

October 24, 2023

MINUTES OF THE MEETING OF THE PEMBINA COUNTY WATER RESOURCE DISTRICT BOARD
OF MANAGERS HELD IN THEIR OFFICE IN THE LAW ENFORCEMENT BUILDING,
CAVALIER, NORTH DAKOTA.

Those present were Managers Donald Kemp, Richard Kendall, William Gunderson, Ted Juhl and LuAnn Kemp, secretary. Attorney Fleming also present. A motion was made by Ted Juhl, seconded by William Gunderson, vote unanimously carried to approve the minutes of October 10, 2023.

A motion was made by Ted Juhl, seconded by Donald Kemp, by vote unanimously carried to amend the agenda to add: ND DWR Cost-share for the Tongue River Dam EAPs, Tyler Cameron @ 9:15 am re: Drain 38, Drain 4 Contract, ND DWR Cost-share for Drain 16, beaver dam in Drain 51.

A motion was made by Donald Kemp, seconded by William Gunderson, by vote unanimously carried to pay the bills as presented:

13973	10/25/2023	Olafson Ventures	14,755.00
13974	10/25/2023	Kendall Construction	4,080.00
13975	10/25/2023	Polar	10,483.00
13976	10/25/2023	Hancock Concrete	20,321.88
13977	10/25/2023	Zion Bank	4,064.45
13978	10/25/2023	True North Steel	103,288.21
13979	10/25/2023	Quill	128.96

Chad Kendall – Kendall Construction met with the board regarding updates. The board reviewed the estimates for the tree/brush removal on the dams as well as the Drain 51 bank repair. Discussion followed on what material to use on the Drain 51 project with board preference of clay indicated. A motion was made by William Gunderson, seconded by Donald Kemp, by vote unanimously carried to approve the tree removal bid of Renwick \$3,800 across dam (ending at fishing dock) and spillway, Olson dam \$2300 across dam and discharge, and Senator Young \$2,300 across dam and discharge as well as the Drain 51 for \$4200.

The board also discussed the remaining spoil on private property along Drain 67A cleanout. Spoil can not be left outside of the current easements. Houston Engineering will be contacted to mark the easement areas along the drain.

Deane Scharmer met with the board regarding the culvert configuration in Section 2 of S. Midland. Scharmer would like to add a cross pipe from Section 2 to south of the drain main line culverts. Houston Engineering will be contacted to review the current culvert configuration and make recommendations. Scharmer also discussed drainage in the Section 16 of South Midland. The area was previously involved in the complaint process, and the board will review the historic file.

Tyler Cameron met with the board regarding the culverts in Drain 38 along the NW side of Highway 12 bridge. The board previously met with Devon Johnson -Pembina County Highway and agreed to cover the culverts. Cameron would like the culvert replaced and maintained. He agreed to allow it to remain covered for winter to allow for snow removal and look at solutions in the spring for draining that corner – possibly re-routing the culvert away from the bridge and discharge further to the west.

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Jeff Duray – Triple D Construction met with the board regarding progress updates. Duray discussed the site inspection and possible repair to the TR Cutoff- Zaharia. A motion was made by Ted Juhl, seconded by William Gunderson, by vote unanimously carried to approve the estimate of Triple D Construction for \$9500 to repair the berm in the area of the Cutoff affecting Mr. Zaharia. The board reviewed the estimate for the FEMA repairs to Drain 39 slide area. A motion was made by Donald Kemp, seconded by Ted Juhl, by vote unanimously carried to approve the estimate from Triple D Construction of \$24,450 with a deadline of September 1, 2023 to repair the Drain 39 slide.

The board received one bid from Triple D Construction for the Drain 13 Emergency Repairs. A motion was made by Ted Juhl, seconded by William Gunderson, by vote unanimously carried to accept the bid as presented and award to Triple D Construction for \$12,500.

The board received two bids from Triple D Construction and Kendall Construction for the Drain 67A 2023 FEMA Cleanout.

- Kendall Construction - \$54,360
- Triple D Construction - \$47,380

A motion was made by William Gunderson, seconded by Ted Juhl, by vote unanimously carried to accept the bids as presented and award to Triple D Construction for \$47,380.

The dam drawdowns have started and are progressing. Renwick will be checked to ensure adequate drawdown before freeze-up.

A motion was made by Ted Juhl, seconded by Donald Kemp, by vote unanimously carried to approve the Drain 34 Loan paperwork with the Bank of ND and authorize LuAnn Kemp to sign.

The board reviewed the O'Toole tile project for under 80 acres in the SE ¼ Section 12 Crystal township. A motion was made by William Gunderson, seconded by Ted Juhl, by vote unanimously carried to approve the ND DOT permit for the O'Toole tile project under 80 acres.

