

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING
MAPLE RIVER WATER RESOURCE DISTRICT
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
APRIL 7, 2022

A virtual / conference call meeting of the Maple River Water Resource District was held on April 7, 2022, at 8:00 a.m.

Present were Rodger Olson, Chairman; Gerald Melvin, Manager; Carol Harbeke Lewis, Secretary-Treasurer; Nina Stone, Accountant; Melissa Maertens, Administrative Assistant; Sean Fredricks, Ohnstad Twichell, P.C.; Kurt Lysne, Alexa Ducioame, Josh Hassell and Brady Woodard, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Mary Scherling and Duane Breitling, Cass County Commissioners; Tom Soucy, Cass County Highway Department; Kyle Nelson, Farmers National Company; Justin Johnson, Richland County Water Resource District; and Caryn Weber, Everest Township Chair. Manager Chad Miller was absent.

Agenda

It was moved by Manager Melvin, seconded by Chairman Olson and unanimously carried to approve the order of the agenda, as presented.

Minutes

It was moved by Manager Melvin and seconded by Chairman Olson to approve the minutes of the March 3, 2022, meeting. Upon roll call vote, the motion carried unanimously.

Lynchburg-Buffalo Project No. 2016-01

Sean Fredricks briefly updated the Board on the status of right of way acquisition for Phase III of Lynchburg-Buffalo Project No. 2016-01.

Buffalo Creek – township road issue between Sections 19 and 30 in Everest Township

Caryn Weber discussed repair options for erosion to the road between Sections 19 and 30 in Everest Township along the Buffalo Creek and inquired about cost-share for the project. Kurt Lysne noted the Buffalo Creek between Sections 19 and 30 in Everest Township is not included in the federal Buffalo Creek project that Maple River Water Resource District maintains and thus the Water Resource District does not have a mechanism for assisting with funding for the project. The Board encouraged Ms. Weber to explore eligibility for cost-share from the North Dakota Department of Water Resources (NDDWR) and the Cass County Flood Sales Tax Committee. Ms. Weber indicated Everest Township will look into the suggested cost-share possibilities for the project.

Upper Swan Creek Channel Improvement Project No. 2020-01

Mr. Lysne reported final design and specifications regarding Upper Swan Creek Channel Improvement Project No. 2020-01 are complete and the project is currently being advertised for bids. The bid opening is scheduled for May 3, 2022. Brief discussion was held on financing for the project. Ohnstad Twichell, P.C. will begin preparing documents for the bond issue regarding the project.

Drain #34 Improvement Project

Mr. Lysne and Josh Hassell discussed preliminary plans for the Drain #34 Improvement Project. A master plan will be developed, with input from the Cass County Highway Department. This will help to prioritize needs to highway crossings and other improvements to the drain.

Discussion was held on benefits of Drain #34 serving as an alternate outlet for Cass-Richland Drain #1. Mr. Fredricks said Drain #34 and Cass-Richland Drain #1 could be combined into one legal assessment district in the future. Discussion on the matter will continue at a future meeting.

Drain #37 Improvement Project

Mr. Hassell discussed preliminary plans and the cost estimate for the Drain #37 Improvement Project. An adjacent property owner will be contacted about potentially removing trees to flatten the Drain #37 channel side slopes near the property. The next steps regarding the Drain #37 Improvement Project will be to submit an *Application for Surface Drain* to the NDDWR and a cost-share application to the State Water Commission.

Cornell Township Drainage Improvement District No. 80

Moore Engineering, Inc. continues to work on preliminary design including hydrology and hydraulic work for Cornell Township Drainage Improvement District No. 80. Petitioners will be contacted for input on the project. The preliminary plans and cost-estimate should be complete in a couple of months. Mr. Lysne noted property owners have been notified of the upcoming survey work for the project.

Wheatland Channel Repair and Sediment Removal Project 2021

Brady Woodard reported the contractor will be mobilizing this spring to level spoil and repair a breakout area regarding the Wheatland Channel Repair and Sediment Removal Project 2021.

