

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING  
SOUTHEAST CASS WATER RESOURCE DISTRICT  
ORIGINATING AT WEST FARGO PUBLIC WORKS  
WEST FARGO, NORTH DAKOTA  
AUGUST 8, 2023

A virtual / conference call meeting of the Southeast Cass Water Resource District was held on August 8, 2023, at 8:30 a.m.

Present were Keith Weston, Chairman; Dave Branson, Manager; Rick Steen, 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.; Mike Opat, Houston Engineering, Inc.; Jim Hausauer, Donald Kress, Luke Morman and Alayna Espeseth, City of Fargo; Joel Luing, City of Horace; Duane Breitling, Cass County Commissioner; Tom Soucy, Cass County Highway Department; Matt Peterson, Barr Engineering, Co.; and Mark Buchholz, property owner in the City of Fargo.

**Approval of agenda**

It was moved by Manager Branson, seconded by Manager Steen and unanimously carried to approve the order of the agenda, as presented.

**Minutes**

It was moved by Manager Steen, seconded by Manager Branson and unanimously carried to approve the minutes of the July 11 and 14, 2023, meetings.

**Sheyenne-Maple Flood Control Project #1 – non-flood operation for North Dakota Department of Transportation project adjacent to US Highway 10 near the intersection of Sheyenne Street in West Fargo**

Matt Peterson discussed a 2024 North Dakota Department of Transportation (NDDOT) slide repair project adjacent to US Highway 10 near the intersection of Sheyenne Street in West Fargo. The project includes replacement of a storm sewer outfall into the Sheyenne River. Mr. Peterson said the NDDOT considered requesting non-flood operation of the Sheyenne-Maple Flood Control Project #1 to help control the water levels on the Sheyenne River. However, after further discussions, it does not appear to be necessary at this time. Mr. Peterson indicated the contractor plans to install a coffer dam on the Sheyenne River if necessary to complete the project. The Board indicated should non-flood operation of the Sheyenne-Maple Flood Control Project #1 be needed for the project, the NDDOT can return to the Water Resource District to request the accommodation. Mr. Peterson said he will remain in contact with the Water Resource District Engineer and Attorney as the project design progresses.

### **Sheyenne-Maple Flood Control Project #2 – debris removal at the inlet structure**

Brady Woodard reported trees have been disposed of that were removed from the Sheyenne-Maple Flood Control Project #2 inlet structure. The dumpster that was located at the site has also been removed and emptied.

### **Proposed sanitary sewer for Commerce on I-29**

Sean Fredricks informed the Board that agreements for the proposed sanitary sewer for Commerce on I-94 have been updated to reflect changes in property ownership. Alexa Ducioame reported Moore Engineering, Inc. sent preliminary letters to property owners where right of way is needed for the proposed sanitary sewer for Commerce on I-29 project. Moore Engineering, Inc. is also preparing legal descriptions regarding the right of way needed for the project.

### **Drain #3 – slides in Section 25 of Reed Township**

Mr. Woodard said the North Dakota Air National Guard is requesting repair of slides on Drain #3 in Section 25 of Reed Township for security purposes concerning their facility. Mr. Woodard discussed the proposed repair of the slides. The Board directed Moore Engineering, Inc. to prepare a cost estimate and obtain quotes from contractors to repair the Drain #3 slides in Section 25 of Reed Township and bring the information to the Board for consideration at a future meeting. Mr. Woodard also noted cattails will be sprayed in the channel this year.

### **Drain #10 – slide repairs north of Cass County Highway 20**

Mr. Woodard stated the Drain #10 slide repairs project north of Cass County Highway 20 was advertised for bids, however; there was concern from contractors about the constructability of the project as designed. The project design was a recommendation from the Braun Intertec Corporation geotechnical report obtained for the project. Moore Engineering, Inc. is working with Braun Intertec Corporation on alternative design options to improve constructability and will re-advertise the project for bids. The bid results will be brought to a future meeting.

