

MINUTES OF VIRTUAL / CONFERENCE CALL SPECIAL MEETING
MAPLE RIVER WATER RESOURCE DISTRICT
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
FEBRUARY 9, 2024
9:00 A.M.

A virtual / conference call special meeting of the Maple River Water Resource District was held on February 9, 2024, at 9:00 a.m.

Present were Rodger Olson, Chairman; Gerald Melvin, Manager; Chad Miller, Manager; Melissa Hinkemeyer, Secretary-Treasurer; Carolyn Fiechtner, Administrative Assistant; Sean M. Fredricks, Ohnstad Twichell, P.C.; Kurt Lysne and Alexa Ducioame, Moore Engineering, Inc.

Application to Install a Subsurface Water Management System No. 20241 for Mark Ottis and Jill Kalsow in the NE 1/4 of Section 5 of Davenport Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 20241*, filed February 2, 2024, by Applicants Mark Ottis and Jill Kalsow. Under the Application, Applicants seek to install a 103-acre drain tile system in the NE 1/4 of Section 5 in Davenport Township, Cass County, North Dakota. The project will include a single pump outlet located in the northeast corner of the NE 1/4 of Section 5; the pump will discharge into the south ditch along County Highway 16; the discharge will flow east in the south road ditch, along the north boundary of Section 4.

According to records submitted by Applicants, Mark and Joan Ottis own 12.29 acres in the NE 1/4 of Section 5 of Davenport Township, and the Jill J. Kalsow Revocable Living Trust owns the remaining portion of the NE 1/4 of Section 5. With regard to downstream properties, the Cass County Highway Department owns its Highway 16 right of way along the north boundary of Section 4.

Manager Melvin moved, and Manager Miller seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 20241*, filed February 2, 2024, for Mark Ottis and Jill Kalsow regarding a proposed tile system in the NE 1/4 of Section 5 in Davenport Township; and to authorize the Secretary-Treasurer to sign *Subsurface Water Management Permit No. 20241*, subject to the following conditions:

1. Applicants will install and maintain erosion protection at any and all outlets into the Cass County Highway Department's Highway 16 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 the NE 1/4 of Section 5 in Davenport Township under any blanket easements, or otherwise beyond the Water Resource 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 one mile downstream of the project outlet.
6. Applicants must apply for an amendment to *Subsurface Water Management Permit No. 20241* 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 the Cass County Highway Department to discharge into or otherwise utilize any of the County’s Highway 16 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. 20241*, and Applicants’ downstream flow map to the North Dakota Department of Water Resources, 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. 20242 for Dale Torgerson in the W 1/2 of Section 32 of Normanna Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 20242*, filed February 2, 2024, by Applicant Dale Torgerson. Under the Application, Applicant seeks to install a 144.6-acre drain tile system in the S 1/2 and the NW 1/4 of the SW 1/4 of Section 32, and in the SW 1/4 of the NW 1/4 of Section 32 in Normanna Township, Cass County, North Dakota. The project will include a single pump outlet located in the northwest corner of the SW 1/4 of the NW 1/4 of Section 32; the pump will discharge into the east road ditch along 164th Avenue SE; the discharge will flow north, along the west boundary of the N 1/2 of the NW 1/4 of Section 32; at the northwest corner of the NW 1/4 of Section 32, the discharge will flow into the south road ditch along 53rd Street SE; the discharge will then flow west, into the south road ditch along 53rd Street SE, along the north boundary of Section 31.

According to records submitted by Applicant, Dale and Trudy Torgerson own the S 1/2 and the NW 1/4 of the SW 1/4 of Section 32 and the SW 1/4 of the NW 1/4 of Section 32 of Normanna Township. With regard to downstream properties, Arlene Lykken owns the S 1/2 of the N 1/2 of the NW 1/4 of Section 32, and the W 1/2 of the N 1/2 of the N 1/2 of the NW 1/4 of Section 32; Ellingson Drainage, Inc., owns Lot 1, Block 1 of Horne's First Subdivision; and Horne Family Limited Partnership owns the NE 1/4 of Section 31, less Horne's First Subdivision, and the NW 1/4 of Section 31.

Manager Miller moved, and Manager Melvin seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 20242*, filed February 2, 2024, for Dale Torgerson regarding a proposed tile system in the S 1/2 and the NW 1/4 of the SW 1/4 of Section 32, and in the SW 1/4 of the NW 1/4 of Section 32 in Normanna Township; and to authorize the Secretary Treasurer to sign *Subsurface Water Management Permit No. 20242*, 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 S 1/2 and the NW 1/4 of the SW 1/4 of Section 32 or in the SW 1/4 of the NW 1/4 of Section 32 in Normanna Township under any blanket easements, or otherwise beyond the Water Resource 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. 20242* 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 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. 20242*, and Applicant's downstream flow map to the North Dakota Department of Water Resources; Normanna Township; Arlene Lykken; Ellingson Drainage, Inc.; Horne Family Limited Partnership; 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.

The Board noted that this particular system was installed in 2023, before Applicant submitted a permit application to the Board. The Board directed staff to include language in the *Notice of Decision* to remind Applicant that installation of an unpermitted system is at a landowner's risk and could subject the responsible parties to a drainage complaint in the future.

Davenport Flood Risk Reduction Project

It was moved by Manager Melvin and seconded by Manager Miller to authorize the Secretary-Treasurer to submit a progress report and extension request, with input from the Water Resource District Engineer, to the North Dakota Department of Water Resources regarding cost-share funding for the Davenport Flood Risk Reduction Project. Upon roll call vote, the motion carried unanimously.

Adjournment

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

APPROVED:

Rodger Olson
Chairman

ATTEST:

Melissa Hinkemeyer
Secretary-Treasurer