Davenport Flood Risk Reduction Project

Mr. Lysne updated the Board on the Davenport Flood Risk Reduction Project. Moore Engineering, Inc. continues working on project design and the items needed to submit a Conditional Letter of Map Revision to FEMA for the project. Mr. Lysne indicated Moore Engineering, Inc. is also looking into pump station alternatives such as a PTO pump to help reduce electricity costs and maintenance for the project. Brief discussion was held on right of way acquisition for the project.

Regional Conservation Partnership Program – Upper Maple River Watershed

Mr. Lysne reported the exception request letter for the benefit-cost ratio for the RCPP – Upper Maple River Watershed Plan has been submitted to the National Watershed Management Center. The Natural Resources Conservation Service are gathering items to support the exception request for the Plan. If the exception request is granted, the National Watershed Management Center will review the Plan.

Application to Install Subsurface Water Management System No. 20221 for Dale Madsen in the S 1/2 of Section 12 in Wheatland Township, W 1/2 of Section 7 and W 1/2 of Section 18 in Casselton Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 20221*, filed March 23, 2022, by Applicant Dale Madsen. Under the Application, Applicant seeks to install a 290-acre drain tile system in the S 1/2 of Section 12 in Wheatland Township, and the W 1/2 of Section 7 and the NW 1/4 of Section 18 in Casselton Township, Cass County, North Dakota. The project will include pipelines under and through 151st Avenue SE (between Section 12 in Wheatland Township and Section 7 in Casselton Township), and 32nd Street SE. The project will include three gravity outlets; the first will be in the SW 1/4 of Section 12 in Wheatland Township and will discharge directly into Swan Creek. The other two gravity outlets will both extend south from the NW 1/4 of Section 18 via pipelines across a small portion of the SW 1/4 of Section 18, where both pipelines will daylight and discharge directly into Swan Creek.

According to County tax roll information supplied by Applicant, with regard to the property where Applicant intends to install the tile system, Dale Madsen owns the S 1/2 of Section 12 in Wheatland Township; Michael Ulmer owns 104.94 acres in the NW 1/4 of Section 7 in Casselton Township; Shelley Parkhouse owns 132.8 acres in the SW 1/4 of Section 7 in Casselton Township; and Harmar Limited Partnership owns 130.61 acres in the NW 1/4 of Section 18 in Casselton Township. The pipelines will run across property owned by Ronald and Faye Kingsley in the SW 1/4 of Section 18 in Casselton Township.

It was moved by Manager Melvin and seconded by Chairman Olson to approve *Application to Install a Subsurface Water Management System No. 20221* filed March 23, 2022, for Dale Madsen regarding a proposed tile system in the S 1/2 of Section 12 in Wheatland Township, and the W 1/2 of Section 7 and the NW 1/4 of Section 18 in Casselton Township, and to authorize the Secretary-Treasurer to sign *Subsurface Water Management Permit No. 20221*, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any and all outlets into Swan Creek.
2. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
3. Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Cass Rural Water Users District has in the S 1/2 of Section 12 in Wheatland Township; the W 1/2 of Section 7 in Casselton

Township; or the NW 1/4 of Section 18 in Casselton Township, under any blanket easements, or otherwise beyond the Water District's existing easement(s).

4. Applicant must apply for an amendment to *Subsurface Water Management Permit No. 20221* 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 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 will recommend that Applicant comply with the following:

1. The Board recommends that Applicant obtain easements from the owners of the W 1/2 of Section 7 and the NW 1/4 of Section 18 to install and maintain Applicant's tile system.
2. The Board recommends that Applicant obtain a pipeline easement from the owner of the SW 1/4 of Section 18 to install and maintain pipelines.
3. The Board recommends that Applicant obtain written consent from the Wheatland Township Board of Township Supervisors and the Casselton Township Board of Township Supervisors to install any pipeline within or through their respective roads or road right of way.
4. 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.

