

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING  
MAPLE RIVER WATER RESOURCE DISTRICT  
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT  
WEST FARGO, NORTH DAKOTA  
JULY 6, 2023

A virtual / conference call meeting of the Maple River Water Resource District was held on July 6, 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, Brady Woodard and Levi Hanson, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Duane Breitling, Cass County Commissioner; Tom Soucy, Cass County Highway Department; Kellen Grubb, AE2S; Sidney Steinweg, Davenport Township property owner; and Ryan Ottis, Ottis Contracting LLC.

**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 June 1 and 19, 2023, meetings. Upon roll call vote, the motion carried unanimously.

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

Sean Fredricks updated the Board on the Grand Farm Subdivision plat in the NE 1/4 of Section 8 in Everest Township regarding the Wheatland Channel. The *Permanent Easement* with Grand Farm was recorded, and the document number included on the plat, which has also been recorded. Mr. Fredricks said the Board can now consider the *Release of Easement* on the property and finalize the *Permanent Access Agreement* for the Grand Farm crossings in the NE 1/4 of Section 8 in Everest Township regarding the Wheatland Channel. Grand Farm is currently reviewing the *Permanent Access Agreement*.

Kurt Lysne reported construction has begun on the Grand Farm crossings in the NE 1/4 of Section 8 in Everest Township regarding the Wheatland Channel. Grand Farm has accommodated the Water Resource District's future needs regarding the Wheatland Channel in the NE 1/4 of Section 8 in Everest Township.

**Drain #14C – Application for Surface Drain for construction of the drop structure on Cass County Highway 15 regarding the Metro Flood Diversion Project**

Mr. Lysne stated the North Dakota Department of Water Resources (NDDWR) has requested an *Application for Surface Drain* be submitted for the construction of the Drain

#14C drop structure on Cass County Highway 15 regarding the Metro Flood Diversion Project.

It was moved by Manager Melvin and seconded by Manager Miller to authorize the Secretary-Treasurer to submit an *Application for Surface Drain* to the NDDWR for construction of the Drain #14C drop structure on Cass County Highway 15 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Tom Soucy noted the damaged angle iron on the Cass County Highway 15 bridge over Drain #14 will be repaired soon.

**Drain #34 Channel Improvement Project No. 2022-01 and Drain #37 Improvement Project No. 2022-01**

Mr. Lysne said plans are complete for both the Drain #34 Channel Improvement Project No. 2022-01 and the Drain #37 Improvement Project No. 2022-01. The NDDWR is currently reviewing the economic analyses for the projects and the NDDWR Economist is currently updating the economic analysis tool regarding slope failures. The NDDWR Economist and State Engineer will be touring some Water Resource District facilities on July 12th related to the economic analysis updates. The projects can proceed following the completion of the respective economic analyses. Alexa Ducioame noted the Section 404 Permit was received from the Corps of Engineers for the Drain #34 Channel Improvement Project No. 2022-01.

**Drain #39 Improvement Project No. 2023-01**

Mr. Lysne reported Moore Engineering, Inc. is working on the final design for Drain #39 Improvement Project No. 2023-01. Once final design is complete, the Board can proceed with construction of the project. Mr. Lysne said he is also working with the NDDWR Economist regarding an update of the economic analysis involving Drain #39 Improvement Project No. 2023-01. Ms. Ducioame reported a meeting was held with the Corps of Engineers regarding the Section 404 Permit application for the project.

**Drain #58 – crossing between Sections 5 and 8 in Leonard Township**

Brady Woodard updated the Board on the Drain #58 crossing between Sections 5 and 8 in Leonard Township. Leonard Township closed the road this spring due to some issues with the culverts at the crossing. Mr. Woodard said the project is moving along well and he is working with Leonard Township to gravel the road.

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

Mr. Lysne informed the Board that the Secretary-Treasurer submitted a formal request to the NDDWR for a deviation from the 30-day comment period for the surface drain

application regarding Drain #62. The NDDWR granted the request and the application is now before the Board for consideration. Mr. Lysne has provided his responses to the 8-point questionnaire for the permit.

Mr. Fredricks continues working with North Dakota Soybean Processors, LLC (NDSP) on the *Access Easement* related to the project. NDSP is to provide the survey to attach as an Exhibit to the easement. He hoped to have it by this meeting, but the survey has not been completed yet.

