

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING
MAPLE RIVER WATER RESOURCE DISTRICT
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
SEPTEMBER 1, 2022

A virtual / conference call meeting of the Maple River Water Resource District was held on September 1, 2022, at 8:00 a.m.

Present were Rodger Olson, Chairman; Gerald Melvin, Manager; Chad Miller, Manager; Carol Harbeke Lewis, Secretary-Treasurer; Nina Stone, Accountant; Melissa Hinkemeyer, Administrative Assistant; Sean Fredricks, Ohnstad Twichell, P.C.; Kurt Lysne, Alexa Ducioame and Brady Woodard, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Duane Breitling, Cass County Commissioner; Tom Soucy, Cass County Highway Department; Calson Ekwen and Temiloluwa Ajayi, Minnesota State University Moorhead students.

Agenda

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

Minutes

It was moved by Manager Melvin and seconded by Manager Miller to approve the minutes of the August 4, 2022, meeting. Upon roll call vote, the motion carried unanimously.

Upper Swan Creek Channel Improvement Project No. 2020-01

Brady Woodard reported the contractor for Upper Swan Creek Channel Improvement Project No. 2020-01 has stripped topsoil and removed trees this week in preparation to begin work on the channel within the next few weeks.

Sean Fredricks stated the right of way Easements acquired for the Upper Swan Creek Channel Improvement Project No. 2020-01 supersede the existing right of way Easements in the project area regarding the Upper Swan Creek Channel. The existing Easements are no longer needed and can be released.

It was moved by Manager Miller and seconded by Manager Melvin to approve and authorize the Chairman to sign a *Release of Easement* involving the following property owners regarding the Swan Creek Channel:

- Beatrice Vining
- Cass County Wildlife Club
- Dallas Nesemeier
- James Nesemeier

- Vivian Nesemeier
- William Roney, et al.

Upon roll call vote, the motion carried unanimously.

Drain #34 Improvement Project

Kurt Lysne indicated the next steps for the Drain #34 Improvement Project are to complete the final design, apply for the permits needed and begin right of way acquisition.

It was moved by Manager Miller and seconded by Manager Melvin to authorize the following regarding the Drain #34 Improvement Project:

- Moore Engineering, Inc. to proceed with final plans and specifications, permitting and commencement of right of way acquisition; and
- Ohnstad Twichell, P.C. to obtain desktop appraisals for right of way needed.

Upon roll call vote, the motion carried unanimously.

Drain #37 Improvement Project

Mr. Lysne noted fieldwork needs to be completed before winter for the Section 404 Permit application regarding the Drain #37 Improvement Project.

It was moved by Manager Melvin and seconded by Manager Miller to authorize Moore Engineering, Inc. to conduct the necessary fieldwork and submit the Section 404 Permit application to the Corps of Engineers regarding the Drain #37 Improvement Project in Sections 28, 21 and 16 of Davenport Township. Upon roll call vote, the motion carried unanimously.

2022 facility inspections

Alexa Ducioame discussed the preliminary plans to repair the slide on Drain #39 in Section 24 of Maple River Township and indicated Moore Engineering, Inc. is examining potentially flattening the Drain #39 side slopes to help avoid future slides.

Cornell Township Improvement District No. 80

Mr. Lysne reported Moore Engineering, Inc. met with the petitioners to discuss and gather feedback on the preliminary design and cost estimate for the Cornell Township Improvement District No. 80 Project. The petitioners reacted favorably to the information and are currently discussing various project design alternatives. If the petitioners decide to proceed the Water Resource District Attorney will prepare the necessary documents.

Davenport Flood Risk Reduction Project

Ms. Ducioame updated the Board on the Davenport Flood Risk Reduction Project. Moore Engineering, Inc. is in contact Red River Valley and Western Railroad Company to discuss crossings for the project. Once the project alignment is finalized, the Conditional Letter of Map Revision will be submitted to FEMA and necessary permits and right of way will be acquired for the project. Brief discussion was held on the project design regarding temporary levee closures needed during flooding conditions.

Regional Conservation Partnership Program (RCPP) – Upper Maple River Watershed

Mr. Lysne reported the RCPP – Upper Maple River Watershed Plan will need modifications per feedback from the Natural Resources Conservation Service and the National Watershed Management Center. Moore Engineering, Inc. is developing a cost estimate to update the Plan and will provide the information to the Cass County Joint Water Resource District for discussion. Potential cost-share opportunities available for the project were also discussed.

