southeast corner of the Southwest Quarter of Section 30 that discharges into the northeast corner of the Northwest Quarter of Section 31; and to replace the existing 18-inch culvert through the field approach located between the Southwest Quarter of Section 30 and the Southeast Quarter of Section 30 with a new 18-inch culvert with a screw gate;

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 following Managers vote aye: Friskop, Burvee, and Haugen. Manager Moffet has a conflict in the matter and did not participate in the vote, in accordance with the Board's previous conflict analysis. The Board directed Sean Fredricks to prepare the requisite NOTICE OF DECISION and to provide the NOTICE to all parties of record.

The Board will continue to hold the DRAINAGE COMPLAINT from John Nagel in abeyance to determine if Applicant meets the conditions of the approved surface permit. (Appl #15-169/#15-194)

**Regional Conservation Partnership Program (RCPP)**

Managers Moffet, Friskop, and Technician Johnson attended the RCPP Committee Meeting held July 6<sup>th</sup>. Mr. Johnson reported the main issues discussed were sediment

control and erosion along Antelope Creek. Maps were given to the Committee Members at the meeting so they can mark areas where damages occur [within the Antelope Creek Watershed] during spring events. The RCWRB Members were also given maps and asked to mark problem areas that they are aware of. The sites will be compiled and used in the RCPP planning process. The Committee will meet again in August.

### **2018 Budget**

Various budget issues were discussed.

### **Applications**

Appl #17-042, Darin Prochnow: NE1/4 Section 31 & NW1/4 Section 32, Center West Application referred to Center Township Board of Supervisors and Richland County Highway Department as work is within Township and County right-of-ways and under the jurisdiction of the road authorities.

Appl #17-043, Humane Society: NW1/4 Section 7, Center West Application referred to the North Dakota Department of Transportation (ND DOT) as work is within the ND DOT right-of-way and under the jurisdiction of the road authority.

### **Technician's Report**

Mr. Johnson provided photos of the on-going Proj #14 reconstruction. (RCWRD #11-001)

### **Adjournment**

There being no further business to come before the Board, Chr. Friskop adjourned the meeting at 10:05 A.M.

Respectfully submitted,

*Monica Zentgraf*  
Secretary

*Gary Friskop*  
Chairman of the Board