

RICHLAND COUNTY WATER RESOURCE DISTRICT  
Richland County Courthouse, Wahpeton, ND  
September 25, 2018

The Richland County Water Resource Board (RCWRB) met September 25, 2018 at 8:00 AM at the Richland County Courthouse, Wahpeton, North Dakota.

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

THOSE ABSENT: None

### **Minutes**

The September 18, 2018 minutes were presented. A motion was made by Mgr. Moffet and seconded by Mgr. Burvee to approve the September 18, 2018 minutes as presented. The motion carried unanimously.

### **Financial Matters**

- Proj #4(28) Reconstruction- Pay Estimate #2, to JAV Construction, was presented to the Board. The pay estimate represents 100% completion of the Proj #4(28) reconstruction. A motion was made by Mgr. Rostad and seconded by Mgr. Moffet to approve Pay Estimate #2 in the amount of \$24,895.95 and to accept the project as completed in full. The motion carried unanimously. (RCWRD #17-095).

- RS #1 Reconstruction – Pay Estimate #1, to JAV Construction, was presented to the Board. The pay estimate represents 24% completion of the RS #1 reconstruction. The Secretary reported that the pay estimate was approved by the Sargent County Water Resource Board on September 20, 2018. A motion was made by Mgr. Burvee and seconded by Mgr. Haugen to approve Pay Estimate #1 in the amount of \$147,403.80. The motion carried unanimously. (RSWRD #16-001)

- Vouchers- Vouchers for the month of September 2018 were presented for the Board's review and approval. A motion was made by Mgr. Burvee and seconded by Mgr. Haugen to approve Vouchers #17867 through #17889 and the electronic funds transfers for the IRS and Job Service payments. The motion carried unanimously.

- Proj #2 Reconstruction/Extension- The Secretary reported all bills for the reconstruction/extension of Proj #2 have been paid. She requested authorization to move the remaining construction funds, in the amount of \$4,468.83, to the sinking fund. A motion was made by Mgr. Moffet and seconded by Mgr. Rostad authorizing the Bond #2 construction funds to be transferred to the Bond #2 sinking fund. The motion carried unanimously

### **Proj #5(27)- NE1/4 Section 21, Walcott East**

The Board previously addressed concerns from Kathy Olson regarding the drain right-of-way in the NE1/4 Section 21, Walcott East. Based on Mrs. Olson's email, the Board assumed her concerns were the weeds and sweet clover; however, when contacted, Mrs. Olson asked if the right-of-way would be mowed. Mgr. Rostad agreed to contact Mrs. Olson's tenant, Larry Johnson, to see if he would be willing to mow the area for Mrs. Olson.

### **Proj #7 Reconstruction**

- The Managers were informed that the North Dakota State Water Commission (ND SWC) Flood Control and General Water Subcommittee met September 20, 2018. The consensus of the Subcommittee was to move three cost share requests forward to the ND SWC meeting scheduled for December 2018. The District's Proj #7 reconstruction was one of the projects chosen.

- US Army Corps of Engineers (USACE) Permit- The proposed permit was presented to the Board. Upon review, a motion was made by Mgr. Haugen and seconded by Mgr. Rostad to accept the proposed USACE Permit for the Proj #7 reconstruction. The motion carried unanimously.

●ND State Surface Drain Permit- The State Surface Drain application for the Proj #7 reconstruction was presented to the Board. The State Engineer's Office determined the project is not of statewide or interdistrict significance and therefore is the responsibility of the RCWRD to take action on the application. A motion was made by Mgr. Burvee and seconded by Mgr. Moffet to approve the application for the reconstruction of a portion of Proj #7, located in Sections 20, 21, 22, and 23, Garborg Township. The motion carried unanimously. (RCWRD #17-016)

### **Fargo-Moorhead Flood Risk Management Project- Draft Supplemental Environmental Impact Statement (EIS)**

The Managers reviewed a memorandum from Jerry Von Korff, of Rinke Noonan Law Firm, regarding preparation of a comment letter on the Supplemental EIS for the Fargo-Moorhead Flood Risk Management Project (Plan B). Mr. Van Korff is drafting the letter, but it will not be finished until later in the week. A motion was made by Mgr. Burvee and seconded by Mgr. Rostad authorizing filing a comment letter, regarding the Fargo-Moorhead Flood Risk Management Project- Supplemental EIS, with the Minnesota DNR conforming with the outline provided by Mr. Von Korff, subject to any alterations deemed necessary by Chr. Friskop, to authorize Chr. Friskop to execute the comment letter, to authorize Mr. Von Korff to file a Section 404(b) comment with the Supplemental EIS adequacy comments to the USACE, and to request a hearing on those comments, as permitted by law. The motion carried unanimously.

### **ND Legislative Management Water Topics Overview Committee Meeting**

The Managers reviewed the agenda for the September 25-26, 2018 meeting of the ND Legislative Management Water Topics Overview Committee. Mgr. Rostad volunteered to attend the meeting.

### **Applications**

#### **Application to Install a Subsurface Water Management System No. 18-028 for Daniel Pellman and Timothy Pellman in the South Half of Section 17 in Barney Township**

The Board reviewed an *Application to Install a Subsurface Water Management System No. 18-028* dated August 15, 2018, filed September 13, 2018, for Daniel Pellman and Timothy Pellman. Under the application, Applicants seek to install a drain tile system comprising 302 acres of pattern tile in the South Half of Section 17 in Barney Township, Richland County, North Dakota. The project will include a pump outlet in the southeast corner of the Southeast Quarter of Section 17. The pump will outlet to the east through an existing culvert in 164<sup>th</sup> Avenue in the north road ditch along 81<sup>st</sup> Street SE; the tile discharge will continue east for approximately a quarter of a mile and will then outlet into a natural drain that runs southeast, under 81<sup>st</sup> Street and into Section 21 of Barney Township.

The Board would normally have to provide THIRTY-DAY NOTICES to the owners of the Southwest Quarter of Section 16, the property downstream of Applicants' pump outlet. However, Applicants submitted "notarized letters of approval" from the owners of the Southwest Quarter of Section 16; with that in mind, in accordance with N.D. Cent. Code § 61-32-03.1(3), the Board had an obligation to forego THIRTY-DAY NOTICES and approve the application. Under Section 61-32-03.1, no landowners downstream of the outlet into the natural drain in the Southwest Quarter of Section 16 are entitled to THIRTY-DAY NOTICES or to object to the project. Under the tile law passed during the 2017 legislative session, the Board cannot require any additional written consents or easements from downstream landowners. The Board can recommend installation of erosion protection in the natural drain but cannot require it.

According to records on file with the Richland County Recorder's Office, Applicants, Timothy Pellman and Daniel Pellman, own the Southeast Quarter of Section 17, and Applicant Daniel Pellman owns the Southwest Quarter of Section 17. Further, Robert J. Poss and Viola M. Poss, as Trustees under the Poss Family Inter Vivos Trust; Marietta Pellman; David J. Poss; Elizabeth Frazeur; and Doris Foertsch collectively own the Southwest Quarter of Section 16. Further, Southeast Water Users is the holder of a blanket easement regarding water lines in the South

Half of Section 17; Applicant Dan Pellman and Southeast Water Users entered into a letter agreement in which Applicant agreed to a 20-foot separation between Southeast Water Users' water line and all tile lines in the South Half of Section 17.

Manager Burvee moved, and Manager Haugen seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 18-028* dated August 15, 2018, filed September 13, 2018, for Daniel Pellman and Timothy Pellman in the South Half of Section 17 in Barney Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 18-028, subject to the following conditions:

- 1) That Applicants notify the Richland County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 2) That Applicants provide, install, and maintain riprap or other ditch stabilization materials satisfactory to Barney Township at any and all outlets into Barney Township's road right of way;
- 3) That Applicants will not install Applicants' tile system within 20 feet, on either side, of Southeast Water Users' rural water line in the South Half of Section 17; and
- 4) That Applicants 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 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 written permission from the Barney Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches;
- 2) That Applicants notify the Richland 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
- 3) 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.

Appl #18-029, Mooreton Enterprises: W1/2 Section 29, Viking Twp A motion was made by Mgr. Rostad and seconded by Mgr. Moffet to defer the drain tile application pending a *Thirty Day Notice* to the ND DOT. The motion carried unanimously.

### **Adjournment**

There being no further business to come before the Board, Chr. Friskop adjourned the meeting at 10:15 A.M.

Respectfully submitted,  
*Monica Zentgraf*  
Monica Zentgraf  
Secretary

*Gary Friskop*  
Gary Friskop  
Chairman of the Board