

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING
NORTH CASS WATER RESOURCE DISTRICT
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
SEPTEMBER 26, 2023

A virtual / conference call meeting of the North Cass Water Resource District was held on September 26, 2023, at 8:00 a.m.

Present were Wes Ecker, Chairman; Robert Thompson, Manager; Ken Lougheed, Manager; Carol Harbeke Lewis, Secretary-Treasurer; Nina Stone, Accountant; Melissa Hinkemeyer, Administrative Assistant; Sean M. Fredricks, Ohnstad Twichell, P.C.; Alexa Ducioame and Brady Woodard, Moore Engineering, Inc.; Duane Breitling, Cass County Commissioner; Tom Soucy, Cass County Highway Department; and Myron Hoag, Gunkel Township Chairman.

Agenda and Minutes

It was moved by Manager Thompson, seconded by Manager Lougheed and unanimously carried to approve the order of the agenda, as amended, and the minutes of the August 22, 2023, meeting, as presented.

Drain #23 – slide on the road side of the channel in Section 12 of Gardner Township and in Sections 10 and 11 of Wisner Township

The Board discussed repair options for the slide in Section 12 of Gardner Township.

A motion was made by Manager Lougheed and seconded by Manager Thompson to authorize Moore Engineering, Inc. to obtain quotes and hire a contractor to repair the slide on Drain #23 on the road side of the channel in Section 12 of Gardner Township. Upon roll call vote, the motion carried unanimously.

Drain #23 – culverts failing between Sections 1 and 12 in Gunkel Township and between Sections 6 and 7 in Gardner Township

Alexa Ducioame updated the Board on Moore Engineering, Inc.'s survey of Drain #23 between Sections 1 and 12 in Gunkel Township and between Sections 6 and 7 in Gardner Township. Ms. Ducioame noted there is a stuck flap gate and damaged culvert and Moore Engineering, Inc. has begun analyzing culvert options that will also improve the safety of the intersection. Myron Hoag inquired if the road could be widened. Discussion was held on various culvert options, possible utilities in the area and estimated costs of the various options. The Board directed Moore Engineering, Inc. to prepare cost estimates for the purchase and installation of multiple smaller round pipe versus one larger arch pipe options, prepare a design to widen the road, locate utilities and research

right of way in the area regarding the Drain #23 failing culverts between Sections 1 and 12 in Gunkel Township and between Sections 6 and 7 in Gardner Township. Discussion on the matter will continue at a future meeting.

Drain No. 26 Improvements 2023

Ms. Ducioame reported Moore Engineering, Inc. is currently working on the hydraulic analysis to size the crossings for the Drain No. 26 Improvements 2023 project.

Drain #32 – berm washout in Section 32 of Noble Township

Mr. Woodard stated the Drain #32 berm washout in Section 32 of Noble Township will be inspected this fall once the adjacent crops have been harvested. He has found a contractor that is available to do the project.

Application to Install a Subsurface Water Management System No. 202323 for Bruce Brand in the E 1/2 of Section 13 in Gunkel Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 202323*, filed September 1, 2023, by Applicant Bruce Brand. Under the Application, Applicant seeks to install a 296-acre drain tile system in the E 1/2 of Section 13 in Gunkel Township, Cass County, North Dakota. The project will include a single pump outlet located in the southeast corner of the SE 1/4 in Section 13; the pump will discharge into the north road ditch along Cass County Highway 34; the discharge will flow east in the north road ditch along Highway 34, under 162nd Avenue SE, and along the south boundary of Section 18 in Gardner Township.

According to County tax roll information supplied by Applicant, Bruce Brand owns the NE 1/4 of Section 13 in Gunkel Township and the Deborah A. Brand Trust owns the SE 1/4 of Section 13 in Gunkel Township where Applicant intends to install the tile system. With regard to downstream properties, Robert Ramberg owns the farmstead in the southwest corner of the SW 1/4 in Section 18 of Gardner Township; Rodney G. Nelson LLLP owns the remainder of the SW 1/4 in Section 18 of Gardner Township; and Ray Wolfer owns the SE 1/4 of Section 18 in Gardner Township.

Manager Lougheed moved, and Manager Thompson seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 202323*, filed September 1, 2023, for Bruce Brand regarding a proposed tile system in the E 1/2 of Section 13 in Gunkel Township; and to authorize the Secretary-Treasurer to sign *Subsurface Water Management Permit No. 202323*, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any and all outlets into Cass County's Highway 34 right of way.
2. Applicant will turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the North Cass Water Resource District.
3. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.

4. 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 from the project outlet.
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 E 1/2 of Section 13 in Gunkel Township under any blanket easements, or otherwise beyond the Water Users District's existing easement(s).
6. Applicant must apply for an amendment to *Subsurface Water Management Permit No. 202323* 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 #4, 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 recommends that Applicant comply with the following:

1. The Board recommends that Applicant obtain written permission from the Cass County Highway Department to discharge into or otherwise utilize any of the County's Highway 34 right of way.
2. The Board recommends that Applicant obtain written permission from the Gunkel Township Board of Township Supervisors to discharge into or otherwise utilize any of the Township's road right of way.
3. The Board recommends that Applicant obtain written permission from the Gardner Township Board of Township Supervisors to discharge into or otherwise utilize any of the Township's 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. 202323*, and Applicant's downstream flow map to the Department of Water Resources, the Deborah A. Brand Trust, the Cass County Highway

Department, Gunkel and Gardner Townships, downstream landowners, 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.

Cass County Planning – FMD-Wiser Subdivision

The Board briefly discussed the FMD-Wiser Subdivision application. It was moved by Manager Thompson and seconded by Manager Lougheed to submit comment on the FMD-Wiser Subdivision application to Cass County Planning with input from the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

Bills

It was moved by Manager Thompson and seconded by Manager Lougheed to approve payment of Check #4439, the wire transfers and the electronic funds transfers, as presented. Upon roll call vote, the following Managers voted in favor: Ecker, Thompson and Lougheed. The motion carried unanimously.

Elm River Dam Nos. 1, 2 and 3

Manager Thompson reported the construction permits have been received from the North Dakota Department of Water Resources for Elm River Dams No. 1 and No. 2 Improvement Project No. 2022-01 and Elm River Dam No. 3 Improvements 2022 Project. The projects will be bid soon with construction anticipated to occur in 2024.

Drain #13 – potential lateral

The Board discussed the possibility of making the Costello Drain a lateral to Drain #13. Sean Fredricks reviewed the steps to create a legal assessment drain lateral including determining benefits and conducting a vote. The Board directed Moore Engineering, Inc. to develop a rough cost estimate for the process. The Board will consider the cost estimate and continue discussion on the matter at a future meeting.

Adjournment

There being no further business to be considered by the Board, the meeting adjourned without objection.

APPROVED:

Wes Ecker
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer