

MINUTES OF VIRTUAL / CONFERENCE CALL SPECIAL MEETING  
MAPLE RIVER WATER RESOURCE DISTRICT  
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT  
MAY 2, 2024  
8:00 A.M.

A virtual / conference call meeting of the Maple River Water Resource District was held on May 2, 2024, at 8:00 a.m.

Present were Rodger Olson, Chairman; Gerald Melvin, Manager; Chad Miller, Manager; Melissa Hinkemeyer, Secretary-Treasurer; Leilei Bao, Accountant; Sean M. Fredricks and Christie Rust, 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; Mark Johnson and Matthew Richman, Cornell Township property owners.

**Approval of 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, seconded by Manager Miller, and unanimously carried to approve the minutes of the April 4, 2024, meeting.

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

Levi Hanson updated the Board on right of way acquisition for the Drain #34 Channel Improvement Project No. 2022-01.

A motion was made by Manager Miller and seconded by Manager Melvin to approve the *Purchase Agreement* with Jeffri and Janet Kub regarding the Drain #34 Channel Improvement Project No. 2022-01. Upon roll call vote, the motion carried unanimously.

Moore Engineering, Inc. will update the cost estimate for the project and bring back a recommendation regarding funding for the project to a future meeting.

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

Mr. Hanson and Brady Woodard updated the Board on the status of right of way acquisition regarding Drain #37 Improvement Project No. 2022-01.

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

Mr. Woodard provided project updates on the status of right of way acquisition for Drain #39 Improvement Project No. 2023-01. Mr. Woodard is continuing discussions with property owners regarding the project.

**Drain #46 – removal of debris under the crossing in Sections 21 and 28 of Rochester Township**

Mr. Woodard reported there is a buildup of debris under the Drain #46 crossing in Sections 21 and 28 of Rochester Township. The estimate to remove the debris is \$12,000. There is a contractor near the area that is willing to do the project.

It was moved by Manager Melvin and seconded by Manager Miller to authorize Moore Engineering, Inc. to hire a contractor to remove debris under the Drain #46 crossing in Sections 21 and 28 of Rochester Township. Upon roll call vote, the motion carried unanimously.

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

A motion was made by Manager Miller and seconded by Manager Melvin to approve and authorize the Chairman to sign the *Agreement for Cost-Share Reimbursement* with the North Dakota Department of Water Resources (NDDWR) for final design of Lynchburg- Buffalo Project No. 2023-01. Upon roll call vote, the motion carried unanimously.

Mr. Lysne updated the Board on the status of Lynchburg- Buffalo Project No. 2023-01. Permits for the project will be acquired and subsequently right of way will be acquired. Brief discussion was held on right of way needed for the project.

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

Mr. Lysne stated Moore Engineering, Inc. continues to work with the petitioners on finalizing the petitioner’s preferred design alternative for Cornell Township Drainage Improvement District No. 80. Once the petitioners have finalized the preferred design alternative, work can begin on forming the assessment district for the project.

**Executive Session for purposes of discussing contract negotiation strategies, litigation strategies, and attorney consultation regarding ongoing contract negotiations and reasonably predictable litigation related to right of way and property acquisitions necessary to accommodate Davenport Flood Risk Reduction Project No. 2020-01, in accordance with N.D. Cent. Code §§ 44-04-19.1(2), (5), and (9)**

It was moved by Manager Miller and seconded by Manager Melvin to close the meeting at 8:32 a.m. for the purposes of discussing contract negotiation strategies, litigation strategies, and attorney consultation regarding ongoing contract negotiations and reasonably predictable litigation related to right of way and property acquisitions necessary to accommodate Davenport Flood Risk Reduction Project No. 202-01, in accordance with N.D. Cent. Code §§ 44-04-19.1(2), (5), and (9), regarding the following matter and parties:

1. Bruce C. Glasow and Mara R. Glasow (Cass County Parcel Nos. 12-0100-01245-000 and 12-0100-01246-000)

Upon roll call vote, the following Managers voted in favor: Olson, Melvin and Miller. The motion passed.

The executive session was attended by Managers Olson, Melvin and Miller, Melissa Hinkemeyer, Leilei Bao, Sean M. Fredricks, Christie Rust, Kurt Lysne, Alexa Ducioame, Brady Woodard, Levi Hanson, and Duane Breitling.

The executive session adjourned at 8:42 a.m. and the regular meeting was reconvened and opened to the public.

**Davenport Flood Risk Reduction Project No. 2019-01**

A motion was made by Manager Melvin and seconded by Manager Miller to approve the *Purchase Agreement* with Bruce and Mara Glasow regarding Davenport Flood Risk Reduction Project No. 2019-01. Upon roll call vote, the motion carried unanimously.

Mr. Hanson and Mr. Fredricks updated the Board on right of way acquisition for the project.

Mr. Lysne noted Moore Engineering, Inc. continues to work with Burlington Northern Santa Fe Railway Company and Red River Valley & Western Railroad Company regarding operation and maintenance for the Davenport Flood Risk Reduction Project.

**Complaint for Water-Related Issues from Randy Coon against Dennis Smith for unpermitted drainage in the S 1/2 of Section 7 in Tower Township**

Moore Engineering, Inc. continues to investigate the *Complaint for Water-Related Issues* from Randy Coon against Dennis Smith for unpermitted drainage in the S 1/2 of Section 7 in Tower Township. Based on the investigational findings, Moore Engineering Inc. will prepare a report for a future meeting.

**Application to Install a Subsurface Water Management System No. 20244 for Aaron Larson in the E 1/2 of Section 21 in Gill Township**

The Board next reviewed *Application to Install a Subsurface Water Management System No. 20244*, filed April 18, 2024, by Applicant Aaron Larson. Under the Application, Applicant seeks to install a 268-acre drain tile system in the E 1/2 of Section 21 in Gill Township, Cass County, North Dakota. The project will include a single gravity outlet located in the SE 1/4 of Section 21 and will discharge directly into Buffalo Creek.

According to records submitted by Applicant, Aaron and Stacie Larson own the E 1/2 of Section 21 in Gill Township where Applicant intends to install the tile system. Because the project will discharge directly into a natural watercourse, no downstream notices are necessary under N.D. Cent. Code § 61-32-03.1.

Manager Miller moved, and Manager Melvin seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 20244*, filed April 18, 2024, for Aaron Larson regarding a proposed tile system in the E 1/2 of Section 21 in Gill Township; and to authorize the Secretary-Treasurer to sign *Subsurface Water Management Permit No. 20244*, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any and all outlets into

Buffalo Creek in the SE 1/4 of Section 21 in Gill 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 E 1/2 of Section 21 in Gill Township under any blanket easements, or otherwise beyond the Water District's existing easement(s).
4. Applicant must apply for an amendment to *Subsurface Water Management Permit No. 20244* 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 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. 20244*, and Applicant's downstream flow map to the North Dakota Department of Water Resources 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. 20245 for Brian Roach in the S 1/2 of Section 4 in Wheatland Township**

The Board next reviewed *Application to Install a Subsurface Water Management System No. 20245*, filed April 29, 2024, by Applicant Brian Roach. Under the Application, Applicant seeks to install a 180-acre drain tile system in that portion of the S 1/2 of Section 4 in Wheatland Township, Cass County, North Dakota, lying north and east of BNSF Railway Company's right of way. The project will include a single gravity outlet that will discharge via an underground pipeline that will run from the southeast corner of Section 4 to the south, under 31st Street SE, to the northeast corner of Section 9; the line will then run to the east, under 148th Avenue SE, to the northwest corner of Section 10; the line will continue to the east, across a portion of the Northwest Quarter of Section 10 before daylighting and discharging into a tributary of Swan Creek.

According to Cass County tax records, Brian Roach owns the that portion of the S 1/2 of Section 4 in Wheatland Township lying north and east of BNSF Railway Company's right of way, where Applicant intends to install the tile system. Because the project will

discharge directly into a natural watercourse, no downstream notices are necessary under N.D. Cent. Code § 61-32-03.1. However, the Board will provide notices to the owners of property where Applicant intends to install pipeline components; the Brian D. Roach Agricultural Trust owns the NE 1/4 of Section 9 in Wheatland Township and Kenneth and Ilene McLean own that portion of the NW 1/4 of Section 10 where Applicant intends to install pipeline components.

Manager Melvin moved, and Manager Miller seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 20245*, filed April 29, 2024, for Brian Roach regarding a proposed tile system in the S 1/2 of Section 4 in Wheatland Township; and to authorize the Secretary-Treasurer to sign *Subsurface Water Management Permit No. 20245*, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any and all outlets into the tributary of Swan Creek in the NW 1/4 of Section 10 in Wheatland 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 S 1/2 of Section 4 in Wheatland Township under any blanket easements, or otherwise beyond the Water District's existing easement(s).
4. Applicant must apply for an amendment to *Subsurface Water Management Permit No. 20245* 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 recommends that Applicant comply with the following:

1. The Board recommends that Applicant obtain written consent from the Wheatland Township Board to install pipeline or any other tile components in any of the Township's road right of way.
2. The Board recommends that Applicant obtain and record a pipeline easement from the owners of the NE 1/4 of Section 9 and the NW 1/4 of Section 10 in Wheatland 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. 20245*, and Applicant's downstream flow map to the North Dakota Department of Water Resources, Wheatland Township, Kenneth and Ilene McLean, 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 from Aim Ag Drainage for the NE 1/4 of Section 19 in Leonard Township**

The Board received and filed a *Notification to Install a Subsurface Water Management System* from Aim Ag Drainage for the NE 1/4 of Section 19 in Leonard Township.

**Notification to Install a Subsurface Water Management System from Aim Ag Drainage for Section 17 of Leonard Township**

The Board received and filed a *Notification to Install a Subsurface Water Management System* from Aim Ag Drainage for Section 17 of Leonard Township.

**Cass County Planning**

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

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

**Utility Permits for MLGC, LLC to install fiber optic cables and related appurtenances at various locations under the following Maple River Water Resource District facilities, rivers, and natural watercourses in the following townships:**

- Coburn Township Drain #2
- Drain #15
- Drain #37
- Drain #54
- Drain #58
- Buffalo Creek
- Durbin-Everest Channel
- Wheatland Channel
- Buffalo Creek tributary
- Maple River
- Maple River tributary
- Addison Township
- Davenport Township
- Durbin Township
- Everest Township
- Gill Township
- Leonard Township
- Maple River Township
- Walburg Township

It was moved by Manager Melvin and seconded by Manager Miller to approve the *Utility Permits* for MLGC, LLC to install fiber optic cables and related appurtenances at various

locations under the following Maple River Water Resource District facilities, rivers, and natural watercourses in the following townships, with special conditions provided by the Water Resource District Engineer:

- Coburn Township Drain #2
- Drain #15
- Drain #37
- Drain #54
- Drain #58
- Buffalo Creek
- Durbin-Everest Channel
- Wheatland Channel
- Buffalo Creek tributary
- Maple River
- Maple River tributary
- Addison Township
- Davenport Township
- Durbin Township
- Everest Township
- Gill Township
- Leonard Township
- Maple River Township
- Walburg Township

Upon roll call vote, the motion carried unanimously.

### **Correspondence from the NDDWR regarding low head dam cost-share funding and safety signage**

Discussion was held on correspondence from the NDDWR regarding cost-share funding for safety projects and safety signage availability for low head dams in North Dakota. The Board directed the Water Resource District Engineer to look into the locations and bring back information regarding low head dams in Maple River Water Resource District.

### **Bills**

It was moved by Manager Melvin and seconded by Manager Miller to approve the payment of Checks #6176 and #6177, the wire transfers, and electronic funds transfers, as presented. Upon roll call vote, the motion carried unanimously.

### **Treasurer**

The Secretary recommended the Board consider transferring the title of Treasurer of the Maple River Water Resource District to the Accountant, Leilei Bao, as Ms. Bao has completed training and is excelling in her role.

It was moved by Manager Miller, seconded by Manager Melvin, and unanimously carried to appoint Leilei Bao as Treasurer of Maple River Water Resource District.

### **Drain #14 – request from Suzanne Brehm to clean out and repair an intercept culvert in Section 25 of Addison Township**

Mr. Woodard reported the intercept culvert in Section 24 of Addison Township regarding Drain #14 has been repaired and cleaned out.

### **Pontiac Township Improvement District No. 73 – clean out of culverts**

Manager Woodard reported the culverts throughout the Pontiac Township Improvement District No. 73 project need to be cleaned out. It was moved by Manager Melvin and seconded by Manager Miller to authorize Moore Engineering, Inc. to hire a contractor to clean out the culverts throughout the Pontiac Township Improvement District No. 73 project. Upon roll call vote, the motion carried unanimously.

**Adjournment**

There being no further business to be considered by the Board, Manager Melvin moved, and Manager Miller seconded, to adjourn the meeting. The meeting adjourned without objection.

APPROVED:

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Rodger Olson  
Chairman

ATTEST:

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Melissa Hinkemeyer  
Secretary-Treasurer