Upper Maple River Dam – tree removal

Mr. Woodard reported the contractor removing the fallen trees in the shelterbelt on Water Resource District owned property in Section 35 of Carpenter Township for the Upper Maple River Dam is coordinating with the tenant to schedule the work.

Tower City Lagoon Improvements – request for letter of support to submit with the North Dakota Department of Water Resources (NDDWR) construction permit application

Mr. Lysne discussed the Tower City Lagoon Improvements Project and indicated the project requires a construction permit from the NDDWR. Tower City is requesting the Water Resource District submit a letter of support for the project with the construction permit application to aid in the NDDWR’s review of the permit application.

A motion was made by Manager Miller and seconded by Manager Melvin to authorize the Secretary-Treasurer to sign and submit a letter of support regarding the Tower City Lagoon Improvements Project with the construction permit application for the project to the NDDWR. Upon roll call vote, the motion carried unanimously.

Application to Install a Subsurface Water Management System No. 202218 for Randy, Lori and Darrin Kasowski in the N 1/2 and SW 1/4 of Section 6 in Wheatland Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 202218*, filed August 30, 2022, by Applicants Randy, Lori, and Darrin Kasowski. Under the Application, Applicants seek to install a 235-acre drain tile system in the N 1/2 and SW 1/4 of Section 6 in Wheatland Township, Cass County, North Dakota. The project will include a gravity outlet in the NE 1/4 of Section 6 and a second gravity outlet in the SW 1/4 of Section 6; both outlets will discharge directly into a tributary of Swan Creek.

According to County tax roll information supplied by Applicants, Randy, Lori, and Darrin Kasowski own the NW 1/4 of the NE 1/4 in Section 6 and the W 1/2 of Section 6; and Jean Norgard owns the NE 1/4 of the NE 1/4 and the S 1/2 of the NE 1/4 in Section 6.

Manager Melvin moved, and Manager Miller seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 202218* filed August 30, 2022, for Randy, Lori, and Darrin Kasowski regarding a proposed tile system in the N 1/2 and SW

1/4 of Section 6 in Wheatland Township, and to authorize the Secretary-Treasurer to sign *Subsurface Water Management Permit No. 202218*, subject to the following conditions:

1. Applicants will install and maintain erosion protection at any and all outlets into the tributary of Swan Creek.
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 N 1/2 or in the SW 1/4 of Section 6 in Wheatland Township, under any blanket easements, or otherwise beyond the Water Users District's existing easement(s).
4. Applicants must apply for an amendment to *Subsurface Water Management Permit No. 202218* 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 owner of the NE 1/4 of the NE 1/4 and the S 1/2 of the NE 1/4 in Section 6 to install or maintain any tile components.
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. 202218*, and Applicants' downstream flow map to the North Dakota Department of Water Resources, Jean Norgard, 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. 202219 for Truman Kingsley in the W 1/2 of Section 26 in Wheatland Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 202219*, filed August 30, 2022, by Applicant Truman Kingsley. Under the Application, Applicant seeks to install a 120-acre drain tile system in the W 1/2 of Section 26 in Wheatland Township, Cass County, North Dakota. The project will include a single pump outlet that will discharge into the north road ditch of Cass County Highway 10 in the SW 1/4 of Section 26, to the northeast of Wheatland; the discharge will flow under Cass County Highway 10 and will flow to the southwest until discharging into a tributary of Swan Creek in the SE 1/4 of Section 27 in Wheatland Township.

According to County tax roll information supplied by Applicant, Connie Kingsley owns the SW 1/4 of Section 26 and the W 1/2 of the NW 1/4 in Section 26 where Applicant intends to install the tile system. With regard to downstream property, Robert Dorr and Gaye Marie Strand own parcels in the SE 1/4 of Section 27 in Wheatland Township.

Manager Melvin moved, and Manager Miller seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 202219*, filed August 30, 2022, for Truman Kingsley regarding a proposed tile system in the W 1/2 of Section 26 in Wheatland Township; and to authorize the Secretary-Treasurer to sign *Subsurface Water Management Permit No. 202219*, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any and all outlets into Cass County's Highway 10 right of way.
2. Applicant must turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the Maple River Water Resource District.
3. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
4. 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 W 1/2 of Section 26 in Wheatland Township under any blanket easements, or otherwise beyond the Water Users District's existing easement(s).
5. Applicant will remove silt or vegetation, or repair erosion or scour damages **directly** caused by Applicant's tile system, but only up to the discharge into the tributary of Swan Creek in the SE 1/4 of Section 27 in Wheatland Township.