The Board will provide copies of the Board's *Notice of Decision, Subsurface Water Management Permit No. 20221*, and Applicant's downstream flow map to the North Dakota Department of Water Resources, the various landowners, Wheatland Township, Casselton Township, and Cass Rural Water Users District. 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. 20222 for Tate Eugene Camas and Jason Schatzke in the S 1/2 of Section 12 in Eldred Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 20222*, filed April 1, 2022, by Applicants Tate Eugene Camas and Jason Schatzke. Under the Application, Applicants seek to install a 99-acre drain tile system in the S 1/2 of Section 12 in Eldred Township, Cass County, North Dakota. The project will include a single gravity outlet near the east boundary of the SE 1/4 of Section 12; the outlet will

discharge directly into a slough on the SE 1/4 of Section 12. The slough may overflow into the west road ditch along Cass County Highway 7 but, in accordance with Section 61-32-03.1 of the North Dakota Century Code, once a tile project discharges into a slough, the reviewing water resource district no longer has jurisdiction over the tile discharge.

According to County tax roll information, Jason and Tanya Schatzke own the SW 1/4 of Section 12 of Eldred Township, and Tate Camas owns the SE 1/4 of Section 12.

It was moved by Manager Melvin and seconded by Chairman Olson to approve *Application to Install a Subsurface Water Management System No. 20222* filed April 1, 2022, for Tate Camas and Jason Schatzke regarding a proposed tile system in the S 1/2 of Section 12 in Eldred Township, and to authorize the Secretary-Treasurer to sign Subsurface Water Management Permit No. 20222, subject to the following conditions:

1. Applicants will install and maintain erosion protection at any and all outlets into the slough in the SE 1/4 of Section 12 of Eldred Township.
2. Applicants will re-establish any areas disturbed installing or maintaining Applicants' tile system.
3. Applicants will not install Applicants' tile system within 20 feet, on either side, of any rural water lines Cass Rural Water Users District has in the S 1/2 of Section 12 in Eldred Township, under any blanket easements, or otherwise beyond the Water District's existing easement(s).
4. Applicants must apply for an amendment to *Subsurface Water Management Permit No. 20222* 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 Board 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 notify the Cass County Highway Department regarding any overflow of the tile discharge from the slough in the SE 1/4 of Section 12 into any of the County's highway right of way.
2. 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.

The Board will provide copies of the Board's *Notice of Decision, Subsurface Water Management Permit No. 20222*, and Applicants' downstream flow map to the North Dakota Department of Water Resources, downstream landowners, the Cass County Highway Department, and Cass Rural Water Users District. 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. 20223 for Tim Richman and M and M Farms Partnership in the NW 1/4 of Section 3, Section 4 and Section 5 of Tower Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 20223*, filed April 5, 2022, by Applicants Tim Richman and M and M Farms Partnership. Under the Application, Applicants seek to install a 668-acre drain tile system in the NW 1/4 of Section 3, all of Section 4, and the E 1/2 of Section 5 in Tower Township, Cass County, North Dakota. The project will include lines under 135th Avenue SE and 136th Avenue SE to connect the system on the various parcels. The project will include a single gravity outlet located near the northwest corner of the NW 1/4 of Section 3; the outlet will discharge into the Maple River. The project will include four surface inlets.

According to County tax roll information supplied by Applicants, Robert and Jane Pierce own the NE 1/4 of Section 4; Mark and Pamela Johnson own the E 1/2 of the W 1/2 of Section 4 and the W 1/2 of the NE 1/4 of Section 5; Jennifer Richman owns the W 1/2 of the W 1/2 of Section 4 and the E 1/2 of the NE 1/4 of Section 5; Todd Pierce owns the W 1/2 of the NE 1/4 of Section 4; the Rich Family Trust owns the SE 1/4 of Section 4; Mark and JoAnne Johnson own 133.13 acres in the NW 1/4 of Section 3; and Timothy and Stacy Richman own the SE 1/4 of Section 5.

It was moved by Manager Melvin and seconded by Chairman Olson to approve *Application to Install a Subsurface Water Management System No. 20223* filed April 5, 2022, for Tim Richman and M and M Farms Partnership regarding a proposed tile system in the NW 1/4 of Section 3, all of Section 4, and the E 1/2 of Section 5 in Tower Township, and to authorize the Secretary-Treasurer to sign *Subsurface Water Management Permit No. 20223*, subject to the following conditions:

1. Applicants will install and maintain erosion protection at any and all outlets into the Maple River.
2. Applicants will re-establish any areas disturbed installing or maintaining Applicants' tile system.
3. Applicants will not install Applicants' tile system within 20 feet, on either side, of any rural water lines Cass Rural Water Users District has in the NW 1/4 of Section 3, in Section 4, and in the E 1/2 of Section 5 in Tower Township, under any blanket easements, or otherwise beyond the Water District's existing easement(s).