### **Drain #10 – Sysco North Dakota, Inc. encroachment north of 12th Avenue N**

Ms. Ducioame discussed repair options related to the slides on Drain #10 north of 12th Avenue N, including installation of a box culvert crossing on the Drain #10 channel or moving the channel bottom slightly to the east in the area. Ms. Ducioame noted the Drain #10 channel liner in this area will be replaced in the near future as part of the Drain #10 concrete channel liner repair project between approximately 4th Avenue N and 12th Avenue N. Sysco North Dakota, Inc. has indicated to the City of Fargo they are willing to contribute monetarily to the project. The City of Fargo will continue to discuss the repair options with Sysco North Dakota, Inc. and coordinate with Moore Engineering, Inc.

**Drain #10 – concrete channel liner repair between approximately 4th Avenue N to north of 12th Avenue N**

Mr. Woodard indicated the Drain #10 concrete channel liner repair project between approximately 4th Avenue N to north of 12th Avenue N could be completed during the winter months to reduce issues with water in the channel during construction.

**Drain #21 – slides between 12th and 19th Avenues NW - outlet improvements**

Ms. Ducioame reported Braun Intertec Corporation is scheduled to complete the field work necessary for the geotechnical study of multiple Drain #21 slides between 12th and 19th Avenues NW in September. Moore Engineering, Inc. has completed the surveying necessary for the geotechnical study. The Board discussed the possibility of completing a Drain #21 outlet improvement project in addition to the slide repairs.

**Drain #27 – slides west of I-29 and west of 45th Street S**

Ms. Ducioame reported the geotechnical report for the Drain #27 slides west of I-29 and west of 45th Street S was received from Braun Intertec Corporation. Moore Engineering, Inc. will prepare the plans to repair the slides following discussions with Braun. Moore Engineering, Inc. is also coordinating the timing of the slide repairs with the City of Fargo lift station project occurring in the same area.

**Drain #27 – slides south of 40th Avenue S and north of the confluence of Drain #53**

The City of Fargo reported two slides south of 40th Avenue S and north of the confluence of Drain #53 and is working on obtaining a geotechnical study regarding the repair of the slides.

**Drain #27 Improvement Project No. 2023-01 - 64th Avenue S to 100th Avenue S (Cass County Highway 14)**

Moore Engineering, Inc. continues to work on right of way acquisition for Drain #27 Improvement Project No. 2023-01 from 64th Avenue S to 100th Avenue S. The project is ready to proceed to construction following right of way acquisition. Ms. Ducioame said the project is anticipated to be advertised for bids this fall to allow the contractor time to order the culverts needed for the project. Joel Luing said the City of Horace will present some ideas to the Board on project crossings in the future.

**Drain #40 – Interstate Business District Addition**

Discussion was held on Interstate Business District Addition adjacent to Drain #40 in Section 15 of Reed Township. Donald Kress said the plat has been recommended for approval by the City of Fargo Planning Commission and will next be considered by the Fargo City Commission.

The Board tabled consideration of the plat until the *Temporary Access Agreement* has been approved with ARD Properties, LLC, North Fargo Land, LLC and Opp Construction LLC to provide access to Opp Construction, LLC during construction of 44th Street North for Interstate Business District Addition regarding Drain #40.

It was moved by Manager Steen and seconded by Manager Branson to approve and authorize the Chairman to sign the *Agreement (Proximity of Airport, Noise Attenuation and Sewage Lagoons)* for the Interstate Business District Addition regarding Drain #40. Upon roll call vote, the motion carried unanimously.

#### **Drain #40 – Buchholz Addition**

Donald Kress reviewed the Buchholz Addition plat adjacent to Drain #40 at 1330 43rd Street N. Mr. Fredricks indicated the developer will need to complete a survey to attach as an Exhibit to the *Permanent Drain Easement* prior to approval by the Board. Once approved, the *Easement* will be recorded, and the document number included on the Buchholz Addition plat. Mark Buchholz noted an encroachment request may be submitted for the development in the future; however, the development is proceeding without requesting any encroachments to Drain #40 at this time.

#### **Drain #47 – slides in the NE 1/4 of Section 10 and the NW 1/4 of Section 11 in Pleasant Township**

Ms. Ducioame discussed the bid received to repair the Drain #47 slides in the NE 1/4 of Section 10 and the NW 1/4 of Section 11 in Pleasant Township. Moore Engineering, Inc. will coordinate the repairs with Pleasant Township officials and the contractor for the Corps of Engineers that is utilizing the road adjacent to the slide in the NE 1/4 of Section 10 in Pleasant Township to access a construction site for the Metro Flood Diversion Project. The Board discussed funding and design of the repairs.

A motion was made by Manager Steen and seconded by Manager Branson to authorize Moore Engineering, Inc. to hire a contractor to repair the Drain #47 slides in the NE 1/4 of Section 10 and the NW 1/4 of Section 11 in Pleasant Township and approve and authorize the Chairman to sign the *Agreement* with the contractor, contingent upon the contractor agreeing to repair the slide in the NW 1/4 of Section 11 in Pleasant Township at a 6:1 slope if it is a less expensive option and if it is not less expensive, to proceed with the project as currently bid. Upon roll call vote, the motion carried unanimously.

#### **Sheyenne River and Wild Rice River Snagging and Clearing 2023-2024**

It was moved by Manager Branson and seconded by Manager Steen to approve and authorize the Chair to sign the following with the State Water Commission:

- *Agreement for Cost-Share Reimbursement* for Sheyenne River Snagging and Clearing 2023-2024; and
- *Agreement for Cost-Share Reimbursement* for Wild Rice River Snagging and Clearing 2023-2024

Upon roll call vote, the motion carried unanimously.

**Wild Rice River bridge on North Dakota Highway 46 west of I-29 – North Dakota Department of Transportation request to remove trees built up in the channel**

Discussion was held on a request from the NDDOT to remove trees built up in the Wild Rice River channel at the bridge on North Dakota Highway 46 west of I-29. Mr. Woodard said the NDDOT Fargo District has agreed to provide traffic control and road closure assistance for the project. The Richland County Water Resource District has not offered assistance with the project at this time. The North Dakota Department of Water Resources recently approved the cost-share requests for snagging and clearing 2023-2024.

A motion was made by Manager Branson and seconded by Manager Steen to authorize Moore Engineering, Inc. to hire contractors to remove the trees built up in the Wild Rice River channel at the bridge on North Dakota Highway 46 west of I-29. Upon roll call vote, the motion carried unanimously.

**Application to Install a Subsurface Water Management System No. 202030 for Kelly Perhus in the S 1/2 of the SW 1/4 in Section 1 and the S 1/2 of the N 1/2 in the SW 1/4 of Section 1 in Normanna Township**

The Board next reviewed *Application to Install a Subsurface Water Management System No. 202320*, filed August 1, 2023, by Applicant Kelly Perhus. Under the Application, Applicant seeks to install a 113-acre drain tile system in the S 1/2 of the SW 1/4 in Section 1 and the S 1/2 of the N 1/2 of the SW 1/4 in Section 1 of Normanna Township, Cass County, North Dakota. The project will include a single pump outlet located on the west boundary of the SW 1/4 in Section 1; the pump will discharge into the east road ditch along Cass County Highway 36; the discharge will flow north in the Highway 36 road ditch, along the west boundary of the N 1/2 of the SW 1/4 in Section 1 before turning west and flowing through an existing culvert under Highway 36; the discharge will daylight in the west road ditch along Highway 36, along the east boundary of the SE 1/4 of Section 2; the discharge will flow north in the west road ditch along Highway 36, along the east boundary of the E 1/2 in Section 2 until flowing into the Sheyenne River in the NE 1/4 of Section 2.

According to County tax roll information supplied by Applicant, Kelly and Debra Perhus own the property Applicant intends to tile in the S 1/2 of the SW 1/4 in Section 1 and the S 1/2 of the N 1/2 of the SW 1/4 in Section 1 of Normanna Township. With regard to properties downstream of the project pump, Kelly and Debra Perhus own the S 1/2 of the N 1/2 in the SW 1/4 of Section 1 in Normanna Township; Charles Christianson owns the N 1/2 of the N 1/2 in the SW 1/4 of Section 1; the Thoen Family Irrevocable Land Trust owns the SE 1/4 of Section 2; and Bradley and Sharon Oye own the NE 1/4 of Section 2 south of the Sheyenne River.

Manager Branson moved, and Manager Steen seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 202320*, filed August 1, 2023, for Kelly Perhus regarding a proposed tile system in the S 1/2 of the SW

1/4 in Section 1 and the S 1/2 of the N 1/2 of the SW 1/4 in Section 1 of Normanna Township and to authorize the Secretary-Treasurer to sign *Subsurface Water Management Permit No. 202320*, subject to the following conditions:

1. Applicant must turn off any pump outlets and otherwise close all outlets during “critical flood periods,” as determined by the Southeast Cass Water Resource District.
2. Applicant will re-establish any areas disturbed installing or maintaining Applicant’s tile system.
3. Applicant will install and maintain erosion protection at any and all project outlets into the Cass County Highway Department’s highway right of way.
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 the SW 1/4 in Section 1 or in the S 1/2 of the N 1/2 of the SW 1/4 in Section 1 of Normanna Township under any blanket easements, or otherwise beyond the Water Users District’s existing easement(s).
5. Applicant must remove silt or vegetation, or repair erosion or scour damages **directly** caused by Applicant’s tile system, but only up to the tile discharge into the Sheyenne River.
6. Applicant must apply for an amendment to *Subsurface Water Management Permit No. 202320* 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 Cass County Highway Department to discharge into or otherwise utilize any of the County’s highway 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. 202320*, and Applicant's downstream flow map to the North Dakota Department of Water Resources, the Cass County Highway Department, Charles Christianson, the Thoen Family Irrevocable Land Trust, Bradley and Sharon Oye, 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.

### **Items for review and comment, with input provided by the Water Resource District Engineer**

Discussion was held on the Fargo Department of Planning and Development September Preliminary Packet.

Joel Luing reported on El Dorado Addition and Sparks Addition plats adjacent to Drain #27 in the City of Horace. Mr. Luing said the developer of Sparks Addition is considering requesting approval from the Water Resource District in the future for a storm sewer outfall into Drain #27.

The Board directed the Secretary-Treasurer to submit comments on the Fargo Department of Planning and Development September Preliminary Packet and the El Dorado Addition and Sparks Addition plats in the City of Horace, with input from the Water Resource District Engineer.

### **Water Resources Development Act 2024 – email from Senator Cramer's office seeking input by September 15, 2023**

Chairman Weston noted the Red River Joint Water Resource District and the Red River Retention Authority are gathering additional information from Senator Cramer's office regarding the input requested for the Water Resources Development Act 2024.

### **Bills**

It was moved by Manager Steen and seconded by Manager Branson to approve payment of Checks #15274 through #15276, the wire transfers and the electronic funds transfers, as presented. Upon roll call vote, the following Managers voted in favor: Weston, Branson and Steen. The Chairman declared the motion passed.

### **Secretary-Treasurer position / office staffing**

Brief discussion was held on the Secretary and Treasurer positions and future office staffing needs upon retirement of the current Secretary-Treasurer towards the end of the year. A motion was made by Manager Branson and seconded by Manager Steen to name Melissa Hinkemeyer as Secretary and Nina Stone as Treasurer of the Southeast

Cass Water Resource District upon retirement of the current Secretary-Treasurer and to begin the process of advertising for two support staff positions. Upon roll call vote, the motion carried unanimously.

**Adjournment**

There being no further business for the Board to consider, it was moved by Manager Branson, seconded by Manager Steen and unanimously carried to adjourn the meeting.

APPROVED:

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Keith Weston  
Chairman

ATTEST:

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Carol Harbeke Lewis  
Secretary-Treasurer