

MINUTES

STUTSMAN COUNTY WATER RESOURCE BOARD

**SPECIAL MEETING**

September 18, 2020

A special meeting of the Stutsman County Water Resource Board was called to order by Chairman Joel Lees on September 18, 2020, at 1:30 p.m. at 2350 62<sup>nd</sup> Avenue Southeast, Woodworth, North Dakota. Members present were Joel Lees, Arlyn Schmidt, John Schock, Dennis Clark, and Anthony Roorda. Also present was Abby Geroux, Secretary of the Board. Additionally, present were Barry Hazer and Kim Hieb.

**W-624 COMPLAINT OF UNAUTHORIZED DRAINAGE- Barry Hazer**

The purpose of this meeting was to conduct a site visit of the Complaint by Barry Hazer. Mr. Hazer first showed the Board members various locations on his property. In particular, he showed the dams surrounding his property. Afterwards, the Board members went to view the various areas that Mr. Hazer indicated was the subject of his complaint. The members were separated into two vehicles; some with Mr. Hazer in his vehicle and some in Joel Lees' vehicle. Mr. Hieb drove separately. Many of the locations required the Board Members to view the subject property on foot. The Board also noted that a culvert was placed on a Township road after the land was broken up. There was some discussion regarding drainage done by Elden Redlin, however, the Board noted that no complaint had been filed against Mr. Redlin, so any discussion regarding drainage would not be addressed. There was discussion regarding the Complaint of Unauthorized Drainage complained of after 1984. Mr. Hieb indicated that the area complained of was broken up before Mr. Hieb was involved. He indicated that the property was broken up 40 years ago. The Board also viewed the Spillways, which was part of the 1984 complaint. Ms. Geroux reminded the Board and the parties in attendance that part of the resolution of the complaint was an apparent agreement between Delton Hieb, Kim Hieb's father, and Barry Hazer, for the construction of a dam. Although an Engineering firm was hired to review these structures and their retaining capacity, no official action for approval of the dams or documentation of the agreement was found within the paperwork of the Water Resource Board. When reviewing these areas, the parties acknowledged that it appeared the areas were opened by

mother nature. There was some discussion regarding whether there was a need to obtain a permit for drainage before 1985. The Board discussed the Sodbuster Law, which is a Federal Law, where many farmers with the financial support of NRCS drained property. The Board inquired with Mr. Hazer regarding the specific areas he wanted to see closed or modified to satisfy his complaint. Mr. Hazer requested the following:

1. Mr. Hieb close the drain located by Elden Redlin's mailbox;

2. To put back the dam as it was shown in the Engineer's report from the 1984 complaint; and

3. To close up the Spillways that had been created.

John Schock noted after reviewing the area by Mr. Elden Redlin's mailbox that it was clear that there was some man-made activity in the area but could not tell if the drainage way was filled in or widened. Mr. Hieb disputed that he created the drainageway and indicated that was the natural flow of the water in that area. Mr. Hazer commented that the Board should have an Engineer review these areas, as he felt an Engineer would be able to explain to the Board that the areas were unauthorized drainage. Mr. Hazer believed that the land was broken up by Elden's mailbox sometime in the 1990's but was unsure exactly when. It is also important to note that Mr. Hieb recently placed a winter crop on this section. Throughout this site visit there was discussion with the Board members and Mr. Hazer regarding the time frame of when he believes the work on the various areas of drainage occurred. Mr. Hazer was unable to give specific dates and times. It did not indicate that he observed any of the actions which would precipitate drainage. However, it was noted that back in the 1984 complaint Mr. Delton Hieb did acknowledge doing some work which would cause drainage onto Mr. Hazer's property. After the Board members viewed all of the sites requested by Mr. Hazer, Anthony Roorda moved and Arlyn Schmidt seconded a motion to find that there was no unauthorized drainage. There was again discussion indicating that the Board members could not tell if any of the work was done in the 1980's or 1990's because it appeared any work done was a significantly long time ago, so they would be unable to tell based on the passage of time. It was noted that if any work was done, it was not done recently. Dennis Clark indicated that it would be easier to make a determination on the complaint if they had access to the NRCS maps. Mr. Hieb indicated that the maps would show that they had this property showing drainage at least over 40 years ago and that he would be willing to provide it. Mr. Hazer indicated that the property near Elden Redlin's mailbox was broken up in the 1990's. Mr. Hieb disputed that and indicated that the property was broken up before then. Mr. Hieb

indicated that he would be willing to provide copies of the NRCS maps at the next regularly scheduled Board Meeting. Therefore, Anthony Roorda withdrew his motion and Arlyn Schmidt withdrew his second motion.

Next, there was discussion regarding the fact that the complaint before the Board contained two complaints. One related to the complaint from 1984 and two, an additional complaint based on the property near Elden Redlin's mailbox. After further discussion, Mr. Hieb and Mr. Hazer came to an agreement regarding part of the complaint from the 1984 complaint. Therefore, that part of the complaint is to be withdrawn.

### **State Auditor Bill**

The Board then discussed adjourning the meeting, however, once the Board returned to Mr. Hazer's farmstead, they recalled that there was an additional item to discuss on the agenda, which was the bill to the North Dakota State Auditor for the 2018 and 2019 audits. Stutsman County indicated that they previously would send the Board's portion of the audit bill to the Water Resource Board, but it appeared that they had not done so for the last couple of years, and requested that the Water Resource Board pay for the 2018 and 2019 audits, which amounted to a total of \$5,000.00. The Board requested that Ms. Geroux conduct additional review with the County and the State Auditor to get a better understanding of the costs. Ms. Geroux indicated that she visited with Heath Erickson of the North Dakota State Tax Commissioners Office, who handles the audit. He explained to Ms. Geroux that the County receives a couple of bills for the auditing process, and for 2019 their total bill was \$25,000.00 and therefore the Water Resource Board's portion was approximately 10% of that bill. He indicated that their office did approximately 28 hours of work for the audit, which is billed out at a rate of \$80/hour. He noted that the significant time involved is because of the number of checks that they need to do to ensure that any funds that are dispersed from the Water Resource Board account were properly approved. The Board questioned whether they had made any prior payments to this in past years, and Ms. Geroux indicated that she did not believe so but that she could double check the checkbook again. The Board indicated that they would like to table the matter until the regular Water Resource Board meeting scheduled for September 30, 2020. The Water Resource Board's next regularly scheduled meeting was also verbally provided to Mr. Hieb and Mr. Hazer, and Ms. Geroux indicated that she would include this item on the agenda.

Seeing no further business before the Board, Anthony Roorda moved and Arlyn Schmidt seconded a motion to adjourn the meeting. Motion passed.

RESPECTFULLY SUBMITTED:

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ABBAGAIL GEROUX  
Secretary

**BOARD APPROVAL OF MINUTES**

The board approved the minutes this \_\_\_\_ day of \_\_\_\_\_,  
2020.

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JOEL LEES, Chairman, or  
ARLYN SCHMIDT, Vice-Chairman