The Board reviewed information from the NDDWR regarding *Application for Surface Drain No. 6228*, previously submitted by the Maple River Water Resource District regarding Cass County Drain No. 62. The Maple River Water Resource District, Cass County, and North Dakota Soybean Processors (NDSP) entered into an agreement, dated March 20, 2023, under which the parties agreed to certain modifications to Drain 62 to accommodate access to NDSP's Soybean Processing Plant in Section 34 of Casselton Township. Under that agreement, Cass County agreed to construct improvements to 36th Street SE in Sections 33 and 34 in Casselton Township, to construct a driveway or crossing over Drain 62, and to realign Drain 62. Those improvements and modifications require a surface drain permit. The Board submitted a surface drainage permit application to the NDDWR in April. The NDDWR recently completed its review of the project and application and concluded the project is not "of statewide or interdistrict significance." The NDDWR forwarded a Record of Decision to the Board and the Board must consider and process the application.

The Board considered Kurt Lysne's proposed responses to the eight elements under 89-02-01-09.2 of the North Dakota Administrative Code. The Board further determined no hearing was necessary under 89-02-01-09.1(2) of the North Dakota Administrative Code; NDSP has agreed to convey an easement to the Board to accommodate the project and the realignment of Drain 62, and the Board does not anticipate adverse impacts to any landowners as a result of the project. Further, Mr. Lysne noted the Drain crossing will meet the Stream Crossing Standards. With that in mind, the project will not result in adverse impacts. In fact, the project will improve agricultural drainage in the area and will alleviate summer rainfall flooding issues in the project watershed.

Manager Miller moved to adopt Kurt Lysne's responses to the eight elements under 89-02-01-09.2 of the North Dakota Administrative Code, and to approve *Application for Surface Drain No. 6228* regarding the *Cass County Drain No. 62 Channel Modification Project*, subject to any conditions attached by the NDDWR, and to authorize the Secretary-Treasurer to sign *Surface Drain Permit No. 6228*. Manager Melvin seconded the motion. Upon roll call vote, the motion carried unanimously.

Tom Soucy asked if the Cass County Highway Department could begin construction. The Board said they have authorization to proceed now that *Surface Drain Permit No. 6228* has been approved.

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

Mr. Lysne reported Moore Engineering, Inc. is currently surveying and preparing preliminary plans for Lynchburg-Buffalo Project No. 2023-01. Once preliminary engineering work and a cost estimate is complete, the Board can determine how to proceed with Phases III, IV and V of Lynchburg-Buffalo Project No. 2023-01.

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

Mr. Fredricks reviewed the Joint Powers Agreement (JPA) with Barnes County Water Resource District regarding Cornell Township Drainage Improvement District No. 80. Barnes County Water Resource District has indicated they are amenable to the JPA. Mr. Fredricks said under the JPA, Maple River Water Resource District will continue to direct the Cornell Township Drainage Improvement District No. 80 assessment district formation process. Barnes County Water Resource District will participate in the assessment and voting process for the project and will administer any assessments in Barnes County if the assessment vote for the project is successful. Maple River Water Resource District will own and operate the project. Maple River Water Resource District will also reimburse Barnes County Water Resource District for their expenses incurred regarding the matter.

A motion was made by Manager Melvin and seconded by Manager Miller to approve and authorize the Chairman to sign the *Joint Powers Agreement* with Barnes County Water Resource District regarding Cornell Township Drainage Improvement District No. 80. Upon roll call vote, the motion carried unanimously.

Mr. Fredricks also noted Cornell Township Drainage Improvement District No. 80 will follow the updated legal assessment district formation process for water resource districts under SB 2036.

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

It was moved by Manager Miller and seconded by Manager Melvin to approve and authorize the Chairman to sign *Purchase Agreements* with the following for the Davenport Flood Risk Reduction Project:

- Dallas Glasow
- FHG, II
- Tetonka, LLP

Upon roll call vote, the motion carried unanimously.

Ms. Ducioame reported FEMA has provided feedback on the Conditional Letter of Map Revision (CLOMR) that was submitted for the project. Ms. Ducioame also noted an *Application to Construct* will be submitted to the NDDWR for the project soon.

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

Mr. Lysne updated the Board on the RCPP – Upper Maple River Watershed Plan. Moore Engineering, Inc. recently attended a Barnes County Water Resource District meeting to update them on the Plan. An on-site meeting is being coordinated with area property owners and the Natural Resources Conservation Service to further discuss the Plan and the design features in the Plan.

**Upper Maple River Dam – maintenance**

Mr. Woodard said the Steele County Soil Conservation District planted the shelterbelt on Water Resource District owned property in Section 35 of Carpenter Township. Mr. Woodard reported the Upper Maple River Dam has been operational this year and there needs to be fence repairs and removal of debris at the facility. Weed control efforts are being coordinated with Dakota Helicopters, Inc. The Board directed Mr. Woodard to hire a contractor to repair fencing and remove debris at the Upper Maple River Dam.

**Complaint for Water-Related Issues from Harold Miller against Dobler Trust for unpermitted drainage in the NE 1/4 of Section 8 in Cornell Township**

Mr. Lysne updated the Board on the *Complaint for Water-Related Issues* from Harold Miller against Dobler Trust for unpermitted drainage in the NE 1/4 of Section 8 in Cornell Township. Moore Engineering, Inc. has begun investigating the matter. Mr. Lysne noted the parties to the *Complaint* may have come to a solution regarding the matter, so Moore Engineering, Inc. has paused investigations as the *Complaint* may be withdrawn. Should the *Complaint* not be withdrawn, Moore Engineering, Inc. will continue investigating the matter and will update the Board at a future meeting.

**Cass-Richland Drain #1 – Application to Install a Subsurface Water Management System No. 23-036 (Richland County Water Resource District) for Tyler Anderson in the NE 1/4 of Section 3 in Barrie Township**

The Board received and filed Richland County Water Resource District *Application to Install a Subsurface Water Management System No. 23-036* for Tyler Anderson in the NE 1/4 of Section 3 in Barrie Township that outlets into Cass-Richland Drain #1.

**Application to Install a Subsurface Water Management System No. 202313 for Torgerson Family Trust – Dave Torgerson in the SW 1/4 of Section 17 and the NW 1/4 of Section 20 in Normanna Township**

The Board next reviewed *Application to Install a Subsurface Water Management System No. 202313*, filed June 12, 2023, by Applicant Torgerson Family Trust. Under the Application, Applicant seeks to install a 232-acre drain tile system in the SW 1/4 of Section 17 and the NW 1/4 of Section 20 in Normanna Township, Cass County, North Dakota. The project will include 86 tiled acres in the NW 1/4 of Section 20 that will connect to the 146 acres of tile in the SW 1/4 of Section 17 via a line under 51st Street SE. The project will include a single pump outlet in the northwest corner of the SW 1/4 in Section 17; the outlet will discharge into the west road ditch along 164th Avenue SE; the discharge will flow north in the west road ditch, along the west boundary of the NW 1/4 of Section 17 and the SW 1/4 of Section 8 in Normanna Township.

According to records submitted by Applicant, the Torgerson Family Trust owns those portions of the SW 1/4 of Section 17 and the NW 1/4 of Section 20 in Normanna Township where Applicant intends to install the tile system. With regard to downstream properties, Beulah Rustad owns the NW 1/4 of Section 17, and Holly Jean Corner and the Marjorie Corner Revocable Trust own the SW 1/4 of Section 8.

Manager Melvin moved, and Manager Miller seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 202313*, filed June 12, 2023, for the Torgerson Family Trust regarding a proposed tile system in the SW 1/4 of Section 17 and the NW 1/4 of Section 20 in Normanna Township; and to authorize the Secretary-Treasurer to sign *Subsurface Water Management Permit No. 202313*, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any and all outlets into Normanna Township's road right of way.
2. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
3. Applicant 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. 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 SW 1/4 of Section 17 and the NW 1/4 of Section 20 in Normanna 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 one mile downstream of the project outlet.
6. Applicant must apply for an amendment to *Subsurface Water Management Permit No. 202313* 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 Normanna Township Board to discharge into or otherwise utilize any of its Township road 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, Subsurface Water Management Permit No. 202313*, and Applicant's downstream flow map to the North Dakota Department of Water Resources, Normanna Township, Beulah Rustad, Holly Jean Corner, the Marjorie Corner Revocable Trust, 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. 202314 for Nick Pyle in the N 1/2 of Section 36 in Wheatland Township**

The Board next reviewed *Application to Install a Subsurface Water Management System No. 202314*, filed June 23, 2023, by Applicant Nick Pyle. Under the Application, Applicant seeks to install a 162-acre drain tile system in the N 1/2 of Section 36 in Wheatland Township, Cass County, North Dakota. The project will include a single pump outlet located in the northeast corner of the NE 1/4 in Section 36; the pump will discharge into the south ditch along BNSF Railway Company's right of way; the discharge will flow south, in the south BNSF ditch, under 151st Avenue SE, and will continue to the southeast, across the northern portion of Section 31 in Casselton Township.

