

LaMoure County Water Resource District Special Meeting Thursday, October 8, 2020

At approximately 9:00 a.m. Chairman Kerry Ketterling called the virtual meeting to order with the following board members present Glenn Haugen, Jason Gross, Bobby Frauenberg, Co-Secretary/Treasurer Jan Hamlin and Shanel Bohnenstingl, and Water Resource District Attorney Kim Radermacher. Board member, Nathan Nitschke, was not present. Also attending were Donny Schrader, Scott Schrader, Calvin Bierley, Attorney Terry Effertz representing the Bierley brothers, and Attorney Kale Van Brugen representing the Schraders'.

Ms. Effertz stated, that in regards to the Water Resource District special meeting held on July 31st, 2020 for which three permits for Scott Schrader were approved, there were claims that a few downstream landowners that were not properly notified of the project and would like to put a hold on the applications and open up a 30-day window for Bierleys' to submit technical evidence.

Water Resource District Attorney Kim Radermacher stated that the three applications received by Scott Schrader appeared to drain into a natural watercourse therefore downstream landowners were not entitled to notice. Ms. Effertz explained the minutes did not reflect any discussion just the motion to approve the applications. Ms. Radermacher explained that because the drain is not an illegal drain, the complaint is not a proper complaint and recommends the complaint be dismissed.

Ms. Radermacher also recommended that the board re-opened and review the permit, contact potential downstream landowners of affected area, and have a state engineer determine whether the waterway is a natural watercourse. Ms. Effertz agreed that is what the Bierley's would like to happen so they can submit technical evidence showing how the project would impact them. It is the Bierleys' belief that it is not a natural watercourse, so the opposing party agrees in having a state engineer determine if it is a natural watercourse which can take up to 6-7 months.

Mr. Van Brugen has asked the water board to send out a notice and reschedule a meeting 30 days from the date of the notice. The water board would then review any technical evidence submitted by the Bierley's.

Mr. Schrader asked if an independent engineer would be able to make the determination on the watercourse because the time for the state engineer is 6-7 months out. Ms. Radermacher stated that since the permit was granted it was assumed it was a natural watercourse so the Water Resource District can only defer to the State Engineer.

Mr. Haugen made a motion to dismiss the complaint as it is believed to be a natural watercourse and therefore not an illegal drain, seconded by Mr. Frauenberg. Motion carried.

Mr. Frauenberg made a motion to re-open permit #2020-4 (1 of 3) for review, seconded by Mr. Haugen. Motion carried.

Mr. Frauenberg made a motion to have a state engineer determine if the waterway in question is a natural watercourse or not, seconded by Mr. Gross. Motion carried.

Meeting adjourned at approximately 9:34 a.m.

Approved this 11th day of January, 2021

Kerry Ketterling, Chairman

ATTEST:

Shanel Bohnenstingl, Co-Secretary