6. Applicant must apply for an amendment to *Subsurface Water Management Permit No. 202219* 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.

With regard to condition #5, Applicant's obligations to remove silt or vegetation, or to repair erosion or scour damages, will only arise upon submission of substantial evidence to the Board by a downstream landowner or road authority that Applicant's tile system **directly** caused accumulation of silt or vegetation, erosion, or scouring.

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 written consent from the Cass County Highway Department to discharge into or otherwise utilize any of its County Highway 10 right of way.
2. 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* and *Subsurface Water Management Permit No. 202219* to the North Dakota Department of Water Resources, Wheatland Township, Robert Dorr, Gaye Marie Strand, 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.

Notification to Install a Subsurface Water Management System provided by Ellingson Companies in the SW 1/4 of Section 28 in Durbin Township

The board received and filed a *Notification to Install a Subsurface Water Management System* provided by Ellingson Companies in the SW 1/4 of Section 28 in Durbin Township. The Board had no comments on the matter.

Utility Permit for Insight Technologies, Inc. dba ReadTech Fiber to install one new fiber optic cable under Drain #62 between Sections 33 and 34 in Casselton Township

A motion was made by Manager Melvin and seconded by Manager Miller to approve *Utility Permit* for Insight Technologies, Inc. dba ReadTech Fiber to install one new fiber

optic cable under Drain #62 between Sections 33 and 34 in Casselton Township, with input from the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

Utility Permit for MLGC, LLC to install fiber optic cable under Drain #14 in Section 7 of Warren Township north of Cass County Highway 6

A motion was made by Manager Melvin and seconded by Manager Miller to approve the *Utility Permit* for MLGC, LLC to install fiber optic cable under Drain #14 in Section 7 of Warren Township north of Cass County Highway 6, with input from the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

Utility Permit for MLGC, LLC to install fiber optic cable under Drain #37 in Section 9 of Addison Township north of Cass County Highway 6

A motion was made by Manager Melvin and seconded by Manager Miller to approve the *Utility Permit* for MLGC, LLC to install fiber optic cable under Drain #37 in Section 9 of Addison Township north of Cass County Highway 6, with input from the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

Cass County Planning

A motion was made by Manager Miller, seconded by Manager Melvin and unanimously carried to authorize the Secretary-Treasurer to submit comment on the Hovland Subdivision application to Cass County Planning, with input from the Water Resource District Engineer.

Bills

It was moved by Manager Melvin and seconded by Manager Miller to approve payment of Checks #6126 through #6129, the wire transfers and electronic funds transfers, as presented. Upon roll call vote, the following Managers voted in favor: Olson, Melvin and Miller. The motion carried unanimously.

Drain #62 –North Dakota Soybean Processors, LLC in Section 33 of Casselton Township

Discussion was held on modifications to Drain #62 to accommodate the soybean processing plant in Section 34 of Casselton Township. North Dakota Soybean Processors, LLC will be constructing a driveway across Drain #62 and improvements will be needed to 36th Street SE. Cass County may be constructing the improvements in that area, including the modifications to Drain #62. Mr. Fredricks noted a three-party Agreement with North Dakota Soybean Processors, LLC and Cass County has been drafted and will be brought to a future meeting for consideration by the Board. The Board briefly discussed a potential future reassessment of Drain #62.

Lynchburg-Buffalo Project No. 2016-01

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

Cass County Highway Department crossing updates

Tom Soucy reported on various Cass County Highway Department crossing projects regarding Water Resource District facilities. Mr. Soucy said the contractor installing the box culvert between Sections 28 and 33 in Lake Township regarding Drain #46 plans to install the box culvert in late October as the box culvert is anticipated to be delivered in mid-October. The same contractor will be replacing a box culvert located on Cass County Highway 9 between Sections 7 and 8 of Durbin Township in September. Due to concrete supply issues, the Cass County Highway 9 road surface in the construction area may need to be graveled for the winter. Mr. Soucy also reported the contractor has almost completed the Cass County Highway 15 bridge over Drain #14 between Sections 8 and 9 of Mapleton Township. The crossing is anticipated to be open to traffic in mid-September.

Wheatland Channel - Grand Farm

Mr. Lysne reported Grand Farm has purchased property in the NE 1/4 of Section 8 of Everest Township and is currently planning to construct structures on both sides of the Wheatland Channel. Mr. Lysne advised representatives of Grand Farm to contact the Secretary-Treasurer to place the matter on the next agenda to discuss the matter.

Adjournment

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

APPROVED:

Rodger Olson
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer