

MINUTES

STUTSMAN COUNTY WATER RESOURCE BOARD

June 26, 2024

The regular meeting of the Stutsman County Water Resource Board was called to order by Chairman, Joel Lees, on June 26, 2024, at approximately 10:00 a.m. in the County Commissioner's Room of the Stutsman County Courthouse. Members present were Joel Lees, Arlyn Schmidt, Dennis Clark, Anthony Roorda, and John Schock. Additionally present were Cale and LaVonne Kiser, Larry Wahl, John Wahl, and Kay Wahl, Dustin Krueger from NRCS, Tyler Michel from Lippert Township, Aaron Schlenker and Bill Anderson from Montpelier Township, Jeff Liechty, Randy Peterson, Marvin Frey, Jeff Mitchell, and Abbagail Geroux, secretary of the Board.

**MINUTES**

The first order of business was to review and approve the minutes of the May 29, 2024, regular meeting. Upon review, a motion was made by John Schock and seconded by Dennis Clark to approve the minutes as presented. Motion passed.

**W-652- COMPLAINT FOR WATER RELATED ISSUES ON THE NORTHEAST QUARTER OF SECTION 31/137/63, STUTSMAN COUNTY, NORTH DAKOTA SUBMITTED BY CALE AND LAVONNE KISER**

Next order of business was to address the complaint from Cale and LaVonne Kiser. Cale and LaVonne Kiser were sworn in under oath. LaVonne indicated that Adam Wieland collapsed a culvert on a section line. She indicated that this section line road is unimproved. The only person who utilizes it is Mr. Wieland for his property. When the culvert was collapsed, the Kisers replaced the culvert. This was back in 2020. They placed a dent in the culvert that was put in back in 2020. The culvert was then damaged again in 2022. At that time, the Kisers contacted Mr. Wieland, who indicated that he would fix the culvert. Mr. Wieland did not replace the culvert because that dent was still there. What they did notice was that Mr. Wieland placed class 5 gravel over the top of the culvert, but did not replace the culvert itself. The Kisers indicated that the culvert replacement in 2020 was done by Steffes, a professional contractor. LaVonne contacted Bill Anderson from the township board, who indicated that the township would pay to replace the culvert. Kisers allege the collapsed culvert is acting as a dam and it required them to put in a land bridge

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one-half mile down from the dam. Kisers presented two exhibits, the first being Exhibit 7, which is a photo of a prairie trail in and near the area of the section line and Exhibit 8 a photo showing the land bridge that was put on that property. Dennis Clark moved and John Schock seconded a motion to include Exhibits 7 and 8 as part of the exhibits for the case. Motion passed.

Bill Anderson then presented on behalf of Montpelier township. He indicated that this was an unimproved road that the township was not currently taking ownership of. Mr. Anderson indicated the township could not object to the placement of a culvert and that if the landowners wanted to put one in, that would be up to them at their expense.

Next, there was discussion with the board regarding its jurisdiction and a clarification on who was using this particular section line. The Kisers acknowledged that the Wielands were using the section line to access their property. They stated it was a section line, but the road has not been improved. Ms. Geroux provided background to the board on the particular type of complaint that is presented to them, i.e. an obstruction to a water course. "Water course" has a specific definition in the Century Code. The Department of Water Resources was issuing an administrative rule to take affect in July of 2024 providing e to determine if this particular area is considered a water course.

The board members discussed the potential of removing the culvert and keeping that area wide open for appropriate drainage. There was some additional discussion regarding how this culvert could have collapsed because typically culverts which are buried do not collapse due to the weight of machinery equipment.

The board discussed the need to see this in person. It was noted that the board scheduled a site visit in this area for July 26, 2024. Based on that, John Schock moved and Anthony Roorda seconded to table the site visit scheduled for July 26, 2024.

Next, there was some discussion regarding the availability of lidar. It was noted that while there was lidar available of some of the data in this area, there is not easily identifiable elevation data unless you have the skills to interpret the lidar

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and currently there is no funding put in place to have this information calculated on a county wide basis.

**MONTPELIER TOWNSHIP**

The board then addressed the request from Montpelier Township regarding the placement of a culvert. Bill Anderson from Montpelier Township indicated that the DeLairs are requesting Montpelier Township to place another culvert. Mr. Anderson indicated the location of this culvert would be on a road that has been in existence for a period of 60 years. It is about one-half mile west from the DeLairs property. It was noted that the water concern there is water sitting in a slough. It is not a waterway. The water in the slough previously flowed to the south, not towards where the DeLairs would like to have the culvert placed.

The board again reiterated that they do not have jurisdiction to order the placement of a culvert on a township road. There has not been a complaint before the board and again noted that if the water is a slough, it would likely not be considered a natural waterway.

The board took no action at this time.

**LIPPERT TOWNSHIP**

Larry Wahl then put in a request regarding the placement of a culvert in Lippert Township. Mr. Wahl indicated that they were ordered to fill in a drain that was placed in a section line and they were requesting the placement of a 15-inch culvert. It was noted that this area consists of an approach that goes into a slough. According to Mr. Wahl, the Stutsman County State's Attorney did not have concerns about the placement of a culvert so long as the dirt was put back by July 31, 2024. Larry Wahl indicated his request was that he obtain board approval for the installation of a culvert.

