

**Barnes County Water Resource District
PO Box 306
Valley City, ND 58072
#845-8508**

Meeting Minutes

August 12, 2024 – 9:00 AM

MEMBERS PRESENT: Chairman- Jery Hieb, Managers – Scott Legge, Bret Fehr, Bruce Anderson, Perry Schlagel; Mike Opat – Houston Engineering; Sean Fredricks – Ohnstad Twichell; Shawn Olauson – Barnes County Commissioner. Also present by Microsoft Teams were Jordan Prazak, engineer for Pat Hurley; and Kale VanBruggen, attorney for Les Hansen.

Chairman Hieb called the meeting to order at 9:00 a.m.

Manager Legge moved to approve the minutes from the July 8, 2024, meeting. Manager Anderson seconded the motion. The motion carried unanimously.

Heather Manson has resigned her position as Secretary-Treasurer. Manager Legge moved to appoint Cara Didier as the Barnes County Water Resource District's new Secretary-Treasurer. Manager Fehr seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Legge moved to pay bills as presented. Manager Fehr seconded the motion. Upon roll call vote, the motion carried unanimously.

OLD BUSINESS

VC Little Dam

Mike and Manager Anderson attended the preconstruction meeting at the Little Dam last month. Anderson discussed Comstock's plan of action. Comstock is looking to start later this month with completion estimated to be October 31, 2024.

USA Fish and Wildlife Service requested the board to send an invoice which was approved by the Board when the Board approved the bills.

NRCS-RCPP: Ten Mile Lake

Mike said that financials have not changed from last meeting on the matter. Mike talked to Eric Brotten to see if the parties could pursue something more cost effective, with a report hopefully next meeting.

Thordenskjold Drain

Mike talked about various drain improvement options. The Board agreed a public meeting would be helpful to engage the public regarding project options. The Board will conduct a public informational meeting September 9.

Sheyenne River Bank Stabilization Study

Mike talked with Keith Weston, acting Chair of the Sheyenne Joint WRD and he said the Joint Board hopes to meet soon, potentially September 20th.

Clausen Springs Dam

Trademark still has been unable to install the trash rack and presented a new invoice. They have also asked for partial payment. The Board will wait to pay until the installation is completed. The board or Mike will keep in contact with Trademark to ensure Trademark is prepared to mobilize when conditions are more favorable for installation.

Hansen/Hurley Complaint

Mr. Hurley reached out to the office and indicated he had completed the remedial work; he indicated they filled in the drain to reduce the width to seven feet at the top, to specs provided by Jordan Prazak. Mr. Prazak indicated that, beyond 750 feet, the drain is a wetland so they did not go any further for fear of Swampbuster violations. Mike has not had the opportunity to review Mr. Prazak's report. Mike plans to conduct a site inspection to determine if Mr. Hurley completed the remedial work as directed by the Board in the NOTICE OF DECISION Sean Fredricks provided. Mike will also want to review the areas they did not fill-in due to the alleged NRCS issues. Mike will report back next meeting. Mr. VanBruggen requested that Barr Engineering be permitted to accompany Mike on the site visit. Mike indicated he will coordinate with Barr and with Jordan Prazak so they can conduct a joint site visit.

Manager Fehr moved to direct Mike Opat to conduct a site visit and to report back to the Board next month. Manager Anderson seconded the motion. Upon roll call vote, the motion carried unanimously.

Svea Drain

According to the Board's records, the Svea Drain was originally established and constructed in the 1950s. Nothing in the Board's file indicates the Board took any action to formally abandon the drain. However, the Board has not maintained the drain and has not assessed any landowners for any work for several years; Sean Fredricks indicated this may qualify as an "abandoned" drain under North Dakota law, and he recommended commencing new legal assessment drain proceedings if the Board wished to treat this as a legal drain and to assess landowners for any new improvements. Mike indicated the estimate for establishing a new drain, the preliminary design, and permitting would be at least \$100K. The Board discussed the possibility of two separate petition/bond requirements: the first at \$30K to

develop the project and the second at \$70K for the cost of taking the project to a vote. If there is support for a project among landowners, they will contact Cara to voice support; Cara will then notify Sean and Mike and they will develop an initial petition/bond document.

Fall Cattail Spraying

Manager Anderson stated that he will get in contact with Mike from Larson to discuss spraying and from there Anderson will contact the secretary.

NEW BUSINESS

Application to Install a Subsurface Water Management System No. 2024-06 for Stephen Somsen in the North Half of Section 29 in Oriska Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2024-06*, filed by Applicant Stephen Somsen on August 1, 2024. Under the Application, Applicant seeks to install a 130-acre drain tile system in the North Half of Section 29 in Oriska Township, Barnes County, North Dakota. The project will include a single gravity outlet along the east boundary of the Northeast Quarter of Section 29; the outlet will discharge directly into a USGS blue line waterway.

According to Barnes County tax roll information, Stephen Somsen and Pennell Somsen own the North Half of Section 29 in Oriska Township. Because the project will discharge into a USGS blue line waterway, no downstream notices are required under N.D. Cent. Code § 61-32-03.1.

Manager Legge moved, and Manager Fehr seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2024-06*, filed August 1, 2024, for Stephen Somsen in the North Half of Section 29 in Oriska Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT No. 2024-06, subject to the following conditions:

1. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
2. Applicant will install and maintain erosion protection at any and all project outlets into the USGS blue line waterway in the Northeast Quarter of Section 29 in Oriska Township.
3. Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Barnes Rural Water District has in the North Half of Section 29 in Oriska Township under any blanket easements, or otherwise beyond Barnes Rural Water District's existing easement.

4. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-06 in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

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 Board recommends 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.

Sean Fredricks will provide copies of the Board's NOTICE OF DECISION, SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-06, downstream flow map, and the Barnes County Permit Form to the Department of Water Resources, Barnes Rural Water District, and Jessica Jenrich. Under North Dakota law, Applicant's detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

Application to Install a Subsurface Water Management System No. 2024-07 for Brad Noeske and Zach Rischmiller in Sections 12 and 13 in Noltimier Township and in the Southwest Quarter of Section 18 in Weimer Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2024-07*, filed by Applicants Brad Noeske and Zach Rischmiller on July 12, 2024. Under the Application, Applicants seek to install a 441-acre drain tile system in the North Half and the Southwest Quarter of Section 13 in Noltimier Township; the East Half of the Southeast Quarter of Section 12 in Noltimier Township; and the Southwest Quarter of Section 18 in Weimer Township, all in Barnes County, North Dakota; the application includes acres previously tiled under SUBSURFACE DRAIN PERMIT NO. 2012-03, approved by the Barnes County Water Resource District on June 11, 2012 (the "2012 Permit"). Under *Application to Install a Subsurface Water Management System No. 2024-07*, Applicants seek to amend and replace the 2012 Permit. The system in the Southeast Quarter of Section 12 will connect to the system in Section 13 via a pipeline that will commence near the southeast corner of the Southeast Quarter of Section 12, under 26th Street SE. The system in the Southwest Quarter of Section 18 in Weimer Township will connect to the system in the North Half of Section 13 via a diagonal line under 126th Avenue SE. The project will include five gravity outlets, including three outlets in the Northwest Quarter of Section 13 in Noltimier Township that will all discharge directly into natural watercourses; one outlet will discharge via a line that will commence at the southeast corner of the Southwest Quarter of Section 13 and will run to the east a short distance, into the Southeast Quarter of Section 13 in Noltimier Township and will daylight and discharge directly into a natural watercourse; and one outlet in the Southwest Quarter of Section 18 in Weimer Township that will discharge directly into a natural watercourse.

According to County tax roll information supplied by Applicants, with regard to property where Applicants intend to install tile components, Kristina A. Ehlis and James M. McAllister own the East Half of the Southeast Quarter of Section 12 in Noltimier Township; Brad Noeske owns the Northeast Quarter of Section 13 and the East Half of the West Half of Section 13 in Noltimier Township; Noeske Farms owns the West Half of the West Half of Section 13 in Noltimier Township; and the Allen and Katherine Gross Trust owns that portion of the Southwest Quarter of Section 18 in Weimer Township where Applicants will install project components. Dennis and Adele Smith own the Southeast Quarter of Section 13 in Noltimier Township where Applicants intend to install pipeline components and a project outlet. Because the project will discharge into natural watercourses, no downstream notices are required under N.D. Cent. Code § 61-32-03.1.

Manager Legge moved, and Manager Fehr seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2024-07*, filed July 12, 2024, for Brad Noeske and Zach Rischmiller in the North Half and the Southwest Quarter of Section 13 in Noltimier Township; the East Half of the Southeast Quarter of Section 12 in Noltimier Township; and the Southwest Quarter of Section 18 in Weimer Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT No. 2024-07, subject to the following conditions:

1. Applicants will re-establish any areas disturbed installing or maintaining Applicants' tile system.
2. Applicants will install and maintain erosion protection at any and all project outlets into the natural watercourses in the Northwest Quarter of Section 13 in Noltimier Township, the Southwest Quarter of Section 13 in Noltimier Township, and the Southwest Quarter of Section 18 in Weimer Township.
3. Applicants will not install Applicants' tile system within 20 feet, on either side, of any rural water lines Barnes Rural Water District has in the North Half and the Southwest Quarter of Section 13 in Noltimier Township; the East Half of the Southeast Quarter of Section 12 in Noltimier Township; and the Southwest Quarter of Section 18 in Weimer Township under any blanket easements, or otherwise beyond Barnes Rural Water District's existing easement.
4. Applicants must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT No. 2024-07 in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

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 Board will recommend that Applicants comply with the following:

1. The Board recommends that Applicants obtain written consent from the Board of Township Supervisors in Noltmier Township and the Board of Township Supervisors in Weimer Township to install and maintain any tile components.
2. The Board recommends that Applicants obtain written consent from the owners of any land not owned by Applicants where Applicants intend to install and maintain tile components.
3. The Board recommends 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.