The board reviewed the estimates from Olafson Ventures for the Drain 67B beaver dam removal. A motion was made by William Gunderson, seconded by Ted Juhl, by vote unanimously carried to approve the estimate of \$765 to remove the beaver dam from 67B near the Hansen driveway. Olafson will be contacted regarding the beaver dam in W-3 near Tongen's as well.

The board reviewed the tax certificate for Drain 80 failed petition. A motion was made by Donald Kemp, seconded by William Gunderson, by vote unanimously, to assess the parcels of the petitioners that had not paid by October 15, 2023 as follows:

- Lee Augustin 09-0300000 – NE ¼ Section 8-159-54 \$16315.00
- Harold Morley Johnston LE 16-1400000 -- SW ¼ Section 31-160-54 \$16315.00
- Steven Olson 09-0930000 -- S ½ NW ¼ Section 22-159-54 \$16315.00
- Thomas O'Toole 16-1380000 -- NW ¼ Section 31-160-54 \$16315.00
- Bart Swanson 09-0210000 – NE ¼ Section 6-159-54 \$16315.00

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A motion was made by Richard Kendall, seconded by William Gunderson by vote unanimously carried to approve the recommendation of Houston Engineering for the ACEC-ND award.

A motion was made by Donald Kemp, seconded by Ted Juhl, by vote unanimously carried to approve the ND DWR application for Cost-share for the Tongue River Dams EAPs.

A motion was made by William Gunderson, seconded by Donald Kemp, by vote unanimously carried to approve the ND DWR application for additional cost-share for the Drain 16 Extension. Discussion followed on the budget and expectations. A meeting will be held with Houston to discuss the next steps.

A motion was made by William Gunderson, seconded by Ted Juhl, by vote unanimously carried to approve the Drain 4 contract with Kendall Construction – Manager Kendall abstained.

A motion was made by Ted Juhl, seconded by William Gunderson, by vote unanimously carried to dismiss the complaint of the city of Pembina vs Gastrak based upon the city minutes dated October 9, 2023.

Attorney Fleming reviewed the process of the complaint jurisdiction determination. At this point, the Attorney General has not provided any response. A motion was made by Richard Kendall, seconded by William Gunderson, to dismiss the following complaints

- Fleming vs Voecks
- J. Cull vs Voecks
- Olason vs Voecks
- N. Christenson vs Voecks
- B Christenson vs Voecks
- Baldwin vs Voecks
- Peterson vs Voecks
- Alex Cull vs Voecks
- Andrew Cull vs Voecks
- Ratchenski vs Voecks
- Lindenberger vs Voecks

due to lack of jurisdiction. Roll Call vote – Kendall – Yes, Gunderson – Yes, Juhl – yes, Kemp – no – vote passes 3-1.

The Johnson Farms Vs Hughes and the Cameron vs Johnson Farms are both reported to be complete by landowner. Houston Engineering will be contacted to verify the elevations and complete removal of the dike to specified levels.

Manager Gunderson discussed the board's policy for Contractor Bids. Discussion followed on the \$25,000 level for estimates only and not soft-bids.

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Contracts from the 2022 projects were discussed regarding the spoil leveling. There are areas on Drain 6, 16 and 67 where spoil may be problematic. The board decided to prepare the Drain 16 spoil for a soft-bid to be paid 100% by the drain with a deadline of August 15, 2023 and penalty of \$500/day. Draft bid will be prepared for review. Drain 6 will be reviewed parcel by parcel next summer. Drain 67A – Houston Engineering will be contacted to stake the drain ROW with any material outside the easement to be hauled and placed in approved areas as directed by the engineer. The board reviewed Manager Emanuelson's board report sent via text.

A motion was made by Donald Kemp, seconded by Ted Juhl, by vote unanimously carried to purchase 20 feet of 24 inch CMP from Drayton township to replace the pipe provided by Travis Uggerude for Drain 67C.

There is a beaver dam in the NE ¼ Section 12-160-52 in Drain 66 under the bridge that needs removal. Estimates will be requested from contractor for removal by November 10, 2023.

A motion was made by Ted Juhl, seconded by William Gunderson, by vote unanimously carried to approve the 48 inch inside trap requested by Jay Gudajtes for Drain 67.

Manager Kendall discussed a need for the Olga Dam road to be repaired, a washout west of Jeff Whelan's yard, and snagging and clearing specifications. Houston Engineering will be contacted regarding the Whelan yard area. Discussion followed on the easements along the river downstream of Renwick Dam.

Drain 34 – Fischer reported that the design of the culvert crossing will not need additional rip rap. He is working with Triple D and Pembina County Highway to add additional rip rap to the bridge on Drain 34.

Attest: _____
LuAnn Kemp, Secretary

Richard Kendall - Chairman