Tyler Michel, who is on the Lippert Township Board, who took over for Brian Jones, indicated he reviewed the area and observed that the Wahls dug a drain along one of the section lines and then dug through a section line which is the subject matter for this request. Tyler Michel read the minutes of the Lippert Township Board where they discussed this issue. They requested that the Wahls pay for a survey to find the pins

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and the actual location of the section line and the township's 33-foot right of way. They requested that a culvert be placed no more than 36 inches deep and placed no lower than the 48-inch culvert located directly to the south, and requested that the new culvert be placed north of the east-west right of way. The placement of the culvert will be paid for by the owner and done by a professional contractor. He further requested that the Wahls draft up a written plan that would be maintained by the parties. There was some discussion regarding the process for the closing of the section line road. It was noted that the township did take ownership of the road. It was also noted that the section line abuts to Woodbury Township and so there may be a need to involve Woodbury Township. Anthony Roorda again noted that the board has no jurisdiction to order the placement of a culvert on a township road, and the parties should work together to come to a resolution and encouraged them to also contact Woodbury Township. No action that was taken at this time.

#### **UPPER SHEYENNE JOINT WATER RESOURCE BOARD AMENDMENT**

The board then addressed the Amendment for the Upper Sheyenne Joint Water Resource Board. Ms. Geroux indicated the board previously approved of the method for hiring an attorney for the Upper Sheyenne Board. This Amendment reflected the request of the board. Ms. Geroux explained the process for approval and its impacts to the various boards and the joint board. John Schock moved and Anthony Roorda seconded a motion to approve the Amendment and send this proposed Amendment to the Joint Board for examination.

Dennis Clark then mentioned to the board that Ben Varnson, who has been the longtime chairman of the Upper Sheyenne Board, has recently resigned due to health reasons.

#### **MISCELLANEOUS**

Next, Marvey Frey, who sits on the Stutsman County Fair Board addressed the board. Mr. Frey reminded the board that back in May of 2021, the Fair Board filed a Complaint of Unauthorized Drainage against Larry Loose for an open cut drain that he had dug on his property connecting to the fairgrounds property. Mr. Frey indicated Mr. Loose was now in the process of putting together a development. Part of this proposed development included the placement of a retention pond with an

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outlet in the same area that Mr. Loose dug the unauthorized drain. Mr. Frey expressed concerns about the impact to the Fair Board's property. Ms. Geroux explained the process that Mr. Loose was required to complete with the City of Jamestown, which would include a storm water management plan. Ms. Geroux encouraged Mr. Frey to visit with the city staff to further discussion his concerns. Mr. Frey indicated that he did participate at a zoning meeting of the City to express his concerns, but would also reach out after this meeting.

The board then addressed the general business before the board. There was discussion with Dennis Clark regarding attendance at the Upper Sheyenne Board and a site visit.

**FINANCIALS**

The board then reviewed the bills and financials and vouchers. Anthony Roorda moved and John Schock seconded a motion to approve the bills, financials, and waivers as presented. Motion passed.

**CHECK NUMBERS**

- 1. Dalsted & Ryan, P.C. - \$1,215.00 #2937
- 2. VOIDED CHECK #2938
- 3. Joel Lees - \$314.94 #2939
- 4. Arlyn Schmidt - \$232.83 #2940
- 5. John Schock - \$259.54 #2941
- 6. Anthony Roorda - \$186.83 #2942
- 7. Dennis Clark - \$588.80 #2943

Next, the board addressed the final item on the agenda, which is a site visit of the City of Spiritwood Lake hypolimnetic drawdown project. It was noted that the board would recess at this time, and they would meet for lunch at the Spiritwood Resort. After lunch, the board would resume in the parking lot of the Spiritwood Lake Resort to commence the site visit. Based on the same, Anthony Roorda moved and Dennis Clark seconded a motion to recess the board meeting.

Chairman Joel Lees then re-opened at the meeting at 1:25 p.m. in the parking lot of the Spiritwood Lake Resort. In attendance for this portion of the meeting was Joel Lees, Anthony Roorda, John Schock, Dennis Clark, and Arlyn Schmidt.

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Additionally present were Kirk Grimm, Mayor of the City of Spiritwood Lake, and Cindy Grimm, Dustin Krueger, NRCS, Mike Schlecht, who is on the Spiritwood Lake City Council, Judy Schlecht, John Schweitzer and Sherry Schweitzer, and Abbigail Geroux, secretary of the board.

The board attended to the site visit. The board reviewed the hypolimnetic drawdown structure. It also viewed the location where the water is placed in an open channel. It also viewed the area of the fish weir where the water would eventually meet and coningle. There was a demonstration to show how the hypolimnetic drawdown works. It was noted that the pipe where the water is being pulled from, which is located approximately 4 to 4.5 feet off the bottom the lake. It is placed at the lowest place of the lake, which lines up with Spiritwood the resort. It was noted that the drawdown started this year on April 18th.

There was also discussion that Dustin Krueger is currently doing testing on the lake and is working on a grant to continue to do testing to see how the impact of this project would be on water quality. Mr. Krueger did note that once he pulled the sample for this recent testing from Spiritwood Lake, the quality of the water at the bottom of the lake was clear. It was also noted that the water being pulled from Spiritwood Lake by the drawdown structure is all water that is from the bottom. It is then coningled with water from the area of the fish weir from the open channel.

The board concluded the site visit. It was also noted that mileage should be included for Anthony Roorda, Dennis Clark, and Arlyn Schmidt for attending the site visit.

There being no further business before the board, Arlyn Schmidt moved and John Schock seconded a motion to adjourn at 2:00 p.m.

RESPECTFULLY SUBMITTED:

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ABBAGAIL GEROUX  
Secretary

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**BOARD APPROVAL OF MINUTES**

The board approved the minutes this \_\_\_\_ day of \_\_\_\_\_,  
2024.

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JOEL LEES, Chairman, or  
ANTHONY ROORDA, Vice-Chairman