Sean Fredricks will provide copies of the Board's NOTICE OF DECISION, SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-07, Applicants' downstream flow map, the Barnes County Permit Form, and Brad Noeske Permit No. 2012-03 to the Department of Water Resources, Barnes Rural Water District, Kristina A. Ehls and James M. McAllister, the Allen and Katherine Gross Trust, Dennis and Adele Smith, and Jessica Jenrich. Under North Dakota law, Applicants' detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

Application to Install a Subsurface Water Management System No. 2024-08 for Kent Sortland in the Northeast Quarter of Section 6 in Svea Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2024-08*, filed by Applicant Kent Sortland on July 29, 2024. Under the Application, Applicant seeks to install a 71-acre drain tile system in the Northeast Quarter of Section 6 in Svea Township, Barnes County, North Dakota. The project will include a single pump outlet located along the east boundary of the Northeast Quarter of Section 6; the pump will discharge into the west road ditch along 103rd Avenue SE; the discharge will flow north in the west road ditch until flowing into a pond or slough in the Northeast Quarter of Section 6.

According to Barnes County records supplied by Applicant, Kent and Jeanne Sortland own the Northeast Quarter of Section 6 in Svea Township. Because the project will discharge into a pond or slough in the Northeast Quarter of Section 6, no downstream notices are required under N.D. Cent. Code § 61-32-03.1.

Manager Legge moved, and Manager Fehr seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2024-08*, filed July 29, 2024, for Kent Sortland in the Northeast Quarter of Section 6 in Svea Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-08, subject to the following conditions:

Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.

1. Applicant will install and maintain erosion protection at any and all project outlets into Svea Township's road right of way.
2. Applicant will turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the Barnes County Water Resource District.
3. Applicant will remove silt or vegetation, or repair erosion or scour damages **directly** caused by Applicant's tile system, but only up to the discharge into the pond or slough in the Northeast Quarter of Section 6 in Svea Township, in accordance with N.D. Cent. Code § 61-32-03.1.
4. Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Barnes Rural Water District has in the Northeast Quarter of Section 6 in Svea Township under any blanket easements, or otherwise beyond Barnes Rural Water District's existing easement.
5. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT No. 2024-08 in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

Upon roll call vote, the motion carried unanimously.

With regard to condition #4, Applicant's obligations to remove silt or vegetation, or to repair erosion or scour damages, will only arise upon submission of substantial evidence to the Board by Svea Township that Applicant's tile system **directly** caused accumulation of silt or vegetation, erosion, or scouring, all in accordance with N.D. Cent. Code § 61-32-03.1.

Under Section 61-32-03.1, the Board cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the Board recommends that Applicant comply with the following:

1. The Board recommends that Applicant obtain written consent from the Svea Township Board to discharge into or otherwise utilize any of the Township's road right of way.
2. The Board recommends 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.

Sean Fredricks will provide copies of the Board's NOTICE OF DECISION, SUBSURFACE WATER MANAGEMENT PERMIT NO. 2024-08, Applicant's downstream flow map, and the Barnes County Permit Form to the Department of Water Resources, Svea Township, Barnes Rural Water District, and Jessica Jenrich. Under North Dakota law, Applicant's detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

Cornell 80 project

Sean sent out a draft Joint Board agreement. No action necessary at this time. To be discussed more in future.

Engineer Report

Mike reported that Hobart Lake has an elevation level of 1416.84 and Sanborn Lake at 1426.46 as of August 1st, 2024.

Legal Report

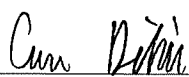
Sean had nothing more to add.

With nothing more to be discussed the meeting was adjourned at 11:22 a.m.

APPROVED:

By: 
Jerry Heeb, Chair

ATTEST:



Cara Didier
Secretary-Treasurer

Barnes County Water Resource District
PO Box 306
Valley City, ND 58072

August 12th, 2024

PLEASE SIGN IN BELOW

Shawn Olanson

BCC

Sheila Cuypers

Svea

Les Rasmussen

Sue

Dan Berger