According to records submitted by Applicant, the Marlyce B. Pyle Revocable Living Trust owns the N 1/2 of Section 36 in Wheatland Township where Applicant intends to install the tile system. With regard to downstream properties, Larry and Cynthia Biffert own the NW 1/4 of Section 31 in Casselton Township; and Aaron and Stacie Larson own the NE 1/4 of Section 31 in Casselton Township. BNSF Railway Company owns its railroad right of way.

Manager Melvin moved, and Manager Miller seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 202314*, filed June 23, 2023, for Nick Pyle regarding a proposed tile system in the N 1/2 of Section 36 in Wheatland Township; and to authorize the Secretary-Treasurer to sign *Subsurface Water Management Permit No. 202314*, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any and all outlets into BNSF Railway Company's right of way.
2. Applicant will install and maintain erosion protection at any and all outlets into any township road right of way.
3. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
4. Applicant will turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the Maple River Water Resource District.

5. 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 N 1/2 of Section 36 in Wheatland Township under any blanket easements, or otherwise beyond the Water Users District's existing easement(s).
6. Applicant will remove silt or vegetation, or repair erosion or scour damages **directly** caused by Applicant's tile system, but only up to one mile downstream of the project outlet.
7. Applicant must apply for an amendment to *Subsurface Water Management Permit No. 202314* 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 #6, 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 Wheatland Township Board and/or the Casselton Township Board to discharge into or otherwise utilize any of their respective Township road right of way.
2. The Board recommends that Applicant obtain written consent from BNSF Railway Company to discharge into or otherwise utilize any of BNSF's right of way.
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. 202314*, and Applicant's downstream flow map to the North Dakota Department of Water Resources, BNSF Railway Company, Marlyce B. Pyle Revocable Living Trust, Larry and Cynthia Biffert, Aaron and Stacie Larson, 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. 202315 for Kyle Schultz in the S 1/2 of Section 31 and the SW 1/4 of Section 32 in Gill Township**

The Board next reviewed *Application to Install a Subsurface Water Management System No. 202315*, filed June 27, 2023, by Applicant Kyle Schultz. Under the Application, Applicant seeks to install a 215-acre drain tile system in those portions of the S 1/2 of Section 31 and the SW 1/4 of Section 32 in Gill Township, Cass County, North Dakota, lying south of railroad right of way. The portion of the project in the S 1/2 of Section 31 will connect to the portion in the SW 1/4 of Section 32 via a pipeline that will run under 146th Avenue SE. The project will include a single pump outlet located in the southeast corner of the SW 1/4 of Section 32; the pump will discharge into the north ditch along 42nd Street SE; the discharge will flow east in the north road ditch, along the south boundary of the SE 1/4 of Section 32 and the SW 1/4 of Section 33; before flowing across any of the farmstead property in the southeast corner of the SW 1/4 of Section 33, the discharge will flow into an existing natural or private drain and will flow north.

According to records submitted by Applicant, Lyle and Eileen Schultz own the SW 1/4 of Section 31; Ryan and Kristi Schultz own the SE 1/4 of Section 31; Kyle and Larissa Schultz own the SW 1/4 of Section 32 where Applicant intends to install the tile system. With regard to downstream property, Mark and Linda Levos own the SE 1/4 of Section 32 and Dana Sprunk owns the SW 1/4 of Section 33, less the farmstead in the southeast corner of the SW 1/4 in Section 33.

Manager Miller moved, and Manager Melvin seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 202315*, filed June 27, 2023, for Kyle Schultz regarding a proposed tile system in the S 1/2 of Section 31 and the SW 1/4 of Section 32 in Gill Township; and to authorize the Secretary-Treasurer to sign *Subsurface Water Management Permit No. 202315*, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any and all outlets into Gill Township's road right of way.
2. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
3. Applicant 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. 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 31 or in the SW 1/4 of Section 32 in Gill 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 one mile downstream of the project outlet.

