

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING
MAPLE RIVER WATER RESOURCE DISTRICT
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
HERITAGE CONFERENCE ROOM
JULY 1, 2024
8:00 A.M.

A virtual / conference call meeting of the Maple River Water Resource District was held on July 1, 2024, at 8:00 a.m.

Present were Rodger Olson, Chairman; Gerald Melvin, Manager; Chad Miller, Manager; Melissa Hinkemeyer, Director, Secretary; Leilei Bao, Treasurer; Carolyn Fiechtner, Administrative Assistant; 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.; and Tom Soucy, Cass County Highway Department.

Approval of agenda

It was moved by Manager Melvin, seconded by Manager Miller and unanimously carried to approve the order of the agenda, as amended.

Minutes

It was moved by Manager Miller and seconded by Manager Melvin, to approve the minutes of the June 6, and 17, 2024, meetings, as presented. Upon roll call vote, the motion carried unanimously.

Drain #14 – NDDOT solicitation of views regarding replacement of I-94 bridges

Kurt Lysne stated that the NDDOT is proposing to replace the I-94 bridges 8 miles west of I-29. The project consists of removing and replacing the structures that carry westbound and eastbound I-94 traffic over Drain #14. Mr. Lysne recommended the Water Resource District should review the hydraulic analysis for the project when it is available. The Board indicated that going forward, they would like the opportunity to review the hydraulic analysis of all projects affecting Maple River Water Resource District facilities.

Manager Miller moved and Manager Melvin seconded to direct the Secretary to return comments to the NDDOT regarding the replacement of I-94 bridges over Drain #14, with input from the Water Resource District Engineer, including the request to review the hydraulic analysis of all future NDDOT projects that impact Maple River Water Resource District facilities. Upon roll call vote, the motion carried unanimously.

Drain #34 Channel Improvement Project No. 2022-01

The Drain #34 Channel Improvement Project No. 2022-01 is on hold until the financing for the project is established. Sean Fredricks noted right of way transactions are in the

closing process for the project.

Drain #37 Improvement Project No. 2022-01

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

Kurt Lysne reported on continued discussions with property owners regarding the Drain #39 Improvement Project No. 2023-01, including discussions on a driveway crossing related to the project. Moore Engineering, Inc. will continue project discussions with adjacent property owners and then will update the cost estimate for the project to bring to a future meeting.

Drain #46 – bridge cleanout in Sections 21 and 28 of Rochester Township

Mr. Woodard reported the contractor for the Drain #46 bridge cleanout project in Sections 21 and 28 of Rochester Township has not begun the project yet due to weather.

Lynchburg-Buffalo Project No. 2023-01

Mr. Lysne updated the Board on the status of the Lynchburg-Buffalo Project No. 2023-01 and stated Moore Engineering, Inc. continues to work with the Corps of Engineers and property owners regarding project design and permitting.

Cornell Township Drainage Improvement District No. 80

Mr. Lysne reviewed the petitioners' finalized preferred design alternative for Cornell Township Drainage Improvement District No. 80. Mr. Fredricks stated to the Board that he is updating the petition to match the finalized project alternative. Mr. Fredricks asked the Board for their feedback regarding forming a joint water resource district between Cass County Joint Water Resource District and Barnes County Water Resource District for Cornell Township Drainage Improvement District No. 80 project and future projects with benefits in Cass and Barnes counties. After discussion, the Board indicated they prefer to form a Maple River – Barnes County Joint Water Resource District regarding the Cornell Township Drainage Improvement District No. 80 project. The Board indicated the Maple River Water Resource District will cover project expenses that are not assessed. The Board directed Mr. Fredricks to inquire with the Barnes County Water Resource District if they are agreeable to a joint water resource district and if so, to begin the process to form the joint board.

Davenport Flood Risk Reduction Project

Levi Hanson updated the Board on the status of right of way acquisition for the Davenport Flood Risk Reduction Project.

Manager Miller moved to approve and authorize the Chairman to sign the *Purchase Agreement* with Sidney Steinweg regarding the Davenport Flood Risk Reduction Project. Manager Melvin seconded the motion. Upon roll call vote, the motion carried unanimously.

Regional Conservation Partnership Program – Upper Maple River Watershed

Mr. Lysne updated the Board on the RCPP – Upper Maple River Watershed Plan. The Natural Resources Conservation Service (NRCS) continues to discuss the Plan with the North Dakota State Historic Preservation Office. Mr. Lysne also noted the NRCS is planning a site visit in August.

Low head dam hazard mitigation project

Discussion was held on a cost estimate to mitigate the safety hazards of a low head dam in Maple River Water Resource District. Manager Melvin moved to authorize the Secretary to submit cost-share requests to the State Water Commission and to the Cass County Flood Sales Tax Committee for a low head dam hazard mitigation project in Maple River Water Resource District. Manager Miller seconded the motion. Upon roll call vote, the motion carried unanimously.

Application for Surface Drain No. 6341 for Michael Faught in the SE 1/4 of Section 30 in Empire Township

The Board reviewed the *Record of Decision* from the Department of Water Resources (“DWR”) regarding *Application for Surface Drain No. 6341* for Applicant Michael Faught. The project proposed under *Application No. 6341* includes the flattening of side slopes along a 40-foot stretch of an existing “drainageway” or watercourse in the SE 1/4 of Section 30 in Empire Township. Applicant intends to flatten the slopes to 4:1. The applicant does not intend to widen the bottom width of the existing watercourse (currently 4 feet). The permitted drain will include the following dimensions:

Length of Drain:	40 feet
Maximum Cut:	0 feet
Bottom Width:	4 feet
Side Slopes:	4:1

According to records on file with the Cass County Recorder’s office, Michael Faught and Ann Faught, as Trustees of the Ann and Michael Faught Joint Revocable Living Trust, own 139.25 acres in the SE 1/4 of Section 30.

In accordance with N.D. Admin. Code §§ 89-02-01-08 and 89-02-01-09, upon receipt of *Application No. 6341*, DWR conducted a “statewide or interdistrict significance” review regarding the proposed improvements. The project proposed under *Application No. 6341* is relatively small and does not require any modifications of any road right of way. With that in mind, DWR concluded *Application No. 6341* does not propose drainage of “statewide or interdistrict significance.” DWR then forwarded *Application No. 6341* to the Board for processing in accordance with Section 89-02-01-09.1(2) of the North Dakota Administrative Code, via DWR’s *Record of Decision* dated June 11, 2024 (the “ROD”).

Under Section 89-02-01-09.1(2), once the Board receives the ROD, the Board’s first step is to determine if “public and private interests would be better served by a specific public meeting to consider the project.” In this case, the Board does not anticipate any downstream impacts from the project, the Faughts own the property where they plan to

construct the project, and the project does not and will not impact any public right of way. With that in mind, the Board concluded a formal hearing is not necessary.

Under Section 89-02-01-09.2 of the Administrative Code and Section 61-32-03 of the North Dakota Century Code, the Board must ultimately determine if the project will result in downstream impacts and, if so, the Board must require Michael Faught to obtain downstream flowage easements from impacted downstream parties as a condition to any approval of *Application No. 6341*, under Section 61-32-03. In this case, Mr. Faught is simply flattening side slopes along an existing watercourse and the Board does not anticipate any downstream impacts. Therefore, the Board concluded no downstream easements are required. The Board reviewed draft responses to the eight elements under Section 89 02 01-09.2 of the North Dakota Administrative Code prepared by Kurt Lysne and agreed with Mr. Lysne's responses, including his findings that the project will not result in downstream impacts. Therefore, the Board concluded no downstream easements are required.

Manager Melvin moved, and Manager Miller seconded the motion, to adopt Moore Engineering, Inc.'s responses to the eight elements under Section 89 02 01-09.2 of the North Dakota Administrative Code; to conclude no public hearing is necessary under Section 89-02-01-09.1(2); to conclude the project will not result in adverse downstream impacts; and to approve *Application for Surface Drain No. 6341* for Michael Faught, subject to the conditions attached by the Department of Water Resources, and subject to the following conditions:

1. Applicant will not construct or improve the drain in any manner that exceeds the dimensions indicated in the Application.
2. Applicant will notify the Maple River Water Resource District in advance of any proposed improvements to the drain, including any increase in the capacity or drainage area affected, and, if necessary, submit an additional permit application.

Upon roll call vote, the motion carried unanimously.

In addition to those conditions, 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 Secretary will sign the *Permit* and staff will prepare the requisite *Notice of Decision* and provide the *Notice* to all parties of record, as required by law.

Application to Install a Subsurface Water Management System No. 20249 for Tim Wadeson in the W 1/2 and SE 1/4 of Section 10 in Highland Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 20249*, filed June 10, 2024, by Applicant Tim Wadeson. Under the *Application*, Applicant seeks to install a 196-acre drain tile system in the N 1/2 of the SW 1/4 of Section

10 and the NW 1/4 of Section 10 in Highland Township, Cass County, North Dakota. The project will include five gravity outlets, as follows:

- Gravity Outlet No. 1 will be in the NW 1/4 of Section 10 and will discharge directly into a pond, lake, or slough in the W 1/2 of Section 10;
- Gravity Outlet Nos. 2 and 3 will be in the SW 1/4 of Section 10 and will discharge directly into the same pond, lake, or slough in the W 1/2 of Section 10;
- Gravity Outlet No. 4 will discharge via a pipeline that will run across the S 1/2 of the SW 1/4 of Section 10; the pipeline will daylight in the southwest corner of the SW 1/4 of Section 10, directly into a natural watercourse, as that term is defined under N.D. Cent. Code § 61-06-06; the watercourse flows to the southeast; and
- Gravity Outlet No. 5 will discharge via a pipeline that will run across the W 1/2 of the SE 1/4 of Section 10; the pipeline will daylight and discharge directly into a natural watercourse in the W 1/2 of the SE 1/4 of Section 10, as that term is defined under Section 61-06-06; the watercourse flows to the southeast.

According to records submitted by Applicant, Timothy and Danielle Wadeson own the NW 1/4 of Section 10 and the N 1/2 of the SW 1/4 of Section 10 in Highland Township. With regard to the parcels where Applicant will install pipeline outlets, Eugene and Susan Klockmann own the S 1/2 of the SW 1/4 of Section 10 and the W 1/2 of the SE 1/4 of Section 10. Because Gravity Outlet Nos. 1-3 will all discharge into a pond, lake, or slough, no downstream notices are necessary regarding those outlets under N.D. Cent. Code § 61-32-03.1. Further, because Gravity Outlet Nos. 4 and 5 will both discharge into natural watercourses, no downstream notices are necessary regarding those outlets under Section 61-32-03.1.

Manager Miller moved, and Manager Melvin seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 20249*, filed June 10, 2024, for Tim Wadeson regarding a proposed tile system in the W 1/2 and the SE 1/4 of Section 10 in Highland Township; and to authorize the Secretary to sign *Subsurface Water Management Permit No. 20249*, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any and all outlets into the pond, lake, or slough in the W 1/2 of Section 10 in Highland Township.
2. Applicant will install and maintain erosion protection at any and all outlets into the natural watercourse in the S 1/2 of the SW 1/4 of Section 10 in Highland Township.
3. Applicant will install and maintain erosion protection at any and all outlets into the natural watercourse in the W 1/2 of the SE 1/4 of Section 10 in Highland Township.
4. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
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 the SW 1/4 of

Section 10 and the NW 1/4 of Section 10 in Highland Township under any blanket easements, or otherwise beyond the Water District's existing easement(s).

6. Applicant must apply for an amendment to *Subsurface Water Management Permit No. 20249* 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 and record pipeline easements to install any pipeline or other tile components from the owners of the S 1/2 of the SW 1/4 of Section 10 and the W 1/2 of the SE 1/4 of Section 10 in Highland Township.
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. 20249*, and Applicant's downstream flow map to the Department of Water Resources, Eugene and Susan Klockmann, 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. 202410 for Jim Wieland in the SW 1/4 of Section 13 in Buffalo Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 202410*, filed June 14, 2024, by Applicant Jim Wieland. Under the *Application*, Applicant seeks to install a 155-acre drain tile system in the SW 1/4 of Section 13 in Buffalo Township, Cass County, North Dakota. The project will include a single pump outlet located near the southeast corner of the SW 1/4 of Section 13; the pump will discharge directly into a tributary of Buffalo Creek.

According to records submitted by Applicant, Jim Wieland owns the SW 1/4 of Section 13 in Buffalo Township. 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 Melvin moved, and Manager Miller seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 202410*, filed June 14, 2024, for

Jim Wieland regarding a proposed tile system in the SW 1/4 of Section 13 in Buffalo Township in Buffalo Township; and to authorize the Secretary to sign *Subsurface Water Management Permit No. 202410*, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any and all outlets into the tributary of Buffalo Creek in the SW 1/4 of Section 13 in Buffalo Township.
2. 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.
3. Applicant will re-establish any areas disturbed installing or maintaining Applicant’s tile system.
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 13 in Buffalo Township under any blanket easements, or otherwise beyond the Water District’s existing easement(s).
5. Applicant must apply for an amendment to *Subsurface Water Management Permit No. 202410* 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. 202410*, and Applicant’s downstream flow map to the 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.

Cass County Planning – FMD-Raymond Subdivision

Mr. Lysne briefly discussed the FMD-Raymond Subdivision application. The Board had no comments on the FMD-Raymond Subdivision and received and filed the notice from Cass County Planning regarding FMD-Raymond Subdivision.

2023 Audit

Manager Miller moved, and Manager Melvin seconded to approve the 2023 Audit of the Maple River Water Resource District. Upon roll call vote, the motion carried unanimously.

Bills

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

Drain #56 – potential drainage obstruction

Manager Miller discussed drainage concerns regarding Drain #56 and indicated there may be an obstruction blocking drainage in the channel. The Board discussed the matter and Manager Miller moved to authorize Moore Engineering, Inc. to fly the Drain #56 channel using a drone to investigate a potential obstruction to drainage in the channel and bring the results of the investigation to a future meeting. Manager Melvin seconded the motion. 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 Melvin and seconded by Manager Miller to approve the following Pledge of Assets:

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

Upon roll call vote, the motion carried unanimously.

Drain #58 – blocked culvert

Mr. Woodard briefly reported a contractor is working to clear a blocked culvert on Drain #58.

Complaint for Water-Related Issues from Randy Coon against Tim Berntson et al. for unpermitted drainage in the NE 1/4 of Section 33 in Buffalo Township

Mr. Lysne stated Randy Coon withdrew the *Complaint for Water-Related Issues* against Tim Berntson et al. for unpermitted drainage in the NE 1/4 of Section 33 in Buffalo Township.

SharePoint site

Alexa Ducioame discussed a SharePoint site created for the Cass County Water Resource Districts to share files and house useful documents, maps and applications for Water Resource District Managers and staff. Ms. Ducioame will continue to update the Board as the site is developed.

Adjournment

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

APPROVED:

Rodger Olson
Chairman

ATTEST:

Melissa Hinkemeyer
Secretary