

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING  
MAPLE RIVER WATER RESOURCE DISTRICT  
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT  
WEST FARGO, NORTH DAKOTA  
MAY 4, 2023

A virtual / conference call meeting of the Maple River Water Resource District was held on May 4, 2023, 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 M. 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; and Kellen Grubb, AE2S.

**Agenda**

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

**Minutes**

It was moved by Manager Melvin and seconded by Manager Miller to approve the minutes of the April 6, 2023, meeting. Upon roll call vote, the motion carried unanimously.

**Wheatland Channel - Grand Farm crossings in the NE 1/4 of Section 8 in Everest Township**

Kurt Lysne updated the Board on the design of the Grand Farm crossings in the NE 1/4 of Section 8 in Everest Township regarding the Wheatland Channel. The design is self-mitigating to not impact structures downstream. Tom Soucy briefly updated the Board on the status of the Grand Farm plat of the property. Mr. Lysne also noted Grand Farm has agreed to move their wetland mitigation area further away from the Wheatland Channel to allow the Water Resource District room for future maintenance of the Wheatland Channel.

**Drain #34 Channel Improvement Project No. 2022-01**

Mr. Lysne updated the Board on Drain #34 Channel Improvement Project No. 2022-01 in Sections 18, 19, 30 and 31 of Normanna Township. Moore Engineering, Inc. is nearly complete with the final design. Sean Fredricks stated *Purchase Agreements* are being finalized and will be sent to property owners regarding right of way acquisition for the Project. Mr. Lysne stated the economic analysis for the project required by the North Dakota Department of Water Resources (NDDWR) has changed and Moore Engineering, Inc. is working with the NDDWR Economist regarding the matter. Due to the economic

analysis change, the cost-share request for the project has been delayed to the August State Water Commission meeting. Alexa Ducioame reported the *Application for Surface Drain* was returned by the NDDWR and the Section 404 Permit is being reviewed by the Corps of Engineers regarding the Project.

**Drain #37 Improvement Project No. 2022-01**

Mr. Lysne updated the Board on Drain #37 Improvement Project No. 2022-01. He is working on the economic analysis for the project with the NDDWR Economist. Ms. Ducioame reported the Corps of Engineers approved the Section 404 Permit for the project. *Purchase Agreements* are being finalized and will be sent to property owners regarding right of way acquisition for the Project.

**Drain #39 Improvements - Sections 24 and 25 of Maple River Township**

Mr. Lysne reported the NDDWR approved the cost-share request for preconstruction costs of the Drain #39 Improvements Project in Sections 24 and 25 of Maple River Township.

A motion was made by Manager Melvin and seconded by Manager Miller to approve and authorize the Chairman to sign the *Agreement for Cost-Share Reimbursement* with the State Water Commission for preconstruction costs regarding the Drain #39 Improvements Project in Sections 24 and 25 of Maple River Township. Upon roll call vote, the motion carried unanimously.

A motion was made by Manager Miller and seconded by Manager Melvin to authorize Moore Engineering, Inc. to proceed with final design and drafting of legal descriptions for right of way needed regarding the Drain #39 Improvements Project in Sections 24 and 25 of Maple River Township. Upon roll call vote, the motion carried unanimously.

**Drain #62 – North Dakota Soybean Processors, LLC**

Discussion was held on the Drain #62 relocation in Section 33 of Casselton Township. Mr. Fredricks indicated an *Access Easement* with North Dakota Soybean Processors, LLC is currently being reviewed and will be considered at a future meeting. Mr. Lysne noted an *Application for Surface Drain* for the project has been submitted to the NDDWR.

**Buffalo-Lynchburg Project No. 2023-01**

Mr. Lysne reported the NDDWR approved the cost-share request for preconstruction costs for Buffalo-Lynchburg Project No. 2023-01.

It was moved by Manager Melvin and seconded by Manager Miller to do the following regarding Buffalo-Lynchburg Project No. 2023-01:

- Approve and authorize the Chairman to sign the *Agreement for Cost-Share Reimbursement* with the State Water Commission for preconstruction costs
- Authorize Moore Engineering, Inc. to proceed with preliminary design

Upon roll call vote, the motion carried unanimously.

### **Cornell Township Drainage Improvement District No. 80**

Mr. Lysne reported petitioners for Cornell Township Drainage Improvement District No. 80 have selected a preferred project alignment. The next step is the preliminary determination of benefits regarding the project.

A motion was made by Manager Miller and seconded by Manager Melvin to authorize Moore Engineering, Inc. to proceed with preliminary design and preliminary assessment analysis regarding Cornell Township Drainage Improvement District No. 80. Upon roll call vote, the motion carried unanimously.