6. Applicant must apply for an amendment to *Subsurface Water Management Permit No. 202315* 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 Gill Township Board to install any pipeline or other project components in the Township's road 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, Subsurface Water Management Permit No. 202315*, and Applicant's downstream flow map to the North Dakota Department of Water Resources, Gill Township, Lyle and Eileen Schultz, Mark and Linda Levos, Dana Sprunk, 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. 202316 for M and M Farms Partnership in the NE 1/4 of Section 28, the W 1/2 of Section 27, and the SE 1/4 of Section 27 in Tower Township**

The Board next reviewed *Application to Install a Subsurface Water Management System No. 202316*, filed June 27, 2023, by Applicant M and M Farms Partnership. Under the Application, Applicant seeks to install a 121-acre drain tile system in the NE 1/4 of Section 28, the W 1/2 of Section 27, and the SE 1/4 of Section 27 in Tower Township, Cass County, North Dakota. The project will only include tile in the W 1/2 of Section 27; the project will not include any tile in the NE 1/4 of Section 28; rather, Applicant only intends to install a surface inlet along the east boundary of the NE 1/4 of Section 28 that will connect to the system in the W 1/2 of Section 27 via a line under 136th Avenue SE. Similarly, the system will not include any tile in the SE 1/4 of Section 27; rather, the two gravity outlets will commence along the east boundary of the SW 1/4 of Section 27 and

will discharge via pipelines that will both run into the SE 1/4 of Section 27; one outlet will daylight and discharge directly into the Maple River and the other will discharge into a natural watercourse in the SE 1/4 of Section 27 that ultimately flows into the Maple River.

According to records submitted by Applicant, Jacob Paul Richman owns the NE 1/4 of Section 28; Matthew and Jennifer Richman own the NW 1/4 of Section 27 and the SE 1/4 of Section 27; and Mark and Pamela Johnson own the SW 1/4 of Section 27.

Manager Melvin moved, and Manager Miller seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 202316*, filed June 27, 2023, for the M and M Farms Partnership regarding a proposed tile system in the NE 1/4 of Section 28, the W 1/2 of Section 27, and the SE 1/4 of Section 27 in Tower Township; and to authorize the Secretary-Treasurer to sign *Subsurface Water Management Permit No. 202316*, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any and all outlets into the Maple River and the natural watercourse in the SE 1/4 of Section 27 in Tower Township.
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 of Section 28, the W 1/2 of Section 27, or in the SE 1/4 of Section 27 in Tower 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. 202316* 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 Tower Township Board to install any pipeline or other project components in the Township's road right of way.
2. The Board recommends that Applicant obtain easements or written consent from the owners of the property where Applicant intends to install any tile components.

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. 202316*, and Applicant's downstream flow map to the North Dakota Department of Water Resources, Tower Township, Matthew and Jennifer Richman, Jacob Paul Richman, Mark and Pamela Johnson, 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. 202317 for Steven D. Johnson in the NW 1/4 and the N 1/2 SW 1/4 of Section 21 in Tower Township**

The Board next reviewed *Application to Install a Subsurface Water Management System No. 202317*, filed June 28, 2023, by Applicant Steven D. Johnson. Under the Application, Applicant seeks to install a 184-acre drain tile system in the NW 1/4 of Section 21 and the N 1/2 SW 1/4 of Section 21 in Tower Township, Cass County, North Dakota. The project will include a pump outlet near the northeast corner of the NW 1/4 of Section 21; the pump will discharge directly into a "watercourse," as that term is defined under N.D. Cent. Code § 61-01-06. That watercourse flows to the northeast.

According to records submitted by Applicant, Steven D. Johnson owns the NW 1/4 of Section 21 and the N 1/2 of the SW 1/4 of Section 21 in Tower Township.

This area was the subject of a drainage complaint in Section 17 and an obstruction complaint in Section 21. Mr. Lysne noted that these acres will discharge to the northeast as a result of this project, a significant modification to the drainage for a large portion of the acreage. Pumps in this area could impact Highway 10; the Board noted that if the Cass County Highway Department concludes upstream drainage is contributing to inundation of Highway 10, the Board would likely conclude the inundation is a "critical flood period" that would require upstream tile permittees to turn off their pumps.

