

MINUTES OF VIRTUAL / CONFERENCE CALL SPECIAL MEETING
RUSH RIVER WATER RESOURCE DISTRICT
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
HERITAGE CONFERENCE ROOM
WEST FARGO, NORTH DAKOTA
JULY 16, 2024
9:00 A.M.

A virtual / conference call special meeting of the Rush River Water Resource District was held on July 16, 2024, at 9:00 a.m.

Present were Chairman William A. Hejl; Manager Richard Sundberg; Manager Jacob Gust; Melissa Hinkemeyer, Director, Secretary; Leilei Bao, Treasurer; Sean M. Fredricks and David C. Piper, Ohnstad Twichell, P.C.; Kurt Lysne and Alexa Ducioame, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Duane Breitling, Cass County Commissioner; Blaine Laaveg, Cass County Highway Department; Tom Fuchs, Metro Flood Diversion Authority; Dean Vetter, AE2S; Ken Cramer, Rush River Township Supervisor; and Jim Krogh, Raymond Township property owner.

Minutes

It was moved by Manager Sundberg and seconded by Manager Gust to approve the minutes of the June 18, 2024, meeting, as presented. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – Rush River (Drain #12), Lower Rush River (Drain #2), and Drain #30 transitions

Kurt Lysne reviewed the transition project from the Rush River (Drain #12) to the Diversion Channel of the Metro Flood Diversion Project. The transition project design is proceeding.

Mr. Lysne next discussed the transition project from the Lower Rush River (Drain #2) to the Diversion Channel of the Metro Flood Diversion Project. Moore Engineering, Inc. is in communication with Metro Flood Diversion Authority staff regarding potential reimbursement by the Metro Flood Diversion Authority of a low water crossing replacement on 105th Street N as part of the transition project.

Discussion was next held on the Drain #30 transition to the Diversion Channel of the Metro Flood Diversion Project. The transition will be constructed this year by the developer of the Diversion Channel.

The Board discussed the construction status of the Maple River aqueduct, various bridges and the Red River Control Structure components of the Metro Flood Diversion Project.

Alexa Ducioame stated the portions of the Rush River (Drain #12), Lower Rush River (Drain #2) and Drain #30 channels inside and outside of the Diversion Channel of the Metro Flood Diversion Project will need to be renamed for FEMA maps as they will be separate facilities.

A motion was made by Manager Sundberg and seconded by Manager Gust to re-name the Rush River (Drain #12), Lower Rush River (Drain #2) and Drain #30 facilities as follows:

- Drain #12a – the portion of the Rush River inside the Diversion Channel
- Drain #12b - the portion of the Rush River outside the Diversion Channel
- Drain #2a – the portion of the Lower Rush River inside the Diversion Channel
- Drain #2b - the portion of the Lower Rush River outside the Diversion Channel
- Drain #30a - the portion of Drain #30 inside the Diversion Channel
- Drain #30b - the portion of Drain #30 outside the Diversion Channel

Upon roll call vote, the motion carried unanimously

It was noted the Metro Flood Diversion Authority has agreed to the \$9,350 per acre offer to the property owner of right of way needed for the Drain #30 transition to the Diversion Channel of the Metro Flood Diversion Project.

Manager Sundberg moved and Manager Gust seconded approve the *Purchase Agreement* with Red River Trust for right of way needed for the Drain #30 transition to the Diversion Channel of the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Rush River / Lower Rush River - flattening of side slopes

Discussion was next held on the proposed comprehensive side slope flattening project regarding the Rush River and Lower Rush River. Mr. Lysne indicated he will be meeting with the Metro Flood Diversion Authority staff to discuss the possibility of the Diversion Channel accepting increased flows from the Rush River / Lower Rush River. Moore Engineering, Inc. will bring back more information on the matter to a future meeting for continued discussion.

Drain #29 – Cass County Highway 31 bridge between Sections 1 and 2 of Harwood Township

Blaine Laaveg discussed replacement of the Cass County Highway 31 bridge between Sections 1 and 2 of Harwood Township and indicated the bridge can now be replaced with smaller culverts as it is located inside the Diversion Channel of the Metro Flood Diversion Project. Mr. Laaveg noted the Cass County Highway Department is working with area property owners on the crossing replacement. Mr. Lysne indicated the Diversion Channel is currently accepting Drain #29 water, so the area of the crossing on Highway 31 between Sections 1 and 2 of Harwood Township now only receives local drainage. The culverts that will be installed to replace the bridge are adequate to handle the new watershed. Mr. Laaveg noted culverts in three property approaches in the project area will also be replaced as part of the project.

Drain #52 – tree removal in Section 2 of Harmony Township

Chairman Hejl reported there are trees in Drain #52 in Sections 2 of Harmony Township that should be removed. The Board directed Moore Engineering, Inc. to bring back a quote from a contractor for tree removal in Section 2 of Harmony Township regarding Drain #52.

Application to Install a Subsurface Water Management System No. 202411 for Derrick Appert in the N 1/2 of Section 15 in Berlin Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 202411*, filed June 26, 2024, by Applicant Derrick Appert. Under the Application, Applicant seeks to install a 300-acre drain tile system in the N 1/2 of Section 15 in Berlin Township, Cass County, North Dakota. The project will include a single pump outlet located near the northeast corner of the NE 1/4 of Section 15; the outlet will discharge into the south road ditch along 26th Street SE; the discharge will flow east in the south road ditch for a short distance before flowing into Cass County Drain No. 30 in the northwest corner of Section 14; Cass County Drain No. 30 is a legal assessment drain owned and operated by the Rush River Water Resource District.

According to records submitted by Applicant, Derrick Appert owns the N 1/2 of Section 15 in Berlin Township. Because the project tile discharge flows into Cass County Drain No. 30, no downstream notices are necessary under N.D. Cent. Code § 61-32-03.1.

Manager Gust moved, and Manager Sundberg seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 202411*, filed June 26, 2024, for Derrick Appert regarding a proposed tile system in the N 1/2 of Section 15 in Berlin Township; and to authorize the Secretary-Treasurer to sign *Subsurface Water Management Permit No. 202411*, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any and all outlets into Berlin 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 Rush 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 N 1/2 of Section 15 in Berlin Township under any blanket easements, or otherwise beyond the Water 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 Cass County Drain No. 30.

6. Applicant must apply for an amendment to *Subsurface Water Management Permit No. 202411* 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 Berlin 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. 202411*, and Applicant's downstream flow map to the Department of Water Resources, Berlin Township, 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.

Rush River – future bridge replacements

Ken Cramer, Rush River Township Supervisor, indicated Rush River Township's preference is to replace the Rush River crossing between Sections 32 and 33 in Rush River Township first and the crossing between Sections 29 and 32 next. Mr. Cramer noted the bridge deck is tilting on the crossing between Sections 32 and 33 in Rush River Township, so that crossing should be replaced first. The Board agreed with the Township's preference on the order of the crossing replacements.

Cass County Planning

Discussion was held on the following subdivision applications and related plats:

- a. Jenkins Subdivision
- b. FMD-Raymond Subdivision

It was moved by Manager Gust and seconded by Manager Sundberg to approve and authorize the Chairman to sign the FMD-Raymond Subdivision plat. Upon roll call vote,

the motion carried unanimously.

Cass County Joint Water Resource District (CCJWRD) report

Discussion was held on the construction status of various components of the Metro Flood Diversion Project.

Chairman Hejl updated the Board on Cass County Joint Water Resource District Human Resources Committee matters. The CCJWRD Board authorized the Director to hire a part-time, temporary Accounting Assistant position. The position is dependent on workload. The CCJWRD Board also approved continuing education and re-certification costs for Water Resource District staff.

Sean Fredricks briefly updated the Board on the status of formal negotiations regarding property acquisition for the Metro Flood Diversion Project.

Red River Joint Water Resource District (RRJWRD) report

Manager Sundberg reported the Red River Joint Water Resource District is partnering with the Red River Retention Authority and Red River Watershed Management Board on a summit that will be held July 31, 2024, in East Grand Forks, Minnesota. Managers are invited to register for and attend the Summit.

Approve Pledge of Assets

It was moved by Manager Sundberg and seconded by Manager Gust to approve the following Pledge of Assets:

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

Upon roll call vote, the motion carried unanimously.

Bills

It was moved by Manager Gust and seconded by Manager Sundberg to approve the wire transfers and the electronic funds transfers, as presented. Upon roll call vote, the following Managers voted in favor: Hejl, Gust, and Sundberg. The motion carried unanimously.

Adjournment

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

APPROVED:

William A. Hejl
Chairman

ATTEST:

Melissa Hinkemeyer
Secretary