### **Davenport Flood Risk Reduction Project**

Alexa Ducioame updated the Board on the Davenport Flood Risk Reduction Project. Ms. Ducioame stated the Conditional Letter of Map Revision (CLOMR) is ready to submit to FEMA pending signatures from local township and city officials. Moore Engineering, Inc. arranged a meeting with the officials next week to discuss and answer questions regarding the project and the associated CLOMR. The design of the project is complete. Mr. Lysne said he is in discussions with Burlington Northern Santa Fe Railway Company and Red River Valley & Western Railroad Company regarding the project. Ms. Ducioame reported the Corps of Engineers has approved the Section 404 Permit for the project and an *Application to Construct* will be submitted to the NDDWR when the CLOMR is in place.

Discussion was held on the current timeline for construction of the project. Mr. Lysne indicated construction could begin in 2024 following acquisition of permits and right of way for the project. The Board discussed the updated cost estimate for the project.

Brief discussion was held on correspondence with a neighboring property owner regarding the project.

### **Regional Conservation Partnership Program – Upper Maple River Watershed**

Mr. Lysne briefly updated the Board on the RCPP – Upper Maple River Watershed Plan. The public scoping / plan update meeting regarding the Plan is scheduled for May 30, 2023. A letter will be sent to property owners to update them on the status of the Plan.

### **Upper Maple River Dam – maintenance**

Brady Woodard reported on the current conditions at the Upper Maple River Dam. Water did not get close to the spillway this spring, but some cleanup work may be needed.

Mr. Woodard said he remains in contact with the Steele County Soil Conservation District regarding the timing of replanting the shelterbelt on Water Resource District owned property in Section 35 of Carpenter Township. The work was pushed back due to cleanup work not yet completed by the contractor from the removal of the fallen trees. The contractor is working directly with the tenant to complete the cleanup work.

**Application to Install a Subsurface Water Management System No. 202311 for Brandon Larson, Aaron Larson and Larry Biffert in the E 1/2, the SW 1/4 and the N 1/2 NW 1/4 of Section 31 in Casselton Township**

The Board next reviewed *Application to Install a Subsurface Water Management System No. 202311*, filed April 18, 2023, by Applicants Brandon Larson, Aaron Larson, and Larry Biffert. Under the Application, Applicants seek to install a 445-acre drain tile system in the E 1/2, the SW 1/4, and the N 1/2 of the NW 1/4 of Section 31 in Casselton Township, Cass County, North Dakota. The project will include a single pump outlet in the southeast corner of the SE 1/4 of Section 31; the pump will discharge into the north road ditch along 36th Street SE; the discharge will flow east in the north road ditch, along the south boundary of the SW 1/4 of Section 32, until ultimately discharging into the Casselton Township Improvement District No. 62 Project ("Drain 62"), a legal assessment drain owned and operated by the Maple River Water Resource District.

According to County tax roll information supplied by Applicants, Brandon and Nicole Larson own the SE 1/4 of Section 31 in Casselton Township; Aaron and Stacie Larson own the NE 1/4 and the SW 1/4 of Section 31; and Larry and Cynthia Biffert own the NW 1/4 of Section 31. With regard to downstream property, Brad and Mary McIntyre own the SW 1/4 of Section 32. Once the project discharges into Drain 62, the Maple River Water Resource District no longer has jurisdiction over the tile discharge under the tile statute.

Manager Melvin moved, and Manager Miller seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 202311* filed April 18, 2023, for Brandon Larson, Aaron Larson, and Larry Biffert regarding a proposed tile system in the E 1/2, the SW 1/4, and the N 1/2 of the NW 1/4 of Section 31 in Casselton Township, and to authorize the Secretary-Treasurer to sign *Subsurface Water Management Permit No. 202311*, subject to the following conditions:

1. Applicants will install and maintain erosion protection at any and all outlets into Casselton Township's road right of way.
2. Applicants will re-establish any areas disturbed installing or maintaining Applicants' tile system.
3. Applicants will turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the Maple River Water Resource District.
4. 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 Section 31 of Casselton Township, under any blanket easements, or otherwise beyond Water Users District's existing easement(s).

5. Applicants will remove silt or vegetation, or repair erosion or scour damages **directly** caused by Applicants' tile system, but only up to the discharge into Drain 62.
6. Applicants must apply for an amendment to *Subsurface Water Management Permit No. 202311* 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, Applicants' 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 Applicants' 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 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 Casselton Township to discharge into or otherwise utilize any of its road 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. 202311*, and Applicants' downstream flow map to the North Dakota Department of Water Resources, Casselton Township, Brad and Mary McIntyre, 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. 202312 for Jeff Wadeson in the NE 1/4 and the S 1/2 of Section 21 in Clifton Township**

The Board next reviewed *Application to Install a Subsurface Water Management System No. 202312*, filed April 26, 2023, by Applicant Jeff Wadeson. Under the Application, Applicant seeks to install a 355-acre drain tile system in the NE 1/4 and the S 1/2 of

Section 21 in Clifton Township, Cass County, North Dakota. The project will include two gravity outlets; both outlets will be along the east boundary of the SE 1/4 in Section 21 and both will discharge via pipelines that will run east, under 136th Avenue SE, then across a portion of the SW 1/4 in Section 22, until daylighting and discharging into the Maple River.

The project includes the entire project footprint proposed and approved under *Subsurface Water Management System Permit No. 20234* approved by the Maple River Water Resource District on March 2, 2023, for Permittee Steve Olson. Mr. Olson's project contemplated a 127-acre drain tile system in the NE 1/4 of Section 21 in Clifton Township, with a pump outlet proposed near the southeast corner of the NE 1/4 that would discharge directly into a natural watercourse, and would ultimately flow into the Maple River. The project proposed by Mr. Wadeson under *Application to Install a Subsurface Water Management System No. 202312* will evidently incorporate all of the tile improvements proposed by Mr. Olson, and will eliminate the proposed pump outlet in the NE 1/4 of Section 21 in favor of two gravity and pipeline outlets proposed by Mr. Wadeson. Approval of *Application to Install a Subsurface Water Management System No. 202312* for Mr. Wadeson will supersede the Board's previous approval of Subsurface Water Management System Permit No. 20234 for Mr. Olson.

According to records on file with Cass County, Wadeson Land Partnership LLLP owns the S 1/2 of Section 21; Steven J. Olson is purchasing the NE 1/4 of Clifton Township under a contract for deed with David and Mary Nudell; and Kathleen Lande owns the SW 1/4 of Section 22 in Clifton Township, where Applicant intends to install pipelines. Once the project discharges into the Maple River, the Maple River Water Resource District no longer has jurisdiction over the tile discharge.

Manager Miller moved, and Manager Melvin seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 202312*, filed April 26, 2023, for Jeff Wadeson regarding a proposed tile system in the NE 1/4 and the S 1/2 of Section 21 in Clifton Township; and to authorize the Secretary-Treasurer to sign *Subsurface Water Management Permit No. 202312*, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any and all outlets into the Maple River.
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 NE 1/4 or in the S 1/2 of Section 21 in Clifton Township under any blanket easements, or otherwise beyond the Water Users District's existing easement(s).

4. Applicant must apply for an amendment to *Subsurface Water Management Permit No. 202312* 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 written consent from the Clifton Township Board of Township Supervisors to install any pipelines or other project components within the Township's road right of way.
2. The Board recommends that Applicant obtain and record pipeline easements from the owner of the SW 1/4 of Section 22 in Clifton Township.
3. 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. 202312*, and Applicant's downstream flow map to Steve Olson, the North Dakota Department of Water Resources, Clifton Township, Kathleen Lande, David and Mary Nudell, 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.

**Utility Permit for Cass Rural Water Users District to install a potable water pipeline under Drain #14 on the south side of 37th Street SE (south I-94 frontage road)**

Kellen Grubb discussed the *Utility Permit* for Cass Rural Water Users District before the Board for consideration. Mr. Grubb stated Cass Rural Water Users District is relocating existing facilities that are impacted by the Metro Flood Diversion Project.

It was moved by Manager Miller and seconded by Manager Melvin to approve the *Utility Permit* for Cass Rural Water Users District to install a potable water pipeline under Drain #14 on the south side of 37th Street SE (south I-94 frontage road), 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 TEPI Fifth Subdivision to Cass County Planning, with input from the Water Resource District Engineer.

### **2024 budget and 2023 maintenance levy assessments**

The Board tabled discussion on the 2024 budget and 2023 maintenance levy assessments until the next meeting as the Maple River Water Resource District Master Plan is currently being updated.

### **Bills**

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

### **North Dakota Water Resource Districts Association – 2023 Joint Summer Water Meeting**

The North Dakota Water Resource Districts Association 2023 Joint Summer Water Meeting and Executive Briefing is scheduled for July 19-20 in Dickinson, North Dakota.

### **Upper Swan Creek Channel Improvement Project No. 2020-01**

Discussion was held on damage to the crossing between Sections 21 and 28 in Casselton Township that was installed as part of Upper Swan Creek Channel Improvement Project No. 2020-01. Mr. Lysne indicated the project contractor was notified of the damage and is determining a plan to repair the crossing. Mr. Lysne indicated the area experienced significant overland flooding this spring.

### **Legislative updates**

Mr. Fredricks updated the Board on legislative matters regarding water resource districts.

### **2023 facility inspections**

Mr. Woodard inquired about conducting facility inspections following the spring flood event. It was moved by Manager Melvin, seconded by Manager Miller and unanimously carried to authorize Moore Engineering, Inc. to conduct a 2023 inspection of Maple River Water Resource District facilities. Upon roll call vote, the motion carried unanimously.

### **Office remodel update / meeting location**

The Secretary-Treasurer reported the Cass County Highway Department is currently being renovated and future Maple River Water Resource District meetings are planned to be held in a different room at the Cass County Highway Department during the renovation.



**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:

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Rodger Olson  
Chairman

ATTEST:

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Carol Harbeke Lewis  
Secretary-Treasurer