Manager Miller moved, and Manager Melvin seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 202317*, filed June 28, 2023, for Steven D. Johnson regarding a proposed tile system in the NW 1/4 of Section 21 and the N 1/2 SW 1/4 of Section 21 in Tower Township; and to authorize the Secretary-Treasurer to sign *Subsurface Water Management Permit No. 202317*, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any and all outlets into the natural watercourse in the NW 1/4 of Section 21 in Tower Township.
2. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.

3. Applicant 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. 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 NW 1/4 of Section 21 or the N 1/2 SW 1/4 of Section 21 in Tower Township under any blanket easements, or otherwise beyond the Water Users District’s existing easement(s).
5. Applicant must apply for an amendment to *Subsurface Water Management Permit No. 202317* 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 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. 202317*, and Applicant’s downstream flow map to the North Dakota Department of Water Resources, and Cass Rural Water Users District. Because the project discharges into a “watercourse” as defined under North Dakota law, the permit does not require notice to any downstream parties, in accordance with N.D. Cent. Code § 61-32-03.1. 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. 202318 for David Braaten and Torgerson Family Trust in the E 1/2 of Section 17 and the E 1/2 of Section 8 in Normanna Township**

The Board next reviewed *Application to Install a Subsurface Water Management System No. 202318*, filed June 29, 2023, by Applicants David Braaten and the Torgerson Family Trust. Under the Application, Applicants seek to install a 507-acre drain tile system in the NE 1/4 and the E 1/2 SE 1/4 of Section 17 and the E 1/2 of Section 8 in Normanna Township, Cass County, North Dakota. The project will include one pump outlet along the north boundary of Section 17, near the northeast corner of Section 17; the pump will discharge into the south road ditch along 50th Street and will flow east in the south road ditch a short distance before flowing into the west road ditch along Cass County Highway 15; from there, the discharge will flow north along the east boundary of Section 8 until ultimately flowing into Cass County Drain No. 35, a legal assessment drain owned and

operated by the Southeast Cass Water Resource District. The second project outlet will be a gravity outlet along the north boundary of the NE 1/4 of Section 8 that will discharge directly into Drain No. 35.

According to records submitted by Applicants, David and Teresa Braaten own the E 1/2 of Section 8 and the NE 1/4 of Section 17 in Normanna Township; and the Torgerson Family Trust owns the E 1/2 SE 1/4 of Section 17 in Normanna Township. Further, the Cass County Highway Department owns its Highway 15 right of way downstream of the project outlet in Section 17.

Manager Melvin moved, and Manager Miller seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 202318*, filed June 29, 2023, for David Braaten and the Torgerson Family Trust regarding a proposed tile system in the NE 1/4 and the E 1/2 SE 1/4 of Section 17 and the E 1/2 of Section 8 in Normanna Township; and to authorize the Secretary-Treasurer to sign *Subsurface Water Management Permit No. 202318*, subject to the following conditions:

1. Applicants will install and maintain erosion protection at any and all outlets into Normanna Township's road right of way.
2. Applicants will install and maintain erosion protection at any and all outlets into Cass County Drain No. 35.
3. Applicants will re-establish any areas disturbed installing or maintaining Applicants' tile system.
4. 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.
5. 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 NE 1/4 of Section 17; the E 1/2 SE 1/4 of Section 17; or in the E 1/2 of Section 8 in Normanna Township under any blanket easements, or otherwise beyond the Water Users District's existing easement(s).
6. Applicants will remove silt or vegetation, or repair erosion or scour damages **directly** caused by Applicants' tile system, but only up to one mile downstream of the project outlet.
7. Applicants must apply for an amendment to *Subsurface Water Management Permit No. 202318* 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 #6, 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 the Normanna Township Board to discharge into or otherwise utilize any of its Township road right of way.
2. The Board recommends that Applicants obtain written consent from the Cass County Highway Department to discharge into or otherwise utilize any of its Highway 15 road right of way.
3. 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. 202318*, and Applicants' downstream flow map to the North Dakota Department of Water Resources, Normanna Township, 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.

**Notification to Install Subsurface Water Management System provided by Aim Ag Drainage in the E 1/2 of Section 30 and the NW 1/4 of Section 29 in Clifton Township**

The Board received and filed a *Notification to Install Subsurface Water Management System* from Aim Ag Drainage in the E 1/2 of Section 30 and the NW 1/4 of Section 29 in Clifton Township.

**Utility Permits for review / approval, with input from the Water Resource District Engineer**

Mr. Lysne discussed the *Utility Permit* for Casselton Development, LLC to install a 72" storm sewer outfall pipe into Swan Creek Diversion on parcel #38-0000-04807-140 west of North Dakota Highway 18. Mr. Lysne stated the applicant has made changes to their planned outlet erosion protection design and provided an analysis showing the design is sufficient to protect the Swan Creek Diversion channel.

Mr. Lysne discussed *Utility Permits* for MLGC, L.L.C. to install fiber optic cable across natural watercourses in the NE 1/4 SE1/4 and the SE 1/4 SE 1/4 of Section 35 in Addison Township that were presented at the June 1, 2023, meeting. Mr. Lysne said he is

coordinating the design and utility installation with MLGC, L.L.C. to ensure it will not impact construction of the Davenport Flood Risk Reduction Project. MLGC, L.L.C. will install the crossings prior to construction of the Davenport Flood Risk Reduction Project.

It was moved by Manager Miller and seconded by Manager Melvin to approve the following, with input from the Water Resource District Engineer:

- *Utility Permit* for Casselton Development, LLC to install a 72" storm sewer outfall pipe into Swan Creek Diversion on parcel #38-0000-04807-140 west of North Dakota Highway 18
- *Utility Permit* for Cass Rural Water Users District to install a water return line under Swan Creek approximately 60' west of the centerline of 154th Avenue SE in the southeast corner of Section 28 in Casselton Township
- *Utility Permit* for Cass Rural Water Users District to install a water supply pipeline under Swan Creek approximately 70' west of the centerline of 154th Avenue SE in the southeast corner of Section 28 in Casselton Township
- *Utility Permit* for MLGC, L.L.C. to install a fiber optic cable under a natural watercourse upstream of Drain #14 in the SW 1/4 of Section 35 in Addison Township
- *Utility Permit* for MLGC, L.L.C. to install a fiber optic cable under a natural watercourse upstream of Drain #14 in the SE 1/4 of Section 35 in Addison Township
- *Utility Permit* for MLGC, L.L.C. to install a fiber optic cable under a natural watercourse upstream of Drain #14 in the NW 1/4 SW 1/4 of Section 36 in Addison Township
- *Utility Permit* for MLGC, L.L.C. to install a fiber optic cable under a natural watercourse upstream of Drain #14 in the NW 1/4 NW 1/4 SW 1/4 of Section 36 in Addison Township
- *Utility Permit* for MLGC, L.L.C. to install a fiber optic cable under a natural watercourse upstream of Drain #14 in the NW 1/4 NW 1/4 of Section 25 in Addison Township
- *Utility Permit* for MLGC, L.L.C. to install a fiber optic cable under Drain #15 in the SW 1/4 of Section 35 in Maple River Township
- *Utility Permit* for MLGC, L.L.C. to install a fiber optic cable under Drain #39 in the SE 1/4 of Section 36 in Maple River Township

Upon roll call vote, the motion carried unanimously.

### **Cass County Planning**

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



**Request from Taylor Aliferis, NDSU graduate student, to conduct a blackbird / drone use study on Maple River Water Resource District properties**

It was moved by Manager Melvin, seconded by Manager Miller and unanimously carried to approve the request from Taylor Aliferis, NDSU graduate student, to conduct a blackbird / drone use study on Maple River Water Resource District properties.

**2022 Audit**

It was moved by Manager Melvin and seconded by Manager Miller to approve the Maple River Water Resource District 2022 Audit. Upon roll call vote, the motion carried unanimously.

**Approve Pledge of Assets – Alerus Financial (as per agreement of March 7, 1996)**

It was moved by Manager Miller and seconded by Manager Melvin to approve the following Pledge of Assets:

Alerus Financial (as per agreement of March 7, 1996)

Upon roll call vote, the motion carried unanimously.

**Bills**

It was moved by Manager Melvin and seconded by Manager Miller to approve payment of Checks #6154 through #6156, 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.

**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