4. Applicants must apply for an amendment to *Subsurface Water Management Permit No. 20223* 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 Board 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 Tower Township Board of Township Supervisors to install any lines or project components on or through any of the Township's ditches or road right of way.
2. The Board recommends that Applicants obtain written consent from the Cass County Highway Department to install any lines or project components on or through any of the County's Highway 32 right of way.
3. The Board recommends that Applicants obtain easements or otherwise enter into written agreements with the owners of the property where Applicants intend to install the tile system.
4. 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.

The Board will provide copies of the Board's *Notice of Decision, Subsurface Water Management Permit No. 20223*, and Applicants' downstream flow map to the North Dakota Department of Water Resources, Tower Township, the Cass County Highway Department, landowners where Applicants intend to install the tile system, and Cass Rural Water Users District. Applicants' detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

Notification to Install Subsurface Water Management System provided by Ellingson Companies in the SW 1/4 of Section 2 in Hill Township

The Board received and filed the *Notification to Install Subsurface Water Management System* provided by Ellingson Companies in the SW 1/4 of Section 2 in Hill Township.

Utility Permit for Dickey Rural Networks to install fiber optic cables under Drain #14 on the west side of Cass County Highway 15 in Section 8 of Mapleton Township

A motion was made by Manager Melvin and seconded by Chairman Olson to approve the *Utility Permit* for Dickey Rural Networks to install fiber optic cables under Drain #14 on

the west side of Cass County Highway 15 in Section 8 of Mapleton Township, with input from the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

2023-2025 Water Development Plan – request from the NDDWR / State Water Commission to identify potential water development projects, the timing of their implementation and estimated costs

Mr. Lysne discussed a list of Maple River Water Resource District projects to submit to the NDDWR for the 2023 Water Development Plan. It was moved by Manager Melvin and seconded by Chairman Olson to authorize Moore Engineering, Inc. to submit the list of Maple River Water Resource District projects to the NDDWR for the 2023 Water Development Plan. Upon roll call vote, the motion carried unanimously.

North Dakota Insurance Reserve Fund – proxy for annual meeting

A motion was made by Chairman Olson and seconded by Manager Melvin to authorize the Secretary-Treasurer to sign and return the North Dakota Insurance Reserve Fund proxy for Maple River Water Resource District. Upon roll call vote, the motion carried unanimously.

Letter of engagement to the Office of the State Auditor for 2021 audit services

A motion was made by Manager Melvin and seconded by Chairman Olson to approve the letter of engagement to the Office of the State Auditor for 2021 audit services for Maple River Water Resource District. Upon roll call vote, the motion carried unanimously.

Bills

It was moved by Manager Melvin and seconded by Chairman Olson to approve payment of Check #6120, the wire transfers and electronic funds transfers, as presented. Upon roll call vote, the following Managers voted in favor: Olson and Melvin. Manager Miller was absent. The Chairman declared the motion passed.

Upper Maple River Dam – tree removal

Mr. Woodard stated the tenant of the Water Resource District owned property for the Upper Maple River Dam has inquired if the Water Resource District would be willing to remove the fallen trees and debris in the shelterbelt on the property and potentially replant the trees.

A motion was made by Manager Melvin and seconded by Chairman Olson to authorize Moore Engineering, Inc. to obtain a quote to remove and replant the trees in the shelterbelt on the Water Resource District owned property for the Upper Maple River Dam and bring the information to a future meeting for discussion. Upon roll call vote, the motion carried unanimously.

Adjournment

There being no further business for the Board to consider, it was moved by Manager Melvin, seconded by Chairman Olson and unanimously carried to adjourn the meeting.

APPROVED:

Rodger Olson
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer